

Appendix C-1

Summary of Contractor Bids

DIVISION OF MANAGEMENT & BUDGET SERVICES

New York State Department of Environmental Conservation

625 Broadway, 10th Floor, Albany, New York 12233-5010

Phone: (518) 402-9228 • Fax: (518) 402-9023

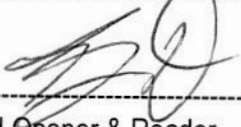
www.dec.ny.gov

BID SUMMARY

Project:	Site No. 516008 Saranac Lake Gas Company	Date of Opening:	9/2/20
Contract #:	D011109	Time of Opening:	1:00 P.M.

BIDDERS	TOTAL BID	DATE & TIME BID RECEIVED
D.A. Collins Environmental Services, LLC. 269 Ballard Road Wilton, NY 12831-1597	\$5,903,753.65	9/2/20 @ 12:06 pm
The Environmental Service Group Inc. 177 Wake Avenue Tonawanda, NY 14150	\$5,969,829.50	9/2/20 @ 11:04 am
Sessler Environmental Services, LLC 1330 Research Forest Macedon, NY 14502-8742	\$6,086,594.00	9/2/20 @ 9:17 am
Envirotrac LTD 5 Old Dock Rd Yaphank, NY 11980	\$6,632,434.00	9/2/20 @ 10:28 am
Land Remediation, Inc. 74 Hudson River Road Waterford, NY 12188	\$6,677,015.30	9/2/20 @ 10:30 am
Guardian Environmental Services Company, Inc. 70 Albe Drive Newark, DE 19702	\$9,594,438.75	9/2/20 @ 10:28 am
Abscope Environmental Inc. P.O. Box 487 Canastota, NY 13032	\$9,999,925.45	9/2/20 @ 12:08 pm

Tom Giammatteo certifies that he/she has been authorized to open bids and that the above bids were opened publicly at the time and place specified and that the bids were received before the time of bid opening and appear on the tabulation.


Bid Opener & Reader


Bid Recorder



Department of
Environmental
Conservation

Appendix C-2

Notice of Apparent Low Bidder

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Remediation, Remedial Bureau E

625 Broadway, 12th Floor, Albany, NY 12233-7017

P: (518) 402-9813 | F: (518) 402-9819

www.dec.ny.gov

September 8, 2020

VIA E-MAIL

David MacDougall, Vice President
D.A. Collins Environmental Services, LLC
269 Ballard Road
Wilton, NY 12831

RE: Notice of Apparent Low Bid
Former Saranac Lake Manufacturing Gas Co.
Site No. 516008
Saranac Lake, Essex County
Remedial Construction Contract No. D011909

Dear Mr. David MacDougall:

This letter is to inform you that D.A. Collins is the apparent low bidder as a result of the bid opening held on Wednesday, September 2, 2020 for the subject remedial construction contract. D.A. Collins submitted the apparent low bid in the amount of five million, nine hundred three thousand, seven hundred fifty-three dollars and sixty-five (\$5,903,753.65).

As part of the award process, the New York State Department of Environmental Conservation (Department) requires that D.A. Collins submit the documents outlined within **Section III – Bidding Information and Requirements, Article 5 - Required Bid Submittals, Paragraph b)** of the subject Contract Documents. Specifically, the following documents are required to be submitted by Tuesday, September 15, 2020.

1. Off-site permitted facility to receive material, along with a copy of facility's Permit,
2. Plan of Operations (Work Plan) and Progress Schedule, Health and Safety Plan, Sampling Plan, and QA/QC Plan,
3. Statement of Surety's intent, complete and signed by a duly authorized surety company licensed to do business in the State of New York
4. A description of projects completed by Bidder documenting its experience in this type of work - the bidder shall demonstrate experience through submission of a minimum of at least five similar projects where manufactured coal gas residuals and free phase product were successfully solidified,



Department of
Environmental
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5. Completed NYS Vendor Responsibility Questionnaire (CCA-2) or an affidavit of no change (if appropriate). If the forms are filed using OSC's online VendRep System a letter, certifying that the forms have been so completed and submitted, must be sent to the Project Manager.
6. M/WBE Utilization Plan. If the forms are filed using the Department's electronic M/WBE System, a letter certifying that the forms have been so completed and submitted must be sent to the Project Manager.
7. An Authorizing Resolution stating that a certain individual has the authority to sign the Contract on behalf of the firm.
8. Endorsed Executive Order No. 177 Certification (Anti-Discriminatory Policies and Practices)
9. Any other information that demonstrates the Bidder's ability to perform the work described herein
10. Low bidders may be asked to submit additional information to demonstrate competency
11. A copy of the proposed site Pollution Liability insurance policy demonstrating that the bidder has the required \$2-million of Pollution Liability insurance,
12. Sign and submit the Sexual Harassment Prevention Certification Form, submit a signed statement detailing the reasons why the certification cannot be made.

Please return one (1) electronic copy and four (4) paper copies of all required documentation to:

Brianna Scharf
NYS Department of Environmental Conservation
Division of Environmental Remediation
625 Broadway, 12th Floor
Albany, New York 12233-7017

The project plans and all associated revisions will be reviewed by the Department and Engineer and must be finalized prior to award of the contract. If you have any questions, please contact Brianna Scharf, Project Manager, at (518) 402-5987. Please be aware that the requirements of Paragraph c.), Article 5 (*Required Bid Submittals*), Section III – *Bidding Information and Requirements* will be in effect within five (5) days of Notice of Intent to Award.

Sincerely,

A handwritten signature in dark ink, appearing to read "Michael Cruden", is centered on the page. The signature is written in a cursive style with a large, sweeping initial "M".

Michael Cruden, P.E.
Director, Remedial Bureau E
Division of Environmental Remediation

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Remediation, Remedial Bureau E

625 Broadway, 12th Floor, Albany, NY 12233-7017

P: (518) 402-9813 | F: (518) 402-9819

www.dec.ny.gov

ec: M. Cruden, DEC
S. Saucier, DEC
B. Scharf, DEC
D. Gardner, DEC
K. Keane, DEC
A. Lindberg, DEC



Department of
Environmental
Conservation



Appendix C-3

Notice of Intent to Award

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Remediation, Remedial Bureau E

625 Broadway, 12th Floor, Albany, NY 12233-7017

P: (518) 402-9813 | F: (518) 402-9819

www.dec.ny.gov

October 1, 2020

VIA E-MAIL

David MacDougall, Vice President
D.A. Collins Environmental Services, LLC
269 Ballard Road
Wilton, NY 12831

RE: Notice of Intent to Award
Former Saranac Lake Manufacturing Gas Co.
Site No. 516008
Saranac Lake, Essex County
Remedial Construction Contract No. D011909

Dear Mr. David MacDougall:

This letter constitutes the New York State Department of Environmental Conservation (Department) Notice of Intent to Award the Former Saranac Lake Manufacturing Gas Co. Contract to D.A. Collins Environmental Services LLC for work in the amount of five million, nine hundred three thousand, seven hundred fifty-three dollars and sixty-five cents (\$5,903,753.65).

Enclosed is an electronic copy of the Contract Section VI - Agreement. Please prepare and execute four (4) endorsed originals of the Agreement; sign all copies where noted and have the signatures notarized. You are required by the Contract Documents to execute the Contract Agreement within fourteen (14) calendar days from the date of this notice to you.

Execution of the contract is contingent upon receipt, and approval by the Department, of the documents required to be submitted in accordance with Section III – *Bidding Information and Requirements*, Article 5 – *Required Bid Submittals*, Paragraph c), and, Section V – *Bid Forms and Attachments*, Article 3, of the Contract Documents, or, as amended by addenda.

The following items summarize those documents required in the aforementioned Contract Documents, or otherwise required, and must be submitted along with the executed Contract Agreements for the Department's review and acceptance:

- Bid breakdown of items reflecting adjusted contract amount as required in Section III – *Bidding Information and Requirements*, Article 12 – *Bid Breakdown*, of the contract documents.
- Please refer to Contract Documents Section VIII Article 4.2, and any Addenda if applicable, for the types and amounts of insurance required for this contract, as well as the necessary forms and endorsement requirements.



Department of
Environmental
Conservation

Should you require any assistance with fulfilling these requirements, please contact Andrew Lindberg in the Department's Bureau of Contract & Grant Development by phone at 518-402-9240 or by e-mail at andrew.lindberg@dec.ny.gov. He can assist you by further explaining the insurance requirements or contacting your insurance company directly. Please include the contract number D011909 and Site No. 516008 Saranac Lake Gas Co. in the subject line of all correspondence.

If you do not require assistance, please:

Request that your insurance provider note the Department's specific contract number in the Description of Operations box on the ACORD form.

List the following address on the Workers' Compensation and Disability Benefits Certificates as Entity Requesting Proof of Coverage and on the ACORD forms and endorsements as the Certificate Holder:

The State of New York and the
NYS Department of Environmental Conservation
Division of Environmental Remediation
Remedial Bureau E
Attention – Brianna Scharf
625 Broadway, 12th Floor
Albany, NY 12233-7012

Submit all required insurance certificates and applicable endorsements to the following address:

New York State Department of Environmental Conservation
Division of Environmental Remediation
Remedial Bureau E
Brianna Scharf
625 Broadway, 12th Floor
Albany, NY 12233-7012

- Provide an original copy of the Performance Bond, Section V – *Bid Forms and Attachments*, Article 3(c) (Pages V-21 thru 23) and the Labor and Materials Payment Bond, Article 3(d) (Pages V-24 thru 26), each with the original signatures and acknowledgments of both your firm's representative and a surety company authorized to do business in New York State. You must also include a financial statement and a Power of Attorney statement from the Surety Company with each bond.

Bonds must be dated either the same date that the contract agreement is signed by D.A. Collins, or no greater than 72 hours following Contract Agreement endorsement.

- Submit a completed Consultant/Contractor Detailed M/WBE-EEO Utilization Plan. If the forms are filed using the Department's electronic M/WBE System, a letter certifying that the forms have been so completed and submitted must be sent to the Project Manager. If contract goals are not expected to be met, an M/WBE waiver form must be submitted. The waiver will be required to be reviewed and approved by the Governor's Office before the contract can be awarded. A copy of the form can be obtained by contacting Jamie Thompson at (518) 402-9262 or jamie.thompson@dec.ny.gov of the Bureau of Minority and Women's Business Programs at the Department's Albany Office.

Also, please use program-provided call log to document D.A. Collins's efforts to obtain M/WBE participation in the project. This log is required to be submitted with the waiver form.

- Submit Service-Disabled Veteran-Owned Businesses (SDVOB) Utilization Plan on Form SDVOC 100, available at <https://ogs.ny.gov/Veterans>, to Mr. Mark Krisanda at sdvob@dec.ny.gov of our Bureau of Contract and Grant Development at the Department's Albany Office.
- Submit a completed NYS Office of the State Comptroller Substitute Form W-9: **Request for Taxpayer Identification Number and Certification**. A copy of the form can be found at: http://www.osc.state.ny.us/vendors/forms/ac3237s_fe.pdf
- An authorizing resolution is needed for the person signing the contract. An authorizing resolution is a document generated by the Contractor's governing board stating that a certain individual has the authority to sign the contract on behalf of the firm.

Please return four (4) executed originals of the Contract Agreement (sign and have notarized), and; one (1) executed original with three (3) copies of all other required documentation within fourteen (14) calendar days of the date of this letter to:

NYS Department of Environmental Conservation
Division of Environmental Remediation
Brianna Scharf
625 Broadway, 12th Floor
Albany, New York 12233-7017

If you fail to execute said contract and to furnish bonds and documentation within fourteen (14) calendar days from the date of this notice, the Department will be entitled to consider all your rights arising out of the Department's acceptance of your bid as abandoned and as a forfeiture of your Bid Security. The Department will be entitled to such other rights as may be granted by law.

After you submit the contract to the Department, it must then be executed by representatives of the Commissioner of Environmental Conservation, the State Attorney General

and the State Comptroller. An executed and approved copy of this contract will be returned to you for your records upon execution.

DO NOT PROCEED WITH ANY WORK NOR INCUR ANY EXPENSES UNDER THIS CONTRACT PRIOR TO THE ACTUAL AWARD OF THE CONTRACT AND RECEIPT OF A FORMAL "NOTICE TO PROCEED" FROM THE DEPARTMENT.

If you have any questions, please contact Brianna Scharf at (518) 402-5987 or brianna.scharf@dec.ny.gov.

Sincerely,



Michael J. Cruden, P.E.
Director
Remedial Bureau E
Division of Environmental Remediation

Enclosures

ec: M. Ryan, DEC
G. Heitzman, DER
S. Saucier, DER
B. Scharf, DER
B. Huyck, DER R5

A. Lindberg, DEC
K. Keane, DEC
J. Thompson, DEC

SECTION VI

Agreement

This ***Agreement***, by and between the **New York State Department of Environmental Conservation** (hereinafter referred to as Department) having offices at 625 Broadway, Albany, New York 12233 and, _____ (Bidder name)

- ☐ a corporation organized and existing under the laws of the State of _____,
- ☐ a partnership, consisting of _____,
- ☐ an individual conducting business as _____,

hereinafter called "Contractor", the location of whose principal office is,

_____.

WITNESSETH

Whereas, Department is empowered by law to obtain services; the performance of these services is essential to Department; and Department, after fully examining all of its internal capabilities and thoroughly investigating all possible alternative approaches, has determined that certain tasks can best be accomplished through a contract;

Whereas, Contractor hereby represents that it is capable of providing the services which are the subject matter of this Contract;

Now Therefore, Department **and** Contractor, in consideration of the mutual covenants hereinafter set forth agree as follows:

ARTICLE 1 - Defined Terms

Terms used in the Agreement which are defined in the Contract Documents have the intent and meanings assigned to them in the Contract Documents.

ARTICLE 2 - Work

As indicated or specified in the Contract Documents, Contractor shall complete in a timely and workmanlike manner, any and all obligations, duties and responsibilities, and provide any and all labor, materials, equipment, temporary facilities, and incidentals necessary to complete the construction generally identified and shown on the plans and Contract Documents entitled:

New York State Department of Environmental Conservation
Division of Environmental Remediation
Site Name: Saranac Lake Gas Company
Contract No. D011909
Date: July 2020

ARTICLE 3 - Engineer

MACTEC Engineering and Geology, PC (Engineer) shall assume all duties and responsibilities of and have the rights and authority assigned to Engineer in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents.

ARTICLE 4 - Contract Documents

The Documents which comprise the entire Contract between Department and Contractor concerning the Work consist of the following:

- 4.1 Appendices A, B, C & D
- 4.2 Engineer's written clarifications and interpretations
- 4.3 Change Orders
- 4.4 Administrative Agreements
- 4.5 Field Orders
- 4.6 Proposed Change Orders signed by Department
- 4.7 Approved Shop Drawings
- 4.8 Addenda
- 4.9 Agreement (including all Appendices)
- 4.10 Measurement for Payment
- 4.11 Bid Forms and Attachments Exclusive of Bonds and Insurance Certificates
- 4.12 Drawings, Plans
- 4.13 Supplementary Specifications
- 4.14 Supplementary Conditions
- 4.15 Standard Specifications
- 4.16 General Conditions
- 4.17 Supplementary Bidding Information and Requirements
- 4.18 Bidding Information and Requirements
- 4.19 Terms and Definitions
- 4.20 Advertisement
- 4.21 Bonds and Insurance Certificates

In the event of a conflict between the documents set forth above, they shall be entitled to priority according to the order in which they are listed.

ARTICLE 5 - Contractor's Representations

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

- 5.1 Contractor has familiarized itself with the nature and extent of the Contract Documents, Work, site, locality, and all local conditions and applicable Laws that in any manner may affect cost, schedule, progress, performance or furnishing of the Work.
- 5.2 Contractor has studied carefully all reports of explorations and tests of subsurface conditions and drawings of physical conditions which are identified in Information to Bidders, as provided in the General Conditions, and accepts the determination set forth in said Section to the

extent of the technical data contained in such reports and drawings upon which Contractor is entitled to reply.

- 5.3 Contractor has obtained and carefully studied all such examinations, investigations, explorations, tests, reports and studies which pertain to the subsurface or physical conditions at or contiguous to the site or otherwise may affect the cost, schedule, progress, performance or furnishing of the Work as Contractor considers necessary for the performance or furnishing of the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents, including specifically the provisions of Article 3 of the General Conditions; and no additional examinations, investigations, explorations, tests, reports, studies or similar information or data are or will be required by Contractor for such purposes.
- 5.4 Contractor has reviewed and checked all information and data shown or indicated on the Contract Documents with respect to existing Underground Facilities. No additional examinations, investigations, explorations, tests, reports, studies or similar information or data in respect of said Underground Facilities are or will be required by Contractor in order to perform and furnish the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents, including specifically the provisions of Article 3 of the General Conditions.
- 5.5 Contractor has correlated (or assumes responsibility for correlating) the results of all such observations, examinations, investigations, explorations, tests, reports and studies with the terms and conditions of the Contract Documents.
- 5.6 Contractor has given Engineer written notice of all conflicts, errors or discrepancies that he (she) has discovered in the Contract Documents and any written resolution thereof is acceptable to Contractor.
- 5.7 General Responsibility: The Contractor shall at all times during the Contract term remain responsible. The Contractor agrees, if requested by the Commissioner or his or her designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity. Additional responsibilities required of the Contractor in order to perform and furnish the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents, are specified within the provisions of Article 5 of the General Conditions.

ARTICLE 6 - Contract Term

The number of days within which, or alternatively, the dates by which, the Work, or any specified part thereof, is to be completed (the Contract Times) are set forth as follows:

- 6.1 The Work will be Substantially Completed within **One Hundred Seventy Four (174) calendar days** from the Effective Date of the Agreement, plus twenty (20) calendar days.
- 6.2 Separable parts of the Work, if specified in an Attachment A to this Agreement, will be Substantially Completed within the number of days stated in Attachment A from the Effective Date of the Agreement, plus twenty (20) calendar days.

- 6.3 The Work will be completed and ready for final payment in accordance with the General Conditions within **One Hundred Ninety Five (195) calendar days** from the Effective Date of the Agreement, plus twenty (20) calendar days.
- 6.4 Department and Contractor recognize that the Contract Time(s) specified in paragraphs 6.1, 6.2 and 6.3 above are of the essence of this Agreement, and that Department may suffer financial loss if the Work is not completed within the Contract Time(s) specified above, plus any extensions thereof allowed in accordance with the General Conditions, as amended or supplemented in the Supplementary Conditions.
- 6.5 Accordingly, Contractor agrees to forfeit and pay Department as liquidated damages, and not as a penalty, the amount of **two thousand one hundred ninety nine dollars (\$2,199)** for each day that expires after the Contract Time specified in paragraph 6.1 above for Substantial Completion until the Work is Substantially Complete. Contractor further agrees to pay Department as liquidated damages, and not as a penalty, each of the amounts set forth in Attachment A if applicable to this agreement for each day that expires after each of the contract times specified in paragraph 6.2 above for substantial completion until the each of the separable parts of the work is substantially complete. After substantial completion of the work, if Contractor shall neglect, refuse or fail to complete the remaining work within the contract time or any proper extension thereof granted by Department, Contractor shall pay Department as liquidated damages, and not as a penalty, the amount of **one thousand seven hundred seventy nine dollars (\$1,779)** for each day that expires after the Contract Time specified in paragraph 6.3 above for completion and readiness for final payment. These liquidated damages are additive and represent a reasonable estimate, in lieu of any such proof, of Department's extra expenses for Inspection, engineering services, administrative costs, and Interim excess operating costs for each day that expires after the associated Contract Time.
- 6.6 In addition to the liquidated damage amounts set forth in paragraph 6.5 above, Contractor agrees to pay Department's additional actual damages arising out of the types of expenses itemized below for each day that expires after each of the Contract Times specified in paragraph 6.2 above for Completion of each of the designated parts of the Work until each of the designated parts of the Work achieves the specified completion. These actual damages are additive and shall equal Department's expenditures for costs other than those itemized in paragraph 6.5, including, but not limited to, delay damage settlements or awards related to other separate contracts, delay penalties or fines imposed by regulatory agencies, contract damage and loss of use, excess financing costs, and professional fees and related expenses incurred thereto.

ARTICLE 7 - Alterations and Omissions

Department reserves the right, at any time during the progress of the work, to alter the plans or omit any portion of the work as it may deem reasonably necessary for the public interest; making allowances for additions and deductions with compensation made in accordance with the Contract Documents.

ARTICLE 8 - Determinations as to Variances

In case of any ambiguity in the Contract Documents, the matter must be immediately submitted to the Representative of Department designated in the Contract Documents, who shall adjust the same, and his (her) decision in relation thereto shall be final and conclusive upon the parties.

ARTICLE 9 - Payment Procedures

Contractor shall submit Applications for Payment on standard form in accordance with the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions, as amended or supplemented in the Supplementary Conditions and in accordance with Section 139-f of the State Finance Law.

- 9.1 **Progress Payments.** Contractor shall submit Applications for Payments to Engineer for review no more frequently than monthly in accordance with paragraph 13.2 of the General Conditions from the date when the Contract Time commences to run. Department shall make progress payments against the Contract Price on the basis of Contractor's Applications for Payment as recommended by Engineer as provided below. All progress payments will be calculated on the basis of the progress of the Work measured by the Schedule of Values established pursuant to paragraph 1.4.3 of the General Conditions. Progress payments will also be made for materials pertinent to the Contract in accordance with the General Conditions. Contractor shall provide complete and accurate billing invoices to the Department in order to receive payment. Billing invoices submitted to the Department must contain all information and supporting documentation required by the Contract, the Department, and the State Comptroller.

Payments for expenditures incurred under this contract will be rendered electronically to the **Recipient/Contractor/Vendor** unless payment by paper check is expressly authorized by the Commissioner of the Department (Commissioner), in the Commissioner's sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with ordinary State procedures and practices. The **Recipient/Contractor/Vendor** shall comply with the **Office of the State Comptroller's (OSC's)** procedures to authorize electronic payments. Authorization forms are available at the **OSC's** website at www.osc.state.ny.us/epay/index.htm, by e-mail at epunit@osc.state.ny.us or by telephone at (518) 474-4032. The **Recipient/Contractor/Vendor** acknowledges that it will not receive payment under this **Contract** if it does not comply with the **OSC's** electronic payment procedures, except where the Commissioner has expressly authorized payment by paper check as set forth above.

- 9.1.1 Prior to Substantial Completion of the Work, progress payments will be made less five percent (5%) the aggregate of payments (i.e. retainage) previously made and less an amount necessary to satisfy any claims, liens, or judgments against Contractor which have not been suitably discharged.
- 9.2 **Payment upon substantial completion.** When the work, or major portions thereof, as contemplated in the Contract Documents, is substantially completed, Contractor shall submit to Department, an Application for Payment in accordance with the General Conditions for the remaining amount of the contract balance or amount due for that major portion completed. Department will pay the remaining Contract balance, or amount due for that major portion completed, less two times the value of any remaining items to be completed and an amount necessary to satisfy any claims, liens, judgments against Contractor which

have not been suitably discharged. Payment for remaining items will be made upon their completion.

- 9.3 **Final Payment.** Upon final completion of the physical Work and acceptance of the Work in accordance with the General Conditions, Department shall pay the remainder of the Contract Price as recommended by Engineer.

ARTICLE 10 - No Estimate on Contractor's Noncompliance

It is further agreed that so long as Contractor has not complied with any lawful or proper direction concerning the work or material given by Department, Contractor shall not be entitled to have any estimate made for the purpose of payment, nor shall any estimate be rendered on account of work done or material furnished until Contractor has fully and satisfactorily complied with such direction.

ARTICLE 11 - Delays, Inefficiencies, and Interference

Contractor agrees to make no claim for any consequential damages attributable to any delays, or act in the performance of this contract which are not directly occasioned by any act or omission to act by the State or any of its representatives. In the event Contractor completes the work prior to the contract completion date set forth in the proposal, Contractor hereby agrees to make no claim for extra costs due to delays, interferences or inefficiencies in the performance of the work.

- 1) Contractor further agrees that it has included in its bid prices for the various items of the Contract any additional costs for delays, inefficiencies, or interferences affecting the performance or scheduling of Contract work caused by, or attributable to, the following instances:
 - a. The work or the presence on the Site of any third party, including but not limited to that of other contractors or personnel employed by the State, or by other public bodies, by railroad, transportation or utility companies or corporations, or by private enterprises, or any delay in progressing such work by any third party.
 - b. The existence of any facility or appurtenance owned, operated, or maintained by any third party.
 - c. The act, or failure to act, of any other public or governmental body, including, but not limited to, approvals, permits, restrictions, regulations or ordinances.
 - d. Restraining orders, injunctions, or judgments issued by a court.
 - e. Any labor boycott, strike, picketing or similar situation.
 - f. Any shortages of supplies or materials required by the contract work.
 - g. Any situation which was, or should have been, within the contemplation of the parties at the time of entering into the contract.

ARTICLE 12 - Postponement, Suspension or Termination

- 12.1 Department shall have the right to postpone, suspend or terminate this Contract in whole or in part for the convenience of Department. If, after termination for cause of Contractor it is determined that no cause existed for termination of Contractor, such termination shall be deemed to have been made for the convenience of Department.
- 12.2 If this Contract is terminated by Department for convenience or cause, Department shall make payment on an equitable basis for all work performed in accordance with the Contract Documents prior to termination in accordance with paragraphs 12.3 and 12.4 below.
- 12.3 If this contract is terminated for cause, no payment shall be made for anticipated profit on unperformed work or services. Additionally, Department may adjust any payment due to Contractor at the time of termination to account for any additional costs to Department because of Contractor's default.
- 12.4 If this contract is terminated for convenience, payment shall be made for any services rendered and expenses incurred prior to the termination, in addition to termination settlement costs reasonably incurred by Contractor which had become firm prior to the termination.
- 12.5 Upon termination of this Contract under this Agreement, Department may take over the work or may award or negotiate a contract with another party to complete work required by these Contract Documents.
- 12.6 Termination for Non-Responsibility: Upon written notice to the Contractor, and a reasonable opportunity to be heard with appropriate Department officials or staff, the Contract may be terminated by the Commissioner, or his or her designee, at the Contractor's expense where the Contractor is determined by the Commissioner, or his or her designee, to be non-responsible. In such event, the Commissioner, or his or her designee, may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.
- 12.7 Suspension of Work (for Non-Responsibility): The Commissioner, or his or her designee, in his or her sole discretion, reserves the right to suspend any or all activities under this Contract, at any time, when he or she discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the Commissioner, or his or her designee, issues a written notice authorizing a resumption of performance under the Contract.

ARTICLE 13 – Completion of Physical Work and Final Acceptance

The time within which Department may bring an action on the Contract against Contractor shall be computed from the date of completion of the physical Work. In accordance with Section 138(a) of the State Finance Law, Contractor shall notify Department in writing that the physical Work has been completed. The date of completion must be no more than thirty days prior to the date of the notice. This notice must be delivered personally, or, by either registered or certified mail, return receipt requested, to the exact address given below.

**New York State Department of Environmental Conservation
Division of Environmental Remediation
Sarah Saucier, Section Chief
NYSDEC – Division of Environmental Remediation, Remedial Bureau E, Section C
625 Broadway, 12th Floor, Albany, New York 12233-7017**

If Department disagrees with the date set forth in the notice, it will so advise Contractor in writing within 30 days of receipt of the notice. This notice will be delivered by either registered or certified mail, return receipt requested, to Contractor's address as shown in this Agreement.

If Department accepts Contractor's date of completion of physical Work, Department's final acceptance of work shall be as of that date.

When, in the opinion of Department, Contractor has fully performed the physical Work under the Contract, Department shall notify Contractor in writing of final acceptance.

ARTICLE 14 - Final Payment

After the final acceptance of the work, Engineer shall prepare a final agreement of the work performed and the materials placed and shall compute the value of such work and materials under and according to the terms of the contract. This agreement shall be certified, as to its correctness, by Engineer and submitted for final approval to Department. The Representative of Department designated in the Contract Documents shall have the right to reject the whole or any portion of the final agreement, should the said certificate of Engineer be found or known to be inconsistent with the terms of the agreement or otherwise improperly given and upon failure of Contractor to provide requested documentation including but not limited to that regarding payment of wages, suppliers or subcontractors. All certificates upon which partial payments may have been made being merely estimates, shall be subject to correction in the final certificate or final agreement.

ARTICLE 15 - Disposition of Documents and Data

Upon final acceptance of work under this Contract or termination of this Contract pursuant to this Agreement, or upon written demand of Department, Contractor shall promptly deliver or otherwise make available to Department all data, drawings, reports, estimates, and such other information and materials as may have been accumulated by Contractor in performing this Contract.

All documents and data are to be submitted in electronic format to the Engineer and Department. The Engineer/Department will not approve a final report unless, and until, all documents and data generated in support of that report have been submitted in accordance with the electronic submission protocols. Information on the format of data submissions can be found at:

<http://www.dec.ny.gov/chemical/62440.html>. Information on document submissions can be found at: <http://www.dec.ny.gov/regulations/2586.html>.

ARTICLE 16 – Applicable Law; Jurisdiction; Service of Legal Process

Contractor agrees:

- 16.1 That this Agreement is subject to and governed by all applicable federal and New York State law.
- 16.2 To procure all necessary licenses and permits.
- 16.3 To voluntarily and irrevocably submit to the jurisdiction of a New York State Court of competent jurisdiction, to resolve any dispute or controversy arising out of this Contract.
- 16.4 That the venue of any action at law or in equity commenced against Department arising out of a Project in one of Department's regions, shall be in the county in that Region where Department regional headquarters is located.
- 16.5 That the service of legal process or any notices in connection with a dispute or controversy arising out of this Contract, by United States registered mail, postage prepaid, addressed to the Designated representative of Department at the address stated in the Contract. Documents shall constitute good and valid service of process upon Engineer.
- 16.6 To waive any defense based on or alleging lack of jurisdiction, improper venue, or invalid service, if there is compliance with paragraphs 16.3 and 16.4 in this Article.
- 16.7 This Contract may be presented in court as conclusive evidence of the foregoing agreement.

ARTICLE 17 - Sales and Use Tax Exemption

Contractor represents that this project has been bid in such a manner that Department has full advantage of available exemptions from sales and compensating use taxes. Accordingly, Contractor agrees to make all payment requests in a manner which affords Department full advantage of such exemptions. Further, Contractor agrees to complete and to require all subcontractors and material men to complete a Contractor Exempt Purchase Certificate in the name of the New York State Department of Environmental Conservation, which shall be furnished to all persons, firms or corporations from whom they purchase materials, equipment or supplies which are tax exempt by reason of the fact that they will be sold to Department, or will be used as an integral component in the construction, rehabilitation, or improvement of any structure of building required by the Contract Documents.

Contractor agrees to maintain and keep, and to contractually require all subcontractors and material men to maintain and keep, records relating to the tax exemption of material, equipment and Supplies for a period of six years. The six- (6) year period shall commence to run as of the date of final payment.

ARTICLE 18 - Effective Date

This Contract and all Contract Documents shall take effect as of the date it is approved and filed by the state Comptroller.

ARTICLE 19 – Vendor Responsibility

The Department recommends that vendors file a required Vendor Responsibility Questionnaire online via the New York State VendRep System. To enroll in and use the New York State VendRep System,

see the VendRep System Instructions available at: <http://www.osc.state.ny.us/vendrep/vendor-index.htm> or go directly to the VendRep System online at <https://portal.osc.state.ny.us> .

Vendors must provide their New York State Identification Number when enrolling. To request assignment of a Vendor ID or for VendRep System assistance, contact the Office of the State Comptroller's Help Desk at 866-370-4672 or 518-408-4672 or by email at: ciohelpdesk@osc.state.ny.us. Vendors opting to complete and submit a paper questionnaire can obtain the appropriate questionnaire from the VendRep website www.osc.state.ny.us/vendrep or may contact the Department of the Office of the State Comptroller's Help Desk for a copy of the paper form.

ARTICLE 20 - Contract Price

The maximum payment which Department shall pay to Contractor, and which Contractor agrees to accept as full payment for its work under this Agreement, is the total of:

Bid

\$ five million, nine hundred three thousand, seven hundred fifty three dollars and sixty five cents

\$ \$5,903,753.65

Plus, or Minus executed change order(s)

SIGNATURE PAGE

IN WITNESS WHEREOF, this Contract has been duly executed by the parties hereto on the day and year appearing following their respective signatures.

Agency Certification: "In addition to the acceptance of this Contract, I also certify that original copies of this signature page will be attached to all other exact copies of this Contract."

CONTRACTOR SIGNATURE
By:
Print Name:
Title:
Dated:

DEPARTMENT SIGNATURE
By:
Print Name:
Title:
Dated:

<p>Contractor Acknowledgement</p> <p>State of _____)</p> <p>County of _____) ss.:</p> <p>On the _____ day of _____ in the year _____, before me, the undersigned, a Notary Public in and for said State, 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.</p> <p>_____ Notary Public</p>

ATTORNEY GENERAL SIGNATURE
Approved as to Form:
Dated:

COMPTROLLER SIGNATURE
Approved: Thomas P. DiNapoli State Comptroller
Dated:

Appendix C-4

Notice to Proceed

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Remediation, Office of the Director
625 Broadway, 12th Floor, Albany, New York 12233-7011
P: (518) 402-9706 | F: (518) 402-9020
www.dec.ny.gov

March 03, 2021

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

David MacDougall
D.A. Collins Environmental Services, LLC.
269 Ballard Road
Wilton, New York 12831-1597

RE: Saranac Lake Gas Company, Site No. 516009
Saranac Lake, Essex County
Remedial Construction Contract No. D011909
Notice to Proceed

Dear Mr. MacDougall:

I am pleased to inform you that D.A Collins Environmental Services, LLC has been awarded a construction contract for the Saranac Lake Gas Company Site, Contract No. D011909, in the amount of five million, nine hundred three thousand, seven hundred fifty-three dollars and sixty-five cents (\$5,903,753.65). All work contemplated by the Contract Documents must be substantially completed not more than 289 days from the Effective Date of the Agreement, March 1, 2021, plus twenty (20) calendar days. A preconstruction meeting will be held on Tuesday, March 16, 2021, at 2:00 PM, via teleconference using Microsoft Teams.

The following items shall be submitted to the Department within ten calendar days of this Notice to Proceed, and prior to the commencement of Work:

1. Experience and background of all proposed subcontractors in accordance with Article 5 of the General Conditions in the Contract Documents. They shall include name, address, telephone number, contact, type of work to be subcontracted, dollar amount and M/WBE status. Note that all the subcontractors over \$10,000 must submit a completed New York State Vendor Responsibility Questionnaire (VRQ) prior to initiating work at the site. No subcontractors can begin work without written approval of the Department.
2. Submit a proposed interim progress schedule, interim schedule of values covering the various stages of Work detailed in the first three months of the interim Progress Schedule, and a proposed schedule of shop drawings in accordance with Article 1 of the General Conditions in the Contract



Department of
Environmental
Conservation

Documents. Copies of all shop drawings and submittals should be submitted to Jamie Welch of MACTEC Engineering and Geology, PC, and to Brianna Scharf, of my staff. Submittal procedures are detailed in Section VIII, General Conditions, Articles 5.24 - 5.30 and Section 01 33 00 of the Specifications.

As the Department's designated representative of the contract, I name as my designee, Ms. Sarah Saucier, P.E., Chief, Remedial Section C. This is in accordance with Article 2, Department Representatives, in the Supplementary Bidding Information and Requirements of the Contract Documents. Ms. Saucier may be reached at the following address:

Sarah Saucier, P.E.
Chief, Remedial Section C
Remedial Bureau E
Division of Environmental Remediation
NYS Department of Environmental Conservation
625 Broadway, 12th Floor
Albany, New York 12233-5060

As my designee, Ms. Saucier will act in the capacity of the Department's designated representative for the execution of and for approvals and directions called for in this contract.

If you have any questions, please call Ms. Saucier at (518) 402-9675.

Sincerely,



Michael J. Ryan, P.E.
Director
Division of Environmental Remediation

ec: B. Anderson, DER
D. Gardner, DER
M. Cruden, DER
S. Saucier, DER
B. Scharf, DER
J. Welch, MACTEC