

**Assistance with Neighborhood Support Projects
Town of Marbletown
1925 Lucas Ave. Cottekill, New York**

AGREEMENT

1. Agreement Number: *To be determined by the Town*
2. Contractor: Walden Environmental Engineering, PLLC
3. Project Director: Thomas T. Nitza, Jr., P.E.
4. Effective Date: *To be determined by the Town*
5. Total Amount of Award: \$512,500
6. Project Period: 07/01/2023 – 06/30/2027
7. Expiration Date: 12/31/2027
8. Commitment, Terms and Conditions:

This Agreement consists of this form plus the following documents:

- Exhibit A, Statement of Work;
- Exhibit B, General Contract Provisions, Terms and Conditions

9. Acceptance:

THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNLESS EXECUTED
BELOW BY THE TOWN OF MARBLETOWN

Walden Environmental
Engineering, PLLC

Town of Marbletown
New York

Signature: _____

Signature: _____

Name: _____

Name: _____

Date: _____

Date: _____

EXHIBIT A

STATEMENT OF WORK

Agreement Number: *To be determined by the Town*

Assistance with the Town of Marbletown's DEP Funded Neighborhood Support Projects

Contractor: Walden Environmental Engineering, PLLC

I. PROJECT BACKGROUND

- a. The City of New York (City) owns, and the New York City Department of Environmental Protection (DEP) operates and maintains the Catskill Aqueduct, which runs beneath the Town of Marbletown (Town).
- b. The DEP has identified leaks in the Rondout Pressure Tunnel portion of the Catskill Aqueduct, located within the High Falls area, and has committed capital funds to address such leaks to ensure the long-term sustainability of its ability to supply water to the City and other communities through the Catskill Aqueduct.
- c. Some properties in the High Falls area are experiencing impacts suspected to be linked to leaks from the Catskill Aqueduct.
- d. The Town deems it to be in the public interest to assist its landowners and businesses affected by leaks.
- e. The Town is willing to accept funds from the DEP to administer and implement Neighborhood Support Projects such as:
 - i. Projects to correct impacts to drinking water influenced by leaks from the Rondout Pressure Tunnel; and
 - ii. Projects to address damage to property including, but not limited to, damage to pavement, utilities, drainage systems, and settlement or shifts of structures caused by elevated groundwater shown to be connected to leaks from the Rondout Pressure Tunnel.
- f. The Contractor assisted the Town with the preparation of the agreement among the City, DEP and the Town (DEP/Town Agreement).
- g. In May 2023, the Contractor prepared a map of properties in the Town that are potentially affected by the leaking Pressure Tunnel (Exhibit B of the DEP/Town Agreement).
- h. On *(Date of Agreement to be determined)*, the DEP/Town Agreement titled "AGREEMENT BETWEEN THE CITY OF NEW YORK BY AND THROUGH THE NEW YORK CITY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND THE TOWN OF MARBLETOWN" was executed by Joseph Vaicels, the Chief Contracting Officer of the DEP, on behalf of the City, and Town Supervisor Rich Parete on behalf of the Town of Marbletown.
- i. The Town seeks the Contractor's assistance with the administration and completion of Neighborhood Support Projects (Project).

II. STATEMENT OF WORK

- a. Contractor will assist the Town in meeting the requirements of the DEP/Town Agreement and ensuring the success of Neighborhood Support Projects**
- b. Contractor will assist the Town with Public Outreach and Correspondence**
 - i. Contractor will assist the Town with outreach efforts for the Neighborhood Support Project as follows:
 - 1. Provide a list of contact information for Potentially Affected Town Residents (Residents) that are inside the Designated Area shown in Exhibit B of the DEP/Town Agreement.
 - 2. Create and implement outreach materials (flyers, newspaper articles, content for the Town website and other social media, etc.)
 - 3. Send emails and make phone calls to Residents, as needed.
 - 4. Ensure the availability for Neighborhood Support Projects is advertised and applications are solicited no more than one hundred and twenty (120) days after the Effective Date of the DEP/Town Agreement.
 - ii. Contractor will attend selected, general public meetings to update and inform on the projects, host meetings and present updates and information specifically related to projects, hold office hours in the Town, and be available by phone and email to answer Residents' questions about the Neighborhood Support Project.
 - iii. Contractor will lead, facilitate or monitor correspondences among Residents, the Town and the DEP.
- c. Contractor will assist the Town with Neighborhood Support Project Applications**
 - i. Assist Residents with applying for the Neighborhood Support Project.
 - ii. Perform site visits and inspections to help Residents determine if they meet the criteria for assistance from the Neighborhood Support Project.
 - iii. Assist the Town in determining and explaining which Neighborhood Support Projects to recommend accepting (in whole or in part) when submitting applications to the DEP.
 - iv. Assist the Town in determining a funding cap, subject to DEP approval, for each approved Neighborhood Support Project.
 - v. Manage inquiries to the Neighborhood Support Project.
- d. Contractor will assist the Town with Management of Accepted Project Applications**
 - i. Assist the Town in seeking and choosing contractors and consultants necessary to complete Neighborhood Support Projects.
 - ii. Complete site visits and inspections as necessary.
 - iii. Facilitate and assist Neighborhood Support Projects to:

1. Meet the schedule and budget requirements;
2. Comply with applicable regulations; and
3. Implement best practices and promote safety.

e. Contractor will assist the Town with Administrative Tasks related to the Neighborhood Support Projects

- i. Assist the Town with processing of invoices.
- ii. Assist the Town with contractor/consultant insurance documents.
- iii. Assist the Town with Certificates of Final Completion.

III. METHOD OF COMPENSATION

- a. Fixed, Not-to-Exceed Amount as described in Section V.
 - i. Fixed hourly rates for each staff resource as listed in Section VI;
 - ii. Table of standard Rental Equipment rates as listed in Section VI;
 - iii. Other reimbursable expenses, such as mileage and postage, at cost;
 - iv. Subconsultants or other outside expertise at cost plus 15%.
- b. Monthly invoicing based on actual hours and expenses incurred.
- c. Fixed hourly rates and standard per diem expense amounts to be annually updated by written notice.

IV. SCHEDULE

The Schedule of this Agreement will coincide with and support the DEP/Town Agreement.

V. BUDGET

Contractor shall not exceed the amount of the fees as are shown in Table 1 for Administrative Consulting.

Table 1. The portion of the Total Funding allocated for Contractor for Administrative Consulting

New York City Fiscal Year*	<u>Budget Portion Amount</u>
FY24 (7/1/2023 – 6/30/2024)	Not to exceed \$75,000
FY25	Not to exceed \$50,000
FY26	Not to exceed \$50,000
FY27	Not to exceed \$25,000
* The New York City Fiscal Year runs from July 1 to June 30	

In addition to the amounts in Table 1, up to the 25% of the annual funds in Table 2 may be used for Contractor for additional engineering and related work for Neighborhood Support Projects that is beyond the typical tasks of the Administrative Consultants in the DEP/Town Agreement.

Table 2. Allocation of the Town’s Total Funding for Contractor Additional Engineering and Related Work

New York City Fiscal Year*	<u>Allocation Amount</u>	<u>Annual Budget Portion (25%)</u>
FY24 (7/1/23-6/30/24)	Not to exceed \$500,000	Not to exceed \$125,000
FY25	Not to exceed \$250,000	Not to exceed \$62,500
FY26	Not to exceed \$250,000	Not to exceed \$62,500
FY27	Not to exceed \$250,000	Not to exceed \$62,500
* The New York City Fiscal Year runs from July 1 to June 30		

VI. HOURLY RATES AND RENTAL EQUIPMENT RATES

The Hourly Rate Schedule for this Project is presented in Table 3. Standard Rental Equipment rates for this Project are presented in Table 4.

Table 3. Project Hourly Rate Schedule (2023 – 2024)

Title	Hourly Rate
Principal	\$205
Vice President	\$189
Project Manager III	\$184
Project Manager II	\$173
Project Manager I	\$147
Engineer III	\$168
Engineer II	\$147
Engineer I	\$125
Scientist III	\$147
Scientist II	\$131
Scientist I	\$116
CAD Analyst/GIS Analyst	\$121
Administrative	\$95
Intern	\$84
<p><i>The hourly rates presented in this Fee Schedule will remain in effect through the end of the 2024 calendar year. Updated Hourly Rate Schedules will be issued annually</i></p>	

Table 4. Standard Rental Equipment Rates for Project (2023 – 2024)**WALDEN ENVIRONMENTAL ENGINEERING PLLC****2023 Rental Equipment Form**

Job #:

Job Description:

Date of Job:

Site Personnel:

EQUIPMENT	DATES RENTED	DAILY RATE	WEEKLY RATE	SUB TOTAL
Photo-Ionization Detector (PID)		\$125.00	\$350.00	
Multi-Rae		\$125.00	\$350.00	
Multi-Rae + Chlorine		\$175.00	\$500.00	
TM 808 Detector (Metal Detector and Cave Finder)		\$65.00	\$200.00	
Dissolved Oxygen Meter		\$75.00	\$250.00	
Oil/Water Interface Probe		\$65.00	\$180.00	
Water Level Indicator		\$30.00	\$90.00	
Mold Sampling Pump		\$100.00	\$280.00	
Absorbent Sock/Disposal		\$15.00/Each	N/A	
Generator		\$125.00	\$300.00	
Turbidity Meter		\$40.00	\$95.00	
pH/Conductivity/ Temp Meter		\$55.00	\$180.00	
2" Grundfos Pump & Converter		\$260.00	\$650.00	
Sewer/Water/Storm Insp. Equipment		\$15.00	\$45.00	
Concrete Slump Test Cone Kit		\$45.00	N/A	
Concrete Drill		\$45.00	\$150.00	
Digital Camera Rental		\$10.00	\$30.00	
Ozone Meter		\$15.00	\$45.00	
Disposal Bailers		\$20.00/Each	N/A	
Disposal Supplies/Decon		\$25.00/Sampling event		
Hand Auger		\$30.00	\$100.00	
Surveying Equipment		\$90.00	\$250.00	
O&M Sampling Equipment		\$35.00	\$100.00	
Sub-slab SVI Sampling Equipment		\$180.00	Per Location	
Dust Meter w/ Pump		\$55.00/Sampling event		
Wet/Dry Vacuum		\$15.00	\$45.00	
pH Meter		\$20.00	\$60.00	
Transit Level		\$35.00	\$105.00	
Digital Micro-Manometer		\$30.00	\$90.00	
				\$0.00

EXHIBIT B

GENERAL CONTRACT PROVISIONS, TERMS AND CONDITIONS

Article I

Definitions

Section 1.01. Definitions. Unless the context otherwise requires, the terms defined below shall have, for all purposes of this Agreement, the respective meanings set forth below, the following definitions to be equally applicable to both the singular and plural forms of any of the terms defined.

(a) General Definitions:

Agreement: This Agreement shall consist of Page One and Exhibits noted thereon, all of which are made a part hereof as if set forth here in full.

Budget: The Budget set forth at Exhibit A hereto.

Cash-based Expenses: Those obligations of Contractor that shall be settled in cash.

Contract Administrator: Town of Marbletown, Town Supervisor, Rich Parete, or such other person who may be designated, in writing, by the Town of Marbletown.

Contract Information: Recorded information regardless of form or characteristic first produced in the performance of this Agreement, that is specified to be compiled under this Agreement, specified to be delivered under this Agreement, or that is delivered in connection with this Agreement, and including the Final Report delivered by Contractor pursuant to Exhibit A, Statement of Work, if applicable.

Contractor: Walden Environmental Engineering, PLLC.

Expiration Date: The date, located on Page One, Item No. 7, beyond which any funding balances will be disencumbered, unless the Town of Marbletown, in its sole discretion, elects to extend. Any extensions of this date are only effective if in writing.

Proprietary Information: Recorded information regardless of form or characteristic, produced or developed outside the scope of this Agreement and without the Town of Marbletown's financial support, provided that such information is not generally known or available from other sources without obligation concerning their confidentiality; has not been made available by the owner to others without obligation concerning its confidentiality; and is not already available to the Town of Marbletown without obligation concerning its confidentiality.

Person: An individual, a corporation, an association or partnership, an organization, a business or a government or political subdivision thereof, or any governmental agency or instrumentality.

Responsible: Responsible or Responsibility means the financial ability, legal capacity, integrity and past performance of Contractor and as such terms have been interpreted relative to public procurements. See NYS Finance Law Section 163(1)(c).

Statement of Work: The Statement of Work attached hereto as Exhibit A.

Subcontract: An agreement for the performance of Work by a Subcontractor, including any purchase order for the procurement of permanent equipment or expendable supplies in connection with the Work.

Subcontractor: A person who performs Work directly or indirectly for or on behalf of the Contractor (and whether or not in privacy of contract with the Contractor) but not including any employees of the Contractor or the Subcontractors.

Work: The Work described in the Exhibit A (including the procurement of equipment and supplies in connection therewith) and the performance of all other requirements imposed upon the Contractor under this Agreement

Article II

Performance of Work

Section 2.01. Manner of Performance. Subject to the provisions of Article XII hereof, the Contractor shall perform all of the Work described in the Statement of Work, or cause such Work to be performed in an efficient and expeditious manner and in accordance with all of the terms and provisions of this Agreement. The Contractor shall perform the Work in accordance with the current professional standards and with the diligence and skill expected for the performance of work of the type described in the Statement of Work. The Contractor shall furnish such personnel and shall procure such materials, machinery, supplies, tools, equipment and other items as may reasonably be necessary or appropriate to perform the Work in accordance with this Agreement.

Section 2.02. Project Personnel. It is understood and agreed that the Project Director identified at Item 3, Page One of this Agreement shall be responsible for the overall supervision and conduct of the Work on behalf of the Contractor and that the persons described in the Statement of Work shall serve in the capacities described therein.

Article III

Deliverables

Section 3.01. Deliverables. All deliverables shall be provided in accordance with the Exhibit A, Statement of Work.

Article IV

Payment

Section 4.01. Payment Terms. In consideration for this Agreement and as the Town of Marbletown's full payment for the costs of the performance of all Work, and in respect of all other direct and indirect costs, charges or expenses incurred in connection therewith, the Town of Marbletown shall pay to the Contractor amounts on a Net Thirty (30) Day basis but not to exceed the maximum amount set forth in Item 5, Page One of this Agreement. Subject to the provisions and restrictions contained herein, payment will be made according to Exhibit A, Statement of Work. The Town of Marbletown is not obligated to make any payments beyond the Expiration Date of this contract. Any funding balances will be disencumbered at that time, unless the Town of Marbletown, in its sole discretion, elects to extend the Expiration Date. Any changes to expiration dates will be effective only if in writing.

Section 4.02. Payments. Subject to any applicable provisions set forth in Exhibit A, Statement of Work, the Contractor shall submit the identified deliverables, including documentation reasonably sufficient to demonstrate completion. The agreement number shown as Item 1 on page 1 of this Agreement, as well as the purchase order number, which will be generated and provided to the Contractor upon contract execution, should be referenced when submitting documentation of deliverables.

Section 4.03. Final Payment. Upon final acceptance by the Town of Marbletown of all deliverables contained in Exhibit A, Statement of Work, pursuant to Section 6.02 hereof, the Contractor shall submit an invoice for final payment with respect to the Work.

Section 4.04. Maintenance of Records. The Contractor shall keep, maintain, and preserve at its principal office throughout the term of the Agreement and for a period of three years after acceptance of the Work, full and detailed books, accounts, and records pertaining to this Agreement, including without limitation, all data, bills, invoices, payrolls, time records, expense reports, subcontracting efforts and other documentation evidencing, or in any material way related to, Contractor's performance under this Agreement.

Section 4.05. Maximum Commitment. The maximum aggregate amount payable by the Town of Marbletown to the Contractor shall be the amount appearing at Item 5 of page one of this Agreement. the Town of Marbletown shall not be liable for any costs or expenses in excess of such amount incurred by the Contractor in the performance and completion of the Work.

Section 4.06. Audit. The Town of Marbletown shall have the right from time to time and at all reasonable times during the term of this Agreement to inspect and audit any and all books, accounts and records related to this Agreement.

Article V

Assignments, Subcontracts and Performance

Section 5.01. General Restrictions. Except as specifically provided otherwise in this Article, the assignment, transfer, conveyance, subcontracting or other disposal of this Agreement or any of the Contractor's rights, obligations, interests or responsibilities hereunder, in whole or in part, without the express consent in writing of the Town of Marbletown shall be void and of no effect as to the Town of Marbletown.

Section 5.02. Subcontract Procedures. Without relieving it of, or in any way limiting, its obligations to the Town of Marbletown under this Agreement, the Contractor may enter into Subcontracts for the performance of Work or for the purchase of materials or equipment. Prior to beginning any Work, Contractor shall notify the Town of Marbletown of all subcontractors performing work under the Agreement, as well as all changes in subcontractors throughout the term of the Agreement.

Section 5.03. Performance. The Contractor shall promptly and diligently comply with its obligations under each Subcontract and shall take no action that would impair its rights thereunder. The Contractor shall take no action and shall take all reasonable steps to prevent its Subcontractors from taking any action, that would impair the Town of Marbletown's rights under this Agreement. The Contractor shall not assign, cancel or terminate any Subcontract without the prior written approval of the Town of Marbletown as long as this Agreement remains in effect. Such approval shall not be unreasonably withheld and, in the event that notice of approval or disapproval is not received by the Contractor within thirty days after receipt of request for approval by the Town of Marbletown, the requested assignment, cancellation, or termination of the Subcontract shall be considered approved by the Town of Marbletown. In the event that the Town of Marbletown requires additional time for considering approval, the Town of Marbletown shall notify the Contractor within thirty (30) days of receipt of the request for approval that additional time is required and shall specify the additional amount of time necessary up to sixty (60) days.

Article VI

Schedule; Acceptance of Work

Section 6.01. Schedule. The Work shall be performed as expeditiously as possible in conformity with the schedule requirements contained herein and in the Statement of Work. The draft and final versions of all deliverables shall be submitted in accordance with Exhibit A, Section IV Schedule. It is understood and agreed that the delivery of the draft and final versions of such deliverables by the Contractor shall occur in a timely manner and in accordance with the requirements of the Exhibit A Schedule and Project Period noted in Item No. 7 of this Agreement.

Section 6.02. Acceptance of Work. The completion of the Work shall be subject to acceptance by the Town of Marbletown in writing of all deliverables as defined in Exhibit A, Statement of Work.

Article VII

Force Majeure

Section 7.01. Force Majeure. Neither party hereto shall be liable for any failure or delay in the performance of its respective obligations hereunder if and to the extent that such delay or failure is due to a cause or circumstance beyond the reasonable control of such party, including, without limitation, acts of God or the public enemy, expropriation or confiscation of land or facilities, compliance with any law, order or request of any Federal, State, municipal or local governmental authority, acts of war, rebellion or sabotage or damage resulting therefrom, fires, floods, storms, explosions, accidents, riots, strikes, or the delay or failure to perform by any Subcontractor by reason of any cause or circumstance beyond the reasonable control of such Subcontractor.

Article VIII

Rights in Information; Confidentiality

Section 8.01. Rights in Contract and Proprietary Information; Confidentiality.

(a) The Town of Marbletown shall have the right to use, duplicate, or disclose Contract Information, in whole or in part, in any manner and for any purpose whatsoever, and to permit others to do so.

(b) The Contractor shall have the right to use Contract Information for its private purposes, subject to the provisions of this Agreement.

(c) No information shall be treated by the Town of Marbletown as confidential unless such information is clearly so marked by the Contractor at the time it is disclosed to the Town of Marbletown. Under no circumstances shall any information delivered by Contractor pursuant to Exhibit A, Statement of Work, be considered confidential or Proprietary Information.

(d) The Contractor agrees that to the extent it receives or is given any information from the Town of Marbletown or a Town of Marbletown contractor or subcontractor, the Contractor shall treat such data in accordance with any restrictive legend contained thereon or instructions given by the Town of Marbletown, unless another use is specifically authorized by prior written approval of the Town of Marbletown. Contractor acknowledges that in the performance of the Work under this Agreement, Contractor may come into possession of personal information as that term is defined in Section 92 of the New York State Public Officers Law. Contractor agrees not to disclose any such information without the consent of the Town of Marbletown.

Article IX

Warranties and Guarantees

Section 9.01. Warranties and Guarantees. The Contractor warrants and guarantees that:

(a) all information provided and all representations made by Contractor in order to obtain this Agreement were, to the best of Contractor's knowledge, complete, true and accurate when provided or made;

(b) as of the Effective Date, it is financially and technically qualified to perform the Work, and is qualified to do business and is in good standing in all jurisdictions necessary for Contractor to perform its obligations under this Agreement;

(c) it is familiar with and will comply with all general and special Federal, State, municipal and local laws, ordinances and regulations, if any, that may in any way affect the performance of this Agreement;

(d) the design, supervision and workmanship furnished with respect to performance of the Work shall be in accordance with sound and currently accepted scientific standards and engineering practices;

(e) to the best of Contractor's knowledge, there are no existing undisclosed or threatened legal actions, claims, or encumbrances, or liabilities that may adversely affect the Work or the Town of Marbletown's rights hereunder;

(f) it has no actual knowledge that any information or document or statement furnished by the Contractor in connection with this Agreement contains any untrue statement of a material fact or omits to state a material fact necessary to make the statement not misleading, and that all facts have been disclosed that would materially adversely affect the Work;

(g) all information provided to the Town of Marbletown with respect to State Finance Law Sections 139-j and 139-k is complete, true and accurate; and

(h) its rates for the indirect costs charged herein have been determined based on the Contractor's reasonably anticipated indirect costs during the term of the Agreement and calculated consistent with generally accepted accounting principles.

(i) Contractor shall at all times during the Agreement term remain Responsible, and Contractor agrees, if requested by the Town of Marbletown, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.

(j) Contractor represents that there is and shall be no actual or potential conflict of interest that could prevent the Contractor's satisfactory or ethical performance of duties required to be performed pursuant to the terms of this Agreement. The Contractor shall have a duty to notify the Town of Marbletown immediately of any actual or potential conflicts of interest.

Article X

Indemnification

Section 10.01. Indemnification. The Contractor shall protect, indemnify and hold harmless the Town of Marbletown from and against all liabilities, losses, claims, damages, judgments, penalties, causes of action, costs and expenses (including, without limitation, attorneys' fees and expenses) imposed upon or incurred by or asserted against the Town of Marbletown resulting from, arising out of or relating to Contractor's or its Subcontractors' performance of this Agreement. The obligations of the Contractor under this Article shall survive any expiration or termination of this Agreement and shall not be limited by any enumeration herein of required insurance coverage.

Article XI

Insurance

Section 11.01. Maintenance of Insurance; Policy Provisions. The Contractor, at no additional direct cost to the Town of Marbletown, shall maintain or cause to be maintained throughout the term of this Agreement, insurance of the types and in the amounts specified in the Certificates of Insurance included with this Exhibit B.

Section 11.02. Delivery of Policies; Insurance Certificates. In the event any policy furnished or carried pursuant to this Article will expire on a date prior to acceptance of the Work by the Town of Marbletown pursuant to the section hereof entitled Acceptance of Work, the Contractor, not less than 15 days prior to such expiration date, shall deliver to the Town of Marbletown certificates of insurance evidencing the renewal of such policies, and the Contractor shall promptly pay all premiums thereon due. In the event of threatened legal action, claims, encumbrances, or liabilities that may affect the Town of Marbletown hereunder, or if deemed necessary by the Town of Marbletown due to events rendering a review necessary, upon request the Contractor shall deliver to the Town of Marbletown a certified copy of each policy.

Article XII

Stop Work Order; Termination; Non-Responsibility

Section 12.01. Stop Work Order. (a) The Town of Marbletown may at any time, by written Order to the Contractor, require the Contractor to stop all or any part of the Work called for by this Agreement for a period of up to ninety (90) days after the Stop Work Order is delivered to the Contractor, and for any further period to which the parties may agree. Upon

receipt of such an Order, the Contractor shall forthwith comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the Work covered by the Order during the period of work stoppage. Within a period of ninety (90) days after a Stop Work Order is delivered to the Contractor, or within any extension of that period to which the parties shall have agreed, the Town of Marblatown shall either:

- (i) by written notice to the Contractor, cancel the Stop Work Order, or
- (ii) terminate the Work covered by such order as provided in the Termination Section of this Agreement.

(b) If a Stop Work Order issued under this Section is cancelled or the period of the Order or any extension thereof expires, the Contractor shall resume Work.

(c) If a Stop Work Order is not cancelled and the Work covered by such Order is terminated, the reasonable costs resulting from the Stop Work Order shall be allowed by equitable adjustment or otherwise.

(d) Notwithstanding the provisions of this Section 12.01, the maximum amount payable by the Town of Marblatown to the Contractor pursuant to this Section 12.01 shall not be increased or deemed to be increased except by specific written amendment hereto.

Section 12.02. Termination.

(a) This Agreement may be terminated by the Town of Marblatown at any time during the term of this Agreement with or without cause, upon ten (10) days prior written notice to the Contractor. In such event, payment shall be paid to the Contractor for Work performed and expenses incurred prior to the effective date of termination. Articles VIII, IX, and X shall survive any termination of this Agreement.

(b) Nothing in this Article shall preclude the Contractor from continuing to carry out the Work called for by the Agreement after receipt of a Stop Work Order or termination notice at its own election, provided that, if the Contractor so elects: (i) any such continuing Work after receipt of the Stop Work Order or termination notice shall be deemed not to be Work pursuant to the Agreement, and (ii) the Town of Marblatown shall have no liability to the Contractor for any costs of the Work continuing after receipt of the Stop Work Order or termination notice.

Section 12.03 Suspension for Non-Responsibility. The Town of Marblatown, in its sole discretion, reserves the right to suspend any or all activities under this Agreement, at any time, when it discovers information that calls into question the Responsibility of the Contractor. In the event of such suspension, the Contractor will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the Town of Marblatown issues a written notice authorizing a resumption of performance under the Contract.

Article XIII

Independent Contractor

Section 13.01. Independent Contractor.

(a) The status of the Contractor under this Agreement shall be that of an independent contractor and not that of an agent, and in accordance with such status, the Contractor, the Subcontractors, and their respective officers, agents, employees, representatives and servants, including the Project Director, shall at all times during the term of this Agreement conduct themselves in a manner consistent with such status and by reason of this Agreement shall neither hold themselves out as, nor claim to be acting in the capacity of, officers, employees, agents, representatives or servants of the Town of Marbletown nor make any claim, demand or application for any right or privilege applicable to the Town of Marbletown, including, without limitation, vicarious liability, professional liability coverage or indemnification, rights or privileges derived from workers' compensation coverage, unemployment insurance benefits, social security coverage and retirement membership or credit. It is understood and agreed that the personnel furnished by Contractor to perform the Work shall be Contractor's employee(s) or agent(s), and under no circumstances are such employee(s) to be considered the Town of Marbletown's employee(s) or agent(s), and shall remain the employees of Contractor, except to the extent required by section 414(n) of the Internal Revenue Code.

(b) Contractor expressly acknowledges the Town of Marbletown's need to be advised, on an immediate basis, of the existence of any claim or event that might result in a claim or claims against the Town of Marbletown, Contractor and/or Contractor's personnel by virtue of any act or omission on the part of the Town of Marbletown or its employees. Accordingly, Contractor expressly covenants and agrees to notify the Town of Marbletown of any such claim or event, including but not limited to, requests for accommodation and allegations of harassment and/or discrimination, immediately upon contractor's discovery of the same, and to fully and honestly cooperate with the Town of Marbletown in its efforts to investigate and/or address such claims or events, including but not limited to, complying with any reasonable request by the Town of Marbletown for disclosure of information concerning such claim or event even in the event that this Agreement should terminate for any reason.

Article XIV

Compliance with Certain Laws

Section 14.01. Laws of the State of New York. The Contractor shall comply with all of applicable laws of the State of New York.

Section 14.02. All Legal Provisions Deemed Included. It is the intent and understanding of the Contractor and the Town of Marbletown that each and every provision of law required by the laws of the State of New York to be contained in this Agreement shall be contained herein, and if, through mistake, oversight or otherwise, any such provision is not contained herein, or is not contained herein in correct form, this Agreement shall, upon the application of either the Town of Marbletown or the Contractor, promptly be amended so as to comply strictly with the laws of the State of New York with respect to the inclusion in this Agreement of all such provisions.

Section 14.03. Other Legal Requirements. The references to particular laws of the State of New York in this Article and elsewhere in this Agreement are not intended to be exclusive and nothing contained in such Article, Exhibit and Agreement shall be deemed to modify the obligations of the Contractor to comply with all legal requirements.

Section 14.04. Sexual Harassment Policy. The Contractor and all Subcontractors must have a written sexual harassment prevention policy addressing sexual harassment in the workplace and must provide annual sexual harassment training to all employees.

Article XV

Notices, Entire Agreement, Amendment, Counterparts

Section 15.01. Notices.

(a) All notices, requests, consents, approvals and other communications which may or are required to be given by either party to the other under this Agreement shall be in writing and shall be transmitted either:

1. via certified or registered United States mail, return receipt requested;
2. by facsimile transmission;
3. by personal delivery;
4. by expedited delivery service; or
5. by e-mail, return receipt requested.

Such notices shall be addressed as follows, or to such different addresses as the parties may from time-to-time designate as set forth in paragraph (c) below:

Town of Marbletown

Name: Rich Parete

Title: Town Supervisor

Address: 1925 Lucas Ave, Cottekill, New York 12419

Office Number: (845) 687 7500 ext 164

E-Mail Address: supervisor@marbletown.net

Personal Delivery: Reception desk at the above address

Walden Environmental Engineering, PLLC

Name: Joseph M Heaney III, P.E.

Title: President

Address: 16 Spring Street, Oyster Bay, NY 11771

Office Number: (845) 253 8025

Facsimile Number: (516) 624 3219

E-Mail Address: jheaney@walden-associates.com

(b) Any such notice shall be deemed to have been given either at the time of personal delivery or, in the case of expedited delivery service or certified or registered United States mail, as of the date of first attempted delivery at the address and in the manner provided herein, or in the case of facsimile transmission or email, upon receipt.

(c) The parties may, from time to time, specify any new or different address in the United States as their address for purpose of receiving notice under this Agreement by giving fifteen (15) days written notice to the other party sent in accordance herewith.

Section 15.02. Entire Agreement; Amendment. This Agreement embodies the entire agreement and understanding between the Town of Marbletown and the Contractor and supersedes all prior agreements and understandings relating to the subject matter hereof. Except for no-cost time extensions, which may be signed by the Town of Marbletown and require no counter-signature by the Contractor, and except as otherwise expressly provided for herein, this Agreement may be changed, waived, discharged or terminated only by an instrument in writing, signed by the party against which enforcement of such change, waiver, discharge or termination is sought.

Section 15.03. Counterparts. This Agreement may be executed in counterparts each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.