

Regular Town Board Meeting held June 13, 2011 at 6:00 P.M. at the Town Hall

In Schroon Lake N.Y.

Present:

Town Supervisor: Cathy Moses

Councilpersons: Roger Friedman, Clara Phibbs, Mark Whitney
and Meg Wood

Highway Superintendent: Dana Shaughnessy

Town Clerk: Patricia Savarie

Also Present: Rose Marie Ritson, Albert May, Mike Marnell, Bob Yoeckel, Fran Filshie, Lester and Vivian Speiser, Don Sage and Denis Christian.

Supervisor Moses called the meeting to order at 6:00 P.M. with a Pledge to the Flag.

Airport Test paving Presentation

Jonathan Moore from Grip Flex Micro-Surfacing gave a presentation on resurfacing the Airport strip. Jonathon would like to do a 10'x10' test area free of charge out on the apron so that the board can see how well the product will hold up and perform before they decide on the product. The company is based out of Ohio and has been using this product for 25 years. The board would like to see some references from other airports that they have done business with. Supervisor Moses asked how long it would take to do from start to finish, Jonathon stated depending on weather 5-7 days.

Resolution #121 Grip Flex Testing Area

Councilman Friedman moved a resolution to have Grip-Flex Micro-Surfacing do a 10'x10' test area free of charge out on the apron at the airport, seconded by Councilwoman Phibbs; carried.

Public Participation

Harold Karaka wanted to know what was going on with the light at the top of the beach and the generator at the Ski Tow. Councilman Friedman stated the light at the Beach was a judgment call and the Board members should go and look at it. The generator that the Sewer Department has will work for the ski tow and needs to be declared as surplus.

Craig Maisonville would like to purchase Wood's Lodge but has concerns about the deeded rights the Town of Schroon has through the property. The Board would like to see the deeded rights to this property before making any decisions. The Town Clerk will look this information up and get it to the Board.

Thank-You to the Town Wide Clean Up Day

Supervisor Moses would like to extend a heartfelt Thank-You to everyone who made the Town wide clean-up a great success. The Town of Schroon looks great and that it was great that it was done with everyone volunteering their time.

Resolution #122 Approval of Minutes

Councilman Whitney moved a resolution to accept the Special Town Board Meeting minutes held May 5, 2011 at 5:00 p.m., seconded by Councilwoman Phibbs; carried. Councilman Whitney moved a resolution to accept the Special Town Board Meeting minutes held May 9, 2011 at 5:00 p.m., seconded by Councilman Friedman; carried. Councilman Friedman moved a resolution to accept the Regular Town Board Meeting minutes held May 9, 2011 at 6:00 p.m., seconded by Councilwoman Wood; carried.

Resolution #123 Audit of Claim

Councilman Whitney moved a resolution to accept the bills to be paid as reviewed, seconded by Councilman Friedman; carried

General Fund \$27,918.13 Highway \$37,872.68 Sewer Bond Fund \$8,811.80
Sewer \$22,488.27 Water District \$725.08

Resolution #124 Budget Amendment

Councilwoman Wood moved a resolution to accept a Budget Amendment for the Library, seconded by Councilman Friedman; carried.

A BUDGET AMENDMENT IS NEEDED TO INCREASE APPROPRIATION A00-960 FROM APPROPRIATED FUND BALANCE A00-599 TO ACCOUNT FOR MONEY RECEIVED IN 2010 FOR LIBRARY SUPPORT. THE LIBRARY BOARD OF TRUSTEE HAS REQUESTED THESE FUNDS.

Appropriated Fund Balance	A00-599	\$695.60
Appropriations	A00-960	\$695.60
(A00-06-7410.400 Library Contractual)		

To amend budget per Board Approval for Funds received for Library support in 2010. The Library Board of Trustees has requested these funds.
(\$300.00 Town of North Hudson and \$395.60 NYS Reading Program)

Resolution #125 Organization of the Year.

Councilman Whitney moved a resolution to proclaim the Schroon Lake Association as the Organization of the Year, seconded by Councilman Friedman; carried.

**TOWN OF SCHROON PROCLAMATION
DECLARING THE "SCHROON LAKE ASSOCIATION"
AS THE 2011 ORGANIZATION OF THE YEAR**

WHEREAS, each year the Schroon Lake Area Chamber of Commerce declares a "Citizen or Organization of the Year", and

WHEREAS, this year's recipient is the well know organization – THE SCHROON LAKE ASSOCIATION, and

WHEREAS, The Schroon Lake Association was founded in 1911 with its primary goal moving forward being to protect our 4,126 acre lake which is surrounded by the Towns of Chester, Horicon and Schroon, and

WHEREAS, the Schroon Lake Association, along with the Towns of Schroon, Horicon and Chester have worked very closely with our Lake Manager, Steve LaMere of Adirondack Ecologists, in the control of invasives such as Eurasian water milfoil (our primary invasive), curly leaf pond weed, purple loosestrife and other potential invasives with education of the public being the highest priority, and

WHEREAS, the "Association" has held fund raisers for the protection of the Lake throughout the years - the most well-known event being the Annual Arts and Crafts Fair – the 42nd being held this summer including the famous "silent auction table" - and more recently their annual Duck Race which is held Labor Day weekend, and

WHEREAS, in 2006, the Schroon Lake Association, later joined by the East Shore Association, and many dedicated volunteers developed one of the most important documents for our three Towns – the "Schroon Lake Management Master Plan" a working document which will be used well into the future providing guidance for the care of our lake and its watershed, and

WHEREAS, the Schroon Lake Association happens to be celebrating its "100th Anniversary" this year, therefore making this recognition most timely, and

WHEREAS, this organization has been solely comprised of many dedicated volunteers throughout these 100 years with some wonderful leaders and volunteers – way too numerous to mention,

NOW, THEREFORE, BE IT RESOLVED that the Town Board of the Town of Schroon hereby wishes to extend its most sincere thank you to each and every leader and member of the Association for their service and dedication to the protection of our most valuable asset – Schroon Lake, and

BE IT FURTHER RESOLVED THAT we do hereby proclaim June 14, 2011 "SCHROON LAKE ASSOCIATION DAY" in the Town of Schroon.

Resolution # 126 Student for Boat Launch

Councilwoman Wood moved a resolution to hire Ryan Carpenter for Lake Steward for \$9.00 an hour with the Schroon Lake Association monitoring Ryan and donating 50% of the payroll, seconded by Councilman Friedman; carried.

Resolution #127 Mosquito Spraying Agreement

Councilman Whitney moved a resolution to accept the agreement between the Town of Schroon and Adirondax Service for Roadside Mosquito Spraying 2011. Initial set-up fee is \$1200.00 Rate charge for conducting spray operations is \$135.00 an hour, seconded by Councilwoman Phibbs; carried.

Resolution #128 Kids Fun Run Support Letter

Councilwoman Wood moved a resolution to support the One K Kids Fun Run to be held Marathon Weekend, seconded by Councilman Friedman; carried.

Resolution #129 Approve Certificates of Substantial Completion for Wastewater Project

Councilman Friedman moved a resolution to approve Certificates of Substantial Completion for Wastewater Project Phase 2A for U.W. Marx, seconded by Councilwoman Wood; carried.

Resolution #130 Approve Change Order for Wastewater Project

Councilman Friedman moved a resolution to approve a change order for the Wastewater Project Phase 2A #GC-Co. 04 U.W. Marx for \$1,653.70 to purchase 2 panel enclosures and 2 panel heaters, seconded by Councilman Whitney; carried.

Raising Generator at Tamarac Pump Station

Due to the recent record flooding Jim Roblee request that AES Northeast obtain a price from the contractor to raise the generator a minimum of 13” as the record floods came up over the top of the generator fuel storage tank by approximately 13”. Councilman Whitney moved to **table** this discussion until they can meet with engineer seconded by Councilman Friedman; carried. They will try to meet with the engineer on June 16, 2011 at 1:00 P.M.

Resolution #131 Town Flowers

Councilman Friedman moved a resolution to hire Bella Seeley at \$9.78 an hour to water and dead head the flowers in Town provided she has transportation, seconded by Councilwoman Phibbs; carried.

Resolution #132 Farmers Market

Councilman Whitney moved a resolution to accept the Farmers Market coming to Schroon Lake on Mondays from June 25th – September 5th using the Town hall parking lot, seconded by Councilwoman Wood; carried.

Champlain Bridge Re-Opening Celebration

Supervisor Moses stated that the Town of Schroon can get an ad 2.125 x 2.5 for \$129.00 for the glossy book which will include historical facts and pictures of the old Champlain Bridge along with the process of building the new structure. Councilman Whitney suggested we put our website on the ad. Supervisor Moses will go ahead and place the ad.

Resolution #133 Contract for Independent Contractors

Councilman Whitney moved a resolution to accept the County Agreement to be used for the Town of Schroon for Independent Contractors hired by the Town of Schroon , seconded by Councilwoman Wood; carried Councilwoman Phibbs – abstained

AGREEMENT

PARTIES

TOWN OF SCHROON

Address: P.O. Box 578, 15 Leland Avenue, Schroon, NY 12870
Contractor:
Address:

DATE:

WITNESSETH:

1. WORK/SERVICES TO BE FURNISHED

Contractor agrees to provide, perform and furnish to Town of Schroon, the work, labor, services, material and/or equipment more fully described and set forth in Appendix A annexed hereto and made a part hereof.

2. CONTRACT PRICE

Contractor agrees to accept, and Town of Schroon agrees to pay to Contractor, the contract price set forth in Appendix B annexed hereto and made a part hereof.

3. CONTRACT TERM

The term of this agreement is from _____ through _____.

4. CONTRACT TERMS & CONDITIONS

The parties hereto agree that the following terms and conditions are included in, a part of, and incorporated into this agreement:

- Insurance Requirements – Appendix C
- Town of Schroon Standard Clauses – Appendix D

5. NOTICES

Notices or communications are to be given or directed to either party at its address specified in this agreement, or to such other addresses as either party may from time to time designate by written notice to the other party.

6. ENTIRE AGREEMENT

This agreement, including the Appendices referred to hereinabove, constitutes the entire agreement between the parties; and there are no other agreements, either written or oral, between the parties pertaining to the work/services or the funds encompassed by this agreement.

IN WITNESS WHEREOF this agreement has been executed by the parties hereto to be effective as of the date set forth above.

TOWN OF SCHROON

APPENDIX D - STANDARD CLAUSES FOR TOWN OF SCHROON CONTRACTS

Independent Contractor Status

The parties each acknowledge, covenant and agree that the relationship of the Contractor to the Town shall be that of an independent contractor. The Contractor, in accordance with its status as an independent contractor, further covenants and agrees that it:

- (a) will conduct itself in accordance with its status as an independent contractor;
- (b) will neither hold itself out as nor claim to be an officer or employee of the Town; and
- (c) will not make any claim, demand or application for any right or privilege applicable to an officer or employee of the Town, including but not limited to workers' compensation benefits, unemployment insurance benefits, social security coverage or retirement membership or credits.

2. Contractor To Comply With Laws/Regulations

The Contractor shall at all times comply with all applicable state and federal laws, rules and regulations governing the performance and rendition of the services to be furnished under this agreement.

3. Licenses, Permits, Etc.

The Contractor shall, during the term of this agreement, obtain and keep in full force and effect any and all licenses, permits and certificates required by any governmental authority having jurisdiction over the rendition and performance of the services to be furnished by the Contractor under this agreement.

4. **Termination**

This agreement may be terminated without cause by either party upon 30 days prior written notice, and upon such termination neither party shall have any claim or cause of action against the other except for services actually performed and mileage expenses actually incurred prior to such termination. Notwithstanding the foregoing, this agreement may be immediately terminated by the Town:

- (a) for the Contractor's breach of this agreement, by serving written notice of such termination stating the nature of the breach upon the Contractor by personal delivery or by certified mail, return receipt requested, and upon such termination either party shall have such rights and remedies against the other as provided by law; or
- (b) upon the reduction or discontinuance of funding by the State or Federal governments to be used in furnishing some or all of the work, labor and/or services provided for under this agreement, and upon such termination neither party shall have any claim or cause of action against the other except for services actually performed and expenses (if the same are to be paid under this agreement) actually incurred prior to such termination.

5. **Defense & Indemnification**

The Contractor shall defend, indemnify and hold harmless the Town to the fullest extent allowed by law from and against any and all liability, suits, judgments, orders, causes of action, and claims, including but not limited to those for bodily injury, property damage, death, and reasonable attorney's fees, arising out of or in connection with the Contractor's negligence and/or its performance or failure to perform this agreement

6. **Discrimination Prohibited**

The services to be furnished and rendered under this agreement by the Contractor shall be available to any and all residents of Essex Town without regard to race, color, creed, sex, religion, national or ethnic origin, handicap, or source of payment; and under no circumstances shall a resident's financial ability to pay for the services provided be considered unless such consideration is allowed by State and/or Federal law, rule or regulation.

7. **Non-Discrimination In Employment**

The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, age, disability or marital status. In the event that this is a contract to be performed in whole or in part within the State of New York for (a) the construction, alteration or repair of any public building or public work, (b) for the manufacture, sale or distribution of materials, equipment or supplies, (c) for building service, the Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex or national origin:

- (1) discriminate in hiring against any citizen who is qualified and available to perform the work; or
- (2) discriminate against or intimidate any employee hired for the performance of work under this contract.

The Contractor agrees to be subject to fines of \$50.00 per person per day for any violation of this paragraph, as well as to possible termination of this contract or forfeiture of all moneys due hereunder for a second or subsequent violation.

8. **Damage/Injury To Persons & Property**

The Contractor shall promptly advise the Town of all damages to property of the Town or of others, or of injuries incurred by persons other than employees of the Contractor, in any manner relating, either directly or indirectly, to the performance of this agreement.

9. **Records**

The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter collectively "the Records") in accordance with the following requirements:

- (a) the Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter;
- (b) the Town Auditor, State Comptroller, the Attorney General or any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York, or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying.

The Town shall take reasonable steps to protect from public disclosure any of the records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate Town official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified and designation of said records as exempt under the statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the Town's right to discovery in any pending or future litigation.

10. **Claims For Payment**

All invoices or claims for which payment is sought from the Town must be submitted in accordance with the following:

- (a) each claim for payment must include
 - (1) an invoice detailing the claim,
 - (2) copies of all documentation supporting the claim,
 - (3) a properly completed Town standard voucher, which includes
 - (i) the Town contract number under which payment is being claimed, **AND**
 - (ii) the payee's Federal employer identification number or Federal social security number, or both such numbers when the payee has both such numbers. *[Failure to include this number or numbers will prevent and preclude payment by the Town; except that where the payee does not have such number or numbers, the payee, on the invoice or Town voucher, must give the reason or reasons why the payee does not have such number or numbers and such reasons constitute a valid excuse under law.]*
- (b) Unless otherwise provided in this agreement, each claim for payment must be submitted to the Town no later than 30 days after the work, labor, materials, and/or services for which payment is claimed were rendered or furnished.
- (c) Notwithstanding any other provision of this agreement, no claim for payment shall be valid, and the Town shall not be liable for payment thereof, unless it is submitted to the Town within 30 days of the close of the calendar year in which the work, labor, materials, and/or services for which payment is claimed were rendered or furnished.
- (d) Unless otherwise provided in this agreement, the requirements of this paragraph 10, and/or of any other provisions of this agreement which supersede the same, shall constitute conditions precedent to the Town's payment obligation, and failure to comply with any or all of said requirements shall entitle the Town to deny payment.

11. **Consent**

In the event that State or Federal law requires the recipient of services to be furnished and rendered under this agreement to give his/her prior consent thereto, the contractor shall obtain such person's consent and furnish proof thereof to the Town.

12. **Executory Clause**

The Town shall have no liability under this contract to the Contractor or to anyone else beyond the funds appropriated and available for this contract.

13. **Public Work & Building Service Contract Requirements**

If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof:

- (a) neither the Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department; and
- (b) the Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law.

14. **Public Work Contracts – Hazardous Substances**

If this is a contract for public work, the Contractor agrees as follows:

- (a) the Contractor acknowledges that the Town uses and/or produces various substances which may be classified as hazardous under OSHA's Hazard Communication Standard;
- (b) the Contractor recognizes the use of said substances by the Town and acknowledges that the Town has provided, or upon request will provide, the Contractor with a description of such substances which may be present in the area of the Town's facility/facilities to which the Contractor may have accessed during the performance of this contract;
- (c) the Contractor acknowledges that the Town has provided, or upon request will provide, suggestions for appropriate protective measures which should be observed when the Contractor is in the area of any such hazardous substances;
- (d) the Contractor agrees to be solely responsible for providing training and information to its employees regarding any such hazardous substances, as well as of any protective measures suggested by the Town;
- (e) the Contractor agrees to be solely responsible to ensure that the Contractor's employees observe protective measures during the performance of their duties in the performance of the contract, and that all such protective measures will be at least as stringent as those suggested or which would have been suggested by the Town;
- (f) in the event that the Contractor's performance of the work under this contract requires the use of any hazardous substances, the Contractor shall notify the Town in advance of bringing in and/or using such substances in or upon Town property and suggest to the Town appropriate measures to be observed by the Town, its officers and employees, and/or the public; and
- (g) in the event the Contractor fails in whole or in part to comply with the terms of this paragraph, the Town shall have the right to interrupt the Contractor's work and/or terminate this contract, and the Contractor shall be prohibited from renewing such work until all applicable safety and health procedures and practices are implemented by the Contractor.

15. **Disputes**

Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration, but must, instead, be heard in a court of competent jurisdiction within the State of New York.

16. **Non-Assignment**

This agreement may not be assigned, subcontracted, transferred, conveyed, sublet or otherwise disposed of in whole or in part, by the Contractor, without the prior written consent of the Town, and any attempts to assign the contract without the Town's written consent are null and void.

17. **No Collusion**

If this contract was awarded based upon the submission of bids, the Contractor warrants, under penalty of perjury, that:

- (a) its bid was arrived at independently and without collusion aimed at restricting competition; and
- (b) at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the Town a non-collusive bidding certification on Contractor's behalf.

18. **International Boycott**

In accordance with Section 220-f of the Labor Law, if this contract exceeds \$5,000.00, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation, has participated, is participating, or shall participate in an International boycott in violation of the federal Export Administration Act of 1979, or regulations thereunder. If such contractor, or any of the aforesaid affiliates of Contractor, is convicted, or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the Town Manager within five (5) business days of such conviction, determination or disposition of appeal.

19. **Town's Rights of Set-Off**

The Town shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the Town's option to withhold for the purposes of set-off any moneys due to the Contractor under this agreement up to any amounts due and owing to the Town with regard to this contract, any other contract with any Town department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the Town for any other reason, including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The Town shall exercise its set-off rights in accordance with normal Town practices, including, in cases of set-off pursuant to an audit, the acceptance of such audit by the Town Board of Supervisors or its designated representative.

20. **Contractor Defined**

Whenever the term "Contractor" is used in this agreement, such term shall include and apply to all employees, all officers, directors and agents, if any, of the Contractor.

21. **Amendment**

This agreement may not be amended, modified or renewed except by written agreement signed by the Contractor and the Town.

22. **Ownership Of Work Products**

All final and written or tangible work products completed by the Contractor shall belong to the Town. In the event of premature discontinuance of performance, the Contractor agrees to deliver all existing products and data files to the Town.

23. **Executive Order Debarment/Suspension**

In the event that this contract involves the Contractor furnishing goods and services in excess of \$100,000.00, or constitutes a subaward to subrecipients, under any Federal program, grant or other funding source, then by executing this agreement the Contractor certifies that neither it nor any of its principals are suspended or debarred within the scope or meaning of Executive Orders 12549 and 12689, any Federal or State regulation implementing or codifying the same, or any other Federal or State law, rule or regulation.

24. **Health Insurance Portability and Accountability Act of 1996 (HIPAA)**

In the event that this contract involves the use or disclosure of protected health information within the meaning or application of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and the regulations thereunder, the following provisions of this paragraph shall apply.

- (a) **Definitions.** The terms used, but not otherwise defined, in this Agreement shall have the same meaning as given such terms in 45 CFR §160.103 and §164.501, as the same may be amended from time to time, including but not limited to the following.
- (1) "Business Associate" shall mean the Contractor, its officers, employees, agents and subcontractors.
 - (2) "Covered Entity" shall mean Essex Town (the "Town"), its departments, agencies, officers and employees.
 - (3) "Individual" shall have the same meaning as given such term in 45 CFR §164.501 and shall also include a person who qualifies as a personal representative in accordance with 45 CFR §164.502(g).
 - (4) "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, subparts A and E.
 - (5) "Protected Health Information" shall have the same meaning as given such term in 45 CFR §164.501, limited to the information created or received by Contractor from or on behalf of the Town.
 - (6) "Required by law" shall have the same meaning as given such term in 45 CFR §164.501.
 - (7) "Secretary" shall mean the Secretary of the Department of Health and Human Services or his/her designee.
- (b) **Obligations and Activities of Contractor.**
Contractor agrees to:
- (1) not use or disclose Protected Health Information other than as permitted or required by this Agreement or as required by law;
 - (2) use appropriate safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by this Agreement;
 - (3) mitigate, to the extent practicable, any harmful effect that is known, should have been known, and/or discovered to/by Contractor of a use or disclosure of Protected Health Information by Contractor in violation of the requirements of this Agreement;
 - (4) report to the Town any use or disclosure of the Protected Health Information not provided for by this Agreement of which it becomes aware;
 - (5) ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by Contractor on behalf of the Town agrees to the same restrictions and conditions that apply through this Agreement to Contractor with respect to such information;
 - (6) provide access, at the request of the Town, and in the time and manner designated by the Town or the Secretary, to Protected Health Information in a Designated Record Set, to the Town or, as directed by the Town, to an Individual in order to meet the requirements under 45 CFR §164.524;
 - (7) make any amendment(s) to Protected Health Information in a Designated Record Set that the Town directs or agrees to pursuant to 45 CFR §164.526 at the request of the Town or an Individual, and in the time and manner designated by the Town or the Secretary;
 - (8) make internal practices, books, and records, including policies and procedures and Protected Health Information, relating to the use and disclosure of Protected Health Information received from, or created or received by Contractor on behalf of, the Town available to the Town, and/or to the Secretary, in a time and manner designated by the Town or by the Secretary, for purposes of the Secretary determining the Town's compliance with the Privacy Rule;

(9) document such disclosures of Protected Health Information and information related to such disclosures as would be required for the Town to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR §164.528;

(10) provide to the Town or an Individual, in time and manner designated by the Town or the Secretary, information collected in accordance with the above subparagraph (b)(9) of this Agreement, to permit the Town to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR §164.528.

(c) Permitted Uses and Disclosures by Contractor.

Except as otherwise limited in this Agreement, Contractor may use or disclose Protected Health Information on behalf of, or to provide services to, the persons entitled to services under this Agreement:

(1) solely for the purposes of performing Contractor's obligations under this Agreement, if such use or disclosure of Protected Health Information would not violate the Privacy Rule if done by the Town or the minimum necessary policies and procedures of the Town; or

(2) provided that such use or disclosures are required by law; or

(3) Contractor

(A) obtains written authorization(s) from the individual to which the information pertains permitting the specific uses or disclosures of such information to third persons,

(B) represents and agrees in writing with such individual that the information to be used and/or disclosed will remain confidential and used or further disclosed only as required by law or for the purposes specified in the written authorization(s), and

(C) such third persons agree in writing to notify the Town as soon as practicable and in writing of any instances of which such third person(s) is/are aware in which the confidentiality of the information has been breached; or

(4) provide Data Aggregation services to the Town as permitted by 42 CFR §164.504(e)(2)(i)(B); or

(5) report violations of law to appropriate Federal and State authorities, consistent with §164.502(j)(1).

(d) Town To Inform Contractor of Privacy Practices and Restrictions.

The Town agrees to notify the Contractor of any

(1) limitation(s) in its notice of privacy practices of the Town in accordance with 45 CFR §164.520, to the extent that such limitation may affect the Contractor's use or disclosure of Protected Health Information;

(2) changes in, or revocation of, permission by Individual to use or disclose Protected Health Information, to the extent that such changes may affect the Contractor's use or disclosure of Protected Health Information; and/or

(3) restriction to the use or disclosure of Protected Health Information that the Town has agreed to in accordance with 45 CFR §164.522, to the extent that such restriction may affect Contractor's use or disclosure of Protected Health Information.

(e) Permissible Requests by Town.

The Town shall not request Contractor to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by the Town; except that in the event that the services to be furnished by the Contractor under this Agreement requires data aggregation by the Contractor, the Contractor may use or disclose protected health information for such data aggregation or management and administrative activities of Contractor.

(f) Survival of Provisions.

The obligations of the Contractor under this paragraph 24 shall survive the expiration of the term of this Agreement and/or the termination of this Agreement, and said obligations shall remain effective and shall not terminate until all of the Protected Health Information provided by the Town to Contractor, or created or received by Contractor on behalf of the Town, is destroyed or returned to the Town, or, if it is infeasible to return or destroy Protected Health Information, protections are extended to such information, in accordance with the termination provisions in subparagraph (g) below.

(g) Return or Destruction of Protected Health Information.

Except as otherwise provided below, upon termination of this Agreement for any reason, Contractor shall return or destroy all Protected Health Information received from the Town, or created or received by Contractor on behalf of the Town. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Contractor. Contractor shall retain no copies of the Protected Health Information.

In the event that Contractor determines that returning or destroying the Protected Health Information is infeasible, Contractor shall provide to the Town notification of the conditions that make return or destruction infeasible. Upon determination by the Town that return or destruction of Protected Health Information is infeasible, Contractor shall extend the protections of this Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Contractor maintains such Protected Health Information.

(h) Termination for Cause.

Upon the Town's knowledge of a material breach of this paragraph by Contractor, the Town shall:

- (1) either:
 - (A) provide an opportunity for Contractor to cure the breach or end the violation and terminate this Agreement within the time specified by the Town, or
 - (B) immediately terminate this Agreement if cure is not possible; and
- (2) report the violation to the Secretary.

(l) Miscellaneous.

- (1) Regulatory References. A reference in this Agreement to a section in the Privacy Rule means the section as in effect or as amended.
- (2) Amendment. The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for the Town to comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.
- (3) Survival. The respective rights and obligations of Contractor under this paragraph 24 of this Agreement shall survive the termination of this Agreement.
- (4) Interpretation. Any ambiguity in this Agreement shall be resolved to permit the Town to comply with the Privacy Rule.

25. Severability

If any term or provision of this agreement or the application thereof to any person or circumstance shall to any extent be held invalid or unenforceable, the remainder of this agreement or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and every other term and provision of this agreement shall be valid and be enforced to the fullest extent permitted by law.

26. Entire Agreement

This agreement is the entire agreement between the parties, and the same shall be construed in accordance with the laws of the State of New York.

27. In addition to those items required at Paragraph 10 of this Appendix, as conditions for payment, each claim of payment shall be accompanied by a Contractor and Sub-Contractor Progress Payment Waiver, Release and Discharge form in the form attached hereto and made a part hereof. All final accompanied by a Contractor and Sub-Contractor Final Payment Waiver, Release and Discharge as in the form attached hereto and made a part hereof. As well as a Contractor Affidavit relative to final payment, a copy of which is attached hereto and made a part of this contract.

APPENDIX C

INSURANCE REQUIREMENTS

I. The Contractor and each of its subcontractors shall procure and maintain during the entire term of the contract the following required insurance:

→ **Contractor's Liability Insurance**

\$1,000,000 per occurrence/ \$2,000,000 aggregate, including coverage for liability assumed by contract, completed operations, explosion, collapse, underground hazard and products liability.

→ **Workers' Compensation**

Statutory Workers' Compensation and Employers' Liability Insurance for all employees.

→ **Excess/Umbrella Liability Insurance**

\$1,000,000 per occurrence / \$2,000,000 aggregate.

II. Notwithstanding any terms, conditions or provisions, in any other writing between the parties, the Contractor hereby agrees to name the County as:

→ an additional insured on the Contractor's Liability, and Excess/Umbrella Liability insurance policies.

III. The policy/policies of insurance furnished by the Contractor shall:

- be from an A.M. Best rated "A" New York State licensed insurer; and
- contain a 30-day notice of cancellation

IV. The Contractor agrees to indemnify the County for any applicable deductibles.

V. Contractor acknowledges that failure to obtain such insurance on behalf of the County constitutes a material breach of contract and subjects it to liability for damages, indemnification and all other legal remedies available to the County. Prior to commencement of work or use of facilities, the Contractor shall provide to the County proof that such requirements have been met by furnishing certificate(s) of such insurance, and the declarations pages from the policies of such insurance. The failure of the County to object to the contents of the certificate(s) and/or declarations pages, or the absence of same, shall not be deemed a waiver of any and all rights held by the County.

VI. All certificates of insurance will provide 30 days notice to the county of cancellation or non-renewal.

VII. Contractor and subcontractor waives all rights of subrogation against the owner and will have the General Liability, Umbrella Liability Workers' Compensation policies endorsed setting forth this Waiver of Subrogation.

Resolution #134 Hiring of Lifeguards

Councilman Whitney moved a resolution to hire the 2011 Lifeguards, seconded by Councilman Friedman; carried.

Dan Beaudoin	5th yr	\$10.78
Kathleen Krah	4th yr	\$10.13
Maryellen Krah	2nd yr	\$8.73
Chris Ververka	2nd yr	\$8.73
Noah Gath	1st yr	\$8.73
Alternates:		
Ian Williams	2nd yr	\$8.73
Anna Krah	1st yr	\$8.73

Resolution # 135 Highway Spending Agreement

Councilwoman Phibbs moved a resolution to accept the Highway Spending Agreement in the sum of \$100,305.75 coming out of the CHIPS fund for general repairs on 63.1 miles of town highways including Aldermeadow Rd., Skylark Lane, Jordon St., Chain St. and Center St., seconded by Councilman Friedman; carried.

Resolution #136 Going out to Bid for Skid Steer

Councilwoman Wood moved a resolution to go out to bid for a 2011 Skid Steer American Made for the Wastewater Treatment Plant to handle the sludge, seconded by Councilman Friedman; carried.

Resolution #137 Ski Tow Report

Councilman Friedman moved a resolution to accept the 2011 Ski Tow report, seconded by Councilwoman Wood; carried.

Public Participation

Mike Marnell stated that he had researched and read about the Micro Paving and stated that the Board can contact Cornell Corporative Extension and they will send them a DVD showing how well it works as well as pros and cons with the product. Mike would also like to see the Town of Schroon take care of the signs by the Community Church showing where Town Hall and the Health Center are located.

Councilwoman Wood moved to adjourn at 8:00P.M., seconded by Councilwoman Phibbs; carried.

I, Patricia J. Savarie, do hereby certify the foregoing to be a true and correct transcript from the minutes now on file in my office and of the whole such original minutes.

Dated: June 15, 2011 _____

Town Clerk

