



THE CITY OF POUGHKEEPSIE New York

COMMON COUNCIL MEETING MINUTES

Tuesday, July 2, 2024, 6:30 p.m.

Common Council Chambers

Welcome to the regularly scheduled Meeting of the City of Poughkeepsie Common Council the date is July 2, 2024, and the time is 6:34pm

I. ROLL CALL: 8 present, 1 absent (Vice-Chair Shook)

II. REVIEW OF MINUTES:

Common Council Meeting Minutes of June 18, 2024

A motion to accept the minutes was made by Councilmember Menist and seconded by Councilmember Brown

CCM Minutes of June 18, 2024 –VOICE VOTE						
☒ Accepted ☐ Defeated ☐ Tabled			Yes/Aye	No/Nay	Abstain	Absent
	Councilmember Henry	Voter	☒	☐	☐	☐
	Councilmember Menist	Voter	☒	☐	☐	☐
	Councilmember Brown	Voter	☒	☐	☐	☐
	Councilmember James	Voter	☒	☐	☐	☐
	Councilmember Grant	Voter	☒	☐	☐	☐
	Councilmember Deichler	Voter	☒	☐	☐	☐
	Majority Leader Patterson Thompson	Voter	☒	☐	☐	☐
	Vice Chair Shook	Voter	☐	☐	☐	☒
	Chairman Wilson	Voter	☒	☐	☐	☐

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

NONE

IV. PRESENTATIONS OF PETITIONS AND COMMUNICATIONS:

V. PUBLIC PARTICIPATION: Three (3) minutes per person up to 45 minutes of public comment on any agenda and non-agenda item.

- **Laurie Sandow – S. Grand Ave ***
- **Nicholas Kalogris – Maryland Ave/For the Many**
- **Warren Jones – N. Clover St**
- **Daniel Atonna – College Ave/For the Many**
- **Kaleb Croft – Hook Rd**
- **David Henningson – Academy St**
- **Mary Reynolds – Academy St**

***Submitted Written Comments**

Laurie Sandow public comments,

City of Poughkeepsie Common Council meeting, July 2, 2024

It was fascinating to see Ondie James and Terriciana Brown sponsor a prayer vigil this past weekend, demonstrating once again how little they, and other councilmembers, understand or have loyalty to their oaths of office. Their professed clarion call? — 2 Chronicles 7:14, a Bible verse that speaks to humbling oneself and turning from one's wicked ways.

[2 Chronicles 7:14, "...if my people who are called by my name humble themselves, and pray and seek my face and turn from their wicked ways, then I will hear from heaven and will forgive their sin and heal their land."]

With that verse in mind, let's talk for a minute about humbling and humility. More specifically: humility vs. hubris, a word that translates to excessive pride toward or defiance of the gods, leading to nemesis.

You'd think that people who ran for office and took their seats without experience or prior interest, would show some humility and a desire to learn. That—as an act of humility—one of their first acts would have been to convene the public in a meeting where they'd ask how best to serve. Instead, members of this Council have besieged the public with non-stop acts of hubris, from fabrication to outright lawbreaking, iced with hostility to the public. The hubris of Da'Ron Wilson who manufactures and break rules in order to silence the public. The hubris of their various newly-installed stanchions, velvet ropes, barricades and locked doors, set in place for the express purpose of separating Councilmembers from the public in an effort to shield Councilmembers against their own unfitness in running a meeting. Or the most recent act of Council convenience and lawbreaking, where they've secretly, illegally changed their next meeting date without an agenda resolution and public vote, nor even a clear and obvious public announcement and posting.

The Council's got a long list of rules for the public, but is ever-silent and self-dealing in the rules they fail to write or enforce regarding their own internal and external lack of integrity, transparency, and accountability—seemingly trained that if and whenever asked, they should avoid self-incrimination by being sure not to tell.

Along these lines, we have councilmembers like Megan Deichler, who collects a paycheck while neither meeting with, nor serving, her constituents. We have Mayor Flowers, Ernest Henry, Christopher Grant, Deichler and others, who don't respond to the correspondence of certain City residents. We have Terricena Brown, who defies the rules of ethics while lobbying behind the scenes for funding to her friend Carlos Wood and their jointly-owned business, and who has at least twice declared that she's given reports about the Poughkeepsie Housing Authority, when Common Council meeting transcripts show that is not true, and Freedom of Information (FOIL) requests are answered by (quote): "There are no responsive documents pertaining to your FOIL request." We have the hubris and lawbreaking of Nedra Thompson and Ondie James springing their Resolution #24-51, buried on tonight's Action Agenda without following the proper legal processes.

Mayor Flowers likes to speak of "whackamole". Is there any greater game of whackamole in the City of Poughkeepsie than the electeds who selectively, illegally delete comments from their public forums? Or the information and deals kept behind closed doors, and promises made but never kept? As recent examples, we've got Chris Grant's "Main Street Initiative", and Mayor Flowers' (quote) "plan of action [that] will be implement[ed] shortly," neither one of these ever produced in writing. More whackamole and baloney?—that the Mayor and Council are dedicated to inclusivity and urge the public's civic engagement.

Then there's Corporation Counsel Rebecca Valk, who silently enables Council violations of decorum and lawbreaking. One of her favorite mantras? That she can tell Councilmembers about the law, but she can't make them obey it. She's been broadcast on public access TV insulting members of the public, and—to name just a few—manufactured her own rules about the content of public comments submitted for meeting minutes, or the where, when and how of Council Rules and Procedure.

While nepotism and hubris continue to reign supreme in the City of Poughkeepsie, humility, vision, accountability, and efforts to inform, engage and unify remain sorely lacking.

VI. CHAIRMAN'S COMMENTS AND PRESENTATIONS:

Once again, thank you everybody that came out to speak and voice your opinions and concerns with the city. That's always welcome.

Just so you know, I'm gonna probably have the 616 and PK, to go back and add some of this stuff.

It keeps being mentioned about the tower just sold.. for [the] record state.

The tower that is there has been on College Hill, I think I want to say ever since I was a little kid.

So, it is an emergency med- it is an emergency service tower for our north side of Poughkeepsie.

So that tower is there. Whether the county puts a new one or not, the tower is already existing there. So it's really about a replacement of the tower. The-[audience interruption]

Once again as we talk.

As I was saying before, is a lot of talks always about this council breaking the rules, making up rules. The open meetings law has clear language is in black and white. There's no need for anybody to make up any rules and make up anything. It's been put out to the public before for them to look at. You can Google it all you want.

There has been no rules violation.

And if there was laws being broken that you can report the council to the Open Meetings Laws Board, and they would send us a letter stating whatever rule of law that was being broken.

That has not happened.

And it's probably never going to happen because there's not any rules being broken when it comes to the comments and it is enforced.

[audience interruption]

And then once again, as we have people in our audience that claim to be [following] the rules, but they're breaking up, breaking the rules by yelling out right now. Miss. Sandow, once again, please stop yelling out from the audience.

We can go right here with open Meetings law, which I told people before right here in black and white, and not making it up.

Once again, Miss. Sandow, and this is your second warning for violating the rules of decorum, as you say that your - it's very funny how people talk about rules, but come to the meetings constantly and break the same rules that they know exist, but they are main person talking about rules but will break the rules, quote the charter, quote all the things from their own mouth has now been doing. If it has been known before me that [then] they would know what the rules say.

They would know that there's rules of decorum, that they have those rules, that thing.

There's no need to make up anything because like I said, it's in black and white, whether we like it or not it's in black and white. It's been put on the websites all over New York State. There's nothing in here that coincides with some of the public comments, the same.

But it's just funny how people will say [we are] breaking rules, but come every meeting and break the rules.

As far as what? This council. You know, the council, the seven months that this council, this council has been in place, as you heard, just even from the comments of the public themselves, that some of the things that the council has passed already. Some councils across New York State and other places haven't even put to the agenda.

So to say that this council is not doing what they need to do or not focused on the city, is really a statement that should be corrected or really looked at what's really going to happen. ETPA, Hotels are not Homes, Senior Tax Exemption, MBK community.

Now we're looking at good cause eviction. So, there's a process to do all of the things that we're doing, even when we look at when we talked about Poughkeepsie being on a national map, Purpose-Built is a national organization that helps communities across the nation with urban renewal and mixed income. Mayor flowers reached out to them immediately, and they came here to do a grant for us to do planning for the north side of Poughkeepsie, which everyone keeps talking about. We need something [to] change about the north side.

Councilwoman Brown. Councilman Henry did exactly what they had to do. Went out to their constituents in those projects and citizens within housing authority buildings. And got to the people that could because it was a timeline. So, either do we wait and let the grant pass for another couple of years and then still not be able to do anything with our north side? No, we took action. We went to the people that they needed to go to in those communities and had them - made them aware of the grant process, made them aware that they're going to be part of the planning process because the grant said that - the grant does not allow the city to plan it without the community members, and it was in the short timeframe, but is because we're trying to fix the north side, and that is one of the first steps.

There's going to be a lot of national recognition and a lot of national things going on with the city of Poughkeepsie, and some of them will be expedited at a fast pace because we are trying to make things change here. Just like we said, we want people to come here.

We want people, developers to come here. We want people to want to be able to move here for those things that happen. Some of these things have to be changed. Our infrastructure has to be worked on our sidewalks, our firehouse, our DPW.

All these types of things have to be considered and worked on. But it's going to be a slow process because we didn't get here overnight and we're not going to get out of here overnight. But to make it seem like the council is not doing what they need to do, it's not that's not a fair assessment of this council.

They've been working tirelessly hard. Now, whether you like what they do, if you don't, whether

you like what events they choose to show up to. Those are personal opinions.

But don't - with the council, they're everywhere now. Can they be at every single event? I don't know anybody that knows The Flash. Please let us know and we can try to clone ourselves.

But that can't happen. But we pick and choose to try to do as much as we can to attend to much community events as possible, attend to the people and and still have our own lives, still have our own families to take care of, still have situations. Of course, people might say that's, oh, whatever, that's what you get paid to do. But one thing, we are all still human, just like people offer our council.

When Councilwoman James lost her mother, you know, a matriarch in our city and from Beulah Baptist Church. For those that might not know, a matriarch dedicated to the community since I was a little kid. The next. The same time, Councilwoman James was still and part of the caucus. Still did not take time off. The caucus with the council to find out the voice, to hear what was going on for the next meeting.

So to say people aren't dedicated and say people aren't trying to do things. This is the type of things that we don't share because we don't really think we should have to. But I think people should know this because there's certain things that people just don't always want to tell everybody, because there's not really the reason to be a council member to share all your personal inside things. But if you want to keep attacking the council, what they're not doing when they're living their lives just like everybody else and serving. *And serving.*

This is a servant job. Service to the people to do things, to help. They chose to get elected. They walked the streets, got petitions. All these things that people do to be on committees, to be on this, to be here. And yes, everybody has different opinions.

We all come from different walks and backgrounds. We all come from different parts, but we all still live in the city of Poughkeepsie. So we do want what's best for the city of Poughkeepsie, and that's what we're fighting for, to try to get what's best. Now, we might see it differently, of course, because everyone has different opinions, but the common denominator is the idea that we want what's best for us, the City of Poughkeepsie.

And they keep coming and attacking the council about things that are frivolous. Social media, things like that, has nothing to do with the work that's being done because work is being done, as was stated earlier from various citizen comments.

So, you know, we can feel a certain type of way. We can say what we want to say, but facts are facts and fiction. And, you know, it's just getting a little, you know, seven months to say nothing is done. And I would challenge anybody with this council to say what would they want to see more done.

And like I said, even with the planning of the certain things, even with the mayor, Yvonne Flowers going out, we will we're not ever going to talk about the drug raids that's been happened in the task force that's been going on with Letitia James, the attorney general, and the mayor doing things together. We're not going to talk about those type of things. We want to going to focus on other things that we don't see or don't want to see.

We're not going to talk about the Children's Cabinet and the mayor coat shopping and that Cradle to Career Journey for the students for 5000 in 10 years, 5000 children, cradle to career. So that means they're going to be looked at in the cradle and a pathway all the way to they get a career. Mayor Flowers is the chair of the Children's Cabinet with that.

So there's a lot of things, but we don't want to talk about that. We just want to focus on the negative, you know, and we look at the country and we talk about the city of the kids, and we talk about all these things are being great, but we don't highlight the greatness. We don't highlight the good things.

And we have to start really looking at some of the good things and give credit where credit is due and be able to - yes, that is what is for – be challenged. When there's something that is a real issue that needs to be challenged, say when there's real things that need to be addressed.

But let's stop with the fabrications, because that's what a lot of stuff is fabricated.

That's my comments.

VII. MAYOR'S COMMENTS:

That's a hard one to follow.

No. I do appreciate your, comments on it.

I know, I'm out constantly out to different events and whatnot, and this is the first time in a very long time where I've actually seen so many council members that were attending events out there spreading that out. And even I would tell you, the dedication of this council is when the shooting happened on Main Street with that young man and also in other shootings that happened. Different individuals that are on this council went out to the hospitals to figure out what was going on with the victims. I've never seen that done.

I mean, it's times that I would be I would show up there or Lorraine Johnson, but to see so many council members actually splitting up to go in different hospitals to make sure everything, everybody was okay and talking with the family. I really commend, the work that this council member that every council member on here is involved, very involved in the community, I have to say, and each one of them have events that they're doing.

Even with Councilmember James, you know, the fact that she did lost her mom, but she hosted her own event over the weekend that helped, lift and empower other people in the community. And she put aside her own, her own suffering of dealing with her mom, and she was very close to her mom. So, the fact that she came out there to help other people and put aside her own feelings, I do commend you and I do appreciate what you did. So, thank you. Like I said, many of our councilmembers are out here too, doing events and who support events.

I do want to bring up something, you know, so there's a lot of events that are coming through about

block parties, and we love to see block parties throughout the city. It helps bring the community together, you know, it helps networking with each other, especially on the streets and kind of bring unity. The issue that we're having right now is that people are putting block parties together for personal events - birthday parties, whatever it may be. And you're excluding the public. So, I just want to make sure that we're all on the same page to bring, because you're going to start getting more of this coming to you. And we've had an, a situation where someone supported it to the fact that the person wanted to have pretty much a block party that was exclusive to their own family affair and closing down a street and having all the block party. We can't allow that to happen.

So, the block parties can only be in like a five hour block. And we'll have a policy working with City Chamberlain Cummings to discuss that even further so that we're not having this problem. But it's been coming up lately and we're not sure why, but we've had quite a few applications coming through, and we have to let them know we cannot shut down a street just for a personal birthday party or a personal graduation party, unless you're going to invite everyone on the street. And you also have to notify all the residents. So, I just want to make sure that we're all, you know, that everyone is aware of that, because I know we have a lot of new council members, and there's people who are trying to convince council members that that's what's supposed to happen. Also, too when a person put in an application, they pay for their fee, and it goes to all the departments, and then they make a determination to approve it. Just because they turn into application does not mean it is approved. So, we just have to make sure to let people know that as well. Because sometimes block parties are asked in certain situations where we have to deny it because of EMS transportation or bus transportation. And so there's certain areas that, we cannot do block parties in, So that's something that we'll discuss as well.

So again, we support block parties. We love it. But we just have to make sure it is a process being followed. Along with our parks, people are throwing events now in a park without doing a permit or what? And then also selling things in the parks. So, we're going to have to tighten that up some. So, I'm asking all the councilmembers if they can, kind of work with the administration with that as well. And when you see that, they let people know that there is a process. I don't know why people think it's a free for all, but for some reason that's starting to happen right now. Like I said, I enjoy them, but, there are we have to make sure that certain protocols are put in place and that they're followed. So, I just want to put that out there.

I also want to thank Frank Costello from the Dutchess County Chamber of Commerce and also Gillette Shows. They did the festival, Carnival down at Delaval site. And, it went pretty well there. You know, there's some things that we're still working out, but now there's other people who are coming forward and asking about doing events down there. So we are, discussing that, sometime this week and next week, about what we can do down here and what we can't do because it's nice. It brought a lot of life down and the Delaval site and as a child growing up in the City of Poughkeepsie it was really nice because most of us used to go down there to the Riverfest and the Balloon Fest. So, it was really nice. So, looking forward to, the many possibilities down at that site. And eventually we will be working with community members and start drafting an RFP about a development that's down there, that can, bring about a lot of possibilities and bring a lot of life to that, to that area. So I just want to thank them for coming forward and doing the work down there. They did a lot of clearing the land in order for that to happen.

So I really appreciate the work that they did with that.

I also want to thank, Joe O'Connor and Partners for offering to provide, fireworks on Juneteenth.

They contacted the City of Poughkeepsie and said, really think that there should be fireworks on that Juneteenth. So they were willing to pay for it. And so, of course, we agreed with it and went through the process that we needed to go through to make sure everyone was safe.

But it was a really nice affair on Juneteenth to see the fireworks there. So, I do thank them for that.

There's also quite a few here.

Of course, we know that there was a storm that just came not too long ago, and it did a lot of damage in the city of Poughkeepsie, especially on the south side of the City of Poughkeepsie, because, see, there were a lot of trees that were down.

Unfortunately, our city administrator's house was also damaged too.

So, I do want to thank our police department. Our fire department. I was out that evening, and I mean, the EMS, you know, workers, they were everywhere. Between the fire department and police department dealing with different calls of, you know, tree limbs that have fallen. We had a couple of damages that were in our, our neighborhood.

So, I do really appreciate the work that they were doing. And also coordinating with Central Hudson they brought in extra trucks that come in for the last few days to help with the cleanup and also with, restoring power to the City of Poughkeepsie. So, our DPW staff, what they did is they pooled recreation, sanitation, and, you know, other, employees in, in the DPW, department to help with the cleanup. So I have to say, after riding around and seeing what it looked like before they did the cleanup, they did a very good job.

So what they will be doing is going through the rest of the city, because they did start picking up the small limbs that are on the side of the road, and also in some of our parks. So that will be happening, in the next couple of days. So just wanted to make sure everybody, to let them know that and thank people for being patient, you know, because they did have to concentrate on areas where people had no power because the lines came down. So, they definitely were working on that.

Also want to thank the county because they did contact us to coordinate what was happening in the municipality. That was a devastation throughout the county. So it was great to be able to sit down and actually, you know, talk with other municipalities of what they're going through and, and be able to coordinate services for the City of Poughkeepsie. So we just know that, you know, [if] we have anything major that happens in the City of Poughkeepsie how there is a team and also there is a process that's in place. So that way everybody's kind of pull together to figure out what we need to do to make sure everyone's municipality is safe, in what protocols we need to put in place. So that was great to be a part of that, because that was the first time that I was, I'm a part of that as a mayor.

Too, this Thursday, there will be fireworks, in the City of Poughkeepsie. So, welcome everyone to come down to Waryas park. Like they brought up that they're going to be down here playing, which is great, at the pavilion. So, come down and enjoy.

The walkway is selling - it was selling tickets for the walkway. That is not, in conjunction with the city,

it's separate. So, people will go up on the walkway based on ticket sales so we just want to make sure everybody was, aware of that.

The other thing is too I do want to mention too, as far as our firefighters, I got an email today that, our firefighters that was in Group four, Engine Two yesterday delivered a baby on site. That was it. That was...yeah, so I just want to thank them for their service. And that was pretty awesome. But I just wanted to bring that out. And I had, the opportunity to go on the fireboat a couple days ago. It wasn't planned. I was just asked if I'd like to go out there, and I got a chance to see what our firefighters do whenever anything happens in the Hudson, you know, when they have to do any kind of rescue. So, it was a really great experience. So, it is something that I would like to arrange for our councilmembers to be able to experience, to, you know, if you want. I mean, you gotta have a life jacket, you know, but also to, I had a chance to do a ride along with the police many years ago. And I know there's something that came up with some of our councilmembers. So just to let you know that we can start that process up again to so you can do some of the ride-a-longs with our fire department and with our police department.

The other thing is too, is that there's pool passes. Everybody knows about that. It's been very busy. I have to thank our Chamberlains office. I know, Mr. Cummings and Donna DeLuca [note: Ingrid Sanchez-Eger along with Chamberlain Cummings did a majority of the work with accepting applications and distributing pool passes and should receive the credit] has been very busy in that department, along with Stacey Bottoms and Allison Smith. They've been very diligent in trying to get those pool passes processed. We've had, I think it's close to over 3000. And I didn't realize we were going to have that many coming through. You would think they were giving out lotto ticket.

So, so, the pool opening was great. The ceremony was amazing. I got a chance to swim in the pool with the kids. It was great. So, I'm looking forward to seeing the many people who are coming to enjoy our pools, you know, for Spratt and for Pulaski. So, we are still doing the pool passes, but we're going to end them very soon. So we're just letting people know that you need to come forward and get your passes. And then we're going to have to end it. It is for residents and non-residents, but at some point in time we're going to have to cut that. The other thing is too I just want to...oh, I want to, thank our, Joe Donat for the food trucks getting that together. I don't know if anyone's been able to do that, but on Fridays, there's food trucks that are over here on, right in front of City Hall. There's also going to be one down further down. Just, you know, coordinated working that out with the person. But it worked out very well on Friday. It was like a trial run. And they're also in our parks. So, there's two trucks and Pulaski into that will be in Spratt. So, it gives an opportunity for them to also, you know, to be able to thrive in the City of Poughkeepsie.

And I know it was brought up, Dave, the list that you have of all the events. We're going to also put that in the Buzz. So, that way it goes out. So, we do encourage people to sign up for the Buzz and also for the website, because we're putting more and more through that, of things that we have, going forward.

And I know our chair has brought up about the drug task force. Thank you for bringing that up. I think they've been doing an amazing job in the City of Poughkeepsie. And considering all the raids that has been going on. Yes, we've been, in communication with Letitia James' office, the Attorney General's office. She's been supporting the office, supporting the drug task force, along with our police department. They've been involved, and I think they've been doing a really good job in trying to

track down where this fentanyl is, because she's very against the fentanyl, and she's putting a lot of resources in there. So, I have to say, [they] are doing an amazing job in the City of Poughkeepsie, you know, to continue to support them.

Going back, to Main Street, I know it came up. You know, there's, people want to know what's happening as far as Main Street at 472 Main, there is a vacant lot that's there if you go right down Main Street, you see a lot of activity. So, what's happening is that, I want to thank, our County Executive, Susan Serino, and also Senator Rolison, Assemblyman Jonathan Jacobson. We've also had Mental Health America. There were Hudson River housing. There was also, a couple other organizations that met with us on that lot, along with the owners of the property. So we do have a game plan we have been working with, with the owners. We've increased the lighting there. So if you go down Main Street now, you'll see, a more brighter lights that are there instead of being so dark. And we're still going to continue to lighten up that area. But the thing is, is that, individuals have been moved, but we're also getting these organizations to come in to offer services as well. So as we're moving them, we're trying to get them moved into more services because as we move them as everybody - I don't think - well, the way comments are I guess they don't realize it, but at Rose Street and North White Street, you saw a lot of these individuals that were congregating there. You don't see that now, but they've gotten moved further down Main Street. There's more people who have also been coming. So now we have to make sure we have a game plan of how we move these individuals into getting the help that they need, but at the same time, giving the message that we are not going to allow any more laying on our streets, drinking on our streets and shooting up drugs on our streets. You know, our kids are coming out into the streets now. They're walking through our streets now, and they do not need to be exposed to that. As a councilmember, I fought that, I worked with Councilmember Grant on this with even Natasha Brown. But now being a mayor, I'm going to have a more aggressive approach. And the thing is, is that more and more people are coming from other areas, and it's almost like we're like the open door for everything.

So, I just want to make people understand that that's not the case whatsoever. We're here to help people, but we're not going to sit here and just take on all of this without the resources to help us. So, we're all working on that, along with the councilmembers. And yes, there is a Mainstreet task force. And that task force kind of grew that day when everybody went out to the lot. So, we are working on it the best that we can, considering the resources that we have. So, and we're also working, you know, closely with the county about the services that they're providing and what they're doing with the current shelter. So, just know that we're all on top of it. And I really appreciate the work that this council is doing to try to help with that situation as well, because we're working hard considering that this is a problem all throughout the country. But right now we're a very small city, so it's like we don't have a place that we can just put individuals and just say, that's your place, you know, without impacting in some part of the neighborhood. So, like I said, we're working on it.

Just want to bring up some real quick about the tower. Thank you, chair, for bringing it up. Right now, there is several devices, along with a tall 120, feet foot pole that has services on there for our EMS services and also for our water meters. That is on that pole. So the tower was supposed to replace that which is going to be next to it. And then we did commission that part, which the tower would be a few feet away from the shelter that, that's up there on College Hill. So regardless of what anybody has to say, say that pole is still going to be there. And if something happens to it, we have to replace it. So, the county right now, because they're doing a county wide project, they're going to assist

us in replacing what's already there. So, we're it's still going to be there no matter how you like it or not, because it's already there. It's been there for years and that's where our services are. It was just replacing what was already there. And then they're willing to put.. if you see it now go up the college hill because many of you are talking and have not been up there. So, go to College Hill right now and look at that, that structure that's there. And you see there's you can see everything that's going on there. But once the tower was going to go there, they were willing to put shrubbery around and put, greenery around it so you don't see it the same like you're doing right now.

But, you know, that's this is one of the issues I have, and people are making comments and not really looking at or digging into all the details in regards to it. So, I just want to let you know this is not something new that's going up there. This is something that's replacing.

Another thing I want to say too is thank you For the Many for you coming forward. When it comes down to helping our tenants, in the City of Poughkeepsie. I am in favor of good cause eviction. I was in favor of it when I was a council member and in favor it now. But also, I would like you to do to put some effort into is also teaching our tenants and what their responsibilities are to help them as well. Because I am a landlord and I know when I go through as a landlord and many other people that are friends of mine that are landlord and they go through a lot. Landlords are not all greedy. There are some landlords that are really trying to keep up the property, but they have problems of individuals who are not respecting it. So I just want to make sure that I put that out there, because some of the comments that were being made as if landlords don't care, that is not the case whatsoever. And there are some landlords that are out there struggling that they're almost losing their property because landlords are not paying their rent and they're not taking care of the property, and they're tearing up the property. And there's some that are bouncing from place to place, and there are small landlords that are hurting from it. So, I just want to let you know that there are landlords suffering out there as well..so when you're out here and you're doing that and you want to feel like you want to, you know, look out for the tenants, please help on that matter too so that way landlords are not so quick to want to throw people out because of the fact that they're tearing up their property. So, I just want to put that out there. And I mentioned that to you before, but maybe if you can do that too and show [or] do some of these workshops not only to show them what they can do to stay in their apartment, but also tell them what their responsibilities are as well. So, I'm asking for that please.

So thank you, Chair.

VIII. NEW & UNFINISHED BUSINESS & ANNOUNCEMENTS:

IX. REPORTS OF COMMITTEES AND BOARDS:

CONSENT AGENDA:

X. MOTIONS AND RESOLUTIONS:

XI. ORDINANCES AND LOCAL LAWS:

ACTION AGENDA:

XII. MOTIONS AND RESOLUTIONS:

1. **R-24-50**, Resolution Establishing a District Plan for the Downtown Business Improvement District

**RESOLUTION
(R 24-50)**

SPONSOR(S): CHAIRMAN WILSON, COUNCILMEMBERS PATTERSON THOMPSON, MENIST, GRANT, AND JAMES

WHEREAS, pursuant to General Municipal Law Article 19-A, the City of Poughkeepsie may provide for the establishment or extension of Business Improvement Districts; and

WHEREAS, the City has adopted the provisions of Article 19-A at Administrative Code §14.42; and

WHEREAS, the City is interested in a Downtown Business Improvement District.

NOW, THEREFORE, BE IT RESOLVED that pursuant to General Municipal Law §980-d, the Common Council hereby provides by resolution that there shall be prepared a District Plan for the Downtown Business Improvement District to encompass the parcels shown on Exhibit A annexed hereto and made a part hereof.

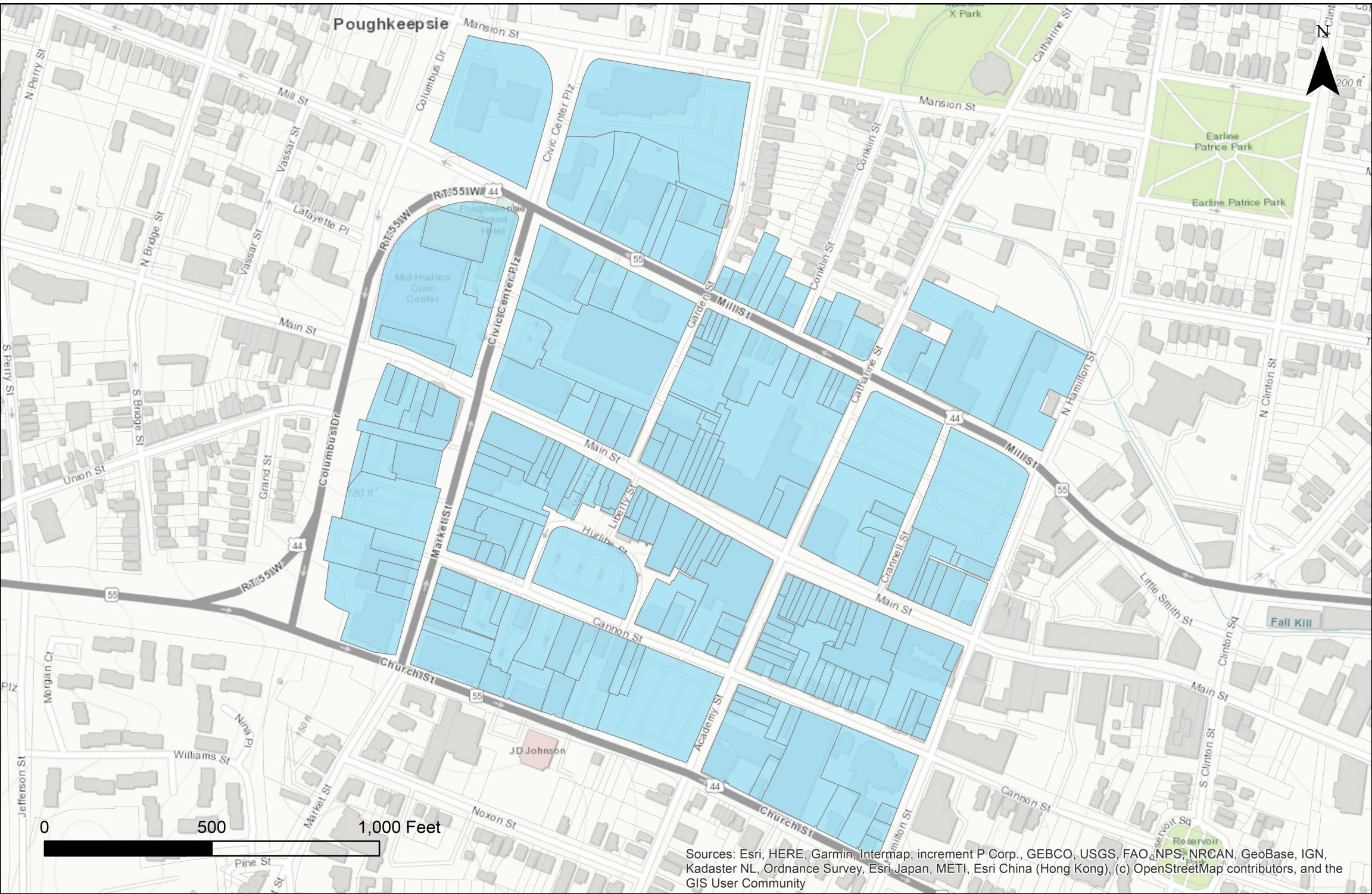
SECONDED BY COUNCILMEMBER PATTERSON THOMPSON

Councilmember Menist called the question which was seconded by Councilmember Brown

R-24-50 - VOICE VOTE						
☒ Accepted ☐ Defeated ☐ Tabled			Yes/Aye	No/Nay	Abstain	Absent
	Councilmember Henry	Voter	☒	☐	☐	☐
	Councilmember Menist	Voter	☒	☐	☐	☐
	Councilmember Brown	Voter	☒	☐	☐	☐
	Councilmember James	Voter	☒	☐	☐	☐
	Councilmember Grant	Voter	☒	☐	☐	☐
	Councilmember Deichler	Voter	☒	☐	☐	☐
	Majority Leader Patterson Thompson	Voter	☒	☐	☐	☐
	Vice Chair Shook	Voter	☐	☐	☐	☒
	Chairman Wilson	Voter	☒	☐	☐	☐

<insert supplements>

Proposed Poughkeepsie Improvement District



Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community

2. **R-24-51**, Resolution Approving License Agreement Between the City of Poughkeepsie and the Mid-Hudson Children's Museum to Utilize a Section of Waryas Park

**RESOLUTION
(R-24-51)**

**RESOLUTION APPROVING LICENSE AGREEMENT TO ALLOW THE MID-HUDSON
CHILDREN'S MUSEUM TO UTILIZE A SECTION OF WARYAS PARK**

**INTRODUCED BY MAJORITY LEADER PATTERSON THOMPSON AND
COUNCILMEMBER JAMES**

NOW, THEREFORE, BE IT RESOLVED, that the Common Council of the City of Poughkeepsie hereby finds and determines that it is in the best interest of the City to enter into a License Agreement with the Mid-Hudson Children's Museum upon the terms and conditions annexed hereto and made a part hereof; and

BE IT FURTHER RESOLVED, that this resolution is subject to submission and review by the Waterfront Advisory Commission, if determined to be subject to City Code Chapter 18 1/2; and *

BE IT FURTHER RESOLVED, that the Mayor and City Administrator are hereby authorized and directed to do all things necessary to give effect to the terms of this resolution including but not limited to the execution of the attached License Agreement.

*amended on the floor

A motion was made by Councilmember Brown and Seconded by Chair Wilson to amend Resolution R-24-51 to include language regarding possible WAC approval

SECONDED BY COUNCILMEMBER PATTERSON THOMPSON

R-24-51 - VOICE VOTE						
☒ Accepted ☐ Defeated ☐ Tabled			Yes/Aye	No/Nay	Abstain	Absent
	Councilmember Henry	Voter	☒	☐	☐	☐
	Councilmember Menist	Voter	☒	☐	☐	☐
	Councilmember Brown	Voter	☒	☐	☐	☐
	Councilmember James	Voter	☒	☐	☐	☐
	Councilmember Grant	Voter	☒	☐	☐	☐
	Councilmember Deichler	Voter	☒	☐	☐	☐
	Majority Leader Patterson Thompson	Voter	☒	☐	☐	☐
	Vice Chair Shook	Voter	☐	☐	☐	☒
	Chairman Wilson	Voter	☒	☐	☐	☐

LICENSE AGREEMENT

THIS AGREEMENT made this _____ day of June, 2024 by and between the **CITY OF POUGHKEEPSIE**, a municipal corporation of the State of New York, having its principal offices at the Municipal Building, 62 Civic Center Plaza, Poughkeepsie, New York 12601, hereinafter called the "**City**", and **MID-HUDSON CHILDREN'S MUSEUM** (hereinafter the "Museum") having a principal place of business at _____.

WITNESSETH:

WHEREAS, the City is the owner of a public park known as Waryas Park, City of Poughkeepsie, New York; and

WHEREAS, the Museum desires to use a portion of Waryas Park to install playground equipment, gardening boxes/planters, steps/landscaping as shown on the rendering attached hereto as Exhibit "A" (hereinafter referred to as the "Project"); and

NOW, THEREFORE, in consideration of the mutual promises, covenants and conditions hereafter set forth, the parties agree as follows:

1. The above recitals are incorporated herein by reference as if set forth at length, and the Parties intend the above recitals to constitute material terms of this Agreement.

2. The City grants to the Museum, and the Museum hereby accepts from the City, a license to manage and operate for the period herein stated and subject to all the terms and conditions herein contained, a license for the privilege installed the Project as shown on the rendering attached hereto as Exhibit "A" and installed within Waryas Park at the location shown on Exhibit B (the "Property"). It is understood and agreed between the parties that this agreement is intended to be only a license to utilize the above-described premises and no part thereof shall be interpreted as being any form of lease agreement.

3. a. The term of this license shall commence upon the execution of this agreement and shall expire without further notice by either party to the other at midnight on June 30, 2034 unless sooner terminated as herein provided, or unless the City by five (5) days' notice in writing shall terminate the license, when and if, in its sole judgment, it deems that such termination is necessary by operation of law, or pursuant to the terms of this agreement, or the licensed premises is no longer being used for the Project.

b. As long as The Museum is not in default of any of its obligations under the License, the City shall grant to The Museum the option to renew (the "Renewal Option") the term of this License for one (1) additional period of ten (10) years (the "Renewal Term"). The Museum shall exercise such Renewal Option by delivering written notice of such election to the City at least three (3) months prior to the expiration of the initial Term. The renewal of this License shall be upon the same terms and conditions of this License, except (a) The Museum shall have no option to renew this License beyond the expiration of the Renewal Term; and (b) The Museum shall not have the right to assign its renewal rights to any

sublessee of the Property or a portion thereof or to any assignee of this License, nor may any such sublessee or assignee exercise or enjoy the benefit of such renewal rights;

4. No fee shall be charged for this license, the parties recognize that the Museum is providing a public service by installing, operating and maintaining the Project as set forth in the License.

5. The Museum's installation of the Project is at the Museum's sole cost and expense, including, but not limited to, the costs to install any utility and electricity necessary. That actual installation work shall not commence until prior written notice to and approval by the City (which shall not be unreasonably withheld). It is further agreed that the Museum will, within ten (10) days, discharge any and all mechanics' liens filed against the premises hereinabove described which have been filed relative to The Museum's operations thereon.

6. The Museum's maintenance responsibilities shall include replacing any portions of the Project that are damaged for any reason including, but not limited to, nature, vandalism or negligence. The Museum understands that the City does not have funding to replace damaged portions of the Project.

7. The Museum shall be responsible for ordinary maintenance of the Property including lawn and shrub maintenance, snow removal, litter removal and providing all utility and electric needs. The City shall maintain any installed utility, including, but not limited to electric. This shall not include the removal of any graffiti on any portion of the Project.

8. The Museum shall not remove any property currently located on the premises, without prior written approval of the City.

9. The Museum shall obtain, at the Museum's own cost and expense, all permits and licenses necessary, if any, for the legal operation of this license. The Museum agrees to be responsible for any building department fees, if any and will comply with all state and local building codes.

10. The Museum shall not sell, mortgage, rent, assign, or parcel out the license hereby granted, or any interest therein, or allow or permit any other person or party to use or occupy any part of the Property covered by this license for any purpose whatsoever without first obtaining the written consent of the City, nor shall the license be transferred by operation of law, without the prior written approval of the City who will not unduly withhold such a request.

11. The Museum agrees that should any building or structure upon the Property included in this license be damaged by fire, or any other cause whatsoever, so as to prevent the operation of this license to the satisfaction of the City, and on notice in writing by The Museum to the City that The Museum is unable or unwilling to make repairs necessary to restore the premises to an operable condition, then the City, at its option, may, on notice in writing to The Museum, cancel and terminate this license, and all rights and privileges hereunder shall cease.

12. The Museum shall not use or permit the storage of any illuminating oils, turpentine, benzene, naphtha or similar substances or explosives of any kind or any substance or thing prohibited in the standard policies of fire insurance companies in the State of New York.

13. The Museum agrees that at all times free access will be given to representatives of the City or any other state or federal or municipal officials having jurisdiction for inspection purposes.

14. The Museum hereby expressly waives any and all claims for compensation for any and all loss or damage sustained by reason of any defects, deficiency or impairment of the electrical apparatus or wires furnished for the licensed premises, or by reason of any loss of any gas supply, water supply, heat or current which may occur from time to time from any cause, or for commotion or riot, or any act of God, and The Museum hereby expressly releases and discharges the City, its agents, officers, and employees from any and all demands, claims, actions and causes of action arising from any of the causes aforesaid, and agrees to hold them harmless therefor, including attorney's fees, if any, unless there was gross negligence by the City, its agents, officers, and/or employees.

15. The Museum assumes all risk in the operation of this license and agrees to comply with all federal, state and local laws and regulations and orders of the City affecting the licensed premises in regard to this project.

16. The Museum shall maintain such insurance in the amounts set forth herein. All policies shall be submitted to City for approval before any installation work is commenced. Each contract between The Museum and any contractor must require that each insurance policy shall name the City of Poughkeepsie as an "additional named insured" thereof, and shall be delivered to the City. Each policy and certificate shall have endorsed thereon: "No cancellation of or change in this policy shall become effective until after ten (10) days' notice by registered mail to the Corporation Counsel of the City of Poughkeepsie, Municipal Building, Poughkeepsie, New York." The required insurance must be in not less than the following amounts:

- a. Commercial General Liability with limits not less than \$1,000,000 per occurrence, \$2,000,000 general aggregate, \$1,000,000 and \$2,000,000 products-completed operations aggregate. Such insurance shall cover liability arising from premises, operations, independent contractors, product-completed operations for one year following project completion, personal and advertising injury and liability assumed under an insured contract. There shall be no endorsement or modification of the Commercial GL form arising from pollution, explosion, collapse, underground property damage or work performed by subcontractors.
- b. Business Automobile Liability with a limit of not less than \$1,000,000 each accident, including owned, non-owned, leased and hired vehicles.
- c. Statutory Workers Compensation and employers' liability coverage for all employees, including corporate officers and sole proprietors.
- d. Umbrella/Excess Liability with a limit of not less than \$5,000,000 per occurrence/aggregate

17. Upon failure of The Museum to furnish, deliver and maintain such insurance as above provided, this license may, at the election of the City, be forthwith declared suspended, discontinued, or terminated. Failure of The Museum to take out and/or maintain or the taking out and/or maintenance of any required insurance shall not relieve The Museum from any liability under the license, nor shall the insurance requirements be construed to conflict with the obligations of The Museum concerning indemnification as set forth below.

18. The Museum expressly agrees to hold the City, its agents, officers, and employees harmless from any and all claims for loss, damage or injury to person or property, whatever kind or nature arising from the installation of the Art, or from the negligence or carelessness of employees, agents or contractors of The Museum, and The Museum expressly agrees to indemnify the City, its agents, officers, and employees of any recoveries against them, individually and/or jointly, arising from same.

19. The Property shall at all times be insured under the City's insurance policies in the same manner as the City insures other City-owned property.

20. Should the City, in its sole judgment, decide that The Museum is not operating the license herein granted in a satisfactory manner, then City may terminate this license by notice in writing, effective fifteen (15) days from mailing, as though it were the time provided in this license for termination, all rights of the Museum therein shall be forfeited without any claims for damages, compensation, refund of the Museum investment, if any, or any other payment whatsoever. The fifteen day notice to terminate this agreement shall include a statement of the conditions which have caused the notice to be issued and the Museum shall have fifteen (15) days from the mailing of the notice to cure the condition and require the termination to be withdrawn. The fifteen-day cure period shall be strictly enforced regardless of the nature of the condition to be cured, unless otherwise mutually agreed upon in writing by both parties.

21. The Museum at the expiration or sooner termination of this license as provided herein, shall quit and surrender the licensed premises and shall remove the Project promptly.

22. Neither this license nor any interest created hereby may be assigned or transferred by operation of law or otherwise without the express written consent of the City, it being the intention of the City to grant this license personally to the Museum.

23. This license cannot be changed orally.

24. NOTICES:

Any notices required by and/or pursuant to this License Agreement shall be sent by first class mail to the following:

LICENSEE: Mid-Hudson Children's Museum

With copy to:

LICENSOR: City of Poughkeepsie
Attn: City Administrator
62 Civic Center Plaza
Poughkeepsie NY 12601

With copy to: City of Poughkeepsie
Attn: Corporation Counsel
62 Civic Center Plaza
Poughkeepsie NY 12601

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written.

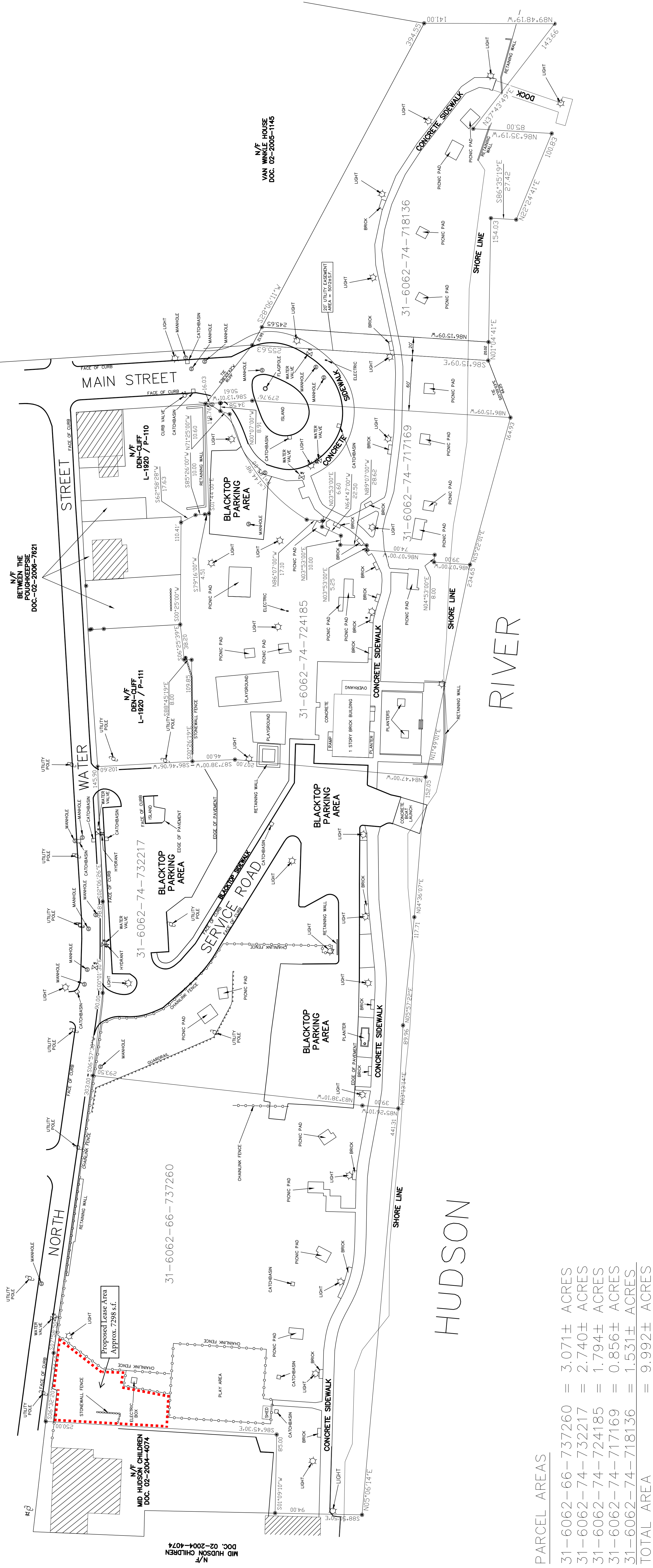
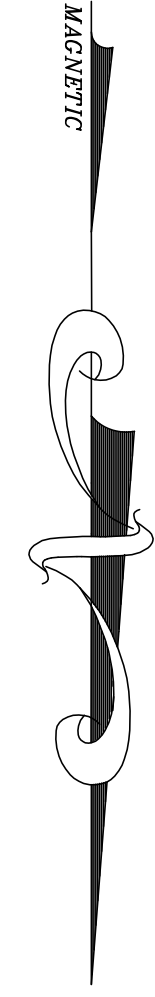
MID-HUDSON CHILDREN'S MUSEUM

BY: _____

CITY OF POUGHKEEPSIE

BY: _____
YVONNE D. FLOWERS, MAYOR

<insert supplement>



PARCEL AREAS

31-6062-66-737260	=	3.071±	ACRES
31-6062-74-732217	=	2.740±	ACRES
31-6062-74-724185	=	1.794±	ACRES
31-6062-74-717169	=	0.856±	ACRES
31-6062-74-718136	=	1.531±	ACRES
TOTAL AREA	=	9.992±	ACRES

THIS IS TO CERTIFY TO ALL PARTIES LISTED BELOW THAT THE SURVEY SHOWN HEREON WAS PREPARED BY US FROM AN ACTUAL FIELD SURVEY COMPLETED ON APRIL 19, 2007.

* CITY OF POUGHKEEPSIE.

PAGGI, MARTIN, & DEL BENE,^{LLP}
ENGINEERS & SURVEYORS
56 MAIN STREET
POUGHKEEPSIE, NEW YORK 12601

SURVEY MAP MADE FOR
CITY OF POUGHKEEPSIE
"WARYAS PARK"
SITUATED IN THE CITY OF POUGHKEEPSIE
DUTCHESS COUNTY
NEW YORK
MAY 2007
SCALE: 1" = 50'

S/DRAWING/PROJECT/07-023

07-023

3. **R-24-52, Resolution Authorizing the Settlement of Litigation Against Columbia Utilities**

**RESOLUTION
(R-24-52)**

**RESOLUTION AUTHORIZING THE SETTLEMENT OF
LITIGATION AGAINST COLUMBIA UTILITIES, LLC**

**SPONSORS: CHAIRMAN WILSON, COUNCILMEMBERS PATTERSON THOMPSON,
MENIST AND JAMES**

WHEREAS, on or about April 30, 2021, the City of Poughkeepsie entered into a Community Choice Aggregation Electricity Supply Agreement (“Supply Agreement”) with Columbia Utilities, LLC or its affiliate (“Columbia”) as Energy Service Company (“ESCO”) and Joule Assets Inc. (“Joule”), as Community Choice Aggregation Administrator, to provide energy benefits to certain residential and small non-residential customers within the City of Poughkeepsie; and

WHEREAS, on April 19, 2022, Columbia notified the Public Service Commission that it intended to transfer these customers to the local utility, Central Hudson Gas & Electric Corp. (“Central Hudson”), which transfer constituted an alleged breach of the Supply Agreement by terminating service without cause or in accordance with the terms of the Supply Agreement; and

WHEREAS, on June 3, 2022, City of Poughkeepsie, together with other participating municipalities (two of which later joined), Joule, and individual plaintiffs (collectively, the “Plaintiff Parties”) filed a Verified Complaint (the “Complaint”) against Columbia in New York State Supreme Court, captioned *Town of Saugerties et al., v. Columbia Utilities Power, LLC et al.*, Index No. EF2022-1113 (N.Y. Sup. Ct., Ulster Co.) (the “Action”), seeking injunctive relief and damages in connection with the CCA Program and Columbia’s purported intention to terminate the Supply Agreement and transfer all of its CCA Program customers back to Central Hudson;

WHEREAS, the New York State Public Service Commission (the “PSC”) intervened in the Action on behalf of the Plaintiff Parties;

WHEREAS, the parties to the Action engaged in extensive discovery as part of the litigation and subsequently sought to explore whether a resolution was possible;

WHEREAS, on April 3, 2024, the Plaintiff Parties, PSC, Columbia, and Central Hudson participated in a day-long mediation with Fred Fucci of Fucci Law & ADR, PLLC (the “Mediation”);

WHEREAS, as a result of the Mediation, all of the parties desire to resolve this action under terms set forth in the Settlement Agreement attached hereto as **Exhibit A**.

Official Minutes of the Common Council Meeting of July 2, 2024

WHEREAS, we have concluded that this settlement of all of the claims and causes of action brought by in the Action, is fair, reasonable, adequate, and in the best interests of our constituents;

NOW THEREFORE, BE IT RESOLVED that:

1. Settlement of the Action, under the terms of the Settlement Agreement (Ex. A) is hereby authorized and approved.
2. The Mayor and staff are authorized to take all appropriate steps to support the settlement of the action in accordance with the Settlement Agreement.
3. The Mayor is authorized to execute the Settlement Agreement in the form attached hereto, subject to any non-material changes deemed necessary in the Mayor's reasonable discretion.
4. This Resolution shall be effective immediately upon its adoption.

SECONDED BY COUNCILMEMBER PATTERSON THOMPSON

R-24-52 - VOICE VOTE						
☒ Accepted ☐ Defeated ☐ Tabled			Yes/Aye	No/Nay	Abstain	Absent
	Councilmember Henry	Voter	☒	☐	☐	☐
	Councilmember Menist	Voter	☒	☐	☐	☐
	Councilmember Brown	Voter	☒	☐	☐	☐
	Councilmember James	Voter	☒	☐	☐	☐
	Councilmember Grant	Voter	☒	☐	☐	☐
	Councilmember Deichler	Voter	☒	☐	☐	☐
	Majority Leader Patterson Thompson	Voter	☒	☐	☐	☐
	Vice Chair Shook	Voter	☐	☐	☐	☒
	Chairman Wilson	Voter	☒	☐	☐	☐

<insert settlement>

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (the “Agreement”) is made and entered into by the Municipal Plaintiffs and the Individual Plaintiffs (each as defined further below) and Joule Assets, Inc. (“Joule”) (together with the Municipal Plaintiffs and Individual Plaintiffs, “Plaintiffs”) on their own behalf and on behalf of all Settlement Class Members (as defined below), and the New York State Public Service Commission, on its own behalf and on behalf of the People of the State of New York (the “PSC”) (together with Plaintiffs, the “Plaintiff Parties”), on one hand, and defendants Columbia Utilities Power, LLC and Columbia Utilities, LLC (together, “Columbia” or “Defendants”), on the other hand (collectively, the “Parties”).¹ The Parties intend this Agreement to resolve, discharge and settle the Released Claims (as defined below) fully, finally and forever according to the terms and conditions set forth below.

RECITALS

WHEREAS, the Municipal Plaintiffs each contracted with Columbia on or around April 30, 2021 to receive renewable electricity supplied through the Hudson Valley Power Community Choice Aggregation Program (the “CCA Program”), for which Columbia Utilities Power, LLC served as the Energy Service Company (“ESCO”), thereby providing the option for individual residents and small businesses located within those municipalities to participate in the CCA Program;

WHEREAS, on June 3, 2022, Plaintiffs filed a Verified Complaint (NYSCEF Doc. No. 2) (the “Complaint”) against Columbia in New York State Supreme Court, captioned *Town of Saugerties et al., v. Columbia Utilities Power, LLC et al.*, Index No. EF2022-1113 (N.Y. Sup. Ct., Ulster Co.) (the “Action”), seeking injunctive relief and damages in connection with the

¹ Unless indicated otherwise, capitalized terms used herein shall have the meaning in Section 1, titled “Defined Terms.”

CCA Program and Columbia's purported intention to terminate its contracts with the Plaintiff Municipalities and transfer all of its CCA Program customers (i.e., the Settlement Class Members (as defined below)) back to the local utility, Central Hudson Gas & Electric Corp. ("Central Hudson");

WHEREAS, the Complaint included claims and causes of action asserted against Columbia by the Individual Plaintiffs on their own behalf and as representatives of the putative class of all persons who, as of July 18, 2022, still participated in the CCA Program as a resident of or small business located within a municipality participating in the CCA Program for which Columbia has served as the ESCO (the "Settlement Class");

WHEREAS, in conjunction with their Complaint, Plaintiffs also filed a proposed Order to Show Cause on June 3, 2022, seeking to preliminarily enjoin and restrain Columbia from, among other things, transferring all of its CCA Program customers (including all Settlement Class Members (as defined below)) back to Central Hudson, which the Court so-ordered and entered on June 7, 2022 (the "Order to Show Cause"), including the temporary restraining order Plaintiffs requested (the "TRO");

WHEREAS, on June 6, 2022, the PSC filed a Proposed Intervenor's Complaint for Injunctive Relief and Penalties against Columbia in the Action (the "PSC Complaint"), based on the same facts and allegations and seeking similar relief as the Complaint filed by the Plaintiffs in the Action, pursuant to the PSC's accompanying motion to intervene, which the Court granted on August 12, 2024 by stipulation of the Parties;

WHEREAS, on July 18, 2021, while the TRO was in effect, the New York State Independent Operator ("NYISO") terminated Columbia's rights to participate in NYISO-administered market in New York State, which was followed by the transfer of all of Columbia's

CCA Program customers (including all Settlement Class Members) back to Central Hudson as the local utility, after Columbia did not post approximately \$3.5 million in collateral by July 12, 2022 as required to comply with NYISO's creditworthiness requirements;

WHEREAS, on August 12, 2022, in addition to granting the PSC's Motion to Intervene, the Court in the Action adjourned the deadlines in the Order to Show Cause to allow the Parties to conduct discovery on whether Columbia was unable to comply with the TRO by meeting the NYISO's collateral demand and whether Columbia was able to prevent its termination and the subsequent transfer of its CCA Program customers (including all Settlement Class Members) back to Central Hudson;

WHEREAS, Columbia denies all material allegations against it in the Action, including the allegation that the Plaintiff Parties are or were entitled to injunctive relief,; and

WHEREAS, the Parties have completed document discovery into the collateral demand and Columbia's ability to comply with the TRO, including the production of documents and information by Columbia in connection with Plaintiffs' and the PSC's allegations against Columbia, as well as third-party discovery from Central Hudson, and have engaged in settlement discussions;

WHEREAS, on April 3, 2024, the Parties and Central Hudson participated in a day-long mediation with Fred Fucci of Fucci Law & ADR, PLLC (the "Mediation");

WHEREAS, as a result of the Mediation, the Parties agreed to the material terms of a settlement, as further described in this Settlement Agreement, and the Plaintiff Parties have concluded that this settlement of all of the claims and causes brought by the Plaintiff Parties in the Action, including, without limitation, the claims and causes of action asserted on behalf of

the Settlement Class by the Individual Plaintiffs, is fair, reasonable, adequate, and in the best interests of all Settlement Class Members;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and among the Municipal Plaintiffs, the Individual Plaintiffs (on their own behalf and on behalf of the Settlement Class and all Settlement Class Members), and the PSC, on the one hand, and Columbia, on the other hand, by and through the counsel or attorneys of record for each respective Party, that, subject to the approval of the Court pursuant to Article 9 of the New York Civil Practice and Rules (“CPLR”) and the terms set forth below, the Settlement Class and the Released Claims (as defined below) shall be finally and fully compromised, settled, and released, and the Action shall be dismissed with prejudice, as to all Parties, upon and subject to the terms and conditions of this Agreement, as follows:

DEFINITIONS

1. Defined Terms. Terms defined for purposes of this Agreement are as follows:²

1.1 “Action” means the putative class action commenced by Plaintiffs on June 3, 2023, against Columbia in New York State Supreme Court, captioned *Town of Saugerties, et al., v. Columbia Utilities Power, LLC, et al.*, Index No. EF2022-1113 (N.Y. Sup. Ct., Ulster Co.).

1.2 “Agreement” means this Settlement Agreement, inclusive of exhibits.

1.3 “CCA Program” means the Hudson Valley Power Community Choice Aggregation Program administered by Joule and through which Columbia contracted to supply renewable energy to Plaintiffs and the Settlement Class Members.

1.4 “Central Hudson” means Central Hudson Gas & Electric Corp. and each of its subsidiaries, affiliates, principals, officers, directors, employees, and agents.

² Terms defined in Section 1 shall have the same meaning hereinafter in this Agreement regardless of capitalization, and, with respect to any terms previously defined in the Recitals above, the definitions of those terms in this Section 1 shall control.

1.5 “Columbia” or “Defendants” means, collectively, Defendants Columbia Utilities Power, LLC and Columbia Utilities, LLC, and each of their subsidiaries, affiliates, principals, officers, directors, employees, and agents.

1.6 “Court” means the New York State Supreme Court of the County of Ulster presiding over the Action.

1.7 “Court Approval” shall mean the Court’s entry of the Order and Final Judgment substantially in the form of **Exhibit C** hereto.

1.8 “CPLR” means the New York Civil Practice Law and Rules.

1.9 “Effective Date” means the date upon which the Settlement embodied in this Agreement becomes effective, meaning the date on which the Judgment approving this Agreement, substantially in the form of **Exhibit C** to this Agreement, becomes Final as a matter of law, and all conditions set forth in Section 7 herein have been fully satisfied.

1.10 “ESCO” means energy service company as set forth under applicable rules and regulations set forth by the PSC and NYISO (each as defined herein).

1.11 “Escrow Account” means the escrow account into which Columbia shall pay the Settlement Fund as defined in Section 2.1, which shall be governed by the terms of the Escrow Agreement to be entered into between Plaintiffs’ Counsel and the bank selected by Plaintiffs’ Counsel.

1.12 “Fairness Hearing” shall mean the hearing to be held by the Court pursuant to the terms of the Hearing Order (defined below) to determine whether the Settlement should be approved as fair, reasonable and adequate within the meaning of Article 9 of the CPLR.

1.13 “Final” means when the last of the following with respect to the Judgment approving this Agreement, substantially in the form of **Exhibit C** attached hereto, shall occur: (i) the expiration of the time to file a motion to alter or amend the Judgment under CPLR Rule 905 without any such motion having been filed; (ii) the expiration of the time for the filing or noticing of any appeal from the Judgment without any appeal having been taken; and (iii) if a motion to alter or amend is filed or if an appeal is taken, immediately after the final determination of that motion or appeal such that no further judicial review or appeal is permitted, whether by reason of affirmance by a court of last resort, lapse of time, voluntary dismissal of the appeal or otherwise in such a manner as to permit the consummation of the Settlement, substantially in accordance with the terms and conditions of this Agreement.

1.14 “Order and Final Judgment” or “Judgment” means the order and form of judgment approving this Agreement and dismissing the Action with prejudice upon Plaintiffs’ receipt of the full amount of the Settlement Fund, which order and judgment shall be substantially in the form attached hereto as **Exhibit C**.

1.15 “Hearing Order” shall mean the “Scheduling Order for Approval of Settlement of Class Action,” substantially in the form of **Exhibit A** hereto.

1.16 “Individual Plaintiffs” means, collectively, Fred Costello, the Supervisor of Municipal Plaintiff Town of Saugerties and a resident participant in the CCA Program, and Tim Rogers, the Mayor of Municipal Plaintiff Village of New Paltz and a resident participant in the CCA Program, on behalf of themselves and as representatives of the Settlement Class Members.

1.17 “Joule” means Plaintiff Joule Assets, Inc. as administrator of the CCA Program.

1.18 “Mediation” means the mediation that the Parties and Central Hudson participated in on April 3, 2024, with Fred Fucci of Fucci Law & ADR, PLLC as mediator, which resulted in the Settlement provided for in this Agreement.

1.19 “Municipal Plaintiffs” means, collectively, the Town of Saugerties, the Town of New Paltz, the Village of New Paltz, the City of Beacon, the Town of Clinton, the Town of Marbletown, the City of Poughkeepsie, the Town of Red Hook, the Town of Philipstown, and the Village of Cold Spring.

1.20 “Municipal Plaintiffs’ Approval” means the approval of the Settlement and this Agreement by the officials, representatives, and/or stakeholders with the proper and lawful authority to do so on behalf of each Municipal Plaintiff.

1.21 “Notice and Administration Expenses” means all fees, expenses, and interest thereon incurred as a result of providing Notice to the Settlement Class and otherwise administering the Settlement.

1.22 “NYISO” means the New York Independent System Operator.

1.23 “Opt Out” means the voluntary decision of any Settlement Class Member to request exclusion from the Settlement Class pursuant to the Settlement Notice attached hereto as **Exhibit B** and as provided herein under Section 5.3.

1.24 “Opt Out Deadline” means the deadline for Settlement Class Members to timely Opt Out of the Settlement pursuant to the Settlement Notice and as provided herein under Section 5.3.

1.25 “Order to Show Cause” means the proposed Order to Show Cause that Plaintiffs filed in the Action on June 3, 2022, seeking to preliminarily enjoin and restrain Columbia from, among other things, transferring all of its CCA Program customers (including all

Settlement Class Members back to Central Hudson), which the Court so-ordered and entered on June 7, 2022.

1.26 “Parties” means, collectively, the Plaintiff Parties and Columbia (both as defined herein) as parties to this Agreement.

1.27 “Person” or “Persons” means all persons and entities (including, without limitation natural persons, firms, corporations, limited liability companies, joint ventures, joint stock companies, unincorporated organizations, agencies, bodies, governments, political subdivisions, governmental agencies and authorities, associations, partnerships, limited liability partnerships, trusts, and their predecessors, successors, administrators, executors, heirs and assigns).

1.28 “Plaintiffs” means, collectively, the Municipal Plaintiffs, the Individual Plaintiffs (on behalf of themselves and as representatives of the Settlement Class Members), and Joule (each as defined herein).

1.29 “Plaintiffs’ Counsel” means Hodgson Russ LLP.

1.30 “Plaintiff Parties” means, collectively, the Plaintiffs and the PSC (both as defined herein).

1.31 “PSC” means the New York State Public Service Commission acting (i) on its own behalf; (ii) as part and on the behalf of the New York Department of Public Service; and (iii) on behalf of the People of the State of New York.

1.32 “PSC Complaint” means the Proposed Intervenor’s Complaint for Injunctive Relief and Penalties filed by the PSC against Columbia in the Action on June 6, 2022, pursuant to the PSC’s accompanying motion to intervene, which the Court granted on August 12, 2024 by stipulation of the Parties.

1.33 “Released Claims” means any and all claims, including any and all claims, rights, and liabilities of any nature, including, but not limited to, actions, claims, demands, causes of action, obligations, damages, debts, charges, attorneys’ fees, costs, arbitrations, forfeitures, judgments, indebtedness, liens and losses of any kind, source or character whether arising out of federal or state law, whether known, suspected to exist or unknown, whether asserted or unasserted, whether asserted by any Releasing Party either on its own behalf or on behalf of any other Person, whether in contract, express or implied, tort, at law or in equity or arising under or by virtue of any statute or regulation, by reason of, arising out of, that are related to any of the facts, acts, events, transactions, occurrences, courses of conduct, business practice or relationship, representations, omissions, circumstances or other matters related in any way to the Action, addressed in this Agreement, and/or that could have been brought in the Action against any of the Released Parties, including any claims related to the Released Parties’ conduct in connection with the CCA Program. For the avoidance of doubt, the Released Claims include “Unknown Claims” (as defined herein) related to the Action; however, the Released Claims do not include claims to enforce the Settlement pursuant to this Agreement.

1.34 “Released Parties” means, collectively, Columbia Utilities Power, LLC and Columbia Utilities, LLC and any of their former, present, and future assigns, predecessors, successors, affiliates, parent companies, subsidiaries, controller companies, employees, officers, directors, principals, and agents.

1.35 “Releasing Parties” means, collectively, that the Plaintiff Parties and all Settlement Class Members who do not Opt Out of the Settlement and this Agreement pursuant to the Settlement Notice (as defined herein), including their respective current and former officers, directors, employees, attorneys, heirs, executors, administrators, agents, legal representatives,

professional corporations, partnerships, members, assigns, and successors, but only, with respect to the Settlement Class Members, to the extent their claims are derived from the claims and causes of action that the Individual Plaintiffs asserted in the Complaint.

1.36 “Settlement” means the resolution, discharge and settlement of the Released Claims and the Action as provided for under this Agreement.

1.37 “Settlement Administrator” means the entity appointed by the Court to perform the settlement administration duties described in this Agreement, including the dissemination of the Settlement Notice and the use, allocation, and disbursement of the Total Settlement Fund (as defined herein). The Settlement Administrator shall also serve as the Escrow Agent for the Settlement Fund as provided under Section 2.3 herein. The Parties shall propose and recommend to the Court that Simpluris should serve as Settlement Administrator.

1.38 “Settlement Class” means the putative class of all Persons or businesses who, as of July 18, 2022, still participated in the CCA Program as a resident or small business located within a municipality participating in the CCA Program, as represented by the Individual Plaintiffs in the Action. For purposes of the Settlement only, the Action shall be certified as a class action pursuant to CPLR Article 9 on behalf of the Settlement Class. Excluded from the Settlement Class are (1) those Persons who timely and validly Opt Out of the Settlement pursuant to the Settlement Notice; (2) the judicial officers to whom this case is assigned and any members of their staffs and immediate families; and (3) any heirs, assigns, or successors of any of the Persons or entities described in parts (1) and (2) of this paragraph.

1.39 “Settlement Class Member” means a Person who is a member of the Settlement Class.

1.40 “Settlement Fund” is \$1,500,000.00 to be funded by Columbia to be paid into the Escrow Account in accordance with the terms provided herein under Section 2 of this Agreement.

1.41 “Settlement Notice” shall mean the “Notice of Class Action, Proposed Settlement of Class Action, Settlement Hearing and Right to Appear” substantially in the form of **Exhibit B** hereto.

1.42 “Tax” or “Taxes” mean any and all taxes, fees, levies, duties, tariffs, imposts, and other charges of any kind (together with any and all interest, penalties, additions to tax and additional amounts imposed with respect thereto) imposed by any governmental authority, including, but not limited to, any local, state, and federal taxes.

1.43 “Tax Expenses” means any costs or expenses incurred in connection with the administration of the Total Settlement Fund and/or the Escrow Account (including, without limitation, expenses of tax attorneys and/or accountants and mailing and distribution costs and expenses relating to filing or failure to file any related tax returns or other required filings or documentation).

1.44 “Total Settlement Fund” means the Settlement Fund plus all interest and accretions thereto earned after being deposited to the Escrow Account controlled by the Escrow Agent.

1.45 “TRO” means the Temporary Restraining Order that the Court entered against Columbia in the Action pursuant to the Order to Show Cause.

1.46 “Unknown Claims” means any and all Released Claims which the Plaintiff Parties, Plaintiff’s Counsel, or any Settlement Class Members do not know or suspect to exist in his or her favor at the time of the release of the Released Parties which, if known by him or her,

might have affected his or her settlement with and release of the Released Parties or might have affected his or her decision(s) with respect to the Settlement, including, but not limited to, whether or not to object to this Settlement or to the release of the Released Parties.

TERMS

2. Payment and Administration of The Settlement Fund.

2.1 The Settlement Fund. In full and final settlement of the claims asserted by the Plaintiff Parties, including those brought on behalf of the Settlement Class Members, against Columbia in the Action, and in exchange for the releases and other consideration set forth herein, Columbia agrees to pay a total of \$1,500,000.00 to the Settlement Fund as provided below:

(a) Payment of (i) \$1,000,000.00 shall be made by August 1, 2024; and (ii) \$500,000.00 shall be made by June 1, 2025 through monthly installment payments of \$50,000 beginning on September 1, 2024.

(b) Columbia may elect at its own discretion to pay more than the required monthly installment payment amount for any monthly installment payment provided for under Section 2.1(a) above, in which case any additional amount(s) paid over the required monthly installment payment amount shall be credited to future monthly installment payment(s), with the understanding that Columbia is obligated to pay a total of \$1,000,000.00 to the Settlement Fund by August 1, 2024 and to pay the remaining \$500,000.00 to the Settlement Fund by June 1, 2025 as provided under Section 2.1(a) above, for an aggregate amount of \$1,500,000.00.

2.2 Payment of the Settlement Fund into the Escrow Account.

(a) Payment of the Settlement Fund as provided under Section 2.1 above shall be made to the Escrow Account.

(b) Plaintiffs' Counsel shall provide Columbia with wire payee instructions for the Escrow Account and a W-9 form no later than June 1, 2024.

(c) The Escrow Account with the Settlement Fund shall be treated as a payment to a Qualified or Designated Settlement Fund under I.R.C. § 468B and the regulations or proposed regulations promulgated thereunder (including, without limitation, Treasury Reg. § 1.468B-1-5 or any successor regulation).

(d) Other than the obligation to pay or cause to be paid the Settlement Fund into the Escrow Account as provided under this Section, Columbia shall have no obligation to make any additional payments pursuant to this Agreement, and shall have no responsibility, obligation, or liability with respect to the Escrow Account or the funds maintained therein.

2.3 Escrow Agent. The Settlement Administrator, in its capacity as Escrow Agent, shall allocate, use, and/or disburse the funds in the Total Settlement Fund—following the deductions set forth in Section 2.5—in equal amounts to the members of the Settlement Class who have not opted out. All costs and liabilities related to the administration, maintenance, investment, use and/or disbursement of the Settlement Fund shall be borne by the Total Settlement Fund, and the Released Parties shall have no responsibility for, interest in, or liability whatsoever with respect to the actions of the Escrow Agent, or any transactions executed by the Escrow Agent.

(a) The Escrow Agent shall not disburse any part of the Total Settlement Fund except as provided in this Agreement or by an order of the Court.

(b) Subject to further order(s) and/or directions as may be made by the Court, or as provided in this Agreement, the Escrow Agent is authorized to execute such transactions as are consistent with the terms of this Agreement. The Released Parties shall have

no responsibility for, interest in, or liability whatsoever with respect to the actions of the Escrow Agent, or any transaction executed by the Escrow Agent.

(c) All funds held by the Escrow Agent pursuant to this Agreement and in its capacity as Settlement Administrator shall be deemed and considered to be in the legal custody of the Court, and shall remain subject to the jurisdiction of the Court, until such time as such funds shall be distributed pursuant to this Agreement and/or further order(s) of the Court.

(d) Notwithstanding the fact that the Effective Date of the Settlement has not occurred, the Settlement Administrator may pay from the Settlement Fund, without further approval and/or order of the Court, reasonable costs and expenses actually incurred by the Settlement Administrator as Notice and Administration Expenses, including, without limitation, delivering the Settlement Notice to the Settlement Class by mail and/or other means, locating Settlement Class Members, assisting Settlement Class Members with inquiries or Opt Out requests, and in administering the Settlement and the Settlement Fund. The Released Parties shall have no responsibility for or liability whatsoever with respect to the Notice and Administration Expenses, nor shall they have any responsibility or liability whatsoever for any claims with respect thereto.

2.4 Taxes.

(a) The Parties and the Escrow Agent agree to treat the Escrow Account, including the Total Settlement Fund as being at all times a “qualified settlement fund[s]” within the meaning of Treas. Reg. § 1.468B-1. The Parties and the Escrow Agent further agree that the Settlement Fund shall be established pursuant to the Court’s subject matter jurisdiction within the meaning of Treas. Reg. § 1.468B-1(c)(1). In addition, the Escrow Agent shall timely make such elections as necessary or advisable to carry out the provisions of this

Section 2.4, including the “relation-back election” (as defined in Treas. Reg. § 1.468B-1) back to the earliest permitted date. Such elections shall be made in compliance with the procedures and requirements contained in such regulations. It shall be the responsibility of the Escrow Agent to timely and properly prepare and deliver the necessary documentation for signature by all necessary parties, and thereafter to cause the appropriate filing to occur.

(b) For the purpose of § 1.468B of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder, the “administrator” (as defined in Treas. Reg. § 1.468B-2(k)(3)) shall be the Escrow Agent. The Escrow Agent shall timely and properly file all informational and other federal, state, or local tax returns necessary or advisable with respect to the earnings on the Settlement Fund (including, without limitation, the returns described in Treas. Reg. § 1.468B-2(k)). Such returns (as well as the elections described in Section 2.4(a) hereof) shall be consistent with this Section 2.4 and in all events shall reflect that all Taxes (including any estimated Taxes, interest, or penalties) on the income earned by the Settlement Fund shall be paid out of those funds respectively as provided in Section 2.4(c) below.

(c) All (i) Taxes (including any estimated Taxes, interest, or penalties) arising with respect to the income earned by the Total Settlement Fund, including any Taxes or tax detriments that may be imposed upon the Released Parties with respect to any income earned by the Settlement Fund for any period, after the payment in full of the Settlement Fund as provided above in Section 2 hereto, during which the Total Settlement Fund does not qualify as a “qualified settlement fund[s]” for federal or state income tax purposes; and (ii) Tax Expenses shall be paid out of the Settlement Fund.

(d) Taxes and Tax Expenses shall be treated as, and considered to be, a cost of administration of the Settlement Fund and shall be timely paid by the Escrow Agent out of the Total Settlement Fund without prior order from the Court, and the Escrow Agent shall be authorized (notwithstanding anything herein to the contrary) to withhold from distribution any funds necessary to pay such amounts, including the establishment of adequate reserves for any Taxes and Tax Expenses (as well as any amounts that may be required to be withheld under Treas. Reg. § 1.468B-2(l)(2)).

(e) In no event shall the Released Parties have any liability or responsibility whatsoever for the Taxes or the Tax Expenses. The Escrow Agent, through the Total Settlement Fund, shall indemnify and hold each of the Released Parties harmless for Taxes and Tax Expenses (including, without limitation, Taxes payable by reason of any such indemnification).

(f) The Parties hereto agree to cooperate with the Escrow Agent, each other, and their tax attorneys and accountants to the extent reasonably necessary to carry out the provisions of this Section 2.4.

2.5 Administration of the Total Settlement Fund.

(a) The Settlement Administrator, subject to such supervision and direction of Plaintiffs' Counsel and the Court as may be necessary or as circumstances may require, shall administer and oversee the use and distribution of the Total Settlement Fund (i) to pay the Notice and Administration Expenses; (ii) to pay the Taxes and Tax Expenses; (iii) to pay the actual, reasonable attorneys' fees and costs of Plaintiffs' counsel, not to exceed 20% of the Total Settlement Fund; and (iv) after the Effective Date, to use to, disburse and allocate the Total Settlement Fund, after the above-referenced payments, in equal amounts to the members of the

Settlement Class who have not opted out. Upon the completion of all the above-referenced payments, any remaining amount in the Settlement Fund shall be divided among and distributed to the Municipal Plaintiffs in proportion to their populations.

(b) No Person shall have any claim against any of the Released Parties, Plaintiffs' Counsel or the Settlement Administrator, or any other Person designated by the Settlement Administer based on determinations or distributions made substantially in accordance with this Agreement and the Settlement contained herein.

(c) It is understood and agreed by the Parties that any proposed or actual use, allocation, or disbursement of any part of the Total Settlement Fund as provided under Section 2.5(a) is to be considered by the Court separately from the Court's consideration of the fairness, reasonableness, and adequacy of the Settlement set forth in this Agreement, and any order or proceeding relating to the use, allocation, or disbursement of any part of the Total Settlement Fund shall not operate to terminate or cancel this Agreement or affect the finality of the Order and Final Judgment approving this Agreement and the Settlement set forth herein, or any other orders entered pursuant to the Agreement.

3. Releases.

3.1 Releasing Parties' Releases. The Plaintiff Parties agree and acknowledge that Columbia's payment of the Settlement Fund constitutes real and valuable consideration that will confer substantial benefit to the Settlement Class, and the Parties agree and acknowledge that the Settlement Class would not have received such benefits but for the Plaintiff Parties' prosecution of the Action. In exchange for this and other such valuable consideration set forth in this Agreement, the Releasing Parties hereby provide the following releases to the Released

Parties, which shall be effective upon Columbia's payment in full of the Settlement Fund to the Escrow Account as provided under Section 2 of this Agreement:

(a) The Releasing Parties shall each be deemed to, and by operation of the Order and Final Judgment shall fully, finally, and forever release, relinquish, discharge, and dismiss with prejudice, on the merits and without costs or attorneys' fees, the Action and any and all of the Released Claims against any and all of the Released Parties; provided, however, that the Plaintiff Parties shall retain the right to enforce the terms of this Agreement.

(b) The Releasing Parties shall each be deemed to, and by operation of the Order and Final Judgment shall, be forever barred and enjoined from commencing, instituting, prosecuting, or continuing to prosecute any action or other proceeding in any court of law or equity, arbitration tribunal, or administrative forum, or other forum of any kind, any and all of the Released Claims against any and all of the Released Parties; provided, however, that the Plaintiff Parties shall retain the right to enforce the terms of this Agreement.

(c) In addition to the releases set forth above as a Releasing Party, for the avoidance of doubt, the PSC expressly agrees and acknowledges that: (i) the Settlement and this Agreement shall fully, finally, and forever resolve any and all enforcement actions against Columbia in connection with the allegations and/or claims in the Action, and further agrees that the PSC shall not take any action whatsoever to pursue any actual or potential claims or enforcement action against Columbia in connection with the allegations and/or claims in the Action; (ii) upon satisfying its payment obligations under Section 2 of this Agreement, Columbia will remain eligible to supply electricity and/or natural gas to customers using the transmission or distribution system of a utility as an ESCO in New York State; and (iii) the PSC will not

challenge Columbia's ability to re-enter the NYISO-administered market as an ESCO based on any conduct or allegations relating to the Action or the Released Claims.

3.2 Released Parties' Releases. In full and final settlement of the claims asserted by the Releasing Parties, and in exchange for and upon receiving the releases and other such consideration as set forth herein, the Released Parties, and anyone claiming through or on behalf of any of them, shall be deemed to, and by operation of the Order and Final Judgment shall fully, finally, and forever release, relinquish, and discharge any and all claims against the Releasing Parties and any of their former, present, and future assigns, predecessors, successors, affiliates, parent companies, subsidiaries, controller companies, employees, officers, directors, principals, and agents, from any and all claims arising out of or relating to their filing, prosecution, and settlement of the Action and the Released Claims; provided, however, that the Released Parties shall retain the right to enforce the terms of this Agreement.

3.3 Consideration and Intent for Releases. The releases set forth in this Section 3 of the Agreement are provided in exchange and in consideration for the Settlement, and, with respect to the Releasing Parties, for Columbia's payment of the Settlement Fund as provided under Section 2 herein, and are intended to extinguish all Released Claims, including Unknown Claims, and, consistent with such intentions, the Plaintiff Parties, Settlement Class Members, and the Released Persons shall irrevocably waive their rights to the extent permitted by state law, federal law, foreign law or principle of common law that might otherwise have the effect of limiting the releases set forth above.

4. Settlement Class. Columbia agrees, solely for the purpose of effectuating the Settlement provided for in this Agreement, that the Action may be maintained as a class action, pursuant to CPLR § 901, *et. seq.*, on behalf of the Settlement Class. In the event the Settlement

does not become final for any reason, Columbia reserves the right to oppose certification of any plaintiff class in future proceedings.

5. Order and Notice Regarding Proposed Settlement and Fairness Hearing.

5.1 Hearing Order and Fairness Hearing. As soon as practicable following the execution of this Agreement, it shall be submitted to the Court together with the proposed Hearing Order, in the form annexed hereto as **Exhibit A**:

(a) Conditionally approving, pursuant to CPLR 901 *et seq.*, the maintenance of the Action as a class action on behalf of the Settlement Class, solely for the purpose of effectuating the Settlement provided for herein, including the conditional appointment of Simpluris as the Settlement Administrator for such purposes until the Order and Final Judgment is approved;

(b) Approving the form and manner of the Settlement Notice; and

(c) Scheduling a Fairness Hearing for the purpose of determining whether the Settlement and dismissal of the Action on the terms set forth herein, and the entry of the Order and Final Judgment, should be approved as fair, reasonable, adequate and in the best interests of the Settlement Class.

5.2 Notice To Settlement Class Members. Such Hearing Order shall provide that the Settlement Administrator and Plaintiffs' Counsel shall be responsible for providing the Settlement Notice, substantially in the form of **Exhibit B** hereto either in hard copy form or by a notification directing the reader to a version available online, to the Settlement Class Members, advising them of the claims asserted in the Action and the proposed Settlement thereof, and of the Fairness Hearing and their rights in connection therewith, including, as set forth below under Section 5.3. The Settlement Administrator and Plaintiffs' Counsel will be responsible for notifying Settlement Class Members through the Settlement Notice, and all Notice and

Administration Expenses shall be administered by the Settlement Administrator and paid out of the Total Settlement Fund in accordance with the terms hereto. In no event shall any of the Released Parties or their counsel have any liability or responsibility whatsoever for the Settlement Notice or any Notice and Administration Expenses.

5.3 Opt Outs and Objections.

(a) Putative Settlement Class Members have the right to exclude themselves or “Opt Out” from this Settlement and from the Settlement Class by timely submitting a request to Opt Out in accordance with the Opt Out procedure approved by the Court and outlined in the Settlement Notice, substantially in the form of **Exhibit B** hereto. Persons who properly request to Opt Out shall be excluded from this Settlement and from the Settlement Class. The Parties will request that the Court determine that the Opt Out Deadline for Settlement Class Members be thirty (30) calendar days prior to the Fairness Hearing.

(b) Within ten (10) days after receiving an Opt Out request, the Settlement Administrator shall apprise the other Parties of such request and shall furnish the Parties with a complete and updated list of all proper Opt Out requests to date. Any Person who does not properly request to Opt Out who would otherwise be considered a Settlement Class Member shall be deemed a Settlement Class Member and shall be bound by the Settlement, the terms of this Agreement, and the Order and Final Judgment. Any such Person who timely submits a request to Opt Out shall have until two (2) business days before the Fairness Hearing to deliver to Settlement Administrator a written revocation of such request to Opt Out. Plaintiffs’ Counsel shall timely apprise the other Parties and the Court of such revocations.

(c) Settlement Class Members shall have until thirty (30) calendar days prior to the date of the Fairness Hearing to file, in the manner specified in the Settlement Notice, any written objection or other response to this Agreement.

6. Terms of Order And Final Judgment. If the Settlement is approved by the Court, the Parties shall jointly request that the Court enter the Order and Final Judgment, substantially in the form of **Exhibit C** hereto, approving the dismissal of the Action with prejudice and the releases provided for herein, effective upon the receipt of the full amount due by the Released Parties to the Settlement Fund.

7. Conditions of Settlement. The consummation of the Settlement through the occurrence of the Effective Date is subject to the following conditions, each of which must occur and be fulfilled for this Settlement to be effective: (a) The Municipal Plaintiffs' Approval; (b) Payment of the Settlement Fund in full as provided under Section 2; (c) Certification of the Settlement Class for settlement purposes only as provided under Section 4; and (d) Court Approval and entry of the Order and Final Judgment substantially in the form of **Exhibit C** hereto, which approves in all material respects: (i) the dismissal with prejudice of any and all claims made in the Action; and (ii) the releases provided for in this Agreement; and either (c) expiration of the time to appeal or otherwise seek review of the Order and Final Judgment without any appeal having been taken or review sought, or (ii) if an appeal is taken or review sought, the expiration of five (5) days after an appeal or review shall have been dismissed or finally determined by the highest court before which such appeal or review is sought and which affirms the material terms of the Settlement and/or the Order and Final Judgment and the denial of (or the expiration of the time for seeking) further judicial review, provided that proceedings or

appeals regarding solely an application for attorneys' fees and expenses shall not affect or delay the effectiveness of the Settlement.

8. Termination, Disapproval, Cancellation of Settlement and Agreement.

8.1 If any of the conditions set forth above in Section 7 do not occur and/or are not fulfilled, this Agreement shall automatically be cancelled and terminated unless counsel for each of the Parties, within ten (10) business days from receipt of such ruling or event, agrees in writing with counsel for the other Parties to proceed with this Agreement and Settlement, including only with such modifications, if any, as to which all other Parties in their sole judgment and discretion may agree. For purposes of this Section 8, an intent to proceed shall not be valid unless it is expressed in a signed writing.

8.2 Columbia shall have the right to withdraw and terminate the Settlement and render the Settlement and this Agreement null and void in the event that ten (10) percent or more of Persons who would otherwise be Settlement Class Members timely and validly Opt Out pursuant to Section 5.3. If Columbia chooses to terminate the Agreement, Columbia will deliver notice of the termination to the other Parties no later than five (5) calendar days prior to the Fairness Hearing, or by such later date as shall be agreed upon in writing as between counsel for the respective Parties.

8.3 If, before the Settlement becomes Final, Columbia files for protection under the Bankruptcy Code, or any similar law, or a trustee, receiver, conservator, or other fiduciary is appointed under bankruptcy, or any similar law, and in the event of the entry of a final order of a court of competent jurisdiction determining the transfer of money or any portion thereof to the Escrow Agent by Columbia to be a preference, voidable transfer, fraudulent transfer or similar transaction and any portion thereof is required to be returned to Columbia out

of the Escrow Account, and such amount is not promptly placed in the Escrow Account by others, then the Parties shall jointly move the Court to vacate and set aside the Judgment, including the releases pursuant thereto, and the Settlement and this Agreement shall terminate.

8.4 Unless otherwise ordered by the Court, in the event this Agreement is not approved or this Agreement or the Settlement is terminated, or canceled, or the Effective Date otherwise fails to occur for any reason, including, without limitation, in the event the Judgment is reversed or vacated or materially altered following any appeal taken therefrom, or is successfully collaterally attacked, within ten (10) business days after written notification of such event is sent by counsel for any of the Parties to the Escrow Agent, the Total Settlement Fund, less Taxes, Tax Expenses and Notice and Administration Expenses which have either been disbursed or are chargeable to the Total Settlement Fund pursuant to or as provided in Section 2 above, shall be refunded by the Escrow Agent to Columbia. Such refunds shall be pursuant to written instructions from Columbia's counsel. The Escrow Agent or its designee shall apply for any Tax refund owed on the Total Settlement Fund and pay the proceeds, after deduction of any fees or expenses incurred in connection with such application(s) for refund to the same Persons in the same manner as the Total Settlement Fund described in this Section 8.4. Such payments shall be pursuant to written instructions from Columbia counsel.

8.5 In the event that the Settlement does not receive Court Approval or this Agreement or the Settlement is terminated, canceled, or the Effective Date otherwise fails to occur for any reason, the Parties shall be restored to their respective positions as of the date upon which the final party signs this Settlement Agreement, and Columbia will be entitled to a return of all money contributed to the Settlement Fund pursuant to Section 2.1. In such event, the terms and provisions of the Agreement, except as otherwise provided herein, shall have no further

force and effect with respect to the Parties and shall not be used in the Action or in any other proceeding for any purpose, and any judgment or order entered by the Court in accordance with the terms of this Agreement shall be treated as vacated, *nunc pro tunc*.

8.6 If the Effective Date does not occur, or if this Agreement is terminated pursuant to its terms, neither the Plaintiff Parties nor any of their counsel shall have any obligation to repay any amounts disbursed pursuant to Sections 2.3 and 2.4. In addition, any amounts already incurred pursuant to Section 2.3 and 2.4 hereof at the time of such termination or cancellation but which have not been paid shall be paid by the Escrow Agent in accordance with the terms of this Agreement prior to the balance being refunded in accordance with Section 8.4 hereof.

9. No Admission of Wrongdoing or Liability.

9.1 Defendants have denied, and continue to deny, that they committed any violation of law or of their contractual obligations or engaged in any of the wrongful acts alleged against them in the Action. Defendants are entering into this Agreement solely because the proposed Settlement would eliminate the burden, expense and risk of further litigation.

9.2 The Plaintiff Parties contend that they brought the Action against Columbia in good faith and that the claims asserted against Columbia in the Action have legal merit, but nevertheless acknowledge that Columbia would continue to assert legal and factual defenses to such claims. With the informed understanding—based on the representations of Columbia—and recognition that further litigation in the Action would only deplete any potential recovery for the Plaintiff Parties, and thereby reduce the amount of funds that could be used for the benefit of the Settlement Class, and considering that the Settlement would eliminate the

burden, expense, and risk of further litigation, the Plaintiff Parties believe that the terms of the Settlement are fair, reasonable, adequate and in the best interest of the Settlement Class.

9.3 This Agreement, whether or not consummated, and any proceedings taken thereto:

(a) Shall not be offered or received against any of the Released Persons as evidence of, or construed as or deemed to be evidence of, any presumption, concession, or admission by any of the Released Persons with respect to the truth of any fact alleged in the Action by Plaintiffs or any Settlement Class Member or the validity of any claim or defense that has been or could have been asserted in the Action or in any action, or of any liability, negligence, fault, or wrongdoing of any of the Released Persons;

(b) Shall not be offered or received against any Plaintiff Party or any Settlement Class Member as evidence of, or construed as or deemed to be evidence of, any presumption, concession, or admission by any Plaintiff Party or any Settlement Class Member with respect to the truth, strength, or merit of any claim or defense that has been or could have been asserted in the Action or in any action, or with respect to any liability, negligence, fault, or wrongdoing of the Released Persons, or with respect to any alleged infirmity in the claims of Plaintiffs and the Settlement Class; nor

(c) Shall not be offered or received against any Party to the Action as evidence of a presumption, concession, or admission with respect to any liability, negligence, fault, or wrongdoing, or in any way referred to for any other reason, in any other civil, criminal, or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of this Agreement; provided, however, that if the Settlement is

approved by the Court, the Parties hereto may refer to the Agreement to effectuate its terms or in any action to effectuate the Settlement.

10. Miscellaneous.

10.1 The Parties agree to cooperate fully and in good faith in filing any applications necessary to effect or otherwise facilitate the completion of the terms of the Settlement and as provided or contemplated.

10.2 The Parties shall not be liable for any delay or non-performance of their obligations under this Agreement arising from any act of God, governmental act, act of terrorism, war, fire, flood, earthquake, explosion, or civil commotion. The performance of the Parties' obligations under this Agreement, to the extent affected by such delay, shall be suspended for the period during which the cause, or the Parties' substantial inability to perform arising from the cause, persists.

10.3 This Agreement contains an entire, complete, and integrated statement of each and every term and provision agreed to by and among the Parties; it is not subject to any condition not provided for herein. This Agreement supersedes any prior agreements or understandings, whether written or oral, between and among the Parties regarding the Action. This Agreement shall not be modified in any respect except by a writing executed by both Parties.

10.4 This Agreement was drafted with substantial input by all Parties and their counsel, and no reliance was placed on any representations other than those contained herein. The Parties agree that this Agreement shall be construed by its own terms, and not by referring to, or considering, the terms of any other settlement, and not by any presumption against the drafter.

10.5 The use of captions and headings in this Agreement is solely for convenience and shall have no legal effect.

10.6 This Agreement and all agreements, exhibits, and documents relating to this Agreement shall be construed under the laws of the State of New York, except that federal law shall apply to the extent the federal law of the United States requires that federal law governs.

10.7 Except as otherwise provided in this Agreement, it is expressly agreed and stipulated that the New York Supreme Court of Ulster County shall have exclusive jurisdiction and authority to consider, rule upon, and issue a final order with respect to suits, whether judicial, administrative or otherwise, which may be instituted by any person, individually or derivatively, with respect to this Agreement.

10.8 Except as otherwise provided in this Agreement, each Settlement Class Member hereby irrevocably submits to the exclusive jurisdiction and venue of the New York Supreme Court of Ulster County for any suit, action, proceeding, case, controversy, or dispute relating to this Agreement and agrees not to assert by way of motion, as a defense or otherwise, any claim or objection that they are not subject to the jurisdiction of such Court, or that such Court is in any way an improper venue or an inconvenient forum. Furthermore, the Parties shall jointly request the Court to include the provisions of this Section in the order finally approving this Agreement.

10.9 This Agreement may be executed in counterparts, each of which shall constitute an original. Facsimile signatures shall be considered valid signatures as of the date thereof, although the original signature pages shall thereafter be appended to this Agreement.

10.10 The provisions of this Agreement shall be binding upon and inure to the benefit of the respective successors and assigns for each of the Plaintiff Parties, all Settlement Class Members, and Columbia.

10.11 The provisions of this Agreement are intended to be severable. Should any provision be found illegal, invalid or unenforceable by any court of competent jurisdiction for any reason, it shall be severable from the remainder of this Agreement, and the remainder of this Agreement shall be unchanged and shall be read as if it did not contain the illegal invalid provision, except that if the Releasing Parties' releases in Section 3 hereof is deemed invalid then Columbia shall have the option to void the remainder of this Agreement.

10.12 The Parties agree that this Agreement, in whole or in part, whether effective, terminated, or otherwise, or any of its provisions or any negotiations, statements, or proceedings relating to it in any way, shall not be construed as an admission of liability or wrongdoing or breach of any duty on the part of Columbia. This Agreement shall not be admissible as evidence of any kind in any proceeding except an action to enforce the terms of the Agreement. Without limiting the foregoing, neither this Agreement nor any related negotiations, statements or proceeding shall be construed as, offered as, received as, used as or deemed to be evidence of any waiver of any applicable defense or protection by Columbia. The Parties agree that this Section 10.12 shall survive the termination or cancellation of this Agreement.

(a) .

10.13 By the signature affixed hereto, each Party acknowledges that it, he, or she has read this Agreement, fully understands the agreements, representations, covenants, obligations, conditions, warranties, releases, and terms contained herein, and has had the advice of counsel pertaining thereto, prior to the time of execution.

10.14 Each Person signing this Agreement on behalf of a Party represents and warrants that he or she has all requisite power and authority to enter into this Agreement and to implement the transactions contemplated herein, and is duly authorized to execute this Agreement on behalf of that Party.

10.15 All notices to the Parties required under this Agreement (except for Notices to the Settlement Class) shall be sent by certified mail, return receipt requested, or by hand delivery to the recipients designated below (or to later designated recipients). All notices shall be measured by the date of mailing.

IN WITNESS WHEREOF, the parties have caused the Agreement to be executed by their duly authorized attorneys or representatives on the dates set forth below.

PLAINTIFFS

Town of Saugerties

Date
: _____

By: _____
Name: _____
Title: _____

Town of New Paltz

Date
: _____

By: _____
Name: _____
Title: _____

Village of New Paltz

Date
: _____

By: _____
Name: _____
Title: _____

City of Beacon

Date _____
: _____

By: _____

Name: _____
Title: _____
Town of Clinton

Date _____
: _____

By: _____

Name: _____
Title: _____

Town of Marbletown

Date _____
: _____

By: _____

Name: _____
Title: _____

City of Poughkeepsie

Date _____
: _____

By: _____

Name: _____
Title: _____

Town of Red Hook

Date _____
: _____

By: _____

Name: _____
Title: _____

Town of Philipstown

Date _____
: _____

By: _____

Name: _____
Title: _____

Village of Cold Spring

Date _____
: _____

By: _____

Name: _____

Title: _____

Date

:

INDIVIDUAL PLAINTIFFS

Fred Costello

Date

:

Tim Rogers

JOULE ASSETS, INC.

Date

:

By: _____

Name: _____

Title: _____

**NEW YORK PUBLIC SERVICE
COMMISSION**

Date

:

By: _____

Name: _____
Dennis DiBari

Title: _____
Managing Attorney

Date
: _____

Date
: _____

DEFENDANTS

Columbia Utilities Power, LLC

By: _____
Name: _____
Title: _____

Columbia Utilities, LLC

By: _____
Name: _____
Title: _____

Exhibit A

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ULSTER

TOWN OF SAUGERTIES, TOWN OF NEW
PALTZ, VILLAGE OF NEW PALTZ, CITY OF
BEACON, TOWN OF CLINTON, TOWN OF
MARBLETOWN, CITY OF POUGHKEEPSIE,
TOWN OF RED HOOK, TOWN OF
PHILIPSTOWN, VILLAGE OF COLD SPRING,
FRED COSTELLO, TIM ROGERS, and JOULE
ASSETS, INC.,

Plaintiffs,

-against-

COLUMBIA UTILITIES POWER, LLC and
COLUMBIA UTILITIES, LLC,

Defendants.

Index No. EF2022-1113

Hon. David M. Gandin

**SCHEDULING ORDER FOR
APPROVAL OF SETTLEMENT
OF CLASS ACTION**

WHEREAS, the Parties to the above-captioned class action (the “Action”) have applied pursuant to Article 9 of New York Civil Practice Law and Rules (“CPLR”) for an Order approving the proposed settlement of the Action in accordance with the terms of the Settlement Agreement and Release, dated as of _____, 2024 (the “Settlement Agreement”), including the dismissal the Action with prejudice upon the terms and conditions set forth in the Settlement Agreement (the “Settlement”); and

WHEREAS, the Court having read and considered the Settlement Agreement and accompanying documents and exhibits thereto, and all Parties having consented to the entry of this Order;

NOW THEREFORE, this ____ day of _____, 2024, upon the application of the Parties, **IT IS HEREBY ORDERED** as follows:

1. Except for terms defined herein, the Court adopts and incorporates the definitions set forth in the Settlement Agreement for purposes of this Order.

2. The Settlement appears to be the product of serious, informed, non-collusive negotiations, has no obvious deficiencies, provides substantial benefit to the Settlement Class and falls within the range of possible approval and, therefore, merits further consideration.

3. The Court preliminarily finds that the Settlement is fair, reasonable, adequate, and in the best interests of the Settlement Class.

4. The Court has scheduled a Fairness Hearing to be held on _____, 2024, at __:___ a.m./p.m. at the Special Term of this Court, the Supreme Court of the State of New York, Ulster County, located at 285 Wall Street, Kingston, New York 12401, Room ___, to:

- a. Consider the Settlement pursuant to CPLR 901 *et. Seq.* as fair, reasonable, adequate and in the best interests of the Settlement Class;
- b. Consider an Order and Final Judgment dismissing the Released Claims as against the Released Parties with prejudice, with each Party to bear his, her, or its own costs (except as otherwise provided in the Order and Final Judgment or in the Settlement Agreement);
- c. Consider, for purposes of the Settlement only, the certification of the Action as a Class Action under CPLR Article 9; and
- d. Hear such other matters as the Court may deem necessary and appropriate.

5. The Court reserves the right to adjourn the Fairness Hearing or modify any of the dates or deadlines set forth herein without further notice to the Settlement Class.

6. The Court reserves the right to approve the Settlement at or after the Fairness Hearing with such modifications as may be consented to by the Parties to the Action and without further notice to the Settlement Class.

7. The Court approves as to form and content the Settlement Notice annexed as **Exhibit B** to the Settlement Agreement, and finds that the mailing and/or internet publication of the Settlement Notice, substantially in the manner and form set forth in the Settlement

Agreement, meets the requirements of CPLR 908 and due process under the United States Constitution and any other applicable laws, is the best notice practicable under the circumstances, and shall constitute due and sufficient notice of all matters relating to the Settlement.

8. All reasonable costs incurred in identifying Settlement Class members and notifying them of the Settlement, including the distribution of the Settlement Notice, shall be paid by the *conditional* Settlement Administrator as defined and set forth in the Settlement Agreement. The *conditional* Settlement Administrator and Plaintiffs' Counsel shall undertake the administrative responsibility for providing the Settlement Notice to the Settlement Class within twenty (20) days of the entry of this Order.

9. Pursuant to CPLR 901 *et. seq.*, and for purposes of the Settlement only, the Court *conditionally* certifies the Action as a class action on behalf of the Settlement Class, defined as follows:

The putative class of all Persons or businesses who, as of July 18, 2022, still participated in the Hudson Valley Power Community Choice Aggregation Program administered by Joule and through which Columbia Utilities, Power, LLC contracted to supply renewable energy (the "CCA Program"), as a resident or small business located within a municipality participating in the CCA Program, as represented by the Individual Plaintiffs in the Action.³ Excluded from the Settlement Class are (1) those Persons who timely and validly Opt Out of the Settlement pursuant to the Settlement Notice; (2) the judicial officers to whom this case is assigned and any members of their staffs and immediate families; and (3) any heirs, assigns, or successors of any of the Persons or entities described in parts (1) and (2) of this paragraph.

10. SETTLEMENT CLASS MEMBERS SHALL HAVE THE RIGHT TO SEEK EXCLUSION ("OPT OUT") FROM THE SETTLEMENT ONLY AS TO THE RELEASED

³ The following municipalities participated in the CCA Program: TOWN OF SAUGERTIES, TOWN OF NEW PALTZ, VILLAGE OF NEW PALTZ, CITY OF BEACON, TOWN OF CLINTON, TOWN OF MARBLETOWN, CITY OF POUGHKEEPSIE, TOWN OF RED HOOK, TOWN OF PHILIPSTOWN, and VILLAGE OF COLD SPRING.

CLAIMS FOR MONETARY DAMAGES arising out of the causes of action asserted against defendants Columbia Utilities Power, LLC and Columbia Utilities, LLC (collectively, “Defendants”) in the Complaint ([NYSCEF Doc. No. 2](#)).

11. Any Settlement Class Member who seeks to Opt Out from the Settlement as to the Released Claims for monetary damages must submit a request to do so, *in writing* to the Settlement Administrator as follows:

Simpluris
PO Box 25226
Santa Ana CA 92799-9874

Notice of any request to Opt Out of the Settlement must be provided no later than thirty (30) days from the Fairness Hearing, and must be postmarked by such deadline and include: the name, address, telephone number; email address and signature of the Settlement Class Member seeking to Opt Out of the Settlement.

12. No later than thirty (30) calendar days before the Fairness Hearing, in order to have their objections heard, any members of the Settlement Class who seek to object to the Settlement must file with the Court and deliver to the following counsel for Parties to these proceedings a written notice of objection, signed as authorized by the objecting person and setting ground(s) for the objection. Counsel to whom such objections must be sent are as follows:

Hodgson Russ LLP
Aaron M. Saykin, Esq.
Daniel A. Spitzer, Esq.
140 Pearl Street, Suite 100
Buffalo, New York 14202-4040
dspitzer@hodgsonruss.com
asaykin@hodgsonruss.com

Counsel for Plaintiffs

Public Service Commission, State of New York
Dennis F. DiBari
Three Empire State Plaza
Albany, New York 12223-1350
dennis.dibari@dps.ny.gov

Counsel for Plaintiff-Intervenor

McDermott Will & Emery LLP
Warren Haskell
Timothy C. Cramton
One Vanderbilt Avenue
New York, New York 10017-3852
whaskel@mwe.com
tcramton@mwe.com

Counsel for Defendants

13. At least ten (10) business days prior to the Fairness Hearing, counsel for Plaintiffs shall file with the Court and serve on counsel for the other Parties proof, by affidavit or declaration, of the dissemination of the Settlement Notice to the Settlement Class by mail and/or internet publication, as ordered herein.

14. Pending final action by the Court relating to the Settlement and the receipt from Columbia of the full amount due to the Settlement Fund, all proceedings in the Action shall be stayed except for Settlement-related proceedings or as otherwise provided in the Settlement Agreement.

15. Any Settlement Class Member may appear and show cause, if he, she or it has any reason why the proposed Settlement should not be approved as fair, reasonable, adequate and in the best interest of the Settlement Class; provided, however, that Settlement Class Member shall be heard or entitled to contest the approval of the terms and conditions of the proposed Settlement, or if approved, unless that Person files and serves his, her or its objection in accordance with the terms and conditions in the Settlement Notice.

16. If the Settlement is approved by the Court at or following the Fairness Hearing, an Order and Final Judgment shall be entered as described in the Settlement Agreement and attached thereto as **Exhibit C**.

17. The terms and conditions set forth in the Settlement Agreement:

- a. Shall not be offered or received against any of the Released Persons as evidence of, or construed as or deemed to be evidence of, any presumption, concession, or admission by any of the Released Persons with respect to the truth of any fact alleged in the Action by Plaintiffs or any Settlement Class Member or the validity of any claim or defense that has been or could have been asserted in the Action or in any action, or of any liability, negligence, fault, or wrongdoing of any of the Released Persons;
- b. Shall not be offered or received against any Plaintiff Party or any Settlement Class Member as evidence of, or construed as or deemed to be evidence of, any presumption, concession, or admission by any Plaintiff Party or any Settlement Class Member with respect to the truth, strength, or merit of any claim or defense that has been or could have been asserted in the Action or in any action, or with respect to any liability, negligence, fault, or wrongdoing of the Released Persons, or with respect to any alleged infirmity in the claims of Plaintiffs and the Settlement Class; nor
- c. Shall not be offered or received against any Party to the Action as evidence of a presumption, concession, or admission with respect to any liability, negligence, fault, or wrongdoing, or in any way referred to for any other reason, in any other civil, criminal, or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of this Agreement; provided, however, that if the Settlement is approved by the Court, the parties hereto may refer to the Agreement to effectuate its terms or in any action to effectuate the Settlement.

18. If the Settlement provided for in the Settlement Agreement is not approved by this Court at or following the Fairness Hearing, or is cancelled, terminated otherwise fails to become effective, the Parties to the Settlement Agreement shall be restored to their respective positions prior to its execution date. In such event, the terms and provisions of Settlement Agreement, except as otherwise provided therein, shall have no further force and effect with respect to the Parties and shall not be used in the Action or in any other proceeding for any purpose, and any

judgment or order entered by the Court in accordance with the terms of this Agreement shall be treated as vacated, *nunc pro tunc*.

19. Except as otherwise provided in the Settlement Agreement, the administration and consummation of the Settlement as set forth in the Settlement Agreement, and any suit, action, proceeding, case, controversy, or dispute relating to the Settlement shall be under the exclusive jurisdiction and venue of the New York Supreme Court of Ulster County.

IT IS SO ORDERED this ____ day of _____, 2024.

Hon. David M. Gandin, J.S.C.

20.

Exhibit B

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ULSTER

TOWN OF SAUGERTIES, TOWN OF NEW
PALTZ, VILLAGE OF NEW PALTZ, CITY OF
BEACON, TOWN OF CLINTON, TOWN OF
MARBLETOWN, CITY OF POUGHKEEPSIE,
TOWN OF RED HOOK, TOWN OF
PHILIPSTOWN, VILLAGE OF COLD SPRING,
FRED COSTELLO, TIM ROGERS, and JOULE
ASSETS, INC.,

Plaintiffs,

-against-

COLUMBIA UTILITIES POWER, LLC and
COLUMBIA UTILITIES, LLC,

Defendants.

Index No. EF2022-1113

Hon. David M. Gandin

**NOTICE OF CLASS ACTION,
PROPOSED SETTLEMENT OF
CLASS ACTION, SETTLEMENT
HEARING AND RIGHT TO
APPEAR**

**IMPORTANT NOTICE TO ANY AND ALL PERSONS OR BUSINESS WHO,
AS OF JULY 18, 2022, STILL PARTICIPATED IN THE HUDSON VALLEY POWER
COMMUNITY CHOICE AGGREGATION PROGRAM ADMINISTERED BY JOULE
ASSETS, INC. AND THROUGH WHICH COLUMBIA UTILITIES, POWER, LLC
CONTRACTED TO SUPPLY RENEWABLE ENERGY (THE “CCA PROGRAM”), AS A
RESIDENT OR SMALL BUSINESS LOCATED WITHIN ANY OF THE FOLLOWING
MUNICIPALITIES PARTICIPATING IN THE CCA PROGRAM: TOWN OF
SAUGERTIES, TOWN OF NEW PALTZ, VILLAGE OF NEW PALTZ, CITY OF
BEACON, TOWN OF CLINTON, TOWN OF MARBLETOWN, CITY OF
POUGHKEEPSIE, TOWN OF RED HOOK, TOWN OF PHILIPSTOWN, AND
VILLAGE OF COLD SPRING (“THE SETTLEMENT CLASS”).**

**PLEASE READ THIS NOTICE CAREFULLY AND COMPLETELY.
THIS NOTICE PERTAINS TO THE PROPOSED SETTLEMENT OF A LAWSUIT.
IF THE SETTLEMENT IS APPROVED BY THE COURT, MEMBERS OF THE
SETTLEMENT CLASS WILL BE BARRED FROM CONTESTING THE FAIRNESS,
REASONABLENESS AND ADEQUACY OF THE PROPOSED SETTLEMENT AND
RELATED MATTERS AND FROM PURSUING CERTAIN RELEASED CLAIMS.
THEREFORE, IF YOU ARE A MEMBER OF THE SETTLEMENT CLASS (DEFINED
ABOVE) YOUR LEGAL RIGHTS WILL BE AFFECTED BY PROCEEDINGS IN THE
ACTION.**

PLEASE TAKE NOTICE that the above-captioned class action lawsuit is being settled. The terms of the proposed settlement of the lawsuit (the “Settlement”) are set forth in a Settlement Agreement and Release, dated _____, 2024 (the “Settlement Agreement”). The Court has scheduled a Fairness Hearing to be held on _____, 2024, at ____:____ a.m./p.m. at the Special Term of this Court, the Supreme Court of the State of New York, Ulster County, located at 285 Wall Street, Kingston, New York 12401, Room ____, to:

- a. Consider the Settlement pursuant to CPLR 901 *et. seq.* as fair, reasonable, adequate and in the best interests of the Settlement Class;
- b. Consider an Order and Final Judgment dismissing the Released Claims as against the Released Parties with prejudice, with each Party to bear his, her, or its own costs (except as otherwise provided in the Order and Final Judgment or in the Settlement Agreement);
- c. Consider, for purposes of the Settlement only, the certification of the Action as a Class Action under CPLR Article 9; and
- d. Hear such other matters as the Court may deem necessary and appropriate.

This Notice of Class Action, Proposed Settlement of Class Action, Settlement Hearing and Right to Appear (“Settlement Notice”) should be read in conjunction with, and is qualified in its entirety by reference to, the text of the Settlement Agreement, which has been filed with the Court. Unless stated otherwise, all capitalized terms used herein have the same meaning as set forth in the Settlement Agreement.

This Settlement Notice describes the rights you may have under the Settlement and what steps you may, but are not required to, take in relation to the Settlement. If the Court approves the Settlement, the Parties to the Settlement will ask the Court to enter an Order and Final Judgment dismissing the Released Claims as against the Released Persons with prejudice. If you are a Settlement Class Member, this Settlement Notice will inform you of how, if you so choose, you may enter your appearance in the Action or object to the proposed Settlement and have your

objection heard at the Fairness Hearing. This Settlement Notice will also inform you how to exclude yourself (or “Opt Out”) from the Settlement Class should you choose to do so.

THE FOLLOWING RECITATION DOES NOT CONSTITUTE FINDINGS OF THE COURT AND SHOULD NOT BE UNDERSTOOD AS AN EXPRESSION OF ANY OPINION OF THE COURT AS TO THE MERITS OF ANY OF ANY OF THE CLAIMS OR DEFENSES RAISED BY ANY OF THE PARTIES.

A. BACKGROUND ON THE LAWSUIT AND PROPOSED SETTLEMENT

The Municipal Plaintiffs⁴ each contracted with Columbia Utilities Power, LLC on or around April 30, 2021 to receive renewable electricity supplied through the CCA Program for which Columbia Utilities Power, LLC served as the Energy Service Company, thereby providing the option for individual residents and small businesses located within those municipalities to participate in the CCA Program.

On June 3, 2022, the Municipal Plaintiffs, along with Individual Plaintiffs⁵ and Joule Assets, Inc. (“Joule”) (together with the Municipal and Plaintiffs, “Plaintiffs”), filed a Verified Complaint (the “Complaint”) against Columbia Utilities Power, LLC and an affiliated entity⁶ (collectively, “Columbia” or “Defendants”) in New York State Supreme Court, captioned *Town of Saugerties et al., v. Columbia Utilities Power, LLC et al.*, Index No. EF2022-1113 (N.Y. Sup. Ct., Ulster Co.) (the “Action”), seeking injunctive relief and damages in connection with the CCA Program and Columbia’s purported intention to terminate its contracts with the Plaintiff Municipalities and transfer all of its CCA Program customers back to the local utility, Central

⁴ The Municipal Plaintiffs in the Action are comprised of: the Cities of Poughkeepsie and Beacon, the Towns of Saugerties, New Paltz, Clinton, Marletown, and Philipstown, and the Villages of New Paltz and Cold Spring.

⁵ The Individual Plaintiffs are Fred Costello, the Supervisor of Municipal Plaintiff Town of Saugerties and a resident participant in the CCA Program, and Tim Rogers, the Mayor of Municipal Plaintiff Village of New Paltz and a resident participant in the CCA Program, on behalf of themselves and as representatives of the Settlement Class Members.

⁶ While Columbia Utilities, LLC is named as a defendant in in this Action, Defendants maintain that Columbia Utilities provides natural gas supply to customers in New York and is not involved with the provision of electricity to CCA Program customers and had no part in the acts or events at issue in the Action.

Hudson Gas & Electric Corp. (“Central Hudson”). Among other things, the Complaint included claims and causes of action asserted against Columbia by the Individual Plaintiffs on their own behalf and as representatives of the Settlement Class.

In conjunction with their Complaint, Plaintiffs also filed a proposed Order to Show Cause on June 3, 2022, seeking to preliminarily enjoin and restrain Columbia from, among other things, transferring all of its CCA Program customers (including all Settlement Class Members) back to Central Hudson, which the Court so-ordered and entered on June 7, 2022 (the “Order to Show Cause”), including the temporary restraining order Plaintiffs requested (the “TRO”).

On June 6, 2022, the New York State Public Service Commission, on its own behalf and on behalf of the People of the State of New York (the “PSC”) (together with Plaintiffs, the “Plaintiff Parties”), filed a Proposed Intervenor’s Complaint for Injunctive Relief and Penalties against Columbia in the Action (the “PSC Complaint”), based on the same or related facts and allegations and seeking similar relief as the Complaint filed by the Plaintiffs in the Action, pursuant to the PSC’s accompanying motion to intervene, which the Court granted on August 12, 2024 by Stipulation of the Parties to the Action.

On July 18, 2021, while the TRO was in effect, the New York State Independent Operator (“NYISO”) terminated Columbia’s rights to participate in NYISO-administered market in New York State, resulting in the unilateral transfer of all of Columbia’s CCA Program customers (including all Settlement Class Members) back to Central Hudson as the local utility, as a result of Columbia’s failure to post approximately \$3.5 million in collateral by July 12, 2022 as required to comply with NYISO’s creditworthiness requirements.

On August 12, 2022, in addition to granting the PSC’s Motion to Intervene, the Court in the Action adjourned the deadlines in the Order to Show Cause to allow the Parties to conduct discovery regarding NYISO’s collateral demand and whether Columbia was in fact unable to meet it.

Columbia denies the material allegations in the Complaint and the PSC’s Complaint, denies that it engaged in in any wrongdoing whatsoever—including, without limitation, in connection with the collateral demand and the transfer of Columbia’s CCA Program customers (including all Settlement Class Members) as a result of Columbia’s termination from the NYISO-administered market—and denies that any of the Plaintiff Parties are or were entitled to the injunctive relief, damages, and any other remedies they seek or have sought by and through the Action; and

The Parties have completed document discovery into the collateral demand and Columbia’s ability to comply with the TRO, including the production of documents and information by Columbia in connection with Plaintiffs’ and the PSC’s allegations against Columbia, as well as third-party discovery from Central Hudson, and have engaged in settlement discussions, culminating in a mediation on April 3, 2024. As a result of the mediation, the Plaintiff Parties have concluded that settlement of all of the claims and causes of brought by or that could have been brought by the Plaintiff Parties against Columbia in the Action, including, without limitation, the claims and causes of action asserted on behalf of the Settlement Class by the Individual Plaintiffs, is fair, reasonable, adequate and in the best interests of all Settlement Class Members.

On _____, 2024, the Parties entered into the Settlement Agreement, and, on _____, 2024, filed a proposed Scheduling Order for Approval of

Settlement of Class Action (the “Fairness Hearing Order”). On _____, 2024, the Court entered and so-ordered the Fairness Hearing Order to consider, among other things, whether to approve the terms of the Settlement as set forth in the Settlement Agreement.

B. KEY TERMS OF THE SETTLEMENT

If the Settlement is approved by the Court, the claims and causes of action asserted against Columbia by the Plaintiff Parties, including those brought on behalf of the Settlement Class, will be DISMISSED WITH PREJUDICE pursuant to an Order and Final Judgment to be entered by the Court, and Columbia will receive releases from the Plaintiff Parties, including all Settlement Class Members who do not Opt Out of the Settlement, for any and all claims that have or could be asserted against Columbia in connection with the Action. In exchange, Columbia will pay a total of \$1,500,000.00 into a Settlement Fund that, after the deduction of expenses, will be used for the benefit of the Settlement Class Members, and provide corresponding releases to the Plaintiff Parties, including all Settlement Class Members who do not Opt Out of the Settlement. These terms are discussed in further detail below.

Settlement Fund

In exchange for the dismissal of the Action and the releases it will receive (discussed further below), Columbia will pay a total of \$1,500,000.00 into a settlement fund (the “Settlement Fund”) by June 1, 2025 as follows: (a) payment of \$1,000,000.00 by August 1, 2024 ; and (b) payment of the remaining \$500,000.00 by June 1, 2025 through monthly installment payments of \$50,000 per month beginning on September 1, 2024. Columbia may elect to pay more than the minimum amount for any monthly installment payment, in which case any additional amount paid over the minimum monthly payment amount will be credited to future monthly installment payments, with the understanding that Columbia remains obligated to pay a

total of \$1,000,000.00 to the Settlement Fund by August 1, 2024 and to pay the remaining \$500,000.00 to the Settlement Fund by June 1, 2025, for an aggregate amount of \$1,500,000.00 by June 1, 2025.

The Settlement Fund will be paid into and held in an interest-bearing Escrow Account administered by Simpluris as the Escrow Agent and Settlement Administrator in accordance with the terms of the Settlement and as provided in the Settlement Agreement. Specifically, the Settlement Fund will be used to disburse refunds in equal amounts to the members of the Settlement Class who have not opted out. In addition, all expenses, fees, taxes, and other costs associated with providing notice and administering the Settlement Fund, as well as reasonable actual attorneys' fees and costs not to exceed twenty percent of the Settlement Funds, shall be paid out of the Settlement Fund (together with any interest accrued thereon). Once Columbia has satisfied its payment obligations with respect to the Settlement Fund, Columbia shall not have any liability or responsibility whatsoever with respect to the Settlement Fund, including with respect to any costs, fees, expenses, taxes incurred or imposed thereon, or the actions of the Escrow Agent/Settlement Administrator in the administration, management, allocation, and/or disbursement of the Settlement Fund.

Releases

The Plaintiff Parties, including all Settlement Class Members who do not Opt Out of the Settlement (the "Releasing Parties"), in exchange for Columbia's payment of the Settlement Fund, will release Columbia Utilities Power, LLC and Columbia Utilities, LLC and any of their former, present, and future assigns, predecessors, successors, affiliates, parent companies, subsidiaries, controller companies, employees, officers, directors, principals, and agents (collectively, the "Released Parties") from any and all claims, including any and all claims,

rights, and liabilities of any nature, including, but not limited to, actions, claims, demands, causes of action, obligations, damages, debts, charges, attorneys' fees, costs, arbitrations, forfeitures, judgments, indebtedness, liens and losses of any kind, source or character whether arising out of federal or state law, whether known, suspected to exist or unknown, whether asserted or unasserted, whether asserted by any Releasing Party either on its own behalf or on behalf of any other Person, whether in contract, express or implied, tort, at law or in equity or arising under or by virtue of any statute or regulation, by reason of, arising out of, that are related to any of the facts, acts, events, transactions, occurrences, courses of conduct, business practice or relationship, representations, omissions, circumstances or other matters related in any way to the Action, addressed in this Agreement, and/or that could have been brought in the Action against any of the Released Parties, including any claims related to the Released Parties' conduct in connection with the CCA Program (the "Released Claims"), excluding only claims the Releasing Parties could assert to enforce the Settlement under the Settlement Agreement.

The PSC will also agree and acknowledge that (i) the Settlement resolves all investigative and other regulatory enforcement actions related to Columbia's participating in and conduct relating to the CCA Program; and (ii) upon satisfying its payment obligations with respect to the Settlement Fund, nothing related to this Action shall prohibit Columbia from being eligible to supply electricity and/or natural gas to customers using the transmission or distribution system of a utility as an ESCO in New York State. The PSC will further agree and acknowledge that the PSC will not challenge Columbia's ability to re-enter the NYISO-administered market as an ESCO based on any conduct or allegations relating to the Action.

In addition to the releases they will receive, the Releasing Parties (as defined above), will fully, finally, and forever release, relinquish, and discharge any and all claims against the

Releasing Parties and any of their former, present, and future assigns, predecessors, successors, affiliates, parent companies, subsidiaries, controller companies, employees, officers, directors, principals, and agents, from any and all claims arising out of or relating to their filing, prosecution, and settlement of the Action and the Released Claims, again, similarly excluding only claims the Releasing Parties could assert to enforce the Settlement under the Settlement Agreement.

C. REASONS FOR THE SETTLEMENT

The Plaintiff Parties contend that they brought the Action against Defendants in good faith and that the claims asserted against Defendants in the Action have legal merit, but nevertheless acknowledge that Defendants would continue to assert legal and factual defenses to such claims. With the informed understanding—based on representations from Columbia—and recognition that further litigation in the Action would only deplete any potential recovery for the Plaintiff Parties, and thereby reduce the amount of funds that could be used for the benefit of the Settlement Class, and considering that the Settlement would eliminate the burden, expense, and risk of further litigation, the Plaintiff Parties believe that the terms of the Settlement are fair, reasonable, adequate and in the best interest of the Settlement Class.

Defendants have denied, and continue to deny, that they committed any violation of law or of their contractual obligations or engaged in any of the wrongful acts alleged against them in the Action. Defendants are entering into this Agreement solely because the proposed Settlement would eliminate the burden, expense and risk of further litigation.

D. CLASS ACTION DETERMINATION

Pursuant to CPLR 901 *et. seq.*, and for purposes of the Settlement only, the Court has *conditionally* certified the Action as a class action on behalf of the Settlement Class, defined as follows:

The putative class of all Persons or businesses who, as of July 18, 2022, still participated in the Hudson Valley Power Community Choice Aggregation Program administered by Joule and through which Columbia Utilities, Power, LLC contracted to supply renewable energy (the “CCA Program”), as a resident or small business located within a municipality participating in the CCA Program, as represented by the Individual Plaintiffs in the Action.⁷ Excluded from the Settlement Class are (1) those Persons who timely and validly Opt Out of the Settlement pursuant to the Settlement Notice; (2) the judicial officers to whom this case is assigned and any members of their staffs and immediate families; and (3) any heirs, assigns, or successors of any of the Persons or entities described in parts (1) and (2) of this paragraph.

SETTLEMENT CLASS MEMBERS SHALL HAVE THE RIGHT TO SEEK EXCLUSION (“OPT OUT”) FROM THE SETTLEMENT ONLY AS TO THE RELEASED CLAIMS FOR MONETARY DAMAGES arising out of the causes of action asserted against Defendants, as provided further below.

E. FAIRNESS HEARING

The Court has scheduled a Fairness Hearing to be held on _____, 2024, at __:___ a.m./p.m. at the Special Term of this Court, the Supreme Court of the State of New York, Ulster County, located at 285 Wall Street, Kingston, New York 12401, Room ___, to:

- a. Consider the Settlement pursuant to CPLR 901 *et. Seq.* as fair, reasonable, adequate and in the best interests of the Settlement Class;
- b. Consider an Order and Final Judgment dismissing the Released Claims as against the Released Parties with prejudice, with each Party to bear his, her, or its own

⁷ The following municipalities participated in the CCA Program: TOWN OF SAUGERTIES, TOWN OF NEW PALTZ, VILLAGE OF NEW PALTZ, CITY OF BEACON, TOWN OF CLINTON, TOWN OF MARBLETOWN, CITY OF POUGHKEEPSIE, TOWN OF RED HOOK, TOWN OF PHILIPSTOWN, and VILLAGE OF COLD SPRING.

costs (except as otherwise provided in the Order and Final Judgment or in the Settlement Agreement);

- c. Consider, for purposes of the Settlement only, the certification of the Action as a Class Action under CPLR Article 9; and
- d. Hear such other matters as the Court may deem necessary and appropriate.

The Court has reserved the right to adjourn the Fairness Hearing or modify any of the dates or deadlines set forth herein without further notice to the Settlement Class.

The Court has reserved the right to approve the Settlement at or after the Fairness Hearing with such modifications as may be consented to by the Parties to the Action and without further notice to the Settlement Class.

F. RIGHT TO APPEAR, OBJECT, AND/OR OPT OUT OF THE SETTLEMENT

Any Settlement Class Member may appear and show cause at the Fairness Hearing if he, she or it has any reason why the proposed Settlement of the Action should not be approved as fair, reasonable, adequate and in the best interest of the Settlement Class. However, in order to have their objections heard, any member of the Settlement Class who seeks to object to the Settlement must file with the Court and deliver to the following counsel for Parties to these proceedings a written notice of objection, signed as authorized by the objecting shareholder and setting ground(s) for the objection, by no later than thirty (30) days before the Fairness Hearing. Counsel to whom such objections must be sent are as follows:

Hodgson Russ LLP
Aaron M. Saykin, Esq.
Daniel A. Spitzer, Esq.
140 Pearl Street, Suite 100
Buffalo, New York 14202-4040
dspitzer@hodgsonruss.com
asaykin@hodgsonruss.com

Counsel for Plaintiffs

Public Service Commission, State of New York
Dennis F. DiBari
Three Empire State Plaza
Albany, New York 12223-1350
dennis.dibari@dps.ny.gov

Counsel for Plaintiff-Intervenor

McDermott Will & Emery LLP
Warren Haskel
Timothy C. Cramton
One Vanderbilt Avenue
New York, New York 10017-3852
whaskel@mwe.com
tcramton@mwe.com

Counsel for Defendants

Only those Settlement Class Members who have filed and delivered such valid and timely written notice of objections will be entitled to be heard at the Fairness Hearing unless the Court orders otherwise.

Any Settlement Class Member who seeks to Opt Out from the Settlement as to the Released Claims for monetary damages must submit a request to do so, *in writing* to the Settlement Administrator as follows:

Simpluris
PO Box 25226
Santa Ana CA 92799-9874

Notice of any request to Opt Out of the Settlement must be provided no later than thirty (30) days from the Fairness Hearing, and must be postmarked no later than such deadline (the “Opt Out Deadline”) and include: the name, address, telephone number; email address and signature of the Settlement Class Member seeking to Opt Out of the Settlement.

Only those members of the Settlement Class who have filed and delivered a valid and timely request to Opt Out by the Opt Out Deadline will be excluded from the Settlement Class, unless the Court orders otherwise.

FOR FURTHER INFORMATION

PLEASE DO NOT WRITE OR CALL THE COURT WITH INQUIRIES ABOUT THIS SETTLEMENT NOTICE. INQUIRIES OR COMMENTS ABOUT THE SETTLEMENT MAY DIRECTED TO THE SETTLEMENT ADMINISTRATOR:

Simpluris
PO Box 25226
Santa Ana CA 92799-9874

Counsel for Plaintiffs

Further information is also available at [insert website address]

SO ORDERED this ____ day of _____, 2024, BY ORDER OF THE SUPREME COURT OF THE STATE OF NEW YORK, ULSTER COUNTY.

Hon. David M. Gandin, J.S.C.

Exhibit C

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ULSTER

TOWN OF SAUGERTIES, TOWN OF NEW
PALTZ, VILLAGE OF NEW PALTZ, CITY OF
BEACON, TOWN OF CLINTON, TOWN OF
MARBLETOWN, CITY OF POUGHKEEPSIE,
TOWN OF RED HOOK, TOWN OF
PHILIPSTOWN, VILLAGE OF COLD SPRING,
FRED COSTELLO, TIM ROGERS, and JOULE
ASSETS, INC.,

Plaintiffs,

-against-

COLUMBIA UTILITIES POWER, LLC and
COLUMBIA UTILITIES, LLC,

Defendants.

Index No. EF2022-1113

Hon. David M. Gandin

**ORDER AND FINAL
JUDGMENT**

WHEREAS, the Parties to the above-captioned class action (the “Action”) applied pursuant to Article 9 of New York Civil Practice Law and Rules (“CPLR”) for an Order (the “Scheduling Order”) approving the proposed settlement of the Action in accordance with the terms of the Settlement Agreement and Release, dated as of _____, 2024 (the “Settlement Agreement”) (attached hereto as **Exhibit A**) including the dismissal the Action with prejudice upon the terms and conditions set forth in the Settlement Agreement (the “Settlement”);

WHEREAS, the Court entered and so-ordered the Scheduling Order on _____, 2024, with the consent of all Parties and the Court having read and considered the Settlement Agreement and accompanying documents and exhibits filed thereto with the Court; and

WHEREAS, the Court held a hearing as noticed on _____, 2024, pursuant to the Scheduling Order (the “Fairness Hearing”) to consider and determine the matters set forth in the Scheduling Order; and due and sufficient notice having been given as provided in

the Scheduling Order and accompanying notice approved and so-ordered by the Court (the “Settlement Notice”); and all persons having any objection to the proposed Settlement described in the Settlement Notice having been given an opportunity to present such objections to the Court at the Fairness Hearing; and all persons seeking exclusion from the Settlement Class as set forth in the Settlement Agreement and described in the Settlement Notice having been given an opportunity to submit any request for exclusion; the Court having heard and considered the matter at the Fairness Hearing, including all papers filed in connection therewith, and good cause appearing therefor;

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that:

1. This Order and Final Judgment incorporates by reference the definitions in the Settlement Agreement executed by the parties on and filed with the Court and all terms used herein shall have the same meanings as set forth in the Settlement Agreement.

2. The Court has jurisdiction over the subject matter of the Action and over the Parties who have appeared in the Action.

3. The Settlement Notice and the method of its dissemination is hereby determined to have been fair, reasonable, and adequate notice under the circumstances and in full compliance with CPLR 901 *et seq* and the requirements of due process under the United States Constitution and other applicable laws.

4. Pursuant to CPLR 901 *et. seq.*, and for the purposes of the Settlement only, the Court certifies the Action as a class action on behalf of the Settlement Class, defined as follows:

The putative class of all Persons or businesses who, as of July 18, 2022, still participated in the Hudson Valley Power Community Choice Aggregation Program administered by Joule and through which Columbia Utilities, Power, LLC contracted to supply renewable energy (the “CCA Program”), as a resident or small business located within a municipality

participating in the CCA Program, as represented by the Individual Plaintiffs in the Action.⁸

5. Excluded from the Settlement Class are (1) those Persons who timely and validly Opt Out of the Settlement pursuant to the Settlement Notice, and the Court notes and approves that all SETTLEMENT CLASS MEMBERS HAD THE RIGHT TO SEEK SUCH EXCLUSION FROM THE SETTLEMENT ONLY AS TO RELEASED CLAIMS (AS DEFINED IN THE SETTLEMENT AGREEMENT AND IN THE SETTLEMENT NOTICE) FOR MONETARY DAMAGES; (2) the judicial officers to whom this case is assigned and any members of their staffs and immediate families; and (3) any heirs, assigns, or successors of any of the Persons or entities described in parts (1) and (2) of this paragraph.

6. The Court hereby approves the Settlement set forth in the Settlement Agreement and finds that the Settlement is in all respects fair, reasonable, adequate and in the best interests of the Settlement Class.

7. The Released Claims as against the Released Parties are hereby DISMISSED WITH PREJUDICE, with each party to bear his, her, or its own costs and attorneys' fees (except as otherwise provided in this Order and Final Judgment or the Settlement Agreement), and all other terms and releases set forth in the Settlement Agreement and as provided by therein are now hereby effective.

8. Without in any way affecting the finality of this Order and Final Judgment, this Court shall retain jurisdiction for the purpose of enforcing the Settlement and the terms of the Settlement Agreement, and shall retain exclusive jurisdiction and authority to consider, rule upon, and issue a final order with respect to suits, whether judicial, administrative or otherwise,

⁸ The following municipalities participated in the CCA Program: TOWN OF SAUGERTIES, TOWN OF NEW PALTZ, VILLAGE OF NEW PALTZ, CITY OF BEACON, TOWN OF CLINTON, TOWN OF MARBLETOWN, CITY OF POUGHKEEPSIE, TOWN OF RED HOOK, TOWN OF PHILIPSTOWN, and VILLAGE OF COLD SPRING.

which may be instituted by any person, individually or derivatively, with respect to the Settlement and the Settlement Agreement.

9. Without further order of the Court, the Parties may agree to reasonable extensions of time to carry out any of the provisions of the Settlement Agreement.

10. The Clerk of the Court shall enter this Order and Final Judgment.

IT IS SO ORDERED this ____ day of _____, 2024.

Hon. David M. Gandin, J.S.C.

4. **R-24-53**, Resolution Introducing and Setting a Public Hearing for a Local Law Adopting a New Zoning Code for the City of Poughkeepsie.

**RESOLUTION
(R 24-53)**

**RESOLUTION INTRODUCING A LOCAL LAW ADOPTING A NEW ZONING CODE
FOR THE CITY OF POUGHKEEPSIE**

**INTRODUCED BY INTRODUCED BY CHAIRMAN WILSON, COUNCILMEMBERS
PATTERSON THOMPSON, MENIST AND JAMES:**

BE IT RESOLVED that an introductory Local Law adopting a new zoning code for the City of Poughkeepsie 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 are available for the public's review at <https://www.pk4keeps.org/> ; 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 Tuesday, September 17, 2024 at 5:30pm 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 PATTERSON THOMPSON

Official Minutes of the Common Council Meeting of July 2, 2024

R-24-53 - VOICE VOTE						
☒ Accepted ☐ Defeated ☐ Tabled			Yes/Aye	No/Nay	Abstain	Absent
	Councilmember Henry	Voter	☒	☐	☐	☐
	Councilmember Menist	Voter	☒	☐	☐	☐
	Councilmember Brown	Voter	☒	☐	☐	☐
	Councilmember James	Voter	☒	☐	☐	☐
	Councilmember Grant	Voter	☒	☐	☐	☐
	Councilmember Deichler	Voter	☒	☐	☐	☐
	Majority Leader Patterson Thompson	Voter	☒	☐	☐	☐
	Vice Chair Shook	Voter	☐	☐	☐	☒
	Chairman Wilson	Voter	☒	☐	☐	☐

XIII. ORDINANCES AND LOCAL LAWS:

XIV. ADJOURNMENT:

There was a motion to adjourn the meeting at 8:10 pm made by Councilmember Menist

Dated: July 17, 2024

I hereby certify that this true and correct copy of the Minutes of the Common Council Meeting held on Tuesday, July 2, 2024.

**Respectfully submitted,
Donna M. DeLuca
Deputy City Chamberlain**