

**VILLAGE OF TARRYTOWN
BOARD OF TRUSTEES
WORK SESSION 6:00 P.M.
WEDNESDAY, FEBRUARY 13, 2013
Tarrytown Village Hall
One Depot Plaza, Tarrytown, New York**

Board of Trustees Concerns

Open Session

1. Foreclosure Bills
2. Greenburgh Assessment Roll
3. Conversion of One-Year Permit to Two-Year Permit – Green Industry Contractors
4. Bid - Three Wheeled Street Sweeper
5. Parking Requirements Downtown Commercial District
6. Trails Agreement – School District
7. Contract Depot Plaza Grant
8. Establishing Standard Work Days for Appointed and Elected Officials

Executive Session

- 1A. Personnel
- 2A. Certioraris
- 3A. Hudson Harbor



MICHAEL P. KEARNS
Assemblyman 145th District

THE ASSEMBLY
STATE OF NEW YORK
ALBANY

RECEIVED

JAN 17 2013

TARRYTOWN VILLAGE
ADMINISTRATOR

January 2, 2013

Drew Fixell
Village of Tarrytown Mayor
1 Depot Plaza
Tarrytown, NY 10591

Dear Representative Fixell:

I am writing to you regarding two foreclosure bills (A.88 and A.824) currently referred to the Judiciary Committee in the New York State Assembly. Last session the New York Assembly joined the list of states that have passed foreclosure bills making it mandatory for banks to provide municipalities with contact information of property managers or other parties responsible for upkeep and maintenance of foreclosed or abandoned properties. Unfortunately, the companion bill in the New York State Senate was referred to the Senate Committee on Housing and received no further action including no vote on the floor of the Senate.

I am concerned that the notice of contact information bill (A.88) and bill (A. 824) requiring 'good faith' in obtaining a foreclosure will encounter considerable special interest headwinds this year. In anticipation of significant opposition to these bills, I am hoping that your governing body could provide a resolution, in support of these bills. They can be viewed at my webpage: www.assembly.state.ny.us/mem/Michael-P-Kearns or I can be reached at the email below. Included are two editorials directly dealing with these foreclosure issues and a sample resolution. My intention is to make financial institutions and lenders more accountable to the surrounding community when homes and buildings are abandoned or foreclosure proceedings have started. A resolution from your governing body will add depth and resonance to committee deliberations, as well as establish a robust and persuasive record based on the facts and the needs of the people.

I would be grateful for your participation. Please send your resolution to my District Office in Buffalo, New York. Thank you for your time and help.

Sincerely,

Michael P. Kearns - Assemblyman 142nd District

The following RESOLUTION was adopted by the Town Board of the Town of _____
At a regular meeting held on _____:

Resolution XXX-XX

SUPPORT FOR NYS-CONTACT INFORMATION FOR VACANT STRUCTURES

On a motion made by Councilman _____, seconded by Councilman _____,
the following was

ADOPTED AYES # Councilman _____, Councilman _____
 NAYES # Councilman _____, Councilman _____

Resolved to support New York State regarding the proposed laws concerning contact information for vacant structures.

WHEREAS, vacant, abandoned and foreclosed homes and structures have proliferated throughout New York State over the last five years; and

WHEREAS, vacant structures that are not maintained for months at a time degrade and depreciate the value of the vacant structure as well as the value of surrounding properties; and

WHEREAS, lending institutions that hold mortgages on said vacant structures do not always provide the contact information of a responsible party; and

WHEREAS, Assembly Bill A.88 and Assembly Bill A.824, currently pending, would make it mandatory for lending institutions to provide contact information of responsible parties regarding vacant structures; and require good faith in obtaining a foreclosure; and

WHEREAS, the Town of _____ Town Board supports the passage of said Bills.

NOW THEREFORE, BE IT RESOLVED that the town of _____ hereby supports the passage of said Bills and respectfully requests that the State Representatives who represents constituents in the Town of _____ support the passage of said Bills.

Copies of this resolution to be forwarded to Senator _____, Assemblyman _____, Co-Sponsors of this bill: Senator _____, Assemblyman _____.

I, _____ DO HEREBY CERTIFY, that the foregoing is a true copy of a Resolution passed by the Town Board of the Town of _____ at its regular meeting held on _____, and members of the Town Board had due notice of said meeting, and further that such resolution has been fully recorded in the Town Clerks books.

In Witness thereof, I have hereunto set my hand the XX day of XXXX, 2012

XXXXX XXXXXXXXXXXX

Town Clerk

Town of XXXXXXXX

Another Voice / Vacant properties

Banks, property managers must be held accountable

By MICHAEL P. KEARNS

Acting responsibly as a neighbor and citizen is essential to the operation of a free society. When homes, residences, stores and other buildings become vacant, their maintenance and upkeep is vital to sustaining the property values of entire communities.

So it is surprising that in this economic downturn, despite large profits for the financial sector, banks, mortgage holders and lenders are not meeting this fundamental responsibility. Several of these institutions are presiding over the degradation and depreciation of vacant structures throughout the United States. The property portfolios of vacant structures for many of these institutions, at least in part, are becoming

run down with the effects spilling over to the hardworking neighbors in many hometowns and districts.

The 145th Assembly District is confronted with this problem daily. Constituents who are alarmed repeatedly call about vacant buildings and homes that are not maintained for months at a time, if at all. The main complaint is that there is no one to call, contact or hold responsible. Attempts to contact banks holding the mortgage, after a foreclosure proceeding is commenced, are met with recordings and in the rare instance when a person is reached, no contact information of a responsible party is divulged.

I have been told on several occasions that giving out this information would create privacy breaches. My staff

has also been told that the information could not be divulged for fear of harassing phone calls made to individuals. These reasons seem specious because a neighbor living in a structure whose acts or omissions violate local building codes would not enjoy privacy protection or avoid responsibility for requests made by neighbors to do basic upkeep on the premises. The runaround is disconcerting and frustrating for many.

In an economic environment of dwindling net worth, degradation of our neighborhoods is an issue of national economic importance. In 2011, the states or policy laboratories of this country had no shortage of proposed legislative experiments to combat this issue. Arizona, Connecticut, Georgia, Hawaii, Illinois, Indiana, Kentucky,

Maryland, Minnesota, Nevada, New Jersey, Oregon and Rhode Island have passed bills in one or both houses to address this lack of vacant property maintenance, accountability and responsibility. A federal response is hoped for.

For the protection of our neighborhoods and communities, I have asked that Assembly Bill 10524 and Senate Bill 7620, which would make it mandatory for lending institutions to provide contact information of responsible parties regarding vacant structures, be speedily made law in New York. It is my fervent hope that the people of New York contact their local representatives and join in this endeavor, which concerns us all.

Michael P. Kearns represents the 145th State Assembly District.

THE BUFFALO NEWS

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Founder 1890-1914

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Publisher 1956-1971

MRS. EDWARD H. BUTLER
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ROBERT J. CASILL
Executive Vice President

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Vice President,
Human Resources

PHILLIP T. CATANESE
Vice President, Retail Stores

RICHARD C. WILLIAMS
Vice President,
Circulation Director

BRYAN J. DONOHUE
Vice President,
Chief Financial Officer

...because, by and large, they vote for Democrats and can make the difference in a close national election.

to fight and even die?
Holder needs to fight this with everything he's got.

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Another Voice / Property maintenance

'Good faith' clause could ensure banks' responsibility

By MICHAEL P. KEARNS

In today's Great Recession, a concern keeps coming to the forefront in my Assembly district and in many other areas of the country: "Who is responsible for upkeep and maintenance of properties that families have vacated and banks hold a lien on?"

Analysis starts with the relationship between lender and customer; both enter into a mortgage contract regarding the sale and purchase of a home or business. When the customer defaults on a home mortgage, both parties turn to the contract in search of rights, remedies, obligations and responsibilities. The mortgage contract often contains abandonment and waste clauses that grants the lender authority to enter the

property prior to foreclosure in order to secure and maintain the collateral, the home. When the market is good and the property has significant value, these clauses are routinely enforced. However, when the market hits a downturn or the property is run-down, some lenders argue that they are not responsible and these provisions go unenforced. Perhaps a mandatory ownership designation clause in the event of default for all mortgage contracts would help clear up the banks' status.

In New York, when the property requires repairs under local housing and building code ordinances, it is in the bank's best economic interests if "ownership" of the property remains ambiguous.

Banks achieve this by relying on re-

quirements of Real Property Actions and Proceedings Law. The banks can assert that statutorily they aren't responsible because they haven't met the requirements of a "judgment of foreclosure and sale" and thus ownership. This effectively allows banks to shift responsibility for vacant properties onto a concerned municipality, neighborhood or homeowners association. The statute allows banks to delay obtaining "ownership," if they obtain it at all. In short, the banks have the best of both the contractual and statutory worlds and may rely on either contract or statute to suit their economic interests.

How can this dilemma be solved? In *Town of Huntington v. Lagone*, the court hints it may be remedied by changing the statute. A solution may be as simple

as including the words "in good faith" in the duty to maintain foreclosed property. In other words, the banks would be required to exercise good faith and not be allowed to delay obtaining a judgment of foreclosure and sale.

In an ideal world, banks and lenders would exercise ethical business practices and conduct themselves responsibly in the communities in which they make their fortunes. Unfortunately, this is a pragmatic world and refining behavior requires statutory amendment.

I will be sponsoring a bill to add "good faith" language to the law. I hope New Yorkers agree and lend their voices to this issue.

Michael P. Kearns represents the 145th Assembly District.

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Vice President,
Chief Financial Officer

MEMORANDUM

DEPARTMENT of PUBLIC WORKS

TO: Michael Blau, Village Administrator

FROM: Howard D. Wessells Jr., Superintendent of Public Works

DATE: 24 January, 2013

RE: Bid

The Village currently operates a three wheeled sweeper manufactured by the Elgin Corporation. This sweeper has been in service since 2005 and is ready to be replaced.

After discussions with the operator and the mechanics it was determined that this type of sweeper is best suited for the Village due to it being highly maneuverable. There are two manufacturers that build this type of sweeper, Global Sweeping Solutions and Elgin.

A bid was advertised for a new three wheeled street sweeper with specifications based on a newer model of the sweeper currently operated by the Village. Copies of the bid were mailed to four equipment supply companies that sell this type of equipment (see Attached bidders list).

On January 24, 2013 at 11:00 a.m. the bid for the purchase of a new Three Wheeled Street Sweeper was opened and read aloud.

There was one bid submitted with a representative of the bidder attending the opening.

The bid was submitted by the Long Island Sanitation Equipment Company the region Elgin dealer for the base bid in the amount of One Hundred Seventy Six Thousand Three Hundred Thirteen Dollars (\$176,317.00).

There were two options included in the bid:

Option One. Dual steer and dual gutter brooms
Eight Thousand Seven Hundred Fifty Dollars (\$8,750).

Option Two. 2nd Year Parts and Labor Warranty
Two Thousand Two Hundred fifty Dollars (\$2,250).

It is my recommendation that this information be submitted to the Board of Trustees for their consideration and that this bid be awarded to Long Island Sanitation Equipment Company in the amount of One Hundred Seventy Eight Thousand Five Hundred Sixty Seven Dollars (\$178,567) which includes the base bid and the additional warranty. The option for the dual steer and dual gutter broom is not being requested.

Should additional information be requested please contact me.

Bidders List

Nathan McCraney
Timmerman Equipment
3554 Route 22 West
Whitehall, N.J. 08888

Ron Cookish
C. N. Wood
25a Bernhard Road
New Haven, Ct 06513

Jerome Cope
Long Island Sanitation Equip Co.
1670 New Highway
Farmingdale, N. Y. 11735

Global Sweeping Solutions
1337 East Bay Ave
Bronx, N. Y. 10474

**VILLAGE OF TARRYTOWN
VILLAGE ADMINISTRATOR'S OFFICE
MEMORANDUM**

TO: Mayor Fixell and the Board of Trustees
FROM: Michael Blau, Village Administrator
RE: Parking Requirements, Downtown Commercial District
DATE: July 16, 2012

Please be advised that a complaint was received by the owner of the building where Carol Masters Antiques is located noting that the parking requirements in the Tarrytown Zoning Code makes it extremely difficult for a change of use in the building. Although the Carol Masters store appears to be part of a larger building, it is actually a separate building attached to the building next door. Specifically, a restaurateur was considering the purchase of the said building, which is 2,307 square feet in size. The Village's Zoning Code does not distinguish among the various zoning districts in regards to parking requirements, so the number of parking spaces required in the downtown restricted retail zone is the same as a restaurant in a shopping center (Bridge Plaza Shopping Center is in a Neighborhood Shopping zoning district).

In the said case, the parking requirement increases from 15 to 35, based upon the initial desire of the restaurateur to create an 80 seat restaurant (10 parking spaces required plus 5 automatically received as per the Village Code – restaurant had to create additional 20 parking spaces). However, with limited area for the development of parking on a per store/establishment basis in the restricted retail zone, does it remain practical for the parking requirements to remain as they presently exist? I have attached a map which will provide you the boundaries of the restricted retail zone. The Village Code currently provides for the Planning Board to partially address the difference in the ability to develop parking in the restricted retail zone. Section 305-63 of the Code of the Village of Tarrytown (Zoning Code) entitled "Off-street parking and loading", Subsection 7 (d) states:

- (d) Upon the establishment of a jitney fund for the Restricted Retail Zone by the Village Board of Trustees, should the Planning Board or the Zoning Board of Appeals, depending upon which of these two Village agencies is responsible for the review and approval of the particular parking requirement, determine that such parking requirement cannot be fulfilled because applicant does not have land on site available for parking or has land on site that cannot be accessed from public rights-of-way, said Board may require that a monetary contribution in the amount of \$1,000 per parking space to a maximum of five spaces, in lieu of such off-street parking, be paid into a jitney fund established by the Village. These procedures shall be limited to the off-street requirements within the RR Restricted Retail Zone. The jitney fund, when established, shall be used exclusively for the operation of a jitney.

The jitney fund was created by the Village and the amount currently in the fund totals \$3,500. The Village does not operate a jitney and if the Village were to operate a jitney, the amount required to operate the jitney well exceeds the amount included in the fund. I completed a survey to determine whether other communities have established parking funds and amounts associated therewith for parking in their central business districts. That survey is attached to this memo for your review and you may note that some communities have amended their codes to address parking in the downtown area, especially in relation to restaurants.

I have also attached the Schedule of Off-Street Parking Requirements from the Zoning Code so that you can note how many parking spaces are required for different uses. I am placing this matter on the upcoming Work Session agenda to discuss with the Board whether there is any interest in addressing this matter and if so, the direction of the Board in regards thereto. Some questions relating to this matter are noted below:

- Does the Board want to eliminate the jitney fund and create a parking fund in its place?
- Does the Board want to increase the per space fee?
- Does the Board want to increase the number of parking spaces for which a business may pay a fee (currently it is 5)?
- Does the Board want to modify the number of parking spaces required of the businesses in the downtown area?

D. Schedule of Off-Street Parking Requirements.

(1) Minimum off-street parking requirements shall be as follows:

Use	Minimum Off-Street Parking
1- and 2-family dwellings	2 spaces for each dwelling unit
Multifamily dwelling	2 1/2 spaces for each dwelling unit
Professional office or home occupation permitted in a residential district, including rectory, parsonage, church or synagogue office	2 spaces, plus 1 space for each person employed in the office or home occupation in addition to spaces required for the residential use and other permitted uses, except that there shall be 3 spaces for each medical or dental practitioner plus 1 space for each employee in addition to spaces required for the residential use
Roomers or boarders	1 space for each roomer or boarder in addition to spaces required for the residential use
Place of worship, theater, auditorium, athletic field, school and other public building or other place of assembly	1 space for each 5 seats or pew spaces or, in places without seats, 1 space for each 100 square feet of floor space used for public assembly (a pew space shall be considered to be 20 inches wide); 1 space per 3 theater seats
Hospital, convalescent home or home for the aged	2 spaces for each 3 patient beds and 1 space for each employee, including medical, nursing and service staff
Nursing home	1 space for each 3 patient beds and 1 space for each employee, including medical, nursing and service staff
Boat or yacht club, golf and country club	1 space for each 3 members, plus 1 space for each employee per shift, plus parking requirements for a restaurant in those clubs which provide banquet, eating and catering services
Bowling alley, other place of public amusement or club other than boat, yacht, golf or country club	5 spaces for each bowling lane; all others, 1 space per 100 square feet of floor space used for public amusement or assembly; 1 space for each 5 club members
Restaurant	1 space for each employee on shift, plus 1 space for each 3 seats or 1 space for each 100 square feet of gross floor area, whichever is greater

Use	Minimum Off-Street Parking
Office for business or professional use (other than accessory to residential use)	2 spaces for each separate office, sublet office or suite of offices of a given tenancy, plus 1 space per employee, but not less than 1 space for each 300 square feet of gross floor area
Banking office	10 spaces, plus 5 additional spaces for each person in excess of 2 acting as tellers, including waiting spaces for drive-in windows
Hotel	1 space for each guest sleeping room or suite, plus 1 space for each 2 employees, plus 1 space for each permanent resident
Funeral home	1 space per employee, plus 1 space per 50 square feet of gross floor space in assembly rooms, but no fewer than 20 spaces
Motor vehicle sales and service	1 space per employee, plus 1 space per 150 square feet of gross floor space
Animal hospital or veterinary office	1 space per employee, plus 1 space per 300 square feet of gross floor space, but no fewer than 10 spaces
Retail or personal service business or establishment	1 space per employee, plus 1 space for each 300 square feet of gross floor area
Automotive washing establishment	10 spaces per washing bay, plus 1 space per employee on shift
Automotive fuel filling and service station	10 spaces, plus 1 space per each 150 square feet of garage floor, plus 1 space per employee on shift
Research or office laboratory	1 space per employee, but not less than 1 space per 600 square feet of gross floor space
Manufacturing or industrial use, including food preparation	1 space per employee, but not less than 1 space per 400 square feet of gross floor space
Wholesale, storage, utility, laundry, dry-cleaning, printing, ice plant or other similar commercial use	1 space per employee, but not less than 1 space per 1,000 square feet of gross floor space

- (2) Reasonable and appropriate off-street parking requirements for structures and land uses which do not fall within the categories listed above shall be determined by the Planning Board and established in site plan review and approval.

- (3) If the applicant can provide a parking study which can show that the use in question can adequately provide parking at a lesser standard, or, because of multiple uses, a shared parking analysis shows that fewer spaces are needed to provide adequate parking, the Planning Board may reduce the amount of required parking that must be built by up to 20%. The Planning Board shall reserve the right to require the area that would have been used for parking to be land-banked for landscaping and screening, so that such area is reserved for future additional parking, if required. The Village Engineer will reserve the right to conduct a parking survey one year after a certificate of occupancy is issued to determine whether such additional parking is required.
- E. Operation and maintenance of off-street parking facilities. Required off-street parking facilities and related landscaping shall be maintained as long as the use or structure exists which the facilities are designed to serve. Required parking areas developed for specific structures and uses shall be reserved at all times for those persons who are employed at or make use of such structures and land uses except when dedicated to and accepted by the Village as public parking areas.
- F. Off-street loading requirements. Off-street loading and unloading facilities shall be located on the same lot or site with the use to be served except as may be provided by other provisions of this chapter and shall be provided as follows:
- (1) Size. Each off-street loading space shall be at least 15 feet in width, 45 feet in length and 14 feet in clear height, exclusive of access and turning areas, except that adjacent loading spaces may each be 12 feet in width. Such spaces shall be within the principal structure or within a side or rear yard or within one of two or more access drives to a required parking area or within a single drive having a paved or unobstructed width of at least 25 feet.
- (2) Required number of loading spaces. The required number of loading spaces shall be as follows:
- (a) For retail and/or service business establishments, a minimum of one space for the first 6,000 square feet or part thereof, plus one space for each additional 8,000 square feet of gross floor area or major part thereof.
- (b) For office or office and research establishments, a minimum of one space for the first 10,000 square feet of gross floor area or part thereof, plus one space for each additional 15,000 square feet of gross floor area or major part thereof.
- (c) For wholesale business, industry, storage, warehouses and other commercial establishments, a minimum of one space for the first 8,000 square feet of gross floor area, plus one space for each additional 8,000 square feet of gross floor area or major part thereof.
- (d) For nursing homes, a minimum of one space for each non-accessory building.

- (e) Other uses which do not fall within the categories listed above shall be determined by the Planning Board and established in site plan review and approval.

Master Municipal MULTI-MODAL Program - SCHEDULE A

(This Schedule may not be used where other Multi-Modal, State or Federal funding sources co-exist)

1. Name of Municipal Project Owner: Village of Tarrytown
2. Project Title: Reconfigure and reconstruct Depot Plaza Road
3. MM Project ID#: 8MA144.30A MM Program ID (MM#2, MM#3, or MM#4?): MM#4

4. Maximum MM Project Reimbursement (under this Agreement): \$50,000.00

5. MASTER Municipal MM OSC Contract #: D027356 (with PIN 8MS421.30A)

6. Municipal Contact:

Name/Title: Michael Blau, Village Administrator
Organization: Village of Tarrytown
Address: One Depot Plaza
City/State/Zip: Tarrytown, New York 10591

7. Project Location: Route/Name: Depot Plaza Road
From: White Street To: Wildey Street and Cortland Street

8. Project Description/Scope: Reconfigure and reconstruct Depot Plaza Road, including curbing, sidewalk, drainage, street lighting and traffic signal improvements.

9. Project Schedule Beginning Date: October 1, 2010 Project Ending Date: October 31, 2015

10. Project Cost Summary:

SUMMARY COST TOTAL:	State Multi-Modal Funding under this Schedule A	Local Funding (Insert Zero if None)
\$50,000.00	\$50,000.00	\$0.00

11. Eligible Project Type: (Please check one)

- ☐ Highway Resurfacing ☐ Bridge Rehabilitation ☐ New Highway Construction ☐ New Bridge Construction
☒ Highway Reconstruction ☐ Bridge Replacement ☐ Interchange Const./Reconstruction ☐ Intersection Improvement
☐ Aviation (Is this project consistent with an approved Airport Layout Plan)? ☐ Yes ☐ No
☐ Other (Please explain): _____

12. Signature of responsible Local Official: _____ Date: _____

13. Please print your Name & Title here: _____

14. Please list your area code & phone number here: _____

Master Municipal Multi-Modal (MM) Capital Project(s) Agreement

For Use Only with Municipally-owned Highway, Bridge, or Aviation projects where
a State Comptroller (OSC) approved contract is required

[Note: A separate contract is required for each individual Multi-Modal Program source]

NYS COMPTROLLER'S CONTRACT NO. D027356

THIS AGREEMENT made this _____ day of _____, 201__, is between the New York State Department of Transportation ("NYSDOT"), having its principal office at 50 Wolf Road, Albany, New York 12232 and the **Village of Tarrytown** (the "Sponsor"), with offices at **One Depot Plaza, Tarrytown, New York 10591**, to provide for the reimbursement of costs incurred by the municipality for the construction, reconstruction, improvement, reconditioning and preservation of a project or projects included in Schedule A or Supplements to Schedule A within the Multi-Modal Programs, consisting of one or more County, Town, City, and Village road, highway, parkway, bridge or aviation capital project or projects, as described for the purposes of this agreement in Schedule A or Supplements to Schedule A hereof (the "Project"). The amount of NYSDOT's funding pursuant to this Agreement shall be limited to Project Eligible Costs actually incurred, in no event to exceed the amount(s) identified in Schedule A.

WITNESSETH:

WHEREAS, section 14-k of the Transportation Law establishes the Multi-Modal (MM) Programs 1, 2, 3, and 4 that may fund eligible project costs through the Thruway or Dormitory Authority (DASNY) bond funding (as applicable) for capital projects approved by the Commissioner of Transportation, and

WHEREAS, pursuant to Legislative appropriation or authorization for capital projects, that MM funding of the Project(s) herein is authorized and, the Sponsor certifies to NYSDOT that:

- (1) the service life of each individual Project is ten (10) or more years, regardless of mode; and
- (2) for highway and bridge mode projects, (a) MM program funding is not used for the mandated non-Federal matching share of a Federally funded project; (b) the amount of MM funds requested is and shall be no greater than prior unreimbursed municipal project expenditures for work completed or materials incorporated in a qualifying project(s); and (c) the amount of municipal funds appropriated for transportation capital projects is not and shall not be reduced because of the MM program funding; and
- (3) for any airport or aviation facility type, the sponsor must certify that Federal funding is not available to the project, but that the project is consistent with an approved Airport Layout Plan.

NOW THEREFORE, the parties agree as follows:

1. *Documents Forming this Agreement.* The agreement consists of the following:

Agreement Form - this document titled "Master Municipal Multi-Modal Capital Project(s) Agreement is for Use Only with Municipally-owned Highway, Bridge, or Aviation projects where a State Comptroller-approved contract is required";

Multi-Modal Program Schedule "A" - Detailed individual Project Description(s) and Funding; and

Appendix "A" - New York State Required Contract Provisions.

Appendix "A-1" – Supplemental Title VI Provisions (Civil Rights Act)

Appendix "2" – Iran Divestment Act

2. *Work, Maintenance & Operation.* Sponsor shall render all services and furnish all materials and equipment necessary to complete the Project or projects described in Schedule(s) A or Supplements to Schedule A and shall fund all costs attendant to such completion. The work of the Project or projects may consist generally of the categories of work described in Schedule A or one or more Supplemental Schedules A as may hereafter be executed by the parties hereto and approved as required for a State contract, and any additions or deletions made thereto by NYSDOT subsequent to the execution of such Schedules A or Supplements to Schedule A for the purposes of conforming to New York State requirements. Upon Project completion, Sponsor will operate and maintain the Project(s) at no expense to NYSDOT and Sponsor will not dispose of or encumber the Project(s) or cause the Project(s) to be withdrawn from public service during its useful service life without the prior approval of NYSDOT.

3. *Multi-Modal (MM) Funding Reimbursement of Eligible Project Costs.* Subject to compliance with this Agreement, NYSDOT agrees to authorize reimbursement of individual Project costs identified in the applicable Schedule A or Supplements to Schedule A attached hereto in an amount not to exceed the lesser of the indicated MM program funding amount or actual Eligible Project Costs, as defined below. MM program funding shall be used solely for the payment of Eligible Costs the Sponsor actually incurs in performing the Project. Only Eligible Project Costs, paid no more than 15 months prior to the date of execution of the Multi-Modal Program Reimbursement Request Form are reimbursable. To be eligible for MM aid, "Eligible Project Costs" must: (a) be eligible pursuant to § 3.1 below and such other MM program Policies and Criteria as are established by NYSDOT including but not limited to NYSDOT's MM Program Guidelines criteria; and, (b) be for work which, when completed, has a certifiable service life of at least 10 years.

3.1. *Eligible Costs.* Eligible Project costs include costs of acquisition, construction, repair, reconstruction, renovation, equipment and other related costs as set forth in the Project Description in Schedule A or Supplements to Schedule A. Eligible Project costs may also include the reimbursement of salaries and wages to employees of Sponsor for carrying out the Project(s); fees to consultants and professionals retained by Sponsor for planning and performing the Project, and such other costs and expenses directly related to such employees, consultants and professionals for the Project.

3.2. *Sponsor Debt Service.* Multi Modal program funds shall not be used to pay a Sponsor for interest (debt Service) or issuance (indirect costs) payments on Multi Modal projects for which the sponsor issued a local bond or note to finance the first instance local portion. Multi Modal funds can be used to reimburse a Sponsor for payments of the principal portion of a local bond or note which a Sponsor might issue to pay for the construction of a capital project.

4. *Payment.* Payments hereunder shall be as follows:

4.1. *Payment Upon Completion.* Except where §4.2 applies, payment to Sponsor shall be made upon the application of Sponsor to NYSDOT upon Project completion, on the basis of work accomplished, local expenditures made, and the submission of duly completed payment

Universal Master Municipal MM Agreement

Municipal Sponsor: Village of Tarrytown

requests and certifications in a form approved by NYSDOT, including such information as NYSDOT deems necessary to assure compliance with the program requirements and this Agreement.

4.2. *Periodic Reimbursement.* If the Sponsor and NYSDOT find it desirable to have reimbursement made periodically in accordance with a payment cycle established by NYSDOT and the Sponsor, NYSDOT may authorize payments based on billings prepared by the Sponsor in accordance with NYSDOT requirements, based on costs incurred as disclosed by the records thereof, as required by the Project or projects, with applicable adjustments to be made after audit by NYSDOT. These payments shall be made as moneys become available therefor.

4.3. *Certifications.* In addition to the certifications on Page 1 of this contract, the Sponsor shall also certify in each payment request that individual Project work was performed in accordance with the design and contractual requirements of Sponsor and Sponsor's design professional, and that such request does not duplicate reimbursement of costs and services received from other sources. Such certification by the project sponsor shall include the responsibility to furnish the Commissioner with any written information as may be necessary to maintain, if applicable, the federal tax exempt status of bonds, notes, or other obligations issued by the New York State Thruway Authority or the Dormitory of the State of New York for such purposes.

4.4 *Electronic Contract Payments.* Municipality/Sponsor shall provide complete and accurate supporting documentation of eligible Local expenditures as required by this contract, NYSDOT and the State Comptroller. Following NYSDOT approval of such supporting documentation, payment for invoices submitted by the contracting Municipality/Sponsor shall only be rendered electronically unless payment by paper check is expressly authorized by the Commissioner, in the Commissioner's sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with ordinary State procedures and practices. The contracting Sponsor shall comply with the State Comptroller (or applicable Public Authority) procedures to authorize electronic payments. Authorization forms are available at the State Comptroller's website at www.osc.state.ny.us/epay/index.htm, by E-mail at epunit@osc.state.ny.us, or by telephone at (518) 474-4032. For referral to applicable Public Authority electronic payment registration procedures for certain State funded payments, Local Sponsors should refer to the cover letter instruction included with this document or, otherwise, contact their Regional NYSDOT Local Programs Liaison. The contracting Municipality/Sponsor herein acknowledges that it will not receive payment on any invoices submitted under this Contract agreement if it does not comply with the State Comptroller (or applicable Public Authority) electronic payment procedures, except where the Commissioner has expressly authorized payment by paper check as set forth above.

5. *Ethics Considerations.* In addition to Sponsor's conforming with the applicable provisions of Public Officers Law §73 (Business or Professional Activities by State Officers and Employees and Party Officers) and General Municipal Law §806 (Code of Ethics) as related to the expenditure of the MM Funding made hereunder, no member of Sponsor's governing body, its officers or employees, nor any member of their families shall benefit financially either directly or indirectly from the MM Funding unless such action is otherwise in accordance with law and is necessary for the accomplishment of the Project. In such event, Sponsor shall disclose such relationship to NYSDOT and shall obtain prior written approval therefor from NYSDOT.

Universal Master Municipal MM Agreement

Municipal Sponsor: Village of Tarrytown

6. *NYSDOT Performance Review.* NYSDOT may review the Sponsor's performance of this agreement in such manner and at such times as NYSDOT shall determine, and such review may include field visits by NYSDOT representatives to the Project or projects and/or the offices of Sponsor. Sponsor shall at all times make available its employees, records and facilities to authorized NYSDOT representatives in connection with any such review. Such review shall be for the purpose, among other things, of ascertaining the quality and quantity of Sponsor's performance of the Project or projects, its use and operation.

7. *State Recovery of Ineligible Reimbursements.* NYSDOT shall be entitled to recover from the Sponsor any monies paid to the Sponsor pursuant to this Agreement which are subsequently determined to be ineligible for funding hereunder.

8. *Contract Executory.*

8.1. This Agreement shall be deemed executory only to the extent of money available to the State for its performance and no liability on account thereof shall be incurred by the State beyond money available therefor.

8.2. This agreement shall remain in effect so long as State funding authorizations are in effect and funds are made available pursuant to the laws controlling such authorizations and availabilities. However, if such authorizations or availabilities lapse and are not renewed, continued or reenacted, as to funds encumbered or available and to the extent of such encumbrances or availabilities, this agreement shall remain in effect for the duration of such encumbrances or availabilities. Although the liquidity of encumbrances or the availability of funds may be affected by budgetary hiatuses, a State budgetary hiatus will not by itself be construed to lapse this agreement, provided any necessary State appropriations or other funding authorizations therefor are eventually enacted. Sponsor's continued performance during such a budgetary hiatus cannot, by itself, obligate the State to making expenditures without appropriations.

9. *Sponsor Liability.*

9.1. Sponsor shall be responsible for all damage to person or property arising from any act or negligence performed by or on behalf of the Sponsor, its officers, agents, servants or employees, contractors, subcontractors or others in connection with this Agreement. The Sponsor specifically agrees that its agents or employees shall possess the experience, knowledge and character necessary to qualify them individually for the particular duties they perform.

9.2. The Sponsor shall indemnify and save harmless NYSDOT & the State for all damages & costs arising out of any claims, suits, actions, or proceedings resulting from the negligent performance of work by or on behalf of the Sponsor, its officers, agents, servants, employees, contractors, subcontractors or others under this agreement. Negligent performance of service, within the meaning of this section shall include, in addition to negligence founded upon tort, negligence based upon the Sponsor's failure to meet professional standards & resulting in obvious or patent errors in the progression of its work.

10. *No Assignment or Transfer of Contract.* Sponsor agrees not to assign, transfer, convey, sublet or otherwise dispose of this contract or any part thereof, or of its right, title or interest therein, of its power

Universal Master Municipal MM Agreement
Municipal Sponsor: Village of Tarrytown

to execute such contract to any entity, public or private, without the previous written consent of NYSDOT first having been obtained.

11. *Independent Contractor.* The officers and employees of the Sponsor, in accordance with the status of the Sponsor as an independent contractor, covenant and agree that they will conduct themselves consistent with such status, that they will neither hold themselves out as nor claim to be an officer or employee of the State by reason hereof, and that they will not by reason hereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the State, including, but not limited to, Workers' Compensation coverage, Unemployment Insurance benefits, Social Security or Retirement membership or credit.

12. *Disqualification and Damages.* If the Sponsor fails to comply completely with any of the terms and conditions contained within this agreement, including, but not limited to paragraphs 2 and 10, in their entirety at any time, the project shall be disqualified. If the project is disqualified the Sponsor must refund all funds received under this agreement to NYSDOT, and also pay to NYSDOT a liquidated damage fee of 5% of the total funds received under this agreement.

13. *Term of Agreement.* As to the Project or projects described in Schedule(s) A, this agreement takes effect as of the date of this Master Agreement as first above written. This agreement takes effect consistent with the date of Project work established and described in any duly executed and approved Schedule A or Supplements to Schedule A. Failing Project completion within the period set forth in Schedule A or Supplements to Schedule A, or agreement by NYSDOT to extend a Project completion date for good cause, this Agreement will expire and be of no further force or effect. This agreement shall only remain in effect so long as Multi-Modal funding authorizations are in effect and funds are made available pursuant to the laws controlling such authorizations and availabilities. However, if such authorizations or availabilities lapse and are not renewed, continued or reenacted, as to funds encumbered or available and to the extent of such encumbrances or availabilities, this agreement shall remain in effect for the duration of such encumbrances or availabilities. Although the liquidity of encumbrances or the availability of funds may be affected by budgetary hiatuses, a State budgetary hiatus will not by itself be construed to lapse this agreement, provided any necessary State appropriations or other funding authorizations therefor are eventually enacted.

14. *Reporting Requirements.* The Municipality/Sponsor agrees to comply with and submit to NYSDOT in a timely manner all applicable reports required under the provisions of this Agreement and the Multi-Modal guidelines and in accordance with current Federal and State laws, rules, and regulations.

15. Appendix A, standard provisions for all New York State Contracts, is attached hereto and is hereby made a part of this agreement as if set forth fully herein.

16. *Compliance with legal requirements.* Sponsor must comply with all applicable federal, state and local, laws, rules and regulations, including but not limited to the following:

16.1 *New York State Executive Law Article 15-A, Participation by Minority Group members and Women with Respect to State Contracts,* including the requirements thereunder related to equal employment opportunity and utilization goals for contracting opportunities for minority and women-owned business enterprises. Sponsor's failure, to comply with Article 15-A requirements in any of its contracts and sub-contracts funded in whole or in part by this agreement, without prior written approval from NYSDOT approval, violates the contract and the Department may, at its discretion: (1) cancel, terminate or suspend this agreement or such portion of this agreement or (2) assess liquidated damages in the amount of up to 20% of the portion of any of the Sponsor's contracts and sub-contracts funded in whole or in part

**Universal Master Municipal MM Agreement
Municipal Sponsor: Village of Tarrytown**

by this agreement, to which contract goals are established.

- 16.2 *New York Environmental Law, Article 6, the State Smart Growth Public Infrastructure Policy Act*, including providing true, timely and accurate application information related to the project to ensure compliance with the Act.
 - 16.3 *New York Transportation Law, Section 427, Equal employment opportunity program*, including the requirements thereunder related to equal employment opportunity and required contract provisions for inclusion in any of the Sponsor's contracts and sub-contracts funded in whole or in part by this agreement
17. *Compliance with procedural requirements.* Sponsor understands that funding is contingent upon the Sponsor's compliance with the applicable requirements.
18. *Notice Requirements.*
- 18.1 All notices permitted or required hereunder shall be in writing and shall be transmitted either (1) Via certified or registered United States mail, return receipt requested; (2) By facsimile transmission; (3) By personal delivery; (4) By expedited delivery service; or (5) By e-mail.
 - 18.2 For all Multi-Modal Local Agreement purposes, such notices shall be addressed by the Sponsor to the officially designated Regional Local Program Liaison (RLPL) named in NYSDOT's initial request for a detailed Project "PIS" Application and, by NYSDOT, to the officially designated Primary Sponsor's Contact designated by formal Legislative Project Nomination, or to such different parties and addresses as the parties may from time-to-time mutually agree to designate. The parties herein agree to exchange such contact information above which shall include Organization Name, Individual Name & Title, Mailing Address, Telephone number, Facsimile number, & E-mail address.
 - 18.3 Any such notice shall be deemed to have been given either at the time of personal delivery or, in the case of expedited delivery service or certified or registered United States Mail, as of the date of first attempted delivery at the address and in the manner provided herein, or in the case of facsimile transmission or email, upon receipt.
 - 18.4 The parties may, from time to time, specify any new or different address in the United States as their address for purpose of receiving notice under this Agreement by giving fifteen (15) days written notice to the other party sent in accordance herewith. The parties agree to mutually designate individuals as their respective representatives for the purposes of receiving notices under this Agreement. Additional individuals may be designated in writing by the parties for purposes of implementation and administration/billing, resolving issues and problems and/or for dispute resolution.

**Universal Master Municipal MM Agreement
Municipal Sponsor: Village of Tarrytown**

IN WITNESS WHEREOF, NYSDOT has caused this Agreement to be signed by its authorized representative and Sponsor has caused this Agreement to be signed by its duly authorized officer, to be effective on the date first written above.

Sponsor:

BY: _____
TITLE: _____
DATE: _____

New York State Department of Transportation:

BY: _____
for the Commissioner of Transportation
Agency Certification: In addition to the acceptance of this contract, I also certify the original copies of this signature page will be attached to all other exact copies of this contract.
DATE: _____

Sponsor ACKNOWLEDGMENT

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

On this _____ day of _____ in the year 20__, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument, acknowledged to me that he/she is the _____ of the _____, executed such instrument in his/her capacity pursuant to authority duly vested in him/her by _____ and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed this instrument.

Notary Public

APPROVED AS TO FORM:

BY:

New York State Attorney General

APPROVED:

BY:

For the State Comptroller pursuant
to Section 112, State Finance Law