

PROPOSAL FOR ENGINEERING SERVICES

December 12, 2024

Client: Town of South Hero
PO Box 175
South Hero, VT 05486
Contact: David Carter, Selectboard Chair
Phone: 802-372-6550
E-mail: dcarter@usa.net

Consultant: Buermann Engineering, LLC
7 Sanderson Road
Milton, VT 05468
Phone: 802-893-1308
E-mail: jay@belvt.com

Landowners: Hayward 310 U.S. Route 2, LLC and/or Town of South Hero

Project No. 1006: Proposed Park Plans & Permitting Assistance, 318-320 US Route 2, South Hero.

Scope of Work:

Client is considering the acquisition of about 1.88 acre of property from Hayward 310 US Route 2, LLC, to add to Town-owned properties at 318 and 320 US Route 2. The Client would like to develop the resulting combined property to create a Town Park; the conceptual configuration of this park is shown on “South Hero Town Park – Site Plan Phase I” and “South Hero Town Park – Site Plan Phase II”, both dated December 10, 2024 by Leslie Carter, ALSA.

In accord with an executed Proposal For Engineering Services with the South Hero Recreation Commission (SHRC), dated February 15, 2022, the Consultant already has some base plans and documentation on file.

Based upon the referenced conceptual configurations the Consultant anticipates that the following permits may be required: VTrans Access Permit (for modified /expanded use of existing access to US Route 2), VT Wastewater System and Potable Water Supply Permit (“WW Permit”, for proposed drinking fountain), and local Development Review Board Review (as Public Recreation). Consultant will prepare site plans and details as typically required, prepare permit applications, and attend hearings if/as requested. In support of construction Consultant will stake the location for construction of the new water service, attend a preconstruction meeting with the Site Contractor, periodically observe the construction of the VTrans road access (if necessary) and the construction and testing of the new water service, prepare a Record Drawing of the water service (if needed), and report completion of the water service construction to the Vermont DEC Drinking Water and Groundwater Protection Division, as typically required by the WW Permit.

Comments:

Estimated project cost does not include permit application fees (estimated at \$746.25). It is also assumed that:

- Based upon the VT Natural Resources Atlas, the property will not require a wetlands determination;
- Neither water nor wastewater services will be provided, except for water at the drinking fountain;
- The open pavilion will be used for “events” no more than 48 days per year;
- The playground and game area do not generate a requirement for water and wastewater facilities (to be confirmed by the Consultant);
- Total impervious surfaces on the combined Town properties do not exceed 1/2 acre; and
- Total site disturbance for construction does not exceed one acre.

Additional site visits, meetings, or excavation of previously installed components for after-the-fact inspections are likely to necessitate a change to the Scope of Work and Contract Fees stated herein. Rates are also subject to change for projects which exceed the original scope and schedule outlined herein. Refer to “General Contract Provisions”, dated February 21, 2022 for additional Contract conditions.

(over)

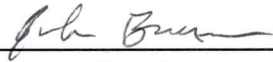
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Project Start Date: December 12, 2024

Expected Completion Dates: Plans & permit applications complete, April 30, 2025
Construction reports, 1 week after completion of construction (2025 assumed)

Contract Fee: Per Standard Rate Schedule (enclosed); estimated at \$6,500.00 - \$7,000.00, to be reduced by a current account credit (carry-over from SHRC) of \$2,509.62.

Signatures:

		<i>12 DEC 2024</i>
Consultant		Date
Client		Date

BUERMANN ENGINEERING, LLC

7 Sanderson Road, Milton, VT 05468

Tel.: (802) 893-1308

www.belvt.com

e-mail: jay@belvt.com

STANDARD RATE SCHEDULE

Date: December 12, 2024

To: David Carter, Selectboard Chair
Town of South Hero
PO Box 175
South Hero, VT 05486

From: Jay Buermann, P.E.
Buermann Engineering, LLC
7 Sanderson Road
Milton, VT 05468

**Re: Project No. 1006, Proposed Park Plans & Permitting Assistance,
318-320 US Route 2, South Hero.**

Engineering & CAD Services		\$110.00 per hour
Engineering Aide/Site Technician		\$90.00 per hour
2-Person Topographic Survey Crew		\$160.00 per hour
FEMA Elevation Certificates & LOMA (Stillwater elevations only)		\$1,500.00 lump sum
Mileage		\$0.67 per mile
Prints:		
	18" x 24"	24" x 36"
Mylar	\$6.00	\$12.00
Bond paper	\$2.40	\$ 4.80
Photocopies		\$0.30 per sheet
Postage		At cost
Witness Stakes		\$2.00 per stake
Iron Rebar		\$4.00 per bar
Incidental Expenses		Base cost plus 10%
Project Recovery Fee		Time & Expenses per above, \$40.00 min.
Digital Payment Transfer Fees (Venmo, BILL, etc.)		At cost

Our business hours are 7:30 AM to 4:30 PM, Monday through Friday. Labor (including phone calls) incurred at the Client's request at non-business times will be invoiced at 1.5 times our standard rates above.

GENERAL CONTRACT PROVISIONS

February 21, 2022

- 1. CONTRACT** – These Contract Provisions and the accompanying Proposal constitute the full and complete Agreement between the parties and may be changed, amended, added to, superseded, or waived only if both parties specifically agree in writing to such amendment of the Agreement. In the event of any inconsistency between these Contract Provisions and any proposal, contract, purchase order, requisition, notice to proceed, or like document, these Contract Provisions shall govern.

CONSULTANT reserves the right to withdraw this Contract offer, if signed Proposal is not returned to the Consultant within fifteen days of the Contract date. The lack of a signed Proposal, however, does not negate these Contract Provisions. If the CONSULTANT proceeds with the Scope of Work outlined in the Contract, with the Client's knowledge and passive acceptance, the Proposal and these Contract Provisions are assumed to be in full force.

- 2. RIGHT OF ENTRY** – When entry to property is required for the CONSULTANT to perform its services, the Client agrees to obtain legal right-of-entry on the property.
- 3. DOCUMENTS** – All reports, notes, drawings, specifications, data, calculations, and other documents, including those in electronic form, prepared by CONSULTANT are instruments of CONSULTANT's service that shall remain CONSULTANT's property. The Client agrees not to use CONSULTANT-generated documents for marketing purposes, for projects other than the project for which the documents were prepared by CONSULTANT, or for future modifications to this project, without CONSULTANT's express written permission.

CONSULTANT shall be deemed the owner of its instruments of Service, including the Plans, Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. CONSULTANT grants to the Client a nonexclusive license to use the Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Client substantially performs its obligations under this Agreement, including prompt payment of all sums due hereunder.

Any reuse or distribution to third parties without such express written permission or project-specific adaptation by CONSULTANT will be at the Client's sole risk and without liability to CONSULTANT or its employees, subsidiaries, independent professional associates, subconsultants, and subcontractors. Client shall, to the fullest extent permitted by law, defend, indemnify, and hold harmless CONSULTANT from and against any and all costs, expenses, fees, losses, claims, demands, liabilities, suits, actions, and damages whatsoever arising out of or resulting from such unauthorized reuse or distribution.

Notwithstanding any other provision, CONSULTANT shall retain all rights of ownership and use of its skills, knowledge and experience that have a general applicability, including such skills, knowledge or experience gained by Consultant in connection with performing services for the Project. Such knowledge and experience includes, but is not limited to standard arrangements and configurations, individual standard features, details, and design elements, specifications, general notes, and design templates.

- 4. DISPOSAL OF SAMPLES** – CONSULTANT will discard samples upon completion of the work covered under this Agreement, unless the Client instructs otherwise in writing.
- 5. HAZARDOUS MATERIALS** – The scope of CONSULTANT's services for this Agreement does not include any responsibility for detection, remediation, accidental release, or services relating to waste, oil, asbestos, lead, or other hazardous materials, as defined by Federal, State, and local laws or regulations.
- 6. CONSTRUCTION PHASE SERVICES** – If CONSULTANT performs any services during the construction phase of the project, CONSULTANT shall not supervise, direct, or have control over Contractor's work. CONSULTANT shall not have authority over or responsibility for the construction means, methods, techniques, sequences or procedures or for safety precautions and programs in connection with the work of the Contractor. CONSULTANT does not guarantee the performance of the construction contract by the Contractor and does not assume responsibility for the Contractor's failure to furnish and perform its work in accordance with the Contract Documents.

If the CONSULTANT's services do not include Construction-phase services then the Client shall be solely responsible for interpreting the Contract Documents and observing the Work of the Contractor to discover, correct, or mitigate errors, inconsistencies, or omissions. If the Client authorizes deviations, recorded or unrecorded, from the documents prepared by the CONSULTANT, the Client shall not bring any claim against the CONSULTANT, and shall indemnify and hold the CONSULTANT harmless from and against all claims, losses, damages, and expenses, including but not limited to defense costs and the time of the CONSULTANT to the extent such claim, loss, damage, or expense arises out of or results in whole, or in part from such deviations, regardless of whether or not such claim, loss, damage, or expense is caused in part by a party indemnified under this provision.

- 7. STANDARD OF CARE** – CONSULTANT and its employees, subsidiaries, independent professional associates, subconsultants, and subcontractors shall be provided consistent with and limited to the professional standard of care which is the skill and care ordinarily provided by similarly situated professionals practicing in the same or similar locality under the same or similar circumstances. Such standard of care is not a warranty or guarantee and CONSULTANT shall have no such obligation. Accordingly, Client shall provide appropriate contingencies in both schedule and cost.

CONSULTANT shall exercise usual and customary professional care in its efforts to comply with applicable codes, regulations, laws rules, ordinances, and such other requirements in effect as of the date of execution of this Agreement.

- 8. OPINION OF PROBABLE COSTS** – When required as part of its work, CONSULTANT will furnish opinions of probable cost, but does not guarantee the accuracy of such estimates. Opinions of probable cost, financial evaluations, feasibility studies, economic analyses of alternate solutions, and utilitarian considerations of operations and maintenance costs prepared by CONSULTANT hereunder will be made on the basis of CONSULTANT's experience and qualifications and will represent CONSULTANT's judgment as an experienced and qualified design professional. However, users of the probable cost opinions must recognize that CONSULTANT does not have control over the cost of labor, material, equipment, or services furnished by others or over market conditions or contractors' methods of determining prices or performing the work.
- 9. SUSPENSION OF WORK** – The Client may, at any time, by written notice, suspend further work by CONSULTANT. The Client shall remain liable for, and shall promptly pay CONSULTANT for all services rendered to the date of suspension of services, plus suspension charges, which shall include the cost of assembling documents, personnel and equipment, rescheduling or reassignment, and commitments made to others on Client's behalf.

Client shall pay CONSULTANT pursuant to the rates and charges set forth in the Proposal. CONSULTANT will submit periodic invoices to Client for services rendered and expenses incurred. A finance charge of 1.5 percent per month may be applied after fifteen (15) days. If Client does not pay invoices within fifteen (15) days of submission of invoice, CONSULTANT may, upon written notice to the Client, suspend further work until payments

are brought current. The Client agrees to indemnify and hold CONSULTANT harmless from any claim or liability resulting from such suspension.

The CONSULTANT's Standard Rate Schedule may be subject to change for projects which exceed the original scope and schedule specified in the project's original estimated schedule.

The Client hereby certifies that the Landowner understands and agrees that Engineer may place a Mechanic's Lien on the project site to recover fees and legal expenses, on accounts more than 60 days past due.

- 10. CHANGES OR DELAYS** – Unless the accompanying Proposal provides otherwise, the proposed fees constitute CONSULTANT's estimate to perform the services required to complete the Project. Required services often are not fully definable in the initial planning; accordingly, developments may dictate a change in the scope of services to be performed. Where this occurs, changes in the Agreement shall be negotiated and an equitable adjustment shall be made.

Costs and schedule commitments shall be subject to renegotiation for unreasonable delays caused by the Client's failure to provide specified facilities, direction, or information, or if CONSULTANT's failure to perform is due to any act of God, labor trouble, fire, inclement weather, act of governmental authority, failure of transportation, accident, power failure, or interruption or any other cause beyond the reasonable control of CONSULTANT. Temporary work stoppage caused by any of the above may result in additional cost beyond that outlined in the accompanying Proposal.

- 11. LIABILITY** – To the fullest extent permitted by law, the total liability, in the aggregate, of CONSULTANT and CONSULTANT's officers, directors, employees, agents, and consultants to Client and anyone claiming by, through or under Client, for any and all injuries, claims, losses, expenses, or damages whatsoever arising out of or in any way related to CONSULTANT's services, the Project or this Agreement, from any cause or causes whatsoever, including but not limited to, negligence, strict liability, breach of contract or breach of warranty shall not exceed the total compensation received by CONSULTANT under this Agreement, or the total amount of \$50,000.00, whichever is greater.

It is agreed that no action may be commenced against CONSULTANT for any claim arising out of CONSULTANT's performance under this Contract, whether based upon negligence or breach of contract or any other claim, more than one year after the date that CONSULTANT provides its final services for the contracted Scope of Work.

Client expressly agrees that any liability arising out of this project shall be limited to the CONSULTANT and its applicable insurance and shall not be the basis of personal liability as to Consultant's owners, officers, directors, or employees.

- 12. CONFLICTS OF INTEREST** – This assignment may involve parties with adverse interests to clients with whom CONSULTANT has current or past relationships. It is CONSULTANT policy to make reasonable attempts to identify such relationships prior to acceptance of a professional assignment, but CONSULTANT cannot assure that conflicts or perceived conflicts will not arise, and CONSULTANT does not accept responsibility for such occurrences.
- 13. REIMBURSABLE EXPENSES** – CONSULTANT will bill direct nonpayroll expenses at cost plus 15%. Direct expenses include all reasonable expenses resulting from required responses to subpoenas or court orders related to work under the Contract.

14. MISCELLANEOUS

Governing Law: The laws of the state in which the CONSULTANT office executing this Agreement is located shall govern the validity and interpretation of this Agreement.

Invalid Terms: In the event any of these Contract Provisions are found to be illegal or otherwise unenforceable, the unenforceable Contract Provision will be stricken. Striking such a Contract Provision shall have no effect on the enforceability of the remaining Contract Provisions and those remaining Contract Provisions shall continue in full force and effect as if the unenforceable Contract Provision were never included in the Agreement.

Mediation: The Client and CONSULTANT agree to submit all claims and disputes arising out of this Agreement to non-binding mediation prior to the initiation of legal proceedings. This provision shall survive completion or termination of this Agreement; however, neither party shall seek mediation of any claim or dispute arising out of this Agreement beyond the period of time that would bar the initiation of legal proceedings to litigate such claim or dispute under the applicable law.

CONSULTANT Reliance: CONSULTANT shall be entitled to rely, without liability, on the accuracy and completeness of any and all information provided by Client, Client's consultants and contractors, and information from public records, without the need for independent verification.

Certifications: CONSULTANT shall not be required to sign any documents, no matter by whom requested, that would result in CONSULTANT's having to certify, guaranty, or warrant the existence of conditions that CONSULTANT cannot ascertain.

Third Parties: Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Client or CONSULTANT. CONSULTANT's services hereunder are being performed solely for the benefit of the Client, and no other entity shall have any claim against CONSULTANT because of this Agreement or CONSULTANT's performance of services hereunder. This Agreement and the deliverables, obligations, and rights herein are intended for the sole use and benefit of the Parties and are not intended to create any third party rights or benefits. This Agreement and the design may not be transferred or assigned by either Party without written consent.

Consequential Damages: Neither the Client nor the CONSULTANT shall be liable to the other or shall make any claim for any incidental, indirect or consequential damages arising out of, or connected in any way to the Project or this Agreement. This mutual waiver includes, but is not limited to, damages related to loss of use, loss of profits, loss of income, loss of reputation, unrealized savings or diminution of property value and shall apply to any cause of action including negligence, strict liability, breach of contract and breach of warranty.

CONSULTANT Incapacitation: Client understands and acknowledges that the CONSULTANT is a small firm, with one principal licensed Engineer on staff. In the event of his incapacitation by any cause, CONSULTANT will in good faith assist the Client in finding another engineering firm to complete the project. The Client hereby understands acknowledges, however, that such events will release CONSULTANT from the completion and terms of this Contract. The Client agrees to compensate Engineer for all expenses incurred prior to that time according to CONSULTANT's Standard Rate Schedule, upon which time Engineer will release all project-related data to the Client.

Marketing Reference: Unless the Client chooses to delete this provision, Client agrees that CONSULTANT may use this Project and Client as a reference for marketing efforts. Engineer will not, however, knowingly distribute Client's name for solicitations of products or services by third parties.