

CATSKILL WATERSHED CORPORATION

Board of Directors Meeting

MINUTES

July 2, 2013 @ 1:00 p.m.

I. Call to Order

II. Pledge of Allegiance: Led by James Eisel.

III. Roll Call of Directors

Members Present: Donald Brandow, Deborah Meyer DeWan, Martin Donnelly, James Eisel, Jeff Graf (*New York City DEP*), Thomas Hynes, Innes Kasanof, Berndt Leifeld, Georgianna Lepke, Wayne Marshfield, Tina Molé, Richard Parete, Robert Pelham, Thomas Snow (*New York State DEC*) and Michael Triolo.

Members Excused: None

Staff Members Present: Kimberlie Ackerley, Timothy Cox, Diane Galusha, Leo LaBuda, James Martin, Jason Merwin, Barbara Puglisi, Alan L. Rosa, Philip Sireci, and Frieda Suess.

Others Present: Ursula Basch (*NYC DEP*), Phil Eskeli (*NYC DEP*), Carol Hansen, Bill Harding (*WPPC*), Tom Hilson (*Delaware County Watershed Affairs*), Kent Manuel (*Delaware County Planning Department*), Michael Meyer (*NYC DEP*), Carol O'Bierne, and Thomas Stalter (*NYC DEP*).

IV. Presentation of New York State Community Reconstruction Zone Program

William Harding, Executive Director of the Watershed Protection and Partnership Protection Council, presented an update on the New York State Community Reconstruction Zone Program (CRZ Program) and associated flood recovery funding programs. Bill commented that he hoped to iron out differences in the programs for the CWC Board.

Bill stated that the State of New York has designated \$3 million to specific communities within the West of Hudson Watershed area to receive individual CRZ funding. He noted that the Villages of Margaretville and Sidney will share in one pot of \$3 million; the Town of Prattsville and Town of Shandaken will receive \$3 million each of potential CRZ funding; and a group of Ulster County Communities will also share up to \$3 million of potential CRZ Funding. The Ulster County Communities have not been officially designated, but the draft list includes the Towns of New Paltz, Saugerties, Wawarsing, Rochester, Olive, Woodstock, Hardenburgh, and Rosendale, and the Villages of Ellenville, New Paltz and Saugerties.

Bill continued that these communities were hand-picked and will not be required to apply individually, because the State wanted to concentrate efforts in communities with a special need. He noted that that other communities have the other half of the CRZ Program which allows anyone not specified to apply for CRZ funding.

CRZ designated communities have to do a Local Flood Hazard Mitigation Plan to avail themselves of the \$3 million. Each of these designated communities will be contacted by the State via letter announcing the available funding and advising them of free community planning assistance, paid for by

the State of New York, to help the community go through a fairly brief planning process which will help identify local infrastructure at risk, businesses, and housing issues, land use issues, flooding issues, etc. Once the municipality completes the plan and files it with the Department of State (DOS) they are eligible to spend the \$3 million on the projects that are developed in the plan.

Bill continued that if you are not a named CRZ community, you can still avail yourself of other associated funding in the CRZ Program. In order to do so, you must be in a storm recovery designated county, which includes Delaware, Greene, Schoharie, Sullivan, and Ulster Counties. These counties are eligible for several pots of funding exclusive of the designated CRZ Program funding. For this part of the program, anyone can apply and there is no study required. Any municipality or individual property owner can go online to begin the application process starting today. Bill said these other programs include Recreate New York, Smart Home Resilience Grants, Smart Home Buyout Program, Multi-Family Housing Assistance, Business Assistance, as well as others, and each have a fairly large amount of money associated with them, for town officials and residents to apply for.

Bill continued that the third pot of money is this HMGP Grant round. This is the typical FEMA Hazard Mitigation Grant Program. This is the latest of several rounds since Hurricanes Irene and Lee and another round since Hurricane Sandy. All of the watershed counties qualify as they have completed an All-Hazard Mitigation Plan, and coverage for local municipal entities within your county, so that counties, municipalities, not-for-profits, and others who routinely can apply for FEMA grant flood assistance, can apply for this money. Bill noted that there's \$500 million of new money in the HMGP grant program round that exists today. Bill explained that since the State announced this new round of availability right along with the new State CRZ Program and Associated Funding, there's some confusion whether or not this is State or federal funds. Bill noted that the State did work hard to secure the additional grant round and funds.

Bill continued that the CRZ monies are HUD money, CDBG block grant money. Bill explained that these block grant funds are usually for economic development, housing assistance, and that's what the program is really pointing towards. It's not a water quality program per se, although it is hopeful that there will be some good water quality benefits derived from the use of these funds. This is for local and county officials and residents to use for short and long term community redevelopment, reconstruction and flood recovery.

Georgianna asked if a non-designated CRZ applicant who has received FEMA assistance would then be ineligible for CRZ Funds for the same project. She also asked if these projects would need to be in place prior to applying for the funding.

Bill responded that FEMA funds are in first position to State CRZ money. State CRZ money is after you've collected what you can from your private insurance, and from FEMA HMGP (which is really first hand).

Georgianna asked if there could be a role for CWC? Bill replied that the HMGP is not a good fit for CWC. To get into that program you have to be covered by the County under their All-Hazard Mitigation Plan, or you have to be identified actively as a sub-applicant and CWC is not. In terms of the Designated CRZs, Bill noted that the ones within the Watershed are mostly sitting at this table. Bill suggested that the role CWC would be providing would be that of assistance, information, and partnering with those municipalities like Olive, Shandaken and Margaretville. Bill welcomed and encouraged CWC to get into the conversations, stay a part of the conversations, and assist these municipalities wherever you think is appropriate. Bill suggested that simply informing the communities of these opportunities would be a helpful thing as well as having a periodic update on the Board's agendas. Some communities may also come to CWC for assistance, or for help with providing the 25%

of the local share, etc. Bill continued that for communities not designated under CRZ, the State is not necessarily going to reach out to every single municipality in any designated county in the State of New York. Bill suggested that CWC could play a great role and make sure everyone knows that a portion of this program is available to them, especially as municipal entities, and assisting them with however they might need to comply with it. The programs can get a little complex and daunting, but the State is trying to streamline them and make them as simple as possible as their goal is to get as much money out as quickly as possible.

Jim Eisel inquired about CWC applying for funds to assist businesses with moving out of flood plains or whatever the case may be under the CRZ program and getting a pot of money to do that. Bill responded that as a not-for-profit, CWC may be able to get Non-Designated CRZ funding, but it would come with program strings, so you have to discuss it as Board members. The funding might not fit well with what the CWC Board wants to do. For example, CWC could not make eligibility determinations. You'd have to make sure that whatever project you're considering is an eligible expense under the program. Bill promised to keep CWC informed if there are any other opportunities that arise that CWC should take a look at, but right now CWC's role is much more of an informational and assistance one.

Georgianna asked if there is a timeframe for putting together the CRZ plan for designated communities within the Watershed. She also asked if a community had completed or was close to completing a plan, could that be used rather than creating a new separate plan? Bill responded that there is a timeframe, and everyone is being encouraged to use as much existing data as possible at this time, instead of recreating the wheel. Bill agreed that there's a lot of planning fatigue and the State wants to see the money used for digging holes and moving businesses and to help people along. He continued that the State is encouraging everyone to make available all previous plan data so that they can fold as much of it as they can into this new plan requirement. Bill recognized that some communities are already 75-80% there. Bill continued that there could be some crossover assistance for businesses from CWC through funding to help out with Main Street issues and various issues like that. Designated CRZ Communities have a deadline for scope of work of October this year. They have until early spring to create a final draft study to be given to the Department of State for approval, so it's a fairly rapid process for the CRZ \$3 million Designated Communities.

Jeff Graf stated that the City has met with the Department of State regarding the very issue about CWC's LFHM Implementation Program and the scope of work that the Board recently reviewed. Jeff recognized that the CRZ Program sounds a lot like the LFGMP, where a community has to do a study to access the funds that CWC would have. Jeff continued that rather than a community having to do a thing twice, DEP has urged that the NYS DOS would get our studies and be able to merge the scopes so that communities only have to do it once. Bill responded that the State agrees with the City that the State should use as much of the DEP's scope as possible in their scope, because again, they don't want anyone doing anything twice down the road. The State expects that their study completion date is going to come faster than the City's completion date and then communities could complete the studies under the City's program, and hopefully about 80% of the necessary study will already be done through the State.

Deborah DeWan inquired about the competitive funding and if the CRZ fund included all of the flood-affected communities around the State, such as Long Island and New York City, and also the finite amounts of money available under these programs. She also asked for clarification on who can apply for grants from these different funds.

Bill explained that under HMGP, \$500 million is available. Under the Non-Designated CRZ it's 'competitive', and the funds available are \$1.7 billion, broken up into sub-pots which include: single-

family housing repair and reconstruction (\$663 million); smart home resilience grants (\$259 million); smart home buyouts (\$171 million); multi-family housing assistance (\$124 million); and business assistance (\$415million – broken down into small business grants, small business loans, legal assistance, and seasonal tourism). Homeowners, businesses, municipalities, and not-for-profits can all apply. Under the Designated CRZ there's \$3 million per named zone, but is not competitive. Those funds are allocated to those specific communities.

Alan Rosa asked that if someone who is participating in the FEMA buyout program and is only receiving 75% of the value of their property to relocate, would they qualify for the other 25% under this particular program?

Tom Snow responded that the State has already agreed that in this type of instance the State would pay the additional 25%. Bill agreed that the State has pledged to provide the 25% share through this program for FEMA buyouts already in process as a result of the previous two letters of intent. Bill continued that a homeowner who didn't like FEMA can fill out an application online and start a private buyout through this program, which is also a 75/25 program. If a homeowner chooses this program however, they will be responsible to find the other 25%. Alan responded that CWC's role may be to assist the local municipalities with the 25% matching funds. Bill said that this could change over time, so we need to stay tuned to where it goes as the need for the 25% local share expands. They're encouraging the State to take a second look at how much the 25% local share is and actually picking it up. Alan noted that CWC's goal has always been to keep the communities whole, and in the future, as new events occur, we don't want to see people taking buyouts and leaving the area, or the State for that matter. Alan continued that if CWC plays a role, we want to make sure that people stay in the communities. Bill said that, under the State buyout program, participants are not required to stay within the State of New York after selling their property to the City or State of New York.

Georgianna asked about eligibility under the original FEMA monies for a municipal recreation facility on land leased from the City of New York that was taken out completely by flooding and land had to be purchased privately in order to move the facility. She continued that an application was submitted to FEMA, and there's a good chunk of money there, but there's no money to recover the cost to move the facility out of the floodplain.

Bill said that, so long as it was under a previous LOI, it could be - or it could be now if it gets put on an LOI submitted by July 5th of this year. Georgianna asked if it could come out of the non-designated CRZ money. Bill said maybe, as there are a lot of components to that particular circumstance. Generally, Non-Designated CRZ money is for purposes like that, moving businesses, at-risk facilities and housing out of harm's way. Bill noted that FEMA makes decisions on applications for their funds, and the State will make decisions on applications made under the CRZ program. The State will facilitate a lot of the FEMA HMGP stuff, but FEMA programs tend to remain unchanged, so you have to pass them on through the Federal government. Bill said that CRZ funds could be a match to Federal money.

Deb asked if farm businesses are eligible for CRZ funding.

Bill said that it depends on what their business is, and he does not believe there are reparations for crop loss, but there is some for flood recovery and resilience. If your field was flooded and you think you can recover the land for agricultural use, then apply for funding. He continued that local property owners can apply on their own for CRZ Non-Designated funding, but he'd recommend folding as much as you can into Town and municipal applications. They're much better at it.

Innes Kasanof inquired about a Town that has a recycling/garbage disposal area that has periodically been flooded out, sits in a floodplain, and needs to be reconstructed. Would the Town qualify for funds to move the facility under the CRZ Non-Designated program?

Bill said that sounds like a yes if it involves municipal facilities - water, wastewater, transportation, sanitation, recycling, at-risk, flooded once or repeatedly flooded. Innes asked who the Town would talk to if they wished to apply for these funds. Bill responded that if it's not a Designated CRZ, to start you would go to the website: www.nysandyhelp.ny.gov. From here you would choose if you are a business, municipality, or a homeowner. You will be guided to what types of funding are available to you as you progress through the choices.

Tom Snow noted that the purpose of the LOIs is to get your foot in the door, and are a placeholder. As a watershed, all counties (and communities) should be taking advantage of this opportunity to the greatest extent possible. We don't generally have \$1.7 billion from FEMA, plus the CRZ, plus the FHMP program funds come around very often, so when it does come around you should try to take advantage of that opportunity. It sounds like many communities are, which is great.

Bill stated that you can also call 855-NYS-SANDY (855-697-72639) or, if there is a municipal official or property owner or someone that you think needs assistance or help, have them call him and if he can't get them help immediately or answer their question he'll get them to somebody who can.

Tim Cox cited how the Town of Prattsville allowed buyouts on the river-side of the street but the other side of the street was prohibited from the buyout program. Tim asked if a Designated CRZ Community going through this study could similarly agree to a business relocation, and prohibit certain grants to property owners in certain areas, to prevent rebuilding in a flood-hazard area, or to say they don't want to allow a designated portion of the Town to be used for building on.

Bill said that home rule would apply under these programs. He explained that CRZ Designated Communities are in charge, and the face and contents and results of their study should accurately reflect the community needs and desires of direction. The report that the CRZ will do will be greatly assisted by professional planning paid for by the State of New York. In the end, any decisions made, like in any planning decisions, are really going to rest with the Town Board, because in the end it's the Town Supervisor who will receive the check for these projects.

Bill continued that in each municipality there will be a planning committee designated and that planning committee will be in charge of shepherding this fairly short-term planning process forward. When it's done, the Town approves it, ships it to the State, the State approves it, and \$3 million is made available for the projects that you say.

Tim asked if there is any ability for the Non-Designated CRZ Communities to control projects in the same way.

Bill replied that there is less ability for Non-Designated CRZ Communities to do so because there are some aspects of CRZ funding that municipalities will be involved in, and others that they wouldn't be involved in. Bill continued that unless there's some local municipal control that goes on right here on the property in question, there's less control. Bill cautioned that the State did not want to work at cross purposes to the City of New York and the CWC because we don't want to fund something that is contrary to watershed interests. For example, a community may decide that it wants to use its funding to dredge the Esopus, which would be a project of great debate, and technically that might be eligible under our program, but certainly is not advisable within the NYC Watershed, so they have to make sure that you both have the chance to jump up and say no to something like this as it is working contrary to the local interests in this municipality.

Jeff Graf asked if a homeowner within a municipality that has banned participating in a buyout program under the CRZ program could then apply for a buyout under the HMGP funding. Bill confirmed that is correct. One of the goals here is to make flexible availabilities.

Georgianna stated that one of the important things that the CWC staff can do is to stay on top of how the programs are working, what's available out there, and where we can assist, even if it's just our knowledge. Bill said that there will be a summary sheet provided by the Governor's office to the local municipalities. Bill noted that State staff is facing the rare challenge of developing a program after funding is announced and available. Georgianna asked that Bill forward that document for distribution to all Board members by CWC staff.

V. Review and Approval of June 4, 2013 and June 13, 2013 Board Meeting Minutes

A motion to approve the minutes from the June 4, 2013 and June 13, 2013 board meetings was made by James Eisel and seconded by Berndt Leifeld.

Voice Vote, carried unanimously

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**VI. Presentation of Communication**

**Finance Report**

A motion to approve the financial reports as of April 30, 2013 was made by James Eisel and seconded by Martin Donnelly.

**Voice Vote, carried unanimously**

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Executive Director's Report

The Executive Director's Report was presented as outlined in the board packet.

Presentation of News Articles

Committee Schedule

Committee Meeting Minutes

VII. Public Discussion

Carol Hansen addressed the Board of Directors regarding the history of the sketches and paintings of the view from the Delaware Inn in Stamford. The sketches and painting from Room 17 of the Delaware Inn were highlighted. Georgianna asked permission to purchase the sketch and painting of Room 17 to hang in the Delaware Inn until the sale of the building. At that point they would be returned to CWC. Carol said she would be happy to provide a print on canvas of any painting or sketch the Board would desire. Carol noted that one-half of the proceeds from anything sold will go to Prattsville for recovery efforts. Georgianna also asked CWC staff to contact Carol to produce a recording of the history of the artwork portraying the Delaware Inn.

VIII. Presentation of Resolutions

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**Septic Reimbursement Over \$20,000 – Manuel Fernandez - Tab 7**

A motion to approve Resolution No. 2321 was made by Michael Triolo and seconded by Tina Molé.

July 2, 2013

**RESOLUTION NO. 2321**

**BOARD APPROVAL OF SEPTIC CONSTRUCTION ESTIMATE OVER \$20,000:  
MANUEL FERNANDEZ**

**WHEREAS**, pursuant to the Watershed Memorandum of Agreement and the Septic System Rehabilitation and Replacement Program Contracts with New York City Department of Environmental Protection, the Catskill Watershed Corporation (“CWC”) shall act as program manager for the Septic Program and implement the Septic Program consistent with the terms of said contracts; and

**WHEREAS**, pursuant to section 2:01:09 of the CWC Septic Rehabilitation and Replacement Program Rules Article 2A, if the total amount requested for reimbursement is more than Thirty Thousand Dollars (\$30,000.00), the homeowner shall supply detailed quotes from three unrelated contractors, and CWC staff shall forward the design with recommendation to the CWC Board for approval; and

**WHEREAS**, CWC staff has reviewed three construction quotes, including the lowest quote for the septic system repair in the amount of Thirty-Two Thousand Eight Hundred Twenty Dollars (\$32,820.00); and

**WHEREAS**, the contractor’s quote for this system is more than Thirty Thousand Dollars (\$30,000.00); and

**WHEREAS**, the CWC staff have determined the contractor’s quote of Thirty-Two Thousand Eight Hundred Twenty Dollars (\$32,820.00) to be a reasonable cost for this system in accordance with our schedule of values; and

**WHEREAS**, the Septic Committee has reviewed the documentation and recommend approving the contractor’s quote of Thirty-Two Thousand Eight Hundred Twenty Dollars (\$32,820.00) as it is in substantial agreement with our schedule of values.

**NOW, THEREFORE LET IT BE RESOLVED**, that the CWC Board of Directors approves the eligible cost of this system for reimbursement to be the total not-to-exceed amount of Thirty-Two Thousand Eight Hundred Twenty Dollars (\$32,820.00).

**Manuel Fernandez Backup**

Mr. Fernandez’s property is located in the Town of Hamden, Delaware County. Homeowner and CWC staff received three quotes from unrelated contractors for \$43,300.00, \$43,100.00, and \$32,820.00. This system is for an eight bedroom house. The major components for this system include a new 1,000 gallon septic tank to be used in series with a pre-existing 1,250 gallon septic tank, 70 lineal feet of 4” gravity piping, 90 lineal feet of 2” forcemain, six peat modules, a pump

station, 65 lineal feet of swale, access road, and site restoration. The lowest quote is within 10% of CWC Schedule of Values. The Septic Committee recommends that the Board of Directors approve reimbursement in an amount not to exceed \$32,820.00.

**Voice Vote, carried unanimously**

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Septic Reimbursement Over \$20,000 – Nicholas Palermo - Tab 8

A motion to approve Resolution No. 2322 was made by Michael Triolo and seconded by Tina Molé.

July 2, 2013

RESOLUTION NO. 2322

**BOARD APPROVAL OF SEPTIC CONSTRUCTION ESTIMATE OVER \$20,000:
NICHOLAS PALERMO**

WHEREAS, pursuant to the Watershed Memorandum of Agreement and the Septic System Rehabilitation and Replacement Program Contracts with New York City Department of Environmental Protection, the Catskill Watershed Corporation (“CWC”) shall act as program manager for the Septic Program and implement the Septic Program consistent with the terms of said contracts; and

WHEREAS, pursuant to section 2:01:09 of the CWC Septic Rehabilitation and Replacement Program Rules Article 2A, if the total amount requested for reimbursement is more than Twenty Thousand Dollars (\$20,000) CWC staff shall forward the design with recommendation to the CWC Board for approval; and

WHEREAS, CWC staff has reviewed a construction quote submitted by a contractor for the septic system repair in the amount of Twenty-Two Thousand Seven Hundred Fifty Dollars (\$22,750.00); and

WHEREAS, the contractor’s quote for this system is more than Twenty Thousand Dollars (\$20,000); and

WHEREAS, the CWC staff have determined the contractor’s quote of Twenty-Two Thousand Seven Hundred Fifty Dollars (\$22,750.00) to be a reasonable cost for this system in accordance with our schedule of values; and

WHEREAS, the Septic Committee has reviewed the documentation and recommend approving the contractor’s quote of Twenty-Two Thousand Seven Hundred Fifty Dollars (\$22,750.00) as it is in substantial agreement with our schedule of values.

NOW, THEREFORE LET IT BE RESOLVED, that the CWC Board of Directors approves the eligible cost of this system for reimbursement to be the total not-to-exceed amount of Twenty-Two Thousand Seven Hundred Fifty Dollars (\$22,750.00).

Nicholas Palermo Backup

Mr. Palermo's property is located in the Town of Lexington, Greene County. Homeowner and CWC staff received a quote from a contractor in the amount of \$22,750.00. This system is for a three bedroom house. The major components for this system include a 1,000 gallon septic tank, 30 lineal feet of 4" gravity piping, 25 lineal feet of Schedule 80 sleeve, 180 lineal feet of 2" forcemain, one distribution box, 100 cubic yards of absorption fill material, one SeptiTech unit, 10x16' absorption bed, and extensive site restoration. The quote is within 10% of CWC Schedule of Values. The Septic Committee recommends that the Board of Directors approve reimbursement in an amount not to exceed \$22,750.00.

Voice Vote, carried unanimously

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**Septic Reimbursement Over \$20,000 – Frances Spadafora - Tab 9**

A motion to approve Resolution No. 2323 was made by Michael Triolo and seconded by Tina Molé.

July 2, 2013

**RESOLUTION NO. 2323**

**BOARD APPROVAL OF SEPTIC CONSTRUCTION ESTIMATE OVER \$20,000:  
FRANCES SPADAFORA**

**WHEREAS**, pursuant to the Watershed Memorandum of Agreement and the Septic System Rehabilitation and Replacement Program Contracts with New York City Department of Environmental Protection, the Catskill Watershed Corporation ("CWC") shall act as program manager for the Septic Program and implement the Septic Program consistent with the terms of said contracts; and

**WHEREAS**, pursuant to section 2:01:09 of the CWC Septic Rehabilitation and Replacement Program Rules Article 2A, if the total amount requested for reimbursement is more than Twenty Thousand Dollars (\$20,000) CWC staff shall forward the design with recommendation to the CWC Board for approval; and

**WHEREAS**, CWC staff has reviewed a construction quote submitted by a contractor for the septic system repair in the amount of Twenty-Six Thousand Two Hundred Dollars (\$26,200.00); and

**WHEREAS**, the contractor's quote for this system is more than Twenty Thousand Dollars (\$20,000); and

**WHEREAS**, the CWC staff have determined the contractor's quote of Twenty-Six Thousand Two Hundred Dollars (\$26,200.00) to be a reasonable cost for this system in accordance with our schedule of values; and

**WHEREAS**, the Septic Committee has reviewed the documentation and recommend approving the contractor's quote of Twenty-Six Thousand Two Hundred Dollars (\$26,200.00) as it is in substantial agreement with our schedule of values.

**NOW, THEREFORE LET IT BE RESOLVED**, that the CWC Board of Directors approves the eligible cost of this system for reimbursement to be the total not-to-exceed amount of Twenty-Six Thousand Two Hundred Dollars (\$26,200.00).

**Frances Spadafora Backup**

Ms. Spadafora's property is located in the Town of Andes, Delaware County. Homeowner and CWC staff received a quote from a contractor in the amount of \$26,200.00. This system is for a four bedroom house. The major components for this system include a 1,250 gallon septic tank, one siphon chamber, 101 lineal feet of 4" gravity piping, one distribution box, 300 cubic yards of absorption fill material, one effluent filter, 325 lineal feet of absorption trench, 60 lineal feet of swale, and extensive site restoration. The quote is within 10% of CWC Schedule of Values. The Septic Committee recommends that the Board of Directors approve reimbursement in an amount not to exceed \$26,200.00.

**Voice Vote, carried unanimously**

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Septic Reimbursement Over \$20,000 – Theresa Thorakos - Tab 10

A motion to approve Resolution No. 2324 was made by Michael Triolo and seconded by Tina Molé.

July 2, 2013

RESOLUTION NO. 2324

**BOARD APPROVAL OF SEPTIC CONSTRUCTION ESTIMATE OVER \$20,000:
THERESA THORAKOS**

WHEREAS, pursuant to the Watershed Memorandum of Agreement and the Septic System Rehabilitation and Replacement Program Contracts with New York City Department of Environmental Protection, the Catskill Watershed Corporation ("CWC") shall act as program manager for the Septic Program and implement the Septic Program consistent with the terms of said contracts; and

WHEREAS, pursuant to section 2:01:09 of the CWC Septic Rehabilitation and Replacement Program Rules Article 2A, if the total amount requested for reimbursement is more than Twenty Thousand Dollars (\$20,000) CWC staff shall forward the design with recommendation to the CWC Board for approval; and

WHEREAS, CWC staff has reviewed a construction quote submitted by a contractor for the septic system repair in the amount of Twenty Thousand Nine Hundred Three Dollars (\$20,903.00); and

WHEREAS, the contractor's quote for this system is more than Twenty Thousand Dollars (\$20,000); and

WHEREAS, the CWC staff have determined the contractor's quote of Twenty Thousand Nine Hundred Three Dollars (\$20,903.00) to be a reasonable cost for this system in accordance with our schedule of values; and

WHEREAS, the Septic Committee has reviewed the documentation and recommend approving the contractor's quote of Twenty Thousand Nine Hundred Three Dollars (\$20,903.00) as it is in substantial agreement with our schedule of values.

NOW, THEREFORE LET IT BE RESOLVED, that the CWC Board of Directors approves the eligible cost of this system for reimbursement to be the total not-to-exceed amount of Twenty Thousand Nine Hundred Three Dollars (\$20,903.00).

Theresa Thorakos Backup

Ms. Thorakos' property is located in the Town of Walton, Delaware County. Homeowner and CWC staff received a quote from a contractor in the amount of \$20,903.00. This system is for a three bedroom house. The major components for this system include a 1,000 gallon septic tank, 20 lineal feet of 4" gravity piping, 15 lineal feet of 2" forcemain, an effluent filter, three peat filter modules (including pump station), and extensive site restoration. The quote is within 10% of CWC Schedule of Values. The Septic Committee recommends that the Board of Directors approve reimbursement in an amount not to exceed \$20,903.00.

Voice Vote, carried unanimously

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**Septic Reimbursement Over \$20,000 – Brent Trimbell - Tab 11**

A motion to approve Resolution No. 2325 was made by Michael Triolo and seconded by Tina Molé.

July 2, 2013

**RESOLUTION NO. 2325**

**BOARD APPROVAL OF SEPTIC CONSTRUCTION ESTIMATE OVER \$20,000:  
BRENT TRIMBELL**

**WHEREAS**, pursuant to the Watershed Memorandum of Agreement and the Septic System Rehabilitation and Replacement Program Contracts with New York City Department of Environmental Protection, the Catskill Watershed Corporation ("CWC") shall act as program manager for the Septic Program and implement the Septic Program consistent with the terms of said contracts; and

**WHEREAS**, pursuant to section 2:01:09 of the CWC Septic Rehabilitation and Replacement Program Rules Article 2A, if the total amount requested for reimbursement is more than Twenty Thousand Dollars (\$20,000) CWC staff shall forward the design with recommendation to the CWC Board for approval; and

**WHEREAS**, CWC staff has reviewed a construction quote submitted by a contractor for the septic system repair in the amount of Twenty-Seven Thousand Eighty Dollars (\$27,080.00); and

**WHEREAS**, the contractor's quote for this system is more than Twenty Thousand Dollars (\$20,000); and

**WHEREAS**, the CWC staff have determined the contractor's quote of Twenty-Seven Thousand Eighty Dollars (\$27,080.00) to be a reasonable cost for this system in accordance with our schedule of values; and

**WHEREAS**, the Septic Committee has reviewed the documentation and recommend approving the contractor's quote of Twenty-Seven Thousand Eighty Dollars (\$27,080.00) as it is in substantial agreement with our schedule of values.

**NOW, THEREFORE LET IT BE RESOLVED**, that the CWC Board of Directors approves the eligible cost of this system for reimbursement to be the total not-to-exceed amount of Twenty-Seven Thousand Eighty Dollars (\$27,080.00).

**Brent Trimbell Backup**

Mr. Trimbell's property is located in the Town of Stamford, Delaware County. Homeowner and CWC staff received a quote from a contractor in the amount of \$27,080.00. This system is for a three bedroom house. The major components for this system include a 1,000 gallon septic tank, a pump station, 90 lineal feet of 4" gravity piping, 400 lineal feet of 2" forcemain, one distribution box, 310 cubic yards of absorption fill material, 225 lineal feet of absorption trench, and extensive site restoration. The quote does not exceed CWC Schedule of Values. The Septic Committee recommends that the Board of Directors approve reimbursement in an amount not to exceed \$27,080.00.

**Voice Vote, carried unanimously**

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Septic Reimbursement Over \$20,000 – Elizabeth Walker - Tab 12

A motion to approve Resolution No. 2326 was made by Michael Triolo and seconded by Tina Molé.

July 2, 2013

RESOLUTION NO. 2326

**BOARD APPROVAL OF SEPTIC CONSTRUCTION ESTIMATE OVER \$20,000:
ELIZABETH WALKER**

WHEREAS, pursuant to the Watershed Memorandum of Agreement and the Septic System Rehabilitation and Replacement Program Contracts with New York City Department of Environmental Protection, the Catskill Watershed Corporation ("CWC") shall act as program manager for the Septic Program and implement the Septic Program consistent with the terms of said contracts; and

WHEREAS, pursuant to section 2:01:09 of the CWC Septic Rehabilitation and Replacement Program Rules Article 2A, if the total amount requested for reimbursement is more than Twenty Thousand Dollars (\$20,000) CWC staff shall forward the design with recommendation to the CWC Board for approval; and

WHEREAS, CWC staff has reviewed a construction quote submitted by a contractor for the septic system repair in the amount of Twenty-Two Thousand Two Hundred Dollars (\$22,200.00); and

WHEREAS, the contractor's quote for this system is more than Twenty Thousand Dollars (\$20,000); and

WHEREAS, the CWC staff have determined the contractor's quote of Twenty-Two Thousand Two Hundred Dollars (\$22,200.00) to be a reasonable cost for this system in accordance with our schedule of values; and

WHEREAS, the Septic Committee has reviewed the documentation and recommend approving the contractor's quote of Twenty-Two Thousand Two Hundred Dollars (\$22,200.00) as it is in substantial agreement with our schedule of values.

NOW, THEREFORE LET IT BE RESOLVED, that the CWC Board of Directors approves the eligible cost of this system for reimbursement to be the total not-to-exceed amount of Twenty-Two Thousand Two Hundred Dollars (\$22,200.00).

Elizabeth Walker Backup

Ms. Walker's property is located in the Town of Meredith, Delaware County. Homeowner and CWC staff received a quote from a contractor in the amount of \$22,200.00. This system is for a two bedroom house. The major components for this system include a 1,000 gallon septic tank, one siphon chamber, 170 lineal feet of 4" gravity piping, one distribution box, 90 cubic yards of absorption fill material, 100 cubic yards of random fill material, 8 cubic yards of NYSDOT C-33 sand, 216 square feet of Eljen in-drain units, 75 lineal feet of curtain drain, access road, and site restoration. The quote is within 10% of CWC Schedule of Values. The Septic Committee recommends that the Board of Directors approve reimbursement in an amount not to exceed \$22,200.00.

Voice Vote, carried unanimously

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**Septic Over \$20,000 – Additional Cost – Robert Dudeck - Tab 13**

A motion to approve Resolution No. 2327 was made by Thomas Hynes and seconded by Martin Donnelly.

July 2, 2013

**RESOLUTION NO. 2327**

**BOARD APPROVAL OF SEPTIC CONSTRUCTION ESTIMATE  
OVER \$20,000 – ADDITIONAL COSTS:  
ROBERT DUDEK**

**WHEREAS**, pursuant to the Watershed Memorandum of Agreement and the Septic System Rehabilitation and Replacement Program Contracts with New York City Department of Environmental Protection, the Catskill Watershed Corporation ("CWC") shall act as program manager for the Septic Program and implement the Septic Program consistent with the terms of said contracts; and

**WHEREAS**, pursuant to section 2:01:09 of the CWC Septic Rehabilitation and Replacement Program Rules Article 2A, if the total amount requested for reimbursement is more than Twenty Thousand Dollars (\$20,000) CWC staff shall forward the design with recommendation to the CWC Board for approval; and

**WHEREAS**, CWC Staff previously approved Septic Program reimbursement for Robert Dudeck in the amount of Nineteen Thousand Nine Hundred Eighty-Eight Dollars (\$19,988.00); and

**WHEREAS**, CWC staff has reviewed an additional construction invoice of costs incurred submitted by the contractor for the septic system repair in the amount of Three Thousand Two Hundred Forty-Four Dollars (\$3,244.00); and

**WHEREAS**, the total contractor's invoices for this system is more than Twenty Thousand Dollars (\$20,000); and

**WHEREAS**, the CWC staff have determined the contractor's total invoices of Twenty-Three Thousand Two Hundred Thirty-Two Dollars (\$23,232.00) to be a reasonable cost for this system in accordance with our schedule of values; and

**WHEREAS**, the Septic Committee has reviewed the documentation and recommend approving the contractor's total invoice of Twenty-Three Thousand Two Hundred Thirty-Two Dollars (\$23,232.00) as it is in substantial agreement with our schedule of values.

**NOW, THEREFORE LET IT BE RESOLVED**, that the CWC Board of Directors approves the eligible cost of this system for reimbursement to be the total not-to-exceed amount of Twenty-Three Thousand Two Hundred Thirty-Two Dollars (\$23,232.00).

**Robert Dudeck Backup**

Mr. Dude's property is located in the Town of Wawarsing, Ulster County. CWC staff previously approved reimbursement in the amount of \$19,988.00. During construction it became evident that an access road would be required. The Design Engineer corroborated the need for the road to "safely and conveniently deliver the fill material to the site". A fair and reasonable cost for the additional materials and labor according to CWC Schedule of Values is \$3,244.00, for total reimbursement not to exceed \$23,232.00. The Septic Committee recommends that the Board of Directors approve total reimbursement in an amount not to exceed \$23,232.00.

***Voice Vote, carried unanimously***

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Septic Over \$20,000 – Additional Cost – Vincent Liotta - Tab 14

A motion to approve Resolution No. 2328 was made by Thomas Hynes and seconded by Martin Donnelly.

July 2, 2013

RESOLUTION NO. 2328

**BOARD APPROVAL OF SEPTIC CONSTRUCTION ESTIMATE
OVER \$20,000 – ADDITIONAL COSTS:
VINCENT LIOTTA**

WHEREAS, pursuant to the Watershed Memorandum of Agreement and the Septic System Rehabilitation and Replacement Program Contracts with New York City Department of Environmental Protection, the Catskill Watershed Corporation ("CWC") shall act as program

manager for the Septic Program and implement the Septic Program consistent with the terms of said contracts; and

WHEREAS, pursuant to section 2:01:09 of the CWC Septic Rehabilitation and Replacement Program Rules Article 2A, if the total amount requested for reimbursement is more than Twenty Thousand Dollars (\$20,000) CWC staff shall forward the design with recommendation to the CWC Board for approval; and

WHEREAS, CWC Staff previously approved Septic Program reimbursement for Vincent Liotta in the amount of Eighteen Thousand Seven Hundred Fifty Dollars (\$18,750.00); and

WHEREAS, CWC staff has reviewed an additional construction invoice of costs incurred submitted by the contractor for the septic system repair in the amount of Two Thousand Seven Hundred Seventy Dollars (\$2,770.00); and

WHEREAS, the total contractor's invoices for this system is more than Twenty Thousand Dollars (\$20,000); and

WHEREAS, the CWC staff have determined the contractor's total invoices of Twenty-One Thousand Five Hundred Twenty Dollars (\$21,520.00) to be a reasonable cost for this system in accordance with our schedule of values; and

WHEREAS, the Septic Committee has reviewed the documentation and recommend approving the contractor's total invoice of Twenty-One Thousand Five Hundred Twenty Dollars (\$21,520.00) as it is in substantial agreement with our schedule of values.

NOW, THEREFORE LET IT BE RESOLVED, that the CWC Board of Directors approves the eligible cost of this system for reimbursement to be the total not-to-exceed amount of Twenty-One Thousand Five Hundred Twenty Dollars (\$21,520.00).

Vincent Liotta Backup

Mr. Liotta's property is located in the Town of Hunter, Greene County. CWC staff previously approved reimbursement in the amount of \$18,750.00. During construction the Project Engineer determined that the septic tank needed to be replaced. The septic tank was not included in the original quote. The contractor agreed to install the tank for an amount of \$2,770.00. A fair and reasonable cost for the additional materials and labor according to CWC Schedule of Values is \$2,770.00, for total reimbursement not to exceed \$21,520.00. The Septic Committee recommends that the Board of Directors approve total reimbursement in an amount not to exceed \$21,520.00.

Voice Vote, carried unanimously

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**Small Business Septic Program Rule Change – Mobile Home Parks - Tab 15**

A motion to approve Resolution No. 2329 was made by Jeff Graf and seconded by Tina Molé.

July 2, 2013

**RESOLUTION NO. 2329**

**CWC SMALL BUSINESS SEPTIC PROGRAM RULE CHANGE – MOBILE HOME  
PARKS**

**WHEREAS**, pursuant to the 2007 EPA FAD, NYCDEP has agreed to provide additional funds in the amount of Two Million Dollars (\$2,000,000.00) for “cluster systems” and Four Million Dollars (\$4,000,000.00) for septic systems for small businesses, to be defined in a manner consistent with the definition of small business as applied under MOA Paragraph 145; and

**WHEREAS**, pursuant to the 2007 FAD, NYCDEP has agreed to provide an additional Twenty Million Dollars (\$20,000,000.00) for continuation of the Septic Program, together with the funds provided for cluster systems and septic systems for small business to be collectively known as “Septic III” Program; and

**WHEREAS**, by Resolution Number 1274, the CWC Board of Directors authorized the President to execute the Septic III Program contract; and

**WHEREAS**, by Resolution Number 1441, the CWC Board of Directors approved the CWC Small Business Septic Program Rules that excluded apartment buildings and mobile home parks from the definition of a small business; and

**WHEREAS**, CWC Septic Committee recommend that the CWC Small Business Septic Program Rules be amended as provided in Attachment A to expand the definition of a small business to include a mobile home park consisting of three or more mobile homes.

**NOW, THEREFORE BE IT RESOLVED**, that the CWC Board of Directors adopts the attached Small Business Program Rule Change (Attachment A), as per the Committee’s recommendation.

**NOW, THEREFORE BE IT FURTHER RESOLVED**, that the Small Business Septic Program Rules may be amended from time to time by the CWC Board of Directors in consultation with NYCDEP.

ATTACHMENT A

**Underline** is proposed addition

**~~Strikethrough~~** is proposed deletion

***13:00:01. Definitions***

**14. “NYSDOH” – New York State Department of Health**

20. “Small Business” – an existing business **operated for profit**, that at the time of its enrollment in the Program, is resident in New York State, independently owned and operated, and employs one hundred or less individuals and, as applied under MOA Paragraph 145(ii). The number of employees shall include the employees of each affiliated business. Affiliated business shall be defined in accordance with the federal Small Business Act regulations 13 C.F.R. Section 121.103 *et seq.* Small Business **may include a mobile home park consisting of three or more mobile homes rented/owned as residences.** ~~Small Business shall not include an trailer park or~~ apartment building.

**13:00:02:01 Inspection, Repair and Reimbursement in Priority Areas**

3. Payment for repairs/replacements of inspected systems will be as follows:



- A. If CWC determines during the inspection that the Small Business septic system, or individual components, is in failure and should be repaired or replaced, the Small Business Owner shall secure a preliminary design of such repair or replacement and forward the preliminary design with soil test results clearly shown on documents to CWC for review. CWC shall submit design comments indicating what CWC will fund to the Small Business Owner. The Small Business Owner is responsible to submit a final design to NYCDEP for its review and approval. **Certain Small Businesses, including mobile home parks, may also be required by New York State regulations to obtain design and construction approvals from NYSDOH for repairs to or replacement of their septic system.**
- B. After the Small Business Owner has obtained design approval from NYCDEP **and NYSDOH (if required)**, the Small Business Owner shall obtain a quote on a CWC bid form. CWC requires that the Small Business Owner submit the quote to CWC for funding approval. The Small Business Owner is also responsible to obtain any necessary permits from local municipalities and the County or State Department of Health, whichever is applicable, before proceeding with construction. In the event that a request for reimbursement exceeds \$20,000, the Board of Directors shall approve the scope of work and the cost of the system before construction may begin.
- C. After construction is complete, and a NYCDEP **and NYSDOH (if required)** Construction Approval has been issued, the Small Business Owner shall submit an application for reimbursement to CWC with a copy of the NYCDEP Construction Approval.

**Voice Vote, carried unanimously**

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Future Stormwater – Gerry & Hilary DeFrancesco – O&M Funding - Tab 16

A motion to approve Resolution No. 2330 was made by Tina Molé and seconded by Robert Pelham.

July 2, 2013

RESOLUTION NO. 2330

GERRY & HILARY DEFRANCESCO
FUTURE STORMWATER MAINTENANCE

WHEREAS, pursuant to Paragraph 128 of the 1997 New York City Watershed (“Watershed MOA”), the Catskill Watershed Corporation (“CWC”) is the program manager for the Future Stormwater Program; and

WHEREAS, the Future Stormwater Program is intended to reimburse applicants for costs associated solely from requirements of New York City Department of Environmental Protection Watershed Regulations that are not also State or Federal requirements; and

WHEREAS, interest from earnings on Future Stormwater Funds can be used to reimburse applicants for maintenance costs associated with previously approved applications; and

WHEREAS, by Resolution Number 1774, the CWC Board of Directors approved the Future Stormwater Application of Gerry DeFrancesco for 50% reimbursement of eligible design costs in an amount not-to-exceed Three Thousand Two Hundred Fifty Dollars (\$3,250.00) and 100% of eligible construction costs in the not-to-exceed amount of Ninety Thousand Dollars (\$90,000.00); and

WHEREAS, by Resolution Number 2014, the CWC Board of Directors approved additional funds to Gerry DeFrancesco for 100% of additional eligible construction costs in the not-to-exceed amount of One Thousand Three Hundred Thirty-Eight Dollars and Nine Cents (\$1,338.09); and

WHEREAS, CWC Wastewater/Stormwater Committee has reviewed the CWC staff recommendation and recommend that the CWC Board of Directors authorize the President and/or Executive Director to enter a contract with Gerry DeFrancesco, for reimbursement of stormwater maintenance in an amount not to exceed Five Thousand Five Hundred Dollars (\$5,500.00) for a period of up to two years.

NOW THEREFORE BE IT RESOLVED, that the CWC Board of Directors authorizes the President and/or Executive Director to execute a contract with Gerry DeFrancesco in an amount not to exceed Five Thousand Five Hundred Dollars (\$5,500.00) for maintenance costs associated with the Future Stormwater project for a period of up to two years.

BACKGROUND

Gerry & Hilary DeFrancesco Property

Gerry & Hilary DeFrancesco were required to comply with the Watershed Rules and Regulations enforced by the NYCDEP. NYCDEP solely required a Stormwater Pollution Prevention Plan (SWPPP) as the project is part of development that qualifies as a common plan of sale, requiring a SWPPP under the Watershed Rules and Regulations, but NYSDEC did not require an SWPPP in this case.

Gerry & Hilary DeFrancesco constructed their stormwater best management practices (BMP's) in 2010. The BMP's included ditches/grass lined swales, culverts, a pond and outlet protection. Gerry & Hilary DeFrancesco are eligible to seek reimbursement for maintenance costs for 100% of these costs.

The CWC Wastewater/Stormwater Committee recommends a Future Stormwater Reimbursement contract for operation and maintenance of this project for an amount not to exceed Five Thousand Five Hundred Dollars (\$5,500.00) for a period of up to two years. This contract can be revised if and when additional funds are required.

Voice Vote, carried unanimously

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**Board Review of 2012 Tax Filings - Tab 17**

A motion to approve Resolution No. 2331 was made by Michael Triolo and seconded by James Eisel.

July 2, 2013

**RESOLUTION NO. 2331**  
**CWC BOARD REVIEW AND APPROVAL OF IRS FORM 990 and FORM CHAR500**  
**FOR CALENDAR YEAR 2012**

**WHEREAS**, the Catskill Watershed Corporation (CWC) is a not-for-profit corporation under Section 501(c)(3) of the Internal Revenue Code; and

**WHEREAS**, all not-for-profits must file an expanded IRS Form 990, Return of Organization Exempt From Income Tax and IRS Form CHAR500, Annual Filing for Charitable Organizations; and

**WHEREAS**, CWC is required to state on IRS Form 990, Return of Organization Exempt From Income Tax and IRS Form CHAR500, Annual Filing for Charitable Organizations if the CWC Board of Directors has reviewed the form; and

**WHEREAS**, the CWC Finance Committee has reviewed the final draft of Form 990, Return of Organization Exempt From Income Tax and IRS Form CHAR500, Annual Filing for Charitable Organizations, attached hereto as Attachment A, and recommend that the CWC Board of Directors review the final draft and approve of its filing.

**NOW THEREFORE**, the CWC Board of Directors has reviewed the final draft of IRS Form 990 Return of Organization Exempt From Income Tax and IRS Form CHAR500, Annual Filing for Charitable Organizations for Calendar Year 2012, attached hereto as Attachment A, and approve of its filing.

**Voice Vote, carried unanimously**

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CWC Insurance Premium - Tab 18

A motion to approve Resolution No. 2332 was made by James Eisel and seconded by Jeff Graf.

July 2, 2013

RESOLUTION NO. 2332

CWC INSURANCE PREMIUM

WHEREAS, the Board of Directors must approve an expense greater than Ten Thousand Dollars (\$10,000); and

WHEREAS, the Finance Department has received a Twenty-One Thousand Three Hundred Thirty Dollars and Fourteen Cents (\$21,330.14) invoice for the General Liability, Automobile insurance, Worker Compensation and Excess Liability insurance.

NOW, THEREFORE BE IT RESOLVED, the Board of Director's approves the Executive Director to pay the insurance premium of Twenty-One Thousand Three Hundred Thirty Dollars and Fourteen Cents (\$21,330.14).

Voice Vote, carried unanimously

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**Public Education II Program Agreement - Tab 19**

A motion to approve Resolution No. 2333 was made by Tina Molé and seconded by Thomas Snow.

July 2, 2013

**RESOLUTION NO. 2333**  
**CWC BOARD APPROVAL OF THE PUBLIC EDUCATION II PROGRAM**  
**CONTRACT**

**WHEREAS**, the Catskill Watershed Corporation (CWC) is a not-for-profit corporation established in part to administer Watershed Protection and Partnership Programs set forth in the 1997 New York City Watershed Memorandum of Agreement (Watershed MOA); and

**WHEREAS**, New York City Department of Environmental Protection (NYCDEP), pursuant to Watershed MOA, entered an agreement with CWC dated January 21, 1997 for the implementation and administration of a public education and outreach program (referred to herein as the “Public Education I Program”) that was funded by the City in the initial amount of Two Million Dollars (\$2,000,000.00), which agreement was amended once by change order dated March 5, 2008, to provide for additional funding in the amount of Eight Hundred Thousand Dollars (\$800,000) and twice extended by letter agreements dated February 27, 2007 and April 11, 2012, which agreement expires on April 2, 2014; and

**WHEREAS**, as a condition of the December 24, 2010 New York State Water Supply Permit issued to NYCDEP (the “Water Supply Permit”), the term of which expires on December 24, 2025, NYCDEP is required to fund the Public Education I Program at a minimum of Two Hundred Three Thousand Seven Hundred Thirty-Four Dollars (\$203,734.00) per year through the expiration of the WSP provided that CWC demonstrate that the need for such funding continues; and

**WHEREAS**, pursuant to the aforementioned WSP condition, CWC and the City desire to establish a program, that will be known as the Public Education II Program, that will serve as a continuation of the Public Education I Program created pursuant to Paragraph 131 of the MOA; and

**WHEREAS**, as proposed the Public Education II Program shall be administered for a duration of seven years and the City’s obligation under the WSP is to fund the Public Education II Program through 2024 and it is, therefore, the intention of CWC and NYCDEP that there will be a successor agreement; and

**WHEREAS**, the CWC Education Committee recommends that the CWC Board of Directors approved the Public Education II Program Agreement attached hereto as **Exhibit A**.

**NOW, THEREFORE, BE IT RESOLVED**, the CWC Board of Directors approves the Public Education II Program Agreement in the form attached hereto as **Exhibit A**.

**NOW, THEREFORE BE IT FURTHER RESOLVED**, that the President of CWC be, and hereby is, authorized to execute the Public Education II Program Agreement in the form attached hereto as **Exhibit A** and all such other instruments, and to perform all such other acts as may be necessary or desirable in order to carry into effect the Public Education II Program on the terms

and conditions set forth in the Public Education II Program Agreement, and in furtherance of the purposes of the Watershed MOA and consistent with all such other agreements, contracts, policies and/or procedures to which CWC is bound.

**AGREEMENT BETWEEN  
THE NEW YORK CITY DEPARTMENT OF ENVIRONMENTAL PROTECTION  
AND  
THE CATSKILL WATERSHED CORPORATION  
(Public Education II)**

**THIS AGREEMENT**, dated the \_\_\_ day of \_\_\_, 20\_\_ by and between the **CITY OF NEW YORK**, a municipal corporation having its principal office at City Hall in the Borough of Manhattan, City and State of New York (“the City”), acting through the New York City Department of Environmental Protection (“DEP”) and the **CATSKILL WATERSHED CORPORATION** (“CWC”), an independent locally-based and locally administered not-for-profit corporation, organized and existing under Section 1411 of the New York State Not-For-Profit-Corporation Law and having its principal office in Margaretville, New York, the City and the CWC being collectively referred to as the “Parties”;

**WHEREAS**, CWC is a not-for-profit corporation established to administer Watershed Protection and Partnership Programs as more fully described herein; and

**WHEREAS**, the City, pursuant to the 1997 New York City Watershed Memorandum of Agreement dated January 21, 1997 (the “MOA”), entered an agreement with CWC dated January 21, 1997 for the implementation and administration of a public education and outreach program (referred to herein as the “Public Education I Program”) that was funded by the City in the initial amount of two million dollars (\$2,000,000), which agreement was amended once by change order dated March 5, 2008, to provide for additional funding in the amount of eight hundred thousand dollars (\$800,000) and twice extended by letter agreements dated February 27, 2007 and April 11, 2012, which agreement expires on April 2, 2014; and

**WHEREAS**, as a condition of the December 24, 2010 New York State Water Supply Permit issued to DEP (the “Water Supply Permit”) the term of which expires on December 24, 2025, the City is required to fund the Public Education I Program at a minimum of Two Hundred Three Thousand Seven Hundred Thirty Four Dollars (\$203,734) per year through the expiration of the WSP provided that CWC demonstrate that the need for such funding continues; and

**WHEREAS**, the CWC has demonstrated that the need for such funding continues; and

**WHEREAS**, pursuant to the aforementioned WSP condition, the parties desire to establish a program that will be known as the Public Education II Program that will serve as a continuation of the Public Education I Program created pursuant to Paragraph 131 of the MOA; and

**WHEREAS**, the parties desire for CWC to administer the Public Education II Program; and

**WHEREAS**, the parties desire that the initial agreement under which the Public Education II Program shall be administered shall be for a duration of seven years and the parties

acknowledge that the City's obligation under the WSP is to fund the Public Education II program through 2024 and it is, therefore, the intention of the parties that there will be a successor agreement.

**NOW, THEREFORE**, in consideration of the promises and the respective representations and agreements hereinafter contained, the Parties hereto agree as follows:

ARTICLE 1  
GENERAL PROVISIONS

Section 1.01 Program

The City hereby retains CWC to perform the services hereinafter set forth in Article 2 of this Agreement.

Section 1.02 Program Funds

Program Funds shall be any City funds remitted to CWC hereunder for the purposes of carrying out the programs hereinafter set forth. In addition, Program Funds shall include earnings on City funds remitted to CWC.

Section 1.03 Duration of Agreement

- A. This Agreement shall be effective when signed by the Parties and registered by the City pursuant to Section 328 of the Charter of the City of New York. CWC shall undertake and perform the work as hereinafter set forth within the term (the "Program Term") commencing upon on a date set forth in a Notice to Commence Work ( the "Commencement Date") which shall be sent by the City by ordinary mail to CWC at the address designated in Section 13.03 of this Agreement.
- B. This Agreement shall terminate seven (7) years after the Commencement Date. In the event all work hereunder is not completed prior to the termination date, this Agreement shall be extended or renewed once upon mutual agreement of the Parties for an additional period of five (5) years upon the same terms and conditions. The renewal shall become effective upon registration by the City pursuant to Section 328 of the Charter of the City of New York.
- C. All terms of this Agreement shall survive termination of this Agreement except for Section 3.01, and shall continue to govern until one (1) year after all Program Funds are disbursed by CWC and the work to be paid for with Program Funds is completed.

ARTICLE 2  
DESCRIPTION OF THE WORK

Section 2.01 General Description of Public Education Program

CWC shall act as manager for a program (“Public Education Program”) of public education on the West of Hudson Watershed, the nature and importance of the City’s water supply system, and the critical role of watershed residents as stewards of water quality.

Section 2.02 Eligible Public Education Projects

- A. The Public Education Program shall include the following:
  - 1. Public education programs and projects are intended to increase public awareness of the human and natural history of the Watershed and the development of the City’s water supply system. The programs will emphasize the importance of the Watershed to the City and the critical role of the Watershed communities in stewarding the Watershed, the diversity and importance of aquatic and terrestrial life in the Watershed, and/or the importance of, and means of preserving, water quality in the Watershed; and
  - 2. Programs designed to educate students both within the City and within the Watershed with respect to the matters set forth in paragraph (1).
- B. Public Education Programs shall supplement and expand upon existing school criteria and programs and not merely replace or restore existing curricula or programs that have been the subject of reduced public funding.

Section 2.03 Selection of Projects

- A. CWC shall utilize an advisory group of educators and educational institutions to recommend to CWC appropriate public education projects and programs for funding with Public Education Funds, as hereinafter defined. The advisory group shall include educators and educational institutions located in the City as well as in the West of Hudson Watershed.
- B. CWC shall review the projects and programs recommended by the advisory group, and, for each such project or program agreed to by CWC, prepare a budget itemizing the amount of funding necessary to fully fund such project or programs.
- C. CWC shall forward recommended programs and projects for funding with Public Education Funds, together with the itemized budget for each recommended program or project, to DEP for approval. CWC shall also provide DEP with a summary spreadsheet for all applicants approved in the current year that shall include at a minimum the following information: (1) whether the applicant is a first-time applicant or repeat applicant; (2) whether the target audience for each proposed project is a City audience, a Watershed audience, or both; and (3) the direct and indirect number of people anticipated to be reached through each proposed project as proposed in the each application.
- D. The City shall review all recommended proposals for projects and programs to be funded with Public Education Funds forwarded by CWC to the City for approval. The City shall not unreasonably withhold approval of, or unreasonably delay responding to, any such proposals.
- E. CWC shall enter into written agreements with qualified educational institutions to

implement selected public education projects and programs approved by the City. CWC's selection of educational institutions, other than municipal or governmental entities, shall be in accordance with the procedures set forth in Article 7 of this Agreement.

F. CWC shall disburse Public Education Funds to educational institutions to pay the costs of public education projects and programs approved by the City and CWC pursuant to the written agreements for such projects and programs entered into in accordance with Subsection 2.03(E). In the event that Program Funds are not fully utilized by the recipient of such funding once the project or program is completed, CWC shall report to DEP the actual amount of Program Funds that were utilized and disbursed.

#### Section 2.04 Use of Public Education Funds

A. Public Education Funds (as hereinafter defined) may only be used to pay costs pursuant to written agreements entered in accordance with Subsection 2.03(E), reasonable and necessary fees and expenses of any consultants engaged by CWC to assist in fulfilling its duties and responsibilities set forth in Section 2.03, and CWC's reasonable administrative costs to manage and administer the Public Education Program.

B. Public Education Funds shall not be used to pay for capital costs of constructing stationary facilities or acquiring any interests in real property. Outdoor signs or kiosks used for interpretive education and outreach purposes, and temporary or permanent watershed-related exhibits to be located inside a regional museum or a watershed environmental education facility shall not be considered stationary facilities for the purpose of this paragraph.

C. CWC shall not use Public Education Funds to pay any costs that have been or can be paid for with funds provided under any other Partnership Program as described in the Watershed MOA.

D. CWC shall provide DEP with one (1) copy of specific educational products to be developed or produced using Public Education Funds within thirty (30) days of the receipt of such products by CWC. For the purposes of this paragraph specific education products shall be limited to educational DVDs or CDs, curricula, and publications meant for mass distribution (books, fact sheets, directories). For materials available on the internet, CWC will provide to DEP the internet address for such materials but is not otherwise required to provide a copy in any other format to DEP. This paragraph shall not apply to progress reports, final reports, or various forms of student artwork that may be submitted to CWC by grant recipients as part of their documentation of the projects funded through the Public Education Program.

### ARTICLE 3 PAYMENT GENERALLY

#### Section 3.01 Payment of Public Education Funds



The City shall pay CWC One Million Four Hundred Twenty-Six Thousand One Hundred Thirty-Eight Dollars (\$1,426,138.00) of Public Education Funds as follows to pay the cost of the Public Education Program:

- A. For each City fiscal year, at least sixty (60) days before the first day of the first month for which CWC seeks payment of Public Education Funds, CWC shall deliver a budget to DEP setting out CWC's reasonable estimate of Public Education Funds needed and expected to be disbursed during the ensuing City fiscal year.
- B. If, as a result of unforeseen circumstances, the amount of Public Education Funds actually needed during a fiscal year exceeds the amount of Public Education Funds CWC reasonably estimated would be needed during such fiscal year, CWC may submit a budget modification to DEP setting out the additional Public Education Funds needed during such fiscal year and an explanation of the need for such additional funds. CWC may submit no more than one budget modification to DEP for any one fiscal year.
- C. After the City has approved a public education project or program for funding with Public Education Funds pursuant to Section 2.03, and at least sixty (60) days before the first day of a month for which CWC is seeking payment of Public Education Funds, CWC shall submit an invoice to DEP, in a form acceptable to DEP, for the Public Education Funds that CWC reasonably estimates will be needed and disbursed during such month "the "Cost Estimate"). The Cost Estimate shall break down program costs and administrative costs in a format to be agreed upon between CWC and DEP before CWC submits the first invoice to DEP. Upon approval of the invoice by DEP, DEP shall pay the invoiced amount to CWC by the first day of the month for which the invoice was submitted.
- D. The total amount invoiced by CWC pursuant to Subsection (C) in a fiscal year shall not exceed the amount of Public Education Funds set forth in the budget for such fiscal year submitted to the City pursuant to Subsection (A) or any subsequent budget modification submitted to the City pursuant to Subsection (B) and approved by the City for such fiscal year.
- E. Within thirty (30) days of the end of each month, CWC shall provide DEP with an accounting of the actual expenditures for such month, the extent to which the actual costs for the month matched the projected costs, and a listing of the amount of Public Education Funds paid to CWC that remain unexpended and unallocated.
- F. Within thirty (30) days from the close of each calendar quarter, CWC will reconcile estimate costs paid by the City versus actual funds expended by CWC for the three (3) month period and compile the total earnings on Public Education Funds, net of bank charges, for the three month period. The total amount of earnings and of unspent estimated costs shall be deducted from the next Cost Estimate to be sent to DEP.
- G. All earnings on Public Education Funds paid to CWC shall be credited against the City's overall commitment to provide One Million Four Hundred Twenty-Six Thousand One Hundred Thirty-Eight Dollars (\$1,426,138.00) in Public Education Funds.

- A. All receipts and disbursements of Program Funds under this Agreement are subject to audit by the City or State of New York and CWC agrees to cooperate with any such audit.
- B. CWC shall ensure that Public Education Funds shall be used exclusively for expenditures incurred in connection with the Public Education Program.
- C. The City shall not be deemed, by virtue of making payments to CWC, to have released CWC from any claim or liability, or to have waived any right or rights of action under this Agreement.
- D. Promptly upon receipt of Program Funds, CWC shall place such Program Funds in a separate dedicated account, bearing interest at market rates, in a bank located and authorized to do business in New York State. All Program Funds for a given budget period and not actually spent during such budget period, and all accrued and unspent interest on Program Funds previously advanced, less bank charges, shall be credited against the amount of Public Education Funds requested for the next issuing budget period. All interest accrued on Public Education Funds advanced under such budget shall be credited against the total dollar figure to be spent by the City under the Public Education Program.
- E. Whenever the provisions of this Agreement call for the City to make payments to CWC, such payments shall be made promptly by the due date specified in the form of a check or warrant in proper amount and made payable to “Catskill Watershed Corporation.”
- F. Upon acceptance by CWC of the final payment to be paid pursuant to this Agreement, CWC agrees that it shall be deemed to have fully released the City from any and all claims, demands and causes of action whatsoever which CWC has or may have against the City in connection with this Agreement. Nothing herein shall be deemed to waive any right CWC may have to challenge a payment received from the City as final.
- G. Provided that notice of default is received by CWC in accordance with Section 10.01 during any period in which CWC is material breach of this Agreement the City shall be entitled to withhold payment of Program Funds in an amount proportionate to the material breach. Nothing herein shall be deemed as consent by CWC that any specific instance of withholding of payments by the City is permitted by this Subsection.

### Section 3.03 Disputed Payments

Anything herein to the contrary notwithstanding, in the event an invoice submitted in accordance with Section 3.01 is disputed, DEP may withhold the disputed amount and shall notify CWC of the reason and amount withheld within ten (10) days of DEP’s receipt of the invoice. The Parties shall make a good faith effort to resolve all disputes within (20) twenty days of DEP’s receipt of the invoice. If the dispute is resolved, DEP shall pay any undisputed amount or amounts to CWC as soon after resolution of the dispute as is possible. Any remaining disputes shall be resolved in accordance with Section 13.08.

### Section 3.04 Suspension of Payment Obligations for Invalidation of the Water Supply Permit

A. If the water supply permit issued by the New York State Department of Environmental Conservation for the City's watershed land acquisition program under the Watershed MOA ("Water Supply Permit") is voided or suspended by a court of competent jurisdiction such that the City is no longer authorized to acquire land or interests in land under the Water Supply Permit, the City's obligation to pay Public Education Funds shall be suspended.

B. If the City's obligations to pay Public Education Funds is suspended pursuant to this Section, the City will be entitled to stop providing such funds which become due and owing after the date the City is no longer authorized to purchase land or conservation easements under the Water Supply Permit pursuant to the court order, except that the City shall continue to pay CWC for funds which CWC contractually committed to pay in good faith and in substantial compliance with the Watershed MOA and this Agreement before the City gives CWC notice of the court decision. Substantial compliance with the Watershed MOA shall include compliance with all terms of the Watershed MOA applicable to the Public Education Program.

C. The City's obligation pay Public Education Funds under this Section, shall remain suspended until:

1. The Water Supply Permit is reinstated so that the City is again able to purchase land or conservation easements under the Permit; or

2. The City obtains a new permit from the New York State Department of Environmental Conservation for a land acquisition program and such permit does not contain limitations imposed by the New York State Department of Environmental Conservation that are materially more restrictive than the Water Supply Permit without the City's consent.

D. Upon reinstatement of the City's obligation to pay Public Education Funds, the City shall recommence paying invoices submitted by CWC after the date of the reinstatement in accordance with Section 3.01. If CWC seeks payment of unpaid invoices which were submitted prior to reinstatement of the City's obligation to pay Public Education Funds, CWC shall resubmit such invoices to the City.

E. If the City's obligation to make payments under the Public Education Program is suspended and subsequently reinstated pursuant to this Section, the duration of the Program shall be extended for a period of time equal to the time for which the City's payment obligations were suspend. The City shall not be required to pay CWC's interest on the unpaid suspended payments.

F. For purposes of this Agreement, the Water Supply Permit shall not be deemed voided or suspended if the permit is modified, revoked or suspended by the New York State Department of Environmental Conservation pursuant to 6 NYCRR § 621.14.

#### ARTICLE 4 INSURANCE

## Section 4.01 Insurance

- A. Prior to entering into any agreements to disburse Public Education Funds, CWC shall obtain insurance of the kind and amount set forth in Appendix A, attached hereto. The City is self-insured.
- B. CWC shall ensure that all consultants hired to provide professional services pursuant to this Agreement maintain professional liability insurance and any other insurance as directed by CWC, each in an amount and scope sufficient to protect the interests of the City and CWC, and such other insurance as required by law. Such insurance shall be maintained in accordance with Appendix A, Section II.
- C. CWC shall ensure that all contractors hired to provide construction or construction-related services, as authorized by Section 7.02(A) of this Agreement, maintain general commercial liability insurance and other insurance as directed by CWC, each in an amount and scope sufficient to protect the interests of the City and CWC, and any other insurance as required by law. Such insurance shall be maintained in accordance with Appendix A, Section II.
- D. CWC shall ensure that all other contractors and consultants hired to provide services pursuant to this Agreement maintain insurance in an amount and scope sufficient to protect the interests of the City and CWC, and as otherwise required by law. Such insurance shall be maintained in accordance with Appendix A, Section II.

## ARTICLE 5 RECORDS AND REPORTS

### Section 5.01 General

CWC shall forward to DEP at its request a copy of any and all non-privileged written materials and documents that are prepared pursuant to this Agreement. The City shall have the right to use all non-privileged and non-confidential written materials, documents and information that are gathered or prepared pursuant to this Agreement for any purpose deemed appropriate by the City.

### Section 5.02 Maintenance of Records

CWC shall maintain complete and accurate records in readily accessible files on all of its activities in connection with this Agreement. Such records shall include, but are not limited to, financial records detailing the receipt, management and disbursement of all funds provided by the City pursuant to this Agreement, minutes of meetings of the CWC, and documents required by paragraph 107(e) of the Watershed MOA. CWC shall maintain all records relating to this Agreement for the later of five (5) years after termination of this Agreement and seven (7) years after generation of the record.

### Section 5.03 Audit and Inspection

- A. This contract is subject to audit by the State, including the State Comptroller, and

by the City, including the City Comptroller, to the extent authorized by State and/or local law, including Section 93 of the New York City Charter.

B. CWC shall prepare and maintain documentation and justification in support of expenditures under this Agreement in accordance with generally accepted business practices and shall make such documentation available to the State, including the State Comptroller, and the City, including the City Comptroller, as they consider necessary.

#### Section 5.04 Regular Reports

A. Quarterly Reports: Within thirty (30) calendar days after the end of each three (3) month period ending February 28 (or 29), May 31, August 31, and November 30, and within ninety (90) days after the date all Program Funds are disbursed by CWC and all work to be paid for with Program Funds is completed, CWC shall submit to DEP progress reports with respect to the Public Education Program. CWC shall also provide a copy of each progress report to the Executive Committee of the Watershed Protection and Partnership Council established by the Watershed MOA.

B. Annual Audited Financial Reports: Within ninety (90) days after the end of the last quarter of each City fiscal year, CWC shall submit to DEP an audited financial statement for CWC for the preceding fiscal year, audited by an independent certified public accountant, which shall include an itemization for the Public Education Program of (i) all Program Funds expended under this Agreement, including receipts from the City and disbursements to third parties; (ii) the amount of Program Funds which CWC remains committed to pay pursuant to outstanding consultant or other contracts; (iii) receipts, if any, of CWC in repayment of Program Funds; (iv) the amount of Program Funds on hand with CWC; and (v) such other information as DEP may reasonably require.

C. Termination Audited Financial Reports: Within ninety (90) days after the termination of this Agreement, CWC shall submit to DEP an accounting of the Public Education Program for the period from the closing date of the last financial reports submitted under Subsection (B), audited by an independent certified public accountant, which shall include an itemization for the Public Education Program of (i) all Program Funds expended under this Agreement, including cash receipts from the City and disbursements to third parties; (ii) the amount of Program Funds which CWC remains committed to pay pursuant to outstanding consultant, construction or other contracts; (iii) receipts, if any, of CWC in repayment of Program Funds; (iv) the amount of Program Funds on hand with CWC; and (v) such other information as DEP may reasonably require.

## ARTICLE 6 PERSONNEL

#### Section 6.01 Employees

A. CWC and the City agree that, except for the member of CWC appointed by the City, CWC and its employees, agents, contractors, subcontractors and/or consultants, are

independent contractors and not employees of the City, DEP or any department, agency, or unit of the City. In accordance with its status as independent contractors, CWC covenants and agrees that, except for the CWC member appointed by the City, neither CWC nor its employees or agents will hold themselves out as, nor claim to be, officers or employees of the City, or of any department, agency, or unit thereof.

B. The City shall not be responsible for the work, direction, compensation and personal conduct of CWC's employees, agents, contractors, subcontractors and/or consultants while engaged under this Agreement.

C. Nothing in this Agreement shall impose any liability or duty on the City for the acts, omissions, liabilities or obligations of CWC, or any person, firm, company, agency, association, expert, consultant, independent contractor, specialist, trainee, employee, servant, or agent of CWC or for the payment of taxes of any nature including but not limited to sales tax, unemployment insurance, workman's compensation, disability benefits and social security, or, except as specifically stated in this Agreement, to any person, firm or corporation.

D. The City shall not be responsible for any physical injuries or death to CWC's agents, servants, or employees or to any other person or damage to any property sustained during CWC's operations and work under this Agreement resulting from any act, omission, commission or error in judgment of any of CWC's officers, members, trustees, employees, agents, servants, or independent contractors. The City shall not be responsible for the safety and protection of CWC's employees.

#### Section 6.02 Worker's Compensation and Disability Benefits

CWC shall secure worker's compensation insurance coverage for the benefit of, and keep insured during the life of this Agreement, its employees in compliance with the provision of the Workers' Compensation Law, inclusive of Disability Benefits. CWC shall furnish DEP with two (2) certificates of these insurance coverages.

#### Section 6.03 Unemployment Insurance

Unemployment Insurance coverage shall be obtained and provided by CWC for its employees.

#### Section 6.04 Minimum Wage

Except for those employees whose minimum wage is required to be fixed pursuant to Section 220 of the Labor Law of the State of New York, all persons employed by CWC in the performance of this Agreement shall be paid, without subsequent deduction or rebate, unless expressly authorized by law, not less than the minimum wage as prescribed by law. Any breach or violation of the foregoing shall be deemed a breach or violation of a material provision of this Agreement.

#### Section 6.05 Equal Employment Opportunity

A. CWC agrees that it has not and will not engage in any unlawful discrimination based upon race, creed, color, national origin, sex, age, disability, marital status or sexual

orientation with respect to all employment decisions including, but not limited to, recruitment, hiring, upgrading, demotion, downgrading, transfer, training, rates of pay or other forms of compensation, layoff, termination, and all other terms and conditions of employment. Before CWC implements any of its duties or responsibilities hereunder, CWC shall adopt an equal opportunity employment policy prohibiting such discrimination by CWC.

B. CWC will state in all solicitations or advertisements for employees placed by or on behalf of CW Corp. that all qualified applicants will receive consideration for employment without unlawful discrimination based on race, creed, color, national origin, sex, age, disability, marital status or sexual orientation, or that it is an equal employment opportunity employer.

C. CWC shall send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or memorandum of understanding, written notification of its equal employment opportunity commitments and policy.

## ARTICLE 7 PROCUREMENT OF GOODS AND SERVICES

### Section 7.01 Competitive Bidding of Work

CWC shall maintain and adhere to its professional consultant procurement policy that sets forth procedures and requires CWC to solicit proposals from at least three prospective consultants qualified under the laws of the State of New York, where applicable, to perform proposed work, for all professional service contracts in the amount of twenty five thousand dollars (\$25,000) or more, except that three (3) proposals shall not be required when Selecting a governmental agency.

### Section 7.02 Consultants

A. A contract (the “Consultant Contract”) between CWC and a consultant or subcontractor as described in Section 4.01(B), (C) or (D) (the “Consultant”) hired to perform work to be paid for with Public Education Program Funds shall include the following:

1. a requirement that the Consultant perform all work in accordance with the terms of this Agreement;
2. a requirement that the Consultant perform all acts to be performed under the Consultant Contract in compliance with all applicable federal, State and local laws, rules, regulations and orders;
3. a requirement that the Consultant agree to indemnify the City and assume liability for injuries on the same basis identified in this Agreement, pursuant to Article 11;

4. a requirement that the Consultant agree to and comply with a budget, a scope of work, a progress schedule for completion of the work within specified milestones and payment schedule which is dependent upon completion of the work within the specified period of performance;
5. a representation and warranty that no payment, gift or thing of monetary value was made, given or promised to a CWC officer, director or employee to obtain the Consultant Contract or any other agreement with the City or CWC;
6. a statement and requirement that nothing contained in the Consultant Contract shall impair the rights of the City under this Agreement or the Watershed MOA;
7. a statement and requirement that nothing contained in the Consultant Contract shall create any contractual relationship between the Consultant and the City; and
8. a statement and requirement that the Consultant will not engage in any unlawful discrimination in hiring employees under the Consultant Contract based upon race, creed, color, national origin, sex, age, disability, marital status or sexual orientation.

B. CWC shall enforce the foregoing provisions of its Consultant Contracts.

C. CWC shall require Contractors performing public work within the meaning of Section 220 of the New York State Labor Law pay not less than the prevailing wage to laborers, workmen and mechanics performing such public work and comply with all other applicable provisions of Section 220 of the Labor Law. CWC shall also require such contractors to maintain records evidencing their compliance with this Subsection.

#### Section 7.03 Background Investigation Compliance for Consultant Contracts

A. CWC agrees and covenants to hire only responsible Consultants with respect to any work to be performed hereunder and paid for with Program Funds.

B. A responsible person or firm is one who or which, in CWC's reasonable opinion, has the capability in all respects to fully perform the contract requirements, including appropriate licenses where applicable, and the business integrity to justify the award of public tax dollars.

#### Section 7.04 Business Integrity

A. For purposes of this Section the following definitions apply:

1. "Affiliate" shall mean an entity in which the parent of the proposed Subcontractor owns more than 50 percent voting stock or an entity in which a group of principal owners which owns more than 50 percent of the proposed Subcontractor also owns more than 50 percent of the voting stock.
2. "Contract" shall mean any contract for the procurement of labor,



materials, equipment or services paid for, in whole or in part with Program Funds.

3. “Covered Contract” shall mean a Contract of \$100,000 or more with a Subcontractor, or which is valued at \$100,000 or more when aggregated with the value of all other contracts funded with funds provided by the City awarded to the same Subcontractor during the immediately preceding twelve month period. In determining whether a Contract is a Covered Contract, CWC or the applicable Governmental Entity shall be entitled to rely on a certificate of the subject Subcontractor, except where CWC or such Entity has actual knowledge that a Contract is a Covered Contract.

4. “Governmental Entity” shall include the State or any political subdivision thereto, any entity described in Section 99-r of the New York General Municipal Law, and any federal, state or local agency, department, board, bureau, public authority or public benefit corporation.

5. “Principal Owner” shall mean an individual, partnership, joint venture or corporation which holds a ten percent (10%) or greater ownership interest in a proposed Subcontractor.

6. “Subcontractor” shall mean any person or entity other than a Governmental Entity which enters into a Contract with CWC or with a Governmental Entity which has entered into a Contract with CWC.

B. A Covered Contract shall not be awarded to persons or entities other than “Eligible Subcontractors.” An “Eligible Subcontractor” for purposes of this Section is a Subcontractor that has a satisfactory record of business integrity. A Subcontractor shall be deemed to lack the requisite record of business integrity if any of the following criteria are met within or during the period commencing ten (10) years prior to completion of the City Vendor Information Exchange System (“VENDEX”) questionnaire and continuing through the date of determination:

1. Criminal conduct in connection with government contracts or the conduct of business activities involving: a) the infliction, attempted infliction, or threat of death, intentional personal injury, or intentional property damage, in connection with involvement in a pattern of racketeering, labor racketeering, extortion, obstruction of justice, or other comparable crimes; b) bribery, fraud, bid rigging, embezzlement, theft, perjury, forgery, or other comparable crimes; c) serious moral turpitude, fundamental lack of integrity, or a pattern or practice of a knowing disregard for the law so as to call into question the integrity of the proposed Subcontractor; or (d) conspiracy to do any of the above acts. Evidence of such conduct shall consist of (A)(1) a judgment of conviction, (2) a pending criminal indictment, or (3) a formal grant of immunity in connection with a criminal prosecution, in each case of a proposed Subcontractor, any director or officer, any principal, and any employee primarily responsible for contracting procedures, or any holder of five percent (5%) or more of the shares or equity of the proposed Subcontractor, or any affiliate or subsidiary of the proposed Subcontractor; or (B) any ongoing criminal investigation by a law enforcement agency in which the proposed Subcontractor, any director or officer, any principal, employee primarily responsible for contracting procedures, or any

holder of five percent (5%) or more of the shares or equity of the proposed Subcontractor, or any affiliate of the proposed Subcontractor is a target.

2. An actual determination by a person or entity which has jurisdiction of a willful noncompliance with the prevailing wage requirements of Section 220 of the Labor Law by the proposed Subcontractor or any affiliate thereof.
3. An actual determination by a person or entity which has jurisdiction of a significant willful violation of the Workers' Compensation Law, including, but not limited to, the failure to maintain required workers' compensation or disability coverage.
4. An actual determination by a person or entity which has jurisdiction of a submission by the proposed Subcontractor to a government agency of a false or misleading statement on a uniform questionnaire or other form in connection with a bid or proposal for, or award of, a contract or request for approval of a subcontractor.
5. A conviction or judgment of civil liability against the proposed Subcontractor for fraud in connection with a bid or proposal for, or award of, a contract or request for approval of a subcontract.
6. Debarment or current suspension of the proposed Subcontractor for reasons of business integrity from consideration for the award of contracts with a government, governmental entity or public authority pursuant to any procedure enacted by statute or adopted by regulation providing for notice and hearing.
7. Arrears for more than one year on income, sales or payroll taxes.

C. Before any Covered Contract is awarded to a Subcontractor, CWC or the Governmental Entity proposing to award the Covered Contract shall require the proposed Subcontractor to complete the appropriate VENDEX questionnaire, or such revised standard VENDEX questionnaire as the City provides from time to time. CWC or the Governmental Entity shall also require that the proposed Subcontractor submit the completed VENDEX questionnaire to NYCDEP at least thirty-five (35) days before the Covered Contract is awarded to the following address:

New York City Department of Environmental Protection  
59-17 Junction Boulevard  
18th Floor  
Corona, New York 11368  
Attention: Agency Chief Contracting Officer

The City shall provide CWC with the name of a contact person for the City who shall provide information during regular business hours as to whether the City has received a particular VENDEX questionnaire and the status of the City's review of such questionnaire. Within five (5) business days of receiving a VENDEX questionnaire, the City shall notify CWC or the Government Entity if the VENDEX questionnaire is not complete. If the City fails to notify CWC within such five (5) business day period, the VENDEX questionnaire shall be deemed complete. Within thirty-five (35) days of

receiving the VENDEX questionnaire, the City may provide a report indicating whether any of the criteria of Subsection (B) are met, including an explanation of the non-confidential evidence that such criteria are met. If the report states in fact that such criteria are met, the Subcontractor will be deemed not to be an Eligible Contractor unless the City and CWC or the Governmental Entity agree that the Subcontractor possesses a satisfactory record of business integrity.

D. Even if the Subcontractor does not meet the criteria set forth in Subsection (B), the City may provide CWC or the Governmental Entity with information within the thirty-five (35) day period set forth in Subsection (C) which may be relevant to the question of whether a proposed Subcontractor for a Covered Contract has a satisfactory record of business integrity. Before awarding the Covered Contract, CWC or the Governmental Entity shall receive and consider such information provided by the City. If, after receiving and considering such information, CWC or the Governmental Entity intends to proceed to award the Covered Contract to such Subcontractor, before making such award, CWC or the Governmental Entity shall respond in writing to any such information provided by the City. If CWC or the Governmental Entity intends to award the Covered Contract and if the City and CWC or the Governmental Entity continues to disagree, CWC or the Governmental Entity shall refer the issue to the Executive Committee of the Watershed Council for a recommendation. The Executive Committee shall be given the information provided to CWC or the Governmental Entity by the City, CWC's or the Governmental Entity's written response, and any additional written material which the City or CWC or the Governmental Entity desires to submit. The Executive Committee shall have fifteen (15) days in which to issue a recommendation as to whether a proposed Subcontractor has a satisfactory record of business integrity. CWC or the Governmental Entity shall make a determination whether to award the Covered Contract to the proposed Subcontractor after one of the following occurs, whichever is applicable: (1) the Executive Committee fails to make a recommendation within the fifteen (15) days allotted for Executive Committee review; or (2) the CWC or the Governmental Entity reviews any recommendation made by the Executive Committee within such fifteen (15) days.

E. If no report referred to in Subsection (C) or no information referred to in Subsection (D) is received from the City within the thirty-five (35) day period following the submission of a VENDEX questionnaire as provided in Subsection (C), the Subcontractor may be deemed to be an Eligible Subcontractor for purposes of this Section.

F. The City shall not use this Section as a means of restricting the selection or approval of an Eligible Subcontractor over another Eligible Subcontractor or the decision that one project is undertaken instead of another. The report shall be based solely on the criteria set forth in Subsection (B) and shall not be based on other factors including, without limitation, financial resources, technical qualifications, experience, organization, material, equipment, facilities, personnel resources and expertise, a satisfactory record of performance, the existence of accounting and auditing procedures, or compliance with requirements for the utilization of small, minority-owned and women-owned businesses as subcontractors; provided that the City shall be entitled to review and rely upon any facts and circumstances relevant to the criteria set forth in Subsection (B).

G. In addition to and not in limitation of the indemnification provision in Article 11,

at CWC's request, the City shall defend, indemnify and hold harmless CWC, its officers, agents and employees from and against any liability, damage, claims, demands, costs, judgments, fees, attorney fees or loss arising directly or indirectly out of a determination with respect to a Covered Contract pursuant to this Section, including, the requirements that Subcontractors complete and submit the VENDEX questionnaire and meet the criteria in Subsection (B), the requirement of submitting disputes to the Executive Committee in Subsection (D), the report or other information provided by the City to CWC; and any other dissemination of the information provided by the City necessary to comply with this Section. CWC agrees to cooperate with and provide reasonable assistance to the City in defending any actions or claims which the City has undertaken to defend pursuant to this Subsection.

H. In addition to and not in limitation of the indemnification provision in Article 11, at the Governmental Entity's request, the City shall defend, indemnify and hold harmless the Governmental Entity, its officers, agents and employees from and against any liability, damage, claims, demands, costs, judgments, fees, attorney fees or loss arising directly or indirectly out of a determination with respect to a Covered Contract pursuant to this Section, including, the requirements that Subcontractor complete and submit the VENDEX questionnaire and meet the criteria in Subsection (B), the requirement of submitting disputes to the Executive Committee in Subsection (D), the report or other information provided by the City.; and any other dissemination of the information provided by the City necessary to comply with this Section; provided that the Governmental Entity agrees in its agreement with CWC to cooperate with and provide reasonable assistance to the City in defending any actions or claims which the City has undertaken to defend pursuant to this Subsection. Any costs incurred by the City pursuant to Subsections (G) or (H) shall be in addition to and shall not reduce the City's obligations under Section 3.01

I. The Governmental Entity referenced in Subsection (H) shall be a third party beneficiary of Subsection (H). The City shall be a third party beneficiary to CWC's agreement with the Governmental Entity for purposes of enforcing Subsection (H).

## ARTICLE 8 REPRESENTATIONS AND WARRANTIES

### Section 8.01 Status and Authority of CWC

CWC represents and warrants that:

A. CWC is and will continue to be a locally based and administered not-for-profit corporation duly organized under Section 1411 of the New York State Not-For-Profit Corporation Law, validly existing and in good standing under the laws of the State of New York.

B. CWC has all requisite power and authority to execute, deliver and perform this Agreement.

C. CWC has supplied DEP with current copies of its certificate of incorporation and

by-laws, and will update these if they are amended during the term of this Agreement.

D. This Agreement has been duly authorized by all necessary action on the part of CWC and has been duly executed and delivered by CWC and, assuming due execution and delivery by the City, constitutes a legal, valid, binding and enforceable obligation of CWC.

E. The execution and delivery of this Agreement, and compliance with the provisions hereof, do not and will not conflict with or constitute a violation of or default under CWC's certificate of incorporation or by-laws, or any statute, indenture, mortgage, deed of trust or other agreement or instrument to which CWC is bound, or to the knowledge of CWC, any order, rule or regulation of any court or governmental agency or body having jurisdiction over CWC or any of its activities or properties.

F. Acceptance of any funds hereunder shall be deemed at such time a reaffirmation of the representations and warranties hereof.

#### Section 8.02 Authority of the City

The City represents and warrants that:

A. The City has all requisite power and authority to execute, deliver and perform this Agreement. DEP is a validly authorized and existing agency of the City, with full right and power to execute, deliver and perform its obligations under this Agreement.

B. The execution, delivery and performance by the City and DEP of this Agreement are within the powers of the City and DEP, and upon registration of this Agreement pursuant to Section 328 of the City Charter, will have been duly authorized by all necessary action on the part of the City, and will require no action by or in respect of, or filing with, any governmental body, agency or official. Upon registration of this Agreement pursuant to Section 328 of the City Charter, the City also represents that the City and DEP will have complied with all applicable laws in connection with the execution, delivery and performance of this Agreement.

C. This Agreement will, when executed by the City and registered by the City pursuant to Section 328 of the City Charter, and assuming due execution and delivery by CWC, constitute the valid and binding agreement of the City and DEP, enforceable in accordance with its terms.

D. The execution and delivery of this Agreement by the City and DEP, and compliance with the provisions hereof, do not and will not conflict with or constitute a violation of or default under any provision of applicable law, charter, ordinance or regulation or, to the extent of the City's knowledge, of any material agreement, judgment, injunction, order, decree or other instrument binding upon the City or DEP.

#### Section 8.03 Conflict of Interest

A. CWC represents and warrants that neither it nor any of its directors, officers, members, partners or employees, have any interest nor shall they acquire any interest, directly or indirectly, in any contracts or subcontracts, except contracts or subcontracts

between CWC and a government, which would or may conflict in any manner or degree with the performance or rendering of the services herein provided.

B. CWC further represents and warrants that in the performance of this Agreement, no person having such interest or possible interest in any contracts or subcontracts which would or may conflict in any manner or degree with the performance or rendering of the services herein provided shall be employed by it or receive any of the Program Funds to be paid to CWC by the City.

C. An employee, officer, director or member of CWC, upon learning that any project proposed for funding hereunder will directly benefit himself/herself or a member of his/her family (parents, grandparents, siblings, children, or grandchildren), or will directly benefit any firm which he/she or any of the foregoing persons holds a financial interest, shall disclose his/her association to the Board of Directors of CWC and refrain from participating in any consideration, review or approval of the project at issue.

D. No elected official or other officer or employee of the City or DEP, nor any person whose salary is payable, in whole or in part, from the City Treasury, or from Program Funds shall participate in any decision relating to this Agreement which affects her/his personal interest or the interest of any corporation, partnership or association other than the City or DEP, in which he/she is, directly or indirectly, interested.

E. CWC shall continuously maintain a conflict of interest policy that provides that no officer, employee or director of CWC shall use or attempt to use his/her position with CWC to obtain any financial gain, contract, privilege or other advantage from the Program, and further provides that that any officer, employee or director of CWC shall fully disclose to CWC any financial or other interest in any proposed contract or subcontract to be awarded or approved by CWC before any discussion of such matter or vote regarding such matter, shall absent himself or herself from, and shall not participate in any discussion or vote concerning such matter, and shall not seek to use personal influence in connection with the Board of Directors' consideration of such matter. Nothing in this Section, however, shall prohibit an elected official of a West of Hudson Watershed municipality or employee of the City from using his/her position with CWC to obtain a gain, contract, privilege or other advantage for the benefit of the municipality represented by such official or of the City provided that any benefit conferred on such official or employee personally by virtue of such action is similar to the benefit conferred on other eligible residents of the municipality.

F. Said conflict of interest policy shall also continuously provide that no officer, employee or director of CWC shall assume a position as director, officer or employee with, or acquire a financial interest in any firm or corporation which is awarded a contract by the CWC except if approved by the Executive Committee of the Watershed Protection and Partnership Council.

G. For purposes of CWC's conflict of interest policy, a conflict of interest will be deemed to exist if the officer, director or employee of CWC has, or the officer's, director's or employee's immediate family has, or is considering acquiring, a position with, or an ownership or other financial interest in, any person or firm holding, bidding for, or proposed to be awarded a contract or subcontract to be awarded hereunder.

ARTICLE 9  
APPLICABLE LAWS, RULES, AND REGULATIONS

Section 9.01 Severability

If any provision of this Agreement or its application shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of all other provisions and applications hereof shall not in any way be affected or impaired.

Section 9.02 Compliance with the Law

CWC agrees that all acts to be performed by it in connection with this Agreement shall be performed in compliance with all applicable federal, State and local laws, rules, regulations and orders.

ARTICLE 10  
DEFAULT, SUSPENSION OR TERMINATION

Section 10.01 Defaults

If either Party defaults in the observance or performance of any material term of this Agreement, and such default continues for more than thirty (30) days after written notice of such default is received by the defaulting Party from the non-defaulting Party, such non-defaulting Party may (in addition to any other rights or remedies available at law or in equity) suspend work or terminate this Agreement upon written notice to the defaulting Party. If a material breach of the Agreement cannot be cured within thirty (30) days, the Agreement shall not be suspended or terminated pursuant to this Section if the breaching Party commences appropriate actions to cure the breach prior to the end of the thirty (30) days and diligently prosecutes the actions necessary to cure the breach. Notwithstanding the suspension or termination of this Agreement pursuant to this section, nothing herein shall relieve the City of its obligation under the Water Supply Permit to provide one million four hundred twenty-six thousand one hundred thirty-eight dollars (\$1,426,138) for the purposes set forth herein.

Section 10.02 Additional Remedies for City Default

- A. If CWC substantially prevails in an action against the City to enforce this Agreement, the City will pay CWC its reasonable attorney's fees which have been actually incurred.
- B. If the City fails to make a payment to CWC within thirty (30) days of the date such payment became due and owing under this Agreement and this Agreement was valid and enforceable on the date such payment became due and owing, the City shall pay CWC interest on such missed payment from the date such payment became due and owing until the date such payment is actually made. Interest shall be payable at an annual rate equal to the prime lending rate used by Chase Manhattan Bank, New York,

New York, or its successor, as of the date the payment became due and owing, plus two percent (2%), compounded annually. Such interest shall be in addition to, and not in lieu of, other damages, including consequential damages (other than the costs of borrowing to replace funds not received from the City) and interest. CWC may be entitled to under the common law and statutes of New York State, including the Civil Practice Law and Rules. Such interest shall also be in addition to, and shall not reduce, the City's payment obligations under Section 3.01. Any such interest shall be paid into the Program Fund for which payment was missed and shall be used in the same manner, and subject to the same restrictions as other funds in such Program Fund.

### Section 10.03 Force Majeure

A. In the event the City cannot comply with the terms and conditions of this Agreement because of an act of God, war, strike or other condition as to which conduct the City was not the proximate cause, the City's performance hereunder may be excused or delayed provided the City notifies CWC and the Watershed Protection and Partnership Council, as set forth in Article IV of the Watershed MOA, in writing within ten (10) days of obtaining knowledge of such condition and requests an appropriate extension of the relevant terms and conditions of this Agreement and further provided that the City makes its best efforts to provide for alternate arrangements to fulfill the terms and conditions of this Agreement.

B. In the event CWC cannot comply with the terms and conditions of this Agreement because of an act of God, war, strike or other condition as to which conduct CWC was not the proximate cause, CWC's performance hereunder may be excused or delayed provided CWC notifies the City and the Watershed Protection and Partnership Council, as set forth in Article IV of the Watershed MOA, in writing within ten (10) days of obtaining knowledge of such condition and requests an appropriate extension of the relevant terms and conditions of this Agreement and further provided that CWC uses best efforts to provide for alternate arrangements to fulfill the terms and conditions of this Agreement. Nothing in this Subsection shall excuse CWC from using Program Funds for the purposes set forth in Section 2.04.

### Section 10.04 Rights Upon Termination of Agreement

Upon termination of this Agreement, whether by expiration of its term or otherwise, the following procedures shall be followed:

A. The City shall stop making any further payments to CWC pursuant to this Agreement and CWC shall not incur any further obligation pursuant to this Agreement. CWC shall be entitled to receive or retain Program Funds in a manner consistent with this Agreement to pay obligations necessarily incurred by CWC in accordance with this Agreement pursuant to contracts entered into in good faith prior to termination pursuant to Section 10.01. Termination of this Agreement pursuant to this Section shall not relieve the City of its obligation under the Water Supply Permit to provide up to one million, four hundred twenty-six thousand, one hundred thirty-eight dollars (\$1,426,138) for the purposes set forth herein.

B. CWC shall account for and refund to DEP or the City, within thirty (30) calendar days, any unexpended Program Funds which have been paid to CWC pursuant to this



Agreement, except for any funds paid to CWC pursuant to Section 10.02.

C. CWC shall submit, within ninety (90) calendar days, the reports required pursuant to Subsection 5.04(C).

## ARTICLE 11 INDEMNIFICATION

### Section 11.01 Indemnification

The Parties agree to indemnify each other and save each other harmless from all claims, liabilities, losses or expenses of every character whatsoever relating to or arising out of this Agreement, where such injury or damage is the result of the indemnifying Party's negligence or willful tort occurring while working on activities relating to this Agreement. In the event such injury or damage is caused by the combined negligence of the Parties, each Party shall be responsible for its relative culpability. Any costs incurred by the City pursuant to this Section shall be in addition to and shall not reduce the City's obligations under Section 3.01.

## ARTICLE 12 INVESTIGATIONS

### Section 12.01 Cooperation with Governmental Investigations

CWC and the City agree to cooperate fully and faithfully with any investigation, audit or inquiry relating to the subject matter of this Agreement conducted by a New York State or City governmental agency or authority that is empowered directly or by designation to compel the attendance of witnesses and to examine witnesses under oath, or conducted by the Inspector General of a governmental agency that is a party in interest to the transaction, submitted bid, submitted proposal, contract, lease, permit or license that is the subject of the investigation, audit or inquiry. Any breach or violation of the foregoing may be deemed a breach or violation of a material provision of this Agreement.

## ARTICLE 13 MISCELLANEOUS PROVISIONS

### Section 13.01 Assignment or other Disposition of the Agreement

CWC agrees not to assign, transfer, convey, sublet or otherwise dispose of this Agreement or any part thereof, or of its right, title, or interest therein, or its power to execute such Agreement to any person, company or corporation without the previous written consent of DEP, except that the foregoing provision shall not prohibit CWC from retaining and employing consultants to assist in performing services hereunder subject to the limitations and restrictions on consultants set forth in Article 7 of this Agreement.

### Section 13.02 Modification

This Agreement may not be modified or amended except by an instrument in writing signed by both of the Parties hereto. This Agreement may not be modified or amended orally.

### Section 13.03 Notifications

Unless otherwise expressly provided in this Agreement, any notice from one Party to the other required or permitted to be given hereunder shall be in writing and shall be delivered by hand, or by certified mail, return receipt requested, or by facsimile transmission followed by delivery by hand, by certified mail, return receipt requested, or by overnight mail, to the following addresses:

If to DEP:

New York City Department of Environmental Protection  
71 Smith Avenue  
Kingston, New York 12401  
Attention: Working Lands Section Chief  
Bureau of Water Supply  
Telecopier No.: (845) 340-1326

with a copy to:

New York City Department of Environmental Protection  
59-17 Junction Boulevard, 19th Floor  
Corona, New York 11368  
Attention: General Counsel  
Telecopier No.: (718) 595-6543

If to CWC:

Catskill Watershed Corporation  
P.O. Box 569  
Margaretville, New York 12455

Either Party may change the address to which notice to such Party shall be sent by sending written notice of such change to the other Party.

### Section 13.04 No Third Party Beneficiary

This Agreement between CWC and the City is not intended to create any benefit or interest in any third party, except as provided in Subsection 7.04(I).

### Section 13.05 Cooperation

Both parties acknowledge and agree that during the Program Term they will provide each other promptly with all documentation, reports, and information which may be necessary to carry out their respective obligations under this Agreement. Nothing in this Agreement shall be deemed as consent by or an obligation of either party to provide documents protected by or to

waive the attorney/client privilege or to the attorney work product privilege.

#### Section 13.06 Claims or Actions Against the City

- A. No director, officer, employee, agent or other person authorized to act on behalf of the City shall have any personal liability in connection with this Agreement or any failure of the City to perform its obligations hereunder.
- B. CWC shall report to DEP in writing within seven (7) days of the initiation by CWC or service on CWC of any legal action or proceeding in connection with or relating to this Agreement. In the event any claim is made or any action brought in any way relating to the Agreement herein (except and action brought by CWC against the City or by the City against CWC), CWC shall diligently render to DEP and/or the City without additional compensation, any and all reasonable and necessary assistance which DEP and/or the City may reasonably require of CWC to prosecute or defend such claim or action.

#### Section 13.07 Political and Lobbying Activity

- A. CWC shall not engage in any partisan political activity or any activity to further the election or defeat of any candidate for public, political or party office and otherwise attempt to influence legislation as part of or in connection with this Agreement, nor shall Program Funds be used for such purpose.
- B. Nothing in this Agreement shall prevent CWC from applying for, or obtaining any, financial assistance through grants, loans or other forms of financial aid from any federal, State, local or City agencies, or private or charitable organizations.

#### Section 13.08 Dispute Resolution

The dispute resolution procedures in Article 3 of this Agreement, in the Watershed MOA and under common law shall be the sole dispute resolution procedures applicable to disputes arising under this Agreement.

#### Section 13.09 Miscellaneous

- A. This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York. The Parties consent to the jurisdiction of the Supreme Court of the State of New York for disputes arising from this Agreement.
- B. With the exception of the Watershed MOA, this Agreement constitutes the entire understanding between the Parties with respect to the subject matter hereof. In the event of any conflict between the terms of this Agreement and the terms of the Watershed MOA, the Watershed MOA shall govern. Other than the Watershed MOA, this Agreement supersedes all inconsistent prior agreements with respect to the subject matter hereof, whether written or oral.
- C. This Agreement may be executed in counterparts, each of which shall be an original but all of which together shall constitute one and the same instrument.

**IN WITNESS WHEREOF**, the parties have caused this Agreement to be executed by their duly authorized representatives.

The New York City Department of  
Environmental Protection

By \_\_\_\_\_  
Carter H. Strickland, Jr.  
Commissioner

Catskill Watershed Corporation

By \_\_\_\_\_  
Georgianna Lepke  
President

APPROVED AS TO FORM AND CERTIFIED  
AS TO LEGAL AUTHORITY

\_\_\_\_\_  
Acting Corporation Counsel of  
The City of New York

**ACKNOWLEDGMENT**

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

On this \_\_\_ day of \_\_\_, 20\_\_\_, before me personally came Carter H. Strickland, Jr., to me known, who being by me duly sworn did depose and say that he is the Commissioner of the Department of Environmental Protection of the City of New York, the individual described herein and who executed the foregoing instrument, and that she signed her name thereto as authorized by said municipal corporation.

\_\_\_\_\_  
Notary Public

**ACKNOWLEDGMENT**

STATE OF NEW YORK        )  
                                          : ss.  
COUNTY OF                    )

On this \_\_\_ day of \_\_\_, 20\_\_\_, before me personally came Georgianna Lepke, to me known, who being by me duly sworn did depose and say that she is the President of Catskill Watershed Corporation, the individual described herein and who executed the foregoing instrument, and that she signed his name hereto as authorized by the Board of Directors of said Corporation.

\_\_\_\_\_  
Notary Public

**APPENDIX A**  
**INSURANCE SPECIFICATIONS**

*Voice Vote, carried unanimously*

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Demolition of 141 Delaware Street, Walton - Tab 20

A motion to approve Resolution No. 2334 was made by Michael Triolo and seconded by Jeff Graf.

July 2, 2013

RESOLUTION NO. 2334

**CATSKILL FUND FOR THE FUTURE –DEMOLITION – 141 DELAWARE STREET,
WALTON**

WHEREAS, the Catskill Watershed Corporation (CWC) is a not-for-profit local development corporation whose purpose is, in part, to act in the public interest by promoting increased

employment and encouraging environmentally sound development within the West of Hudson Watershed (WOH); and

WHEREAS, CWC foreclosed on property in the Village of Walton located at 141 Delaware Street that contains a structure that has been condemned by Village Code Enforcement and necessitates the structures removal; and

WHEREAS, CWC issued a request for proposal for the demolition of the structure located at 141 Delaware Street and received four (4) responses; and

WHEREAS, by Resolution 2317, CWC Board authorized accepting the lowest responsible bid of Seventeen Thousand Eight Hundred Three Dollars (\$17,803.00), for demolition of the structure at 141 Delaware Street in the Village of Walton and informed successful bidder of same; and

WHEREAS, lowest bidder thereafter contacted CWC and claimed in writing they would be unable to meet the bid due to an arithmetic error; and

WHEREAS, CWC staff recommends awarding bid to second lowest responsible bidder, DOIG Excavating, who bid in the amount of Forty-Three Thousand Two Hundred Thirty Dollars (\$43,230.00).

NOW THEREFORE, the CWC Board approves the expenditure of up to Forty-Three Thousand Two Hundred Thirty Dollars (\$43,230.00) for demolition of the structure located at 141 Delaware Street in the Village of Walton and authorizes the President and/or Executive Director to execute contracts for same.

Voice Vote, carried unanimously

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**CFF 2013 Flood Recovery Grant Program – Not-for-Profits – Zaddock Pratt Museum – Tab 21**

A motion to approve Resolution No. 2335 was made by Michael Triolo and seconded by Richard Parete.

July 2, 2013

**RESOLUTION NO. 2335**

**2013 FLOOD RECOVERY GRANT PROGRAM –NOT-FOR-PROFITS**  
**ZADOCK PRATT MUSEUM**

**WHEREAS**, pursuant to the New York City Watershed Memorandum of Agreement (Watershed MOA) and a Program Contract with New York City Department of Environmental Protection, the Catskill Watershed Corporation (CWC) shall administer the Catskill Fund for the Future (CFF); and

**WHEREAS**, the CWC has adopted program rules consistent with the Watershed MOA and the CFF Program Contract to administer this program; and

**WHEREAS**, pursuant to the MOA, the CFF shall be used to make loans and grants to Qualified Economic Development Projects (QEDP's); and

**WHEREAS**, pursuant to the Watershed MOA, QEDP is defined as economic development studies, grants and loans for projects which encourage environmentally sound development and which encourage the goals of watershed protection and job growth in the West of Hudson Watershed communities; and

**WHEREAS**, at a special meeting held on September 13, 2011, by Resolution Number 1985, the CWC Board of Directors established the 2011 Flood Recovery Grant Program to provide grants through member towns to businesses in the West of Hudson Watershed that sustained structural damage as a result of Tropical Storms Irene and/or Lee to pay some or all of the costs to repair said structural damage; and

**WHEREAS**, structures owned by not-for-profit corporations located within the West of Hudson Watershed also sustained structural damage as a result of Tropical Storms Irene and Lee and have had difficulty raising funds to repair such damage; and

**WHEREAS**, not-for-profit corporations in the West of Hudson Watershed employ numerous watershed residents and are a vital part of the regional economy; and

**WHEREAS**, on February 5, 2013, by Resolution Number 2250 the, CWC Board of Directors established the 2013 Flood Recovery Grant Program – Not-for-Profits to provide reimbursement of up to Ten Thousand Dollars (\$10,000.00) per property for repairs of structural damage caused by Tropical Storms Irene and/or Lee for structures owned and/or used by not-for-profit corporations; and

**WHEREAS**, the CWC Board of Directors further recommends that this program be limited to total awards in an amount not to exceed One Hundred Thousand Dollars (\$100,000.00); and

**WHEREAS**, the Economic Development Committee recommended a grant award of Ten Thousand Dollars (\$10,000.00) to Zadock Pratt Museum for repairs to their facility located at 14540 Main Street, Prattsville, New York, for damage sustained as a result of Tropical Storms Irene and/or Lee.

**NOW, THEREFORE BE IT RESOLVED**, that the CWC Board of Directors, consistent with the terms of the MOA and the Program Contract, the West of Hudson Economic Development Study and the Economic Development Committee recommendation, award Ten Thousand Dollars (\$10,000.00) to Zadock Pratt Museum for repairs to their facility located at 14540 Main Street, Prattsville, New York, for damage sustained as a result of Tropical Storms Irene and/or Lee.

**NOW, THEREFORE BE IT FURTHER RESOLVED**, the Executive Director and/or President are authorized to execute grant contract with the attached grant applicant and to disburse proceeds in accordance herewith and applicable provisions of said contracts.

**NOW, THEREFORE BE IT FURTHER RESOLVED**, approval of an application by the Board constitutes a preliminary decision under the MOA. The decision will become final without any further action by the Board unless an objection is timely filed with the Watershed Protection and Partnership Council.

## **QEDP Evaluation and CWC Staff Recommendation**

### **Purpose: To review the CWC Grant Application of Zadock Pratt Museum**

The Executive Director of the CWC makes the following evaluation concerning a REDI Fund 2011 Flood Recovery Grant to Zadock Pratt Museum, Town of Prattsville, NY. Evaluation is based on the Evaluation Criteria established in the Catskill Fund for the Future Program Rules, approved on August 22, 2001 by the CWC Board of Directors.

1. Based on due inquiry and to the best of CWC's knowledge, the property located at 14540 Main Street, Prattsville, NY, used as a Museum, is presently in compliance with all applicable environmental statutes and regulations.
2. Based on due inquiry and to the best of CWC's knowledge, the property located at 14540 Main Street, Prattsville, NY, used as a Museum, is not subject to any enforcement actions by any regulatory agency.
3. (a) To the best of CWC's knowledge, the project is consistent with historic land use patterns, available infrastructure and sensitivity to the need for water quality protection.
  - (i) Zadock Pratt Museum owns the property located at 14540 Main Street, Prattsville, NY. The project is located in the Town of Prattsville.
  - (ii) The project will utilize the Town's Waste Water Treatment Facility.
  - (iii) The project appears to present no threat to water quality.
  - (iv) The project appears to generate no materials with the potential to degrade water quality that are not pretreated prior to release.
  - (v) Based on NYCDEP the project is not in the 60 day travel time.
  - (vii) There is no impact on Federal or State wetlands.(b) The project maintains the character of the Town of Prattsville. The project is consistent with current zoning.
  - (i) The project is compatible with surrounding land uses.
  - (ii) The project will not generate excessive traffic.
  - (iii) The project as described is of such magnitude that it does not appear likely to promote secondary growth and therefore requires not additional review of land use plans or infrastructure.
4. The project is consistent with the West of Hudson Economic Development Study, which has been completed.
5. Not applicable.

### **Voice Vote, carried unanimously**

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A motion to enter into Executive Session with Alan L. Rosa, Timothy Cox, Barbara Puglisi, Jason Merwin, and Phil Sireci to discuss CFF delinquent loans and new loan applicant financials was made by James Eisel and seconded by Tina Molé.

Voice Vote, carried unanimously

A motion to resume the regular meeting was made by Michael Triolo and seconded by Deborah DeWan.


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**CFF REDI Loan – Brookside Animal Hospital - Tab 22**

A motion to approve Resolution No. 2336 was made by Innes Kasanof and seconded by Tina Molé.

July 2, 2013

**RESOLUTION NO. 2336**

**APPROVAL OF LARAINÉ CALIRI, DVM**

**BUSINESS LOAN**

**WHEREAS**, the Catskill Watershed Corporation (CWC) established the REDI Fund Loan Program for the purpose of providing low interest loans to qualified economic development projects in the West of Hudson Watershed to be administered by the CWC in accordance with the Catskill Fund for the Future (CFF) Program Rules; and

**WHEREAS**, Laraine Caliri, DVM, has applied for a Five Hundred Fifty Thousand Dollar (\$550,000.00) loan for a term of fifteen (15) years, at a rate of four percent (4.0%), adjustable every five years to the CWC rate in effect at that time, to be amortized in one hundred eighty (180) equal monthly payments, such that the outstanding principal is fully paid on the one hundred and eightieth (180<sup>th</sup>) payment date, for the refinance of existing debt, purchase of the real property at 42981 NYS Route 28, working capital, and soft costs; and

**WHEREAS**, pursuant to the CFF Program rules the CWC Staff has reviewed a completed CWC Loan application for Laraine Caliri, DVM; and

**WHEREAS**, pursuant to the CFF Program rules the CWC Loan Committee has reviewed an underwriting report for Laraine Caliri, DVM; and

**WHEREAS**, the CWC Loan Committee has recommended approval of the CWC Loan application from Laraine Caliri, DVM; and

**WHEREAS**, CWC staff recommends waiving requirement that applicant contribute at least 10% equity pursuant to CFF Program Rule Section 1:05:03(d) because of special financial circumstances of applicant, including applicant's contribution of 9% equity; and

**WHEREAS**, the CWC staff has reviewed and processed this application, and submitted a loan application report to the Board of Directors, attached hereto; and

**WHEREAS**, the Executive Director, pursuant to the CFF Program rules, has evaluated and determined that this loan meets the criteria for a qualified economic development project, said recommendation is attached hereto and made a part hereof; and

**WHEREAS**, pursuant to the CFF Program Contract a condition of CFF loans (and grants) is that the recipient shall comply with all applicable provisions of the New York City Watershed regulations, as well as other applicable laws, rules and regulations; and

**WHEREAS**, prior to closing on this loan, all applicable approvals will have been received by the applicant; and

**WHEREAS**, pursuant to the CFF Program rules only the CWC Board of Directors may make an award from the CFF to an applicant.

**NOW, THEREFORE BE IT RESOLVED**, the CWC Board determines Laraine Caliri, DVM's, application meets the CWC CFF qualified economic development criteria and approves of the loan application in the amount of Five Hundred Fifty Thousand Dollars (\$550,000.00) for a term of fifteen (15) years, at a rate of four percent (4.0%), adjustable every five years to the CWC rate in effect at that time, to be amortized in one hundred eighty (180) equal monthly payments, such that the outstanding principal is fully paid on the one hundred and eightieth (180<sup>th</sup>) payment date and waives the requirement for 10% equity contribution pursuant to CFF Program Rule §1:05:03.

**NOW, THEREFORE BE IT FURTHER RESOLVED**, the CWC staff is authorized and directed to issue a commitment letter informing the borrower of its intention to issue the loan subject to compliance with all applicable provisions of the New York City Watershed regulations as well as other applicable laws, rules and regulations, completion of the necessary documents, the right of objection and staff is directed to develop the loan agreement, promissory notes and other documentation necessary to effectuate this loan in a form agreed upon.

**NOW, THEREFORE BE IT FURTHER RESOLVED**, that upon said approval of loan documentation CWC is authorized to close on said loan and to disburse proceeds thereof in accordance with the loan documents.

**NOW, THEREFORE BE IT FURTHER RESOLVED**, approval of an application by the Board constitutes a preliminary decision under the MOA. The decision will become final without any further action by the Board unless an objection is timely filed with the Watershed Protection and Partnership Council.

#### **QEDP Evaluation and CWC Staff Recommendation**

**Purpose: To review the CWC Loan Application of Laraine Caliri, DVM**

The Executive Director of the CWC makes the following evaluation concerning a REDI Fund Loan to Laraine Caliri, DVM located in the Town of Middletown, NY. Evaluation is based on the Evaluation Criteria established in the Catskill Fund for the Future Program Rules, approved on August 22, 2001 by the CWC Board of Directors.

1. Based on due inquiry to the NYSDEC, the NYCDEP and to the best of CWC's knowledge, the property at 42981 NYS Route 28, Arkville, NY, to be owned by Laraine Caliri, DVM, is presently in compliance with all applicable environmental statutes and regulations.
2. Based on due inquiry to the NYSDEC, the NYCDEP and to the best of CWC's knowledge, the property 42981 NYS Route 28, Arkville, NY, to be owned by Laraine Caliri, DVM, is not subject to any enforcement actions by any regulatory agency.

3. (a) To the best of CWC's knowledge, the project is consistent with historic land use patterns, available infrastructure and sensitivity to the need for water quality protection.
  - (i) Laraine Caliri, DVM will purchase a commercial property at 42981 NYS Route 28, Arkville, NY.
  - (ii) The project is located in the Town of Middletown.
  - (iii) The project will utilize a municipal sewage system.
  - (iv) The project appears to present no threat to water quality.
  - (v) The project appears to generate no materials with the potential to degrade water quality that are not pretreated prior to release.
  - (vi) Based on NYCDEP the project is not in the 60 day travel time.
  - (vii) There is no impact on Federal or State wetlands.
- (b) The project maintains the character of the Town of Middletown.
  - (i) The project is consistent with current zoning.
  - (ii) The project is compatible with surrounding land uses.
  - (iii) The project will not generate excessive traffic.
  - (iv) The project as described is of such magnitude that it does not appear likely to promote secondary growth and therefore requires not additional review of land use plans or infrastructure.
4. The project is consistent with the West of Hudson Economic Development Study, which has been completed.
5. Not applicable.

**Voice Vote, carried unanimously**

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CFF REDI Loan – Spillian, LLC – Additional Funds - Tab 23

A motion to approve Resolution No. 2337 was made by Richard Parete and seconded by Michael Triolo.

July 2, 2013

RESOLUTION NO. 2337

APPROVAL OF SPILLIAN, LLC

BUSINESS LOAN MODIFICATION AND CONSOLIDATION

WHEREAS, the Catskill Watershed Corporation (CWC) established the REDI Fund Loan Program for the purpose of providing low interest loans to qualified economic development projects in the West of Hudson Watershed to be administered by the CWC in accordance with the Catskill Fund for the Future (CFF) Program Rules; and

WHEREAS, On May 1 2012 the CWC Board of Directors, by Resolution Number 2108, approved a loan to Spillian, LLC in the amount of Four Hundred Thousand Dollars (\$400,000.00); and

WHEREAS, Spillian, LLC, has applied for an additional Fifty Thousand Dollars (\$50,000.00) for a total loan amount of Four Hundred Fifty Thousand Dollars (\$450,000.00) for a term of

fifteen (15) years, at a rate of four percent (4.0%), adjustable every five years, with a twenty year amortization after the six month construction period of interest only, to the CWC rate in effect at that time, to be amortized in equal monthly payments, such that the outstanding principal is fully paid on the last payment date, for the purchase and renovation of 50 Todd Mt. Road, Fleischmanns, NY, to be restored and open as a retreat, hospitality venue; and

WHEREAS, pursuant to the CFF Program rules the CWC Staff has reviewed a completed CWC Loan application for Spillian, LLC; and

WHEREAS, pursuant to the CFF Program rules the CWC Loan Committee has reviewed an underwriting report for Spillian, LLC; and

WHEREAS, the CWC Loan Committee has recommended approval of the CWC Loan application from Spillian, LLC for an additional Fifty Thousand Dollars (\$50,000.00), for a total loan of Four Hundred Fifty Thousand Dollars (\$450,000.00); and

WHEREAS, the CWC Loan Committee has further recommends that Seventy-Five Thousand Dollars (\$75,000.00) be held by CWC and directed toward funding the lateral hook-up to the sewer extension, with any remaining balance being drawn upon receipt of the Certificate of Occupancy; and

WHEREAS, the CWC staff has reviewed and processed this application, and submitted a loan application report to the Board of Directors, attached hereto; and

WHEREAS, the Executive Director, pursuant to the CFF Program rules, has evaluated and determined that this loan meets the criteria for a qualified economic development project, said recommendation is attached hereto and made a part hereof; and

WHEREAS, pursuant to the CFF Program Contract a condition of CFF loans (and grants) is that the recipient shall comply with all applicable provisions of the New York City Watershed regulations, as well as other applicable laws, rules and regulations; and

WHEREAS, prior to closing on this loan, all applicable approvals will have been received by the applicant; and

WHEREAS, pursuant to the CFF Program rules only the CWC Board of Directors may make an award from the CFF to an applicant.

NOW, THEREFORE BE IT RESOLVED, the CWC Board determines that Spillian, LLC application meets the CWC CFF qualified economic development criteria and approves of the loan application in the amount of Four Hundred Fifty Thousand Dollars (\$450,000.00) for a term of fifteen (15) years, at a rate of four percent (4.0%), adjustable every five years with a twenty year amortization after the six month construction period of interest only, to the CWC rate in effect at that time, to be amortized in equal monthly payments, such that the outstanding principal is fully paid on the last payment date.

NOW, THEREFORE BE IT FURTHER RESOLVED, the CWC staff is authorized and directed to issue a commitment letter informing the borrower of its intention to issue the loan subject to compliance with all applicable provisions of the New York City Watershed regulations as well as other applicable laws, rules and regulations, completion of the necessary documents,

the right of objection and staff is directed to develop the loan agreement, promissory notes and other documentation necessary to effectuate this loan in a form agreed upon.

NOW, THEREFORE BE IT FURTHER RESOLVED, that upon said approval of loan documentation CWC is authorized to close on said loan and is authorized to disburse proceeds thereof in accordance with the loan documents.

NOW, THEREFORE BE IT FURTHER RESOLVED, approval of an application by the Board constitutes a preliminary decision under the MOA. The decision will become final without any further action by the Board unless an objection is timely filed with the Watershed Protection and Partnership Council.

QEDP Evaluation and CWC Staff Recommendation

Purpose: To review the CWC Loan Application of Spillian, LLC

The Executive Director of the CWC makes the following evaluation concerning a REDI Fund Loan to Spillian, LLC located in the Village of Fleischmanns, NY. Evaluation is based on the Evaluation Criteria established in the Catskill Fund for the Future Program Rules, approved on August 22, 2001 by the CWC Board of Directors.

1. Based on due inquiry to the NYSDEC, the NYCDEP and to the best of CWC's knowledge, the property at 50 Todd Mt. Road, Fleischmanns, NY, has purchased by Spillian, LLC, is presently in compliance with all applicable environmental statutes and regulations.
2. Based on due inquiry to the NYSDEC, the NYCDEP and to the best of CWC's knowledge, the property at 50 Todd Mt. Road, Fleischmanns, NY, has purchased by Spillian, LLC, is not subject to any enforcement actions by any regulatory agency.
3. (a) To the best of CWC's knowledge, the project is consistent with historic land use patterns, available infrastructure and sensitivity to the need for water quality protection.
 - (i) Spillian, LLC owns at 50 Todd Mt. Road, Fleischmanns, NY.
 - (ii) The project is located in the Village of Fleischmanns.
 - (iii) The project will be connecting to public wastewater treatment plant.
 - (iv) The project appears to present no threat to water quality.
 - (v) The project appears to generate no materials with the potential to degrade water quality that are not pretreated prior to release.
 - (vi) Based on NYCDEP the project is not in the 60 day travel time.
 - (vii) There is no impact on Federal or State wetlands.
- (b) The project maintains the character of the Village of Fleischmanns.
 - (i) The project is consistent with current zoning.
 - (ii) The project is compatible with surrounding land uses.
 - (iii) The project will not generate excessive traffic.
 - (iv) The project as described is of such magnitude that it does not appear likely to promote secondary growth and therefore requires not additional review of land use plans or infrastructure.
4. The project is consistent with the West of Hudson Economic Development Study, which has been completed.
5. Not applicable.

Voice Vote, carried unanimously

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**CFF REDI Loan – Masserson Properties, LLC - Consolidation - Tab 24**

A motion to approve Resolution No. 2338 was made by James Eisel and seconded by Thomas Hynes.

July 2, 2013

**RESOLUTION NO. 2338**

**APPROVAL OF MASSESON PROPERITES, INC.**

**BUSINESS LOAN**

**WHEREAS**, the Catskill Watershed Corporation (CWC) established the REDI Fund Loan Program for the purpose of providing low interest loans to qualified economic development projects in the West of Hudson Watershed to be administered by the CWC in accordance with the Catskill Fund for the Future (CFF) Program Rules; and

**WHEREAS**, on March 25, 2003, by Resolution Number 573, the CWC Board of Directors approved a Ninety-Eight Thousand Dollar (\$98,000.00) loan for a term of fifteen (15) years, at a rate of four percent (4.00%), to be amortized in equal monthly payments such that the outstanding principal is fully paid on the last payment date, to purchase an existing apartment rental property and convert it into a lodging facility/motel; and

**WHEREAS**, on March 23, 2004, by Resolution Number 685, the CWC Board of Directors approved a Fifty Thousand Dollar (\$50,000.00) loan for a term of seven (7) years, at a rate of four percent (4.0%), to be amortized in equal monthly payments, such that the outstanding principal is fully paid on the last payment date, for the furniture, fixtures and supplies related to the renovation project of the Roxbury; and

**WHEREAS**, on July 25, 2006, by Resolution Number 1044, the CWC Board of Directors approved a Two Hundred Thousand Three Hundred Dollar (\$200,300.00) loan for a term of fifteen (15) years, at a rate of five and one hundred twenty-five thousandth percent (5.125%) adjustable every five years to the CWC rate in effect at that time, to be amortized in equal monthly payments, such that the outstanding principal is fully paid on the last payment date, for the purpose of construction of a seven room addition to the existing “The Roxbury” motel; and

**WHEREAS**, on September 26, 2006, by Resolution Number 1067, the CWC Board of Directors approved an additional Thirty-Nine Thousand Seven Hundred Dollar (\$39,700.00) loan for a term of fifteen (15) years, that will be amortized over twenty (20) years with a balloon payment at the end of fifteen (15) years, at a rate of five and one hundred twenty-five thousandth percent (5.125%) adjustable every five years to the CWC rate in effect at that time, to be amortized in equal monthly payments, such that the outstanding principal is fully paid on the last payment date, for the purpose of additional construction costs for “The Roxbury” motel; and

**WHEREAS**, on July 7, 2009, by Resolution Number 1555, the CWC Board of Directors approved a One Million One Hundred Seven Thousand Seven Hundred Seventy-Two Dollar (\$1,107,772.00) loan for a term of fifteen (15) years, at a rate of four percent (4.0%), adjustable every five years to the CWC rate in effect at that time, to be amortized in two hundred forty

(240) equal monthly payments, with the one hundred and eightieth (180<sup>th</sup>) being a balloon a payment, such that the outstanding principal is fully paid on such payment date, for the purchase, demolition and construction of the expansion of The Roxbury, Contemporary Catskill Lodging; and

**WHEREAS**, on December 1, 2009, by Resolution Number 1654, the CWC Board of Directors approved an additional Eighty-Two Thousand Two Hundred Twenty-Eight Dollars (\$82,228.00) for a total loan of One Million One Hundred Ninety Thousand Dollar (\$1,190,000.00) loan for a term of fifteen (15) years, at a rate of four percent (4.0%) adjustable every five years to the CWC rate in effect at that time, to be amortized in two hundred forty (240) equal monthly payments, with the one hundred and eightieth (180<sup>th</sup>) payment being a balloon payment, such that the outstanding principal is fully paid on the one hundred and eightieth (180<sup>th</sup>) payment date, for the purpose of additional construction costs for “The Roxbury” motel; and

**WHEREAS**, Masserson Properties, Inc. has applied for a Consolidation, Modification and Extension loan to include the above loan balances, with additional funding, in an amount not to exceed One Million Five Hundred Thousand Dollars (\$1,500,000.00), for a term of fifteen (15) years, at a rate of four percent (4.0%), adjustable every five years to the CWC rate in effect at that time, to be amortized in two hundred forty (240) equal monthly payments, with the one hundred and eightieth (180<sup>th</sup>) being a balloon a payment, such that the outstanding principal is fully paid on the one hundred eightieth (180<sup>th</sup>) payment date, for the refinance of debt with regard to The Roxbury, Contemporary Catskill Lodging; and

**WHEREAS**, pursuant to the CFF Program rules the CWC Staff has reviewed a completed CWC Loan application for Masserson Properties, Inc.; and

**WHEREAS**, pursuant to the CFF Program rules the CWC Loan Committee has reviewed an underwriting report for Masserson Properties, Inc.; and

**WHEREAS**, the CWC Loan Committee has recommended approval of the CWC Loan application from Masserson Properties, Inc.; and

**WHEREAS**, the CWC staff has reviewed and processed this application, and submitted a loan application report to the Board of Directors, attached hereto; and

**WHEREAS**, the Executive Director, pursuant to the CFF Program rules, has evaluated and determined that this loan meets the criteria for a qualified economic development project, said recommendation is attached hereto and made a part hereof; and

**WHEREAS**, pursuant to the CFF Program Contract a condition of CFF loans (and grants) is that the recipient shall comply with all applicable provisions of the New York City Watershed regulations, as well as other applicable laws, rules and regulations; and

**WHEREAS**, prior to closing on this loan, all applicable approvals will have been received by the applicant; and

**WHEREAS**, pursuant to the CFF Program rules only the CWC Board of Directors may waive the loan fee with regard to this application; and

**WHEREAS**, pursuant to the CFF Program rules only the CWC Board of Directors may make an award from the CFF to an applicant.

**NOW, THEREFORE BE IT RESOLVED**, the CWC Board determines that Masserson Properties, Inc. application meets the CWC CFF qualified economic development criteria and approves of the loan application to Consolidate, Modify and Extend the above loan balances, with additional funding, in an amount not to exceed One Million Five Hundred Thousand Dollars (\$1,500,000.00), for a term of fifteen (15) years, at a rate of four percent (4.0%), adjustable every five years to the CWC rate in effect at that time, to be amortized in two hundred forty (240) equal monthly payments, with the one hundred and eightieth (180<sup>th</sup>) being a balloon payment, such that the outstanding principal is fully paid on the one hundred eightieth (180<sup>th</sup>) payment date.

**NOW, THEREFORE BE IT FURTHER RESOLVED**, the CWC staff is authorized and directed to issue a commitment letter informing the borrower of its intention to issue the loan subject to compliance with all applicable provisions of the New York City Watershed regulations as well as other applicable laws, rules and regulations, completion of the necessary documents, the right of objection and staff is directed to develop the loan agreement, promissory notes and other documentation necessary to effectuate this loan in a form agreed upon.

**NOW, THEREFORE BE IT FURTHER RESOLVED**, that upon said approval of loan documentation CWC, is authorized to close on said loan and disburse proceeds thereof in accordance with the loan documents.

**NOW, THEREFORE BE IT FURTHER RESOLVED**, approval of an application by the Board constitutes a preliminary decision under the MOA. The decision will become final without any further action by the Board unless an objection is timely filed with the Watershed Protection and Partnership Council.

#### **QEDP Evaluation and CWC Staff Recommendation**

**Purpose: To review the CWC Loan Application of Masserson Properties, Inc.**

The Executive Director of the CWC makes the following evaluation concerning a REDI Fund Loan to Masserson Properties, Inc., located in the Town of Roxbury, NY. Evaluation is based on the Evaluation Criteria established in the Catskill Fund for the Future Program Rules, approved on August 22, 2001 by the CWC Board of Directors.

1. Based on due inquiry to the NYSDEC, the NYCDEP and to the best of CWC's knowledge, the property at 2289 County Highway 41, Roxbury, NY, owned by Masserson Properties, Inc., is presently in compliance with all applicable environmental statutes and regulations.
2. Based on due inquiry to the NYSDEC, the NYCDEP and to the best of CWC's knowledge, the property at 2289 County Highway 41, Roxbury, NY, owned by Masserson Properties, Inc., is not subject to any enforcement actions by any regulatory agency.
3. (a) To the best of CWC's knowledge, the project is consistent with historic land use patterns, available infrastructure and sensitivity to the need for water quality protection.
  - (i) Masserson Properties, Inc. owns the property at 2289 County Highway 41, Roxbury, NY, also known as The Roxbury, Contemporary Catskill Lodging.
  - (ii) The project is located in the Town of Roxbury.
  - (iii) The project will utilize the municipal sewer system.



- (iv) The project appears to present no threat to water quality.
  - (v) The project appears to generate no materials with the potential to degrade water quality that are not pretreated prior to release.
  - (vi) Based on NYCDEP the project is not in the 60 day travel time.
  - (vii) There is no impact on Federal or State wetlands.
- (b) The project maintains the character of the Town of Roxbury.
- (i) The project is consistent with current zoning.
  - (ii) The project is compatible with surrounding land uses.
  - (iii) The project will not generate excessive traffic.
  - (iv) The project as described is of such magnitude that it does not appear likely to promote secondary growth and therefore requires not additional review of land use plans or infrastructure.
4. The project is consistent with the West of Hudson Economic Development Study, which has been completed.
  5. Not applicable.

**Voice Vote, carried unanimously**

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IX. Announcements from the Chair: None

X. Board Member Discussion: None

A motion to adjourn was made by Tina Molé and seconded by Jeff Graf.

Voice Vote, carried unanimously

XI. Adjournment: @ 2:35 p.m.