

**TOWN OF SHELDON AGREEMENT FOR RENOVATIONS OF TOWN PARK
RESTROOMS**

THIS AGREEMENT, entered into this **TBD** day of _____ **TBD** _____, 2017, by and between the Town of Sheldon, New York (“Town”), a municipal corporation organized and existing under the laws of the State of New York with offices at 1380 Centerline Road, Strykersville, New York 14145 and _____ **TBD** _____ (the “Contractor”), with offices at _____ **TBD** _____;

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 complete renovations of the Varysburg Park restrooms, in accordance with the proposal of the Contractor dated TBD , _____ **TBD** _____, 2017, a copy of which is attached hereto and made a part hereof.

ARTICLE 2. TIME OF COMPLETION

The services to be rendered under this Contract shall be performed on dates set forth in the Town’s original bid specifications. Time of performance is of the essence of this Agreement.

ARTICLE 3. ACCEPTANCE AND FINAL PAYMENT

Upon receipt of written notice that the Contract has been fully performed, the Contractor shall file with the Town Clerk an itemized voucher and the Town will pay the Contractor \$ _____ **TBD** _____.

ARTICLE 4. CONTRACTOR’S INSURANCE

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.

(a) Compensation Insurance: The Contractor shall take out and maintain during the life of this Contract Workers’ Compensation Insurance for its employees to be assigned to the work hereunder.

(b) General Liability and Property Damage Insurance: The Contractor shall take out and maintain during the life of this Contract such general liability and property damage insurance as shall protect it from claims for damages for personal injury, including accidental death, as well as from claims for property damage which may arise from operations under this Contract. The amounts of such insurance shall be as follows:

General liability insurance in an amount not less than \$1,000,000 for injuries, including wrongful death to any one person and subject to the same limit for each person, in an amount not less than \$2,000,000 on account of any one occurrence.

Property damage insurance in an amount not less than \$2,000,000 for damage on account of all occurrences.

The Contractor shall furnish the above insurances to the Town and shall also name the Town as an additional named insured in said policies.

(c) Any accident shall be reported to the office of the Supervisor as soon as possible and not later than twenty-four (24) hours from the time of such accident. A detailed written report must be submitted to the Town as soon thereafter as possible and not later than three (3) days after the date of such accident.

ARTICLE 5. REPRESENTATIONS OF CONTRACTOR

The Contractor represents and warrants:

(a) That he/she is financially solvent and that he/she is experienced in and competent to perform the type of work or to furnish construction services and

(b) That he/she 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.

ARTICLE 6. PERMITS AND REGULATIONS

The Contractor shall procure and pay for all permits and licenses necessary for the services to be rendered hereunder.

ARTICLE 7. TOWN'S RIGHT TO STOP WORK OR TERMINATE CONTRACT

The Town shall have the right to stop work or terminate the Contract if:

(a) The Contractor is adjudged bankrupt or makes an assignment for the benefit of creditors; or

(b) A receiver or liquidator is appointed for the Contractor or for any of his/her 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

(c) The Contractor refuses or fails to prosecute the work or any part thereof with due diligence; or

(d) The Contractor fails to make prompt payment to persons supplying labor for the work; or

(e) The Contractor fails or refuses to comply with all applicable laws or ordinances; or

(f) The Contractor is guilty of a substantial violation of any provision of this Contract;

(g) In any event, the Town, without prejudice to any other rights or remedy it may have, may by seven (7) days' notice to the Contractor, terminate the employment of the Contractor and his/her right to proceed as to the work. In such case, the Contractor shall not be entitled to receive any further payment until the work is complete. If the unpaid balance of the compensation to be paid to the Contractor hereunder exceeds the expense of completing the work, such excess shall be paid to the Contractor. If such expense exceeds such unpaid balance, the Contractor shall be liable to the Town for such excess.

ARTICLE 8. DAMAGES

It is hereby mutually covenanted and agreed that the relation of the Contractor to the work to be performed by him/her under this Contract shall be that of an independent contractor. As an independent contractor, he/she 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, his/her 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 9. INDEMNITY AND SAVE HARMLESS AGREEMENT

The Contractor agrees to indemnify and save the Town, its officers, agents and employees harmless from any liability imposed upon the Town, its officers, agents and/or employees arising from the negligence, active or passive, of the Contractor.

ARTICLE 10. NO ASSIGNMENT

In accordance with the provisions of section 109 of the General Municipal Law, the Contractor is hereby prohibited from assigning, transferring, conveying, subletting or otherwise disposing of this Agreement, or of his/her right, title or interest in this Agreement, or his/her power to execute this Agreement, to any other person or corporation without the previous consent in writing of the Town.

ARTICLE 11. REQUIRED PROVISIONS OF LAW

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. If any such provision is not inserted, through mistake or otherwise, then upon the application of either party, this Contract shall be physically amended forthwith to make such insertion. In particular, the Contractor shall, among other things, fully comply with:

- (a) Labor Law section 220-e and Executive Law sections 291-299 and the Civil Rights Law relating to prohibition against discrimination and providing equal opportunity.
- (b) Affirmative action as required by the Labor Law.
- (c) Prevention of dust hazard required by Labor Law section 222-a.
- (d) Preference in employment of persons required by Labor Law section 222.
- (e) Eight-hour workday as required by Labor Law section 220(2).

ARTICLE 12. PREVAILING WAGE RATES REQUIRED BY LAW

(a) The parties hereto, in accordance with the provisions of section 220(3) of the Labor Law, hereby agree that there shall be paid each employee engaged in work under this Contract not less than the wage rate and supplements set opposite the trade or occupation in which he/she is engaged, as listed on Exhibit A attached hereto and made a part of this Agreement, which are the wage rates and supplements established as the prevailing rate of wages for the work covered by this Contract.

(b) Labor classifications not appearing on the schedule of wages can be used only with the consent of the Owner and then the rate to be paid will be given by the Owner after being advised by the Department of Labor.

(c) The Contractor shall post in a prominent and accessible place on the site of the work a legible statement of all wage rates and supplements, as specified in the Contract, for the various classes of mechanics, workingmen/women, or laborers employed on the work.

ARTICLE 13. ARBITRATION

Should any dispute arise between the Town and the Contractor regarding the manner or sufficiency of the performance of the work, the disputed matter shall be settled by arbitration in accordance with the laws of the State of New York. There shall be three arbitrators, one of whom shall be selected by each of the parties hereto, and the third by the two arbitrators so selected. If the selection of any arbitrator is not made within fifteen (15) days of the time that either party has notified the other of the name of the arbitrator it has selected, then the arbitrator or arbitrators not selected shall be appointed in the manner provided by the laws of the State of New York. The work shall not be interrupted or delayed pending such decision.

ARTICLE 14. AUTHORITY FOR EXECUTION ON BEHALF OF THE TOWN

The Supervisor has executed this Agreement pursuant to a Resolution adopted by the Town Board of the Town of Sheldon, at a meeting thereof held on DATE TBD. Brian Becker, Supervisor whose signature appears hereafter, is duly authorized and empowered to execute this instrument and enter into such an Agreement on behalf of the Town. This instrument shall be executed in duplicate. At least one copy shall be permanently filed, after execution thereof, in the office of the Town Clerk, Town of Sheldon.

ARTICLE 15. NOTICES

Any and all notices and payments required hereunder shall be addressed as follows, or to such other address as may hereafter be designated in writing by either party hereto:

To Town of Sheldon: 1380 Centerline Road, Strykersvile, New York 14145

To _____: ____ (Contractor's Address) _____

ARTICLE 16. WAIVER

No waiver of any breach of any condition of the Agreement 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 Agreement or constitute a cause or excuse for a repetition of such or any other breach unless the waiver shall include the same.

ARTICLE 17. MODIFICATION

This Agreement constitutes the complete understanding of the parties. No modification of any provisions thereof shall be valid unless in writing and signed by both parties.

ARTICLE 18. APPLICABLE LAW

This Agreement is governed by the laws of the State of New York., specifically General Municipal Law §103.

ARTICLE 19. HEADINGS

Headings in this Agreement are for convenience only and shall not be used to interpret or construe its provisions.

ARTICLE 20. COUNTERPARTS

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

ARTICLE 21. BINDING EFFECT

This Agreement shall be binding upon the parties and their respective legal representatives, successors, and assigns.

IN WITNESS WHEREOF, the Town of Sheldon has caused its corporate seal to be affixed hereto and these presents to be signed by Brian Becker, its Supervisor, duly authorized to do so, and to be attested to by Carol Zittel, Town Clerk, and the Contractor has caused its corporate seal to be affixed hereto and these presents to be signed by its President, the day and year first above written.

Town of Sheldon

[SEAL]

Attest: By:

By: _____
Brian Becker, Supervisor

Carol Zittel, Town Clerk

Contractor—_____

By: _____
_____, President

STATE OF NEW YORK :
COUNTY OF WYOMING : ss.:

On this _____, before me, the subscriber, personally appeared **BRIAN BECKER** who, being by me duly sworn, deposes and says: That he is the **SUPERVISOR** of the Town of Sheldon (the "Town"), the municipal subdivision of the State of New York named in and which executed the above and within Instrument; that he knows the seal of said Town and that the seal affixed to said Instrument is the seal of the Town; that it was so affixed by the order of the Town Board of the Town of Sheldon and that he signed his name thereto by like order;

And on the same day before me personally came and appeared **CAROL ZITTEL** of the Town of Sheldon who, being by me duly sworn, deposes and says: That she is the **CLERK** of the Town of Sheldon; that she knows the seal of said Town and that the seal affixed to said Instrument is the seal of the Town; that it was affixed by order of the Town Board of the Town; that said Brian Becker is the Supervisor of said Town and that the signature on said Instrument is the signature of Brian Becker as Supervisor.

Notary Public
Wyoming County, New York
My commission expires ___-___-20__

STATE OF NEW YORK
COUNTY OF WYOMING : ss.:

On this ___ day of TBD, , before me, the undersigned, personally appeared _____, President of _____ personally known to me or proven 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 signature(s) on this instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument

Notary Public
Wyoming County, New York
My commission expires ___-___-20__