

**SECOND AMENDMENT TO THE
INTERMUNICIPAL AGREEMENT REGARDING
THE SALE OF WATER BETWEEN THE VILLAGE
AND TOWN OF NEW PALTZ**

This Second Amendment to the Intermunicipal Agreement regarding the Sale of Water between the Village and Town of New Paltz dated as of this ___ day of _____, 2021 ("the Second Amendment") by and between the Village (the "Village") of New Paltz, a municipal corporation with offices located at 25 Plattekill Avenue, New Paltz, New York, and the Town of New Paltz (the "Town") a political subdivision of the State of New York, with offices at the Town Hall, 1 Clearwater Road, New Paltz, New York, (collectively, "the Parties").

RECITALS

WHEREAS, on or about the 4th day of May, 2015, the Parties hereto entered into an Intermunicipal Agreement entitled "Intermunicipal Agreement Regarding the Sale of Water between the Village and Town of New Paltz" (the "Initial IMA"); and

WHEREAS, the Parties, entered into a First Amendment to the Initial IMA, dated as of September 15, 2016, to extend the length of the term of that agreement as was specifically set forth in paragraph 11 of said Initial IMA (as amended, the "IMA")

WHEREAS, the Parties have determined after further investigation, that the certain well field located at Paradies Lane, contemplated for use as Town Water System, does not have adequate water quality; and

WHEREAS, the Parties have agreed to a reduction in the required demands of the Village for Town source water by one hundred (100) gallons per minute; and

WHEREAS, after due consideration and as mandated by the City of New York

(“NYC”) Department of Environmental Protection (“DEP”) pursuant to that certain Design IGA between the Town and NYC, dated March 19, 2021, the Parties have further agreed to enter into this Second Amendment of the IMA for their mutual benefit; and

WHEREAS, the IMA includes a covenant and agreement that the NYC acting by and through the City of New York Department of Environmental Protection (“DEP”), is a third-party beneficiary of said IMA and that the IMA cannot be amended by the Parties without the prior written consent of NYC, and such consent having been obtained by its acknowledgement of this agreement; and

WHEREAS, at a regular meeting of the Village Board of the Village of New Paltz, held the ____ day of _____, 2021 and at a regular meeting of the Town Board of the Town of New Paltz held the ____ day of _____, 2021 the Parties each approved the terms set forth herein by an appropriate and binding Resolution and authorized each of their respective Chief Executive Officers to sign this Agreement and to be bound thereby,

NOW, THEREFORE, it is agreed between the Parties;

1. If the water wells and delivery systems that are referenced in paragraph 1 of the IMA (the "Town Water Systems") are in fact established, the Parties agree that the provisions of paragraph 2 of the IMA is hereby amended to read as follows:

“2. The Town further agrees that in exchange for the payments made to the Town by the Village as hereinafter set forth, that it will reasonably maintain the Town Water System established for this purpose in such as to enable it to provide, and shall provide to the Village, up to 400 gallons per minute of potable water during any scheduled “shut down period”, as well as during any “ramp up” or “ramp down” period needed to integrate the well water into or out of the Village’s normal water distribution system, which the Parties acknowledge is conditioned upon the adequacy of the then-current natural condition of the groundwater supply sourcing the Town Water Systems. The Parties agree and understand that the Town’s maintenance obligations shall be generally limited to ordinary and actual use, and that any costs of extraordinary maintenance, including for example, repair and replacement of Village-specific and/or major components of the Water Systems or components which do not require

regular attention shall be negotiated as needed and in good faith by separate and mutual agreement. The Parties will give DEP prompt notice of any such separate agreements. The Town, pursuant to its Design IGA will commit to the inclusion in its bid specifications a five (5) year warranty on all major pumps necessary for the operation of its well site in accordance with this agreement.”

2. If the water wells and delivery systems that are referenced in paragraph 1 of the IMA (the "Town Water Systems") are in fact established, the Parties agree that the provisions of paragraph 3 of the IMA is hereby amended to read as follows:

3. Pursuant to the terms of the planned IGA(s), DEP will give advance notice to the Parties in the event of a scheduled shut down of the Catskill Aqueduct, which shut downs are expected to last not longer than ten (10) consecutive weeks in duration.

- a. To preserve and allow for the replenishment of the natural groundwater supply to the Town Water Systems, in no event shall the outages exceed ten (10) non-consecutive weeks during any twelve (12) month period, or ten (10) consecutive weeks, during any twelve (12) month period provided that the wellfield capabilities are proven and permitted by the New York State Department of Environmental Conservation.
- b. The Town will use all reasonable efforts to assure, but cannot guarantee, the adequacy of the water supply to meet the actual demands of the Village during any such outage, and the Parties hereby agree to work in cooperation with DEP to coordinate outages in consideration of the water source conditions to the best of their ability as intended by the above timing limitations to allow for water source replenishment.
- c. During periods of the outages, the Parties will communicate any concerns or issues related to the quantity and quality of water delivered via the Town Water Systems and shall at all times during such outages engage in collaborative efforts to resolve any such problems as they arise and to the

best of their ability. In the event, however, despite such efforts and after the existing needs of the Town source-water districts are met, the Town is unable to meet the demands of the Village up to the aforesaid four hundred (400) gallons per minute threshold, then in such event, the Parties agree that the Town will not be required to cover or provide for any such deficiencies.

- d. During all non-outage periods and unless otherwise agreed to in writing by the Parties, with DEP approval, the Town shall not use the water reserved for the Village hereunder from the Town Water Systems for any other purpose except to meet the needs of the Town water districts established under the Town's Design IGA with DEP. The Town may, however, contract to provide water to third parties, including the Village, provided that the Water Systems are physically permitted by the governmental authorities having jurisdiction to exceed the combined needs of the Town source-water districts and the up to four hundred (400) gallons per minute reserved for the Village, and further provided that such third-party contracting does not interfere with the ability of the Town to meet its obligations to the Village hereunder.
- e. The parties also understand that there may be water needs or water emergencies arising while this Agreement is in place other than during the outage periods. The parties agree to at all times negotiate in good faith regarding the provision to the Village for water from the Town Water Systems for the use of its water system taking into account all reasonable factors including, but not limited to: the hydrologic status of the well or wells, the needs of the Town water districts served by the wells, water conservation practices implemented by the Village, or any other relevant issue at the time such water is requested."

4. In all other respects the Parties hereto hereby re-acknowledge and reaffirm each and every other provision of the IMA heretofore executed between the Parties including all recital and

notice provisions.

5. This instrument shall be executed in duplicate and at least one copy thereof shall be permanently filed, after execution thereof, in the office of the Clerk of each party.

IN WITNESS WHEREOF,

The Village of New Paltz has caused its corporate seal to be affixed hereto and these presents to be signed by Timothy Rogers, its Mayor, duly authorized so to do, and to be attested to by the Village Clerk; and

The Town of New Paltz has caused its corporate seal to be affixed hereto and these presents to be signed by Neil Bettez, its Supervisor, duly authorized so to do, and to be attested to by the Town Clerk; both as of the day and year first above written.

Seal of the Village of New Paltz
Attest:

Village of New Paltz

By: _____
Timothy Rogers, Mayor

Ariana Basco, Deputy Clerk,

Seal of the Town of New Paltz
Attest:

Town of New Paltz

By: _____
Neil Bettez, Town Supervisor

Rosanna Rosenkranse, Town Clerk
Acknowledged by:

New York City Department of Environmental Protection

By: _____
