

TOWN BOARD MEETING
Special Meeting
August 24, 2013
9:00 A.M.

PRESENT: Councilpersons: Kevin Armstrong, Leonard Govern, Patty Wood, Supervisor Bruce Dolph, Hwy. Supt., Walt Geidel, and Deputy Gladys Jaques, Luis Rodriguez-Betancourt (arrived at 9:30)

ABSENT: Ronda Williams, Attorney Brett Cowen

OTHERS PRESENT:

Lillian Brown-Burdick – The Walton Reporter, Charles Gregory

A special meeting was called for the purpose to review the Agreement between Delaware County and the Town of Walton for reimbursement of work on Baxter Brook and Gosper Road.

Supervisor Dolph explained the purpose of the meeting and asked if anyone had any questions pertaining to the agreement.

AGREEMENT

Between

DELAWARE COUNTY

And

Town of Walton

Under

Empire State Development (*Prime Sponsor*)

Hurricane Irene – Tropical Storm Lee

Flood Mitigation Grant Program

Project Number X900

Delaware County (the County), enters into this Agreement with *the Town of Walton, (the Town)* for the conduct of certain Work, upon the following terms and conditions and Exhibits, A and B, attached, which are incorporated herein for all purposes.

1. Statement of Work. The Town shall use all reasonable efforts to conduct the work as designed and on file with the Town and described in Exhibit A (the Work).
2. Period of Performance. The period of performance shall extend from *June 15, 2013 to December 31, 2013.*
3. Key Personnel. Subcontractor's performance under this Agreement shall be under the direction of *Bruce Dolph, Town Supervisor* who is considered essential to the Work.
4. Estimated Cost. The total project cost of performing the Work is \$79,120.00. The total reimbursable cost is \$19,780.00. The difference shall be the Town's share and is not

subject to reimbursement from the County. In no event shall the County be liable for reimbursement of any cost which would result in cumulative payment under this Agreement exceeding the total reimbursable cost.

5. Allowable Costs. The allowability of costs under this Agreement shall be determined in accordance with a) the cost principles applicable to the Town and b) the terms of this Agreement.
6. Budget. The Budget (Exhibit B), lists costs and categories of costs approved to fund the Town's performance of the Work.
7. Invoicing. The Town shall submit invoices for approval by the County Authorized Representative for Technical Matters at the completion of the project. In order to be eligible for reimbursement, invoices shall be for allowable, approved costs incurred in accordance with the terms of this Agreement and shall display expenses for reimbursement by budget category identifying the total project costs, the reimbursable costs and the Town's share pursuant to Exhibit B. Only costs incurred during the period of performance shall be eligible for reimbursement. The final invoices submitted under this Agreement, must be received by the County no later than 60 days after the termination of this Agreement. Failure to comply with this request may, in the discretion of the County operate as a waiver by the Town for reimbursement of such cost by the County. An authorized representative of the Town shall certify on each invoice that the costs for which reimbursement is requested are the actual costs as recorded in Town's records and as expended for the Work actually performed in accordance with the terms of this Agreement.
8. Payment. Payment for allowable, approved expenses shall be made upon receipt of invoice. Payment shall be contingent upon the availability of funding from the Prime Sponsor under the Award Letter and upon Town's compliance with the terms and conditions, including the interim and final reporting requirements, of this Agreement. Final payment under this Agreement shall be made upon receipt and acceptance by the County of all services, reports and/or supplies called for hereunder. All payments shall be subject to correction and adjustment upon audit or any disallowance. The Town is solely responsible for reimbursing the County for amounts paid the Town but disallowed under the terms of this Agreement.
9. Audit. The County, the Prime Sponsor or their duly authorized representatives shall, until six years after final payment under this Agreement, have access to any of the Town's records related to this Agreement for the purpose of conducting audits. The period of access for records relating to a) appeals under a dispute, b) litigation or settlement of claims arising from the performance of this Agreement, or c) costs and expenses of this Agreement to which exception has been taken shall continue until such appeals, litigation, claims, or exceptions are disposed of.
10. Reports. The Town shall furnish reports of findings and progress made under this Agreement no later than 30 days after the completion of the project.
11. Authorized Representatives

Technical matters.

Dean Frazier
Delaware County
Department of Watershed Affairs
1 Courthouse Square, Suite 3
Delhi, NY 13753
Phone: (607) 746-8914
Fax: (607) 746-8836
Email: dean.frazier@co.delaware.ny.us

For Delaware County: Kelly Blakeslee
Grants Manager
1 Court Street, Suite 3
Delhi, NY 13753
Phone: (607) 746-8914
Fax: (607) 746-8836
Email: kelly.blakeslee@co.delaware.ny.us

For Town of Walton: Supervisor Bruce Dolph
Town of Walton
129 North Street
Walton, NY 13856
Phone: (607) 865-4658
Fax: (607) 865-9314
Email: bdolph1@hotmail.com

12. General Conditions. The Work is subject to the following:
 - 12.1 Empire State Development Disbursement of any Grant Award made under this Program is subject to the approval of the Grant Award by the Empire State Development (ESD) Board of Directors, the holding of a public hearing, the approval by the Public Authorities Control Board, approval by the New York State Division of the Budget and the receipt of funds by Empire State Development.
 - 12.2 Civil Rights and Equal Employment Opportunity. The Town shall comply with ESD's Non-discrimination and Contractor Diversity policy with respect to the participation of minority and women-owned businesses in the Project.
 - 12.3 Debarment and Suspension. The Town certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any New York State department or agency.
13. Independent Contractor. In the performance of this Agreement, the Town shall be deemed to be and shall be an independent contractor and, as such, shall not be entitled to any benefits applicable to employees of the County.
14. Assignment. The Town may not assign, transfer or subcontract any part of this Agreement, any interest herein or claims hereunder, without the prior, written approval of the County.
15. Termination. This Agreement may be terminated by either the Town or the County upon 30 days written notice. In the event of termination, the Town will be reimbursed for all allowable, approved costs and non-cancelable commitments incurred prior to notice of termination in accordance with the terms of this Agreement. Upon termination, the Town shall refund to the County any unexpended or unobligated balance of funds advanced.
16. General Release. The Town's acceptance of payment of the final invoice under this Agreement shall release the County from all claims of the Town, and from all liability to the Town concerning the Work, except where such claims or liabilities arise from any negligent act, error or omission of the County.
17. Use of Name. Neither the Town nor the County shall make use of this Agreement, or use the other's name or that of any member of the other's staff for publicity or advertising purposes without prior written approval of the other party. This restriction shall not include internal documents available to the public that identify the existence of the agreement.

18. Changes. By mutual agreement, the Town and the County may make changes to the Work and to the terms of this Agreement. Any such changes shall be in the form of a written amendment signed by authorized contractual representatives of the Town and the County.
19. Insurance Requirements. By signing this Agreement, the Town agrees to maintain in force for the duration of this Agreement the following kinds and amounts of insurance (Required Insurance):
 - 19.1 Participate in the Delaware County Worker’s Compensation Self-Insurance Fund.
 - 19.2 Comprehensive general liability insurance coverage for bodily injury and, broad form property damage with limits of at least \$1,000,000.00 for each occurrence.
20. Freedom of Information Act Requests. Should the Prime Sponsor require, under the revised Freedom of Information Act (FOIA) that the County provide data created under this Agreement; the Town shall provide to the County, within a reasonable time, data necessary to respond to the Prime Sponsor’s request.

This Agreement is the complete agreement of the Town and the County and supersedes all prior understandings regarding the Work.

IN WITNESS WHEREOF, the respective parties have executed this agreement on the dates indicated below.

DELAWARE COUNTY
BOARD OF SUPERVISORS

TOWN OF WALTON

James E. Eisel, Sr.
Chairman

Bruce Dolph
Supervisor

Date

Date

Exhibit A: Project Description

Town of Walton – Baxter Brook – DSR-D-TW-01

The proposed project will stabilize approximately 45 feet of streambank and failing culvert headwall along Baxter Brook to prevent further damage to public infrastructure. The project will consist of replacing failing culvert headwall with stacked stone wall and rock-lined plunge pool with construction of 6 step pools. Detailed plans and drawings are available upon request from Delaware County Soil and Water Conservation District.

Town of Walton – Gosper Road – DSR-D-TW-04

The project will stabilize a culvert headwall on Third Brook stream that has been undermined to prevent further damage to public infrastructure. The project will consist of rock-lining the plunge pool to prevent future undermining and incision. Detailed plans and drawings are available upon request from Delaware County Soil and Water Conservation District.

Exhibit B: Budget – Town of Walton

NON-PERSONAL SERVICES

Item Description	Funding Requested	Other Sources	Total Cost
Supplies and Materials	0	0	0
Equipment	0	0	0
Contractual			
Baxter Brook (DSR-D-TW-01)	\$12,400.	\$37,200.	\$49,600.
Gosper Road (DSR-D-TW-04)	\$7,380.	\$22,140.	\$29,520
Total Project Costs	\$19,780.	\$59,340.	\$79,120.

RESOLUTION #91

AGREEMENT BETWEEN DELAWARE COUNTY AND TOWN OF WALTON FOR FLOOD MITIGATION GRANT PROGRAM

A motion was made by Councilwoman Wood, seconded by Govern granting permission for Supervisor Dolph to enter into the Agreement with Delaware County for the purpose of Flood Mitigation reimbursement for Hurricane Irene and Tropical Storm Lee damage. All in favor, motion carried.

Supervisor Dolph addressed letters to the Editor in the Walton Reporter and Daily Star in reference to the Mental Health Facility and Fiscal Affairs.

Councilwoman Wood informed the Board of the upcoming court case for Jennifer Morris for the alleged Facebook threats under assumed identities.

EXECUTIVE SESSION

RESOLUTION #92

EXECUTIVE SESSION

A motion was made by Councilman Armstrong, seconded by Govern to enter into executive session for the discussion of employment on a particular employee. All in favor, motion carried.

Entered executive session at 9:20 a.m.

With no further business before the Board, the meeting was adjourned.

Respectfully submitted,

Gladys Jaques
Deputy Town Clerk