

AGREEMENT BETWEEN THE COUNTY OF ALBANY
AND CARVER CONSTRUCTION INC.
FOR CR402 AND CR404 CULVERT REPLACEMENT PROJECT
FOR THE ALBANY COUNTY DEPARTMENT OF PUBLIC WORKS

PURSUANT TO RESOLUTION NO. 201 FOR 2021, ADOPTED JULY 12, 2021

This Agreement is made by and between the County of Albany (hereinafter, the "County" or the "Owner"), a municipal corporation duly organized under the laws of the State of New York, acting by and through its County Executive, with a principal place of business located at the Albany County Office Building, 112 State Street, Albany, NY 12207, and Carver Construction, Inc., a New York corporation, with a principal place of business located at 494 Western Turnpike, Altamont, NY 12009 (hereinafter, the "Contractor," and together with the County, may be referred to herein individually as a "[p]arty" or collectively as the "[p]arties").

WHEREAS, the County has issued a request for bids for the CR402 and CR404 Culvert Replacement Project administered by the Albany County Department of Public Works (hereinafter, "DPW"), seeking a qualified contractor to provide construction services for said project, and said request for bids having been denominated Bid #2021-064, and having been published by the Albany County Purchasing Division (hereinafter, "Purchasing Division") on May 6, 2021 (hereinafter, the "RFB"); and

WHEREAS, the Purchasing Division has issued three (3) addenda to the RFB, the first on May 11, 2021 (hereinafter, the "Addendum #1"), the second on May 18, 2021 (hereinafter, the "Addendum #2"), and the third on May 20, 2021 (hereinafter, the "Addendum #3," and together with the Addendum #1 and Addendum #2, may be referred to herein collectively as the "Addenda"); and

WHEREAS, the Contractor has submitted a bid on May 20, 2021 regarding the aforesaid construction services for the culvert replacement project (hereinafter, the "Bid"); and

WHEREAS, the County has accepted the Bid of the Contractor to provide the aforesaid construction services for the culvert replacement project; and

WHEREAS, the County Legislature has authorized the County Executive to enter into an agreement with the Contractor for the aforesaid construction services for the culvert replacement project by Resolution No. 201 for 2021, adopted July 12, 2021; and

WHEREAS, this Agreement sets forth the understanding reached by the parties herein;

NOW THEREFORE THE PARTIES HERETO DO MUTUALLY COVENANT AND AGREE AS FOLLOWS:

ARTICLE 1. THE CONTRACT DOCUMENTS; INTERPRETATION

1.1 The Contract Documents consist of the following: this Agreement, the RFB, including the Project Manual and the Plans, which is incorporated by reference and made a part hereof; the Addenda, which are incorporated by reference and made a part hereof; the Performance Bond and the Labor and Materials Bond, which are incorporated by reference and made a part hereof;

and the Bid, which is incorporated by reference and made a part hereof (collectively, "the Agreement" hereinafter).

1.2 In the event of any discrepancy, disagreement or ambiguity among the contract documents, the documents shall be given preference in the following order to interpret and to resolve such discrepancy, disagreement or ambiguity: 1) this Agreement; 2) the Addenda, in the following order: Addendum #3, Addendum #2, the Addendum #1; 3) the RFB; 4) the Performance Bond, 5) the Labor and Materials Bond; 6) the Bid.

ARTICLE 2. SCOPE OF WORK/SERVICE

2.1 The Contractor shall:

2.1.1 furnish all the materials, appliances, tools and labor of every kind required, and construct and complete in the most substantial and workmanlike manner, the construction, improvement or reconstruction of the project generally identified as:

CR402 and CR404 Culvert Replacement Project

(hereinafter, the "project"), in accordance with the provisions contained in the RFB, including, but not limited to, the General Conditions and the Supplementary Conditions contained therein; and

2.1.2 do everything required by, as specified in or as indicated in the contract documents.

2.2 The work/services described in the RFB shall be performed by the Contractor consistent and together with the Addenda, in the manner described in the RFB, meeting all of the RFB's terms, conditions, requirements, provisions, etc., and includes, but is not limited to, the following:

Replacement of the existing concrete roadway cross culverts along CR402 and CR404 with three-sided reinforced concrete span units, wingwalls, and guiderail.

The project also includes the installation of roadway striping and new signage.

2.3 The project is also referred to by DPW as Project No. 20-C557. The project has been designed by Foit-Albert Associates, 435 New Karner Rd., Albany, NY 12205, Telephone number (518) 452-1037 (hereinafter, the "engineer") who has or assumes all duties, responsibilities, rights and authority assigned to the engineer in the contract documents.

ARTICLE 3. REPRESENTATIONS OF THE CONTRACTOR

In order to induce the County to enter into this Agreement, the Contractor makes the following representations:

3.1 Contractor has familiarized himself with the nature and extent of the contract documents, work, and locality and with all local conditions and Federal, State and local laws, ordinances, rules and regulations that in any manner may affect cost, progress or performance of the work.

3.2 Contractor has studied carefully all reports of investigation and tests of subsurface and latent physical conditions at the site or otherwise affecting cost, progress or performance of the work which were relied upon by the engineer in the preparation of the drawings and specifications and which have been identified in the Supplementary Conditions set forth in the RFB, consistent with the Addenda.

3.3 In addition to what is described in Paragraph 3.2, Contractor has made, or caused to be made, examinations, investigations and tests and studies of such reports and related data that are necessary for the performance of the work at the contract price, within the contract time and in accordance with the other terms and conditions of the contract documents, and no additional examinations, investigations, tests, reports or similar data are, or will be required by Contractor for such purposes.

3.4 Contractor has correlated the results of all such observations, examinations, investigations, tests, reports and data with the terms and conditions of the contract documents.

3.5 Contractor has given the engineer written notice of all conflicts, errors or discrepancies that it has discovered in the contract documents and the written resolution thereof by the engineer is acceptable to Contractor.

ARTICLE 4. TERM OF CONTRACT; LIQUIDATED DAMAGES

4.1 Contractor shall substantially complete the work on or before October 31, 2021. Contractor shall complete and be ready for final payment in accordance with Paragraph 14.13 of the General Conditions set forth in the RFB on or before November 30, 2021.

4.2 Liquidated Damages: The County and the Contractor recognize that time is of the essence of this Agreement and that the County will suffer financial loss if the work is not substantially complete within the time specified in Paragraph 3.1, above, plus extensions thereof (if any) allowed in accordance with Article 12 of the General Conditions set forth in the RFB. The County and the Contractor recognize the delays, expenses and difficulties involved in initiating a legal or arbitration proceeding to recover the actual losses suffered by the County if the work is not substantially complete on time. Accordingly, the County and the Contractor agree that as liquidated damages (but not as a penalty) for any unauthorized delay, the Contractor shall pay the County SIX HUNDRED AND 00/100 DOLLARS (\$600.00) for each day that expires after the time specified in Paragraph 4.1, above, for substantial completion until the work is substantially complete, plus reimburse County for all additional engineering and inspection expenses incurred by the County as a result of such delay.

ARTICLE 5. FEES; PAYMENT SCHEDULE

5.1 For completion of the project in accordance with the contract documents, the County agrees to pay, and the Contractor agrees to accept, the sum of SEVEN HUNDRED SEVENTY FOUR THOUSAND ONE HUNDRED FORTY FIVE AND 00/100 DOLLARS (\$774,145.00). More specifically, the Contractor agrees to accept the

unit prices bid set forth in its bid times the actual number of units used as full compensation, including an additions or deductions to the amount cited herein, caused by variation in quantities due to more accurate measurement or due to actual field conditions.

5.2 The final contract price shall be the amount obtained from the summation of the products of the quantities of work as done multiplied by the unit prices bid.

5.3 The Contractor further agrees that at any time during the progress of work, extra work or force account work is required and the Contractor shall so perform such work and accept compensation from the County, in accordance with Article 11 of the General Conditions set forth in the RFB.

5.4 An application for payment shall be made on a monthly basis upon the Contractor's submission of an Albany County Claim Form, as well as any other required documentation, to the Commissioner of the DPW. All Applications for Payment shall be submitted in accordance with Article 14 of the General Conditions as modified by the Supplementary Conditions set forth in the RFB. Applications for Payment will be initially processed by the engineer, in accordance with the General and/or Supplementary Conditions. Upon approval by the engineer and DPW's satisfaction with the services presented for payment, and upon the Commissioner of DPW's approval of said claim form and documentation, the claim form shall be forwarded to the Albany County Comptroller and payment shall be rendered.

5.5 Progress Payments: The County shall make progress payments on account of the contract price on the basis of the Contractor's Application for Payment as recommended by the engineer and DPW, during construction as provided below. All progress payments will be on the basis of the progress of the work measured by the schedule of values provided for in paragraph 14.1 of the General Conditions and as further described in the General Requirements set forth in the RFB. No monthly progress payment will be rendered unless the value of the work done during that month equals or exceeds 5% of the contract price, or \$1000.00, whichever is the lesser.

5.6 Prior to substantial completion, progress payments for work satisfactorily performed will be in an amount equal to:

100% of the work completed, computed as the number of units completed, multiplied by the unit price bid, plus

100% of the invoiced price of materials and equipment in short and/or critical supply or specifically fabricated for the project, not incorporated in the work, but delivered and suitably stored, less retainage of 5% (until substantial completion), less all previous billings.

5.7 Upon approval in accordance with the provisions of this Article, the County shall promptly pay requisition for progress payment less an amount necessary to satisfy any claims, liens or judgments against contractor that have not been suitable discharged. Any claims, liens and judgments referred to in this paragraph shall pertain to the project and

shall be filed in accordance with the terms of the applicable contract and/or applicable laws.

5.8 Payments for materials pertinent to the project which have been delivered to the site or off-site by the Contractor and/or its subcontractor and suitably stored and secured as approved by the County are limited to only those materials in short and/or critical supply and materials specially fabricated for the project as defined in the General Requirements set forth in the RFB and which previously have been approved by County for such payment.

5.9 Upon substantial completion, retainage may be reduced to 2% of contract price, or to an amount equal to two times the value of any uncompleted or disputed work as determined by the engineer in accordance with paragraph 14.7 of the General Conditions set forth in the RFB, whichever is greater. Retainage will not be reduced to 2% until after Contractor, plus all his subcontractors and material suppliers submit full-executed copies of both an Affidavit of Payment of Debts and Claims and an Affidavit of Release of Liens.

5.10 Semifinal Payment: Upon final completion and acceptance of the work in accordance with paragraph 14.13 of the General Conditions as modified by the Supplementary Conditions set forth in the RFB, County shall pay the remainder of the final contract price, less the 2% retainage being held as warranty and guarantee security as provided in Article 12, *infra*, as recommended by the engineer as provided in said paragraph 14.13.

5.11 Final Payment: Upon completion of the one year warranty and guarantee period, the County shall pay the remainder of the final contract price, less any expenses the County may have incurred in correcting any defective work not corrected by the Contractor.

5.12 No Estimate on Contractor's Non-Compliance: It is further agreed that so long as any lawful or proper direction concerning the work or material given by the County, or its representative, shall remain uncomplied with, the Contractor shall not be entitled to have any estimate made for the purpose of payment, nor shall any estimate be honored on account of work done or material furnished until such lawful or proper direction aforesaid has been full and satisfactorily complied with.

ARTICLE 6. PAYMENT BY OWNER TO CONTRACTOR

6.1 Upon approval, the County shall promptly pay requisition for progress payment less an amount necessary to satisfy any claims, liens or judgments against the Contractor that have not been suitably discharged.

6.2 Payments for materials pertinent to the project which have been delivered to the site or off-site by the Contractor and/or its subcontractor and suitably stored and secured as approved by the County are limited to only those materials in short and/or critical supply and materials specially fabricated for the project as defined in General Requirements in the RFB and which previously have been approved by owner for such payment.

6.3 Any claims, liens and judgments referred to in this section shall pertain to the project and shall be filed in accordance with the terms of the applicable contract and/or applicable laws.

ARTICLE 7. PAYMENT BY CONTRACTOR TO SUBCONTRACTORS

7.1 In accordance with Section 106-b of the N.Y. GENERAL MUNICIPAL LAW, within 15 days of the receipt of any payment from the County, the Contractor shall pay each of his subcontractors and material suppliers, the proceeds from the payment representing the value of the work performed and/or materials furnished by the subcontractor and/or material supplier and reflecting the percentage of the subcontractor's work completed or the material supplier's material supplied in the requisition approved by the County and based upon the actual value of the subcontract or purchase order less an amount necessary to satisfy any claims, liens or judgments against the subcontractor or material supplier which have not been suitably discharged and less any retained amount as hereafter described. The Contractor shall retain not more than 5% of each payment to the subcontractor and/or material supplier, except that the Contractor may retain in excess of 5%, but not more than 10% of each payment to the subcontractor provided that prior to entering into a subcontract with the Contractor, subcontractor was unable or unwilling to provide a performance bond and a labor and material bond both in the full amount of the subcontract at the request of the Contractor. However, the Contractor shall retain nothing from those payments representing proceeds owed the subcontractor and/or material supplier from the County's payments to the Contractor for the remaining amounts of contract price as provided in Article 5, above.

7.2 If the Contractor has failed to submit a requisition for payment of the remaining amounts of contract price within 90 days of substantial completion as provided in Article 4, above, then any clause in the subcontract between the Contractor and subcontractor or material supplier which states that payment by Contractor to such subcontractor or material supplier is contingent upon payment by County to the Contractor shall be deemed invalid.

7.3 Within 15 days of receipt of payments from the Contractor, subcontractor and/or material supplier shall pay each of their subcontractors and material suppliers in the same manner as the Contractor has paid the subcontractor.

7.4 Nothing provided herein shall create any obligation on the part of County to pay or to see to the payment of any moneys to any subcontractor or material supplier from any contractor, nor shall anything provided herein serve to create any relationship in contract or otherwise, implied or expressed, between the subcontractor or material supplier and the County.

ARTICLE 8. HOURS AND WAGES

8.1 In accordance with Section 220 of the N.Y. LABOR LAW, no laborer, workman or mechanic in the employ of the Contractor, subcontractor or other person doing or contracting to do the whole or a part of the project contemplated by this Agreement shall be permitted or required to work more than eight (8) hours in any one (1) calendar day or more than five (5) days in any one (1) week, except in cases of extraordinary emergency including fire, flood or danger to life or property. Time lost in any week because of inclement weather by employees engaged in the construction, reconstruction and maintenance of highways outside of the limits of cities and villages, may be made up during that week and/or the succeeding three (3) weeks.

8.2 Statements Showing Amounts Due for Wages and Supplements to be Filed Before Final Payment: In accordance with Section 220-a of the Labor Law, before final payment by or on behalf of County for any sum or sums due on account of this contract, the Contractor and each and every subcontractor of the contractor or a subcontractor, shall file a statement in writing in form satisfactory to the Albany County Comptroller certifying to the amounts then due and owing from the contractor or subcontractor filing said statement to or on behalf of any and all laborers for daily or weekly wages or supplements on account of labor performed upon this project, setting forth therein the names of the persons whose wages and/or supplements are unpaid and the amount due to each or on behalf of each, respectfully. Said statement shall be verified by the oath of the Contractor or subcontractor, as the case may be, that he has read said statement subscribed by him and knows the content thereof, and that the same is true of his knowledge.

ARTICLE 9. INSURANCE

9.1 The Contractor agrees to procure and maintain without additional expense to the County, insurance of the kinds and in the amounts provided under Schedule "A," attached hereto and made a part hereof, and/or the kinds and in the amounts provided in the General and Supplementary Conditions set forth in the RFB, whichever kinds are more comprehensive and whichever amounts are higher. Before commencing, the Contractor shall furnish to the County insurance certificates showing that the requirements of this Article have been met. The insurance certificates shall provide that the policies shall not be changed or canceled until 30 days prior written notice has been given to the County. The County of Albany shall be named as an additional insured on the insurance certificates. Additionally, said policies shall be automatically renewed upon expiration and continued in force unless the County and the Contractor are given 60 days written notice to the contrary.

9.2 No work shall be commenced under this Agreement until the contractor has delivered to the County a certificate or certificates of insurance showing proof of the issuance of all policies necessitated by this Agreement. Upon failure of the Contractor to furnish, deliver and maintain such insurance as above provided, this Agreement may, at the election of the County, be forthwith declared suspended, discontinued or terminated.

9.3 As required by Section 108 of the N.Y. GENERAL MUNICIPAL LAW, this Agreement shall be of no force and effect unless the Contractor making or performing said Agreement shall compensation for the benefit of, and keep insured during the life of this Agreement, all employees engaged thereon. The Contractor shall require any subcontractor authorized by the County to do likewise for all of their employees engaged thereon, all in compliance with the provisions of the N.Y. WORKERS' COMPENSATION LAW and this Agreement.

9.4 In addition to the insurance requirements described in Paragraphs 9.1 through 9.3, The Contractor shall provide the County with a Performance Bond and a Labor and Materials Bond for the project each in the amount bid by the Contractor.

ARTICLE 10. DEFINED TERMS

Terms used in this Agreement have the meanings assigned to them in the General Conditions and the Supplementary Conditions set forth in the RFB.

ARTICLE 11. PREVENTION OF DUST HAZARD

Wherein a harmful dust hazard is created by or through the construction of this project, this Agreement shall be void as required by Section 222-a of the N.Y. LABOR LAW, unless the contractor shall install, maintain and effectively operate such appliances and methods for the elimination of harmful dust as have been approved by the New York State Department of Labor, Board of Standards and Appeals.

ARTICLE 12. WARRANTY AND GUARANTEE

A retainage of 2% of final contract price will be held by the County as security for prompt correction of any defective work found during the one year correction period as outlined in Article 13 of the General Conditions set forth in the RFB.

ARTICLE 13. NON-INTERRUPTION OF WORK

The Contractor agrees that it will not intentionally engage in any course of conduct or activity, or employ for the purposes of performing the public work, any subcontractors, employees, labor or materials which will or may result in the interruption of the performance of the public work due to labor strife or unrest by workmen employed by the Contractor or by any of the trades working in or about the public works and/or premises where the work is being performed.

ARTICLE 14. COOPERATION

The Contractor shall cooperate with representatives, agents and employees of the County and the County shall cooperate with representatives, agents and employees of the contractor so that work may proceed expeditiously and economically.

ARTICLE 15. NON-DISCRIMINATION REQUIREMENTS

In accordance with Article 15 of N.Y. EXECUTIVE LAW (also known as the HUMAN RIGHTS LAW) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor agrees that neither it nor any of its County-approved subcontractors shall, by reason of age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics or marital status refuse to hire or employ or to bar or to discharge from employment such individual or to discriminate against such individual in compensation or in terms, conditions or privileges of employment.

ARTICLE 16. COMPLIANCE WITH MACBRIDE PRINCIPLES

The Contractor hereby represents that said contractor is in compliance with the MacBride Principles of Fair Employment as set forth in Albany County Local Law No. [D] for 1993, in that said contractor either (a) has no business operations in Northern Ireland or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the

MacBride Principles, and shall permit independent monitoring of their compliance with such principles. In the event of a violation of this stipulation, the County reserves all rights to take remedial measures as authorized under section 4 of Local Law No. [D] in 1993, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, declaring the Contractor in default and/or seeking debarment or suspension of the Contractor.

ARTICLE 17. AVAILABLE DATA

All technical or other data relative to this Agreement in the possession of the County or in the possession of the Contractor shall be made available to the other party to this Agreement without expense to the other party.

ARTICLE 18. ASSIGNMENTS

The Contractor specifically agrees as required by Section 109 of the N.Y. GENERAL MUNICIPAL Law that the Contractor is prohibited from assigning, transferring, conveying, subletting, or otherwise disposing of this Agreement, or of the Contractor's right, title, or interest therein, without the previous consent in writing of the County.

ARTICLE 19. RELATIONSHIP

The Contractor is, and will function as, an independent contractor under the terms of this Agreement and shall not be considered an agent or employee of the County for any purpose. The employees and representative of the Contractor shall not in any manner be, or be held out to be, agents or employees of the County.

ARTICLE 20. INDEMNIFICATION

20.1 The Contractor shall be responsible for all damage to life and property due to negligent acts, errors or omissions of the contractor, its subcontractors, agents or employees, in the performance of this Agreement. The Contractor agrees to protect, defend, indemnify, and hold the County and its employees free and harmless from and against any and all losses, claims, liens and demands made or asserted by third parties (including the amount of any judgments, penalties, interest, attorney's fees, court costs and legal fees incurred by the County) for personal injuries, death or damage to property, to the extent caused by the negligence or willful misconduct of the Contractor. The Contractor agrees to investigate, handle, respond to and defend any such claims, demands, or suits, at the Contractor's sole expense, and agrees to bear all other costs and expenses related thereto, even if such claims, demands or suits are groundless, false or fraudulent.

20.2 In any case in which the indemnification established herein would violate Section 5-322.1 of the N.Y. GENERAL OBLIGATIONS LAW, the foregoing provisions shall not be construed to indemnify the County for damage arising out of bodily injury to person or damage to property caused by or resulting from the sole negligence of County employees.

20.3 Nothing in this Article, the RFB or this Agreement shall create or give to third parties any claim, right, or action against the Contractor or the County beyond such as may legally exist, irrespective of this Article, the RFB or this Agreement.

20.4 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the County, its employees and its agents, from and against all claims, damages, losses and expenses (including, without limitation, reasonable attorney's fees) arising out of, or in consequence of or resulting from, the performance of work, provided that any such claim, damage, loss or expense is (i) attributable to bodily injury, sickness, disease or death, or damage or injury to, or destruction of, tangible property, including the loss of use resulting therefrom, or (ii) is caused in whole or in part by, any negligent or intentional act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed or acting as an agent of the Contractor or any subcontractor, or anyone for whom any of them may be liable for their actions, regardless of whether or not such damage or injury is caused in part by a party indemnified hereunder.

ARTICLE 21. NON-APPROPRIATIONS

Notwithstanding anything contained herein to the contrary, no default shall be deemed to occur in the event no funds or insufficient funds are appropriated and budgeted by or are otherwise unavailable to the County for payment. The County will immediately notify the Contractor of such occurrence and this Agreement shall terminate on the last day of the fiscal period for which appropriations were made without penalty or expense to the County of any kind whatsoever, except as to those portions herein agreed upon for which funds shall have been appropriated and budgeted.

ARTICLE 22. ACCOUNTING RECORDS

Proper and full accounting records shall be maintained by the Contractor which records shall clearly identify the costs of the work performed under this Agreement. Such records shall be subject to periodic and final audit by the County upon request. Such records shall be accessible to the County and the New York State Comptroller for a period of six years following the date of final payment by the County to the Contractor for the performance of the work contemplated herein.

ARTICLE 23. GOVERNING LAWS

The laws of the State of New York shall govern this Agreement. The designated venue is Albany, New York.

ARTICLE 24. REMEDY FOR BREACH

In the event of a breach by the Contractor, the Contractor shall pay to the County all direct and consequential damages caused by such breach, including, but not limited to, all sums expended by the County to procure a substitute contractor to satisfactorily complete the contract work, together with the County's own costs incurred in procuring a substitute contractor.

ARTICLE 25. NO WAIVER OF PERFORMANCE

Failure of the County to insist upon strict and prompt performance of the covenants and agreements hereunder or any of them and the acceptance of such performance thereafter shall not constitute or be construed as a waiver or relinquishment of the County's right thereafter to enforce the same strictly according to the tenor thereof in the event of a continuous or subsequent default on the part of the Contractor.

ARTICLE 26. ENTIRE AGREEMENT

This Agreement, and the contract documents set forth in Article 1 and incorporated by reference, constitute the entire Agreement between the parties and no representations or promises have been made except as herein expressly set forth.

ARTICLE 27. MODIFICATION

No modification, amendment or change order pertaining to this Agreement or consent to the waiver of any of the terms hereof shall be binding unless made in writing and signed by the party against who such modification, amendment, change order or waiver is asserted.

ARTICLE 28. APPRENTICESHIP TRAINING PROGRAMS

In accordance with Albany County Legislative Resolution No. 70 of February 10, 2003, Resolution No. 251-a of September 12, 2011 and Resolution No. 373 of August 13, 2018, together with Section 816-b of the N.Y. LABOR LAW, contractors of County construction projects with an aggregate value (which shall mean the total cost all contracts of the project) in excess of \$250,000 or more shall have agreements providing appropriate apprenticeship training programs approved by the Commissioner of the New York State Department of Labor for the type and scope of work to be performed at the time of bid date and prior to entering into a contract with Albany County.

ARTICLE 29. STORMWATER MANAGEMENT PROGRAM

29.1 Contractor understands that Albany County is a regulated entity subject to the SPDES General Permit for Stormwater Discharges from Municipal Separate Storm Sewer Systems (GP-0-15-003), and must comply with the terms and conditions of the aforementioned Permit. Contractor further understands that under the New York State Environmental Conservation Law, it is unlawful for any person to directly or indirectly cause or contribute to a violation of water quality standards, and that Albany County adopted Local Law 7 of 2007 enabling the County to take action against any discharges that cause or contribute to a violation of water quality standards. Contractor agrees to comply with the terms and conditions of the SPDES General Permit for Stormwater Discharges from Municipal Separate Storm Sewer Systems (GP-0-15-003) as well as Albany County Local Law No. 7 for 2007 and any Best Management Practices developed pursuant to the foregoing, as established in Albany County's Stormwater Management Program Plan. Contractor also agrees to implement any corrective actions identified by Albany County or a representative pursuant to the above regulations, and further understands that any non-compliance by the County will not diminish, eliminate, or lessen Contractor's own liability.

29.2 Contractor shall execute and deliver to the County a certification statement acknowledging the County's Stormwater Management Program Plan prior to commencing and work described in this Agreement.

29.3 Contractor acknowledges awareness of the County's Green Infrastructure Policy (hereinafter, the "Green Policy"), which is part of the County's larger MS4 Stormwater Management Program pursuant to SPDES GP-0-15-003. The Contractor agrees to examine the feasibility of design options involving the protection of natural resources, reduction of stormwater runoff, and use of green infrastructure practices to the maximum extent practicable in accordance with the Green Policy.

ARTICLE 30. EXECUTION OF DOCUMENTS

This Agreement may be executed in one or more counterparts, each of which shall constitute an original agreement, but all of which together shall constitute one and the same instrument.

ARTICLE 31. PARTIAL INVALIDITY

If any term, part, provision, section, subdivision, paragraph or article of this Agreement shall be held unconstitutional, invalid or ineffective, in whole or in part, by a court of competent jurisdiction, such determination shall not be deemed to invalidate the remaining terms, parts, provisions, sections, subdivisions, paragraphs or articles hereof.

ARTICLE 32. NOTICES

All notices, consents, waivers, directions, requests or other instruments or communications provided for under this Agreement shall be deemed properly given if, and only if delivered personally, sent by registered or certified United States mail, postage prepaid, or, with the prior consent of the receiving party, dispatched via facsimile transmission.

ARTICLE 33. HEADINGS --CONSTRUCTION

The headings appearing in this Agreement are for the purpose of easy reference only and shall not be considered a part of this Agreement or in any way to modify, to amend, or to affect the provisions hereof.

ARTICLE 34. MISCELLANEOUS PROVISIONS

34.1 In addition to the policies and procedures described above, the Contractor also acknowledges that it shall follow the Affirmative Action Requirements, Non Interruption of Work Agreement (per Res. No. 298 for 1986), Iranian Energy Sector Divestment (per N.Y. GENERAL MUNICIPAL LAW § 103-9), and all other policies and procedures contained in the RFB.

34.2 During the term of this Agreement, the Contractor agrees that, in the event of its reorganization or dissolution as a business entity or change in business, the Contractor shall give the County 30 days written notice in advance of such event.

34.3 The Contractor shall at all times obtain and maintain all licenses required by New York State, or other relevant regulating body, to perform the services required under this Agreement.

34.4 If any term, part, provision, section, subdivision or paragraph of this Agreement shall be held to be unconstitutional, invalid or ineffective, in whole or in part, such determination shall not be deemed to invalidate the remaining terms, parts, provisions, sections, subdivisions or paragraphs.

34.5 The County shall bear no responsibility other than that set forth in this Agreement.

34.6 All notices, consents, waivers, directions, requests or other instruments or communications provided for under this Agreement shall be deemed properly given if, and only if, delivered personally, sent by registered or certified United States mail, postage prepaid, or, with the prior consent of the receiving party, dispatched via facsimile transmission.

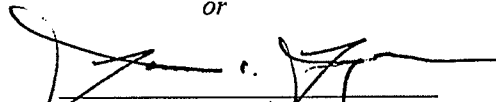
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed the day and year first indicated below.

COUNTY OF ALBANY

DATED: 8/18/2021

BY: _____
Daniel P. McCoy
County Executive

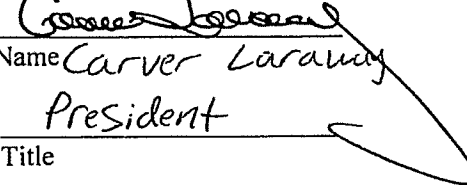
or



Daniel C. Lynch
Deputy County Executive

CARVER CONSTRUCTION, INC.

DATED: 8/6/21

BY: 
Name Carver Laraway
Title President

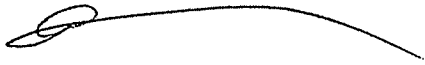
STATE OF NEW YORK)
COUNTY OF ALBANY) SS.:

On the ____ day of _____, 2021, before me, the undersigned, personally appeared Daniel P. McCoy personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

STATE OF NEW YORK)
COUNTY OF ALBANY) SS.:

On the 14th day of August, 2021 before me, the undersigned, personally appeared Daniel C. Lynch personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

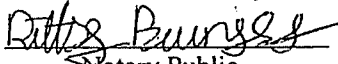


Notary Public
EUGENIA K. CONDON
Notary Public, State of New York
No. 02CO4969817
Qualified in Albany County
Commission Expires July 23, 2022

STATE OF NEW YORK)
COUNTY OF Albany) SS.:

On the 6 day of August, 2021, before me, the undersigned, personally appeared _____ personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Brittany Brunjes
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 01BR6416583
Qualified in Albany County
Commission Expires April 19, 2025



Notary Public

SCHEDULE A
INSURANCE COVERAGE

SEE PAGES SC-6 THRU SC-11 OF THE RFB FOR GENERAL
LIABILITY INSURANCE REQUIREMENTS

The Insurance Requirements described in the RFB, include, but are NOT limited to, insurance as follows:

1. Workers' Compensation and Employers Liability Insurance: A policy or policies providing protection for employees in the event of job related injuries or a waiver of the requirements of this insurance with such waiver to be issued by New York State.
2. Automobile Liability Insurance: A policy or policies with the limits of not less than \$500,000 for each accident because of bodily injury, sickness or disease, including death at any time, resulting therefrom, sustained by any person caused by accident, and arising out of the ownership, maintenance or use of any automobiles; and with the limits of \$500,000 for damage because of injury to or destruction of property, including the loss of the use thereof, caused by accident and arising out of the ownership, maintenance or use of any automobiles.
3. General Liability Insurance: A policy or policies including comprehensive form, personal injury, contractual, products/completed operations, premises operations and broad form property insurance.
4. Disability Insurance: A policy or policies providing appropriate disability benefits in accordance with N.Y. WORKERS COMPENSATION LAW § 220(8).