

**CITY OF RYE
1051 BOSTON POST ROAD
RYE, NY 10580
AGENDA**

**REGULAR MEETING OF THE CITY COUNCIL
VIA ZOOM CONFERENCE
Wednesday, September 16, 2020
6:30 p.m.**

PURSUANT TO GOVERNOR CUOMO'S EXECUTIVE ORDER No. 202.1, REQUIREMENTS UNDER THE OPEN MEETINGS LAW HAVE BEEN SUSPENDED AND PUBLIC BODIES MAY MEET WITHOUT ALLOWING THE PUBLIC TO BE PHYSICALLY PRESENT. FOR THE HEALTH AND SAFETY OF ALL, CITY HALL WILL REMAIN CLOSED. THE MEETING WILL BE HELD VIA ZOOM VIDEO-CONFERENCING WITH NO IN-PERSON LOCATION AND WILL BE BROADCAST ON THE CITY WEBSITE. A FULL TRANSCRIPT OF THE MEETING WILL BE MADE AVAILABLE AT A FUTURE DATE.

City of Rye residents may participate in the public meeting via the zoom link below. A resident wishing to speak on a topic should raise his or her hand and, when admitted to speak, should provide name and home address, and limit comment to no more than three minutes.

Please click the link below to join the webinar:

<https://zoom.us/j/97137999675?pwd=YVJyQmo1V2IvNzBwS1pQTzREMTlkZz09>

Passcode: 528919

Or phone: (646) 558-8656 or (301) 715-8592 or (312) 626-6799

Webinar ID: 971 3799 9675

Password: 528919

International numbers available: <https://zoom.us/u/arL9ceVG9>

[The Council will convene via ZOOM CONFERENCE at 5:15 p.m. and it is expected they will adjourn into a teleconference Executive Session at 5:16 p.m. to discuss pending litigation, personnel matters and contract negotiations.]

1. Roll Call
2. Draft unapproved minutes of the Regular Meeting of the City Council held August 17, 2020.
3. Presentation by Westchester Power.

4. Authorize the Interim City Manager to sign a Memorandum of Understanding between Sustainable Westchester and the City of Rye to provide a Community Choice Aggregation Program.
5. Purchase Plaza status update.
6. Presentation by County Legislator, Catherine Parker: “Things You Didn't Know the County Did.”
7. Presentation by City Deputy Comptroller of the City’s current financial position.
8. Presentation regarding the Capital Improvement Program (CIP) for 2021.
9. Update on Boat Basin dredging plans.
10. Resolution of the Rye City Council to adopt a SEQRA Negative Declaration and an affirmative finding of LWRP Coastal Consistency in connection with the Milton Harbor Navigation Channel Dredging project.
11. Residents may be heard on matters for Council consideration that do not appear on the agenda.
12. Resolution to amend the 2020 Adopted Fees and Charges for the Boat Basin to increase fees for winter storage.
13. Approve the application of Joshua E. Burnstein for the position of Volunteer Firefighter for the City of Rye Fire Department.
14. Adjourn the SEQRA discussion to October 7, 2020 regarding a zoning petition from The Miriam Osborn Memorial Home to amend the text of the City of Rye Zoning Code Association to create a new use and development standards for “Senior Living Facilities” in the R-2 Zoning District.
15. Adjourn the public hearing to October 7, 2020 for consideration of a petition from The Miriam Osborn Memorial Home to amend the text of the City of Rye Zoning Code Association to create new use and development standards for “Senior Living Facilities” in the R-2 Zoning District. There will be no public comment taken and no Council discussion regarding this agenda item.
16. Resolution to declare certain City equipment as surplus.
17. Consideration of a request from Sleep in Heavenly Peace NY-Rye to use the employee parking lot at City Hall on Saturday, September 26, 2020 from 8am to 2pm to assemble beds for children in need. COVID restrictions will be followed.

18. Consideration of a request from the Children’s Philanthropy (CP) to have a 1-hour yoga class on the Village Green on September 27, 2020 (rain date Wednesday September 30th) beginning at 5 pm to raise money to benefit the children of Rye. 100% of the profits will go to CP and social distancing restrictions will be followed.
19. Consideration of a request from the Rye Free Reading Room (RFRR) to use the Village Green for various events such as outdoor storytimes, author visits, and video game tournaments from September 1, 2020 through November 13, 2020 between 9:30 am and 5:30 pm (clean-up completed by 7:00 pm). Social distancing guidelines will be followed and the RFRR will coordinate with City Staff to ensure there is not interference with maintenance of the Village Green.
20. Consider a request by the Sole Ryeders & Friends and the Rye High School Breast Cancer Awareness Club to have a TieTheTownPink breast cancer awareness campaign in the City of Rye during the month of October, 2020.
21. Old Business/New Business.
22. Adjournment

* * * * *

The next regular meeting of the City Council will be held on Wednesday, October 7, 2020 at 5:30 p.m.

** City Council meetings are available live on Cablevision Channel 75, Verizon Channel 39, and on the City Website, indexed by Agenda item, at www.ryeny.gov under “RyeTV Live”.

DRAFT UNAPPROVED MINUTES of the
Regular Meeting of the City Council of the City of
Rye held on August 17, 2020, at 7:00 P.M.

PRESENT:

JOSH COHN, Mayor
SARA GODDARD
RICHARD MECCA
JULIE SOUZA
BENJAMIN STACKS
PAMELA TARLOW
Councilmembers

ABSENT:

CAROLINA JOHNSON, Councilmember

The Council convened at 5:15 P.M. by videoconference pursuant to Governor Cuomo's Executive Order 202.1 waiving requirements of the Open Meetings Law. Councilman Mecca made a motion, seconded by Councilwoman Souza, to adjourn briefly into executive session to discuss litigation and personnel matters. The Council reconvened in a public videoconference at 7:00 P.M. The meeting was streamed live at www.ryeny.gov for public viewing.

1. Roll Call.

Corporation Counsel Wilson called the roll via teleconference; there was a quorum present to conduct the meeting.

2. Draft unapproved minutes of the Regular Meeting of the City Council held July 15, 2020.

Councilman Mecca made a motion, seconded by Councilwoman Souza, to adopt the draft minutes of the Regular Meeting of the City Council held July 15, 2020.

3. pRYEde Flag Burning Comments

Mayor Cohn made a statement on behalf of the City Council denouncing the recent cowardly act of the burning of the pRYEde Flag that occurred on private property. He stated that this act against the LBGTQ+ community is an act against the entire City of Rye. He reaffirmed the Council's position that it is committed to upholding the civil and human rights of all individuals, regardless of their identity. He mentioned that June had been deemed LGBTQ+ Pride Month by this Council. He asked that anyone with information on the flag burning or the stealing of pRYEde flags be reported to the police to bring the perpetrators to justice.

The members of the Council agreed and supported this statement.

4. Isaias Storm Recovery and Coronavirus Update.

Mayor Cohn said that on Tuesday, August 4, 2020, Tropical Storm Isaias came through our area and knocked 40% of Rye out of power. He clarified that the City of Rye unfortunately has no oversight or supervision over Con Ed. He said that after the 2018 storm, while he and many others participated in the United Westchester review of Con Ed, many of the suggestions did not appear to have been taken into consideration. Learning from Con Ed's actions in the 2018 storm, the City did several things proactively. First, it did not allow Con Ed to use the excuse that it was waiting for the City to clear trees and roadways. Mayor Cohn thanked Ryan Coyne and the DPW for that valiant effort. Further, City Manager Usry remained in touch with Con Ed's liaison several times per day during the recovery efforts. He discussed the efforts in which the City advocated heavily for restoration, bringing many of the homes back. Rye received substantial restoration help before other municipalities. Once power was restored, there were also the remaining issues of other services being out, such as cable, internet. He also discussed the coronavirus update, and said that while there had been a slight uptick in positive cases, it appeared that gyms and bowling alleys would be able to open.

City Manager Usry commended DPW crews for working 24 hours a day to clear the storm debris. It was due to their hard work that the City was able to come back from this. He also thanked the police and fire departments who worked throughout the storm aftermath to help residents.

5. Discussion to determine if "Purchase Plaza" street closures will extend beyond the previously set date (originally August 9, 2020).

Liz Woods, Rye Chamber of Commerce, said that Tony Coash had surveyed the central business district businesses. She reported that 39 voted to keep the road closed and 20 voted to reopen it to vehicular traffic.

Councilwoman Goddard inquired as to why certain businesses did not respond. Ms Woods responded that several of the businesses were closing and chose not to participate.

There was discussion over five remaining businesses who did not respond and how more information was needed on their lack of response.

Ms. Woods commented that many of the opinions were to open up part of the street to one-way vehicular traffic.

Mr. Usry discussed the issues that come up with regard to outdoor diners, the safe of pedestrians, and the ability to provide the ability to distance six feet between individuals.

Tony Coash, Chamber of Commerce clarified that the people who did not vote were closed the week that he was taking the survey. He worried that if the road reopened, restaurants may not survive.

There was discussion over retailers taking advantage of the street closure as a sidewalk sale and the effect of the street closures on retail business.

Councilwoman Tarlow said that she would be willing to extend this until October 15, as there is no indication of COVID being over. Councilwoman Souza agreed and said that the City would have the flexibility to make amendments to the downtown setup, should an uptick in positive cases and stricter mandates return.

Councilwoman Tarlow said that she was hopeful to do this on an annual basis. Councilwoman Souza agreed and said that the Chamber was interested in advancing this.

Danielle Tagger-Epstein, Rye Road, addressed the Council. She asked that the Council be aware of the need for ADA compliance and issues that handicap individuals face. She asked the merchants keep ramps free of obstruction, among other items.

City Manager Usry responded that additional handicap parking has been created to accommodate the community and remains a priority.

Councilman Stacks said that the City has worked hard to try to make this as best as possible for the most amount of people. He supported the extension into October.

Councilman Mecca agreed with extending this into October. He commended Councilwoman Souza for doing such a strong job as liaison to the Chamber of Commerce.

Mayor Cohn echoed Councilman Mecca's comments. He added that if restaurants cannot be outside, it would be problematic as many are opting to not eat inside.

Councilwoman Souza made a motion, seconded by Mayor Cohn and unanimously carried, to extend the Purchase Street Plaza to October 12, 2020.

Mayor Cohn added that City staff would have the ability to amend the setup to the plaza on an as-needed basis.

6. Continue the public hearing to amend chapter § 191-38 "Parking in Metered Zones" to extend all metered parking zones until 9:00 PM Monday – Saturday.

(The following is a brief overview of the discussion. For the full video, see <https://ryeny.swagit.com/play/08172020-720/8/>).

Mr. Usry discussed the enforcement and revenue findings that had occurred with the temporary change in parking hours.

Danielle Tagger-Epstein, Rye resident, said that she understood the need to look for more revenue, but to strongly consider the needs of the downtown residents who live on a fixed income.

Lori Fontanes, Rye resident, clarified a statement that she had made at the previous Council meeting.

DRAFT UNAPPROVED MINUTES – Regular Meeting - City Council
August 17, 2020 - Page 4

There was general discussion over paying for parking, meters, and hours and the history of that in Rye. There was also discussion over the reasoning for charging parkers, outside of the reason for revenue.

Mayor Cohn asked if it was possible to make the app more user friendly and allow the extension of time beyond two hours.

City Clerk D'Andrea stated that the limit on the time extension was to ensure that the City Code limit of two hour parking was enforced. City Comptroller Fazzino stated that amending the app rules was possible.

Councilman Stacks reminded everyone about the parking problem in Rye, and that the paying for parking and the limit on hours encouraged turnover and alleviated much of the parking issue.

Mayor Cohn said that he was concerned about the residents who were affected by the parking changes.

There was general discussion among the Council about the issues raised.

Ms. Tagger-Epstein clarified the issues surrounding the City's ability to provide aid to those in need for parking.

Councilwoman Goddard added that the City should also try to encourage people to come to Rye, and charging for parking could be an inhibitor to that.

Councilman Mecca stated that the City spent money to transform Purchase Street, and it was important that the City tried to recoup some of that money.

Councilman Souza made a motion, seconded by Councilman Mecca, to close the public hearing.

Councilwoman Souza made a motion, seconded by Councilman Mecca to adopt the following local law:

**CITY OF RYE
LOCAL LAW NO. 8 2020**

A local law to amend Article VII “Off- Street Metered Parking” of the Code of the City of Rye, by amending § 191-38 “Parking in Metered Zones”.

Be it enacted by the City Council of the City of Rye as follows:

Section 1. § 191-38. Parking in Metered Zones [Amended 6-10-2020 By L.L. No. ____-2020]

§191-38 Parking in Metered Zones.

When any vehicle shall be parked in a space regulated by a parking meter, the operator thereof shall, upon entering such space, park such vehicle within the lines marked on the street, curb or parking area and, if the time is between the hours of 7:00 a.m. and 7:00 p.m. or between the hours of 9:00 a.m. or 9:00 p.m. in the off-street parking areas maintained by the City of Rye on City-owned lands known as Car Park No. 1, Car Park No. 2, Car Park No. 3, Car Park No. 4 and Car Park No. 5 on any day except Sunday, immediately deposit the parking meter fee in the parking meter regulating such space and actuate the mechanism of such meter as required by the directions thereon.

Section 2: This local law shall take effect immediately upon filing with the Secretary of State.

ROLL CALL

AYES: Mayor Cohn, Councilmembers Mecca, Souza, Stacks

NAYS: Councilmembers Goddard and Tarlow

ABSENT: Councilwoman Johnson

7. Presentation on 2019 City financials by the auditing firm of BST & Co, LLP.

Brendan Kennedy, BST & Co, LLP, the City's auditor, presented the results of the 2019 City financials audit report. He thanked the City for their cooperation. He stated that the auditing process started back in January 2020, and was completed in June. He gave an unqualified opinion on the financials, the highest audit opinion. He said that accounting standards had not changed. He had some audit adjustments that were inconsequential to the financial statements. There were no disagreements with management. There was a control observation surrounding the City's Boat Basin. He said that there were instances where documentation was missing regarding memberships. Separately, there were instances of the Boat Basin where documentation supporting bids was fictitious. He said that the firm enjoys working with the City and looks forward to the future.

8. Update on disposition of donated boat.

There was discussion among the Council regarding a recent boat in question that had been sold back to American Yacht Club for a nominal fee. City Manager Usry gave a statement regarding his findings of fact, and the Council responded. There was also discussion about surplus procedures. To view the discussion, go to the following link:
<https://ryeny.swagit.com/play/08172020-720/10/>

9. Presentation by City Deputy Comptroller of the City's current financial position.

Deputy Comptroller, Joseph Fazzino, presented an update to the Council. He said that this update process had begun in the spring at the start of COVID-19. Mr. Fazzino discussed sales tax, parking meter revenue, parking fines, moving violation fines, hotel occupancy tax, mortgage taxes, COVID-19 related expenses, employee health insurance, workers compensation, and police vehicles and equipment. The difference between the budgeted amounts and projected amounts for 2020 are as follows:

- **Sales & Use Taxes** - 2020 Budget \$3,000,000 / 2020 Projection \$2,700,000
- **Parking Meter Revenue** – 2020 Budget \$436,000 / 2020 Projection \$240,000
- **Parking Fines** – 2020 Budget \$375,200 / 2020 Projection \$281,400
- **Moving Violation Fines**– 2020 Budget \$225,000 / 2020 Projection \$135,000
- **Hotel Occupancy Taxes** – 2020 Budget \$160,000 / 2020 Projection \$50,000
- **Mortgage Taxes** – 2020 Budget \$1,600,000/ 2020 Projection \$1,600,000
- **Building Permits** - 2020 Budget and Projection are projected to be as anticipated
- **COVID-19 Related Expenditures** – 2020 Projection \$150,000
- **Employee Health Insurance** – 2020 Budget \$2,784,349/ 2020 Projection \$2,505,914

City Manager Usry commented on several areas of expenses and revenues and said that the current figures are more accurate than earlier projections.

10. **Presentation regarding the Capital Improvement Program (CIP) for 2021.**

This agenda item was postponed to the following City Council meeting.

11. **Adoption of the 2020/2021 tax levy and tax rate for the Rye Neck Union Free School District.**

Roll Call.

Councilwoman Souza made a motion, seconded by Councilman Mecca, to adopt the following resolution:

WHEREAS, the Rye Neck Union Free School District (District) has certified to the City of Rye Comptroller taxes in the amount of \$12,219,393 to be raised on property within the District located in the City of Rye, with established tax rates of \$1014.732563 per \$1,000 of taxable assessed value on homestead property and \$1,293.518984 per \$1,000 taxable assessed value on non-homestead property, for the fiscal year beginning July 1, 2020 and ending June 30, 2021, now, therefore, be it

RESOLVED, that in accordance with the provisions of the City Charter, the City Comptroller is commanded to levy and collect said taxes, subject to any further amendments or approvals required by the Rye Neck Union Free School District.

ROLL CALL

AYES: Mayor Cohn, Councilmembers Goddard, Mecca, Souza, Stacks, Tarlow
NAYS: None
ABSENT: Councilwoman Johnson

12. Authorize the Interim City Manager to sign an agreement with Suez Water Westchester, already approved by the Public Service Commission, to provide water usage data by property.

Councilman Mecca made a motion, seconded by Councilwoman Tarlow and unanimously carried, to authorize the Interim City Manager to sign an agreement with Suez Water Westchester, already approved by the Public Service Commission, to provide water usage data by property.

13. Residents may be heard on items that do not appear on the agenda. (Please ‘raise your hand’ via Zoom to indicate that you wish to speak or press *9 if you are dialing in via phone and limit your remarks to no more than 3 minutes.)

There was nothing discussed under this agenda item.

14. Authorization for the City Manager to sell at auction surplus equipment as listed by the Boat Basin.

Councilman Mecca made a motion, seconded by Councilwoman Tarlow, to adopt the following resolution:

WHEREAS, the City has been provided with a list of City equipment identified as being obsolete or will become obsolete during 2019, and,

WHEREAS, the Boat Basin has recommended that said equipment be declared surplus, now, therefore, be it

RESOLVED, that said equipment is declared surplus, and, be it further

RESOLVED, that authorization is given to the City Comptroller to sell or dispose of said equipment in a manner that will serve in the best interests of the City.

ROLL CALL

AYES: Mayor Cohn, Councilmembers Goddard, Mecca, Souza, Stacks, Tarlow

NAYS: None

ABSENT: Councilwoman Johnson

15. Consideration of a request from the Rye Free Reading Room to use the Village Green on Sunday, September 20 from 12 pm to 5 pm to host the Rye Free Reading Room Book Sale, a fundraiser for the Rye Free Reading Room.

Councilwoman Souza made a motion, seconded by Councilwoman Tarlow and unanimously carried, to approve the request from the Rye Free Reading Room to use the Village Green on Sunday, September 20, 2020 from 12 pm to 5 pm to host the Rye Free Reading Room Book Sale, a fundraiser for the Rye Free Reading Room.

16. Consideration of a request from The Rye Free Reading Room to use of the Village Green to offer Wiggle Giggle with Dawny Dew, a popular children’s program (usually held

indoors) on September 2, 9, 16, 23, and 30, and October, 7 and 14. The program begins at 9:30, and repeats at 10:15 and 11 am. Each of the three sessions runs for 20 minutes.

Councilwoman Souza made a motion, seconded by Councilwoman Tarlow and unanimously carried, to approve a request from The Rye Free Reading Room to use of the Village Green to offer Wiggle Giggle with Dawny Dew, a popular children's program (usually held indoors) on September 2, 9, 16, 23, and 30, and October, 7 and 14. The program begins at 9:30, and repeats at 10:15 and 11 am. Each of the three sessions runs for 20 minutes.

17. Appointments to Boards and Commissions by the Mayor with Council approval.

Mayor Cohn appointed Guy Dempsey to the Landmarks Committee in Jerome Coleman's place. His term will expire 12-31-22. He also thanked Adrienne Mecca who has resigned from the Human Rights Commission. In her place, he appointed Meg Cameron for a three-year term, to expire 12-31-22.

The Council approved the appointments.

18. Old Business/New Business.

There was nothing discussed under this agenda item.

19. Adjournment

There being no further business to discuss, Councilman Mecca made a motion, seconded by Councilwoman Souza and unanimously carried, to adjourn the meeting at 9:40 P.M.

Respectfully submitted,

Carolyn D'Andrea
City Clerk



CITY COUNCIL AGENDA

DEPT.: City Manager

DATE: September 16, 2020

CONTACT: Greg Usry ,Interim City Manager

AGENDA ITEM: Presentation on the Westchester Power Community Choice Aggregation Program by Sustainable Westchester.

FOR THE MEETING OF:

September 16, 2020

RYE CITY CODE,

CHAPTER

SECTION

RECOMMENDATION:

IMPACT: ☒ Environmental ☐ Fiscal ☐ Neighborhood ☐ Other:

BACKGROUND: A presentation will be made by members of Sustainable Westchester, Inc. regarding our Community Choice Aggregation (CCA) program. In a CCA system, municipalities collectively purchase energy directly from electricity providers on the open market on behalf of local residents and businesses. Working either as singular localities or a unified combination of municipalities, municipalities operating under CCA replace Investor Owned Utilities (IOU) as the provider of energy by purchasing the electricity to be used in their communities directly from the market. The IOUs remain responsible for the generation of power from the CCA-purchased energy as well as the transmission and distribution of power to customers. With this division of labor, communities utilizing CCA are able to utilize local control of purchasing energy in order to reduce electricity costs, increase use of renewable energy sources, and create economic opportunity by ensuring the use of locally-sourced power. By leaving the tasks of generating, transmitting, and distributing power to IOU, who are also responsible for maintaining their own infrastructure and customer service operations, the benefits to local governments are not off-set by the costs and burden associated with Municipally Owned Utilities.

Sustainable Westchester will update the City on the results of the program begun in 2019 and rate differences between Con Ed and the City's chosen default supplier.

See attached.



CITY COUNCIL AGENDA

DEPT.: City Manager

DATE: September 16, 2020

CONTACT: Greg Usry ,Interim City Manager

AGENDA ITEM: Authorize the Interim City Manager to sign a Memorandum of Understanding (MOU) between Sustainable Westchester and the City of Rye to provide a Community Choice Aggregation Program.

FOR THE MEETING OF:

September 16, 2020

RYE CITY CODE,
CHAPTER
SECTION

RECOMMENDATION:

IMPACT: ☒ Environmental ☐ Fiscal ☐ Neighborhood ☐ Other:

BACKGROUND:

See attached red-lined MOU for changes from 2019 agreement.

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding is entered into by and between:

Sustainable Westchester, Inc., a New York non-profit corporation (“Sustainable Westchester”), and the City/Town/Village of _____ (the “Municipality”), a local government member of Sustainable Westchester (each a “Party” and collectively, the “Parties”).

1. Background:

- a. In February 2015, the New York Public Service Commission issued an Order for Case 14-M-0564 as follows: “The Petition of Sustainable Westchester is granted to the extent that its municipal members are authorized to undertake a Community Choice Aggregation demonstration project consistent with the discussion in the body of this Order...”
- b. The PSC subsequently issued an Order for Case 14-M-0224 on April 21, 2016, which authorized Community Choice Aggregation (“CCA”) throughout New York State (the “CCA Order”) and on November 15, 2018 issued the “Order Approving Renewal of the Sustainable Westchester Community Choice Aggregation Program” reauthorizing the Sustainable Westchester CCA program under a Master Implementation Plan.
- c. Sustainable Westchester’s CCA Program enrolled customers from an initial group of 20 participating municipalities in April 2016. Since then, seven additional municipalities have joined and several other municipalities are actively working towards participation.
- d. For municipalities in the Con Edison utility territory, the current Electric Service Agreement for the Sustainable Westchester CCA Program will terminate on December 31, 2020.
- e. In compliance with the PSC CCA Orders, the Municipality has adopted local legislation to enable Community Choice Aggregation.
- f. As a member of Sustainable Westchester in good standing and participant in the Sustainable Westchester CCA Program, the Municipality wishes to continue to engage the services of Sustainable Westchester as the Program Manager for Community Choice Aggregation for the Operation and Maintenance of the Program.

2. Definitions:

- a. **Eligible Customers** – Residential and small commercial consumers of electricity who receive Default Service from the Distribution Utility as of the Effective Date, or have been served by the program under the 2019 ESA and have not opted-out, or “Newly Eligible Consumers” that subsequently become eligible to participate in the Program, at one or more locations within the geographic boundaries of the Municipality, except those consumers who receive Default Service and have requested not to have their account information shared by the Distribution Utility. For the avoidance of doubt, all Eligible Consumers must reside or be otherwise located at one or more locations within the geographic boundaries of the Municipality, as such boundaries exist on the Effective Date of this ESA.
- b. **Community Choice Aggregation Program or CCA Program or Program**– A municipal energy procurement program, which replaces the incumbent utility as the

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default Supplier for all Eligible Customers within the Participating Municipality, as defined in the [PSC CCA Orders](#).

- c. **Competitive Supplier:** An entity duly authorized to conduct business in the State of New York as an energy service company ("ESCO") that procures electric power for Eligible Customers in connection with this CCA Program.
- d. **Compliant Bid:** Electric power supply bid from a Competitive Supplier that meets the requirements specified in this MOU and [the 2021 ESA](#). [A](#) Compliant Bid price must be inclusive of fees owed to Program Manager and be less than:
 - i. Residential accounts: [7.65](#) cents/kwh;
 - ii. Small commercial accounts: [7.65](#) cents/kwh
- e. **Distribution Utility:** Owner or controller of the means of distribution of the natural gas or electricity that is regulated by the Public Service Commission in the Participating Municipality.
- f. **Electric Service Agreement ("ESA"):** An agreement that [implements a CCA Program](#) and contains all the terms and conditions of the Program.
- g. **2019 ESA:** The ESA which implemented the Sustainable Westchester CCA Program during the period from January 1, 2019, to December 31, 2020.
- h. **2021 ESA:** The ESA which will implement Sustainable Westchester CCA Program commencing January 1, 2021, for the Con Edison service territory. The 2021 ESA shall have substantially the same terms outlined in the attached 2019 ESA Template (Attached as Exhibit 1). The 2021 ESA Template tracks as closely as possible to the 2019 ESA in its content, with only minor changes [regarding supplier data requirements](#), [additional clarification regarding NY renewable energy certificate registration](#), [provision for recovering any NYS subsidy for CCA purchase of renewable energy certificate if such subsidy comes into force after contract signing](#), and [deletion of the optional time-of-use product](#).
- i. **CCA Orders:** Collectively, the February 26, 2015 "Order Granting Petition in Part" issued by the PSC in Case 14-M-0564; the April 21, 2016 "Order Authorizing Framework for Community Choice Aggregation Opt-out Program" issued by the PSC in Case 14-M-0224, which sets forth the requirements, terms, and conditions under which CCA programs can proceed through implementation; and the November 15, 2018 "Order Approving Renewal of the Sustainable Westchester Community Choice Aggregation Program" issued by the PSC in Case 14-M-0564, which reauthorizes the Sustainable Westchester CCA program under a Master Implementation Plan.
- j. **Qualifications Review:** A [verification of the status of the Competitive Supplier as an electricity supplier in the Distribution Utility's service territory](#). A precondition for attaining such status is that Competitive Supplier has met the credit requirements established by the New York Independent Systems Operator.
- k. **Participating Municipality:** A dues-paying municipal member of Sustainable Westchester, which has adopted the applicable local legislation for the Community Choice Aggregation Program.
- l. **Program Manager:** Sustainable Westchester, a non-profit corporation of which the Participating Municipality is a member.

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- m. **Public Service Commission (“PSC”)**: The New York State Public Service Commission or the New York State Department of Public Service acting as staff on behalf of the Public Service Commission,

3. Purpose: The purpose of the Memorandum of Understanding is as follows:

- a. To establish participation by **The Municipality (hereafter, the “Participating Municipality”)** in a Community Choice Aggregation Program (hereafter, the “Program”) that will be managed on its behalf by **Sustainable Westchester (hereafter, the “Program Manager”)** under the 2021 ESA.
- b. To affirm that the Participating Municipality and Program Manager agree to adhere to the terms and conditions of the 2021 ESA in the event they execute it.
- c. To affirm that the Participating Municipality and Program Manager agree to execute the 2021 ESA, subject to the conditions of review and approval outlined in 4(c) and 5(a), below.

4. Roles and responsibilities of the Program Manager: As Program Manager, Sustainable Westchester agrees to perform all duties outlined in the 2021 ESA and, prior to execution of that agreement, Program Manager agrees to:

- a. Provide the involved agencies and parties to the PSC CCA Orders, including, but not limited to, the Public Service Commission and Distribution Utility, requested information about and documentation of the actions undertaken by the Participating Municipality in furtherance of enabling participation in the Program;
- b. Manage the energy procurement bidding process including:
 - i. the identification and notification of potential firms seeking to be the Competitive Supplier,
 - ii. the management of the Request for Proposals (“RFP”) process from preparation of the content to the publication of the RFP and management of firms responding to the RFP,
 - iii. the preparation of the 2021 ESA that will be included in the RFP,
 - iv. the acceptance, secure opening, and review of the responses to the RFP, and
 - v. the organization of the Qualifications Review and bid evaluation,
 all in a manner that is transparent to the Participating Municipality and firms seeking to be the Competitive Supplier;
- c. Sign the 2021 ESA in a timely fashion subject to the conditions that:
 - i. the Competitive Supplier is deemed qualified for the duration of the 2021 ESA by the Qualifications Review, and
 - ii. such Competitive Supplier’s response to the RFP is deemed by the Program Manager to be a Compliant Bid as defined in Section 2 above.
- d. Fulfill any other responsibilities as may reasonably adhere to facilitating the implementation of the Program, subject to the Program Manager’s inherent and original role as an organization driven by the deliberated priorities of its constituent member municipalities.

5. Roles and responsibilities of the Participating Municipality: the Participating Municipality agrees to:

- a. Sign the 2021 ESA for the Standard Product / 100% Renewable Clean Power Product [select one and initial] as the Default Product for its residents and small businesses, in a timely fashion, subject to the conditions that:

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- i. the Competitive Supplier is deemed qualified for the duration of the 2021 ESA by the Qualifications Review, and
- ii. such Competitive Supplier's response to the RFP is deemed by the Program Manager to be a Compliant Bid as defined in Section 2 above.

6. Term and Termination: Memorandum of Understanding shall expire on the earlier of December 31, 2020 or the date on which the 2021 ESA is signed by the Participating Municipality, the Program Manager, and the selected Competitive Supplier. Participating Municipality shall have the right to terminate this Memorandum of Understanding for any of the reasons set forth in the Termination section of the ESA attached hereto as Exhibit 1.

IN WITNESSETH WHEREOF, the Parties have signed this MEMORANDUM OF UNDERSTANDING on the day and year appearing below their respective signatures.

City/Town/Village of _____

Authorized Official Name and Title: _____

Signature: _____

Address: _____

Telephone(s): _____

E-Mail Address: _____

Address for Notices: _____

Sustainable Westchester, Inc.

Authorized Official Name and Title: Steven Rosenthal, Interim Executive Director

Signature: _____

Address: 40 Green Street, Mount Kisco, NY 10549

Telephone(s): (914) 242-4725

E-Mail Address: steve@sustainablewestchester.org

Address for Notices: 40 Green Street, Mount Kisco, NY 10549

Attachments: Exhibit 1, 2021 ESA Template

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Electric Service Agreement

Exhibit 1 to accompany the Memorandum of Understanding
on Community Choice Aggregation
between local government members of Sustainable Westchester
and Sustainable Westchester

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RECITALS

WHEREAS, Sustainable Westchester, Inc. sought approval of a demonstration community choice energy aggregation ("Community Choice") program in Westchester County in 2014, which would allow local governments to participate in a Sustainable Westchester program to procure energy supply from an Energy Services Company for the residents of the municipalities;

WHEREAS, on February 26, 2015, the Public Service Commission of the State of New York approved implementation of the first Community Choice pilot program in New York State;

WHEREAS, the PSC subsequently issued the order "Authorizing Framework for Community Choice Aggregation Opt-out Program" on April 21, 2016 (the "CCA Order") enabling Community Choice throughout New York State;

WHEREAS, the Westchester Community Choice Aggregation program (also known as Westchester Power) is intended to include residential and small non-residential customers, and to permit the aggregation of electric purchases by the communities which elect to participate;

WHEREAS, the City/Town/Village of _____ ("Municipality") has adopted a Local Law to participate in the Sustainable Westchester Community Choice Program ("Program") to aggregate consumers located within the Municipality and to negotiate competitive rates for the supply of electricity for such consumers;

WHEREAS, the program allows Municipality to solicit competitive bids for the supply of electricity individually or as part of a buying group with other municipal aggregators;

WHEREAS, Sustainable Westchester, Inc. has been authorized by the Municipality to act as Program Manager for a Community Choice Program, pursuant to Local Law and Memorandum of Understanding 2020, issue a request for proposals to suppliers to provide energy to Participating Customers, and to award supply contracts;

WHEREAS, the Program executed the first electric service contracts in 2016 (the "2016 ESA") with seventeen municipalities in the Westchester Con Edison ("Con Ed") utility territory, and signed a second round of contracts in 2019 (the "2019 ESA") which includes twenty-three participating municipalities as of July 2020, and the second round of contracts expire on December 31, 2020;

WHEREAS, _____, an entity duly authorized to conduct business in the State of New York as an energy service company ("ESCO") (the "Competitive Supplier"), desires to provide Full- Requirements Power Supply to consumers located within the Municipality, pursuant to the terms and conditions of the Municipality's Program and this Electric Service Agreement ("ESA");

WHEREAS, the Municipality desires that the Competitive Supplier provide Firm Full-Requirements Power Supply and Consolidated Billing as an alternative to Default Service for consumers within the Municipality;

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WHEREAS, Competitive Supplier is willing to to provide two distinct electric supply products and two corresponding pricing levels, (1) a Standard Product and price, and (2) a 100% Renewable Clean Power Product comprised of the Standard Product plus New York Voluntary Clean Power RECs and price as set out in Exhibit A herein;

WHEREAS, Municipality has chosen the Standard Product / 100% Renewable Clean Power Product [select one and initial] as the Default Product for its residents and small businesses;

WHEREAS, Competitive Supplier agrees to pay a fee to Program Manager;

WHEREAS, Municipality prefers for Competitive Supplier to collect and remit the fees due the Program Manager;

WHEREAS, the local governments that participate in the Sustainable Westchester Community Choice Program, including this Municipality, intend that this Agreement be uniform in form and substance in each instance throughout the Program; and

NOW THEREFORE, IT IS AGREED THAT, Municipality, Program Manager, and the Competitive Supplier hereby enter into this ESA subject to the terms and conditions below.

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WHEREAS, Competitive Supplier is also making available Time Of Use product(s) as set out in Exhibit A herein to customers through the Program on an Opt-In basis;]¶

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ELECTRIC SERVICE AGREEMENT

ARTICLE 1 DEFINITIONS

Capitalized terms that are used but not defined in the body of this ESA, including the Exhibits hereto, shall be defined as set forth in this Article 1. Words defined in this Article 1 that are capitalized shall be given their common and ordinary meanings when they appear without capitalization in the text. Words not defined herein shall be given their common and ordinary meanings.

1.0 Associated Entities – Any and all of the employees, officers, agents, representatives, and independent contractors and subcontractors of the Competitive Supplier or of any of its corporate parents or subsidiaries, which provide goods or services to, or in any way assist, the Competitive Supplier in meeting its obligations under the ESA, but specifically excluding the Distribution Utility.

1.1 Bankruptcy - With respect to a Party, (i) such Party ceases doing business as a going concern, generally does not pay its debts as they become due or admits in writing its inability to pay its debts as they become due, files a voluntary petition in bankruptcy or is adjudicated bankrupt or insolvent, or files any petition or answer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future federal bankruptcy code or any other present or future applicable federal, state or other Governmental Rule, or seeks or consents to or acquiesces in the appointment of any trustee, receiver, custodian or liquidator of said Party or of all or any substantial part of its properties, or makes an assignment for the benefit of creditors, or said Party takes any corporate action to authorize or that is in contemplation of the actions set forth in this clause (i); or (ii) a proceeding is initiated against the Party seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future federal bankruptcy code or any other Governmental Rule and such proceeding is not dismissed within ninety (90) days after the commencement, or any trustee, receiver, custodian or liquidator of said Party or of all or any substantial part of its properties is appointed without the consent or acquiescence of said Party, and such appointment is not vacated or stayed on appeal or otherwise within ninety (90) days after the appointment, or, within ninety (90) days after the expiration of any such stay, has not been vacated, provided that, notwithstanding the foregoing, the exercise of rights to take over operation of a Party's assets, or to foreclose on any of a Party's assets, by a secured creditor of such Party (including the appointment of a receiver or other representative in connection with the exercise of such rights) shall not constitute a Bankruptcy.

1.2 CCA Orders – Collectively, the February 26, 2015 “Order Granting Petition in Part” issued by the PSC in Case 14-M-0564, the April 21, 2016 “Order Authorizing Framework for Community Choice Aggregation Opt-out Program” issued by the PSC in Case 14-M-0224, which sets forth the requirements, terms, and conditions under which CCA programs can proceed through implementation; and the November 15, 2018 “Order Approving Renewal of the Sustainable Westchester Community Choice Aggregation Program” issued by the PSC in Case 14-M-0564, which reauthorizes the Sustainable Westchester CCA program under a Master Implementation Plan.

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1.3 100% Renewable Clean Power Product - Firm Full-Requirements Power Supply matched with New York Voluntary Clean Power RECs (hydropower, solar energy or wind energy) as defined in, and subject to the Attribute delivery rules set forth in, the New York Generation Tracking System (“NYGATS”) Operating Rules, supporting the Public Service Commission’s Environmental Disclosure Program, as further described and defined in Pricing Exhibit A-2

1.4 Commercially Reasonable - Any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known, or which in the exercise of due diligence should have been known, at the time the decision was made, would have been expected in the industry to accomplish the desired result consistent with reliability, safety, expedition, project economics and applicable law and regulations, as defined in the Uniform Business Practices or without limitation in additional applicable law and regulations, provided that in no event shall increased costs or economic hardship be an excuse for not performing a Party’s obligations under this ESA.

1.5 Community Choice – Municipal electricity procurement program, purchasing supply for the aggregated demand for all Eligible Customers within the Municipality.

1.6 Competitive Supplier or Energy Services Company (“ESCO”)– An entity duly authorized to conduct business in the State of New York as an ESCO.

1.7 Consolidated Billing - A billing option that provides Participating Customers with a single bill issued by the Distribution Utility combining delivery and supply charges from the Distribution Utility and Competitive Supplier respectively.

1.8 Default Product – The product selected by the Municipality for supply to its eligible residents and small businesses upon enrollment, unless they take action to select a different product or opt out..

1.9 Default Service – Supply service provided by the Distribution Utility to customers who are not currently receiving service from a Competitive Supplier. Residential and small commercial consumers within the Municipality that receive Default Service, and have not opted out, will be enrolled in the Program as of the Effective Date.

1.10 Delivery Term - The period for which prices for Firm Full-Requirements Power Supply have been established, as set forth in Exhibit A.

1.11 Distribution Utility - Owner or controller of the means of distribution of the natural gas or electricity that is regulated by the Public Service Commission in the Participating Municipality.

1.12 Electronic Data Interchange (“EDI”) - The exchange of business data in a standardized format between business computer systems.

1.13 Effective Date - The day immediately following final day of the rescission period, which immediately follows the opt-out period, which occurs after notifications to Eligible Consumers, which occurs after this ESA has been executed by the Parties (to be determined by the later date, if the Parties execute on different dates).

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1.14 Eligible Consumers – Residential and small commercial consumers of electricity who receive Default Service from the Distribution Utility as of the Effective Date, or have been served by the program under the 2019 ESA and have not opted-out, or “Newly Eligible Consumers” that subsequently become eligible to participate in the Program, at one or more locations within the geographic boundaries of the Municipality, except those consumers who receive Default Service and have requested not to have their account information shared by the Distribution Utility. For the avoidance of doubt, all Eligible Consumers must reside or be otherwise located at one or more locations within the geographic boundaries of the Municipality, as such boundaries exist on the Effective Date of this ESA.

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1.15 ESA - This Electric Service Agreement.

1.16 Environmental Disclosure Label – The fuel mix purchased by an ESCO and the related emissions of those fuels compared to a statewide average, which is required to be reported under the DPS’s Environmental Disclosure Program.

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1.17 Federal Energy Regulatory Commission (“FERC”) - The United States federal agency with jurisdiction over interstate electricity sales, wholesale electric rates, hydroelectric licensing, natural gas pricing, and oil pipeline rates.

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1.18 Firm Full-Requirements Power Supply - The service under which the Competitive Supplier provides all of the electrical energy, capacity, reserves, and ancillary services, transmission services, transmission and distribution losses, congestion management, and other such services or products necessary to provide firm power supply at a fixed contract price including all those components regardless of changes in kWh usage or customer grouping during the contract term to Participating Consumers at the Point of Sale.

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1.19 Force Majeure - Any cause not within the reasonable control of the affected Party which precludes that party from carrying out, in whole or in part, its obligations under this ESA, including, but not limited to, Acts of God; winds; hurricanes; tornadoes; fires; epidemics; landslides; earthquakes; floods; other natural catastrophes; strikes, lock-outs or other industrial disturbances; acts of public enemies; acts, failures to act or orders of any kind of any governmental authorities acting in their regulatory or judicial capacity, provided, however, that any such discretionary acts, failures to act or orders of any kind by the Municipality may not be asserted as an event of Force Majeure by the Municipality; insurrections; military action; war, whether or not it is declared; sabotage; riots; civil or industrial disturbances or explosions. Nothing in this provision is intended to excuse any Party from performing due to any governmental act, failure to act, or order, where it was reasonably within such Party's power to prevent such act, failure to act, or order. Economic hardship of any Party shall not constitute an event of Force Majeure.

1.20 General Communications - The type of communications described and defined in Article 5.7 herein.

1.21 Governmental Authority - Any national, state or local government, independent system operator, regional transmission owner or operator, any political subdivision thereof or any other governmental, judicial, regulatory, public or statutory instrumentality, authority, body, agency, department, bureau, or entity, excluding the Municipality.

1.22 Governmental Rule - Any law, rule, regulation, ordinance, order, code, permit, interpretation, judgment, decree, or similar form of decision of any Governmental Authority having the effect and force of law.

1.23 kWh, kW - Kilowatt-hour and kilowatt, respectively.

1.24 Local Law – A local law or ordinance, adopted by Municipality according to General Municipal Law, which authorizes Municipality to join the Sustainable Westchester Community Choice Program.

1.25 Memorandum of Understanding 2020 – Binding agreement between Municipality and Program Manager authorizing Sustainable Westchester to administer the Program.

1.26 Newly Eligible Consumers – Residential and small consumers of electricity that become Eligible Consumers after the Effective Date, including those that opt in or move into Municipality and those who complete or terminate other 3rd party supply contracts and have returned to Default Service, provided these consumers have not previously opted out of the Program.

1.27 New Taxes - Any taxes not in effect as of the Effective Date enacted by a Governmental Authority or the Municipality, to be effective after the Effective Date with respect to Firm Full-Requirements Power Supply, or any Governmental Rule enacted and effective after the Effective Date resulting in application of any existing tax for the first time to Participating Consumers.

1.28 NYISO - The New York Independent System Operator, or such successor or other entity which oversees the integrated dispatch of power plants in New York and the bulk transmission of electricity throughout the New York power grid.

1.29 Participating Consumers - Eligible Consumers enrolled in the Program, either because they are consumers who receive Default Service from the Distribution Utility as of the Effective Date and have not opted out, or have been served by the Program under the 2019 ESA and have not opted out, or are Newly Eligible Consumers.

1.30 Parties - The Municipality, the Program Manager, and the Competitive Supplier, as the context requires. In the singular, "Party" shall refer to any one of the preceding.

1.31 Point of Delivery - The boundary of the Distribution Utility's electricity franchise, or the point at which the Competitive Supplier delivers the power to the Distribution Utility.

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1.32 Point of Sale - The electric meter for each Participating Consumer's account, as designated by the Distribution Utility, such that all line loss costs are included in Competitive Supplier price to bring power to the meter.

1.33 Program - Sustainable Westchester Community Choice Aggregation Program.

1.34 Program Manager – Sustainable Westchester, Inc., a non-profit organization comprised of multiple municipalities in Westchester County of which the Municipality is a member, authorized by PSC to put out for bid the total amount of electricity being purchased by Participating Consumers. Program Manager is responsible for Program organization, administration, procurement, and communications, unless otherwise specified.

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1.35 PSC or DPS - The New York State Public Service Commission or the New York State Department of Public Service acting as Staff on behalf of the PSC, or any successor state agency.

1.36 Qualifying Regulatory Event-- Implementation of a new, or changes to an existing, Governmental Rule by a Governmental Authority, including without limitation the Distribution Utility's tariffs, market rules, operating protocols and definitions, which have a material effect on the services and transactions contemplated by this ESA. A "change" as used herein includes without limitation any amendment, modification, nullification, suspension, repeal, finding of unconstitutionality or unlawfulness, or any change in construction or interpretation. To meet the threshold of being a Qualifying Regulatory Event, the impact of the event must impact the majority of customers in the same rate class and must not be unique to Competitive Supplier's customers.

1.37 Regulatory Event-- Implementation of a new, or changes to an existing, Governmental Rule by a Governmental Authority, including without limitation the Distribution Utility's tariffs, market rules, operating protocols and definitions, which have a material effect on the services and transactions contemplated by this ESA. A "change" as used herein includes without limitation any amendment, modification, nullification, suspension, repeal, finding of unconstitutionality or unlawfulness, or any change in construction or interpretation.

1.38 Retail Price - As set forth in Exhibit A.

1.39 Service Commencement Date - The date of the Participating Consumers' first meter read date after the Effective Date, or as soon as necessary arrangements can be made with the Distribution Utility thereafter.

1.40 Term - As defined in Article 4.1.

1.41 Uniform Business Practices – Regulations governing the business practices of utilities and Energy Services Companies with regards to service, billing, marketing, data, and customer rights, issued by the New York State Public Service Commission (Case 98-M-1343).

ARTICLE 2 RIGHTS GRANTED

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2.1 GENERAL DESCRIPTION AND LIMITATIONS

Competitive Supplier is hereby granted the exclusive right to be the default provider of Firm Full-Requirements Power Supply to Participating Consumers pursuant to the terms of this ESA. For the avoidance of doubt, Competitive Supplier shall be authorized to supply Firm Full-Requirements Power Supply only to Participating Consumers enrolled in the plan or plans managed by the Program Manager, and the Distribution Utility will continue to have the right and obligation to supply electricity to Eligible Consumers who opt-out of the Program and remain on, or return to, Default Service, until changes in law, regulation or policy may allow otherwise.

In accordance with Article 3 below, all Eligible Consumers shall be automatically enrolled in the Program unless they choose to opt-out or have previously opted out of the Program. In the event the geographic boundaries of the Municipality change during the term of this ESA, Competitive Supplier shall only be obligated to supply Firm Full-Requirements Service to those Participating Consumers located within the Municipality as such boundaries existed on the Effective Date of this ESA. As between the Parties, the Competitive Supplier has the sole obligation of making appropriate arrangements with the Distribution Utility, and any arrangements which may be necessary with the NYISO so that Participating Consumers receive the electricity supplies to be delivered pursuant to this ESA.

The Municipality shall specifically authorize the Distribution Utility to provide, and Competitive Supplier the right to obtain and utilize as required, all billing and energy consumption information for Participating Consumers as is reasonably available from the Distribution Utility. The Distribution Utility Fees for the provision of this data shall be paid for by the Supplier. Competitive Supplier shall request consumption data for individual Participating Consumers from the Distribution Utility via EDI. If further action is required by the Distribution Utility to authorize Competitive Supplier to receive such consumption and billing data, the Program Manager, on behalf of the Municipality agrees to use Commercially Reasonable efforts, at Competitive Supplier's cost, to assist Competitive Supplier, if so requested by it, in obtaining such information for Participating Consumers, including, without limitation, assisting Competitive Supplier in obtaining permission from such Eligible Consumers and/or the PSC, where necessary as a prerequisite to the provision of such information. Competitive Supplier shall not be responsible for any errors that Competitive Supplier or any of its Associated Entities makes in the provision of Firm Full-Requirements Power Supply only to the extent both that: 1) such errors are caused by errors or omissions in the information provided to it by the Distribution Utility; and 2) it was reasonable for the Competitive Supplier to rely upon that provided information. The Municipality shall not be responsible for any such errors by the Competitive Supplier in any event.

2.2 NO THIRD PARTY BENEFICIARIES

Except as specifically provided in Section 18.11, this ESA does not and is not intended to confer any rights or remedies upon any person other than the Parties. This ESA facilitates rights under the [CCA Orders](#) and Local Law for Eligible Consumers to purchase electricity from the

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Competitive Supplier in accordance with this ESA. The Municipality, or Program Manager in support of the Municipality, has the right, but not the obligation, to advocate on behalf of the Eligible Consumers interested in contracting for electric supply and on behalf of all Participating Consumers, unless otherwise prevented by law.

2.3 COMPLIANCE WITH LAWS

The Municipality represents that the Local Law has been duly adopted.

Competitive Supplier specifically represents that it has exercised due diligence to review and has fully complied with all relevant regulations, requirements, and orders of the FERC, NYISO, and PSC.

2.4 CONDITIONS PRECEDENT

The Municipality's obligations under this ESA shall be conditioned upon the Competitive Supplier fulfilling the following requirements:

- a) maintain Competitive Supplier's license from PSC (as such term is defined in the Local Distribution Utility's Terms and Conditions for Competitive Suppliers);
- b) execute any appropriate NYISO applications and agreements;
- c) obtain authorization from the FERC to sell power at market-based rates;
- d) complete EDI testing with Distribution Utility;
- e) provide all other documentation required by the Distribution Utility; and
- f) satisfying all insurance requirements set forth in Article 16 or elsewhere in this ESA.

If Competitive Supplier has not fulfilled all such requirements by the Service Commencement Date, then the Municipality may terminate this ESA without any liability from Municipality to the Competitive Supplier.

2.5 OWNERSHIP AND USE OF ELIGIBLE CONSUMER DATA

Competitive Supplier acknowledges that: 1) all Eligible Consumer data (including addresses, telephone numbers or other identifying information) made available to Competitive Supplier as an agent of Municipality for such data must be protected by the Competitive Supplier and its Associated Entities to the fullest extent possible under the law; 2) the Competitive Supplier does not hold any permanent right, title or interest in this data; and 3) this data is to be obtained, retained and used by the Competitive Supplier and its Associated Entities solely to provide Firm Full-Requirements Power Supply to Participating Consumers and to render other services expressly required or permitted under this ESA. Any other use of Eligible Consumer data without the prior written consent of the Municipality is strictly prohibited. Competitive Supplier may share such Eligible Consumer data with third-party vendors as reasonably necessary to accommodate Competitive Supplier's provision of Firm Full-Requirements Power Supply or other performance pursuant to this ESA (including, without limitation, collection of receivables or enhancement of data exchange between the Parties), provided that Competitive Supplier will take reasonable measures to secure the confidential nature of such data and the restrictions set

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forth in this Article 2.5 and elsewhere in this ESA, and that any vendor or subcontractor is also bound by the terms and conditions of this ESA, especially those regarding data confidentiality and prohibition on non-permitted uses of data through a signed non-disclosure agreement, a copy of which will be provided to the Municipality. Except as expressly provided in this ESA, and as otherwise permitted by law, Competitive Supplier and its Associated Entities shall not disclose any Eligible Consumer data to any third-party and Competitive Supplier and its Associated Entities shall take all Commercially Reasonable measures to protect Eligible Consumer data from access by, or beneficial use for, any third-party. To the extent that the provision of Firm Full-Requirements Power Supply or other services under this ESA requires that Competitive Supplier and its Associated Entities have access to or make use of any Eligible Consumer data, Competitive Supplier and its Associated Entities shall treat such Eligible Consumer data as confidential information. Competitive Supplier may use Eligible Consumer data to engage in direct marketing only during the term of this ESA and subject to the terms set forth in Article 18.2. A violation of this Article 2.5 shall be grounds for termination under Article 4.2(a). Competitive Supplier agrees violation of this Article 2.5 shall constitute irreparable harm.

ARTICLE 3 CONSUMER CHOICE, NOTIFICATION OF RIGHTS, ENROLLMENT

3.1 CONSUMER CHOICE

The Parties acknowledge and agree that all Participating Consumers have the right, pursuant to [CCA Orders](#), Local Law, and the Program, to change their source of electricity supply, as set forth in Article 2.1. The Parties represent and warrant to each other that they shall not interfere with the right of Participating Consumers to opt-out of the Program, and shall comply with any rules, regulations or policies of PSC, the Distribution Utility and/or other lawful Governmental Authority regarding the procedures for opting out or of switching from one source of electric supply to another. Not inconsistent with the above, however, the Parties may take Commercially Reasonable measures to encourage Participating Consumers to affirmatively agree to remain in the Program, consistent with any Governmental Rules.

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3.2 NOTIFICATION TO NEW [LY ELIGIBLE](#) CONSUMERS OF OPT-OUT RIGHTS

Consistent with the requirements of any applicable Governmental Rules, and within a reasonable time after the Distribution Utility notifies Competitive Supplier of the existence of a New Consumer and has provided to Competitive Supplier such New Consumer's account number, service and billing address, and other pertinent contact information, Competitive Supplier shall notify such New Consumer (i) of the date on which such New Consumer will be automatically enrolled in the Program, and (ii) that the Competitive Supplier will be providing Firm Full-Requirements Power Supply to such New Consumer as of the same date, subject to the opt-out provisions of the PSC Orders, Local Law, and the Program ("Opt-Out Notice"). The Opt-Out Notice shall be mailed to each such New Consumer prior to the date of automatic enrollment and shall: (i) prominently state all charges to be assessed by the Competitive Supplier; (ii) at a minimum, provide a summary of the prices and terms included in Exhibit A; (iii) state how such New Consumer may opt-out of the Program prior to enrollment and remain on Default Service from the Distribution Utility; and (iv) state how all Participating Consumers, subsequent to enrollment, will also have the right to opt-out at any time and return to Default Service or choose

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a new Competitive Supplier without paying a fee or penalty to Competitive Supplier. All such notices must be approved in advance by the Municipality.

In providing the notifications set forth in this Article 3.2, and in otherwise conducting the activities in Article 3.4 below, the Competitive Supplier must rely upon information provided to it by the Distribution Utility for the purpose of performing its obligations. Competitive Supplier will not be responsible for any errors in connection with notification of Eligible Consumers only to the extent both that: 1) such errors are caused by errors or omissions in the information provided to it by the Distribution Utility; and 2) it was reasonable for the Competitive Supplier to rely upon that provided information. The Municipality shall not be responsible for any such errors by the Competitive Supplier in any event.

3.3 CONSUMER AWARENESS

Upon mutual agreement concerning the content and method, either the Competitive Supplier, Municipality, or Program Manager may conduct consumer awareness efforts at its sole expense.

3.4 ENROLLMENT

3.4.1 Participating Consumers –All Eligible Consumers as of the Effective Date will be enrolled in the Program, thus becoming Participating Consumers, under the terms of this ESA unless they opt-out during the 30-day period specified in the PSC Orders. Participating Consumers may disenroll from the Program at any time thereafter with no fee or penalty. The Municipality shall authorize the Distribution Utility to provide to Competitive Supplier or to an alternative designee of the Program Manager who has agreed in writing to a non-disclosure agreement, a copy of which will be provided to the Municipality, a list of Participating Consumers as of the Effective Date, as well as such Participating Consumer's service and billing addresses, and any other information necessary for Competitive Supplier to commence Firm Full-Requirements Power Supply to such Participating Consumers as of the Service Commencement Date.

3.4.2 New [ly Eligible](#) Consumers - If New [ly Eligible](#) Consumers elect not to opt-out of the Program as provided in Article 3.2, such New [ly Eligible](#) Consumers will be automatically enrolled by Competitive Supplier in the Program. These New [ly Eligible](#) Consumers electing not to opt out of the Program as provided in Article 3.2 shall be enrolled in the Program at the rates reflected in Exhibit A that refer specifically to New [ly Eligible](#) Consumers. Competitive Supplier shall enroll such New [ly Eligible](#) Consumers in accordance with applicable PSC and Distribution Utility rules.

3.4.3 Eligible Consumers [Who Have Previously Opted Out](#) - At any time during this ESA, Eligible Consumers who have previously opted out of the Program may request that they be enrolled or re-enrolled in the Program. Competitive Supplier shall provide Firm Full-Requirements Power Supply to such Eligible Consumers at a price as set forth in Exhibit A. Following mutually agreed upon procedures, the Competitive Supplier is responsible for accurately and promptly transmitting information regarding Eligible Consumers, to the Distribution Utility. The Competitive Supplier shall be responsible for enrolling all Eligible

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Customers through EDI transactions submitted to the Distribution Utility for initial enrollment in the aggregation and all enrollments thereafter.

3.4.4 Consumers Served by Third-Parties - Consumers being served under other competitive supply programs offered by third-parties will not be automatically enrolled as Participating Consumers under this ESA when such program terminates or is otherwise completed. Competitive Supplier agrees that consumers under such third-party competitive supply programs may affirmatively opt-in at any time and receive Firm Full-Requirements Power Supply, thereby becoming Participating Consumers. New [ly Eligible](#) Consumers who opt-in as provided in this Article 3.4.4 shall be enrolled in the Program at the rates reflected in Exhibit A that refer specifically to New [ly Eligible](#) Consumers.

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3.4.5 Termination Fees. There shall be no termination fees for any residential, small commercial, or municipal Participating Consumers to disenroll from the Program.

ARTICLE 4 TERM OF CONTRACT AND TERMINATION

4.1 TERM

This ESA shall commence on the Effective Date, provided, however, that Competitive Supplier's obligation to provide Firm Full-Requirements Power Supply shall commence on the Service Commencement Date, and shall terminate with the Participating Consumers' first meter read determined by the Parties and delineated in Exhibit A, unless terminated earlier under Article 4.2 below ("Term"). Term shall not exceed 36 months.

4.2 TERMINATION

This ESA may be terminated at any time upon written notice:

- a) by the Municipality, or the Competitive Supplier, if the other Party fails to remedy or cure any breach of any material provision or condition of this ESA (including, but not limited to, Article 2.5 and Article 9), but excluding the failure to provide or arrange for Firm Full-Requirements Power Supply, which is addressed in Article 4.2(d)), within sixty (60) days following written notice to do so by the non-breaching party; or
- b) by the Municipality, or the Competitive Supplier, if any material provision or condition of this ESA be finally adjudged invalid by any court of competent jurisdiction, or if PSC exercises any lawful jurisdiction so as to invalidate or disapprove this ESA in whole or in significant part; or
- c) by the Municipality, if a Regulatory Event that is not a Qualifying Regulatory Event affects the Competitive Supplier and Competitive Supplier incurs costs and chooses to allocate and collect excess costs from Participating Consumers; or
- d) by the Municipality, if a court, PSC or other lawful authority adjudicates contrary to Article 6; or
- e) by the Municipality, i) if an order is entered against the Competitive Supplier approving a petition for an arrangement, liquidation, dissolution or similar relief relating to Bankruptcy or insolvency and such order remains unvacated for thirty (30) days; or (ii) immediately if the

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Competitive Supplier shall file a voluntary petition in Bankruptcy or any petition or answer seeking any arrangement, liquidation or dissolution relating to Bankruptcy, insolvency or other relief for debtors or shall seek, consent to, or acquiesce in appointment of any trustee, receiver, or liquidation of any of Competitive Supplier's property; or

f) notwithstanding the foregoing, the failure of Competitive Supplier to provide or arrange for Firm Full-Requirements Power Supply to Participating Consumers, in the absence of Force Majeure or the Municipality's failure to perform, shall constitute an act of default, and the Municipality may terminate this ESA upon giving written notice and without a cure period. In the event the Competitive Supplier has performed its obligations hereunder and its failure to arrange for or provide Firm Full-Requirements Power Supply is a direct result of actions or non-actions by any transmission service provider, the Distribution Utility, or the NYISO, the Competitive Supplier's failure shall not be deemed to be an act of immediate default and would be subject to remedy or cure as provided in Article 4.2(a).

4.3 OBLIGATIONS UPON TERMINATION

Following termination of this ESA, the Parties shall each discharge by performance all obligations due to any other Party that arose up to the date of termination of the ESA and Competitive Supplier shall continue to have the right to collect all monies due for services rendered to that date.

Upon termination, Competitive Supplier shall have all Participating Consumers switched back to obtaining supply from the Distribution Utility by submitting all consumer drops via EDI to the Distribution Utility in a form acceptable to the Distribution Utility.

4.4 EXTENSION

The ESA may be extended beyond the termination date established in Article 4.1 by mutual, written agreement of the Parties. Any new pricing terms shall be added to and replace Exhibit A as Exhibit A Extension. Upon any such extension, this ESA shall continue to be in effect, and all provisions of the ESA shall retain the same force and effect as before the extension, unless it is terminated by any Party pursuant to the provisions of Article 4.2 or until the date stated in such extension.

ARTICLE 5 CONTINUING COVENANTS

The Competitive Supplier agrees and covenants to perform each of the following obligations during the term of this ESA.

5.1 STANDARDS OF MANAGEMENT AND OPERATIONS

In performing its obligations hereunder, during the term of this ESA, the Competitive Supplier shall exercise reasonable care to assure that its facilities are prudently and efficiently managed; that it employs an adequate number of competently trained and experienced personnel to carry out its responsibilities; that it delivers or arranges to deliver an uninterrupted supply of such amounts of electricity to the Point of Delivery as are required under this ESA; that it complies

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with all relevant industry standards and practices for the supply of electricity to Participating Consumers; and that, at all times with respect to Participating Consumers, it exercises good practice for a Competitive Supplier and employs all Commercially Reasonable skills, systems and methods available.

5.2 CUSTOMER SERVICE ACCESS

The Competitive Supplier agrees to provide, or cause to be provided, certain customer services to Participating Consumers. Such services shall be reasonably accessible to all Participating Consumers, shall be available during normal working hours, shall allow Participating Consumers to transact business they may have with the Competitive Supplier, and shall serve as a communications liaison among the Competitive Supplier, the Municipality, and the Distribution Utility. A toll-free telephone number will be established by Competitive Supplier and be available for Participating Consumers to contact Competitive Supplier during normal business hours (9:00 A.M.- 5:00 P.M. Eastern Time, Monday through Friday) to resolve concerns, answer questions and transact business with respect to the service received from Competitive Supplier. To the extent practicable, the Municipality will post program-related information on the Municipality's website which will be available to Participating Consumers for general information, comparative pricing, product, and service information, and other purposes.

5.3 RESPONDING TO REQUESTS FOR INFORMATION

To the extent authorized by the Participating Consumer(s) and to the extent such individual permission is required by law, the Competitive Supplier shall, during normal business hours (as set forth above), respond promptly and without charge therefore to reasonable requests of the Municipality for information or explanation regarding the matters covered by this ESA and the supply of electricity to Participating Consumers. Competitive Supplier agrees to designate a service representative or representatives (the "Service Contacts") who shall be available for these purposes, and shall identify the office address and telephone number of such representative(s). Whenever necessary to comply with this Article 5.3, the Service Contacts shall call upon other employees or agents of the Competitive Supplier to obtain such information or explanation as may be reasonably requested. Nothing in this Article 5.3 shall be interpreted as limiting the obligation of the Competitive Supplier to respond to complaints or inquiries from Participating Consumers, or to comply with any regulation of PSC regarding customer service.

5.4 ARRANGING FOR FIRM FULL-REQUIREMENTS POWER SUPPLY

Competitive Supplier shall participate in or make appropriate arrangements with NYISO, any relevant regional transmission organization, wholesale suppliers or any other entity to ensure an uninterrupted flow of Firm Full-Requirements Power Supply to the Distribution Utility for delivery to Participating Consumers, and exercise all Commercially Reasonable efforts to cooperate with NYISO or any other entity to ensure a source of back-up power in the event that Competitive Supplier is unable to deliver Firm Full-Requirements Power Supply to the Point of Delivery. In the event the Competitive Supplier is unable to deliver sufficient electricity to the grid to serve Participating Consumers, the Competitive Supplier shall utilize such arrangements and exercise all Commercially Reasonable efforts as may be necessary to continue to serve

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Participating Consumers under the terms of this ESA, and shall bear any costs it may incur in carrying out these efforts and obligations. Competitive Supplier shall not be responsible to the Municipality or any Participating Consumers in the event that, through no fault of the Competitive Supplier or its Associated Entities, the Distribution Utility disconnects, curtails or reduces service to Participating Consumers (notwithstanding whether such disconnection is directed by NYISO).

5.5 NON-DISCRIMINATORY PROVISION OF SERVICE

Competitive Supplier shall supply electric energy to the Point of Delivery to all Participating Consumers on a non-discriminatory basis; provided, however, that those prices and other terms may vary in accordance with reasonably established rate classifications (e.g., residential and small commercial) or by such other categories as appear in Exhibit A. To the extent applicable, Competitive Supplier's prices, terms and conditions shall be in accordance with the New York General Laws, the regulations of PSC, and other applicable provision of law. To the extent required by law and/or the conditions of any PSC approval of this ESA, the Competitive Supplier may not deny service to an Eligible or Participating Consumer for failure to pay the bills of any other electric company (whether engaged in the distribution, transmission, or generation of electricity) or of any other aggregator, marketer or broker of electricity, but may reasonably deny or condition new service, or terminate existing service, based upon any Participating Consumer's failure to pay bills from the Competitive Supplier, subject to any provisions of law or applicable PSC orders or regulations. Provision of electric energy supply shall be subject to Competitive Supplier's Standard Credit Policy, to the extent permitted by law, as described in Exhibit A.

In any event, should either Program Manager or Municipality actively achieve and document (e.g. to the satisfaction of the New York State Public Service Commission and the Utility) reduction in capacity tag buying obligations, Competitive Supplier will pay or distribute benefits from these tag reductions to Participating Consumers at the NYISO strip clearing price for the appropriate zone (i.e., H, upper Westchester or I, lower Westchester), in which the capacity tag reduction is certified by appropriate party. Program Manager agrees it does not intend to pursue any actions that would increase the capacity tag obligation to Competitive Supplier.

5.6 APPROVAL OF GENERAL COMMUNICATIONS

Competitive Supplier shall cooperate with the Municipality in the drafting and sending of messages and information to Eligible or Participating Consumers concerning the Program or any matter arising under or related to this ESA. Competitive Supplier shall, prior to sending, whether directly or through its Associated Entities, any direct mail, advertising, solicitation, bill insert, electronic mail, or other similar written or electronic communication (collectively, "General Communications") to Eligible or Participating Consumers (but excluding individually drafted or tailored communications responding to the specific complaint or circumstance of an individual consumer), provide a copy of such General Communication to the Municipality and to Program Manager for its review to determine whether it is consistent with the purposes and goals of the Municipality and Program Manager. The Municipality or Program Manager shall have the right

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to disapprove such General Communications and suggest revisions if it finds the communication inconsistent with the purposes and goals of the Municipality, factually inaccurate or likely to mislead; provided, however: (i) that the communication shall be deemed approved if the Municipality and Program Manager fails to respond within seven (7) calendar days (not including weekends and holidays); and (ii) that no approval shall be necessary for any communication (a) regarding any emergency situation involving any risk to the public health, safety or welfare; or (b) in the nature of routine monthly or periodic bills, or collection notices, except that any bill insert or message included at the bottom of such bill not within the scope of (a) above shall require approval. If the Municipality objects to any General Communication on the grounds it is inconsistent with the purposes and goals of the Municipality, the Competitive Supplier, after consultation as provided in this Article 5.6, may nevertheless elect to send such General Communication provided that it: (i) clearly indicates on such communication that it has not been endorsed by the Municipality, and (ii) has previously provided all Participating Consumers a meaningful chance to opt not to receive such General Communications. The Municipality may reject or exclude any proposed General Communication that, in its reasonable judgment, is contrary to the interests and objectives of the Program or the Municipality, provided, however, any such right of rejection or exclusion shall not apply to Competitive Supplier's notice to exercise or enforce its rights under the ESA or Customer Agreement, including but not limited to any notice of Force Majeure or Change in Law.

5.7 COMMUNICATION OF INSERTS AND MESSAGES

Competitive Supplier agrees that if it communicates with Participating Consumers directly, and unless prevented for regulatory or other such reasons from doing so, it shall allow the Municipality or Program Manager to include no less than three (3) inserts per year into such communications, provided that the Program Manager or Municipality, where appropriate pays the cost of printing and reproducing such insert and any incremental postage or handling costs the Competitive Supplier may incur as a result of including such insert. Competitive Supplier shall have the right to disapprove such General Communications (that is communications other than those pertaining to the Municipality's demand-side management, energy efficiency programs and technology, and renewable energy programs, if applicable) and suggest revisions if it finds the communication inconsistent with its business interests, factually inaccurate or likely to mislead; provided, however: (i) that the communication shall be deemed approved if the Competitive Supplier fails to respond within seven (7) calendar days after receipt (not including weekends and holidays); and (ii) that no approval shall be necessary for any communication which has been ordered by PSC or any other Governmental Authority to be so communicated. Competitive Supplier shall notify Program Manager at least two (2) weeks before a direct communication to Participating Consumers is to be mailed. Program Manager shall provide Program General Communications insert file within seven (7) calendar days of receiving such notice.

Competitive [Supplier](#) agrees to allow and facilitate the Program Manager to utilize the supplier [messages](#), area of the bill for Program communications.

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5.8 PARTICIPATING CONSUMER LISTS

To the extent not prohibited by any Governmental Rule or expressly by any Participating Consumer(s), the Competitive Supplier shall, upon request of the Municipality or of Program Manager, provide aggregate consumption information as the Municipality or Program Manager may request to the extent such information is available to Competitive Supplier. Competitive Supplier shall provide Participating Consumer lists in an electronic format, secure transfer mode, frequency and format as set out in Exhibit D, subject to non-disclosure agreement for customers who have not requested that their personal information be denied to Program Manager or to Municipality.

5.9 COMPLIANCE WITH LAWS

The Parties shall promptly and fully comply with all existing and future Governmental Rules of all Governmental Authorities having jurisdiction over the activities covered by this ESA.

5.10 CONSENT

Whenever performance of an obligation of any Party hereto requires the consent or approval of any Governmental Authority, such Party shall make Commercially Reasonable efforts to obtain such consent or approval. In the event the Competitive Supplier requests the Municipality's assistance in obtaining such consent or approval and the Municipality anticipates that it will incur costs in fulfilling the Competitive Supplier's request, it shall give the Competitive Supplier an estimate of such costs. Upon receiving the estimate, Competitive Supplier shall determine whether it will continue to request the Municipality's assistance, and if so, the Competitive Supplier shall reimburse the Municipality for all costs, up to the estimated dollar amount, reasonably incurred by the Municipality in connection with such efforts.

ARTICLE 6 ROLE OF THE MUNICIPALITY

Under this ESA, the Municipality shall not actually receive, take title to, or be liable for the supply or delivery of Firm Full-Requirements Power Supply in any manner whatsoever. The Parties specifically agree that the role of the Municipality is established under the PSC Orders and Local Law and may include negotiating the terms and conditions under which Firm Full-Requirements Power Supply will be provided by the Competitive Supplier under this ESA. It is the sole obligation of the Competitive Supplier to arrange for delivery of Firm Full-Requirements Power Supply to Participating Consumers. The Parties agree that, with regards to electricity, Municipality is not a "public utility company" or providing any "public utility service" within the meaning of GML 360 and Article 4 of Public Service Law as a result of this ESA. Should a court, PSC, or other lawful authority adjudicate to the contrary, the provisions of 4.2 a) shall apply. However, the Municipality may be considered to be operating a municipal load aggregation plan pursuant to the PSC Orders and Local Law. The Competitive Supplier hereby agrees that it will take no action, whether directly or through its Associated Entities, that would make the Municipality liable to any Participating Consumer due to any act or failure to act on the part of the Competitive Supplier or its Associated Entities relating to the delivery or supply of Firm Full-Requirements Power Supply.

Municipality **may** conduct outreach to the community in addition to the initial program notification letter, **which will be delivered at the Competitive Supplier's expense, with a Business Reply Mail insert to allow Eligible Consumers to opt out without postage expense.** Municipality will report on their endeavors to Program Manager to inform residents on the Program and "non-demand charge" commercial businesses. In case of any doubt, Municipality shall retain final control of content related to all communications.

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ARTICLE 7 ROLE OF PROGRAM MANAGER

7.1 PROGRAM MANAGER DUTIES

Sustainable Westchester Inc, as Program Manager, agrees to:

- a. Provide the involved agencies and parties, such as but not limited to the PSC or Distribution Utility, requested information about and documentation of the actions undertaken by the Municipality in furtherance of enabling participation in the Program;
- b. Prepare, or cause to be prepared, and provide the Municipality with requested and non-confidential information that the involved agencies and parties, such as but not limited to the PSC or Distribution Utility, provide to the Program Manager in furtherance of establishing the Program;
- c. Upon execution hereof, initiate all the necessary steps to secure the needed information to fulfill the customer notification requirements of the PSC Orders, including but not limited to the following:

"5. Sustainable Westchester, Inc., its municipal members, and any other municipal contractors receiving the personally identifiable information of utility customers shall agree to protect that information consistent with the discussion in the body of this Order, and shall submit their agreement to Department of Public Service Staff at the time the letter certifying authorization discussed in the body of this Order is submitted.
6. Sustainable Westchester, Inc. will file any Requests for Proposals, or Requests for Information, and similar documents, as well as any contracts entered into for energy supply, at the time they are issued."

- d. Sign the ESA in a timely fashion including the conditions that the Competitive Supplier is **verified to be a qualified electricity supplier by the NYISO in the Distribution Utility's service territory**, and the Competitive Supplier's response to the Energy Procurement Request for Proposals is deemed compliant with the terms and conditions set forth in the ESA;
- e. Provide the Municipality with timely communications content to effect customer notification requirements for approval, not to be unreasonably withheld, given the projected schedule of Program's implementation;
- f. Fulfill any other responsibilities as may reasonably adhere to facilitating the implementation of the Program, subject to the Program Manager's inherent and original role as an organization driven by the deliberated priorities of its constituent member municipalities; and
- g. Fulfill any other responsibilities as set forth in this agreement herein.

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7.2 PROGRAM MANAGER FEE

Competitive Supplier shall pay Program Manager \$0.001 for each kWh delivered, invoiced and paid for by Participating Consumers during the Term ("Program Manager Fee" or "Fee"). The

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Parties agree that Competitive Supplier will remit the Program Manager Fee to the Program Manager, pursuant to the terms of this ESA. Competitive Supplier shall pass through such payments to Sustainable Westchester, Inc. for the duration of this ESA. This provision shall be binding upon the Parties and all permitted assigns and other successors-in-interest of the Parties.

7.3 PAYMENT OF FEE

Payment to Program Manager will be made monthly by Automated Clearing House (“ACH”) (an electronic network for financial transactions) to the account set forth in Exhibit C hereto, provided that Competitive Supplier has received payment with respect to the electricity used by the Participating Consumers. The Program Manager Fee shall be paid by the last business day of the month based on revenue collected by Competitive Supplier with respect to each Participating Consumer during the calendar month two months prior. For example, full payments received in January will be paid by the end of March. If Competitive Supplier has paid a past Fee in error (or the payment was based on information subsequently determined invalid), it may deduct from or add to future payments due under this ESA and provide explanation of the error in sufficient detail.

Program Manager shall provide the Municipality with a reasonably detailed accounting not less than annually of the program impact, financial and other, including revenues received and expenses incurred on communication, administration and legal expenses.

7.4 INDEPENDENT CONTRACTOR

The Parties agree that Program Manager is not an agent or employee of Competitive Supplier for any purpose. All expenses which are incurred by Program Manager in connection with this ESA shall be borne wholly and completely by Program Manager. Program Manager shall be responsible for all state, federal, and local taxes, including estimated taxes and social security and employment reporting for Program Manager or any employees or agents of Program Manager.

ARTICLE 8 PRICES AND SERVICES; BILLING

8.1 SCHEDULE OF PRICES AND TERMS

Competitive Supplier agrees to provide Firm Full-Requirements Power Supply and other related services as expressly set forth herein in accordance with the prices and terms included in Exhibit A to this ESA, which Exhibit is hereby incorporated by reference into this ESA.

8.2 OBLIGATION TO SERVE

As between the Parties, Competitive Supplier has the sole obligation to obtain sources of supply, whether from generating facilities owned or controlled by its affiliates, through bilateral transactions, or the market, as may be necessary to provide Firm Full-Requirements Power Supply for all of the Participating Consumers under the Program. Competitive Supplier, except as explicitly limited by the terms included in Exhibit A, shall be obligated to accept all

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Participating Consumers, regardless of their location or energy needs provided such Participating Consumers are eligible under the applicable regulations and tariffs of the Distribution Utility.

8.3 METERING

The Distribution Utility will be responsible for any metering which may be required to bill Participating Consumers in accordance with the Distribution Utility's Terms and Conditions for Competitive Suppliers.

8.4 TERMS AND CONDITIONS PERTAINING TO INDIVIDUAL ACCOUNT SERVICE

8.4.1 Title

Title to Firm Full-Requirements Power Supply will transfer from Competitive Supplier to Participating Consumers at the Point of Sale. In accordance with the Distribution Utility's Terms and Conditions for Competitive Suppliers, the Competitive Supplier will be responsible for any and all losses incurred on the local network transmission systems and distribution systems, as determined by the Distribution Utility.

8.4.2 Billing and Payment

Unless otherwise specified in an Exhibit to this ESA, all billing under this ESA shall be based on the meter readings of each Participating Consumer's meter(s) performed by the Distribution Utility. Competitive Supplier shall cause the Distribution Utility to prepare and mail bills to Participating Consumers monthly. The Competitive Supplier shall adopt the billing and payment terms offered by the Distribution Utility to its Eligible Consumers on Default Service. If actual meter date is unavailable, the Competitive Supplier may cause the Distribution Utility to bill based on its good faith estimates of usage. Any over-charge or under-charge will be accounted for in the next billing period for which actual meter data is available.

8.4.3 Regional and Local Transmission

The prices quoted in Exhibit A do not include current and future charges for distribution service costs collected by the Distribution Utility under its distribution service tariff or local transmission costs as may be imposed by NYISO or individual electric utilities that have FERC transmission tariffs. The Competitive Supplier understands that these costs will be collected by the Distribution Utility. If, in the future, Competitive Supplier becomes responsible for such distribution or transmission costs, Competitive Supplier shall be entitled to collect such costs from Participating Consumers to the extent permitted by any Governmental Rules. These costs are "pass through" costs as determined by the appropriate regulatory agencies.

8.4.4 Taxes

All sales, gross receipts, excise or similar taxes imposed with respect to the sale or consumption of Firm Full-Requirements Power Supply required to be collected by the Competitive Supplier shall be included on the Participating Consumer's bill and shall be remitted to the appropriate

taxing authority by Competitive Supplier. For avoidance of doubt, it is understood that the Competitive Supplier shall include gross receipts tax in its preparation of Participating Consumers' bills. Participating Consumers shall be responsible for all taxes that are customarily imposed upon a purchaser of electricity and are associated with electricity consumption under the ESA. Participating Consumers shall be responsible for identifying and requesting any exemption from the collection of any tax by providing appropriate documentation to Competitive Supplier. For avoidance of doubt, Competitive Supplier shall be responsible for all taxes imposed upon it as a supplier of electricity, including taxes on Competitive Supplier's income.

ARTICLE 9 COMPLIANCE WITH THE PSC ORDERS

Competitive Supplier agrees that it, and its Associated Entities directly or indirectly involved in providing services or meeting the Competitive Supplier's obligations under the ESA, will comply with the applicable provisions of the PSC Orders and any regulations, orders or policies adopted pursuant thereto.

ARTICLE 10 SERVICE PROTECTIONS FOR RESIDENTIAL CONSUMERS

10.1 UNIFORM BUSINESS PRACTICES COMPLIANCE

Competitive Supplier agrees that it and its Associated Entities directly or indirectly involved in providing services or meeting the Competitive Supplier's obligations under the ESA shall comply with the provisions of the Uniform Business Practices, as applicable to Competitive Suppliers, and any amendments thereto, notwithstanding any relief from the Uniform Business Practices offered by the PSC to the Program. In addition, the Competitive Supplier and its Associated Entities agrees to comply with any code of conduct or policies the PSC may adopt in accordance with the PSC Orders and to all related Orders of Case 14-M-0564 and 14-M-0224 to which the Program Manager is required to adhere, notwithstanding any relief from the Uniform Business Practices offered by the PSC to the Program.

10.2 DESCRIPTION OF SUPPLIER'S PROCEDURES AND SERVICES

The Competitive Supplier shall, on or before the Effective Date, provide a written, detailed description of its billing and termination procedures, customer services, confidentiality and related practices and procedures for approval by the Municipality (which approval shall not be unreasonably withheld). Such written description shall also include the Competitive Supplier's plans for protecting the rights and protections of Participating Customers under the Home Energy Fair Practices Act which requires that all utility customers be treated fairly with regard to application for service, customer billing, and complaint procedures. If the Participating Consumer(s) so permit(s) or to the extent such permission is required by law or the terms of any PSC order with respect to this ESA, the Competitive Supplier agrees to provide notice to the Municipality of any consumer complaints received from a Participating Consumer, and the Municipality shall have the right, but not the obligation, to participate in resolution of the dispute, to the extent that such complaints relate directly to the Program, and to the extent permitted by PSC regulations and other applicable law. The failure to timely submit such written description, or the submission of practices and procedures which materially fail to comply with

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PSC regulations and policies, shall be deemed grounds for termination of this ESA, at the discretion of the Municipality after providing written notice of such failure to the Competitive Supplier and allowing the Competitive Supplier sixty (60) days to cure such failure.

10.3 DISPUTE RESOLUTION

In accordance with the Uniform Business Practices, in the event of a dispute regarding an invoice or Competitive Supplier's service, whether directly or through its Associated Entities, under this ESA, a Participating Consumer may initiate a formal dispute resolution process by providing written notice to the PSC. The PSC will assist the Parties in reaching a mutually acceptable resolution. If no such resolution is reached within 40 calendar days of receipt of the formal written notice, any Party may request an initial decision from PSC. Parties may appeal this decision.

ARTICLE 11 NON-DISCRIMINATION IN HIRING AND EMPLOYMENT

Competitive Supplier agrees that it shall conduct its operations and activities under this ESA in accordance with all applicable state and federal laws regarding non-discrimination in hiring and employment of employees, and will require all Associated Entities to do the same.

ARTICLE 12 POWER SUPPLY INFORMATION AND ACCESS TO INFORMATION

12.1 POWER SUPPLY INFORMATION

12.1.1 Quarterly Report of Sales

Competitive Supplier shall provide the Municipality or its agent with a quarterly report of sales which will contain: (i) the actual aggregate kWh sales for each meter read of the reporting period and (ii) the number of Participating Consumer accounts active in each meter read of the reporting period, as well as the kWh and number of accounts disaggregated by rate class (residential and small commercial), and product (Standard and 100% Renewable). The quarterly report will be due to the Municipality or its agent within sixty (60) days following the close of each quarter (March 31, June 30, September 30, and December 31). The aggregate kWh sales and number of Participating Consumer accounts shall be listed in the report both by rate code and rate name as shown on Exhibit B attached hereto. This information shall be provided in electronic format.

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12.1.2 Consumer-Related Data

On and after the Service Commencement Date, Competitive Supplier will maintain consumer-related data in electronic form including utility account number, billing name, billing address, service address historical usage, demand, and ICAP (Installed Capacity) data. A violation of this Article 12.1.2 shall be grounds for termination under Article 4.2(a) unless such violation is due to a system or reasonable administrative error and the Competitive Supplier demonstrates to the Municipality's satisfaction that such system or administrative error exists and that the Competitive Supplier is acting in good faith to resolve such issue.

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12.1.3 Standard of Care

Competitive Supplier and its Associated Entities shall use all Commercially Reasonable efforts in preparing and providing any information or data required under the ESA. To the extent that Competitive Supplier determines that any information or data provided hereunder is in error, it shall provide corrections to such information or data to the Municipality or its agent within a Commercially Reasonable time.

12.2 POWER SUPPLY REPORT

Competitive Supplier agrees to comply with any current and/or future rules and regulations related to Environmental Disclosure Labels in the State of New York, including the creation of separate labels to reflect renewable CCA products within the Competitive Supplier's portfolio, as well as individual municipal renewable purchases within the CCA program.

Commented [5]: additional clarification regarding NY renewable energy certificate registration

Unless the Environmental Disclosure Label requirement is waived by PSC, within fifteen (15) days of the end of the quarter, Competitive Supplier shall present a copy of the current Environmental Disclosure Label required by PSC of all Competitive Suppliers to be disclosed to their Participating Consumers, which includes information pertaining to Competitive Supplier's power supply and a reasonably detailed description of the sources of Competitive Supplier's power supply used to serve Participating Consumers pursuant to this ESA, except to the extent such disclosure would violate any confidentiality obligations of Competitive Supplier.

12.3 BOOKS AND RECORDS

Competitive Supplier shall keep their books and records in accordance with any applicable regulations or guidelines of PSC, FERC, and any other Governmental Authority. The Municipality will have electronic access to any reports mandated by the Securities and Exchange Commission which are available on the Internet "EDGAR" system. Upon reasonable request by the Municipality and at the Municipality's reasonable expense, Competitive Supplier or its Associated Entities shall provide reasonable back up for any charge under this ESA questioned by the Municipality.

12.4 COPIES OF REGULATORY REPORTS AND FILINGS

Upon reasonable request, Competitive Supplier shall provide to the Municipality a copy of each public periodic or incident-related report or record relating to this ESA which it files with any New York or federal agency regulating rates, service, compliance with environmental laws, or compliance with affirmative action and equal opportunity requirements, unless the Competitive Supplier is required by law or regulation to keep such reports confidential. Competitive Supplier shall be reimbursed its reasonable costs of providing such copies, if only available in hard copy.

ARTICLE 13 RESOLUTION OF DISPUTES; CHOICE OF LAW AND FORUM

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13.1 CHOICE OF LAW AND FORUM

This ESA and the rights of the Parties shall be interpreted and determined in accordance with the laws of the State of New York without respect to conflicts-of-laws principles. Any litigation arising hereunder shall be brought solely in the appropriate federal court in New York or appropriate state court sitting in the New York county in which the Municipality is located, to whose jurisdiction the Parties hereby assent, waiving all objections to venue or forum.

13.2 DISPUTE RESOLUTION

Unless otherwise provided for in this ESA, the dispute resolution procedures of this Article 13.2 shall be the exclusive mechanism to resolve disputes arising under this ESA. The Parties agree to use their respective best efforts to resolve any dispute(s) that may arise regarding this ESA. Any dispute that arises under or with respect to this ESA that cannot be resolved shall in the first instance be the subject of informal negotiations between the Parties involved in the dispute. The dispute shall be considered to have arisen when one Party sends the other Party(ies) involved in the dispute a written notice of dispute. The period for informal negotiations shall be fourteen (14) days from receipt of the written notice of dispute unless such time is modified by written agreement of the Parties involved in the dispute. In the event that the parties involved in the dispute cannot resolve a dispute by informal negotiations, the Parties may seek judicial enforcement subject to the provisions of this ESA. Notwithstanding the foregoing, injunctive relief may be immediately sought without resorting to alternative dispute resolution to prevent irreparable harm that would be caused by a breach of this ESA.

ARTICLE 14 INDEMNIFICATION

14.1 INDEMNIFICATION BY THE COMPETITIVE SUPPLIER

In addition to any other remedies available to the Municipality at law or equity, and notwithstanding any other provision contained herein, the Competitive Supplier shall indemnify, defend and hold harmless the Municipality and the Program Manager ("Indemnified Parties") and the Indemnified Parties' officials, officers, employees, agents, representatives and independent contractors, from and against any and all costs, claims, liabilities, damages, expenses (including reasonable attorneys' fees), causes of action, suits or judgments, incurred by, on behalf of or involving any one of the foregoing parties to the extent arising directly from or in connection with (i) any material breach by Competitive Supplier or its Associated Entities of its obligations, covenants, representations or warranties contained in this ESA and not resulting from the actions (or omissions where there is a duty to act) of the NYISO, Distribution Utility, the Municipality or its employees or agents, or (ii) any action or omission taken or made by the Competitive Supplier or its Associated Entities in connection with Competitive Supplier's performance of this ESA.

14.2 NOTICE OF INDEMNIFICATION CLAIMS

If the Municipality or Program Manager seeks indemnification pursuant to this Article 14, it shall notify Competitive Supplier of the existence of a claim, or potential claim as soon as practicable after learning of such claim, or potential claim, describing with reasonable particularity the circumstances giving rise to such claim.

14.3 SURVIVAL

Notwithstanding any provision contained herein, the provisions of this Article 14 shall survive the termination of this ESA for a period of two (2) years with respect to (i) any claims which occurred or arose prior to such termination and (ii) any losses occurring as a result of the termination.

14.4 DUTY TO MITIGATE

Each Party agrees that they have a duty to mitigate damages and covenant that they will use Commercially Reasonable efforts to minimize any damages they may incur as a result of the other Party's performance or non-performance of this ESA.

ARTICLE 15 REPRESENTATIONS AND WARRANTIES

15.1 BY THE COMPETITIVE SUPPLIER

As a material inducement to entering into this ESA, the Competitive Supplier hereby represents and warrants to the Municipality as of the Effective Date of this ESA as follows:

- a) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation and is qualified to conduct its business in those jurisdictions necessary for it to perform its obligations under this ESA;
- b) it has all authorizations from any Governmental Authority necessary for it to legally perform its obligations under this ESA or will obtain such authorizations in a timely manner prior to when any performance by it requiring such authorization becomes due;
- c) the execution, delivery and performance of this ESA are within its powers, have been duly authorized by all necessary action and do not violate any of the terms or conditions in its governing documents or any contract to which it is a party or any Governmental Rule applicable to it;
- d) subject to the conditions set forth in Article 2.4, this ESA constitutes a legal, valid and binding obligation of the Competitive Supplier enforceable against it in accordance with its terms, and the Competitive Supplier has all rights such that it can and will perform its obligations to the Municipality in conformance with the terms and conditions of this ESA, subject to Bankruptcy, insolvency, reorganization and other laws affecting creditor's rights generally and general principles of equity;
- e) no Bankruptcy is pending against it or to its knowledge threatened against it;
- f) none of the documents or other written information furnished by or on behalf of Competitive Supplier to or for the benefit of the Municipality pursuant to this ESA, contains any untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements contained herein or therein, in the light of the circumstances in which they were made, not misleading; and
- g) all information furnished by Competitive Supplier in response to the Request for Proposals for competitive electric supply services is true and accurate.

15.2 BY THE MUNICIPALITY

As a material inducement to entering into this ESA, the Municipality hereby represents and warrants to Competitive Supplier as of the Effective Date of this ESA as follows:

- a) this ESA constitutes the legal, valid and binding contract of the Municipality enforceable in accordance with its terms, subject to applicable law;
- b) the execution, delivery and performance of this ESA are within the Municipality's powers, have been or will be duly authorized by all necessary action;
- c) Municipality has all authorizations from local Governmental Authority necessary for it to legally perform its obligations under this ESA or will obtain such authorizations in a timely manner prior to when any performance by it requiring such authorization becomes due; and
- d) no Bankruptcy is pending or threatened against the Municipality;

15.3 BY THE PROGRAM MANAGER

As a material inducement to entering into this ESA, the Program Manager hereby represents and warrants to Competitive Supplier and Municipality as of the Effective Date of this ESA as follows:

- a) this ESA constitutes the legal, valid and binding contract of Program Manager enforceable in accordance with its terms, subject to applicable law
- b) the execution, delivery and performance of this ESA are within Program Manager's powers, have been or will be duly authorized by all necessary action;
- c) Program Manager has all authorizations from any local or state Governmental Authority necessary for it to legally perform its obligations under this ESA or will obtain such authorizations in a timely manner prior to when any performance by it requiring such authorization becomes due; and
- d) no Bankruptcy is pending or threatened against Program Manager.

ARTICLE 16 INSURANCE

16.1 In order to help support the indemnifications provided in Article 14, and its other promises and covenants stated herein, Competitive Supplier shall secure and maintain, at its own expense, before the Effective Date and throughout the term of this ESA, unless otherwise specified, commercial general liability insurance of at least \$1,000,000 combined single limit and excess liability coverage of at least \$5,000,000 with insurers licensed to do business in the State of New York. Each of the required insurance policies shall be with insurers qualified to do business in the State of New York, with an A- or better rating for financial condition and financial performance by Best's Key Rating Guide, Property/Casualty Edition. In the event the Competitive Supplier's insurance carrier is downgraded to a rating of lower than Best's A-, Competitive Supplier shall have ninety (90) days to obtain coverage from a carrier with a rating of at least Best's A-. A certificate that each such insurance coverage is in force and effect, and listing the Municipality as an additional insured on all policies, shall be submitted on or before the Effective Date and thereafter whenever renewed or requested by the Municipality. All

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insurers must be notified that the insurance policies must provide that a copy of any notice of cancellation or non-renewal will be sent to the Municipality.

16.2 With respect to any of the insurance policies provided by the Competitive Supplier pursuant to these requirements which are “claims made” policies, in the event at any time such policies are canceled or not renewed, the Competitive Supplier shall provide a substitute insurance policy with terms and conditions and in amounts which comply with these requirements and which provides for retroactive coverage to the date of the cancellation or non-renewal of the prior “claims-made” policy. With respect to all “claims made” policies which have been renewed, the Competitive Supplier shall provide coverage retroactive to the Effective Date under this ESA. All said substitute or renewed “claims made” policies shall be maintained in full force and effect for three (3) years from the date of the termination of the ESA.

16.3 Competitive Supplier, to the extent required by law, must provide worker’s compensation insurance meeting all applicable state and federal requirements.

ARTICLE 17 REGULATORY EVENT/NEW TAXES

17.1 REGULATORY EVENT

If a Regulatory Event occurs, the Parties shall use their best efforts to reform this ESA to give effect to the original intent of the Parties. If despite such best efforts, a Regulatory Event affects Competitive Supplier and Program Manager and Municipality agree that Competitive Supplier is incurring excess costs as a result thereof and agrees that Competitive Supplier may recover such costs, such amount shall be allocated to and collected from Participating Consumers on a per kWh basis through applicable monthly invoice(s).

17.2 QUALIFYING REGULATORY EVENT

If a Qualifying Regulatory Event occurs, the Parties shall use their best efforts to reform this ESA to give effect to the original intent of the Parties. If a Qualifying Regulatory Event affects Competitive Supplier and Competitive Supplier incurs excess costs as a result thereof, such amount shall be allocated to and collected from Participating Consumers on a per kWh basis through applicable monthly invoice(s).

17.3 NEW TAXES

If any New Taxes are imposed for which Competitive Supplier is responsible, the amount of such New Taxes shall be allocated to and collected from Participating Consumers through applicable monthly invoice(s).

ARTICLE 18 MISCELLANEOUS

18.1 NO ASSIGNMENT WITHOUT PERMISSION

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Except in the event of the sale of all or substantially all of its retail electricity business to an entity with credit and service ability to deliver on all facets of this ESA reasonably acceptable to Municipality, Competitive Supplier or Program Manager shall not directly or indirectly assign this ESA or any of its rights, obligations and privileges under this ESA without the prior written approval of the Municipality. Such approval may be denied at the reasonable discretion of the Municipality, including if the proposed assignee does not have the experience and financial ability to fulfill all obligations of the Competitive Supplier or Program Manager in the ESA. Notwithstanding the above, any assignment of this ESA by the Competitive Supplier, whether as the result of the sale of all or substantially all of the Competitive Supplier's business related to this ESA or otherwise, shall be subject to the following requirements: (i) Competitive Supplier shall provide the Municipality with notice of the proposed assignment at least ninety (90) days prior to such assignment; (ii) Competitive Supplier's assignee shall agree in writing to be bound by the terms and conditions of this ESA; and (iii) Competitive Supplier and such assignee shall, at least ninety (90) days in advance of any assignment, reasonably demonstrate to Municipality that assignee has the experience and financial ability to fulfill all obligations of the Competitive Supplier in the ESA. The Municipality or Program Manager may assign this ESA without the prior consent of Competitive Supplier provided that the proposed assignee has at least the same financial ability as the Municipality or Program Manager and such assignment would not materially impair the rights and interests of Competitive Supplier under this ESA. The rights and obligations created by this ESA shall inure to the benefit of, and be binding upon, the successors and permitted assigns of, the respective Parties hereto.

18.2 DIRECT MARKETING

Prior to the introduction of any new product or service which Competitive Supplier may wish to make available to Participating Consumers or other Eligible Consumers located within the Municipality, Competitive Supplier agrees to (i) give the Municipality written notice of such new product or service and (ii) subject to the entry into reasonable confidentiality terms to the extent permitted by law and mutually acceptable to the Parties, discuss with the Municipality the possible inclusion of such new product or service in this or another aggregation program undertaken by the Municipality.

Competitive Supplier also agrees not to engage, whether directly or through any of its Associated Entities, in any direct marketing to any Participating Consumer that relies upon Competitive Supplier's unique knowledge of, or access to, Participating Consumers gained as a result of this ESA. For the purposes of this provision, "direct marketing" shall include any telephone call, mailing, electronic mail, or other contact between the Competitive Supplier and the Consumer. Programs of the Competitive Supplier that do not rely on unique knowledge or access gained through this ESA will not constitute such "direct marketing."

18.3 NOTICES

All notices, demands, requests, consents or other communications required or permitted to be given or made under this ESA shall be in writing and addressed to:

If to Competitive Supplier:

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If to Municipality:

and if to Program Manager:

Executive Director
Sustainable Westchester Inc
55 Maple Ave.
Mount Kisco, NY 10549

Notices hereunder shall be deemed properly served (i) by hand delivery, on the day and at the time on which delivered to the intended recipient at the address set forth in this ESA; (ii) if sent by mail, on the third business day after the day on which deposited in the United States certified or registered mail, postage prepaid, return receipt requested, addressed to the intended recipient at its address set forth in this ESA; or (iii) if by Federal Express or other reputable express mail service, on the next business day after delivery to such express mail service, addressed to the intended recipient at its address set forth in this ESA. Any party may change its address and contact person for the purposes of this Article 18.3 by giving notice thereof in the manner required herein.

18.4 CHANGES IN EMERGENCY AND SERVICE CONTACT PERSONS

In the event that the name or telephone number of any emergency or service contact for the Competitive Supplier changes, Competitive Supplier shall give prompt notice to the Municipality and the Program Manager in the manner set forth in Article 18.3. In the event that the name or telephone number of any such contact person for the Municipality changes, prompt notice shall be given to the Competitive Supplier and the Program Manager in the manner set forth in Article

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18.3. In the event that the name or telephone number of any such contact person for the Program Manager changes, prompt notice shall be given to the Competitive Supplier and the Municipality in the manner set forth in Article 18.3.

18.5 ENTIRE ESA; AMENDMENTS

This ESA constitutes the entire agreement between the Parties hereto with respect to the subject matter hereof and supersedes all prior oral or written agreements and understandings between the Parties relating to the subject matter hereof. This ESA may only be amended or modified by a written instrument signed by all Parties hereto, duly authorized to sign such instrument.

18.6 FORCE MAJEURE

If by reason of Force Majeure any Party is unable to carry out, either in whole or in part, its obligations herein contained, such Party shall not be deemed to be in default during the continuation of such inability, provided that: (i) the non-performing Party, within two (2) weeks after the occurrence of the Force Majeure, gives the other Party hereto written notice describing the particulars of the occurrence; (ii) the suspension of performance be of no greater scope and of no longer duration than is required by the Force Majeure; (iii) no obligations of the Party which were to be performed prior to the occurrence causing the suspension of performance shall be excused as a result of the occurrence; and (iv) the non-performing Party shall use Commercially Reasonable efforts to remedy with all reasonable dispatch the cause or causes preventing it from carrying out its obligations. If (i) an event of Force Majeure caused by any strikes, lockouts or other industrial disturbances involving Competitive Supplier or its Associated Entities continues for a period of thirty (30) days or longer, or (ii) an event of Force Majeure arising from any other cause continues for a period of one hundred eighty (180) days or longer, any Party may terminate this ESA by sending the other Party a written notice as set forth in Article 4.2; provided, however, that the same shall not constitute a default under this ESA and shall not give rise to any damages. Additionally, Competitive Supplier shall submit all consumer drops via EDI to the Distribution Utility in accordance with the rules and regulations set forth by the PSC in Case 98-M-0667.

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18.7 EXPENSES

Each Party hereto shall pay all expenses incurred by it in connection with its entering into this ESA, including without limitation, all of its attorney's fees and expenses.

18.8 NO JOINT VENTURE

Each Party will perform all obligations under this ESA as an independent contractor. Nothing herein contained shall be deemed to constitute any Party a partner, agent or legal representative of the other Party or to create a joint venture, partnership, agency or any relationship between the Parties. The obligations of the Municipality and the Competitive Supplier hereunder are individual and neither collective nor joint in nature.

18.9 JOINT WORK PRODUCT

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This ESA shall be considered the work product of all Parties hereto, and, therefore, no rule of strict construction shall be applied against any Party.

18.10 COUNTERPARTS

This ESA may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute a single agreement.

18.11 WAIVER

No waiver by any Party hereto of any one or more defaults by any other Party in the performance of any provision of this ESA shall operate or be construed as a waiver of any future default, whether of like or different character. No failure on the part of any Party hereto to complain of any action or non-action on the part of any other Party, no matter how long the same may continue, shall be deemed to be a waiver of any right hereunder by the Party(ies) so failing. A waiver of any of the provisions of this ESA shall only be effective with respect to an obligation to the waiving Party and shall only be effective if made in writing and signed by the Party who is making such waiver.

18.12 ADVERTISING LIMITATIONS

Competitive Supplier agrees not to use, whether directly or through any of its Associated Entities, the name of the Municipality, or make any reference to the Municipality in any advertising or other information to be distributed publicly for marketing or educational purposes, unless the Municipality expressly agrees to such usage. Any proposed use of the name of the Municipality must be submitted in writing for agreement and prior written approval which may be withdrawn through a notice in writing at any time. The Municipality acknowledges that the Competitive Supplier's corporate affiliates own the exclusive right to the trademarked logo and trade name used by Competitive Supplier. No right, license or interest in this trademark and/or trade name is granted to the Municipality hereunder, and the Municipality agrees that it shall not assert any right, license or interest with respect to such trademark and/or trade name.

18.13 PRESS RELEASES

The Parties agree to cooperate in good faith prior to the issuance of any formal press release with respect to this ESA, such cooperation to include agreement as to the form, substance and timing of such formal press release.

18.14 HEADINGS AND CAPTIONS

The headings and captions appearing in this ESA are intended for reference only, and are not to be considered in construing this ESA.

18.15 SURVIVAL OF OBLIGATION

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Termination of this ESA for any reason shall not relieve the Parties of any obligation accrued or accruing prior to such termination.

19 REMEDIES

19.1 GENERAL

Subject to the limitations set forth in Article 19.2 below and Article 4, the Parties reserve and shall have all rights and remedies available to each of them at law or in equity with respect to the performance or non-performance of the other Party hereto under this ESA.

19.2 LIMITATIONS

NO PARTY HERETO SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT. Notwithstanding the foregoing, each Party acknowledges that the preceding sentence shall not limit the other Party's rights to seek direct damages or, under Article 14.1, to seek indemnification from Competitive Supplier for consequential, punitive, or incidental damages described in the preceding sentence or other such losses claimed by third- parties.

//Signatures Follow//

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IN WITNESS WHEREOF, the Parties have caused this ESA to be executed by their duly authorized representatives, as required by the applicable laws of the city, town or municipality and the laws, rules and regulations of the State of New York, as of the respective dates set forth below

COMPETITIVE SUPPLIER

By: _____

Name: _____

Title: _____

Address: _____

Dated: _____

MUNICIPALITY

By: _____

Name: _____

Title: _____

Address: _____

Dated: _____

PROGRAM MANAGER

By: _____

Name: _____

Title: _____

Address: _____

Dated: _____

EXHIBIT A-Part 1 - PRICES AND TERMS – STANDARD PRODUCT

Firm Full-Requirements Price by Rate Classification for all Participating Consumers located in Con Ed territory commencing service on the first Consumer meter-read date after December 31, 2020.

Table 1:

| Rate Class | Fixed Price per kWh | |
|------------------|---------------------|--|
| Residential | \$0.0### | |
| Small Commercial | \$0.0### | |

Terms for System Supply Service

Term: The Price and Terms stated on this Exhibit A will commence on the first Consumer meter read date after December 31, 2020 and continue until the first Consumer meter read date after _____, unless this ESA is sooner terminated in accordance with Article 4.2 of this ESA. The Parties agree they may extend this Agreement up to ____ months upon mutual written agreement to amend the Term.

The period of delivery of Firm Full-Requirements Power Supply shall be consistent with the provisions of Article 4 and Exhibit A of this ESA.

Start-Up Service Date: Firm Full-Requirements Power Supply will commence at the prices stated above as of Participating Consumer's first meter read dates after December 31, 2020.

Renewable Energy in System Supply: The Competitive Supplier shall include Renewable Energy and Renewable Energy Certificates in the Firm Full-Requirements Power Supply mix in an amount equal to New York State's Renewable Portfolio Standards in a manner designated by New York State.

Eligible Consumer Opt-Out: Participating Consumers are free to opt-out of the Program utilizing established EDI drop protocols. Participating Consumers are to provide five (5) days notice to the Competitive Supplier of such termination and Competitive Supplier will notify Distribution Utility to resume service as soon as possible after such notification. There are no fees or charges for Participating Consumers to opt-out or terminate service.

Competitive Supplier's Standard Credit Policy: The Competitive Supplier will not require a credit review for any consumer participating in the Program, nor will Competitive Supplier require any consumer to post any security deposit as a condition for participation in the Program. The Competitive Supplier may terminate service to a Participating Consumer and return such consumer to Default Service in the event that the consumer fails to pay to Competitive Supplier amounts past due greater than sixty (60) days.

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Supplier shall serve Newly Eligible Consumers who enroll or are enrolled into the Program after the first Consumer meter-read date referred to above at the fixed price in Table 1 above.

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Table 2:¶

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EXHIBIT A-Part 2 - PRICES AND TERMS- 100% RENEWABLE CLEAN POWER PRODUCT

Firm Full-Requirements Price for 100% Renewable Clean Power Product by Rate Classification for all Participating Consumers located in New York State Electric & Gas territory commencing service on the first Consumer meter-read date after December 31, 2020.

Table 3:

| Rate Class | Fixed price per kWh |
|------------------|---------------------|
| Residential | \$0.0#### |
| Small Commercial | \$0.0#### |

Terms for System Supply Service

Term: The Price and Terms stated on this Exhibit A will commence on the first Consumer meter read date after December 31, 2020 and continue until the first Consumer meter read date after _____, unless this ESA is sooner terminated in accordance with Article 4.2 of this ESA.

The period of delivery of 100% Renewable Clean Power Product shall be consistent with the provisions of Article 4 and Exhibit A of this ESA.

Start-Up Service Date: 100% Renewable Firm Full-Requirements Power Supply will commence at the prices stated above as of Participating Consumer's first meter read dates after December 30, 2020.

This Exhibit A-Part 2 includes a purchase of Renewable Energy Certificates sourced from hydropower, solar energy or wind energy generating facilities ("RECs") in an amount equal to 100% of the Participating Consumers' electricity usage. Less any then-current Tier 1 REC purchase obligation applicable to alternative retail electric suppliers in New York. Each REC represents Attributes associated with one MWh of electricity generated by a renewable fuel type defined by the New York Generation Tracking System ("NYGATS") Operating Rules, dated May 18, 2018, but does not include any tax credits, depreciation allowances or third party subsidies of any kind. Competitive Supplier does not represent or warrant that the RECs purchased hereunder can be used as offsets or otherwise for compliance with any emission reduction or similar program

Eligible Consumer Opt-Out: Participating Consumers are free to opt-out of the Program utilizing established EDI drop protocols. Participating Consumers are to provide five (5) days notice to the Competitive Supplier of such termination and Competitive Supplier will notify Distribution Utility to resume service as soon as possible after such notification. There are no fees or charges for Participating Consumers to opt-out or terminate service.

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PRICES AND TERMS- 100% RENEWABLE CLEAN POWER PRODUCT

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Competitive Supplier's Standard Credit Policy: The Competitive Supplier will not require a credit review for any consumer participating in the Program, nor will Competitive Supplier require any consumer to post any security deposit as a condition for participation in the Program. The Competitive Supplier may terminate service to a Participating Consumer and return such consumer to Default Service in the event that the consumer fails to pay to Competitive Supplier amounts past due greater than sixty (60) days.

Supplier ~~shall~~ serve New ~~ly Eligible~~ Consumers who enroll and are enrolled into the Program after the first consumer meter-read date referred to above at the price in Table 3, above.

In the event that New York State institutes a subsidy for a CCA purchase of RECs after the signing of this ESA that is applicable to all or any portion of the Competitive Supplier's obligations under this ESA, Competitive Supplier shall pass through the full subsidy to Participating Consumers in the form of a rate reduction.

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TEMPLATE KWH SALES AND CONSUMER
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¶**EXHIBIT B - TEMPLATE KWH SALES AND CONSUMER ACCOUNTS DATA
SUMMARY**

| Rate Code | Residential | Small Commercial |
|---|-------------|---------------------|
| Standard Supply | | |
| Municipality | | |
| # of Default Accounts of Eligible Consumers | | |
| | kWh | kWh |
| January | | |
| February | | |
| March | | |
| April | | |
| May | | |
| June | | |
| July | | |
| August | | |
| September | | |
| October | | |
| November | | |
| December | | |

| Rate Code | Residential | Small Commercial |
|-----------------------|-------------|---------------------|
| 100% Renewable Supply | | |
| Municipality | | |

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| # of Default Accounts of Eligible Consumers | | |
|---|-----|-----|
| | kWh | kWh |
| January | | |
| February | | |
| March | | |
| April | | |
| May | | |
| June | | |
| July | | |
| August | | |
| September | | |
| October | | |
| November | | |
| December | | |

EXHIBIT C - PAYMENT**PROGRAM MANAGER BANK INFORMATION FOR PAYMENTS BY ACH**

Bank Name:

Bank Routing Number:

Bank Account Number:

Federal ID:

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PAYMENT¶**EXHIBIT D - DATA REQUIREMENTS**

In order for program administrators and participants to have visibility into their participation with the program, certain data will need to be exchanged, in a regular format, with regular transmission methods and times.

There are three file formats currently in use for this purpose which must be provided by Competitive Supplier to Program Manager:

1. Newly Eligible Consumer file - Competitive Supplier will obtain this data quarterly from the Utility and the notification mailing is made from the list following procedures described elsewhere in this ESA. The Program Manager requires a matching dataset as defined below in order to perform its duties for customer service during the opt out period.
2. Post-enrollment file - After the Competitive Supplier sends enrollments to the Utility, either at the beginning of this contract or after a Newly Eligible Consumer opt out period, the Competitive Supplier will send this file to the Program Manager to update its records.
3. Commission file - Standard practice for aggregation suppliers.

The above-mentioned files should, at minimum, contain the following information:

Newly Eligible Consumer filePost-enrollment fileCommission file

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EXHIBIT E - OPTION TO SUPPLY POWER

Competitive Supplier shall provide power to Participating Consumers, including ~~through the purchase of~~ REC's, throughout the term of this ESA and from sources ~~selected in~~ Competitive Supplier's own discretion. However, Program Manager desires to build or contract ~~with a third party to supply~~ renewable sources of energy (~~the~~ "Renewable Power Source") after the Effective Date of the Program for the benefit of the Participating Consumers. Upon completion of any ~~such~~ Renewable Power Source the Program Manager may offer to sell output from the Renewable Power Source to Competitive Supplier, ~~either~~ directly or through an Associated Entity, under a separate Power Purchase Agreement ("PPA"). Upon mutual agreement of such arrangement and ~~execution~~ of the PPA, Competitive Supplier (or its Associated Entity) shall take the output of the Renewable Power ~~Source~~ for use for the Program. ~~The Competitive Supplier and Program Manager agree that any such PPA shall include a provision requiring the Competitive Supplier or the Program Manager to agree to a rate adjustment to Participating Consumers in the following circumstances:~~

~~(i) In the event that executing the PPA makes it necessary for Competitive Supplier (or an Associated Entity) to sell power previously purchased to meet Competitive Supplier's obligations under this ESA at a lower price than Competitive Supplier paid for such power, the Program Manager shall agree to a rate adjustment to Participating Consumers to compensate Competitive Supplier (or its Associated Entity) for any losses suffered by the Competitive Supplier as a result of the difference in price.~~

~~(ii) In the event that executing the PPA makes it necessary for Competitive Supplier (or an Associated Entity) to sell power previously purchased to meet Competitive Supplier's obligations under this ESA at a higher price than Competitive Supplier paid for such power, the Competitive Supplier (or an Associated Entity) shall agree to a rate adjustment to Participating Customers to compensate Participating Customers for any gains inured to the benefit of Competitive Supplier as a result of the difference in price.~~

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CITY COUNCIL AGENDA

DEPT.: Comptroller

DATE: September 16, 2020

CONTACT: Joe Fazzino, Deputy Comptroller

AGENDA ITEM: Presentation by City Deputy Comptroller of the City's current financial position.

FOR THE MEETING OF:

September 16, 2020

RYE CITY CODE,

CHAPTER

SECTION

RECOMMENDATION:

IMPACT: ☐ Environmental ☒ Fiscal ☐ Neighborhood ☒ Other:

BACKGROUND: See attached memo.

**CITY OF RYE
MEMORANDUM**

TO: Greg Usry, Interim City Manager & Rye City Council
FROM: Joseph Fazzino, Deputy City Comptroller
RE: Effect of Coronavirus on City Revenues and Expenditures
DATE: September 11, 2020

On December 21, 2019 the Rye City Council adopted the 2020 City of Rye General Fund operating budget, which included a \$25,416,958 property tax levy and \$13,340,311 in revenues other than property taxes or 34% of all General Fund revenues. Given the COVID-19 global pandemic, many of these revenue sources will be significantly less than budgeted for in 2020. City Staff had given initial projections of revenue shortfalls in May. There have also been additional expenditures, due to COVID-19 related and unrelated items and savings due to conservative budgeting and vacant positions across City departments. As more data has been collected and more information received, some of these assumptions have changed. I have highlighted a few of these revenues below.

- **Sales & Use Taxes** - 2020 Budget \$3,000,000 / 2020 Projection \$2,700,000

Sales tax results for the month of August will be provided at the next council meeting, along with the actual amount the City can expect to receive for the quarter ending August 31, 2020.

- **Parking Fines** – 2020 Budget \$375,200 / 2020 Projection \$340,000

Parking fines for August were down 8%, compared to 46% for July. For the year revenues are down 18%. Based on the positive results from August, the projected loss of budgeted revenue has been decreased from 25% to 9%.

- **Moving Violation Fines**– 2020 Budget \$225,000 / 2020 Projection \$120,000

Even as businesses across the State re-open, overall traffic volume remains down, with many businesses allowing for telecommuting if possible, resulting in less fines. Through July overall revenue was down 50%. Staff projects this level for the rest of the year.

- **Building Permit Revenues** – 2020 Budget \$1,400,000 / 2020 Projection \$1,100,000

There has been an uptick in revenues over the last couple of months, which has allowed for an increase in our assumptions.

- **Mortgage Taxes** – 2020 Budget \$1,600,000 / 2020 Projection \$1,600,000

Mortgage tax results through the month of August support our assumption of mortgage tax revenues meeting budgeted expectations.

- **Police Overtime Expense** – 2020 Budget \$405,000 / 2020 Projection \$250,000

Due to a continued high volume of utility projects, a large portion of police overtime has been reimbursed by utility companies. Keeping in line with prior years' results, a conservative net cost of \$250,000 has been projected.

Respectfully submitted,

Joe Fazzino
Deputy City Comptroller

CITY OF RYE - FY 2020 AT RISK REVENUE & UNANTICIPATED EXPENSES

| GENERAL FUND REVENUES (OTHER THAN PROPERTY TAXES) | 2020 ADOPTED | PROJECTION AS OF 8/17 | PROJECTION AS OF 8/5 | | |
|--|-------------------------|----------------------------------|-----------------------------|--------------------|-------------|
| | | | ADJUSTED | VARIANCE | % Δ |
| CONSUMPTION: | | | | | |
| SALES & USE TAX | 3,000,000 | 2,700,000 | 2,700,000 | (300,000) | -10% |
| PARKING METER REVENUE | 436,000 | 240,000 | 240,000 | (196,000) | -45% |
| PARKING FINES | 375,200 | 281,400 | 340,000 | (35,200) | -9% |
| MOVING VIOLATION FINES | 225,000 | 135,000 | 120,000 | (105,000) | -47% |
| HOTEL OCCUPANCY TAX | 160,000 | 50,000 | 50,000 | (110,000) | -69% |
| SUB TOTAL | 4,196,200 | 3,406,400 | 3,450,000 | (746,200) | -18% |
| REAL ESTATE: | | | | | |
| MORTGAGE TAX | 1,600,000 | 1,600,000 | 1,600,000 | - | 0% |
| BUILDING PERMITS | 1,400,000 | 910,000 | 1,100,000 | (300,000) | -21% |
| SUB TOTAL | 3,000,000 | 2,510,000 | 2,700,000 | (300,000) | -10% |
| STATE AID: | | | | | |
| STATE AID REVENUE SHARING | 1,208,024 | 966,419 | 966,419 | (241,605) | -20% |
| TOTAL VARIANCE FROM 2020 ADOPTED | 8,404,224 | 6,882,819 | 7,116,419 | (1,287,805) | -15% |

| GENERAL FUND EXPENSES (UNANTICIPATED) | 2020 ADOPTED | PROJECTION AS OF 8/17 | PROJECTION AS OF 8/5 | | |
|--|-------------------------|----------------------------------|-----------------------------|-----------------|------------|
| | | | ADJUSTED | VARIANCE | % Δ |
| FIRE: | | | | | |
| FIRE FIGHTER - ADDED O/T | 350,000 | 850,000 | 850,000 | 500,000 | 143% |
| POLICE: | | | | | |
| POLICE OVERTIME - NET REIMBURSE | 405,000 | - | 250,000 | (155,000) | -38% |
| COVID-19 RELATED: | | | | | |
| PPE, SANITIZER, PLEXIGLASS, ETC | - | 150,000 | 150,000 | 150,000 | n/a |
| RYE TOWN PARK: | | | | | |
| CITY RESPONSIBILITY FOR SHORTFALL IN RTP OPERATIONS | 50,000 | 250,000 | 250,000 | 200,000 | 400% |
| BENEFITS/INSURANCE: | | | | | |
| EMPLOYEE HEALTH INSURANCE | 2,784,349 | 2,505,914 | 2,505,914 | (278,435) | -10% |
| WORKERS' COMPENSATION | 1,162,561 | 1,062,561 | 1,062,561 | (100,000) | -9% |
| RYE RECREATION: | | | | | |
| NET OPERATING LOSS DUE TO CAMP/ PROGRAM CANCELLATIONS | | 180,000 | 180,000 | 180,000 | n/a |
| TOTAL VARIANCE FROM 2020 ADOPTED | 4,751,910 | 4,998,475 | 5,248,475 | 496,565 | 10% |
| COMBINED PROJECTED BUDGET SHORTFALL | | | (1,784,370) | | |

CITY OF RYE - FY 2020 POTENTIAL EXPENSE REDUCTIONS

| GENERAL FUND EXPENSES (Potential Reductions) | 2020 ADOPTED | PROJECTION AS OF 8/17 | PROJECTION AS OF 8/5 | | |
|---|-------------------------|----------------------------------|-----------------------------|-----------------|------------|
| | | | ADJUSTED | VARIANCE | % Δ |
| PROPOSED CAPITAL EXPENDITURES: | | | | | |
| STREET RESURFACING | 1,800,000 | 1,000,000 | 1,000,000 | (800,000) | -44% |
| DPW VEHICLES & EQUIPMENT | 450,000 | 400,000 | 400,000 | (50,000) | -11% |
| SEWERS & DRAINS | 350,000 | 350,000 | 350,000 | - | 0% |
| CITY BUILDING ASSESSMENT | 150,000 | - | - | (150,000) | -100% |
| POLICE VEHICLES & EQUIPMENT | 315,300 | 150,000 | 150,000 | (165,300) | -52% |
| TRAFFIC LIGHTS/PED. SAFETY | 100,000 | - | - | (100,000) | -100% |
| SIDEWALKS | 100,000 | - | - | (100,000) | -100% |
| CITY BUILDING IMPROVEMENTS | 50,000 | - | - | (50,000) | -100% |
| SUB TOTAL | 3,315,300 | 1,900,000 | 1,900,000 | (1,415,300) | -43% |
| 2020 BUDGETED VACANT POSITIONS | | | | | |
| ADMINISTRATIVE | 579,129 | 60,000 | 60,000 | (519,129) | -90% |
| PUBLIC WORKS | 632,898 | 258,145 | 258,145 | (374,754) | -59% |
| POLICE | 130,877 | 43,582 | 43,582 | (87,295) | -67% |
| FIRE | 292,031 | 158,596 | 158,596 | (133,435) | -46% |
| SUB TOTAL | 1,634,935 | 520,323 | 520,323 | (1,114,612) | -68% |
| 2020 CONSULTANT EXPENDITURES | | | | | |
| PARKING | 50,000 | - | - | (50,000) | -100% |
| RECORD RETENTION | 50,000 | - | - | (50,000) | -100% |
| TECHNOLOGY | 50,000 | - | - | (50,000) | -100% |
| SUB TOTAL | 150,000 | | - | (150,000) | -100% |
| TOTAL VARIANCE FROM 2020 ADOPTED | 5,100,235 | 2,420,323 | 2,420,323 | (2,679,912) | -53% |



CITY COUNCIL AGENDA

DEPT.: Planning

DATE: September 16, 2020

CONTACT: Christian Miller, City Planner

AGENDA ITEM: Presentation regarding the Capital Improvement Program (CIP) for 2021.

FOR THE MEETING OF:

September 16, 2020

**RYE CITY CODE,
CHAPTER
SECTION**

RECOMMENDATION: That the Council hear the presentation.

IMPACT: ☐ Environmental ☒ Fiscal ☒ Neighborhood ☐ Other:

BACKGROUND:

City of Rye, New York
September 16, 2020

Capital Improvement Plan 2021-2025

CIP Purpose

- Capital Improvement Plan (“CIP”)
- Required by City Charter
- Identifies Major Projects and Acquisitions
- Identifies and Prioritizes needs
- Identifies Estimated Costs and Potential Funding Sources
- Multi-Year Plan not a Budget

CIP Summary

- **Non-Enterprise Fund Projects:**
 - \$50.4 Million Required for 46 Projects
- **Enterprise Fund Projects:**
 - \$8.7 Million Required for 15 Projects
- **All Projects:**
 - \$59 Million for 61 Projects

CIP Summary

- **\$17.4 M** Sewer Projects
- **\$14.2 M** Building Projects
- **\$11.3 M** Transportation Projects
- **\$5.6 M** Recreation Projects
- **\$2.1 M** Drainage/Flooding Projects
- **\$3.4 M** Vehicles and Equipment
 - **\$1.8 M** Rye Golf Projects (*Enterprise fund*)
 - **\$0.6* M** Boat Basin Projects (*Enterprise fund*)
(*Excludes Dredging)

Reasons for Project Deferrals

- Old or Inadequate Cost Estimates
- Unknown Project Scope
- Questionable Project Need or Priority
- Unknown or Unlikely Funding Source
- Comprehensive Building Evaluation Required
- Comprehensive Pump Station Assessment Required

CIP Overview: *Sewer Improvements*

- SSES Implementation: \$17 M
 - Central Avenue Pump Station
 - Locust Avenue Siphon By-Pass
 - Pump Station and Force Main Projects
 - Manhole Repairs and Sewer Lining
 - Other Projects
- Pump Station Assessment



CIP Overview: *Building Improvements*

- Police/Court Improvements
- Temporary Court Location – Carpark 5



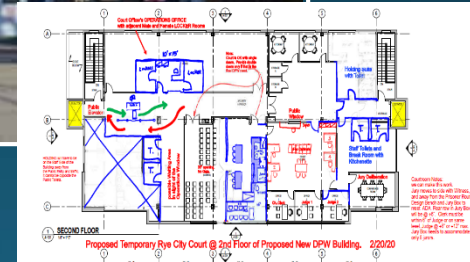
CIP Overview:

Building Improvements



Salt Shed: \$650,000
(\$400,000 SAM Grant)

Building 5: \$4.5 M



City Hall HVAC: \$2.4 M
(Covid Design Enhancements)

Capital Project: *Recreation Park Improvements*



CIP Overview: *Transportation*

Forest Avenue Pedestrian Improvement & Street Paving Project: (\$2.178 M)



FOREST AVENUE / MANURSING AVENUE PEDESTRIAN IMPROVEMENT STUDY

Prepared for:
City of Rye, New York
July 1, 2016



CIP Overview: *Transportation*

Fremd/Purdy/Purchase Intersection & “Purchase Streetscape”



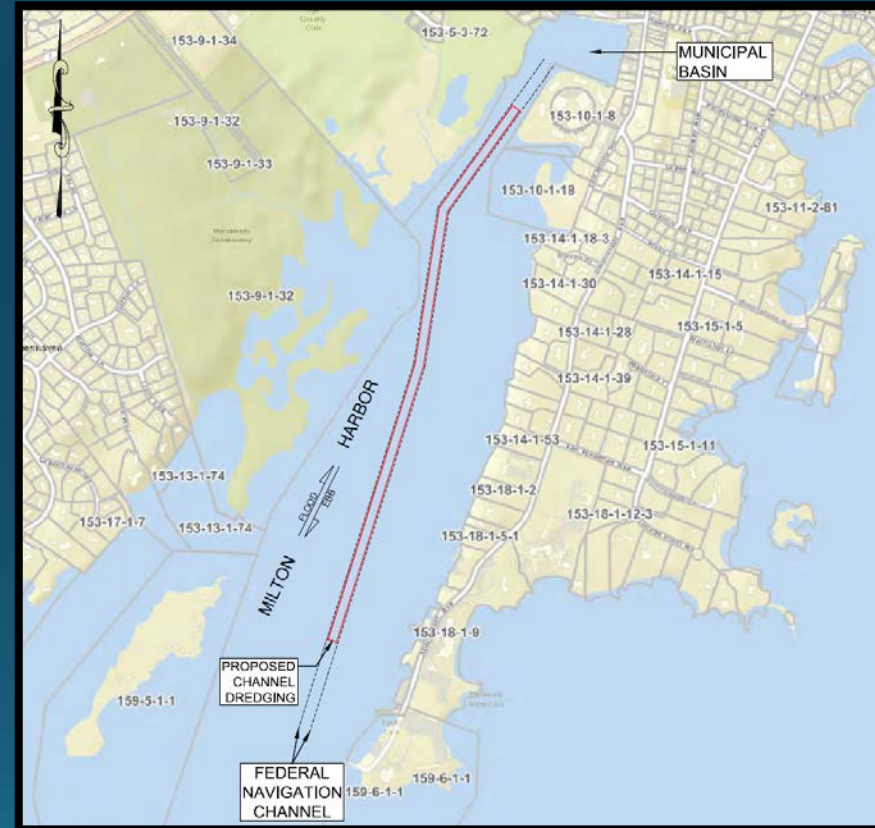
Other Capital Considerations

- Rye Golf
- Rye Boat Basin
- Rye Town Park
- Rye City Schools



Boat Basin Dredging Project

- Boat Basin Reserve Fund:
 - \$1.86M
- Channel Dredge:
 - \$1.5M (Nov. 2021/22)
- Basin Dredge:
 - \$1.2M - \$7.0M (Nov. 2022/23)



Rye Town Park Improvements – City Share

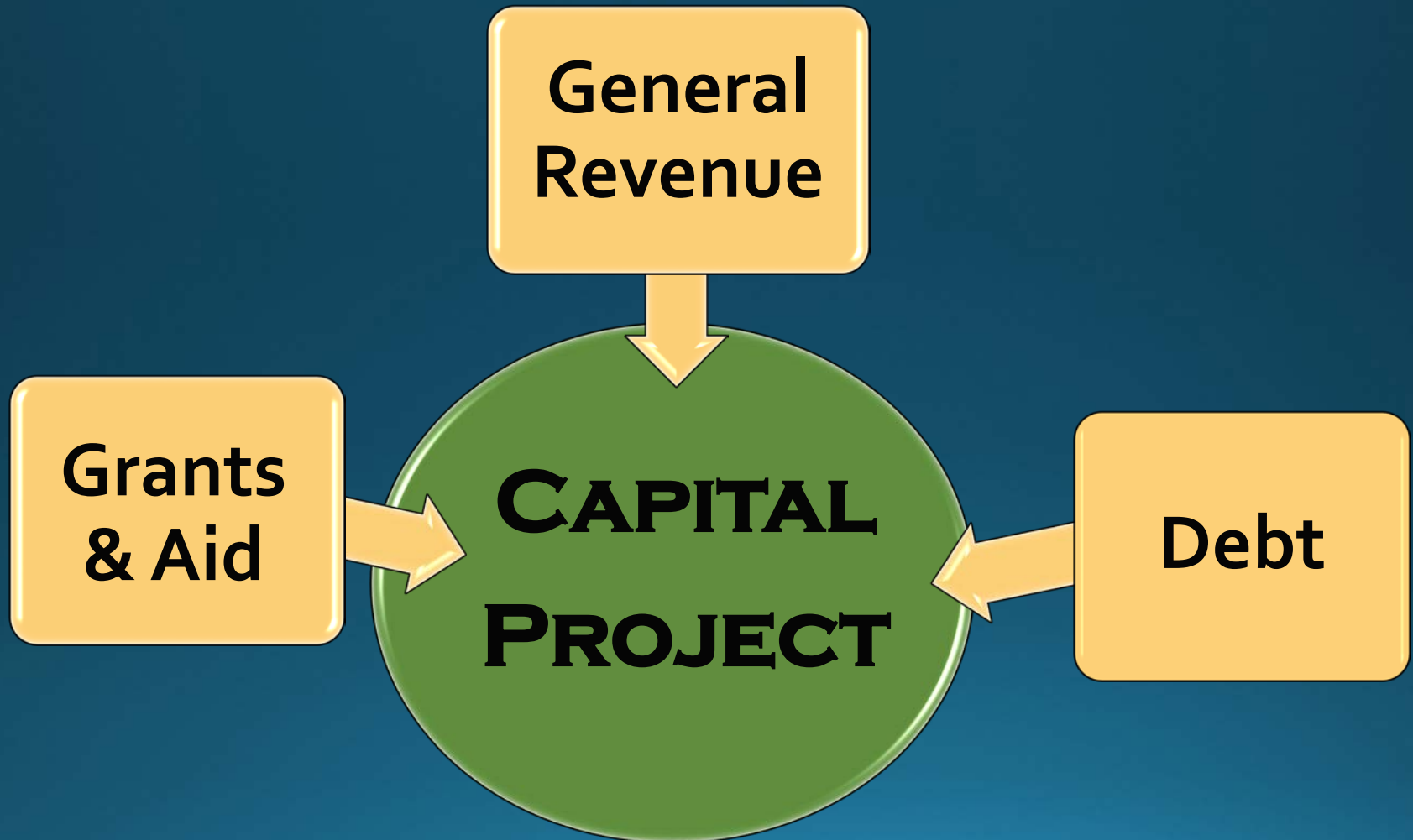
- Current City Funding Obligation: \$475,000
 - Seawall Repair
 - Bath House Roof
 - ADA Ramp Project
- Future Funding Needs: \$750,000
 - Park Lot Improvements
 - Bath House Renovations



Priority Projects Estimated Costs (2020-2024+): \$30.3 M

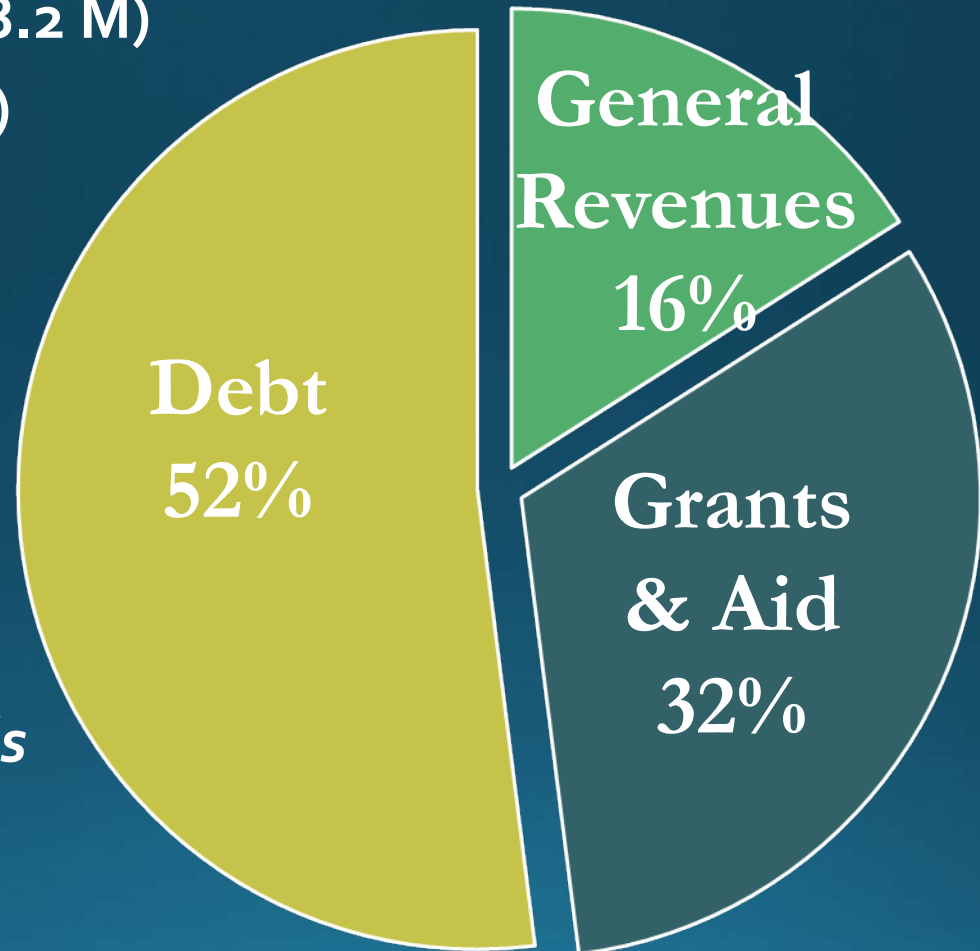


CIP Funding Options: General Revenue



CIP Funding Sources*

- General Revenue (\$8.2 M)
- Grants & Aid (\$16 M)
- Debt (\$25.8 M)



**Non-Enterprise Funds*

CIP Funding Options: General Revenue

- **Raise Taxes**

- 2% Tax Increase = \$499,000
- Average Cost of CIP project = \$1,000,000



Undesignated Fund Balance/ Designated Capital Funds

General Fund
10% Balance

\$3.9
Million

Building and
Vehicle Fund

\$0.635
Million

Capital
Reserve Fund

\$5.2
Million

CIP Funding Options:

Mandatory
Referendum

\$ 582
Million

Council
Vote (2020)

\$12.7
Million

Public
Safety

\$1.4
Million

Disaster
Rebuilding

\$2.5
Million

CIP Funding Options:

Grants and Aid

- **Challenges:**

- Increasingly Competitive to Secure
- “Strings” Can Create Policy Concerns
- Often Require Financial Match
- High Cost of Compliance

- **Grants Secured:**

- Forest Avenue Sidewalk Grant \$1.478 M
- Sewer Improvement Grant - \$3.9 M
- SAM Grant \$400,000 DPW Salt Shed

CIP Considerations:

Conclusion

- CIP Needs Continue to Grow
- Future Opportunities to Meet Changing Needs
 - Parking, Flooding, Public Safety, Pedestrian Safety
- Funding Commitments are Improving

53

MILES of Sanitary Sewer Line

45

MILES of Sidewalk

30+

MILES of Storm Drain

1,400

Drainage Catch Basins

100+

City Vehicles

15

City Buildings



CITY COUNCIL AGENDA

DEPT.: City Manager

DATE: September 16, 2020

CONTACT: Greg Usry, Interim City Manager

AGENDA ITEM: Update on Boat Basin dredging plans.

FOR THE MEETING OF:

September 16, 2020

RYE CITY CODE,

CHAPTER
SECTION

RECOMMENDATION: That the Council hear the update.

IMPACT: ☒ Environmental ☐ Fiscal ☐ Neighborhood ☐ Other:

BACKGROUND: See attached.

CITY OF RYE
Department of Public Works

Interoffice Memorandum

To: Greg Usry, City Manager

From: Ryan Coyne, City Engineer

Date: September 11, 2020

Subject: Boat Basin Dredging Update

As requested and discussed, the following is a synopsis of the status of the various dredging project alternatives at the Boat Basin.

CHANNEL DREDGING:

- NYSDEC Permit under review
- City Council to make determination of significance under SEQRA
- Upon NYSDEC Approval, Submit to CT DEEP
- All permits potentially in place February 2021
- Potential dredge November 2021 if it is decided to separate from the Basin Dredge Project (see below timelines)

BASIN BIOLOGICAL TESTING APPLICATION:

- Sampling Plan has been submitted to ACOE. Review expected November 2020
- Perform sampling and testing, submit to ACOE for determination expected March 2021
- If determination finds the material acceptable for open water disposal, submit to NYSDEC and CT DEEP for permits; potentially in place May 2022
- Potential dredge November 2022

BASIN UPLAND DISPOSAL:

- Consultant retained for soil analysis, upland disposal site locating, and permitting
- Disposal Site examination and selection – through December 2020
- Determine if new sampling plan is needed for disposal site
- Obtain permits, ACOE, NYSDEC, CT DEEP, etc.
- Potential Dredge November 2022 (if no new sampling) November 2023 (with new sampling)



CITY COUNCIL AGENDA

DEPT.: City Planner

DATE: September 11, 2020

CONTACT: Christian K. Miller, City Planner

AGENDA ITEM: Resolution of the Rye City Council to adopt a SEQRA Negative Declaration and an affirmative finding of LWRP Coastal Consistency in connection with the Milton Harbor Navigation Channel Dredging project.

FOR THE MEETING OF:

September 16, 2020

**RYE CITY CODE,
CHAPTER
SECTION**

RECOMMENDATION: Please review the attached Part I of the EAF prepared by the project consultant and Part II of the EAF prepared by the City Planner for the City Council's consideration assessing the potential environmental impacts of the proposed action. Also included is the full application submitted to the NYSDEC, which provides a detailed description of the project and proposed environmental mitigation measures to meet NYSDEC permitting requirements. The adoption of the SEQRA Negative Declaration is required by the NYSDEC in order to advance the continued processing of the dredging permit application number 3-5514-00004100021-23.

IMPACT: ☒ Environmental ☐ Fiscal ☐ Neighborhood ☐ Other:

WHEREAS, The City of Rye has applied to the New York State Department of Environmental Conservation (NYSDEC) for tidal wetland permit(s) in connection with the proposed dredging of the Milton Harbor Navigation Channel (specifically NYSDEC application No. 3-5514-00004100021-23); and

WHEREAS, the NYSDEC submitted a 30-day Notice of Intent to Establish Lead Agency to the City of Rye dated October 29, 2019 in which it states that the NYSDEC has no objection to the City assuming Lead Agency status for the environmental review of this project; and

WHEREAS, pursuant to the State Environmental Quality Review Act (SEQRA) the Rye City Council declared itself Lead Agency on November 20, 2019; and

WHEREAS, the proposed Action is considered a Type I under SEQRA; and

WHEREAS, the Rye City Council has reviewed the Full EAF and related permit application information; and

NOW, THEREFORE, BE IT RESOLVED, that the Rye City Council finds that the proposed action will not have a significant adverse impact and that an environmental impact statement (EIS) will not be prepared for this project; and

BE IT FURTHER RESOLVED, that the Rye City Council finds that the proposed action seeks to preserve recreational boating activities in Milton Harbor consistent with the policies of the City-adopted Local Waterfront Revitalization Plan (LWRP).

Full Environmental Assessment Form
Part 2 - Identification of Potential Project Impacts

Project :

Date :

Part 2 is to be completed by the lead agency. Part 2 is designed to help the lead agency inventory all potential resources that could be affected by a proposed project or action. We recognize that the lead agency's reviewer(s) will not necessarily be environmental professionals. So, the questions are designed to walk a reviewer through the assessment process by providing a series of questions that can be answered using the information found in Part 1. To further assist the lead agency in completing Part 2, the form identifies the most relevant questions in Part 1 that will provide the information needed to answer the Part 2 question. When Part 2 is completed, the lead agency will have identified the relevant environmental areas that may be impacted by the proposed activity.

If the lead agency is a state agency **and** the action is in any Coastal Area, complete the Coastal Assessment Form before proceeding with this assessment.

Tips for completing Part 2:

- Review all of the information provided in Part 1.
- Review any application, maps, supporting materials and the Full EAF Workbook.
- Answer each of the 18 questions in Part 2.
- If you answer “**Yes**” to a numbered question, please complete all the questions that follow in that section.
- If you answer “**No**” to a numbered question, move on to the next numbered question.
- Check appropriate column to indicate the anticipated size of the impact.
- Proposed projects that would exceed a numeric threshold contained in a question should result in the reviewing agency checking the box “Moderate to large impact may occur.”
- The reviewer is not expected to be an expert in environmental analysis.
- If you are not sure or undecided about the size of an impact, it may help to review the sub-questions for the general question and consult the workbook.
- When answering a question consider all components of the proposed activity, that is, the “whole action”.
- Consider the possibility for long-term and cumulative impacts as well as direct impacts.
- Answer the question in a reasonable manner considering the scale and context of the project.

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| 1. Impact on Land Proposed action may involve construction on, or physical alteration of, the land surface of the proposed site. (See Part 1. D.1) <i>If “Yes”, answer questions a - j. If “No”, move on to Section 2.</i> | | | | <input type="checkbox"/> NO | <input type="checkbox"/> YES |
| | Relevant Part I Question(s) | No, or small impact may occur | Moderate to large impact may occur | | |
| a. The proposed action may involve construction on land where depth to water table is less than 3 feet. | E2d | <input type="checkbox"/> | <input type="checkbox"/> | | |
| b. The proposed action may involve construction on slopes of 15% or greater. | E2f | <input type="checkbox"/> | <input type="checkbox"/> | | |
| c. The proposed action may involve construction on land where bedrock is exposed, or generally within 5 feet of existing ground surface. | E2a | <input type="checkbox"/> | <input type="checkbox"/> | | |
| d. The proposed action may involve the excavation and removal of more than 1,000 tons of natural material. | D2a | <input type="checkbox"/> | <input type="checkbox"/> | | |
| e. The proposed action may involve construction that continues for more than one year or in multiple phases. | D1e | <input type="checkbox"/> | <input type="checkbox"/> | | |
| f. The proposed action may result in increased erosion, whether from physical disturbance or vegetation removal (including from treatment by herbicides). | D2e, D2q | <input type="checkbox"/> | <input type="checkbox"/> | | |
| g. The proposed action is, or may be, located within a Coastal Erosion hazard area. | B1i | <input type="checkbox"/> | <input type="checkbox"/> | | |
| h. Other impacts: _____ _____ | | <input type="checkbox"/> | <input type="checkbox"/> | | |

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| 2. Impact on Geological Features The proposed action may result in the modification or destruction of, or inhibit access to, any unique or unusual land forms on the site (e.g., cliffs, dunes, minerals, fossils, caves). (See Part 1. E.2.g) <input type="checkbox"/> NO <input type="checkbox"/> YES <i>If "Yes", answer questions a - c. If "No", move on to Section 3.</i> | | | |
| | Relevant Part I Question(s) | No, or small impact may occur | Moderate to large impact may occur |
| a. Identify the specific land form(s) attached: _____ | E2g | <input type="checkbox"/> | <input type="checkbox"/> |
| b. The proposed action may affect or is adjacent to a geological feature listed as a registered National Natural Landmark. Specific feature: _____ | E3c | <input type="checkbox"/> | <input type="checkbox"/> |
| c. Other impacts: _____ | | <input type="checkbox"/> | <input type="checkbox"/> |

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| 3. Impacts on Surface Water The proposed action may affect one or more wetlands or other surface water bodies (e.g., streams, rivers, ponds or lakes). (See Part 1. D.2, E.2.h) <input type="checkbox"/> NO <input type="checkbox"/> YES <i>If "Yes", answer questions a - l. If "No", move on to Section 4.</i> | | | |
| | Relevant Part I Question(s) | No, or small impact may occur | Moderate to large impact may occur |
| a. The proposed action may create a new water body. | D2b, D1h | <input type="checkbox"/> | <input type="checkbox"/> |
| b. The proposed action may result in an increase or decrease of over 10% or more than a 10 acre increase or decrease in the surface area of any body of water. | D2b | <input type="checkbox"/> | <input type="checkbox"/> |
| c. The proposed action may involve dredging more than 100 cubic yards of material from a wetland or water body. | D2a | <input type="checkbox"/> | <input type="checkbox"/> |
| d. The proposed action may involve construction within or adjoining a freshwater or tidal wetland, or in the bed or banks of any other water body. | E2h | <input type="checkbox"/> | <input type="checkbox"/> |
| e. The proposed action may create turbidity in a waterbody, either from upland erosion, runoff or by disturbing bottom sediments. | D2a, D2h | <input type="checkbox"/> | <input type="checkbox"/> |
| f. The proposed action may include construction of one or more intake(s) for withdrawal of water from surface water. | D2c | <input type="checkbox"/> | <input type="checkbox"/> |
| g. The proposed action may include construction of one or more outfall(s) for discharge of wastewater to surface water(s). | D2d | <input type="checkbox"/> | <input type="checkbox"/> |
| h. The proposed action may cause soil erosion, or otherwise create a source of stormwater discharge that may lead to siltation or other degradation of receiving water bodies. | D2e | <input type="checkbox"/> | <input type="checkbox"/> |
| i. The proposed action may affect the water quality of any water bodies within or downstream of the site of the proposed action. | E2h | <input type="checkbox"/> | <input type="checkbox"/> |
| j. The proposed action may involve the application of pesticides or herbicides in or around any water body. | D2q, E2h | <input type="checkbox"/> | <input type="checkbox"/> |
| k. The proposed action may require the construction of new, or expansion of existing, wastewater treatment facilities. | D1a, D2d | <input type="checkbox"/> | <input type="checkbox"/> |

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| I. Other impacts: _____ _____ | | <input type="checkbox"/> | <input type="checkbox"/> |
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| 4. Impact on groundwater The proposed action may result in new or additional use of ground water, or may have the potential to introduce contaminants to ground water or an aquifer. (See Part 1. D.2.a, D.2.c, D.2.d, D.2.p, D.2.q, D.2.t) <i>If “Yes”, answer questions a - h. If “No”, move on to Section 5.</i> | | | |
|---|-----------------------------|-------------------------------|------------------------------------|
| | <input type="checkbox"/> NO | <input type="checkbox"/> YES | |
| | Relevant Part I Question(s) | No, or small impact may occur | Moderate to large impact may occur |
| a. The proposed action may require new water supply wells, or create additional demand on supplies from existing water supply wells. | D2c | <input type="checkbox"/> | <input type="checkbox"/> |
| b. Water supply demand from the proposed action may exceed safe and sustainable withdrawal capacity rate of the local supply or aquifer. Cite Source: _____ | D2c | <input type="checkbox"/> | <input type="checkbox"/> |
| c. The proposed action may allow or result in residential uses in areas without water and sewer services. | D1a, D2c | <input type="checkbox"/> | <input type="checkbox"/> |
| d. The proposed action may include or require wastewater discharged to groundwater. | D2d, E2l | <input type="checkbox"/> | <input type="checkbox"/> |
| e. The proposed action may result in the construction of water supply wells in locations where groundwater is, or is suspected to be, contaminated. | D2c, E1f, E1g, E1h | <input type="checkbox"/> | <input type="checkbox"/> |
| f. The proposed action may require the bulk storage of petroleum or chemical products over ground water or an aquifer. | D2p, E2l | <input type="checkbox"/> | <input type="checkbox"/> |
| g. The proposed action may involve the commercial application of pesticides within 100 feet of potable drinking water or irrigation sources. | E2h, D2q, E2l, D2c | <input type="checkbox"/> | <input type="checkbox"/> |
| h. Other impacts: _____ _____ | | <input type="checkbox"/> | <input type="checkbox"/> |

| 5. Impact on Flooding The proposed action may result in development on lands subject to flooding. (See Part 1. E.2) <i>If “Yes”, answer questions a - g. If “No”, move on to Section 6.</i> | | | |
|---|-----------------------------|-------------------------------|------------------------------------|
| | <input type="checkbox"/> NO | <input type="checkbox"/> YES | |
| | Relevant Part I Question(s) | No, or small impact may occur | Moderate to large impact may occur |
| a. The proposed action may result in development in a designated floodway. | E2i | <input type="checkbox"/> | <input type="checkbox"/> |
| b. The proposed action may result in development within a 100 year floodplain. | E2j | <input type="checkbox"/> | <input type="checkbox"/> |
| c. The proposed action may result in development within a 500 year floodplain. | E2k | <input type="checkbox"/> | <input type="checkbox"/> |
| d. The proposed action may result in, or require, modification of existing drainage patterns. | D2b, D2e | <input type="checkbox"/> | <input type="checkbox"/> |
| e. The proposed action may change flood water flows that contribute to flooding. | D2b, E2i, E2j, E2k | <input type="checkbox"/> | <input type="checkbox"/> |
| f. If there is a dam located on the site of the proposed action, is the dam in need of repair, or upgrade? | E1e | <input type="checkbox"/> | <input type="checkbox"/> |

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| g. Other impacts: _____ _____ | | <input type="checkbox"/> | <input type="checkbox"/> |
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| 6. Impacts on Air The proposed action may include a state regulated air emission source. <input type="checkbox"/> NO <input type="checkbox"/> YES (See Part 1. D.2.f., D.2.h, D.2.g) <i>If “Yes”, answer questions a - f. If “No”, move on to Section 7.</i> | | | |
|--|--|--|--|
| | Relevant Part I Question(s) | No, or small impact may occur | Moderate to large impact may occur |
| a. If the proposed action requires federal or state air emission permits, the action may also emit one or more greenhouse gases at or above the following levels: i. More than 1000 tons/year of carbon dioxide (CO ₂) ii. More than 3.5 tons/year of nitrous oxide (N ₂ O) iii. More than 1000 tons/year of carbon equivalent of perfluorocarbons (PFCs) iv. More than .045 tons/year of sulfur hexafluoride (SF ₆) v. More than 1000 tons/year of carbon dioxide equivalent of hydrochloroflouorocarbons (HFCs) emissions vi. 43 tons/year or more of methane | D2g D2g D2g D2g D2g D2h | <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> | <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> |
| b. The proposed action may generate 10 tons/year or more of any one designated hazardous air pollutant, or 25 tons/year or more of any combination of such hazardous air pollutants. | D2g | <input type="checkbox"/> | <input type="checkbox"/> |
| c. The proposed action may require a state air registration, or may produce an emissions rate of total contaminants that may exceed 5 lbs. per hour, or may include a heat source capable of producing more than 10 million BTU's per hour. | D2f, D2g | <input type="checkbox"/> | <input type="checkbox"/> |
| d. The proposed action may reach 50% of any of the thresholds in “a” through “c”, above. | D2g | <input type="checkbox"/> | <input type="checkbox"/> |
| e. The proposed action may result in the combustion or thermal treatment of more than 1 ton of refuse per hour. | D2s | <input type="checkbox"/> | <input type="checkbox"/> |
| f. Other impacts: _____ _____ | | <input type="checkbox"/> | <input type="checkbox"/> |

| 7. Impact on Plants and Animals The proposed action may result in a loss of flora or fauna. (See Part 1. E.2. m.-q.) <input type="checkbox"/> NO <input type="checkbox"/> YES <i>If “Yes”, answer questions a - j. If “No”, move on to Section 8.</i> | | | |
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| | Relevant Part I Question(s) | No, or small impact may occur | Moderate to large impact may occur |
| a. The proposed action may cause reduction in population or loss of individuals of any threatened or endangered species, as listed by New York State or the Federal government, that use the site, or are found on, over, or near the site. | E2o | <input type="checkbox"/> | <input type="checkbox"/> |
| b. The proposed action may result in a reduction or degradation of any habitat used by any rare, threatened or endangered species, as listed by New York State or the federal government. | E2o | <input type="checkbox"/> | <input type="checkbox"/> |
| c. The proposed action may cause reduction in population, or loss of individuals, of any species of special concern or conservation need, as listed by New York State or the Federal government, that use the site, or are found on, over, or near the site. | E2p | <input type="checkbox"/> | <input type="checkbox"/> |
| d. The proposed action may result in a reduction or degradation of any habitat used by any species of special concern and conservation need, as listed by New York State or the Federal government. | E2p | <input type="checkbox"/> | <input type="checkbox"/> |

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| e. The proposed action may diminish the capacity of a registered National Natural Landmark to support the biological community it was established to protect. | E3c | <input type="checkbox"/> | <input type="checkbox"/> |
| f. The proposed action may result in the removal of, or ground disturbance in, any portion of a designated significant natural community. Source: _____ | E2n | <input type="checkbox"/> | <input type="checkbox"/> |
| g. The proposed action may substantially interfere with nesting/breeding, foraging, or over-wintering habitat for the predominant species that occupy or use the project site. | E2m | <input type="checkbox"/> | <input type="checkbox"/> |
| h. The proposed action requires the conversion of more than 10 acres of forest, grassland or any other regionally or locally important habitat. Habitat type & information source: _____ | E1b | <input type="checkbox"/> | <input type="checkbox"/> |
| i. Proposed action (commercial, industrial or recreational projects, only) involves use of herbicides or pesticides. | D2q | <input type="checkbox"/> | <input type="checkbox"/> |
| j. Other impacts: <u>Dredging will be seasonally regulated by the NYSDEC to avoid impacts to wildlife species</u> | | <input type="checkbox"/> | <input type="checkbox"/> |

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| 8. Impact on Agricultural Resources The proposed action may impact agricultural resources. (See Part 1. E.3.a. and b.) <input type="checkbox"/> NO <input type="checkbox"/> YES <i>If "Yes", answer questions a - h. If "No", move on to Section 9.</i> | | | |
| | Relevant Part I Question(s) | No, or small impact may occur | Moderate to large impact may occur |
| a. The proposed action may impact soil classified within soil group 1 through 4 of the NYS Land Classification System. | E2c, E3b | <input type="checkbox"/> | <input type="checkbox"/> |
| b. The proposed action may sever, cross or otherwise limit access to agricultural land (includes cropland, hayfields, pasture, vineyard, orchard, etc). | E1a, E1b | <input type="checkbox"/> | <input type="checkbox"/> |
| c. The proposed action may result in the excavation or compaction of the soil profile of active agricultural land. | E3b | <input type="checkbox"/> | <input type="checkbox"/> |
| d. The proposed action may irreversibly convert agricultural land to non-agricultural uses, either more than 2.5 acres if located in an Agricultural District, or more than 10 acres if not within an Agricultural District. | E1b, E3a | <input type="checkbox"/> | <input type="checkbox"/> |
| e. The proposed action may disrupt or prevent installation of an agricultural land management system. | E1 a, E1b | <input type="checkbox"/> | <input type="checkbox"/> |
| f. The proposed action may result, directly or indirectly, in increased development potential or pressure on farmland. | C2c, C3, D2c, D2d | <input type="checkbox"/> | <input type="checkbox"/> |
| g. The proposed project is not consistent with the adopted municipal Farmland Protection Plan. | C2c | <input type="checkbox"/> | <input type="checkbox"/> |
| h. Other impacts: _____ | | <input type="checkbox"/> | <input type="checkbox"/> |

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| 9. Impact on Aesthetic Resources The land use of the proposed action are obviously different from, or are in sharp contrast to, current land use patterns between the proposed project and a scenic or aesthetic resource. (Part 1. E.1.a, E.1.b, E.3.h.) <i>If "Yes", answer questions a - g. If "No", go to Section 10.</i> | | | |
| | | <input type="checkbox"/> NO | <input type="checkbox"/> YES |
| | Relevant Part I Question(s) | No, or small impact may occur | Moderate to large impact may occur |
| a. Proposed action may be visible from any officially designated federal, state, or local scenic or aesthetic resource. | E3h | <input type="checkbox"/> | <input type="checkbox"/> |
| b. The proposed action may result in the obstruction, elimination or significant screening of one or more officially designated scenic views. | E3h, C2b | <input type="checkbox"/> | <input type="checkbox"/> |
| c. The proposed action may be visible from publicly accessible vantage points: i. Seasonally (e.g., screened by summer foliage, but visible during other seasons) ii. Year round | E3h | <input type="checkbox"/> <input type="checkbox"/> | <input type="checkbox"/> <input type="checkbox"/> |
| d. The situation or activity in which viewers are engaged while viewing the proposed action is: i. Routine travel by residents, including travel to and from work ii. Recreational or tourism based activities | E3h E2q, E1c | <input type="checkbox"/> <input type="checkbox"/> | <input type="checkbox"/> <input type="checkbox"/> |
| e. The proposed action may cause a diminishment of the public enjoyment and appreciation of the designated aesthetic resource. | E3h | <input type="checkbox"/> | <input type="checkbox"/> |
| f. There are similar projects visible within the following distance of the proposed project: 0-1/2 mile 1/2 -3 mile 3-5 mile 5+ mile | D1a, E1a, D1f, D1g | <input type="checkbox"/> | <input type="checkbox"/> |
| g. Other impacts: _____ _____ | | <input type="checkbox"/> | <input type="checkbox"/> |

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| 10. Impact on Historic and Archeological Resources The proposed action may occur in or adjacent to a historic or archaeological resource. (Part 1. E.3.e, f. and g.) <i>If "Yes", answer questions a - e. If "No", go to Section 11.</i> | | | |
| | | <input type="checkbox"/> NO | <input type="checkbox"/> YES |
| | Relevant Part I Question(s) | No, or small impact may occur | Moderate to large impact may occur |
| a. The proposed action may occur wholly or partially within, or substantially contiguous to, any buildings, archaeological site or district which is listed on the National or State Register of Historical Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places. | E3e | <input type="checkbox"/> | <input type="checkbox"/> |
| b. The proposed action may occur wholly or partially within, or substantially contiguous to, an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory. | E3f | <input type="checkbox"/> | <input type="checkbox"/> |
| c. The proposed action may occur wholly or partially within, or substantially contiguous to, an archaeological site not included on the NY SHPO inventory. Source: _____ | E3g | <input type="checkbox"/> | <input type="checkbox"/> |

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| d. Other impacts: _____ _____ | | <input type="checkbox"/> | <input type="checkbox"/> |
| <p>If any of the above (a-d) are answered “Moderate to large impact may occur”, continue with the following questions to help support conclusions in Part 3:</p> <p>e.</p> <p>i. The proposed action may result in the destruction or alteration of all or part of the site or property.</p> <p>ii. The proposed action may result in the alteration of the property’s setting or integrity.</p> <p>iii. The proposed action may result in the introduction of visual elements which are out of character with the site or property, or may alter its setting.</p> | <p>E3e, E3g, E3f</p> <p>E3e, E3f, E3g, E1a, E1b</p> <p>E3e, E3f, E3g, E3h, C2, C3</p> | <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> | <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> |

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| 11. Impact on Open Space and Recreation The proposed action may result in a loss of recreational opportunities or a reduction of an open space resource as designated in any adopted municipal open space plan. (See Part 1. C.2.c, E.1.c., E.2.q.) <i>If “Yes”, answer questions a - e. If “No”, go to Section 12.</i> | | | |
| | | <input type="checkbox"/> NO | <input type="checkbox"/> YES |
| | Relevant Part I Question(s) | No, or small impact may occur | Moderate to large impact may occur |
| a. The proposed action may result in an impairment of natural functions, or “ecosystem services”, provided by an undeveloped area, including but not limited to stormwater storage, nutrient cycling, wildlife habitat. | D2e, E1b E2h, E2m, E2o, E2n, E2p | <input type="checkbox"/> | <input type="checkbox"/> |
| b. The proposed action may result in the loss of a current or future recreational resource. | C2a, E1c, C2c, E2q | <input type="checkbox"/> | <input type="checkbox"/> |
| c. The proposed action may eliminate open space or recreational resource in an area with few such resources. | C2a, C2c E1c, E2q | <input type="checkbox"/> | <input type="checkbox"/> |
| d. The proposed action may result in loss of an area now used informally by the community as an open space resource. | C2c, E1c | <input type="checkbox"/> | <input type="checkbox"/> |
| e. Other impacts: _____ _____ | | <input type="checkbox"/> | <input type="checkbox"/> |

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| 12. Impact on Critical Environmental Areas The proposed action may be located within or adjacent to a critical environmental area (CEA). (See Part 1. E.3.d) <i>If “Yes”, answer questions a - c. If “No”, go to Section 13.</i> | | | |
| | | <input type="checkbox"/> NO | <input type="checkbox"/> YES |
| | Relevant Part I Question(s) | No, or small impact may occur | Moderate to large impact may occur |
| a. The proposed action may result in a reduction in the quantity of the resource or characteristic which was the basis for designation of the CEA. | E3d | <input type="checkbox"/> | <input type="checkbox"/> |
| b. The proposed action may result in a reduction in the quality of the resource or characteristic which was the basis for designation of the CEA. | E3d | <input type="checkbox"/> | <input type="checkbox"/> |
| c. Other impacts: _____ _____ | | <input type="checkbox"/> | <input type="checkbox"/> |

13. Impact on Transportation

The proposed action may result in a change to existing transportation systems.

☐ NO

☐ YES

(See Part 1. D.2.j)

If “Yes”, answer questions a - f. If “No”, go to Section 14.

| | Relevant Part I Question(s) | No, or small impact may occur | Moderate to large impact may occur |
|---|-----------------------------------|--|---|
| a. Projected traffic increase may exceed capacity of existing road network. | D2j | <input type="checkbox"/> | <input type="checkbox"/> |
| b. The proposed action may result in the construction of paved parking area for 500 or more vehicles. | D2j | <input type="checkbox"/> | <input type="checkbox"/> |
| c. The proposed action will degrade existing transit access. | D2j | <input type="checkbox"/> | <input type="checkbox"/> |
| d. The proposed action will degrade existing pedestrian or bicycle accommodations. | D2j | <input type="checkbox"/> | <input type="checkbox"/> |
| e. The proposed action may alter the present pattern of movement of people or goods. | D2j | <input type="checkbox"/> | <input type="checkbox"/> |
| f. Other impacts: _____ _____ | | <input type="checkbox"/> | <input type="checkbox"/> |

14. Impact on Energy

The proposed action may cause an increase in the use of any form of energy.

☐ NO

☐ YES

(See Part 1. D.2.k)

If “Yes”, answer questions a - e. If “No”, go to Section 15.

| | Relevant Part I Question(s) | No, or small impact may occur | Moderate to large impact may occur |
|--|-----------------------------------|--|---|
| a. The proposed action will require a new, or an upgrade to an existing, substation. | D2k | <input type="checkbox"/> | <input type="checkbox"/> |
| b. The proposed action will require the creation or extension of an energy transmission or supply system to serve more than 50 single or two-family residences or to serve a commercial or industrial use. | D1f, D1q, D2k | <input type="checkbox"/> | <input type="checkbox"/> |
| c. The proposed action may utilize more than 2,500 MWhrs per year of electricity. | D2k | <input type="checkbox"/> | <input type="checkbox"/> |
| d. The proposed action may involve heating and/or cooling of more than 100,000 square feet of building area when completed. | D1g | <input type="checkbox"/> | <input type="checkbox"/> |
| e. Other Impacts: _____ _____ | | | |

15. Impact on Noise, Odor, and Light

The proposed action may result in an increase in noise, odors, or outdoor lighting.

☐ NO

☐ YES

(See Part 1. D.2.m., n., and o.)

If “Yes”, answer questions a - f. If “No”, go to Section 16.

| | Relevant Part I Question(s) | No, or small impact may occur | Moderate to large impact may occur |
|--|-----------------------------------|--|---|
| a. The proposed action may produce sound above noise levels established by local regulation. | D2m | <input type="checkbox"/> | <input type="checkbox"/> |
| b. The proposed action may result in blasting within 1,500 feet of any residence, hospital, school, licensed day care center, or nursing home. | D2m, E1d | <input type="checkbox"/> | <input type="checkbox"/> |
| c. The proposed action may result in routine odors for more than one hour per day. | D2o | <input type="checkbox"/> | <input type="checkbox"/> |

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| d. The proposed action may result in light shining onto adjoining properties. | D2n | <input type="checkbox"/> | <input type="checkbox"/> |
| e. The proposed action may result in lighting creating sky-glow brighter than existing area conditions. | D2n, E1a | <input type="checkbox"/> | <input type="checkbox"/> |
| f. Other impacts: _____ _____ | | <input type="checkbox"/> | <input type="checkbox"/> |

16. Impact on Human Health

The proposed action may have an impact on human health from exposure to new or existing sources of contaminants. (See Part 1.D.2.q., E.1. d. f. g. and h.)

☐ NO

☐ YES

If "Yes", answer questions a - m. If "No", go to Section 17.

| | Relevant Part I Question(s) | No, or small impact may occur | Moderate to large impact may occur |
|---|-----------------------------|-------------------------------|------------------------------------|
| a. The proposed action is located within 1500 feet of a school, hospital, licensed day care center, group home, nursing home or retirement community. | E1d | <input type="checkbox"/> | <input type="checkbox"/> |
| b. The site of the proposed action is currently undergoing remediation. | E1g, E1h | <input type="checkbox"/> | <input type="checkbox"/> |
| c. There is a completed emergency spill remediation, or a completed environmental site remediation on, or adjacent to, the site of the proposed action. | E1g, E1h | <input type="checkbox"/> | <input type="checkbox"/> |
| d. The site of the action is subject to an institutional control limiting the use of the property (e.g., easement or deed restriction). | E1g, E1h | <input type="checkbox"/> | <input type="checkbox"/> |
| e. The proposed action may affect institutional control measures that were put in place to ensure that the site remains protective of the environment and human health. | E1g, E1h | <input type="checkbox"/> | <input type="checkbox"/> |
| f. The proposed action has adequate control measures in place to ensure that future generation, treatment and/or disposal of hazardous wastes will be protective of the environment and human health. | D2t | <input type="checkbox"/> | <input type="checkbox"/> |
| g. The proposed action involves construction or modification of a solid waste management facility. | D2q, E1f | <input type="checkbox"/> | <input type="checkbox"/> |
| h. The proposed action may result in the unearthing of solid or hazardous waste. | D2q, E1f | <input type="checkbox"/> | <input type="checkbox"/> |
| i. The proposed action may result in an increase in the rate of disposal, or processing, of solid waste. | D2r, D2s | <input type="checkbox"/> | <input type="checkbox"/> |
| j. The proposed action may result in excavation or other disturbance within 2000 feet of a site used for the disposal of solid or hazardous waste. | E1f, E1g E1h | <input type="checkbox"/> | <input type="checkbox"/> |
| k. The proposed action may result in the migration of explosive gases from a landfill site to adjacent off site structures. | E1f, E1g | <input type="checkbox"/> | <input type="checkbox"/> |
| l. The proposed action may result in the release of contaminated leachate from the project site. | D2s, E1f, D2r | <input type="checkbox"/> | <input type="checkbox"/> |
| m. Other impacts: _____ _____ | | | |

| 17. Consistency with Community Plans The proposed action is not consistent with adopted land use plans. (See Part 1. C.1, C.2. and C.3.) <i>If “Yes”, answer questions a - h. If “No”, go to Section 18.</i> | | | |
|--|-----------------------------------|-------------------------------|------------------------------------|
| | | <input type="checkbox"/> NO | <input type="checkbox"/> YES |
| | Relevant Part I Question(s) | No, or small impact may occur | Moderate to large impact may occur |
| a. The proposed action’s land use components may be different from, or in sharp contrast to, current surrounding land use pattern(s). | C2, C3, D1a E1a, E1b | <input type="checkbox"/> | <input type="checkbox"/> |
| b. The proposed action will cause the permanent population of the city, town or village in which the project is located to grow by more than 5%. | C2 | <input type="checkbox"/> | <input type="checkbox"/> |
| c. The proposed action is inconsistent with local land use plans or zoning regulations. | C2, C2, C3 | <input type="checkbox"/> | <input type="checkbox"/> |
| d. The proposed action is inconsistent with any County plans, or other regional land use plans. | C2, C2 | <input type="checkbox"/> | <input type="checkbox"/> |
| e. The proposed action may cause a change in the density of development that is not supported by existing infrastructure or is distant from existing infrastructure. | C3, D1c, D1d, D1f, D1d, E1b | <input type="checkbox"/> | <input type="checkbox"/> |
| f. The proposed action is located in an area characterized by low density development that will require new or expanded public infrastructure. | C4, D2c, D2d D2j | <input type="checkbox"/> | <input type="checkbox"/> |
| g. The proposed action may induce secondary development impacts (e.g., residential or commercial development not included in the proposed action) | C2a | <input type="checkbox"/> | <input type="checkbox"/> |
| h. Other: _____ _____ | | <input type="checkbox"/> | <input type="checkbox"/> |

| 18. Consistency with Community Character The proposed project is inconsistent with the existing community character. (See Part 1. C.2, C.3, D.2, E.3) <i>If “Yes”, answer questions a - g. If “No”, proceed to Part 3.</i> | | | |
|--|--------------------------------|-------------------------------|------------------------------------|
| | | <input type="checkbox"/> NO | <input type="checkbox"/> YES |
| | Relevant Part I Question(s) | No, or small impact may occur | Moderate to large impact may occur |
| a. The proposed action may replace or eliminate existing facilities, structures, or areas of historic importance to the community. | E3e, E3f, E3g | <input type="checkbox"/> | <input type="checkbox"/> |
| b. The proposed action may create a demand for additional community services (e.g. schools, police and fire) | C4 | <input type="checkbox"/> | <input type="checkbox"/> |
| c. The proposed action may displace affordable or low-income housing in an area where there is a shortage of such housing. | C2, C3, D1f D1g, E1a | <input type="checkbox"/> | <input type="checkbox"/> |
| d. The proposed action may interfere with the use or enjoyment of officially recognized or designated public resources. | C2, E3 | <input type="checkbox"/> | <input type="checkbox"/> |
| e. The proposed action is inconsistent with the predominant architectural scale and character. | C2, C3 | <input type="checkbox"/> | <input type="checkbox"/> |
| f. Proposed action is inconsistent with the character of the existing natural landscape. | C2, C3 E1a, E1b E2g, E2h | <input type="checkbox"/> | <input type="checkbox"/> |
| g. Other impacts: _____ _____ | | <input type="checkbox"/> | <input type="checkbox"/> |



CITY COUNCIL AGENDA

DEPT.: City Manager

DATE: September 16, 2020

CONTACT: Greg Usry, Interim City Manager

AGENDA ITEM: Resolution to amend the 2020 Adopted Fees and Charges for the Boat Basin to increase fees for winter storage.

FOR THE MEETING OF:

September 16, 2020

RYE CITY CODE,

CHAPTER
SECTION

RECOMMENDATION: That the Council approve these changes.

IMPACT: ☐ Environmental ☒ Fiscal ☐ Neighborhood ☐ Other:

BACKGROUND: See attached memo from the Boat Basin Supervisor.



CITY OF RYE

Boat Basin Memorandum

DATE: September 16th, 2020

TO: Greg Usry, Interim City Manager

FROM: Rodrigo Paulino, Boat Basin Supervisor

RE: Boat Basin Winter Fee Increase

The Boat Basin Commission met on August 31, 2020 at 7pm. The commission voted to increase the fees listed below. A motion to pass was made by Commissioner Robert November and seconded by Commissioner Matthew Malouin. All members voted in favor. The Commission is requesting that the City Council agree to amend the following 2020/21 Adopted Fees and Charges for the Boat Basin Enterprise Fund:

- Winter Box Trailer Storage/Winter Empty Boat Trailer Storage – Current fee \$350 to new Fee \$650.
- Create new winter storage fee for non-summer customers / non-slip holders. (Ten percent higher than our current fees)
- * Resident- Current \$35 per ft to \$38.50 per ft.
- *Non Resident - Current \$47 per ft to \$51.70 per ft.



CITY COUNCIL AGENDA

DEPT.: Department of Public Safety

DATE: September 16, 2020

CONTACT: Rob Falk

AGENDA ITEM: Approve the application of Joshua E. Burnstein for the position of Volunteer Firefighter for the City of Rye Fire Department.

FOR THE MEETING OF:

September 16, 2020

RECOMMENDATION: That the Council approve this application.

IMPACT: ☐ Environmental ☐ Fiscal ☐ Neighborhood ☒ Other:

BACKGROUND: A background investigation was completed and it was determined that the applicant, a resident of Rye, is a viable candidate for the position of Volunteer Firefighter for the City of Rye Fire Department.



Lt. Robert J. Falk
Commissioner of Public Safety

City of Rye, New York
21 McCullough Pl
Rye, NY 10580
Phone: (914) 967-1234
FAX: (914) 967-8341



TO: Mr. Greg Usry, Rye City Manager

FROM: Lt. Robert J. Falk, Public Safety Commissioner

SUBJECT: Joshua Evon Burnstein – Volunteer Firefighter Candidate

DATE: August 26, 2020

A background investigation was completed and it has been determined that applicant Joshua E. Burnstein a resident of Rye, NY is a viable candidate for the position of Volunteer Firefighter with the City of Rye Fire Department.

This writer finds no substance to prevent the City of Rye Fire Department from hiring candidate Joshua Evon Burnstein as a volunteer firefighter.


Lt. Robert J. Falk
Public Safety Commissioner



CITY COUNCIL AGENDA

DEPT.: Rye Recreation

DATE: September 16, 2020

CONTACT: Sally Rogol, Superintendent of Rye Recreation

AGENDA ITEM: Resolution to declare certain City equipment as surplus.

FOR THE MEETING OF:

September 16, 2020

RYE CITY CODE,

CHAPTER

SECTION

RECOMMENDATION: That the City Council adopt the following resolution:

WHEREAS, the City has been provided with a list of City equipment identified as being obsolete or will become obsolete during 2020, and,

WHEREAS, the Recreation Department and the Department of Public Works has recommended that said equipment be declared surplus, now, therefore, be it

RESOLVED, that said equipment is declared surplus, and, be it further

RESOLVED, that authorization is given to the City Comptroller to sell or dispose of said equipment in a manner that will serve in the best interests of the City.

IMPACT: ☐ Environmental ☒ Fiscal ☐ Neighborhood ☐ Other

BACKGROUND: The Superintendent of Rye Recreation and the Department of Public Works has provided a list of equipment that is either currently obsolete or will become obsolete during calendar year 2020. The City Council is asked to approve that this equipment be declared as surplus.

See attached.

INTEROFFICE MEMORANDUM

TO: CITY MANAGER
FROM: SALLY ROGOL, SUPERINTENDENT
SUBJECT: SURPLUS ITEMS
DATE: SEPTEMBER 10, 2020
CC: KRISTEN WILSON; ERIN MANTZ

Recreation is seeking permission to surplus the following items. The items are outdated, no longer used/usable, broken or damaged.

1. Sport King Pool Table – tag # 000282
2. Pool Table – tag # 000281
3. Great American Air Hockey table – tag # 000285
4. Miscellaneous speakers (5)
5. 3 Video Projectors: NEC Projection, Compaq MP1400, Hp VP6320
6. 10 brown mighty lite tables – all damaged
7. Assorted broken stage lights (3)
8. 3 DVD players – non functioning
9. Vizio 46” TV – only plays black and white
10. Sewing Machine and attachments (green)
11. Sewing Machine CAPRI (white)
12. Assorted old/broken folding and fixed chairs (75)
13. Assorted old/broken office chairs (6)
14. 2 Ping pong tables (donated to us)
15. 2 TV’s (not flat screen) both donated
16. Popcorn Machine
17. Zooka pitching machine
18. Misc. sporting equipment
19. 10 music stands
20. Under-counter refrigerator

CITY OF RYE, NY
Department of Public Works
Memorandum

DATE: September 11, 2020

TO: Greg Usry, Interim City Manager

FROM: Ryan Coyne, City Engineer

RE: Surplus Equipment

As discussed, we have developed a list of equipment that are no longer useful to The Department of Public Works. We are requesting that the council deem these items as “surplus” so that we can proceed to auction.

Should you need additional information, please feel free to call me.

- Miscellaneous Billy goat industries contour mower/Honda HRX 217 mower with GVC 190 engine.
- Miscellaneous ridged pipe & cleaning equipment/tool box with snake heads/motorized snake cart.
- Miscellaneous Hasqvarna HU 800 push mower/2 Husqvarna weed whackers/2 Redmax weed whackers/2 Redmax leaf blowers/1 Husqvarna weed leaf blower.
- Miscellaneous Husqvarna leaf sucker with bag/2 pickup truck loading ramps.
- Miscellaneous 2-25 gallon spry tanks/1 backpack sprayer 4 gallon

Public Works
141 Oakland Beach Avenue
Rye, NY 10580

(914) 967-7464 phone

(914) 967-4107 fax



CITY COUNCIL AGENDA

DEPT.: City Manager

DATE: September 16, 2020

CONTACT: Greg Usry, Interim City Manager

AGENDA ITEM: Consideration of a request from Sleep in Heavenly Peace (SHP) NY-Rye to use the employee parking lot at City Hall on Saturday, September 26, 2020 from 8am to 2pm to assemble beds for children in need. COVID restrictions will be followed.

FOR THE MEETING OF:

September 16, 2020

RYE CITY CODE,

CHAPTER
SECTION

RECOMMENDATION: That the Council approve this request.

IMPACT: ☐ Environmental ☐ Fiscal ☒ Neighborhood ☐ Other:

BACKGROUND:

SHP is a national 501(c)3 charity now with 200+ nationwide chapters. The organization builds beds for kids who don't have one and deliver them to households free of charge.

SHP chapters conduct three activities; fund raising, bunk bed 'Build Days', free bed delivery/assembly at the residence of children in need. Build days are run by the chapter core team with a volunteer group from a church, sports team, company or eagle scout groups, with ages 12+. SHP uses power generators, mitre saws, drill presses (adult run) and power sanders. Volunteer Build Days generally last 4 hours with added time needed for setup and tear-down.

See attached presentation.

SLEEP IN HEAVENLY PEACE

“NO KID SLEEPS ON THE FLOOR IN OUR TOWN!”



New York – Rye Chapter

February 2020



INTRODUCTION

Sleep in Heavenly Peace is a 501(c)(3) nonprofit and our mission statement is:

“NO KID SLEEPS ON THE FLOOR IN OUR TOWN!”

**Providing Bunk Beds or single Twin Size beds for
children in need!!!**

OUR MISSION

Getting Children Off the Floor!

We believe that “No kids sleeps on the floor in our town”, but we want to make OUR town EVERYONE’S town.

Bring Communities Together!

It takes the community to get involved and help their own. SHP provides the opportunity for Volunteers to do just that.



OUR HISTORY – The FIRST DELIVERY

The first delivery was a memorable one. With Christmas fast approaching and the cold weather setting in, getting this little girl off the floor and into a warm bed was an indescribable feeling.

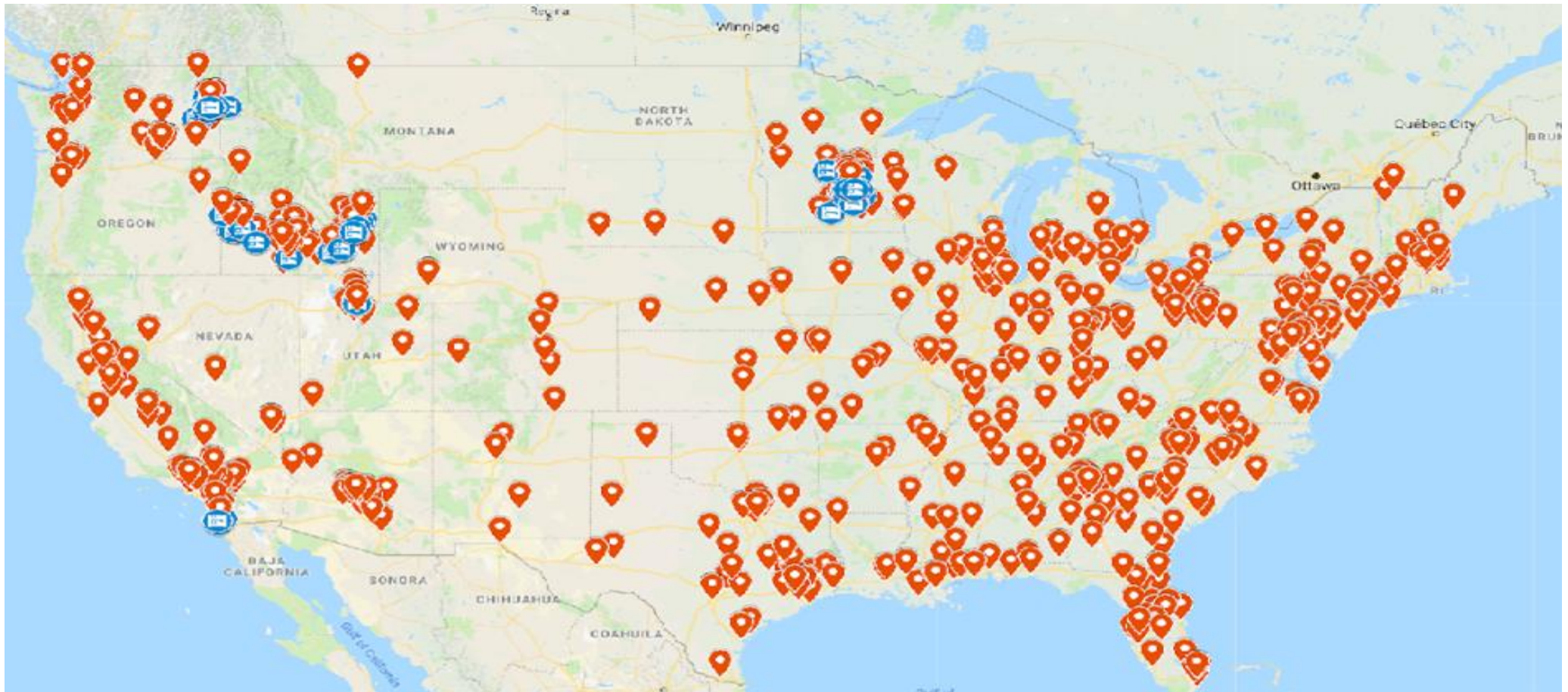
This is where a service project turned into the beginnings of a non-profit organization called Sleep in Heavenly Peace.



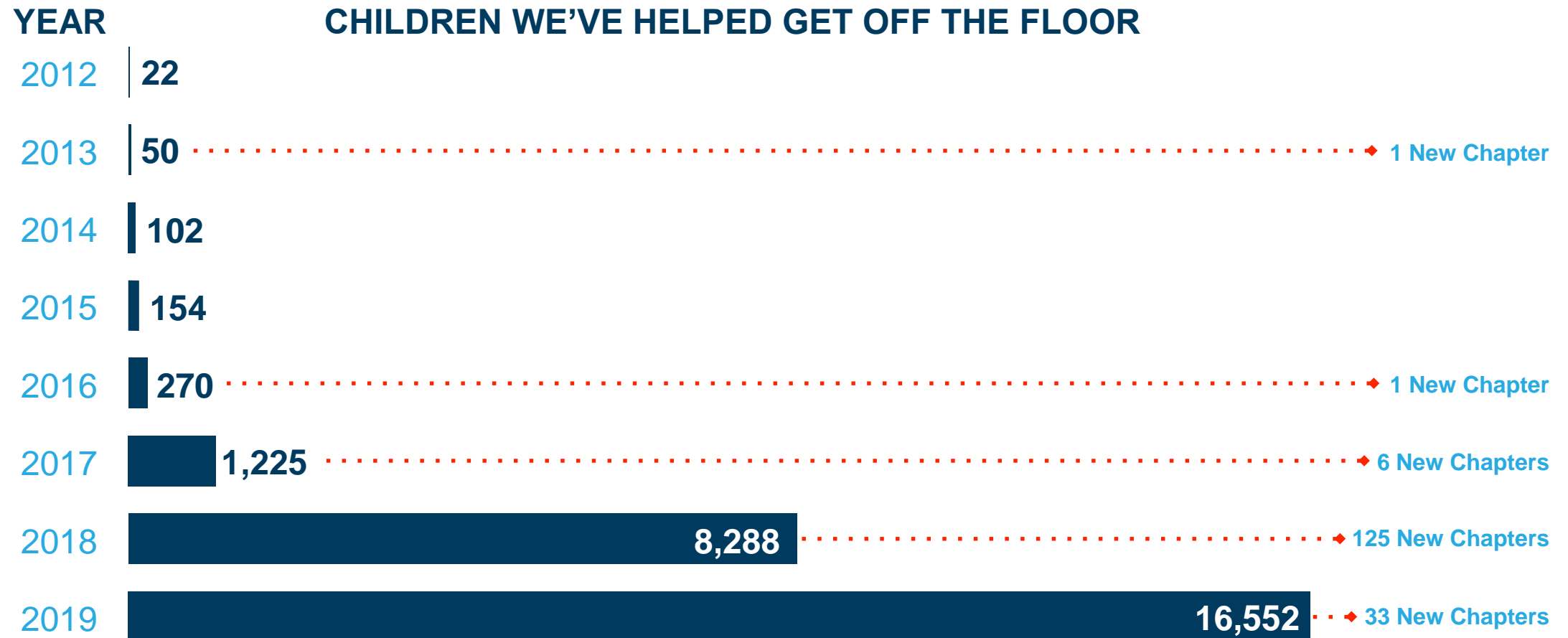
THE NEED

In 2019 over the first 8 months SHP had received over 1800 bunk requests, 7.5 per day 3 kids per application. That's nearly 23 kids per day that need our help.

Early years of SHP with only a few chapters (blue) fulfilling <10% of requests:

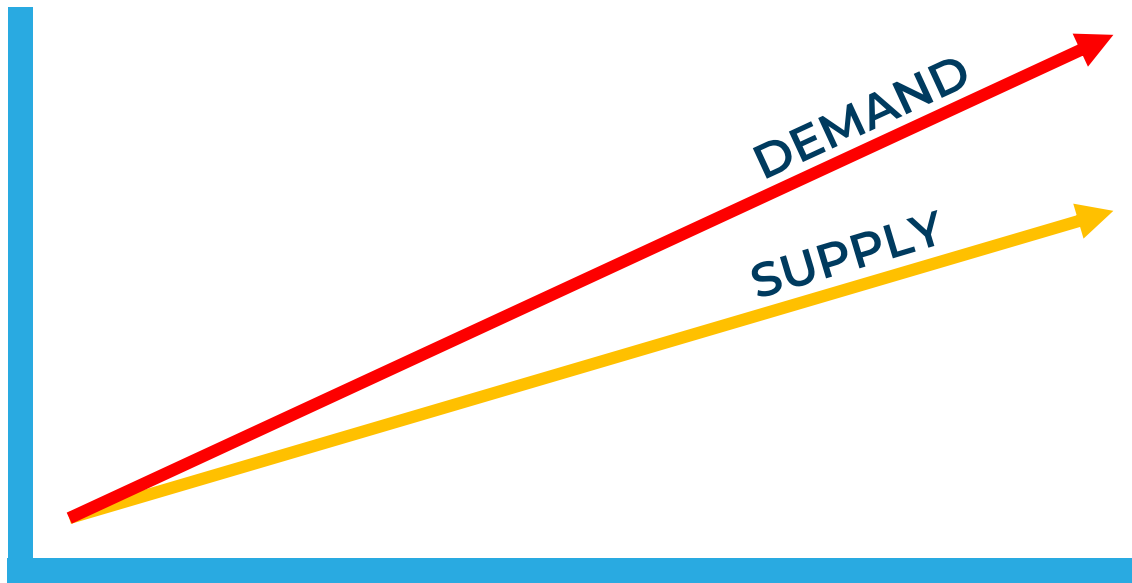


Each Year, SHP has shown tremendous growth and 2018 was an amazing year. By August 2019 we've built more beds than the first 7 years of SHP combined.



HOW DOES IT WORK?

Through our website at www.shpbeds.org, people can request a bunk bed for themselves or refer a family.



As the demand grows, the supply needs to equally grow. We cannot keep up with demand without donations or company sponsorships.

Build Day

1. Lumber



2. Volunteer Help



3. Bed Parts, for delivery



2020 GOALS, SHP NY Rye Chapter

- Below are scaled back 'Covid relevant' targets.
- Core Team "test" Build Day in Sept - 5
- First live build day in Oct - 15 beds
- 2 Build Days in Oct/Nov - 30
- 50 bunks = 100 kids off the floor in our area.



WHERE DO OUR DONATIONS GO?

Our proceeds go towards building, furnishing and delivering the bunk beds. We maintain an A+ rating with Guidestar for healthy donation disbursement.



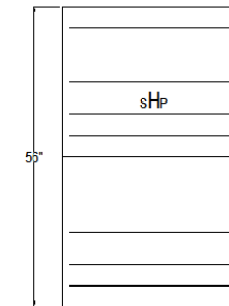
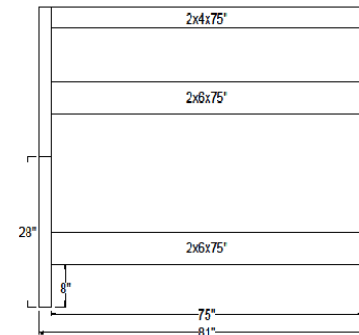
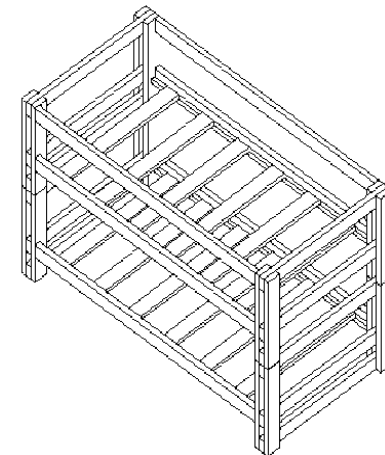
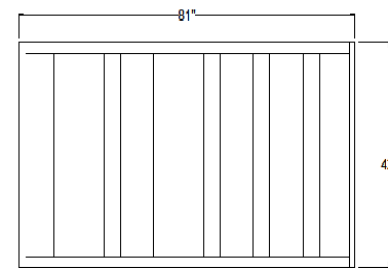
SPONSOR A BED

Materials List for a Single Bunk Bed

| Quantity | Item | Estimated Individual Cost | Total / Bed | Method of Delivery |
|----------------------|--------------------------------------|---------------------------|-------------|--------------------|
| 4 | 2"/6"/10' Pine Wood | \$6.28 | \$25.12 | Schedule |
| 2 | 2"/4"/10' Pine Wood | \$4.23 | \$8.46 | Schedule |
| 3 | 2"/4"/8' Pine Wood | \$2.40 | \$7.20 | Schedule |
| 1 | 1"/4"/10' Pine Wood | \$5.00 | \$5.00 | Schedule |
| 8 | 1"/4"/8' Pine Wood | \$4.25 | \$4.25 | Schedule |
| 4 | 1"/2"/6' Pine Wood | \$2.99 | \$11.96 | Schedule |
| 32 | 1 1/4" Wood Screws | \$0.05 | \$1.60 | Mail / Schedule |
| 16 | 1/4" Flat Washers | \$0.16 | \$2.56 | Mail / Schedule |
| 16 | 5/16" / 5" Zink Lag Screws | \$0.54 | \$8.64 | Mail / Schedule |
| 2 | Twin Size Mattress 75" | \$55.00 | \$110.00 | Schedule |
| 2 | Twin Size Mattress Cover | \$6.97 | \$13.94 | Mail / Schedule |
| 2 | Standard Pillow | \$2.50 | \$5.00 | Mail / Schedule |
| 2 | Standard Pillowcase | \$2.74 | \$5.48 | Mail / Schedule |
| 2 | Standard Flat Sheet | \$4.97 | \$9.94 | Mail / Schedule |
| 2 | Standard Fitted Sheet | \$4.97 | \$9.94 | Mail / Schedule |
| 2 | Twin Size Comforter (Boys and Girls) | \$14.47 | \$28.94 | Mail / Schedule |
| Total Materials Cost | | | \$258.03 | |

The bedding items listed above are based on local retailers' pricing and are sold as brand new, 200 thread count items. We accept any and all gently used bedding materials, including extended twin size mattresses (78"). We do our best to deliver each bed with a set of all the listed items above. If you would like to donate any of these items, please feel free to contact us through our website or email us at info@sleepinheavenlypeacebeds.org. We will schedule with you a time to deliver or you can mail donated items to the following address:

www.sleepinheavenlypeace.org
 Sleep in Heavenly Peace
 P.O. Box 116
 Kimberly, ID 83341
 Phone: 208-421-1577



| Sleep in Heavenly Peace | |
|-------------------------|----------------------|
| Qty | Materials List |
| 4 | 2x6x10' DF |
| 2 | 2x4x10' DF |
| 3 | 2x4x8' DF |
| 8 | 1x4x8' DF |
| 1 | 1x4x10' 2F |
| 4 | 1x2x8' DF |
| 32 | 1 1/4" Screws |
| 16 | 15/16" Flat Washer |
| 16 | 5/16" x 5" Lag Screw |
| 4 | 3" x 7/16" Dual |

HOW DO WE GET THERE

Completing Build Days

- Funding – Budgeting for materials
- Location – Review and verify Build Day Requirements
- Volunteers – Schedule volunteers



FUNDING

Budgeting for a Build Day

- Determine the budget or number of bunk beds desired
- Review the Sponsor a Build Day Program
- Work for material and bedding donations/discounts

\$350.00 / Bunk Bed



VOLUNTEERS

Getting the Community Involved

- NO Experience Required
- Signed Indemnifying Forms
- Scalable Size Groups
- Team Build Exercise
- Bring Community Together

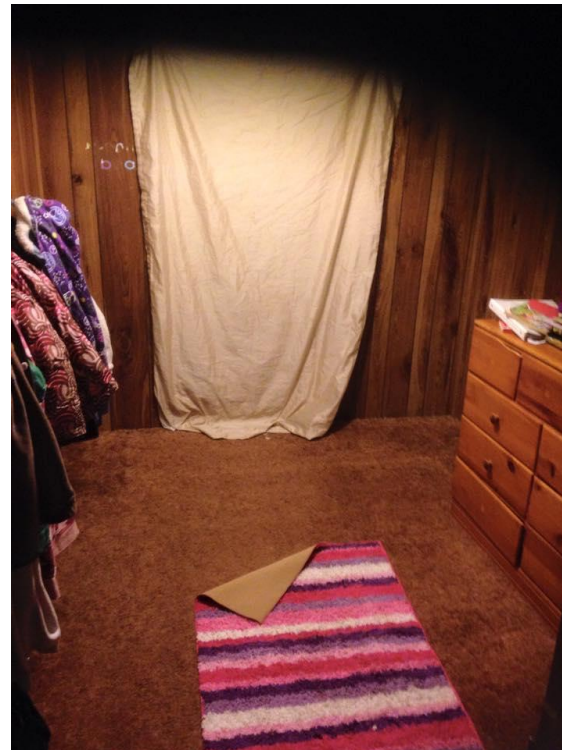


MEETING OUR MISSION

NO KID SLEEPS ON THE FLOOR IN OUR “COUNTRY”

We take our mission very seriously and with the help of donations and volunteers, we can make our mission a reality.

HOW?



=



SLEEP IN HEAVENLY PEACE |

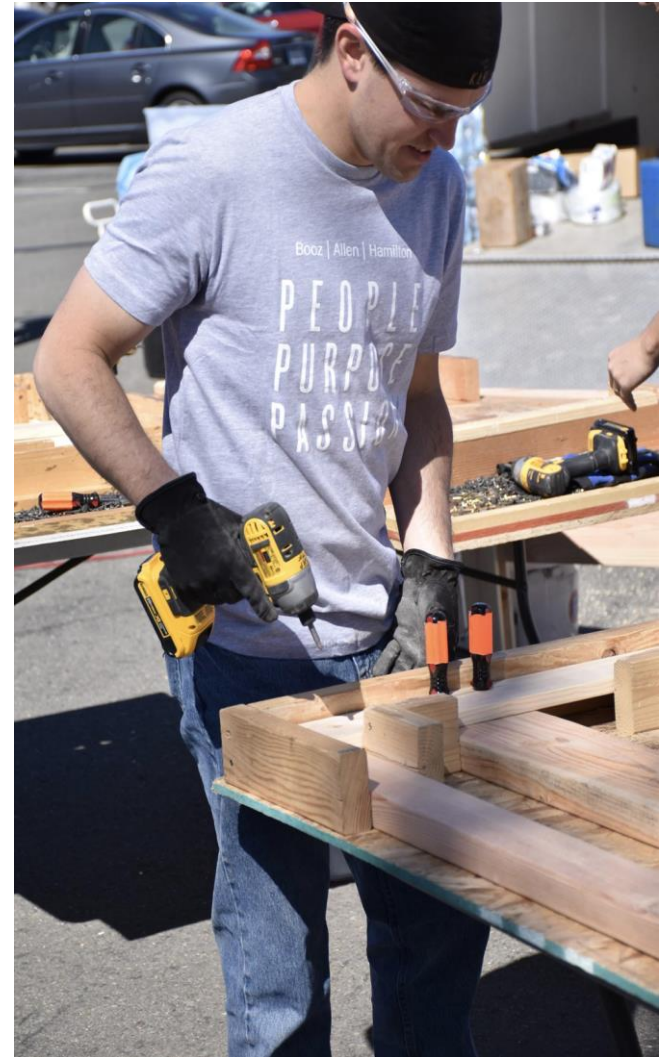




LOCATION

Build Day Requirements – MOBILE OPERATION

- Sufficient Space – 1800 sqft
- Minimum 4 Circuits of 110V Power
- Adequate Parking
- Restroom Facilities



THANK YOU!!!

“NO KID SLEEPS ON THE FLOOR IN OUR TOWN!”



OUR BOARD OF DIRECTORS



Jordan Allen
Chairman of the Board



Heather Allen
Board Member



Corey Smith
Board Member



Eldon Harston
Board Member

OUR EXECUTIVE TEAM



Luke Mickelson
Executive Director



Heidi Mickelson
Director of eCommerce



Matt McEwen
Director of Operations



Mitch Mathews
Director of Marketing



Joe Jaques
Director of Finance



JP Wilson
Director of Chapter Support



Amy Andrew
Communications Manager



Nancie Mathews
Disaster Relief Committee Chair



Amy Jaques
Executive Assistant



Yvette McEwen
Executive Administrator

SHP NY – Rye Chapter



Matt Ambrogi
NY-Rye Chapter President



CITY COUNCIL AGENDA

DEPT.: City Manager

DATE: September 16, 2020

CONTACT: Greg Usry, Interim City Manager

AGENDA ITEM: Consideration of a request from the Children's Philanthropy (CP) to have a 1-hour yoga class on the Village Green on September 27, 2020 (rain date Wednesday September 30th) beginning at 5 pm to raise money to benefit the children of Rye. 100% of the profits will go to CP and social distancing restrictions will be followed.

FOR THE MEETING OF:

September 16, 2020

RYE CITY CODE,

CHAPTER
SECTION

RECOMMENDATION: That the Council approve this request.

IMPACT: ☐ Environmental ☐ Fiscal ☒ Neighborhood ☐ Other:

BACKGROUND:

Children's Philanthropy (CP) consists of a group of women whose primary purpose is to work together raising money to benefit the children of Rye. Our funds are distributed to qualifying institutions including:

- The Rye Free Reading Room
- The Rye YMCA
- Rye Recreation center
- Rye Nature Center
- The Rye Art Center

...and others who support scholarships and/or cultural, educational, emotional or recreational enrichment to local children.

At Thanksgiving and Spring Break CP donates \$50 food gift cards to families in Rye that are on the Free Lunch Program.

Additionally, CP gives two scholarships to well deserving Rye High School seniors.

From: [Samantha Tollinchi](#)
To: [Ruttenberg, Noga P.](#)
Cc: [City Clerk](#); [Christine Groves](#); [Tony Coash](#)
Subject: Children's Philanthropy request-
Date: Tuesday, September 08, 2020 6:23:49 AM

Hi Noga

I hope you had a lovely holiday weekend!

As requested here is some more information about Children Philanthropy.

Children's Philanthropy (CP) consists of a group of women whose primary purpose is to work together raising money to benefit the children of Rye. Our funds are distributed to qualifying institutions including:

- The Rye Free Reading Room
- The Rye YMCA
- Rye Recreation center
- Rye Nature Center
- The Rye Art Center

...and others who support scholarships and/or cultural, educational, emotional or recreational enrichment to local children.

At Thanksgiving and Spring Break CP donates \$50 food gift cards to families in Rye that are on the Free Lunch Program.

Additionally, CP gives two scholarships to well deserving Rye High School seniors.

Ideally we would sell 25-30 spots for this one hour yoga class, but upon approval, we would measure the library lawn to make sure that logistically works (participants would be placed 6ft away from each other & would be required to wear masks except when they are on their yoga mat). Class would start at either 5 or 6pm.

100% of the profits will go directly to CP. Please advise if there would be any fees associated with this request.

Dates requested for this yoga class are: (we need just one, but a one week later rain date 'in case')

Sunday 9/27 or Wednesday 9/30

Please do not hesitate to reach out if there is anything else I could clarify.

Kind regards,
Samantha

Sent from Samantha Sidari Tollinchi



CITY COUNCIL AGENDA

DEPT.: City Manager

DATE: September 16, 2020

CONTACT: Greg Usry, Interim City Manager

AGENDA ITEM: Consideration of a request from the Rye Free Reading Room (RFRR) to use the Village Green for various events such as outdoor storytimes, author visits, and video game tournaments from September 1, 2020 through November 13, 2020 between 9:30 am and 5:30 pm (clean-up completed by 7:00 pm). Social distancing guidelines will be in adherence and the RFRR will coordinate with City Staff to ensure there is not interference with maintenance of the Village Green.

FOR THE MEETING OF:

September 16, 2020

RECOMMENDATION: That the Council approve this request.

IMPACT: ☐ Environmental ☐ Fiscal ☒ Neighborhood ☐ Other:

BACKGROUND: The RFRR has requested use of the Village Green between September 1, 2020 - November 13, 2020 for various programs such as the weekly dawn dew program, story time and gathering of bookclubs for mixed zoom / in person discussions. The RFRR would use the Green for a maximum of four times in a week and most programs would be about 90 minutes long or less. The library would check with City Staff to ensure planned maintenance of the Village Green before scheduling any program.

From: [Usry, Greg G.](#)
To: [Ruttenberg, Noga P.](#)
Cc: [Wilson, Kristen K.](#)
Subject: FW: Broad Green request
Date: Thursday, September 03, 2020 10:51:46 AM

From: Chris Shoemaker [mailto:cshoemaker@ryelibrary.org]
Sent: Tuesday, August 25, 2020 11:19 AM
To: Usry, Greg G. <gusry@ryeny.gov>
Subject: Broad Green request

Hi Greg,

Hope all is well with you this Tuesday morning.

I was wondering if you'd accept a broad request from the library for use of the village green, instead of date specific requests. We're finalizing fall planning, but often have last minute programs crop up, due to requests from local authors, or timely events.

Since we don't have all the dates outlined, would there be an issue with a general request to use the green from September 1 through November 13th for an assortment of library programs, such as additional outdoor storytimes, author visits, and video game tournaments?

I can't imagine we'll go past November, even with the most unseasonably warm weather.

All events will use social distancing guidelines, and will occur between 9:30 and 5:30, wrapping up no later than 7 pm.

Thanks,

Chris

Chris Shoemaker
Director
Rye Free Reading Room
1061 Boston Post Road
Rye, NY 10580
914-231-3160
cshoemaker@ryelibrary.org
www.ryelibrary.org



[Show your love for the library today!](#)



CITY COUNCIL AGENDA

DEPT.: City Manager

DATE: September 11, 2020

CONTACT: Greg Usry, Interim City Manager

AGENDA ITEM: Consideration of a request by the Sole Ryeders & Friends and the Rye High School Breast Cancer Awareness Club to have a TieTheTownPink breast cancer awareness campaign in the City of Rye during the month of October, 2019.

FOR THE MEETING OF:

September 16, 2020

RECOMMENDATION: That the Council consider granting the request.

IMPACT: ☐ Environmental ☐ Fiscal ☐ Neighborhood ☒ Other:

BACKGROUND: Sole Ryeders & Friends, together with the Rye High School Breast Cancer Awareness Club and the RHS Crew team, will launch TieTheTownPink, a breast cancer awareness campaign whose goal is to adorn hundreds of trees throughout the City of Rye with pink ribbons on the morning of October 1, 2020 to show support of people and their families who are fighting breast cancer. They seek permission from the City of Rye to tie large pink ribbons around trees and lampposts throughout the City and on downtown Purchase Street from October 1 – 31, 2020. They would also like permission to tie ribbons at Disbrow Park and Nursery Field. Sole Ryeders & Friends will take responsibility for placing the ribbons around town and will take all ribbons down at the end of the campaign.