

**BOARD OF TRUSTEES
VILLAGE OF WARWICK
JULY 18, 2022
AGENDA**

**LOCATION:
VILLAGE HALL
77 MAIN STREET, WARWICK, NY**

**Call to Order
Pledge of Allegiance
Roll Call**

1. Introduction by Mayor Newhard.
2. Acceptance of Minutes: June 27, 2022 & July 5, 2022.

The vote on the foregoing **motion** was as follows:

Trustee Cheney ___ Trustee Foster ___ Trustee Bachman ___
Trustee McKnight ___ Mayor Newhard ___

3. Acceptance of Reports – June 2022: Clerk’s Office, Tax Collection, Justice Department, Planning and Zoning, Building Department, and Department of Public Works.

The vote on the foregoing **motion** was as follows:

Trustee Cheney ___ Trustee Foster ___ Trustee Bachman ___
Trustee McKnight ___ Mayor Newhard ___

4. Authorization to Pay all Approved and Audited Claims in the amount of \$_____.

The vote on the foregoing **motion** was as follows:

Trustee Cheney ___ Trustee Foster ___ Trustee Bachman ___
Trustee McKnight ___ Mayor Newhard ___

5. Police Report.

Announcement

1. Village of Warwick Bulk Pickup.

Privilege of the Floor

Please limit your comments to **three (3)** minutes. If reading a document, please submit a copy to the Clerk. Please note all remarks must be addressed to the Board as a body and not to individual Board members. Please state your name clearly before speaking. These rules are taken from the Handbook for Village Officials – New York State Conference of Mayors and Municipal Officials.

Motions

Trustee Cheney’s Motions

1. **MOTION** to authorize the Mayor to sign the ‘Orange County FY 2022 Community Development Block Grant Municipal Agreement’ for the HUD CDBG FY 2022 Grant Project: “South Street Sidewalk ADA Improvement” in the amount of \$108,570 and all documents necessary to carry out the terms thereof.

The vote on the foregoing **motion** was as follows:

Trustee Cheney ___ Trustee Foster ___ Trustee Bachman ___

Trustee McKnight ___ Mayor Newhard ___

2. **MOTION** to hire Anthony Pascullo to the position of Part-Time Assistant Building Inspector III at an hourly salary of \$21.00 per hour with a start date of July 25, 2022, per the recommendation of Building Inspector/Code Enforcement Officer, Boris Rudzinski.

The vote on the foregoing **motion** was as follows:

Trustee Cheney ___ Trustee Foster ___ Trustee Bachman ___

Trustee McKnight ___ Mayor Newhard ___

3. **MOTION** to accept the proposal from TAM Enterprises dated April 29, 2022, for services to remove solids from the digester at the Wastewater Treatment Plant based on the proposed unit costs. Funds are appropriated in the 2022-23 in budget code in G-8120-4675.

The vote on the foregoing **motion** was as follows:

Trustee Cheney ___ Trustee Foster ___ Trustee Bachman ___

Trustee McKnight ___ Mayor Newhard ___

**4. RESOLUTION FOR VILLAGE OF WARWICK
STREETLIGHT HEAD PURCHASE**

WHEREAS, the Village of Warwick has undertaken a project wherein it will acquire and maintain all public streetlight heads in the Village; and

WHEREAS, the Village has received various closing documents from Orange & Rockland Utilities for the said purchase including, without limitation, a Purchase Agreement, an Operating Agreement, a Quit Claim Bill of Sale, and a Mutual General Release; and

WHEREAS, it is necessary for the Village Board to approve the said closing documents in order for the purchase of the streetlight heads to go forward;

NOW, THEREFORE, BE IT RESOLVED as follows:

1. That the Village Board does hereby approve the said closing documents and expenditure of the funds necessary for the closing; and
2. That the Mayor is authorized to execute the said closing documents and any other documents necessary to complete the closing on the purchase of the streetlight heads.

_____ presented the foregoing resolution which was
seconded by _____,

The vote on the foregoing resolution was as follows:

Barry Cheney, Trustee, voting _____

Carly Foster, Trustee, voting _____

Thomas McKnight, Trustee, voting _____

Corey Bachman, Trustee, voting _____

Michael Newhard, Mayor, voting _____

Trustee Foster's Motions

5. **MOTION** to grant permission to Rebecca Bank to use the Veterans Memorial Park Pavilion for a family gathering on Saturday, July 23, 2022, from 3:00 p.m. to 9:30 p.m. Request includes use of electricity, pavilion lights, restrooms, and Village-owned tables and chairs. Completed park permit, proper insurance and security deposit have been received.

The vote on the foregoing **motion** was as follows:

Trustee Cheney ____ Trustee Foster ____ Trustee Bachman ____

Trustee McKnight ____ Mayor Newhard ____

- MOTION** to grant permission to the Warwick Valley Chamber of Commerce to hold the 32nd Warwick Applefest on Sunday, October 2, 2022, from 9:00 a.m. to 5:00 p.m. in the area between Lewis Park and Stanley-Deming Park, encompassing High Street, South Street, Railroad Avenue, Railroad Green, Stanley-Deming Park, the Chase parking lot and the South Street parking lot. Event setup will begin at 6:00 a.m. and breakdown will be complete by 6:00 p.m. Request includes: use of Veterans Memorial Park and the First Street lot for event parking, use of electricity, and tent setup on Railroad Green and along the sidewalk on High Street on Saturday, October 1, 2022, between 12:00 p.m. and 5:00 p.m., as per their letter dated April 18, 2022, and facility use application. Completed facility use application, proper insurance, detailed map, and security deposit have been received. Approval is subject to the Warwick Valley Chamber of Commerce providing the Village of Warwick with a complete list of vendors and individual vendor insurance certificates naming the Village of Warwick as an additional insured.

The vote on the foregoing **motion** was as follows:

Trustee Cheney ____ Trustee Foster ____ Trustee Bachman ____

Trustee McKnight ____ Mayor Newhard ____

- MOTION** to close South Street to Lawrence Avenue, Railroad Avenue, First Street, Second Street, Third Street, High Street, Bank Street, Clinton Avenue, Park Avenue, Park Lane, and Parkway for the benefit of Applefest 2022 on Sunday, October 2, 2022, in coordination with the Warwick Police Department and the Village of Warwick Department of Public Works.

The vote on the foregoing **motion** was as follows:

Trustee Cheney ____ Trustee Foster ____ Trustee Bachman ____

Trustee McKnight ____ Mayor Newhard ____

Reports

Trustee Cheney's Report: Liaison to Public Works Operations, Engineering and Infrastructure Projects, Veterans, Code Enforcement / Building Department, Transportation & Mobility, Emergency Services. Alternate liaison to Economic Development.

Trustee Foster's Report: Liaison to Office of the Treasurer, Parks & Recreation, Economic Development & Tourism, Public Health, Warwick Valley Schools, Youth / WYDO / Warwick Valley Community Center, Warwick Valley Prevention Coalition. Alternate liaison to Planning & Zoning / AHDRB / OC Planning, Engineering & Infrastructure Projects, Veterans, Emergency Services.

Trustee Bachman's Report: Liaison to Office of the Clerk, Government Efficiency / Policy Development, Safety Committee, Historical Society, Public Interface and Outreach, Senior Citizens, Ethics, Environmental. Alternate liaison to Parks & Recreation.

Trustee McKnight's Report: Liaison to Planning & Zoning / AHDRB / OC Planning, Citizens Awareness Panel/Jones Chemical, Albert Wisner Library, Town of Warwick Police Department, Technology Oversight / Cybersecurity, Shade Tree Commission. Alternate liaison to Public Works Operations, Code Enforcement / Building Department, Transportation & Mobility, Environmental.

Final Comments from the Floor

Final Comments from the Board

Executive Session, if applicable

Adjournment

Village of Warwick Bulk Trash Pick-Up

The Village of Warwick will conduct a bulk pick-up of household items beginning **August 29, 2022** and ending **September 23, 2022**.

Items acceptable for pickup include such things as: furniture, mattresses, rugs, etc. Please refer to Village Website for the complete list of **Bulk Trash Requirements and regulation**.

The Village is asking residents to place metal items separately for recycling purposes.

We **WILL NOT** pick up: garbage, leaves, brush, tires, barrels, paint, drain oil, construction debris, computer equipment, appliances such as refrigerators, air conditioners, televisions, washers, dryers, stoves, etc. We will pickup 2 cubic yards (approx. 1 pickup truck load) Trash in excess of this amount will be left for property owners' removal.

All items are to be at the curbside by 7:00 a.m. on the Monday of the week your area is scheduled for pick-up. Once the area has been picked up there will be **no return trips**.

If you belong to a Homeowners Association (HOA), please contact them directly for further instructions.

The Village will be divided into two (2) areas to be picked up:

- **Area 1: August 29, 2022 – North Side of the Railroad Tracks**
- **Area 2: September 15, 2022 – South Side of the Railroad Tracks**

*As a reference, Village Hall is on the North Side of the railroad tracks and Railroad Green/Railroad Avenue is on the South Side of the railroad tracks. Please refer to Village website for map and street listing details.

BULK TRASH COLLECTION REQUIREMENTS

The Village of Warwick in accordance with the following guidelines and regulations will provide curbside collection of bulk trash from private residences only. It is essential that all residents abide by these regulations in order for the Village to be able to maintain the bulk trash collection service.

By adhering to the following guidelines, items that are not normally picked up by your waste service provider can be disposed of properly. Please read all of the guidelines before you place any items out for pickup. **Pay special attention to new recycling guidelines for Freon appliances, electronic equipment and tires.**

Each single family residence shall be limited to:

10 items – an item defined as 1 piece of furniture, 1 bicycle, 1 box of rubbish, etc.
(approximately 1 pickup truck load or 2 cubic yards)

All items to be removed **MUST BE** placed at curbside on the Sunday Evening indicated on the schedule.

Items to be collected for bulk trash include but are not limited to the following:

Furniture – Chairs, sofas, dressers, tables, desks, file cabinets, mattresses, box springs, etc.

Carpeting/Padding – must be rolled and tied with heavy cord (9x12 ft. length max. – the smaller the better for pickup).

Wood/lumber – must be tied in bundles, nail free, and **MUST NOT EXCEED 5 INCHES IN DIAMETER AND 5 FEET IN LENGTH.**

Paint cans – such as water base or oil base **MUST BE EMPTY AND DRIED OUT**; lids must be removed.

Trash cans – will only be removed when clearly marked “TO BE REMOVED”.

Recyclable Metal Items Collected : All Metal must be kept separate and will be picked up separate. File Cabinets/Desks, Lawn Mowers (oil and gas free) Metal fencing, Tire Rims only, Swing sets (dismantled) Barbecue Grills, and Bicycles.

When putting out glass items for pickup, please help us minimize the amount of broken glass by placing an “x” made out of masking tape or duct tape across the glass pane.

ITEMS THAT WILL NOT BE COLLECTED

Boats/Trailers, Oil, Building Alterations Material

Cars/Motorcycles, Oil Tanks, Construction Debris

Auto Parts, Car batteries, Tree stumps/Logs, Brush, Bags of leaves, Grass clippings,

Dirt, Plaster/Wallboard, Riding lawn mowers, Railroad ties, Concrete/Rocks/Bricks

etc., Kitchen refuse, microwaves, large appliances

Hazardous materials and waste

Liquid paint

Chemicals

Items that can not be lifted due to weight will not be picked up, i.e. boilers, pianos, etc.

***Recyclable should be disposed of through proper outlets.**

Computer monitors and TV sets (CRT’s) – due to lead content must be recycled as hazardous waste at the Town’s Highway Garage located at 860 Route 17M, Middletown. There is no charge for this service.

Tires – must be recycled at the Orange County Landfill. There is a \$2.00 - \$6.00 fee for each tire depending on size (off the rim).

Freon appliances – due to the Freon content must be recycled at the Orange County Landfill and will not be picked up. There is a \$15 fee for each appliance brought to the County Landfill.

Yard Waste – Residents may bring grass clipping, leaves and brush (no bigger than 3” in diameter) to the Highway Department at no charge. Yard waste will not be picked up. Brush Pile is open Weekends 12pm to 4pm May & June.

Homeowners can consult the yellow pages under “Rubbish Removal” to dispose of items that will not be collected.



OFFICE OF COMMUNITY DEVELOPMENT

Nicole Andersen, Director
40 Matthews Street, Suite 307A
Goshen, New York 10924

Tel: (845) 615-3820 · Fax: (845) 360-9093

Email: CommDev@co.orange.ny.us

Steven M. Neuhaus
County Executive

July 13, 2022

RE: **FY 2022 CDBG Municipal Agreement**
Village of Warwick: South Street Sidewalk ADA Improvement
CDBG Funded Amount: \$108,570.00

Dear Mayor Newhard:

The **Village of Warwick** has been allocated funding under the FY-2022 Community Development Block Grant Program for the above listed activity. Please review the information listed below with your CDBG Project Coordinator in preparation of implementing your project in accordance with HUD regulations.

Note: Your CDBG Project Coordinator is a person assigned by you, who will be the contact person and coordinator responsible for all phases of project implementation including submission of grant Payment Vouchers and quarterly progress reports.

1. FY-2022 Municipal Agreement, including Exhibits #1 - #7.
2. FY-2022 Municipal Agreement Instructions – *(Please Read Carefully)*

In order to ensure all activities are completed to meet HUD timeliness goals, all FY-2022 Agreements will continue to incorporate a Project Timetable (see Exhibit 3 in the Municipal Agreement). **Please review the updated and detailed date-specific Project Timetable, Budget and Scope of Work.** The Timetable should reflect all phases of your project, such as Environmental Review, Design, Bidding, Construction, and Substantial Completion.

IMPORTANT: Our office has not yet received the funding from HUD for the 2022 Grant Year. This means that you may start your project if the Environmental Review has been cleared, however, voucher processing by our office cannot occur until the funding is in our local bank account. We will notify you when it is received, you can choose to start work ahead of us receiving the funding but please be sure to check in with us on the status of your project's environmental review.

Your executed agreement along with all required documents and insurances must be returned to us by August 31, 2022. Should you or your project coordinator have any questions, or need assistance and/or guidance, please do not hesitate to contact Anna Waz, Assistant Director at (845) 615-3817 or via email at AWaz@orangecountygov.com.

Thank you,

Anna Waz

Anna Waz
Assistant Director
Orange County Office of Community Development
40 Matthews Street, Suite 307A
Goshen, NY 10924

COUNTY OF ORANGE
COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM
MUNICIPAL AGREEMENT FOR FY 2022

THIS AGREEMENT ("Agreement") is entered into this _____ day of _____, 20__ by and between the County of Orange ("County"), a municipal corporation and county of the State of New York, by and through its Office of Community Development ("OCD"), with offices at 40 Matthews Street, Suite 307C, Goshen, New York 10924, and the Village of Warwick a New York municipal corporation with offices at 77 Main Street, P.O. Box 369, Warwick, N.Y. 10990 ("Municipality").

WHEREAS, Municipality, has entered into a municipal cooperation agreement with County, in accordance with Section 99-h (2) of New York State General Municipal Law, to apply for and receive Community Development Block Grant ("CDBG") funds from the United States Department of Housing and Community Development ("HUD") under Title I of the Housing and Community Development Act of 1974, ("HCD Act"), as part of the Orange County Urban County Consortium for the Fiscal Year 2022 and

WHEREAS, pursuant to 24 C.F.R § 570.501(b) and § 570.503, this separate agreement is necessary for Municipality to receive the CDBG funds through County to implement community development activities; and

NOW THEREFORE, it is agreed, between County and Municipality as follows:

I. SCOPE OF SERVICES

A. Activities

OCD's FY 2022 CDBG Approved Project Budget (**Exhibit 1** to this Agreement) outlines an activity(ties) to be undertaken by Municipality as further described in this Agreement (the "Project"). Municipality will be responsible for administering the Project in a manner satisfactory to County and HUD and consistent with 2 C.F.R. Part 200, 24 C.F.R. Part 570 and all other applicable federal, New York State and County laws, regulations and policies required as a condition of providing these CDBG funds. The Project will include the following CDBG-eligible activities:

1. Program Delivery:

Type of Project: Public Improvements

***Project Location:** Village of Warwick – 60, 62, 66 & 68 South Street

Service Area: Village of Warwick

Matrix Code: 03L Sidewalks

***Project Scope:** The removal of architectural barriers that restrict the mobility and accessibility of disabled persons. The Village of Warwick CDBG funding will be used to remove material barriers, purchase construction materials, including concrete for ADA-accessible sidewalks and other components necessary to secure the ADA sidewalk, and install approximately 266 linear feet of ADA compliant sidewalk.

2. Special Conditions:

- a. The U.S. Department of Housing and Urban Development (HUD) has notified Orange County that the final actual amount of CDBG funding allocated to the County cannot be determined or finalized at this time. If the final actual amount of CDBG funding allocated to Orange County from HUD is less than the total estimated CDBG grant amount, it is stipulated that the County will deduct a total to be determined from the CDBG grant award allocated in this agreement. Further, CDBG funding will not be available to the municipality until HUD has received congressional release and has issued a grant agreement to the County of Orange. **The County will notify the municipality when CDBG funds are available for project expenditures.**
- b. **The parties understand and acknowledge that the County must complete its requirements under 24 CFR Part 58 (environmental responsibilities) before CDBG funds made available hereunder may be committed to a particular project or activity. The Municipality shall not commit any funds under this Agreement until express written consent is received from the OCD.**

3. General Administration:

The **Village of Warwick** is responsible for all general administration duties. The **Village of Warwick** shall maintain program and financial records documenting eligibility and the performance of the activity(ies) carried out with CDBG funds. No CDBG funding is provided for general administration.

B. CDBG Eligibility and National Objectives

All activities funded with CDBG funds must meet one of the CDBG program's National Objectives: benefit low- and moderate-income persons; aid in the prevention or elimination of slums or blight; or meet community development needs having a particular urgency, as defined in 24 C.F.R. § 570.208. The Subrecipient certifies that the activity(ies) carried out under this Agreement are CDBG eligible and will meet the following National Objective(s):

***National Objective:**

100% Low/Moderate Benefit—Limited Clientele (LMC). Activity meets HUD's definition of "Presumed Benefit" due to the nature of this activity. Pursuant to HUD Census Data 798 disabled Village of Warwick adult residents will benefit from this activity.

C. Levels of Accomplishment – Goals and Performance Measures

Municipality agrees to provide the following levels of program services:

South Street Sidewalk ADA Improvements to benefit Limited Clientele LMC Project

<u>Activity</u>	<u>Units per Month</u>	<u>Total Units/Year</u>
ADA Sidewalk Improvements to remove architectural barriers to mobility	0	798 disabled residents

Units of service shall be considered: People with Disabilities

D. Staffing

Municipality shall allocate the appropriate staff and time commitments to the performance of the Project. Any changes in the key personnel assigned or their general responsibilities under this Project are subject to the prior CDBG Municipal Agreement (05/22)

approval of OCD.

E. Performance Monitoring

OCD will monitor the performance of Municipality against goals and performance standards as stated above. Substandard performance as determined by OCD will constitute noncompliance with this Agreement. If action to correct such substandard performance is not taken by Municipality within a reasonable period of time after being notified by OCD, Agreement suspension or termination procedures will be initiated by County in accordance with subsection VI(G) of this Agreement.

II. TIME OF PERFORMANCE

The term of this Agreement shall start on the ___ day of _____, 20__ and end on the **31st day of October, 2023**. Pursuant to 24 C.F.R. §570.503(a), the term of this Agreement and the provisions herein shall be extended to cover any additional time period during which Municipality or a Subrecipient, if applicable, remains in control of CDBG funds or other CDBG-funded assets, including program income. Municipality shall, and shall cause its subcontractors, Subrecipients and their subcontractors, if any, to, perform its/their duties and obligations in completing the Project, in a prompt and expeditious manner, without undue or unreasonable delay including, but not limited to, taking actions necessary to secure, authorize and appropriate local or other funds, necessary to complete the funding activities in accordance with the Project Implementation Schedule in the attached and incorporated **Exhibit 3**. The Project, as outlined in Section I of this Agreement, shall be completed no later than **October 31, 2023**. If the Project is not completed by this date, this Agreement may be suspended or terminated, at County's discretion, in accordance with Section VI(G) of this Agreement, unless Municipality seeks and receives approval for an extension from County, at its sole discretion.

III. BUDGET

Modify this section as applicable to the project type. It is strongly recommended that a full project budget be used either in this Agreement or as a separate Schedule to the Agreement, particularly with construction projects, listing each funding source for each line item in separate columns, adding line subtotals and calculating a project grand total.

A. Total project cost is **\$108,570.00**.

The line items and budget(s) for activities described in Part I is set forth in **Exhibit 1 – entitled “Budget”** which is annexed hereto and the terms and conditions of which are hereby incorporated into this Agreement and made part hereof. Any amendments to the budget(s) must be approved in writing by OCD and if the total cost of this Agreement increases, in a written amendment executed by both County and Municipality.

B. Municipality is responsible for all general administration duties and its administrative costs incurred pursuant to this Agreement.

C. The CDBG funding allocated under this Agreement is based on a projected anticipated award to County from HUD and the congressional budget allocation to HUD for the CDBG Program for the applicable federal fiscal year. County shall have no liability under this Agreement to Municipality or to anyone else beyond HUD CDBG funds accepted and appropriated by the County Legislature to OCD for this Agreement.

D. Prior to commencing any activity funded under this Agreement, including, but not limited to, commitment or expense of CDBG funds or advertisement for any applicable request for proposals or bids, Municipality shall confirm with OCD 1) the actual amount of CDBG funds available for this activity and 2) whether HUD has issued a Release of Funds, as may be applicable to the activity(ies) funded under this Agreement. An activity can neither be commenced, nor advertised for proposals or bid, and construction, as applicable, shall not be started (whether bid out or by force account), until the availability of CDBG funds and the HUD Release of Funds is confirmed to

CDBG Municipal Agreement (05/22)

Municipality by OCD.

IV. PAYMENT

- A. It is expressly agreed and understood that the total amount to be paid by County under this Agreement shall not exceed **\$108,570.00** and shall be limited to CDBG funds received by County from HUD and appropriated by the County Legislature to OCD for the purposes of this Agreement.
- B. Payments may be contingent upon certification of Municipality's and Subrecipient's, if any, financial management system in accordance with the standards specified in 2 C.F.R. Part 200, Subpart D per 24 C.F.R. §570.502.
- C. Payments will be made to Municipality per 2 C.F.R. Part 200, Subpart D, for eligible expenses actually incurred by Municipality and/or Subrecipients, if any, and not to exceed actual cash requirements. Drawdowns for the payment of eligible expenses shall be made against the line item budgets specified in **Exhibit 1 – entitled “Budget”** and in accordance with performance. Municipality shall submit claims to County in accordance with the attached and incorporated template for the Municipal Voucher Submission Checklist in **Exhibit 4**.
- D. Payments will be disbursed to Municipality within sixty (60) days of receipt of accurate, proper and complete claims. However, County reserves the right to liquidate funds available under this Agreement for costs incurred by County on behalf of Municipality. Municipality shall disburse payments to Subrecipients and subcontractors, if any, in accordance with 2 C.F.R. Part 200, Subpart D.
- E. The acceptance by Municipality or its assignees of the final payment under this Agreement (whether based on invoice, judgment of any court of competent jurisdiction, administrative or any other means) shall constitute and operate as a general release to County from any and all claims of Municipality arising out of the performance of this Agreement.
- F. **Set-Off**
1. County shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but are not limited to, County's right to withhold for the purposes of set-off any monies otherwise due to Municipality:
 - a. under this Agreement;
 - b. under any other agreement or contract with County, including any agreement or contract for a term commencing prior to or after the term of this Agreement; or
 - c. from County by operation of law.
 2. County also has the right to withhold any monies otherwise due under this Agreement for the purposes of set-off as to any amounts due and owing to County for any reason whatsoever including, without limitation, tax delinquencies, fee delinquencies or monetary penalties or interest relative thereto.
 3. These remedies, if effected, shall not constitute the sole or exclusive remedies afforded the County, nor shall it constitute a waiver of that the County's right to claim damages or otherwise refuse payment or to take any other action provided for by law, in equity, or pursuant to this Agreement.
- G. The provisions of this Section IV shall survive expiration or earlier termination of this Agreement.

V. **NOTICES**

- A. Notices required by this Agreement shall be in writing and delivered via mail (postage prepaid), commercial courier, or personal delivery. Any notice delivered or sent as aforesaid shall be effective on the date of personal delivery or mailing.
- B. Communication and details concerning this Agreement shall be directed to the following representatives unless otherwise modified by subsequent written notice to all contacts listed below.

County

Anna Waz, Assistant Director
Office of Community Development
40 Matthews Street, Suite 307A
Goshen, New York 10924

Municipality

Michael J. Newhard, Mayor
Village of Warwick
77 Main Street, P.O. Box 369
Warwick, N.Y. 10990

- B. The provisions of this Section V shall survive expiration or earlier termination of this Agreement.

VI. **GENERAL CONDITIONS**

A. General Compliance

- 1. Municipality shall, and shall cause its subcontractors, Subrecipients and their subcontractors, if any, to comply with the requirements of Title 24 Code of Federal Regulations, Part 570 (the HUD regulations concerning CDBG), including, without limitation, Subpart K of these regulations, except that (1) Municipality does not assume County's environmental responsibilities described in 24 C.F.R. §570.604, and (2) Municipality does not assume County's responsibility for initiating the review process under the provisions of 24 C.F.R. Part 52. Municipality shall, and shall cause its Subrecipients and subcontractors, if any, to, comply with all other applicable federal, New York State, County and local laws, regulations and policies governing the funds provided under this Agreement. Municipality further agrees that funds available under this Agreement are being used to supplement rather than supplant funds otherwise available to Municipality or its Subrecipients, if any. In the event of any conflict between this Agreement and the provisions of 24 C.F.R. Part 570, then the provisions of 24 C.F.R. Part 570 shall control.
- 2. Municipality understands that it may be necessary for County to submit to governmental agencies or to a court of law part of or all of the data, analyses and/or conclusions developed in the performance of the Scope of Work as well as certification, payment applications or other documentation certified and/or signed by Municipality or its officers, directors, partners, members, employees, subcontractors, agents, assignees, Subrecipients or other representatives. Municipality is aware that there are significant state and/or federal civil and criminal penalties for submitting false information, including the possibility of fines and imprisonment. Municipality is responsible for such penalties resulting from false information submitted by Municipality or its officers, directors, partners, members, employees, subcontractors, agents, assignees, Subrecipients or other representatives and shall, to the fullest extent permitted by law, defend, indemnify and hold harmless County and its officers, employees, contractors, agents, assignees and other representatives, from and against any and all claims, liabilities, expenses, costs, losses, damages and causes of action (including without limitation, reasonable attorneys' fees and costs of litigation and/or settlement) arising out of, directly or indirectly, the submission of any false information by Municipality or its officers, directors, partners, members, employees, subcontractors, agents, assignees, Subrecipients or other representatives.

B. Independent Contractor

1. Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. Municipality shall at all times remain an independent contractor with respect to the services to be performed under this Agreement. County shall be exempt from payment of all Unemployment Compensation, FICA, retirement, life and/or medical insurance and Worker's Compensation Insurance as Municipality is an independent contractor.

2. The provisions of this subsection VI(B) shall survive expiration or earlier termination of this Agreement.

C. Indemnification and Hold Harmless

1. To the fullest extent permitted by law, Municipality shall be fully liable for the actions of its officers, employees, subcontractors or other representatives and shall fully indemnify, defend and hold harmless County and HUD from suits, actions, damages and costs of every name and description relating to personal injury and damage to real or personal tangible property caused by any negligence or willful misconduct of Municipality, its officers, employees, agents, Subrecipients, subcontractors, or other representatives.

2. The provisions of this subsection VI(C) shall survive expiration or earlier termination of this Agreement.

D. Insurance & Bonding

1. Municipality shall comply with the bonding and insurance requirements of 2 C.F.R. § 200.310 and New York State Finance Law §137, and shall require subcontractors and Subrecipients, if any, to comply with 2 C.F.R. § 200.310, New York State Finance Law §137, and any other applicable federal, New York State and County laws and regulations. Prior to commencing work Municipality and all Subrecipients and/or subcontractors, if any, shall obtain and, during the term of this Agreement and as otherwise required by this subsection VI(D), shall maintain, at their own cost and expense, the coverages listed below from insurance companies licensed in the state of New York, and shall provide certificates of insurance to OCD for County approval. The certificates shall provide that a) the County of Orange c/o Office of Community Development (and Municipality on any Subrecipient certificates) is named as "Additional Insured" (except for Workers Compensation and Professional Liability policies) and b) at least fifteen (15) days prior to cancellation or material change in a policy, notice shall be given to the Risk Management Officer of County, the Director of OCD and Municipality (for Subrecipient policies), by registered mail, return receipt requested. All notices shall state the name of Municipality, Subrecipient and subcontractor, as applicable, and refer to this Agreement.

a. Workman's Compensation & Disability in statutory amounts.

b. General Liability Insurance with a minimum comprehensive single limit of liability per occurrence of \$1,000,000.00 for bodily injury and for property damage. The certificate of insurance shall indicate the following coverage:

- i. Premises - Operations
- ii. Broad Form Contractual

c. Automobile Liability Insurance with a minimum comprehensive single limit of liability per occurrence of \$1,000,000 for bodily injury and property damage unless otherwise indicated in the contract specifications. This coverage shall include the following for bodily injury and property damage:

- i. Owned automobiles
- ii. Hired automobiles
- iii. Non-owned automobiles

2. If, at any time, any policy of Municipality, or its subcontractors and/or Subrecipients, if any, or Subrecipients' subcontractors, if any, becomes unsatisfactory to County, as to form or substance, or if an insurer becomes unsatisfactory to County; Municipality shall, upon notice from County, promptly obtain, or cause such subcontractor or Subrecipient to promptly obtain, a new policy and submit the same to County for approval.

3. Upon failure of Municipality or any Subrecipient and/or subcontractor, as applicable, to furnish, deliver and maintain such insurance, this Agreement, at the election of County, may be declared suspended or terminated in accordance with subsection IV(G) of this Agreement. Failure of Municipality and/or any Subrecipient, and/or subcontractor, as applicable, to take out and/or maintain any required insurance shall not relieve Municipality and/or such Subrecipient and/or such subcontractor, as applicable, from any liability under this Agreement, or otherwise, to County or HUD; nor shall the insurance requirements be construed to conflict with or otherwise limit the obligations of Municipality and/or any Subrecipient and/or any subcontractor, as applicable, concerning indemnification.

4. In the event that a judgment arising out of this Agreement is in excess of the insured amounts, the excess amount or any portion thereof, may be withheld from payment due or to become due Municipality until such time as Municipality shall furnish such additional security covering the judgment(s) as may be determined by County.

5. All policies and certificates of insurance shall contain the following clauses.

a. such insurance shall be primary without right of contribution of any other insurance carried by or on behalf of County with respect to its interests;

b. it shall not be cancelled, including, without limitation, for non-payment of premium, or materially amended, without fifteen (15) days prior written notice to County (directed to County's Risk Management Division and the Director of OCD); and

c. County shall have the option to pay any necessary premiums to keep such insurance in effect and charge the cost back to Municipality.

6. County requires that the certificate holder is named as "County of Orange c/o Office of Community Development, 40 Matthews Street, Suite 307A, Goshen, NY 10924". Certificates indicating proof of Municipality's, Subrecipient's and/or subcontractors, if any, insurance coverage required by this subsection VI(D) are attached as **Exhibit 5**. Proof of each Subrecipient's and/or subcontractor's bonds and/or insurance certificates, as applicable, shall be submitted to OCD for review and approval, prior to commencement of funded activities by each subcontractor.

7. The provisions of this subsection VI(D) shall survive expiration or earlier termination of this Agreement.

E. Grantee Recognition

1. Municipality shall insure recognition of the role of County and HUD in providing services through this Agreement. The funding source shall be clearly acknowledged for all activities, facilities and items utilized pursuant to this Agreement and in all publications made possible with funds provided by Agreement.

2. The provisions of this subsection VI(E) shall survive expiration or earlier termination of this Agreement.

F. Modifications

1. County or Municipality may modify this Agreement in writing at any time provided that such modifications make specific reference to this Agreement and are signed by a duly authorized representative of both organizations. Such modifications shall not relieve or release County or Municipality from its obligations under this Agreement, unless otherwise specified in that modification.

2. County may, in its discretion, amend this Agreement to conform with federal, state or local government guidelines, policies and available funding amounts, or for other reasons. All amendments will be incorporated only by a writing making specific reference to this Agreement and signed by a duly authorized representative of both organizations.

G. Suspension or Termination

1. In accordance with Appendix II to 2 C.F.R. Part 200 and 2 C.F.R. Part 200, Subpart D (§§ 200.338 - 200.342), County may suspend or terminate this Agreement if Municipality materially fails to comply with any terms of this Agreement, which include, but are not limited to the following:

- a. Failure to comply with any of the rules, regulations or provisions referred to herein, or such statutes, regulations, executive orders, and HUD guidelines, policies or directives as may become applicable at any time;
- b. Failure, for any reason, of Municipality to fulfill in a timely and proper manner its obligations under this Agreement;
- c. Ineffective or improper use of funds provided under this Agreement (including, but not limited to use of funds for activities which are ineligible under or otherwise not in compliance with the HCD Act or 24 CFR Part 570); or
- d. Submission by Municipality to County of reports that are incorrect or incomplete in any material respect.

2. OCD will monitor the performance of Municipality against the terms and conditions of this Agreement. Substandard performance as determined by OCD will constitute noncompliance with this Agreement. If action to correct such substandard performance is not taken by Municipality within 30 days after written notification by County (or earlier if required by County, HUD or other federal or New York State law or regulation), the Agreement shall be terminated on a date specified by County. During the thirty (30) day cure period, County may withhold CDBG funds until such time as Municipality is found to be in compliance by OCD or is otherwise adjudicated to be in compliance. If Municipality fails to comply and this Agreement is terminated, in addition to and without limiting the other remedies provided by 2 C.F.R. Part 200, Municipality shall disgorge and refund to County the amount of CDBG funds previously paid to

Municipality under this Agreement and any funds due Municipality shall be retained by County for the CDBG program.

3. In accordance with Appendix II to 2 C.F.R. Part 200 and 2 C.F.R. § 200.339 this Agreement may also be terminated for convenience by either HUD, County or Municipality, in whole or in part. HUD termination for convenience requires consent of County and Municipality. County or Municipality termination requires setting forth the reasons and the effective date for such termination in writing to HUD. In the case of a partial termination, if HUD determines that the remaining portion of the award will not accomplish the purpose for which the award was made; HUD may terminate the award, in its entirety under 2 C.F.R. § 200.339. If this Agreement is terminated under this subdivision VI(G)(3), in addition to and without limiting other remedies of County or HUD, County may require that the Municipality disgorge and refund to County the amount of CDBG funds previously paid to Municipality under this Agreement and any funds due Municipality shall be retained by County for the CDBG program.

4. In the event of any termination, in addition to any obligations that survive termination of this Agreement, Municipality shall still completely fulfill all of its obligations under Section VII. Administrative Requirements, applicable up to the date of termination, and all finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports or other materials prepared by under this Agreement Municipality, Subrecipients, or subcontractors of Municipality or Subrecipients, as applicable, shall be turned over to OCD and Municipality shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents or materials prior to the termination.

5. The provisions of subdivision VI(G)(2), (3) and (4) shall survive expiration or earlier termination of this Agreement.

H. Procurement of Agreement

1. Municipality represents and warrants that no person or selling agency has been employed or retained by it to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage fee, contingent fee or any other compensation. Municipality further represents and warrants that no payment, gift or thing of value has been made, given or promised to obtain this or any other agreement between the parties. Municipality makes such representations and warranties to induce County to enter into this Agreement and County relies upon such representations and warranties in the execution hereof.

2. For a breach or violation of such representations or warranties, County shall have the right to annul this Agreement without liability, entitling County to recover all monies paid hereunder and Municipality shall not make claim to or be entitled to recover, any sum(s) otherwise due under this Agreement. This remedy, if effected, shall not constitute the sole remedy afforded County, nor shall it constitute a waiver of County's right to claim damages, or otherwise refuse payment, or to take any other action provided by law, in equity or pursuant to this Agreement.

I. Current or Former County Employees

1. Municipality represents and warrants that it shall not retain the services of any County employee or former County employee in connection with this Agreement or any other agreement that Municipality has, or may have, with County without the express written permission of County. This limitation period covers the greater of the preceding three (3) years or as long as the County employee or former County employee has or may have an actual or perceived conflict of interest due to his or her position with County.

2. For a breach or violation of such representations or warranties, County shall have the right to annul this Agreement without liability, entitling County to recover all monies paid hereunder and Municipality shall not make claim to or be entitled to recover, any sum(s) otherwise due under this Agreement. This remedy, if effected, shall not constitute the sole remedy afforded County, nor shall it constitute a waiver of County's right to claim damages, or otherwise refuse payment, or to take any other action provided by law, in equity or pursuant to this Agreement.

VII. ADMINISTRATIVE REQUIREMENTS

A. Financial Management

1. Accounting Standards

The Municipality agrees to comply with 2 C.F.R. § 200.302 and to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

2. Cost Principles

The Sub-recipient shall administer its program in conformance with 2 C.F.R. Part 200, Subpart E, "Cost Principles". These principles shall be applied for all direct and indirect costs incurred during performance of the Project.

3. Internal Controls

The Municipality agrees to comply with 2 C.F.R. § 200.303 and to maintain effective internal controls over the funds awarded herein.

B. Public Hearings

All public hearings required by New York State and federal law and regulations, as applicable to the funded activities, shall be conducted as required by such laws and regulations and, in accordance with Municipality's citizen participation plan, as applicable.

C. Documentation and Record-Keeping

1. Records to be Maintained

Municipality shall, and shall cause its subcontractors, Subrecipients and their subcontractors, if any, to, maintain all records required by the federal regulations specified in 24 C.F.R. § 570.506 and that are pertinent to the Project funded by this Agreement. Such records shall include, but not be limited to:

- a. Records providing a full description of each activity assisted (or being assisted) with CDBG funds, including its location (if the activity has a geographical locus), the amount of CDBG funds budgeted, obligated and expended for the activity, and the provision in Subpart C of 24 C.F.R. Part 570 under which it is eligible.
- b. Records demonstrating that each activity undertaken meets one of the criteria set forth in 24 C.F.R. § 570.208.
- c. Records that demonstrate that OCD has made the determinations required as a condition of eligibility of certain activities, as prescribed in 24 C.F.R. §§ 570.201(f), 570.201(i)(2),

570.201(p), 570.201(q), 570.202(b)(3), 570.206(f), 570.209, 570.210, and 570.309.

- d. Records which demonstrate compliance with 24 C.F.R. §570.505 regarding any change of use of real property acquired or improved with CDBG assistance.
- e. Records that demonstrate compliance with the citizen participation requirements prescribed in 24 C.F.R. Part 91, Subpart B, for entitlement recipients, or in 24 C.F.R. Part 91, Subpart C, for HUD-administered small cities recipients.
- f. Records which demonstrate compliance with the requirements in 24 C.F.R. §570.606 regarding acquisition, displacement, relocation, and replacement housing.
- g. Fair housing and equal opportunity records containing the requirements specified in 24 C.F.R. § 570.506(g).
- h. Financial records, in accordance with the applicable requirements listed in
- i. 24 C.F.R. § 570.502, and 2 C.F.R. Part 200, Subpart D.
- j. Other records necessary to document compliance with Subpart K of 24 C.F.R. Part 570, Municipality shall maintain evidence to support how the CDBG funds provided to such entities are expended. Such documentation must include, to the extent applicable, invoices, schedules containing comparisons of budgeted amounts and actual expenditures, construction progress schedules signed by appropriate parties (e.g., general contractor and/or a Project architect), and/or other documentation appropriate to the nature of the activity.
- k. Agreements and other records related to lump sum disbursements to private financial institutions for financing rehabilitation as prescribed in 24 C.F.R. §570.513; and
- l. Records required to be maintained in accordance with other applicable laws and regulations set forth in Subpart K of this Part.

2. Retention

Municipality shall and shall cause its subcontractors and all government entity Subrecipients and their subcontractors, if any, to, retain all financial records, supporting documents, statistical records, and all other records pertinent to this Agreement for a period of six (6) years in accordance with County record retention policy, 2 C.F.R. § 200.333, and 24 C.F.R. § 570.502. The retention period begins on the date of the submission of County's annual performance and evaluation report (CAPER) to HUD in which the activities assisted under this Agreement are reported on for the final time. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involved any of the records cited and that have started before the expiration of the six-year period, then such records must be retained until completion of the actions and resolutions of all issues, or the expiration of the six-year period, whichever occurs later. Records for property and equipment acquired with funds under this Agreement shall be retained for three (3) years after final disposition, replacement or transfer at the direction of HUD or the six-year period, whichever occurs later. Records for any displaced person must be kept for three (3) years after he/she has received final payment or the six-year period, whichever occurs later.

3. Client Data

Municipality shall, and shall cause its subcontractors, Subrecipients and their subcontractors, if any, to,

confidentially maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to County or HUD monitors or their designees for review upon request.

4. Disclosure

Municipality understands that client information collected under this Agreement is private and the use or disclosure of such information when not directly connected with the administration of County's, Municipality's, Subrecipients or either of their subcontractor's responsibilities, as applicable, with respect to services provided under this Agreement, is prohibited unless written consent is obtained from the client and, in the case of a minor, that of a responsible parent/guardian.

5. Close-Outs

Notwithstanding any other terms and conditions of this Agreement, Municipality's obligation to County shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to County), and determining the custodianship of records. Notwithstanding the foregoing, to ensure compliance with 24 C.F.R. §570.503(b)(7), the terms of this Agreement shall remain in effect during any period that Municipality has control over CDBG funds, including but not limited to program income or real property funded in whole or in part with CDBG funds.

6. Audits and Inspections

a. Municipality shall, and shall cause all Subrecipients and subcontractors of Municipality, if any, to comply, at their own expense, with the requirements of the Single Audit Act of 1984, and to have an annual audit conducted in accordance with 2 C.F.R. Part 200, Subpart F, as applicable. Any deficiencies noted in audit reports must be fully cleared by Municipality, Subrecipients and/or subcontractors within thirty (30) days after receipt of notice by Municipality, Subrecipients and/or subcontractors, as applicable.

b. All of Municipality's, Subrecipient's, and/or subcontractor's, if any, records with respect to any matters covered by this Agreement shall be made available to County, HUD and the Comptroller General of the United States, or any of their authorized representatives, at any time during normal business hours, as often as County or HUD deems necessary, to audit, examine, and make excerpts or transcripts of all relevant data.

c. Failure of Municipality to comply with the above audit and inspection requirements will constitute a violation of this Agreement and may include but not be limited to withholding of future payments.

7. Survival

The provisions of this subsection VII(C) shall survive expiration or earlier termination of this Agreement.

D. Reporting

1. Program Income

Any program income earned by Municipality and/or a Subrecipient, as applicable, as a result of this CDBG funding, shall be returned to County, in a check payable to the "Commissioner of Finance", within seven (7) days of receipt by Municipality. Municipality shall require Subrecipients, as applicable, to return any program income to Municipality within seven (7) days of receipt by Subrecipient.

2. Progress and Financial Reports

a. Municipality shall submit regular Progress reports to County at the frequency required by County, and in a timely manner to enable County's reporting to HUD and shall require Subrecipients, if any, to, submit the same reports to Municipality in a timely manner to enable Municipality's reporting to County.

b. The following Progress Report in the template attached and incorporated as **Exhibit 6 Quarterly Project Progress Report** shall be compiled by Municipality and all Subrecipients, as applicable, for each quarter and submitted to County **within ten (10) working days of the end of the quarter.**

c. **Failure to submit the above report may result in suspension or termination of this Agreement in accordance with subsection VI(G) of this Agreement.**

3. Survival

The provisions of this subsection VII(D) shall survive expiration or earlier termination of this Agreement.

E. Procurement

1. Compliance

Municipality shall, and shall cause its subcontractors, Subrecipients and their subcontractors, if any, to, comply with all applicable New York State and federal laws and regulations and Municipality policies concerning the purchase of all real and personal property and shall maintain an inventory of records of all real and personal property as may be procured with funds provided under this Agreement. Unless provided elsewhere in this Agreement, all program assets (unexpended program income, property, equipment, etc.) shall revert to County upon expiration or earlier termination of this Agreement. The provisions of this subdivision VII(E)(1) shall survive expiration or earlier termination of this Agreement.

3. 2 C.F.R. §§ 200.317 - 200.326- Procurement Standards

Municipality shall, and shall cause all government entity Subrecipients and all non-government entity Subrecipients, if any, to, procure all materials, property, or services in accordance with the requirements of 2 C.F.R. Part 200 Subpart D (§§ 200.318 - 200.326).

Municipality shall comply with 2 C.F.R. § 200.322 "Procurement of recovered materials". A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of

recovered materials identified in the EPA guidelines.

3. Travel

Municipality shall obtain written approval from County for any travel outside County, by Municipality, Subrecipients and subcontractors, if any, using funds provided under this Agreement.

4. Equipment

a. Municipality and Subrecipients shall comply with 2 C.F.R. § 200.313 with regard to equipment procurement and use except that, pursuant to 24 C.F.R. §570.502(a)(6), in all cases where the equipment is sold, the proceeds shall become program income (prorated to reflect the extent to which funds received under this Agreement were used to acquire the equipment). Equipment not needed by the Municipality for activities under this Agreement shall be (a) transferred to the Grantee for the CDBG program or (b) retained after compensating the Grantee (an amount equal to the current fair market value of the equipment less the percentage of non-CDBG funds used to acquire the equipment).

b. The provisions of this subdivision VII(E)(4) shall survive expiration or earlier termination of this Agreement.

5. Procedure for Subcontracts

a. Procurement of Subcontracts

With regard to procuring subcontracts, Municipality shall, and shall cause all government entity Subrecipients all non-government entity Subrecipients, if any, to comply with the provisions of 2 C.F.R. Part 200, Subpart D.

b. Solicitation

Municipality shall, and shall cause all Subrecipients, if any, to, submit to OCD all requests for bids or proposals, independent cost estimates, etc. necessary for the completion of the Project prior to the requests for bids or proposals being published.

Solicitations for all goods and services funded under this Agreement, including but not limited to, requests for quotations, bids or proposals; shall be developed in compliance with applicable federal and New York State law and regulations and Municipality's procurement policy, to include the following:

(i) A clear and accurate description of the technical requirements for the material, product or service to be procured. In competitive procurements, such a description shall not contain features which unduly restrict competition.

(ii) Requirements which the bidder/offeror must fulfill and all other factors to be used in evaluating bids or proposals.

(iii) A description, whenever practicable, of technical requirements in terms of functions to be performed or performance required, including the range of acceptable characteristics or minimum acceptable standards.

(iv) The specific features of "brand name or equal" descriptions that bidders are required to meet when such items are included in the solicitation.

(v) The acceptance, to the extent practicable and economically feasible, of products and services dimensioned in the metric system of measurement.

(vi) Preference, to the extent practicable and economically feasible, for products and

services that conserve natural resources and protect the environment and are energy efficient.

c. Selection Process

Municipality shall ensure that all subcontracts let in the performance of this Agreement by Municipality or Subrecipients, if any, shall be awarded on a fair and open competitive basis. A list of all bids or offers received shall be forwarded to OCD for submission to HUD.

Contracts shall be made only with responsible contractors who possess the potential ability to perform successfully under the terms and condition of the proposed procurement. Consideration shall be given to such matters as contractor integrity; compliance with public policy, including, where applicable, Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u); record of past performance; financial and technical resources or accessibility to other necessary resources. A contract award (see 2 C.F.R. § 180.220) must not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 C.F.R 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 C.F.R. Part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared negligible under statutory or regulatory authority other than Executive Order 12549.

d. Contract Content

Municipality and all Subrecipients, as applicable, shall cause all of the terms and conditions of this Agreement to be included in and made a part of any Subrecipient Agreement and/or subcontract, as applicable, executed in the performance of this Agreement.

e. Approvals

Draft copies of all Subrecipient contracts and all of Municipality's and Subrecipient's subcontracts shall be forwarded to OCD along with documentation concerning the selection process. Municipality and Subrecipients, if any, shall not enter any subcontracts with any subcontractor for the performance of this Agreement without the written consent of OCD prior to the execution of such subcontract.

f. Staff Designation for Projects Involving Construction or Building Services

Municipality shall designate an appropriate staff member to act on behalf of Municipality to ensure compliance with applicable labor laws, regulations and standards and to liaise with OCD and shall require the same of all Subrecipients and subcontractors of Municipality or Subrecipients, if any. The designation shall be made and forwarded to OCD prior to the commencement of the Project. The designated staff member shall:

- i. inform the subcontractors performing work as to the federal and New York State labor requirements and obligations; and
- ii. ensure the inclusion of applicable wage determination and labor standards provisions in all bid specifications and contract documents and will perform all duties necessary for Municipality's compliance with federal Davis-Bacon and New York State labor laws and regulations; and

- iii. maintain full documentation attesting to all administrative and enforcement activities with respect to New York State and federal labor law requirements. Such documents include, but are not limited to: certified payrolls, requests for wage decisions, requests for additional classifications, copies of wage decisions and any effective change or modifications, notice of start of construction, on-site inspection reports and employee interviews, copies of correspondence, memoranda, apprentice registration records and pre-commencement conference records. These documents are to be made available to OCD upon request.

g. Pre-Commencement Conference

OCD, Municipality, Subrecipients, if any, and subcontractors, if any, shall hold a conference, prior to commencement of the Project (or for each Subrecipient activity, depending on the Project), to review their responsibilities under this Agreement, each Subrecipient agreement, and each subcontract, as applicable, including, as applicable, obligations regarding federal and state labor laws applicable to construction or building services work. After each conference, Municipality shall provide a report to OCD containing the following:

- i. Project name, location and description;
- ii. Name of Subrecipient and subcontractors, as applicable;
- iii. Contract amount;
- iv. Date and place of conference;
- v. Conference attendees; and
- vi. Summary of items covered.

h. Construction & Building Services Certified Payroll

i. For Municipality and Subrecipient subcontracts involving construction or building services, Municipality shall, and shall cause Subrecipients, if any, to, require subcontractors to submit to Municipality weekly payroll certifications compliant with New York State and federal law for each workweek from the time the Project is commenced until completion. Municipality's agreement with Subrecipients, if any, shall also contain the same requirement for each Subrecipient's agreement with subcontractors, if any. If no work is performed during any given week, subcontractors shall submit a certification that "no work was performed during this work week". The first and final payrolls are to be marked as such. The subcontractor(s) shall use payroll certification form(s) that meet New York State and federal requirements.

A. The federal form (WH-347) may be found here:
<http://www.dol.gov/whd/forms/wh347instr.htm>

B. The New York state form (PW-18.1) may be found here:
<http://www.labor.state.ny.us/workerprotection/publicwork/PDFs/PW18.1%20Certification%20Of%20Payroll%20By%20Officer.pdf>

ii. The provisions of this subdivision VII(E)(5)(h) shall survive expiration or earlier
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termination of this Agreement.

i. Monitoring and Inspections

Municipality will monitor all Subrecipient and subcontractor services on a regular basis to assure contract compliance, and shall require Subrecipients, if any, to do the same with Subrecipients' subcontractors, if any. Results of MWBE and EEO/AA efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance. In addition, appropriate staff of Municipality shall visit the site during the performance of the Project and OCD shall also have the right to monitor and inspect the Project and the expenditure of funds in order to insure compliance with HUD regulations and the provisions of this Agreement. The provisions of this subdivision VII(E)(5)(i) shall survive expiration or earlier termination of this Agreement.

F. Use and Reversion of Real Property Assets

1. The use and disposition of real property by Municipality and all Subrecipients, if any, funded by this Agreement shall be in compliance with the requirements of 2 C.F.R. § 200, 24 C.F.R. 570.505, 24 C.F.R. 570.502 (a)(5), §570.503 and §570.504, as applicable.
2. Pursuant to 24 C.F.R. §570.505, 24 C.F.R. §570.503(b)(7)(i), 24 C.F.R. §570.501(b) and OCD Policy, real property under Municipality's or Subrecipient's control that was acquired or improved, in whole or in part, with CDBG funds in excess of \$25,000 shall be used to meet one of the CDBG National Objectives defined in 24 C.F.R. §570.208 until ten (10) years after Municipality is no longer considered by HUD to be a part of the urban county in the case of Municipality and for ten (10) years after expiration of the Subrecipient Agreement between Municipality and Subrecipient, as applicable.
3. If Municipality and/or Subrecipient fails to use CDBG-assisted real property in a manner that meets a CDBG National Objective for the prescribed period of time, Subrecipient shall pay to Municipality, as applicable, and/or Municipality shall pay to County an amount equal to the current market value of property less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of, or improvement to, the property. Such payment shall constitute program income to County. Municipality and/or Subrecipient, as applicable, may retain real property acquired or improved under this Agreement after the expiration of the ten-year period.
4. HUD may require recipients to record liens or other appropriate notices of record to indicate that personal or real property has been acquired or improved with Federal funds and that use and disposition conditions apply to the property.
5. The provisions of this subsection VII(F) shall survive expiration or earlier termination of this Agreement.

G. Reversion of Funds and Receivable Assets

Pursuant to 24 C.F.R. §570.503(b)(7), Municipality shall transfer to County any CDBG funds on hand and any accounts receivable attributable to the use of funds under this Agreement held by Municipality,

Subrecipients or subcontractors, as applicable, at the time of expiration, cancellation, or termination of this Agreement. The provisions of this subsection VII(G) shall survive expiration or earlier termination of this Agreement.

VIII. RELOCATION, REAL PROPERTY ACQUISITION AND ONE-FOR-ONE HOUSING REPLACEMENT

Municipality agrees to comply with (a) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, ("URA"), and implementing regulations at 49 C.F.R. Part 24 and 24 C.F.R. §570.606(b); (b) the requirements of 24 C.F.R. §570.606(c) governing the Residential Anti-displacement and Relocation Assistance Plan under section 104(d) of the HCD Act; and (c) the requirements in 24 C.F.R. §570.606(d) governing optional relocation policies. Municipality shall provide relocation assistance to displaced persons as defined by 24 C.F.R. §570.606(b)(2) that are displaced as a direct result of acquisition, rehabilitation, demolition or conversion for the Project. Municipality also agrees to comply with applicable OCD policies concerning displacement of individuals from their residences. The provisions of this Section VIII shall survive expiration or earlier termination of this Agreement.

IX. PERSONNEL AND PARTICIPANT CONDITIONS

A. Civil Rights

1. Compliance

Municipality shall, and shall cause its subcontractors, Subrecipients and their subcontractors, if any, to, comply with all federal, New York State and County and civil rights laws and regulations including, but not limited to, Article 15 of the New York State Executive Law (also known as the "Human Rights Law"), Titles II and VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968 (the "Fair Housing Act"), 24 CFR §570.904, Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and Executive Order 11246. A Fair Housing Resolution, as provided by the Municipality at the time of application, is attached as **Exhibit 8**.

2. Nondiscrimination

a. Municipality shall, and shall cause its subcontractors, Subrecipients and their subcontractors, if any, to, comply with the non-discrimination in employment and contracting opportunities laws, regulations, and executive orders referenced in 24 C.F.R. §570.607, as revised by Executive Order 13279 and the applicable non-discrimination provisions in Section 109 of the HCD Act, Article 15 of the New York State Executive Law (otherwise known as "The Human Rights Law") and New York State Labor Law.

b. Municipality shall, and shall cause its subcontractors, Subrecipients and their subcontractors, if any, to, abide by all applicable provisions of federal and state laws and regulations, as applicable to its officers, employees, agents, Subrecipients, subcontractors, and other representatives. In hiring and employment practices, Municipality, its Subrecipients and subcontractors, if any, shall not in any manner discriminate on the basis of race, creed, color, religion, sex (including gender identity or expression), national origin, citizenship status, age, marital status, disability, genetic information or predisposing genetic characteristics, sexual orientation, military status, marital status or domestic violence victim status.

c. Municipality shall, and shall cause its subcontractors, Subrecipients and their

subcontractors, if any, to, abide by all applicable provisions of federal and New York State laws and regulations, as applicable to sale or rental of the property, if this Agreement funds the purchase improvement of any property which is later sold or rented. With respect to any sale of any real property and selection and treatment of tenants, Municipality, Subrecipients and subcontractors, if any, shall not in any manner discriminate on the basis of race, color, religion, sex (including gender identity or expression), familial status, national origin, disability, age, sexual orientation, military status or marital status.

3. Land Covenants

a. This Agreement is subject to the requirements of Title VI of the Civil Rights Act of 1964 and 24 C.F.R. §570.601 and §570.602. In regard to the sale, lease or other transfer of land acquired, cleared or improved with CDBG assistance, Municipality shall and shall cause its Subrecipients, if applicable, to, cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination on the basis of race, color, religion, sex, familial status, national origin, disability, age, sexual orientation, military status or marital status, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that County and the United States are beneficiaries of and entitled to enforce such covenants. Municipality, and any applicable Subrecipient, shall in undertaking its obligation to carry out the program assisted hereunder, agree to take such measures as are necessary to enforce such covenants, and will not itself so discriminate.

b. The provisions of this subdivision IX(A)(3) shall survive expiration or earlier termination of this Agreement.

4. Section 504

Municipality shall, and shall cause its subcontractors, Subrecipients and their subcontractors, if any, to, comply with all federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. §794) which prohibits discrimination against individuals with disabilities or handicaps in any federally-assisted program. The provisions of this subdivision IX(A)(4) shall survive expiration or earlier termination of this Agreement.

5. Fair Housing

The Municipality agrees to comply with Public Law 90-284, which is the Fair Housing Act (42 U.S.C. 3601-3620). In accordance with the Fair Housing Act, the Secretary of the Department of Housing and Urban Development requires that grantees administer all programs and activities related to housing and community development in a manner to affirmatively further the policies of the Fair Housing Act.

The Municipality agrees to take all actions necessary to assure compliance with the Fair Housing Act, and affirmatively further fair housing. The Municipality also agrees to affirmatively further fair housing within its own jurisdiction and support the County's actions to comply with the County's fair housing certification. This provision is required because noncompliance by a unit of general local government included in an urban county may constitute noncompliance by the grantee (i.e., the county) that can, in turn, provide cause for funding sanctions or other remedial actions by the Department of Housing and Urban Development.

6. Benefits to Legal Resident Aliens

Under Section 214, the Secretary of Housing and Urban Development may not make financial assistance

available to an alien unless the alien both is a resident of the United States and is:

- an alien lawfully admitted for permanent residence as an immigrant excluding, among others, alien visitors, tourists, diplomats, and students who enter the United States temporarily with no intention of abandoning their residence in a foreign country;
- an alien who is deemed to be lawfully admitted for permanent residence [under the registry provisions of the INA];
- an alien who has qualified as a refugee or asylee;
- an alien who is lawfully present in the United States as a result of an exercise of the Attorney General's parole authority;
- an alien within the United States as to whom the Attorney General has withheld deportation on the basis of prospective persecution; or
- an alien lawfully admitted for temporary or permanent residence under Section 245A of the Immigration and Nationality Act.

Unauthorized aliens are not eligible for financial assistance under Section 214-covered programs.

B. Affirmative Action

1. Equal Employment Opportunity, Affirmative Action, Executive Order 11246

In all solicitations or advertisements for employees placed by or on behalf of Municipality, Municipality shall, and shall cause its subcontractors, Subrecipients and their subcontractors, if any, to, state that it is an Equal Opportunity and Affirmative Action employer. Municipality shall, and shall cause its subcontractors, Subrecipients and their subcontractors, if any, to, comply with the principles as provided in the federal Executive Order 11246 of September 24, 1965 which is incorporated by reference into this Agreement.

2. Minority- and Women- Owned Businesses (MWBE)

Municipality shall, and shall cause its subcontractors, Subrecipients and their subcontractors, if any, to, use its best efforts to afford small businesses, minority and women-owned business enterprises the maximum practicable opportunity to participate in the performance of this Agreement. As used in this Agreement, the terms "small business" means a business that meets the criteria set forth in section 3(a) of the Small Business Act, (15 U.S.C. §632) and "minority and women's business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. Municipality, its Subrecipients and subcontractors, if any, may rely on New York State and/or federal MWBE certifications as to the status of a MWBE in lieu of an independent investigation.

3. Access to Records

Municipality shall, and shall cause its subcontractors, Subrecipients and their subcontractors, if any, to, furnish all information and reports hereunder and will permit access to its books, records and accounts by County, HUD, other authorized state and federal officials, or any of their designees, for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated in this Section IX(B) of this Agreement. The provisions of this subdivision IX(B)(3) shall survive expiration or earlier termination of this Agreement.

4. Subcontract Provisions

Municipality shall, and shall cause its subcontractors, Subrecipients and their subcontractors, if any, to, include the provisions of subsections IX(A) Civil Rights and (B)Affirmative Action in every Subrecipient Agreement and subcontract, specifically or by reference, so that such provisions will be binding upon each Subrecipient and each of Municipality's and Subrecipient's subcontractors.

C. Employment Restrictions

1. Prohibited Activity

Municipality, its subcontractors, Subrecipients and their subcontractors, if any, are prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities; inherently religious activities, lobbying, political patronage, and nepotism activities.

2. Labor Standards

a. Municipality shall, and shall cause its subcontractors, Subrecipients and their subcontractors, if any, to, comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act, the provisions of the Contract Work Hours and Safety Standards Act (40 U.S.C. Chapter 37), and all other applicable federal, state, and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this Agreement. Municipality shall, and shall cause its Subrecipients and subcontractors, if any, to, comply with the Copeland Anti-Kickback Act (18 U.S.C. §874 et seq.) and its implementing regulations of the U. S. Department of Labor at 29 C.F.R. Part 5. Municipality shall, and shall cause its Subrecipients and subcontractors, if any, to, maintain documentation which demonstrates compliance with hour and wage requirements of 29 C.F.R. Part 5. Such documentation shall be made available to County for review upon request.

b. With the exception of activities involving the rehabilitation or construction of residential property designed for residential use for less than eight (8) units, Municipality agrees that, all subcontractors engaged under contracts in excess of \$2,000.00 for construction, renovation or repair of any building or work financed in whole or in part with assistance provided under this Agreement, shall comply, with the applicable requirements of the regulations of the Department of Labor, under 29 C.F.R. Parts 1, 3, 5, and 7, including but not limited to 29 C.F.R. §5.5; provided, that if wage rates higher than those required under the regulations are imposed by New York State or local law, nothing hereunder is intended to relieve Municipality of its obligation, if any, to require payment of the higher wage. Municipality shall cause or require to be inserted in full, in all such Subrecipient Agreements and subcontracts subject to such regulations, provisions meeting the requirements of this subdivision IX(C)(2).

3. "Section 3" Clause

a. If the CDBG assistance provided under this Agreement exceeds \$200,000, compliance with the provisions of Section 3 (as defined below), the regulations set forth in 24 C.F.R. §75, and all applicable rules and orders issued thereunder prior to the execution of this Agreement, shall be a condition of the CDBG assistance provided under this Agreement and binding upon Municipality which shall require such a binding commitment from its Subrecipients, subcontractors and Subrecipient subcontractors, if any. Failure to fulfill these requirements shall subject Municipality and its Subrecipients and subcontractors, if any, to all New York State or federal remedies available at law or in equity to County or HUD, including but not limited to termination of this Agreement. Municipality certifies and agrees that no contractual or other disability exists which would prevent compliance with these requirements.

b. Municipality further agrees to comply with these "Section 3" requirements and to include the following language in all Subrecipient Agreements and subcontracts executed under this Agreement:

i. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

ii. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 75, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 75 regulations.

iii. The contractor agrees post copies of a notice advising workers of the Contractor's commitments under Section 3 in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

iv. The contractor agrees to provide written notice of contracting opportunities to all known Section 3 Workers and Section 3 Businesses.

v. The contractor agrees to post contract and job opportunities to the Opportunity Portal, and will check the Business Registry for businesses located in the project area.

vi. The contractor agrees to include compliance with Section 3 requirements in every subcontract for Section 3 projects as defined in 24 CFR part 75, and agrees to take appropriate action, as provided in an applicable provision of the subcontract upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 75. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 75.

vii. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 75 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 75.

viii. The contractor will certify that they have followed prioritization of effort in 24 CFR part 75.19 for all employment and training opportunities. The contractor will further certify that it meets or exceeds the applicable Section 3 benchmarks, defined in 24 CFR Part 75.23, and if not, shall describe in detail the qualitative efforts it has taken to pursue low- and very low-income persons for economic opportunities.

ix. Noncompliance with HUD's regulations in 24 CFR part 75 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

4. Drug-Free Workplace

Municipality will or will continue to provide a drug-free workplace by:

- a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in Municipality's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- b. Establishing an ongoing drug-free awareness program to inform employees about:
 - i. the dangers of drug abuse in the workplace;
 - ii. Municipality's policy of maintaining a drug-free workplace;
 - iii. any available drug counseling, rehabilitation, and employee assistance programs; and
 - iv. the penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- c. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by subdivision IX(C)(4)(a);
- d. Notifying the employee in the statement required by subdivision IX(C)(4)(a) that, as a condition of employment under the performance of the Project funded by this Agreement, the employee will:
 - i. abide by the terms of the statement; and
 - ii. notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
- e. Notifying OCD and HUD in writing, within ten (10) calendar days after receiving notice under subdivision IX(C)(4)(b) from any employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the federal agency has designated a central point for the receipt of such notices. Notice shall include the identification numbers of each affected grant;
- f. Taking one of the following actions, within 30 calendar days of receiving notice under subdivision IX(C)(4)(b), with respect to any employee who is so convicted.
 - i. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
 - ii. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state, or local health, law

enforcement, or other appropriate agency;

- g. Making a good faith effort to continue to maintain a drug-free workplace through implementation of this subdivision IX(C)(4).

D. New York Law Requirements

1. Labor Law. For any contract(s) funded by this Agreement and involving public work or building services as respectively defined by Article 8 and Article 9 by New York State Labor Law, Municipality, shall and shall cause its Subrecipients, if any, to, prepare all solicitation documents and contract terms and conditions and administer such contracts in accordance with the applicable provisions of Article 8 or Article 9.
2. Non-Collusive Bidding. For any contract(s) funded by this Agreement to which New York State General Municipal Law §103-d is applicable, Municipality shall, and shall cause its Subrecipients, if any, to, enclose the required Non-Collusive certification in the solicitation documents.
3. Non-Responsibility Determination. For any contract(s) funded by this Agreement to which New York State State Finance Law §§139-j and 139-k are applicable, Municipality shall, and shall cause its Subrecipients, if any, to, enclose the required non-responsibility disclosure and certification in the solicitation documents.
4. Iran Divestment Act. For any subcontract(s) funded by this Agreement to which New York State General Municipal Law §103-g is applicable, Municipality shall, and shall cause Subrecipients, if any, to, enclose the required Iran Divestment Act certification in the solicitation documents.
5. Conflicts of Interest. Pursuant to New York State General Municipal Law § 801, except as provided in General Municipal Law §802, (1) no municipal officer or employee shall have an interest in any contract with the municipality of which he or she is an officer or employee, when such officer or employee, individually or as a member of a board, has the power or duty to (a) negotiate, prepare, authorize or approve the contract or authorize or approve payment thereunder (b) audit bills or claims under the contract, or (c) appoint an officer or employee who has any of the powers or duties set forth above and (2) no chief fiscal officer, treasurer, or his or her deputy or employee, shall have an interest in a bank or trust company designated as: a depository, paying agent, registration agent or for investment of funds of the municipality of which he or she is an officer or employee. The provisions of General Municipal Law §801 shall in no event be construed to preclude the payment of lawful compensation and necessary expenses of any municipal officer or employee in one or more positions of public employment, the holding of which is not prohibited by law.
6. Identification Number(s).
 - a. For granting, renewing, amending, supplementing or restating the license of any person, and for every invoice or other claim for payment submitted to County by Municipality under this Agreement, the invoice or claim must include Municipality's payee identification number. This number is any or all of the following:
 - i. the payee's federal employer identification number;
 - ii. the payee's federal social security number, and/or

- iii. the payee's Vendor Identification Number assigned by County, if any.

Failure to include such number(s), as required by County, may delay payment. Where Municipality does not have such number(s), on its invoice or other claim for payment, Municipality must give the reason or reasons why it does not have a payee number(s).

b. Privacy Notification.

i. The County's authority to request the above personal information from Municipality, and its authority to maintain such information, is found in New York State Tax Law §5. Disclosure of this information by Municipality to County is mandatory. The principal purpose for collection of the information is for New York State to identify individuals, businesses and others who have been delinquent in filing tax returns, or may have understated their tax liabilities, and to generally identify persons affected by the taxes administered by the New York State Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law.

ii. The County may forward the personal information to the New York State Commissioner of Taxation and Finance upon that Commissioner's request pursuant to New York State Tax Law §5(3).

7. Prohibition on Purchase of Tropical Hardwoods

a. Municipality certifies and warrants that all wood products to be used in performing the Scope of Work under this Agreement, or Subrecipient Agreement(s) if any, will be in accordance with, but not limited to, the specifications and provisions of New York State State Finance Law §165. (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by New York State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of Municipality to establish to meet with the approval of OCD.

b. In addition, when any portion of this Agreement or Subrecipient Agreement(s) involving the use of woods, whether supply or installation, is to be performed by any Subrecipient or Municipality's or Subrecipient's subcontractors, as applicable, the Municipality or Subrecipient and/or subcontractor, as applicable, will indicate and certify in the submitted bid or proposal that the Subrecipient and/or subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in New York State Finance Law §165. Under bidder certifications, proof of qualification for exemption will be the responsibility of Municipality to meet with the approval of OCD.

c. Municipality certifies that any use of tropical hardwood in the Scope of Work meets with the exception requirements of New York State State Finance Law §165(2)(d)(iii), as established by the Municipality and was approved by County during the quote, bid or proposal process.

8. Compliance with New York State Information Security Breach Notification Act

Both during and after the performance of the Scope of Work under this Agreement and any Subrecipient Agreement(s), with respect to all data involved in the performance of this Agreement and any Subrecipient

Agreement(s), Municipality shall, and shall cause Subrecipients and subcontractors, if any, to comply with the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208, both as may be amended).

9. Compliance with Executive Order 38

Municipality is and shall remain, and shall ensure that all Subrecipients and subcontractors, if any, are and shall remain, in compliance with New York State Executive Order 38 of 2013, as may be amended. More information may be found at: <http://www.executiveorder38.ny.gov/>.

10. Sexual Harassment Certification. Pursuant to the New York State Finance Law §139-l, by execution of this Agreement, Municipality and the individual signing this Agreement on behalf of the Municipality certifies, under penalty of perjury, that Municipality has and has implemented a written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment prevention training to all of its employees. Such policy shall, at a minimum, meet the requirements of Section 201-g of the New York State Labor Law. A model policy and training has been created by the New York State Department of Labor and can be found on its website at: <https://www.ny.gov/programs/combating-sexual-harassment-workplace>.

The County's policy against sexual harassment and other unlawful discrimination and harassment in the workplace can be found on the County's website at: <https://www.orangecountygov.com/1137/Human-Resources>.

11. Compliance with Other New York Laws and Regulations

Municipality shall, and shall cause all Subrecipients and subcontractors, if any, to, comply with all other New York State laws and regulations applicable to this Agreement and the performance of the Project by Municipality and its Subrecipients and/or subcontractors, if any.

E. Conduct

1. Assignability

Pursuant to New York State General Municipal Law §109, Municipality shall not assign, transfer, convey, sublet, or otherwise dispose of any of its rights, interest or interest in this Agreement, or its power to execute this Agreement, to any other person or corporation without County's previous written consent. Any assignment, transfer, conveyance, subletting or other disposal without the required written consent shall cause the contract to be revoked and annulled by County and Municipality shall forfeit and lose all moneys due under the Agreement, except so much as may be required to pay Municipality's employees performing activities under the Agreement. Any assignment, transfer, conveyance, subletting or other disposal properly consented to by County shall be subject to all of the terms and conditions of this Agreement. The provisions of this subdivision IX(E)(1) shall survive expiration or earlier termination of this Agreement.

2. Hatch Act

Municipality agrees that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of 5 U.S.C. Chapter 15.

3. Conflict of Interest

a. Municipality shall comply with the provisions of 24 CFR 570.611 with respect to

conflicts of interest, and covenants that it presently has no financial interest and shall not acquire any financial interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. The Municipality further covenants that in the performance of the Agreement no person having such a financial interest shall be employed or retained by the Municipality hereunder. These conflicts of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the Grantee, or of any designated public agencies or Municipalities which are receiving funds under the CDBG Entitlement program.

- b. The provisions of this subdivision IX(E)(3) shall survive expiration or earlier termination of this Agreement.

4. Lobbying

- a. By execution of this Agreement Municipality certifies to the best of the knowledge and belief of the undersigned, that:

- i. No federal appropriated funds have been paid or will be paid, by or on behalf of Municipality, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

- ii. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, Municipality shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

- iii. Municipality shall require that the language of this certification be included in the award documents for all subawards at all tiers (including Subrecipients, subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all Subrecipients and subcontractors (of Municipality and Subrecipients) shall certify and disclose accordingly.

- b. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. §1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

- c. The provisions of this subdivision IX(E)(4) shall survive expiration or earlier termination of this Agreement.

5. Copyright

In addition to any other rights HUD may have pursuant to 2 C.F.R. § 200.315, if this Agreement results in any copyrightable material or inventions, County and HUD reserve the right to royalty-free, non-exclusive and irrevocable licenses to reproduce, publish or otherwise use and to authorize others to use, the work or materials for government purposes. The provisions of this subdivision IX(E)(5) shall survive expiration or earlier termination of this Agreement.

6. Rights to Inventions Made under Contract or Agreement

If the Federal award meets the definition of “funding agreement” under 37 CFR §401.2 (a) and the Municipality or Subrecipient, if any, wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the Municipality or Subrecipient, if any, must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

7. Religious Organization

Municipality agrees, and shall cause all Subrecipients and their subcontractors, if any, to agree, that funds provided under this Agreement will not be utilized for inherently religious activities prohibited by 24 C.F.R. §570.200(j) (such as worship, religious instruction, or proselytization) as part of the programs or services funded under this Agreement. If Municipality or any Subrecipient or either of their subcontractors, if any, conduct such activities, the activities must be offered separately, in time or location, from the programs or services funded under this Agreement, and participation must be voluntary for the beneficiaries of the CDBG-funded programs or services. Municipality, its Subrecipients or either of their subcontractors, if any, shall not, in providing program assistance, discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief. The provisions of this subdivision IX(E)(6) shall survive expiration or earlier termination of this Agreement.

8. Excessive Force

a. Pursuant to Section 519 of the 1990 HUD Appropriations Act (P.L. 101-140) and Section 906 of the National Affordable Housing Act (NAHA) of 1990 (P.L. 101-625) Municipality and all of its government entity Subrecipients, if any, have adopted and are enforcing:

i. A policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations; and

ii. A policy of enforcing applicable state and local laws against physically barring entrance to or exit from a facility or location which is the subject of such non-violent civil rights demonstrations within its jurisdiction.

b. The provisions of this subdivision IX(E)(7) shall survive expiration or earlier termination of this Agreement.

X. ENVIRONMENTAL CONDITIONS

A. Air, Water and Environmental Review

Municipality shall, and shall cause its subcontractors, Subrecipients and their subcontractors, if any, to comply with CDBG Municipal Agreement (05/22)

the following laws and regulations applicable to the performance of this Agreement:

1. Clean Air Act, 42 U.S.C. §1857, et seq., and all regulations and guidelines issued thereunder;
2. Federal Water Pollution Control Act, 33 U.S.C. §1251, et seq., and all regulations and guidelines issued thereunder;
3. Environmental Protection Agency (EPA) regulations pursuant to 40 C.F.R., Part 50 as amended
4. HUD Environmental Review Procedures (24 C.F.R. Part 58);
5. New York State Environmental Quality Review Act, and all regulations and guidelines issued thereunder;
6. All other federal, state and local laws, regulations and ordinances applicable to the activities funded under this Agreement.

B. Flood Disaster Protection

In accordance with the requirements of the Flood Disaster Protection Act of 1973 (42 U.S.C. §4001), Municipality shall, and shall cause its subcontractors, Subrecipients and their subcontractors, if any, to, assure that for activities located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

C. Lead-Based Paint

Municipality shall, and shall cause its subcontractors, Subrecipients and their subcontractors, if any, to, agree that any construction or rehabilitation of residential structures with assistance provided under this Agreement shall be subject to HUD Lead-Based Paint Regulations at 24 C.F.R. §570.608, and 24 C.F.R. Part 35, Subpart B. Such regulations pertain to all HUD-assisted housing and require that all owners, prospective owners, and tenants of properties constructed prior to 1978 be properly notified that such properties that include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning and the advisability and availability of blood level screening for children under six (6). The notice should also point out that if lead-based paint is found on the property, abatement measures may be undertaken. The regulations further require that, depending on the amount of Federal funds applied to a property, paint testing, risk assessment, treatment and/or abatement may be conducted.

D. Historic Preservation

Municipality agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, (16 U.S.C. §470) and the procedures set forth in 36 C.F.R., Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this Agreement. In general, this requires concurrence from the State Historic Preservation Office for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a Federal, State, or local historic property list.

E. Survival

The provisions of this Section X shall survive expiration or earlier termination of this Agreement.

XI. FORCE MAJEURE

A. A Force Majeure occurrence is an event or effect that cannot be reasonably anticipated or controlled and is not due to the negligence or willful misconduct of the affected party. Force Majeure includes, but is not limited to, acts of God, acts of war, acts of public enemies, terrorism, strikes, fires, explosions, actions of the elements, floods, or other similar causes beyond the control of Municipality or County in the performance of this Agreement where non-performance, by exercise of reasonable diligence, cannot be prevented.

B. The affected party shall provide the other party with written notice of any Force Majeure occurrence as soon as the delay is known and shall provide the other party with a written contingency plan to address the Force Majeure occurrence, including, but not limited to, specificity on quantities of materials, tooling, people, and other resources that will need to be redirected and the process of redirecting them. Furthermore, the affected party shall use its commercially reasonable efforts to resume proper performance within an appropriate period of time. Notwithstanding the foregoing, if the Force Majeure condition continues beyond thirty (30) days, the parties shall jointly decide on an appropriate course of action that will permit fulfillment of the parties' objectives hereunder.

C. Neither County nor Municipality shall be liable to the other for any delay in or failure of performance under this Agreement due to a Force Majeure occurrence. Any such delay in or failure of performance shall not constitute default or give rise to any liability for damages. The existence of causes of such delay or failure shall extend the period for performance to such extent as determined by County and Municipality to be necessary to enable complete performance by County and Municipality if reasonable diligence is exercised after the cause of delay or failure has been removed.

E. Notwithstanding the above, at the discretion of County, where the delay or failure will significantly impair the value of this Agreement to County, County may terminate this Agreement or the portion thereof which is subject to delays in accordance with Section VI(G) of this Agreement.

XII. NO ARBITRATION

Any and all disputes involving this Agreement, including the breach or alleged breach thereof, may not be submitted to arbitration unless specifically agreed thereto in writing by County, but must instead only be heard in the Supreme Court of the State of New York, with venue in Orange County or, if appropriate, in the Federal District Court with venue in the Southern District of New York, White Plains division. The provisions of this Section XII shall survive expiration or earlier termination of this Agreement.

XIII. GOVERNING LAW

This Agreement shall be governed by the laws of the State of New York without giving effect to choice of law provisions. Municipality shall render all services under this Agreement in accordance with applicable provisions of all federal, New York State, County and Municipality laws, regulations and policies as are in effect at the time such services are rendered. The provisions of this Section XIII shall survive expiration or earlier termination of this Agreement.

XIV. SERVICE OF PROCESS

In addition to the methods of service allowed by the New York State Civil Practice Law & Rules, Municipality hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Municipality's actual receipt of process or upon County's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Municipality must promptly notify County, in writing, of each and every change of address to which service of process can be made. Service by County to the last known address shall be sufficient. Municipality will have thirty (30) calendar days after service hereunder is complete in which to respond. The provisions of this Section XIV shall survive expiration or earlier termination of this Agreement.

XV. CONFLICTING TERMS

In the event of a conflict between the terms of the Agreement (including any and all attachments thereto and amendments thereof), New York State laws and regulations, and federal laws and regulations the strictest term or condition shall control, unless federal preemption requires otherwise. The provisions of this Section XV shall survive expiration or earlier termination of this Agreement.

XVI. SEVERABILITY

If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect. The provisions of this Section XVI shall survive expiration or earlier termination of this Agreement.

XVII. SECTION HEADINGS AND SUBHEADINGS

The section headings and subheadings contained in this Agreement are included for convenience only and shall not limit or otherwise affect the terms of this Agreement. The provisions of this Section XVII shall survive expiration or earlier termination of this Agreement.

XVIII. EXHIBITS

A. As a condition of contract, Municipality shall provide and keep updated, in accordance with the terms of this Agreement, the information required for completion of the following Exhibits:

- Exhibit 1: OCD CDBG Project Budget
- Exhibit 2: Annual Beneficiary Report [Exhibit 2 is not used if not applicable]
- Exhibit 3: Project Implementation Schedule
- Exhibit 4: Municipal Voucher Submission Checklist
- Exhibit 5: Insurance Certificates and Bonds required by the Agreement
- Exhibit 6: Quarterly Project Progress Report
- Exhibit 7: Council/Board Resolution for Certification of Authority
- Exhibit 8: Fair Housing Resolution

B. The provisions of this Section XVIII shall survive expiration or earlier termination of this Agreement.

XIX. WAIVER

Either party's failure to act with respect to a breach by the other does not waive its right to act with respect to subsequent or similar breaches. The failure of either party to exercise or enforce any right or provision shall not constitute a waiver of such right or provision. The provisions of this Section XIX shall survive expiration or earlier termination of this Agreement.

XX. INCORPORATION BY REFERENCE

All County, New York State and federal laws, regulations, policies and other guidance noted in this Agreement are hereby incorporated by reference in full, all as may have been previously amended from their initial enactment until the date of this Agreement, and all as may be amended in the future. The provisions of this Section XX shall survive expiration or earlier termination of this Agreement.

XXI. BINDING EFFECT

This Agreement shall be binding upon the parties hereto and their respective successors and assigns.

XXII. ENTIRE AGREEMENT

This Agreement constitutes the entire Agreement between County and Municipality for the use of funds received under this Agreement and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written, between County and Municipality with respect to this Agreement.

XXIII. AUTHORITY

Each party represents that the signatory has been duly authorized to bind the party by executing this Agreement. Proof of Municipality's authorization is in the attached **Exhibit 7**.

XXIV. SIGNATURES

A manually signed copy of this Agreement delivered by facsimile, email or other means of electronic transmission will be deemed to have the same legal force and effect as delivery of an original signed copy of this Agreement.

This Agreement may be executed in one or more counterparts and all such counterparts shall be deemed to constitute but one and the same agreement as if all signatures were set forth on the same agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

COUNTY

MUNICIPALITY

COUNTY OF ORANGE

Village of Warwick

By: _____

By: _____

Name: Stefan ("Steven") M. Neuhaus

Name: **Michael J. Newhard**

Title: County Executive

Title: **Mayor**

COUNTY ACKNOWLEDGMENT

STATE OF NEW YORK }
COUNTY OF } ss.:

On the ____ day of _____ in the year 20____, before me, the undersigned, personally appeared **Stefan (“Steven”) M. Neuhaus** personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person on behalf of which the individual(s) acted, executed the instrument.

Notary Public

MUNICIPALITY ACKNOWLEDGMENT

STATE OF NEW YORK }
COUNTY OF } ss.:

On the ____ day of _____ in the year 20____, before me, the undersigned, personally appeared _____ personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person on behalf of which the individual(s) acted, executed the instrument.

Notary Public

MUNICIPALITY

CERTIFICATION OF AUTHORITY

(NOTE: Please also attach an original certified copy of the Council/Board authorizing resolution as Exhibit 7.)

I, _____ ("Clerk") certify that I am the Clerk, of _____
_____ ("Municipality") a municipal corporation duly created pursuant to the laws of New
York State and a party to this Agreement; that _____, who signed
(Name of Chief Executive Executing Agreement)
this Agreement on behalf of Municipality, was at the time of execution the _____
(Title of Chief Executive)
of Municipality; that this Agreement was duly signed for and on behalf of Municipality, as authorized by the
_____; and that such authority is in full force and effect at the date hereof.
(Board or Council)

(Place Municipal Seal Here)

Clerk Signature

CLERK'S ACKNOWLEDGMENT

STATE OF NEW YORK }
COUNTY OF } ss.:

On the ____ day of _____ in the year 20____, before me, the undersigned, personally appeared _____ personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person on behalf of which the individual(s) acted, executed the instrument.

Notary Public

**ADDENDUM TO THE COUNTY OF ORANGE
COMMUNITY DEVELOPMENT BLOCK GRANT
PROGRAM MUNICIPAL AGREEMENT FOR FY 2022**

This Addendum dated the __ day of _____, 2022, modifies a “County of Orange Community Development Block Grant Program Municipal Agreement for FY 2022” dated the __ day of _____, 2022 (the “Agreement”), entered into by the County of Orange (the “County”) and the **Village of Warwick (the Village)**, as follows:

WHEREAS, pursuant to the Agreement, the **Village** is to receive **\$108,570.00** in Community Development Block Grant (“CDBG”) monies to perform work relating to a project entitled **South Street Sidewalk ADA Improvements to benefit Limited Clientele LMC Project** (the “Project”); and

WHEREAS Jane Samuelson, PE Engineering & Surveying Properties, PC, (“PE Engineering”) is an engineering firm retained by the Village to provide assistance with regard to the Village’s efforts to obtain CDBG monies for the Project; and

WHEREAS, the Village and PE Engineering, certifies that the work comprising the Project does not constitute maintenance or repair work which would be an ineligible activity pursuant to applicable HUD regulations, including Title 24 of the Code of Federal Regulations; and

NOW THEREFORE, for good and valuable consideration, the existence and sufficiency of which is hereby acknowledged, the County and the Village agree as follows:

1. To the fullest extent permitted by law, the Village shall defend, indemnify and hold harmless the County, including its officials and employees, against all claims, losses, damages, liabilities, costs, fees, penalties, fines or expenses arising out of a finding and/or determination that any aspect of the Project funded (in whole or in part) by CDBG monies is not an eligible activity under Title 24 of the Code of Federal Regulations.

2. If a finding and/or determination is made that any aspect of the Project funded (in whole or in part) by CDBG monies is not an eligible activity under Title 24 of the Code of Federal Regulations, and the County is required to reimburse and/or expend funds as a result of such finding and/or determination, then the Village shall pay to the County an amount equal to the amount the County is required to reimburse and/or expend as a result of such finding and/or determination, plus reasonable attorneys’ fees.

3. The Village shall make such payment to the County within sixty (60) days of receipt of written CDBG Municipal Agreement (05/22)

notice from the County that payment to the County pursuant to this Addendum is required.

4. Such payment shall be made to the County without deduction, defense, setoff or counterclaim.

5. The Village obligations assumed pursuant to this Addendum shall survive the expiration or termination of this Agreement.

6. All other terms of the Agreement, except as specifically amended or modified herein, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Addendum as of the date first above written.

County of Orange

Village of Warwick

By: _____
Stefan ("Steven") M. Neuhaus
County Executive

By: _____
Michael J. Newhard
Mayor

EXHIBIT 1

Exhibit 1 is comprised of **South Street Sidewalk ADA Improvements to benefit Limited Clientele LMC** Project Budget as reviewed by OCD.

Municipality: Village of Warwick

Federal Tax ID # (EIN): 14-6002491

Unique Entity ID #: E3NPR68YHGZ5

Project CDBG Award: \$108,570.00

Funds committed from other sources: \$180.40

Total Project Cost (CDBG Funds + Other Funds Committed): \$108,750.40

BUDGET ITEM	BUDGET AMOUNT
Disposal of Demolition Materials	\$ 6,360.00
Labor related to demolition	\$ 20,236.80
Construction Materials	\$ 41,680.00
Labor related to construction	\$ 40,473.60
Total Estimated Costs	\$ 108,750.40
Total CDBG Funding of eligible activities	\$ 108,570.00
Total to be funded by Village of Warwick	\$ 180.40

EXHIBIT 2

Annual Beneficiary Report for any project which is not eligible based on low-mod area/census data. Use this form for public services, senior centers, etc. DO NOT use this form for water/sewer/ADA, etc. projects.

REPORT FORM FOR _____
Municipality name and project

Accomplishments	PY 2022 Unduplicated count	P.Y. 2022 Total units of service (optional)
Total number (Unduplicated)		
INCOME RANGE (NOTE: Senior Centers do not have to report on income of participants)		
Extremely low 0-30%		
V. Low 31-50%		
Moderate 51-80%		
Race - NON-HISPANIC		
White		
Black		
Asian		
American Indian/Alaskan Native		
Multi-racial –		
American Indian-White		
Asian – White		
Black – White		
American Indian and Black		
Other Multi-Racial		
LATINO/HISPANIC		
White		
Black		
Asian		
American Indian/Alaskan Native		
Multi-racial –		
American Indian-White		
Asian – White		
Black – White		
American Indian and Black		
Other Multi-Racial		
Single Parent Head of Household:		
Male:		
Female:		
Persons with Disabilities:		

EXHIBIT 3
ORANGE COUNTY OFFICE OF COMMUNITY DEVELOPMENT
CDBG MUNICIPAL PROGRAM
PROJECT IMPLEMENTATION TIMETABLE
2022

MUNICIPALITY: Village of Warwick

SUBRECIPIENT: None

2022 PROJECT/ACTIVITY NAME: South Street Sidewalk ADA Improvements to benefit Limited Clientele LMC (\$108,570.00)

DATE PREPARED: June 2022

MILESTONE

DATE

Engineering RFP completion:	N/A
Conceptual Engineering/Design prepared:	1/2023
Plans, approvals, permits complete (detail each):	2/2023
Other funding sources confirmed:	N/A
Environmental Review Completed and HUD release of funds	Assumed by 12/31/22
Time needed to obtain site control:	N/A
Time needed to obtain other project financing:	N/A - Village Budget
Final Engineering/Design Completed:	2/2023
Bid Specs Completed and sent to OCD for approval:	2/2023
Estimate date of bid opening:	3/2023
Pre-construction Meeting:	4/2023
Projected date for notice to proceed:	4/2023
Construction start:	5/2023
Construction Substantial Completion:	6/2023
Expected Completion Date:	7/2023

EXHIBIT 4
Municipal Voucher Submission Checklist

Submit Payment request to:

Assistant Director
Orange County Office of Community Development
40 Matthews Street, Suite 307A
Goshen, NY 10924
(845) 615-3818

Municipality is responsible for ensuring that required documents are complete and that all forms are correctly filled out. Incomplete and/or incorrect Vouchers will not be processed and will be returned to the municipality. This will result in delays in processing payments to Contractors/Subrecipients. Copy this office on any deficiency notices to vendors/contractors/subrecipients.

Date: _____

From Town/Village of: _____

Address: _____

Contact Person: _____ Phone Number: _____

Email: _____

RE: CDBG PROJECT NAME and YEAR: _____

Contractor/Subrecipient Name: _____

Payment Req. #: _____ Request Total: _____

OCD Share: _____ Municipal Share: _____

Check to be sure you have included the following along with this payment request:

- _____ Documentation to support the payment request
- _____ ORIGINAL completed VENDOR/CLAIMANT'S CDBG PROJECT CERTIFICATION FORM.
- _____ Town/village voucher is signed by Vendor; Approved and Signed by Supervisor/Mayor and initialed by Town/Village Board authorizing payment upon receipt of CDBG funds.

_____ Attach **original** Contractor Payment Request form (AIA or other approved form):

- a. Check and verify dollar amounts on Pages 1 & 2;
- b. Engineer/Architect must approve payment and sign in designated spot;
- c. Contractor's signature must be notarized;
- d. All calculations on Payment Request form, pages 1 & 2, must be correct and accurate;
- e. Amount of Payment Request must agree with Town/Village Voucher; and
- f. Any fully executed change orders, if applicable, must be attached.

Do not include tax; government purchases are not liable for tax.

Force Account Payment Requests Only:

_____ material/equipment purchases only - submit original receipts (may not be submitted until work has begun)

_____ material/equipment purchases only - sign Vendor invoice "received".

_____ For reimbursement of labor only - submit certified payroll, duty logs and/or schedules, summary sheet indicating number of hours, hourly rate and total amount requested from CDBG and amount to be paid from other sources.

EXHIBIT 5

Exhibit 5 includes the following attached Insurance Certificates:

INSURANCE REQUIREMENTS

New York State and County of Orange have outlined the requirements listed below for all municipal agreements, cooperation agreements and amendments that are executed in connection with the Community Development Block Grant Program (through the office of Community Development).

Important Note: Risk Management Department will not approve any municipal agreement or amendment for signature without the proper insurance certificates. In order to avoid any delays in the implementation of your CDBG project, please submit all insurance certificates in the proper format with your signed Municipal Agreement.

Thank you for your cooperation!

CERTIFICATE OF LIABILITY INSURANCE:

Acceptable certificates will include the following language and shall comply with the limits and terms contained in municipal grant agreements, cooperation agreements or agreement amendments.

- a. In the "Description Box" of the Certificate- "The County of Orange", c/o Office of Community Development is named as Additional Insured. The (municipality's name), shall have no right to recovery or subrogation against the County of Orange (including its employees and other agents and agencies)."
- b. In the "Certificate Holder" Box of the Certificate- "The County of Orange", c/o Office of Community Development, 40 Matthews Street, Suite 307A, Goshen, NY 10924

CERTIFICATE OF WORKERS COMPENSATION:

- a. Form C-105.2/Form U-26.3 or
- b. SI-12 or GSI-105.2

CERTIFICATE OF DISABILITY BENEFITS INSURANCE:

- a. Form DB-120.1 or
- b. DB-155

WORKERS COMPENSATION AND DISABILITY EXEMPTIONS:

Municipalities exempt from Workers Compensation and/or Disability Benefits Insurance Coverage must submit "Certificate of Attestation of Exemption" Form CE-200.

Please contact your Insurance Agent with any questions on the required forms.

EXHIBIT 6

**QUARTERLY PROJECT PROGRESS REPORT
CDBG MUNICIPAL PROGRAM**

SUBMIT REPORT TO: Office of Community Development
40 Matthews Street, Suite 307A
Goshen, NY 10924
Attn: Assistant Director

MUNICIPALITY: _____ **SUBRECIPIENT:** _____

PROJECT/ACTIVITY NAME: _____ **FUND YEAR:** _____
(* Please complete a separate report for each open project. Thank you.)

NAME: _____ **DATE REPORT PREPARED:** _____
(of person most familiar with information in this report.)

TELEPHONE #: _____ **E-MAIL:** _____
(of person completing this report) (of person completing this report)

REPORT FOR THE PERIOD OF _____, 20____ **TO** _____, 20____
(Month /Day) (Month/Day)

1. List below the anticipated milestones that were to have been achieved this quarter (reference Exhibit 3):

2. List below the milestones that have been achieved to date, be specific:

3. Provide any updates relevant to the anticipated completion date (Was the projected timeline accurate? Do you anticipate needing an extension? etc.)

EXHIBIT 7

Attached Council/Board Resolution for Certification of Authority

EXHIBIT 8

Attached Municipality Fair Housing Resolution

114 Hartley Road
Goshen NY 10924



P: (845) 294-8882
F: (845) 294-8883

Quote

Customer Village of Warwick
77 Main Street
Warwick NY 10990

Date Estimate #
04/29/2022 2609

PO #:

Description	Unit	Quantity	Rate	Amount
- Sewer Plant				
TAM Enterprises Inc. is pleased to quote the following:				
VacCon w/ Operator & Laborer to:				
- Skim floating mat of rags from digester.				
For the sum of: <u>\$3,100.00/day</u>	day		3100.000	
Disposal @ <u>\$285.00/ton</u>	ton		285.000	
Crane Truck to:				
- Remove & install digester lids.				
For the sum of:		1.00	3100.000	3,100.00

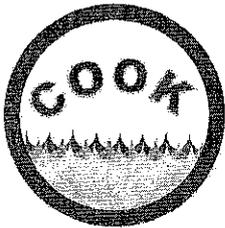
Notes

Customer Signature _____
Accepted By : _____

Subtotal	\$3,100.00
Sales Tax:	0.00
Quote Total	\$3,100.00

24 Hour Emergency Service - Certified Backflow Prevention Technician - Hydro Vacuum Excavation - Pump Station Installation & Maintenance
High Pressure Water Jetting - Video Inspection of Underground Lines - Installation of Water & Sewer Lines - Clearing of Catch Basins
Man Hole Rehabs - Sewer & Water Plant Rehabs - Confined Space Entry - Pipe Lining Services - Soil Remediation Services
Pipe Location Services - Wet Taps - Inset-A-Valves - Industrial Tank Pumping - Excavation Services - Emergency Sewer By-Pass Pumping

www.tamenterprises.com



Fred A Cook, Jr. Inc.

SEWER, SEPTIC & PIPELINE CLEANING SPECIALISTS

High Power Vacuum Cleaning • Catch Basin Cleaning • High Velocity Pipe Cleaning
TV Inspection • Sanitary & Storm Sewer Systems

Company Name: Keith Herbert
Contact Name: JCO Inc.

Date: May 13, 2022
Contact Phone/Email: 845-866-0324 /
kherbert@jcoinc.org
Job Site Address:
Warwick Digester Cleaning

Billing Address:
PO Box 511, Goshen, NY 10924

SCOPE OF WORK:

Rental of Vactor Industrial Loader with an Operator and 2 Laborers to Vacuum Floating debris from Digester as shown during site visit. Work is anticipated to take 2-3 Days to complete.

PRICING:

\$4,300.00 / Day

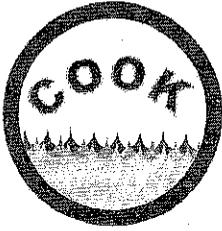
\$175.00 / Ton, disposal

\$450.00 / per Load, Transportation Charge

Plus, NYS Sales Tax if Applicable

The following items are excluded from this proposal and are to be provided for by the Client at no cost to Fred A Cook, Jr. Inc. **if and where required:**

1. Pricing is based on estimated quantity(s) provided. Any reduction in quantity(s) may result in increased pricing.
2. Any permits, fees, or bonds.
3. Additional insurances beyond statutory minimums for Worker's Compensation, Automobile Liability beyond \$1,000,000 limit, Commercial General Liability beyond limits of \$1,000,000/\$2,000,000 plus a \$4,000,000 Umbrella.
4. The contractor will not be responsible for liability, loss or expense (including damage caused by the backup of basement sewers) where the primary cause of the claim or damage is preexisting conditions including faulty, inadequate or defective design, construction, maintenance or repair of property or contamination of the subsurface where the condition existed prior to the start of the contractor's work. Client is responsible for loss of service caused by the preexisting conditions at the jobsite, including lane closures/detours.
5. Where the client supplies labor for the contractor, the client will indemnify the contractor for liability, loss or expense for work related injuries to the client's employees. The client agrees to waive all rights of subrogation against the contractor arising out of the work in this agreement.



Fred A Cook, Jr. Inc.

SEWER, SEPTIC & PIPELINE CLEANING SPECIALISTS

High Power Vacuum Cleaning · Catch Basin Cleaning · High Velocity Pipe Cleaning
TV Inspection · Sanitary & Storm Sewer Systems

Company Name: Keith Herbert
Contact Name: JCO Inc.

Date: May 13, 2022
Contact Phone/Email: 845-866-0324 /
kherbert@jcoinc.org
Job Site Address:
Warwick Digester Cleaning

Billing Address:
PO Box 511, Goshen, NY 10924

6. Maintenance and protection of traffic beyond the placement of cones.
7. Pricing is not inclusive of any bypass pumping or dewatering unless specifically detailed in the scope of work.
8. Local/County Police Officers, State Troopers, and/or Flagmen for Traffic Control.
9. Additional copies of CCTV inspection video recordings and/or reports.
10. Any other contractual items not specifically included in our pricing as noted above.
11. Any additional administrative requirements not specifically noted in this proposal.
12. No work shall be scheduled unless the account is current.
13. Television Inspection reports will not be released until payment has been made in full.
14. **Credit Policy:** Regular terms are net 15-days. The company may charge interest at the rate of 1 ½ % per month on all invoices outstanding 60 days past invoice date. There will be a fee of \$35.00 for any returned payment.

Fred A Cook, Jr. Inc. reserves the right to cancel this proposal if not accepted within 10-days. If accepted, prices under this proposal are in effect for 30-days from today. Should Fred A. Cook's works be delayed beyond this period and said delay is not caused by Fred A. Cook, Jr. Inc., we reserve the right to adjust our pricing.

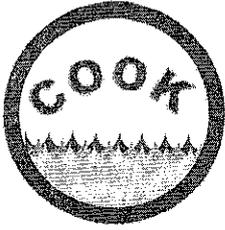
Any contracts, subcontracts or purchase orders that may result from acceptance of this proposal must include signed copies of this proposal, referenced in and made part of said contracts, subcontracts or purchase order documents.

Thank you for considering Fred A. Cook, Jr. Inc. for this project. If you have any questions concerning this proposal, please contact me at (914) 739-3300.

Sincerely,

Brian F Cook

Brian F. Cook



Fred A Cook, Jr. Inc.

SEWER, SEPTIC & PIPELINE CLEANING SPECIALISTS

High Power Vacuum Cleaning • Catch Basin Cleaning • High Velocity Pipe Cleaning
TV Inspection • Sanitary & Storm Sewer Systems

Company Name: Keith Herbert
Contact Name: JCO Inc.

Date: May 13, 2022
Contact Phone/Email: 845-866-0324 /
kherbert@jcoinc.org
Job Site Address:
Warwick Digester Cleaning

Billing Address:
PO Box 511, Goshen, NY 10924

President
Fred A Cook, Jr. Inc.

Accepted by: _____

Print Name: _____

Title: _____

Date: _____



2102 ROUTE 300 - WALLKILL, NY 12589

Ira D. Conklin III
C.E.O.

Cell: 845-742-1710
Fax: 845-231-6333
Email: hydrovacinc@aol.com
www.hydrovacinc.com

*"The Only Non-Destructive
Method of Excavating"*

NOT INTERESTED

**AGREEMENT FOR PURCHASE AND SALE OF
STREET LIGHTING FACILITIES**

THIS AGREEMENT (this "Purchase Agreement"), as of the [■] day of [■], 2021, by and between ORANGE AND ROCKLAND UTILITIES, INC., a New York corporation with offices at One Blue Hill Plaza, Pearl River, New York 10965 ("Seller"), and the VILLAGE OF WARWICK, NEW YORK, a municipal corporation with offices located at offices located at PO Box 369, Warwick, NY 10990 ("Buyer"). Seller and Buyer are sometimes herein referred to individually as a "Party" and collectively as the "Parties."

W I T N E S S E T H

WHEREAS, Seller owns, operates and maintains Street Lighting Facilities (as that term is defined below) within the geographical boundaries of Buyer; and

WHEREAS, Buyer wishes to purchase from Seller, and Seller is agreeable to selling to Buyer, the Street Lighting Facilities upon the terms and conditions contained in this Purchase Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth and such other good and valuable consideration, the receipt and sufficiency of which is hereby mutually acknowledged, the Parties agree as follows:

ARTICLE I

DEFINITIONS AND INTERPRETATION

Section 1.1 Definitions. As used in this Purchase Agreement, the following terms have the meanings specified below in this Section 1.1.

"Ancillary Agreements" means (a) the Operating Agreement, and (b) the Mutual General Release and Settlement Agreement, as the same may be amended from time to time.

"Apportionable Items" has the meaning set forth in Section 3.3(a).

"Bill of Sale" means the Quit Claim Bill of Sale, substantially in the form of Exhibit A hereto, to be executed and delivered by Seller to Buyer at the Closing, to evidence the transfer by Seller to Buyer of Seller's right, title and interest in and to the Street Lighting Facilities.

"Business Day" shall mean any day other than Saturday, Sunday and any day on which banking institutions in the State of New York are authorized by law or other governmental action to close.

"Buyer" has the meaning set forth in the preamble to this Purchase Agreement.

"Buyer's Deliverables" has the meaning set forth in Section 8.5.

“Buyer Protected Parties” has the meaning set forth in Section 6.4(a).

“Buyer’s Required Approvals” means (i) approval of the Village Board of Buyer authorizing Buyer (by its Town Supervisor or other Person) to enter into this Purchase Agreement, the Bill of Sale, the Mutual General Release and Settlement Agreement and the Operating Agreement, and (ii) the written consent of Frontier Communications Corporation, successor to the Highland Telephone Company, pursuant to the Agreement between Orange & Rockland Electric Co. and the Highland Telephone Company Covering The Joint Use of Poles dated as of January 4, 1950, as amended by letter dated July 29, 1954, and as further amended/modified by agreement dated October 11, 1967.

“Breaching Party” has the meaning set forth in Section 9.1(e).

“Claiming Party” has the meaning set forth in Section 6.5(a).

“Closing” has the meaning set forth in Section 3.1.

“Closing Date” has the meaning set forth in Section 3.1.

“Commercially Reasonable Efforts” means efforts which are designed to enable the performing Party, directly or indirectly, to satisfy a condition to, or otherwise assist in the consummation of, the transactions contemplated by this Purchase Agreement and which do not require the performing Party to expend any funds or assume any liabilities other than expenditures and liabilities which are customary and reasonable in nature and amount in the context of the transactions contemplated by this Purchase Agreement.

“Excluded Assets” has the meaning set forth in Section 2.3.

“Governmental Authority” means any applicable federal, state, local or other governmental, regulatory or administrative agency, taxing authority, commission, department, board, or other governmental subdivision, court, tribunal, arbitrating body or other governmental authority, including the PSC.

“Interim Period” has the meaning set forth in Section 6.1.

“Mutual Release and Settlement Agreement” means the Mutual Release and Settlement Agreement to be executed and delivered by Buyer and Seller at Closing, said agreement to be substantially in the form attached hereto as Exhibit B.

“Operating Agreement” means the Operating Agreement to be executed and delivered by Buyer and Seller at Closing, said agreement to be substantially in the form attached hereto as Exhibit C.

“Outside Date” has the meaning set forth in Section 9.1(b).

“Parties” has the meaning set forth in the preamble to this Purchase Agreement.

“Party” has the meaning set forth in the preamble to this Purchase Agreement.

“Permitted Lien” means (a) any lien for Taxes not yet due or delinquent, (b) any Lien for taxes being contested in good faith by appropriate proceedings and not in excess of \$100,000, (c) any lien arising in the ordinary course of business by operation of law with respect to a liability that is not yet due or delinquent or which is being contested in good faith by Seller, (d) zoning, planning, and other similar governmental limitations and restrictions, all rights of any Governmental Authority to regulate any asset, and all matters of public record, and (e) any lien released prior to Closing.

“Person” means any individual, partnership, limited liability company, joint venture, corporation, trust, unincorporated organization, association, or governmental entity or any department or agency thereof.

“Preliminary Apportioned Items Amount” has the meaning set forth in Section 3.3(b).

“PSC” means the State of New York Public Service Commission.

“Purchase Agreement” means this Agreement for Purchase and Sale of Street Lighting Facilities, together with the Exhibits and Schedules attached hereto, as the same may be amended from time to time.

“Purchase Price” has the meaning set forth in Section 3.2.

“Responding Party” has the meaning set forth in Section 6.5(a).

“Seller” has the meaning set forth in the preamble to this Purchase Agreement.

“Seller Protected Parties” has the meaning set forth in Section 6.4(b).

“Seller’s Deliverables” has the meaning set forth in Section 7.5.

“Seller’s Required Approvals” means (i) approval of the board of directors of Seller for Seller (by a Vice President or other Person) to enter into this Purchase Agreement, the Bill of Sale, the Mutual General Release and Settlement Agreement and the Operating Agreement, and (ii) an order of the PSC pursuant to Section 70 of the New York State Public Service Law approving the sale of the Street Lighting Facilities pursuant to the terms of this Purchase Agreement.

“Seller’s Tariff” shall mean and include any and all tariffs on file by Seller with the PSC (including, but not limited to, P.S.C. No. 3 ELECTRICITY), as the same shall be formally issued, supplemented, amended, superseded, and/or interpreted from time to time, now or in the future.

“Street Lighting Facilities” means all of those certain overhead-fed and underground-fed street lighting facilities that are owned solely by Seller, attached to utility poles located within

the geographical boundaries of the Buyer, used solely for street lighting purposes, and which consist of luminaires, lamps, mast arms, their associated wiring, electrical connections, and appurtenances, including the In-Line Fused Disconnects referred to in Section 2.2, all as depicted in Exhibit A to the Operating Agreement.

“Street Lighting Facilities Assessed Values/Taxes” has the meaning set forth in Section 6.6.

“Survey” has the meaning set forth in Section 6.2.

“Third Party Losses/Claims” has the meaning set forth in Section 6.4.

Section 1.2 Certain Interpretive Matters. In this Purchase Agreement, unless the context otherwise requires, the singular shall include the plural, the masculine shall include the feminine and neuter, and vice versa. The term “includes” or “including” shall mean “includes without limitation” or, as applicable, “including without limitation.” References in this Purchase Agreement to an Article, Section or Exhibit shall mean an Article, Section or Exhibit of this Purchase Agreement, and reference to a specified agreement or instrument shall be a reference to that agreement or instrument as modified, amended, supplemented, or restated from time to time.

ARTICLE II

PURCHASE AND SALE

Section 2.1 Transfer of Street Lighting Facilities. Upon the terms and subject to the conditions contained in this Purchase Agreement, at the Closing, Seller will sell, assign, convey, transfer and deliver to Buyer, and Buyer will purchase, assume, acquire and receive from Seller, all of Seller’s right, title and interest in and to the Street Lighting Facilities.

Section 2.2 Demarcation of Ownership. From and after the Closing, Buyer shall own all portions of each of the Street Lighting Facilities from the point in change (transition) from the Seller’s secondary conductor to the street light and including the luminaires, lamps, mast arms, their associated wiring, electrical connections, and appurtenances, with Seller retaining ownership of the electric distribution system up to that point in change; provided that with respect to Street Lighting Facilities for which Buyer has caused an In-Line Fused Disconnect (as defined in the Operating Agreement) to be installed following the Closing, from and after the Closing, Buyer shall own all portions of such Street Lighting Facilities from and including the In-Line Fused Disconnect to the to the street light and including the luminaires, lamps, mast arms, their associated wiring, electrical connections, and appurtenances, with Seller retaining ownership of the electric distribution system up to the In-Line Fused Disconnect.

Section 2.3 Excluded Assets. Seller is not assigning, conveying, transferring or delivering to Buyer and Buyer is not purchasing, assuming, acquiring or receiving from Seller

any of Seller's right, title and interest in and to the following, all of which are being retained by Seller following the Closing (hereinafter collectively referred to as the "Excluded Assets"):

(a) Any and all of Seller's right, title and interest in and to any poles, structures, equipment or equipment attached or appurtenant to, but not comprising, the Street Lighting Facilities;

(b) Any and all claims, counterclaims, causes of action, lawsuits or proceedings with respect to any injury or damage caused to any poles, structures, equipment or components attached or appurtenant to, but not comprising, the Street Lighting Facilities;

(c) Any and all claims, counterclaims, causes of action, lawsuits or proceedings with respect to any injury or damage caused to the Street Lighting Facilities prior to the Closing;

(d) Any and all claims, counterclaims, causes of action, lawsuits or proceedings with respect to any and all costs and expenses incurred by Seller for relocating, adjusting, or protecting/maintaining in place any Street Lighting Facilities (including any planning, designing and engineering work in connection therewith) prior to the Closing in connection with any Governmental projects or private projects, including street relocation, adjustment, reconstruction or resurfacing projects, sewer infrastructure projects and water infrastructure projects;

(e) Any and all claims, counterclaims, causes of action, lawsuits or proceedings with respect to any costs and expenses incurred by Seller for relocating, adjusting, or protecting/maintaining in place any poles, structures, equipment or components attached or appurtenant to, but not comprising, the Street Lighting Facilities (including any planning, designing and engineering work in connection therewith) in connection with any Governmental Authority projects or private projects, including street relocation, adjustment, reconstruction or resurfacing projects, sewer infrastructure projects and water infrastructure projects;

(f) Any and all of Seller's right, title and interest in and to any and all spare parts or spare components relating to the Street Lighting Facilities or any poles, structures, equipment or components attached or appurtenant to, but not comprising, the Street Lighting Facilities;

(g) Any and all of Seller's right, title, and interest in and to any and all vehicles, equipment, tools and supplies relating to installing, operating, inspecting, maintaining, repairing, replacing or decommissioning in whole or in part any Street Lighting Facilities or any poles, structures, equipment or components attached or appurtenant to, but not comprising, the Street Lighting Facilities;

(h) Any and all of Seller's right, title and interest in and to any and all agreements and contracts with third parties relating to installing, operating, inspecting, maintaining, repairing, replacing or decommissioning in whole or in part any Street Lighting Facilities or any poles, structures, equipment or components attached or appurtenant to, but not comprising, the Street Lighting Facilities; and

(i) Any and all of Seller's right, title and interest in and to any and all franchise grants, licenses, permits, and interests in real property pertaining in any way to any Street Lighting Facilities or any poles, structures, equipment or components attached or appurtenant to, but not comprising, the Street Lighting Facilities.

ARTICLE III

CLOSING, PURCHASE PRICE, APPORTIONABLE ITEMS

Section 3.1 Closing. The Closing shall take place at the offices of Seller at 10:00 A.M. (Eastern time) on the tenth Business Day after the conditions to Closing set forth in Articles VII and VIII (other than actions to be taken or items to be delivered at Closing) have been satisfied or waived by the Party entitled to waive such condition, or on such other date and at such other time and place as Buyer and Seller mutually agree in writing. The date of Closing is hereinafter referred to as the "Closing Date." The Closing shall be effective for all purposes as of 12:01 A.M. (Eastern Time) on the Closing Date.

Section 3.2 Purchase Price. The purchase price (the "Purchase Price") for the Street Lighting Facilities shall be an amount equal to \$203,691, *increased* by the Preliminary Apportioned Items Amount if Buyer owes Seller such amount and *decreased* by the Preliminary Apportioned Items Amount if Seller owes Buyer such amount; provided that if the survey conducted pursuant to Section 6.2 hereof determines that (i) the number of overhead-fed Street Lighting Facilities is either more or less than 385 the Purchase Price shall be *increased* \$316 for each overhead-fed Street Lighting Facility more than 385 and *decreased* \$316 for each overhead-fed Street Lighting Facility less than 385, and (ii) the number of underground-fed Street Lighting Facilities is either more or less than 76, the Purchase Price shall be *increased* \$1,078 for each underground-fed Street Lighting Facility more than 76 and *decreased* \$1,078 for each overhead-fed Street Lighting Facility less than 76.

Section 3.3 Apportionable Items.

(a) The following items (the "Apportionable Items") shall be apportioned as of 11:59 P.M. of the day before the Closing Date with Seller bearing the expense of the item applicable to the period before the Closing Date and Buyer bearing the expense of the item applicable to the period on and after the Closing Date:

(i) Real property taxes (including special franchise taxes) assessed or imposed on Seller by virtue of its ownership, use, operation, inspection, maintenance or repair of the Street Lighting Facilities; and

(ii) Any and all other personal property taxes, real estate taxes, occupancy taxes, assessments (special or otherwise) and any and all other applicable fees, taxes and

charges assessed or imposed on Seller by virtue of its ownership, use, operation, inspection, maintenance or repair of the Street Lighting Facilities.

(b) Each of the Apportionable Items shall be apportioned based upon (i) the extent to which (a) Seller, prior to the Closing, has paid such Apportionable Item with respect to any period on and after the Closing Date (*i.e.*, with respect to any period from and after Seller's transfer of the Street Lighting Facilities to Buyer) or (b) Buyer, after the Closing, will be responsible to pay such Apportionable Item with respect to any period before the Closing Date (*i.e.*, with respect to any period before Seller's transfer of Street Lighting Facilities to Buyer) and (ii) the number of days in the applicable tax or other period that are (a) before the Closing Date and (b) on and after Closing Date; provided that, for the purposes of such apportionment calculations, Buyer shall not be credited with being responsible to pay any special franchise tax or, to the extent Buyer is the direct or indirect recipient of any other Apportionable Item, any other Apportionable Item (although, for the avoidance of doubt, Seller shall be credited with any and all payments by Seller, prior to the Closing, of any special franchise tax and any other Apportionable Item with respect to any period on and after the Closing Date notwithstanding that Buyer may be the direct or indirect recipient of such payments). The result of the calculation of the Apportionable Items performed for purposes of the Closing, which shall be netted to a single number (the "Preliminary Apportionable Items Amount"), shall be based on the current amount of each Apportionable Item for the period that includes the Closing Date and, if any such current amount is not then available (*e.g.*, because the applicable taxing authority has not yet issued the amount of the Apportionable Item with respect to the period that includes the Closing Date), shall be based on the amount for the most recent former period. Following the Closing and within 60 days after the date that the last of the previously unavailable amounts of the Apportionable Items becomes available, the Parties shall use the available amounts to true-up the calculation that led to the Preliminary Apportionable Items Amount and the Party that owes the other Party based on such true-up calculation (and taking into account the Preliminary Apportionable Items Amount that was paid at Closing by adjusting the Purchase Price) shall pay such other Party within 30 days after the true-up calculation is made. The obligations set forth in this Section 3.3 shall survive the Closing.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES OF SELLER

Seller hereby represents and warrants to Buyer as follows:

Section 4.1 Organization. Seller is a corporation duly formed, validly existing and in good standing under the laws of the State of New York.

Section 4.2 Authority, Binding Obligation. Subject to obtaining the Seller's Required Approvals: Seller has all requisite corporate power and authority to execute and deliver this Purchase Agreement, to perform its obligations hereunder and to consummate the transactions contemplated hereby; the execution and delivery of this Purchase Agreement and the

performance by Seller of its obligations hereunder have been duly and validly authorized by all necessary corporate action; and this Purchase Agreement has been duly and validly executed and delivered by Seller and constitutes the legal, valid and binding obligation of Seller enforceable against Seller in accordance with its terms, except as the same may be limited by bankruptcy, insolvency, reorganization, fraudulent conveyance, arrangement, moratorium or other similar laws relating to affecting the rights of creditors generally, or by general equitable principles (regardless of whether enforcement is considered in a proceeding at law or in equity).

Section 4.3 No Conflicts; Consents and Approvals. Subject to obtaining the Seller's Required Approvals, the execution and delivery by Seller of this Purchase Agreement do not, the performance by Seller of its obligations hereunder will not, and the consummation of the transactions contemplated hereby will not:

(a) conflict with or result in a violation or breach under the certificate of incorporation or by-laws of Seller or under any material contract to which Seller is a party, except for any such violations or defaults that would not, in the aggregate, reasonably be expected to materially adversely affect Seller's ability to perform its obligations hereunder or to consummate the transactions contemplated hereby;

(b) conflict with, violate or breach, in each case in any material respect, any provision of any law applicable to Seller; or

(c) require any consent or approval of any Governmental Authority under any law applicable to Seller.

Section 4.4 Legal Proceedings. To the knowledge of Seller, there are no actions, suits or proceedings pending against Seller before any Governmental Authority which, individually or in the aggregate, could reasonably be expected to have a material adverse effect on Seller's ability to proceed with the transactions contemplated by this Purchase Agreement. To the knowledge of Seller, Seller is not subject to any outstanding judgments, rules, orders, writs, injunctions or decrees of any Governmental Authority which, individually or in the aggregate, could reasonably be expected to have a material adverse effect on Seller's ability to proceed with the transactions contemplated by this Purchase Agreement.

Section 4.5 Liens. To the knowledge of Seller, the Street Lighting Facilities are free and clear of all liens except Permitted Liens.

ARTICLE V

REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer represents and warrants to Seller as follows:

Section 5.1 Organization. Buyer is a municipal corporation duly formed, validly existing and in good standing under the laws of the State of New York.

Section 5.2 Authority, Binding Obligation. Subject to obtaining the Buyer's Required Approvals: Buyer has all requisite power and authority to execute and deliver this Agreement, to perform its obligations hereunder and to consummate the transactions contemplated hereby; the execution and delivery of this Purchase Agreement and the performance by Buyer of its obligations hereunder have been duly and validly authorized by all necessary action; and this Purchase Agreement has been duly and validly executed and delivered by Buyer and constitutes the legal, valid and binding obligation of Buyer enforceable against Buyer in accordance with its terms, except as the same may be limited by bankruptcy, insolvency, reorganization, fraudulent conveyance, arrangement, moratorium or other similar laws relating to affecting the rights of creditors generally, or by general equitable principles (regardless of whether enforcement is considered in a proceeding at law or in equity).

Section 5.3 No Conflicts; Consents and Approvals. Subject to obtaining the Buyer's Required Approvals, the execution and delivery by Buyer of this Purchase Agreement do not, the performance by Seller of its obligations hereunder will not, and the consummation of the transactions contemplated hereby will not:

(a) conflict with or result in a violation or breach under the charter or other organizational documents of Buyer or under any material contract to which Buyer is a party, except for any such violations or defaults that would not, in the aggregate, reasonably be expected to materially adversely affect Buyer's ability to perform its obligations hereunder or to consummate the transactions contemplated hereby;

(b) conflict with, violate or breach, in each case in any material respect, any provision of any law applicable to Buyer; or

(c) require any consent or approval of any Governmental Authority under any law applicable to Buyer.

Section 5.4 Legal Proceedings. To the knowledge of Buyer, there are no actions, suits or proceedings pending against Buyer before any Governmental Authority which, individually or in the aggregate, could reasonably be expected to have a material adverse effect on Buyer's ability to proceed with the transactions contemplated by this Purchase Agreement. To the knowledge of Buyer, Buyer is not subject to any outstanding judgments, rules, orders, writs, injunctions or decrees of any Governmental Authority which, individually or in the aggregate, could reasonably be expected to have a material adverse effect on Buyer's ability to proceed with the transactions contemplated by this Purchase Agreement.

Section 5.5 Availability of Funds. Buyer has sufficient funds available to it to enable Buyer to pay the Purchase Price to Seller.

ARTICLE VI

COVENANTS OF THE PARTIES

Section 6.1 Conduct of Business Relating to the Street Lighting Facilities. During the period from the date of this Purchase Agreement up to, but not including, the Closing Date (the “Interim Period”), Seller shall operate and maintain the Street Lighting Facilities in the ordinary course of its business consistent with its past practices.

Section 6.2 Survey of Street Lighting Facilities. During the Interim Period, Seller shall cause a survey of the Street Lighting Facilities (“Survey”) to be performed in good faith to determine the number of Street Lighting Facilities. Prior to the commencement of the Survey, Seller shall notify Buyer of the dates the Survey will be conducted and Buyer shall be allowed to have a representative present when Seller conducts the Survey. Seller shall provide Buyer with written notice of the result of the Survey, which result shall be used in connection with determining the Purchase Price.

Section 6.3 Pursuit of Required Approvals. During the Interim Period:

(a) Seller will, in order to consummate the transactions contemplated hereby, (i) exercise Commercially Reasonable Efforts to obtain the Seller’s Required Approvals as promptly as practicable, including making all required filings with, and giving all required notices to, each applicable Governmental Authority or other Person and (ii) cooperate in good faith with each applicable Governmental Authority and other Person and promptly provide such other information and communications to each such Governmental Authority or other Person as such Governmental Authority or other Person may reasonably request in connection therewith.

(b) Buyer will, in order to consummate the transactions contemplated hereby, (i) exercise Commercially Reasonable Efforts to obtain the Buyer’s Required Approvals as promptly as practicable, including making all required filings with, and giving all required notices to, each applicable Governmental Authority or other Person and (ii) cooperate in good faith with each applicable Governmental Authority and other Person and promptly provide such other information and communications to each such Governmental Authority or other Person as such Governmental Authority or other Person may reasonably request in connection therewith.

(c) Seller, with respect to the Seller’s Required Approvals, will provide prompt notification to Buyer, and Buyer, with respect to the Buyer’s Required Approvals, will provide prompt notification to Seller, of any material communications with the applicable Governmental Authority or other Person from whom the Seller’s Required Approvals or Buyer’s Required Approvals are sought and when any such approval is obtained, taken, made, given or denied, as applicable.

Section 6.4. Indemnification Against Third Party Claims And Losses.

(a) From and after the Closing, Seller shall retain liability for and shall defend, indemnify and hold harmless Buyer, its parents, subsidiaries, affiliates and its and their respective trustees, directors, officers, employees, attorneys, shareholders, contractors, subcontractors, agents, representatives, successors and assigns (collectively, the “Buyer Protected Parties”) from and against any and all claims, counterclaims, causes of action,

lawsuits, proceedings, judgments, losses, liabilities, damages, fines, penalties, interest, costs and expenses (including court costs, reasonable fees of attorneys, accountants and other experts and reasonable expenses of investigation, preparation, and litigation) for personal injuries (including death) or damages to property arising from or claimed to arise from the Street Lighting Facilities (collectively, "Third Party Losses/Claims") that third parties have suffered or sustained prior to the Closing or that third parties claim to have been suffered or sustained prior to the Closing, except to the extent that such Third Party Losses/Claims arise from the negligence or other acts or omissions of any one or more of the Buyer Protected Parties.

(b) From and after the Closing, Buyer shall have liability for and shall defend, indemnify and hold harmless Seller, its parents, subsidiaries, affiliates and its and their respective trustees, directors, officers, employees, attorneys, shareholders, contractors, subcontractors, agents, representatives, successors and assigns (collectively, the "Seller Protected Parties") from and against any and all Third Party Losses/Claims that third parties have suffered or sustained on or after the Closing or that third parties claim to have been suffered or sustained on or after the Closing, except to the extent that such Third Party Losses/Claims arise from the negligence or other acts or omissions of any one or more of the Seller Protected Parties on or after the Closing Date for which negligence or other acts or omissions the Seller's Tariff (*i.e.*, Schedule for Electric Service, PSC No. 3 – Electricity, General Information Section 10.1, or its successor) does not provide an applicable exclusion from or limitation of liability.

(c) The obligations set forth in this Section 6.4 shall survive the Closing.

Section 6.5 Procedure with Respect to Third Party Claims And Losses.

(a) If any Party becomes subject to a pending or threatened Third Party Claim/Loss and such Party (the "Claiming Party") believes it is entitled to indemnification pursuant to Section 6.4 hereof from the other Party (the "Responding Party") as a result, then the Claiming Party shall notify the Responding Party in writing of the basis for its claim for indemnification setting forth the nature of the claim in reasonable detail. The failure of the Claiming Party to so notify the Responding Party shall not relieve the Responding Party of any liability or obligations under Section 6.4 or this Section 6.5 except to the extent that the defense of such Third Party Claim/Loss is prejudiced by the failure to give such notice.

(b) If any Third Party Claim/Loss proceeding is brought by a third party against a Claiming Party and the Claiming Party gives notice to the Responding Party pursuant to this Section 6.5, the Responding Party shall be entitled to participate in such proceeding and, to the extent that it wishes, to assume the defense of such proceeding, if (i) the Responding Party provides written notice to the Claiming Party that the Responding Party intends to undertake such defense, (ii) the Responding Party conducts the defense of the Third Party Claim/Loss actively and diligently with counsel reasonably satisfactory to the Claiming Party and (iii) if the Responding Party is a party to the proceeding, the Responding Party has not determined in good faith that joint representation would be inappropriate because of a conflict in interest. The Claiming Party shall, in its sole discretion, have the right to employ separate counsel (who may be selected by the Claiming Party in its sole discretion) in any such action and to participate in

the defense thereof, and the fees and expenses of such counsel shall be paid by such Claiming Party. The Claiming Party shall fully cooperate with the Responding Party and its counsel in the defense or compromise of such Third Party Claim/Loss. If the Responding Party assumes the defense of a Third Party Claim/Loss proceeding, no compromise or settlement of such Third Party Claim/Loss may be effected by the Responding Party without the Claiming Party's consent unless (A) there is no finding or admission of any violation of law or any violation of the rights of any Person and no effect on any other Third Party Claims/Loss that may be made against the Claiming Party and (B) the sole relief provided is monetary damages that are paid in full by the Responding Party.

(c) If (i) notice is given to the Responding Party of the commencement of any Third Party Claim/Loss proceeding and the Responding Party does not, within 30 days after the Claiming Party's notice is given, give notice to the Claiming Party of its election to assume the defense of such proceeding, (ii) any of the conditions set forth in clauses (i) through (iii) of Section 6.5(b) become unsatisfied or (iii) the Claiming Party determines in good faith that there is a reasonable probability that a legal proceeding may adversely affect it other than as a result of monetary damages for which it would be entitled to indemnification from the Responding Party under this Agreement, then the Claiming Party shall (upon notice to the Responding Party) have the right to undertake the defense, compromise or settlement of such Third Party Claim/Loss; provided that the Responding Party shall reimburse the Claiming Party for the costs of defending against such Third Party Claim/Loss (including reasonable attorneys' fees and expenses) and shall remain otherwise responsible for any liability with respect to amounts arising from or related to such Third Party Claim/Loss, in both cases to the extent it is determined that such Responding Party is liable to the Claiming Party under this Agreement with respect to such Third Party Claim/Loss. The Responding Party may elect to participate in such legal proceedings, negotiations or defense at any time at its own expense.

(d) The obligations set forth in this Section 6.5 shall survive the Closing.

Section 6.6 Property Tax Reduction. Buyer shall exercise Commercially Reasonable Efforts to cause any and all assessed values and related special franchise tax assessments and real property tax assessments reasonably associated with the Street Lighting Facilities (the "Street Lighting Facilities Assessed Values/Taxes") to be reduced as of the Closing such that the assessed values and related special franchise tax assessments and real property tax assessments with respect to property that Seller retains after the Closing (including the Excluded Assets) does not include, from and after the Closing, any Street Lighting Facilities Assessed Values/Taxes and Seller is not requested or required to pay any special franchise tax or real property tax associated with the Street Lighting Facilities Assessed Values/Taxes from and after the Closing. To the extent that Buyer does not cause the reductions contemplated by this Section to be effective as of the Closing, (i) Buyer shall continue to exercise Commercially Reasonable Efforts after the Closing to cause the reductions contemplated by this Section and (ii) if Seller pays any special franchise tax or real property tax associated with the Street Lighting Facilities Assessed Values/Taxes from and after the Closing, Buyer shall reimburse Seller for any and all such payments (including by means of a credit on Seller's subsequent bill(s)).

Section 6.7 Tax Matters.

(a) Buyer acknowledges that Seller will not comply with the provisions of any bulk sales or transfer laws of any jurisdiction in connection with the transactions contemplated by this Purchase Agreement. Buyer hereby waives compliance by Seller with the provisions of the bulk sales or transfer laws of all applicable jurisdictions.

Section 6.8 Risk of Loss. Seller shall bear the risk of loss of and damage to the Street Lighting Facilities during the period from the date of this Purchase Agreement up to but not including the Closing Date and Buyer shall bear the risk of loss of and damage to the Street Lighting Facilities from and after the Closing Date.

Section 6.9 Brokerage Fees and Commissions. Each Party covenants to the other that no broker, finder or other Person is entitled to any brokerage fees, commissions or finder's fees in connection with the transactions contemplated hereby by reason of any action taken by the Party making such covenant. Each Party (an indemnifying Party) will pay or otherwise discharge, and will indemnify, defend and hold the other Party harmless from and against, any and all claims against and liabilities of the other Party for any and all brokerage fees, commissions and finder's fees in connection with the transactions contemplated hereby by reason of any action taken or the breach of this covenant by the indemnifying Party.

Section 6.10 Expenses. Except to the extent expressly provided to the contrary in this Purchase Agreement, and whether or not the transactions contemplated herein are consummated, all costs and expenses incurred by a Party in connection with the negotiation, execution and consummation of the transactions contemplated hereby, including the cost of filing for and prosecuting applications for the Seller Required Approvals and the Buyer Required Approvals, shall in all instances be borne by the Party incurring such costs and expenses.

Section 6.11 Further Assurances. Subject to the terms and conditions of this Purchase Agreement, at either Party's request and without further consideration, the other Party shall execute and deliver to such requesting Party such other instruments of sale, transfer, conveyance, assignment and confirmation, provide such materials and information and take such other actions as such requesting Party may reasonably request in order to consummate the transactions contemplated by this Agreement; provided that the other Party shall not be obligated to execute or deliver any instruments, provide any materials or information or take any actions that modify the rights, remedies, obligations or liabilities of such other Party pursuant to this Purchase Agreement or applicable law.

ARTICLE VII

BUYER'S CONDITIONS TO CLOSING

The obligation of Buyer to consummate the Closing is subject to the fulfillment of each of the following conditions (except to the extent waived in writing by Buyer in its sole discretion):

Section 7.1 Seller's Representations and Warranties. The representations and warranties made by Seller in this Purchase Agreement shall have been materially true and correct as of the date of this Purchase Agreement and shall be materially true and correct as of Closing; provided that Seller shall have no liability to Buyer for any such representation not being materially true and correct as of Closing due to occurrences, matters, events, facts or circumstances occurring after the date of this Purchase Agreement.

Section 7.2 Seller's Performance. Seller shall have performed and complied, in all material respects, with the agreements, covenants and obligations required by this Agreement to be performed or complied with by Seller at or before the Closing.

Section 7.3 Orders and Laws. There shall not be any temporary restraining order, preliminary or permanent injunction or other judgment or order issued by any Governmental Agency of competent jurisdiction or other law restraining, enjoining or otherwise prohibiting or making illegal the consummation of the transactions contemplated by this Purchase Agreement; provided that any judgment or order that restrains, enjoins or otherwise prohibits or makes illegal the consummation of the transactions contemplated hereby, or any such temporary restraining order, preliminary or permanent injunction or other judgment or order must not have resulted from any litigation or proceeding filed by Buyer or its affiliates.

Section 7.4 Buyer's Required Approvals. The Buyer's Required Approvals, in form and substance satisfactory to Buyer in its sole discretion, shall have been obtained and be in full force and effect; provided that the absence of any appeals and applications for rehearing or reargument and the expiration of any appeal, rehearing or reargument period with respect to any of the foregoing shall not constitute a condition to Closing hereunder.

Section 7.5 Seller's Deliverables. Seller shall have delivered, or caused to have been delivered, to Buyer each of the following (collectively, the "Seller's Deliverables") at or before the Closing:

- (a) the Bill of Sale duly executed by Seller;
- (b) a counterpart of the Operating Agreement duly executed by Seller;
- (c) a counterpart of the Mutual Release And Settlement Agreement duly executed by Seller;
- (d) resolutions of the board of directors of Seller certified by the Secretary, Assistant Secretary or other officer of Seller authorizing the execution and delivery of this Purchase Agreement and the consummation of the transactions contemplated hereby; and
- (e) a certificate of the Secretary, Assistant Secretary or other officer of Seller as to the incumbency of the Person executing this Purchase Agreement on behalf of Seller and the genuineness of such Person's signature.

ARTICLE VIII

SELLER'S CONDITIONS TO CLOSING

The obligation of Seller to consummate the Closing is subject to the fulfillment of each of the following conditions (except to the extent waived in writing by Seller in its sole discretion):

Section 8.1 Buyer's Representations and Warranties. The representations and warranties made by Buyer in this Purchase Agreement shall have been materially true and correct as of the date of this Purchase Agreement and shall be materially true and correct as of Closing, provided that, except with respect to the representation and warranty in Section 5.5 Buyer shall have no liability to Seller for any such representation not being materially true and correct as of Closing due to occurrences, matters, events, facts or circumstances occurring after the date of this Purchase Agreement.

Section 8.2 Buyer's Performance. Buyer shall have performed and complied, in all material respects, with the agreements, covenants and obligations required by this Purchase Agreement to be performed or complied with by Buyer at or before the Closing.

Section 8.3 Orders and Laws. There shall not be any temporary restraining order, preliminary or permanent injunction or other judgment or order issued by any Governmental Authority of competent jurisdiction or other law restraining, enjoining or otherwise prohibiting or making illegal the consummation of the transactions contemplated by this Purchase Agreement; provided that any such judgment or order restrains, enjoins or otherwise prohibits or makes illegal the consummation of the transactions contemplated hereby, or any such temporary

restraining order, preliminary or permanent injunction or other judgment or order must not have resulted from any litigation or proceeding filed by Seller or its affiliates.

Section 8.4 Seller's Required Approvals. The Seller's Required Approvals, in form and substance satisfactory to Seller in its sole discretion, shall have been obtained and be in full force and effect; provided that the absence of any appeals or applications for reargument or rehearing and the expiration of any appeal, reargument or rehearing period with respect to any of the foregoing shall not constitute a condition to Closing hereunder.

Section 8.5 Buyer's Deliverables. Buyer shall have delivered, or caused to have been delivered, to Seller each of the following (collectively, the "Buyer's Deliverables") at or before the Closing:

- (a) A wire transfer of immediately available funds (to such account or accounts as Seller shall have given notice to Buyer not less than five Business Days prior to the Closing Date) in an amount equal to the Purchase Price;
- (b) A counterpart of the Operating Agreement duly executed by Buyer;
- (c) A counterpart of the Mutual Release and Settlement Agreement duly executed by Buyer;
- (d) Resolutions of the board of trustees of Buyer certified by the Secretary, or other officer of Buyer authorizing the execution and delivery of this Purchase Agreement and the consummation of the transactions contemplated hereby; and
- (e) A certificate of the Secretary, or other officer of Buyer as to the incumbency of the Person executing this Purchase Agreement on behalf of Buyer and the genuineness of such Person's signature.

ARTICLE IX

TERMINATION

Section 9.1 Termination Prior To Closing.

- (a) This Purchase Agreement may be terminated at any time prior to the Closing by mutual written consent of Seller and Buyer.
- (b) This Purchase Agreement may be terminated at any time prior to the Closing by either Party upon written notice to the other Party if (i) any Governmental Authority of competent jurisdiction shall have issued an order, judgment or decree permanently restraining, enjoining or otherwise prohibiting the Closing, and such order, judgment or decree shall have become final and non-appealable or (ii) any statute, rule, order or regulation shall have been enacted or issued by any Governmental Authority (excluding the Buyer, if acting or attempting

to act as a Governmental Authority) which, directly or indirectly, prohibits the consummation of the Closing; or (iii) the Closing contemplated hereby shall not have occurred on or before the first annual anniversary of the date of this Purchase Agreement (the "Outside Date"); provided that the right to terminate this Purchase Agreement under this Section 9.1(b)(iii) shall not be available to any Party whose failure to fulfill any obligation under this Purchase Agreement has been the cause of, or resulted in, the failure of the Closing to occur on or before such date.

(c) This Purchase Agreement may be terminated at any time prior to the Closing by Buyer upon written notice to Seller if any Buyer's Required Approvals shall have been denied or shall have been granted but are not in form and substance satisfactory to Buyer in its sole discretion.

(d) This Purchase Agreement may be terminated at any time prior to the Closing by Seller upon written notice to Buyer if any Seller's Required Approvals shall have been denied or shall have been granted but are not in form and substance satisfactory to Buyer in its sole discretion.

(e) This Purchase Agreement may be terminated at any time prior to the Closing by either Party upon written notice to the other Party if the other Party (the "Breaching Party") has materially breached or violated a representation, warranty, covenant or agreement hereunder so as to cause the failure of a condition to Closing set forth in Article VII or Article VIII, as applicable, and such breach (other than a breach of Buyer's obligation to pay the Purchase Price in accordance with the terms of Article III, for which no cure period shall be allowed) has not been cured by the earlier of 30 days following written notice thereof or the Outside Date, provided that if such violation or breach is not capable of being cured within such 30 day period and such 30 day period shall have ended before the Outside Date, the Breaching Party shall have an additional period to cure that expires on the earlier of 30 days thereafter or the Outside Date.

Section 9.2 Remedies Upon Termination Prior To Closing.

(a) If this Agreement is validly terminated prior to the Closing by a Party pursuant to Section 9.1(a),(b),(c) or (d) hereof, neither Party shall have any liability to the other Party arising from this Agreement.

(b) If this Agreement is validly terminated prior to the Closing by a Party pursuant to Section 9.1(e) hereof, such Party may pursue any remedies against the Breaching Party available under this Purchase Agreement or applicable law, subject to provisos in Sections 7.1 and 8.1 and subject to the limitation of liability set forth in Section 10.1(c) hereof.

ARTICLE X

LIMITATIONS OF LIABILITY AND WAIVERS

Section 10.1 Limitation of Liability. Notwithstanding anything in this Purchase Agreement to the contrary, except in the case of a claim based on fraud or willful misconduct which shall not be subject to the following limitations:

(a) The representations and warranties in this Agreement shall survive for a period of six months following the Closing Date and any claim by a Party that the other has breached or violated a representation or warranty must be made in writing and received by the Party against which the claim is made no later than the expiration of this survival period; provided that if written notice of such a claim has been given prior to the expiration of the survival period, then the claim may be prosecuted to resolution notwithstanding the expiration of the survival period;

(b) If a Party's breach or violation of a representation or warranty in this Purchase Agreement is not used by the other Party to validly terminate this Purchase Agreement prior to the Closing pursuant to Section 9.1(e), then the breaching Party's aggregate liability to the other Party for any and all breaches or violations of representations and warranties in this Purchase Agreement shall not exceed 10% of the Purchase Price; and

(c) The aggregate liability of a Party to the other Party in the event that the other Party validly terminates this Purchase Agreement prior to the Closing pursuant to Section 9.1(e) shall not exceed 100% of the Purchase Price.

Section 10.2 Waiver of Other Representations and Warranties. THE STREET LIGHTING FACILITIES ARE BEING SOLD AND TRANSFERRED "AS-IS, WHERE-IS" CONDITION AND SUBJECT TO ALL FAULTS OF WHATEVER NATURE, AND, EXCEPT FOR THE REPRESENTATIONS OF SELLER EXPRESSLY SET FORTH IN ARTICLE IV OF THIS PURCHASE AGREEMENT, SELLER HAS NOT MADE AND IS NOT MAKING ANY REPRESENTATIONS OR WARRANTIES, WRITTEN OR ORAL, STATUTORY, EXPRESS OR IMPLIED, CONCERNING THE STREET LIGHTING FACILITIES OR WITH RESPECT TO THIS PURCHASE AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY, INCLUDING, IN PARTICULAR WITH RESPECT TO THE STREET LIGHTING FACILITIES, THEIR DESIGN, MANUFACTURE, CONSTRUCTION, FABRICATION, CONDITION OR PERFORMANCE, INCLUDING, IN PARTICULAR, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE OR PURPOSE, OR COMPLIANCE WITH ANY LAWS OR STANDARDS, INCLUDING THE NATIONAL ELECTRIC SAFETY CODE, THE NATIONAL ELECTRIC CODE, THE ILLUMINATING ENGINEERING SOCIETY OF NORTH AMERICA, THE OCCUPATIONAL SAFETY AND HEALTH ACT AND ANY RULES OR REGULATIONS THEREUNDER, WHETHER OR NOT SELLER KNOWS OR HAS REASON TO KNOW OF ANY SUCH PURPOSE OR VIOLATION AND WHETHER ALLEGED TO ARISE BY OPERATION OF LAW OR BY ANY APPLICABLE CUSTOM OR USAGE IN THE TRADE

OR INDUSTRY OR BY A COURSE OF DEALING BETWEEN THE PARTIES, ALL OF WHICH ARE HEREBY EXPRESSLY EXCLUDED AND DISCLAIMED BY SELLER.

Section 10.3 Waivers of Certain Remedies. NOTWITHSTANDING ANYTHING IN THIS PURCHASE AGREEMENT TO THE CONTRARY, NO PARTY SHALL BE LIABLE FOR SPECIAL, PUNITIVE, EXEMPLARY, CONSEQUENTIAL OR INDIRECT DAMAGES OR LOST PROFITS, WHETHER BASED ON CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE, ARISING FROM THIS PURCHASE AGREEMENT OR THE BREACH OR VIOLATION THEREOF.

ARTICLE XI

MISCELLANEOUS

Section 11.1 Notices.

(a) Unless this Purchase Agreement specifically requires otherwise, any notice, demand or request ("Notice") provided for in this Purchase Agreement, or served, given or made in connection with it, shall be in writing and shall be deemed properly served, given or made if delivered in person or sent by fax or sent by registered or certified mail, postage prepaid, or by a nationally recognized overnight courier service that provides a receipt of delivery, in each case, to the Parties at the addresses specified below:

If to Buyer, to:

Village of Warwick
PO Box 369
Warwick, NY 10990
Attention: Mayor

If to Seller, to:

Orange and Rockland Utilities, Inc.
390 West Route 59
Spring Valley, New York 10977
Attention: Vice President - Operations

with a copy to:

Consolidated Edison Company of New York, Inc.
Law Department
4 Irving Place, 18 Floor
New York, New York 10003
Attention: Grace Su, Associate Counsel

(b) Notice given by personal delivery, mail or overnight courier pursuant to Section 11.1(a) shall be effective upon the intended recipient's physical receipt of, or refusal to receive such Notice. Notice given by fax pursuant to Section 11.1(a) shall be effective as of the date of delivery is confirmed by electronic transmission confirmation if delivered before 5:00 P.M. Eastern Time on any Business Day or the next succeeding Business Day if delivery is after 5:00 P.M. Eastern Time on any Business Day or during any non-Business Day.

Section 11.2 Entire Agreement. This Purchase Agreement supersedes all prior discussions and agreements between the Parties with respect to the subject matter hereof and contains the sole and entire agreement between the Parties with respect to such subject matter.

Section 11.3 Waiver. Any term or condition of this Purchase Agreement may be waived at any time by the Party that is entitled to the benefit thereof, but no such waiver shall be effective unless set forth in a written instrument duly executed by or on behalf of the Party waiving such term or condition. No waiver by any Party of any term or condition of this Purchase Agreement, in any one or more instances, shall be deemed to be or construed as a waiver of the same or any other term or condition of this Purchase Agreement on any future occasion.

Section 11.4 Amendment. This Purchase Agreement may be amended, supplemented or modified only by a written instrument duly executed by or on behalf of each Party.

Section 11.5 No Third Party Beneficiaries. The terms and provisions of this Purchase Agreement are intended solely for the benefit of the Parties and their respective successors or permitted assigns, and it is not the intention of the Parties to confer third-party beneficiary rights upon any other Person.

Section 11.6 Assignment; Binding Effect. Neither this Purchase Agreement nor any right, interest or obligation hereunder may be assigned by any Party without the prior written consent of the other Party. Subject to this Section 11.6, this Purchase Agreement is binding upon, inures to the benefit of and is enforceable by the Parties and their respective successors and permitted assigns.

Section 11.7 Headings. The headings used in this Purchase Agreement have been inserted for convenience of reference only and do not define or limit the provisions hereof.

Section 11.8 Invalid Provisions. If any provision of this Purchase Agreement is held to be illegal, invalid or unenforceable under any present or future law, and if the rights or obligations of any Party under this Purchase Agreement will not be materially and adversely affected thereby, such provision will be fully severable, this Purchase Agreement will be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part hereof, the remaining provisions of this Purchase Agreement will remain in full force and effect and will not be affected by the illegal, invalid or unenforceable provision or by its severance here from and in lieu of such illegal, invalid or unenforceable provision, there will be added automatically as a part of this Purchase Agreement a legal, valid and enforceable

provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible.

Section 11.9 Counterparts; Fax. This Agreement may be executed in any number of counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument. Any fax or electronically transmitted copies hereof or signature hereon shall, for all purposes, be deemed originals.

Section 11.10 Governing Law; Jurisdiction; Waiver of Jury Trial.

(a) This Purchase Agreement shall be governed by and construed in accordance with the Law of the State of New York, without giving effect to any conflict or choice of law provision that would result in the application of another state's Law.

(b) Each of the Parties hereby submits to the exclusive jurisdiction of the State courts located in New City (Rockland County) in the State of New York and the Federal courts located in the City of White Plains in the State of New York with respect to any action or proceeding relating to this Agreement and the transactions contemplated hereby.

EACH OF THE PARTIES IRREVOCABLY WAIVES ITS RIGHT TO A JURY TRIAL WITH RESPECT TO ANY ACTION OR PROCEEDING RELATING TO THIS PURCHASE AGREEMENT AND THE TRANSACTIONS CONTEMPLATED HEREBY.

IN WITNESS WHEREOF, intending to be legally bound, the Parties have executed this Purchase Agreement as of the date first written above.

ORANGE AND ROCKLAND
UTILITIES, INC.

By _____
Vice President - Operations

VILLAGE OF WARWICK, NEW YORK

By _____
Mayor

Exhibit A

Form of Quit Claim Bill of Sale

Quit Claim Bill of Sale

THIS BILL OF SALE, made the _____ day of _____, 202_

BETWEEN ORANGE AND ROCKLAND UTILITIES, INC., a New York corporation
One Blue Hill Plaza
Pearl River, New York 10965

party of the first part, and

VILLAGE OF WARWICK, a New York municipal corporation
PO Box 369
Warwick, NY 10990

party of the second part,

WITNESSETH, that the party of the first part in consideration of One and more Dollars (\$1.00 and more) lawful money of the United States, paid by the party of the second part, does hereby assign, transfer and release over unto the party of the second part, and the heirs or successors and assigns of the party of the second part forever,

ALL THAT PERSONAL PROPERTY more particularly described on Exhibit A attached hereto and made a part hereof, WITH ALL SUCH PERSONAL PROPERTY BEING SOLD BY THE PARTY OF THE FIRST PART AND PURCHASED BY THE PARTY OF THE SECOND PART IN "AS-IS, WHERE-IS" CONDITION AND SUBJECT TO ALL FAULTS OF WHATEVER NATURE AS SAME MAY EXIST AS OF CLOSING, IT BEING FURTHER ACKNOWLEDGED BY THE PARTY OF THE SECOND PART THAT THE PARTY OF THE FIRST PART IS NOT MAKING ANY REPRESENTATIONS OR WARRANTIES, WRITTEN OR ORAL, STATUTORY, EXPRESS OR IMPLIED, CONCERNING SUCH PERSONAL PROPERTY INCLUDING, IN PARTICULAR, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE OR PURPOSE, OR COMPLIANCE WITH THE NATIONAL ELECTRIC SAFETY CODE ("NESC"), NATIONAL ELECTRIC CODE ("NEC"), THE ILLUMINATING ENGINEERING SOCIETY OF NORTH AMERICA ("IESNA") OR ANY RULES, REGULATIONS AND PROVISIONS OF THE OCCUPATIONAL SAFETY AND HEALTH ACT ("OSHA"), WHETHER OR NOT THE PARTY OF THE FIRST PART KNOWS OR HAS REASON TO KNOW OF ANY SUCH PURPOSE OR VIOLATION AND WHETHER ALLEGED TO ARISE BY OPERATION OF LAW OR BY ANY APPLICABLE CUSTOM OR USAGE IN THE TRADE OR INDUSTRY OR BY A COURSE OF DEALING BETWEEN THE PARTIES, ALL OF WHICH ARE HEREBY EXPRESSLY EXCLUDED AND DISCLAIMED BY THE PARTY OF THE FIRST PART.

EXCEPTING AND RESERVING to the party of the first part, its successors and assigns, any personal property interest which is deemed to be an "Excluded Asset", as such term

is more accurately described in that certain Asset Purchase Agreement dated _____ by and between the parties hereto.

THIS SALE does not constitute a disposition of all or substantially all the assets of the Seller.

TO HAVE AND TO HOLD the personal property herein assigned, transferred and released over unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

IN PRESENCE OF:

ORANGE AND ROCKLAND UTILITIES, INC.

By _____

Name _____

Title _____

STATE OF NEW YORK :

SS:

COUNTY OF ROCKLAND :

On the ____ day of _____, in the year 202____, before me, the undersigned a Notary Public in and for said State, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they

executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public

EXHIBIT A

LEGAL DESCRIPTION OF PERSONAL PROPERTY

Exhibit B

Form of Mutual Release and Settlement Agreement

MUTUAL GENERAL RELEASE AND SETTLEMENT AGREEMENT

This **MUTUAL GENERAL RELEASE AND SETTLEMENT AGREEMENT** ("Agreement"), dated as of [■], 2021, is by and between **ORANGE AND ROCKLAND UTILITIES, INC.**, a corporation with a principal place of business located at One Blue Hill Plaza, Pearl River, New York 10965 ("Company") and the **VILLAGE OF WARWICK, NEW YORK**, a municipal corporation with offices located at PO Box 369, Warwick, NY 10990 ("Village"). The Company and the Village are each sometimes referred to individually as a "Party," and collectively as the "Parties."

WHEREAS, the Company and the Village entered into a certain Agreement for Purchase and Sale of Street Lighting Facilities, dated as of [■], 2021 ("Purchase Agreement"). All capitalized terms not otherwise defined in this Agreement shall have the meanings ascribed to them in the Purchase Agreement; and

WHEREAS, the Company sold to the Village, and the Village purchased from the Company, the Street Lighting Facilities pursuant to the Purchase Agreement; and

WHEREAS, the execution of this Agreement represents additional consideration for the sale and purchase of the Street Lighting Facilities and was a condition precedent to said Closing.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, and such other good and valuable consideration, the receipt and adequacy of which is hereby mutually acknowledged under seal, the Parties hereto agree as follows:

1. Each Party, for itself and each of its respective directors, officers, members, managers, partners, shareholders, employees, representatives, agents, attorneys, parents, subsidiaries, divisions and affiliated entities past and present, and its and their predecessors, successors, assigns, heirs, executors, and administrators, does hereby release and forever discharge the other Party and each of its respective directors, officers, members, managers, partners, shareholders, employees, representatives, agents, attorneys, parents, subsidiaries, divisions and affiliated entities past and present, and its and their predecessors, successors, assigns, heirs, executors, and administrators and all persons acting by, through, under or in concert with any of them, from any and all actions, causes of action, damages, suits, demands, controversies, claims, debts, liabilities, obligations, promises, agreements, costs, expenses, fees (including reasonable attorneys' fees), whether in contract, tort (including fraud or misrepresentation), law or equity, whether known or unknown, and which concern any and all claims arising from or related to the Street Lighting Facilities and invoicing for street lighting services provided by the Company to the Village prior to the Effective Date (hereinafter the "Street Light Claims"). This Agreement further represents a final resolution of all potential billing disputes which relate to Street Light Claims from which no appeal can be taken to the

State of New York Public Service Commission, and no judicial relief can be sought by either Party.

2. The Parties hereto acknowledge and agree that this Agreement shall not extinguish (i) Street Light Claims which may arise after the Effective Date of this Agreement, (ii) any other actions, causes of action, damages, suits, demands, controversies, claims, debts, liabilities, obligations, promises, agreements, costs, expenses, fees (including reasonable attorneys' fees), whether in contract, tort (including fraud or misrepresentation), law or equity, whether known or unknown, which are not Street Light Claims and which may exist between the Parties now or after the Effective Date, or (iii) claims relating to an alleged breach of this Agreement.

3. The Company agrees that it will not pursue collection of Street Light Claims which may have been under billed prior to the Effective Date.

4. The Village agrees that it will not pursue refunds of Street Light Claims which may have been over billed prior to the Effective Date.

5. Neither this Agreement, nor anything contained herein, nor any action taken by the Parties in performance of their obligations hereunder, shall be construed as evidence of the validity of any Street Light Claims asserted by any Party, nor an admission of the same by any Party.

6. The Parties hereto represent that the individuals executing this Agreement have been fully authorized by their respective governing bodies and/or companies to enter into this Agreement with full and binding effect upon their governing bodies and/or companies.

7. Nothing contained in this Agreement constitutes an admission of liability by either Party hereto.

8. This Agreement cannot be changed or modified, unless in writing, signed by the Village and the Company. The Parties agree that there are no understandings, agreements, or representations, expressed or implied, other than those expressed herein. This Agreement supersedes and merges all prior discussions and understandings, and constitutes the entire agreement between the Parties related to the subject matter hereof.

9. In the event that any provision of this Agreement is held to be unenforceable or invalid by any court or regulatory authority of competent jurisdiction, the validity and therefore the ability to enforce the remaining provisions shall not be affected so long as the Parties renegotiate the invalid provision(s) in order to accomplish the goal and intent of this Agreement.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed as of the date first written above by their duly authorized representatives.

ORANGE AND ROCKLAND UTILITIES, INC.

By _____
(signature)

Name _____
(printed)

Title _____

VILLAGE OF WARWICK, NEW YORK

By _____
(signature)

Name _____
(printed)

Title _____

Exhibit C

Form of Operating Agreement

OPERATING AGREEMENT

THIS AGREEMENT (this “Operating Agreement”), dated as of the [■] day of [■], 2021, by and between ORANGE AND ROCKLAND UTILITIES, INC., a New York corporation with offices at One Blue Hill Plaza, Pearl River, New York 10965 (the “Company”), and the VILLAGE OF WARWICK, NEW YORK, a municipal corporation with offices located at at PO Box 369, Warwick, NY 10990 (the “Village”). The Company and the Village are sometimes herein referred to individually as a “Party” and collectively as the “Parties.”

W I T N E S S E T H

WHEREAS, the Company and the Village entered into that certain Agreement for Purchase and Sale of Street Lighting Facilities dated as of [■], 2021, pursuant to which, as of the date of this Operating Agreement, the Company sold to the Village the Street Lighting Facilities; and

WHEREAS, the Parties wish to define their rights and obligations with respect to the operation, maintenance, repair, replacement, and inspection of, and other matters pertaining to, the Street Lighting Facilities from and after the Closing of the Company’s sale to the Village of the Street Lighting Facilities pursuant to the Purchase Agreement; and

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, and such other good and valuable consideration, the receipt and adequacy of which is hereby mutually acknowledged, the Parties agree as follows:

ARTICLE I

DEFINITIONS AND INTERPRETATION

Section 1.1 Definitions. As used in this Operating Agreement, capitalized terms shall have the meanings ascribed to them in the Purchase Agreement unless otherwise defined in this Operating Agreement and the following terms shall have the following meanings:

“Breaching Party” has the meaning set forth in Section 8.2(b).

“Company” has the meaning set forth in the preamble to this Operating Agreement.

“Company Protected Parties” has the meaning set forth in Section 4.8.

“Company Tariff” shall mean and include any and all tariffs on file by the Company with the PSC (including, but not limited to, P.S.C. No. 3 ELECTRICITY), as the same shall be formally issued, supplemented, amended, superseded, and/or interpreted from time to time, now or in the future.

“Disconnection Services” means the services provided by the Company in order to de-energize Street Lighting Facilities or New Street Lighting Facilities so that Qualified Workers can perform Work on such Street Lighting Facilities or New Street Lighting Facilities, as set forth in Section 4.6.

“Frontier” means Frontier Communications Corporation.

“Frontier Approval” means the written consent of Frontier Communications Corporation, successor to the Highland Telephone Company, pursuant to the Agreement between Orange & Rockland Electric Co. and the Highland Telephone Company Covering The Joint Use of Poles dated as of January 4, 1950, as amended by letter dated July 29, 1954, and as further amended/modified by agreement dated October 11, 1967.

“In-Line Fused Disconnects” means the waterproof safety devices that allow for the de-energization of the Street Lighting Facilities or New Street Lighting Facilities, the details of which are illustrated in Exhibit A hereto, and as set forth in Section 4.4.

“In-Line Fused Disconnects Deadline” has the meaning set forth in Section 4.4.

“Label” means a label attached to the head of each of the Street Lighting Facilities that (i) clearly states that the same is owned by the Village and (ii) does not obscure or otherwise make it more difficult to visually observe from the ground any other information (including wattage) on the head of the Street Lighting Facility. All Labels shall comply with the nomenclature requirements as to type and size, as promulgated by the National Electrical Manufacturers Association.

“Label Deadline” has the meaning set forth in Section 4.5.

“New Street Lighting Facilities” means the street lighting facilities owned by the Village and installed to any poles located within the geographical boundaries of the Village after the Closing of the Company’s sale to the Village of the Street Lighting Facilities pursuant to the Purchase Agreement.

“Operating Agreement” means this Operating Agreement, together with the Exhibits and Schedules attached hereto, as the same may be amended from time to time.

“Party” has the meaning set forth in the preamble to this Operating Agreement.

“Parties” has the meaning set forth in the preamble to this Operating Agreement.

“Permitted Lien” means (a) any lien for Taxes not yet due or delinquent, (b) any Lien for taxes being contested in good faith by appropriate proceedings and not in excess of \$100,000, (c) any lien arising in the ordinary course of business by operation of law with respect to a liability that is not yet due or delinquent or which is being contested in good faith by Seller, (d) zoning, planning, and other similar governmental limitations and restrictions, all rights of any

Governmental Authority to regulate any asset, and all matters of public record, and (e) any lien released prior to Closing.

“Person” means any individual, partnership, limited liability company, joint venture, corporation, trust, unincorporated organization, association, or governmental entity or any department or agency thereof.

“PSC” means the State of New York Public Service Commission.

“Portal” has the meaning set forth in Section 4.1.

“Purchase Agreement” means the Agreement for Purchase and Sale of Street Lighting Facilities, dated as of October 4, 2018, between the Company and the Village, together with the Exhibits and Schedules thereto, as the same may be amended from time to time.

“Qualified Workers” has the meaning set forth in Section 4.2.

“Reconnection Services” means the services provided by the Company in order to re-energize Street Lighting Facilities or New Street Lighting Facilities after Qualified Workers have performed Work on such Street Lighting Facilities or New Street Lighting Facilities, as set forth in Section 4.6.

“Street Lighting Facilities” means all of those certain overhead and underground street lighting facilities that are owned solely by Seller, attached to utility poles located within the geographical boundaries of the Buyer, used solely for street lighting purposes, and which consist of luminaires, lamps, mast arms, their associated wiring, electrical connections, and appurtenances, including the In-Line Fused Disconnects referred to in Section 2.2, all as depicted in Exhibit A to this Operating Agreement.

“Third Party Losses/Claims” has the meaning set forth in Section 4.8.

“Village” has the meaning set forth in the preamble to this Operating Agreement.

“Work” has the meaning set forth in Section 4.1.

Section 1.2 Certain Interpretive Matters. In this Operating Agreement, unless the context otherwise requires, the singular shall include the plural, the masculine shall include the feminine and neuter, and vice versa. The term “includes” or “including” shall mean “includes without limitation” or, as applicable, “including without limitation.” References in this Operating Agreement to an Article, Section or Exhibit shall mean an Article, Section or Exhibit of this Operating Agreement, and reference to a specified agreement or instrument shall be a reference to that agreement or instrument as modified, amended, supplemented, or restated from time to time.

ARTICLE II

REPRESENTATIONS AND WARRANTIES OF SELLER

Seller hereby represents and warrants to Buyer as follows:

Section 2.1 Organization. Seller is a corporation duly formed, validly existing and in good standing under the laws of the State of New York.

Section 2.2 Authority, Binding Obligation. Subject to obtaining the Seller's Required Approvals: Seller has all requisite corporate power and authority to execute and deliver this Operating Agreement, to perform its obligations hereunder and to consummate the transactions contemplated hereby; the execution and delivery of this Operating Agreement and the performance by Seller of its obligations hereunder have been duly and validly authorized by all necessary corporate action; and this Operating Agreement has been duly and validly executed and delivered by Seller and constitutes the legal, valid and binding obligation of Seller enforceable against Seller in accordance with its terms, except as the same may be limited by bankruptcy, insolvency, reorganization, fraudulent conveyance, arrangement, moratorium or other similar laws relating to affecting the rights of creditors generally, or by general equitable principles (regardless of whether enforcement is considered in a proceeding at law or in equity).

Section 2.3 No Conflicts; Consents and Approvals. Subject to obtaining the Seller's Required Approvals, the execution and delivery by Seller of this Operating Agreement do not, the performance by Seller of its obligations hereunder will not, and the consummation of the transactions contemplated hereby will not:

(a) conflict with or result in a violation or breach under the certificate of incorporation or by-laws of Seller or under any material contract to which Seller is a party, except for any such violations or defaults that would not, in the aggregate, reasonably be expected to materially adversely affect Seller's ability to perform its obligations hereunder or to consummate the transactions contemplated hereby;

(b) conflict with, violate or breach, in each case in any material respect, any provision of any law applicable to Seller; or

(c) require any consent or approval of any Governmental Authority under any law applicable to Seller.

Section 2.4 Legal Proceedings. To the knowledge of Seller, there are no actions, suits or proceedings pending against Seller before any Governmental Authority which, individually or in the aggregate, could reasonably be expected to have a material adverse effect on Seller's ability to proceed with the transactions contemplated by this Operating Agreement. To the knowledge of Seller, Seller is not subject to any outstanding judgments, rules, orders, writs, injunctions or decrees of any Governmental Authority which, individually or in the aggregate, could reasonably be expected to have a material adverse effect on Seller's ability to proceed with the transactions contemplated by this Operating Agreement.

Section 2.5 Liens. To the knowledge of Seller, the Street Lighting Facilities are free and clear of all liens except Permitted Liens, provided, however, such Permitted Liens do not restrict or prohibit the sale of Street Lighting Facilities by the Company to the Village or the Village's use, operation, repair, replacement or maintenance of the Street Lighting Facilities purchased by the Village.

ARTICLE III

REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer represents and warrants to Seller as follows:

Section 3.1 Organization. Buyer is a municipal corporation duly formed, validly existing and in good standing under the laws of the State of New York.

Section 3.2 Authority, Binding Obligation. Subject to obtaining the Buyer's Required Approvals: Buyer has all requisite power and authority to execute and deliver this Operating Agreement, to perform its obligations hereunder and to consummate the transactions contemplated hereby; the execution and delivery of this Operating Agreement and the performance by Buyer of its obligations hereunder have been duly and validly authorized by all necessary action; and this Operating Agreement has been duly and validly executed and delivered by Buyer and constitutes the legal, valid and binding obligation of Buyer enforceable against Buyer in accordance with its terms, except as the same may be limited by bankruptcy, insolvency, reorganization, fraudulent conveyance, arrangement, moratorium or other similar laws relating to affecting the rights of creditors generally, or by general equitable principles (regardless of whether enforcement is considered in a proceeding at law or in equity).

Section 3.3 No Conflicts; Consents and Approvals. Subject to obtaining the Buyer's Required Approvals, the execution and delivery by Buyer of this Operating Agreement do not, the performance by Seller of its obligations hereunder will not, and the consummation of the transactions contemplated hereby will not:

(a) conflict with or result in a violation or breach under the charter or other organizational documents of Buyer or under any material contract to which Buyer is a party, except for any such violations or defaults that would not, in the aggregate, reasonably be expected to materially adversely affect Buyer's ability to perform its obligations hereunder or to consummate the transactions contemplated hereby;

(b) conflict with, violate or breach, in each case in any material respect, any provision of any law applicable to Buyer; or

(c) require any consent or approval of any Governmental Authority under any law applicable to Buyer.

Section 3.4 Legal Proceedings. To the knowledge of Buyer, there are no actions, suits or proceedings pending against Buyer before any Governmental Authority which, individually or in the aggregate, could reasonably be expected to have a material adverse effect on Buyer's ability to proceed with the transactions contemplated by this Operating Agreement. To the knowledge of Buyer, Buyer is not subject to any outstanding judgments, rules, orders, writs, injunctions or

decrees of any Governmental Authority which, individually or in the aggregate, could reasonably be expected to have a material adverse effect on Buyer's ability to proceed with the transactions contemplated by this Operating Agreement.

ARTICLE IV

WORK ON STREET LIGHTING FACILITIES AND NEW STREET LIGHTING FACILITIES

Section 4.1 Responsibility for Work and Recording. From and after the Closing, the Village shall have sole responsibility for the installation, operation, maintenance, repair, replacement, removal, modification and inspection of the Street Lighting Facilities (including installation of In-Line Fused Disconnects as required by Section 4.4 and affixing Labels as required by Section 4.5) and any New Street Lighting Facilities (collectively, the "Work"). Each item of Work for which a record may be made in the internet Municipal Street Light Portal (the "Portal") that is to be provided by the Company pursuant to the agreement, dated as of ____, 20__ between the Village and the Company shall be recorded by the Village in the Portal, and approved by the Company prior to the performance of the activity. For Work associated with emergency repairs (e.g., storm related, auto accidents) the Village and the Company will coordinate the recording of such Work in the Portal in a timely fashion after such repairs are made. The Village shall permit the Company or its designated representatives to review, copy and audit any and all records of the Village with respect to the Work during regular business hours and upon reasonable notice.

Section 4.2 Qualified Personnel. The Village shall cause the Work to be performed only by qualified employees, contractors and/or subcontractors of the Village (collectively, "Qualified Workers"). The Village shall cause all Qualified Workers to be trained, qualified and in full compliance with the United States Occupational Safety and Health Administration, National Fire Protection Association, National Electric Code, American National Standards Institute, the rules and regulations thereunder and any all other applicable laws, rules, regulations and requirements which pertain to the Work.

Section 4.3 Performance Standard for Work; Compliance with Laws. The Village shall cause the Work to be performed in a good workmanlike manner, in accordance with the best accepted practices in the industry, in compliance with this Operating Agreement and all applicable federal, state, and local laws, executive orders, regulations, ordinances, rules, and safety codes, and only after all permits, approvals, licenses, easements or other permissions required to perform the Work have been obtained from each required Person.

Section 4.4 Obligation to Install In-Line Fused Disconnects. The Village shall cause In-Line Fused Disconnects to be installed and fully functional with respect to each of the Street Lighting Facilities no later than the date (the "In-Line Fused Disconnects Deadline") that is 24 months after the effective date of this Operating Agreement as set forth in Section 9.11; provided that if the Village does not cause this Work to be performed by the In-Line Fused Disconnects

Deadline, the Company may, but shall not be obligated to, (i) cause this Work to be performed and the Village shall reimburse the Company for all cost and expenses incurred by the Company in doing so, or (ii) disconnect electric service to the Street Lighting Facility. The Village shall cause In-Line Fused Disconnects to be installed and fully functional with respect to each of the New Street Lighting Facilities at the time of the installation of such New Street Lighting Facilities. With respect to any Street Lighting Facilities or New Street Lighting Facilities that have fully functional In-Line Fused Disconnects, the Village shall cause the Qualified Workers to operate the In-Line Fused Disconnects so as to de-energize the Street Lighting Facilities or New Street Lighting Facilities that will be subject of Work before the Work is performed.

Section 4.5 Obligation to Affix Labels. The Village shall cause Labels to be permanently affixed to each of the Street Lighting Facilities no later than the date (the "Label Deadline") that is 24 months after the date of this Operating Agreement; provided that if the Village does not cause this Work to be performed by the Label Deadline, the Company may, but shall not be obligated to, cause this Work to be performed and the Village shall reimburse the Company for all cost and expenses incurred by the Company in doing so. The Village shall cause Labels to be permanently affixed to each of the New Street Lighting Facilities at the time of the installation of such New Street Lighting Facilities.

Section 4.6 Disconnection/Reconnection Services From the Company. Upon the Village's request, the Company shall perform Disconnection Services on any Street Lighting Facilities or New Street Lighting Facilities that do not have fully functional In-Line Fused Disconnects. After completing the Work, the Village shall request, and the Company shall perform, Reconnection Services on such Street Lighting Facilities or New Street Lighting Facilities. The Village shall promptly pay the Company for all Disconnection Services and associated Reconnection Services pursuant to the applicable Company Tariff.

Section 4.7 Stray Voltage. Should the Company at any time notify the Village that, as a result of stray voltage testing by the Company or otherwise, the Company has determined that a stray voltage condition is being caused or contributed to by any Street Lighting Facilities or New Street Lighting Facilities, the Village shall cause all Work to be performed expeditiously (and within any time frame required by the Stray Voltage Orders) to reduce the stray voltage to within the allowable stray voltage range specified in the Stray Voltage Orders; provided that if the Village does not cause such Work to be performed with such time frame, the Company may, but shall not be obligated to, (i) cause the Work to be performed and the Village shall reimburse the Company for all cost and expenses incurred by the Company in doing so, or (ii) disconnect electric service to the Street Lighting Facility or New Street Lighting Facility that is causing or contributing to the stray voltage condition.

Section 4.8 Indemnification - Third Party Losses/Claims. The Village shall defend, indemnify and hold harmless the Company, its parents, subsidiaries, affiliates and its and their respective trustees, directors, officers, employees, attorneys, shareholders, contractors, subcontractors, agents, representatives, successors and assigns (collectively, the "Company Protected Parties") from and against any and all claims, counterclaims, causes of action, lawsuits, proceedings, judgments, losses, liabilities, damages, fines, penalties, interest, costs and

expenses (including court costs, reasonable fees of attorneys, accountants and other experts and reasonable expenses of investigation, preparation, and litigation) for personal injuries (including death) or damages to property arising from or claimed to arise from the Street Lighting Facilities, the New Street Lighting Facilities or the Work (collectively, "Third Party Losses/Claims") that third parties suffer or sustain or claim to suffer or sustain, except to the extent that such Third Party Losses/Claims arise from the negligence or other acts or omissions of any one or more of the Company Protected Parties for which negligence or other acts or omissions the Company Tariff (*i.e.*, Schedule for Electric Service, PSC No. 3 – Electricity, General Information Section 10.1, or its successor) does not provide an applicable exclusion from or limitation of liability.

Section 4.9 Indemnification – Damage to Utility Poles/Other Attachments. The Village shall indemnify and hold harmless the Company from and against any damage to utility poles or other property of the Company arising from the Street Lighting Facilities, the New Street Lighting Facilities or the Work, except to the extent that such Third Party Losses/Claims arise from the negligence or other acts or omissions of any one or more of the Company Protected Parties for which negligence or other acts or omissions a Company Tariff does not provide an applicable exclusion from or limitation of liability.

Section 4.10 Procedure with Respect to Third Party Claims and Losses.

(a) If the Company becomes subject to a pending or threatened Third Party Claim/Loss and the Company believes it is entitled to indemnification pursuant to Section 4.8 hereof from the Village as a result, then the Company shall notify the Village in writing of the basis for its claim for indemnification setting forth the nature of the claim in reasonable detail. The failure of the Company to so notify the Village shall not relieve the Village of any liability or obligations under Section 4.8 or this Section 4.10 except to the extent that the defense of such Third Party Claim/Loss is prejudiced by the failure to give such notice.

(b) If any Third Party Claim/Loss proceeding is brought by a third party against the Company and the Company gives notice to the Village pursuant to this Section 4.10, the Village shall be entitled to participate in such proceeding and, to the extent that it wishes, to assume the defense of such proceeding, if (i) the Village provides written notice to the Company that the Village intends to undertake such defense, (ii) the Village conducts the defense of the Third Party Claim/Loss actively and diligently with counsel reasonably satisfactory to the Company and (iii) if the Village is a party to the proceeding, the Village has not determined in good faith that joint representation would be inappropriate because of a conflict in interest. The Company shall, in its sole discretion, have the right to employ separate counsel (who may be selected by the Company in its sole discretion) in any such action and to participate in the defense thereof, and the fees and expenses of such counsel shall be paid by the Company. The Company shall fully cooperate with the Village and its counsel in the defense or compromise of such Third Party Claim/Loss. If the Village assumes the defense of a Third Party Claim/Loss proceeding, no compromise or settlement of such Third Party Claim/Loss may be effected by the Village without the Company's consent unless (A) there is no finding or admission of any violation of law or any violation of the rights of any Person and no effect on any other Third Party Claims/Loss that may be made against the Company and (B) the sole relief provided is monetary damages that are paid in full by the Village.

(c) If (i) notice is given to the Village of the commencement of any Third Party Claim/Loss proceeding and the Village does not, within 30 days after the Company's notice is given, give notice to the Company of its election to assume the defense of such proceeding, (ii) any of the conditions set forth in clauses (i) through (iii) of Section 4.10(b) become unsatisfied or (iii) the Company determines in good faith that there is a reasonable probability that a legal proceeding may adversely affect it other than as a result of monetary damages for which it would be entitled to indemnification from the Village under this Operating Agreement, then the Company shall (upon notice to the Village) have the right to undertake the defense, compromise or settlement of such Third Party Claim/Loss; provided that the Village shall reimburse the Company for the costs of defending against such Third Party Claim/Loss (including reasonable attorneys' fees and expenses) and shall remain otherwise responsible for any liability with respect to amounts arising from or related to such Third Party Claim/Loss, in both cases to the extent it is determined that the Village is liable to the Company under this Operating Agreement with respect to such Third Party Claim/Loss. The Village may elect to participate in such legal proceedings, negotiations or defense at any time at its own expense.

ARTICLE V

ATTACHMENT AND ACCESS

Section 5.1 Attaching to Utility Poles. Upon the Village obtaining the Frontier Approval and performing any and all conditions of such approval, the Village shall be permitted to continue to attach Street Lighting Facilities and newly attach New Street Lighting Facilities to utility poles jointly owned by the Company and Frontier and utility poles solely owned by Frontier, in each case located within the geographical boundaries of the Village, subject to obtaining any and all permits, approvals, licenses, easements or other permissions for such attachments that may be required from any Person other than the Company. The Village shall be permitted to continue to attach Street Lighting Facilities and newly attach New Street Lighting Facilities to utility poles solely owned by the Company that are located within the geographical boundaries of the Village, subject to obtaining any and all permits, approvals, licenses, easements or other permissions for such attachments that may be required from any Person other than the Company. Except for Street Lighting Facilities and New Street Lighting Facilities, this Operating Agreement does not authorize the Village to attach any other facilities or equipment to utility poles solely owned by the Company or jointly owned by the Company and Frontier.

Section 5.2 Access to Street Lighting Facilities and New Street Lighting Facilities. The Village shall not interfere with or restrict any and all access by the Company for any purpose to the utility poles to which any Street Lighting Facilities or New Street Lighting Facilities are attached, the Street Lighting Facilities and New Street Lighting Facilities themselves, or any other attachments on or about such utilities poles.

ARTICLE VI

ELECTRIC SERVICE

Section 6.1 Service Pursuant to Company Tariff. Electric service for the Street Lighting Facilities and New Street Lighting Facilities shall be pursuant to the applicable Company's Tariff and the Village shall make application therefore as required; provided that nothing in this Operating Agreement shall prevent the Village from purchasing its energy supply for any and all Street Lighting Facilities or New Street Lighting Facilities from an energy service company.

ARTICLE VII

INSURANCE

Section 7.1 Insurance Requirements. During the term of this Operating Agreement and thereafter as provided below, the Village shall obtain and maintain the following insurance policies:

- (a) 1. **Workers Compensation Insurance** as required by law.
2. **Employers Liability Insurance**, including accidents (with a limit of not less than \$1,000,000 per accident) and occupation diseases (with a limit of not less than \$1,000,000 per employee).
3. **Commercial General Liability Insurance**, including Contractual Liability, with limits of not less than \$5,000,000 per occurrence for bodily injury or death and not less than \$5,000,000 per occurrence for property damage or a combined single limit of not less than \$5,000,000 per occurrence and, for at least three years after completion of performance hereunder, Products/Completed Operations Liability Insurance with similar but separate and independent limits. The required limits may be met with a combination of primary and excess liability policies. The insurance shall be in policy forms which contain an "occurrence" and not a "claims made" determinant of coverage. There shall be no policy deductibles without the Company's prior written approval. The Company acknowledges that the Village has a self-insured reserve of \$75,000. The insurance shall contain no exclusions for explosion, collapse of a building or structure, or underground hazards. The insurance policy or policies shall name the Company, its corporate parent, affiliates and subsidiaries as additional insureds with respect to liability associated with, or arising out of, all operations, work and services to be performed by or on behalf of the Village under or in connection with this Operating Agreement.
4. **Commercial Automobile Liability**, covering all owned, non-owned and hired automobiles used by the Village, its contractors and subcontractors, with a combined single limit of not less than \$1,000,000 per accident for bodily injury or death and property damage.

(b) All coverage of additional insureds required hereunder shall be primary coverage and non-contributory as to the additional insureds. All insurance required hereunder shall contain a waiver of subrogation in favor of the additional insureds.

(c) At least three days prior to commencing operations, work and services under this Operating Agreement, the Village shall furnish the Company with copies of the insurance policies specified in paragraph (a) of this Article and certificate(s) of insurance covering all required insurance and signed by the insurer or its authorized representative certifying that the required insurance has been obtained. Such certificates shall state that the policies have been issued and are effective, show their expiration dates, and state that the Company is an additional insured with respect to all coverages enumerated in this Article. The Company shall have the right, upon request, to require the Village to furnish the Company, with a copy of the insurance policy or policies required under paragraph (a) of this Article. All such certificates and policies shall be sent to:

Consolidated Edison Company of New York, Inc.
4 Irving Place, 17th Floor
New York, N.Y. 10003

Attention: Supply Chain Department
Supplier Management Group (SMG)

Such certificates, and any renewals or extensions thereof, shall provide that at least 30 days prior written notice shall be given to the Company in the event of any cancellation or diminution of coverage and shall outline the amount of deductibles or self-insured retentions which shall be for the account of the Village.

(d) To the fullest extent allowed by law, the Village agrees that this is an insured contract and that the insurance required herein is intended to cover the Company, its corporate parent, affiliates and subsidiaries for any other cause of action in any claim or lawsuit for bodily injury or property damage arising out of the operations, work and services performed under this Agreement.

(e) For purposes of interpretation or determination of coverage of any policy of insurance or endorsement thereto, the Village shall be deemed to have assumed tort liability for any injury to any employee of the Village or the Company arising out of the performance of the operations, work and services performed under this Agreement, including injury caused by the partial or sole negligence of the Company and notwithstanding any statutory prohibition or limitation of the Village's contractual obligations hereunder.

(f) In the event of any bodily injury, death, property damage, or other accident or harm arising out of, relating to, or in any way connected with, the operations, work and services performed under this Operating Agreement, the Village, in accordance with the provisions of the Commercial General Liability Insurance policies, shall promptly and in writing notify the insurer(s) issuing such policies, regardless of the employment status of the person who sustains or on whose behalf the injury, death, damage, accident or harm is alleged. Such notice shall

inform such insurer(s) that the notice is being provided on behalf of the Company, its corporate parent, affiliates and subsidiaries and that it is intended to invoke the coverage of the policies to protect the interests and preserve the rights of the Village, the Company, and the Company's corporate parent, affiliates and subsidiaries under the policies in the event that any claim, allegation, suit, or action is made against the Village, the Company, and the Company's corporate parent, affiliates and subsidiaries.

(g) In the event the Village uses contractors and subcontractors in connection with this Operating Agreement, the Village shall require all contractor and subcontractors to provide the same insurance coverage as required in this Article. Each contractor and/or subcontractor shall name the Company, its corporate parent, affiliates and subsidiaries as additional insureds under its Commercial General Liability insurance. The Village shall require each contractor and subcontractor to submit acceptable certificates of insurance to the Company prior to the contractor's and/or subcontractor's commencement of its operations, work and/or services. The Village shall, and shall cause any contractor and subcontractor to, furnish the Company with written notice at least 30 days prior to the effective date of cancellation of the insurance or of any changes in policy limits or scope of coverage.

(h) If any insurance coverage is not secured, maintained or is cancelled before termination of this Operating Agreement, and the Village fails immediately to procure other insurance as specified, the Company may, but shall not be obligated to, procure such insurance and the Village shall reimburse the Company for all costs and expenses thereof.

(i) The Village shall furnish the Company's Risk Management Department with copies of any accident or incident report(s) sent to the Village's insurance carriers covering accidents, incidents or events occurring in connection with or as a result of the performance of all operations, work and services to be performed by or on behalf of the Village under or in connection with this Operating Agreement. In addition, if requested, the Village shall promptly provide copies of all insurance policies relevant to this accident or incident.

(j) Nothing contained in this Article is to be construed as limiting the extent of the Village's responsibility for payment of damages resulting from all operations, work and services to be performed by or on behalf of the Village under or in connection with this Operating Agreement, or limiting, diminishing, or waiving the Village's obligation to indemnify, defend, and save harmless the Company, its corporate parent and its' subsidiaries in accordance with this Operating Agreement.

ARTICLE VIII

TERM, TERMINATION, WAIVER OF CERTAIN REMEDIES

Section 8.1 Term. This Operating Agreement shall continue in full force and effect until terminated in accordance herewith.

Section 8.2 Termination.

(a) This Operating Agreement may be terminated at any time by mutual written consent of the Company and the Village.

(b) This Operating Agreement may be terminated at any time by either Party upon written notice to the other Party if the other Party (the “Breaching Party”) has materially breached or violated a provision hereof and such breach has not been cured within 30 days following written notice thereof, provided that if such violation or breach is not capable of being cured within such 30 day period, the Breaching Party shall have an additional period to cure.

Section 8.3 Waiver of Certain Remedies. NOTWITHSTANDING ANYTHING IN THIS OPERATING AGREEMENT TO THE CONTRARY, NO PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR SPECIAL, PUNITIVE, EXEMPLARY, CONSEQUENTIAL OR INDIRECT DAMAGES OR LOST PROFITS, WHETHER BASED ON CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE, ARISING FROM THIS OPERATING AGREEMENT OR THE BREACH OR VIOLATION THEREOF.

ARTICLE IX

MISCELLANEOUS

Section 9.1 Notices. Unless this Operating Agreement specifically requires otherwise, any notice, demand or request (“Notice”) provided for in this Operating Agreement, or served, given or made in connection with it, shall be in writing and shall be deemed properly served, given or made if delivered in person or sent by fax or sent by registered or certified mail, postage prepaid, or by a nationally recognized overnight courier service that provides a receipt of delivery, in each case, to the Parties at the addresses specified below:

If to Buyer, to:
Village of Warwick
PO Box 369
Warwick, NY 10990
Attention: Mayor

If to Seller, to:
Orange and Rockland Utilities, Inc.
390 West Route 59
Spring Valley, New York 10977
Fax No. 845-577-3074
Attention: Vice President – Operations

with a copy to:

Consolidated Edison Company of New York, Inc.
Law Department
4 Irving Place, 18th Fl
New York, New York 10003
Fax No. 212-677-5850
Attention: Grace Su, Associate Counsel

Notice given by personal delivery, mail or overnight courier pursuant to this Section 9.1 shall be effective upon the intended recipient's physical receipt of, or refusal to receive such Notice. Notice given by fax pursuant to this Section 9.1 shall be effective as of the date of delivery is confirmed by electronic transmission confirmation if delivered before 5:00 p.m. Eastern Time on any Business Day or the next succeeding Business Day if delivery is after 5:00 p.m. Eastern Time on any Business Day or during any non-Business Day.

Section 9.2 Entire Agreement. This Operating Agreement supersedes all prior discussions and agreements between the Parties with respect to the subject matter hereof and contains the sole and entire agreement between the Parties with respect to such subject matter.

Section 9.3 Waiver. Any term or condition of this Operating Agreement may be waived at any time by the Party that is entitled to the benefit thereof, but no such waiver shall be effective unless set forth in a written instrument duly executed by or on behalf of the Party waiving such term or condition. No waiver by any Party of any term or condition of this Operating Agreement, in any one or more instances, shall be deemed to be or construed as a waiver of the same or any other term or condition of this Operating Agreement on any future occasion.

Section 9.4 Amendment. This Operating Agreement may be amended, supplemented or modified only by a written instrument duly executed by or on behalf of each Party.

Section 9.5 No Third Party Beneficiaries. The terms and provisions of this Operating Agreement are intended solely for the benefit of the Parties and their respective successors or permitted assigns, and it is not the intention of the Parties to confer third-party beneficiary rights upon any other Person.

Section 9.6 Assignment; Binding Effect. Neither this Operating Agreement nor any right, interest or obligation hereunder may be assigned by any Party without the prior written consent of the other Party. Subject to this Section 9.6, this Operating Agreement is binding upon, inures to the benefit of and is enforceable by the Parties and their respective successors and permitted assigns.

Section 9.7 Headings. The headings used in this Operating Agreement have been inserted for convenience of reference only and do not define or limit the provisions hereof.

Section 9.8 Invalid Provisions. If any provision of this Operating Agreement is held to be illegal, invalid or unenforceable under any present or future law, and if the rights or obligations of any Party under this Operating Agreement will not be materially and adversely affected thereby, such provision will be fully severable, this Operating Agreement will be

construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part hereof, the remaining provisions of this Operating Agreement will remain in full force and effect and will not be affected by the illegal, invalid or unenforceable provision or by its severance herefrom and in lieu of such illegal, invalid or unenforceable provision, there will be added automatically as a part of this Operating Agreement a legal, valid and enforceable provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible.

Section 9.9 Counterparts; Fax. This Agreement may be executed in any number of counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument. Any fax or electronically transmitted copies hereof or signature hereon shall, for all purposes, be deemed originals.

Section 9.10 Governing Law; Jurisdiction; Waiver of Jury Trial.

(a) This Operating Agreement shall be governed by and construed in accordance with the Law of the State of New York, without giving effect to any conflict or choice of law provision that would result in the application of another state's Law.

(b) Each of the Parties hereby submits to the exclusive jurisdiction of the State courts located in New City (Rockland County) in the State of New York and the Federal courts located in the City of White Plains in the State of New York with respect to any action or proceeding relating to this Operating Agreement and the transactions contemplated hereby.

EACH OF THE PARTIES IRREVOCABLY WAIVES ITS RIGHT TO A JURY TRIAL WITH RESPECT TO ANY ACTION OR PROCEEDING RELATING TO THIS OPERATING AGREEMENT AND THE TRANSACTIONS CONTEMPLATED HEREBY.

Section 9.11 Effective Date. This Operating Agreement shall be effective as of the date set forth in the preamble of this Operating Agreement.

IN WITNESS WHEREOF, intending to be legally bound, the Parties have executed this Operating Agreement as of the date first written above.

ORANGE AND ROCKLAND
UTILITIES, INC.

By _____
Vice President - Operations

VILLAGE OF WARWICK, NEW YORK

By _____
Mayor

EXHIBIT A



ORANGE AND ROCKLAND UTILITIES, INC.

STANDARD NO.

C-07-020

ELECTRIC DISTRIBUTION STANDARDS

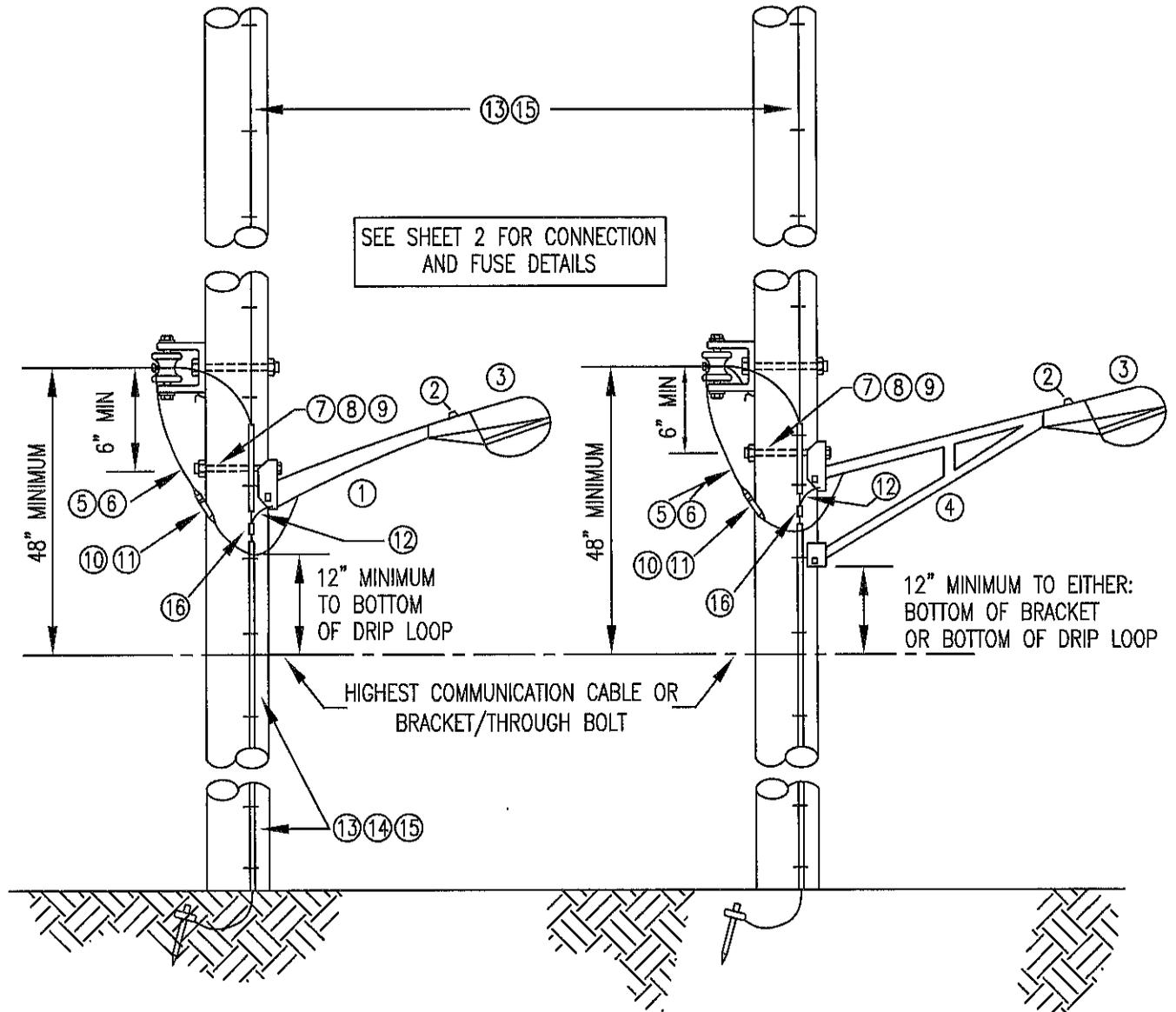
SHEET

CUSTOMER OWNED AND MAINTAINED STREETLIGHT INSTALLATION ON DISTRIBUTION POLES - OVERHEAD SERVICE

1 of 4

SINGLE LANE STREETLIGHT SUPPORT BRACKET.
TYPICALLY 8 FEET LONG

MULTIPLE LANE STREETLIGHT SUPPORT BRACKET.
TYPICALLY 15 FEET LONG



PLEASE SEE PAGE 2 FOR WIRING DETAILS AND FOR FUSING REQUIREMENTS.

PLEASE SEE PAGE 3 FOR NOTES OUTLINING OTHER REQUIREMENTS

◀ DENOTES LATEST REVISION.

STANDARDS ENGINEER

Christopher Gonzales
Digitally signed by Christopher Gonzales
DN: cn=Christopher Gonzales,
ou=Distribution Engineering,
ou=Standards Engineering,
email=gonzales@oru.com, c=US
Date: 2015.07.20 12:54:07 -04'00'

CHIEF DISTRIBUTION ENGINEER

Wayne Banker
Digitally signed by Wayne Banker
DN: cn=Wayne Banker,
ou=Distribution Engineering Dept.,
ou=Distribution Standards,
email=bankerw@oru.com, c=US
Date: 2015.07.21 09:53:27 -04'00'

ELECTRIC OPERATIONS

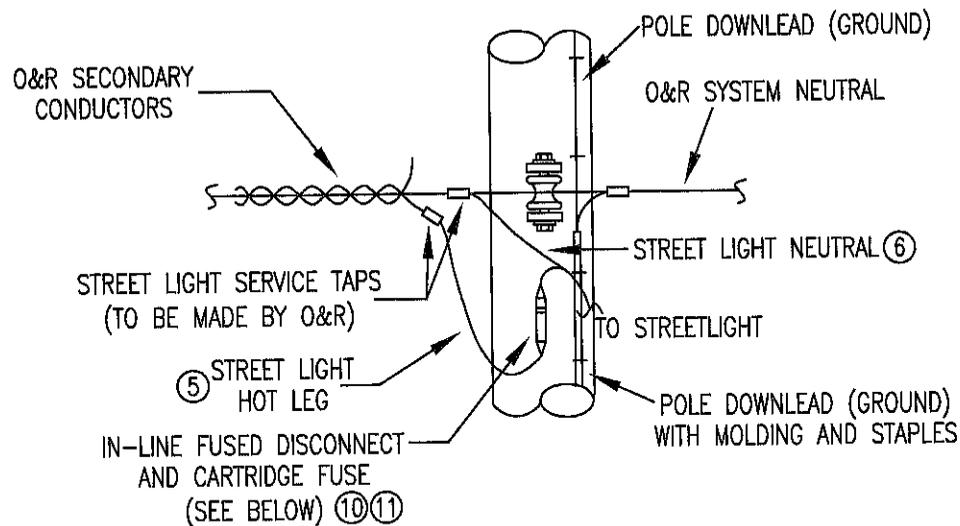
Patrick Burke
Digitally signed by Patrick Burke
Date: 2015.08.30
12:46:01 -04'00'

ISSUE

1

DATE

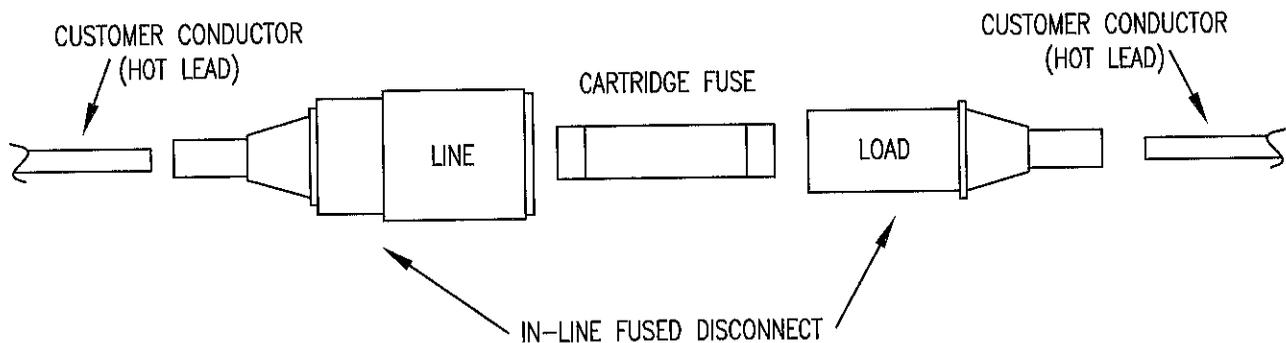
8/31/2015

CONNECTION DETAILSIN-LINE FUSED DISCONNECT

ALL CUSTOMER OWNED STREETLIGHTING EQUIPMENT SHALL BE FUSED USING A WATERTIGHT IN-LINE FUSE HOLDER AND CARTRIDGE STYLE FUSE. THIS FUSE, IN ADDITION TO PROVIDING ELECTRICAL PROTECTION, SHALL SERVE AS A DISCONNECTION POINT FOR THE CUSTOMER OWNED STREETLIGHTING EQUIPMENT. THE IN-LINE FUSED DISCONNECT SHALL BE A HOMAC "FLOODSEAL" MODEL SLK-M OR O&R APPROVED EQUIVALENT. THE CARTRIDGE FUSE SHALL BE 600 VOLT, $1\frac{1}{2}$ " IN DIAMETER, $1\frac{1}{2}$ " IN LENGTH, NON-GLASS TYPE OR O&R APPROVED EQUIVALENT.

WHEN SEPARATED, THE CARTRIDGE FUSE SHALL BE HELD IN THE LOAD END.

PROVIDE SUFFICIENT SLACK IN WIRING TO FACILITATE FUSE REPLACEMENT.





ORANGE AND ROCKLAND UTILITIES, INC.

STANDARD NO.

C-07-020

ELECTRIC DISTRIBUTION STANDARDS

SHEET

CUSTOMER OWNED AND MAINTAINED STREETLIGHT INSTALLATION ON DISTRIBUTION POLES - OVERHEAD SERVICE

3 OF 4

NOTES:

1. ORANGE & ROCKLAND MUST APPROVE LOCATIONS FOR ALL INSTALLS. CUSTOMER IS RESPONSIBLE FOR PAYING FOR ANY MAKE READY WORK THAT IS NECESSARY TO ACCOMODATE A STREETLIGHT ON ANY POLE CHOSEN.
2. ALL MATERIALS USED SHOULD MEET APPLICABLE INDUSTRY STANDARD REQUIREMENTS. THESE PROPOSED MATERIALS (BRACKET, LUMIANIRE, PHOTO CONTROL, HARDWARE, ETC.) SHALL BE SUBMITTED AS PART OF THE APPLICATION PACKAGE FOR REVIEW BY ORANGE & ROCKLAND.
3. LIGHT BRACKETS USED MUST BE ABLE TO HOLD A MINIMUM LOAD OF 75 POUNDS AT THE END OF THE BRACKET.
4. SERVICE IS FOR STREETLIGHT ONLY AND THE CUSTOMER MAY NOT TAP ON OR ADD ANY OTHER EQUIPMENT OR OTHERWISE REMETER OR RESELL THE SERVICE.
5. ORANGE & ROCKLAND WILL HAVE FINAL SAY IF THE REQUESTED ATTACHMENT IS FEASIBLE AND CUSTOMER SHALL BEAR THE COST OF THE FIELD SURVEY CHARGE AS OUTLINED IN SERVICE CLASSIFICATION #6.
6. ALL WORK IS TO BE PERFORMED BY QUALIFIED PERSONNEL WHO HAVE BEEN PROPERLY TRAINED FOR THE WORK TO BE UNDERTAKEN AS WELL AS WORKING IN CLOSE PROXIMITY TO LIVE PRIMARY VOLTAGE CONDUCTORS.
7. ALL WORK IS TO BE COMPLETED SAFELY FOLLOWING APPLICABLE RULES, REGULATIONS, STANDARDS, AND GOOD UTILITY PRACTICE. THIS INCLUDES, BUT IS NOT LIMITED TO, THIS STANDARD, NESC, NEC, OSHA REQUIREMENTS, AND NEW YORK STATE LABOR LAW. WHEN THERE IS A CONFLICT BETWEEN ANY RULES, REGULATIONS, OR STANDARDS, THE MOST STRINGENT RULE, REQUIREMENT, AND/OR STANDARD SHALL BE FOLLOWED.
8. IF WORK IS DONE ON A JOINT USE POLE, THE CUSTOMER IS RESPONSIBLE FOR CONTACTING THE OTHER ATTACHEES FOR THEIR REQUIREMENTS AND STANDARDS.
9. THE CUSTOMER SHALL BE RESPONSIBLE FOR ALL ENGINEERING DESIGN, CONSTRUCTION, MAPPING, AND MAINTENANCE OF ITS FACILITIES.
10. ORANGE & ROCKLAND HAS THE RIGHT, AT ANY TIME, TO DE-ENERGIZE AND/OR REMOVE ANY CUSTOMER EQUIPMENT THAT IS DEEMED UNSAFE.
11. IN ADDITON TO THE NEMA WATTAGE LABEL, THE LUMINAIRE SHALL HAVE IDENTIFICATION MARKINGS, WHICH ARE VISIBLE FROM THE GROUND, CONTAINING THE NAME OF THE LUMINAIRE OWNER AND A 24 HOUR CONTACT PHONE NUMBER. THE TYPE OF MARKING (LABEL, STENCIL, ETC.) TO BE USED AND WHERE IT IS TO BE LOCATED SHALL BE SPECIFIED IN THE APPLICATION FOR SERVICE.
12. ORANGE & ROCKLAND SHALL SPECIFY THE POINT OF SERVICE, CHARACTER OF SERVICE TO BE RENDERED, AND THE ACCEPTABILITY OF THE TYPE AND LOCATION OF EQUIPMENT TO BE ATTACHED OR CONNECTED TO THE COMPANY'S FACILITIES.
13. THE INITIAL CONNECTION TO ORANGE & ROCKLAND'S ELECTRICAL FACILITIES, AND SUBSEQUENT DISCONNECTS AND RECONNECTS AS NECESSARY, SHALL BE MADE BY ORANGE & ROCKLAND UTILITIES. AT NO TIME SHALL ANY STREETLIGHT SERVICE BE ENERGIZED BY ANYONE OTHER THAN ORANGE & ROCKLAND UTILITIES.
14. A MINIMUM 36" CLEARANCE BETWEEN PRIMARY VOLTAGE CONDUCTOR(S) AND STREETLIGHT BRACKET/HEAD, AT THEIR CLOSEST POINT, SHALL BE MAINTAINED.
15. FOR GROUNDED WYE PRIMARY SYSTEMS, THE STREET LIGHTING BRACKET SHALL BE GROUNDED TO SECONDARY NEUTRAL OR O&R POLE GROUND (DOWNLEAD). LOOP BRACKET GROUND WIRE UNDER BOLT HEAD IF BRACKET IS NOT SUPPLIED WITH GROUNDING PROVISIONS. GROUND WIRE TO BE MINIMUM #6 STRANDED COPPER, WITH JACKET.
16. FOR DELTA PRIMARY SYSTEMS, STREET LIGHTING BRACKET IS TO BE BONDED TO:
 - A. DOWNLEAD (ALSO SEE NOTE 17) OR
 - B. SECONDARY NEUTRAL IF DOWN LEAD DOES NOT EXIST OR IF DOWN LEAD IS NOT O&R'S.
17. DO NOT BOND STREET LIGHT BRACKET TO DOWNLEAD IF DOWNLEAD IS FOR DELTA PRIMARY LIGHTING ARRESTERS.
18. THE NUMBER OF LAG SCREWS NEEDED IS DETERMINED BY THE SUPPORT BRACKET USED. TYPICALLY, A SINGLE LANE BRACKET (8' ARM) REQUIRES 2 LAG SCREWS AND MULTIPLE LANE BRACKET (15' ARM) REQUIRES 4 LAG SCREWS.

ITEM #	QUANTITY	DESCRIPTION	O&R STOCK NUMBER
CUSTOMER SUPPLIED			
1	1	SINGLE LANE (8') STREETLIGHT SUPPORT BRACKET	N/A
2	1	PHOTOELECTRIC CONTROL (DUSK TO DAWN)	N/A
3	1	STREETLIGHT HEAD	N/A
4	1	MULTIPLE LANE (15') STREETLIGHT SUPPORT BRACKET	N/A
5	#	STREETLIGHT HOT LEAD WIRE, #12 SOLID COPPER MINIMUM, BLACK JACKET (THHN)	N/A
6	#	STREETLIGHT NEUTRAL LEAD WIRE, #12 SOLID COPPER MINIMUM, WHITE JACKET (THHN)	N/A
7	1	THROUGH BOLT, 5/8" MINIMUM (OR AS OTHERWISE SPECIFIED BY SUPPORT BRACKET MANUFACTURER), LENGTH AS REQUIRED, WITH NUT	N/A
8	1	5/8" DIAMETER SQUARE CURVED WASHER	N/A
9	#	LAG SCREWS, 1/2" DIAMETER MINIMUM, 4" LONG (OR AS OTHERWISE SPECIFIED BY SUPPORT BRACKET MANUFACTURER)	N/A
10	1	IN-LINE FUSED DISCONNECT, HOMAC FLOODSEAL SLK-M OR O&R APPROVED EQUIVALENT	5800332
11	1	CARTRIDGE FUSE FOR IN-LINE FUSIBLE DISCONNECT	5911115
12	#	SUPPORT BRACKET GROUND WIRE, #6 STRANDED COPPER MINIMUM, WITH CROSS LINKED POLYETHYLENE (XLPE) JACKET	N/A
ORANGE & ROCKLAND UTILITIES EXISTING OR SUPPLIED			
13	#	#2 STRANDED COPPER POLE DOWNLEAD (GROUND)	5615091
14	#	PLASTIC MOLDING	0070010
15	#	STAPLES	0320009
16	1	COMPRESSION CONNECTOR (BRACKET GROUND WIRE)	5710XXX
17	2	COMPRESSION CONNECTORS - STREETLIGHT HOT AND NEUTRAL WIRES	5710069 or 5710130

► DENOTES REVISION

* WHEN REQUIRED

QUANTITY AS REQUIRED

XX MISSING DIGITS ARE DETERMINED BY THE TYPE, SIZE OR LENGTH OF THIS ITEM

REBECCA BANK

3 Elizabeth Street, Warwick, NY 10990 | 845-545-8309 | rebecca_bank@hotmail.com

June 27, 2022

Village Board of Trustees
77 Main Street
Warwick, NY 10990

RECEIVED

JUN 27 2022

VILLAGE OF WARWICK
VILLAGE CLERKS OFFICE

RE: Request to use Veterans Memorial Park Pavilion on July 23, 2022

Dear Village Board of Trustees:

This letter is to describe the nature of the event being held at the facility described above. On July 23, 2022, my family is planning an outside summer gathering to have for our family and friends play board games and dance. The goal is to provide a wholesome environment of activities for young and old to socialize without the use of alcohol.

Sincerely,



Rebecca Bank

77 Main Street
Post Office Box 369
Warwick, NY 10990
www.villageofwarwick.org



(845) 986-2031
FAX (845) 986-6884
mayor@villageofwarwick.org
clerk@villageofwarwick.org

VILLAGE OF WARWICK
INCORPORATED 1867

Facility Use Request Form
For Gatherings of Less Than 200 People

ONLY USE THIS FORM IF YOUR EVENT WILL HAVE 200 PEOPLE OR LESS

Date Request Submitted: 6/27/2022

Title of Event: Family gathering with friends

Purpose of Event: Outside summer gathering

SECTION 1: REQUESTED VILLAGE-OWNED PROPERTY

- Railroad Green Stanley-Deming Park Lewis Woodlands
 Veterans Memorial Park Veterans Memorial Park Pavilion
**Please use the attached map to indicate the specific area(s) to be used within each park.*

Village of Warwick Parking Lots - check all that apply:

- South Street Lot 1st Street Lot Chase Lot (non-permit only)
 Spring Street Lot Wheeler & Spring St. Lot Upper CVS Lot Lower CVS Lot

Village of Warwick Streets: _____

SECTION 2: DATE AND TIME REQUESTED

Date(s) Requested: July 23, 2022 Rain Date Requested: _____

Arrival Time: 3pm Departure Time: 9³⁰pm (30 min clean-up)

Event Start Time: 5pm Event End Time: 9pm

SECTION 3: APPLICANT INFORMATION

Check one: Non-Profit Organization Commercial/Business Organization Family
**For-profit activities are prohibited.*

Applicant's Name/Responsible Party: Rebecca Bank
**Person of responsibility representing the organization must be a Town of Warwick resident.*

Mailing Address of Responsible Party: 3 Elizabeth Street, Warwick, NY 10990

Email Address: rebecca-bank@hotmail.com Cell Phone: 845-545-8309

Proof of Town of Warwick Residency of Responsible Party: Driver's License Utility Bill

Name of Organization (if Applicable): N/A

Name of Organization's Director(s)/Officer(s): N/A

Organization's Phone: N/A Email Address: N/A

Mailing Address of Organization: N/A

Physical Address of Organization: N/A

SECTION 4: EVENT INFORMATION

Maximum Number of People Intended at the Event: Approx. 100 people

** If greater than 200 people, at any given time DO NOT complete this form. See instructions.*

of Adults: _____ # of People Under 18: _____

Expected Number of Vehicles Intended at the Event: 20 approx

Please explain the parking plan for the event: Pavilion Parking Lot

WILL YOUR EVENT INCLUDE:	CHECK YES OR NO
Greater than 200 people at any given time <i>If yes, DO NOT complete this form. Please complete form: FACILITY USE PERMIT APPLICATION FOR GATHERINGS GREATER THAN 200 PEOPLE</i>	Yes _____ No <input checked="" type="checkbox"/>
Music / Loudspeakers / Sound System <i>If yes, explain: <u>Play list from phone</u></i> <i>Location of Music/Loud Speakers/ Sounds System: _____</i>	Yes <input checked="" type="checkbox"/> No _____
Parade, walk, road race, etc. <i>Request must include in writing a clear layout of the intended route AND a letter from the Warwick Police Department approving the route and police resources.</i>	Yes _____ No <input checked="" type="checkbox"/>
Tent(s) <i>Include a map detailing the placement of the tent(s).</i> <i>Date & time tent will be set up: _____</i> <i>Date & time tent will be removed: _____</i>	Yes _____ No <input checked="" type="checkbox"/>

RVs, Campers, Food Trucks, etc. If yes, explain: _____	Yes _____ No <input checked="" type="checkbox"/>
Admission Fee to Be Charged If yes, please list the admission fee: _____	Yes _____ No <input checked="" type="checkbox"/>
Alcohol Host Liquor Liability Insurance is required.	Yes _____ No <input checked="" type="checkbox"/>
Food will be served or sold If yes, explain the method of food distribution and disposal of trash: <u>Each person will bring their own food.</u> <small>*A permit is required from the Orange County Department of Health when offering or selling any food to the public. It is the applicant's responsibility to contact the Orange County Department of Health to obtain necessary permits. Contact the Orange County Department of Health for further information. *Applicants must provide a drawing to scale showing where the food will be served/sold and where trash will be disposed.</small>	Yes <input checked="" type="checkbox"/> No _____
Rides: Mechanical Carnival Rides, Bounce House, Inflatable Slide, etc. If yes, explain: _____ Additional contract(s) and/or insurance is required.	Yes _____ No <input checked="" type="checkbox"/>
Portable Toilets Placement of portable toilets must be detailed on the map that is required with the application.	Yes _____ No <input checked="" type="checkbox"/>
Other Please explain: _____	Yes _____ No <input checked="" type="checkbox"/>

SPECIAL REQUESTS:
CHECK YES OR NO

Road Closure List road(s): _____ Closed between the hours of _____ and _____ Number of 'No Parking' meter bags requested, if applicable: _____	Yes _____ No <input checked="" type="checkbox"/>
Use of Village-owned tables and chairs Veterans Memorial Park Pavilion Only. No. of Tables <u>8</u> No. of Chairs _____	Yes <input checked="" type="checkbox"/> No _____
Use of Electricity	Yes <input checked="" type="checkbox"/> No _____
Use of Memorial Park Football/Over 35 Field Lights Additional fee required for use of field lights.	Yes _____ No <input checked="" type="checkbox"/>
Use of Memorial Park Pavilion Lights	Yes <input checked="" type="checkbox"/> No _____

Use of Village of Warwick Restrooms <i>Memorial Park and Stanley Deming Park only.</i>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Other <i>Please explain:</i> _____	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>

SECTION 5: FEES/SECURITY DEPOSIT

Fees and Security Deposit are Due Upon Application / Checks payable to: The Village of Warwick

\$200 Security Deposit - (*Must be a Separate Payment*)

Memorial Park Football/Over 35 Field Lights (circle one) - \$10 per day or \$300 per season

TOTAL FEES: \$ _____ (excluding security deposit)

SECTION 6: INDEMNITY & HOLD HARMLESS

The undersigned is over 21 years of age and has read this form and attached regulations and agrees to comply with them. He/she agrees to be responsible to the Village of Warwick for the use and care of the facilities. He/she, on behalf of N/A (Name of Organization) does hereby covenant and agree to defend, indemnify and hold harmless the Village of Warwick from and against any and all liability, loss, damages, claims, or actions (including costs and attorneys' fees) for bodily injury and/or property damage, to the extent permissible by law, arising out of or in connection with the actual or proposed use of Village's property, facilities and/or services by N/A (Name Organization).

Rebecca Bank
Printed Name of Applicant/Responsible Party

RB Bank
Signature of Applicant/Responsible Party

6/27/2022
Date

Clerk Use Only: Security Deposit Check # 1111 Certificate of Insurance Host Liquor Liability NA
Fees Received Park Map(s) Police Dept. Approval (if applicable) NA

Permit Holder. Applicants are urged to bring extra plastic garbage bags to facilitate cleanup.

17. Any organization with youths under 18 years old requires the presence of adequate adult supervision at all times.
18. Supervision and parking are the responsibility of the applicant organization/individual.
19. Permits may be revoked at any time.
20. All posted rules must be adhered to.
21. No field or building alterations (lining of fields, erecting goal posts or structures, etc.) are allowed without prior approval.
22. The emergency telephone number for police is 911 or 986-5000; fire and ambulance 911.
23. Prior to the start of the event, an announcement should be made to your group regarding emergency evacuation procedures, for example pointing out posted procedures, direction for exiting, procedures for emergency helicopter landing, etc. Need pamphlet to hand out to applicants.
24. In the event of an accident, please notify the Village Clerk at (845) 986-2031 before the end of the next business day.
25. The Village of Warwick does not and shall not discriminate on the basis of race, color, religion (creed), gender, gender expression, age, national origin (ancestry), disability, marital status, sexual orientation, or military status, in any of its activities or operations.

INDEMNITY & HOLD HARMLESS

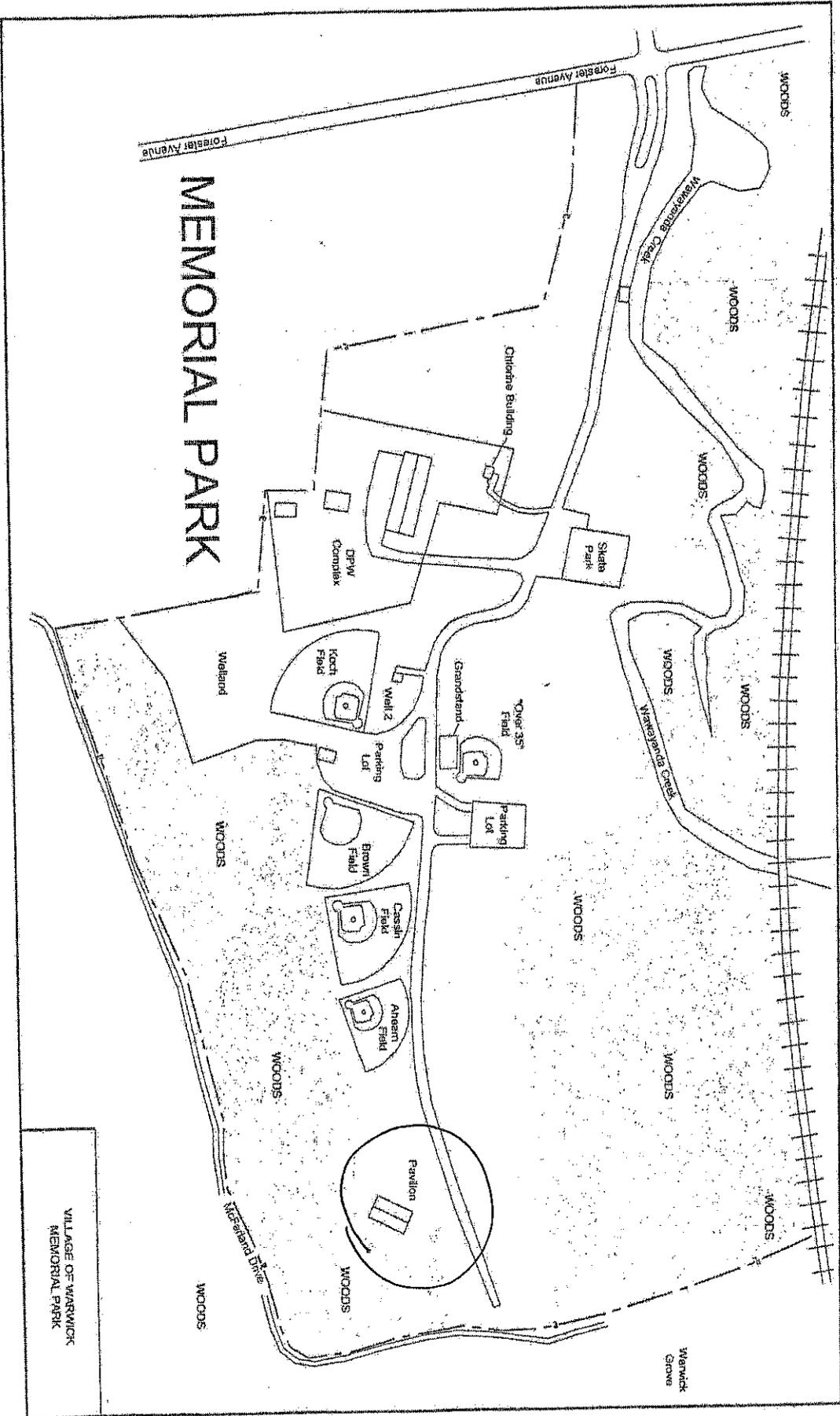
FACILITY USER does hereby covenant and agree to defend, indemnify, and hold harmless the Village of Warwick from and against any and all liability, loss, damages, claims, or actions (including costs and attorneys' fees) for bodily injury and/or property damage, to the extent permissible by law, arising out of or in connection with the actual or proposed use of the Village of Warwick property, facilities and/or services.

I have read and understand the Facilities Use Requirements:

Rebecca Bank
Printed Name of Applicant/Responsible Party


Signature of Applicant/Responsible Party

Date 6/27/2022



MEMORIAL PARK

VILLAGE OF WARWICK
MEMORIAL PARK



Warwick Applefest * P.O. Box 22 * Warwick, New York 10990

April 18, 2022

Mayor Michael Newhard
Office of the Mayor
Warwick Village Hall
P.O. Box 369
Warwick, NY 10990

Dear Mayor Newhard,

On behalf of the Warwick Valley Chamber of Commerce the Applefest Committee requests approval to hold the 32nd annual **Warwick Applefest** on Sunday, October 2, 2022.

Upon approval from your office arrangements will be made with the Police Department, Ambulance Corps, Fire Department, Department of Public Works, etc. for proper coverage of the event as they have done in the past. An updated certificate of insurance will be provided upon renewal of our insurance policy in June 2022.

Please note that for the protection and health of the event's many sponsors, craft & food vendors, volunteers, suppliers, community members and visitors, the final decision to conduct Applefest is subject to pandemic conditions this fall. The decision will be made in accordance with Federal, State and Local regulations and restrictions in place at the time of the event.

Should you have any questions relating to this request, please feel free to contact me.

Thank you for your continued support.

Sincerely,

Cristina Hohmann

Cristina Hohmann
Warwick Applefest 2022 Coordinator
generalinfo@warwickapplefest.com
Cell: 845-988-7818



Warwick Applefest * P.O. Box 22 * Warwick, New York 10990

Proposed Schedule of Events for Applefest Weekend 2022

Sunday, October 2

9 am - 5 pm

- We wish to hold the festival in the area between Lewis Park and Stanley-Deming Park, encompassing High Street, South Street, and the parking lots on South Street and Railroad Avenue/Village Green.
- Additionally, we would like to once again use Memorial Park and the parking lot at Oakland Ave. & First Street for parking.

Village of Warwick, NY - Facility Use Request Additional Notes

Before and after “walk-through” of the Stanley-Deming Park, Memorial Park, and Railroad Green will be made with the Village Supervisor of Public Works and one or more Applefest Committee members.

Road Closures

For Applefest we will be closing the following roads

- South St. to Lawrence
- Railroad Ave.
- 2nd Street
- 3rd Street
- High Street
- Bank Street
- Clinton Ave.
- Park Ave
- Park Lane
- Park Way

Please note that we are blocking all entrances except ones that are manned.

Roads Blocked off

- South & Main
- Railroad & Oakland
- Second Street & Oakland
- Third Street & Oakland

Streets to be manned

- First Street & Oakland
- Parkway & Park Lane
- South Street & Clinton

Festival Map

Below you will find the tentative festival map. Please note that if there are any changes these will be shared for review / approval.



Banners Request

Included in our email you will find the banner request for First Street, West Street, and the Utility Poles. Below you will find example for each banner. Please note that the verbiage will be updated with this year's date and sponsors.

<p style="text-align: center;">First and West Street Banner Example</p> <p style="text-align: center;">APPLEFEST OCT. 2, 2016 PLATINUM SPONSOR TRANS TECH BUS</p>	<p style="text-align: center;">Utility Banner Example</p> <p style="text-align: center;">WARWICK NEW YORK Applefest Myles Wealth Management</p>
---	---

Portable Bathroom Units

Location in Applefest festival area	No. of units
South St. parking lot (Lot across from Caboose) <ul style="list-style-type: none"> Place along railroad tracks / with 3 wash units 	15 regular 2 handicapped
Stanley-Deming Park (On South St. near Parkway) <ul style="list-style-type: none"> Farther down South St. - NOT NEAR THE CORNER with 3 wash units 	14 regular 2 handicapped
Stanley-Deming Park (Carnival side of park) <ul style="list-style-type: none"> 2 - Carnival ticket booth on grass 1 - Handball court for ambulance tent with 1 wash unit. 	3 regular
Chase Bank ATM parking lot (lot next to Caboose) <ul style="list-style-type: none"> Place at rear of lot, across back end (starting from the railroad tracks in) with 2 wash units. 	6 regular 2 handicapped
Veterans Memorial Park (Lot on Forester Ave.) <ul style="list-style-type: none"> 3 Units near shuttle bus stop near park entrance - to the left as you come into the park, where the concrete extends towards the water. 2 Units should be inside the park, near the skateboard park (1 regular & 1 handicapped) 	4 regular 1 handicapped
Kuiken Brothers <ul style="list-style-type: none"> Place in rear of small parking lot behind the flag pole behind the building with 1 wash station. 	1 regular 0 handicapped
Middle School parking lot <ul style="list-style-type: none"> Place on grass between HS and MS 	2 regular 1 handicapped
TOTAL UNITS	Regular - 45 Handicapped - 8

77 Main Street
Post Office Box 369
Warwick, NY 10990
www.villageofwarwick.org



(845) 986-2031
FAX (845) 986-6884
mayor@villageofwarwick.org
clerk@villageofwarwick.org

VILLAGE OF WARWICK
INCORPORATED 1867

**FACILITY USE PERMIT APPLICATION
FOR GATHERINGS GREATER THAN 200 PEOPLE
ON VILLAGE-OWNED PROPERTY**

Date Request Submitted: April 6, 2022

Title of Event: Warwick Applefest

Purpose of Event: Festival that will include both craft, food, and non-profit vendors. As well as entertainment.

SECTION 1: REQUESTED VILLAGE-OWNED PROPERTY

Railroad Green Stanley-Deming Park Lewis Woodlands

Veterans Memorial Park Veterans Memorial Park Pavilion
**Please use the attached map to indicate the specific area(s) to be used within each park.*

Village of Warwick Parking Lots - check all that apply:

South Street Lot 1st Street Lot Chase Lot (non-permit only)
 Spring Street Lot Wheeler & Spring St. Lot Upper CVS Lot Lower CVS Lot

Village of Warwick Streets: Please see cover letter for all roads

SECTION 2: DATE AND TIME REQUESTED

Date(s) Requested: October 2, 2022 Rain Date(s) Requested: October 2, 2022

Arrival Time: 6 AM Departure Time: 6 PM

Event Start Time: 9 AM Event End Time: 5 PM

SECTION 3: APPLICANT INFORMATION

Check one: Non-Profit Organization Commercial/Business Organization Family
**For-profit activities are prohibited.*

Applicant's Name/Responsible Party: Elizabeth Cassidy - Chamber of Commerce President

**Person of responsibility representing the organization must be a Town of Warwick resident*

Mailing Address of Responsible Party: _____

Residential Address of Responsible Party: _____

Email Address: _____ Cell Phone: _____

Proof of Town of Warwick Residency of Responsible Party: Driver's License Utility Bill

Name of Organization (if Applicable): Warwick Applefest on the behalf of the Chamber of Commerce

Organization's Phone: 845-988-7818 - Coordinator's Cell Email Address: warwickapplefest@gmail.com
Cristina Hohmann - Applefest Coordinator

Name of Organization's Director(s)/Officer(s): Elizabeth Cassidy - Chamber of Commerce President

Mailing Address of Organization: P.O. Box 22, Warwick, NY 10990

Physical Address of Organization: 25 South St, Warwick, NY 10990

SECTION 4: EVENT INFORMATION

Maximum Number of People Intended at the Event: Approx. 25,000 - Mix of Children & Adults

of Adults _____ # of Under 18 Yrs. Old _____

Expected Number of Vehicles Intended at the Event: _____

Please explain the parking plan for the event: _____

We will have designated parking memorial park, high school & middle school

WILL YOUR EVENT INCLUDE:

CHECK YES OR NO

<p>Greater than 200 people at any given time <i>If no, DO NOT complete this form. Please complete form FACILITY USE PERMIT APPLICATION FOR GATHERINGS OF LESS THAN 200 PEOPLE.</i></p>	<p>Yes <input checked="" type="checkbox"/> No _____</p>
<p>Music / Loudspeakers / Sound System <i>If yes, explain</i> <u>We will have entertainment stages throughout the festival</u> <i>Location of Music/Loud Speakers/ Sounds System</i> <u>Kuiken, RR Green, South Street, SD Park, High St.</u></p>	<p>Yes <input checked="" type="checkbox"/> No _____</p>
<p>Parade, walk, road race, etc. <i>Request must include in writing a clear layout of the intended route AND a letter from the Warwick Police Department approving the route and police resources</i></p>	<p>Yes _____ No <input checked="" type="checkbox"/></p>
<p>Tent(s) <i>Include a map detailing the placement of the tent(s)</i> <i>Date & time tent will be set up.</i> <u>Entertainment Tents - Oct 1st - Between 12 PM - 5 PM</u> <i>Date & time tent will be removed</i> <u>Vendor Tents - Oct. 2, 2022 - Between 6 AM and 8 AM</u> <u>All removal will be on Oct 2, 2022 between 5 PM - 6 PM</u></p>	<p>Yes <input checked="" type="checkbox"/> No _____</p>

RVs, Campers, Food Trucks, etc. <i>If yes, explain _____</i>	Yes _____ No <u>X</u>
Admission Fee to Be Charged <i>If yes, please list the admission fee: _____</i>	Yes _____ No <u>X</u>
Alcohol <i>Host Liquor Liability Insurance is required</i>	Yes _____ No <u>X</u>
Food will be served or sold <i>If yes, explain the method of food distribution and disposal of trash</i> Food can be purchased by one of the food vendors. All vendors will be certified by the board of health <i>*A permit is required from the Orange County Department of Health when offering or selling any food to the public. It is the applicant's responsibility to contact the Orange County Department of Health to obtain necessary permits. Contact the Orange County Department of Health for further information.</i> <i>*Applicants must provide a drawing to scale showing where the food will be served/sold and where trash will be disposed.</i>	Yes <u>X</u> No _____
Rides: Mechanical Carnival Rides, Bounce House, Inflatable Slide, etc. <i>If yes, explain. _____</i> <i>Additional contract(s) and/or insurance is required</i>	Yes _____ No <u>X</u>
Portable Toilets <i>Placement of portable toilets must be detailed on the map that is required with the application. Please see cover letter.</i>	Yes <u>X</u> No _____
Other <i>Please explain: _____</i>	Yes _____ No _____

SPECIAL REQUESTS:

CHECK YES OR NO

Road Closure <i>List road(s) <u>Please see cover letter</u></i> <i>Closed between the hours of _____ and _____</i> <i>Number of 'No Parking' meter bags requested, if applicable: _____</i>	Yes <u>X</u> No _____
Use of Village owned tables and chairs <i>Veterans Memorial Park Pavilion Only No of Tables _____ No of Chairs _____</i>	Yes _____ No <u>X</u>
Use of Electricity	Yes <u>X</u> No _____
Use of Memorial Park Football/Over 35 Field Lights <i>Additional fee required for use of field lights</i>	Yes _____ No _____
Use of Memorial Park Pavilion Lights Maybe	Yes _____ No _____

Use of Village of Warwick Restrooms <i>Memorial Park and Stanley Deming Park only.</i>	Yes _____ No <u>X</u>
We would like these locked prior to Applefest	
Other Please explain: _____	Yes _____ No _____

SECTION 5: FEES/SECURITY DEPOSIT

Fees and Security Deposit are Due Upon Application / Checks payable to: The Village of Warwick

- \$250 Application Fee
- Memorial Park Football/Over 35 Field Lights (circle one) - \$10 per day or \$300 per season
- \$500 Security Deposit (*Must be a Separate Payment*)

TOTAL FEE: \$ \$250 (excluding security deposit)

SECTION 6: INDEMNITY & HOLD HARMLESS

The undersigned is over 21 years of age and has read this form and attached regulations and agrees to comply with them. He/she agrees to be responsible to the Village of Warwick for the use and care of the facilities. He/she, on behalf of Warwick Valley Chamber of Commerce (Name of Organization) does hereby covenant and agree to defend, indemnify and hold harmless the Village of Warwick from and against any and all liability, loss, damages, claims, or actions (including costs and attorneys' fees) for bodily injury and/or property damage, to the extent permissible by law, arising out of or in connection with the actual or proposed use of Village's property, facilities and/or services by Warwick Valley Chamber of Commerce (Name Organization).

Additionally, I agree to accept notices or summonses issued with respect to the application or the conduct of the assembly or use in any manner involving it arising out of the application, construction or application of Chapter 39 'Assemblies, Public' of the Village Code of the Village of Warwick.

Furthermore, I authorize the Village of Warwick or its lawful agents to observe the event at any time for the purpose of inspecting the same, the facilities provided and the cleaning of the premises after the termination of the assembly.

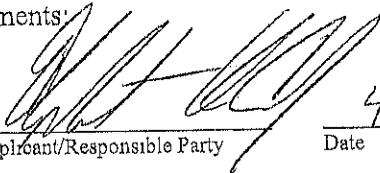
Elizabeth K. Cassidy
 Printed Name of Applicant/Responsible Party

[Signature]
 Signature of Applicant/Responsible Party

4-7-2022
 Date

Clerk Use Only Security Deposit Check # #10209 Certificate of Insurance Host Liquor Liability
 * Fees Received # 10208 Park Map(s) Police Dept Approval (if applicable)
 *Certificates of Insurance Reviewed by NYMIR/Broker
 ↳ Refunded 7/6/22

attorneys' fees) for bodily injury and/or property damage, to the extent permissible by law, arising out of or in connection with the actual or proposed use of the Village of Warwick property, facilities and/or services. I have read and understand the Facilities Use Requirements:

Elizabeth K Cassidy  4-7-2022
Printed Name of Applicant/Responsible Party Signature of Applicant/Responsible Party Date