

TOWN OF NEW LEBANON

RESOLUTION #XX, 2025

RESOLUTION ISSUING A PRELIMINARY AWARD OF CONTRACT NO. 1 – GENERAL CONSTRUCTION IN CONNECTION WITH TOWN’S REQUEST FOR BIDS FOR FORMER TOWN OF NEW LEBANON LANDFILL CLOSURE CONSTRUCTION PROJECT

MARCH 11, 2025

At the Regular Monthly Meeting of the New Lebanon Town Board, held at the New Lebanon Town Hall, 14755 NYS Route 22, New Lebanon, New York, duly called and held on the 11th day of March 2025, the following Resolution was proposed and seconded:

Resolution by _____

Seconded by _____

Preliminary Award of Contract No. 1 – General Construction in connection with Town’s Request for Bids for Former Town of New Lebanon Landfill Closure Construction Project

WHEREAS, the Town is under contract to acquire fee interest and easement rights in certain real property located along Old Post Road, in the Town of New Lebanon, Columbia County, State of New York, identified as Town of New Lebanon Tax Map No. 9.-1-17.3 and a portion of Town of New Lebanon Tax Map No. 10.3-1-73 (the “Property”); and

WHEREAS, the Property is the site of a former landfill, which the Town has resolved to close in accordance with applicable law, including, without limitation, the regulations of the New York State Department of Environmental Conservation (the “Project”); and

WHEREAS, by Request For Bids prepared by the Town’s consultant, Barton & Loguidice, D.P.C. (“B&L”), issued February 7, 2025, the Town requested bids from qualified contractors for Contract No. 1 – General Construction for the furnishing of all labor and materials necessary for the Project (the “RFB”); and

WHEREAS, the Town Board has received and reviewed with B&L a number of bids, including a bid from Wm. J. Keller & Sons Construction Corp. (“Keller”) for the base amount of \$1,795,850.00, plus \$50,000.00 extra work allowance, for the total base bid amount of \$1,845,850.00 (the “Keller Bid”); and

WHEREAS, the Town Board has determined that the Keller Bid is the lowest responsible offerer and desires to accept the Keller Bid and preliminarily award Contract No. 1 – General Construction to Keller.

NOW THEREFORE BE IT RESOLVED, that the Town Board will accept the Keller Bid and preliminarily award Contract No. 1 – General Construction to Keller; and

BE IT FURTHER RESOLVED, that the Town Board authorizes the Town Supervisor to cause the negotiation, review, execution and delivery of Contract No. 1 – General Construction (including any and all ancillary Project documents) to the Town, subject to such conditions as set forth in the proposed Preliminary Award Letter attached hereto as Exhibit A, and consistent with the RFB and in furtherance of the Project; and

BE IT FURTHER RESOLVED, that this resolution shall take effect immediately.

The foregoing resolution was voted upon with all members of the Town Board voting as follows:

	<u>Yes</u>	<u>No</u>	<u>Abstain</u>	<u>Absent</u>
Tistrya Houghtling, Supervisor	_____	_____	_____	_____
Joanne Amlaw, Councilmember	_____	_____	_____	_____
Elizabeth Kroboth, Councilmember	_____	_____	_____	_____
Steve Powers, Councilmember	_____	_____	_____	_____
Craig Skerkis, Councilmember	_____	_____	_____	_____

Dated: March 11, 2025
New Lebanon, New York

VOTE IS CERTIFIED BY:

Marcie Robertson, Town Clerk

Date

EXHIBIT A



New Lebanon

NEW YORK

P.O. Box 328

14755 STATE ROUTE 22

NEW LEBANON, NEW YORK 12125

www.townofnewlebanon.com

Town Supervisor
Tistrya Houghtling – Ph: 518.794.8889

Deputy Supervisor
Norman Rasmussen – Ph: 518.794.8889

Town Clerk
Marcie Robertson – Ph: 518.794.8888

Highway Superintendent
Peter McCagg – Ph: 518.794-8580

Council
Steve Powers, Joanne Amlaw,
Elizabeth Kroboth, Craig Skerkis

March 12, 2025

Wm. J. Keller & Sons Construction Corp.
Attn: John D. Keller, Jr.
1435 Route 9
Castleton, New York 12033

Re: Response to Request for Bids for Former Town of New Lebanon Landfill Closure Construction

Dear Mr. Keller:

The Town of New Lebanon (the “Town”) has completed its analysis of the proposals submitted in response to the Request for Bids (the “RFB”) for the furnishing of all labor and materials necessary for the Former Town of New Lebanon Landfill Closure Construction project (the “Project”).

After reviewing the proposals submitted in response to the RFB, the Town has determined to preliminarily award Contract No. 1 – General Construction for the Project at this time.

Accordingly, the Town is pleased to inform you that, with a [unanimous] decision of our review team, and vote by the Town Board, the bid of Wm. J. Keller & Sons Construction Corp. (the “Company”), for the Project has been preliminarily accepted, subject to the terms and conditions of this letter and the RFB as follows:

1. Final award of the RFB is subject to the review and further approval of a construction contract by the Town Board. This letter and the RFB are not a contract offer, and no contract will exist and no final award will be made unless and until:
 - (a) the Company and the Town enter into a construction contract in a form satisfactory to the Town Board, in its sole discretion;
 - (b) the Town completes closing on the acquisition of the landfill property;
 - (c) all requisite governmental approvals for the Project have been received, including, without limitation, approval from the New York State Department of Environmental Conservation on the Town’s

proposed closure plan (the "Closure Plan"); and

(d) the Town has received the requisite funding from New York State for completion of the Project.

Any time or expense incurred by the Company from the date of the Town's issuance of the RFB forward, unless and until a definitive contract is signed, is at the Company's risk and without compensation, and the Company expressly waives any rights for recompense.

2. The terms in your amended proposal shall be considered a firm offer from the Company for a period of forty-five (45) days after the date hereof (the "Firm Offer Period"). After expiration of the Firm Offer Period, if no construction contract has been entered into, your proposal may be withdrawn if done so in writing directed to the Town.

3. The Town reserves the right to (A) waive any requirements of the RFB that are not material, (B) negotiate the construction contract in the best interests of and in the sole discretion of the Town, (C) conduct contract negotiations with the next responsible proposer, should the Town be unsuccessful in negotiating the construction contract with the Company upon expiration of the Firm Offer Period, and (D) utilize any and all materials or information submitted by the Company in its response to the RFB.

4. The Town may exercise the foregoing rights at any time without notice and without liability to the Company or any other party for expenses incurred in the preparation of the proposal submitted in response to the RFB, negotiating the construction contract, or any such other expenses incurred prior to final award of the RFB. Final award will only be granted upon the Company and the Town entering into a construction contract following Town Board approval, as provided herein.

5. Any materials submitted by the Company to the Town during the Firm Offer Period shall immediately become the property of the Town, and the Company waives any claim of ownership thereof or rights thereto. The Company expressly waives any and all claims to any and all proprietary information contained in its proposal or given to the Town in response to the RFB.

6. The Town shall not be named in any advertising, news releases or promotional efforts without the Town's prior written approval.

7. Commencing as of the date hereof and continuing thereafter until completion of the Project, the Company must at all times be "responsible," which in this context means that the Company must have the requisite financial ability, organizational capacity and legal authority to carry out its obligations under the RFB, this letter and the construction contract, and in addition must demonstrate that the Company and its principals have and will maintain the level of integrity needed to contract with New York State entities such as the Town. Further, the Company must show satisfactory performance of all prior government

contracts. According, all contracts and any other related agreements to be entered into between the Town and the Company shall include clauses providing that the Company remain "responsible" throughout the term of such contract(s), that the Town may suspend such contract(s) if information is discovered that calls into question the responsibility of the Company, and that the Town may terminate such contract(s) based on a determination that the Company is non-responsible.

If you are in agreement with the terms of this letter, please counter-execute in the space provided below and return an executed copy to my attention via facsimile number (518) 794-9694.

If you have any questions related to the Project, please feel free to contact me at your convenience. We are looking forward to working with you on this exciting project for the Town of New Lebanon.

Sincerely,
Town of New Lebanon

By: _____
Tistrya Houghtling, Town Supervisor

Agreed and Accepted:
Wm. J. Keller & Sons Construction Corp.

By: _____
Name:
Title:

cc: Town of New Lebanon Town Board
Whiteman Osterman & Hanna LLP, counsel