

**CONSTRUCTION AGREEMENT  
WARREN ROAD SEWER DISTRICT  
FARRELL ROAD PUMP STATION EMERGENCY GENERATOR PROJECT  
PRC#2026004196**

THIS AGREEMENT (the "Contract") is entered into by and between the

TOWN OF LANSING, an incorporated municipal subdivision of the State of New York with an address of 29 Auburn Road, Lansing NY 14882 (the "Town"), and \_\_\_\_\_, of \_\_\_\_\_ (the "Contractor").

WITNESSETH, that the Town and the Contractor, for the consideration hereinafter named, agree as follows:

**ARTICLE 1. WORK TO BE DONE AND CONSIDERATION THEREFOR** - The Contractor shall furnish necessary labor, materials, tools, and equipment to provide the following professional construction, installation, and finish services:

In general the Work includes, but is not limited to installation of the Owner supplied natural gas generator and ATS, modification to the existing power distribution circuits, and permitting at the Farrell Road Pump Station, in the Town of Lansing, Tompkins County, New York.

All such materials, labor, supplies, work, permits, and the finished products (the "Work") shall be in accord with Contractor's bid and supplemental specifications, incorporated herein, and at a lump sum price of \$\_\_\_\_\_ all labor and materials included (tax exempt).

**ARTICLE 2. TIME OF COMPLETION** - The Work under this Contract shall be completed by October 31<sup>st</sup>, 2026. Time of completion is of the essence in this Contract.

**ARTICLE 3. PAYMENT TO CONTRACTOR** - Contractor shall be paid in full upon substantial completion and after inspection and approval by the Town, unless the Town elects its right to retainage for punch list or warranty items, such retainage to be paid after completion of such identified Work and final inspection and approval thereof. All materials and Work shall be and become the property of the Town upon installation or application, and Contractor waives it's right to file any mechanic's or other liens against the Town or the property or land or buildings improved. This provision shall not be construed as relieving the Contractor of sole responsibility for the care and protection of materials and Work upon which payments have been made or the restoration of any damaged Work, or as a waiver of the right of the Town to require fulfillment of all the terms of the Contract. The Contractor agrees to indemnify and save the Town harmless from all claims growing out of the lawful demands of subcontractors, laborers, workmen, mechanics, materialmen, and those furnishing machinery and parts thereof, equipment, power tools, and all supplies incurred in the furtherance of the performance of this Contract. The Contractor must, at the Town's request, provide satisfactory evidence that all obligations of the nature hereinabove designated have been paid, discharged, or waived. If the Contractor fails to do so then the Town may either pay unpaid bills of which it has written notice, or direct withholding of such amounts from sums due Contractor until satisfactory evidence is furnished that all liabilities have been fully discharged, whereupon payment to the Contractor shall be made in accordance with the terms of this Contract. The acceptance by the Contractor of final payment shall be and shall operate as a release to the Town of all claims and all liability to the Contractor for all things done or furnished in connection with this Work and for every act and neglect of the Town and others relating to or arising out of this Work. No payment, however, final or otherwise, shall operate to release the Contractor from any obligation under this Contract, including but not limited to bond and warranty obligations, if any, or the duty to pay materialmen and laborers and contractors and to indemnify the Town.

The Contractor and every subcontractor shall submit to the Town, within thirty (30) days after issuance of its first payroll and every thirty (30) days thereafter, a transcript of the original payrolls, subscribed and affirmed as true under penalty of perjury. The filling of payrolls with the Town is a condition of payment. The Contractor is responsible for any underpayments of prevailing wages or supplements by any subcontractor.

**ARTICLE 4. CONTRACTOR'S INDEMNITY AND INSURANCE** - Contractor shall indemnify, hold harmless and defend Town, its officers, employees, agents, and elected officials for injury or death to any person or persons or damage to or loss of property arising out of the performance of this Contract by the Contractor, its employees, subcontractors or agents (except all actions and claims arising out of the negligence of Town). The Contractor shall be fully responsible for

the worksite and shall indemnify and hold harmless Town, its officers, employees, agents, and elected officials from and against any and all claims for injury to persons, including employees of the Contractor or any subcontractor, where such claim asserts that the injury was the result of conditions of the worksite or that Town, its officers, employees, agents, and elected officials, were in any way negligent in the hiring of the Contractor or any subcontractor to do the Work, or as related to any failure to maintain a safe worksite. Neither the Town nor any of its officers or agents shall in any manner be answerable or responsible for any loss or damages that may happen to the Work, or to any part or parts thereof, or to any materials, equipment, or other property that may be used therein or placed upon the ground during the progress of the Work. Neither the Town nor any of its officers or agents shall be in any manner answerable or responsible for any injury done, or damages or compensation required to be paid under any present or future law, to any person or persons whatever, whether employees of the Contractor or otherwise, or for damages to any property, whether belonging to the employees of the Contractor or otherwise, or for damages to any property, whether belonging to the Town or others, occurring during or resulting from the Work. The Contractor shall properly guard against all injuries and damages. All indemnities herein provided shall be provided only to the extent permitted by law.

The Contractor shall not commence work under this Contract until it has obtained all insurance required under this paragraph and such insurance has been approved by the Town. The Contractor shall maintain the following minimum limits of insurance or as required by law, whichever is greater.

A. Workers' Compensation - Statutory coverage complying with NYS Workers' Compensation Law § 57 and General Municipal Law § 125, as evidenced by one of the following:

- CE-200 - Certification of Attestation of Exemption from NYS Workers' Compensation and/or Disability Benefits Coverage available at <http://www.wcb.ny.gov/content/main/forms/AllForms.jsp>; OR
- CE-105.2 - Certification of NYS Workers' Compensation Insurance (U-26.3 f or State Insurance Fund version); OR
- SI-12 - Certificate of NYS Workers' Compensation Self Insurance; OR
- GSI-105.2 - Certificate of NYS Workers' Compensation Group Self-Insurance Employers' Liability - \$1,000,000.

B. Disability Benefits Requirements - Statutory coverage complying with NYS Workers' Compensation Law § 220(8) under General Municipal Law § 125, as evidenced by one of the following:

- CE-200 - Certification of Attestation of Exemption from NYS Workers' Compensation and/or Disability Benefits Coverage; OR
- DB120.1 - Certificate of Disability Benefits Insurance; OR
- DB155 - Certificate of Disability Self-Insurance.

**NOTE: Proof of NYS Workers' Compensation and NYS Disability Benefits (Coverages A and B) must be provided on NYS forms as listed above (complete information available at <http://www.wcb.ny.gov/content/main/forms/AllForms.jsp>, or Bureau of Compliance at (866) 546-9322).**

C. Commercial General Liability including contractual, independent contractors, products/completed operations:

- Each Occurrence \$2,000,000 per project.
- General Aggregate \$5,000,000 aggregate per project.
- Full building replacement cost coverage for fire and other losses.
- Products/Completed Operations \$2,000,000 aggregate per project.
- Personal and Advertising Injury \$1,000,000
- Fire Damage Legal \$100,000
- Medical Expense \$5,000
- Additional Insured endorsements required for ongoing operations and completed operations.
- Labor Law and elevated workplace or injury liability exclusions are not permitted; Acord 855 is required.

**NOTE: General Aggregate shall apply separately to the Project prescribed in the Contract. It is expressly understood and agreed by the Contractor that the insurance requirements specified above, contemplate and require the use of occurrence liability forms. Town and its officers, employees, agents, and elected officials and T.G. Miller P.C. are to be included as Additional Insureds on a primary and noncontributory basis for both ongoing and completed operations.**

D. Business Auto Coverage Liability for Owned, Hired and Non-Owned Autos

- \$1,000,000 CSL or 500,000 per Person BI
- \$1,000,000 per Accident BI
- \$250,000 PD Split Limits

E. All insurance shall be written with insurance carriers licensed by the New York State Office of Financial Services and have a Best's rating of A XI or better. Proof of insurance shall be provided on the Accord Certificate of Insurance, Accord 25 (05/2010), or insurance company certificate, and Accord 855 is required. All Certificates shall contain a 60-day notice of cancellation, non-renewal, or material change to Town. All Certificates must be signed by a licensed agent or authorized representative of the insurance company – broker signature is not acceptable. Certificates of Insurance shall be submitted with the signed Contract, and an insurance binder shall be presented within 10 days of Bid Award.

**ARTICLE 5. REPRESENTATIONS OF CONTRACTOR** - The Contractor represents and warrants that it is financially solvent, experienced in and competent to perform the type of Work herein to be furnished, and that it is familiar with all federal, state, municipal, and department laws, ordinances, and regulations which may in any way affect the Work or those employed therein. Contractor also warrants that it, and none of its owners, are upon any NYS debarment lists, including as maintained by the Department of Labor and the Workers' Compensation Board.

**ARTICLE 6. PERMITS AND REGULATIONS** - The Contractor shall procure and pay for all permits and licenses necessary for the services to be rendered hereunder, and shall comply with all laws, regulations, and safety requirements for the Work, including Labor Law § 200 et seq., and all elevation related and environmental hazards posed by exposure to VOCs and any substances used in relation to the project. Contractor shall maintain on site a proper first aid kit, all MSDS data sheets required, and meet all other safety requirements.

**ARTICLE 7. EXTRA WORK** - This Contract may be modified or changed by the Town from time to time pursuant to a duly approved change order agreed to and executed by the Contractor, whose agreement may not be unreasonably withheld if the Town pays for applicable increases in costs plus 10% for profits and overhead.

**ARTICLE 8. DISPUTED WORK** - The Contractor may dispute any directions or orders to complete any Work and if the Town determines that the Work in question is Contract Work (and not extra work), or that the determination or order complained of is proper, it will direct the Contractor to proceed, and the Contractor must promptly comply. In order to reserve its right to claim compensation for such work, or damages resulting from such compliance, the Contractor must, within 10 days after receiving notice of the Town's determination and direction, notify the Town Supervisor in writing that the work is being performed, or that the determination and direction is being complied with, under protest. If the Contractor files such a 10-day notice or protest, the Contractor shall, within 20 days thereof, submit to the Town a verified, detailed statement of the costs or damages sustained, together with documentary evidence of such damages. Upon failure of the Contractor to fully comply with the foregoing provisions, such claims shall be deemed waived and no right to recover on such claims shall exist. These terms do not alter or supplant the Contractor's duty to issue a legal Notice of Claim in relation to any claims of breach, or as to any other claims.

**ARTICLE 9. PERFORMANCE OF EXTRA OR DISPUTED WORK** - While the Contractor is performing any extra work ordered by the Town under Article 7 hereof (unless payment therefore is to be made by a lump sum), or is performing disputed work or complying with a determination or order under protest in accordance with Article 8 hereof, at least once per week the Contractor shall furnish to the Town daily written statements signed by the Contractor showing: (a) the name and number of each worker employed on such extra work or engaged in complying with such determination or order, the number of hours employed thereon, and the character of work each is doing; and (b) the nature and quantity of any materials and equipment furnished or used in connection with the performance of such extra work or compliance with such determination or order, and from whom purchased or rented. Any failure to comply strictly with these requirements shall constitute a waiver of any claim for extra compensation or damages on account of the performance of such work or compliance with such determination or order.

**ARTICLE 10. CLAIMS AND ACTIONS THEREON; DISPUTES** - The Town shall endeavor to act in good faith to resolve any disputes arising under or in connection with this Contract, or in relation to or concerning the value of extra work, or any work the Contractor believes is extra work or which is undertaken under protest. Failing any resolution of such disputes the parties shall attempt mediation through the Community Dispute Resolution Center, Ithaca, New York. If they cannot agree, then either party may make claim against the other, but no claim against the Town for damages for breach of contract or compensation for uncompensated extra work shall be made or asserted in any action or proceeding at law, or in equity,

unless the Contractor shall have complied with all the requirements relating to the giving of notice and of information with respect to such claims as hereinbefore provided or as required by NYS Town Law or the General Municipal Law. Once any disputed work is paid for, it shall become a part of the "Work."

**ARTICLE 11. ESTOPPEL** - Neither the Town nor any department, officer, agent or employees thereof, shall be bound, precluded or estopped by any determination, decision, approval, order, letter, payment or certificate made or given under or in connection with this Contract, whether before or after the final completion or acceptance of the Work or payment therefor, including in relation to the true and correct classification, amount, quality or character of the Work actually done, or because any termination, decision, order, letter, payment, or certificate was untrue, incorrect, or improperly made, or because any Work or any part thereof does not in fact conform to the requirements of this Contract, or from demanding and recovering from the Contractor any overpayments made, or to recover such damages as the Town may sustain by reason of Contractor's failure to perform each and every part of this Contract in accordance with its terms, including to finish and complete all Work in a good and workmanlike manner.

**ARTICLE 12. TOWN'S RIGHT TO STOP WORK OR TERMINATE CONTRACT** - The Town shall have the right to stop work or terminate the Contract if the Contractor is adjudged bankrupt or makes an assignment for the benefit of creditors; or if a receiver or liquidator is appointed for the Contractor or for any of its property and is not dismissed within 20 days after such appointment or the proceedings in connection therewith are not stayed on appeal within the said 20 days; or if the Contractor refuses or fails to prosecute the Work or any part thereof with due diligence; or if the Contractor fails to make prompt payment to persons supplying labor or materials for the Work; or if the Contractor fails or refuses to comply with all applicable laws or ordinances; or if the Contractor is guilty of a substantial violation of any provision of this Contract; or if the Town, without prejudice to any other rights or remedy it may have and upon 7 days' notice to the Contractor, terminates for convenience all or any portion of the Work, the Contract, or the employment of the Contractor and its right to proceed to complete any Work. In the case of any whole or partial termination for convenience, the Contractor shall be paid for Work properly completed, all materials furnished (for which no return is allowed), and the parties shall adjust the Contract price accordingly and in good faith.

**ARTICLE 13. DAMAGES** - It is hereby mutually covenanted and agreed that the relation of the Contractor to the Work to be performed by it under this Contract shall be that of an independent contractor. As an independent contractor, Contractor will be responsible for all damage, loss or injury to persons or property that may arise in or be incurred during the conduct and progress of said Work, whether or not the Contractor, its agents, or employees have been negligent. The Contractor shall hold and keep the Town free and discharged of and from any and all responsibility and liability of any sort or kind. The Contractor shall assume all responsibility for risks or casualties of every description, for loss or injury to persons or property arising out of the nature of the Work, from the action of the elements, or from any unforeseen or unusual difficulty. The Contractor shall make good any damages that may occur in consequence of the Work or any part of it. The Contractor shall assume all blame, loss, and responsibility of any nature by reason of neglect or violation of any federal, state, county or local laws, regulations, or ordinances.

**ARTICLE 14. NO ASSIGNMENT** - In accordance with the provisions of General Municipal Law § 109 the Contractor is hereby prohibited from assigning, transferring, conveying, subletting or otherwise disposing of this Contract, or of its right, title or interest in this Contract, or its power to execute this Contract, to any other person or corporation without the previous consent in writing of the Town.

**ARTICLE 15. EXECUTORY CONTRACT** - In accordance with the State Finance Law and provisions of the Local Finance Law, and other laws affecting municipal obligations, the obligations of the Town hereunder shall be executory to the extent of monies appropriated or available to Town for the implementation of this Contract, and no liability shall be incurred by the Town beyond such monies appropriated or available. Neither the full faith and credit nor the taxing power of the Town is pledged to the payment of any amount due or to become due under this Contract. Neither this Contract nor any representation by any of the Town's public officers or employees creates any obligation by the legislative body of the Town to appropriate or make monies available for the purposes of this Contract.

**ARTICLE 16. REQUIRED PROVISIONS OF LAW; PUBLIC WORK REQUIREMENTS** - Each and every provision of law and clause required by law to be inserted in this Contract shall be deemed to have been inserted herein. This expressly includes, but is not limited to, the Iran Divestment Act of 2012 (codified in part at State Finance Law §165-a) and regulations, the OFAC rules and regulations of the US Department of the Treasury, and related federal laws and Executive Orders limiting certain acts and agreements in commerce, and the NYS MacBride Fair Employment Principles Act and regulations. If any provision is required by law or not properly herein contained or addressed mistake or otherwise, then upon the

application of either party this Contract shall be physically amended forthwith to make such correction or insertion. Contractor is further advised that it must pay all their personnel according to Rates of Wages and Supplements determined by the Commissioner of Labor of the State of New York, as prevailing in locality of site at which Work will be performed. The same requirement applies to all subcontractors and sub-subcontractors. These wage rates and supplemental benefits are subject to change. Any such change shall be deemed to be incorporated herein by reference as of effective date of change and shall form part of this Contract and all such change shall be incorporated herein at no change in Contract pricing as Contractor must include in original bid such monies as he deems necessary to pay prevailing wages and supplements over the course of the Work. The Town does not represent or warrant that Schedule of Wages classifications of workmen, mechanics and laborers, as required by § 220 of Labor Law, is complete and reserves the right to revise such schedule in the event any other occupation not mentioned in the schedule or classifications is required in the execution of Project. Schedules of supplements to be provided and wages to be paid shall be requested from the Commissioner of Labor by the Contractor and become part of the wage and supplement schedules embodied in the Contract. The absence of an occupational classification shall not relieve Contractor from requirements to pay or provide prevailing wages and supplements for occupations not listed. Contractor shall obtain and keep current all appropriate wage rates listings for this project and, among other things, the Contractor shall also comply with:

- Labor Law § 220-e and Executive Law §§ 291-299 and the Civil Rights Law relating to prohibitions against discrimination and for providing equal opportunity, including, but not limited to the M/WBE rules of the NYS Department of Labor, if and as applicable, including assisting the Town with SPOTA compliance, timely and proper completion and delivery of Form PW-12 wage and supplement information, and posting all prevailing wage and other Labor Law notices at and about the work site, including Labor Law § 220 compliance;
- Compliance with sexual harassment obligations under New York State Law, including the provisions of Labor Law § 201-g and State Finance Law § 139-l. Contractor certifies under penalty of perjury that Contractor has properly implemented and maintains a written sexual harassment policy, undertakes compliant annual sexual harassment prevention training to all of its employees, and that Contractor's policies and procedure comply with the minimum requirements of New York State law.
- Affirmative action as required by the NYS Labor Law and preference in employment as required by Labor Law § 222, mainly pertaining to NYS citizens;
- Labor Law § 220 and § 222, and all public works and prevailing wage requirements, including the 8-hour workday rules per Labor Law § 220(2) and compliance with overtime dispensation rules and the timely and proper completion and delivery of Form PW-51, including ensuring that no laborer, workman or mechanic in the employ of Contractor, or any of Contractor's subcontractors or other persons doing or contracting to do Work under this Contract, shall be permitted or required to Work more than 8 hours in any one calendar day or more than 5 days in any week except in case of extraordinary emergency including, fire, flood, or damage to life or property;
- Prevention of dust hazards as required by Labor Law § 222-a and applicable NYS Energy Codes;
- Certification by Contractor that the Contractor, individually and as a company or corporation, is not listed upon any disbarment list maintained by the NYS Department of Labor (Public Works Division) or the Workers' Compensation Board, and verification that all employees have or are either OSHA-10 or OSHA-30 training compliant, as necessary for the duty and job title, or exempt from such requirements;

**ARTICLE 17. CLEANUP** - The Contractor shall, at all times, keep the premises free from accumulations of waste materials caused by its employees or due to its work. At the completion of the project, the Contractor shall remove all of its debris and rubbish from the site, and all of its tools, scaffolding, and surplus materials. Contractor shall leave the Work and workplace in a "broom clean" or equivalent condition, except where further cleaning is required.

**ARTICLE 18. TAXES** - Any and all taxes now or hereafter imposed on the Work to be performed, materials to be furnished, or upon the Contract itself, or upon any matter in connection herewith shall be paid by the Contractor, it being the intention of the parties hereto that in no event shall such taxes be borne by the Town. However, the Contractor, in performing a public work, may avail itself of the Town's tax exemption certificate/number, but does so at its sole risk.

**ARTICLE 19: WARRANTY; SURVIVAL** - Contractor shall warrant all materials and installation for a minimum period of 2 years from date of completion and fix and repair same upon request of the Town at no additional cost to Town. This obligation and the indemnity obligations set forth above shall survive this Contract for a minimum of 2 years after the Contract is fully and completely performed. "Fully and completely performed", as used this Article, means that the 2-year warranty period shall be measured from the latest date among each of the following: (i) date of final site cleaning and finishing; (ii) date of final punch list completion; (iii) date of final payment; (iv) date of final payment of retainage close-outs, if any; and (v) date of building permit close-out.

**ARTICLE 20. NOTICES AND WAIVERS** - Any and all notices and payments required hereunder shall be addressed to the other party at the address set forth above, or at such other address as may hereafter be designated in writing by either party hereto. No waiver of any breach of any condition of the Contract shall be binding unless in writing and signed by the party waiving said breach. No such waiver shall in any way affect any other term or condition of this Contract or constitute a cause or excuse for a repetition of such or any other breach unless the waiver shall include the same.

**ARTICLE 21. MODIFICATION** - This Contract constitutes the complete understanding of the parties. Except as may be required by paragraph 16 above respecting compliance, no modification of any provisions thereof shall be valid unless in writing and signed by both parties.

**IN WITNESS WHEREOF**, the Town of Lansing has caused its corporate seal to be affixed hereto and these presents to be signed by the Town Supervisor, as duly authorized as attested to by the Town Clerk, and the Contractor has caused itself to be bound hereby by the signature of its authorized partner, member, owner, or officer.

**Town of Lansing**

**Attest:**

By: \_\_\_\_\_  
(date)

\_\_\_\_\_  
(date)

**CONTRACTOR**

By: \_\_\_\_\_  
(date)