

**DEVELOPMENT AUTHORITY OF THE NORTH COUNTRY
TECHNICAL SERVICES AGREEMENT FOR
FEMA FLOOD DAMAGE PROJECT**

WITH THE

VILLAGE OF CLAYTON

This Agreement entered into this 26th day of July 2021, by and between:

VILLAGE OF CLAYTON, a municipal corporation of the State of New York having an office building and principal place of business located at 425 Mary Street, PO Box 250, Clayton, New York 13624, herein after referred to as "Village",

And

DEVELOPMENT AUTHORITY OF THE NORTH COUNTRY, a public benefit corporation organized and existing under the laws of the State of New York, having an office and principal place of business located at 317 Washington Street, Watertown, New York 13601, hereinafter referred to as "Authority".

Recitals

- A. On October 31, 2019 a significant storm event created flooding, high winds, and damaging wave action along the Village waterfront. The resultant damage that occurred included complete failure of a portion of the Village Riverwalk, damage to the Village Dock/Wave Attenuator, and structural damage to the Mary Street Dock.
- B. The Federal Emergency Management Agency (FEMA) issued a Disaster Declaration on December 19, 2019 for this event, FEMA-4472-DR-NY.
- C. The Village retained the services of Barton & Loguidice to document the damage resulting from the FEMA-4472-DR-NY storm event. The scope and cost of the damage is documented in the "FEMA-4472-DR-NY Scope and Cost Report Flood Damage Shoreline Stabilization" dated November 2020 with an estimated project cost of \$1,623,000.
- D. The Village has requested technical services from the Authority to assist with the Village's FEMA Flood Damage Project. At its board meeting held on July 26th, 2021 the Board selected the Authority to assist the Village with this task. **A copy of this Resolution has been attached as Exhibit A.**
- E. This Agreement is authorized under Section 2704(17) of the Public Authorities Law



Incorporated 1872

VILLAGE OF CLAYTON

425 Mary St. ♦ PO Box 250 ♦ Clayton ♦ 1000 Islands ♦ New York 13624
Phone: (315) 686-5552 Fax: (315) 686-2132
TTD: 1-800-662-1220

RESOLUTION 14-2021 DANC TECHNICAL SERVICES AGREEMENT FOR FEMA FLOOD DAMAGE PROJECT

In consideration of the mutual covenants herein contained, the parties agree as follows:

1. The scope of services that may be performed by the Authority consists of several phases as follows:
 - A. **Funding/Financial Administrative Assistance**: Provide assistance with budgets, financial report preparation, progress reports required by funding agencies, preparation of drawdown requests, review of supporting documentation required for project, etc. as requested by Mayor. Assist Village with mandatory funding agency project reporting requirements. Coordinate with funding agencies, Village's attorney, and engineers to complete documentation necessary for short-term and long-term financing.
 - B. **Design Phase**: Serve as Village's professional consultant to review engineering documents and ensure that proposed design meets operational needs of the facility and the municipality.
 - C. **Construction Administration Phase**: Provide assistance to Village Clerk/Treasurer, and Board members with various project related tasks including coordination with legal counsel, engineers, funding agencies, regulatory agencies, fiscal consultants and other interested parties.

Note: The scope of services may be adjusted as the work progresses, by mutual consent of the parties.

2. The Village shall pay the Authority for such services at the labor hour burdened rate for the specific job classification performing the services as indicated in Table 1 and for mileage to attend meetings, perform site visits etc. at the federal reimbursement rate; provided, however, that the total cost of such services shall not exceed the amount of \$25,000. Rates will be reviewed and may be adjusted on an annual basis consistent with the Authority's fiscal year (April 1st of the present year to March 31st of the following year) to account for cost of living adjustments. This assumes a project duration not to exceed 18 months. The Authority shall bill monthly upon invoices properly itemized and supported, and payment thereof shall be made by the Village within 30 days of receipt of each invoice.

Employee Wage Rate	Standar	Overtim
Engineering Director	\$132	NA
GIS Supervisor	\$85	NA
Project Engineer	\$85	NA
Controls Engineer II	\$85	NA
Water Quality Supervisor	\$85	NA
Water Quality Supervisor	\$78	NA
GIS Specialist	\$55	NA

3. The Village shall provide the reasonable support services of its attorney, Clerk and other staff as appropriate to assist in implementing the project and shall assign a person as point of contact with the Authority.
4. The Authority shall carry general public liability insurance in the customary amounts and coverages maintained on its general operations, and shall name the Village as additional insured on the liability policy.
5. The Village shall carry general liability insurance in the customary amounts and coverages maintained on its general operations, and shall name the Authority as additional insured on the liability policy.
6. The Village will at all times indemnify and save harmless the Authority against all liabilities, judgments, costs, damages, expenses and attorney's fees for loss, damage or injury to persons or property resulting in any manner from the willful malfeasance or negligent acts or omissions of the Village, its agents or employees pertaining to the activities to be carried out pursuant to the obligations of this Agreement. The Authority will at all times indemnify and save harmless the Village against all liabilities, judgments, costs, damages, expenses and attorney's fees for loss, damage or injury to persons or property resulting in any manner from the willful malfeasance or negligent acts or omissions of the Authority, its agents or employees pertaining to the activities to be carried out pursuant to the obligations of this Agreement.
7. The Authority shall use reasonable diligence to provide the services herein required, but shall not be liable to the Village for damages, breach of contract, or otherwise, for failure, suspension, diminution, or other variations of service occasioned by any cause beyond the control of the Authority. The Village will not be liable in the event of a breach beyond their control. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of the Government in its sovereign or contractual capacity, fires, floods, epidemics, riots, strikes, civil disturbance, quarantine, restrictions, or inability to obtain equipment or supplies.
8. All accounts, reports and other records generated by the Authority or required under this Agreement, in the performance hereof, shall be open to inspection and audit at all reasonable times by the Village. Such records shall be retained by the Authority for a minimum of seven years following the expiration or earlier termination of this Agreement or an extended agreement.

9. The parties acknowledge that the Authority has undertaken and may undertake various projects unrelated to this Agreement. It is the intent of the parties that this Agreement, the service provided hereunder and all payments, accounts receivable and equipment resulting from or required by such service shall be separate from and independent of all unrelated projects and activities of the Authority. The Village shall have no right to, or claim upon, the assets, insurance proceeds or income of the Authority other than those associated

with the performance of this Agreement, in satisfaction of any claim by the Village arising hereunder. A similar restrictive clause is contained and will be provided in all service agreements made by the Authority with others.

10. The Authority is an independent contractor with the Village and this Agreement does not create and shall not be construed as creating a relationship of principal and agent, landlord and tenant, or employer and employee.

11. No waiver by Village or Authority of any breach of any term, covenant or condition contained in this Agreement shall operate as a waiver of such term, covenant or condition itself, or of any subsequent breach thereof.

12. This Agreement shall be construed and enforced in accordance with the laws of the State of New York. If any provision of this Agreement shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement shall not be affected thereby and shall continue to be valid and enforceable to the fullest extent permitted by law.

13. This Agreement contains the entire agreement of the parties and may be modified or amended only by the written mutual agreement of the parties.

14. All notices required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if sent by certified or registered mail, return receipt requested, postage prepaid.

All of the above is established by the signatures of the authorized representatives of the parties.

Services selected by the Village include the following items:

**DEVELOPMENT AUTHORITY
OF THE NORTH COUNTRY**

VILLAGE OF CLAYTON

By: _____

By: _____

Carl E. Farone, Jr.

Norma Zimmer

ACKNOWLEDGEMENTS

STATE OF NEW YORK)
) ss:
COUNTY OF JEFFERSON)

On this day of _____, 2021, before me personally came Norma Zimmer who being duly sworn, did dispose and says that she resides in Clayton, New York; that she is the duly authorized representative of the Village described herein, and which executed the foregoing instrument; and that she signed her name thereto by order of said Village.

NOTARY PUBLIC

STATE OF NEW YORK)
) ss:
COUNTY OF JEFFERSON)

On this day of _____, 2021, before me personally came Carl E. Farone, Jr., who being duly sworn, did dispose and says that he resides in Watertown, New York; that he is the Executive Director of the Development Authority of the North Country, the Authority described herein, and which executed the foregoing instrument; and that he signed his name thereto by order of said Authority.

NOTARY PUBLIC