

At a Meeting of the Village of Pawling Board of Trustees held at Village Hall, 9 Memorial Avenue, Pawling, New York, on the ____ day of August, 2022, at 7:00 PM

RESOLUTION OF THE BOARD OF TRUSTEES OF THE VILLAGE OF PAWLING

Identifier: Local Law No. ____ for the year 2022 to repeal Chapter 58-A of the Code of the Village of Pawling entitled “Peddling and Soliciting” and enact a new Chapter 58-A entitled “Peddling and Soliciting,”

The meeting was called to order by Mayor Lauri Taylor and the following were:

PRESENT:

- __ Mayor Lauri Taylor
- __ Trustee Daniel Peters
- __ Trustee John Burweger
- __ Trustee Gerald Locascio
- __ Trustee Thomas Meyer

Trustee _____ moved the following resolution, seconded by Trustee _____, to introduce and set a date for the public hearing on the following proposed local law:

Local Law No. ____ for the year 2022 to repeal Chapter 58-A of the Code of the Village of Pawling entitled “Peddling and Soliciting” and enact a new Chapter 58-A entitled “Peddling and Soliciting

**Chapter 58-A
Peddling and Soliciting**

**Article I
General Provisions**

§ 58-1. Purpose.

The purpose of this Chapter shall be to improve and promote the health, safety and general welfare of the community, and to preserve and protect the property of the Village and its inhabitants, by appropriate regulation of peddling and soliciting.

§ 58-2. Definitions.

As used in this Chapter the following terms shall have the meanings indicated (irrespective of whether such term begins with a capital letter):

APPLICANT - Any natural person who applies for and/or has been issued a permit.

APPROVING OFFICIAL - the Mayor or, as may be designated by the Mayor from time to time, the Clerk, another Village Officer or the Board.¹

BOARD - The Board of Trustees of the Village.

CHAPTER - This Chapter 58-A of the Village Code.

CLERK - The Village Clerk for the Village.

DISABLED VETERAN - Any honorably discharged member of the armed forces of the United States who (1) was honorably discharged from such service, or (2) has a qualifying condition, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (3) is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, and who is physically disabled as a result of injuries received while in the service of said armed forces.

DUTCHESS COUNTY VETERAN'S LICENSE - A license issued by the Dutchess County Clerk to a former member of the armed forces who has qualified for such license pursuant to NY General Business Law § 32.

ENTITY APPLICANT - as defined § 58-4.C.

ENTITY REPRESENTATIVE - as defined in § 58-4.C.

EXEMPT ORGANIZATION - An organization which is exempt from tax pursuant to Section 501(c)(3) of the Internal Revenue Code, including any such organization which has received such exemption based on it being organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes and meeting other applicable criteria under the Internal Revenue Code.

EXEMPT SOLICITING - Any soliciting by any individual or entity upon public or private property in the Village for the purpose of any one or more of the following:

- (i) soliciting contributions or support for the purposes and/or activities of an exempt organization;
- (ii) distributing pamphlets and/or other written materials of any kind on behalf of an exempt organization;

¹ Under N.Y. Village Law § 4-400 (1)(m) it is the responsibility of the mayor to issue all licenses and for such purpose shall be the "licensing officer" unless he designates another village officer which designation shall be filed with the village clerk. See, also 1983 N.Y. Op. Atty. Gen. (Inf.) 1116 (N.Y.A.G.), 1983 WL 167417 (the mayor can designate the board of trustees as the licensing officers to issue certain permits).

- (iii) proselytizing on behalf of an exempt organization which is organized and operated exclusively for religious purposes;
- (iv) participating in (including the publishing or distributing of written materials) any political campaign on behalf of (or in opposition to) any candidate for public office or with respect to any issue which may involve a vote or other decision making by any federal, state or local government entity or agency;

provided, however, exempt soliciting shall not include (i) peddling on behalf of an exempt organization or (ii) the use of a public area for any of the activities described in sections (i) through (iv) of this definition, if such peddling or use of public area, as the case may be, described in includes the location and/ or use upon such public area of any fixture.

FIXTURE-any booth, tent, stand, stall, kiosk, enclosure, tent, easel, tripod, table, chair, mount, parked or stationary vehicle or cart, placard, fixed signage, musical instruments, microphones, speakers or other amplification equipment;

GAZEBO – the gazebo located on the Village Green.

MAYOR - The Mayor of the Village.

P&S PERMIT – A permit issued for Peddling and Soliciting as described in §58-3

PEDDLER - Any person who engages in Peddling.

PEDDLING - The selling or offering for sale of any goods, wares or merchandise for immediate delivery, which the person selling or offering for sale carries with him in traveling or has in his possession or control, upon any of the streets, roads or highways or from house to house, building to building or lot to lot within the Village.

PERMIT - A permit issued pursuant to this Chapter.

PERMIT TERM - The time period beginning on the date a permit issued pursuant to this Chapter and ending on the expiration date or earlier revocation of such permit, as the case may be.

PERSON - Any natural person, association, partnership, firm or corporation.

PUBLIC AREA -

A. Any street, avenue, sidewalk, alley, lane, park or other areas herein or hereafter designated as a public area or area open to the public by the Board of Trustees acting by resolution or local law.

B. Without limiting the generality of paragraph A of this definition, public areas shall be deemed to include without limitation:

- (i) the Village Green;
- (ii) the War Memorial;

- (iii) all entryways to the Village from Route 22 and Route 55;
- (iv) the Metro North parking lot; and
- (v) the road leading from Main Street to the east side of the Village Hall and the associated parking lot.

SIDEWALK - Any area or way set aside or open to the general public for pedestrian traffic, whether or not it is paved.

SOLICITING - Any of the following activities:

A. The seeking or taking of contracts or orders for any goods, wares or merchandise for future delivery upon any of the streets, roads or highways or from house to house, building to building or lot to lot within the Village;

B. Any soliciting by any person upon public or private property in the Village for the purpose of any one or more of the following:

- (i) soliciting contributions or support for the purposes and/or activities of any person other than an exempt organization;
- (ii) distributing pamphlets and/or other written materials of any kind on behalf of any person other than an exempt organization.

C. For the avoidance of doubt, any provision of this local law which regulates, references or pertains to “soliciting or “exempt soliciting” shall, as the case may be, also be deemed to regulate, reference or pertain to “solicitation” or “exempt solicitation”, as the case may be, and vice versa.

STREET - Any public street, roadway or highway within the Village of Pawling.

TEMPORARY RESTRICTED AREA - As defined in § 58-6.F(2).

VILLAGE - The Village of Pawling.

VILLAGE GREEN- the Village Green located adjacent to the railroad tracks and Charles Colman Boulevard;

WAR MEMORIAL AREA – the war memorial located at the south end of the Village Green, including the surrounding brick paved area and benches;

§ 58-3. Permit Required for Soliciting and Peddling

A. Except as otherwise expressly provided herein, no person shall engage in Soliciting or Peddling within the Village without procuring a P&S permit from the Village Clerk.

B. Notwithstanding anything contained herein to the contrary, a P&S permit shall not be

required for the following:

- (1) Peddling or Soliciting which is conducted in any public area without the use of any vehicle other than a hand driven vehicle by a Disabled Veteran who is the holder of a current Dutchess County Veteran's License;
- (2) Peddling in a fixed location by any individual or entity while participating as an approved vendor in a farmer's market organized and operated by an exempt organization which has received approval from an Approving Official to operate such farmer's market within the Village;
- (3) any individual under the age of eighteen (18) years old engaged in Peddling exclusively on behalf of an exempt organization so long as such peddling by an exempt organization within the Village utilizing one or more such individuals does not occur more than seven (7) days in any given calendar year;
- (4) any individual under the age of eighteen (18) years old engaged in Peddling exclusively as part of a public or private school club or activity, so long as such peddling for any given club or activity does not occur more than seven (7) days in any given calendar year;
- (5) any exempt soliciting.

§ 58-4. Application for P&S Permit.

A. No P&S Permit shall be issued until an application has first been filed with the Village Clerk by the person seeking the same.

B. The application for a P&S permit shall require the applicant to set forth his name, address, his sex, his age; the type or types of article, device, subscription, contribution, service or contract which he desires to sell or for which he desires to solicit within the Village; the name and address of the applicant's employer or sponsor, if any; the length of time for which he wishes the P&S permit to be issued, not exceeding sixty (60) days; the type of vehicle he uses, if any, and its registration number; a description of any fixtures to be used by the applicant; two full faced photographs of the applicant taken within the thirty (30) day period immediately preceding the date of the application and measuring at least 2 x 2 inches; if the application is for a license to handle food in any form, a valid permit issued by the Dutchess County Health Department indicating compliance with the provisions of the Dutchess County Public Health Regulations; if the application involves the use of a vehicle, proof that the applicant holds a valid New York State driver's license; proof that the applicant holds a New York State sales tax certificate of authority, including the applicant's sales tax identification number.

C. If the applicant is not a natural person ("Entity Applicant"), then the applicant must designate a single individual who will be entitled to utilize the permit during the Permit term ("Entity Representative") and such Entity Representative and Entity Applicant shall be required to meet all requirements and conditions imposed upon an individual applicant hereunder in connection with application for and utilization of a permit. Such permit shall be issued in the name of both the Entity Representative and the Entity Applicant and the Entity Representative and Entity Applicant shall be jointly and severally liable to the Village for any costs, claims, damages, suits liabilities and expenses,

including reasonable attorneys fees, for which an applicant may be responsible hereunder.

D. Each applicant for a P&S Permit must obtain and provide the Village with a current suppressed criminal history record by submitting the applicant's fingerprints to the Division of Criminal Justice Services (DCJS) in the form and manner as prescribed by DCJS. See, <https://www.criminaljustice.ny.gov/ojis/recordreview.htm>

E. Such application shall be referred to the Approving Official for review and approval, approval with conditions or disapproval.

F. The Approving Official shall review the criminal history record information (CHRI) disseminated by DCJS in connection with the applicant's criminal background and investigation. An applicant shall be disqualified from being issued a P&S permit if the applicant has been convicted of one or more criminal offenses and the Approving Official determines, that either: (1) there is a direct relationship between one or more of the previous criminal offenses and the issuance of the P&S permit or (2) the issuance of the P&S Permit would involve an unreasonable risk to property or to the safety or welfare of specific individuals or the general public. In making such determination the Approving Official shall consider the factors specified in NY Corrections Law §753.

G. An applicant who is not disqualified pursuant to this § 58-4, and who meets all other terms and conditions specified in this Chapter, shall be issued a P&S permit.

§ 58-5. Fees; Bond.

A. Except as expressly provided herein, no P&S permit shall be issued under this Chapter unless and until the applicant has complied with each of the following conditions:

(1) The applicant has paid a fee to the Village in the amount of \$200.

(2) The applicant has provided a bond approved by the Board in form and surety in the amount of \$5,000, to secure the Village from and against any and all losses, costs, claims, suits, damages, liabilities and expenses, including reasonable attorney's fees arising from the applicant's activities in connection with the P&S permit. This provision shall not be deemed to limit the liability of an applicant to the Village or any third party pursuant to any provision of this Chapter, at law or in equity.

B. The Board shall have the right to amend or alter any one or more of the following from time to time by resolution of the Board:

(1) The amount of fees payable by applicants hereunder;

(2) The amount or type of the bond required to be posted by applicant;

(3) Any action taken or determination made by a Approving Official pursuant to this Chapter 58-A;

(4) The time period that a P&S permit is in effect;

(5) The location and days and hours of operation of any applicant holding a P&S permit or of any other Peddling, Soliciting or exempt soliciting.

C. Notwithstanding the foregoing to the contrary, an applicant who is a former member of the armed services who at the time of applicant for the P&S permit is qualified for and holds a current Dutchess County Veteran's License shall not be required to pay the fee or post the bond otherwise required under this § 58-5.

§ 58-6. Permit Conditions and Restrictions on Peddling, Soliciting and Exempt Soliciting.

A. A P&S permit issued hereunder shall only be valid all days between 9:00 a.m. and sundown from the date of issuance for a period of sixty (60) days thereafter.

B. A P&S permit shall apply only to a single applicant and such P&S permit shall not be transferable to any other person.

C. Each applicant who has been issued a P&S permit shall at all times while engaged in Soliciting and Peddling within the Village, carry the P&S permit upon his person and shall exhibit the same upon request to all persons solicited and to any sheriff or other police officer then located within the Village.

D. No applicant or other person shall engage in exempt soliciting, any other soliciting or any peddling in the Village in a manner that would violate any parking or standing laws or regulations or that would create traffic congestion or otherwise interfere with the public access to, safe passage through, or use of any Village sidewalk or street.

E. No applicant or other person shall use any fixtures for exempt soliciting or for any other soliciting or peddling unless such fixture is listed on the applicant's P&S permit application and approved by the Village at the time of issuance of the P&S permit; :

F. Unless the Village otherwise consents in writing, no applicant or other person shall engage in exempt soliciting, other Soliciting or Peddling, any musical or other public performance or any assembly of more than six (6) persons:

(1) Within ten (10) feet of any entryway to a business without the written consent of the owner of the applicable business, within ten (10) feet of any entryway to a residential building other than a single family residence without the written consent of the owner of the applicable residence or within fifty (50) feet of any entryway to any single family residence without the written consent of the owner of such residence; provided, however, that this provision shall not apply to door to door peddling, door to door soliciting or door to door exempt soliciting which is otherwise permitted hereunder;

(2) Within fifteen (15) feet of the nearest boundary of any Temporary Restricted Area. "Temporary Restricted Area" means any public area within the Village which (i) in square feet is no larger than the square footage of the Village Green and (ii) is being used for an event or activity for which a UPF Permit has been issued pursuant to § 59-10 of Chapter 59 of the Village Code entitled "Parades, Public Assemblies and Use of Public Areas"

(3) On or within ten (10) feet of any of the following: (i) the war memorial area; (ii) the chamber of commerce building on Charles Colman Boulevard and (iii) the gazebo;

G. No person engaged in Soliciting or Peddling shall:

(1) make noise through the use of any loudspeaker, horn or any other amplification device or engage in any other activity which disturbs the peace;

(2) enter private property or place of business in the Village for the purpose of Peddling or Soliciting after the owner or occupant thereof shall have requested the applicant to leave, or if the residence or place of business is displaying a sign stating "no soliciting" or words of similar effect.

§ 58-7. Discrimination Prohibited.

The Approving Official shall not discriminate in granting, denying, revocation or suspending any permit under this Chapter based on speech content, political, religious, ethnic, race, disability, sexual orientation or gender related grounds.

§ 58-8. Village Clerk records.

The Village Clerk shall keep a record listing the names and numbers of persons to whom permits have been issued, the date of issuance thereof and the expiration date of each permit.

§ 58-9. Appeal

A. An applicant who is denied the issuance of a permit hereunder by an Approving Official or whose permit is revoked or suspended by an Approving Official shall have the right to appeal such denial to the Board at any regular meeting of the Board following such denial, revocation or suspension as the case may be. Such right of appeal shall expire if not exercised within 45 days after such denial, revocation or suspension, as the case may be. In the event of a timely appeal, the Board shall issue a decision to the applicant within fifteen (15) days which either upholds, overturns or modifies such denial, revocation or suspension

§ 58-10. Revocation and Suspension, Cancellation. .

A. Any permit issued under this Chapter may be suspended or revoked by any Authorized Official for "Good Cause". Each of the following shall be deemed "Good Cause":

(1) The applicant violates one or more terms and conditions applicable to the permit;

(2) The applicant has committed one or more crimes prior to or during the permit Term and the Board finds that: (i) there is a direct relationship between one or more such crimes and the activities engaged in by the applicant pursuant to the permit or (ii) the applicant's activities related to the permit would involve an unreasonable risk to property or to the safety or welfare of specific

individuals or the general public;

(3) The applicant engaged in fraud or bribery in securing the permit;

(4) The applicant is determined to have made one or more false statements as to a material matter in any application for a permit or other statement required by or pursuant to this Chapter.

B. Any permit issued under this Chapter may be cancelled based on events occurring after issuance of the permit which create the risk of damage to property or injury to persons, including without limitation inclement weather, pandemic or other exigent circumstances.

§ 58-11. Penalties; Severability.

Any person committing an offense against any provision of this chapter shall, upon conviction thereof, be guilty of a violation, punishable by a fine of at least \$500, but not exceeding \$2,000, or by imprisonment for a term not exceeding fifteen (15) days, or by both such fine and imprisonment. The continuation of an offense against the provisions of this Chapter shall constitute, for each day the offense is continued, a separate and distinct violation hereunder.

§ 58-12. Invalidity, Severability.

In the event that any provision(s) of this Chapter shall be deemed invalid by a court of competent jurisdiction, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to such provision(s) and the other provisions of this Chapter shall remain in full force and effect. Further, in the event that a court determines that any time, place and manner restriction or requirement is deemed invalid, the court shall be authorized to reduce such restriction or requirement, as the case may be, if doing so would render such provision valid.

§ 58-13. Repeal of Chapter 58 and Local Law No. 6 for the year 2022.

A. Chapter 58 of the Code of the Village of Pawling entitled "Peddling and Soliciting" is hereby repealed in its entirety.

B. Local Law No. 6 for the year 2022 is hereby repealed in its entirety.

§ 58-14. When effective.

A. In accord with Municipal Home Rule Law §27(3), this Chapter shall be effective as of the date that it is filed with the Secretary of State.

B. Pursuant to the Municipal Home Rule Law of the State of New York, it is necessary to hold a public hearing upon this proposed local law.

WHEREAS, Trustee _____ has introduced the following proposed local law for the Village

of Pawling: Local Law No. ____ for the year 2022 to repeal Chapter 58-A of the Code of the Village of Pawling entitled “Peddling and Soliciting” and enact a new Chapter 58-A entitled “Peddling and Soliciting”

BE IT RESOLVED, that a public hearing be held in relation to the proposed Local Law as set forth in the form of notice, hereinafter provided, at which hearing parties in interest shall have an opportunity to be heard, to be held at the Village Hall on _____ 2022 at 7 o’clock p.m., and that notice of said hearing shall be published in the official newspaper of general circulation in the Village of Pawling by the Village Clerk, at least five (5) days before such hearing and that such notice shall be in the following form:

NOTICE OF PUBLIC HEARING

TAKE NOTICE that the Board of Trustees of the Village of Pawling will hold a public hearing at the Village Hall, 9 Memorial Avenue, Pawling, New York on _____ 2022, at 7 o’clock p.m., on proposed local law identified as:

Local Law No. ____ for the year 2022 to repeal Chapter 58-A of the Code of the Village of Pawling entitled “Peddling and Soliciting” and enact a new Chapter 58-A entitled “Peddling and Soliciting”

TAKE FURTHER NOTICE, that copies of the aforesaid proposed local law will be available for examination at the Village of Pawling Village Hall, 9 Memorial Avenue, Pawling, New York, during normal business hours on all business days between the date of this notice and the date of the public hearing.

TAKE FURTHER NOTICE, that all persons interested and citizens shall have an opportunity to be heard on said proposal at the time and place aforesaid.

DATED: Pawling, New York
August ____, 2022

JENNIFER OSBORN, VILLAGE CLERK

The question of the foregoing Resolution was duly put to a vote, the Board of Trustees voting as follows:

	<u>Aye</u>	<u>Nay</u>	<u>Abstain</u>
Mayor Lauri Taylor	—	—	—
Trustee Daniel Peters	—	—	—
Trustee John Burweger	—	—	—
Trustee Gerald Locascio	—	—	—
Trustee Thomas Meyer	—	—	—
TOTAL	—	—	—

I hereby certify that the above is a true and correct copy of the Resolution passed by the Village of Pawling Board of Trustees at a meeting held on _____, 2022.

Date: August ____, 2022

Jennifer Osborn, Village Clerk

At a Meeting of the Village of Pawling Board of Trustees held at Village Hall, 9 Memorial Avenue, Pawling, New York, on the ____ day of August, 2022, at 7:00 PM

RESOLUTION OF THE BOARD OF TRUSTEES OF THE VILLAGE OF PAWLING

Identifier: Local Law No. ____ for the year 2022 to enact a new Chapter 59 entitled “Parades, Public Assemblies and Use of Public Areas”

The meeting was called to order by Mayor Lauri Taylor and the following were:

P R E S E N T:

__ Mayor Lauri Taylor
__ Trustee Daniel Peters
__ Trustee John Burweger
__ Trustee Gerald Locascio
__ Trustee Thomas Meyer

Trustee _____ moved the following resolution, seconded by Trustee _____, to introduce and set a date for the public hearing on the following proposed local law:

Local Law No. ____ for the year 2022 to enact a new Chapter 59 entitled “Parades, Public Assemblies and Use of Public Areas”

**Chapter 59
Parades, Public Assemblies and Use of Public Facilities**

**Article I
General Provisions**

59.1 Purpose.

The purpose of this Chapter shall be to protect the rights of all citizens under the 1st Amendment to the U.S. Constitution,¹ to improve and promote the health, safety and general welfare of the community, and to preserve and protect the property of the Village and its inhabitants, by appropriate regulation of parades, public assemblies and use of public areas in the Village.

59.2 Definitions.

As used in this Chapter the following terms shall have the meanings indicated (irrespective of whether such term begins with a capital letter):

APPLICANT - Any natural person who applies for and/or has been issued a permit.

¹ The U.S. Supreme Court has approved reasonable nondiscriminatory regulation by governmental authority that preserves peace, order and tranquility without deprivation of the First Amendment guarantees of free speech, press and the exercise of religion.” See *Urlaub v. Incorporated Village of Bellport*, 498 F.Supp.2d 614, 618 (E.D.N.Y.,2007)

ASSEMBLY PERMIT – as defined in §59.3

BOARD - The Board of Trustees of the Village.

CHAPTER - This Chapter 59 of the Village Code.

CLERK - The Village Clerk for the Village.

EXEMPT ORGANIZATION - An organization which is exempt from tax pursuant to Section 501(c)(3) of the Internal Revenue Code, including any such organization which has received such exemption based on it being organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes and meeting other applicable criteria under the Internal Revenue Code.

EXEMPT SOLICITING – Any soliciting by any individual or entity upon public or private property in the Village for the purpose of any one or more of the following:

- (i) soliciting contributions or support for the purposes and/or activities of an exempt organization;
- (ii) distributing pamphlets and/or other written materials of any kind on behalf of an exempt organization;
- (iii) proselytizing on behalf of an exempt organization which is organized and operated exclusively for religious purposes;
- (iv) participating in (including the publishing or distributing of written materials) any political campaign on behalf of (or in opposition to) any candidate for public office or with respect to any issue which may involve a vote or other decision making by any federal, state or local government entity or agency;

provided, however, exempt soliciting shall not include (i) peddling on behalf of an exempt organization or (ii) the use of a public area for any of the activities described in sections (i) through (iv) of this definition if such activities include the location and/ or use upon such public area of any fixture.

FIXTURE-any booth, tent, stand, stall, kiosk, enclosure, tent, easel, tripod, table, chair, mount, parked or stationary vehicle or cart, placard, fixed signage, musical instruments, microphones, speakers or other amplification equipment;

GAZEBO – the gazebo located on the Village Green.

MAYOR - The Mayor of the Village.

OTHER ASSEMBLY- A gathering of at ten (10) or more persons in a public area.

PARADE – as defined in § 59.3

PERMIT - A permit issued pursuant to this Chapter.

PERMIT TERM - The time period beginning on the date a permit issued pursuant to this Chapter and ending on the expiration date or earlier revocation of such permit, as the case may be.

PERSON - Any natural person, association, partnership, firm or corporation.

PUBLIC AREA –

A. Any street, avenue, sidewalk, alley, lane, park or other areas herein or hereafter designated as a public area or area open to the public by the Board of Trustees acting by resolution or local law.

B. Without limiting the generality of paragraph A of this definition, public areas shall be deemed to include without limitation:

- (i) the Village Green;
- (ii) the War Memorial;
- (iii) all entryways to the Village from Route 22 and Route 55;
- (iv) the Metro North parking lot; and
- (v) the road leading from Main Street to the east side of the Village Hall and the associated parking lot.

PUBLIC ASSEMBLY – as defined in § 59.3

SIDEWALK - Any area or way set aside or open to the general public for pedestrian traffic, whether or not it is paved.

SOLICITING - Any of the following activities:

A. The seeking or taking of contracts or orders for any goods, wares or merchandise for future delivery upon any of the streets, roads or highways or from house to house, building to building or lot to lot within the Village;

B. Any soliciting by any person upon public or private property in the Village for the purpose of any one or more of the following:

- (i) soliciting contributions or support for the purposes and/or activities of any person other than an exempt organization;
- (ii) distributing pamphlets and/or other written materials of any kind on behalf of any person other than an exempt organization.

C. For the avoidance of doubt, any provision of this local law which regulates, references or pertains to “soliciting or “exempt soliciting” shall, as the case may be, also be deemed to regulate, reference or pertain to “solicitation” or “exempt solicitation”, as the case may be, and vice versa.

STREET - Any public street, roadway or highway within the Village of Pawling.

UPF Permit – as defined in § 59.6

VILLAGE - The Village of Pawling.

VILLAGE GREEN- the Village Green located adjacent to the railroad tracks and Charles Colman Boulevard;

WAR MEMORIAL AREA – the war memorial located at the south end of the Village Green, including the surrounding brick paved area and benches;

59.3 Permit Required for Parades and Public Assembly

A. Except as otherwise expressly provided herein, no person shall hold or engage in a parade or public assembly without procuring an assembly permit (“Assembly Permit”) from the Village.

PARADE – means any march, procession or other similar activity involving at least 25 persons and consisting of persons, animals or vehicles, or a combination thereof, having a common purpose, design, destination or goal, upon any public street, sidewalk, park, alley or other public place, which does not comply with normal and usual traffic and/or pedestrian regulation or control.

PUBLIC ASSEMBLY – A gathering of at least 25 persons in a public area which is reasonably anticipated to obstruct the normal flow of traffic upon a village street or otherwise significantly interfere with the use of such public area by the general public.

59.4 Application for Assembly Permit

A. Application. A person seeking the issuance of an Assembly Permit under this chapter shall file an application with the Village Clerk not less than fifteen (15) days nor more than six months before the date upon which the parade and/or public assembly is proposed to be conducted; provided, however, however, the Board where the Mayor determines good cause is shown therefor, may consider an application which is filed less than fifteen (15) days before such parade or public assembly is proposed to be conducted. Good cause may include, but not be limited to, spontaneous parades or public assemblies in response to recent events, without consideration given to the message to be disseminated.

B. Contents. The application for an Assembly Permit shall set forth the following information:

(1) The name, address and telephone number of the person seeking to conduct the parade or public assembly and who will be responsible for any communications with the Village with respect to such Assembly Permit;

(2) If the parade or public assembly is proposed to be conducted for, on behalf of, or by an organization, the name, address and telephone number of the headquarters of the organization,

and of the authorized and responsible heads of the organization;

- (3) The date when the parade or public assembly is to be conducted;
- (4) The proposed route to be traveled, the starting point and the termination point;
- (5) The approximate number of persons who, and the animals and vehicles which, will constitute the parade or public assembly; including a description of any sound amplification equipment to be used;
- (6) The starting and ending times for the parade or public assembly;
- (7) The location of any assembly and disbanding areas for the parade or public assembly;
- (8) The approximate number of spectators;
- (9) A description of any public areas proposed to be utilized;
- (10) Whether or not alcoholic beverages will be served or consumed in any public area; and
- (11) If the applicant or associated organization maintains a liability policy in its customary and usual course of business, proof of such insurance in the form of a certificate of insurance naming the Village as an additional insured.

C. Action on application. The Board shall act upon the application for an Assembly Permit at its next regular meeting which is scheduled to be held after the 5th day following the filing of such application;

D. The Board shall issue an Assembly Permit when, from a consideration of the application and from any other information as may otherwise be obtained, the Board finds that:

- (1) the conduct of the parade or public assembly, as the case may be will not substantially interrupt the safe and orderly movement of other traffic, both vehicular and pedestrian, contiguous to its route or areas of assembly, as the case may be, or, if the activity will substantially interfere with such traffic, there are available at the time of the proposed activity sufficient resources to mitigate the disruption so as to avoid material harm to persons or damage or destruction of property;
- (2) The concentration of persons, animals and vehicles at assembly points of the parade will not unduly interfere with proper fire and police protection and ambulance service within the Village;
- (3) The manner in which the parade or public assembly will be conducted is not reasonably likely to cause injury to persons or property;
- (4) The conduct of the parade or public assembly will not interfere or conflict with any other parade, public assembly or use of public facilities for which an Assembly Permit or UPF

permit has been issued.

E. Contents of the parade or public Assembly Permit. Each Assembly Permit shall state the following information:

- (1) The starting and ending times for the parade or public assembly;
- (2) What portions of the streets to be traversed or public areas may be occupied by the parade or public assembly;
- (3) The assembly areas and the disbanding areas;
- (4) Any other information or conditions that the Board shall find reasonably necessary for the protection of persons or property.

59.5 Denial of Permit.

If an Assembly Permit is denied, the Board shall give notice of such denial to the applicant. Such notice of denial shall include the reasons for such denial and, if applicable, shall propose an alternative time and place within the Village for such parade or public assembly.

59.6 Permit Required for Certain Use of Public Areas.

A. A Use of Public Facilities permit ("UPF permit") shall be required for any of the following:

- (1) use of the gazebo, chamber of commerce building or war memorial area for any public assembly, other assembly, exempt soliciting or any musical or other public performance;
- (2) use of any public area for exempt soliciting involving the use of a fixture;

B. Application for UPF Permit. A person seeking the issuance of a UPF permit shall file with the Village Clerk an application not less than sixty (60) days nor more than six months before the date upon which the applicable use is proposed to be conducted. Such time frames may be modified for a given application at the discretion of the Board if the Board determines that good cause is shown to warrant a modification of such time frame.

C. Contents. The application for a UPF permit shall include:

- (1) the name, address, telephone number and email of the applicant;
- (2) if the use is proposed to be conducted for, on behalf of, or by an organization, the name, address and telephone number of the headquarters of the organization, and of the authorized and responsible heads of the organization;
- (3) the public purpose(s) of the proposed use;
- (4) whether the Applicant is an exempt organization;

- (5) the date and times when use of public facilities is to be conducted;
- (6) the public area proposed to be used;
- (7) any fixtures to be used;
- (8) whether amplified sound will be used;
- (9) Whether there will be any lighting or other illumination;
- (10) whether it is proposed that electric power be provided;
- (11) any provisions to be made for sanitary facilities;
- (12) provisions to be made to handle litter and refuse;
- (13) the approximate number of persons expected in connection with such use, including, as the case may be, vendors, customers, performers, speakers and spectators;
- (14) whether or not alcoholic beverages will be served or consumed in connection with such use;
- (15) Whether or not food will be served;
- (16) An insurance certificate showing that the applicant is covered by comprehensive general liability insurance with such coverage limits and policy terms as are required by the Board and naming the Village as an additional insured. If alcoholic beverages are to be served the applicant shall also furnish an insurance certificate showing coverage for host liquor liability;
- (17) Any other permits required from other state or county agencies;
- (18) any and all such additional information as the Board deems reasonably necessary for the protection of persons and property;

D. The Board shall have the right to adopt and amend from time to time policies and procedures reasonably required to implement this Chapter, including without limitation a form of application, specification of any insurance requirements and form of indemnification to be signed by the applicant.

E. The Board shall issue a UPF assembly permit when, from a consideration of the application and from any other information as may otherwise be obtained, the Board finds that:

- 1. The issuance of such UPF permit will promote a public purpose;
- 2. the use will not interfere or conflict with any other parade, public assembly or use of public area for which (i) a permit has been issued or (ii) is expected to be issued to

another applicant because of such other applicant's past use of the given public area during the requested date and time;

3. There is no reasonable cause to find that such use will substantially interrupt the safe and orderly movement of traffic, both vehicular and pedestrian, or there will be available at the time of the proposed use sufficient resources to reasonably mitigate such interruption;
4. There is no reasonable cause to find that such use will (i) endanger the public health, safety and welfare, (ii) create a material risk of injury to persons or damage or destruction of property or (iii) create a material interference with proper fire and ambulance service within the Village;
5. adequate sanitary facilities are available or will be provided to accommodate the proposed use;

F. If more than one applicant applies for a UPF permit for the same public area during an overlapping time and date, the Board may in its discretion select which person or organization will receive such UPF permit for such public area at such date and time based on the Board's determination as to which use will provide the greater public benefit to the Village and its residents. However, this provision shall not be applied to revoke a UPF permit which has already been issued to a given applicant.

G. The Board shall have the right from time to time, to establish fees to be paid by applicants in connection with the issuance of UPF permits, with such fees to be established based on the Board's determination as to reasonable and necessary costs which are likely to be incurred by the Village in connection with (i) the issuance and administration of such UPF permit and (ii) such use of public areas, including without limitation any costs related to electric power used by the applicant and any costs for police, fire, ambulance and/or clean up services directly related to such UPF permit.

H. The Board shall have the right to require the applicant, as a condition to the issuance of the UPF permit, to provide the Village with a bond in form and surety acceptable to the Board, in the amount of \$5,000 or such other amount as may be determined by resolution of the Board from time to time, to secure the Village from and against any and all losses, costs, claims, suits, damages, liabilities and expenses, including reasonable attorney's fees arising from the applicant's activities in connection with the UPF Permit. This provision shall not be deemed to limit the liability of an applicant to the Village or any third party pursuant to any provision of this Chapter, at law or in equity.

I. Contents of the UPF Permit. Each UPF permit shall state the following information:

- (1) The starting and ending times for the give use;
- (2) The public area to be used;
- (3) Whether alcoholic beverages may be served or consumed;
- (4) Any bond which may be required;

(5) Requirements if any, applicable to parking and/or avoiding or minimizing traffic disruptions, including disruptions caused by loading and unloading equipment and supplies;

(6) Any other information or conditions that the Board shall find reasonably necessary for the protection of persons or property.
Applicants for a UPF permit are responsible for all direct costs associated with the event, including but not limited to, clean-up and trash removal. The applicant shall return the public area used by the applicant to the condition it was in prior to such use. The applicant will be billed by the Village for any damages incurred beyond normal wear and tear.

59.7 Indemnification.

Each applicant for an Assembly Permit or UPF permit, as the case may be, shall execute an agreement, in a form satisfactory to the Board, indemnifying, defending and holding harmless the Village, its trustees, officers, employees, attorneys and agent, from any and all suits, claims, liability and expenses, including reasonable attorney's fees, arising or resulting from the issuance of such permit, including without limitation, any action or omissions, active or passive, by the applicant or any participants in connection with such permit; provided however, that this provisions shall not apply to any gross negligence or illegal conduct by the Village.

59.8 Discrimination Prohibited.

The Board shall not discriminate in granting, denying, revocation or suspending any permit under this Chapter based on speech content, political, religious, ethnic, race, disability, sexual orientation or gender related grounds.

59.9 Village Clerk records.

The Village Clerk shall keep a record listing the names and numbers of persons to whom permits have been issued, the date of issuance thereof and the expiration date of each permit.

59.10 Revocation and Suspension, Cancellation.

A. Any permit issued under this Chapter may be suspended or revoked by any Authorized Official for "Good Cause". Each of the following shall be deemed "Good Cause":

(1) The applicant violates one or more terms and conditions applicable to the permit;

(2) The applicant has committed one or more crimes prior to or during the permit Term and the Board finds that: (i) there is a direct relationship between one or more such crimes and the activities engaged in by the applicant pursuant to the permit or (ii) the applicant's activities related to the permit would involve an unreasonable risk to property or to the safety or welfare of specific individuals or the general public;

(3) The applicant engaged in fraud or bribery in securing the permit;

(4) The applicant is determined to have made one or more false statements as to a material matter in any application for a permit or other statement required by or pursuant to this

Chapter.

B. Any permit issued under this Chapter may be cancelled based on events occurring after issuance of the permit which create the risk of damage to property or injury to persons, including without limitation inclement weather, pandemic or other exigent circumstances.

59.11 Penalties; Severability.

Any person committing an offense against any provision of this Chapter shall, upon conviction thereof, be guilty of a violation, punishable by a fine of at least \$500, but not exceeding \$2,000, or by imprisonment for a term not exceeding fifteen (15) days, or by both such fine and imprisonment. The continuation of an offense against the provisions of this Chapter shall constitute, for each day the offense is continued, a separate and distinct violation hereunder.

59.12 Invalidity, Severability.

In the event that any provision(s) of this Chapter shall be deemed invalid by a court of competent jurisdiction, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to such provision(s) and the other provisions of this Chapter shall remain in full force and effect. Further, in the event that a court determines that any time, place and manner restriction or requirement is deemed invalid, the court shall be authorized to reduce such restriction or requirement, as the case may be, if doing so would render such provision valid.

59.13 Nothing contained herein shall be deemed to prohibit the Board from adopting and enforcing other policies from time to time with respect to the use of the gazebo, the Village Green, the war memorial and other public areas as the Board may deem necessary to protect the public, health, safety and welfare.

59.14 The Village Green and Public Assembly Events Policy adopted by the Board on June 2, 2014 is hereby repealed.

59.15 In the event that a UPF permit issued hereunder permits the possession and/or consumption of alcoholic beverages, a permit shall not be required for such possession and/or consumption under §6-3 of Chapter 6 of the Code (“Alcoholic Beverages”).

59.16 When effective. In accord with Municipal Home Rule Law §27(3), this Chapter shall be effective as of the date that it is filed with the Secretary of State.

Pursuant to the Municipal Home Rule Law of the State of New York, it is necessary to hold a public hearing upon this proposed local law.

WHEREAS, Trustee _____ has introduced the following proposed local law for the Village of Pawling: Local Law No. ____ for the year 2022 to enact a new Chapter 59 entitled “Parades, Public Assemblies and Use of Public Areas”

BE IT RESOLVED, that a public hearing be held in relation to the proposed Local Law as set

forth in the form of notice, hereinafter provided, at which hearing parties in interest shall have an opportunity to be heard, to be held at the Village Hall on _____ 2022 at 7 o'clock p.m., and that notice of said hearing shall be published in the official newspaper of general circulation in the Village of Pawling by the Village Clerk, at least five (5) days before such hearing and that such notice shall be in the following form:

NOTICE OF PUBLIC HEARING

TAKE NOTICE that the Board of Trustees of the Village of Pawling will hold a public hearing at the Village Hall, 9 Memorial Avenue, Pawling, New York on _____ 2022, at 7 o'clock p.m., on proposed local law identified as:

Local Law No. ____ for the year 2022 to enact a new Chapter 59 entitled "Parades, Public Assemblies and Use of Public Areas"

TAKE FURTHER NOTICE, that copies of the aforesaid proposed local law will be available for examination at the Village of Pawling Village Hall, 9 Memorial Avenue, Pawling, New York, during normal business hours on all business days between the date of this notice and the date of the public hearing.

TAKE FURTHER NOTICE, that all persons interested and citizens shall have an opportunity to be heard on said proposal at the time and place aforesaid.

DATED: Pawling, New York
August ____, 2022

JENNIFER OSBORN, VILLAGE CLERK

The question of the foregoing Resolution was duly put to a vote, the Board of Trustees voting as follows:

	<u>Aye</u>	<u>Nay</u>	<u>Abstain</u>
Mayor Lauri Taylor	—	—	—
Trustee Daniel Peters	—	—	—
Trustee John Burweiger	—	—	—

Trustee Gerald Locascio	—	—	—
Trustee Thomas Meyer	—	—	—
TOTAL	—	—	—

I hereby certify that the above is a true and correct copy of the Resolution passed by the Village of Pawling Board of Trustees at a meeting held on _____, 2022.

Date: August ____, 2022

Jennifer Osborn, Village Clerk

Identifier: At a Meeting of the Village of Pawling Board of Trustees held at Village Hall, 9 Memorial Avenue, Pawling, New York, on the 6th day of September, 2022, at 7:00 PM

RESOLUTIONS OF THE BOARD OF TRUSTEES OF THE VILLAGE OF PAWLING

Identifier: Resolutions to Close Public Hearing and withdraw proposed Local Law for the year 2022 to repeal Chapter 58-A of the Code of the Village of Pawling entitled “Peddling and Soliciting” and enact a new Chapter 58-A entitled “Peddling and Soliciting,”

The meeting was called to order by Mayor Lauri Taylor and the following were:

P R E S E N T:

- __ Mayor Lauri Taylor
- __ Trustee Daniel Peters
- __ Trustee John Burweger
- __ Trustee Gerald Locascio
- __ Trustee Thomas Meyer

Trustee _____ moved the following resolutions, seconded by Trustee _____ :

RESOLVED: that the public hearing on the proposed Local Law for the year 2022 to repeal Chapter 58-A of the Code of the Village of Pawling entitled “Peddling and Soliciting” and enact a new Chapter 58-A entitled “Peddling and Soliciting” (“proposed local law”) be closed;

RESOLVED: that the resolution to introduce the proposed local law is hereby withdrawn;

RESOLVED: that no vote shall be taken by the Board to enact the proposed local law without the Board’s approval of a resolution to introduce such local law and the scheduling and holding of a new public hearing on notice as required by law;

The question of the foregoing Resolutions was duly put to a vote, the Board of Trustees voting as follows:

	<u>Aye</u>	<u>Nay</u>	<u>Abstain</u>
Mayor Lauri Taylor	—	—	—
Trustee Daniel Peters	—	—	—
Trustee John Burweger	—	—	—
Trustee Gerald Locascio	—	—	—
Trustee Tom Meyer	—	—	—
TOTAL	—	—	—

I hereby certify that the above is a true and correct copy of resolutions passed by the Village of Pawling Board of Trustees at a meeting held on September 6, 2022.

Date: September 6, 2022

Jennifer Osborn, Village Clerk

At a Meeting of the Village of Pawling Board of Trustees held at Village Hall, 9 Memorial Avenue, Pawling, New York, on the 6th day of September, 2022, at 7:00 PM

RESOLUTIONS OF THE BOARD OF TRUSTEES OF THE VILLAGE OF PAWLING

Identifier: Resolutions to Close Public Hearing and withdraw proposed Local Law No. to adopt Chapter 59 of the Code of the Village of Pawling, entitled "Parades, Public Assemblies and Use of Public Areas"

The meeting was called to order by Mayor Lauri Taylor and the following were:

P R E S E N T:

- __ Mayor Lauri Taylor
- __ Trustee Daniel Peters
- __ Trustee John Burweger
- __ Trustee Gerald Locascio
- __ Trustee Thomas Meyer

Trustee _____ moved the following resolutions, seconded by Trustee _____:

RESOLVED: that the public hearing on the proposed local law to enact Chapter 59 entitled "Parades, Public Assemblies and Use of Public Areas" ("proposed local law") be closed; and

RESOLVED: that the resolution to introduce the proposed local law is hereby withdrawn;

RESOLVED: that no vote shall be taken by the Board to enact the proposed local law without the Board's approval of a resolution to introduce such local law and the scheduling and holding of a new public hearing on notice as required by law;

The question of the foregoing Resolutions was duly put to a vote, the Board of Trustees voting as follows:

	<u>Aye</u>	<u>Nay</u>	<u>Abstain</u>
Mayor Lauri Taylor	—	—	—
Trustee Daniel Peters	—	—	—
Trustee John Burweger	—	—	—
Trustee Gerald Locascio	—	—	—
Trustee Tom Meyer	—	—	—
TOTAL	—	—	—

I hereby certify that the above is a true and correct copy of resolutions passed by the Village of Pawling Board of Trustees at a meeting held on September 6, 2022.

Date: September 6, 2022

Jennifer Osborn, Village Clerk

At a Meeting of the Village of Pawling Board of Trustees held at Village Hall, 9 Memorial Avenue, Pawling, New York, on the 6th day of September, 2022, at 7:00 PM

RESOLUTION OF THE BOARD OF TRUSTEES OF THE VILLAGE OF PAWLING

Identifier: Local Law No. ____ for the year 2022 to amend Chapter 92 of the Code of the Village of Pawling entitled "Parking" to add new provisions regarding fines for violations regarding parking, stopping or standing.

The meeting was called to order by Mayor Lauri Taylor and the following were:

P R E S E N T:

- __ Mayor Lauri Taylor
- __ Trustee Daniel Peters
- __ Trustee John Burweger
- __ Trustee Gerald Locascio
- __ Trustee Thomas Meyer

Trustee _____ moved the following resolution, seconded by Trustee _____, to introduce and set a date for the public hearing on the following proposed local law:

Local Law No. ____ for the year 2022 to amend Chapter 92 of the Code of the Village of Pawling entitled "Parking" to add new provisions regarding fines for violations regarding parking, stopping or standing ("Local Law")

Purpose

The purpose of this Local Law is to adopt a new schedule of fines for violations of Chapter 92 relating to parking, standing and stopping.

1. § 92-1 is amended to add the following defined terms:

"TICKET" means any appearance ticket, summons, information or other accusatory instrument giving notice of a violation of any provision of this Chapter 92 which has been issued by a

Sheriff, Deputy Sheriff, other police officer or any other official public servant authorized by state law or local law enacted pursuant to the provisions of the municipal home rule law to issue the same, including without limitation an officer or employee of the Village having responsibility for enforcement of the provisions of this Chapter relating to parking, stopping or standing.

2. §92-25 is amended to read as follows:

§92-25 Penalties:

- A. Article VII is amended to add Schedule XII as §92-49.
- B. Every person convicted of a traffic infraction for a violation of any provision of this chapter 92 which is specified in §92-49 Schedule XII shall be punished by a fine as specified in such Schedule XII.
- C. Failure to either pay, appear in Court or answer any Ticket within thirty (30) days of date of issue will result in said fine being doubled; failure to pay, appear or answer within sixty (60) days of such date of issue shall result in fine being doubled again; and failure to pay appear or answer such Ticket within ninety (90) days shall result in an additional fine of twenty dollars (\$20.00).
- D. Every person convicted of a traffic infraction for a violation of any provision of this chapter which is not specified in §92-49 Schedule XII and which is also not a violation of any provision of the Vehicle and Traffic Law of the State of New York shall, for a first conviction thereof, be punished by a fine of not more than fifty dollars (\$50.00) or by imprisonment for not more than fifteen (15) days, or by both such fine and imprisonment; for a second such conviction within eighteen (18) months thereafter, such person shall be punished by a fine of not more than one hundred dollars (\$100.00) or by imprisonment for not more than forty-five (45) days, or by both such fine and imprisonment; and upon a third or subsequent conviction within eighteen (18) months after the first conviction, such person shall be punished by a fine of not more than two hundred fifty dollars (\$250.00) or by imprisonment for not more than ninety (90) days, or by both such fine and imprisonment.

§92-49 SCHEDULE XII

Section	Description	Fine	NYS Surcharge	Amount due after day 30	Amount due after day 60	Amount due after day 90
92-13	Parking Outside Designated Space	\$35.00	\$0.00	\$70.00	\$105.00	\$125.00
92-14	Overnight Parking (Nov 15 - April 1)	\$75.00	\$0.00	\$150.00	\$225.00	\$245.00
92-15	No Parking Zone	\$35.00	\$0.00	\$70.00	\$105.00	\$125.00
92-15B	Fire Zone	\$150.00	\$0.00	\$300.00	\$450.00	\$470.00
92-15C	Double Parked	\$50.00	\$0.00	\$100.00	\$150.00	\$170.00

92-15D	Blocking Hydrant	\$150.00	\$0.00	\$300.00	\$450.00	\$470.00
92-15E	Blocking Driveway	\$50.00	\$0.00	\$100.00	\$150.00	\$170.00
92-15F	Parked Against Traffic	\$50.00	\$0.00	\$100.00	\$150.00	\$170.00
92-15G	Parked On Sidewalk	\$50.00	\$0.00	\$100.00	\$150.00	\$170.00
92-15H	Parked In Crosswalk	\$50.00	\$0.00	\$100.00	\$150.00	\$170.00
92-16	No Parking certain days/hours	\$35.00	\$0.00	\$70.00	\$105.00	\$125.00
92-17	Parking Overtime	\$35.00	\$0.00	\$70.00	\$105.00	\$125.00
92-18	No standing	\$45.00	\$0.00	\$90.00	\$135.00	\$155.00
92-19	No stopping	\$45.00	\$0.00	\$90.00	\$135.00	\$155.00
92-20	Angle Parking Violation	\$45.00	\$0.00	\$90.00	\$135.00	\$155.00
92-20B	Parked in Handicapped zone	\$250.00	\$30.00	\$530.00	\$780.00	\$800.00
92-20.1	Permit Parking Only Violation	\$75.00	\$0.00	\$150.00	\$225.00	\$245.00
92-20.2	Meter Parking Violation	\$75.00	\$0.00	\$150.00	\$225.00	\$245.00
92-20.3	Park in space covered w/ snow	\$35.00	\$0.00	\$70.00	\$105.00	\$125.00
92-20.4	Parking in Loading zone	\$50.00	\$0.00	\$100.00	\$150.00	\$170.00
92-20.5	Merchant Permit Parking only violation	\$75.00	\$0.00	\$150.00	\$225.00	\$245.00

Please Note: Penalties are applied for failure to pay, appear or answer and are assessed at thirty day intervals

Please Note: Parked in Handicapped Zone has the required NYS Surcharge

3. When effective. In accord with Municipal Home Rule Law §27(3), this Local Law shall be effective as of the date that it is filed with the Secretary of State.

Pursuant to the Municipal Home Rule Law of the State of New York, it is necessary to hold a public hearing upon this proposed local law.

WHEREAS, Trustee _____ has introduced the following proposed local law for the Village of Pawling: Local Law No. ____ for the year 2022 to amend Chapter 92 of the Code of

the Village of Pawling entitled "Parking" to add new provisions regarding fines for violations regarding parking, stopping or standing

BE IT RESOLVED, that a public hearing be held in relation to the proposed Local Law as set forth in the form of notice, hereinafter provided, at which hearing parties in interest shall have an opportunity to be heard, to be held at the Village Hall on _____ 2022 at 7 o'clock p.m., and that notice of said hearing shall be published in the official newspaper of general circulation in the Village of Pawling by the Village Clerk, at least five (5) days before such hearing and that such notice shall be in the following form:

NOTICE OF PUBLIC HEARING

TAKE NOTICE that the Board of Trustees of the Village of Pawling will hold a public hearing at the Village Hall, 9 Memorial Avenue, Pawling, New York on September 6, 2022, at 7 o'clock p.m., on proposed local law identified as:

Local Law No. ____ for the year 2022 to amend Chapter 92 of the Code of the Village of Pawling entitled "Parking" to add new provisions regarding fines for violations regarding parking, stopping or standing

TAKE FURTHER NOTICE, that copies of the aforesaid proposed local law will be available for examination at the Village of Pawling Village Hall, 9 Memorial Avenue, Pawling, New York, during normal business hours on all business days between the date of this notice and the date of the public hearing.

TAKE FURTHER NOTICE, that all persons interested and citizens shall have an opportunity to be heard on said proposal at the time and place aforesaid.

DATED: Pawling, New York
September 6, 2022

JENNIFER OSBORN, VILLAGE CLERK

The question of the foregoing Resolution was duly put to a vote, the Board of Trustees voting as follows:

	<u>Aye</u>	<u>Nay</u>	<u>Abstain</u>
Mayor Lauri Taylor	—	—	—
Trustee Daniel Peters	—	—	—
Trustee John Burweger	—	—	—
Trustee Gerald Locascio	—	—	—
Trustee Tom Meyer	—	—	—
TOTAL	—	—	—

I hereby certify that the above is a true and correct copy of the Resolution passed by the Village of Pawling Board of Trustees at a meeting held on September 6, 2022.

Date: September 6, 2022

Jennifer Osborn, Village Clerk

BOND RESOLUTION DATED AUGUST 15, 2022.

A RESOLUTION AUTHORIZING THE CONSTRUCTION OF NEW WELLS IN AND FOR THE VILLAGE OF PAWLING, DUTCHESS COUNTY, NEW YORK, AT A TOTAL MAXIMUM ESTIMATED COST OF \$2,334,000, AND AUTHORIZING THE ISSUANCE OF \$2,334,000 BONDS OF SAID VILLAGE TO PAY COSTS THEREOF.

BE IT RESOLVED by the affirmative vote of not less than two-thirds of the total voting strength of the Board of Trustees of the Village of Pawling, Dutchess County, New York, as follows:

Section 1. The construction of new wells in and for the Village of Pawling, Dutchess County, New York, including incidental expenses in connection therewith, is hereby authorized at a total maximum estimated cost of \$2,334,000 and the plan of financing thereof is by the issuance of \$2,334,000 bonds of said Village hereby authorized to be issued therefor pursuant to the provisions of the Local Finance Law.

Section 2. It is hereby determined that the period of probable usefulness of the aforesaid specific object or purpose is forty years pursuant to subdivision 1 of paragraph a of Section 11.00 of the Local Finance Law. It is hereby further determined that the maximum maturity of the bonds herein authorized will exceed five years.

Section 3. Subject to the provisions of the Local Finance Law, the power to authorize the issuance of and to sell bond anticipation notes in anticipation of the issuance and sale of the bonds herein authorized, including renewals of such notes, is hereby delegated to the Village Treasurer, the chief fiscal officer. Such notes shall be of such terms, form and contents, and shall be sold in such manner, as may be prescribed by said Village Treasurer, consistent with the provisions of the Local Finance Law.

Section 4. The powers and duties of advertising such bonds for sale, conducting the sale and awarding the bonds, are hereby delegated to the Village Treasurer, who shall advertise such bonds for sale, conduct the sale, and award the bonds in such manner as she shall deem best for the interests of said Village, provided, however, that in the exercise of these delegated powers, she shall comply fully with the provisions of the Local Finance Law and any order or rule of the State Comptroller applicable to the sale of municipal bonds. The receipt of the Village Treasurer shall be a full acquittance to the purchaser of such bonds, who shall not be obliged to see to the application of the purchase money.

Section 5. All other matters except as provided herein relating to the bonds herein authorized including the date, denominations, maturities and interest payment dates, within the limitations prescribed herein and the manner of execution of the same, including the consolidation with other issues, and also the

ability to issue bonds with substantially level or declining annual debt service, shall be determined by the Village Treasurer, the chief fiscal officer of such Village. Such bonds shall contain substantially the recital of validity clause provided for in Section 52.00 of the Local Finance Law, and shall otherwise be in such form and contain such recitals, in addition to those required by Section 51.00 of the Local Finance Law, as the Village Treasurer shall determine consistent with the provisions of the Local Finance Law.

Section 6. The faith and credit of said Village of Pawling, Dutchess County, New York, are hereby irrevocably pledged for the payment of the principal of and interest on such bonds as the same become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such bonds becoming due and payable in such year. There shall annually be levied on all the taxable real property of said Village, a tax sufficient to pay the principal of and interest on such bonds as the same become due and payable.

Section 7. The validity of such bonds and bond anticipation notes may be contested only if:

- 1) Such obligations are authorized for an object or purpose for which said Village is not authorized to expend money, or
- 2) The provisions of law which should be complied with as the date of publication of this resolution are not substantially complied with,

and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or

- 3) Such obligations are authorized in violation of the provisions of the Constitution.

Section 8. This resolution shall constitute a statement of official intent for purposes of Treasury Regulations Section 1.150-2. Other than as specified in this resolution, no monies are, or are reasonably expected to be, reserved, allocated on a long-term basis, or otherwise set aside with respect to the permanent funding of the object or purpose described herein.

Section 9. This resolution, which takes effect immediately, shall be published in summary form in the official newspaper of said Village designated for such purpose, together with a notice of the Village Clerk in substantially the form set forth in paragraph a of Section 81.00 of the Local Finance Law.

The question of the adoption of the foregoing resolution was duly put to a vote on roll, which resulted as follows:

_____ VOTING _____
_____ VOTING _____
_____ VOTING _____
_____ VOTING _____
_____ VOTING _____
_____ VOTING _____
_____ VOTING _____

The resolution was thereupon declared duly adopted.

* * * * *

STATE OF NEW YORK)
) ss.:
COUNTY OF DUTCHESS)

I, the undersigned Clerk of the Village of Pawling, Dutchess County, New York, DO HEREBY CERTIFY:

- 1) That a meeting of the Issuer was duly called, held and conducted on the 15th day of August, 2022.
- 2) That such meeting was a **special regular** (circle one) meeting.
- 3) That attached hereto is a proceeding of the Issuer which was duly adopted at such meeting by the Board of Trustees of the Issuer.
- 4) That such attachment constitutes a true and correct copy of the entirety of such proceeding as so adopted by said Board of Trustees.
- 5) That all members of the Board of Trustees of the Issuer had due notice of said meeting.
- 6) That said meeting was open to the general public in accordance with Section 103 of the Public Officers Law, commonly referred to as the "Open Meetings Law".
- 7) That notice of said meeting (the meeting at which the proceeding was adopted) was given PRIOR THERETO in the following manner:

PUBLICATION (here insert newspaper(s) and date(s) of publication)

POSTING (here insert place(s) and date(s) of posting)

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Issuer this _____ day of August, 2022.

Village Clerk

(CORPORATE SEAL)

LEGAL NOTICE OF ESTOPPEL

The bond resolution, summary of which is published herewith, has been adopted on August 15, 2022, and the validity of the obligations authorized by such resolution may be hereafter contested only if such obligations were authorized for an object or purpose for which the Village of Pawling, Dutchess County, New York, is not authorized to expend money, or if the provisions of law which should have been complied with as of the date of publication of this notice were not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of publication of this notice, or such obligations were authorized in violation of the provisions of the Constitution.

A complete copy of the resolution summarized herewith is available for public inspection during regular business hours at the Office of the Village Clerk of the Village for a period of twenty days from the date of publication of this Notice.

Dated: Pawling, New York,
_____, 2022.

Village Clerk

BOND RESOLUTION DATED AUGUST 15, 2022.

A RESOLUTION AUTHORIZING THE CONSTRUCTION OF NEW WELLS IN AND FOR THE VILLAGE OF PAWLING, DUTCHESS COUNTY, NEW YORK, AT A TOTAL MAXIMUM ESTIMATED COST OF \$2,334,000, AND AUTHORIZING THE ISSUANCE OF \$2,334,000 BONDS OF SAID VILLAGE TO PAY THE COSTS THEREOF.

Object or purpose:	Construction of new wells
Maximum Estimated Cost:	\$2,334,000
Period of probable usefulness:	40 years
Amount of obligations to be issued:	\$2,334,000 bonds

Such resolution pledges the full faith and credit of the Village to the payment of the obligations authorized to be issued and delegates to the Village Treasurer, the Chief Fiscal Officer, the power to authorize the issuance of and to sell such obligations. Additionally, such resolution contains the estoppel clause provided for by Section 80.00 of the Local Finance Law and authorizes such resolution, after taking effect to be published in summary form in the official newspaper, together with a notice of the Village Clerk, in substantially the form provided in Section 81.00 of the Local Finance Law.



August 11, 2022

VIA E-MAIL (eshedd@villageofpawling.org)

Ms. Elizabeth Shedd
Village Treasurer
Village of Pawling
9 Memorial Avenue
Pawling, NY 12560

Re: Village of Pawling, Dutchess County, New York
Phase II – Lower Baxter Wells - \$2,334,000 Bonds
Orrick File: 42972-2-500

Dear Elizabeth:

We are enclosing draft proceedings of the Board of Trustees containing a bond resolution in connection with the above matter. If the resolution meets with the approval of the Board of Trustees, please have it certified as adopted by a super majority vote; that is a vote of at least two-thirds of the total voting strength of the Board.

As soon as possible after the adoption of such resolution, the enclosed summary Legal Notice of Estoppel should be published in the Village's official newspaper. There is, however, no time limit within which publication is required.

As soon as available, please furnish us with the following:

1. An **ORIGINALLY** certified copy of the enclosed bond resolution, showing the vote taken thereon.
2. An **ORIGINAL** printer's affidavit of publication of the Legal Notice of estoppel from the official newspaper of the Village.

With best wishes,

Very truly yours,

Tom

Thomas E. Myers
/es

cc: Mr. Dan Stone (dstone@chazencompanies.com)
Ms. Stacey Kurian (skurian@chazencompanies.com)
Mr. Jeff R. Smith (jrsmith@municipalsolution.com)
Jonathan Bardavid, Esq. (JMB@dpllawyers.com)

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Thomas E. Myers

E tmyers@orrick.com
D +1 212 506 5212
F +1 212 506 5151

BOND RESOLUTION
(effective immediately)

At a regular meeting of the Board of Trustees of the Village of Pawling, Dutchess County, New York, held at _____, in Pawling, New York, in said Village, on the 15th day of August, 2022, at ____ o'clock P.M., Prevailing Time.

The meeting was called to order by _____, and upon roll being called, the following were

PRESENT:

ABSENT:

The following resolution was offered by Trustee _____, who moved its adoption, seconded by Trustee _____, to-wit:

Professional Services Agreement

Agreement made the _____ day of _____, 20__
between

LaBella Associates, D.P.C.
("LaBella")

and

Village of Pawling
("Client")

for services related to the following Project:

Lower Baxter
Village of Pawling, Town of Pawling, County of Dutchess, State of New York
("Project")

LaBella and Client hereby agree as follows:

Description of Services: LaBella shall perform the services set forth and described in LaBella's proposal, dated August 29, 2022, a copy of which is attached as *Exhibit A*, in accordance with the terms and conditions of this contract attached as *Exhibit B*.

Compensation for Services: A retainer in the amount of \$0.00 shall be required prior to the initiation of services. This retainer will be held until the end of the Project and applied to Client's final invoice. Any excess amount shall be returned to Client. Client shall compensate LaBella for its professional services as set forth in LaBella's proposal. LaBella shall submit invoices for services rendered monthly. Client shall make payment to LaBella no later than thirty (30) days after the date of each invoice.

Term: LaBella shall commence performing its services when Client gives notice to proceed. This Agreement shall terminate when LaBella's services are completed and final payment has been received from Client, or as otherwise provided in this Agreement.

Insurance: LaBella shall maintain, at its own expense, throughout the term of this Agreement and until the expiration of all applicable statutes of limitation, the following insurance coverages:

- Comprehensive general liability insurance with policy limits of not less than \$1,000,000 each occurrence and \$2,000,000 in the aggregate for bodily injury and property damage;
- Automobile liability insurance covering owned, non-owned, rented and hired vehicles operated by LaBella with policy limits of not less than \$1,000,000 combined single limit and aggregate for bodily injury and property damage;
- Umbrella liability insurance with policy limits of not less than \$10,000,000 each occurrence and \$10,000,000 in the aggregate;
- Worker's compensation insurance at statutory limits and employer's liability insurance with a policy limit of not less than \$1,000,000 for all employees engaged in the rendering of professional services under this Agreement; and
- Professional liability insurance with policy limits of not less than \$5,000,000 per claim and \$7,500,000 in the aggregate.

Client shall be named as an additional insured on a primary and non-contributory basis under the CGL, Automobile and Umbrella insurance policies. LaBella shall provide to the Client certificates of insurance evidencing compliance with the requirements of this Agreement. The certificates shall contain a provision that at least thirty (30) days prior written notice shall be given to Client in the event of cancellation, non-renewal, or reduction of the insurance.

Indemnification: To the fullest extent permitted by law, LaBella shall indemnify and hold the Client and its officers and employees harmless from and against liabilities, damages, losses and judgments, including reasonable attorneys' fees and expenses recoverable under applicable law, but only to the extent they are caused by the negligent acts, errors or omissions of LaBella, its employees and its consultants in the performance of professional services under this Agreement.

In recognition of the relative risks and benefits of the Project to both Client and LaBella, the risks have been allocated such that Client agrees, to the fullest extent permitted by law, to limit the liability of LaBella and LaBella's consultants for any and all claims, liabilities, damages, losses, costs, and judgments of any nature whatsoever or claims expenses from any cause or causes, so that the total aggregate liability of LaBella and LaBella's consultants shall not exceed \$50,000 or LaBella's total fee for services rendered on this Project, whichever is greater.

LaBella Associates, D.P.C.

Client Name

By: _____

By: _____

Name Joseph M. Lanaro, PE, M.ASCE

Name Lauri Taylor

Title Vice President, Civil Division

Title Mayor

Date: _____

Date _____

Exhibit A
LaBella's Proposal



September 2, 2022

Mayor Lauri Taylor and Trustees of the Village
Village of Pawling
9 Memorial Avenue
Pawling, New York 12564

**Re: Professional Services Proposal
Lower Baxter
Village of Pawling, Town of Pawling, County of Dutchess, State of New York
LaBella Project No. 41848.02**

Dear Mayor Taylor and Board of Trustees:

LaBella is providing this Professional Service Change Order for additional services to advance water supply development of the Baxter Green sand and gravel aquifer. Previous investigations identified a sand and gravel unit approximately 20-30 feet deep adjacent to DP-22 and on property currently owned by the Village of Pawling.

NYSDEC was notified of this proposed work during the winter and spring of 2021 and allowed the soil testing programs to proceed, when these investigations identified a coarse sand unit LaBella again reached out to NYSDEC to seek concurrence with a proposed proof of concept test well program. NYSDEC responded that test well installation could proceed as long as the test wells were outside DP-22's adjacent area.

In a letter report submitted to the Village of Pawling dated September 14, 2021, Russell Urban-Mead concluded that the aquifer provides water meeting NYS Drinking Water Limits and that the resource is likely to exceed 100 gallons per minute (gpm). Mr. Urban-Mead also opined that the elevation of the Lower Baxter Site is lower than the upstream important habitat and that no hydraulic impact to this habitat is expected.

The DP-22 wetland in the vicinity of Lower Baxter includes portions densely vegetated with phragmites and deep-water emergent marsh, both of which, in LaBella's opinion do not represent high quality habitat for the bog turtle (state-endangered; federally-threatened)¹. This opinion, however, must be verified by NYSDEC and USFWS to confirm that regulatory approvals can be secured without the significant studies and time and money expenditures experienced during permit discussions of the Umscheid well source. Hence the first task below now completed contemplated that the Village, with its consultants meet Region 3 NYSDEC Permitting and management personnel to gain a sense of their perception of Lower Baxter as an additional source for the Village. The pre-application meeting was completed on November 2, 2021 and LaBella is pleased to report that NYSDEC's initial reaction to proposed development of the Lower Baxter sand and gravel aquifer is favorable.

LaBella, Daniels, Porco and Lusardi and Municipal Solutions have explored funding options for the Village to obtain the financial resources needed to commence and complete this scope of work. That discussion concluded that the Village pass a Water Supply Planning Bond Resolution and then use

¹ The upland woods where Lower Baxter may be established may represent habitat for federally listed bat species. A limited number of trees may be removed for the project, which does not represent an impact. Any tree removal should occur between November 1 and March 31 to prevent direct take to the species.



Fund Balance Transfers to initiate and move the project forward. After SEQR is complete, there will be enough information to proceed with Bond Financing. This will also provide an opportunity for the Village to seek available Program Grant Assistance to help offset the financial burden on water system users. This proposal assumes that the Village will separately contract with Municipal Solutions and Daniels, Porco and Lusardi for their services.

Finally, this work will position the Village to respond to the Consent Order requirement that it provide the DCDBCH with its plans to achieve full compliance with 10NYCRR5-1 requirements by April 2022.

LaBella has prepared this proposal for services needed to continue advancing the project forward towards design and eventually construction. The work will be performed under the terms of the Contract for Services established between the Village and LaBella.

Please note this proposal includes all contemplated work through permitting and NYSDOH plan approval. Test wells will be suitable to use as future final operational wells. LaBella will provide an additional proposal for Construction Bidding, Award and Construction Administration Services when the project advances to bidding and construction.

SCOPE OF SERVICE DESCRIPTIONS

Phase 0800 – Meet Region 3 and DCDBCH (Completed in a WEB-X meeting November 2, 2021)

Scope – LaBella and the Village presented Lower Baxter concepts to NYSDEC Region 3 Permit Administrator’s and Technical Staff in a Pre-Application meeting to ascertain NYSDEC’s position regarding development of a water supply source at this location and potential permitability issues and concerns.

Dutchess County Department of Behavioral and Community Health (DCDBCH) and NYSDOH participated in the meeting and will separately at a later date review the Statement of Basis of Design and Purpose for the project. This discussion will also review Consent Order conditions and deadlines in an effort to put the Village in a position of full compliance with those conditions.

The results and any conclusions reached during the meetings will be documented in meeting summaries that will be shared with all meeting participants for review, comment and concurrence.

A conclusion of the Pre-Application Meeting was scheduling a joint site visit between LaBella, the Village and NYSDEC for some time in November 2021.

Phase 0900 – Ecological and Wetland Field Review

Scope – LaBella biologists previously flagged the wetlands around the Lower Baxter peninsula on March 25, 2021. and revisited the site in preparation for the Pre-Application meeting with NYSDEC. LaBella biologists will make a site visit in advance of Task 9 to ensure that the flagging is still present. While on site, LaBella biologists will take upland and wetland data to support preparation of a wetland delineation report. LaBella biologists will also review and document the wetland habitats immediately adjacent to the peninsula (i.e., vegetative dominance and density, hydrological characteristics including water depths, soil types, etc.) so that they may be described to the NYSDEC and USFWS and evaluated relative to their potential to support bog turtle essential behaviors.



Phase 1000 – Tasks related to Survey Services

Boundary Survey

Scope – LaBella will complete a boundary survey of tax parcel 904187 in the Village of Pawling and owned by the Village of Pawling. The property contains approximately 19 acres of land. All surveying will be completed in accordance with the “Code of Practice” as adopted by the New York State Association of Professional Land Surveyors. The survey will demonstrate the location and description of all property boundaries, site improvements, easements and rights of way of record. LaBella will complete research which is normal as specified under the above referenced code, including a records review at the Dutchess County Clerk’s Office. We do however, recommend that an abstract of title be completed by a local title company. The cost of the title search is not included in this proposal. This will assure that all recorded easements and rights of way of record are discovered. New test wells and wetland boundary flags will be added to this survey map.

Topographic Survey

Scope – LaBella will complete a conventional topographic survey for a limited area of the subject parcel to include the Access gate and roadway, existing and future source well site, existing and future water treatment building and associated area. The contour interval will be 2-foot on NAVD88 vertical datum. All site features will be surveyed and mapped. Spot elevation for hard surfaces will be shown to 0.01’.

Wetlands Survey

Scope – LaBella surveyors will complete a field survey of (i.e., locate) the wetland flagging completed under separate task (Task 8) for the above referenced property. LaBella will utilize NYSDOT CORS Network RTK GPS methods, to locate the flags. The anticipated accuracy for this location will range from sub-centimeter to one meter in areas of dense vegetation. Individual wetland areas will be calculated and tabulated on the survey.

Deliverables – The Village will be provided with a certified copy of the existing conditions base survey in both digital Civil 3D format and hard copy for use with subsequent design and permitting drawings.

Minor Subdivision Services (lot line revision)

LaBella will determine the metes and bounds necessary to define a 200-foot protection zone around each Lower Baxter well. That protection zone will form a new easterly lot line of Parcel 904187. This new property line may require a lot line change to Parcel 937250 which is also proposed to be acquired by the Village in an upcoming transaction between it and the Umscheid Trust. This newly created protection lot line will reconnect to the existing boundary of lot 904187 to form the new and smaller water supply parcel.

The residual of existing parcel 904187 not needed for water supply protection, will become a separate lot owned by the Village of Pawling. It is contemplated that one new lot will be created.



DPL will be asked to discuss the Village Board process for water supply land acquisition and parcel creation. Services will include the following:

- Computations and mapping for revised parcel 937250, and the two lots created from Parcel 904187.
- Computations and mapping for access easements between parcels.
- Preparation of Preliminary and Final plats and prints for submission.
- In the event that DPL determines that an application to the Planning Board is appropriate, LaBella will address one (1) round of comments from the Village of Pawling Planning Board for each of the preliminary and final submissions and provide necessary prints for re-submission.
- Preparation of a metes and bounds descriptions for the new parcels.
- Preparation of the final plat mylar.
- Secure Dutchess County Health Department permission to file.
- Set new property corners with a 5/8-inch capped re-rod or equal and wooden lath.
- Recording of the final plat with the Dutchess County Clerk upon approval.
- Copies of final certified prints upon completion.

Phase 1100 -Tasks related to Geological and Hydrogeological Services

Subsurface Geotechnical Investigations/Drilling

Based on the Proof-of-Concept Test results, it is likely that five (5) production wells will be needed to maximize aquifer yield with redundant installed capacity. The Task 7 meeting results indicated that NYSDEC is receptive to permitting test well installation within the adjacent area but not closer than 25 feet of the wetland proper.

Based on the Pre-Application meeting results, LaBella will bring a geoprobe to Lower Baxter to select sites for up to 3 more withdrawal wells. Borings will be advanced to select the deepest and most gravel-rich zones for these additional wells. LaBella will then seek permits form DCDBCH to install the three additional wells and will contract for and oversee the installation of three additional 4-inch production wells.

Once the additional wells are installed and developed, LaBella will develop a simultaneous pump test (of at least 72 hour duration) protocol, submit the protocol to NYSDEC and DCDBCH for review and acceptance and conduct the test. The protocol will include composite sampling and analysis of produced water for 10NYCRR5-1 requirements, including PFOA and microscopic particulate analysis, although DCDBCH may require individual sampling. Our budget includes funds for individual sampling and funds for one day to install any additional monitoring points required by NYSDEC. We are not proposing monitoring points within DP-22.

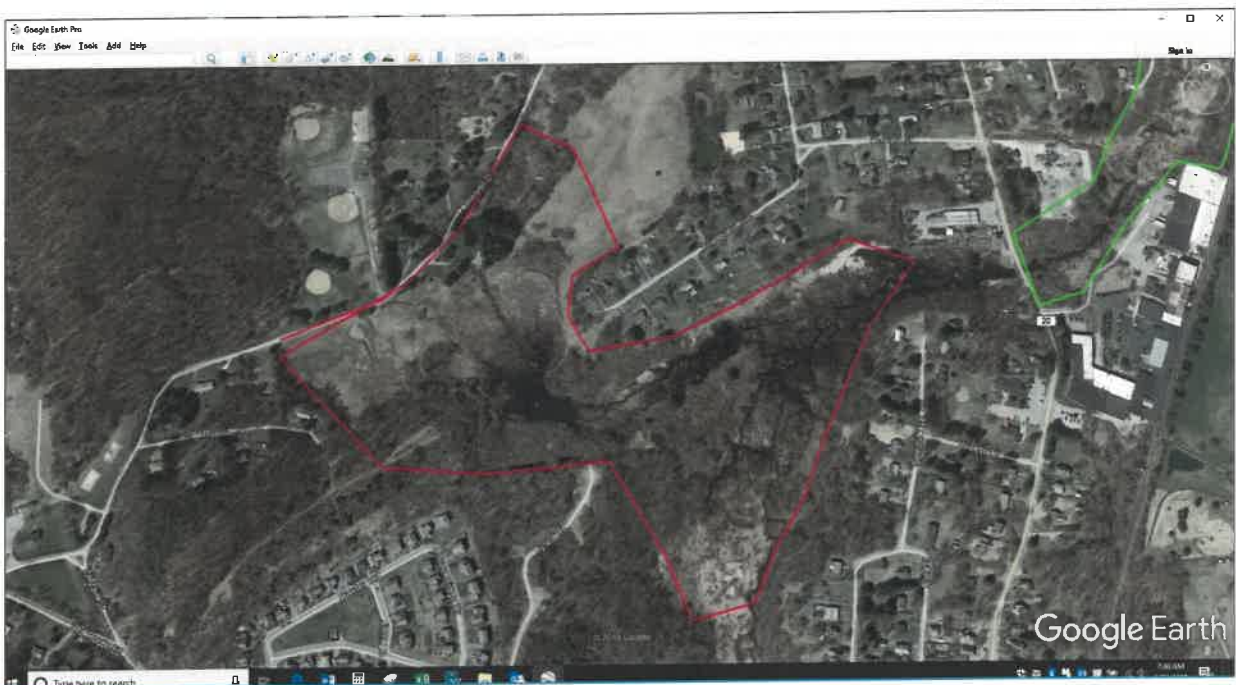
LaBella will produce a Report providing the results of the test and water quality. The Report will provide LaBella's opinion of the safe yield of the installed network of wells and be suitable for SEQRA and engineering submissions.



Phase 1200 – Tasks related to Biological Services

ETR Area Drone Mapping, Habitat Letter Report and NYSDEC/USFWS Initial Consultation

LaBella previously completed a drone survey of the area outlined in red below of DP-22 in the vicinity of the proposed Lower Baxter wellfield. The results of that study along with the field efforts identified in Task 8 were used in the meeting described in Task 7 to demonstrate the vegetative quality of DP-22 to NYSDEC personal. LaBella biologists will prepare a letter report based on the drone data and field observations from Task 8 to describe the habitat and provide LaBella's opinion as to the suitability of the habitat for use by the bog turtle. In addition, the potential impacts on the aquatic habitat from water withdrawal at the Lower Baxter wells will be discussed in the letter report. The Report will provide a consultant's opinion of No Effect on bog turtle to the USFWS and NYSDEC, which, if the agencies concurred, would equate a determination that an Incidental Take Permit was not needed under state or federal endangered species law. This scope and fee is for preparation of the letter report.



Article 24 Wetland Disturbance Permit (if required)

LaBella will apply for an Article 24 permit i for the proposed test well program and the installation of all improvements within the regulated areas. Once a design is developed that is ready to be advanced to permitting, LaBella will prepare a joint wetland permit application for wells and piezometers installed within the NYSDEC 100-foot adjacent area and associated water withdrawals from the wetland. The permit application will be for NYSDEC Freshwater Wetland Permit for Adjacent Area Disturbances.

The permit application will include preparation of a wetland delineation report to support the permit application. The permit application will discuss background information, existing site conditions, the proposed project, and compliance with NYSDEC permitting standards. It will contain an alternatives analysis demonstrating that the project has avoided, minimized and mitigated wetlands to the maximum extent practicable. It will provide information on compliance with other associated laws



(endangered species). The draft application will be provided to the Client for review and comment. The fee for this task assumes one round of comments on the application. Once the application is finalized, one paper copy and one digital copy of the report will be provided to the Client. At the Client's direction, the application will be submitted to the NYSDEC.

Limitations- This scope does not include preparation of an Incidental Take Permit for bog turtles. Under the Uniform Procedures Act, the NYSDEC cannot find a permit application complete until the Lead Agency under SEQRA has either issued a negative declaration for the project or accepted a Draft Environmental Impact Statement as adequate for public review and comment.

Phase 1300 – Tasks related to Planning and SEQR Tasks

SHPO Request for Review

State permits are needed for this project, and as such, consultation with NYS OPRHP is required. LaBella will initiate consultation with the State Historic Preservation Office (SHPO) using the online Cultural Resource Information System (CRIS). The submission will include a project description; site, grading, and existing conditions plans; and a location map. The submission does not include the preparation of detailed archaeological reports (e.g., Phase 1A/1B Cultural Resources Assessment). Should the NYS OPRHP require this, LaBella can provide these services under separate scope and budget using a subconsultant.

Full Environmental Assessment Form (FEAF)

LaBella will complete a Full EAF and narrative report for the project on behalf of the Village. The SEQR review will disclose information about relevant environmental resources and site conditions and potential impacts from the proposed project. The EAF and report will likely involve an analysis including, but not limited to the following:

- Land use, zoning, and public policy pertinent to the site;
- Soil, surface water, and groundwater resources existing on site;
- Vegetation and wildlife, including endangered, threatened and rare species on or near the site;
- Available and proposed utility infrastructure, including stormwater;
- Historic and cultural resources on or near the site; and
- Other environmental resource areas, as applicable.

We will rely on the environmental investigations completed under separate tasks to support the preparation of the FEAF.

Required Circulation and Resolutions Support

LaBella will assist the Village in complying with SEQRA (6 NYCRR Part 617). For the purpose of completing the SEQRA process, LaBella assumes that the Village will serve as Lead Agency and conduct a coordinated review. LaBella's tasks include the following:

- Completing an Environmental Assessment Form (EAF)
- Circulating Lead Agency status notification to Involved and Interested Agencies
- Assisting with Completing Parts II and III of the FEAF
- Drafting a SEQRA Determination of Significance and associated Resolution for the Village Board and Attorney to consider.



The Village as the Lead Agency is undertaking the SEQR review will issue a determination of significance. For this project we anticipate a Negative Declaration, which means that no environmental impact statement (EIS) will be required. LaBella will assist in preparing documentation for the SEQR determination and required ENB notice and filing.

Phase 1400 – Tasks Related to Engineering Services

Basis for Design and Purpose with Opinion of Probable Project Cost

LaBella will prepare a Statement of Basis and Purpose for development of Lower Baxter as a source of water supply, including a Plan at the Concept level for the supply, treatment and its connection to the distribution system. LaBella will prepare a preliminary opinion of probable cost to be used for bonding, funding, and project scope evaluation.

Project Sketch Plan

LaBella will prepare a project sketch plan that will be used to prepare an Opinion of Probable Cost for the Project as well as SEQR support.

Preliminary Project Schedule

LaBella will prepare a preliminary project schedule. Scheduling will focus on tasks assigned to LaBella for completion. Schedule will identify critical milestones.

Engineering Report

LaBella will prepare an Engineer's Report documenting the design. The Engineer's Report will include:

- Description of the existing water supply and existing facilities,
- Project Justification,
- Soil and groundwater conditions,
- Flow requirements,
- Basis of design for the transmission system and points of connection,
- Basis of design for the chlorination process associated with the new water supply infrastructure, and
- Demonstration if the addition of the Umscheid and Lower Baxter sources will, when complete, will bring the water supply source and quality into conformance with 10NYCRR5-1 requirements in satisfaction with Consent Order requirements.

The Engineer's Report will be submitted to the DCDBCH and the NYSDOH for endorsement or approval.

EFC/DOH

If the Village determines that it will seek EFC financing, LaBella will assist with the preparation of documentation outlined by the NYSDOH and NYSEFC for a 2023 submittal and listing. Specific forms will include Project DWSRF Listing Form and Engineering Report.

30% Design Plans

LaBella will develop preliminary engineering design drawings to 30% of final design. The drawing set will include the following elements:

- Title Sheet,



- Notes and Legend,
- Preliminary Existing Conditions Plans,
- Water Main Plan,
- Preliminary Water Treatment Building Plans,
- Erosion and Sediment Control Plan. and
- Water Distribution System Details

60% Design Plans

LaBella will continue developing engineering drawings to 60% completion for the water treatment plant and watermain alignment.

- Title Sheet,
- Notes and Legend,
- Existing Conditions Plans,
- Maintenance and Protection of Traffic Plans,
- Water Main Plan and Profiles,
- Water Treatment Building Plans,
- Erosion and Sediment Control Plan,
- Water Distribution System Details,
- Site Details.

LaBella will prepare opinions of probable cost at the 60% milestones for submission to the Village. The inclusion of bid alternate(s) for specific project elements may be included for economizing construction costs.

LaBella will prepare Technical Contract Specifications for submission to the Village for review at 60% completion. The Contract Specifications will include technical specifications supporting the Contract Drawings.

Water Withdrawal and NYSDOH Application

LaBella will submit the 30% Contract Drawings and Application to NYSDEC to initiate Water Supply Application for a water withdrawal permit. LaBella will also submit necessary plans and application to the NYSDOH for the review and approval of a public water supply improvement.

Address DOH Review Comments

LaBella anticipates no more than two (2) rounds of comments from the NYSDOH. LaBella will modify and respond to NYSDOH comments. LaBella limits this effort to 50 hours in total responses.

100% Documents Ready for Bidding and Construction and Constructability and Building Code Review

LaBella will incorporate DOH comments into the Plans and Specification documents making them suitable for Bidding and Construction. LaBella Code Enforcement and Construction Administration teams will review the 100% bid and build documents for constructability and Building Code compliance.

Phase 1500 – Electrical and SCADA Design

LaBella will engage a Minority/Women Owned Business Enterprise (M/WBE) to provide electrical and System Control and Data Acquisition design services as a subcontractor to LaBella.



Phase 1600 – Project Meetings

LaBella will prepare for and attend any Village requested coordination meetings and agency requested meetings. When deemed necessary, LaBella will prepare meeting minutes/notes which will be distributed to the Town for their records.

Professional Services Fee Schedule

LaBella proposes to bill each task as indicated in the following Fee and Time Schedule Summary. Invoices will be issued monthly for all services performed during that month and are payable upon receipt. Lump Sum tasks will be billed according to milestone completions for each deliverable, or commensurately with the percentage of the task which has been completed. Time and Materials tasks will be billed based on the actual hours and reimbursable expenses incurred. Fees listed for Time and Materials tasks are estimates only. LaBella will make its best effort to complete each of these tasks within the estimated amounts; however, it is possible that it will be necessary to exceed these amounts in order to complete the scope of services for each task. We will not exceed any estimated fee amounts without written authorization from you.



Scope and Fee Schedule

Phases		Fee Estimates			Proposed Schedules
Phase No.	Phase Description	Lump Sum Fee Bill	Time and Materials Estimate	Sub-Consultant Estimate/ Reimbursable	Projected Start / Duration
0800	Meet Region 3 NYSDEC and DCDBCH	\$5,000			October 2021
0900	Ecological and Wetland Field Review	\$1,600			October 2021
1000	Tasks related to Survey Services	\$27,000			Duration: 12 Weeks
1100	Tasks related to Geological, and Hydrogeological Services	\$60,000		\$60,000	Duration 12 weeks
1200	Tasks related to Biological Services		\$20,921		
1300	Tasks related to Planning and SEQR Tasks	\$25,000			Duration 12 weeks
1400	Tasks related to Engineering Services	\$155,000			Duration 24 weeks
1500	Electrical and SCADA Design			\$100,000	Duration 24 weeks
1600	Project Meetings		\$18,500		Ongoing
	Fee Totals	\$273,600	\$39,421	\$160,000	
	Total Estimated Cost	\$473,021			

Should you have any questions, comments and/or concerns with this proposal, please do not hesitate to contact me electronically at jfusillo@LaBellacompanies.com or telephonically at (330) 518-6639.

Respectfully submitted,



LaBella Associates

Joseph M. Fusillo, PE, ENV SP
Senior Civil Engineer, Regional Civil Leader

Exhibit B
Terms and Conditions

Terms and Conditions

LaBella's Responsibilities: LaBella shall designate a representative authorized to act on its behalf with respect to the Project. All notices required under this Agreement shall be given to that representative.

LaBella shall perform its services consistent with the professional skill and care ordinarily provided by members of the same profession practicing in the same or similar locality under the same or similar circumstances. LaBella shall perform its services as expeditiously as is consistent with such professional skill and care, and the orderly progress of the Project.

LaBella shall not at any time supervise, direct, control or have authority over any contractor or subcontractor's work, nor shall LaBella have authority over, or be responsible for, the means, methods, techniques, sequences, or procedures of construction selected or used by any contractor or subcontractor, or the safety precautions and programs incident thereto, for safety or security at the Project location, nor for any failure of a contractor or subcontractor to comply with laws and regulations applicable to the performance of their work and the furnishing of materials on the Project. LaBella shall not be responsible for the acts or omissions of any contractor or subcontractor.

Client's Responsibilities: Client shall designate a representative authorized to act on its behalf with respect to the Project. All notices required under this Agreement shall be given to that representative.

Client shall provide LaBella with all available information regarding, and site access to, the Project necessary for LaBella to perform its professional services, including Client's requirements for the Project. Client also shall provide information regarding the Project site and any existing facilities, including destructive testing and investigation of concealed conditions and hazardous substances or injurious conditions. If Client does not perform destructive testing or investigation, nor provide information beyond that which is apparent by non-intrusive observations, or in the event documentation or information furnished by Client is inaccurate or incomplete, then any resulting damages, losses and expenses, including the cost of LaBella's changes in service or additional services, shall be borne by Client.

Client shall examine documents submitted by LaBella and render decisions pertaining thereto promptly to avoid unreasonable delay in the progress of LaBella's services.

Additional Services: LaBella may provide additional services after execution of this Agreement without invalidating the Agreement. LaBella shall not proceed to provide any additional services, unless and until LaBella receives written direction from Client. Client shall compensate LaBella for additional services as set forth in LaBella's proposal, or any supplemental proposal or contract modification, or as agreed upon in writing signed by both parties.

Assignment: Neither party may assign any benefit or obligation under this Agreement without the prior written consent of the other party, except LaBella may use the services of persons and entities not in LaBella's employ when appropriate and customary to do so.

Confidentiality: During the Project, confidential and/or proprietary information of the Client might be furnished to LaBella. LaBella shall use such information for the purpose of providing its professional services on the Project, and for no other purpose. LaBella shall hold such information in strict confidence and shall not disclose such information to any person or entity, except sub-consultants engaged on the Project or as required by law. Upon completion of its services, LaBella shall return or destroy all confidential and/or proprietary information to the Client.

Instruments of Service: All documents prepared or furnished by LaBella pursuant to this Agreement are instruments of professional service, and LaBella shall retain its ownership and property interest therein, including all copyrights and the right to reuse the documents. Upon payment in full for services rendered, LaBella grants Client a license to use the instruments of service for the purposes of constructing, occupying and maintaining the Project. Reuse or modification of any documents by Client without LaBella's written permission shall be at Client's sole risk, and Client agrees to defend, indemnify, and hold LaBella harmless from all claims, damages and expenses, including attorneys' fees, arising out of such reuse by Client or by others acting through Client.

Client and Client's contractors and other consultants may rely only upon printed copies (also known as hard copies) of documents that are signed and sealed by a licensed professional employed by LaBella. If there is any discrepancy between printed copies and any electronic copies, the most recent version of the printed and certified copies shall govern. Any electronic copies (files) provided by LaBella will be provided solely as a convenience and shall not be considered "Contract Documents," "Construction Documents" or any type of certified document. All documents considered "Contract Documents," "Construction Documents" or any type of certified document shall consist only of printed copies having an original signature and seal of a licensed professional employed by LaBella. Client is advised that electronic copies of documents can deteriorate or be inadvertently modified without LaBella's consent or may otherwise be corrupted or defective. Accordingly, Client and Client's contractors or other consultants may not rely upon the accuracy of any electronic copies of documents.

Escalation: In the event the term of this Agreement is extended beyond the period of service set forth in LaBella's proposal, then compensation for professional services is subject to review and escalation by LaBella upon thirty (30) days written notice to Client.

Suspension: Client may suspend this Agreement in whole or in part at any time for convenience upon seven (7) days written notice. Upon receipt of notice, LaBella shall immediately discontinue all services. LaBella shall be entitled to compensation for all services rendered up to the date of suspension. If the suspension exceeds three (3) months, an equitable adjustment in compensation shall be negotiated to compensate LaBella for all reasonable costs incurred by LaBella on account of the suspension of the Project.

LaBella may suspend its performance under this Agreement if any delinquent amounts due for services and expenses have not been paid. LaBella may refuse to release drawings, plans, specifications, reports, maps, materials and any other instruments of service prepared by LaBella

for Client until all arrearages are paid in full. LaBella shall not be liable to Client for delay or any other damages due to any such suspension of services.

Termination: Either party may terminate this Agreement for cause upon seven (7) days written notice with an opportunity to cure any default during that period. In any event, without regard to the party terminating the Agreement, Client shall remit payment of all amounts that are not in dispute no later than thirty (30) days after the date of each invoice.

Disputes: The parties agree that mediation before a mutually agreeable neutral third party shall be a condition precedent to any legal action arising out of this Agreement, unless waived in writing by the parties. The cost of the mediation shall be borne equally by the parties. The mediation shall be conducted in accordance with the Construction Industry Mediation Rules of the American Arbitration Association, unless the parties agree otherwise. No demand for mediation shall be made after the date that the applicable statute of limitations would bar a legal or equitable action based on the claim or dispute.

Venue and Jurisdiction: Any legal suit, action or proceeding arising out of or relating to this agreement shall be instituted in a court of competent jurisdiction located in the state and county where the project is located. The parties hereby waive any objection which they may have now or hereafter to the venue of any such suit, action or proceeding, and hereby irrevocably consent to the personal jurisdiction of any such court in any such suit, action or proceeding.

Choice of Law: This Agreement shall be interpreted, construed and enforced in accordance with the laws of the state where the project is located without giving effect or reference to any conflict of laws provisions.

Consequential Damages: In any suit, action or proceeding, the parties shall be entitled to recover compensatory damages incurred as a result of the breach of this Agreement, but, to the fullest extent permitted by law, neither party shall be liable to the other for any special, incidental, indirect, or consequential damages.

Late Fees, Costs and Attorneys' Fees: An additional charge of 1.5% of an invoice will be imposed each month on all past due accounts. Imposition of such charges does not constitute an extension of the payment due date. If LaBella must bring suit to collect payment of any invoices, then Client agrees to pay LaBella's costs and expenses, including reasonable attorneys' fees.

Remedies Cumulative: The rights and remedies available to a party under this Agreement are cumulative and in addition to, not exclusive of, or in substitution for, any other rights or remedies either party may have at law, or in equity, or under this Agreement. Nothing contained in this Agreement shall be deemed to preclude either party from seeking injunctive relief, if necessary, to prevent the other party from willfully or intentionally breaching its obligations under this Agreement or to compel the other party to perform its obligations hereunder.

Non-Waiver: Failure by either party at any time to require performance by the other party or to claim a breach of any provision of this Agreement will not be construed as a waiver of any right

accruing under this Agreement, nor affect any subsequent breach, nor affect the effectiveness of this Agreement or any part hereof, nor prejudice either party as regards any subsequent action.

Force Majeure: Neither party to this Agreement shall be liable to the other for delays in performing the obligations called for by this Agreement, or the direct and indirect costs resulting from such delays, that are caused by labor strikes, riots, war, acts of government authorities other than the Client (if a governmental authority), extraordinary weather conditions, epidemics, pandemics or other natural catastrophe, or any other cause beyond the reasonable control or contemplation of either party.

Severability: The provisions of this Agreement are hereby agreed and declared to be severable. Any term or provision of this Agreement which is held to be unenforceable by a court of competent jurisdiction shall be deemed to have been stricken from this Agreement, and the remaining terms and provisions of this Agreement shall be construed and enforced without such terms or provisions.

Counterparts: This Agreement may be executed in one or more counterparts, each one of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Scope of Agreement: This Agreement represents the entire and integrated agreement between the parties and supersedes all prior negotiations, representations or agreements, either written or oral, except that terms specific to future projects shall be set forth in LaBella's proposals. This Agreement may be amended only by written instrument signed by both parties.



**Environmental
Facilities Corporation**

KATHY HOCHUL
Governor

MAUREEN A. COLEMAN
President & CEO

Mandatory State Revolving Fund Terms and Conditions

**for Contracts Funded with the NYS Clean Water State Revolving Fund
or Drinking Water State Revolving Fund**

Effective November 1, 2021

**New York State Environmental Facilities Corporation
625 Broadway, Albany, NY 12207-2997
P: (518) 402-6924 F: (518) 402-7456
www.efc.ny.gov**

REQUIRED CONTRACT LANGUAGE

Recipient to Identify Contract Type:

- Construction**
 - Treatment Works and Drinking Water Projects**
 - Non-Treatment Works**
 - Non-Construction**
-

Contents

REQUIRED CONTRACT LANGUAGE.....	2
COMMONLY USED TERMS.....	3
SECTION 1 REQUIREMENTS AND PROCEDURES FOR BUSINESS PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISES AND EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND WOMEN.....	3
I. General Provisions.....	4
II. Equal Employment Opportunities (EEO).....	4
III. Business Participation Opportunities for MWBEs.....	6
A. Contract Goals.....	6
B. MWBE Utilization Plan.....	6
C. Requests for Waiver.....	7
D. Monthly MWBE Contractor Compliance Report ("Monthly MWBE Report").....	7
E. Liquidated Damages - MWBE Participation.....	7
SECTION 2 PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED SERVICE-DISABLED VETERAN-OWNED BUSINESSES.....	8
SECTION 3 AMERICAN IRON AND STEEL (AIS) REQUIREMENT.....	8
SECTION 4 DAVIS-BACON (DB) PREVAILING WAGE REQUIREMENTS.....	9
SECTION 5 REQUIREMENTS REGARDING SUSPENSION AND DEBARMENT.....	14
SECTION 6 RESTRICTIONS ON LOBBYING.....	15

COMMONLY USED TERMS

The following commonly used terms are defined herein as follows:

“**Contract**” means an agreement between a Recipient and a Contractor.

“**Contractor**” means all bidders, prime contractors, Service Providers, and consultants as hereinafter defined, unless specifically referred to otherwise.

“**Service Provider**” means any individual or business enterprise that provides one or more of the following: legal, engineering, financial advisory, technical, or other professional services, supplies, commodities, equipment, materials, or travel.

“**Subcontract**” means an agreement between a Contractor and a Subcontractor.

“**Subcontractor**” means any individual or business enterprise that has an agreement, purchase order, or any other contractual arrangement with a Contractor.

“**Recipient**” means the party, other than EFC, to a grant agreement or a project finance agreement with EFC through which funds for the payment of amounts due thereunder are being paid in whole or in part.

“**State**” means the State of New York.

“**Treatment Works**” is defined in Clean Water Act (CWA) Section 212.

“**Nonpoint Source Projects**” and “**Green Infrastructure Projects**” are defined in CWA Section 319.

“**Estuary Management Program Project**” is defined in CWA Section 320.

I. SECTION 1 REQUIREMENTS AND PROCEDURES FOR BUSINESS PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED MINORITY- AND WOMEN- OWNED BUSINESS ENTERPRISES AND EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND WOMEN

For purposes of this section:

“**Non-Construction**” shall mean Contracts for labor, services (including, but not limited to, legal, financial, and other professional services), supplies, equipment, materials, or any combination of the foregoing.

“**Contracts Meeting Article 15-A Thresholds**” shall mean Contracts or Subcontracts meeting the thresholds under New York State Executive Law Article 15-A as follows:

- (a) Non-Construction Contracts greater than \$25,000;
- (b) Non-Construction Contracts, that are initially under \$25,000 but subsequent change orders or contract amendments increase the Contract value to above \$25,000;
- (c) Construction Contracts greater than \$100,000; and,
- (d) Construction Contracts that are initially under \$100,000 but subsequent change orders or contract amendments increase the Contract value to above \$100,000.

The Equal Employment Opportunities requirements of this section apply to all Contracts and Subcontracts, with the exception of:

- (1) the requirements under Title VII of the Civil Rights Act of 1964 and 41 CFR Part 60-1 Subpart A which apply only to construction Contracts and Subcontracts;
- (2) the Federal Affirmative Action Regulations requirements which apply only to construction Contracts and Subcontracts greater than \$10,000.

The Minority- and Women- Owned Business Enterprises (“MWBE”) participation requirements of this section apply to the Contracts Meeting Article 15-A Thresholds.

Disregard this section if it does not apply to this Contract or Subcontract.

II. General Provisions

- A. Contractors and Subcontractors are required to comply with the following provisions:
1. New York State Executive Law Article 15-A and 5 NYCRR Parts 140-145 ("MWBE Regulations") for all State Contracts as defined therein, with a value (1) in excess of \$25,000 for labor, services (including, but not limited to, legal, financial, and other professional services), supplies, equipment, materials, or any combination of the foregoing, or (2) in excess of \$100,000 for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon.
 2. Title VI of the Civil Rights Act of 1964 and 40 CFR Part 7 ("Title VI") for any program or activity receiving federal financial assistance, as those terms are defined therein.
 3. Title VII of the Civil Rights Act of 1964 and 41 CFR Part 60-1 Subpart A ("Title VII") for construction Contracts related to any government programs providing federal financial assistance, as those terms are defined therein.
 4. 41 CFR Part 60-4 ("Federal Affirmative Action Regulations") for federal or federally assisted construction Contracts in excess of \$10,000, as those terms are defined therein.
 5. Section 504 of the Rehabilitation Act of 1973 ("Section 504") for any program or activity receiving federal financial assistance, as those terms are defined therein.
 6. The Age Discrimination Act of 1975 ("Age Discrimination Act") for any program or activity receiving federal financial assistance, as those terms are defined therein.
 7. Section 13 of the Federal Water Pollution Control Act ("Clean Water Act") Amendments of 1972 ("Section 13") for any program or activity receiving federal financial assistance under the Clean Water Act, as those terms are defined therein.
- B. Failure to comply with all of the requirements herein may result in a finding by the Recipient that the Contractor is non-responsive, non-responsible, and/or has breached the Contract, leading to the withholding of funds or such other actions, liquidated damages pursuant to subsection III(F) of this section, or enforcement proceedings as allowed by the Contract.
- C. If any terms or provisions herein conflict with Executive Law Article 15-A, the MWBE Regulations, Title VI, Title VII, or Federal Affirmative Action Regulations, such law and regulations shall supersede these requirements.
- D. Upon request from the Recipient's Minority Business Officer ("MBO") and/or EFC, Contractor will provide complete responses to inquiries and all MWBE and EEO records available within a reasonable time. For purposes of this section, MBO means the duly authorized representative of the SRF Recipient for MWBE and EEO purposes.

III. Equal Employment Opportunities (EEO)

Applicable to all Contracts and Subcontracts unless otherwise noted

- A. Each Contractor and Subcontractor performing work on the Contract shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.
- B. The Contractor shall comply with the provisions of the Human Rights Law (Executive Law Article 15), Title VI, Title VII, the Federal Affirmative Action Regulations, Section 504, Age Discrimination Act, Section 13, and all other State and Federal statutory and constitutional non-discrimination provisions. The Contractor and Subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

- C. Contractors and Subcontractors shall have instituted grievance procedures to assure the prompt and fair resolution of complaints when a violation of Title VI of the Civil Rights Act of 1964 or Title 40 CFR Part 7 is alleged.
- D. Pursuant to 40 CFR § 7.95, the Contractor shall display a copy of the EEO notice at the project site in a visible location. The notice shall accommodate individuals with impaired vision or hearing and should be provided in languages other than English where appropriate. The notice must also identify the employee responsible for its EEO compliance. A copy of the EEO notice ("EEO Poster") can be found at:
<https://www.dol.gov/ofccp/regs/compliance/posters/pdf/eeopost.pdf> .

The Contractor will include the provisions of Subdivisions II(A) and II(C) in every Subcontract in such a manner that the requirements of these subdivisions will be binding upon each Subcontractor as to work in connection with the Contract.

Applicable to all construction Contracts

- E. The Contractor and Subcontractor will comply with the requirements of 41 CFR § 60-1.4(b) and (c), and such provisions are hereby incorporated by reference. These provisions require, in part, that the Contractor and Subcontractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor and Subcontractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

Applicable to construction Contracts greater than \$10,000

- F. The Contractor and Subcontractor will comply with the Affirmative Action Regulations and such provisions are hereby incorporated by reference. These provisions require, in part, that the Contractor and Subcontractor place affirmative action goals on Contracts and Subcontracts, as established by the United States Department of Labor. Affirmative action goals for minorities and women by geographic region can be found here:
<https://www.dol.gov/sites/dolgov/files/ofccp/ParticipationGoals.pdf> .

G. Required EEO Forms

Pursuant to 41 CFR Section 60-1.7 for federally assisted construction Contracts, Contractor and Subcontractor will annually file an EEO-1 Report with the Joint Reporting Committee for the Office of Federal Contract Compliance Programs (OFCCP) and the Equal Employment Opportunity Commission (EEOC) according to the instructions provided at <https://www.eeoc.gov/employers/eeo-1-survey/eeo-1-instruction-booklet> , if Contractor or Subcontractor:

1. Is not exempt from compliance pursuant to 41 CFR § 60-1.5;
2. Has 50 or more employees;
3. Is a prime Contractor or first tier Subcontractor; or Subcontractor below the first tier which performs construction work at the site of construction; and
4. Has a Contract, Subcontract, or purchase order amounting to \$50,000 or more.

IV. Business Participation Opportunities for MWBEs

Applicable to Contracts Meeting Article 15-A Thresholds

A. Contract Goals

1. For purposes of this Contract, EFC establishes the following goals for New York State certified MWBE participation based on the current availability of qualified MBEs and WBEs.

Program	MWBE Contract Goal*
CWSRF, DWSRF, & Green Innovation Grant Program	20%
NYS Water Infrastructure Improvement Act Grants (also receiving EFC loan)	Clean Water project 20% Drinking Water project 20%
NYS Intermunicipal Grants (also receiving EFC loan)	Clean Water project 20% Drinking Water project 20%

*May be any combination of MBE and/or WBE participation

2. For purposes of providing meaningful participation by MWBEs on the Contract and achieving the MWBE Contract Goals established in Section III-A hereof, the Contractor should reference the directory of New York State Certified MWBEs found at the following internet address: <https://ny.newnycontracts.com>.
3. The Contractor understands that only sums paid to MWBEs for the performance of a commercially useful function, as that term is defined in 5 NYCRR § 140.1, may be applied towards achievement of applicable MWBE participation goals.
 - a. For construction and construction-related services Contracts or Subcontracts, the portion of the Contract or Subcontract with an MWBE serving as a supplier, and so designated in ESD's Directory, that shall be deemed to represent the commercially useful function performed by the MWBE shall be 60% of the total value of the Contract or Subcontract. The portion of a Contract or Subcontract with an MWBE serving as a broker, as denoted by NAICS code 425120, that shall be deemed to represent the commercially useful function performed by the MWBE shall be the monetary value for fees, or the markup percentage, charged by the MWBE.
 - b. For non-construction Contracts or Subcontracts, the portion of a Contract or Subcontract with an MWBE serving as a broker that shall be deemed to represent the commercially useful function performed by the MWBE shall be 25% of the total value of the contract
4. Where MWBE Contract Goals have been established herein, pursuant to 5 NYCRR § 142.8, the Contractor must document "good faith efforts" to provide meaningful participation by MWBEs as Subcontractors or suppliers in the performance of the Contract.
5. In accordance with Section 316-a of Article 15-A and 5 NYCRR § 142.13, the Contractor acknowledges that if it is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in the Contract, such a finding constitutes a breach of Contract and the Contractor shall be liable to the Recipient for liquidated or other appropriate damages, as set forth herein.

B. MWBE Utilization Plan

1. The Contractor represents and warrants that Contractor has submitted an MWBE Utilization Plan to the Recipient prior to the execution of this Contract.
2. The Contractor agrees to use such MWBE Utilization Plan for the performance of MWBEs on the Contract pursuant to the prescribed MWBE goals set forth in Section III-A of this section.

3. The Contractor further agrees that a failure to submit and/or use such MWBE Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, the Recipient shall be entitled to any remedy provided herein, including but not limited to, a finding that the Contractor is not responsive.
4. Contractor must report any changes to the Utilization Plan after Contract award and during the term of the Contract to the Recipient's MBO. Contractor shall indicate the changes to the MBO in the next Monthly MWBE Contractor Compliance Report after the changes occurred. At EFC's discretion, an updated MWBE Utilization Plan form and good faith effort documentation may be required to be submitted. When a Utilization Plan is revised due to execution of a change order, the change order should be submitted to the MBO with the Monthly MWBE Contractor Compliance Report or revised Utilization Plan.
5. The Contractor shall submit copies of all fully executed Subcontracts, agreements, and purchase orders that are referred to in the MWBE Utilization Plan to the MBO within 30 days of their execution.

C. Requests for Waiver

1. If the Contractor, after making good faith efforts, is unable to comply with MWBE goals, the Contractor may submit a Request for Waiver to the Recipient documenting good faith efforts by the Contractor to meet such goals. If the documentation included with the waiver request is complete, the Recipient shall forward the request to EFC for evaluation, and EFC will issue a written notice of acceptance or denial within twenty (20) days of receipt.
2. If the Recipient, upon review of the MWBE Utilization Plan and updated Quarterly MWBE Contractor Compliance Reports determines that the Contractor is failing or refusing to comply with the MWBE Contract Goals and no waiver has been issued in regards to such non-compliance, the Recipient may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within seven (7) business days of receipt. Such response may include a request for partial or total waiver of MWBE Contract Goals.

D. Monthly MWBE Contractor Compliance Report ("Monthly MWBE Report")

The Contractor agrees to submit a report to the Recipient by the third business day following the end of each month over the term of this Contract documenting the payments made and the progress towards achievement of the MWBE goals of the Contract. The Monthly MWBE Report must be supplemented with proof of payment by the Contractor to its Subcontractors (e.g., copies of both sides of a cancelled check) and proof that Subcontractors have been paid within 30 days of receipt of payment from the Recipient. The final Monthly MWBE Report must reflect all Utilization Plan revisions and change orders.

E. Liquidated Damages - MWBE Participation

In accordance with Section 316-a of Article 15-A and 5 NYCRR §142.13, if it has been determined by the Recipient or EFC that the Contractor has willfully and intentionally failed to comply with the MWBE participation goals, the Contractor shall be obligated to pay to Recipient liquidated damages or other appropriate damages, as specified herein and as determined by the Recipient or EFC.

Liquidated damages shall be calculated as an amount not to exceed the difference between:

1. All sums identified for payment to MWBEs had the Contractor achieved the approved MWBE participation goals; and,
2. All sums actually paid to MWBEs for work performed or materials supplied under this Contract.

The Recipient and EFC reserve the right to impose a lesser amount of liquidated damages than the amount calculated above based on the circumstances surrounding the Contractor's non-compliance.

In the event a determination has been made by the Recipient or EFC which requires the payment of damages identified herein and such identified sums have not been withheld, Contractor shall pay such damages to the Recipient within sixty (60) days after they are assessed unless prior to the expiration of such sixtieth day, the Contractor has filed a complaint with the Empire State Development Corporation – Division of Minority and Women’s Business Development (“ESD”) pursuant to Subdivision 8 of Section 313 of the Executive Law in which event the damages shall be payable if the Director of ESD renders a decision in favor of the Recipient.

V. SECTION 2 PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED SERVICE-DISABLED VETERAN-OWNED BUSINESSES

New York State Executive Law Article 17-B and 9 NYCRR Part 252 provide for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses (“SDVOBs”), thereby further integrating such businesses into New York State’s economy. EFC recognizes the need to promote the employment of service-disabled veterans and to ensure that certified service-disabled veteran-owned businesses have opportunities for maximum feasible participation in the performance of EFC Contracts.

In recognition of the service and sacrifices made by service-disabled veterans and in recognition of their economic activity in doing business in New York State, Contractors are strongly encouraged and expected to consider SDVOBs in the fulfillment of the requirements of the Contract. Such participation may be as Subcontractors or suppliers, as protégés, or in other partnering or supporting roles.

Contractor is encouraged to make good faith efforts to promote and assist in the participation of SDVOBs on the Contract for the provision of services and materials. The directory of New York State Certified SDVOBs can be viewed at: <http://ogs.ny.gov/Core/SDVOBA.asp>.

Contractor is encouraged to contact the Office of General Services’ Division of Service-Disabled Veteran’s Business Development at 518-474-2015 or VeteransDevelopment@ogs.ny.gov to discuss methods of maximizing participation by SDVOBs on the Contract.

VI. SECTION 3 AMERICAN IRON AND STEEL (AIS) REQUIREMENT

The requirements of this section apply to (1) all construction Contracts and Subcontracts for DWSRF projects and CWSRF treatment works projects and (2) all Contracts for the purchase of iron and steel products for a DWSRF project or CWSRF treatment works project. Disregard this section if it does not apply to this Contract or Subcontract.

The Contractor acknowledges to and for the benefit of the Recipient of the Clean Water State Revolving Fund (“CWSRF”) or the Drinking Water State Revolving Fund (“DWSRF”) financial assistance that the Contractor understands the goods and services under this Agreement are being funded with monies made available by the New York State Environmental Facilities Corporation (“EFC”) through the CWSRF or the DWSRF and that such funding is subject to certain statutory restrictions requiring that certain iron and steel products used in the project be produced in the United States (“American Iron and Steel Requirement”) including iron and steel products provided by the Contractor pursuant to this Agreement.

The Contractor hereby represents and warrants that:

- (a) the Contractor has reviewed and understands the American Iron and Steel Requirement,
- (b) all of the iron and steel products covered by the American Iron and Steel Requirement used in the project will be and/or have been produced in the United States in a manner that complies with the American Iron and Steel Requirement, unless a waiver of the requirement is approved, and
- (c) the Contractor will provide any further verified information, certification or assurance of compliance with this paragraph, or information necessary to support a waiver of the American Iron and Steel Requirement, as may be requested by the Recipient.

Notwithstanding any other provision of this Agreement, any failure to comply with this paragraph by the Contractor shall permit the Recipient to recover as damages against the Contractor any loss, expense, or cost (including without limitation attorney's fees) incurred by the Recipient resulting from any such failure (including without limitation any impairment or loss of funding, whether in whole or in part, from the EFC or any damages owed to the EFC by the Recipient). While the Contractor has no direct contractual privity with the EFC, as a lender to the Recipient for the funding of this project, the Recipient and the Contractor agree that the EFC is a third-party beneficiary and neither this paragraph, nor any other provision of this Agreement necessary to give this paragraph force or effect, shall be amended or waived without the prior written consent of the EFC.

VII. SECTION 4 DAVIS-BACON (DB) PREVAILING WAGE REQUIREMENTS

The requirements of this section apply to all construction Contracts and Subcontracts greater than \$2,000 for either DWSRF projects or CWSRF treatment works projects. Disregard this section if it does not apply to this Contract or Subcontract.

For Contracts in Excess of \$2,000:

1. Minimum Wages

(i) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein provided that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its Subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers. The Davis-Bacon poster (WH-1321) can be found at <https://www.dol.gov/whd/regs/compliance/posters/davis.htm>. Wage determinations may be obtained from the US Department of Labor's website, <https://beta.sam.gov/>.

(ii)(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the Contract shall be classified in conformance with the wage determination. The contracting officer shall approve a request for an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

1. The work to be performed by the classification requested is not performed by a classification in the wage determination;
2. The classification is utilized in the area by the construction industry; and,
3. The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), documentation of the action taken and the request, including the local wage determination shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210 and to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification request within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the Contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the request and the local wage determination, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The request shall be sent to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt of the request and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (1) (ii)(B) or (C) of this section, shall be paid to all workers performing work in the classification under this Contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the Contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program *provided* that the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

2. Withholding. The Recipient shall upon its own action or upon written request of the EPA Award Official or an authorized representative of the Department of Labor withhold or cause to be withheld from the Contractor under this Contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Contractor or any Subcontractor the full amount of wages required by the Contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the Contract, the Recipient may, after written notice to the Contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and basic records.

(i) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis–Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR § 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis–Bacon Act, the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The Contractor shall submit weekly for each week in which any Contract work is performed a copy of all payrolls to the Recipient. Such documentation shall be available on request of EFC or EPA. As to each payroll copy received, the Recipient shall provide written confirmation in a form satisfactory to EFC indicating whether or not the project is in compliance with the requirements of 29 CFR § 5.5(a)(1) based on the most recent payroll copies for the specified week. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR § 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH–347 is available for this purpose from the Wage and Hour Division Web site at <https://www.dol.gov/agencies/whd/government-contracts/construction/forms> or its successor site. The prime Contractor is responsible for the submission of copies of payrolls by all Subcontractors. Contractors and Subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the Recipient, for transmission to EFC, EPA if requested by EPA, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime Contractor to require a Subcontractor to provide addresses and social security numbers to the prime Contractor for its own records, without weekly submission to the Recipient (or the applicant, sponsor, or owner).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Contractor or Subcontractor or his or her agent who pays or supervises the payment of the persons employed under the Contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under 29 CFR § 5.5(a)(3)(ii), the appropriate information is being maintained under 29 CFR § 5.5(a)(3)(i), and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the Contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the Contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the Contractor or Subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The Contractor or Subcontractor shall make the records required under paragraph (3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the Recipient, EFC, EPA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the Contractor or Subcontractor fails to submit the required records or to make them available, the Recipient, EFC, or EPA may, after written notice to the Contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR § 5.12.

4. Apprentices and trainees.

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a Contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor's or Subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR § 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does

not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

5. Compliance with Copeland Act Requirements. The Contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this Contract.

6. Subcontracts. The Contractor or Subcontractor shall insert in any Subcontracts the clauses contained in 29 CFR § 5.5(a)(1) through (10) and such other clauses as the Recipient may by appropriate instructions require, and also a clause requiring the Subcontractors to include these clauses in any lower tier Subcontracts. The prime Contractor shall be responsible for the compliance by any Subcontractor or lower tier subcontractor with all the Contract clauses in 29 CFR § 5.5.

7. Contract Termination: Debarment. A breach of the contract clauses in 29 CFR § 5.5 may be grounds for termination of the Contract, and for debarment as a Contractor and a Subcontractor as provided in 29 CFR § 5.12.

8. Compliance with Davis–Bacon and Related Act requirements. All rulings and interpretations of the Davis–Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this Contract.

9. Disputes Concerning Labor Standards. Disputes arising out of the labor standards provisions of this Contract shall not be subject to the general disputes clause of this Contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Contractor (or any of its Subcontractors) and the Recipient, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility.

(i) By entering into this Contract, the Contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded Government Contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this Contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. § 1001.

For Contracts in Excess of \$100,000:

1. Overtime requirements. No Contractor or Subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the Contractor and any Subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and Subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$25 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

3. Withholding for unpaid wages and liquidated damages. The Recipient shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any monies payable on account of work performed by the Contractor or Subcontractor under any such Contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or Subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

4. Subcontracts. The Contractor or Subcontractor shall insert in any Subcontracts the clauses set forth in paragraphs (1) through (4) of this section and also a clause requiring the Subcontractors to include these clauses in any lower tier Subcontracts. The prime Contractor shall be responsible for compliance by any Subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

5. In any Contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in 29 CFR § 5.1, the Contractor or Subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the Contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the records to be maintained under this paragraph shall be made available by the Contractor or Subcontractor for inspection, copying, or transcription by authorized representatives of the Recipient and the Department of Labor, and the Contractor or Subcontractor will permit such representatives to interview employees during working hours on the job.

VIII. SECTION 5 REQUIREMENTS REGARDING SUSPENSION AND DEBARMENT

The requirements of this section apply to all Contracts and Subcontracts.

Contractor and any Subcontractors shall comply with, Subpart C of 2 CFR Part 180 as implemented and supplemented by 2 CFR Part 1532. The Contractor is not a debarred or suspended party under 2 CFR Part 180 or 2 CFR Part 1532, or 29 CFR § 5.12. Neither the Contractor nor any of its Subcontractors have contracted with, or will contract with, any debarred or suspended party under the foregoing regulations.

The Contractor and any Subcontractor have not been debarred from or deemed ineligible for Government Contracts or federally assisted construction Contracts pursuant to Executive Order 11246.

The Contractor and any Subcontractors have not been deemed ineligible to submit a bid on or be awarded a public contract or subcontract pursuant to Article 8 of the State Labor Law, specifically Labor Law § 220-b. In addition, neither the Contractor nor any Subcontractors have contracted with, or will contract with, any party that has been deemed ineligible to submit a bid on or be awarded a public contract or subcontract under Labor Law § 220-b.

In addition, the Contractor and any Subcontractors have not been deemed ineligible to submit a bid and have not contracted with and will not contract with any party that has been deemed ineligible to submit a bid under Executive Law § 316.

IX. SECTION 6 RESTRICTIONS ON LOBBYING

The requirements of this section apply to all Contracts and Subcontracts greater than \$100,000. Disregard this section if it does not apply to this Contract or Subcontract.

The Contractor and any Subcontractor executing a Contract or Subcontract in excess of \$100,000 agree to provide to the Recipient an executed Certification Regarding Lobbying pursuant to 40 CFR Part 34 ("Lobbying Certification") in the form attached hereto as Attachment 9, consistent with the prescribed form provided in Appendix A to 40 CFR Part 34.

MEMORANDUM

John R. Burweger

(845) 855-4733 Office

(914) 456-7137 Cell

jburweger@gmail.com

To: Mayor Taylor

Date: September 1, 2022

Re: Memorial Avenue Tree Work

Attached are two (2) estimates for the removal of two substantially dead trees and the trimming of all the trees on the west side of Memorial Avenue from Main Street to the end of the street (train lot).

\$6,000.00 Woodland Tree Care

\$6,800.00 Six Diamonds Tree Service

I recommend that we proceed with Woodland Tree Care.

Please let me know if you have any questions.

John Burweger

jburweger@gmail.com

From: Woodland Tree Care, Inc. <quickbooks@notification.intuit.com>
Sent: Saturday, August 20, 2022 3:38 PM
To: Jburweger@gmail.com
Cc: Woodlandtree123@gmail.com
Subject: Estimate - Notification from Woodland Tree Care, Inc.
Attachments: Estimate_1843_from_Woodland_Tree_Care_Inc.pdf

Dear Valued Customer,
Please find your estimate form below. If you find this acceptable, you can respond by email with your acceptance.
Thank you for your business - we appreciate it very much.

Sincerely,
Woodland Tree Care, Inc.

----- Estimate -----

121 Smith Rd
Pleasant Valley, NY 12569
+1 8457234367

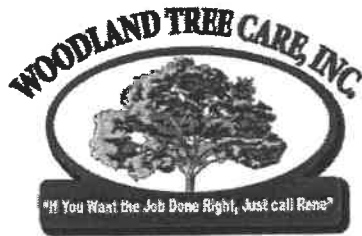
Estimate #: 1843
Date: 07/22/2022
Exp. Date: \$6,000.00

Address:

Village Of Pawling
9 Memorial Avenue
Pawling, NY 12564

Date	Activity	Qty	Rate	Amount
07/22/2022	Tree removal	2	3,000.00	6,000.00
SubTotal:				\$6,000.00
Tax (0%):				\$0.00
Total:				\$6,000.00

This estimate is a proposal for services to be rendered at a future date.
If conditions of the work to be performed change, then this proposal is subject to adjustment at the exclusive direction of Woodland Tree Care, Inc.



Woodland Tree Care, Inc.
 121 Smith Rd
 Pleasant Valley, NY 12569
 +1 8457234367
 Woodlandtree123@gmail.com

Estimate

ADDRESS

Village Of Pawling
 9 Memorial Avenue
 Pawling, NY 12564

ESTIMATE # 1843
DATE 07/22/2022

DATE	ACTIVITY	QTY	RATE	AMOUNT
	Tree removal Removal of 2 Dead Oak Trees. Grind both stumps. Raise dead wood and cut back all trees along the center island. Remove chips and wood.	2	3,000.00	6,000.00

This estimate is a proposal for services to be rendered at a future date. If conditions of the work to be performed change, then this proposal is subject to adjustment at the exclusive direction of Woodland Tree Care, Inc.

SUBTOTAL	6,000.00
TAX (0%)	0.00
TOTAL	\$6,000.00

Accepted By

Accepted Date

From: Six Diamonds Tree Services & Landscaping, Inc.118 Route 22
Pawling, NY 12564**Bill To: John Burweger**

9 Memorial Avenue, Pawling, NY, USA

Amount:

\$7,352.50 USD

Expiration Date:

09/24/2022

Item	Price	Quantity	Tax	Total
Tree Removal 2X Oak Tree - Take down and remove and grind the stumps.	\$1,500.00 USD	1	Dutchess	\$1,500.00 USD
Tree Pruning 20X Oak Trees - Clean up	\$5,300.00 USD	1	Dutchess	\$5,300.00 USD
Subtotal				\$6,800.00 USD
Dutchess 8.125%				\$552.50 USD
Grand Total				\$7,352.50 USD

Notes:

Your estimate has been sent via email/text to the contact info provided to us. To view the full details, please download the estimate. There is a button on the top right corner (looks like an arrow) to download your formal estimate. When deciding, you can approve or decline. We will then send you a scheduled date if approved. If you have any questions, please don't hesitate to contact us.
We appreciate your business!

Terms & Conditions:

Performance by Six Diamonds Tree Services, Inc.:

Work crews shall arrive at the job site unannounced unless otherwise noted herein. Six Diamonds Tree Services & Landscaping, Inc. shall attempt to meet all performance dates, but shall not be liable for damages due to delays from inclement weather, strikes, accidents or other causes beyond our control.

Workmanship & Material:

All work will be performed in a professional manner according to standard practices by experienced personnel outfitted with the appropriate tools and equipment to complete the job properly. Unless otherwise indicated herein, Six Diamonds Tree Services & Landscaping, Inc. will remove wood, brush and debris incidental to the work. All material is guaranteed to be as specified. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders and will become an extra charge over and above the estimate.

Insurance:

Six Diamonds Tree Services, Inc. is insured for liability resulting from injury to persons or property, and all its employees are covered by Workers Compensation Insurance. Home Owner and/or Customer to carry fire, tornado and other necessary insurance.

Ownership:

The customer warrants that all trees, plant material and property upon which work is to be performed are either owned by him/her or that permission for the work has been obtained from the owner. Six Diamonds Tree Services & Landscaping, Inc. is to be held harmless from all claims for damages resulting from the customer's failure to obtain such permission.

Terms of Payment:

50% Non-refundable deposit required to start.
All accounts are net payable upon completion of work and/or receipt of invoice. A 3.99% credit card service charge is applied to all credit/debit payments. A service charge of 1.5% will be added to accounts not fully paid 30 days subsequent to the work date.

If outside assistance is used to collect the account, the customer is responsible for all costs associated with the collection, including, but not limited to, attorney fees and court costs.

Marketing Agreement:

Yard sign may be displayed on your lawn during your project except where prohibited. Permission to use before and after pictures of your project on our website and other promotional materials.

We appreciate your business!

Six Diamonds Tree Services & Landscaping, Inc.

PAWLING VILLAGE GREEN AND PUBLIC ASSEMBLY EVENTS PERMIT
APPLICATION FOR PERMISSION TO USE PUBLIC PROPERTY WITHIN THE VILLAGE

The purpose of this application form is to aid in the application and review process. However, it is not designed to cover every possible circumstance. The Village Board may require additional information in order to approve an application.

Application Date 8/11/2022 (application must be filed at least 60 days prior to the event)

Name of Entity "Applicant" requesting permission Pawling Resource Center
Contact Person Olga Brandenberger Connection with the event Exec. Director
Address P.O. Box 331 Pawling NY 12564
Phone 845-855-3459
Email Pawling Resource@gmail.com

Event Date 10/5/22 Event Time and Duration 10 am - 12 noon
Event Purpose Fundraiser - Annual walkathon
The purpose of the requesting entity for-profit non-profit political other _____

Expected number of participants 100 Will the event be open to the general public? Yes No
If not, who are the expected participants? _____

NOTE: non-participating members of the public may not be excluded from the Green or other public areas

Will there be entertainment or a speaker? Yes No. If so, describe not on green

Will food or beverages be served? Yes No. If so describe not on green
Food vendors must have all applicable health department permits.

NOTE: no alcoholic beverages may be consumed on the Village Green or other public areas without specific approval of the Village Board of Trustees.

Please describe any other activities taking place during the event walk thru village

Will there be supplemental illumination or other electrical equipment? Yes No

If so, describe items and power source _____

NOTE: permission must be obtained from the Village to use public power sources - \$20 fee

Will there be signage used? Yes No. If so, describe form and content Lawn signs only - not on green

What provisions will be made to handle litter or refuse resulting from the event?
none needed

What provisions will be made to handle proper sanitation for the event?
none needed

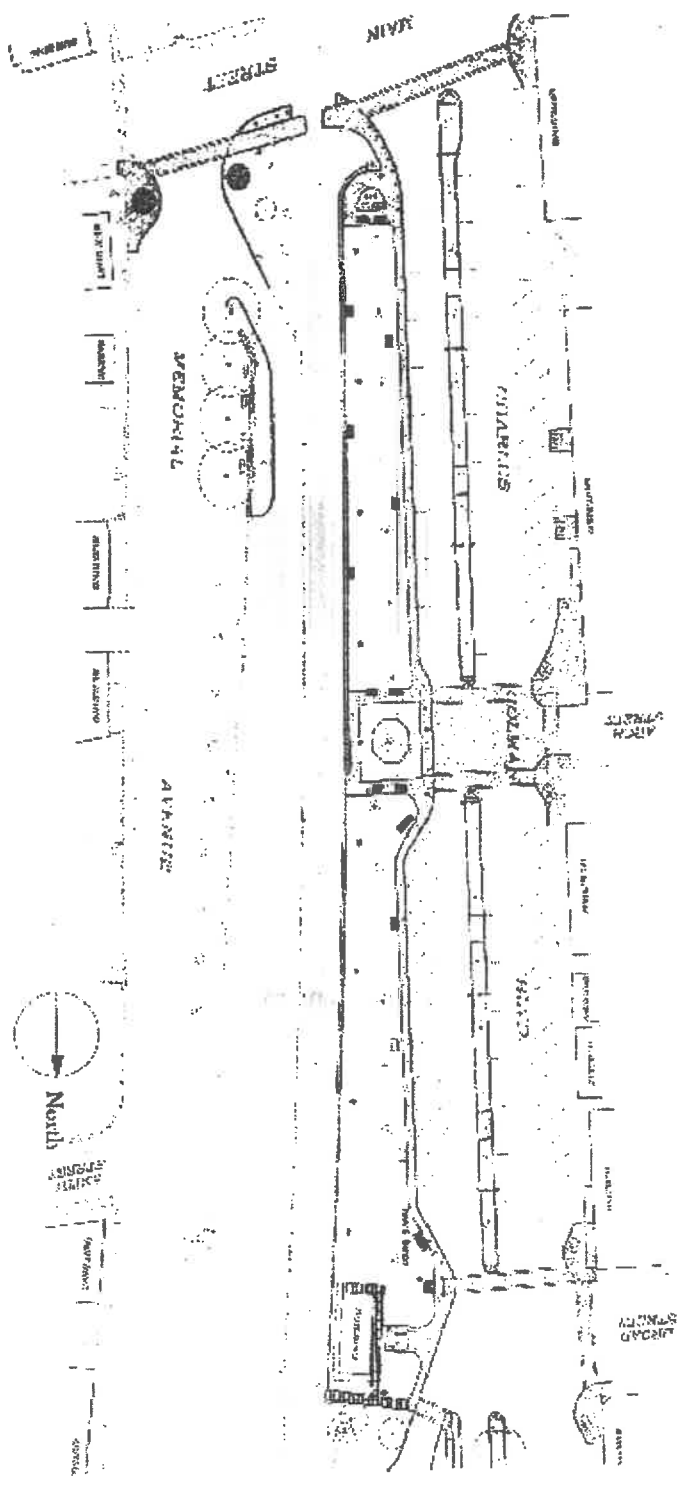
Are there any structures, tents, booths, tables or other large objects planned as part of the event? Yes No
If so, describe the size, material, location, use, the method (if any) by which they are fixed in place, and how long they will be in place before and after the event. Draw your plan on the attached map.
NOTE: public walkways and seating may not be obstructed

The Village Board grants permission for the above named Entity to hold the above named Event on the above named Date.

Village Clerk: _____ Date _____
Printed Name _____ Date _____
Entity Representative Olga Brandenberger Date 8/11/2022
Printed Name Olga Brandenberger

Sign: Olga Brandenberger
By signing this application, Applicant agrees to all of the terms and conditions of the Village Green and Public Assembly Events Policy.

EXHIBIT A - Plan of the Village Cross





COMMRES-05

MARGARETODEA

CERTIFICATE OF LIABILITY INSURANCEDATE (MM/DD/YYYY)
8/10/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER NFP Property & Casualty Services, Inc. 99 Troy Road East Greenbush, NY 12061	CONTACT NAME	PHONE (A/C, No, Ext): (518) 244-4245	FAX (A/C, No): (518) 244-4262
	E-MAIL ADDRESS:		
INSURED Community Resources & Service Center, Inc. PO Box 331 Pawling, NY 12564	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A: Philadelphia Indemnity Insurance Company		18058
	INSURER B:		
	INSURER C:		
	INSURER D:		
	INSURER E:		

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WYD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJ <input type="checkbox"/> LOC OTHER:	X		PHPK2366948	2/23/2022	2/23/2023	EACH OCCURRENCE	\$ 1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 100,000
							MED EXP (Any one person)	\$ 5,000
							PERSONAL & ADV INJURY	\$ 1,000,000
							GENERAL AGGREGATE	\$ 3,000,000
							PRODUCTS - COMPOP AGG	\$ 3,000,000
							ABUSE OR MOLEST	\$ 25,000
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY			PHPK2366948	2/23/2022	2/23/2023	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000
							BODILY INJURY (Per person)	\$
							BODILY INJURY (Per accident)	\$
							PROPERTY DAMAGE (Per accident)	\$
								\$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> EXCESS LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			PHUB799326	2/23/2022	2/23/2023	EACH OCCURRENCE	\$ 1,000,000
							AGGREGATE	\$ 1,000,000
								\$
							PER STATUTE	OTH-ER
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		Y/N N/A				E.L. EACH ACCIDENT	\$
							E.L. DISEASE - EA EMPLOYEE	\$
							E.L. DISEASE - POLICY LIMIT	\$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

General Liability
PI-GLD-HS-NY (10/11)
GL Deluxe Endorsement Human Services
Additional Insured when required by written contract
Transfer of Rights of Recovery
30 Day notice of cancellation except nonpayment of premium

SEE ATTACHED ACORD 101

CERTIFICATE HOLDER Village of Pawling 9 Memorial Ave Pawling, NY 12564	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE <i>[Signature]</i>



ADDITIONAL REMARKS SCHEDULE

AGENCY NFP Property & Casualty Services, Inc.		NAMED INSURED Community Resources & Service Center, Inc. PO Box 331 Pawling, NY 12564	
POLICY NUMBER SEE PAGE 1			
CARRIER SEE PAGE 1	NAIC CODE SEE P 1	EFFECTIVE DATE: SEE PAGE 1	

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
FORM NUMBER: ACORD 25 FORM TITLE: Certificate of Liability Insurance

Description of Operations/Locations/Vehicles:

Business Auto
CA0444 (03/10)
Waiver of Transfer of Rights of Recovery Against Others to Us
CA2048 (02/99)
Designated insured

Umbrella

PI-CXL-001 (03/14)
Transfer of Rights of Recovery Against Others to Us

Village of Pawling and all appointed and elected officials, employees and volunteers are listed as additional insured with respects to general liability as required by written contract per noted form.

Event: Fundraiser Event "Walk SoThey May Ride" October 15th, 2022

IV. Hold Harmless

The undersigned, an officer of the organization requesting use of the Village of Pawling's facilities, guarantees observance of all regulations governing the use of facilities of the Village of Pawling, payment of any charges incurred, and states that the organization agrees to indemnify and save harmless the Village of Pawling, all of the Village's elected and appointed officers, employees, and volunteers and/or agents and all claims for damages or injury to persons or property that may be occasioned by, or arise from, the use of such facilities to the fullest extent possible pursuant to the laws of New York State.

Pawling Resource Center

Name of Organization

P.O. Box 331, Pawling, NY

Address

Olga Brandenberger

Signature

Olga Brandenberger
Executive Director 8/11/2022

Name & Title (Please Print)

For the Village of Pawling Use

Date Received _____

Approved By _____

Fee _____

Date _____

Insurance _____

Special App. _____