



Proposal for Professional Engineering Services

November 13, 2023

Town of Richmond
c/o Gary Bressor
PO Box 285
Richmond, VT 05477

Re: Richmond Bandshell

Project #23120

Dear Gary,

Thank you for asking Sellers Treybal Structural Engineers to provide this proposal for structural engineering services for the rehabilitation of the Bandshell at Volunteer's Green. Our standard Terms and Conditions are attached for your review.

On November 7, I met you on site to observe the existing bandshell structure and to discuss the proposed scope of work. The roof structure consists of heavy timber rafters, posts, and scissor truss, with diagonal 2x roof and wall sheathing. Some of the truss connections appear to be overstressed and some of these timbers appear to show signs of decay. The center of the floor slab has settled, affecting drainage.

Based on our discussions, it is my understanding that the structural goals are to:

- Reinforce and/or replace the failing truss components.
- Remove the existing slab on grade.
- Construct a new wood-framed floor deck to replace the existing slab. It is likely that this will consist of pressure treated 2x floor joists supported from the existing concrete foundation at the perimeter of the bandshell and from helical piles at the interior.

SCOPE OF SERVICES

Our Base Scope of Services:

- One site visit to document the existing conditions for the purpose of performing the proposed structural analysis and drawings.
- Analysis and design of the primary new structural framing and repairs.
- Design meetings as necessary. Two design phase meetings are anticipated.
- Drawings and specifications for the primary structural framing. Drawings will be prepared in AutoCAD and issued in PDF format. Anticipated structural drawings include:
 - General notes sheet(s)
 - First floor framing plan (1/4" scale)
 - Roof framing plan (1/4" scale)
 - Typical details (3/4" scale)
 - Project specific sections and details (3/4" scale)

Our Construction Phase Scope of Services:

- Interpretation and clarification of the structural drawings and specifications, including issuing addenda as needed for such clarification.
- Review of specified structural submittals including shop drawings and product data for general conformance with the drawings, specifications, and structural design intent.
- Site visits requested by you during construction, to review the progress of structural work for general conformance with the drawings and specifications. We recommend one site visit after construction of the floor framing, but before installation of decking and one site visit during installation of the roof framing and repairs.

Additional Services:

- The Scope of Services has been developed from the preliminary project description. Every attempt has been made to provide a Scope of Services that is consistent with the project requirements. However, as the project develops, the Scope of Services may be altered if agreed upon by the Client and STS in accordance with the Terms and Conditions.

Assumptions and Excluded Services:

- Our Scope of Services does not include any items not listed above.
- Our fee estimates and scope are based on the assumption that all proposed work is above the Design Flood Elevation (DFE). Design to include flood considerations will be treated as Additional Services.
- Cost estimating is not included in our scope of services. We recommend that you seek cost estimates from contractors experienced in this type of work.

Terms and Conditions: Attached and are a part of this agreement.

Fee arrangement: We will work on an hourly basis at our standard rates. Project-related expenses such as mileage, printing, and shipping will be billed at cost in addition to the fee. Any Additional Services not included in the above scope but agreed between us will be billed at our standard hourly rates.

Current standard billing rates:

- Technical (engineering, drafting, project management) \$130/hour
- Travel Time/Administrative \$65/hour

Fee estimates:

- Base Scope of Services \$5,000
- Construction Phase Scope of Services \$1,500

If this proposal is acceptable, please sign and return one copy to us. We will proceed with the project after the executed agreement is received. This proposal is void if not executed within thirty days of the date of this letter.

Sellers Treybal Structural Engineers



John Treybal, Principal

Town of Richmond

Accepted by: _____

Printed: _____

Title: _____

Date: _____

Professional Services Terms and Conditions

Risk Allocation: In recognition of the relative risks, rewards and benefits of the project to both the CLIENT and Sellers Treybal Structural Engineers, the risks have been allocated so that the CLIENT agrees that, to the fullest extent permitted by law, Sellers Treybal Structural Engineers' total liability to the CLIENT, for any and all injuries, claims, losses, expenses, damages or claim expenses arising out of this Agreement, from any cause or causes shall not exceed the total amount of \$100,000 or the amount of Sellers Treybal Structural Engineers' fee (whichever is greater). It is intended that this limitation apply to any and all liability or cause of action however alleged or arising, unless otherwise prohibited by law. In the event the CLIENT does not wish to limit Sellers Treybal Structural Engineers' professional liability, Sellers Treybal Structural Engineers agrees to waive this limitation upon written notice from the CLIENT to pay an additional fee and a written waiver signed by Sellers Treybal Structural Engineers prior to commencement of services. This additional fee is in consideration of the greater risk involved in performing work for which there is no limitation of liability.

Billing & Payment: Invoices will generally be submitted monthly by the Sellers Treybal Structural Engineers, to the CLIENT for services and reimbursable expenses and, unless other mutually satisfactory arrangements have been made between the CLIENT and Sellers Treybal Structural Engineers, are due when rendered. The CLIENT shall pay Sellers Treybal Structural Engineers for all work in accordance with the Agreement. CLIENT agrees that payment will be made and recognizes that on-time payment is a material part of the consideration of this Agreement. The invoices shall be considered past due if not paid within 15 days after the invoice date and Sellers Treybal Structural Engineers may, without waiving any claim or right against the CLIENT, and without liability whatsoever to the CLIENT or others, suspend the performance of services. A finance charge will be assessed in the amount of 1.5% per month on unpaid balances after 30 days. In the event any portion of the account remains unpaid 60 days after billing, the CLIENT shall pay Sellers Treybal Structural Engineers' collection costs. Collection costs shall include, without limitation, legal fees, collection agency fees and expenses, court costs, collection bonds and reasonable Sellers Treybal Structural Engineers' staff costs at standard billing rates for Sellers Treybal Structural Engineers' time spent in efforts to collect. Payment of invoices is in no case subject to unilateral discounting or set-offs by the CLIENT, and payment is due regardless of suspension or termination of the Agreement by either party.

Consequential Damages: Notwithstanding any other provision of the Agreement, neither party shall be liable to the other for any consequential damages incurred due to the fault of the other party, regardless of the nature of this fault or whether it was committed by the CLIENT or Sellers Treybal Structural Engineers, their employees, subconsultants, or subcontractors. Consequential damages include, but are not limited to, loss of use and loss of profit.

Information Provided By Others: The CLIENT shall furnish, at the CLIENT's expense, all information, requirements, reports, data, surveys and instructions required by this Agreement. Sellers Treybal Structural Engineers may use such information, requirements, reports, data, surveys and instructions in performing its services and is entitled to rely upon the accuracy and completeness thereof. Sellers Treybal Structural Engineers shall not be held responsible for any errors or omissions that may arise as a result of erroneous or incomplete information provided by the CLIENT and/or the CLIENT's consultants and contractors.

Dispute Resolution: The CLIENT and Sellers Treybal Structural Engineers agree that all disputes between them arising out of or relating to this Agreement shall be submitted to non-binding mediation.

Governing Law: The CLIENT and Sellers Treybal Structural Engineers agree that all disputes arising out of or in any way connected to this Agreement, its validity, interpretation and performance, and remedies for breach of contract, or any other claims related to this Agreement shall be governed by the laws of the State of Vermont.

Termination of Services: This Agreement may be terminated by either party with or without cause upon not less than seven calendar days written notice. Sellers Treybal Structural Engineers shall be compensated in full for services performed and expenses incurred prior to the date of termination.

Cooperation & Access to Site: The CLIENT agrees to cooperate fully with Sellers Treybal Structural Engineers and its agents, representatives, and employees in the performance of the Scope of Services and to take any and all such actions as may reasonably be requested by Sellers Treybal Structural Engineers in connection therewith. Sellers Treybal Structural Engineers will have access to the site for activities necessary for the performance of the services.

Additional Services: Services not explicitly detailed in this Agreement will be considered additional and subject to increased project fees. Additional services will not be provided without the CLIENT's prior authorization to proceed.

Unauthorized Changes: In the event that the CLIENT consents to, allows, authorizes, or approves of changes to any plans, specifications, or other documents, including electronic files, and Sellers Treybal Structural Engineers does not approve these changes in writing, the CLIENT recognizes that such changes and results thereof are not the responsibility of Sellers Treybal Structural Engineers. Therefore, the CLIENT agrees to release Sellers Treybal Structural Engineers from any liability arising from the construction, use, or result of such changes.

Ownership of Documents: All documents produced by Sellers Treybal Structural Engineers under this Agreement shall remain the property of Sellers Treybal Structural Engineers and may not be used by the CLIENT on other projects, for additions to the project, or for completion of the project by others, without written permission from Sellers Treybal Structural Engineers. CLIENT agrees to indemnify and hold harmless Sellers Treybal Structural Engineers from any claims that arise due to the reuse, or misuse of the work documents.

Scope of Opinions: Unless otherwise specifically stated, any information, documents, records, data, interpretations, or opinions given to the CLIENT by Sellers Treybal Structural Engineers in the course of the performance of the Scope of Services shall be for the CLIENT's sole use and benefit and only in connection with the specific project for which Sellers Treybal Structural Engineers was engaged by the CLIENT, and the same is not intended to be used or relied upon by the CLIENT for any other purpose nor is it intended to benefit or be relied upon by any third party. Any such use or reliance by the CLIENT or third party shall be at the CLIENT's or said third party's own risk.

Construction Observation: When construction observation is included in the Scope of Services, Sellers Treybal Structural Engineers will visit the project at appropriate intervals or as specifically prescribed to become familiar with the progress and quality of the contractor's work and to determine if the work is proceeding in general accordance with the Contract Documents. Sellers Treybal Structural Engineers is not retained to make detailed inspections or provide exhaustive or continuous project review and observation services, and does not guarantee the performance of, and shall

have no responsibility for, the acts or omissions of any contractor, subcontractor, supplier or any other entity furnishing materials or performing any work on the project. When construction observation is excluded from the Scope of Services or when the Scope of Services is modified to exclude these services, the CLIENT assumes all responsibility for interpretation of the Contract Documents and for construction observation and the CLIENT waives any claims against Sellers Treybal Structural Engineers that may be in any way connected thereto.

Hold Harmless: Sellers Treybal Structural Engineers' commitments as set forth in this Agreement are based on the expectation that all of the services described in this Agreement will be provided. In the event CLIENT later elects to reduce Sellers Treybal Structural Engineers' scope of services, CLIENT hereby agrees to release, hold harmless, defend and indemnify Sellers Treybal Structural Engineers from any and all claims, damages, losses or costs associated with or arising out of such reduction in services.

Indemnification: Sellers Treybal Structural Engineers and the CLIENT mutually agree, to the fullest extent permitted by law, to indemnify and hold each other harmless from any and all damage, liability or cost (including reasonable attorneys' fees and defense costs) to the extent caused by their own negligent acts, errors or omissions and those of anyone for whom they are legally liable, and arising from the project that is the subject of this agreement. Neither party is obligated to indemnify the other in any manner whatsoever for the other's own negligence.

Jobsite Safety: Neither the professional activities of Sellers Treybal Structural Engineers, nor the presence of Sellers Treybal Structural Engineers or any of its employees and subconsultants at a construction/project site, shall impose any duty on Sellers Treybal Structural Engineers, nor relieve the General Contractor, Construction Manager, or any other entity of their obligations, duties and responsibilities including, but not limited to, construction means, methods, sequence, techniques or procedures necessary for performing, superintending or coordinating all portions of the Work of construction in accordance with the contract documents and any health or safety precautions required by any regulatory agencies. Sellers Treybal Structural Engineers and its personnel have no authority to exercise any control over any construction contractor or other entity or their employees in connection with their work or any health or safety precautions.

Construction Cost/Project Budget: Sellers Treybal Structural Engineers has no control over the costs or price of labor, equipment or materials, or over a contractor's method of pricing. The CLIENT understands that any such opinions of cost provided by Sellers Treybal Structural Engineers are made based on experience and may not accurately compare with bid or actual costs. If more accurate figures are desired, the CLIENT agrees to engage the services of an estimator. The CLIENT shall include a customary contingency in all project construction budgets to cover unforeseen costs in the project.

Hidden Conditions/Asbestos & Hazardous Materials: A condition is hidden if it cannot be investigated by reasonable visual observation or records reviewed as customary in the performance of the services being rendered. If Sellers Treybal Structural Engineers has reason to believe that such a condition may exist, Sellers Treybal Structural Engineers shall notify the CLIENT who shall authorize and pay for costs associated with the investigation of such a condition and, if necessary, costs necessary to correct said condition. If (1) the CLIENT fails to authorize such investigation or correction after due notification, or (2) Sellers Treybal Structural Engineers has no reason to believe that such a condition exists, the CLIENT is responsible for all risks associated with this condition, and Sellers Treybal Structural Engineers shall not be responsible for the existing condition nor any resulting damages to persons or property. Sellers Treybal Structural Engineers shall have no responsibility for the discovery, presence, handling, removal, disposal, or exposure of persons to hazardous materials of any form.

Verification of Existing Conditions: Inasmuch as the remodeling and/or rehabilitation of the existing structure requires that certain assumptions be made by Sellers Treybal Structural Engineers regarding existing conditions, and because some of these assumptions may not be verifiable without the CLIENT's expending substantial sums of money or destroying otherwise adequate or serviceable portions of the structure, the CLIENT agrees to bear all costs, losses and expenses, including the cost of Sellers Treybal Structural Engineers' Additional Services, arising from the discovery of concealed or unknown conditions in the existing structure.

Standard of Care: In providing services under this Agreement, Sellers Treybal Structural Engineers shall perform in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances at the same time and in the same or similar locality.

Third-Party Beneficiaries: 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 Sellers Treybal Structural Engineers. Sellers Treybal Structural Engineers' services under this Agreement are being performed solely for the CLIENT's benefit, and no other party or entity shall have any claim against Sellers Treybal Structural Engineers because of this Agreement or the performance or nonperformance of services hereunder. The CLIENT and Sellers Treybal Structural Engineers agree to require a similar provision in all contracts with contractors, subcontractors, subconsultants, vendors and other entities involved in this Project to carry out the intent of this provision.

Extent of Agreement: This Agreement comprises the final and complete Agreement between the CLIENT and Sellers Treybal Structural Engineers. It supersedes all prior or contemporaneous communications, representations, or Agreements, whether oral or written, relating to the subject matter of this Agreement. Execution of this Agreement signifies that each party has read the document thoroughly, has had any questions explained by independent counsel, and is satisfied.

Time Bar to Legal Action: All legal actions by either party against the other arising out of or in any way connected with this Agreement or the services to be performed hereunder shall be barred and under no circumstances shall any such legal action be initiated by either party after five years have passed from the date of the final invoice.

Assignment: Neither party to this Agreement shall transfer, sublet or assign any rights under or interest in this Agreement (including but not limited to monies that are due or monies that may be due) without the prior written consent of the other party. Subcontracting to subconsultants, normally contemplated by Sellers Treybal Structural Engineers as a generally accepted business practice, shall not be considered an assignment for purposes of this Agreement.

Severability: If any term or provision of this Agreement is held to be invalid or unenforceable under any applicable statute or rule of law, such holding shall be applied only to the provision so held, and the remainder of this Agreement shall remain in full force and effect.

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