



## **COMMON COUNCIL MEETING**

Monday, April 3, 2023  
Common Council Chambers

**6:30 p.m.**

**I. ROLL CALL**

**II. REVIEW OF MINUTES:**

**Common Council Meeting – March 20, 2023**

**III. READING OF ITEMS by the City Chamberlain of any items not listed on the printed agenda.**

**IV. PUBLIC PARTICIPATION**

**V. CHAIRWOMAN'S COMMENTS AND PRESENTATIONS**

**VI. MAYOR'S COMMENTS**

**VII. NEW & UNFINISHED BUSINESS & ANNOUNCEMENTS:**

**VIII. REPORTS OF COMMITTEES AND BOARDS:**

**CONSENT AGENDA:**

**IX. MOTIONS AND RESOLUTIONS:**

- 1. R-23-31, Resolution Approving an Agreement with the City of Poughkeepsie Industrial Development Agency**
- 2. R-23-32, Resolution Approving the Community Choice Aggregation Electricity Supply Agreement**
- 3. R-23-33, Resolution Authorizing the Change for CSEA Employees from NYSHIP Empire Plan to NYSHIP Excelsior Plan**
- 4. R-23-34, Resolution Setting a Public Hearing on the Local Law Amending the City of Poughkeepsie Zoning Map 219 and 221 North Clinton Street**
- 5. R-23-35, Resolution Setting a Public Hearing on an Introductory Local Law Amending Chapter 19, Section 19-3.23.1 of the City of Poughkeepsie Code Entitled "Main Street Commercial (C-2A)"**
- 6. R-23-36, Resolution Appointing James Patterson to the Board of Assessment Review**

**X. ORDINANCES AND LOCAL LAWS:**

**ACTION AGENDA:**

**XI. MOTIONS AND RESOLUTIONS:**

**XII. ORDINANCES AND LOCAL LAWS:**

1. ***First Read:*** LL-23-XX, Local Law Amending the City of Poughkeepsie Zoning Map 219 and 221 North Clinton Street
2. ***First Read:*** LL-23-XX, Local Law Amending Chapter 19, Section 19-3.23.1 of the City of Poughkeepsie Code Entitled “Main Street Commercial (C-2A)”

**XIII. PRESENTATIONS OF PETITIONS AND COMMUNICATIONS:**

1. **FROM JILL SCHNEIDERMAN**, a notice of personal injury sustained on or around January 2, 2023
2. **FROM DAYMON SUTTON**, a notice of property damage sustained on or around March 20, 2023
3. **FROM SHAVONNA HOLMAN**, a notice of property damage sustained on or around March 20, 2023
4. **FROM MICHAEL RODRIGUEZ**, a notice of property damage sustained on or around March 27, 2023
5. **FROM JASON REYNOSO**, a notice of property damage sustained on or around March 24, 2023

**XIV. ADJOURNMENT:**

# **RESOLUTION**

**(R-23-31)**

**INTRODUCED BY CHAIRWOMAN BROWN** \_\_\_\_\_ :

**WHEREAS**, the City of Poughkeepsie IDA (hereinafter the “IDA”) is authorized pursuant to General Municipal Law §874 to grant real property tax exemptions pursuant to payments in lieu of taxes agreements (commonly known as “PILOT Agreements”); and

**WHEREAS**, the IDA is also required to submit certain information to the State of New York with respect to the PILOT benefits for all IDA projects which receive PILOT benefits; and

**WHEREAS**, from time to time the IDA must send periodic late-payment reminders in the form of statements to the recipients of PILOT benefits but the IDA does not have the staffing necessary for this administrative function; and

**WHEREAS**, the City is willing to provide this administrative function for, and supply related information in connection therewith to, the IDA for an annual fee pursuant to the terms of the agreement annexed hereto as Exhibit “A.”

**NOW, THEREFORE, BE IT RESOLVED** that the Mayor is authorized to execute a proposed Agreement with the IDA in the form attached hereto as Exhibit “A.”

**SECONDED BY COUNCILMEMBER** \_\_\_\_\_

## **AGREEMENT**

**THIS AGREEMENT** made and entered into as of the \_\_\_\_ day of March 2023, between the **CITY OF POUGHKEEPSIE INDUSTRIAL DEVELOPMENT AGENCY**, a corporate governmental agency constituting a body corporate and politic and a public benefit corporation duly organized and existing under the laws of the State of New York, with offices at 62 Civic Center Plaza, Poughkeepsie, New York 12601 (hereinafter the “IDA”) and **THE CITY OF POUGHKEEPSIE**, a city within the State of New York with offices at City Hall, 62 Civic Center Plaza, Poughkeepsie, New York 12601 (hereinafter the “City”).

### **WITNESSETH:**

**WHEREAS**, the IDA is authorized pursuant to General Municipal Law §874 to grant real property tax exemptions pursuant to payments in lieu of taxes agreements (commonly known as “PILOT Agreements”); and

**WHEREAS**, the IDA is also required to submit certain information to the State of New York with respect to the PILOT benefits for all IDA projects which receive PILOT benefits; and

**WHEREAS**, from time to time the IDA must send periodic late-payment reminders in the form of statements to the recipients of PILOT benefits but the IDA does not have the staffing necessary for this administrative function; and

**WHEREAS**, the City is willing to provide this administrative function for, and supply related information in connection therewith to, the IDA for an annual fee,

**NOW, THEREFORE**, in consideration of the promises and mutual covenants and agreements contained herein, the parties agree as follows:

1. The City, through its Finance Department, will issue payment statements to parties that have active PILOT Agreements with the IDA.
2. The City, through its Finance Department, will semiannually (March and September) provide certain information to the IDA relating to all active PILOT Agreements including, but not limited to, the following: amount of PILOT payment due for the current year, the method of calculation of PILOT payment due, the amount of PILOT payment paid for the current year, the date the PILOT payment was paid and the check or wire number of such payment.
3. The IDA shall pay the City \$2,000 for this administrative service, due on January 1<sup>st</sup> of each year. For the year 2023, the payment will be made within 30 days of the date of this agreement.
4. This Agreement constitutes the complete understanding of the parties. No modification or any provision of this Agreement shall be valid unless in writing and

signed by both parties, after authorization by the governing bodies of the IDA and the City.

5. This Agreement shall commence immediately upon signing and terminate on December 31, 2026.
6. This Agreement may not be assigned by either party.
7. If any provision of this Agreement is deemed to be invalid or inoperative for any reason, that part shall be deemed modified to the extent necessary to make it valid or operative, or if it cannot be so modified, then severed and the remainder of the Agreement shall continue in full force and effect as if the Agreement had been signed with the invalid portion so modified or eliminated.

**IN WITNESS WHEREOF**, the parties have caused this Agreement to be signed after authorization by the respective governing bodies, on the day and year first above written.

**CITY OF POUGHKEEPSIE  
INDUSTRIAL DEVELOPMENT AGENCY**

By: \_\_\_\_\_

**Rose Graziano-Moffett, Chair**

**CITY OF POGHEEPSIE**

By: \_\_\_\_\_

**Marc S. Nelson, Mayor**

**RESOLUTION**  
**(R-23-32)**

**RESOLUTION AUTHORIZING EXECUTION OF MEMORANDUM OF  
UNDERSTANDING WITH JOULE ASSETS, INC. REGARDING  
COMMUNITY CHOICE AGGREGATION PROGRAM**

**INTRODUCED BY CHAIRWOMAN BROWN:**

**WHEREAS**, pursuant to Local Law LL-18-2 adopted on March 19, 2018, the City of Poughkeepsie Common Council enacted a local law to establish a Community Choice Aggregation Program (the, "CCA Program"); and

**WHEREAS**, the City issued a Request for Proposal ("RFP") seeking a qualified Municipal Program Administrator and based on the results has selected Joule Assets, Inc. ("Joule"); and

**WHEREAS**, pursuant to a resolution of the Municipality (R19-43), Municipality and Program Administrator entered into a Memorandum of Understanding pursuant to which Program Administrator would provide certain energy related services to Municipality in relation to a CCA Program including acting as Program Administrator (the "CCA Agreement").

**WHEREAS**, Municipality desires to implement a CCA Program with Program Administrator serving as Program Administrator;

**WHEREAS**, to launch the CCA Program, the City and Joule seek to obtain competitive electricity supply bids from electricity suppliers that will lead to the execution of an Electricity Supply Agreement (the "Supply Agreement") with a bidder selected in accordance with the terms and conditions of a Memorandum of Understanding between the City and Joule (the "MOU"); and

**WHEREAS**, the City and Joule are seeking to enter into the MOU to: (i) confirm that Joule will serve as Program Administrator for the CCA Program in relation to the Supply Agreement; (ii) authorizing the execution of a Program Administrator Agreement; and (iii)

obtain the parties' agreement that each will execute a Supply Agreement with a selected bidder, subject to the terms and conditions in the MOU; and

**WHEREAS**, due to time constraints, the Mayor has executed the non-binding MOU in the form attached hereto as Exhibit A and Joule has been placed on notice that ratification of that signature is required by the Common Council; absent such ratification the MOU is null and void; and

**WHEREAS**, the City seeks to: (a) to authorize Program Administrator to issue an electricity supply RFP to suppliers to provide electricity to Participating Consumers (as defined below); (b) to authorize Program Administrator to award an electricity supply contracts in accordance with such RFP; (c) to approve the form of this ESA; and (d) to authorize execution of an ESA by the Mayor with the awarded supplier provided that the bid met the specifications set forth in the RFP;

**NOW THEREFORE, BE IT RESOLVED**, that, the signature of the Mayor of the City of Poughkeepsie on the MOU attached hereto as "Exhibit A" is ratified; and

**BE IT FURTHER RESOLVED**, that the Mayor is authorized to execute an Electricity Supply Agreement, in the form attached hereto as Exhibit "B" which Electricity Supply Agreement authorizes Joule to accept bids for energy services for the City so long as the minimum requirements set forth in the MOU and Electricity Supply Agreement are satisfied; and

**SECONDED BY COUNCILMEMBER** \_\_\_\_\_

EXHIBIT "A"

Memorandum of Understanding ("MOU")  
(with Conditional Authorization to Execute Electricity Supply Agreement)

**To:** Joule Assets, Inc.  
Glenn Weinberg  
[gweinberg@jouleassets.com](mailto:gweinberg@jouleassets.com)

**From:** Name of Municipality: \_\_\_\_\_ (the  
"Municipality")  
Name of Mayor/Supervisor: \_\_\_\_\_

**Re:** Request for Proposal for Electricity Supply dated March 1, 2023 (the "RFP") and  
execution of the Electricity Supply Agreement attached thereto (the "ESA").

**Dated:** as of \_\_\_\_\_ (the date the Municipality signs the  
signature page, to be completed by Municipality)

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This MOU and the attached signature page of the ESA attached hereto as Exhibit A (the  
"Signature Page") is provided by the Municipality at Joule's request:

- (i) To specify Municipality's Default Product and Pricing selections for the ESA;
- (ii) To facilitate execution of a binding ESA provided that certain conditions are met;  
and
- (iii) To approve the Template Opt-Out Letter attached hereto as Exhibit B.

**Default Product Option:** In connection with the ESA, the Municipality chooses the following  
Default Product (select one):

- ☐ CCA Conventional Electricity Product (standard option).
- ☒ CCA Blended Electricity Product (50% New York State renewable  
supply).
- ☐ CCA Renewable Electricity Product (100% New York State renewable  
supply).

**Pricing Option:** In connection with the ESA, the Municipality chooses the following pricing  
option (select one):

- ☒ Fixed Price for the term of ESA.
- ☐ Variable Price for the term of ESA.

By delivering this MOU with the Signature Page signed by the Municipality (attached hereto as  
Exhibit A), Municipality authorizes Joule to release such signed Signature Page to the selected  
electricity supplier as part of the ESA, add the applicable execution date, and thereby complete  
execution of the ESA on behalf of the Municipality, but only upon satisfaction of the following  
two conditions:



- 1) Joule has received one or more RFP responses from one or more pre-qualified ESCOs that meets one or more of the following pricing benchmarks:
  - For CCA Conventional Electricity Product,
    - (a) a variable price that is guaranteed to be at least \$0.0005 or 1% below the Central Hudson residential supply rate in each calendar month; or
    - (b) a fixed price not greater than 5% above the trailing 12-month average Central Hudson residential variable supply rate, as published by Central Hudson as of March 1, 2023. Such fixed price must be below the following rate: **\$0.1255/kWh (Residential), \$0.1318/kWh (Small Commercial)**); or
  - For CCA Blended Electricity Product and CCA Renewable Electricity Product, a price not greater than the applicable benchmark for CCA Conventional Electricity Product set forth above plus a current representative market price for NYS voluntary Environmental Disclosure Program eligible RECs (\$0.02/kWh) and National RECs (\$0.005/kWh) necessary to fulfill obligations for the applicable offering:
    - CCA Renewable Electricity Product: **\$0.1455/kWh (Residential), \$0.1518/kWh (Small Commercial)**
    - CCA Blended Electricity Product: **\$0.1380/kWh (Residential), \$0.1443/kWh (Small Commercial)** and
- 2) The Municipality informs Joule in writing (including by email) that it may award the RFP to a qualified bidder and execute the ESA substantially in the form attached to the RFP.

## EXHIBIT A

Signature Page to ESA

**IN WITNESS WHEREOF**, the Parties have caused this ESA to be executed by their duly authorized representatives, as required by the applicable laws of the city, town or municipality and the laws, rules and regulations of the State of New York.

Dated: \_\_\_\_\_ (to be entered by Competitive Supplier on the date that the last party signs) (the "Effective Date")

**NAME OF COMPETITIVE SUPPLIER:**

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Email: \_\_\_\_\_

**NAME OF CITY, TOWN, VILLAGE:**

\_\_\_\_\_

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Email: \_\_\_\_\_

**JOULE ASSETS INC. (PROGRAM ADMINISTRATOR)**

By: \_\_\_\_\_  
Jessica Stromback  
Chief Executive Officer  
[jstromback@jouleassets.com](mailto:jstromback@jouleassets.com)

[SIGNATURE PAGE TO ESA - MAY BE EXECUTED IN TRIPLICATE]

**Exhibit B**  
**Template Opt-Out Letter**

[MUNICIPAL LETTER HEAD]

Dear ,

[Date]

The [Municipality Name] is pleased to announce our participation in [the program renewal of] a Community Choice Aggregation (CCA) program administered by [CCA Administrator], that puts control of energy supply choices into local hands. Through a competitive procurement process [ESCO] has been selected to replace [utility] as the default supplier of electricity for residential and small-commercial accounts within our community. We have chosen [standard or renewable] supply as the default product offering for our community [but you have the choice to (opt-up or opt-down) to a (standard or renewable) supply option by contacting [ESCO/Admin] at [phone# or website]].

All eligible residential and small-commercial electricity customers will be automatically enrolled in the [standard or renewable] supply product beginning with the bill cycle following [date] and will be able to continue to receive the CCA program price of [\$xxxxx/kWh] through [date]. You may cancel at any time with no fee or penalty.

Below is a comparison of [utility] electricity supply pricing with the CCA program pricing. While this is not indicative of pricing going forward, it does provide a basis for comparison of standard supply offerings. [If you choose the renewable product offering, you will pay a premium for this product over the utility standard product pricing, however, you will be contributing to NYS clean energy goals.]

|                                     | Residential  | Small-Commercial |
|-------------------------------------|--------------|------------------|
| [Utility] Standard Electric Supply* | \$.00000/kWh | \$.00000/kWh     |
| [CCA Standard Supply**]             | \$.00000/kWh | \$.00000/kWh     |
| [CCA 100% Renewable Supply**]       | \$.00000/kWh | \$.00000/kWh     |
| [CCA 50% Renewable Supply**]        | \$.00000/kWh | \$.00000/kWh     |

\* 12-month trailing average for [time period] as defined by the Public Service Commission

[\*\*Rates do not include Gross Receipt Tax (GRT). If GRT is collected in your municipalities it will be added to your rate.]

Please note that if you do not opt-out before [Date], you will be enrolled in ESCO service under the contract terms and your information, including energy usage data and APP status, will be provided to [ESCO].

#### How To Opt-Out

If you decide not to participate in the program, please respond in one of the three ways below:

1. Mail: Return the "Opt-Out" card
2. Phone: Call [ ] at [ ].
3. Web: Visit: [ ].

Your Municipal Liaison information can be found here: [link](#)

**An additional meeting is being held at [location] on [date and time] to outline the program and answer any questions you may have. Please join us!**

Sincerely,  
Municipality

**EXHIBIT "B"**

**Electricity Supply Agreement between Competitive  
Supplier, Joule Assets, Inc. and the Municipality**

[Remainder of this page is left intentionally blank]

## PREAMBLE

This Community Choice Aggregation Electricity Supply Agreement including without limitation all exhibits, schedules and other attachments hereto (“ESA” or “Agreement”) is made as of [ ] (the “Effective Date”) between:

The municipality set forth on the signature page, a municipal corporation in the State of New York, with a principal place of business as set forth on Exhibit B (the “Municipality”);

The competitive supplier set forth on the signature page, with a principal place of business as set forth on Exhibit B (“Competitive Supplier”); and

Joule Assets, Inc., a corporation incorporated in the State of Delaware duly authorized to do business in the State of New York, with a principal place of business as set forth on Exhibit B (“Program Administrator”).

## RECITALS

WHEREAS, Joule Assets sought approval of a community choice energy aggregation (“Community Choice Aggregation” or “CCA”) program through the Public Service Commission of the State of New York (“PSC”), that would allow local governments to participate in a program managed by Program Administrator to procure energy supply from an Energy Services Company for the Eligible Consumers of participating municipalities;

WHEREAS, by Order effective March 16, 2018 (Case 14-M-0224: <http://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterCaseNo=14-m-0224>), the PSC approved and authorized Program Administrator to implement its CCA program;

WHEREAS, the Joule CCA program is intended to include Eligible Consumers, and to permit the aggregation of electric purchases within the communities that elect to participate;

WHEREAS, the Municipality has adopted a Local Law to participate in the Joule Community Choice Aggregation Program (the “Program”) to aggregate consumers located within the Municipality and to negotiate competitive rates for the supply of electricity for such consumers;

WHEREAS, the Program allows the Municipality to solicit competitive bids for the supply of electricity individually or as part of a buying group with other municipal aggregations;

WHEREAS, the Municipality desires to offer to Participating Consumers the “default” electricity supply option set forth on EXHIBIT A (the “Default Product,” as further defined below);

WHEREAS, if set forth on EXHIBIT A, the Municipality desires to offer to Participating Customers the ability to change from the Default Product to one or more alternative electricity supply product(s);

WHEREAS, pursuant to a resolution of the Municipality (R19-43), Municipality and Program Administrator entered into a Memorandum of Understanding pursuant to which Program Administrator would provide certain energy related services to Municipality in relation to a CCA Program including acting as Program Administrator (the “CCA Agreement”).

WHEREAS, Municipality desires to implement a CCA Program with Program Administrator serving as Program Administrator;

WHEREAS, the Municipality has resolved, among other things: (a) to authorize Program Administrator to issue an electricity supply RFP to suppliers to provide electricity to Participating Consumers (as defined below); (b) to authorize Program Administrator to award an electricity supply contracts in accordance with such RFP; (c) to approve the form of this ESA; and (d) to authorize execution of an ESA with the awarded supplier provided that the bid met the specifications set forth in the RFP;

WHEREAS, Competitive Supplier desires to provide Full-Requirements Power Supply to Eligible Consumers located within the Municipality, pursuant to the terms and conditions of the Program and this ESA;

WHEREAS, the Municipality desires that the Competitive Supplier provide Firm Full- Requirements Power Supply and Consolidated Billing as an alternative to Basic Utility Supply Service for Participating Consumers within the Municipality;

WHEREAS, Competitive Supplier has submitted an offer to provide the Default Product as defined below and described in EXHIBIT A – PRODUCTS, PRICES AND TERMS;

WHEREAS, if set forth in EXHIBIT A, Competitive Supplier has submitted an offer to provide one or more alternative electricity supply products;

WHEREAS, Competitive Supplier agrees to pay a fee to Program Administrator as set forth herein;

WHEREAS, Municipality desires Competitive Supplier to collect and remit the fees due the Program Administrator;

NOW THEREFORE, IT IS AGREED THAT the Municipality, the Program Administrator, and the Competitive Supplier hereby enter this ESA subject to the terms and conditions set forth herein.



## **ELECTRICITY SUPPLY AGREEMENT**

### **ARTICLE 1 -- DEFINITIONS**

The terms set forth in this Article 1 shall have the meanings ascribed below throughout this ESA, including in the exhibits hereto. Other terms that are defined throughout this ESA, including in the exhibits hereto, shall have the meanings ascribed as part of such definitions. Words not defined, and defined terms that appear in lower case, shall be given their common and ordinary meanings.

- 1.1 **Affiliate** -- With respect to a Party, any other entity that, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, that Party. For purposes of this definition "control," "controls," and "controlled" means the ownership, directly or indirectly, in the aggregate of more than fifty percent (50%) of the beneficial ownership interests of an entity or the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of an entity, whether through the ability to exercise voting power, by contract or otherwise.
- 1.2 **Associated Entities** - Any and all of the employees, officers, agents, representatives, Affiliates, and independent contractors and subcontractors of the Competitive Supplier or of any of its corporate parents or subsidiaries, which provide goods or services to, or in any way assist, the Competitive Supplier in meeting its obligations under the ESA, but specifically excluding the Distribution Utility.
- 1.3 **Bankruptcy** - With respect to a Party, (i) such Party ceases doing business as a going concern, generally does not pay its debts as they become due or admits in writing its inability to pay its debts as they become due, files a voluntary petition in bankruptcy or is adjudicated bankrupt or insolvent, or files any petition or answer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future federal bankruptcy code or any other present or future applicable federal, state or other Governmental Rule, or seeks or consents to or acquiesces in the appointment of any trustee, receiver, custodian or liquidator of said Party or of all or any substantial part of its properties, or makes an assignment for the benefit of creditors, or said Party takes any corporate action to authorize or that is in contemplation of the actions set forth in this clause (i); or (ii) a proceeding is initiated against the Party seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future federal bankruptcy code or any other Governmental Rule and such proceeding is not dismissed within ninety (90) days after the commencement, or any trustee, receiver, custodian or liquidator of said Party or of all or any substantial part of its properties is appointed without the consent or acquiescence of said Party, and such appointment is not vacated or stayed on appeal or otherwise within ninety (90) days after the appointment, or, within ninety (90) days after the expiration of any such stay, has not been vacated, provided that, notwithstanding the foregoing, the exercise of rights to take over operation of a Party's assets, or to foreclose on any of a Party's assets, by a secured creditor of such Party (including the appointment of a receiver or other representative in connection with the exercise of such rights) shall not constitute a Bankruptcy.
- 1.4 **Basic Utility Supply Service** - Electricity supply service provided by the Distribution Utility to consumers who do not receive service from a Competitive Supplier or from the CCA Program.

Eligible Consumers who receive Basic Utility Supply Service, and do not opt out, will become Participating Consumers as of the Service Commencement Date.

- 1.5 **Clean Energy Standard** - The clean energy standard for electric power for load serving entities established by New York State as may be amended from time to time including those mandated by the 2015 New York State Energy Plan, and the Order of the New York State Public Service Commission Adopting a Clean Energy Standard (Case 15-E-0302)(Issued August 1, 2016) as amended.
- 1.6 **Commercially Reasonable** - Any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known, or which in the exercise of due diligence should have been known, at the time the decision was made, would have been expected in the industry to accomplish the desired result consistent with reliability, safety, expedition, project economics and applicable law and regulations, as defined in the Uniform Business Practices or without limitations in additional applicable law and regulations, provided that in no event shall increased costs or economic hardship be an excuse for not performing a Party's obligations under this ESA.
- 1.7 **Community Choice Aggregation or CCA** - Municipal electricity procurement program, purchasing supply for the aggregated demand for all Participating Consumers.
- 1.8 **CCA Blended Electricity Product** – A blended electricity product offered to consumers, if and as further defined in EXHIBIT A.
- 1.9 **CCA Conventional Electricity Product** – A conventional electricity generation product offered to consumers, if and as further defined in EXHIBIT A.
- 1.10 **CCA Default Product or Default Product** – The default product that is offered to Participating Customers that shall include one of the following as set forth on EXHIBIT A: the CCA Renewable Electricity Product, the CCA Conventional Electricity Product, or the CCA Blended Electricity Product.
- 1.11 **CCA Renewable Electricity Product** – A 100% renewable electricity generation product offered to consumers, if and as further defined in EXHIBIT A.
- 1.12 **Competitive Supplier or Energy Services Company or ESCO** - A load serving entity duly authorized to (a) serve Eligible Consumers within the service territory of the Distribution Utility; and (b) conduct business in the State of New York as an Energy Services Company. With respect to this Agreement, Competitive Supplier is identified in the preamble above.
- 1.13 **Consolidated Billing** - A billing option that provides Participating Consumers with a single bill issued by the Distribution Utility combining delivery and supply charges from the Distribution Utility and Competitive Supplier respectively.
- 1.14 **Delivery Term** - The period of time for which prices for Firm Full-Requirements Power Supply will be provided, as set forth in EXHIBIT A – PRODUCTS, PRICES AND TERMS.
- 1.15 **Department of Public Service or DPS** – The Department of Public Service of the State of New York or any successor state agency.
- 1.16 **Distribution Utility** - Owner or controller of the means of distribution of electricity that is regulated by the Public Service Commission for the Participating Municipality.
- 1.17 **Electronic Data Interchange or EDI** - The exchange of business data in a standardized format between business computer systems.

**1.18 Eligible Consumer** - a consumer who:

- a) is a part of an opt-out eligible service class (SC 1 and SC 2) and rate class in accordance with the Framework Order and all other applicable Orders of the PSC and Governmental Rules; and
- b) is an Original Consumer or is a New Consumer (each, as defined below) at one or more locations within the geographic boundaries of the Municipality;

provided, however, excluding consumers who (i) receive Basic Utility Supply Service and have requested not to have their account information shared by the Distribution Utility; or (ii) are consumers served by an ESCO as of the Service Commencement Date.

For the avoidance of doubt, an Eligible Consumer must reside, and/or have an electricity account, located at one or more locations within the geographic boundaries of the Municipality, as such boundaries exist on the Effective Date.

**1.19 ESA** - This Electricity Supply Agreement.

**1.20 Environmental Disclosure Program** - The current and future rules and requirements applicable in New York State to the labelling and disclosures of electric supply. Competitive Supplier agrees to comply with any current and/or future rules and regulations related to Environmental Disclosure Labels in the State of New York, and the rules relating the New York Generation Attribute Tracking System (NYGATS).

**1.21 Federal Energy Regulatory Commission or FERC** - The United States federal agency with jurisdiction over interstate electricity sales, wholesale electric rates, hydroelectric licensing, natural gas pricing, and oil pipeline rates.

**1.22 Firm Full-Requirements Power Supply** – The service under which the Competitive Supplier provides all of the electrical energy, capacity, reserves, and ancillary services, transmission services, transmission and distribution losses, congestion management, and other such services or products necessary and/or required to provide firm power supply including all those components regardless of changes in kWh usage or customer grouping during this contract term to Participating Consumers at the Point of Sale, other than the cost of transmission and distribution services that are billed through the transmission and distribution tariff(s) and provided by the utility and/or the NYISO) to provide electricity to the Point of Delivery.

**1.23 Force Majeure** - Any event not within the reasonable control of the affected Party which precludes a party from carrying out, in whole or in part, its obligations under this ESA including, but not limited to, Acts of God; winds; hurricanes; tornadoes; fires; landslides; earthquakes; floods; other natural catastrophes; strikes, lock-outs or other industrial disturbances; acts of public enemies; acts, failures to act or orders of any kind of any governmental authorities acting in their regulatory or judicial capacity, provided, however, that any such discretionary acts, failures to act or orders of any kind by the Municipality may not be asserted as an event of Force Majeure by the Municipality; insurrections; military action; war, whether or not it is declared; sabotage; riots; civil or industrial disturbances or explosions. Nothing in this provision is intended to excuse any Party from performing due to any governmental act, failure to act, or order, or due to any third-party act or failure to act, where it was reasonably within such Party's power to prevent such act, failure to act, or order. Economic hardship of any Party shall not constitute an event of Force Majeure.

- 1.24 **Framework Order** - The PSC Order establishing the framework for municipal CCA programs (Case 14-M-0224, Order Authorizing Framework for Community Choice Aggregation Opt-Out Program (issued April 21, 2016)), as may be amended from time to time.
- 1.25 **General Communications** - The type of communications described and defined in ARTICLE 5.7 herein.
- 1.26 **Governmental Authority** - Any national, state or local government, independent system operator, regional transmission owner or operator, any political subdivision thereof or any other governmental, judicial, regulatory, public or statutory instrumentality, authority, body, agency, department, bureau, or entity, including the New York Public Service Commission, and the New York Department of Public Service, but excluding the Municipality.
- 1.27 **Governmental Rule** - Any law, rule, regulation, ordinance, order, code, permit, interpretation, judgment, decree, or similar form of decision of any Governmental Authority having the effect and force of law including the Joule Order, the Framework Order, the PSC Order Modifying Community Choice Aggregation Programs and Establishing Further Process (Issued and Effective January 19, 2023, the "Modifying Order") and all other orders of the PSC, all as may be amended from time to time.
- 1.28 **Joule Order** - The PSC Order approving the Joule CCA Program (Case 14-M-0224, Order Approving Joule Assets' Community Choice Aggregation Program with Modifications" (issued March 16, 2018)), all as may be amended from time to time.
- 1.29 **kWh, kW** - Kilowatt-hour and kilowatt, respectively.
- 1.30 **Local Law** - A local law or ordinance, adopted by Municipality according to General Municipal Law, which authorizes Municipality to participate in a Community Choice Aggregation program.
- 1.31 **New Consumer** - A consumer who is eligible to be enrolled in the Program because consumer (a) opts into the Program after the Service Commencement Date; or (b) becomes eligible to be enrolled in the Program after the Service Commencement Date.
- 1.32 **New Taxes** - Any taxes or fees not in effect as of the Effective Date enacted by a Governmental Authority or the Municipality, to be effective after the Effective Date with respect to Firm Full- Requirements Power Supply, or any Governmental Rule enacted and effective after the Effective Date resulting in application of any existing tax for the first time to Participating Consumers.
- 1.33 **NYISO** - The New York Independent System Operator, or such successor or other entity which oversees the integrated dispatch of power plants in New York and the bulk transmission of electricity throughout the New York power grid.
- 1.34 **Original Consumer** - A consumer who receives Basic Utility Supply Service from the Distribution Utility and is eligible to be enrolled in the Program as of the Service Commencement Date.
- 1.35 **Participating Consumer** - An Eligible Consumer who has not opted out of the Program.
- 1.36 **Parties** - The Municipality, the Program Administrator, and the Competitive Supplier, as the context requires. In the singular, "Party" shall refer to any one of the preceding.
- 1.37 **Point of Delivery** - The boundary of the Distribution Utility's electricity franchise, or the point at which the Competitive Supplier delivers the power to the Distribution Utility.

- 1.38 **Point of Sale** - The electric meter for each Participating Consumer's account, as designated by the Distribution Utility, such that all line loss costs are included in Competitive Supplier price to bring power to the meter.
- 1.39 **Program** - Joule Community Choice Aggregation Program.
- 1.40 **Program Administrator** - Joule.
- 1.41 **PSC** - The New York State Public Service Commission or any successor state agency.
- 1.42 **Qualifying Regulatory Event** - A Regulatory Event that impacts or provides opportunity for substantially all consumers in the same service class, but not including a Regulatory Event that applies uniquely to Competitive Supplier.
- 1.43 **Regulatory Event** - Implementation of a new, or changes to an existing, Governmental Rule by a Governmental Authority, including the Distribution Utility's tariffs, market rules, operating protocols and definitions, which effect the services and transactions contemplated by this ESA. A "change" as used herein includes any amendment, modification, nullification, suspension, repeal, finding of unconstitutionality or unlawfulness, or any change in construction or interpretation.
- 1.44 **Renewable Energy Certificate or REC**- A renewable energy certificate registered in, and fully compliant with, the New York (State) Generation Attribute Tracking System ("NYGATS") operating rules, dated May 1, 2020, as may be amended from time to time.
- 1.45 [Intentionally omitted]
- 1.46 **Request for Proposal or RFP** – the request for proposal, request for qualification, request for information, or other similar request or solicitation issued by Municipality or Program Administrator, or on behalf of Municipality, Program Administrator, or a third party, to which Competitive Supplier responds that relates to the services provided or to be provided by Competitive Supplier hereunder.
- 1.47 **Service Commencement Date** – the date set forth in Exhibit A when the Competitive Supplier is first obligated to provide electricity supply for any Participating Consumer; provided, however, that Competitive Supplier's obligation to provide electricity supply for any individual Participating Consumer shall be the first meter read date thereafter.
- 1.48 **Service Termination Date** – the date set forth in Exhibit A when Competitive Supplier's obligation to provide electricity supply begins to terminate; provided, however, that Competitive Supplier's obligation to provide electricity supply for any individual Consumer shall continue until the first meter read date thereafter.
- 1.49 **Term** – As defined in ARTICLE 4.1.
- 1.50 **Uniform Business Practices** – Regulations governing the business practices of utilities and Energy Services Companies with regards to service, billing, marketing, data, and customer rights, as applicable to Competitive Supplier, issued by the New York State Public Service Commission (Case 98-M-1343), as may be amended from time to time.

## **ARTICLE 2 – RIGHTS GRANTED**

### **2.1 GENERAL DESCRIPTION AND LIMITATIONS**

Competitive Supplier is hereby granted the exclusive right to be the default provider of Firm Full-Requirements Power Supply to Participating Consumers pursuant to the terms of this ESA. For the avoidance of doubt, Competitive Supplier shall be authorized to supply Firm Full- Requirements Power Supply only to Participating Consumers enrolled in the plan or plans managed by the Program Administrator, and the Distribution Utility will continue to have the right and obligation to supply electricity to Eligible Consumers who opt-out of the Program and remain on, or return to, Basic Utility Supply Service, until changes in law, regulation or policy may allow otherwise.

In accordance with ARTICLE 3 – CONSUMER CHOICE, NOTIFICATION OF RIGHTS, ENROLLMENT below, all Eligible Consumers shall be automatically enrolled in the Program unless they choose to opt-out. In the event the geographic boundaries of the Municipality change during the term of this ESA, Competitive Supplier shall only be obligated to supply Firm Full- Requirements Service to those Participating Consumers located within the Municipality as such boundaries existed on the Service Commencement Date of this ESA. As between the Parties, the Competitive Supplier has the obligation of making appropriate arrangements with the Distribution Utility, with the assistance of the Program Administrator and its various obligations as stated herein, and any arrangements which may be necessary with the NYISO so that Participating Consumers receive the electricity supplies to be delivered pursuant to this ESA.

The Municipality specifically authorizes the Distribution Utility to provide, and Competitive Supplier the right to obtain and utilize as required, all billing and energy consumption information for Participating Consumers as is reasonably required for Competitive Supplier to perform its obligations as described herein. Competitive Supplier shall request consumption data for individual Participating Consumers from the Distribution Utility via EDI or via other adopted standards such as secure file transfer protocol. If further action is required by the Distribution Utility to authorize Competitive Supplier to receive such consumption and billing data, Municipality shall provide any necessary authorization and the Program Administrator, on behalf of the Municipality agrees to use Commercially Reasonable efforts, at Competitive Supplier's cost, to assist Competitive Supplier, if so requested by it, in obtaining such information for Participating Consumers. Competitive Supplier will be responsible for any losses or costs arising from a delayed or unsuccessful enrollment of a Participating Consumer to the extent such losses or costs are a direct result of a negligent act or omission or breach of this ESA by the Competitive Supplier. Neither the Municipality nor Program Administrator shall be responsible for any such losses or costs arising from the negligent acts or omissions or breach of this ESA by the Competitive Supplier but shall be responsible for a delayed or unsuccessful enrollment of a Participating Consumer, or de-enrollment, that is a direct result of their negligent act or omission or breach of this ESA.

### **2.2 NO THIRD-PARTY BENEFICIARIES**

Except as specifically provided in this ARTICLE 2.2, this ESA does not and is not intended to confer any rights or remedies upon any person other than the Parties. This ESA facilitates rights under the Joule Order and Local Law for Eligible and Participating Consumers to purchase electricity from the Competitive Supplier in accordance with this ESA. Notwithstanding anything to the contrary herein, the Municipality, or Program Administrator in support of the Municipality, has the right, but not the

obligation, to advocate, commence actions and make claims on behalf of the Eligible Consumers interested in contracting for electric supply and/or Participating Consumers.

## 2.3 COMPLIANCE WITH LAWS

The Municipality represents and covenants that the Local Law has been duly adopted.

## 2.4 CONDITIONS PRECEDENT

The Municipality's obligations under this ESA shall be conditioned upon the Competitive Supplier fulfilling the following requirements:

- a) maintain Competitive Supplier's license from PSC (as such term is defined in the Local Distribution Utility's Terms and Conditions for Competitive Suppliers);
- b) execute any appropriate NYISO applications and agreements;
- c) obtain authorization from the FERC to sell power at market-based rates;
- d) complete Electronic Data Interchange (EDI) testing with Distribution Utility;
- e) provide all other documentation required by the Distribution Utility; and
- f) satisfying all insurance requirements set forth in ARTICLE 16 -- INSURANCE or elsewhere in this ESA.

If Competitive Supplier has not fulfilled all such requirements by the Service Commencement Date, then the Municipality may terminate this ESA without any liability from Municipality to the Competitive Supplier.

## 2.5 OWNERSHIP AND USE OF ELIGIBLE CONSUMER DATA

Competitive Supplier acknowledges and agrees that: 1) all Eligible Consumer data (including addresses, or other identifying information) made available to Competitive Supplier on behalf of Municipality must be protected by the Competitive Supplier and its Associated Entities to the fullest extent required under the law including all PSC orders, and third party agreements including data security agreements required by the applicable Distribution Utility; 2) the Competitive Supplier does not hold any permanent right, title or interest in this data; and 3) this data is to be obtained, retained and used by the Competitive Supplier and its Associated Entities solely to provide Firm Full- Requirements Power Supply to Participating Consumers and to render other services expressly required or permitted under this ESA. Any other use of Eligible Consumer data other than for purposes directly related to this ESA is not permitted without the prior written consent of the Municipality. Competitive Supplier may share such Eligible Consumer data with third-party vendors as reasonably necessary solely to accommodate Competitive Supplier's provision of Firm Full- Requirements Power Supply or other performance expressly required or permitted under this ESA (including collection of receivables), provided that Competitive Supplier will ensure that such third-party vendors secure and comply with all statutory, regulatory and contractual obligations in relation to the confidential nature of such data and the restrictions set forth in this ARTICLE 2.5 and elsewhere in this ESA, and that any vendor is also bound by the terms and conditions of this ESA, including those regarding data confidentiality and prohibition on non-permitted uses of data through one more or more executed non-disclosure and/or data security agreements, a copy of which will be provided to the Municipality and Program Administrator, subject to any required approval from the vendor. Except as expressly provided in this ESA, and as otherwise permitted by law, Competitive Supplier and its Associated Entities shall not disclose any Eligible or Participating Consumer data to any third-party and Competitive Supplier and its Associated Entities shall take all Commercially Reasonable measures to protect Eligible and Participating Consumer data from access by, or beneficial use for, any third-party. To the

extent that the provision of Firm Full- Requirements Power Supply or other services under this ESA requires that Competitive Supplier and its Associated Entities have access to or make use of any Eligible or Participating Consumer data, Competitive Supplier and its Associated Entities shall treat such Eligible and Participating Consumer data as confidential information. Competitive Supplier may use Eligible and Participating Consumer data to engage in direct marketing only during the term of this ESA and subject to the terms set forth in ARTICLE 18.3. A violation of this ARTICLE 2.5 shall be grounds for termination under ARTICLE 4.2(a). Competitive Supplier agrees violation of this ARTICLE 2.5 shall constitute irreparable harm.

Without limiting the foregoing, Competitive Supplier agrees to comply with all data security requirements of, including the terms of any data security agreement required by, the PSC, the DPS and any Distribution Utility in relation to the CCA and any confidential utility information disclosed to Competitive Supplier in performance of this Agreement. Competitive Supplier further agrees to execute and cause any third-party vendors to execute any required agreement (as described above and including a Third-Party Representative Agreement that is required by an applicable Data Security Agreement) in order to comply with the terms and conditions of this Agreement and complete any self-attestation in relation thereto as required by the PSC, the DPS and/or any Distribution Utility.

## 2.6 ENVIRONMENTAL DISCLOSURE PROGRAM

Competitive Supplier agrees to comply with any current and/or future rules and regulations related to Environmental Disclosure Program in the State of New York including without limitation all rules and regulations concerning labelling of renewable electricity.

## **ARTICLE 3 -- CONSUMER CHOICE, NOTIFICATION OF RIGHTS, ENROLLMENT**

### 3.1 CONSUMER CHOICE

The Parties acknowledge and agree that all Participating Consumers have the right, pursuant to Joule Order, Local Law, and the Program, to change their source of electricity supply, as set forth in ARTICLE 2.1. The Parties represent, warrant and covenant to each other that they shall not interfere with the right of Eligible or Participating Consumers to opt-out of the Program, and shall comply with any rules, regulations or policies of PSC, the Distribution Utility and/or other lawful Governmental Authority regarding the procedures for opting out or of switching from one source of electric supply to another. Subject to the prior sentence, however, the Parties may take Commercially Reasonable measures to encourage Participating Consumers to affirmatively agree to remain in the Program, consistent with any Governmental Rules.

### 3.2 NOTIFICATION TO ELIGIBLE CONSUMERS OF OPT-OUT RIGHTS

Consistent with the requirements of any applicable Governmental Rules, and within a reasonable time after the Distribution Utility informs Competitive Supplier or Program Administrator of the existence of Original Consumers or New Consumers, and has provided to Competitive Supplier or Program Administrator such consumer's service and billing address, and other pertinent contact information, Program Administrator, with Competitive Supplier's reasonable cooperation and at Competitive Supplier's expense for the reasonable cost of printing and mailing, and using the opt-out letter template or other form as approved by the Department of Public Service, shall notify such consumer (i) of the date on which such consumer will be automatically enrolled in the Program, and (ii) that the Competitive



Supplier will be providing Firm Full- Requirements Power Supply to such consumer, subject to the opt-out provisions of the Joule Order, Local Law, and the Program (“**Opt-Out Notice**”).

The Opt-Out Notice shall be mailed to each such consumer not fewer than 30 days prior to the date of automatic enrollment and shall: (i) prominently state charges to be assessed by the Competitive Supplier; (ii) at a minimum, provide a summary of the prices and terms included in EXHIBIT A – PRODUCTS, PRICES AND TERMS; (iii) state how such consumer may opt- out of the Program prior to enrollment and remain on Basic Utility Supply Service from the Distribution Utility; (iv) state how all Participating Consumers, will also have the right to opt-out at any time and return to Basic Utility Supply Service or choose a new Competitive Supplier without paying a fee or penalty to Competitive Supplier; and (iv) comport with any additional requirements of the DPS. Such notices must be approved in advance by the Municipality and DPS. For all other reviews the Parties understand that time is of the essence regarding their review and that Competitive Supplier is dependent on their timeliness to ensure Opt-Out Notice requirements are met.

In providing the notifications set forth in this ARTICLE 3.2, and in otherwise conducting the activities in ARTICLE 3.4 below, the Competitive Supplier shall rely upon information provided to it by the Distribution Utility for the purpose of performing its obligations. Competitive Supplier will be responsible for any losses or costs arising from errors in the notification of Eligible Consumers solely to the extent that such errors are the result of the negligent acts or omissions of, or breach of this ESA by, the Competitive Supplier. The Program Administrator will be liable for any losses or costs arising from the errors in the notification of Eligible Consumers to the extent that such errors are the result of the negligent acts or omissions of, or breach of this ESA by, the Program Administrator. The Municipality shall not be responsible for any such errors by the Competitive Supplier or the Program Administrator in any event.

### 3.3 CONSUMER AWARENESS

Upon mutual agreement concerning the content and method, either the Competitive Supplier, Municipality, or Program Administrator may conduct consumer awareness efforts at its sole expense. Notwithstanding anything to the contrary in this Agreement, Municipality and Program Administrator shall be responsible for ensuring approval by the applicable Governmental Authority of the overall content in connection with any consumer awareness efforts, actions or notices, including but not limited to any education, outreach or similarly situated activities regarding the Program or an Eligible Consumer’s ability to opt-out of the Program.

### 3.4 ENROLLMENT

#### 3.4.1 Participating Consumers

All Eligible Consumers will be enrolled in the Program as of the Service Commencement Date, thus becoming Participating Consumers, under the terms of this ESA unless they opt-out during the 30-day period following initial communication through the Opt-Out Notice. Participating Consumers may disenroll from the Program at any time thereafter with no fee or penalty. The Municipality shall authorize the Distribution Utility to provide to Competitive Supplier or to the Program Administrator (or its designee), a list of the account numbers and any other information necessary for Competitive Supplier to commence Firm Full-Requirements Power Supply to such Participating Consumers as of the Service Commencement Date. The Competitive Supplier shall be responsible for enrolling all Eligible Consumers

that did not opt- out, thus becoming Participating Consumers, through data transactions (e.g. EDI) submitted to the Distribution Utility for initial enrollment in the aggregation and all enrollments thereafter.

#### 3.4.2 New Consumers

If New Consumers do not opt-out of the Program as provided in ARTICLE 3.2, such New Consumers will be automatically enrolled by Competitive Supplier in the Program at the rates reflected in EXHIBIT A – PRODUCTS, PRICES AND TERMS. Competitive Supplier shall enroll such New Consumers in accordance with applicable PSC and Distribution Utility rules.

#### 3.4.3 Consumers Opting Out; Consumers Enrolling or Re-Enrolling

At any time during the Term of this ESA, consumers who were previously Participating Consumers that have previously opted out of the Program may request that they be enrolled or re-enrolled in the Program. Competitive Supplier shall provide Firm Full-Requirements Power Supply to such consumers, at the price defined in EXHIBIT A – PRODUCTS, PRICES AND TERMS.

#### 3.4.4 Consumers served by Third-Parties

It is understood by the Parties that a consumer being served competitive supply by third-parties will not be automatically enrolled under this ESA until when such other competitive supply terminates or is otherwise completed. Notwithstanding the foregoing, Competitive Supplier agrees that consumers under such third-party competitive supply programs may affirmatively opt-in at any time and receive Firm Full-Requirements Power Supply, thereby becoming Participating Consumers hereunder. New Consumers who opt-in as provided in this ARTICLE 3.4.4 shall be enrolled in the Program at the rates reflected in EXHIBIT A – PRODUCTS, PRICES AND TERMS.

#### 3.4.5 Opt-Out/Dis-enroll

Eligible Consumers are free to opt-out of, and Participating Consumers are free to dis-enroll from the Program. Participating Consumers are to provide five (5) business days' notice to the Competitive Supplier of such termination and Competitive Supplier will notify Distribution Utility to resume service as soon as possible after such notification, but all Parties understand and acknowledge that Competitive Supplier will continue to provide and charge for electricity services as described herein until such time as the Distribution Utility has returned the customer to the customer's preferred service.

Additionally, Competitive Supplier shall submit all Participating Consumer drops via EDI to the Distribution Utility in accordance with the rules and regulations set forth by the PSC in Case 98- M-0667.

#### 3.4.6 Termination Fees

There shall be no fees or charges imposed for Eligible Consumers or Participating Consumers to opt-out, disenroll or terminate service.

### 3.5 RESPONSIBILITY FOR ERRORS

3.5.1 Competitive Supplier will correct, and be responsible for any losses or costs arising from, errors caused by Competitive Supplier's billing, enrollment processes, printing or mailing of Opt-Out Notices, and/or notification of Eligible Consumers, except to the extent that:

(a) such errors are caused by Program Administrator, Municipality, or Eligible or Participating Consumers, or

(b) such errors are caused by errors or omissions in the information provided to it by the Distribution Utility; and Competitive Supplier had no reason to doubt the veracity of that provided information.

3.5.2 In the event that, and without limiting Program Administrator and/or Municipality's remedies hereunder, Competitive Supplier is responsible for such errors, it shall make Commercially Reasonable efforts to correct such error(s).

#### **ARTICLE 4 – TERM OF CONTRACT AND TERMINATION**

##### **4.1 TERM**

This ESA shall be effective on the Effective Date, provided, however, that Competitive Supplier's obligation to provide Firm Full-Requirements Power Supply shall commence on the Service Commencement Date with regard to each Participating Consumer, and shall terminate on the Service Termination Date with regard to each Participating Consumer, each as set forth in EXHIBIT A – PRODUCTS, PRICES AND TERMS, unless terminated earlier under ARTICLE 4.2 below.

##### **4.2 TERMINATION; DELAY OF SERVICE COMMENCEMENT DATE**

Without limiting a Party's remedies hereunder, this ESA may be terminated at any time upon written notice:

- a) by the Municipality, or the Competitive Supplier (such Party in these circumstances, the "Non-Defaulting Party"), if the other Party (such Party the "Defaulting Party") fails to remedy or cure any breach of any material provision or condition of this ESA (including, but not limited to, ARTICLE 2.5, ARTICLE 3.3, ARTICLE 5.9, ARTICLE 8.6 and ARTICLE 9), but excluding the failure to provide or arrange for Firm Full- Requirements Power Supply, which is addressed in ARTICLE 4.2(f), within sixty (60) days following written notice to do so by the non-breaching party; or
- b) by the Municipality, or the Competitive Supplier, if any material provision or condition of this ESA be finally adjudged invalid by any court of competent jurisdiction, or if any Governmental Authority exercises any lawful jurisdiction so as to invalidate or disapprove this ESA in whole or in significant part; or
- c) by the Municipality, if a Regulatory Event that is not a Qualifying Regulatory Event (i) affects the Competitive Supplier, and (ii) Competitive Supplier incurs costs and chooses to allocate and collect excess costs from Participating Consumers; or
- d) by the Municipality, if a court, PSC or other lawful authority makes an adjudication that nullifies or materially alters any of the provisions of ARTICLE 6 – ROLE OF THE MUNICIPALITY; or
- e) by the Municipality, (i) if an order is entered against the Competitive Supplier approving a petition for an arrangement, liquidation, dissolution or similar relief relating to Bankruptcy or insolvency and such order remains unvacated for thirty (30) days; or (ii) immediately if the Competitive Supplier shall file a voluntary petition in Bankruptcy or any petition or answer seeking any arrangement, liquidation or dissolution relating to Bankruptcy, insolvency or other relief for debtors or shall seek, consent to, or acquiesce in appointment of any trustee, receiver, or liquidation of any of Competitive Supplier's property; or

- f) notwithstanding the foregoing, the failure of Competitive Supplier to provide or arrange for Firm Full-Requirements Power Supply to Participating Consumers, shall constitute an act of default, and the Municipality may terminate this ESA upon giving written notice and without a cure period, provided that such failure by the Competitive Supplier is not the result of failure in the transmission and/or distribution systems, is not due to an event of Force Majeure, nor is it due to the Municipality's or Program Administrator's failure to perform; or
- g) notwithstanding anything to the contrary in this Agreement, Competitive Supplier may immediately terminate this Agreement upon written notice if the Service Commencement Date is delayed more than thirty (30) days for any reason other than a delay caused by Competitive Supplier.

#### 4.3 OBLIGATIONS UPON TERMINATION

Following termination of this ESA, the Parties shall each discharge by performance all obligations due to any other Party that arose up to the date of termination of the ESA and Competitive Supplier shall continue to have the right to collect all monies due for services rendered to that date from Participating Consumers.

Upon termination, Competitive Supplier shall have all Participating Consumers switched back to obtaining supply from the Distribution Utility, or support the Distribution Utility as reasonably possible to switch to another supplier selected by Municipality.

#### 4.4 EXTENSION

The ESA may be extended beyond the Service Termination Date established in ARTICLE 4.1 by mutual written agreement of the Parties. Any new pricing terms shall be added to and replace EXHIBIT A – PRODUCTS, PRICES AND TERMS as EXHIBIT A – PRODUCTS, PRICES AND TERMS Extension. Upon any such extension, this ESA shall continue to be in effect, and all provisions of the ESA shall retain the same force and effect as before the extension, unless it is terminated by any Party pursuant to the provisions of ARTICLE 4.2 or until the date stated in such extension.

### **ARTICLE 5 – CONTINUING COVENANTS**

#### 5.1 STANDARDS OF MANAGEMENT AND OPERATIONS

In performing its obligations hereunder, during the term of this ESA, the Competitive Supplier shall exercise reasonable care to assure that its facilities are prudently and efficiently managed; that it employs an adequate number of competently trained and experienced personnel to carry out its responsibilities; that it delivers or arranges to deliver an uninterrupted supply of such amounts of electricity to the Point of Delivery as are required under this ESA; that it complies with all relevant industry standards and practices for the supply of electricity to Participating Consumers; and that, at all times with respect to Participating Consumers, it exercises good practice for a Competitive Supplier and employs all Commercially Reasonable skills, systems and methods available.

#### 5.2 CUSTOMER SERVICE ACCESS

The Competitive Supplier agrees to provide, or cause to be provided, certain customer services to Eligible and Participating Consumers. Such services shall be reasonably accessible to all Eligible and Participating Consumers, shall be available during normal working hours, shall allow Eligible and Participating

Consumers to transact business they may have with the Competitive Supplier, and shall serve as a communications liaison among the Competitive Supplier, the Municipality, and the Distribution Utility. A toll-free telephone number will be established by Competitive Supplier and be available for Eligible and Participating Consumers to contact Competitive Supplier during normal business hours (9:00 a.m. – 6:00 p.m. Eastern Time, Monday through Friday), as well as 9:00 a.m.-1:00 p.m. on Saturday, to resolve concerns, answer questions and transact business with respect to the service received from Competitive Supplier. To the extent practicable, the Administrator will provide to Municipality, and Municipality will post, program-related information on the Municipality’s website which will be available to Eligible and Participating Consumers for general information, comparative pricing, product, and service information, and other purposes.

### 5.3 RESPONDING TO REQUESTS FOR INFORMATION

To the extent authorized by the Participating Consumer(s) and to the extent such individual permission is required by law, the Competitive Supplier shall, during normal business hours (as set forth above), respond promptly and without charge therefore to reasonable requests of the Municipality or Administrator for information or explanation directly related to its obligations under this ESA, including the supply of electricity to Participating Consumers, but excluding any confidential or proprietary information of the Competitive Supplier. Competitive Supplier agrees to designate a service representative or representatives (the “**Service Contacts**”) who shall be available for these purposes, and shall identify the email address and telephone number of such representative(s).

Whenever necessary to comply with this ARTICLE 5.3, the Service Contacts shall call upon other employees or agents of the Competitive Supplier to obtain such information or explanation as may be reasonably requested. Nothing in this ARTICLE 5.3 shall be interpreted as limiting the obligation of the Competitive Supplier to respond to complaints or inquiries from Eligible or Participating Consumers, or to comply with any regulation of PSC regarding customer service.

### 5.4 ARRANGING FOR FIRM FULL-REQUIREMENTS POWER SUPPLY

Except as otherwise stated herein or in any Exhibit made a part hereof, Competitive Supplier shall participate in or make appropriate arrangements with the NYISO, any relevant regional transmission organization, wholesale suppliers or any other entity to provide for an uninterrupted flow of Firm Full-Requirements Power Supply to the Distribution Utility for delivery to Participating Consumers. In the event the Competitive Supplier is unable to meet its obligations as described above, the Competitive Supplier shall utilize such arrangements and exercise all Commercially Reasonable efforts as may be necessary to continue to serve Participating Consumers under the terms of this ESA, and shall bear any costs it may incur in carrying out these efforts and obligations. Notwithstanding anything to the contrary herein, Competitive Supplier shall not be responsible in the event that, through no fault of the Competitive Supplier or its Associated Entities, the Distribution Utility disconnects, curtails or reduces service to Participating Consumers (notwithstanding whether such disconnection is directed by NYISO).

### 5.5 NON-DISCRIMINATORY PROVISION OF SERVICE

Competitive Supplier shall supply electric energy to the Point of Delivery to all Participating Consumers on a non-discriminatory basis; provided, however, that those prices and other terms may vary in accordance with reasonably established rate classifications (e.g., residential and small commercial as defined by the Distribution Utility) or by such other categories as appear in EXHIBIT A – PRODUCTS, PRICES AND TERMS. To the extent applicable, Competitive Supplier’s prices, terms and conditions shall be in accordance with the New York General Laws, the regulations of PSC, and other applicable

Governmental Rules. To the extent required by law and/or the conditions of any PSC approval of this ESA, the Competitive Supplier may not deny service to an Eligible or Participating Consumer for failure to pay the bills of any other electric company (whether engaged in the distribution, transmission, or generation of electricity) or of any other aggregator, marketer or broker of electricity, but may reasonably deny or condition new service, or terminate existing service, based upon any Participating Consumer's failure to timely pay bills, subject to any applicable provisions of law or applicable PSC orders or regulations. Provision of electric energy supply shall be subject to reasonable credit policy, to the extent permitted by law, as described in EXHIBIT A – PRODUCTS, PRICES AND TERMS.

## 5.6 APPROVAL OF GENERAL COMMUNICATIONS

Competitive Supplier shall cooperate with the Municipality and Program Administrator in the drafting and sending of messages and information to Eligible or Participating Consumers concerning the Program or any matter arising under or related to this ESA. Competitive Supplier shall, prior to sending, whether directly or through its Associated Entities, any direct mail, advertising, solicitation, bill insert, electronic mail, or other similar written or electronic communication (collectively, "**General Communications**") to Eligible or Participating Consumers (but excluding individually drafted or tailored communications responding to the specific complaint or circumstance of an individual consumer), provide a copy of such General Communication to the Municipality and to Program Administrator for its review to determine whether it is consistent with the purposes and goals of the Municipality and Program Administrator, except that approval shall not be required for any communications that are standardized by the Governmental Rules or applicable law, in which case they will be considered already approved by all Parties. For all other reviews the Municipality and Program Administrator understand that time is of the essence regarding their review and that Competitive Supplier is dependent on their timeliness to its obligations are met. The Municipality or Program Administrator shall have the right to disapprove such General Communications and suggest revisions within seven (7) calendar days (not including weekends and holidays) of receiving a copy thereof if it finds the communication inconsistent with the purposes and goals of the Municipality, factually inaccurate or likely to mislead; provided, however that there shall be no such right of disapprove for any communication (a) regarding any emergency situation involving any risk to the public health, safety or welfare; or (b) in the nature of routine monthly or periodic bills, or collection notices, except that, with regard to any bill insert or message included in such bill not within the scope of (a) above, Municipality or Program Administrator shall have such right of disapproval. If the Municipality objects to any General Communication on the grounds it is inconsistent with the purposes and goals of the Municipality, the Competitive Supplier, after consultation as provided in this ARTICLE 5.6, may nevertheless elect to send such General Communication provided that it: (i) clearly indicates on such communication that it has not been endorsed by the Municipality, and (ii) has previously provided all Participating Consumers a meaningful chance to opt not to receive such General Communications. The Municipality may reject or exclude any proposed General Communication that, in its reasonable judgment, is contrary to the interests and objectives of the Program or the Municipality, provided, however, any such right of rejection or exclusion shall not apply to Competitive Supplier's notice to exercise or enforce its rights under the ESA or any agreement with customer, including but not limited to any notice of Force Majeure or change in law.

## 5.7 COMMUNICATION OF INSERTS AND MESSAGES

Competitive Supplier agrees that if it communicates with Participating Consumers directly (or if it is provided a certain number of characters on the Distribution Utility bill for discretionary communication), and unless prevented for regulatory or other such reasons from doing so, it shall allow the Municipality

or Program Administrator to include no less than three (3) inserts per year into such communications, provided that the Program Administrator, where appropriate pays the cost of printing and reproducing such insert and any incremental postage or handling costs the Competitive Supplier may incur as a result of including such insert. Competitive Supplier shall have the right to disapprove such General Communications (other than those pertaining to the Municipality's distributed energy resources efforts including but not limited to, demand-side management, energy efficiency programs and technology, and renewable energy programs, if applicable) and suggest revisions within seven (7) calendar days after receipt (not including weekends and holidays) if it finds the communication inconsistent with its business interests, factually inaccurate or likely to mislead; provided, however that there shall be no such right of disapproval for any communication which has been ordered by PSC or any other Governmental Authority to be so communicated.

## 5.8 PARTICIPATING CONSUMER LISTS

To the extent not prohibited by any Governmental Rule or expressly prohibited by any Participating Consumer(s), the Competitive Supplier shall, upon request of the Municipality or of Program Administrator, provide aggregate consumption information as the Municipality or Program Administrator may request to the extent such information is available to Competitive Supplier. The Competitive Supplier will provide the sync list/file of Participating Consumers to the Administrator with the frequency the sync list/file is provided by the Distribution Utility.

Competitive Supplier shall use Commercially Reasonable efforts to provide updates to Participating Consumer lists in an electronic format reasonably acceptable to both Parties on a daily basis. This daily update shall include a minimum of unique identifier (account number and/or point of delivery ID) account status, service end date, and rate for each Participating Consumer who has had any change since the previous update.

Notwithstanding anything to the contrary in this Agreement, the transmission frequencies of the lists as described in this ARTICLE 5.8 may deviate from those stated above until such time as Competitive Supplier has systems or processes that are automated and capable of creating such files.

## 5.9 COMPLIANCE WITH LAWS

The Parties shall promptly and fully comply with all existing and future Governmental Rules of all Governmental Authorities having jurisdiction over the activities or obligations covered by this ESA. Program Administrator and Municipality shall comply with all applicable orders from any Governmental Authority regarding the content of the Opt-Out Notice or education and outreach process to Eligible Consumers regarding the Program and participation in the Program. Each of the Parties shall comply with all lawful requests of the Department of Public Service that relate to the services to be provided in accordance with this ESA.

## 5.10 CONSENT

Whenever performance of an obligation of any Party hereto requires the consent or approval of any Governmental Authority, such Party shall make Commercially Reasonable efforts to obtain such consent or approval. In the event the Competitive Supplier requests the Municipality's assistance in obtaining such consent or approval and the Municipality anticipates that it will incur costs in fulfilling the Competitive Supplier's request, it shall give the Competitive Supplier an estimate of such costs. Upon receiving the estimate, Competitive Supplier shall determine whether it will continue to request the

Municipality's assistance, and if so, the Competitive Supplier shall reimburse the Municipality for all costs, up to the estimated dollar amount, reasonably incurred by the Municipality in connection with such efforts.

#### 5.11 CREDITWORTHINESS

Competitive Supplier represents, warrants and covenants that it is, and shall be, for the Term of this ESA, in compliance with all credit policies and requirements of the New York Independent System Operator.

#### 5.12 COMPLIANCE WITH RFP

Competitive Supplier: (i) represents and warrants that to its knowledge, all representations and statements of fact made as part of its RFP response are true and accurate as of the Effective Date; (ii) covenants that it shall perform all obligations of Competitive Supplier made as part of its RFP response to the extent set forth in this Agreement; and (iii) to its knowledge, as of the Effective Date is compliant with the terms and conditions set forth in the RFP. In the event of any conflicts between a Party's obligations, representations and warranties set forth in this Agreement and those set forth in an RFP, the obligations, representations, warranties set forth in this Agreement shall govern.

### **ARTICLE 6 – ROLE OF THE MUNICIPALITY**

Under this ESA, the Municipality shall not actually receive, take title to, or be liable for the supply or delivery of Firm Full-Requirements Power Supply in any manner whatsoever. The Parties specifically agree that the role of the Municipality is established under the Joule Order, other applicable PSC orders, and Local Law and may include negotiating the terms and conditions under which Firm Full-Requirements Power Supply will be provided by the Competitive Supplier under this ESA. Except as may otherwise be provided herein, it is the sole obligation of the Competitive Supplier to arrange for delivery of Firm Full- Requirements Power Supply to Participating Consumers. The Parties agree that, with regards to electricity, Municipality is not a "public utility company" or providing any "public utility service" within the meaning of GML 360 and Article 4 of the Public Service Law as a result of this ESA. Should a court, PSC, or other lawful authority adjudicate to the contrary, the provisions of 4.2(b) shall apply. However, the Municipality may be considered to be operating a Community Choice Aggregation Implementation Plan pursuant to Joule Order and Local Law. Except as may otherwise be agreed by the Parties in writing, the Competitive Supplier shall take no action, whether directly or through its Associated Entities, that would make the Municipality liable to any Participating Consumer due to any act or failure to act on the part of the Competitive Supplier or its Associated Entities relating to the delivery of, supply of, or billing for Firm Full-Requirements Power Supply.

### **ARTICLE 7 – ROLE OF PROGRAM ADMINISTRATOR**

#### 7.1 PROGRAM ADMINISTRATOR RIGHTS AND DUTIES

Program Administrator is responsible for Program organization, administration, procurement, and communications, unless otherwise specified herein or agreed in writing.

Program Administrator, agrees to:



- a) Provide the involved agencies and parties, such as but not limited to the PSC, DPS or Distribution Utility, requested information about and documentation of the actions undertaken by the Municipality in furtherance of enabling participation in the Program;
- b) Prepare, or cause to be prepared, and provide the Municipality with requested and non- confidential information that the involved agencies and parties, such as but not limited to the PSC, DPS or Distribution Utility, provide to the Program Administrator in furtherance of establishing the Program;
- c) Upon execution hereof, initiate all the necessary steps to secure the needed information to fulfill the customer notification requirements of the Joule Order, including but not limited to the following: file final versions of customer opt-out letters, after the supply procurement is finalized, that provide details on Program contracts.
- d) File any request for proposals or similar solicitation seeking electricity supply or other energy services and any draft correspondence on such services with DPS Staff.
- e) Provide the Municipality with timely communications content to effect customer notification requirements for approval, such approval not to be unreasonably withheld, given the projected schedule of Program's implementation;
- f) Fulfill any other responsibilities as may reasonably adhere to facilitating the implementation of the Program; and
- g) Fulfill any other responsibilities as set forth in this agreement herein.

## 7.2 INDEPENDENT CONTRACTOR

The Parties agree that neither Program Administrator nor Municipality is an agent or employee of Competitive Supplier for any purpose. All expenses which are incurred by Program Administrator in connection with this ESA shall be borne wholly and completely by Program Administrator, except as otherwise agreed herein or in writing. Program Administrator shall be responsible for all state, federal, and local taxes, including estimated taxes and social security and employment reporting for Program Administrator or any employees or agents of Program Administrator.

## **ARTICLE 8 – PRICES AND SERVICES: BILLING**

### 8.1 SCHEDULE OF PRICES AND TERMS

Competitive Supplier agrees to provide Firm Full-Requirements Power Supply and other related services as expressly set forth herein in accordance with the prices and terms included in EXHIBIT A – PRODUCTS, PRICES AND TERMS to this ESA, which exhibit is hereby incorporated by reference into this ESA.

### 8.2 OBLIGATION TO SERVE

As between the Parties, and except as may otherwise be agreed by the Parties in writing, Competitive Supplier has the sole obligation to obtain sources of supply, whether from generating facilities owned or controlled by its Affiliates, through bilateral transactions, or the market, as may be necessary to provide Firm Full-Requirements Power Supply for all of the Participating Consumers under the Program. Competitive Supplier, except as explicitly limited by the terms included in EXHIBIT A – PRODUCTS, PRICES AND TERMS, shall be obligated to accept all Eligible Consumers that have not opted-out, regardless of their location or energy needs provided such consumers are eligible under the applicable regulations and tariffs of the Distribution Utility.

### 8.3 METERING

The Parties understand and acknowledge that the Distribution Utility will be responsible for any metering which may be required to bill Participating Consumers in accordance with the rules governing the supply of electricity in the service territory of the Distribution Utility.

### 8.4 TITLE

Title to Firm Full-Requirements Power Supply will transfer from Competitive Supplier to Participating Consumers at the Point of Sale. Notwithstanding anything to the contrary herein, the Parties acknowledge that the Competitive Supplier does not own or control any of the transmission or distribution facilities used to deliver electricity, has no responsibility for system reliability, and that these functions are solely the responsibility of the NYISO and/or the Distribution Utility, and accordingly that Competitive Supplier shall have no liability on account of any acts or omissions of these parties or for any interruption or failure to deliver arising therefrom.

In accordance with the rules governing the supply of electricity in the service territory of the Distribution Utility, Competitive Supplier will be responsible for any and all losses incurred on the local network transmission systems and distribution systems, as determined by the Distribution Utility.

### 8.5 BILLING AND PAYMENT

Unless otherwise specified in an exhibit to this ESA, all billing under this ESA shall be based on the meter readings of each Participating Consumer's meter(s). Competitive Supplier shall cause the Distribution Utility to prepare and mail bills to Participating Consumers monthly. The Competitive Supplier shall adopt the billing and payment terms offered by the Distribution Utility to its consumers on Basic Utility Supply Service. If actual meter data is unavailable, the Competitive Supplier may cause the Distribution Utility to bill based on its good faith estimates of usage. Any over-charge or under-charge will be accounted for in the next billing period for which actual meter data is available.

### 8.6 PARTICIPATING CONSUMER BILLS

Competitive Supplier shall accurately and timely process data received from, and provide accurate and timely data to, the Distribution Utility to facilitate regular billing. Competitive Supplier's repeated failure to materially comply with this provision in a manner that impacts the delivery of electricity and/or invoices to Participating Consumers shall be deemed a material breach of this Agreement unless such failure is caused by Distribution Utility, Municipality, consumers, or Program Administrator; provided, however, that Competitive Supplier shall be afforded a written notice of the default and a period of time to cure as set forth in ARTICLE 4.2(a).

### 8.7 REGIONAL AND LOCAL TRANSMISSION

The prices quoted in EXHIBIT A – PRODUCTS, PRICES AND TERMS do not include current and future charges for distribution service costs collected by the Distribution Utility under its distribution service tariff or local transmission costs as may be imposed by NYISO or individual electric utilities that have FERC transmission tariffs. The Competitive Supplier understands that these costs will be collected by the Distribution Utility. If, in the future, Competitive Supplier becomes responsible for such distribution or transmission costs, Competitive Supplier shall be entitled to collect such costs from Participating Consumers to the extent permitted by any Governmental Rules. These costs are "pass through" costs as determined by the appropriate regulatory agencies.

## 8.8 TAXES

All sales, gross receipts, excise or similar taxes imposed with respect to the sale or consumption of Firm Full-Requirements Power Supply required to be collected by the Competitive Supplier shall be included on the Participating Consumer's bill and shall be remitted to the appropriate taxing authority, in accordance with law, by Competitive Supplier. For avoidance of doubt, it is understood that the Competitive Supplier shall include gross receipts tax in its preparation of Participating Consumers' bills. Participating Consumers shall be responsible for all taxes that are customarily imposed upon a purchaser of electricity and are associated with electricity consumption under the ESA. The Parties acknowledge and agree that Participating Consumers shall be responsible for identifying and requesting any exemption from the collection of any tax by providing appropriate documentation to Competitive Supplier. For avoidance of doubt, Competitive Supplier shall be responsible for all taxes imposed upon it as a supplier of electricity, including taxes on Competitive Supplier's income.

### **ARTICLE 9 – ADDITIONAL COMPLIANCE BY COMPETITIVE SUPPLIER**

Competitive Supplier agrees that it, and its Associated Entities directly or indirectly involved in providing services or meeting the Competitive Supplier's obligations under the ESA, will comply with the applicable provisions of the Joule Order and any regulations, orders or policies adopted pursuant thereto.

In addition, Competitive Supplier specifically represents, warrants and agrees that it has reviewed and has fully complied, and will fully comply, with all relevant regulations, requirements, and orders of, and remain in good standing with, the FERC, NYISO, the PSC, the Distribution Utility and the DPS.

### **ARTICLE 10 – SERVICE PROTECTIONS FOR CONSUMERS**

#### 10.1 UNIFORM BUSINESS PRACTICES COMPLIANCE

Competitive Supplier agrees that it and its Associated Entities directly or indirectly involved in providing services or meeting the Competitive Supplier's obligations under the ESA shall comply with the provisions of the Uniform Business Practices, as applicable to Competitive Supplier, and any amendments thereto, notwithstanding any relief from the Uniform Business Practices offered by the PSC to the Program. Furthermore, the Parties acknowledge and agree that any right of ESCO to discontinue service to any Participating Consumer and return the consumer to full utility service shall be subject to the Uniform Business Practices and to any limitations contained in this ESA. Without limiting the foregoing, the Parties intend that this ESA is a "sales agreement" for purposes of Section 5.H.4.a of the Uniform Business Practices. In addition, the Competitive Supplier and its Associated Entities agrees to comply with any code of conduct or policies the PSC may adopt in accordance with the Joule Order and to all related orders of Case 14-M-0224 to which the Program Administrator is required to adhere, notwithstanding any relief from the Uniform Business Practices offered by the PSC to the Program.

#### 10.2 DESCRIPTION OF COMPETITIVE SUPPLIER'S PROCEDURES AND SERVICES

The Competitive Supplier shall, on or before the Effective Date or upon request, provide a written, detailed description of its billing and termination procedures, customer services, confidentiality and related practices and procedures for approval by the Municipality (which approval shall not be unreasonably withheld). Such written description shall also include the Competitive Supplier's plans for protecting the rights of Participating Consumers under the Home Energy Fair Practices Act which requires that all utility customers be treated fairly with regard to application for service, customer billing, and complaint procedures.

If the Participating Consumer(s) so permit(s) and to the extent required by the Governmental Rules, the Competitive Supplier agrees to provide notice to the Municipality and Administrator of any consumer complaints received from a Participating Consumer, and the Municipality shall have the right, but not the obligation, to participate (directly or through the Program Administrator) in resolution of the dispute, to the extent that such complaints relate directly to the Program, and to the extent permitted by PSC regulations and other applicable law. The Municipality and Program Administrator understand and agree that time is of the essence regarding any review of consumer complaints and any participation they wish to have in the response and/or resolution, in order for Competitive Supplier to meet its obligations herein and in compliance with Governing Rules. The failure to timely submit such written description by the Competitive Supplier (as described above), or the submission of practices and procedures which materially fail to comply with PSC regulations and policies, shall be deemed grounds for termination of this ESA, at the discretion of the Municipality after providing written notice by the Municipality or the Program Administrator, of such failure to the Competitive Supplier and allowing the Competitive Supplier sixty (60) days to cure such failure.

### 10.3 DISPUTE RESOLUTION

In accordance with the Uniform Business Practices, in the event of a dispute regarding an invoice or Competitive Supplier's service, whether directly or through its Associated Entities, under this ESA, a Participating Consumer may initiate a formal dispute resolution process by providing written notice to the DPS. The DPS will assist the Parties in reaching a mutually acceptable resolution. If no such resolution is reached within 40 calendar days of receipt of the formal written notice, any Party may request an initial decision from PSC. Parties may appeal this decision.

## **ARTICLE 11 – NON-DISCRIMINATION IN HIRING AND EMPLOYMENT**

Competitive Supplier agrees that it shall conduct its operations and activities under this ESA in accordance with all applicable state and federal laws regarding non-discrimination in hiring and employment of employees, and will require all Associated Entities to do the same.

## **ARTICLE 12 – POWER SUPPLY INFORMATION AND ACCESS TO INFORMATION**

### 12.1 POWER SUPPLY INFORMATION

#### 12.1.1 Monthly Report of Sales (Commissions File)

Competitive Supplier shall provide the Program Administrator with a monthly report of sales, commissions file, which will contain all reporting as agreed in writing by the Parties including at a minimum: (i) the actual kWh sales, rate and commission due to Program Administrator for each meter read of the reporting period (with billing "from and to" date); (ii) unique identifier used to enroll customer (account number and/or point of delivery ID), status (e.g., active or cancelled), service class and municipality; and (iii) other information reasonably requested. The monthly report will be due to the Program Administrator within thirty (30) days following the close of each month. This information shall be provided in electronic format, satisfactory to the Program Administrator.

#### 12.1.2 Consumer-Related Data

On and after the Service Commencement Date, Competitive Supplier will maintain consumer-related data in electronic form including utility account number, pre-enrollment ID, point of delivery ID (when in existence), billing name, billing address, service address, meter read/cycle, historical usage, demand, ICAP (Installed Capacity) data, supply rate, service start date and status (e.g., active or cancelled). Subject to any restrictions of confidentiality or data security as described in ARTICLE 2.5, Competitive Supplier shall make such information available to Program Administrator and its contractors at such time and in a commercially reasonable manner as reasonably requested by Program Administrator. Competitive Supplier shall transmit daily files to Program Administrator indicating any change in Participating Consumer records per ARTICLE 5.8 (e.g. customer dropped, enrolled, changed supply). A violation of this ARTICLE 12.1.2 shall be grounds for termination under ARTICLE 4.2(a) unless such violation is due to a system or reasonable administrative error and the Competitive Supplier demonstrates to the Municipality's satisfaction that such system or administrative error exists and that the Competitive Supplier is acting in good faith to resolve such issue.

#### 12.1.3 Standard of Care

Competitive Supplier and its Associated Entities shall use all Commercially Reasonable efforts in preparing and providing any information or data required under the ESA. To the extent that Competitive Supplier determines that any information or data provided hereunder is in error, it shall provide such information or data to the Municipality or its agent within a Commercially Reasonable time.

### 12.2 POWER SUPPLY REPORT

Unless the Environmental Disclosure Program labeling requirement is waived by PSC, Competitive Supplier shall present a copy of the current Environmental Disclosure Program label annually or as and when required by PSC of all Competitive Suppliers to be disclosed to their Participating Consumers, which includes information pertaining to Competitive Supplier's power supply and a reasonably detailed description of the sources of Competitive Supplier's power supply used to serve Participating Consumers pursuant to this ESA, except to the extent such disclosure would violate any confidentiality obligations of Competitive Supplier. Competitive Supplier shall still provide Environmental Disclosure Program labels to Administrator, consistent with Competitive Supplier's practices and in compliance with applicable laws.

### 12.3 BOOKS AND RECORDS

Competitive Supplier shall keep its books and records in accordance with any applicable regulations or guidelines of the PSC, FERC, and any other Governmental Authority and generally accepted accounting principles. The Municipality will have electronic access to any reports mandated by the Securities and Exchange Commission which are available on the Internet "EDGAR" system. Upon reasonable request by the Municipality and at the Municipality's reasonable expense, Competitive Supplier or its Associated Entities shall provide reasonable back up for any charge under this ESA questioned by the Municipality.

### 12.4 COPIES OF REGULATORY REPORTS AND FILINGS

Upon reasonable request, Competitive Supplier shall provide to the Municipality a copy of each public periodic or incident-related report or record applicable to Competitive Supplier's obligations under this ESA and which it files publicly with any New York or federal agency regulating rates, service, compliance with environmental laws, or compliance with affirmative action and equal opportunity requirements,

unless the Competitive Supplier is required by law or regulation to keep such reports confidential. Competitive Supplier shall be reimbursed its reasonable costs of providing such copies, if only available in hard copy.

### **ARTICLE 13 – RESOLUTION OF DISPUTES: CHOICE OF LAW AND FORUM**

#### **13.1 CHOICE OF LAW AND FORUM**

This ESA and the rights of the Parties shall be interpreted and determined in accordance with the laws of the State of New York without respect to conflicts-of-laws principles. Any litigation arising hereunder shall be brought solely in the appropriate federal court in New York or appropriate state court sitting in the county in the State of New York in which the Municipality is located, to whose jurisdiction the Parties hereby assent, waiving all objections to venue or forum.

#### **13.2 DISPUTE RESOLUTION**

Unless otherwise provided for in this ESA, the dispute resolution procedures of this ARTICLE 13.2 shall be the exclusive mechanism to resolve disputes arising under this ESA. The Parties agree to use their respective best efforts to resolve any dispute(s) that may arise regarding this ESA. Any dispute that arises under or with respect to this ESA that cannot be resolved shall in the first instance be the subject of informal negotiations between the Parties involved in the dispute. The dispute shall be considered to have arisen when one Party sends the other Party(ies) involved in the dispute a written notice of dispute. The period for informal negotiations shall be fourteen (14) days from receipt of the written notice of dispute unless such time is modified by written agreement of the Parties involved in the dispute. In the event that the Parties involved in the dispute cannot resolve a dispute by informal negotiations, the Parties may seek judicial relief or enforcement subject to the provisions of this ESA. Notwithstanding the foregoing, injunctive relief may be immediately sought without resorting to alternative dispute resolution to prevent irreparable harm that would be caused by a breach of this ESA.

### **ARTICLE 14 – INDEMNIFICATION**

#### **14.1**

##### **a. INDEMNIFICATION BY THE COMPETITIVE SUPPLIER**

Subject to the limitations herein, in addition to any other remedies available to the Municipality and Program Administrator at law or equity, and notwithstanding any other provision contained herein, the Competitive Supplier shall indemnify, defend and hold harmless the Municipality and the Program Administrator and their Associated Entities (“**Program Indemnified Parties**”) and the Program Indemnified Parties’ elected officials, officers, owners, directors, employees, and agents, from and against any and all costs, claims, liabilities, damages, expenses (including reasonable attorneys’ fees), causes of action, suits or judgments, incurred by, on behalf of or involving any one of the foregoing parties to the extent arising directly from or in connection with (i) any material breach by Competitive Supplier or its Associated Entities of its or their obligations, covenants, representations or warranties contained in this ESA and not resulting from the actions (or omissions where there is a duty to act) of the NYISO, Distribution Utility, the Municipality, the Program Administrator or any of their elected officials, officers, owners, directors, employees, representatives, independent contractors or agents, if any or (ii) any action or omission taken or made by the Competitive Supplier or its Associated Entities in connection with Competitive Supplier’s performance of this ESA.

#### b. INDEMNIFICATION BY THE PROGRAM ADMINISTRATOR

Subject to the limitations herein, in addition to any other remedies available to the Competitive Supplier at law or equity, and notwithstanding any other provision contained herein, the Program Administrator shall indemnify, defend and hold harmless the Municipality and the Competitive Supplier and its Associated Entities ("**Supplier Indemnified Parties**") and the Supplier Indemnified Parties' officers, owners, directors, employees, and agents, from and against any and all costs, claims, liabilities, damages, expenses (including reasonable attorneys' fees), causes of action, suits or judgments, incurred by, on behalf of or involving any one of the foregoing parties to the extent arising directly from or in connection with (i) any material breach by Program Administrator or its Associated Entities of its or their obligations, covenants, representations or warranties contained in this ESA and not resulting from the actions (or omissions where there is a duty to act) of the NYISO, Distribution Utility, the Municipality, the Competitive Supplier or any of their elected officials, officers, owners, directors, employees, representatives, independent contractors or agents, if any or (ii) any action or omission taken or made by the Program Administrator or its Associated Entities in connection with Program Administrator's performance of this ESA.

#### 14.2 NOTICE OF INDEMNIFICATION CLAIMS

In the event a Party seeks indemnification pursuant to this ARTICLE 14 -- INDEMNIFICATION, it shall notify the Indemnifying Party of the existence of a claim, or potential claim as soon as practicable after learning of such claim, or potential claim, describing with reasonable particularity the circumstances giving rise to such claim.

#### 14.3 SURVIVAL

Notwithstanding any provision contained herein, the provisions of this ARTICLE 14 -- INDEMNIFICATION shall survive the termination of this ESA with respect to (i) any claims which occurred or arose prior to such termination and (ii) any losses occurring as a result of the termination; provided that any action related to such claims or losses must be commenced not later than two (2) years from the date of the termination of this ESA.

#### 14.4 DUTY TO MITIGATE

Each Party agrees that they have a duty to mitigate damages and covenant that they will use Commercially Reasonable efforts to minimize any damages they may incur as a result of the other Party's performance or non-performance of this ESA.

### **ARTICLE 15 -- REPRESENTATIONS AND WARRANTIES**

#### 15.1 BY THE COMPETITIVE SUPPLIER

As a material inducement to entering into this ESA, the Competitive Supplier hereby represents and warrants to the Municipality as of the Effective Date as follows:

- a) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation and is qualified to conduct its business in those jurisdictions necessary for it to perform its obligations under this ESA;
- b) it has all authorizations from any Governmental Authority necessary for it to legally

perform its obligations under this ESA or will obtain such authorizations in a timely manner prior to when any performance by it requiring such authorization becomes due;

- c) the execution, delivery and performance of this ESA are within its powers, have been duly authorized by all necessary action and do not violate any of the terms or conditions in its governing documents or any contract to which it is a party or any Governmental Rule applicable to it;
- d) subject to the conditions set forth in ARTICLE 2.4, this ESA constitutes a legal, valid and binding obligation of the Competitive Supplier enforceable against it in accordance with its terms, and the Competitive Supplier has all rights such that it can and will perform its obligations to the Municipality in conformance with the terms and conditions of this ESA, subject to Bankruptcy, insolvency, reorganization and other laws affecting creditor's rights generally and general principles of equity;
- e) no Bankruptcy is pending against it or to its knowledge threatened against it;
- f) none of the documents or other written information furnished by or on behalf of Competitive Supplier to or for the benefit of the Municipality pursuant to this ESA, contains any untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements contained herein or therein, in the light of the circumstances in which they were made, not misleading; and
- g) the best of its knowledge, all information furnished by Competitive Supplier in response to the Request for Proposals for competitive electric supply service is true and accurate.

#### 15.2 BY THE MUNICIPALITY

As a material inducement to entering into this ESA, the Municipality hereby represents and warrants to Competitive Supplier as of the Effective Date as follows:

- a) this ESA constitutes the legal, valid and binding contract of the Municipality enforceable in accordance with its terms, subject to applicable law;
- b) the execution, delivery and performance of this ESA are within the Municipality's powers, have been or will be duly authorized by all necessary action;
- c) Municipality has all authorizations necessary for it to legally perform its obligations under this ESA or will obtain such authorizations in a timely manner prior to when any performance by it requiring such authorization becomes due;
- d) no Bankruptcy is pending or threatened against the Municipality;
- e) none of the documents or other written information furnished by or on behalf of Municipality to or for the benefit of the Competitive Supplier pursuant to this ESA, contains any untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements contained herein or therein, in the light of the circumstances in which they were made, not misleading; and
- f) subject to the conditions set forth in ARTICLE 2.4, this ESA constitutes a legal, valid and binding obligation of the Municipality enforceable against it in accordance with its terms, and the Municipality has all rights such that it can and will perform its obligations to the Competitive Supplier in conformance with the terms and conditions of this ESA, subject to Bankruptcy, insolvency, reorganization and other laws affecting creditor's rights generally and general principles of equity.

#### 15.3 BY THE PROGRAM ADMINISTRATOR

As a material inducement to entering into this ESA, the Program Administrator hereby represents and warrants to Competitive Supplier and Municipality as of the Effective Date as follows:



- a) this ESA constitutes the legal, valid and binding contract of Program Administrator enforceable in accordance with its terms, subject to applicable law
- b) the execution, delivery and performance of this ESA are within Program Administrator's powers, have been or will be duly authorized by all necessary action;
- c) Program Administrator has all authorizations from any Governmental Authority necessary for it to legally perform its obligations under this ESA or will obtain such authorizations in a timely manner prior to when any performance by it requiring such authorization becomes due;
- d) no Bankruptcy is pending or threatened against Program Administrator;
- e) none of the documents or other written information furnished by or on behalf of Program Administrator to or for the benefit of the Competitive Supplier pursuant to this ESA, contains any untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements contained herein or therein, in the light of the circumstances in which they were made, not misleading; and
- f) subject to the conditions set forth in ARTICLE 2.4, this ESA constitutes a legal, valid and binding obligation of the Program Administrator enforceable against it in accordance with its terms, and the Program Administrator has all rights such that it can and will perform its obligations to the Competitive Supplier in conformance with the terms and conditions of this ESA, subject to Bankruptcy, insolvency, reorganization and other laws affecting creditor's rights generally and general principles of equity.

#### **ARTICLE 16 -- INSURANCE**

- 16.1 In order to help support the indemnifications provided in ARTICLE 14, and its other promises and covenants stated herein, Competitive Supplier shall secure and maintain, at its own expense, before the Effective Date and throughout the term of this ESA, unless otherwise specified, commercial general liability insurance of at least \$1,000,000 combined single limit and excess liability coverage of at least \$5,000,000 with insurers licensed to do business in the State of New York. Each of the required insurance policies shall be with insurers qualified to do business in the State of New York, with an A- or better rating for financial condition and financial performance by Best's Key Rating Guide, Property/Casualty Edition. In the event the Competitive Supplier's insurance carrier is downgraded to a rating of lower than Best's A-, Competitive Supplier shall have ninety (90) days to obtain coverage from a carrier with a rating of at least Best's A-. Proof acceptable to the Municipality that each such insurance coverage is in force and effect, and listing the Municipality as an additional insured on all policies, shall be submitted on or before the Effective Date and thereafter whenever renewed or requested by the Municipality. All insurers must be notified that the insurance policies must provide that a copy of any notice of cancellation or non-renewal will be sent to the Municipality.
- 16.2 With respect to any of the insurance policies provided by the Competitive Supplier pursuant to these requirements which are "claims made" policies, in the event at any time such policies are canceled or not renewed, the Competitive Supplier shall provide a substitute insurance policy with terms and conditions and in amounts which comply with these requirements and which provides for retroactive coverage to the date of the cancellation or non-renewal of the prior "claims-made" policy. With respect to all "claims made" policies which have been renewed, the Competitive Supplier shall provide coverage retroactive to the Effective Date under this ESA. All said substitute or renewed "claims made" policies shall be maintained in full force and effect for not less than three (3) years after the date of the termination of the ESA.

- 16.3 Competitive Supplier, to the extent required by law, must provide worker's compensation insurance meeting all applicable state and federal requirements.

## **ARTICLE 17 -- REGULATORY EVENT/NEW TAXES**

### **17.1 REGULATORY EVENT**

If a Regulatory Event occurs, the Parties shall use their best efforts to reform this ESA to give effect to the original intent of the Parties. If despite such best efforts, a Regulatory Event is such that it only affects Competitive Supplier, and not other ESCOs similarly situated in the market, and both Program Administrator and Municipality agree that Competitive Supplier is incurring excess costs as a result thereof and agrees that Competitive Supplier may recover such costs, such amount shall be allocated to and collected from Participating Consumers on a per kWh basis through applicable monthly invoice(s).

### **17.2 QUALIFYING REGULATORY EVENT**

If a Qualifying Regulatory Event occurs, the Parties shall use their best efforts to reform this ESA to give effect to the original intent of the Parties. If a Qualifying Regulatory Event affects Competitive Supplier and Competitive Supplier incurs materially excess or materially reduced costs as a result thereof, such amount shall be allocated to and collected from, or credited to, Participating Consumers on a per kWh basis through applicable monthly invoice(s).

### **17.3 NEW TAXES**

If any New Taxes are imposed for which Competitive Supplier is responsible, the amount of such New Taxes shall be allocated to and collected from Participating Consumers through applicable monthly invoice(s).

## **ARTICLE 18 -- MISCELLANEOUS**

### **18.2 NO ASSIGNMENT WITHOUT PERMISSION**

Competitive Supplier or Program Administrator shall not directly or indirectly assign this ESA or any of its rights, obligations and privileges under this ESA without the prior written approval of the Municipality except (i) in the event of the sale of all or substantially all of its retail electricity business to an entity with credit and service ability to deliver on all material obligations of the assigning party under this ESA, (ii) to an Affiliate, or (iii) by Competitive Supplier in connection with any financing or other financial arrangements involving the accounts, revenues or proceeds hereof. Such approval may be denied at the reasonable discretion of the Municipality, including if the proposed assignee does not have the experience and financial ability to fulfill all obligations of the Competitive Supplier or Program Administrator in the ESA. Notwithstanding the above, any assignment of this ESA by the Competitive Supplier, whether as the result of the sale of all or substantially all of the Competitive Supplier's business related to this ESA or otherwise, shall be subject to the following requirements: (i) Competitive Supplier shall provide the Municipality with notice of the proposed assignment at least sixty (60) days prior to such assignment; (ii) Competitive Supplier's assignee shall agree in writing to be bound by the terms and conditions of this ESA; and (iii) Competitive Supplier and such assignee shall, at least 60 days in advance of any assignment, reasonably demonstrate to Municipality that assignee has the experience and financial ability to fulfill all obligations of the Competitive Supplier in the ESA. The Municipality or Program Administrator may assign

this ESA without the prior consent of Competitive Supplier provided that the proposed assignee has at least the same financial ability as the Municipality or Program Administrator and such assignment would not materially impair the rights and interests of Competitive Supplier under this ESA. The rights and obligations created by this ESA shall inure to the benefit of, and be binding upon, the successors and permitted assigns of, the respective Parties hereto.

### 18.3 DIRECT MARKETING

Prior to the introduction of any new product or service which Competitive Supplier directly or through any of its Associated Entities may wish to make available to Participating or Eligible Consumers located within the Municipality, Competitive Supplier agrees to (i) give the Municipality and Program Administrator written notice of such new product or service; and (ii) subject to the entry into reasonable confidentiality terms to the extent permitted by law and mutually acceptable to the Parties, discuss with the Municipality and Program Administrator the possible inclusion of such new product or service in this or another aggregation program undertaken by the Municipality.

In no event may Competitive Supplier directly or through any of its Associated Entities market to, offer or provide any product or service to Participating or Eligible Consumers other than the electricity product(s) provided as part of this Agreement, except with the written consent of the Municipality and Program Administrator. For the purposes of this provision, "market to" shall include any telephone call, mailing, electronic mail, or other contact between the Competitive Supplier and the consumer.

Notwithstanding the foregoing, Competitive Supplier shall have no liability for the marketing, offering or provision of products or services through any of its Associated Entities to Participating or Eligible Customers if all of the following conditions are satisfied:

- 1) Such activity does not suggest, hint or otherwise imply that any marketed product(s) or service(s) is/are associated with Competitive Supplier or the CCA Program;
- 2) Such activity does not use the trade name or trade or service marks of the Competitive Supplier;
- 3) Such activity does not utilize any data obtained by Competitive Supplier obtained in connection with this ESA; and
- 4) Competitive Supplier is not aware of any such activity.

### 18.4 NOTICES

All notices, demands, requests, consents or other communications required or permitted to be given or made under this ESA shall be in writing and addressed to the Parties as designated in EXHIBIT B -- CONTACT, NOTICE AND PAYMENT INFORMATION.

Notices hereunder shall be deemed properly served (i) by hand delivery, on the day and at the time on which delivered to the intended recipient at the address set forth in this ESA; (ii) if sent by mail, on the third business day after the day on which deposited in the United States certified or registered mail, postage prepaid, return receipt requested, addressed to the intended recipient at its address set forth in this ESA; (iii) if by Federal Express or other reputable express mail service, on the next business day after delivery to such express mail service, addressed to the intended recipient at its address set forth in this ESA; or (iv) if by electronic mail ("e-mail"), on the date the e-mail is delivered, read and acknowledged as documented by return email. Any party may change its address and contact person for the purposes of this ARTICLE 18.6 by giving notice thereof in the manner required herein.

## 18.5 CHANGES IN EMERGENCY AND SERVICE CONTACT PERSONS

In the event that the name, telephone number, or other contact information of any emergency or service contact for the Competitive Supplier changes, Competitive Supplier shall give prompt notice to the Municipality and the Program Administrator in the manner set forth in ARTICLE 18.6. In the event that the name, telephone number, or other contact information of any such contact person for the Municipality changes, prompt notice shall be given to the Competitive Supplier and the Program Administrator in the manner set forth in ARTICLE 18.6. In the event that the name, telephone number, or other contact information of any such contact person for the Program Administrator changes, prompt notice shall be given to the Competitive Supplier and the Municipality in the manner set forth in ARTICLE 18.6.

## 18.6 ENTIRE AGREEMENT; AMENDMENTS

This ESA constitutes the entire agreement between the Parties hereto with respect to the subject matter hereof and supersedes all prior oral or written agreements and understandings between the Parties relating to the subject matter hereof. This ESA may only be amended or modified by a written instrument signed by all Parties hereto, duly authorized to sign such instrument.

## 18.7 FORCE MAJEURE

If by reason of Force Majeure any Party is unable to carry out, either in whole or in part, its obligations herein contained, such Party shall not be deemed to be in default during the continuation of such inability, provided that: (i) the non-performing Party, within two (2) weeks after the occurrence of the Force Majeure, gives the other Party hereto written notice describing the particulars of the occurrence (the "Force Majeure Notice"); (ii) the suspension of performance be of no greater scope and of no longer duration than is required by the Force Majeure; (iii) no obligations of the Party which were to be performed prior to the occurrence causing the suspension of performance shall be excused as a result of the occurrence; and (iv) the non-performing Party shall use Commercially Reasonable efforts to remedy with all reasonable dispatch the cause or causes preventing it from carrying out its obligations. If (i) an event of Force Majeure caused by any strikes, lockouts or other industrial disturbances continues for a period of thirty (30) days or longer from the date of the Force Majeure Notice, or (ii) an event of Force Majeure arising from any other cause continues for a period of one hundred eighty (180) days or longer from the date of the Force Majeure Notice, any Party may terminate this ESA by sending the other Party a written notice as set forth in ARTICLE 4.2; provided, however, that the same shall not constitute a default under this ESA and shall not give rise to any damages.

## 18.8 EXPENSES

Each Party hereto shall pay all expenses incurred by it in connection with its entering into this ESA, including without limitation, all of its attorney's fees and expenses.

## 18.9 NO JOINT VENTURE

Each Party will perform all obligations under this ESA as an independent contractor. Nothing herein contained shall be deemed to constitute any Party a partner, agent or legal representative of the other Party or to create a joint venture, partnership, agency or any relationship between the Parties. The obligations of the Municipality and the Competitive Supplier hereunder are individual and neither collective nor joint in nature.

#### 18.10 INTERPRETATION

For purposes of this Agreement, (a) the words "include," "includes" and "including" are deemed to be followed by the words "without limitation"; (b) the word "or" is not exclusive; and (c) the words "herein," "hereof," "hereby," "hereto" and "hereunder" refer to this Agreement as a whole. Unless the context otherwise requires, references herein: (y) to sections, schedules, and exhibits mean the sections of, and schedules and exhibits attached to this Agreement; and (z) to an agreement, instrument, or other document means such agreement, instrument, or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof. This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted. The schedules and exhibits referred to herein shall be construed with, and as an integral part of, this Agreement to the same extent as if they were set forth verbatim herein. In the event of any conflict between Exhibit A or Exhibit B, and any other provisions of this Agreement, the provisions of Exhibit A or Exhibit B shall govern. All references to "\$" or "dollars" mean the lawful currency of the United States of America. Whenever the masculine is used in this Agreement, the same shall include the feminine and whenever the feminine is used herein, the same shall include the masculine, where appropriate. Whenever the singular is used in this Agreement, the same shall include the plural, and whenever the plural is used herein, the same shall include the singular, where appropriate.

#### 18.11 COUNTERPARTS

This ESA may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute a single agreement.

#### 18.12 DIGITAL SIGNATURES

This ESA may be executed by facsimile or other digital signature (or by using a digital signature service such as DocuSign), and such signature shall have the same force and effect as a manual signature.

#### 18.13 WAIVER

No waiver by any Party hereto of any one or more defaults by any other Party in the performance of any provision of this ESA shall operate or be construed as a waiver of any future default, whether of like or different character. No failure on the part of any Party hereto to complain of any action or non-action on the part of any other Party, no matter how long the same may continue, shall be deemed to be a waiver of any right hereunder by the Party(ies) so failing. A waiver of any of the provisions of this ESA shall only be effective with respect to an obligation to the waiving Party and shall only be effective if made in writing and signed by the Party who is making such waiver.

#### 18.14 ADVERTISING LIMITATIONS

Competitive Supplier and Municipality agree not to use, whether directly or through any of its Associated Entities, the name of the other Party, or make any reference to the other Party in any advertising or other information to be distributed publicly for marketing purposes, unless such other Party expressly agrees to such usage in writing. The Municipality acknowledges that the Competitive Supplier or its Affiliates own the exclusive right to the trademarked logo and trade name used by Competitive Supplier. No right, license or interest in this trademark and/or trade name is granted to the Municipality hereunder, and the Municipality agrees that it shall not assert any right, license or interest with respect to such trademark and/or trade name.

#### 18.15 PRESS RELEASES

The Parties agree to jointly review and provide written approval to the other prior to issuance of all media press releases regarding this Agreement; provided, however, that nothing herein shall require a Party to provide a Party who is in breach of this Agreement, and the breach remains uncured for the applicable cure period, the opportunity to review or approve a press release in relation to such breach. Approval of press releases will not be unreasonably withheld. The Parties agree to cooperate in good faith prior to the issuance of any press release with respect to this ESA, such cooperation to include agreement as to the form, substance and timing of such formal press release.

#### 18.16 HEADINGS AND CAPTIONS

The headings and captions appearing in this ESA are intended for reference only, and are not to be considered in construing this ESA.

#### 18.17 SURVIVAL OF OBLIGATION

Termination of this ESA for any reason shall not relieve the Parties of any obligation accrued or accruing prior to such termination.

### **ARTICLE 19 -- REMEDIES**

#### 19.1 GENERAL

Subject to the limitations set forth in ARTICLE 19.2 below, the Parties reserve and shall have all rights and remedies available to each of them at law or in equity with respect to the performance or non-performance of the other Party hereto under this ESA.

#### 19.2 LIMITATIONS OF LIABILITY

NO PARTY HERETO SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, SPECIAL OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, CONNECTED WITH OR RESULTING FROM PERFORMANCE OR NON-PERFORMANCE OF THIS AGREEMENT, IRRESPECTIVE OF WHETHER SUCH CLAIMS ARE BY STATUTE, ARE BASED UPON BREACH OF WARRANTY, TORT, CONTRACT OR OPERATION OF LAW.

Notwithstanding the foregoing, each Party acknowledges that the preceding sentence shall not limit the other Party's rights to seek direct damages or, under ARTICLE 14.1, to seek indemnification from Competitive Supplier for consequential, punitive, or incidental damages described in the preceding sentence or other such losses claimed by third- parties.

#### 19.3 DISCLAIMER

EXCEPT AS EXPRESSLY PROVIDED HEREIN, EACH PARTY MAKES NO WARRANTIES, WHETHER EXPRESS OR IMPLIED, OF THE IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

#### 19.4 CONFIDENTIALITY.

This Agreement and all information shared between the Parties regarding this Agreement and the services to be provided hereunder is strictly confidential and shall not be disclosed by a Party (except to the Party's Affiliates, Associated Entities, members, directors, contractors, employees, lenders, counsel and other advisors, permitted assignees, or prospective purchasers who have a need to know the information and have agreed to treat such information as confidential) without the prior written consent of the other Party, except as required by Governmental Rule or in connection with protecting or enforcing a Party's rights hereunder.

*[SIGNATURE PAGE TO FOLLOW]*

**IN WITNESS WHEREOF**, the Parties have caused this ESA to be executed by their duly authorized representatives, as required by the applicable laws of the city, town or municipality and the laws, rules and regulations of the State of New York, as of the respective dates set forth below.

(COMPETITIVE SUPPLIER)

By:

\_\_\_\_\_

[Name]

[Title]

[email]

Dated:]

(CITY/TOWN/VILLAGE OF NAME OF MUNICIPALITY)

By:

\_\_\_\_\_

[Name]

[Title]

[email]

Dated:

JOULE ASSETS INC. (Program Administrator)

By:

\_\_\_\_\_

Jessica Stromback

Chief Executive Officer

[jstromback@jouleassets.com](mailto:jstromback@jouleassets.com)



## **EXHIBIT A – PRODUCTS, PRICES AND TERMS**

1. **DEFAULT PRODUCT and PRICES.** Competitive Supplier shall offer to Eligible Consumers and provide to Participating Consumers the following “Default Product” at the prices indicated in Table 1.

**[CHOOSE ONE OF THE FOLLOWING PRODUCTS]:**

CCA RENEWABLE ELECTRICITY PRODUCT [FIXED or VARIABLE] (as further defined below)

CCA CONVENTIONAL ELECTRICITY PRODUCT [FIXED or VARIABLE] (as further defined below)

CCA BLENDED ELECTRICITY PRODUCT [FIXED or VARIABLE] (as further defined below)

Table 1 – **[ENTER NAME OF DEFAULT PRODUCT]** (DEFAULT PRODUCT) PRICES:

| <u>Service Class</u> | <u>Price per kWh</u> | <u>Price per kWh with GRT (if applicable)</u> |  |
|----------------------|----------------------|-----------------------------------------------|--|
| Residential          | \$ _____/kWh         |                                               |  |
| Small Commercial     | \$ _____/kWh         |                                               |  |

2. **Alternative Product and Prices.** In addition to the Default Product described above, Participating and Eligible Consumers may choose the following product(s) as an alternative to the Default Product at the prices indicated below.

**[IF APPLICABLE, ALSO CHOOSE PRODUCTS FROM CHOICES BELOW]**

CCA RENEWABLE ELECTRICITY PRODUCT [FIXED or VARIABLE] at the following PRICES

| <u>Service Class</u> | <u>Price per kWh</u> | <u>Price per kWh with GRT (if applicable)</u> |
|----------------------|----------------------|-----------------------------------------------|
| Residential          | \$ _____/kWh         |                                               |
| Small Commercial     | \$ _____/kWh         |                                               |

CCA CONVENTIONAL ELECTRICITY PRODUCT [FIXED or VARIABLE] (as further defined below) at the following PRICES

| <u>Service Class</u> | <u>Price per kWh</u> | <u>Price per kWh with GRT</u><br><u>(if applicable)</u> |
|----------------------|----------------------|---------------------------------------------------------|
| Residential          | \$ _____/kWh         |                                                         |
| Small Commercial     | \$ _____/kWh         |                                                         |

CCA BLENDED ELECTRICITY PRODUCT [FIXED or VARIABLE] (as further defined below) at the following PRICES

| <u>Service Class</u> | <u>Price per kWh</u> | <u>Price per kWh with GRT</u><br><u>(if applicable)</u> |
|----------------------|----------------------|---------------------------------------------------------|
| Residential          | \$ _____/kWh         |                                                         |
| Small Commercial     | \$ _____/kWh         |                                                         |

3. FURTHER DEFINITIONS AND REQUIREMENTS IN RELATION TO ELECTRICITY PRODUCT(S) OFFERED PURSUANT TO THIS AGREEMENT.

Municipality understands that for any supply to Participating Consumers the price includes NY Public Policy Transmission Costs and NY Tier 2 REC Program Costs based on the estimates of such costs for calendar year 2023 that were obtainable by Competitive Supplier and Competitive Supplier will pass through to Participating Consumers any future changes, (upward or downward) to such NY Public Policy Transmission Project Costs or NY Tier 2 REC Program Costs, based on changes in such costs during the remainder of term of this ESA, and which will be reflected in a future adjustment. Any such adjustments shall occur once during any calendar year.

**“NY Public Policy Transmission Project Costs”** means costs or charges imposed by the NYISO (including without limitation, Work in Progress charges or other related transmission costs not including charges under NY TOTS Project Costs or Ancillary Services and Other ISO Costs) associated with the development of the transmission facilities under the NYISO’s Public Policy Transmission Planning Process and in compliance with FERC Order No.1000 (Stats. & Regs 31,323 issued July 2011, as may be amended or modified from time to time during the term of this ESA).

**“NY Tier 2 REC Program Costs”** means any costs related to the purchase of Tier 2 eligible renewable energy certificates (**“Tier 2 REC’s”**) associated with the expansion of the Clean Energy Standard to include additional compliance requirements in accordance with the **“Order Adopting Modifications to the Clean Energy Standard”** in DPS Case 15- E-0302 dated October 15, 2020 (as may be proposed or implemented during the term of this ESA).

The Parties agree and acknowledge that the price set forth below **excludes** costs and charges associated with changes to the obligations of New York’s Clean Energy Standard (**“CES”**), including but not limited to CES Tier 4 program costs as described in the **“Order Adopting Modifications to the Clean Energy Standard”** in case 15-E-0302 dated October 15, 2020, as may be amended or modified from time to time during the term of this Agreement. In the event that changes to such regulations/orders are finalized, such changes shall be deemed a Regulatory Event as that term is defined in this ESA and the Parties agree to amend this Exhibit A to reflect the cost impact of such Regulatory Event.

**“CCA Renewable Electricity Product”** means a 100% renewable electricity supply product that consists of:

**100% New York Voluntary EDP Eligible RECs** (as defined below) -- This product includes a voluntary purchase of Renewable Energy Certificates ("RECs"), supporting the NY Environmental Disclosure Program that are sourced from NY EDP Eligible Renewable Resources in an amount equal to 100% of the Participating Consumers' electricity usage including any additional RECs required to account for line loss, and any then-current REC purchases associated with New York Clean Energy Standard requirements applicable to Competitive Supplier.

Renewable Energy in System Supply: 100% of electricity supply shall be CCA Renewable Electricity Product as defined in the Agreement.

**"CCA Conventional Electricity Product"** means energy supply product that meets the minimum Clean Energy Standard requirements.

**"CCA Blended Electricity Product"** means an energy supply product that consists of fifty [50%] of each of the following:

- 1) NY Voluntary EDP Eligible RECs Purchase (as set forth below);  
and .
- 2) National Wind Voluntary RECs Purchase (as set forth below).

Renewable Energy in System Supply: 50% of electricity supply shall be CCA Renewable Electricity Product as defined in this Agreement.

**"Renewable Energy Certificates Purchase":** Competitive Supplier shall identify the technology and location of the renewable generators that are the sources of the RECs for the CCA Renewable Electricity Product and CCA Blended Electricity Product, as applicable. NY Voluntary EDP Eligible RECs shall be created and recorded in the New York Generation Attribute Tracking System ("NYGATS").

**"NY Voluntary EDP Eligible RECs Purchase"** This product is a voluntary purchase of Renewable Energy Certificates ("RECs"), supporting the NY EDP Program that are sourced from NY EDP Eligible Renewable Resources in an amount equal to the percentage described in the applicable Default Product or alternative product specified above of the Participating Customers' electricity usage, in addition to any then-current REC purchases associated with New York Clean Energy Standard requirements applicable to Competitive Supplier. In the event that the DPS or other governmental authority determines that a 100% Renewable Clean Power Product may be provided through the voluntary purchase of NY EDP Eligible Voluntary RECs in an amount equal to the percentage described in the applicable Default Product or alternative product specified above of the Participating Customers' electricity usage less any then-current Tier 1 REC purchase associated with the Clean Energy Standard requirements applicable to Competitive Supplier in New York, such change shall be deemed a Regulatory Event as that term is defined in this ESA and the Parties agree to amend this Exhibit A to reflect the cost impact of such Regulatory Event. Competitive Supplier anticipates that the RECs provided hereunder will be generated primarily by hydroelectric facilities, but some portion of the RECs may be generated by wind, solar or other facilities, and Competitive Supplier reserves the right to source the RECs from any additional qualifying NY EDP Eligible Renewable Resource as applicable. Each REC represents environmental attributes associated with one MWh of electricity generated

by a renewable fuel type defined by NYGATs Operating Rules, dated May 1, 2020, but does not include any tax credits, depreciation allowances or third party subsidies of any kind. Competitive Supplier does not represent or warrant that the RECs purchased hereunder can be used as offsets or otherwise for compliance with any emission reduction or similar program. For purposes of this Agreement:

i. "NY EDP Eligible Renewable Resource" means any electric power generator meeting the NY EDP Program eligibility criteria of a NY renewable energy generating source which comply with the attribute delivery rules set forth in the NYGATS Operating Rules, supporting the NY EDP Program, as of the Effective Date of this Agreement. RECs will be retired for all Participating Consumers collectively at the Program level.

ii. "NY EDP Program" means the environmental disclosure program administered by the New York State Department of Public Service, through which load serving entities periodically inform their customers of the fuel source, emissions and other characteristics of the electricity resources supplied to them.

**National Wind Voluntary RECs Purchase.** A product that includes a purchase of National Wind Voluntary RECs means the RECs are sourced 100% from National Wind Renewable Resource in an amount equal to the percentage described in the applicable Default Product or alternative product specified above of the Participating Consumers electricity usage. Each REC represents the environmental attributes associated with one MWh of electricity generated by a National Wind Renewable Resource, but does not include any tax credits, depreciation allowances or third party subsidies of any kind. For purposes of this Agreement:

**"National Wind Renewable Resource"** means any electric power generated sourced from nationally-sited wind power generators. Competitive Supplier does not represent or warrant that the RECs purchased hereunder can be used as offsets or otherwise for compliance with any emission reduction or similar program. Specifically, National Wind Renewable Resources do not qualify for the NY EDP Program as administered by the New York State Energy Research and Development Authority. RECs will be retired for all Participating Consumers collectively at the Program level.

#### 4. ADDITIONAL TERMS FOR SUPPLY SERVICE

The following provisions shall apply to electricity provided in this Agreement:

**A. Term.** The service, price and terms set forth herein for all electricity provided in this Agreement shall commence, with the Service Commencement Date and continue through the Service Termination Date, unless this ESA is terminated earlier in accordance with ARTICLE 4.2 of this ESA.

For purposes of this ESA, the Service Commencement Date means, for each Eligible Consumer who has not opted-out, the first meter read on or after [\_\_\_\_\_].

For purposes of this ESA, the Service Termination Date means, for each Participating Consumer, the first meter read on or after [\_\_\_\_\_].

For avoidance of doubt, assuming that the Distribution Utility does not change its meter read dates, the total service period for each Participating Consumer who is enrolled for their first meter read date after the Service Commencement Date shall be [\_\_\_\_months].

The period of delivery of Firm Full-Requirements Power Supply shall be consistent with the provisions of ARTICLE 4 -- TERM OF CONTRACT AND TERMINATION and EXHIBIT A -- PRODUCTS, PRICES AND TERMS--Part 1 of this ESA.

Start-Up Service Date: Firm Full-Requirements Power Supply will commence at the prices stated above as of the Service Commencement Date.

- B. Credit policy: The Competitive Supplier will not require a credit review for any consumer participating in the Program, nor will Competitive Supplier require any consumer to post any security deposit as a condition for participation in the Program. The Competitive Supplier may terminate service to a Participating Consumer and return such consumer to default utility service in the event that the consumer fails to pay its electricity charges past due greater than sixty (60) days.

C. Refresh Dates: The Parties agree and acknowledge that Competitive Supplier shall perform a refresh or new customer sweep to create a list of New Consumers for enrollment after the first meter read date each April and October (each, a “Refresh Date”) during the term of this ESA. As a result of any such refresh or new customer sweep performed, New Consumers will be automatically enrolled in the Program unless such consumers opt out of the Program; provided, however, that no refresh, sweep or enrollment of such New Consumers that are part of any refresh or sweep shall occur less than four (4) months prior to the Service Termination Date or in the event of termination of this Agreement. Competitive Supplier may perform a refresh and enroll New Consumers outside of the Refresh Dates if mutually agreed to by all the Parties hereunder.

For each Refresh Date, the Competitive Supplier will mail an Opt-Out Notice to each New Consumer at least 30-days prior to the date of automatic enrollment and shall: (i) prominently state all charges to be assessed by the Competitive Supplier; (ii) at a minimum, provide a summary of the prices and terms included in EXHIBIT A – PRODUCTS, PRICES AND TERMS; (iii) state how such New Consumer may opt-out of the Program prior to enrollment and remain on Basic Utility Supply Service from the Distribution Utility; and (iv) state how all Participating Consumers will also have the right to opt-out at any time and return to Basic Utility Supply Service or choose a new retail electricity supplier without paying a fee or penalty to Competitive Supplier. All forms of such notices must be approved in advance by the Municipality and DPS.

## 5. ADDITIONAL PROVISIONS

### A. PROGRAM ADMINISTRATOR FEE

Competitive Supplier shall pay Program Administrator \$0.002 for each kWh delivered, invoiced and paid for by Participating Consumers during the Term (“**Program Administrator Fee**” or “**Fee**”). The Parties agree that Competitive Supplier will remit the Program Administrator Fee to the Program Administrator, pursuant to the terms of this ESA. Competitive Supplier shall pass through such payments to Program Administrator for the duration of this ESA. This provision shall be binding upon the Parties and all permitted assigns and other successors-in-interest of the Parties.

For avoidance of doubt, Municipality shall not be responsible for payment of the Fee.

### B. PAYMENTS TO COMPETITIVE SUPPLIER

Participating Consumers will be invoiced by the Distribution Utility for electricity supply charges, unless otherwise agreed by the Competitive Supplier. The Parties agree and acknowledge that unless otherwise agreed by the Competitive Supplier and the Distribution Utility, the Distribution Utility will purchase the receivables due hereunder and pay the Competitive Supplier directly. If the Distribution Utility(ies) discontinue or materially modify their program to purchase the receivables of eligible customers, such change will be considered a Qualifying Regulatory Event.

### C . PAYMENT OF FEE

25% of the projected total Fee for the term of ESA shall be paid to Program Administrator within 15 days of the Effective Date. Remaining 75% payment to Program Administrator will be made monthly pro rata by Automated Clearing House ("ACH") (an electronic network for financial transactions) to the account set forth in EXHIBIT B – CONTACT, NOTICE AND PAYMENT INFORMATION hereto or as otherwise provided by Program Administrator, provided that Competitive Supplier has received payment with respect to the electricity used by the Participating Consumers. The monthly Program Administrator Fee shall be paid by the last business day of the month based on revenue collected by Competitive Supplier with respect to each Participating Consumer during the calendar month two months prior. For example, full payments received in January will be paid by the end of March. If Competitive Supplier has paid a past Fee in error (or the payment was based on information subsequently determined invalid), it may deduct from or add to future payments due under this ESA and provide explanation of the error in sufficient detail.

Program Administrator shall provide the Municipality with a reasonably detailed accounting not less than annually of the program impact (e.g., rates paid vs utility rate), financial and other, including revenues received and expenses incurred on communication, administration and legal expenses.



**EXHIBIT B -- CONTACT, NOTICE AND PAYMENT INFORMATION**

| <b><u>PROGRAM<br/>ADMINISTRATOR</u></b>                                                                                                                                       | <b><u>MUNICIPALITY</u></b>                              | <b><u>COMPETITIVE SUPPLIER</u></b>                                                                    |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------|-------------------------------------------------------------------------------------------------------|
| <b>General Contact</b>                                                                                                                                                        | <b>General Contact</b>                                  | <b>General Contact</b>                                                                                |
| Joule Assets Inc<br>Type of Entity: Corporation<br>State of incorporation: Delaware<br>Contact: Glenn Weinberg                                                                | Name of Municipality: _____<br>[Contact]                | Full Corporate Name: _____<br>Type of Entity: _____<br>State of organization: _____<br>Contact: _____ |
| 2875 Route 35 (a/k/a One Pepsi Way)<br>Suite 6 South<br>Katonah, NY 10536<br>(914) 977-3444                                                                                   | [Address]<br>[Telephone]                                |                                                                                                       |
| E-mail: gweinberg@jouleassets.com                                                                                                                                             | [E-mail]                                                | _____                                                                                                 |
| <b>Contact for Notices Pursuant to<br/>Article 18.6</b>                                                                                                                       | <b>Contact for Notices<br/>Pursuant to Article 18.6</b> | <b>Contact for Notices Pursuant<br/>to Article 18.6</b>                                               |
| ATTN: Glenn Weinberg<br>Joule Assets Inc                                                                                                                                      | ATTN: [Name]<br>[Name of Municipality]                  | ATTN: [Name]<br>[Name of Entity]                                                                      |
| 10 Bank Street, Suite 560<br>White Plains, NY 10606<br>c/o United Corporate Services, Inc.,<br>gweinberg@jouleassets.com                                                      | [Address]<br>[E-mail]                                   | [Address]<br>[E-mail]                                                                                 |
| <b>With a copy to:</b>                                                                                                                                                        | <b>With a copy to:</b>                                  | <b>With a copy to:</b>                                                                                |
| Stephen Filler, General Counsel<br>Joule Assets Inc.<br>10 Bank Street, Suite 560<br>White Plains, NY 10606<br>c/o United Corporate Services, Inc.<br>sfiller@jouleassets.com | [Name]<br>[Address]<br>[E-mail]                         | Name:<br>Address:                                                                                     |

**A RESOLUTION OF THE CITY OF POUGHKEEPSIE  
AUTHORIZING THE CHANGE FOR CSEA EMPLOYEES  
FROM NYSHIP EMPIRE PLAN TO NYSHIP EXCELSIOR PLAN**

**(R-23-33)**

**INTRODUCED BY CHAIRWOMAN BROWN:** \_\_\_\_\_

**WHEREAS**, the City currently offers the New York State Health Insurance Program (NYSHIP) Empire Plan to members of the Civil Service Employees' Association Inc., Local 1000, American Federal of State, County and Municipal Employees, AFL-CIO, City of Poughkeepsie Unit, Dutchess County Local 814 ("CSEA"); and

**WHEREAS**, City Administration and the CSEA have discussed and agreed that effective July 1, 2023, the City will offer the NYSHIP Excelsior Plan instead of the Empire Plan; and

**WHEREAS**, in order to effectuate this change, NYSHIP requires a resolution of the City's Common Council approving the change.

**NOW, THEREFORE, be it resolved** that the Common Council hereby approves the change to NYSHIP Excelsior Plan instead of the Empire Plan for CSEA Employees effective July 1, 2023.

**SECONDED BY COUNCILMEMBER** \_\_\_\_\_ .

**RESOLUTION  
(R 23-34)**

**RESOLUTION INTRODUCING LOCAL LAW AMENDING  
THE CITY OF POUGHKEEPSIE ZONING MAP  
219 AND 221 NORTH CLINTON STREET**

**INTRODUCED BY COUNCILMEMBER FLOWERS** \_\_\_\_\_ :

**BE IT RESOLVED** that an introductory Local Law entitled, "LOCAL LAW AMENDING THE CITY OF POUGHKEEPSIE ZONING MAP" be and hereby is introduced before the Common Council of the City of Poughkeepsie in the County of Dutchess and State of New York; and

**BE IT FURTHER RESOLVED** that copies of the aforesaid proposed local law are laid upon the desk of each member of the Council; and

**BE IT FURTHER RESOLVED** that the Council shall hold a public hearing on said proposed local law to receive comment from the public on Monday, April 17, 2023 at 6 pm in the Common Council Chambers, Third Floor, City Hall, 62 Civic Center Plaza, Poughkeepsie, New York;

**BE IT FURTHER RESOLVED** that the Clerk publish or cause to be published a public notice in the official newspaper of the City of Poughkeepsie of said public hearing at least five (5) days prior thereto.

**SECONDED BY COUNCILMEMBER** \_\_\_\_\_ .

LOCAL LAW AMENDING THE ZONING MAP OF THE CITY OF POUGHKEEPSIE

(LL-23-XX)

INTRODUCED BY COUNCILMEMBER \_\_\_\_\_ :

**SECTION 1. BE IT ENACTED**, by the Common Council of the City of Poughkeepsie, a local law amending the City of Poughkeepsie Zoning Map to change the zoning of the following two parcels from Walkway-Gateway (W-G), **sub-district Gateway Commercial Mixed Use (G-CM)** to Walkway-Gateway (W-G), **sub-district Gateway Residential Mixed Use (G-RM)**.

1. 219 North Clinton Street – currently identified as Tax Grid #6162-55-340485 comprising .07 +/- acres.
2. 221 North Clinton Street – currently identified as Tax Grid #6162-55-340488 comprising .07 +/- acres.

**SECTION 2.** This Local Law shall take effect immediately upon filing with the New York State Secretary of State.

**SECONDED BY COUNCILMEMBER** \_\_\_\_\_

**RESOLUTION  
(R 23-35)**

**RESOLUTION INTRODUCING LOCAL LAW AMENDING CHAPTER 19, SECTION 19-3.23.1 OF THE CITY OF POUGHKEEPSIE CODE ENTITLED  
“Main Street Commercial (C-2A)”**

**INTRODUCED BY COUNCILMEMBER FLOWERS \_\_\_\_\_ :**

**BE IT RESOLVED** that an introductory Local Law entitled, “LOCAL LAW AMENDING SECTION 19-3.23.1 OF THE CITY OF POUGHKEEPSIE CODE ENTITLED “Main Street Commercial (C-2A)” be and hereby is introduced before the Common Council of the City of Poughkeepsie in the County of Dutchess and State of New York; and

**BE IT FURTHER RESOLVED** that copies of the aforesaid proposed local law are laid upon the desk of each member of the Council; and

**BE IT FURTHER RESOLVED** that the Council shall hold a public hearing on said proposed local law to receive comment from the public on Monday, May 1, 2023 at 6 pm in the Common Council Chambers, Third Floor, City Hall, 62 Civic Center Plaza, Poughkeepsie, New York;

**BE IT FURTHER RESOLVED** that the Clerk publish or cause to be published a public notice in the official newspaper of the City of Poughkeepsie of said public hearing at least five (5) days prior thereto.

**SECONDED BY COUNCILMEMBER \_\_\_\_\_ .**

**LOCAL LAW AMENDING CHAPTER 19, SECTION 19-3.23.1 OF THE CITY OF  
POUGHKEEPSIE CODE ENTITLED “Main Street Commercial (C-2A)”**

**(LL 23-XX)**

**INTRODUCED BY COUNCILMEMBER CHERRY:**

**SECTION 1: BE IT ENACTED**, by the Common Council of the City of Poughkeepsie, a local law amending Section 19-3.23.1 of the Code of the City of Poughkeepsie to read in pertinent part as follows:

~~STRIKETHROUGH~~ INDICATES DELETION

**BOLD and UNDERLINE INDICATES ADDED LANGUAGE**

Section 19-3.23.1 **Main Street Commercial (C-2A).**

[Ord. of 2-21-1989, § 1; Ord. of 5-6-1991, § 3]

**(1) Purpose of district.** The purpose of this district is to provide for a wide range of commercial uses which would normally be located on roadways that experience high traffic volumes and that are located adjacent to or in close proximity to residential uses.

**(2) Permitted uses.** No building or premises shall be used, in whole or in part for any purpose except those listed below:

**(a) Uses permitted by right:**

- 1.** Retail stores and service businesses.
- 2.** Wholesale businesses, warehouses and building material sales, provided that all storage is fully enclosed by a permanent structure, but excluding storage of coal, coke, fuel oil or junk.
- 3.** Building, plumbing and electrical contractors.
- 4.** Cold storage plant, beverage distributor, baking and other food processing plant that is not offensive, obnoxious or detrimental to neighboring uses by reason of dust, smoke, vibration, noise, odor or effluent.
- 5.** Motor vehicle sales, including the sale of recreation vehicles and trailers and boat sales, with accessory repair facilities, subject to the following requirements:
  - (i) Sale of used vehicles or boats shall be conducted only as accessory to the sale of new vehicles or boats.
  - (ii) Outdoor area lighting shall be that generally required for security purposes.
  - (iii) Entrance and exit driveways shall have an unrestricted width of not less than 12 feet (one-way), shall not be located closer than 10 feet to any property line and shall be so laid out as to avoid the necessity of any vehicle backing out into any public right-of-way.
  - (iv) Vehicle lifts or pits, dismantled vehicles and all parts and supplies shall be located within a building enclosed on all sides.

(v) All service or repair of motor vehicles shall be conducted in a building enclosed on all sides. This requirement shall not be construed to mean that the doors to any repair shop must be kept closed at all times.

(vi) Gasoline or flammable oils in bulk shall be stored fully underground, not nearer than 10 feet to any lot line.

(vii) No commercial sale of gasoline shall be permitted, nor shall any pump be located in a front or side yard.

**6. Standard restaurants.**

**7. Dry-cleaning establishments.**

**8. Funeral parlors.**

**9. Retail sale and accessory storage and display of garden materials, supplies and plants, including nursery operations, provided that the outdoor storage or display of plants and material does not obstruct pedestrian flow or vehicular traffic and does not occur within three feet of a property line.**

**10. Municipal parks and recreational facilities, including refreshment and service buildings accessory thereto and any other governmental uses and structures of the City of Poughkeepsie, the County of Dutchess or the state or federal governments or agencies thereof:**

**11. Public utility installations.**

**12. Places of worship.**

**13. Printing plants.**

**14. Taxi station.**

**15. Auto rental.**

**16. Radio, television and recording studio.**

**17. Arts and crafts studios or studios for teaching the performing arts.**

**18. Buildings with mixed uses, subject to the following requirements:**

(i) All lot and bulk requirements for each use are satisfied.

(ii) Separate entrances and exits shall be provided for residential and nonresidential portions of the building.

**(b) Uses, subject to issuance of special permit by the Planning Board in accordance with Section 19-6.2 of this Chapter.**

**1. Research and development uses, provided that any manufacturing shall be limited to prototypes and products for testing.**

**2. Institutions for higher learning, business, vocational and training schools, including colleges, universities, junior colleges, business, banking, business management, secretarial and office service schools, computer and data processing schools, art and drafting schools, barber, beauty and cosmetology schools, commercial or noncommercial food preparation schools, photography schools, schools for training in the martial arts, dancing, gymnastics and music, schools for fashion design; under the following conditions:**

(i) The curriculum shall satisfy the requirements of the New York State Department of Education.

(ii) No accommodations for resident students shall be permitted.

(iii) No music or noise shall be audible in any R-1 through R-6 District.

**3. Motor vehicle service stations or gasoline pumps as part of another use, provided that:**

(i) No traffic hazard affecting the public safety will be present.

(ii) No sale of gasoline shall be permitted to be established on any lot within a distance of 500 feet of an existing gasoline or filling station or of any lot for which a building permit has been issued for the erection of such a station or any use which includes gasoline pumps.

(iii) No such establishment shall be within a distance of 200 feet of any school, public or private; religious institution, hospital, library, park, nursing home, extended care facility or any similar institution or other place of public assembly; said distance to be measured in a straight line along or across a street between the nearest points of each of the lots or premises, regardless of the district where either premises is located.

(iv) No such establishment shall be within a distance of 30 feet of any R-1 through R-6, O-R or PRD District or a property on or eligible for a federal, state or local historic register.

(v) Entrance and exit driveways shall have an unrestricted width of not less than 12 feet (one-way), nor more than 24 feet (two-ways); shall not be located nearer than 10 feet to any lot line; and shall be so laid out as to avoid the necessity of any vehicle backing into any public right-of-way.

(vi) Vehicle lifts or pits, dismantled automobiles, all parts or supplies, goods, equipment, materials, refuse, garbage or debris shall be located within a building enclosed on all sides.

(vii) All service or repair of motor vehicles shall be conducted in a building enclosed on all sides. The requirement shall not be construed to mean that the doors to any repair shop must be kept closed at all times.

(viii) Gasoline or flammable oils in bulk shall be stored fully underground, not nearer than 10 feet to any other lot line and the top of the tank shall be not less than two feet below the surface of the ground.

(ix) Gasoline pumps or lubricating or other devices shall be located not nearer than 20 feet from any street or other lot line.

**4.** Membership clubs catering exclusively to members and their guests and private playgrounds, swimming pools, tennis courts and recreational buildings, except the following are prohibited:

(i) Exterior lighting other than that which is essential for the safety of users of the premises.

(ii) Location of any part of the building nearer than 30 feet to any street or property line unless the property adjoins a nonresidential district in which case the yard requirements of that district shall apply.

**5.** Fast-food restaurants, provided that eating on the premises of the fast-food restaurant shall be permitted only inside the structure or in areas specifically designated and properly maintained outside of the structure, and provided that the premises is not adjacent to or abutting a property on or eligible for a federal, state or local historic register.

**6.** Off-street parking, as the principal use of a lot, subject to the following requirements:

(i) The parking facility shall be designed and maintained in accordance with provisions of Section 19-4.3 of this Chapter entitled "Off-street parking and loading."

(ii) Said facility shall be utilized solely for parking registered and operable motor vehicles.

(iii) The lot and bulk requirements of this section do not pertain to any paved or resurfaced parking area; however, if a building or structure is proposed to be erected on the lot, said structure must conform to the lot and bulk requirements herein.



7. Mini-marts, subject to the following requirements:

- (i) Mini-marts shall not exceed 400 square feet in improved interior floor area, including but not limited to areas devoted to sales, coolers, storage of goods sold in the mini-mart, office space and any other facilities related to the operation of the mini-mart.
- (ii) Drive-up windows shall not be permitted.
- (iii) Arcade, game machines or any other coin-operated electronic games are prohibited.
- (iv) At least two trash receptacles shall be located next to the walkway for customer use.
- (v) An enclosed dumpster area shall be provided.
- (vi) Special consideration will be given to the impact of noise, litter, lighting and traffic on adjacent properties.
- (vii) Off-street parking shall be provided at a rate of one space for each 300 square feet of gross floor area. Said parking spaces shall be in addition to those required for the service station.
- (viii) The sale of alcoholic beverages is prohibited.
- (ix) The physical boundaries of the mini-mart must be clearly delineated on the site plan.

**8. Multiple dwellings in new structures at urban density (R-6), provided that the first floor is devoted to commercial use; and further provided that the usable open space requirements of Section 19-3.15(4)(i) are satisfied.**

**9. As a means of preserving existing sound buildings, especially historically or architecturally significant structures, as well as to encourage population in the central business area and provide an additional housing resource, conversion of existing buildings that do not meet minimum lot size requirements to residential use or additional residential units, provided that:**

- (i) A building is in existence on the effective date of this Chapter.**
- (ii) All Main Street-facing ground floor uses shall be limited to nonresidential uses.**
- (iii) No dwelling unit shall contain more than two bedrooms.**
- (iv) The minimum floor area of a dwelling unit not containing a separate bedroom shall be 400 square feet.**
- (v) The minimum floor area of a one-bedroom dwelling unit shall be 600 square feet.**
- (vi) The minimum floor area of a two-bedroom dwelling unit shall be 750 square feet.**
- (vii) Off-street parking space shall be provided in accordance with the requirements of Section 19-4.3 of this chapter, and such space shall be located within 600 feet of the premises.**

(3) *Accessory uses.* Accessory uses shall be as follows:

- (a) Off-street parking.
- (b) Buildings for housing pets; playhouses.
- (c) Garden houses, greenhouses.
- (d) Signs, subject to the requirement of Section 19-4.9 of this Chapter.
- (e) Swimming pool and/or tennis court and related recreational facilities, subject to the requirements of Sections 19-4.7 and/or 19-4.9 of this chapter.
- (f) Fully enclosed storage.
- (g) Cafeteria and recreational facility for employees or clientele.

(4) *Lot and bulk requirements.* Lot and bulk requirements shall be as follows:

- (a) Minimum lot area required: none.
- (b) Minimum required frontage: 40 feet.
- (c) Minimum required yards:

- 1. Front: 10 feet.
- 2. Side: 10 feet.
- 3. Rear: 20 feet.

Except as otherwise specified, where a use in a C-2A District is within 50 feet of an R-1 through R-6 District or property on or eligible for a federal, state or local historic register, a landscaped buffer of at least 20 feet shall be provided along the property line.

- (d) Maximum FAR: 2.0.
- (e) Maximum lot coverage: 60%.

(5) *Parking and loading.* Off-street parking and loading spaces shall be provided in accordance with Section 19-4.3 of this chapter.

(6) *Landscaping and screening.* Landscaping and screening shall be provided, subject to the requirements of Section 19-4.11 of this chapter.

**SECTION 2.** This Local Law shall take effect immediately upon filing with the New York State Secretary of State.

**SECONDED BY COUNCILMEMBER** \_\_\_\_\_

**R E S O L U T I O N**  
**(R-23-36)**

**INTRODUCED BY CHAIRWOMAN BROWN:**

**WHEREAS**, the members of the Board of Assessment Review are appointed by the Common Council pursuant to the City of Poughkeepsie Administrative Code §5.02(1) and the Section 523 of the New York Real Property Tax Law; and

**WHEREAS**, the Common Council has deemed applicant James Patterson as qualified and are desirous of appointing him to the Board of Assessment Review.

**NOW, THEREFORE,**

**BE IT RESOLVED** that the Common Council of the City of Poughkeepsie does hereby appoint James Patterson to the Board of Assessment Review to fill an unexpired vacant term of five (5) years commencing immediately and expiring September 30, 2027.

**SECONDED BY COUNCILMEMBER** \_\_\_\_\_

**RESOLUTION**  
**(R-23-37)**

**INTRODUCED BY COUNCILMEMBER LONG \_\_\_\_\_:**

**WHEREAS**, the council chair shall have the authority and the duty to appoint members committees as she decides necessary to efficiently conduct the business of the council; and

**WHEREAS**, the Common Council Chairwoman, Natasha Brown, has established a Housing Solutions Committee for purposes of discussing and collaborating on potential ways to address the significant housing issues facing the City of Poughkeepsie; and

**WHEREAS**, the following individuals are appointed to the Housing Solutions Committee by the Chairwoman and supported by the Common Council

**NOW, THEREFORE,**

**BE IT RESOLVED** that the Chairwoman appoints the following individuals to the Housing Solutions Committee and these appointments are supported by the Common Council as shown by the vote on this resolution:

Daniel Atonna  
Alan Arnfield  
Janet Salisbury  
Quincy Williams  
Darrett Roberts  
Rose Graziano-Moffett

**SECONDED BY COUNCILMEMBER \_\_\_\_\_**

# BRANDON J. BRODERICK

ATTORNEY AT LAW

A Limited Liability Company

65 East Route 4, First Floor  
RIVER EDGE, NEW JERSEY 07661

PHONE: 201-853-1505

FAX: 201-489-0878

NJ BAR

March 20, 2023

City of Poughkeepsie  
City Chamberlain – 1<sup>st</sup> Floor  
62 Civic Center Plaza  
Poughkeepsie, NY 12601  
**Attn: Tort Claims Unit/Legal Dept**  
**FedEx#: 7716 4803 5501**  
**RRR#: 9414 8149 0225 0580 2685 89**  
**Via Personal Service**

City of Poughkeepsie – Public Works  
26 Howard Street  
Poughkeepsie, NY 12601  
**Attn: Tort Claims Unit/Legal Dept**  
**FedEx#: 7716 4804 5053**  
**RRR#: 9414 8149 0225 0580 2685 96**  
**Via Personal Service**

CITY OF POUGHKEEPSIE  
CITY CHAMBERLAIN  
2023 MAR 27 AM 10:29

Re:

Accident Date: **01/02/2023**

My Client(s): **Ms. Jill Schneiderman**

Location: **On the northeast corner of the intersection of  
Adriance Avenue and Loockerman Avenue, in  
the City of Poughkeepsie, NY**

Dear Sir/Madam:

Please find enclosed notice to the City of Poughkeepsie and the City of Poughkeepsie Public Works pursuant to the General Municipal Law.

Kindly turn this letter over to your insurance carrier and have them contact me.

Very truly yours,



BRANDON J. BRODERICK ESQ.

BJB/ans  
Enclosure (s)

## NOTICE OF CLAIM FOR DAMAGES

**1. Name & Addresses:**

**Ms. Jill Schneiderman  
38 Barnard Avenue  
Poughkeepsie, NY 12601**

**2. Date of Birth & Social Security No. of  
Claimant(s):**

**03/13/1959  
To Be Provided**

**3. Send all correspondence to:**

**Brandon J. Broderick, Esq.  
65 East Route 4, First Floor  
River Edge, New Jersey 07661**

**4. Date of Incident:**

**01/02/2023**

**5. Place of Incident:**

**On the northeast corner of the intersection of  
Adriance Avenue adjacent to its border with  
Loockerman Avenue, in the City of Poughkeepsie,  
NY**

**6. Description of Incident:**

**Claimant, Ms. Jill Schneiderman was walking at  
the above-mentioned location when she was caused  
to trip and fall due to the uneven ground and raised  
municipal sidewalk which trap like defects were  
long known to the respondents and were created by  
them. (Please see attached photos).**

**7. Name of Public entity causing injury and/or  
damage:**

**City of Poughkeepsie and the City of Poughkeepsie  
Public Works pursuant to the General Municipal  
Law.**

**8. Injuries Incurred:**

**Injuries to claimant include but are not limited to  
her right upper extremities.**

**9. Amount of Claim:**

**In an amount to be determined at the trial of this  
action; an amount exceeding the jurisdictional  
limits of all lower courts in the state of New York.**

**Date: 03/20/2023**



**Brandon J. Broderick, Esq.  
Attorney for and on the behalf of Ms. Jill  
Schneiderman**

**ATTORNEY VERIFICATION**

**Brandon J. Broderick, Esq.**, an attorney duly admitted to practice law before the Courts of the State of New York, affirms the truth of the following matters under penalty of perjury:

I am associated with the law firm of BRANDON J. BRODERICK ESQ., Esq., LLC attorneys for the claimant in the within matter, and as such am fully familiar with facts and circumstances constituting the within action.

I have read the foregoing **Notice of Claim** and know the contents thereof to be true to my own knowledge, except as to those matters alleged therein upon information and belief, and as to those matters, I believe them to be true.

The sources of my belief as those matters alleged upon information and belief are as follows: conversations with my client, investigation, research, and review of the file in this matter.

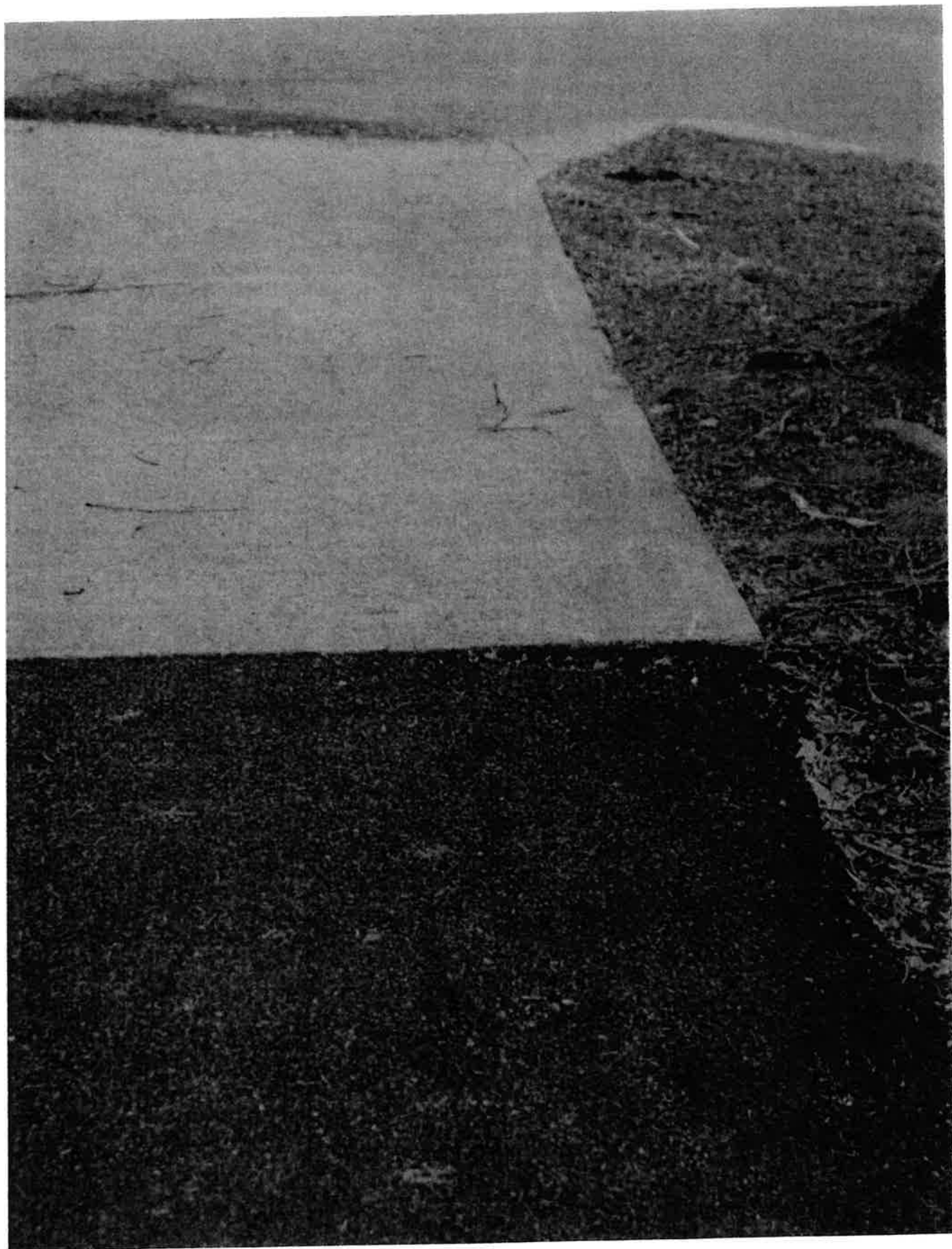
The reason that this verification is being made by me and not the Claimant personally is that Claimant is presently not within the county where I maintain my office for the practice of law.

Dated: New York, New York  
March 24\_\_\_\_, 2023

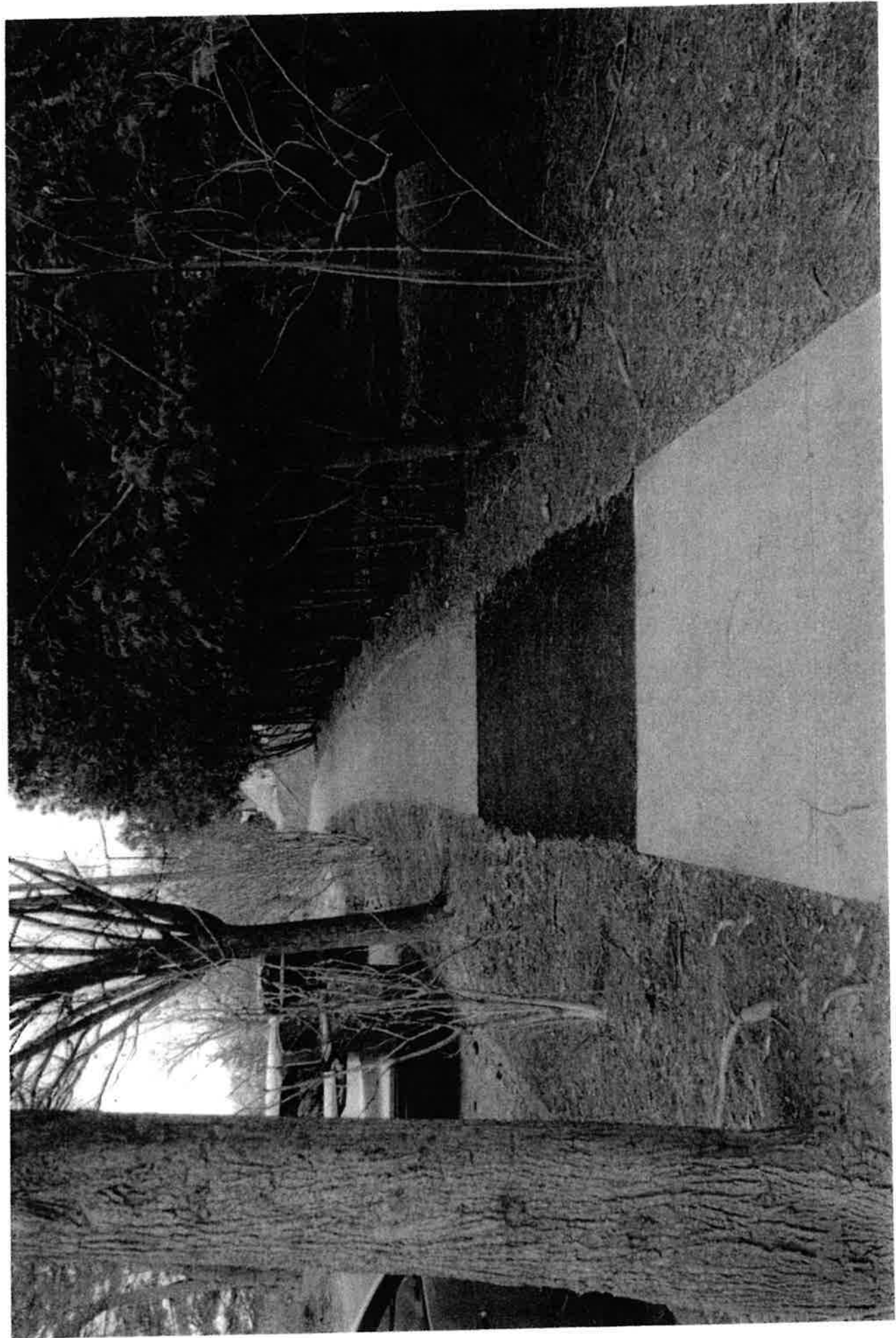
**BRANDON J. BRODERICK, ESQ.,**

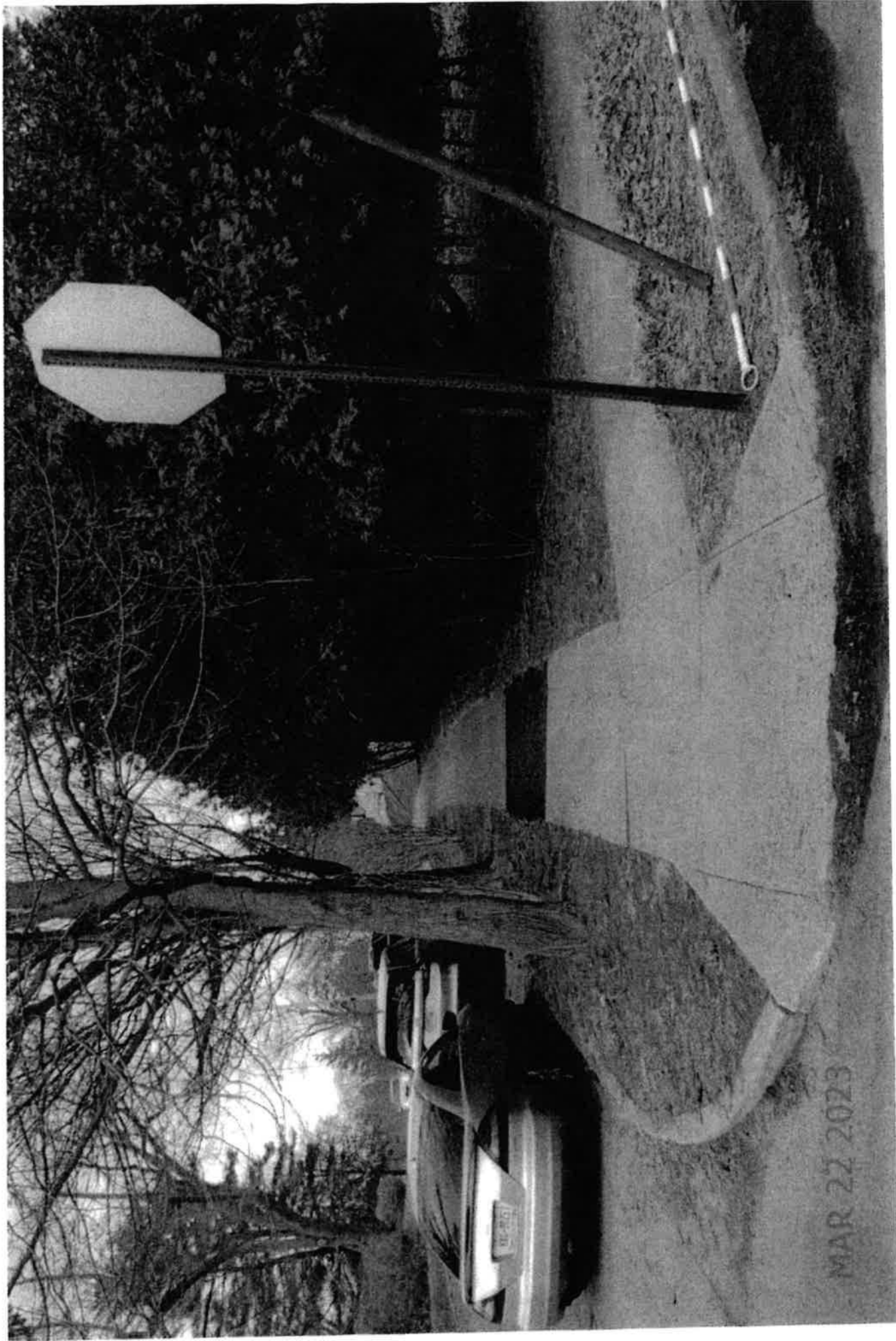
By: \_\_\_\_\_  
Brandon J. Broderick, Esq.

*Attorneys for Claimant*  
65 State Route 4, East  
River Edge New Jersey 07661  
Telephone: (201) 853-1505









PLEASE PRINT OR TYPE FORM CLEARLY

**NOTE:** Claim must be filed with and served to the City Chamberlain in triplicate (3 copies) within 90 days after the claim arises. Use additional sheets if necessary.

**NOTICE OF CLAIM  
AGAINST  
THE CITY OF POUGHKEEPSIE, NEW YORK**

TODAY'S DATE: March 17, 2023

NAME AND ADDRESS OF EACH CLAIMANT:

TELEPHONE NUMBER: (845) 392-0377

NAME AND ADDRESS OF ATTORNEY (IF ANY):

DESCRIBE WHAT HAPPENED AND AMOUNT CLAIMED (PLEASE STATE DATE, TIME, LOCATION, AND MANNER IN WHICH CLAIM AROSE):

11:3:45 pm on March 20th 2023 / Public Lot N. White Street  
I WAS backing out of PARKING SPACE & pulling forward when my vehicle fell into catch basin & as I pulled forward the back tire hit the same  
ITEMS DAMAGED OR INJURIES SUSTAINED:

Quote & Items Damaged See  
Attached Sheet - total 2,056.44

Signature

Signature

STATE OF NEW YORK, COUNTY OF Dutchess s.s.:

Daymon Sutton being duly sworn, say(s) that he/she is/are the claimant(s) named in the foregoing claim, that he/she has/have read the same and know(s) the contents thereof; that the same is true to his/her own knowledge, except as to the matters alleged upon information and belief and as to those items, he/she believes it to be true.

Signature of Claimant

Signature of Claimant

Sworn to before me this

21 day of March, 2023

Notary Public

LILLIAN ANNE HOMMEL  
Notary Public - State of New York  
NO. 01H06262190  
Qualified in Dutchess County  
My Commission Expires May 21, 2024

**NOTE:** Claim must be filed with and served to the City Chamberlain in triplicate (3 copies) within 90 days after the claim arises. Use additional sheets if necessary.

After submitting this form to the City Chamberlain, please direct any inquiries to the Corporation Counsel at (845) 451-4065, Monday to Friday, 8:30 a.m. to 4:00 p.m.

CITY OF POUGHKEEPSIE  
CITY CHAMBERLAIN  
MAR 22 PM 12:28

Catch Basin  
Corp. Counsel  
Tel: (845) 451-4065



2285-2291 South Rd. (Rt. 9) Poughkeepsie, NY 12601  
 \*\*\*845-462-7700 WWW.DUTCHESSCARS.COM\*\*\*



76891 SUT

|                                                          |                   |                              |            |                         |             |                |            |             |
|----------------------------------------------------------|-------------------|------------------------------|------------|-------------------------|-------------|----------------|------------|-------------|
| DAYMON SUTTON<br>328 CHURCH ST<br>POUGHKEEPSIE, NY 12601 |                   | VEHICLE ID                   |            | MILES IN                | MILES OUT   | DATE/TIME IN   | DATE OUT   | INVOICE NO. |
|                                                          |                   | 1C4RJFJG8EC129712            |            | 187445                  | 187445      | 03/21/23 08:52 | 03/21/23   | 76891       |
|                                                          |                   | VEHICLE DESCRIPTION          |            |                         |             |                | TAG NO.    | STATUS      |
|                                                          |                   | 2014 JEEP GRAND CHER (BLACK) |            |                         |             |                |            | COMPLETE    |
| CONTROL NO.                                              | LICENSE PLATE NO. | CUST. LABOR RATE             | PROD. DATE | IN-SERV DATE            | DELIV. DATE | DELIV. MILES   | TERMS      |             |
| 084454                                                   |                   | 170.0                        |            |                         |             |                | Cash       |             |
| HOME                                                     | WORK PHONE        | CELL PHONE                   | STOCK NO.  | SERV. ADV.              |             |                | TO COMMENT |             |
| (845) 392-0377                                           |                   |                              |            | MINO SANTIAGO-CABALLERO |             |                |            |             |

PAYMENT METHOD:  
 CASH [ ] CHECK [ ] CREDIT CARD [ ] CHARGE [ ]

EXPRESSED LIMITED WARRANTY ON LABOR IS 90 DAYS OR 3,000 MILES,  
 WHICHEVER COMES FIRST.  
 ALL PARTS INSTALLED ARE NEW UNLESS SPECIFIED OTHERWISE.

| Line          | Op-Code                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Fail Code | Tech | Hours | Type     | Amount   |
|---------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|------|-------|----------|----------|
| A             | 70                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |           | A15  |       | Customer | \$170.00 |
| Concern       | General Concern #2 [ Customer States vehicle fell in to drainage hole on passenger side of vehicle. check and advise for and damaged or parts that need to be replaced ]                                                                                                                                                                                                                                                                                                                                                                                                   |           |      |       |          |          |
| Cause         | PERFORMED A VISUAL INSPECTION BY REMOVING THE WHEELS AND FOUND ROAD FORCED BALANCED RIGHT SIDE WHEELS DUE TO HITTING STORM DRAIN FOUND RIMS ARE NOT BENT FOUND EXCESSIVE ROADFORCE DUE TO VEHICLE HITTING THE STORM DRAIN VEHICLE NEEDS TIRES ALL 4 TIRES AND ALIGNMENT DUE TO EXCESSIVE WEAR ON THE RIGHT SIDE TIRES. VISUALLY CHECKED PASSENGER SIDE FOR DAMAGED COMPONENTS FOUND RIGHT FRONT OUTER TIE ROD BOOT IS TORN FOUND UPPER CONTROL ARM IN THE FRONT HAVE PLAY IN THEM DUE TO HITTING STORM DRAIN. STORM DRAIN CAUSED VEHICCLE DAMAGE ON RIGHT SIDE COMPONENTS. |           |      |       |          |          |
| Correction    | WILL WAIT ON CUSTOMER APPROVAL                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |           |      |       |          |          |
| Line Total... |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |           |      |       |          | \$170.00 |
| B +           | 90                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |           | A15  |       | Internal |          |
| Concern       | MSER08; THANK YOU FOR YOUR BUSINESS. WE WILL BE SENDING YOU A SURVEY REGARDING YOUR EXPERIENCE TODAY. THE SURVEY IS OUR REPORT CARD, ANY SCORE LESS THAN A 10 IS A FAILING GRADE. IF FOR ANY REASON YOU ARE NOT ABLE TO GIVE US A PERFECT SCORE PLEASE CONTACT YOUR SERVICE ADVISOR                                                                                                                                                                                                                                                                                        |           |      |       |          |          |

Warranty Claim Type: W

Authorization Code:

Service Cont No:

|                                                          |                   |                              |            |                         |             |                |            |             |
|----------------------------------------------------------|-------------------|------------------------------|------------|-------------------------|-------------|----------------|------------|-------------|
| DAYMON SUTTON<br>328 CHURCH ST<br>POUGHKEEPSIE, NY 12601 |                   | VEHICLE ID                   |            | MILES IN                | MILES OUT   | DATE/TIME IN   | DATE OUT   | INVOICE NO. |
|                                                          |                   | 1C4RJFJG8EC129712            |            | 187445                  | 187445      | 03/21/23 08:52 | 03/21/23   | 76891       |
|                                                          |                   | VEHICLE DESCRIPTION          |            |                         |             |                | TAG NO.    | STATUS      |
|                                                          |                   | 2014 JEEP GRAND CHER (BLACK) |            |                         |             |                |            | COMPLETE    |
| CONTROL NO.                                              | LICENSE PLATE NO. | CUST. LABOR RATE             | PROD. DATE | IN-SERV DATE            | DELIV. DATE | DELIV. MILES   | TERMS      |             |
| 084454                                                   |                   | 170.0                        |            |                         |             |                | Cash       |             |
| HOME                                                     | WORK PHONE        | CELL PHONE                   | STOCK NO.  | SERV. ADV.              |             |                | TO COMMENT |             |
| (845) 392-0377                                           |                   |                              |            | MINO SANTIAGO-CABALLERO |             |                |            |             |

Totals

|                  | Amount   |
|------------------|----------|
| Labor            | \$170.00 |
| SalesTax         | \$13.81  |
| Total Amount Due | \$183.81 |
| Amount Due       | \$183.81 |

#### STATEMENT OF DISCLAIMER

The factory warranty constitutes all of the warranties with respect to the sale of this item/items. The Seller hereby expressly disclaims all warranties either express or implied, including any implied warranty of merchantability or fitness for a particular purpose. Seller neither assumes nor authorizes any other person to assume for it any liability in connection with the sale of this item/items.

X

CUSTOMER SIGNATURE

On behalf of servicing dealer, I hereby certify that the information contained hereon is accurate unless otherwise shown. Warranty services described were performed at no charge to owner. There was no indication from the appearance of the vehicle or otherwise, that any part repaired or replaced under this claim had been connected in any way with any accident, negligence, or misuse. Records supporting this claim are available for (1) year from the date of payment notification at the servicing dealer for inspection by manufacturer's representative.

X

(SIGNED) DEALER, GENERAL MANAGER OR AUTHORIZED PERSON  
(DATE)

**DUTCHESS CHRYSLER DODGE RAM JEEP KIA**  
**(845) 462-7700**

Mar 21, 2023 10:09 AM

Home:  
Mobile:  
Work:  
Email:

YMMS: 2014 Jeep Grand Cherokee Summit  
Engine: 3.6L Eng  
License:  
VIN: 1C4RJFJG8EC129712  
Odometer:

| TYPE          | DESCRIPTION            | PART # | QTY | PRICE    | RATE     | HOURS | LINE TOTAL |
|---------------|------------------------|--------|-----|----------|----------|-------|------------|
| Parts         | CONTROL ARMS           |        | 2.0 | \$186.00 | -        | -     | \$372.00   |
| Labor         | LABOR FOR CONTROL ARMS | -      | -   | -        | \$170.00 | 2.5   | \$425.00   |
| Labor         | DIAG                   | -      | -   | -        | \$170.00 | 1.0   | \$170.00   |
| Parts         | TIRES                  |        | 3.0 | \$289.56 | -        | -     | \$868.68   |
| Parts         | TIRE                   |        | 1.0 | \$1.00   | -        | -     | \$1.00     |
| Labor         | TIRE LABOR             | -      | -   | -        | \$170.00 | 0.5   | \$85.00    |
| Sublet / Misc | DISPOSAL               | -      | -   | -        | -        | -     | \$10.00    |
| Sublet / Misc | ALIGNMENT              | -      | -   | -        | -        | -     | \$129.95   |

Labor: \$819.95

Parts: \$1,241.68

Shop Supplies: \$0.00

Hazardous Materials: \$0.00

Labor Taxes: \$66.62

Parts Taxes: \$100.89

**TOTAL: \$2,229.14**

Customer Signature: \_\_\_\_\_

23-6738



City of  
Poughkeepsie  
Police Department

Police Officer  
Dale Kane  
Badge #23

[Dkane@cityofpoughkeepsie.com](mailto:Dkane@cityofpoughkeepsie.com)



PLEASE PRINT OR TYPE FORM CLEARLY

NOTE: Claim must be filed with and served to the City Chamberlain in triplicate (3 copies) within 90 days after the claim arises. Use additional sheets if necessary.

NOTICE OF CLAIM  
AGAINST  
THE CITY OF POUGHKEEPSIE, NEW YORK

TODAY'S DATE: 3/20/23

NAME AND ADDRESS OF EACH CLAIMANT:

Shavonna Holman  
101 Smith St apt 2  
Poughkeepsie NY 12601

TELEPHONE NUMBER: 845-518-5780

NAME AND ADDRESS OF ATTORNEY (IF ANY):

DESCRIBE WHAT HAPPENED AND AMOUNT CLAIMED (PLEASE STATE DATE, TIME, LOCATION, AND MANNER IN WHICH CLAIM AROSE): A Tree branch fell on top of my car and dented the roof on the passenger rear side of the car.

ITEMS DAMAGED OR INJURIES SUSTAINED: roof on the car near the passenger rear end of the car.

Shavonna Holman  
Signature of Claimant

[Signature]  
Signature of Claimant

STATE OF NEW YORK, COUNTY OF Dutchess s.s.:

Shavonna Holman being duly sworn, say(s) that he/she is/are the claimant(s) named in the foregoing claim, that he/she has/have read the same and know(s) the contents thereof; that the same is true to his/her own knowledge, except as to the matters alleged upon information and belief and as to those items, he/she believes it to be true.

Shavonna Holman  
Signature of Claimant

[Signature]  
Signature of Claimant

Sworn to before me this 20th day of March, 2023

Talitha G. Samuels  
Notary Public

TALITHA G. SAMUELS  
Notary Public, State of New York  
Reg. #01SA6125978  
Qualified in Dutchess County  
Commission Expires 4-25-25

NOTE: After submitting this form to the City Chamberlain, please direct any inquires to the Corporation Counsel at (845) 451-4065, Monday to Friday, 8:30 a.m. - 4:00 p.m.

CITY OF POUGHKEEPSIE  
CITY CHAMBERLAIN  
2023 MAR 27 PM 3:36



**Vince's Auto Body Works**  
Email: info@vincesautobodyworks.com  
QUALITY SERVICE SINCE 1946  
185 Smith Street, Poughkeepsie, NY 12601  
Phone: (845) 454-3220  
FAX: (845) 485-4111

Workfile ID: d59c4ea9  
PartsShare: 7fQGrV  
Federal ID: 14-1677303  
State ID: 7034149  
License Number: RS# 7034149

### Preliminary Estimate

**Customer: Holman, Shavonna**

Written By: DEVANAND JAIKARRAN

Insured: Holman, Shavonna  
Type of Loss:  
Point of Impact:

Policy #:  
Date of Loss:

Claim #:  
Days to Repair: 0

**Owner:**  
Holman, Shavonna  
(845) 518-5780 Cell

**Inspection Location:**  
Vince's Auto Body Works  
185 Smith Street  
Poughkeepsie, NY 12601  
Repair Facility  
(845) 454-3220 Business

**Insurance Company:**

### VEHICLE

2021 NISS Sentra SV w/Continuously Variable Transmission 4D SED 4-2.0L Gasoline Gasoline Direct Injection

|                        |                         |                    |                 |
|------------------------|-------------------------|--------------------|-----------------|
| VIN: 3N1AB8CV2MY261780 | Interior Color:         | Mileage In: 12,182 | Vehicle Out: -- |
| License:               | Exterior Color:         | Mileage Out:       | Job #:          |
| State: NY              | Production Date: 3/2021 | Condition:         |                 |

#### TRANSMISSION

Automatic Transmission

#### POWER

Power Steering  
Power Brakes  
Power Windows  
Power Locks  
Power Mirrors  
Heated Mirrors

#### DECOR

Dual Mirrors  
Tinted Glass  
Console/Storage  
Overhead Console

#### CONVENIENCE

Air Conditioning  
Intermittent Wipers  
Tilt Wheel  
Cruise Control  
Rear Defogger  
Keyless Entry  
Alarm  
Message Center  
Steering Wheel Touch Controls  
Telescopic Wheel  
Climate Control  
Remote Starter  
Backup Camera  
Parking Sensors  
Intelligent Cruise

#### RADIO

AM Radio  
FM Radio  
Stereo  
Search/Seek  
Satellite Radio

#### SAFETY

Drivers Side Air Bag  
Passenger Air Bag  
Anti-Lock Brakes (4)  
4 Wheel Disc Brakes  
Front Side Impact Air Bags  
Head/Curtain Air Bags  
Hands Free Device  
Rear Side Impact Air Bags

Blind Spot Detection  
Lane Departure Warning

#### SEATS

Cloth Seats  
Bucket Seats

#### WHEELS

Aluminum/Alloy Wheels

#### PAINT

Clear Coat Paint

#### OTHER

Traction Control  
Stability Control  
Power Trunk/Liftgate

Get live updates at [www.carwise.com/e/4tgL7F](http://www.carwise.com/e/4tgL7F)

# Preliminary Estimate

**Customer: Holman, Shavonna**

2021 NISS Sentra SV w/Continuously Variable Transmission 4D SED 4-2.0L Gasoline Gasoline Direct Injection

| Line             | Oper                               | Description                          | Part Number | Qty | Extended Price \$ | Labor       | Paint      |
|------------------|------------------------------------|--------------------------------------|-------------|-----|-------------------|-------------|------------|
| 1                | <b>ROOF</b>                        |                                      |             |     |                   |             |            |
| 2                | Repl                               | RT Roof molding                      | 738526LB0A  | 1   | 72.13             | 0.4         |            |
| 3                | *                                  | Rpr Roof panel w/satellite radio     |             |     |                   | 6.0         | 3.0        |
| 4                |                                    | Add for Clear Coat                   |             |     |                   |             | 1.2        |
| 5                | <b>PILLARS, ROCKER &amp; FLOOR</b> |                                      |             |     |                   |             |            |
| 6                | *                                  | Rpr RT Aperture panel w/o 18" wheels |             |     |                   | 7.0         | 4.2        |
| 7                |                                    | Overlap Major Adj. Panel             |             |     |                   |             | -0.4       |
| 8                |                                    | Add for Clear Coat                   |             |     |                   |             | 0.8        |
| 9                | <b>REAR DOOR</b>                   |                                      |             |     |                   |             |            |
| 10               | R&I                                | RT R&I door assy                     |             |     |                   | 1.0         |            |
| <b>SUBTOTALS</b> |                                    |                                      |             |     | <b>72.13</b>      | <b>14.4</b> | <b>8.8</b> |

## ESTIMATE TOTALS

| Category           | Basis         | Rate         | Cost \$         |
|--------------------|---------------|--------------|-----------------|
| Parts              |               |              | 72.13           |
| Body Labor         | 14.4 hrs @    | \$ 55.00 /hr | 792.00          |
| Paint Labor        | 8.8 hrs @     | \$ 55.00 /hr | 484.00          |
| Paint Supplies     | 8.8 hrs @     | \$ 40.00 /hr | 352.00          |
| Subtotal           |               |              | 1,700.13        |
| Sales Tax          | \$ 1,700.13 @ | 8.1250 %     | 138.14          |
| <b>Grand Total</b> |               |              | <b>1,838.27</b> |

All vehicle parts are O.E.M. unless stated otherwise. Paint, coatings are PPG, 3M and others. Part/labor prices are current and subject to change. Shop is not responsible for damages hidden or otherwise overlooked by its employees. This estimate does not obligate this shop to repair this vehicle.

\*\*\*\*\*  
 AUTHORIZATION OF REPAIRS: I authorize Vince's Auto Body Works to make the enclosed described repairs. Their employees and/or agents may road test my vehicle as they see fit. I agree that this shop is not responsible for vehicle damage, theft, fire and/or loss due to reasons beyond their normal control. Old parts will be junked unless instructed otherwise. Signed: \_\_\_\_\_ Date: \_\_\_\_\_

Time: \_\_\_\_\_  
 \*\*\*\*\*  
 DIRECTION OF PAY: I authorize \_\_\_\_\_ to make payment for the supplemental repairs to my vehicle directly to Vince's Auto Body Works in my behalf. Amount (if known) \$ \_\_\_\_\_  
 Signed \_\_\_\_\_ Date \_\_\_\_\_

PURSUANT TO SECTION 2610 OF THE INSURANCE LAW, AN INSURANCE COMPANY CANNOT REQUIRE THAT REPAIRS BE MADE TO A MOTOR VEHICLE IN A PARTICULAR PLACE OR REPAIR SHOP. YOU HAVE THE RIGHT TO HAVE YOUR VEHICLE REPAIRED IN THE SHOP OF YOUR CHOICE.

## Preliminary Estimate

---

**Customer: Holman, Shavonna**

2021 NISS Sentra SV w/Continuously Variable Transmission 4D SED 4-2.0L Gasoline Gasoline Direct Injection

ANY PERSON WHO KNOWINGLY AND WITH INTENT TO DEFRAUD ANY INSURANCE COMPANY OR OTHER PERSON FILES AN APPLICATION FOR COMMERCIAL INSURANCE OR A STATEMENT OF CLAIM FOR ANY COMMERCIAL OR PERSONAL INSURANCE BENEFITS CONTAINING ANY MATERIALLY FALSE INFORMATION, OR CONCEALS FOR THE PURPOSE OF MISLEADING, INFORMATION CONCERNING ANY FACT MATERIAL THERETO, AND ANY PERSON WHO, IN CONNECTION WITH SUCH APPLICATION OR CLAIM, KNOWINGLY MAKES OR KNOWINGLY ASSISTS, ABETS, SOLICITS OR CONSPIRES WITH ANOTHER TO MAKE A FALSE REPORT OF THE THEFT, DESTRUCTION, DAMAGE OR CONVERSION OF ANY MOTOR VEHICLE TO A LAW ENFORCEMENT AGENCY, THE DEPARTMENT OF MOTOR VEHICLES OR AN INSURANCE COMPANY, COMMITS A FRAUDULENT INSURANCE ACT, WHICH IS A CRIME, AND SHALL ALSO BE SUBJECT TO A CIVIL PENALTY NOT TO EXCEED FIVE THOUSAND DOLLARS AND THE VALUE OF THE SUBJECT MOTOR VEHICLE OR STATED CLAIM FOR EACH VIOLATION.

You are entitled to the return of all replaced parts, except warranty and exchange parts, but you must ask for them in writing before any work is done. If you authorize work by phone, the shop must keep any replaced parts, and make them available when you pick up the vehicle.

## Preliminary Estimate

**Customer: Holman, Shavonna**

2021 NISS Sentra SV w/Continuously Variable Transmission 4D SED 4-2.0L Gasoline Gasoline Direct Injection

Estimate based on MOTOR CRASH ESTIMATING GUIDE and potentially other third party sources of data. Unless otherwise noted, (a) all items are derived from the Guide ARF3739, CCC Data Date 03/17/2023, and potentially other third party sources of data; and (b) the parts presented are OEM-parts. OEM parts are manufactured by or for the vehicle's Original Equipment Manufacturer (OEM) according to OEM's specifications for U.S. distribution. OEM parts are available at OE/Vehicle dealerships or the specified supplier. OPT OEM (Optional OEM) or ALT OEM (Alternative OEM) parts are OEM parts that may be provided by or through alternate sources other than the OEM vehicle dealerships with discounted pricing. Asterisk (\*) or Double Asterisk (\*\*) indicates that the parts and/or labor data provided by third party sources of data may have been modified or may have come from an alternate data source. Tilde sign (~) items indicate MOTOR Not-Included Labor operations. The symbol (<>) indicates the refinish operation WILL NOT be performed as a separate procedure from the other panels in the estimate. Non-Original Equipment Manufacturer aftermarket parts are described as Non OEM, A/M or NAGS. Used parts are described as LKQ, RCY, or USED. Reconditioned parts are described as Recond. Recored parts are described as Recore. NAGS Part Numbers and Benchmark Prices are provided by National Auto Glass Specifications. Labor operation times listed on the line with the NAGS information are MOTOR suggested labor operation times. NAGS labor operation times are not included. Pound sign (#) items indicate manual entries.

Some 2023 vehicles contain minor changes from the previous year. For those vehicles, prior to receiving updated data from the vehicle manufacturer, labor and parts data from the previous year may be used. The CCC ONE estimator has a list of applicable vehicles. Parts numbers and prices should be confirmed with the local dealership.

The following is a list of additional abbreviations or symbols that may be used to describe work to be done or parts to be repaired or replaced:

### SYMBOLS FOLLOWING PART PRICE:

m=MOTOR Mechanical component. s=MOTOR Structural component. T=Miscellaneous Taxed charge category.  
X=Miscellaneous Non-Taxed charge category.

### SYMBOLS FOLLOWING LABOR:

D=Diagnostic labor category. E=Electrical labor category. F=Frame labor category. G=Glass labor category.  
M=Mechanical labor category. S=Structural labor category. (numbers) 1 through 4=User Defined Labor Categories.

### OTHER SYMBOLS AND ABBREVIATIONS:

Adj.=Adjacent. Algn.=Align. ALU=Aluminum. A/M=Aftermarket part. Blend=Blend. BOR=Boron steel.  
CAPA=Certified Automotive Parts Association. D&R=Disconnect and Reconnect. HSS=High Strength Steel.  
HYD=Hydroformed Steel. Incl.=Included. LKQ=Like Kind and Quality. LT=Left. MAG=Magnesium. Non-Adj.=Non  
Adjacent. NSF=NSF International Certified Part. O/H=Overhaul. Qty=Quantity. Refn=Refinish. Repl=Replace.  
R&I=Remove and Install. R&R=Remove and Replace. Rpr=Repair. RT=Right. SAS=Sandwiched Steel.  
Sect=Section. Subl=Sublet. UHS=Ultra High Strength Steel. N=Note(s) associated with the estimate line.

CCC ONE Estimating - A product of CCC Intelligent Services Inc.

The following is a list of abbreviations that may be used in CCC ONE Estimating that are not part of the MOTOR CRASH ESTIMATING GUIDE:

BAR=Bureau of Automotive Repair. EPA=Environmental Protection Agency. NHTSA= National Highway  
Transportation and Safety Administration. PDR=Paintless Dent Repair. VIN=Vehicle Identification Number.

PLEASE PRINT OR TYPE FORM CLEARLY

NOTE: Claim must be filed with and served to the City Chamberlain in triplicate (3 copies) within 90 days after the claim arises. Use additional sheets if necessary.

NOTICE OF CLAIM  
AGAINST  
THE CITY OF POUGHKEEPSIE, NEW YORK

TODAY'S DATE: 3/27/23  
NAME AND ADDRESS OF EACH CLAIMANT:

TELEPHONE NUMBER: (425)-501-6031

NAME AND ADDRESS OF ATTORNEY (IF ANY):

DESCRIBE WHAT HAPPENED AND AMOUNT CLAIMED (PLEASE STATE DATE, TIME, LOCATION, AND MANNER IN WHICH CLAIM AROSE):

*Maneuverable under low abiding traffic circumstances damaged personal vehicle tire causing to get a new one on 3/27/23 at 9:20 am close to Palace Diner*  
ITEMS DAMAGED OR INJURIES SUSTAINED:  
*Front passenger left tire*

*[Signature]*  
Signature of Claimant

\_\_\_\_\_  
Signature of Claimant

STATE OF NEW YORK, COUNTY OF DUTCHESS s.s.:

Michael Rodriguez being duly sworn, say(s) that he/she is/are the claimant(s) named in the foregoing claim, that he/she/has/have read the same and know(s) the contents thereof; that the same is true to his/her own knowledge, except as to the matters alleged upon information and belief and as to those items, he/she believes it to be true.

*[Signature]*  
Signature of Claimant

\_\_\_\_\_  
Signature of Claimant

Sworn to before me this  
27<sup>th</sup> day of March, 2023  
*[Signature]*  
Notary Public

ALMA J COVONE  
NOTARY PUBLIC, State of New York  
No. 04CO6367801  
Qualified in Dutchess County  
Commission Expires 11/27/2025

NOTE: After submitting this form to the City Chamberlain, please direct any inquires to the Corporation Counsel at (845) 451-4065, Monday to Friday, 8:30 a.m. - 4:00 p.m.



# MAVIS DISCOUNT TIRE

AMERICA'S TIRE DISCOUNTER

If you are not 100% satisfied with the service you have received, please call 1-800-757-4291

Poughkeepsie 2 Mavis  
33 Parker Avenue  
Poughkeepsie NY 12601  
Facility #: 7113875, NY 12601  
Phone: (845) 486-9177

ST:0150 WO:00123623 INV:00084694

RODRIQUEZ, MICHEAL  
6 DAVIS AVE  
ARLINGTON NY 12603

1/0150

E-mail :

michaelusa42701@gmail.com

18 JEEP  
COMPASS  
00123623

In: 29336  
KRL6751 /NY Out: 29336 (425)501-6031 0 00

0003

Opened by Operator # 1502  
03/27/2023 00084694  
03/27/23 12:52:18 1501

CASH SALE

2018 JEEP COMPASS 4 Dr Sport Utility AWD Latitude (225/60R17 99 T) VIN:3C4N  
JDBB8JT308241

|                         |                                 |                             |
|-------------------------|---------------------------------|-----------------------------|
| 28953727                | 215/55ZR17                      | Falk Ziex ZE-950            |
| 1 121.99 12 0.00 121.99 |                                 |                             |
| 28953727                |                                 | Dollar Discount             |
| 30.00 12 30.00-         |                                 |                             |
|                         |                                 | R35                         |
| 217                     | (17" RIM)                       | COMPUTER BALANCE PACKAGE    |
| 1 19.99 12 0.00 19.99   |                                 |                             |
|                         | TEST TPMS SYSTEM & BATTERIES    |                             |
| 1100K                   | TPMS - SERVICE PACK WITH LABOR  |                             |
| 1 9.99 12 0.00 9.99     |                                 |                             |
|                         | replace p/f tire                |                             |
| CKT                     | CUSTOMER STATES CHECK TIRES     |                             |
| 1 0.00 12 0.00 0.00     |                                 |                             |
|                         | TEST TPMS SYSTEM & BATTERIES    |                             |
|                         | low milres                      |                             |
|                         | customer states wipers are good |                             |
| DOT F01:R8LMLMPR5022    |                                 |                             |
| R35                     | EXTENDED                        | WARRANTY BY TREAD DEPTH     |
| 1 14.99 12 0.00 14.99   |                                 |                             |
| 305                     |                                 | Mavis tire recycling charge |
| 1 3.50 12 0.00 3.50     |                                 |                             |

Method of Payment: 154.36  
CASH TENDERED: .00  
CHANGE:

C O N T I N U E D . . . .



# MAVIS DISCOUNT TIRE

AMERICA'S TIRE DISCOUNTER

If you are not 100% satisfied with the service you have received, please call 1-800-757-4291

Poughkeepsie 2 Mavis  
33 Parker Avenue  
Poughkeepsie NY 12601  
Facility #: 7113875, NY 12601  
Phone: (845) 486-9177

ST:0150 WO:00123623 INV:00084694

RODRIQUEZ, MICHEAL  
6 DAVIS AVE  
ARLINGTON NY 12603

1/0150

E-mail :

michaelusa42701@gmail.com

0003 18 JEEP In: 29336  
COMPASS KRL6751 /NY Out: 29336 (425)501-6031 0 00  
00123623 2

Opened by Operator # 1502  
03/27/2023 00084694  
03/27/23 12:52:18 1501

CASH SALE

| Tax Code 12 Summary |               | Taxable | Rate    | Taxable | Rate   | Tax  |       |   |
|---------------------|---------------|---------|---------|---------|--------|------|-------|---|
| Tires               | NYS Sales Tax | 19.99   | 8.125%  | 91.99   | 8.125% | 7.47 | Labor | N |
| YS Sales Tax        |               |         |         |         | 1.62   |      |       |   |
| Other Parts         | NYS Sales Tax | 28.48   | 8.125%  | 28.48   | 8.125% | 2.31 | Tires | N |
| YS Tire Tax         |               | 91.99   | \$ 2.50 |         | 2.50   |      |       |   |



# MAVIS DISCOUNT TIRE

AMERICA'S TIRE DISCOUNTER

MS Waste Tire Management Fee \$2.50 per Tire  
If you are not 100% satisfied with the service you have received, please call 1-800-757-4291

In compliance with federal law, Mavis Tire is providing the tire purchaser's name and address and tire identification number to the manufacturer.

|       |               |        |        |       |      |
|-------|---------------|--------|--------|-------|------|
| 91.99 | 19.99         | 8.125% | 140.46 | 11.40 |      |
| 2.50  | Total Invoice | 154.36 |        |       | 0.00 |
| 28.48 | 0.00          |        |        |       |      |
| 0.00  | Balance Due   | 154.36 |        |       |      |



PLEASE PRINT OR TYPE FORM CLEARLY

NOTE: Claim must be filed with and served to the City Chamberlain in triplicate (3 copies) within 90 days after the claim arises. Use additional sheets if necessary.

NOTICE OF CLAIM  
AGAINST  
THE CITY OF POUGHKEEPSIE, NEW YORK

TODAY'S DATE: 3/28/2023

NAME AND ADDRESS OF EACH CLAIMANT: Jason Reynoso  
200 marchester Rd Apt 4 Poughkeepsie NY 12603

TELEPHONE NUMBER: 845-625-9636

NAME AND ADDRESS OF ATTORNEY (IF ANY): N/A

CITY OF POUGHKEEPSIE  
CITY CHAMBERLAIN  
MAR 28 PM 2:56

DESCRIBE WHAT HAPPENED AND AMOUNT CLAIMED (PLEASE STATE DATE, TIME, LOCATION, AND MANNER IN WHICH CLAIM AROSE): I was on Washington St in front of Palace Diner area I felt a harsh pot hole and the a sound of air coming out of one of my tire happened but didn't believe a pot hole could of done so much damage until the car started wiggling side to side so I pulled into marv's discount tire.  
ITEMS DAMAGED OR INJURIES SUSTAINED: Tire replacement

Jason Reynoso  
Signature of Claimant

N/A  
Signature of Claimant

STATE OF NEW YORK, COUNTY OF Dutchess S.S.:

Jason Reynoso being duly sworn, say(s) that he/she is/are the claimant(s) named in the foregoing claim, that he/she has/have read the same and know(s) the contents thereof; that the same is true to his/her own knowledge, except as to the matters alleged upon information and belief and as to those items, he/she believes it to be true.

Jason Reynoso  
Signature of Claimant

N/A  
Signature of Claimant

Sworn to before me this 28 day of March, 2023

[Signature]  
Notary Public



NOTE: After submitting this form to the City Chamberlain, please direct any inquires to the Corporation Counsel at (845) 451-4065, Monday to Friday, 8:30 a.m. - 4:00 p.m.

Poughkeepsie 2 Mavis  
33 Parker Avenue  
Poughkeepsie NY 12601  
Facility #: 7113875, NY 12601  
Phone: (845) 486-9177

ST:0150 WO:00123568 INV:00084650

REYNESO, JASON  
200 MANCHESTER RD APT4  
POUGHKEEPSIE NY 12601

1/0150

E-mail :

jasonreynoso1990@gmail.com

0004      22 HONDA      In: 30000  
         CIVIC      KWS6082 /NY Out: 30000 (845)625-9636      0      00  
         00123568      2

Opened by Operator # 1502  
03/24/2023      00084650  
03/24/23 14:45:57      1501

CASH SALE

s17H

Poughkeepsie 2 Mavis  
33 Parker Avenue  
Poughkeepsie NY 12601  
Facility #: 7113875, NY 12601  
Phone: (845) 486-9177

ST:0150 WO:00123568 INV:00084650

REYNESO, JASON  
200 MANCHESTER RD APT4  
POUGHKEEPSIE NY 12601

1/0150

E-mail :

jasonreynoso1990@gmail.com

0004      22 HONDA      In: 30000  
             CIVIC      KWS6082 /NY Out: 30000 (845)625-9636      0      00  
             00123568      1

Opened by Operator # 1502  
03/24/2023      00084650  
03/24/23      14:45:57      1501

CASH SALE

2022 HONDA CIVIC 4 Dr Sedan FWD EX VIN:2HGFE1F74NH323994

|        |        |    |            |                                 |
|--------|--------|----|------------|---------------------------------|
| 000265 |        |    | 215/50HR17 | Fire FT140                      |
| 1      | 191.99 | 12 | 0.00       | 191.99                          |
| 000265 |        |    |            | Dollar Discount                 |
|        | 15.00  | 12 |            | 15.00-                          |
|        |        |    |            | R20                             |
| 217    |        |    | (17" RIM)  | COMPUTER BALANCE PACKAGE        |
| 1      | 19.99  | 12 | 0.00       | 19.99                           |
|        |        |    |            | TEST TPMS SYSTEM & BATTERIES    |
| CKFE   |        |    |            | CUSTOMER STATES CHECK FRONT END |
| 1      | 0.00   | 12 | 0.00       | 0.00                            |
| CKS    |        |    |            | CUSTOMER STATES CHECK SHOCKS    |
| 1      | 0.00   | 12 | 0.00       | 0.00                            |
|        |        |    |            | flat due to pothole             |
|        |        |    |            | rec 2 tires for the rear        |
| 305    |        |    |            | Mavis tire recycling charge     |
| 1      | 3.50   | 12 | 0.00       | 3.50                            |

Method of Payment:      219.26  
Mastercard/Visa      .00  
CHANGE:

| Tax Code 12 Summary |               | Taxable | Rate    | Taxable | Rate | Tax   |  |   |
|---------------------|---------------|---------|---------|---------|------|-------|--|---|
| Tires               | NYS Sales Tax | 176.99  | 8.125%  | 14.38   |      | Labor |  | N |
| YS Sales Tax        |               | 19.99   | 8.125%  | 1.62    |      |       |  |   |
| Other Parts         | NYS Sales Tax | 3.50    | 8.125%  | 0.28    |      | Tires |  | N |
| YS Tire Tax         |               | 176.99  | \$ 2.50 | 2.50    |      |       |  |   |

C O N T I N U E D ....











# THE CITY OF POUGHKEEPSIE NEW YORK

## COMMON COUNCIL MEETING MINUTES

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**Monday, March 20, 2023, 6:30 p.m.      Common Council Chambers**

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Welcome to the regularly scheduled Meeting of the City of Poughkeepsie Common Council the date is Monday, March 20, 2023, and the time is 6:30 pm.

At this time Vice Chair Shook made a motion to go into Executive Session which was seconded by Councilmember Menist.

At 6:45 pm, Vice Chair Shook made a motion to resume the meeting which was seconded by Councilmember Menist.

- I. **ROLL CALL: 7 Present, 2 Absent ( Chairwoman Brown - Absent, Councilmember Johnson arrived after roll call was taken)**
- II. **REVIEW OF MINUTES:**

**Special Informational Meeting – March 6, 2023  
Common Council Meeting – March 6, 2023**

**Motion to accept the minutes: Councilmember Long  
2<sup>nd</sup>: Councilmember Menist**

- III. **READING OF ITEMS by the City Chamberlain of any items not listed on the printed agenda.**

**NONE**

#### **IV. PUBLIC PARTICIPATION**

- **Jasmaine Clay – 10 Talmadge St**
  - **Daniel Atonna – 116 College Ave**
  - **Melissa Hoffmann – 21 Lexington Ave**
  - **Jairo Perez – 602 Mill St**
  - **John Sullivan – 16 Barclay St**
  - **Laurie Sandow, S. Grand Ave. – \*submitted written comments\***
  - **Vincent Pedi – South Ave**
  - **Kane Bowers – Union St**
- 
- **Ken Stier - \*submitted written comments for the MARCH 6, 2023 meeting\***



I'll begin with a shout-out to Gus Kazolias. Gus, your good health and recovery is in my heart. I salute your years of commitment to attending and speaking at Council and Legislature meetings, and your devotion to proving that democracy is not a spectator sport.

At the last Council meeting, Chair Brown announced that she wouldn't be at this meeting; that her council colleagues have known this for at least a month, and that she didn't need people coming to the microphone asking where she was.

To be a councilmember is a profound responsibility to the residents of this City, not a license to keep the public ignorant. The City Charter states that the at-large member answers to all City voters. Nowhere does the Charter provide that the at-large member only answers to, or only informs councilmembers, nor that councilmembers only talk among themselves.

The Redistricting resolution on tonight's consent agenda is not only an act of Council self-dealing, but also seeks to falsify the public record of the process. To preserve their incumbent seats, councilmembers have violated the Charter, are defeating the 2020 Census, and are violating the Hispanic community's voting rights. Their actions may serve their short-term interests, but undermine this city's future, its Charter and its population for at least the next 10 years, long after every current councilmember is out of office.

It's shocking the extent to which false statements by Councilmembers, Administration and certain other employees have become commonplace at these meetings. These false statements run the gamut—but are not limited to—the false narrative by Marc Nelson about responsibility for delays and neglected maintenance at Wheaton Park and Pelton mansion; to the non-responsiveness from Councilmember Evan Menist and a false claim from Corporation Counsel Valk about “forgetting” to notify the Redistricting Commission about communications her office received from Josh Simons of the SUNY New Paltz Benjamin Center; to the evasive text of the March 20 Redistricting Local Law (LL-23-03), which is a fabricated history of the Common Council's actions, lack of actions and self-dealing; to the March 6, 2023, Salary Review Commission resolution (R-23-24) stating that it was the Common Council's “former leadership who failed to move the item forward just as it failed to move to name a redistricting commission in a timely manner”, as if these

Councilmembers were not willing parties to these violations and failures, did not collaborate behind closed caucus doors, did not speak up or object in public, made no attempts to walk-on timely resolutions, instead sitting silent in their elected seats; and later protecting their collusion via use of consent agenda line items and votes. The list goes on.

This Council continues to do the public's work behind closed doors, seeking to deprive others of knowledge, involvement and participation. My questions at the recent Informational Meeting were purposely cut short, and while I have to submit my written comments within three days of a meeting, two weeks have passed without promised written answers from the Mayor, the Chamberlain, Development Director Natalie Quinn, Council Chair Brown and nearly every other councilmember. The Council suddenly mounted their high horses about the absence of City north side residents at the zoning public hearing, but who but these very councilmembers are responsible for that absence? And which of them will acknowledge how long they've done nothing, even after I raised the secretive zoning process and subcommittee members—among them the Council's very own Majority Leader Evan Menist—during my questions six months earlier, at the Special Informational Meeting of October 3, 2022? Important questions that people are allowed to ask, and receive answers to, only twice a year, but an opportunity which the Council willfully shortened for all participants at the March 20, 2023, Special Informational Meeting.

At the last Council meeting there was talk about a marathon Finance Committee meeting. When I requested a link to the webcast, I was told it was an advisory committee, not open to the public. But that's not true. By the terms of Charter Section 2.06, it's a standing committee of the Common Council. That means it's a public body whose meetings must comply with Open Meetings Law, and are required to be held in public.

At every meeting, we have councilmembers who put their own interests and biases first, without ever consulting constituents. They campaigned on promises to serve the public, yet resent and ignore constituent contact, with some even illegally hiding or blocking certain comments on their social media. They consider it a character flaw for members of the public to stay involved with and concerned about this City's future. They've already learned the politician's trick of diverting attention by answering questions that weren't asked, and avoiding questions that were. They text to each other during meetings, but pretend they only use their phones for family calls. They claim they're well informed, but each week prove

themselves poorly informed. They claim that training is for their personal growth, despite training being a mandatory Charter obligation (Section 2.11) at taxpayer expense with the purpose of informed decision-making.

This Council refuses to grapple with and cure their own lack of transparency, responsibility, and accountability. The problem with this Council is not that they hear too much criticism from the public, but that they've made certain and succeeded in hearing too little about the ways they are dismantling a public institution; their attempts to deprive others of knowledge and involvement, and their attempts to target, and even ban, anyone who questions or criticizes. They seek to obstruct and deny the most fundamental rights and responsibilities of citizens in a healthy democracy.

I reserve my right, when submitting comments for inclusion in the minutes of Common Council meetings, to restore edits and the unspoken remainder of comments that have been limited by the 3-minute time constraint.

## Remarks offered by Ken Stier before the Common Council (March 6)

(pretty close but check against delivery. Dr. Seuss coda was muffled as I was forced off mic)

I'm still catching up on some of the goings-on here in this august body and I was struck by what I recently heard (or read, not had time to view the video): Shakespeare quoted. That it should come from our incumbent mayor should come as no surprise...if you know his thespian background, where his father worked in the London theater, indeed around the continent. So thanks for raising the bar – or the Bard - here. Something that wasn't imaginable under our former Numero One.

But a closer read of the mayor's larger comments brought to mind another genius – from a very canon. Dr. Seuss. But I'll come back to that in a moment.

What most struck me was the defiant – I can do whatever I want – Posture. I can Decide to fire whoever I want; the new incoming member, Brian Hooper, a standing vice-chair, who the Mayor makes a point of mentioning that he has never met Hooper (except online) as proof of impartiality... or even the chair of a City Commission. Without cause. Definitely a dubious claim. Plenty of Commissioners have served beyond their initial terms so offering that as the reason for unceremoniously sacking Gary P, is a bogus pretext. I have the legal right and have "my reasons" for those firings, the Mayor asserts.

You declare you would be "happy to discuss" with "anybody who wants" – those guarded reasons. Please do tell. I think we'd all be interested.

Last month the Mayor, invoking Shakespeare, said: "Me thinks the lady doth protest too much."

I'm not quite sure which lady he refers to – more than one have railed against the lack of qualifying credentials for recent HDLPC commissioners.

But I'd like to offer my own Shakespearean construction to say: 'Me thinks the Mayor doth BLUSTER too much, to intimidate.'

You insist you can appoint whoever you want as chair of the HDLPC. Again, it would seem You're really on shaky, nay, faulty grounds.

These muscular arrogations of power are all for a purpose...that was not in the least obscured. The aim and the purpose of agglomerating this dictatorial authority – is plainly to advance Steve Tinkelman's project to plop five additional buildings in Wheaton Park, four of them larger than the mansion we are all so concerned about – some more genuinely than others.

It does not take a graduate level subtextual read of the mayor's comment to discern his clear agenda – to ram through this grossly inappropriate housing development scheme through the new HDLPC which he is busy 'cooking.'

The Mayor's glaring lack of neutrality is clearly evident by mimicking – virtually word for words – Tinkelman's talking points, which he has repeated ad nauseum. The project is now just

SO MUCH Better...and thanks to the former commissioners for their input in making it so. Really, Mr. Mayor. Do elaborate. In detail. You can't, because this is just BUNK.

The project has not appreciably changed since it was first proposed five years ago. It certainly has not BEGUN to address to CORE objections about the grossly inappropriate scale and size of the transit-oriented housing. Dr. (Werner) Steger resigned on his own accord but precisely because he could not bear to listen to Tinkelman unctuous presentations any more.

We're all frustrated by the limbo this property has been in for way too long...and here I'll conceded that the mayor cares about the building, or at least wants to get it off the City's hands.

But what's his answer – to compromise – no, it's more like destroying – 'cause you can't be a little bit pregnant – the integrity of a City Commission.

The judgment the mayor has demonstrated by his recent appointments and sackings raise the understandable concern that the FIX is in. There will be a lot of eyes on his next two unilateral appointments – unfortunately without the consent of this council, until that is corrected.

And here is where the mayor's thespian skills come to the fore. He creates and attacks a strawman or strongwoman. As far I know, no one seriously question the qualifications of the historian LaRocca and Ms. Li. Let's not let the mayor muddy even more these already murky waters.

What has been called into question is whether two other Commission members – who I want to be clear I hold in high regard and consider tremendous assets for this community – have ANY of the qualifications stipulated in the city code. By any objective assessment it's clear they don't. So one can wonder why the appointments.

Conveniently this mayor can point to his former boss – who he served most loyally – as the source for those choices. But then it was our current mayor's decision to replace one qualified chair with another who has effectively acknowledged he's unqualified.

Contrary to what the mayor characterized as “stooping” so low to publicly question the new chair's qualifications – that person should be applauded for trying to shed important light on a matter that has been obscured from public view. It took a FOIL to surface his resume.

But what does the mayor do – he browbeats, and berates that sensible citizen for asking the most basic question ..thundering about impugning reputation, etc.

This, my friends, is just more BLUSTER from a small city BULLY throwing his heft about in our little sandbox.

Continuing his act as an indignant public official, striving to protect civility and decorum, he added about his new chair appointment: “This was my decision to make and I made it.” As if this was a tough decision, freighted with tough ethical issues.

What I hear is a schoolyard bully. I hope this Council will not be intimidated. His claims impinge on prerogatives state regulations/statutes reserve for our City's legislative I hope this Council will stand up for itself. You really can't rely, I hope it's amply clear by now, on Ms.

Valk to faithfully serve both 'clients' equally as professional ethics require. Perhaps that's an impossible task, so you'll understand her siding with He who signs her paychecks.

Now to get back to Dr. Seuss. We all know the story of How the Grinch Stole Christmas, and the unforgettable tune...

You're a mean one Mr. Grinch

You really are a heel.

You're as cuddly as a cactus,

And as charming as an eel,

If I could offer slightly altered lyrics to that same tune: You're a SLY ONE, Mr. Marc.

## **V. VICE CHAIR COMMENTS AND PRESENTATIONS:**

In lieu of Chair Comments tonight, I would like to bring up the folks from Joule Assets Community Choice Aggregation if they would like to come up and do their presentation now.

### **1. A PRESENTATION FROM JOULE ASSETS / COMMUNITY CHOICE AGGREGATION, Regarding Hudson Valley Community Power**

## **VI. MAYOR'S COMMENTS**

Thank you Chair, I'll be brief. As was mentioned earlier, I have the privilege and honor of addressing the community and members of the Council's stakeholders and friends of the City of Poughkeepsie as I deliver my first State of the City address that is March 29<sup>th</sup>. Information about that [is] on our website at The Academy in the evening hour. We're looking forward – without getting out in front of us – we're looking forward to announcing both a number of new initiatives and also giving the community a full and complete assessment of what's been going on in the City of Poughkeepsie for the last year or two. That means that we will be talking about the good and the bad. I think that, you know, you certainly.. and I invite everybody to attend. I don't think that the word "spin" will be used to assess my performance on March 29<sup>th</sup> because I intend to fully and frontally address some of the issues that the City of Poughkeepsie faces from homelessness after Dutchess County made an abrupt change that we have not had an opportunity – the Council leadership and I - to discuss the county's decision to not build the facility at Oakley Street. And, obviously, this is something that the Council and the administration need to work together with Dutchess County to figure out what exactly is plan B and we know where plan B may be, but as some of you on the Council know, what has happened historically in these discussions is we are not at the table when we need to be at the table. I'm inviting any member of the Council who wants to work closely with me and our colleagues at Dutchess County to make sure that we're at the table early in the process and that we're not finding out after the fact what deficiencies there are as they move to Plan B and we will be having these discussions with our colleagues at the county, you know, over the next few weeks and, probably, several months. We'll be talking about that a little bit at the state of the city. But homelessness, drug addiction, needles all over the city, I want to thank several of the councilmembers for working with me and in fact, making our ideas better as we look for ways to get around the City of Poughkeepsie and pick up the needles that are in key walking areas. As we all know, [we are ] a walking district, a walking school district and our kids and our youth are literally in harm's way and we will not tolerate that any longer at the City of Poughkeepsie. We will outsource the cleanup and we'll deal with our unions. We will look for volunteers. I want to thank particularly Christopher Grant and

Councilmember Long, I know that we're working on some solutions here. These are the things I want to just say in response to some of the comments that we heard earlier. I've got to tell you, these are the things that the residents and the taxpayers of this city want to know about. And I am not going to sit up here and use the privilege, and I consider it, Chair, a privilege to be able to address you during your council meeting. It wasn't that long ago that former Mayor Rolison was not allowed to have Mayor's Comments. Mayor's Comments were a thing that was pretty routine here at the City of Poughkeepsie, going back about 18 years or so. And that privilege was unceremoniously thrown in the wastepaper basket because of differences of opinion. And I don't want to overstep the privilege that's been given to me by playing politics up here with the 3 or 4 minutes that I get. I want to talk about the things that really matter to this city. But, specifically, let me just say very candidly and very clearly that I am not pleased with the status quo in the City of Poughkeepsie. That's what I'm going to tell you at the State of the City. If everybody who lives and votes and works and plays in the City of Poughkeepsie is happy and they don't have any issues in the City of Poughkeepsie, please tell me and I'll withdraw from this Mayor's race because you don't need me. But I am not happy with the status quo. I'm not happy with the fact that it took 4 ½ years to get the LWRP done. I'm not happy that the Southern Waterfront parcel south of the Mid-Hudson Bridge has been sitting there vacant for more than a decade. And by the way, I wasn't happy that the former YMCA sat there vacant for 12 years either, and I was the one that orchestrated the city taking it for back taxes and transferring it to the county. It's now been demolished at county expense to the tune of almost \$2 million we saved our taxpayers. City of Poughkeepsie taxpayers watching from home, you didn't pay anything to demolish that building. And it will become the Youth Opportunity Union. Dutchess County has put \$25 million dollars on the table and they're not backing out of that deal like they backed out of the Oakley Street deal. You know why? Because we've got a seat at the table. And we already have that seat at the table for the Youth Opportunity Union. And it may be \$40 million, it may be \$50 million, but we are going to take care of the youth of the City of Poughkeepsie and not just the City of Poughkeepsie, but the entire region, because that is a Dutchess County investment. So I want to talk about the things that matter. Come to the State of the City and you'll hear about it. And Mr. Chair, one more minute on this: I've been here for seven years. If you think that any municipality can go seven years without having even a minor change on its senior team, I tell you what, go find a city and tell me. Because I don't think that I can sit here as your mayor and say, "oh, everything's fine. We don't need to make any changes. We don't need any personnel changes. We don't need to do anything." We're just going to defend the record that we've got of needles all over the place and broken equipment at our parks and a Main Street that, frankly, I get a flat tire every time I drive down. I'm just as upset as everybody else is with Councilmember Johnson. So I made a change and I take full responsibility for it, made some changes on the Historic Commission. I didn't score too many points for that either. But, you know what? The status quo is not acceptable. The development should move forward at the former Pelton Mansion site. Development should move forward at the Southern Waterfront site. And what I want to end with, just so everybody knows and there's no mistake that if you don't build up the un-buildable lots, and worry about your



tax base, how do you think we're going to continue to triple our spending on youth services? How do you think we're going to fix the roof on City Hall and how do you think we're going to keep our cops from working in other richer communities? Twenty three police officers are newly eligible to retire from the City of Poughkeepsie and go walk out the door tomorrow. And how do you think we're going to compete? Well, we're not going to compete if we don't find a way to increase our tax base. And that means the tax base, not individual taxes. If you don't want your taxes to increase, you better let me do something with development on some of these sites that have been sitting vacant for years. So I'm not happy with the status quo and I will continue to make changes as your mayor until you vote me out of office. Thank you.

**VII. NEW & UNFINISHED BUSINESS & ANNOUNCEMENTS:**

**~~VIII. — REPORTS OF COMMITTEES AND BOARDS:~~**

**CONSENT AGENDA:**

**IX. MOTIONS AND RESOLUTIONS:**

**A motion to accept the Consent Agenda was made by Councilmember Menist and seconded by Councilmember Long.**

- 1. LL-23-02, Local Law Amending Section 9-68 of the City of Poughkeepsie Code Entitled "Solid Waste Collection Fees"**

**LOCAL LAW AMENDING SECTION 9-68 OF THE CITY OF POUGHKEEPSIE CODE  
ENTITLED "SOLID WASTE COLLECTION FEES"  
(LL-23-02)**

**INTRODUCED BY VICE CHAIR SHOOK \_\_\_\_\_ :**

**SECTION 1. BE IT ENACTED**, by the Common Council of the City of Poughkeepsie, a local law amending Section 9-68 of the City of Poughkeepsie Code entitled "Solid Waste Collection Fees," to provide as follows:

**~~STRIKETHROUGH~~ INDICATES DELETION  
BOLD and UNDERLINE INDICATES ADDED LANGUAGE**

**Section 9-68. Solid waste collection fees.**

(a) *Annual determination of fees.* The Mayor as a part of the budget process shall propose the fees charged by the City for solid waste collection and disposal services annually. A schedule of the annual collection fees shall be approved by the City Common Council by resolution and maintained on file in the Commissioner's office and the office of the City Clerk.

(b) *Billing of solid waste collection fee.* The Commissioner of Finance shall bill and collect the solid waste collection fee from the responsible property owner. The solid waste collection fee shall be due and payable on January 1; however, a responsible property owner may elect to pay the solid waste collection fee in quarterly installments with 25% payable on or before **March 15**, 25% payable on or before **May 15**, 25% payable on or before **August 15** and 25% payable on or before **October 15**. **The Commissioner of Finance shall issue four (4) quarterly bills. Each quarterly bill, if paid before the quarterly due date, shall be without penalty.**

(c) *Interest on unpaid residential refuse fees.* If a residential refuse fee for each improved real property is not timely paid when due, interest shall accrue on such unpaid amount at the rate of 2% per calendar month or portion thereof, computed from the original due date until paid in full, and shall be collected at the time of payment or enforcement of such solid waste collection fee.

(d) *Levy of and lien on unpaid solid waste collection fee.* If a residential solid waste collection fee including interest thereon, is not fully paid on or before, December 1 of the calendar year for which originally billed, the unpaid amount shall become a lien as of January 1 of the next succeeding year and shall accrue additional interest, be collected, and **may** be enforced in the same manner and at the same time as provided by law for City taxes due in such next succeeding year.

(e) *Exemptions:*

(1) Any person who because of age or disability shall qualify for exemption from City real property taxes based on an enhanced star exemption or low income tax exemption, shall be charged a reduced fee for solid waste collection and disposal services in **an amount to be determined on the schedule of annual collection fees pursuant to subparagraph (a). This reduced fee shall only apply to one dwelling unit in the case of multi-family properties.** (2) Any residential user eligible for STAR tax exemption from City real property taxes, upon demonstrating that only one unit of a two or three unit residential parcel is occupied as their residence, all other units being permanently vacant, after certification to the Commissioner and inspection, pursuant to regulations promulgated by the Commissioner and approved by resolution of the City Common Council, shall pay only the annual base unit fee.

(f) *For-profit mixed residential, multi-residential, and commercial users.* The annual fee shall be **in an amount to be determined on the schedule of annual collection fees pursuant to subparagraph (a) and shall be** based upon that user's proportional share of the cost of waste collection services not funded by ad valorem tax,. The Commissioner is authorized to negotiate fees pursuant to Section 9-64(g) of this chapter, based on volume and time requirements for collegian, provided that such fees shall in all instances cover at a minimum the costs of providing the service.

(g) *Not-for-profit institutional users.* The annual fee shall be **in an amount to be determined on the schedule of annual collection fees pursuant to subparagraph (a) and shall be** based upon that user's proportional share of the total cost of waste collection services. The Commissioner is authorized to negotiate fees pursuant to Section 9-64(g) of this chapter, based on volume and time requirements for collection, provided that such fees shall in all instances cover at a minimum the costs of providing the service.

**SECTION 2.** This Local Law shall take effect immediately upon filing with the New York State Secretary of State.

SECONDED BY COUNCILMEMBER \_\_\_\_\_ :

| LL-23-02- VOICE VOTE                                                                                                 |                        |       |                                     |                          |                          |                                     |
|----------------------------------------------------------------------------------------------------------------------|------------------------|-------|-------------------------------------|--------------------------|--------------------------|-------------------------------------|
|                                                                                                                      |                        |       | Yes/Aye                             | No/Nay                   | Abstain                  | Absent                              |
| <input checked="" type="checkbox"/> Accepted<br><input type="checkbox"/> Defeated<br><input type="checkbox"/> Tabled | Councilmember Grant    | Voter | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            |
|                                                                                                                      | Councilmember Long     | Voter | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            |
|                                                                                                                      | Councilmember Flowers  | Voter | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            |
|                                                                                                                      | Councilmember Deichler | Voter | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            |
|                                                                                                                      | Councilmember Thompson | Voter | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            |
|                                                                                                                      | Councilmember Johnson  | Voter | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            |
|                                                                                                                      | Councilmember Menist   | Voter | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            |
|                                                                                                                      | Councilmember Shook    | Voter | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            |
|                                                                                                                      | Chairwoman Brown       | Voter | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

## 2. LL-23-03, Local Law Adopting the City of Poughkeepsie Redistricting Plan

### LOCAL LAW ADOPTING THE CITY OF POUGHKEEPSIE REDISTRICTING PLAN PURSUANT TO SECTION 2.10 OF THE CITY CHARTER (LL-23-03)

## INTRODUCED BY VICE CHAIR SHOOK:

### SECTION 1. LEGISLATIVE HISTORY

The City of Poughkeepsie City Charter sets forth the process for redistricting at Sections 2.09 and 2.10. The Common Council appointed four members to the redistricting commission on April 4, 2022. Those four members then selected a fifth member to serve as the chair.

The Redistricting Commission submitted its proposed plan of redistricting on October 5, 2022. The Redistricting Commission presented its proposed plan to the Common Council on October 17, 2022. Pursuant to City Charter Section 2.10(b), the Common Council voted on November 7, 2022 to return the plan to the Redistricting Commission.

On November 15, 2022, the Redistricting Commission submitted a second map dated November 15, 2022 for the Council's consideration and the second map was discussed at the Council's meeting of November 21, 2022. After further study and review, the Council will be rejecting the Redistricting Commission's November 15, 2022 map.

The Common Council proposes to adopt the attached "Map 1B- Last Revised November 28, 2022" which builds upon the work of the Redistricting Commission but addresses concerns discussed by the Council at the meetings of October 17, 2022 and November 21, 2022.

A public hearing on the attached "Map 1B – Last Revised November 28, 2022" was held on January 23, 2023.

**SECTION 2. BE IT ENACTED**, by the Common Council of the City of Poughkeepsie, a local law adopting the City of Poughkeepsie Redistricting Plan pursuant to Section 2.10 of the City Charter and as set forth on the attached "Map 1B – Last Revised November 28, 2022."

**SECTION 3. PERMISSIVE REFERENDUM.** This resolution is subject to permissive referendum as required by the City and in accordance with Municipal Home Rule Law §24.

**SECTION 4. EFFECTIVE DATE.** This resolution shall take upon the expiration of the time period for filing a petition for permissive referendum pursuant to Municipal Home Rule Law and filing with the Secretary of State.

| LL-23-03- VOICE VOTE                                                                                                 |                        |       | Yes/Aye                             | No/Nay                   | Abstain                  | Absent                              |
|----------------------------------------------------------------------------------------------------------------------|------------------------|-------|-------------------------------------|--------------------------|--------------------------|-------------------------------------|
| <input checked="" type="checkbox"/> Accepted<br><input type="checkbox"/> Defeated<br><input type="checkbox"/> Tabled | Councilmember Grant    | Voter | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            |
|                                                                                                                      | Councilmember Long     | Voter | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            |
|                                                                                                                      | Councilmember Flowers  | Voter | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            |
|                                                                                                                      | Councilmember Deichler | Voter | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            |
|                                                                                                                      | Councilmember Thompson | Voter | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            |
|                                                                                                                      | Councilmember Johnson  | Voter | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            |
|                                                                                                                      | Councilmember Menist   | Voter | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            |
|                                                                                                                      | Councilmember Shook    | Voter | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            |
|                                                                                                                      | Chairwoman Brown       | Voter | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

## XI. ORDINANCES AND LOCAL LAWS:

**ACTION AGENDA:**

**X. MOTIONS AND RESOLUTIONS:**

**A motion to suspend the rules to allow City Engineer Rich DuPilka to speak about resolutions on the Action Agenda was made by Vice Chair Shook and seconded by Councilmember Menist**

- 1. R-23-29, Resolution Authorizing the Implementation, and Funding in the First Instance 100% of the Federal-Aid and State "Marchiselli" Program-Aid Eligible Costs, of a Transportation Federal-Aid Project, and Appropriating Funds Therefore - Garden Street over Fall Kill Creek Bridge Replacement**

**RESOLUTION**

**R-23-29**

**Authorizing the implementation, and funding in the first instance 100% of the federal-aid and State "Marchiselli" Program-aid eligible costs, of a transportation federal-aid project, and appropriating funds therefore.**

**Garden Street over Fall Kill Creek Bridge Replacement**

**INTRODUCED BY VICE CHAIR SHOOK \_\_\_\_\_:**

WHEREAS, a Project for the Garden Street over Fall Kill Creek Bridge Replacement (BIN 2262680) in the City of Poughkeepsie, PIN 8761.96 (the "Project") is eligible for funding under Title 23 U.S. Code, as amended, that calls for the apportionment of the costs of such program to be borne at the ratio of 80% Federal funds and 20% non-federal funds; and

WHEREAS, Resolution No. 19-23, adopted by the City of Poughkeepsie on January 22, 2019, approved and agreed to advance the Project by making a commitment of 100% of the non-federal share of the costs of preliminary engineering and right-of-way incidental work.

WHEREAS, it was subsequently found necessary to undertake additional preliminary engineering and right-of-way incidental work not contemplated in the original agreement authorized by the previous Resolution; and

WHEREAS, it has been found necessary to increase the federal and non-federal share of costs for the preliminary engineering and right-of-way incidental work for the project; and

WHEREAS, the City of Poughkeepsie desires to advance the Project by making a commitment of 100% of the non-federal share of the costs of the right-of-way acquisition.

NOW, THEREFORE, the Poughkeepsie City Council, duly convened does hereby

RESOLVE, that the Poughkeepsie City Council hereby approves the above-subject project; and it is hereby further

RESOLVED, that the Poughkeepsie City Council hereby authorizes the City of Poughkeepsie to pay in the first instance 100% of the federal and non-federal share of the cost of the right-of-way acquisition work, and the additional preliminary engineering and right-of-way incidental work for the Project or portions thereof; and it is further

RESOLVED, that the sum of \$266,197 (\$689,197 minus the previous \$423,000) is hereby appropriated from Account 30-08-5110 7461 (Contract Ser-Engineering 19BRG.01) and made available to cover the cost of participation in the above phase of the Project; and it is further

RESOLVED, that in the event the full federal and non-federal share costs of the project exceeds the amount appropriated above, the Poughkeepsie City Council shall convene as soon as possible to appropriate said excess amount immediately upon the notification by the City Administrator thereof, and it is further

RESOLVED, that the City Administrator of the City of Poughkeepsie be and is hereby authorized to execute all necessary Agreements, certifications or reimbursement requests for Federal Aid and/or applicable Marchiselli Aid on behalf of the City of Poughkeepsie with the New York State Department of Transportation in connection with the advancement or approval of the Project and providing for the administration of the Project and the municipality's first instance funding of project costs and permanent funding of the local share of federal-aid and state-aid eligible Project costs and all Project costs within appropriations therefore that are not so eligible, and it is further

RESOLVED, that in addition to the City Administrator the following municipal titles: Mayor, Commissioner of Public Works, City Engineer, and Commissioner of Finance are also hereby authorized to execute any necessary Agreements or certifications on behalf of the Municipality/Sponsor, with NYSDOT in connection with the advancement or approval of the project identified in the State/Local Agreement;

RESOLVED, that a certified copy of this resolution be filed with the New York State Commissioner of Transportation by attaching it to any necessary Agreement in connection with the Project, and it is further

RESOLVED, this Resolution shall take effect immediately.

**SECONDED BY COUNCILMEMBER MENIST**

| R-23-29- ROLL CALL VOTE                                                                                              |                        |       | Yes/Aye                             | No/Nay                   | Abstain                  | Absent                              |
|----------------------------------------------------------------------------------------------------------------------|------------------------|-------|-------------------------------------|--------------------------|--------------------------|-------------------------------------|
| <input checked="" type="checkbox"/> Accepted<br><input type="checkbox"/> Defeated<br><input type="checkbox"/> Tabled | Councilmember Grant    | Voter | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            |
|                                                                                                                      | Councilmember Long     | Voter | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            |
|                                                                                                                      | Councilmember Flowers  | Voter | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            |
|                                                                                                                      | Councilmember Deichler | Voter | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            |
|                                                                                                                      | Councilmember Thompson | Voter | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            |
|                                                                                                                      | Councilmember Johnson  | Voter | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            |
|                                                                                                                      | Councilmember Menist   | Voter | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            |
|                                                                                                                      | Councilmember Shook    | Voter | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            |
|                                                                                                                      | Chairwoman Brown       | Voter | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

2. **R-23-30**, Resolution Authorizing the Implementation, and Funding in the First Instance 100% of the Federal-Aid and State "Marchiselli" Program-Aid Eligible Costs, of a Transportation Federal-Aid Project, and Appropriating Funds Therefore - Washington Street Over Fall Kill Creek Bridge Rehabilitation

**RESOLUTION  
R-23-30**

**Authorizing the implementation, and funding in the first instance 100% of the federal-aid and State "Marchiselli" Program-aid eligible costs, of a transportation federal-aid project, and appropriating funds therefore.**

**Washington Street over Fall Kill Creek Bridge Rehabilitation**

**INTRODUCED BY VICE CHAIR SHOOK \_\_\_\_\_:**

WHEREAS, a Project for City of Poughkeepsie, Washington Street over Fall Kill Creek Bridge Rehabilitation (BIN 2262670), PIN 8759.83 (the "Project") is eligible for funding under Title 23 U.S. Code, as amended, that calls for the apportionment of the costs such program to be borne at the ratio of 80% Federal funds and 20% non-federal funds; and

WHEREAS, the City of Poughkeepsie desires to advance the Project by making a commitment of 100% of the non-federal share of the costs of the right-of-way acquisition work.

WHEREAS, Resolution No. R18-46 adopted by the City of Poughkeepsie on June 4, 2018 approved and agreed to advance the Project by making a commitment of 100% of the non-federal share of the costs of preliminary engineering and right-of-way incidental work.

WHEREAS, it was subsequently found necessary to undertake additional right-of-way incidental and preliminary engineering work not contemplated in the original agreement authorized by the previous Resolution; and

WHEREAS, it has been found necessary to increase the federal and non-federal share of costs for the additional right-of-way incidental and preliminary engineering work for the project; and

NOW, THEREFORE, the Poughkeepsie Common Council, duly convened does hereby

RESOLVE, that the Poughkeepsie Common Council hereby approves the above-subject project; and it is hereby further

RESOLVED, that the Poughkeepsie Common Council hereby authorizes the City of Poughkeepsie to pay in the first instance 100% of the federal and non-federal share of the cost of the additional preliminary engineering and right-of-way incidentals work for the Project or portions thereof; and it is further

RESOLVED, that the Poughkeepsie City Council hereby authorizes the City of Poughkeepsie to pay in the first instance 100% of the federal and non-federal share of the cost of the right-of-way acquisition work for the Project or portions thereof; and it is further

RESOLVED, that the sum of **\$1,264,310 (\$1,799,310 minus the previous \$535,000)** is hereby appropriated from Account 30-08-5110 7469 (Contract Ser-Other19BRW.01) and made available to cover the cost of participation in the above phase of the Project; and it is further

RESOLVED, that in the event the full federal and non-federal share costs of the project exceeds the amount appropriated above, the Poughkeepsie Common Council shall convene as soon as possible to appropriate said excess amount immediately upon the notification by the Mayor thereof, and it is further

RESOLVED, that the City Administrator of the City of Poughkeepsie be and is hereby authorized to execute all necessary Agreements, certifications or reimbursement requests for Federal Aid and/or applicable Marchiselli Aid on behalf of the City of Poughkeepsie with the New York State Department of Transportation in connection with the advancement or approval of the Project and providing for the administration of the Project and the municipality's first instance funding of project costs and permanent funding of the local share of federal-aid and state-aid eligible Project costs and all Project costs within appropriations therefore that are not so eligible, and it is further

RESOLVED, that in addition to the Mayor, the following municipal titles: Commissioner of Public Works, City Engineer, and Commissioner of Finance are also hereby authorized to execute



any necessary Agreements or certifications on behalf of the Municipality/Sponsor, with NYSDOT in connection with the advancement or approval of the project identified in the State/Local Agreement;

RESOLVED, that a certified copy of this resolution be filed with the New York State Commissioner of Transportation by attaching it to any necessary Agreement in connection with the Project, and it is further

RESOLVED, this Resolution shall take effect immediately.

## SECONDED BY COUNCILMEMBER MENIST

| R-23-30 ROLL CALL VOTE                                                                                               |                        |       |                                     |                          |                          |                                     |
|----------------------------------------------------------------------------------------------------------------------|------------------------|-------|-------------------------------------|--------------------------|--------------------------|-------------------------------------|
|                                                                                                                      |                        |       | Yes/Aye                             | No/Nay                   | Abstain                  | Absent                              |
| <input checked="" type="checkbox"/> Accepted<br><input type="checkbox"/> Defeated<br><input type="checkbox"/> Tabled | Councilmember Grant    | Voter | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            |
|                                                                                                                      | Councilmember Long     | Voter | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            |
|                                                                                                                      | Councilmember Flowers  | Voter | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            |
|                                                                                                                      | Councilmember Deichler | Voter | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            |
|                                                                                                                      | Councilmember Thompson | Voter | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            |
|                                                                                                                      | Councilmember Johnson  | Voter | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            |
|                                                                                                                      | Councilmember Menist   | Voter | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            |
|                                                                                                                      | Councilmember Shook    | Voter | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            |
|                                                                                                                      | Chairwoman Brown       | Voter | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

## XII. ORDINANCES AND LOCAL LAWS:

## XIII. PRESENTATIONS OF PETITIONS AND COMMUNICATIONS:

**A motion was made to defer the below communication/petition to Corporation Counsel by Vice Chair Shook and was seconded by Councilmember Long.**

- 1. FROM HANDSOME DEVIL LLC.,** a 30 day advance notice of intent to obtain a NYS Liquor License.
- 2. FROM ANN MARIE SANFORD,** a notice of property damage sustained on or around March 2, 2023.
- 3. FROM CARL MCLEOD,** a notice of personal injury sustained on or around February 19, 2023.
- 4. FROM HOLLI ROBINSON,** a notice of property damage sustained on or around December 28, 2022.

A motion was made by Vice Chair Shook to resume the rules and seconded by Councilmember Menist. Councilmember Menist remarked that because the rules were not resumed before a roll call vote was taken, it would have to be called again. Corporation Counsel Valk advised that council was not required to do so.

#### **XIV. ADJOURNMENT:**

A motion was made by Councilmember Thompson and seconded by Councilmember Long to adjourn the meeting at 8:20 PM.

**Dated: March 24, 2023**

I hereby certify that this true and correct copy of the Minutes of the Common Council Meeting held on Monday, March 20, 2023.

**Respectfully submitted,**

**Donna M. DeLuca**  
**Deputy City Chamberlain**

