

AGREEMENT

AGREEMENT, made by and between the **TOMPKINS COUNTY SOIL & WATER CONSERVATION DISTRICT**, a municipal corporation of the State of New York, having offices in the 170 Bostwick Road, Ithaca, New York 14850, hereinafter referred to as "TCSWCD or COUNTY", and the **TOWN OF LANSING** having offices at 10 Town Barn Road, Lansing, NY 14882, hereinafter referred to as the "TOWN".

WITNESSETH

WHEREAS, the TCSWCD has determined its willingness to work cooperatively with the TOWN to accomplish the implementation of the Lockerby Hill Road Ditch Remediation Project (42.595064, -76.546719); and

NOW, THEREFORE, in consideration of the promises, covenants, and agreements contained herein, the TCSWCD and the TOWN (the "PARTIES") hereto agree as follows:

1. The TOWN shall work under engineering advisement of the Tompkins County Soil & Water Conservation District for work within the ditches of Lockerby Hill Road starting at house number 39 and ending at house number 145. The Town Engineer can, at the request of the Highway Superintendent, review and/or approve all engineering plans created for the project.
2. The Agreement Term shall be from **April 1, 2026** through **December 31, 2026** or upon the completion of the Lockerby Hill Road Ditch Remediation Project.
3. The TOWN and the TCSWCD agree to the Scope of Services described below, and further described in Attachment A, hereinafter incorporated into this contract. .
4. Scope of Services
 - a. TCSWCD will:
 - Provide technical assistance to the TOWN, as needed by the TOWN, with regards to the Lockerby Hill Road Ditch Remediation Project. This will include engineering assistance, design/layout of the remediation practices and as-built documentation.
 - b. The TOWN will:
 - Provide payment/services for all equipment, labor and material costs of the project.
 - obtain access to cross culvert on Davis property and downstream of culvert, as needed for replacement and stabilization.
5. The TCSWCD agrees to reimburse the TOWN for up to a total amount not to exceed **\$235,000.00 (two hundred thirty five thousand dollars)** for expenses incurred related to rock material costs via State funds appropriated to the TCSWCD from the Eastern Finger Lakes Coalition for project implementation. Payment to the TOWN shall be made by the TCSWCD upon receipt of an invoice from the TOWN and acceptance by the TCSWCD that all terms and conditions of this Agreement have been met and that progress on work activities has been made as billed. The County will not prepay for services prior to services being provided. Payment will be made to TOWN, within 45 days of

receipt, by TCSWCD of a request for reimbursement, which shall designate the amount of rock purchased and requested reimbursement amount. The TCSWCD agrees to pay the TOWN for services based upon the determination by TCSWCD of the satisfactory completion of services and products after the TCSWCD engineer's approval, unless otherwise specified in the body of the Agreement. TOWN will submit detailed invoices based on the billing format as specified in the body of the Agreement. Since the COUNTY is tax exempt, no sales taxes will be applied to the cost of services associated with this Agreement nor shall the COUNTY be charged interest penalty fees.

6. The terms and provisions of this Agreement, and any controversies arising hereunder, shall be interpreted, governed, and construed under the laws of the State of New York. The PARTIES consent to the exclusive jurisdiction of, and venue in, the State and Federal Courts within Tompkins County, New York. This Agreement is binding on all successors, heirs, executors, administrators, representatives, and assigns of all the PARTIES hereto.
7. This Agreement constitutes the entire agreement between the PARTIES with respect to the subject matter hereof and supersedes all other prior agreements and understandings, both written and oral, between the PARTIES with respect to the subject matter hereof. Attachments, appendix, exhibits, schedules and annexes attached to this Agreement are incorporated herein and shall be considered a part of this Agreement for the purposes stated herein.
8. If any of the provisions contained in this Agreement shall, for any reason, be held to be invalid, illegal, or unenforceable, such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein. The PARTIES shall use all reasonable efforts to substitute a valid, legal, and enforceable provision that implements the purposes and intents of this Agreement.
9. Any notice, demand or communication required, permitted, or desired to be given hereunder shall be deemed effectively given when personally delivered or mailed by prepaid certified mail, return receipt requested, to the addresses set forth above.
10. Either Party reserves the right to terminate this Agreement for any reason giving thirty (30) days written notice to the other Party. Reimbursement of payment to the TOWN from the TCSWCD will not be made until all work is satisfactorily completed to TCSWCD engineer's approval.
11. This Agreement may not be amended, modified, or reassigned except in writing by mutual agreement of the PARTIES hereto nor may any obligations be waived orally. The TOWN shall not assign any part of this Agreement to a subcontractor or other party without the express written consent of the County. All terms and conditions of this Agreement shall apply to any subcontractor. It is mutually agreed between the PARTIES that the TOWN is an independent contractor and that no employee-employer, partnership, agent, representative relationship exists between the TOWN and the TCSWCD under the terms of this Agreement, nor to enter into or assume, or attempt to enter into or assume any obligation on behalf of the other

12. Neither the Town nor the TCSWCD shall not be responsible for any failure to perform or delay attributable in whole or in part to any cause beyond its reasonable control including, but not limited to, acts of God, government actions, war, civil disturbance, terrorism, insurrection, sabotage, labor shortages or disputes, or TOWN's or County's fault or negligence.
13. The TOWN and the County shall maintain the confidentiality of all client-identifying and protected information including, but not limited to, organizational details, finances, clients/patients, business opportunities, business records, specifications or plans owned by the Town or COUNTY. Both PARTIES agree to notify the other immediately in the event either learns of any unauthorized access, possession, distribution, or use of any sensitive information relating to a client has occurred.
14. Except as may otherwise be specified in the body of the Agreement, the TOWN agrees to provide its employees with such tools, materials, and equipment required to perform the services prescribed by this Agreement.
15. During the performance of this Agreement, the County and TOWN agrees that they will not discriminate against any employee or applicant for employment because of age, ethnicity, creed, race, color, sex, sexual orientation, gender identity, national origin, marital status, disability, military status, status as an ex-offender, arrest record, conviction record, and domestic violence victim status, and will take affirmative action to ensure that they are afforded equal employment opportunities without discrimination. The areas in which discrimination on the aforementioned grounds is prohibited include, but are not limited to, recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff or termination, rates of pay or other forms of compensation, and selection for training or retraining, including apprenticeship and on-the-job training.
16. Each party shall release, waive, indemnify, hold harmless, and defend the other party and the and each its officers, employees, agents and elected officials from and against any and all claims, demands, actions, causes of action, suits, or judgements, including but not limited to, losses, costs, expenses, penalties, or other damages or liability brought against such other party and their officers, employees, agents and elected officials for injury, illness, or death to any person or persons or damage to property arising out of the performance of this Agreement by the other party, its employees, subcontractors or agents with the exception of actions and claims arising out of the negligence of the party seeking indemnity. The indemnification will survive the term of this Agreement whether it is terminated or expired. Each party shall maintain the minimum limits of insurance as outlined by this Agreement in Attachment B or as required by law, whichever is greater.
17. The TOWN certifies to the TCSWCD that the programs and services to be provided and described herein are accessible to the handicapped in accordance with the provisions of Section 504 of the Federal Rehabilitation Act of 1973.
18. The PARTIES agree that as a condition of receipt of Federal funds, if any, that audits be performed of the TOWN 's records by auditors in compliance with the Federal Single Audit Act of 1984.
19. All required Federal, State, and Local licenses shall be obtained by the TOWN prior to commencement of this Agreement and shall be maintained by the TOWN for the duration of this Agreement. The TOWN agrees to comply with all Federal, State, and Local laws and regulations governing the provision of goods and services under this Agreement. To the extent that Federal funds are provided to the TOWN under this Agreement, the TOWN agrees that it will comply with all applicable Federal laws and regulations, including but not limited to those laws and regulations under which the Federal funds

were authorized.

- 20. The TOWN shall promptly notify the COUNTY if any employee, director, officer or subcontractors is on or has been added to the exclusion list. The COUNTY reserves the right to immediately cancel this Agreement, at no penalty to the COUNTY, if any employee, director, officer or subcontractors is on or has been added to the exclusion list.

By signing this Agreement, the TOWN attests to that fact that the TOWN and/or the provider have not been sanctioned nor excluded by any of the aforementioned entities.

- 21. The New York State Labor Law at Article 9, Sections 230-239-A of said statute requires that contractors and subcontractors pay the prevailing rate of wage and supplements (fringe benefits) to all workers under a public work contract and follow other requirements. Employers must pay the prevailing wage rate set for the locality where the work is performed. Prevailing wage is the pay rate set by law for work on public work projects. This applies to all laborers, workers or mechanics employed under a public work contract. Every contractor and subcontractor must keep and provide certified original payrolls or transcripts subscribed and affirmed as true under penalty of perjury. These must be made available to the COUNTY at its request. Payrolls must be maintained for at least three (3) years from the projects date of completion. Additionally, as per Article 6 of the Labor Law, contractors and subcontractors are required to establish, maintain, and preserve for not less than six (6) years, contemporaneous, true, and accurate payroll records. At a minimum, payrolls must show the following information for each person employed on a public work project: Name; Address, Last 4 Digits of Social Security number, Classification(s) in which the worker was employed, Hourly wage rate(s) paid, Supplements paid or provided, and Daily and weekly number of hours worked in each classification. Payroll records and transcripts are required to be kept on site during all the time that work under that contract is being performed.

- 22. The signees on behalf of each of the PARTIES warrant that they are duly authorized to bind their organization to the terms and provisions set forth herein, and further acknowledge that the other party is entitled to rely upon this representation of authority.

IN WITNESS WHEREOF, the PARTIES hereto have executed this Agreement as the day and year first above written.

DATE: _____

DATE: _____

TCSWCD Signature

TOWN OF LANSING Authorized Signature

District Manager

Print Name & Title

ATTACHMENT A – Tompkins County Insurance Requirements

Each party shall indemnify, hold harmless and defend each other and its officers, employees, agents and elected officials from and against any and all claims and actions brought against each other and its officers, employees, agents and elected officials for injury, illness, or death to any person or persons or damage to property arising out of the performance of this Agreement by the Town/County, its employees, subcontractors or agents except all actions and claims arising out of the negligence of the TCSWCD or Tompkins County or Town. Each party shall maintain the following minimum limits of insurance or as required by law, whichever is greater.

A.) Workers' Compensation and New York Disability

Workers' Compensation

Statutory coverage complying with NYS Workers' Compensation Law Section 57 General Municipal Law Section 125, Town must submit 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

Disability Benefits Requirements

Statutory coverage complying with NYS Workers' Compensation Law Section 220 (8) under General Municipal Law Section 125, Town must submit 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 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).

B.) Commercial General Liability (CGL) including, contractual, independent contractors, products/completed operations

Each Occurrence	\$1,000,000
General Aggregate	\$2,000,000
Products/Completed Operations Aggregate	\$2,000,000
Personal and Advertising Injury	\$1,000,000
Damage to Rented Premises	\$50,000
Medical Expense	\$5,000

- Town shall maintain coverage for itself and all additional insureds for the duration of the Agreement.
- Policy may not contain any exclusions relating to NY Labor Law or municipal work.
- It is expressly understood and agreed by the Town that the insurance requirements specified above, contemplate the use of occurrence liability forms.
- TCSWCD and the Tompkins County and its officers, employees, agents and elected officials are to be included as **Additional Insured's on a primary and non-contributory basis.**

- If applicable, Town, Contractor, Owner, and all other parties required of the Town shall be included as Additional Insured included Completed Operations on the CGL, using ISO Additional Insured Endorsement CG2010 (11/85) or CG2010 (04/13) **AND** CG2037 (04/13) or CG2037 (04/13) **AND** CG2038 (04/13) or an endorsement providing equivalent coverage to the additional insureds. This insurance for the additional insureds shall be as broad as the coverage provided for the named insured Contractor/Subcontractor. It shall apply as Primary and non-contributing Insurance before any other insurance or self-insurance, including any deductible, maintained by, or provided to, the additional insured.

C.) Commercial Umbrella

\$1,000,000

- Policy may not contain any exclusions relating to NY Labor Law or municipal work.
- TCSWCD and Tompkins County and its officers, employees, agents and elected officials are to be included as **Additional Insured's on a primary and non-contributory basis.**
- Umbrella coverage must include as insureds all entities that are additional insureds on the CGL.
- Umbrella coverage for such additional insureds shall apply as primary before any other insurance or self-insurance, including any deductible, maintained by, or provided to, the additional insured other than the CGL, Auto Liability, and Employers Liability coverages maintained by the Town.

D.) Business Auto Coverage

Liability for Owned,	\$1,000,000 CSL or
Hired and Non-Owned	\$500,000 Per Person BI
	\$1,000,000 Per Accident BI
	\$250,000 PD Split Limits

- Town, Contractor, Owner, and all other parties required of the Town shall be included as insureds on the auto policy.

E.) Waiver of Subrogation

Town waives all rights against TCSWCD and the Tompkins County and its officers, employees, agents and elected officials for recovery of damages to the extent these damages are covered by commercial general liability, commercial umbrella liability, business auto liability, or workers compensation and employers liability insurance maintained per requirements stated above.

All insurance shall be written with insurance carriers licensed by New York State and have an A.M. Best's Key Rating no lower than "A – X". Proof of insurance shall be provided on the Acord Certificate of Insurance, Acord 25 (03/2016), or insurance company certificate. All insurance policies and Certificates shall contain a provision that coverage afforded under the policies will not be canceled, allowed to expire, or materially changed (except for non-payments) until at least thirty (30) days prior written notice has been given to the County. All Certificates must be signed by a licensed agent or authorized representative of the insurance company. Certificates of Insurance shall be submitted with the signed agreement.