

A regular meeting of the Town of Avon was held on Thursday, February 24, 2022 at 6:00 P.M. at the Avon Opera Block/Town Hall, 23 Genesee Street, Avon, New York 14414.

PRESENT: Supervisor David LeFeber, Councilmen James Harrington, Malachy Coyne (arrived at 6:05 P.M.), and Paul Drozdziel

ABSENT: Deputy Supervisor Thomas Mairs

OTHERS: MRB Group Engineer David Willard, Code Enforcement Officer Brian Glise, Attorney James Campbell, and Sharon M. Knight, MMC/RMC Town Clerk

VISITORS: Edward Forsythe

Supervisor LeFeber called the meeting to order at 6:00 P.M. and led those in attendance in the Pledge of Allegiance.

DISCUSSION – PUBLIC COMMENTS

Supervisor LeFeber asked for public comments and there were none.

RESOLUTION #51 APPROVAL OF MINUTES

On motion of Councilman Harrington, seconded by Councilman Drozdziel the following resolution was ADOPTED AYES 3 NAYS 0 ABSENT 2 (Deputy Supervisor Mairs and Councilman Coyne)

RESOLVE to approve the minutes of February 10, 2022 as presented by e-mail and to request they be published on the Town of Avon website at townofavon-ny.org.

Vote of the Board: Councilman Drozdziel - Aye, Councilman Harrington - Aye, Councilman Coyne - Absent, Deputy Supervisor Mairs – Absent, Supervisor LeFeber – Aye

DISCUSSION – ATTORNEY REPORT

Attorney Campbell reported on the following:

Update of the lengthy Planning/Zoning Board of Appeals/Town Board meeting that had discussions on solar projects as well as other topics.

He will be researching the third-floor project.

Comments for proposed Local Law T-2A-2022 Battery Storage were received by the County Planning Board and need further investigation.

Will be meeting with the Zoning Board of Appeals regarding the letter from an Attorney for the neighbors of the Oak Opening Road regarding the proposed mine expansion of hours and trucks.

DISCUSSION – CODE DEPARTMENT REPORT

Code Enforcement Officer Glise reported on the following:

A field trip with Planning Board Member/Historian Clara Mulligan to Orangeville for a tour of an inside battery storage facility took place. There was a lot of noise from the HVAC and all batteries were in a self-contained setting. Strick guidelines for fire safety were in place.

Also, attending a lengthy Solar meeting on Monday.

As a rule of thumb, the Planning and Zoning Board meet together, however; the Zoning Board will be meeting separately with the Attorney to discuss Oak Opening Mine.

There have been sixty new permits for Twin Cedars issued. Applying to the Town is needed if expansion of the Twin Cedars is being considered.

DISCUSSION - OPEN PUBLIC HEARING

Supervisor LeFeber opened the public hearing by reading the following legal notice:

LEGAL NOTICE
NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN, pursuant to the provisions of the Code of the Town of Avon, and pursuant to New York State Town Law, that a public hearing shall be held by the Town Board of the Town of Avon at 6:15 p.m. on Thursday, February 24, 2022, at the Avon Town Hall, located at 23 Genesee Street, Avon, New York for the purpose of considering public opinion and comment about or concerning a proposed local law relating to the following:

A LOCAL LAW TO ADD A NEW ARTICLE XVI TO CHAPTER 130 OF THE CODE OF THE TOWN OF AVON, LIVINGSTON COUNTY, NEW YORK TO ESTABLISH REGULATIONS FOR BATTERY ENERGY STORAGE SYSTEMS

A copy of the proposed local law will be available for review by the public at the office of the Town Clerk during regular Town Clerk hours and will also be available on the Town's website at <https://www.avon-ny.org/town-of-avon/town-home.html>.

All interested persons are invited to appear and be heard at the aforesaid time and place.

Dated: January 27, 2022

Publish: February 10, 2022

By Order of the Town Board of the Town of Avon

Sharon M. Knight MMC/RMC Town Clerk

DISCUSSION – PUBLIC HEARING BATTERY ENERGY STORAGE SYSTEMS

Supervisor LeFeber stated the Battery Energy Storage Systems Committee worked extensively.

An email from Judy Falzoi was shared that included that she is against adoption of the local law.

The County response was received, and Attorney Campbell requested additional time to review with the County. MRB Group also is working with the County Planning Board and their comments needed to be reviewed. It was recommended the Board allow Attorney Campbell to get clarity prior to Town Board action. The hearing was left open.

Visitor Forsythe questioned if the batteries were used for cars and stated it is recommended to let any fires burn.

DISCUSSION – HIGHWAY/WATER DEPARTMENT REPORT

Supervisor LeFeber provided the following Highway/Water Superintendent report stating they have been busy with snow removal. There was a water break at the town water tank that required assistance from Morsch Pipeline Inc. After the break was fixed the Highway Department was called out again for snow removal. Councilman Harrington shared his appreciation for an excellent job of snow removal.

DISCUSSION – ENGINEER DEPARTMENT REPORT

MRB Group Engineer David Willard reported on the following:

A review was completed and MRB is waiting on comments from NextEra regarding the comments they provided.

We are waiting for the Village to act on the proposal for Pole Bridge Road storm water drainage.

There was discussion if the pads on the Pole Bridge Road Solar area was a part of the original plans. Discussion ensued and included the ability to have engineering go onsite during projects.

DISCUSSION - OPEN PUBLIC HEARING FOR LOCAL LAW T-1A-2022

Supervisor LeFeber opened the public hearing by reading the following legal notice:

LEGAL NOTICE NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN, pursuant to the provisions of the Code of the Town of Avon, and pursuant to New York State Town Law, that a public hearing shall be held by the Town Board of the Town of Avon at 6:30 p.m. on Thursday, February 24, 2022, at the Avon Town Hall, located at 23 Genesee Street, Avon, New York for the purpose of considering public opinion and comment about or concerning a proposed local law relating to the following:

A LOCAL LAW TO ADD A NEW ARTICLE II TO CHAPTER 109 OF THE CODE OF AVON WHICH SHALL BE ENTITLED: "PARKING AND STANDING RESTRICTIONS ON TOWN ROADS." THE PURPOSE OF THIS LOCAL LAW IS TO PROVIDE THE TOWN HIGHWAY SUPERINTENDENT THE AUHTORITY TO PLACE CERTAIN RESTRICTIONS ON TOWN ROADS WITH REGARD TO PARKING OR STANDING ON THE SIDE OF SUCH ROADS IN ORDER FOR THE HIGHWAY SUPERINTENDENT AND THE TOWN HIGHWAY DEPARTMENT TO SAFELY AND EFFICIENTLY PROVIDE ROAD MAINTENANCE AND UPKEEP.

A copy of the proposed local law will be available for review by the public at the office of the Town Clerk during regular Town Clerk hours and will also be available on the Town's website at <https://www.avon-ny.org/town-of-avon/town-home.html>.

All interested persons are invited to appear and be heard at the aforesaid time and place.

Dated: January 27, 2022

Publish: February 10, 2022

By Order of the Town Board of the Town of Avon
Sharon Knight - Town Clerk, MMC/RMC

DISCUSSION – PUBLIC HEARING RESTIRCTIONS ON TOWN ROADS WITH REGARD TO PARKING OR STANDING ON

Supervisor LeFeber stated this local law was a request from the Highway Superintendent.

An email was received from resident Judy Falzoi opposing the local law.

The development of the individual roads along with the uses are distinguishing. Supervisor LeFeber spoke of the need to have enough density when considering snow removal during new developments. Enforcement would be the responsibility of the Code Enforcement Officer.

Visitor Howard Forsythe asked if the signs would be year-round or seasonal.

Supervisor LeFeber stated this law would reduce the risk for the Town.

Attorney Campbell reviewed the proposed Short Environmental Assessment Form Part 1 Project Information with the Board and the Supervisor.

Attorney Campbell reviewed the Short Environmental Assessment Form Part 2 – Impact Assessment and the Board answered the questions.

RESOLUTION #52 TOWN BOARD ACT AS LEAD AGENCY FOR LOCAL LAW T-1A-2022 - GIVE THE HIGHWAY SUPERINTENDENT THE AUHTORITY TO PLACE CERTAIN RESTRICTIONS ON TOWN ROADS WITH REGARD TO PARKING OR STANDING ON THE SIDE OF SUCH ROADS IN ORDER FOR THE HIGHWAY SUPERINTENDENT AND THE TOWN HIGHWAY DEPARTMENT TO SAFELY AND EFFICIENTLY PROVIDE ROAD MAINTENANCE AND UPKEEP

On motion of Councilman Harrington, seconded by Supervisor LeFeber the following resolution was ADOPTED AYES 4 NAYS 0 ABSENT 1 (Deputy Supervisor Mairs)

RESOLVE the Town Board will act as Lead Agency for proposed Local Law T-1A-2022.

Vote of the Board: Councilman Drozdziel - Aye, Councilman Harrington - Aye, Councilman Coyne - Aye, Deputy Supervisor Mairs - Absent, Supervisor LeFeber – Aye

RESOLUTION #53 ADOPT THE FINDINGS FOR SEQOR - LOCAL LAW T-1A-2022

On motion of Councilman Harrington, seconded by Councilman Drozdziel the following resolution was ADOPTED AYES 4 NAYS 0 ABSENT 1 (Deputy Supervisor Mairs)

RESOLVE to accept the findings for Local Law T-1A-2022.

Vote of the Board: Councilman Drozdziel - Aye, Councilman Harrington - Aye, Councilman Coyne - Aye, Deputy Supervisor Mairs - Absent, Supervisor LeFeber – Aye

RESOLUTION #54 NEGATIVE DECLARATION FOR LOCAL LAW T-1A-2021

On motion of Councilman Harrington, seconded by Councilman Coyne the following resolution was ADOPTED AYES 4 NAYS 0 ABSENT 1 (Deputy Supervisor Mairs)

RESOLVE this project will have no significant adverse impacts on the environment, and, therefore, an environmental impact statement need not be prepared. Accordingly, this negative declaration is issued.

Vote of the Board: Councilman Drozdziel - Aye, Councilman Harrington - Aye, Councilman Coyne - Aye, Deputy Supervisor Mairs - Absent, Supervisor LeFeber – Aye

RESOLUTION #55 AUTHORIZE SUPERVISOR LEFEBER TO SIGN THE SEQOR DOCUMENTS AND TOWN CLERK KNIGHT TO MAKE THE NECESSARY FILINGS

On motion of Councilman Harrington, seconded by Councilman Drozdziel the following resolution was ADOPTED AYES 4 NAYS 0 ABSENT 1 (Deputy Supervisor Mairs)

RESOLVE to authorize the Supervisor to sign the SEQOR documents and Town Clerk to make the necessary filing.

Vote of the Board: Councilman Drozdziel - Aye, Councilman Harrington - Aye, Councilman Coyne - Aye, Deputy Supervisor Mairs - Absent, Supervisor LeFeber – Aye

RESOLUTION #56 CLOSE THE PUBLIC HEARING ON LOCAL LAW T-1A-2022

On motion of Councilman Harrington, seconded by Supervisor LeFeber the following resolution was ADOPTED AYES 4 NAYS 0 ABSENT (1) Deputy Supervisor Mairs

RESOLVE to close the public hearing for proposed Local Law T-1A-2022.

Vote of the Board: Councilman Drozdziel – Aye, Councilman Coyne- Aye, Councilman Harrington - Aye, Deputy Supervisor Mairs - Absent, Supervisor LeFeber – Aye

RESOLUTION #57 ADOPT LOCAL LAW 1-2022 – GIVE THE HIGHWAY SUPERINTENDENT THE AUHTORITY TO PLACE CERTAIN RESTRICTIONS ON TOWN ROADS WITH REGARD TO PARKING OR STANDING ON THE SIDE OF SUCH ROADS IN ORDER FOR THE HIGHWAY SUPERINTENDENT AND THE TOWN HIGHWAY DEPARTMENT TO SAFELY AND EFFICIENTLY PROVIDE ROAD MAINTENANCE AND UPKEEP

On motion of Councilman Harrington, seconded by Supervisor LeFeber the following resolution was ADOPTED AYES 4 NAYS 0 ABSENT (1) Deputy Supervisor Mairs

RESOLVE to adopt the following local law:

**TOWN OF AVON
LOCAL LAW NO. T-1A OF THE YEAR 2022**

**A Local Law Entitled “Adding Parking and Standing Restrictions for
Town Roads to the Code of the
Town of Avon.”**

Be it enacted by the Town Board of the Town of Avon as follows:

A new Article II shall be added to the Streets and Sidewalks Chapter (Chapter 109) of the Code of the Town of Avon and shall be entitled “Parking and Standing Restrictions on Town Roads” and shall read as follows;

§190-4 Legislative **Intent**.

The Town Board of the Town of Avon states the following as its findings and legislative intent:

- A. The Town Board of the Town of Avon recognizes that it may be necessary from time to time for the Town Highway Superintendent to have the authority to place certain restrictions on Town Roads with regard to parking or standing on the side of such roads in order for the Highway Superintendent and the Town Highway Department to safely and efficiently provide road maintenance and upkeep.
- B. Prior to the adoption of this Article, no specific authority or procedures existed within the Town Code that would allow the Highway Superintendent to impose restrictions relating to parking or standing on Town Roads. Accordingly, the Town Board finds that the promulgation of this Article is necessary to allow the Highway Superintendent and the Highway Department to safely and efficiently maintain the Town’s roads, while protecting the health, safety, and welfare of the community.

§190-5 Definitions.

The following definitions shall apply to this Article:

Right-of-Way

The line determining the street or highway public limit or ownership.

Town Road

Any road, roadway, street, lane, or other public thoroughfare, including any public Right of-Way owned by the Town of Avon, or for which the Town of Avon is responsible for maintaining.

§190-6 Authority of Town Highway Superintendent.

The Town Highway Superintendent shall have the authority, at his or her discretion, to implement restrictions relative to parking and/or standing of motor vehicles or other apparatus on or along the side and within the Right-of-Way of any Town Road within the Town of Avon. The Town Highway Superintendent shall further have the authority to place such signage as deemed appropriate within the Right-of-Way of any Town Road for purposes of notifying the public of restriction imposed relating to parking and standing within such Right-of-Way.

§190-7 Penalties for Violations.

- A. Any violation of restrictions relating to parking or standing instituted pursuant to the provisions of §190-6 above shall be deemed an offense, punishable by a fine or civil penalty not to exceed \$250.00 or imprisonment of not more than 15 days, or both such fine and imprisonment.
- B. Each day any such violation shall continue shall constitute a separate offense.

§190-8 Interpretation; conflict with other law.

In its interpretation and application, the provisions of this Article shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and general welfare. This Article is not intended to interfere with, abrogate or annul other rules, regulations, or laws, provided that whenever the requirements of this Article are at a variance with the requirements of any other lawfully adopted regulations, rules or laws, the most restrictive, or those which impose the highest standards shall govern.

§190-9 Severability.

If any section, subsection, phrase, sentence, or other portion of this Article is for any reason held invalid, void, unconstitutional, or unenforceable by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

Vote of the Board: Councilman Drozdziel – Aye, Councilman Coyne- Aye, Councilman Harrington - Aye, Deputy Supervisor Mairs - Absent, Supervisor LeFeber – Aye

DISCUSSION – TOWN CLERK DEPARTMENT REPORT

Town Clerk Knight confirmed receipt of her report dated January 26, 2022 as received by the Town Board.

RESOLUTION #58 ACCEPT AUDIT OF TOWN CLERK AND TAX COLLECTOR

On motion of Councilman Harrington, seconded by Supervisor LeFeber the following resolution was ADOPTED AYES 4 NAYS 0 ABSENT 1 (DEPUTY SUPERVISOR MAIRS)

RESOLVE to accept the Audits provided by Deputy Supervisor Mairs for the Town Clerk and Tax Collector Records. All the records are in order with no discrepancies.

Vote of the Board: Councilman Drozdziel - Aye, Councilman Harrington - Aye, Councilman Coyne - Aye, Deputy Supervisor Mairs - Absent, Supervisor LeFeber – Aye

RESOLUTION #59 ACCEPT AUDIT OF TOWN COURT JUSTICE TORREGIANO

On motion of Councilman Harrington, seconded by Supervisor LeFeber the following resolution was ADOPTED AYES 4 NAYS 0 ABSENT 1 (DEPUTY SUPERVISOR MAIRS)

RESOLVE to accept the Audit provided by Deputy Supervisor Mairs for the Town Court Justice Torregiano. All the records are in order with no discrepancies.

Vote of the Board: Councilman Drozdziel - Aye, Councilman Harrington - Aye, Councilman Coyne - Aye, Deputy Supervisor Mairs - Absent, Supervisor LeFeber – Aye

RESOLUTION #60 ACCEPT AUDIT OF TOWN COURT JUSTICE HOFFMANN

On motion of Councilman Harrington, seconded by Councilman Coyne the following resolution was ADOPTED AYES 4 NAYS 0 ABSENT 1 (DEPUTY SUPERVISOR MAIRS)

RESOLVE to accept the Audit provided by Deputy Supervisor Mairs for the Town Court Justice Hoffmann. All the records are in order with no discrepancies.

Vote of the Board: Councilman Drozdziel - Aye, Councilman Harrington - Aye, Councilman Coyne - Aye, Deputy Supervisor Mairs - Absent, Supervisor LeFeber – Aye

RESOLUTION #61 APPROVAL OF REQUEST FROM THE US DEPARTMENT OF AGRICULTURE REGARDING NEW YORK EUROPEAN CHERRY FRUIT FLY PROGRAM

On motion of Councilman Coyne, seconded by Supervisor LeFeber the following resolution was ADOPTED AYES 4 NAYS 0 ABSENT 1 (DEPUTY SUPERVISOR MAIRS)

RESOLVE to authorize the Supervisor to sign the contract agreement with US Agriculture regarding the New York European Cherry Fruit Fly monitoring on Town properties.

Vote of the Board: Councilman Drozdziel - Aye, Councilman Harrington - Aye, Councilman Coyne - Aye, Deputy Supervisor Mairs - Absent, Supervisor LeFeber – Aye

RESOLUTION #62 APPROVAL OF PURCHASE OF A COMPUTER FOR THE WATER DEPARTMENT WITH DOWNLOADING RESTRICTIONS

On motion of Councilman Harrington, seconded by Supervisor LeFeber the following resolution was ADOPTED AYES 4 NAYS 0 ABSENT 1 (DEPUTY SUPERVISOR MAIRS)

RESOLVE to approve the purchase for the Water Department at a cost of \$801.25 with restrictions for downloading.

Vote of the Board: Councilman Drozdziel - Aye, Councilman Harrington - Aye, Councilman Coyne - Aye, Deputy Supervisor Mairs - Absent, Supervisor LeFeber – Aye

RESOLUTION #63 APPROVAL OF CONTRACT WITH DAVIS – ULMER FOR QUARTERLY INSPECTIONS

On motion of Councilman Harrington, seconded by Councilman Drozdziel the following resolution was ADOPTED AYES 4 NAYS 0 ABSENT 1 (DEPUTY SUPERVISOR MAIRS)

RESOLVE to approve the Supervisor to sign the contract with Davis-Ulmer as follows for quarterly inspections.

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• Sprinklers • Suppression • Fire Alarm • Security
Inspection Agreement

Effective, March 2022 and subject to all terms, conditions, and limitations specified in this Agreement, Avon Town Hall ("Customer") hereby engages Davis-Ulmer Sprinkler Company, Inc. ("Company") to perform inspection services at the premises specified in Section I below (the "Property"), and Company agrees to perform such services subject to all terms, conditions and limitations specified in this Agreement and as outlined in Section II.

SECTION I – CUSTOMER & PROPERTY INFORMATION

Property: Avon Town Hall
Address: 23 Genesee St
Avon, NY 14414

Billing Address (If different from Property):

Name: Kim McDowell
Phone: (585) 226-2425 x19
Fax: Fax Number
Email: kmcdowell@avon-ny.org
Property Owner (If different from Customer)

Name:
Phone:
Fax:
E-Mail:

If Customer is not the owner of the Property (i) Customer represents, warrants, and covenants to Company that Customer is authorized by the owner to enter into this Agreement and allow Company to access the Property and perform the services described below, and (ii) Customer authorizes Company to communicate the results of any inspection directly to the owner.

SECTION II – INSPECTION

Systems to be inspected:

Description	Quarterly	Semi Annual	Annual	Total Annual
(1) Wet & (1) Dry Sprinkler System	\$ 180.00			\$ 720.00
Total				
Total Annual Sum				\$ 720.00

The Scopes(s) of Work are included. Actual inspection date(s) will be determined by Company.

Property:
Licensed by NYS Department of State

1 of 6
Rev. 08-16

DocuSign Envelope ID: 20DC6D44-785A-45A7-9859-C6DD31FE02D4

SECTION III – TERM, INSPECTION FEE, AND PAYMENT

The term of this Agreement shall be for a period ¹ year(s).

Customer agrees to pay the **total annual sum** of \$720.00. Customer will be invoiced following **each inspection**, the sum of \$ 180.00. Specified fee does not include any applicable sales or other tax. Customer is responsible for all applicable taxes.

Company will issue an invoice promptly upon completion of each inspection. Customer will pay each invoice in full, without any setoff or deduction whatsoever, no later than 30 days after receipt of invoice. Any amounts past due will be subject to a finance charge equal to the lesser of 1.5% per month or the maximum legal rate. Customer agrees to reimburse Company for all costs of collection, including attorneys' fees.

SECTION IV: TERMS AND CONDITIONS

1. SERVICE OF THE FIRE PROTECTION EQUIPMENT: The Client agrees to purchase and Company agrees to provide in accordance with these terms and conditions services for the purpose of inspecting and testing Client's fire protection equipment in accordance with the terms and condition of this agreement. The Company will be permitted, at all reasonable times, to enter the Property indicated above to conduct the inspection and testing as outlined in this Agreement. The Company will be permitted to gather information, data on the Subscriber's systems (outlined in this agreement) and retain that information, data for use as the Company deems necessary. The Company may or may not use software to collect, view and or store collected information, data in any format necessary to use as needed.

2. TERMS AND RENEWAL OF AGREEMENT: Client agrees and acknowledges that this Agreement shall commence on the Effective Date or from the date of acceptance by Company whichever occurs later unless terminated as provided herein and continue for the term indicated by customer in Section III: TERM (the initial term). At the conclusion of the Initial Term, this Agreement shall automatically extend for successive terms equal to the Initial Term unless either party gives written notice to the other party at least thirty (30) days prior to the end of the then current term.

3. PRICE AND PAYMENT: The charge for the work agreed to be performed herein shall include all labor, as described in paragraph 4.A, per diem and travel. Client agrees to pay company for the Term(s) of this Agreement, Company's applicable charges for testing and inspection services and for service calls as set forth under this Agreement. With approved credit, all invoices are due and payable in full according to the stated terms, net 30 days and interest at a rate of (1 ½%) on all unpaid invoices (30) days past due. If payment for work provided in this agreement is not paid when due, Client agrees to pay all costs of collection including attorneys' fees. Charges for inspection services or rates for basic or emergency service in any subsequent year of this agreement shall not exceed 115% of the prior year.

4. INSPECTIONS AND SERVICE: For the agreed on amount, as shown on the attached Proposal, during the term(s) of this Agreement, Company agrees to provide inspection, certification, service and parts as follows:

A. Periodic inspections of the fire protection equipment described in our attached Proposal means to inspect, test, and adjust the systems to assure components thereof are operating within the manufacturer's acceptable standards. Client will be notified, in writing, of any components found not to be within accepted operating standards. Sprinkler inspections are not intended to and will not address the adequacy of the system design or installation of systems not installed by Davis Ulmer Fire Protection. Davis Ulmer Fire Protection performs inspections of the sprinklers, pipe, fittings, and other components that are accessible and not in concealed spaces visually and from the floor of the facility, and only for the conditions listed in this report or as otherwise required by NFPA 25. Components will be repaired or replaced only upon written authorization of the Client and invoiced at the service rates (s) set forth under the Clarifications of the Proposal. The frequency of each inspection shall be identified within the Proposal, beginning with the first inspection.

B. Any additional work, material or services outside the scope of this Agreement, which is requested by the Client and furnished by the Company, may be provided by the Company at its sole discretion. Further, such additional work, material or services shall be delivered under the terms of this Agreement, and by execution hereof. Client acknowledges that this Section V shall be incorporated into and become a part of any order for such additional work, equipment or services.

C. If in the sole determination of the Company, and at any time prior to or during the term of this Agreement, the equipment or any portion of it cannot be adequately inspected, repaired or adjusted on-site to bring it to an acceptable condition, Company shall have the right, at its discretion, to cancel this Agreement. If, alternatively and in the sole determination of the Company, portions of the system cannot be brought up to acceptable level of operation through service and maintenance, in lieu of canceling the Agreement, Company may reduce the scope of the work and the inspection and maintenance charge shall be adjusted accordingly.

D. Repair(s), diagnosis, addition(s) change(s), relocation(s) or emergency services are not included within the inspection amount quoted. These services will not be provided without the authorization of the Client and will be invoiced at the company's then current hourly rate for services, including travel charges and per-diem. Service calls during normal working hours will be invoiced based upon cost portal to portal and a (2) hour minimum. After hours service calls will be based upon portal to portal and a (3) hour minimum. Client also agreed to pay Company an overtime rate of (1 ½) times the hourly rate for service(s) required at other than normal working hours for the Company except for Sundays and Holidays which will be at an overtime rate of (2) times the hourly rate of service. Normal working hours for the Company are, 8:00 AM – 5:00 PM, Monday through Friday, excluding holidays. Service parts and applicable material will be charged out in accordance with Company's current established pricing, not to exceed the Manufacturer's current published list price.

E. Company, following each inspection, will provide to Customer a written "Report of Inspection" ("Report"). If required and/or with prior written authorization, Company will provide copies of the Report to the local or state authority having jurisdiction on behalf of Customer. If requested by Customer, a copy of the Report will also be forwarded to Customer's insurance company. The Report and recommendations, if any, by Company are only advisory in nature and are intended to

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assist Customer in reducing the possibility of loss to the Property by indicating obvious defects or impairments to the system(s) which were discovered by Company's inspection and which should receive prompt attention.

5. LIMITATION OF LIABILITY: CLIENT ACKNOWLEDGES THAT COMPANY IS NOT AN INSURER, THAT CLIENT SHALL OBTAIN THE TYPE AND AMOUNT OF INSURANCE COVERAGE WHICH IT DETERMINES NECESSARY, AND THAT THE PAYMENTS MADE TO COMPANY BY CLIENT ON THIS PROJECT ARE BASED UPON THE VALUE OF THE SYSTEM AND/OR SERVICES PROVIDED AND ARE UNRELATED TO THE VALUE OF CLIENT'S PROPERTY OR BUSINESS OR ANY POTENTIAL LIABILITY OF DAMAGE TO CLIENT ARISING OUT OF THE WORK PERFORMED BY COMPANY. IN RECOGNITION OF THE RELATIVE RISKS AND BENEFITS TO THE CLIENT AND TO COMPANY RESULTING FROM THE WORK PERFORMED BY COMPANY, THE RISKS HAVE BEEN ALLOCATED SUCH THAT THE CLIENT, AS WELL AS THE CLIENT'S ASSIGNS, AGENTS, AND REPRESENTATIVES, AGREE, TO THE FULLEST EXTENT PERMITTED BY LAW, TO LIMIT THE LIABILITY OF COMPANY, ITS OFFICERS, DIRECTORS, EMPLOYEES AND COMPANY'S PARENT, SUBSIDIARIES, AFFILIATES, CONSULTANTS, SUBCONTRACTORS, VENDORS, TO A MAXIMUM OF \$5,000 OR THE AMOUNT OF THE CONTRACT/PRICE OF WORK BEING PERFORMED, WHICHEVER IS LESS, AND CLIENT DOES HEREBY RELEASE Davis Ulmer Fire Protection FROM ANY CLAIMS IN EXCESS OF SAID LIMIT. THIS LIMITATION OF LIABILITY SHALL APPLY TO ALL JUDGMENTS, CLAIMS, LIABILITY, COSTS, CLAIM EXPENSES, AND ALL OTHER DAMAGES OR LOSSES OF ANY NATURE, INCLUDING ATTORNEYS' FEES (COLLECTIVELY "DAMAGES") SUSTAINED BY CLIENT OR ANY OTHER PARTY CLAIMING BY OR THROUGH CLIENT. THIS LIMITATION OF LIABILITY SHALL APPLY, 1.) REGARDLESS OF THE AMOUNT OF ANY DAMAGES SUSTAINED, IF ANY, AS A RESULT OF THIS WORK; AND, 2.) EVEN IF THE DAMAGES ARE ACTUALLY CAUSED OR ALLEGED TO BE CAUSED BY THE NEGLIGENCE, BREACH OF WARRANTY, VIOLATION OF A STATUTE, ORDINANCE, REGULATION, STANDARD OR RULE, DEFECTIVE PRODUCTS, , OR OTHER FAULT OF COMPANY OR COMPANY'S PARENT, SUBSIDIARIES, AFFILIATES, CONSULTANTS, SUBCONTRACTORS, VENDORS, OR THEIR RESPECTIVE EMPLOYEES, AGENTS OR REPRESENTATIVES. SHOULD CLIENT DESIRE A DIFFERENT LIMITATION OF LIABILITY, SUCH IS AVAILABLE AS AN ADDITIONAL SERVICE AT AN ADDITIONAL COST. CLIENT AGREES TO REQUIRE IT INSURANCE POLICIES TO BE ENDORSED SO AS TO WAIVE ALL RIGHTS OF SUBROGATION AGAINST COMPANY.

6. WARRANTIES:

A. EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT, THE COMPANY MAKES NO WARRANTIES, EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND THERE ARE NO WARRANTIES OR REPRESENTATIONS WHICH EXTEND BEYOND THE FACE OF THIS AGREEMENT.

B. COMPANY DOES WARRANT THAT SERVICE UNDER THIS AGREEMENT WILL BE COMPETENT AND THAT PARTS INSTALLED ON THE SYSTEM IN CONNECTION WITH SERVICE PROVIDED UNDER THIS AGREEMENT WILL MEET MANUFACTURER'S SPECIFICATIONS AT THE TIME THEY ARE INSTALLED. FAILURES TO PERFORM CONSISTENTLY WITH THIS WARRANTY WILL BE REMEDIED SOLELY BY THE COMPANY DURING THE TERM OF THIS AGREEMENT, BY CORRECTLY RE-PERFORMING NONCOMPLYING SERVICE(S) OR REPAIRING OR REPLACING DEFECTIVE MATERIALS PROVIDED BY THE COMPANY, UPON WRITTEN NOTICE TO THE COMPANY BY THE CLIENT DURING THE TERM(S) OF THIS AGREEMENT.

C. THE COMPANY DOES NOT KNOW AND DOES NOT REPRESENT THAT THE CURRENT FIRE PROTECTION SYSTEM ON THE PROPERTY OF CLIENT WAS ORIGINALLY DESIGNED AND INSTALLED IN SUCH A WAY THAT THE SYSTEM WILL PERFORM AS ORIGINALLY INTENDED OR IS SUITABLE AND SUFFICIENT FOR ITS INTENDED PURPOSE GIVEN THE WAY IN WHICH THE PROPERTY HAS BEEN OR WILL BE USED, RECONFIGURED OR MAINTAINED. THIS AGREEMENT IS NOT A GUARANTEE OR WARRANTY THAT THE SYSTEM WILL IN ALL CASES (i) PROVIDE THE LEVEL OF PROTECTION FOR WHICH IT WAS ORIGINALLY INTENDED, (ii) IS FREE OF ALL DEFECTS AND DEFICIENCIES, AND (iii) IS IN COMPLIANCE WITH ALL APPLICABLE CODES. CLIENT AGREES THAT IT HAS NOT RETAINED COMPANY TO MAKE THESE ASSESSMENTS AS PART OF THIS AGREEMENT. ANY SUCH ASSESSMENT MUST BE BY A SEPARATE AGREEMENT SUBJECT TO THESE TERMS AND CONDITIONS. COMPANY FURTHER DOES NOT REPRESENT, GUARANTEE OR WARRANT THAT ANY EQUIPMENT REFERRED TO IN THIS AGREEMENT OR ANY SERVICE OR INSPECTION PROVIDED BY IT UNDER THIS AGREEMENT WILL RESULT IN A SYSTEM WHICH WILL OPERATE AS DESIGNED, OR IS SUITABLE FOR ANY PARTICULAR PURPOSE, OR WILL PREVENT ANY LOSS BY BURGLARY, FIRE OR OTHERWISE, OR WILL IN ALL CASES OR ANY PARTICULAR CASE AVERT OR PREVENT RISKS, LOSSES, OR OTHER OCCURENCES, OR THE CONSEQUENCES THEREFROM, WHICH THE EQUIPMENT OR SERVICES WERE OR ARE DESIGNED TO PERFORM, DETECT OR AVERT.

D. The Company is not responsible for any damages due to: (1) incompatibility of materials within a CPVC piping system, or (2) corrosion, or deterioration of piping due to Customer's water supply, atmospheric conditions, soil quality, or any other condition at Customer's facility that adversely affects the integrity of the fire protection system.

E. Company will make every reasonable effort to prevent the discharge of water into or onto areas of landscaping, decorative pavement, etc., at the Property, however it is Customer's responsibility to provide sufficient and readily accessible means to accept the full flow of water that may be required by tests as determined by the type of inspection and to take measures to eliminate the formation of ice in any area where a slip and fall hazard could occur.

7. REDUCED PRESSURE BACKFLOW PREVENTER: BY SIGNING BELOW, CLIENT ACKNOWLEDGES THAT REDUCED PRESSURE BACKFLOW PREVENTERS (RPBP), ARE DESIGNED TO DISCHARGE WHEN CHECK VALVES ARE FOULED OR DUE TO WATER PRESSURE FLUCTUATIONS FROM CITY WATER SUPPLIES. ANY MAINTENANCE, REPAIR OR INSPECTION ON A FIRE SPRINKLER SYSTEM COULD RESULT IN WATER FLOW THROUGH THE RPBP AND POSSIBLE DISCHARGE. BY SIGNING BELOW, CLIENT AGREES TO RELEASE, DEFEND, INDEMNIFY AND HOLD HARMLESS Davis Ulmer Fire Protection FROM ANY CLAIM OR LIABILITY FOR ANY DAMAGES INCURRED BY THIS DISCHARGE OR LACK OF PROPER RPBP DRAIN PIPING AND OR RPBP DRAIN EQUIPMENT OR FAILURE OF THIS PIPING OR EQUIPMENT Davis Ulmer Fire Protection WAS SPECIFICALLY CONTRACTED TO DESIGN AND/OR INSTALL THIS EQUIPMENT.

8. RESPONSIBILITIES OF CLIENT: The Client agrees to:

Property:
Licensed by NYS Department of State

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Rev. 08-16

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A. Promptly notify Company of any known or suspected trouble or malfunction in the equipment, request a hazard evaluation if there are changes in occupancy, use, processes or materials, and promptly approve correction of impairments and critical deficiencies found during any inspection. All replaced parts become the property of the Company.

B. Maintain the system per original installers' instructions and manufacturer' specifications.

C. Authorize Company, its agents and employees, for purposes of this Agreement, to enter upon the premises of Client, to repair or inspect the equipment and to make any changes or alteration to the equipment, as authorized by Client. Client also agrees to provide Company with ready accessibility to all components of systems requiring inspection and testing and appropriate working space, including adequate light, electricity, telephone access, ladders or lifts as required for Company's use in providing service(s) under this Agreement. In addition, Client agrees to provide one individual to monitor the control panel during testing and certification.

D. Designate suitable representative(s) satisfactory to the Company as exclusive contact(s) between Company and the Client, who shall have authority to make decisions on behalf of Client concerning service of the equipment by Company.

E. Neither authorize nor permit maintenance, repairs or modifications of any kind to be made to the equipment, except by the Company or as specified and approved in advance by the Company.

F. Assume complete responsibility for the maintenance and repair of the system except as is set forth in this agreement.

9. INDEMNIFICATION. COMPANY AND CLIENT SHALL DEFEND, INDEMNIFY AND HOLD ONE ANOTHER HARMLESS FROM ANY EXPENSE, LIABILITY, LOSS, CLAIM OR DAMAGE, FOR PERSONAL INJURIES AND DEATH OR PROPERTY DAMAGE ASSERTED BY ANY THIRD PARTY, CAUSED BY THE ALLEGED NEGLIGENCE OF ITSELF, ITS AGENTS, EMPLOYEES, OR ANY OTHER INDIVIDUAL OR ENTITY AFFILIATED WITH IT, AND RESULTING FROM THE SERVICES PROVIDED HEREIN, OR OVERALL FUNCTIONALITY OF THE SYSTEM IDENTIFIED IN THIS AGREEMENT.

10. ADDITIONAL COMPANY RESPONSIBILITY.

A. Company will provide service calls and emergency service, upon request of the Client, subject to any delay which may be occasioned by strike, riot, acts of God or any other circumstances beyond the control of the Company, as soon as it is reasonably practical to do so. Company will make reasonable efforts to attend promptly to the emergency needs of the Client, but it can make no guaranty of response time by the company or what may be required to properly service the equipment.

B. In the event a malfunction of a type covered by this Agreement has not been remedied before this Agreement has terminated for whatever reason, any service requested by the Client thereafter may be provided by the Company in its sole discretion and at the Company's then-current rates for services, including travel charges, per diem and materials.

C. Company will provide necessary test equipment required to perform service(s) under this Agreement.

D. If replacement parts are necessary under this Agreement, Company may provide new and/or used replacements.

11. NO CONFLICT WITH OTHER CLIENT AGREEMENTS. Client warrants that the negotiation, execution and implementation of this Agreement will not conflict with any other agreement of which the Client is aware with any other person or firm. Client agrees to defend, indemnify and hold harmless the Company from claims of any sort by any person or firm alleging that this Agreement violates, interferes with or infringes upon any other Agreement in any way.

12. LICENSES, TAXES, PERMITS AND FALSE ALARMS. Client shall identify any rules, regulations, standards or codes with which the equipment must comply, and shall obtain and pay for any necessary licenses or other certificates of compliance for same. Client is solely responsible for any fees, taxes (including sales taxes), false alarm fines, and any other governmental assessments related to the equipment or system operation and shall reimburse and indemnify the Company for any such expenses incurred by the Company. Client and Company are each responsible for obtaining any necessary licenses or permits needed to perform their respective obligations under this Agreement.

13. ASSIGNMENTS AND DELEGATIONS. Neither the Company nor the Client may assign this Agreement to any other person, firm or corporation without notice to or approval by the other, but Company may subcontract any activities that it may perform under this Agreement.

14. ENGINEERING CHANGES. Occasionally, manufacturers may issue non-warranty engineering changes to equipment necessary to assure proper operation of system components. If, in the opinion of the Company and Client, installation of such engineering changes requires service(s) or material(s) in excess of those incidental to a normal preventive maintenance inspection, such excess shall be paid for by the Client at Company's applicable charges for on-call and emergency services as set forth under this Agreement provided that company will remain responsible for performance of its obligations under this agreement. Failure by the Client to have factory recommended engineering changes installed on the system will relieve the Company from further performance under this Agreement, but will not relieve the Client of its obligations hereunder. No other engineering changes or system modification are covered by this Agreement except as may be otherwise specifically provided herein.

15. INVALID PROVISIONS. If any of the parts of this Agreement shall be determined by a court of competent jurisdiction to be invalid or inoperative, all of the remaining parts shall remain in full force and effect.

16. ENTIRE AGREEMENT. This writing is intended by the parties as the final expression of their Agreement and as a complete and exclusive statement of the terms thereof. This Agreement supersedes all prior representations, understandings or agreements between the parties; there are no prior writings, verbal negotiations, understandings, representations or agreements not expressed in this Agreement, and the parties rely only upon the contents of this Agreement in executing it, and have not relied on any other representations, oral or otherwise, made by the parties, their agents or employees. Only a writing signed by each of the parties or their duly authorized agents may modify this Agreement. No waiver of breach of any term or condition of this Agreement shall be construed to be a waiver of any succeeding breach. This agreement shall bind and benefit the heirs, successors and assigns for the respective parties. A written Service Agreement Proposal is provided for clarification purposes and is hereby made a part of this contract.

17. RECEIPT AND REVIEW OF AGREEMENT. The Client specifically acknowledges that it has received a copy of these Terms and Conditions in its entirety, represents that it has authority to enter into this Agreement, and has read the same, understood it and agreed to its contents before signing it. Further the person executing these Terms and Conditions has the full authority of the Client to bind the Client, to the fullest extent provided by law, to these Terms and Conditions.

A. This Agreement may not be assigned by Customer without the written consent of Company.

B. This Agreement may be signed in counterparts; a signed facsimile, photocopy, and/or electronic mail of this Agreement shall be as binding on both parties just as though this Agreement were executed in its original, pre-printed form.

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C. The Company for formal bid documents, is not a Disadvantaged Business Enterprise. Furthermore, no DBE, MWBE or other minority program participation goals or requirements are included or inferred. Should this project involve DBE, MWBE or other minority program participation goals or requirements please advise in writing regarding the specific nature of those goals or requirements and specifically how they impact Davis Ulmer Fire Protection.

Other inclusions, exclusions, or attachments:

- *General Exclusions: Painting, patching, underground and/or trenching, after hour, weekend and holiday labor rates, fire watch, prevailing wage/certified payroll, abatement including but not limited to asbestos and lead, water containment/disposal, conduit and wire, permit fees, scissor lifts, dampers, ground faults.
- * Pricing: The pricing set forth in this Agreement is based on the number of devices set forth in Section II: Scope of Work. If for any reason the actual number of devices is higher than the number set forth in Section II: Scope of Work, the price will be adjusted accordingly.
- *Coverage: Proposal above is for Test & Inspect only of above systems. All repairs, parts and services outside of above testing & inspecting scope of work is billable at Davis Ulmer Fire Protection current Time & Material Rates.
- *Access: During inspection, inspectors must have access to control valves, and alarm information, buried and/or non-accessible FDC check valves will be listed on the report and a recommendation for relocation under a separate contract. Inspectors must have access to all suites, apartments, units, etc. Customer responsible for notifying tenants of inspection and for gaining access in to each and every unit/apartment on scheduled inspection date(s). **If multiple inspections are required due to "no access" customer will be responsible for hourly rates of inspectors at Davis Ulmer Fire Protection current Time & Material Rates.**

ACCESS ACKNOWLEDGEMENT CUSTOMER INITIAL

*Cancellation/Reschedule Notice: Should the customer cancel or reschedule all or any portion of the inspection/scope without giving 3 business days' notice to the Davis Ulmer Fire Protection we will assess a scheduling impact fee. The fee shall be equal to 4 hours of our current set Time and Material rate.

*COVID-19: "Due to the existing pandemic involving COVID-19 and the constantly evolving situation, which includes shut downs of definite and indefinite durations by the federal, state, and local governments, quarantines, business shut downs, transportation interruptions, disruptions in the supply chain of certain materials, supplies, or equipment, disruptions to public services, temporary suspensions of work on site, or the unavailability or reduced availability of manpower, the parties agree that if Subcontractor is hindered, prevented or delayed at any time in the commencement or progress of the work for a cause arising from or related to COVID-19, including but not limited to any of the examples above, Subcontractor shall be entitled to an extension of the Contract time. Furthermore, Subcontractor shall be entitled to additional compensation for increased costs associated with the high demand for specified materials, for increased costs associated with any proposed substitute approved by Contractor or Owner, or any other similar cost increase outside the control of Subcontractor."

SECTION V: THIRD PARTY AUTHORIZATION

Customer requests and authorizes Company to provide the following designated third parties with the Report information outlined below:

SECTION VI: ACCEPTANCE AND SIGNATURE

Customer: Avon Town Hall

SIGNATURE: David Leffer
NAME: DAVID LEFFER

TITLE: Town Supervisor

DATE: 2/24/2022

Davis-Ulmer Sprinkler Company, Inc.

SIGNATURE: _____
NAME: Pete Mitrano

TITLE: Service Manager

DATE: _____

By signing above, Customer acknowledges that it has reviewed, understands and agrees to all terms and conditions of this Agreement including, without limitation, the Scope(s) of Work furnished by Company with this Agreement.

The inspection fee quoted is for acceptance within thirty (30) days from Company's presentation of this Agreement to Customer. If not accepted by Customer within such 30-day period, Company will be pleased to submit a revised quotation. Agreement is not binding on Company until credit approval for Customer is issued by Company. If required, a Credit Application is attached.

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Scopes of Work:

- **Scopes of Work** (from section II)



Customer Attachments:

- **W-9** (Matching customers bill to information above)

- **Tax Exempt Certificate** (if Applicable)

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Quarterly

INSPECTION / TESTING OF WET PIPE FIRE SPRINKLER SYSTEM

The State Fire Code requires you to inspect, test, and maintain fire protection systems in an operative condition. All inspection, testing and maintenance records are required to be kept on file at the premises. Any questions concerning regulatory requirements for fire protection systems should be directed to your municipal code enforcement authority. Davis-Ulmer will notify you in writing of any condition or deficiency discovered requiring correction or repair. Any authorized repair/maintenance work will be performed either as quoted or on a time and material basis.

SCOPE OF WORK

- (Annually) Attempt to visually inspect all known portions of system for exterior condition of sprinklers, piping, and hangers from floor level only.
- (Quarterly) Attempt to visually inspect all known valves, hydraulic placards, gauges, fire department connection from floor level only.
- (Annually) Operate all known control valves, and seal valves in proper position.
- (Annually) Attempt to visually verify proper sprinkler orientation, temperature rating, and obvious obstruction from floor level only.
- (Annually) Verify appropriate quantities and types of sprinkler heads and wrenches in cabinet.
- (Quarterly) Verify operation of audible alarms and water flow alarms to building Fire Alarm Panel and remote monitoring facility (if equipped).
- (Quarterly) Perform main drain flow test and record static and residual pressures (weather permitting).
- (Annually) Sample test anti-freeze solution for specific gravity and freezing point (if equipped).
- (Semi-Annually) Verify operation of valve supervisory switches to building Fire Alarm Panel and remote monitoring facility (if equipped).
- (Quarterly) Affix inspection tags, date, and initial.
- Furnish completed inspection/test forms.

Excluded Work:

- Visual inspection of systems or portions of in inaccessible spaces.
- Any and all NFPA, State, and local requirements in excess of above stated.

Licensed by the NYS Dept of State – UID# 12000178332, UID#12000281635, UID#12000259060

Rev. 10-04-11

Vote of the Board: Councilman Drozdziel - Aye, Councilman Harrington - Aye, Councilman Coyne - Aye, Deputy Supervisor Mairs - Absent, Supervisor LeFeber – Aye

RESOLUTION #64 APPROVAL OF DAVIS-ULMER FIRE SPRINKLER PROPOSAL

On motion of Councilman Harrington, seconded by Councilman Drozdziel the following resolution was ADOPTED AYES 4 NAYS 0 ABSENT 1 (DEPUTY SUPERVISOR MAIRS)

RESOLVE to approve the proposal from Davis-Ulmer for labor and materials to replace one waterlogged tamper switch and one damaged sprinkler head located in the historian hall of the lower level of the Town Hall/Opera Block at a cost of \$1,245.00 as follows:

Davis-Ulmer
300 Metro Park
Rochester, NY 14623
585.546.3670



RECEIVED

FEB 22 2022

FQ2201230032

SHARON M. KNIGHT
TOWN CLERK/TAX COLLECTOR

February 21st, 2022

Kim McDowell
kmcdowell@avon-ny.org
Avon Town Hall
23 Genesee St
Avon, NY 14414-1048

Project: Site –23 Genesee St Avon, NY 14414-1048– Fire Sprinkler System

Davis Ulmer is pleased to provide our proposal at the above referenced location for the following work:

- Labor and material to replace one waterlogged tamper switch.
- Labor and material to replace one damaged sprinkler head located in the historian hall.

Price: One Thousand Two Hundred and Forty-Five dollars, plus applicable taxes (\$ 1,245.00, plus applicable taxes).

Exclusions:

1. Water damage sustained to property.
2. Painting of Pipe
3. Electrical wiring of fire protection devices
4. Premium/overtime shift work (unless otherwise noted above)
5. Sales Tax
6. Unknown or concealed physical conditions, including but not limited to asbestos and lead that require an increase to our cost and/or time in performance of the above scope of work. Any abatement work is specifically excluded.
7. Seismic Bracing of any piping
8. Permit, Fees, or Bonds
9. Underground
10. **BACKFLOW TESTS:** It is the responsibility of the Owner/Occupant that the original installation of the device that Company is testing has been approved by the authority having jurisdiction and/or insurance underwriter. Proper lighting, heat, drainage is to be provided for each device by the Owner/Occupant. Company assumes no liability for any and all losses or damages caused by device failure or RPZ relief valve discharge during or any time after testing the device. The inspection and test that Company performs on a backflow is to test the device only and does not include engineering evaluations or design recommendations.

This proposal is valid for **20 days** from the date of proposal and our price is based on mutually agreeable contract terms and conditions.



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THE NEXT SECTION OF THIS QUOTE CONTAINS ADDITIONAL TERMS AND CONDITIONS THAT ARE A PART OF THE CONTRACT, INCLUDING LIMITATIONS OF "Company's" LIABILITY. By signing below, you hereby accept the following terms & conditions:

IT IS UNDERSTOOD AND AGREED BY CUSTOMER THAT COMPANY IS NOT AN INSURER, THAT CUSTOMER SHALL OBTAIN THE TYPE AND AMOUNT OF INSURANCE COVERAGE WHICH IT DETERMINES NECESSARY. CUSTOMER ACCORDINGLY AGREES THAT THE LIABILITY OF COMPANY, ITS OFFICERS, DIRECTORS, EMPLOYEES, PARENT COMPANIES, SUBSIDIARIES, AFFILIATES AND AGENTS ARISING OUT OF OR IN ANY WAY RELATING TO OR CONNECTED WITH THE WORK PERFORMED BY THE COMPANY SHALL BE LIMITED TO THE LESSER OF \$1,000 OR THE PRICE OF THE WORK PERFORMED BY THE COMPANY. THIS LIMITATION OF LIABILITY SHALL APPLY TO ALL CLAIMS, DEMANDS, LOSSES, EXPENSES OR LIABILITIES OF ANY KIND, INCLUDING ATTORNEY'S FEES, (HEREINAFTER REFERRED TO AS "DAMAGES"), SUSTAINED BY CUSTOMER OR ANY OTHER PARTY CLAIMING BY OR THROUGH CUSTOMER, AND SHALL APPLY REGARDLESS OF WHETHER SUCH "DAMAGES" ARE ACTUALLY OR ALLEGEDLY CAUSED BY THE NEGLIGENCE, PRODUCT LIABILITY, BREACH OF CONTRACT, BREACH OF WARRANTY, BREACH OR VIOLATION OF A STATUTE, ORDINANCE, GOVERNMENTAL REGULATION STANDARD OR RULE OR OTHER FAULT OF COMPANY, ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, PARENT COMPANIES, SUBSIDIARIES AND AFFILIATES.

Davis-Ulmer, for formal bid documents, is not a Disadvantaged Business Enterprise. Furthermore, no DBE, MWBE or other minority program participation goals or requirements are included or inferred. Should this project involve DBE, MWBE or other minority program participation goals or requirements please advise in writing regarding the specific nature of those goals or requirements and specifically how they impact Davis-Ulmer.

TERMS AND CONDITIONS

The Work Authorization, together with these Terms and Conditions, constituted the entire agreement ("Agreement") of the parties.

1. This Agreement is for work performed on this Work Authorization only. If Customer wants Davis Ulmer Sprinkler Inc including but not limited to any of its Divisions (Ellis Fire Protection, Beach Lake Sprinkler, Rich Fire Protection, Reliance Fire Protection, Cogswell Fire Protection, All State Fire and Security) hereafter "Company", to make any additional repairs, alterations or replacements as a result of the work performed, the Company will do so for additional compensation to be agreed upon in writing by the parties. Company is responsible for the new work only. Testing required of the old or existing fire protection system will be done as an additional charge unless otherwise specified.
2. The Company does not know and does not represent that the current fire protection system on the property of Customer ("Property") was originally designed and installed in such a way that the system will perform as originally intended or is suitable and sufficient for its intended purpose given the way in which the Property has been or will be used. In other words, the Property may have been or may be used in ways such that the configuration of partition walls, the location of and types of materials (including the presence of hazardous materials) and other conditions of the Property's use such that the fire protection system is adequate, insufficient or unsuitable for the Property. Customer assumes full responsibility for the condition of existing equipment and for water and other damage resulting directly or indirectly from such condition or application of test or flushing pressures.

The Company is NOT responsible for any damages due to: (1) incompatibility of materials within or external to CPVC piping system placed by others, or, (2) corrosion or deterioration of piping due to Customer's water supply, atmospheric conditions, soil quality, or any other condition at Customer's facility that adversely affects the integrity of the fire protection system.



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THIS AGREEMENT IS NOT A GUARANTEE OR WARRANTY THAT THE SYSTEM WILL IN ALL CASES (A) PROVIDE THE LEVEL OF PROTECTION FOR WHICH IT WAS ORIGINALLY INTENDED, (B) IS FREE OF ALL DEFECTS AND DEFICIENCIES, (C) AND IS IN COMPLIANCE WITH ALL APPLICABLE CODES. Customer agrees that it has not retained Company to make these assessments unless otherwise specifically indicated.

3. The Company will be permitted, at all reasonable times, to enter the Property to conduct the work as outlined in this Agreement. Company warrants all material furnished hereunder to be free from defects in workmanship and materials provided Customer notifies Company in writing of such defect within Ninety (90) days from acceptance of the work. Company's sole obligation on any warranty claim is limited to replacement or repair of the defective part or material. No other express warranty is given and no affirmation of "Davis Ulmer Fire Protection Company" by words or actions shall constitute a warranty. THIS LIMITED WARRANTY IS EXPRESSLY IN LIEU OF ANY OTHER EXPRESS OR IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OR MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE.
4. TO THE FULLEST EXTENT PERMITTED BY LAW, CUSTOMER AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS COMPANY AND ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, PARENT COMPANY, SUBSIDIARIES AND AFFILIATES, (HEREINAFTER REFERRED TO AS "INDEMNIFIED PARTIES") FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, LOSSES, EXPENSES OR LIABILITIES OF ANY KIND, INCLUDING ATTORNEY'S FEES, (HEREINAFTER REFERRED TO AS "DAMAGES") ARISING IN WHOLE OR IN PART FROM THE NEGLIGENCE OR FAULT OF CUSTOMER.
5. IT IS UNDERSTOOD AND AGREED BY CUSTOMER THAT COMPANY IS NOT AN INSURER, THAT CUSTOMER SHALL OBTAIN THE TYPE AND AMOUNT OF INSURANCE COVERAGE WHICH IT DETERMINES NECESSARY, AND THAT THE AMOUNTS PAYABLE TO THE COMPANY HEREUNDER ARE BASED UPON THE VALUE OF SERVICES RENDERED AND ARE UNRELATED TO THE VALUE OF CUSTOMER'S PROPERTY, THE PROPERTY OF OTHERS LOCATED ON CUSTOMER'S PREMISES, OR ANY POTENTIAL LIABILITY OR DAMAGE TO CUSTOMER ARISING OUT OF THE WORK PERFORMED BY COMPANY. CUSTOMER ACCORDINGLY AGREES THAT THE SOLE AND EXCLUSIVE LIABILITY OF COMPANY, ITS OFFICERS, DIRECTORS, EMPLOYEES, PARENT COMPANIES, SUBSIDIARIES, AFFILIATES AND AGENTS ARISING OUT OF OR IN ANY WAY RELATING TO OR CONNECTED WITH THE WORK PERFORMED BY THE COMPANY SHALL BE LIMITED TO THE LESSER OF \$5,000 OR THE PRICE OF THE WORK PERFORMED BY THE COMPANY. THIS LIMITATION OF LIABILITY SHALL APPLY TO ALL CLAIMS, DEMANDS, LOSSES, EXPENSES OR LIABILITIES OF ANY KIND, INCLUDING ATTORNEY'S FEES, (HEREINAFTER REFERRED TO AS "DAMAGES"), SUSTAINED BY CUSTOMER OR ANY OTHER PARTY CLAIMING BY OR THROUGH CUSTOMER, AND SHALL APPLY REGARDLESS OF WHETHER SUCH "DAMAGES" ARE ACTUALLY OR ALLEGEDLY CAUSED BY NEGLIGENCE, PRODUCT LIABILITY, BREACH OF CONTRACT, BREACH OF WARRANTY, BREACH OF VIOLATION OF A STATUTE, ORDINANCE, GOVERNMENTAL REGULATION STANDARD OR RULE OR OTHER FAULT OF COMPANY, ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, PARENT COMPANIES, SUBSIDIARIES AND AFFILIATES.
6. CUSTOMER AGREES TO REQUIRE ITS INSURANCE POLICIES TO BE ENDORSED SO AS TO WAIVE ALL RIGHTS OF SUBROGATION AGAINST COMPANY.
7. While the Company will make every reasonable effort to prevent the discharge of water into or onto areas of landscaping, decorative pavement, etc., it is the Customer's responsibility to provide sufficient and readily accessible means to accept the flow of water that may be required by tests as determined by the type of inspection. Customer is to provide any interim or temporary fire protection required during shutdown of existing fire protection system.
8. This Agreement may not be assigned by Customer without the written consent of the Company.
9. Neither party shall be liable to the other for indirect, incidental, consequential or punitive damages arising out of the work.
10. If payment for work provided in this Agreement is not received by the Company within 30 days from the Customer's receipt of an invoice for the work, Customer shall pay an interest at the rate of 1 1/2% per month on all past due sums, together with all costs of collection, including attorney's fees.



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- 11. The Company is not a Disadvantaged Business Enterprise. Furthermore, no DBE, MWBE or other minority program participation goals or requirements are included or inferred. Should this project involve DBE, MWBE or other minority program participation goals or requirements please advise in writing regarding the specific nature of those goals or requirements and specifically how they impact the Company.
- 12. If any provision hereof shall be invalid, the remaining provisions shall survive and be enforceable against the parties. The law of the state where the work is performed will govern. This Agreement supersedes all prior agreements. This Agreement may be modified only by a written instrument signed by both parties.
- 13. COVID-19: Due to the existing pandemic involving COVID-19 and the constantly evolving situation, which includes shut downs of definite and indefinite durations by the federal, state, and local governments, quarantines, business shut downs, transportation interruptions, disruptions in the supply chain of certain materials, supplies, or equipment, disruptions to public services, temporary suspensions of work on site, or the unavailability or reduced availability of manpower, the parties agree that if Subcontractor (DUFPP) is hindered, prevented or delayed at any time in the commencement or progress of the work for a cause arising from or related to COVID-19, including but not limited to any of the examples above, Subcontractor shall be entitled to an extension of the Contract time. Furthermore, Subcontractor shall be entitled to additional compensation for increased costs associated with the high demand for specified materials, for increased costs associated with any proposed substitute approved by Contractor or Owner, or any other similar cost increase outside the control of Subcontractor.

We thank you for the opportunity to offer our proposal and hope that it meets with your satisfaction. If you have additional questions, please contact me.

With Appreciation,
James Stoler
Project Manager

If our quotation is acceptable, please sign below and return to my attention.

Signature *David L. Ulmer* Date Feb 24 / 2022
Purchase Order#: _____



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**Vote of the Board: Councilman Drozdziel - Aye, Councilman Harrington - Aye,
Councilman Coyne - Aye, Deputy Supervisor Mairs - Absent, Supervisor LeFeber – Aye**

RESOLUTION #65 APPROVAL OF KENRON PROPOSAL

On motion of Councilman Harrington, seconded by Councilman Drozdziel the following resolution was ADOPTED AYES 4 NAYS 0 ABSENT 1 (DEPUTY SUPERVISOR MAIRS)

RESOLVE to approve the proposal from Kenron for a HP#10 new washable filter for the Town Hall/Opera Block at a cost of approximately \$250.00 as follows:


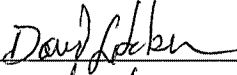
Proposal

KENRON INDUSTRIAL AIR CONDITIONING, INC.

299 Gregory Street * Rochester, NY 14620

Phone: (585) 442-5600 Fax: (585) 442-0367

Email: info@kenron.com • Website: www.kenron.com

PROPOSAL SUBMITTED TO Town of Avon	PHONE (585) 226-2425	DATE February 14, 2022
STREET 23 Genesee Street	FAX (585) 226-9299	EMAIL kmcowell@avon-ny.org
CITY, STATE, ZIP Avon, NY 14414	PROJECT NAME HP#10 new washable filter	
ATTENTION Kim McDowell	PROJECT LOCATION Town of Avon	
We Propose hereby to furnish material and labor - complete in accordance with specifications below, for the sum of:		
Two Hundred Forty Nine Dollars and Ninety Eight Cents		\$ 249.98
Payment to be made as follows: (Includes applicable sales tax) Upon Completion		
All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from specifications below involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado and other necessary insurance. Our workers are fully covered		Kenron Authorized Signature  Note: This proposal may be withdrawn by us if not accepted within <u>10</u> days
We hereby propose the following: During recent site visit found HP#10 washable filter is starting to fall apart and should be replaced. This proposal is to supply and install a new aluminum frame custom fabricated metal filter. The manufacturer does not have this as a stock part and has been discontinued so had to be outsourced and custom filter has to be fabricated by others. Please sign and return this proposal if you would like to proceed.		
Price is Not To Exceed. If work can be done in less time than estimated, labor savings will be applied accordingly. If additional parts are needed to complete repair, you will be notified of any additional costs before work is done.		
Estimates are based on our professional opinion and observations at the time of service. Many systems can not be fully diagnosed until certain repairs are made to get the system operational, after which further diagnosis can occur. Unforeseen problems residing in a system may result in additional costs and have not been included in our proposal. ALL REPAIRS WILL BE DONE ON A TIME AND MATERIAL BASIS, USING OUR CURRENT LABOR RATE.		
Witness our hands and seals the day and date first above written. Customer agrees to pay attorney's fees in the amount of 20% of the unpaid balance in the event that amount of payment received by this contract might become delinquent and be referred to any attorney for collection.		
Acceptance of Proposal: The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.		Signature: 
Date of Acceptance: <u>2/24/2022</u>		Printed Name & Title: <u>David LeFebre SUPERVISOR</u>

Town of Avon HP#10 new washable filter proposal 2-14-22

Vote of the Board: Councilman Drozdziel - Aye, Councilman Harrington - Aye, Councilman Coyne - Aye, Deputy Supervisor Mairs - Absent, Supervisor LeFebre - Aye

RESOLUTION #66 ACCEPT THE CLAIMS

On motion of Councilman Harrington, seconded by Supervisor LeFeber the following resolution was AYES 4 NAYS 0 ABSENT 1 (DEPUTY SUPERVISOR MAIRS)

RESOLVE to accept for payment Abstract 2022-04 in the following amounts:

Concerning ABSTRACT of Claims Number 2022-04 including claims as follows:

General Fund	Amounts totaling \$12,801.43
Highway Fund	Amounts totaling \$13,679.34
Water Fund	Amounts totaling \$3,955.80

Vote of the Board: Councilman Drozdziel – Aye, Councilman Coyne- Aye, Councilman Harrington - Aye, Deputy Supervisor Mairs - Aye, Supervisor LeFeber – Aye

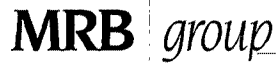
DISCUSSION – UPDATE 2019 WATER STUDY AND ENGINEERING REPORT

Supervisor LeFeber requested the Board consider the proposal for professional services from MRB Group. He stated the first step is to meet with Water Superintendent Crye with the intention of structuring under the Drinking Water State Revolving Fund which includes putting together estimates while updating the preliminary engineering report. The Board took the following action:

RESOLUTION #67 MRB GROUP PROPOSAL FOR PROFESSIONAL SERVICES

On motion of Councilman Harrington, seconded by Supervisor LeFeber the following resolution was AYES 4 NAYS 0 ABSENT 1 (DEPUTY SUPERVISOR MAIRS)

RESOLVE to approve the following proposal at a cost of \$24,800.00.



www.mrbgroup.com

Engineering, Architecture, Surveying, D.P.C.

February 8, 2022

Supervisor David LeFeber
Town of Avon
23 Genesee Street
Avon, New York 14414

**RE: DRAFT - PROPOSAL FOR PROFESSIONAL SERVICES
TOWN OF AVON WATER STUDY UPDATE AND PRELIMINARY ENGINEERING REPORT**

Dear David:

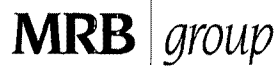
We are pleased to present our proposal for an Update to the 2019 water study and report, and the completion of a Preliminary Engineering Report (PER). The 2019 water study outlined fundamental alternatives for upgrades to the Town water system but was not intended or structured to meet the PER requirements under the Drinking Water State Revolving Fund program (DWSRF), which is administered by the NYS Environmental Facilities Corporation (NYSEFC).

The DWSRF requirements dictate a much more comprehensive engineering report narrative along with a number of exhibits and appendices, which are necessary to list the Project on the NYS Intended Use Plan (IUP) in the summer of 2022. Listing the Project on the IUP is a prerequisite for DWSRF funding applications. The Town could potentially be eligible for financing through the DWSRF and/or grant funding through the Water Infrastructure Improvement Act (WIIA).

As part of the proposed update to the 2019 study, project elements associated with the Village water system will be removed. Additionally, of all the various alternatives presented in the 2019 report, a recommended list of improvements will be presented with updated project cost estimates.

I. Background

Although a significant portion of the 2019 study and report outlined alternatives for a new regional storage tank, very recent discussions with LCWSA have indicated the need for ongoing coordination with the Town before a preliminary engineer report is completed for the purpose of a



David LeFeber, Supervisor
Town of Avon
RE: TOWN OF AVON WATER STUDY
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funding application that would include a new water tank. LCWSA is currently reviewing options for regional storage tank sizes and locations, and it would be premature at the present time, for the Town to pursue funding in 2022 for a regional storage tank. However, in the interim, the Town does have other water improvements, that were outlined in the 2019 study and report, which can be included in a preliminary engineering report for the purpose of listing on the IUP for funding applications in 2022. These other water improvements relate to the replacement of aging water mains on Route 15 and Route 5 and 20, and the rehabilitation of the Townline tank.

II. **Scope of Services and Compensation**

MRB Group will perform the following scope of services.

1. Coordinate with the Town to define and confirm the desired improvement area for the proposed capital project scope (recommended alternative).
2. Prepare the PER, utilizing the 2019 report as a starting point. The PER will follow the format and content guidelines and requirements of the DWSRF program including the following fundamental elements:
 - Executive Summary and recommended alternative.
 - Project Background
 - Service Area Description
 - Description of Current Operations
 - Existing Facilities and Present Condition
 - Financial Status including sewer rates, EDU's, sewer budget information, capital charges, etc.
 - Problem Identification
 - Alternatives Analysis including a description of alternatives, cost estimates, non-monetary factors, summary of alternatives and recommended alternative
 - EDU analysis and financing
 - Maps and Exhibits



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- 3. The PER will also include the following fundamental Appendices:
 - Wetland Mapping
 - Soil Survey Mapping
 - Flood Plain Mapping
 - Population Estimates
 - Engineering Report Certification
 - NYS Smart Growth Assessment
- 4. Meet with the Town to review the draft report and estimated project cost.
- 5. Assemble bound hard copies of the PER for Town review. Prepare an electronic pdf copy of the PER for submittal to the NYSEFC.
- 6. Facilitate the listing of the Project on the IUP including the Project information, budget, schedule, and other required information.

Total Compensation \$24,800.00

The cost figures shown above represent our lump sum amount. Any additional work beyond this fee and outside the scope of this proposal would be reviewed with the Client. MRB Group shall submit monthly statements for services rendered during each invoicing period based on the efforts performed during that period. MRB Group Standard Rates are subject to annual adjustment.

III. Additional Services

The following items, not included in the above services can be provided on a personnel time-charge basis, but would only be performed upon a separate authorization.

- A. SEQR, NEPA or environmental reviews.
- B. Design and construction related services.
- C. Services relating to coordination, review, and meetings for the cleaning/inspection and mixer installation at the Townline Tank would be invoiced based our standard hourly rates.
- D. Grant writing and administration services.



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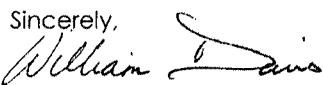
IV. Commencement of Work

Upon receipt of the signed proposal, MRB Group will begin work on the project.

V. Standard Terms and Conditions

Attached hereto and made part of this Agreement is MRB Group's *Standard Terms and Conditions*.

If this proposal is acceptable to you, please sign where indicated and return one copy to our office. We have included an additional copy for your records. Thank you for your consideration of our firm. We look forward to working with you on this project.

Sincerely,



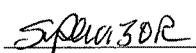
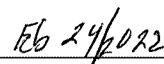
William Davis
Director of Water Resources Engineering

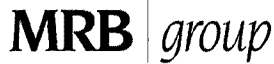


David R. Willard, P.E.
Project Manager

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Enclosure

PROPOSAL ACCEPTED FOR THE TOWN _____		BY: _____
		
Signature	Title	Date



David LeFeber, Supervisor
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**MRB GROUP, ENGINEERING, ARCHITECTURE, SURVEYING, D.P.C.
AGREEMENT FOR PROFESSIONAL SERVICES
STANDARD TERMS AND CONDITIONS**

A. TERMINATION

This Agreement may be terminated by either party with seven days' written notice in the event of substantial failure to perform in accordance with the terms hereof by one party through no fault of the other party. If this Agreement is so terminated, the Professional Services Organization (hereinafter referred to as P.S.O.) shall be paid for services performed on the basis of his reasonable estimate for the portion of work completed prior to termination. In the event of any termination, the P.S.O. shall be paid all terminal expenses resulting therefrom, plus payment for additional services then due. Any primary payment made shall be credited toward any terminal payment due the P.S.O. If, prior to termination of this Agreement, any work designed or specified by the P.S.O. during any phase of the work is abandoned, after written notice from the client, the P.S.O. shall be paid for services performed on account of it prior to receipt of such notice from the client.

B. OWNERSHIP OF DOCUMENTS

All reports, drawings, specifications, computer files, field data and other documents prepared by the P.S.O. are instruments of service and shall remain the property of the P.S.O. The client shall not reuse or make any modification to the instruments of service without the written permission of the P.S.O. The client agrees to defend, indemnify and hold harmless the P.S.O. from all claims, damages, liabilities and costs, including attorneys' fees, arising from reuse or modification of the instruments of service by the client or any person or entity that acquires or obtains the instruments of service from or through the client.

C. ESTIMATES

Since the P.S.O. has no control over the cost of labor and materials, or over competitive bidding and market conditions, the estimates of construction cost provided for herein are to be made on the basis of his experience and qualifications, but the P.S.O. does not guarantee the accuracy of such estimates as compared to the Contractor's bid or the project construction cost.

D. INSURANCE

The P.S.O. agrees to procure and maintain insurance at the P.S.O.'s expense, such insurance as will protect him and the client from claims under the Workmen's Compensation Act and from claims for bodily injury, death or property damage which may arise from the negligent performance by the P.S.O. or his representative.

E. INDEPENDENT CONTRACTOR

The P.S.O. agrees that in accordance with its status as an independent contractor, it will conduct itself with such status, that it will neither hold itself out as nor claim to be an officer or employee of the client, by reason hereof, and that it will not by reason hereof make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the client, including, but not limited to, Workmen's Compensation coverage, unemployment insurance benefits or Social Security coverage.



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F. SUCCESSORS AND ASSIGNS

The client and the P.S.O. each binds himself and his partners, successors, executors, administrators and assigns to the other party of this Agreement and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement; except as above, neither the client nor the P.S.O. shall assign, submit or transfer his interest in this Agreement without the written consent of the other.

G. P.S.O. NOT RESPONSIBLE FOR SAFETY PROVISIONS

The P.S.O. is not responsible for construction means, methods, techniques, sequences or procedures, time of performance, programs, or for any safety precautions in connection with the construction work. The P.S.O. is not responsible for the Contractor's failure to execute the work in accordance with the Contract Drawings and/or Specifications.

H. INVOICES AND PAYMENT

Client will pay MRB Group, Engineering, Architecture, Surveying, D.P.C. for services in respect of the period during which Services are performed in accordance with the fee structure and work estimate set forth in the proposal. Invoices will be submitted on a periodic basis, or upon completion of Services, as indicated in the proposal or contract. All invoices are due upon receipt. Any invoice remaining unpaid after 30 days will bear interest from such date at 1.5 percent per month or at the maximum lawful interest rate, if such lawful rate is less than 1.5 percent per month. If client fails to pay any invoice when due, MRB may, at any time, and without waiving any other rights or claims against Client and without thereby incurring any liability to Client, elect to terminate performance of Services upon ten (10) days prior written notice by MRB to client. Notwithstanding any termination of Services by MRB for non-payment of Invoices, Client shall pay MRB in full for all Services rendered by MRB to the date of termination of Services plus all interest and termination costs and expenses incurred by MRB that are related to such termination. Client shall be liable to reimburse MRB for all costs and expenses of collection, including reasonable attorney's fees.

I. FEES REQUIRED FROM JURISDICTIONAL AGENCIES

MRB Group, D.P.C. is not responsible for nor does the Compensation Schedule established in the Agreement include fees or payments required of jurisdictional agencies. The client herein agrees to pay all application, entrance, recording and/or service fees required by said agencies.

J. P.S.O. NOT AN EMPLOYEE

The P.S.O. agrees not to hold himself out as an officer, employee or agent of the Owner, nor shall he make any claim against the Owner as an officer, employee or agent thereof for such benefits accruing to said officers, employees or agents.

K. INDEMNITY

The Owner will require any Contractor and Subcontractors performing the work to hold it harmless and indemnify and defend the Owner and P.S.O., their officers, employees and agents from all claims resulting from the Contractor's negligence in the performance of the work.

Vote of the Board: Councilman Drozdzziel – Aye, Councilman Coyne- Aye, Councilman Harrington - Aye, Deputy Supervisor Mairs - Aye, Supervisor LeFeber – Aye

DISCUSSION – THIRD FLOOR PUBLIC BID OVERVIEW

Councilman Drozdziel updated the Board on the bids for the third floor.

The lowest bid for the General Contractor was \$1,614,000.00 and the alternate \$380,000.00. No bids were received for the other three electrical, plumbing and HVAC. Attorney Campbell will research and make a recommendation on how to move forward on the project. Consideration will be given for the bonding. The grant is available until 2024.

DISCUSSION – SUPERVISOR REPORT

There was discussion on the Town/Village Pole Bridge Road drainage issues. A proposal from MRB Group was discussed. Discussions have taken place with a Representative from Livingston County Soil & Water District Bob Stryker, MRB Group, and Howlett Farms, about working together cohesively. A written plan needs to be put in place.

RESOLUTION #68 CLOSE HEARING FOR LOCAL LAW T-2-2022 BATTERY STORAGE

On motion of Councilman Harrington, seconded by Councilman Coyne the following resolution was AYES 4 NAYS 0 ABSENT 1 (DEPUTY SUPERVISOR MAIRS)

RESOLVE to close the public hearing for Local Law T-2-2022 Battery Storage.

Vote of the Board: Councilman Drozdziel – Aye, Councilman Coyne- Aye, Councilman Harrington - Aye, Deputy Supervisor Mairs - Aye, Supervisor LeFeber – Aye

RESOLUTION #69 APPROVE MRB GROUP FOR ENGINEERING OF THE POLEBRIDGE ROAD WATER DRAINAGE

On motion of Councilman Harrington, seconded by Councilman Coyne the following resolution was AYES 4 NAYS 0 ABSENT 1 (DEPUTY SUPERVISOR MAIRS)

RESOLVE to authorize MRB Group to put together a document of talking points to guide the Town/Village Attorneys to develop maintenance and easement recommendations regarding the Pole Bridge water drainage improvements in the amount of \$500.00.

Vote of the Board: Councilman Drozdziel – Aye, Councilman Coyne- Aye, Councilman Harrington - Aye, Deputy Supervisor Mairs - Aye, Supervisor LeFeber – Aye

DISCUSSION – VISITOR COMMENTS

Visitor Ed Forsythe suggest using a flow chart for the Pole Bridge Road water issues.

On motion of Councilman Harrington, seconded by Councilman Coyne the meeting was adjourned at 7:55 P.M.

Respectfully submitted by:

Sharon M. Knight, MMC/RMC Town Clerk