

AGREEMENT BETWEEN
Ulster County Soil & Water Conservation District
AND
Town of Olive
FOR
CSBI Services at Boiceville Parcels
Town of Olive, Ulster County, New York

**ULSTER COUNTY SOIL AND WATER
CONSERVATION DISTRICT**
a government agency having its principal office at: (“District”)
5 Park Lane, Highland, New York, 12528 and
Town of Olive
having its principal office at:
45 Watson Hollow Road, West Shokan, NY 12494 (“Town”).

District and Town, in consideration of the mutual covenants hereinafter set forth, agree as follows:

ARTICLE 1 – WORK

1.01 Town shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

Construction activities associated with Catskill Streams Buffer Initiative (CSBI), through the Ulster County Soil and Water Conservation District, a.k.a. the “District”, services for town owned parcels in the hamlet of Boiceville, New York.

ARTICLE 2 – THE PROJECT

2.01 The Project for which the Work under the Contract Documents may be the whole or only a part is generally described as follows:

Boiceville CSBI Project, Town of Olive, Ulster County New York

With project funding provide to District via agreement with New York City, Department of Environmental Protection (“City”).

ARTICLE 3 – ENGINEER

3.01 The Project has been designed by Restaino Design Landscape Architecture, PC(Consultant), In consultation with the Ashokan Watershed Stream Management Program.

ARTICLE 4 – CONTRACT TIMES

4.01 *Time of the Essence*

A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

4.02 *Days to Achieve Substantial Completion and Final Payment*

- A. All Work relevant to the Project as defined in the drawings and specifications will be completed on or before **March 31, 2026** and ready for final payment within 30 days after the date of the District's certification of completion and when the Contract Times commence to run.

ARTICLE 5 – CONTRACT PRICE

5.01 District shall pay Town for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined pursuant to Paragraphs 5.01.A, 5.01.B, and 5.01.C below:

- A. For all Work other than Unit Price Work, a Not to Exceed SUM of:

REFER TO ATTACHED SCOPE OF WORK **(\$50,000.00)**
(words) (figure)

- B. For all Unit Price Work, an amount equal to the sum of the established unit price for each separately identified item of Unit Price Work times the estimated quantity of that item as indicated in this paragraph 5.01.B:

Estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by District.

UNIT PRICE WORK

<u>Item No.</u>	<u>Description</u>	<u>Unit</u>	<u>Estimated Quantity</u>	<u>Unit Price</u>	<u>Total Estimated Price</u>
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REFER TO ATTACHED SCOPE OF WORK

ESTIMATED TOTAL OF ALL UNIT PRICE WORK	\$ <u>Fifty thousand dollars</u>	\$(50,000.00)
	(use words)	(figure)

- C. For all Work, at the prices stated in Town's Scope of Work, attached hereto as an exhibit.

ARTICLE 6 – PAYMENT PROCEDURES

- 6.01 The Town may as the work progresses, but no more frequently than once per month (30-day period), submit an invoice requesting Project Funds for reimbursement of eligible Project Costs.
- 6.02 The Town shall submit to District all documentation in support of expenditures under this Agreement as required by District. Adequate documentation to be submitted shall include but not be limited to copies of

purchase orders, paid bills, cancelled checks and certified payroll. The Town shall provide District additional documentation to support each invoice as District reasonably requires.

6.03 Throughout the Term, District will inspect and monitor the progress of the work.

6.04 The eligible approved invoiced and vouchered amount shall be paid by District to the Town within 30 days of the District's receipt of the invoices and certified voucher and all other required back up documentation.

A. Town shall submit Applications for Payment and will be processed by District.

ARTICLE 7 – INTEREST

7.01 All moneys not paid when due shall bear interest at the maximum legal rate.

ARTICLE 8 – TOWN'S REPRESENTATIONS

8.01 In order to induce District to enter into this Agreement Town makes the following representations:

- A. Town has examined and carefully studied the Contract Documents and the other related data identified in the Scope of Work.
- B. Town has visited the Site and become familiar with and is satisfied as to the general, local, and "Site" conditions that may affect cost, progress, and performance of the Work.
- C. Town is familiar with and is satisfied as to all Federal, State, and local laws and regulations that may affect cost, progress, and performance of the Work.
- D. Town has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities) and (2) reports and drawings of a Hazardous Environmental Condition, if any, at the Site.
- E. Town has obtained and carefully studied (or assumes responsibility for doing so) all additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Town, including any specific means, methods, techniques, sequences, and procedures of construction expressly required by the Scope of Work, and safety precautions and programs incident thereto.
- F. Town does not consider that any further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.
- G. Town is aware of the general nature of work to be performed by District and others at the Site that relates to the Work as indicated in the Contract Documents.
- H. Town has correlated the information known to Town, information and observations obtained from visits to the Site, reports and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.
- I. Town has given District written notice of all conflicts, errors, ambiguities, or discrepancies that Town has discovered in the Contract Documents, and the written resolution thereof by District is acceptable to Town.

- J. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

ARTICLE 9 – CONTRACT DOCUMENTS

9.01 *Contents*

- A. The Contract Documents consist of the following:
 - 1. This Agreement (pages 1 to 8, inclusive).
 - 2. Scope of Work (Attachment A).
 - 3. Insurance Requirements (Section 10.07 of this agreement)
- B. The documents listed in Section 9.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in Article 9.

ARTICLE 10 – MISCELLANEOUS

10.01 *Terms*

- A. Terms used in this Agreement will have the meanings stated in the General Conditions and the Supplementary Conditions.

10.02 *Assignment of Contract*

- A. No assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

10.03 *Successors and Assigns*

- A. District and Town each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

10.04 *Severability*

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon District and Town, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

10.05 *Warranties*

- A. Authority. The Town has all requisite power and authority to execute, deliver and perform this Agreement.

- B. Compliance with Laws. The Town agrees that neither its execution of this Agreement nor its performance of the Scope of Work violate any applicable law, regulation, or rule of any authority having jurisdiction, or any contract between Town and any other person or entity. Each Party warrants that it shall comply with all applicable federal, state and local laws and regulations.
- C. Equal Employment. The Town agrees that it has not and shall not engage in any unlawful discrimination based upon race, creed, color, national origin, sex, age, disability, marital status or sexual orientation with respect to all employment decisions including, but not limited to, recruitment, hiring, upgrading, demotion, downgrading, transfer, training, rates of pay or other forms of compensation, layoff, termination, and all other terms and conditions of employment.
- D. Business Conduct. Town represents and warrants that no payment, gift or thing of monetary value was made, given or promised to a UCSWCD officer, director, or employee to obtain this or any other Agreement with the City or UCSWCD.

10.06 *Indemnification*

The Parties agree to indemnify each other and save each other and the City, including its officials and employees, harmless from all claims, liabilities, losses or expenses of every character whatsoever for bodily injury, sickness or disease including death, or property damage arising out of the Project, where such injury, sickness or disease including death, or damage is the result of the indemnifying Party's negligence or willful tort arising from any activities related to this Agreement. In the event such injury or damage is caused by the combined negligence of the Parties hereto, each Party shall be responsible for its relative culpability. The City and UCSWCD shall not be responsible for any physical injuries (or death) to any Town or its sub-Towns/Hamlets, consultants or any other person, or damage to any property sustained in connection with the performance of any portion of the Project. Nothing contained herein shall impair the rights of the City and UCSWCD. Nothing contained in this Agreement shall create any contractual relationship between the Town of Olive and the City. The Parties expressly acknowledge that the obligations set forth in this paragraph shall survive the expiration or termination of this Agreement.

10.07 *Insurance*

10.08 The Town shall comply with the liability, disability and worker's compensation insurance requirements in sufficient amount and scope to protect the interests of the City of New York and UCSWCD, and provide Certificates of Insurance for the aforementioned for the entire time this Agreement remains in effect.

10.09 *Subcontractors*

A contract between the Town and a consultant or other subcontractor (a Subcontract) to perform work to be paid with funds provided by the UCSWCD pursuant to this Agreement shall include the following provisions:

- A. A requirement that the subcontractor perform all work in accordance with the terms of this Agreement, and with the Scope of Work.
- B. A statement and requirement that nothing contained in the subcontract shall impair the rights of UCSWCD, NYCDEP or the CITY under this Agreement.
- C. A statement and requirement that the nothing contained in the subcontract shall create any contractual relation between the subcontractor and UCSWCD, NYCDEP or the CITY
- D. A statement and a requirement that the subcontractor agrees to indemnify UCSWCD, NYCDEP and the CITY and assume liability for injuries on the same basis identified in this Agreement, pursuant to Article 9 of this Agreement.
- E. A requirement that the Town have liability insurance in sufficient amount and scope to protect the interests of the UCSWCD, NYCDEP, and the CITY as provided in Attachment B.
- F. A statement and requirement that the subcontractor agrees that it has not and shall not engage in any unlawful discrimination based upon race, creed, color, national origin, sex, age, disability, marital status, military status, genetic predisposition, or sexual orientation with respect to all employment decisions including, but not limited to, recruitment, hiring, upgrading, demotion, downgrading, transfer, training, rates of pay or other forms of compensation, layoff, termination, and all other terms and conditions of employment.
- G. A requirement that the subcontractor shall comply with all applicable Federal, State and local laws, rules, regulations, and ordinances, including but not limited to the Davis-Bacon Act (40 USC 276a et seq), the Contract Work Hours and Safety Standards Act (40 USC 327 et seq) and the Copeland Anti-Kickback Act (40 USC 276c), as applicable.
- H. Subcontractors performing public work within the meaning of Section 220 of the New York State Labor Law shall pay not less than the prevailing wage to laborers, workmen and mechanics performing such public work pursuant to Section 220 and comply with all other applicable provisions of Section 220 of the Labor Law
- I. A requirement that Towns for construction exceeding Two Hundred Thousand Dollars (\$200,000.00) provide a performance and completion bond in the full amount of the bid to secure the successful completion of all work and a payment bond to ensure that all material and laborers are paid for work performed with Program funds.
- J. A requirement that the subcontractor agrees to and complies with a budget, the Scope of Work, a progress schedule for completion of work within specified milestones, and a payment schedule which is dependent

upon completion of work within the specified milestones, and completion of the work within the specified period of performance.

- K. A representation and warranty that no payment, gift or thing of monetary value was made, given or promised to a UCSWCD officer, director, or employee to obtain the subcontract or any other agreement with the City or UCSWCD.

The TOWN shall enforce the foregoing provisions of its subcontracts.

IN WITNESS WHEREOF the Executive Director on behalf of the **District** and the Town Supervisor on behalf of the **Town** have executed this Agreement in triplicate. One part to be delivered to the **Town**, one part to **District** and one part to the **New York City Department of Environmental Protection**.

For the **Town**:

BY: _____ Date: _____

Jim Sofranko
Town Supervisor
Town of Olive, New York

For the **District**:

BY: _____ Date: _____

James L. Wedemeyer
Executive Director
Ulster County Soil & Water Conservation District

**STATE OF NEW YORK
COUNTY OF ULSTER**

On this __ day of _____, 2024 before me personally came Jim Sofranko to me known, who, being by me duly sworn, did depose and say that he is the Town Supervisor of Olive, New York described in and who executed the foregoing instrument, and that he signed his name thereto by the authority of **Town of Olive, New York**.

NOTARY PUBLIC

**STATE OF NEW YORK
COUNTY OF ULSTER**

On this __ day of _____, 2024 before me personally came James L. Wedemeyer, to me known, who, being by me duly sworn, did depose and say that he is the Executive Director of the **Ulster County Soil and Water Conservation District** described in and who executed the foregoing instrument; and that he signed his name thereto by the authority of **the Ulster County Soil and Water Conservation District**.

NOTARY PUBLIC