

AGREEMENT BETWEEN THE COUNTY OF ALBANY
AND CALLANAN INDUSTRIES, INC.
FOR HIGHWAY IMPROVEMENT PROJECT
OF HAULING & PLACING ASPHALT CONCRETE
ON VARIOUS COUNTY ROADS
FOR THE ALBANY COUNTY DEPARTMENT OF PUBLIC WORKS

PURSUANT TO RESOLUTION NO. 143 FOR 2022, ADOPTED May 9, 2022

This Agreement is made by and between the County of Albany (hereinafter, the "County" or "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 Callanan Industries, Inc., a New York corporation, with a principal place of business located at 8 Southwoods Blvd., 4th Floor, Albany, NY 12211, and a mailing address of P.O. Box 15097, Albany, NY 12212 (hereinafter, the "Contractor" and with the County, may be referred to herein individually as a "[P]arty or together as the "[P]arties").

WHEREAS, the Albany County Department of Public Works (hereinafter, the "DPW") has a need for the hauling and placing of asphalt concrete on various County Roads; and

WHEREAS, the Albany County Purchasing Division (hereinafter, the "Purchasing Division") has issued a request for bids for the aforesaid hauling and placing services, said request having been designated RFB #2022-22 and advertised on March 10, 2022 (hereinafter, the "RFB"); and

WHEREAS, the Purchasing Division has issued five (5) addenda to the RFB, the first on March 15, 2022 (hereinafter, the "Addendum #1"), the second on March 17, 2022 (hereinafter, the "Addendum #2"), the third on March 22, 2022 (hereinafter, the "Addendum #3"), the fourth on March 30, 2022 (hereinafter, the "Addendum #4") and the fifth on March 31, 2022 (hereinafter, the "Addendum #5," and with Addendum #1 through Addendum #4, may be referred to herein together as the "Addenda"); and

WHEREAS, the Contractor has submitted a bid dated March 31, 2022, providing for the aforesaid hauling and placing services (hereinafter, the "Bid"); and

WHEREAS, the County has accepted the Bid of the Contractor to provide the aforesaid hauling and placing services; and

WHEREAS, the County Legislature has authorized the County Executive to enter into an Agreement with the Contractor for the aforesaid hauling and placing services by Resolution No. 143 for 2022, adopted May 9, 2022; 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/Drawings, which is 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; the Addenda, which are incorporated by reference and made a part hereof; and the Bid, which is incorporated by reference and made a part hereof (collectively, may be referred to hereinafter as "the Agreement").

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 #5, Addendum #4, Addendum #3, Addendum #2, Addendum #1; 3) the Project Manual; 4) the Plans/Drawings; 5) the RFB; 6) the Performance Bond; 7) the Labor and Materials Bond; 8) the Bid.

ARTICLE 2. SCOPE OF WORK

2.1 The Contractor shall: a) 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:

Hauling & Placing Asphalt Concrete on Various County Roads
Highway Improvement Project

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

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

The work includes: Hauling and placing asphalt concrete on County roads in various towns throughout Albany County, or as directed by the Commissioner of Public Works or her representative.

The project is also referred to by DPW as Project No. 22-C573. The project has been designed by the Albany County Department of Public Works, 449 New Salem Road, Voorheesville, New York 12186, telephone number (518) 765-2786 (hereinafter, the "engineer") who has or assumes all duties, responsibilities, rights and authority assigned to the engineer in the contract documents.

2.2 The 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.

2.3 The 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.

2.4 In addition to those referred to in Paragraph 2.3, the 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.

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

2.6 The Contractor has given the engineer written notice of all conflicts, errors or discrepancies that the Contractor has discovered in the Contract Documents and the written resolution thereof by the engineer is acceptable to Contractor.

2.7 The Contractor shall not perform any work beyond that set forth or described in this Agreement (hereinafter, the "extra work") unless it has obtained prior written approval from DGS

2.8 While providing the work described in Paragraphs 2.1 through 2.7, above, the Contractor and its employees, agents, etc., shall follow all Covid-19 and Social Distancing requirements of the County; the State of New York, including, but not limited to, the Governor's executive orders and the Empire State Development Corporation's guidelines and requirements; and the federal government, and the Contractor shall be subject to the provisions of the County's Local Emergency Order re Covid-19 and all supplements/renewals to said order.

2.9 The Contractor shall render all work and services in a professional and workmanlike manner.

2.10 The Contractor warrants the labor and materials it provides for a period of one (1) year from the date it completes the work, as determined by the County, and shall provide the manufacturers' standard warranties for all of the equipment the Contractor provides. **The warranty period begins to run from the date of substantial completion, as determined by the DPW.**

ARTICLE 3. COMPENSATION

3.1 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 TWO MILLION, SEVEN HUNDRED SEVENTY SIX THOUSAND, THIRTY THREE AND 49/100 DOLLARS (\$2,776,033.49). More specifically, the Contractor agrees to accept the unit prices bid set forth in the Bid times the actual number of units used as full compensation, including any additions or deductions to the amount cited herein, caused by variation in quantities due to more accurate measurement(s) or due to actual field conditions.

3.2 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.

3.3 The Contractor further agrees that at any time during the progress of work, extra work or force account work is required, 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.

ARTICLE 4. PAYMENT

4.1 Payment shall be made to the Contractor by the County upon the Contractor's submission of a properly executed Albany County Claim Form, plus all supporting documentation, to DPW, and after review and approval by the County.

4.2 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 the Claim Form and Application for Payment, the documents shall be forwarded to the Albany County Comptroller and payment shall be rendered.

4.3 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 \$1,000.00, whichever is the lesser.

4.4 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.

4.5 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.

4.6 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.

4.7 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.

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.

4.8 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.

4.9 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.

4.10 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.

4.11 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.

4.12 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.

4.13 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 5. PAYMENT BY CONTRACTOR TO SUBCONTRACTORS

5.1 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 its

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 4, above.

5.2 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 6, below, 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.

5.3 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.

5.4 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 6. TERM OF AGREEMENT; LIQUIDATED DAMAGES

6.1 Contractor shall substantially complete the work on or before **September 24, 2022**. 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 **October 8, 2022**.

6.2 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 4.1 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 5.1 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 7. HOURS AND WAGES

7.1 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.

7.2 Statements Showing Amounts Due for Wages and Supplements to be Filed Before Final Payment: In accordance with Section 220-a of the N.Y. 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 the Contractor has read said statement subscribed by the Contractor him and knows the content thereof, and that the same is true of the Contractor's knowledge.

ARTICLE 8. 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 9. 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 10. TERMINATION OF AGREEMENT; REMEDY FOR BREACH

10.1 This Agreement may be terminated by the County or the Contractor as follows:

10.1.1 The County may terminate this Agreement if the Contractor refuses or fails to supply enough properly skilled workers or proper materials to meet any of its requirements, if the Contractor fails to make payment to County-approved

subcontractors for materials or labor, or disregards laws, ordinances or rules and regulations or orders of a public entity having jurisdiction over the work, or if the Contractor is substantially in breach of any of its provisions. Additionally, the County may, without cause, order the Contractor in writing, to suspend, delay or interrupt the work in whole or in part for such period of time as the County may determine.

10.1.2 The Contractor may terminate this Agreement if the County is substantially in breach of it.

10.2 If the County determines that the quality of services rendered by the Contractor is not satisfactory, and/or that the Contractor is not meeting the specifications' requirements, the County may terminate this Agreement and employ another contractor to fulfill its requirements.

10.3 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 work, together with the County's own costs incurred in procuring a substitute vendor.

ARTICLE 11. ASSIGNMENT

11.1 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, subcontracting or otherwise disposing of this Agreement, or of the Contractor's right, title, or interest therein, without the prior written consent of the County.

11.2 The Contractor shall not subcontract for any portion of the services required under this Agreement without the prior written approval of the County. Any such subcontractor shall be subject to the terms and conditions of this Agreement and any additional terms and conditions the County may deem necessary or appropriate.

ARTICLE 12. 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 13. 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 to the end that work may proceed expeditiously and economically.

ARTICLE 14. NON-DISCRIMINATION

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, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, familial status, marital status,

or status as a victim of domestic violence, 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 15. RELATIONSHIP OF THE PARTIES

The Contractor is, and shall 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 agents of the Contractor shall not in any manner be, or be held out to be, agents or employees of the County.

ARTICLE 16. INDEMNIFICATION

The Contractor shall defend, indemnify, and save harmless the County, its employees and agents, from and against all claims, damages, losses and expenses (including, without limitation, reasonable attorney's fees) arising out of, or in consequence of, any negligent or intentional act or omission of the Contractor, its employees or agents, to the extent of its responsibility for such claims, damages, losses and expenses.

ARTICLE 17. 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 under this Agreement. 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 received 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 18. APPLICABLE LAW

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

ARTICLE 19. RECORDS

19.1 The Contractor shall maintain complete and proper accounting records that shall clearly identify all costs associated with and revenue derived from the work performed under this Agreement. Such records shall be subject to periodic and final audit by the County upon request.

19.2 The Contractor shall provide the County and authorized State and/or Federal personnel access to any and all books, documents, records, charts, software or any other information relevant to performance under this Agreement, immediately upon request.

19.3 The Contractor shall retain all of the above information for six (6) years after final payment or the termination of this Agreement, and shall make such information available to the County, and authorized State and/or Federal personnel during such period.

ARTICLE 20. INSURANCE; PERFORMANCE AND LABOR AND MATERIALS BONDS

20.1 The Contractor shall procure and maintain for the entire term of this Agreement, without additional expense to the County, insurance policies of the kinds and in the amounts provided in the Schedule A attached hereto and made a part hereof. Such policies may only be changed upon thirty (30) days prior written approval by the County.

20.2 The Contractor shall, prior to commencing any of the services outlined herein, furnish the County with Certificates of Insurance showing that the requirements of this article have been met. The Contractor shall also provide the County with updated Certificates of Insurance prior to the expiration of any previously-issued certificate. No work shall be commenced under this Agreement until the Contractor has delivered the Certificates of Insurance to the County. Upon failure of the Contractor to furnish, deliver, and maintain such insurance certificates as provided above, the County may declare this Agreement suspended, discontinued, or terminated.

20.3 As required by Section 108 of the N.Y. GENERAL MUNICIPAL LAW, this Agreement shall be of no force and effect unless the Contractor shall secure compensation for the benefit of, and keep insured during the life of this Agreement, all employees engaged thereon in compliance with the provisions of the N.Y. WORKERS' COMPENSATION LAW. 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 of Schedule A of this Agreement.

20.4 In addition to the insurance requirements described in Paragraphs 16.1 through 16.3, the Contractor shall provide the County with a Performance Bond and a Labor and Materials Bond for the project, each in an amount equal to the total Bid amount.

ARTICLE 21. NO WAIVER OF PERFORMANCE

Failure of the County to insist upon strict and prompt performance of the provisions of this Agreement, 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 22. MODIFICATION

This Agreement may only be modified by a formal written amendment executed by the parties.

ARTICLE 23. 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 24. 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, amend, or affect the provisions hereof.

ARTICLE 25. ENTIRE AGREEMENT

This Agreement constitutes the entire Agreement between the parties and no representations or promises have been made except as herein expressly set forth.

ARTICLE 26. COMPLIANCE WITH MacBRIDE PRINCIPLES

The Contractor hereby represents that it is in compliance with the MacBride Principles of Fair Employment as set forth in Albany County Local Law No. 3 for 1993, in that the 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 its 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. 3 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 27. 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 28. EXTRA WORK/SERVICES

If the Contractor is of the opinion that any work/services it has been directed to perform is beyond the scope of this Agreement and constitutes extra work/services, the Contractor shall promptly notify the County of that opinion. The County shall be the sole judge as to whether or not such work/services is in fact beyond the scope of this Agreement and whether or not it constitutes extra work/services. In the event the County determines such work does constitute extra work/services, it shall provide extra compensation to the Contractor on a negotiated basis.

ARTICLE 29. PREVAILING WAGE RATES AND SUPPLEMENTS

The Contractor shall at all times remain in compliance with Sections 220.3 and 220-d of the N.Y. LABOR LAW, which concern the payment of not less than the prevailing hourly wage rate for a legal day's work to each laborer, workman or mechanic employed by the Contractor in the provision of the services required under this Agreement. The Contractor shall submit payroll records to the County every thirty (30) days after issuance of its first payroll in accord with N.Y. LABOR LAW 220 [3-a]a.

ARTICLE 30. IRANIAN ENERGY SECTOR DIVESTMENT

The Contractor hereby represents that the Contractor is in compliance with N.Y. GENERAL MUNICIPAL LAW § 103-g entitled "Iranian Energy Sector Divestment," in that Contractor has not:

- a. Provided goods or services of \$20 Million or more in the energy sector of Iran including, but not limited to, the provision of oil or liquefied natural gas tankers or products used to construct or maintain pipelines used to transport oil or liquefied natural gas for the energy sector of Iran; or
- b. Acted as a financial institution and extended \$20 Million or more in credit to another person for forty-five days or more, if that person's intent was to use the credit to provide goods or services in the energy sector in Iran.

ARTICLE 31. STORMWATER MANAGEMENT PROGRAM

31.1 The 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. The 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. The 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. The 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 the Contractor's own liability.

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

ARTICLE 32. MISCELLANEOUS PROVISIONS

32.1 In addition to the MacBride Principles of Fair Employment, Non Interruption of Work (per Res. No. 298 for 1986) and Iranian Energy Sector Divestment policies described above, the Contractor also acknowledges that it shall follow all of the other policies and procedures contained in the RFB.

32.2 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 thirty (30) days written notice in advance of such event.

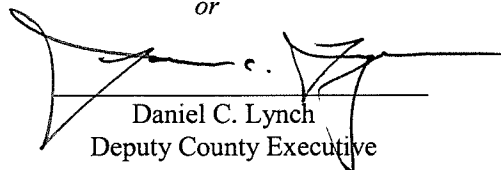
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed
the day and year first indicated below.

COUNTY OF ALBANY

DATED: 6/22/2022

BY: _____
Daniel P. McCoy
County Executive

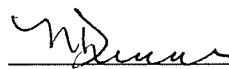
or



Daniel C. Lynch
Deputy County Executive

CONTRACTOR

DATED: 06/02/2022

BY: 
Name: Nick Duncan

Construction Manager
Title:

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

On the ____ day of _____, 2022, 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 22nd day of June, 2022, 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 2nd day of June, 2022, before me, the undersigned, personally appeared NICK DUNCAN 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.

Notary Public

Raquel Czelusniak
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 01CZ6403501
Qualified in Schenectady County
Commission Expires 01/27/2024

SCHEDULE A
INSURANCE COVERAGE

SEE PAGES SC-6 THROUGH SC-11 OF THE RFB FOR
THE DETAILED 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, as described in the RFB at pages SC-6 through SC-11.
4. Disability Insurance: A policy or policies providing appropriate disability benefits in accordance with New York Workers Compensation Law § 220(8).