



BOARD OF TRUSTEES MEETING AGENDA

August 08, 2023 at 7:00 PM

432 Route 306, Wesley Hills, NY 10952

Phone: 845-354-0400 | Fax: 845-354-4097

CALL TO ORDER

ROLL CALL

APPROVAL OF MINUTES

1. July 11, 2023

RESOLUTIONS/DISCUSSIONS

2. Resolution Approving a Refund for a Double Tax Payment to 1 Wilder LLC
3. Resolution Approving a Refund for a Double Tax Payment to Glenbrook Road Associates LLC
4. Resolution Approving a Refund for a Double Tax Payment to Corelogic Refunds Department
5. Resolution Approving a Refund of a Double Tax Payment to Jeffrey & Shira Berger
6. Resolution Approving a Refund for a Double Tax Payment to Yisroel Weisz
7. Resolution Approving a Refund for a Double Tax Payment to Corelogic Refunds Department
8. Resolution Approving the Agreement for Payment Processing with CSG/Forte Payments Inc. for Online Payments
9. Resolution Approving an Agreement for Engineering Services with Fusco Engineering & Land Surveying, P.C.
10. Resolution Accepting Proposal from Colliers Engineering & Design for Traffic Study on Lime Kiln/Wilder Road
11. Resolution Accepting Proposal from Perfect Cut for Tree Removal at Greg Sikorsky Park
12. Resolution Approving the Proposal from Environmental Construction for a Temporary Traffic Light at the Lime Kiln/Wilder Road Intersection
13. Resolution Approving Supplement #1 to the NYSDOT Contract for Sidewalks on Willow Tree Road
14. Resolution Accepting a Revised Abstract from May 2023
15. Resolution Approving Abstract of Audited Claims
16. Resolution Approving Transfer of Funds

REPORTS

17. Mayor

18. Village Clerk/Treasurer

19. Village Attorney

OPEN FLOOR: PUBLIC DISCUSSION

[20.](#) Discussion-Hold Harmless 3 Villa Lane

21. Discussion-Fee Waiver 3 Villa Lane

EXECUTIVE SESSION

NEW BUSINESS

ADJOURNMENT



BOARD OF TRUSTEES MEETING MINUTES

July 11, 2023, at 7:00 PM

432 Route 306, Wesley Hills, NY 10952

Phone: 845-354-0400 | Fax: 845-354-4097

MEMBERS PRESENT:

Marshall Katz, Mayor
Ed McPherson, Deputy Mayor
Ruth Ivey, Trustee
Milton Schwartz, Trustee
Yisroel Cherns, Trustee

MEMBERS ABSENT:

None

OTHERS PRESENT:

Ben Selig, Village Attorney
Camille Guido - Downey, Village Clerk-Treasurer

Mayor Katz opened the meeting at 7 pm followed by the pledge of allegiance.

APPROVAL OF MINUTES

RESOLUTION #91-23

Yisroel Cherns made a motion to approve the minutes of June 6, 2023, seconded by Ruth Ivey. Voting Yea: Mayor Katz, Deputy Mayor McPherson, Trustee Ivey, Trustee Cherns, Trustee Schwartz. Upon vote, this motion was carried unanimously.

PUBLIC HEARINGS - Public Hearing on the Code of the Village of Wesley Hills entitled, "A Local Law Amending the Code of the Village of Wesley Hills to revise the Zoning Law in relation to the Regulation of Cabanas."

Trustee Cherns made a motion to open the public hearing, seconded by Trustee Schwartz. Voting Yea: Mayor Katz, Deputy Mayor McPherson, Trustee Ivey, Trustee Cherns, Trustee Schwartz. Upon vote, this motion was carried unanimously.

Mayor Katz stated that the Zoning Board of Appeals suggested the creation of this local law for the Village Board's consideration as they felt that there were several requests for variance for cabanas. The law was drafted by the ZBA with the help of Todd Rosenblum and Stanley Mayerfeld, both Architects in the Village.

Todd Rosenblum, 22 Arcadian Drive stated that anyone can build a cabana as of right if the size is under 100sf and 1/3 set back which is 8.3 feet from the lot line. The issue that arose in the ZBA is that swimming pools are allowed to be fifteen feet from the lot line and from an architectural standpoint, it is

difficult to design a pool fifteen feet from the property line and a cabana twenty-five feet as they both are married together.

Robert Cherofsky, 234 Willow Tree Road stated that he has an extremely difficult neighbor and stated that his use as of right to enjoy his property has been decreased by a neighbor. Mr. Cherofsky stated that the lot lines should not be reduced as of right.

Jerry Fisch, 2 Jodi Court was present and stated that he is concerned with the proposed law as he has a neighbor that has a very long driveway and a narrow lot. His neighbor's pool is next to his deck, and he can hear and see all the activities of his neighbor which are disruptive to him. Mr. Fisch stated that having a pool fifteen feet is a problem and adding cabanas is further a concern with noise and sight. Mr. Fisch noted that noise further carries into his home.

Joshua Scheinberg, 12 Kentor Lane was present and stated that he feels that the proposal law does not allow for a remedy through the ZBA. The ZBA holds public hearings which allow residents to provide their input so the Board can address any concerns neighbors may have. The ZBA received more applications for variances for cabanas during COVID.

Yisroel Cherns questioned if Mr. Scheinberg is not supporting the law or just the side yard footage?

Joshua Scheinberg answered the law, and he feels that neighbors should have the opportunity to be heard.

David Schwalb, 11 Marcus Drive was present and stated that the Village's impervious surface and development coverage requirements make the Village an undesirous location compared to other neighboring municipalities. Cabanas should not count towards development coverage.

Todd Rosenblum answered that cabanas are handled the same as a covered porch or a deck that is 6 feet in height.

David Schwalb, 11 Marcus Drive stated that having a high development coverage makes homes noncompetitive for the area.

Mayor Katz stated that he disagrees with Mr. Schwalb.

Todd Rosenblum stated that while he assisted with the development of the law, the applications before the ZBA are reduced and feels that the law is not needed at the current time.

Rita Joachim, 21 Tammy Road was present and stated that she is concerned as in the law it states, "habitable space" and that term implies that people can use their cabana as a guest home or living space.

Ben Selig stated that he is not concerned with the use of "habitable space".

Michael Kram, 6 Suhl Lane stated that the law needs to have teeth for residents that do not adhere to the law.

Mayor Katz stated that in the proposed law there is a definition for cabana.

Stanley Mayerfeld, 17 Bruck Court was present and thanked the residents who attended tonight and said that when developing this law they really tried to consider all the angles to have a balance on everyone's behalf. Mr. Mayerfeld stated that he agrees with Mr. Rosenblum's statement that the law is not needed at the current time as ZBA cases should be reviewed case by case.

Yisroel Cherns stated that he feels that if the law were changed to twenty-five feet that would be acceptable.

Ruth Ivey, 11 Rockingham Road offered the following comments as a resident and not as a Trustee. Ms. Ivey stated that she does not support this law. Ms. Ivey stated that she has also experienced a terrible situation with her neighbor as he installed two cabanas just a few feet from her property line with windows facing her yard. Each day she sees people dressing and undressing and it is ruining her quality of life having the cabanas and pool so close to her property line. Ms. Ivey stated that she feels that the ZBA should have reviewed this placement and they did not as she was advised by the Village Attorney that it was not necessary, which she believes is false, along with the actions of the Building Inspector.

Stanley Mayerfeld stated that he has never had a bad experience with the Village Attorney or the Building Inspector and that is not the image of the Village.

Robert Cherofsky, 234 Willow Tree Road stated that he has had the same experience as Ms. Ivey.

Mayor Katz stated that after hearing all the comments from the public at this meeting, his opinion has shifted.

Ed McPherson stated that he would be ok if screening was provided.

Ruth Ivey stated that she feels that every pool should be required to go to ZBA for a review.

Yisroel Cherns made a motion to close the public hearing, seconded by Milton Schwartz. Upon vote, this motion was carried unanimously.

Milton Schwartz made a motion to approve the proposed law as is, seconded by Yisroel Cherns:

Roll Call:

Ivey - No

Cherns - Yes and would also consider an amendment to twenty-five feet set back.

Schwartz - Not at the current time as applications before the ZBA have slowed down and this item should be tabled.

McPherson - Not at this time, should be tabled.

Katz - No

This motion did not pass.

Yisroel Cherns questioned if any member would reconsider this law if the setback were changed from 15' to 25'. Trustee Schwartz and Trustees McPherson answered yes.

RESOLUTIONS/DISCUSSIONS

RESOLUTION #92-23

Resolution approving the Agreement with U-Audit Associates for Auditing Services on Revenues.

Trustee Schwartz made a motion to approve the following resolution, seconded by Trustee Cherns:

WHEREAS, from time to time the Village of Wesley Hills audits the cable franchise, gross receipts, electricity, and gas revenues, and

WHEREAS, the New York Conference of Mayor's Association has vetted several companies and recommends that municipalities use the services of U-Audit Associations to perform those auditing services for the Village.

NOW, THEREFORE BE IT RESOLVED, that the Mayor of the Village of Wesley Hills is hereby authorized to sign such an agreement dated 6/10/23 with U-Audit Associates, a copy of which agreement is attached to the Minutes.

Voting Yea: Mayor Katz, Deputy Mayor McPherson, Trustee Ivey, Trustee Cherns, Trustee Schwartz. This motion was carried unanimously.

Resolution approving abstracts of audited claims.

RESOLUTION #93-23

Trustee Cherns made a motion to approve the following resolution, seconded by Trustee Schwartz:

RESOLVED, that the general fund claims, #20,904 through #21,003 in the aggregate amount of \$512,909.97 as set forth in Abstract #7/23 dated July 11, 2023, a copy of which abstract of audited claims is made a part of the Minutes of this Board, are hereby approved.

Voting Yea: Mayor Katz, Deputy Mayor McPherson, Trustee Ivey, Trustee Cherns, Trustee Schwartz. This motion was carried unanimously.

Resolution approving transfer of funds.

RESOLUTION #94-23

Trustee Cherns made a motion to approve the following resolution, seconded by Trustee Schwartz:

RESOLVED, that the transfers in the aggregate amount of \$500,000.00 as set forth in Abstract #7/23 dated July 11, 2023, a copy of which abstract of audited claims is made a part of the Minutes of this Board, are hereby approved.

Voting Yea: Mayor Katz, Deputy Mayor McPherson, Trustee Ivey, Trustee Cherns, Trustee Schwartz. This motion was carried unanimously.

REPORTS-MAYOR

Lois/Auburn Court Street Lights

Mayor Katz stated that he has sent invitation letters to the residents to attend the July 25th workshop to discuss the petition for streetlights on Lois & Auburn Court.

Survey

Mayor Katz stated that he shared with the Board the preliminary results of the survey. Mayor Katz is pleased with the turnout of 752 responses.

Upcoming Meetings

August 8 Regular meeting
August 22 Workshop meeting

REPORTS-VILLAGE CLERK/TREASURER

Camille Guido-Downey reported the following:

Taxes: The Village collected 92% of taxes and there is \$74,278.94 outstanding.

Complaints: The Village received twenty-eight complaints and there were no complaints about work without a permit.

Projects: Village Hall renovation has started. There are three change orders to be considered as per the request of the Judge. Board Members are in favor of the proposed changes. The Arcadian & Sherri Lighting project is almost complete. Delivery of the lights is expected this week. Project is projected to be completed within the next two weeks.

Paving: Paving is 98% complete. There is a small punch list of items that the Village Engineer is handling.

ADJOURNMENT

Trustee Schwartz made a motion to adjourn, seconded by Trustee Cherns. Voting Yea: Mayor Katz, Deputy Mayor McPherson, Trustee Ivey, Trustee Cherns, Trustee Schwartz. Upon vote, this motion was carried unanimously.

Respectfully Submitted,
Camille Guido-Downey

Village of Wesley Hills Village 2023 Overpayment List

Item 2.

All Inclusive

Tax Map #: Transaction:	Bill #:	Owner: Paid By:	Date: Notes:	Batch:	Amount:
41.10-1-33 Duplicate Payment	000816	1 WILDER LLC SHELLPOINT MORTGAGE	06/23/2023 SYSTEM NOTE: This payment was voided and...	30	389.71
41.10-2-40 Duplicate Payment	000877	GLENBROOK ROAD... CPHP LLC 32747	06/07/2023 SYSTEM NOTE: This payment was voided and...	7	673.27
41.11-1-68 Duplicate Payment	000967	16 GBBHLLLC <i>Corelogic</i> SELECT PORTFOLIO SERVICING...	06/23/2023 SYSTEM NOTE: This payment was voided and...	27	395.65
41.11-2-16 Duplicate Payment - Bank Payment	001030	BERGER JEFFREY & SHIRA ROUNDPOINT MORTGAGE...	06/23/2023	30	671.04
41.16-1-23 Duplicate Payment	001391	STERNBERG AARON & MIREL STERNBERG AARON & MIREL	06/20/2023	25	472.10
41.16-1-23 Voided Dup./Overpayment	001391	STERNBERG AARON & MIREL	06/22/2023	25	-472.10
41.16-2-17 Duplicate Payment - Bank Payment	001484	WEISZ, YISROEL FAY SERVICING, LLC	06/23/2023	27	363.73
41.18-1-16 Duplicate Payment	001514	FISCH MARTIN <i>-Corelogic</i> SELECT PORTFOLIO SERVICING...	06/23/2023 SYSTEM NOTE: This payment was voided and...	27	532.97

Total Overpayments:	3026.37
Non Refunded Overpayments:	3026.37

PAYMENT PROCESSING AGREEMENT

This Payment Processing Agreement (“Agreement”), including all applicable appendices and addendums hereto, is made by and between **CSG Forte Payments, Inc.**, a Delaware corporation with its primary business address at 2121 Providence Drive, Suite 151, Fort Worth, TX 76106 (“FORTE” or “Party”), and the **Village of Wesley Hills**, with its primary business address at 432 Route 306, Wesley Hills, New York 10952 (“AGENCY” or “Party” or “Merchant”), and is effective upon the date last signed below (the “Effective Date”). FORTE provides payment processing and related products and services including but not limited to Automated Clearing House (“ACH”), credit and debit card processing, account verification and customer identification (collectively and individually, as applicable, the “Services”) to AGENCY who provides services to, or otherwise has a business relationship with, individuals and other entities (“Constituents” or “Customer”).

1. GENERAL

The Agreement shall consist of these terms and conditions, each of the Appendices attached hereto if applicable, and all modifications and amendments thereto. Under the terms of the Agreement, AGENCY will be furnished with the Services described in the Agreement and attached Appendices which are selected by Agency and approved by FORTE. For any terms herein that are specifically applicable to any particular Service offered by FORTE, only the terms and conditions that apply to the specific Service(s) requested by AGENCY at any given time shall apply. Some capitalized terms which are not defined herein have specific definitions provided in Appendix A, attached hereto and incorporated by this reference.

2. USAGE

2.1 Use License. Subject to the terms and conditions of this Agreement, FORTE hereby grants to AGENCY a non-exclusive and non-transferable license to access and use the Service(s) contracted for and AGENCY hereby accepts such license and agrees to utilize and access the Services in accordance with the practices and procedures established by FORTE, which may be amended from time to time in accordance with this Agreement. AGENCY may use the Services (a) for its own internal business purposes and operations, and/or (b) as a service provided to its Constituents, unless otherwise agreed by FORTE in writing. AGENCY agrees that it will not transmit any material through FORTE’s systems in violation of any applicable Law or Rule. FORTE reserves the right to use all means necessary to monitor AGENCY’s actions in the event of a real or perceived security risk.

2.2 Use of Proprietary Property. No license or right to use, reproduce, translate, rearrange, modify, enhance, display, sell, lease, sublicense or otherwise distribute, transfer or dispose of any of FORTE’s Proprietary Property, as defined in Section 3 below, in whole or in part, is granted except as expressly provided by this Agreement. AGENCY shall not reverse engineer, decompile or disassemble the Proprietary Property. Additionally, nothing in this Agreement shall be construed to provide AGENCY with a license of any third-party proprietary information or property.

2.3 Acceptable Use. AGENCY agrees to comply with the reasonable and acceptable use policies and Rules of any networks accessed by AGENCY through the Services. FORTE reserves the right to deny access to, or close any account AGENCY has with FORTE which, in FORTE’s opinion, is causing or may cause, harm to or negatively affect a FORTE server or third-party network accessed through FORTE. In the event of such an occurrence, FORTE shall make reasonable efforts to notify AGENCY prior to taking any such action but is not required to do so.

2.4 User and System Security. AGENCY shall ensure that its Users comply with all applicable requirements of this Agreement. AGENCY is responsible for protecting the confidentiality of any and all passwords and credentials provided to AGENCY by FORTE for the purpose of utilizing the Services or other forms of access to AGENCY’s accounts with FORTE. AGENCY is responsible for the security of its systems, locations and equipment used in processing Transactions under this Agreement and for developing security procedures and training its employees on the procedures. AGENCY expressly

assumes responsibility for the acts or omissions of all Users on its account(s) with FORTE and for User access to FORTE's systems either directly or through software.

2.5 Use of Information and Data. AGENCY acknowledges and agrees, on behalf of itself and its Constituents, that all information submitted by AGENCY to FORTE in order for FORTE to provide the Services to AGENCY or otherwise contributed by AGENCY pursuant to these Services (including Transaction results), is held in FORTE's database and may be used by FORTE for the purpose of providing the Services to its customers in compliance with all applicable Laws and Rules, including in accordance with the federal Fair Credit Reporting Act ("FCRA"). Further, FORTE may track, review, compile, store and use any information or data received from AGENCY as part of a Transaction or information or data received from a Payment Association or financial institution regarding a Transaction for regulatory compliance or any other legally permissible purpose. Without limiting the foregoing, AGENCY agrees and acknowledges that FORTE may use the routing numbers, account numbers and other PII submitted by AGENCY as well as Transaction results provided to or received by FORTE for the purpose of supporting FORTE's fraud detection, account validation and verification, and/or other commercially available services.

3. OWNERSHIP

All computer programs, trademarks, service marks, patents, copyrights, trade secrets, know-how, and other proprietary rights in or related to the Services (the "Proprietary Property"), are and will remain the sole and exclusive property of FORTE, whether or not specifically recognized or perfected under applicable Law. FORTE shall own all rights, title and interest, including all intellectual property rights, in and to any improvements to the existing Services and/or any new programs, upgrades, modifications or enhancements developed by FORTE in connection with rendering Services to AGENCY, even when refinements and improvements result from AGENCY's request. To the extent, if any, that ownership in such refinements and improvements does not automatically vest in FORTE by virtue of this Agreement or otherwise, AGENCY hereby expressly transfers and assigns to FORTE all rights, title, and interest which AGENCY may have in and to such refinements and improvements. All reference to any of FORTE's service marks, trademarks, patents or copyrights, or those of FORTE's partners or vendors, shall be made in compliance with the requirements, including periodic updates thereto, as provided at <http://www.forte.net/trademark>.

4. CONFIDENTIALITY

The Parties acknowledge that, by virtue of this Agreement, each has been and will continue to be entrusted with certain Confidential Information (as defined in Appendix A) pertaining to the other's business, including, but not limited to, proprietary information developed by, acquired by, or licensed to each Party. Each Party agrees that, except to the extent and in the manner necessary to perform its duties hereunder, it will not disclose to others or use for its own benefit any Confidential Information of the other Party and it will hold all Proprietary Property, as defined herein, confidential in perpetuity. Additionally, in the course of providing and receiving the Services, each Party acknowledges that it may receive or have access to PII as more fully defined in Appendix A). As such, each Party shall: (i) keep all PII in strict confidence, with the degree of care necessary to avoid unauthorized access, use or disclosure; (ii) use PII solely and exclusively for the purposes provided in this Agreement; (iii) implement administrative, physical and technical safeguards to protect PII that are at least as rigorous as accepted industry practices; and (iv) have in place a program that complies with applicable legal requirements regarding PII, including, if applicable, PCI standards for data security. Except with respect to Personal Information, this Section 4 will not apply to Confidential Information that (i) was already available to the public at the time of disclosure, (ii) becomes generally known to the public after disclosure to the other Party, through no fault of the other Party, (iii) is disclosed under force of law, applicable regulation, governmental regulation or court order, or (iv) is required to be disclosed by a banking partner, an Acquirer or an applicable Payment Network.

5. TERM AND TERMINATION

5.1 Term. This Agreement shall have an initial term of 5 years (the “Term”). Thereafter, this Agreement will automatically renew for additional one (1) year terms unless either Party provides thirty (30) days’ prior written notice of termination to the other Party.

5.2 Termination for Material Breach. In the event of a material breach of this Agreement by one Party and failure to cure within thirty (30) days of receipt of written notice of the breach, the other Party may terminate immediately by providing written notice of termination.

5.3 Termination with Notice. FORTE may terminate this Agreement with prior notice in the event (i) there is a material adverse change to AGENCY or its financial condition; (ii) AGENCY experiences Excessive Chargebacks pursuant to Section 6.12 herein; or (iii) AGENCY is in violation of any applicable Law, Rule or regulation. Notwithstanding the foregoing, FORTE reserves the right to suspend AGENCY’s receipt of services under section 6.17 in conjunction with sending notice of intent to terminate AGENCY’s account.

5.4 Termination without Notice. FORTE may immediately terminate this Agreement without prior notice in the event (i) that it determines AGENCY has experienced an actual or suspected data security breach; (ii) FORTE is instructed to terminate the Agreement by a financial institution, Acquirer or Payment Network; or (iii) FORTE observes irregular, suspicious or fraudulent Transaction activity on Merchant’s account that is reasonably determined to expose FORTE to risk of financial, reputational, or other measurable loss. Notwithstanding the foregoing, FORTE may, in its own discretion, temporarily suspend AGENCY’s receipt of services prior to terminating AGENCY’s account.

6. TRANSACTION PROCESSING

6.1 Accepting Transactions. FORTE shall process credit card, debit card and ACH Transactions on AGENCY’s behalf on a 24-hour basis. Transactions which are received before the daily designated cut-off time will be originated for settlement through the corresponding payment network. Transactions which are received after the designated cut-off time will be included in the next business day’s settlement processing.

6.1.1 Sale Transactions. If a Transaction is sent to FORTE as a sale of goods or services, it will automatically be captured for settlement in time for the next designated cut-off time.

6.1.2 Authorization-Capture Transactions. If a Transaction is sent to FORTE for Authorization (as more fully defined in Appendix A) only or for delayed processing, then it will be the responsibility of AGENCY to submit a corresponding “capture” Transaction within forty-eight (48) hours of the Authorization in order to complete the Transaction process for settlement. Transactions which are not captured within forty-eight (48) hours of Authorization are untimely and may be rejected by FORTE.

6.2 Transaction Format. FORTE is responsible only for processing Transactions which are received and approved by FORTE in the proper format, as established by FORTE.

6.2.1 Card Not Present Transactions. For card-based Transactions in which the card is not present, AGENCY must obtain and include as part of the Authorization request the three (3) or four (4) digit validation code and the cardholder’s billing address information.

6.3 AGENCY Account. In order to provide Transaction processing services, FORTE may need to establish one (1) or more service accounts on AGENCY’s behalf or require AGENCY to establish a service account with a third-party provider sub-contracting with FORTE.

6.4 Limited-Acceptance Agency. If appropriately indicated on AGENCY’s application with FORTE, AGENCY may be a Limited-Acceptance Agency, which means that AGENCY has elected to accept only certain Visa and MasterCard card types (i.e., consumer credit, consumer debit, and commercial cards) and must display appropriate signage to indicate the same. FORTE and its associated credit card Acquirer have no obligation other than those expressly provided under the Rules of a Payment Network and applicable Law as they may relate to limited acceptance. AGENCY, and not FORTE or Acquirer, will be solely responsible for the implementation of its decision for limited acceptance, including but not limited to policing the card type(s) accepted at the point of sale.

6.5 Bona Fide Sales. AGENCY shall only complete Transactions produced as the direct result of bona fide sales made by AGENCY to cardholders, and AGENCY is expressly prohibited from processing, factoring, laundering, offering, and/or presenting sales Transactions which are produced as a result of sales made by any person or entity other than AGENCY, for purposes related to financing terrorist activities or for purposes that may be used as part of a scheme which violates any law governing the use of the Services which may include but not be limited to Bank Secrecy Act or USA Patriot Act.

6.6 Setting Limits on Transaction Amount. AGENCY may set a minimum Transaction amount to accept a card that provides access to a credit account, under the following conditions: the minimum Transaction amount does not (i) differentiate between card issuers; (ii) differentiate between MasterCard, Visa, or any other acceptance brand; and (iii) exceed ten dollars (or any higher amount established by the Federal Reserve). AGENCY may set a maximum Transaction amount to accept a card that provides access to a credit account, under the following conditions: AGENCY is (i) a department, agency or instrumentality of the U.S. government; (ii) a corporation owned or controlled by the U.S. government; or (iii) an agency whose primary business is reflected by one of the following MCCs: 8220, 8244, 8249 –Schools, Trade or Vocational; and the maximum Transaction amount does not differentiate between MasterCard, Visa, or any other acceptance brand.

6.7 Additional Agreements AGENCY understands and agrees that in order to receive the Services, Agency may be required to enter into additional agreements directly with the Payment Networks or other third parties.

6.8 Modifying Transactions. AGENCY shall regularly and promptly review all Transactions and shall immediately notify FORTE upon discovery of any and all discrepancies between the records of AGENCY compared with those provided by FORTE or AGENCY's bank, or with respect to any Transaction that AGENCY believes was made erroneously or without proper authorization from the Constituent or Consumer. At AGENCY's request, FORTE will make commercially reasonable efforts to reverse, modify, void or delete a Transaction after it has been submitted for settlement. All requests must be made in writing (electronic mail will be deemed as "in writing" for these purposes), signed or sent by an individual pre-authorized by AGENCY to make such requests and delivered to FORTE. AGENCY agrees FORTE will not be held responsible for any losses, directly or indirectly, incurred by AGENCY or other third parties as a result of FORTE's failure to accomplish the request before the Transaction has been processed through the applicable Payment Network or for making any necessary changes as requested by Agency.

6.9 Delay or Rejection of Transactions. FORTE may delay or reject any Transaction without prior notification to AGENCY which is improperly formatted, is untimely, or is missing information, which may cause it to downgrade; or if FORTE has reason to believe such Transaction is fraudulent or improperly authorized; or for any reason such delay or rejection is permitted or required under the Rules or regulations. FORTE shall have no liability to AGENCY by reason of the rejection of any such Transaction.

6.10 Returned Items. FORTE shall make available to AGENCY details related to the receipt of any Transaction that is returned unpaid or any Transaction which is charged back and shall credit or charge such returned item to AGENCY's Settlement Account.

6.11 Chargebacks. AGENCY acknowledges and agrees that it is bound by the Payment Networks Rules with respect to any Chargeback. AGENCY understands that obtaining an authorization from a Consumer for any sale shall not constitute a guarantee of payment, and such sales can be returned or charged back to AGENCY like any other item hereunder. In the event a Transaction is charged back for any reason, the amount of such Transaction will be deducted from AGENCY's designated Settlement Account or any payment due to AGENCY.

6.12 Excessive Chargebacks. Using limits established by the Payment Networks as a standard for review, FORTE reserves the right to suspend and/or terminate AGENCY's access to the Services should AGENCY's chargeback ratio exceed allowable limits in any given period. FORTE will make reasonable efforts to provide AGENCY with notice and a time to cure its excessive chargebacks prior to suspending or terminating AGENCY's access to the Services. AGENCY acknowledges and expressly

authorizes FORTE, in compliance with Payment Network Rules, to provide to the Payment Networks and applicable regulatory bodies, AGENCY's name and contact information as well as Transaction details should AGENCY's chargeback ratio exceed the allowable limits in any given period.

6.13 Resubmitting Transactions. AGENCY shall not re-submit any Transaction unless it is returned as (i) insufficient funds (R01) or (ii) uncollected funds (R09) or unless a new Authorization is obtained from Constituent.

6.14 Settlement. Settlement of AGENCY's funds for Transactions, less any Chargebacks or Returns, to AGENCY's designated Settlement Account will occur within seventy-two (72) hours of origination excluding weekends and US federal banking holidays. Settlement of Transactions will occur via electronic funds transfer over the ACH Network. Upon receipt of AGENCY's sales data for card Transactions through FORTE's Services, Acquirer will process AGENCY's sales data to facilitate the funds transfer between the various Payment Networks and AGENCY. After Acquirer receives credit for such sales data, Acquirer will fund AGENCY, either directly to the AGENCY-Owned Designated Account or through FORTE to an account designated by FORTE (the "FORTE Designated Account"), at Acquirer's sole option, for such card Transactions. AGENCY agrees that the deposit of funds to the FORTE Designated Account shall discharge Acquirer of its settlement obligation to AGENCY and any dispute regarding the receipt or amount of settlement shall be between FORTE and AGENCY. Acquirer will debit the FORTE Designated Account for funds owed to Acquirer as a result of the Services provided hereunder unless an Agency-owned account is otherwise designated by AGENCY. Further, if a cardholder disputes a Transaction, if a Transaction is charged back for any reason, or if FORTE or Acquirer reasonably believes a Transaction is unauthorized or otherwise unacceptable, the amount of such Transaction may be charged back and debited from AGENCY if settled to an Agency-owned account or debited from the FORTE Designated Account if settled to that account.

6.15 Provisional and Final Payment. AGENCY, AGENCY's third party senders (if applicable), and/or AGENCY's agent(s) understand and agree that Debit or Credit Entries may be transmitted through the ACH Network, that payment of a Debit or Credit Entry by the RDFI to the Receiver is provisional until receipt by the RDFI of final settlement for such Debit or Credit Entry, and, if such settlement is not received, the RDFI will be entitled to a refund from the Receiver of the amount credited and AGENCY will not be deemed to have paid the Receiver the amount of the Debit or Credit Entry. The rights and obligations of AGENCY concerning the Debit or Credit Entry are governed by and construed in accordance with the laws of the state in which the processing ODFI is located unless AGENCY and FORTE have agreed that the laws of another jurisdiction govern the rights and obligations.

6.16 Reporting. FORTE will make daily origination and deposit reports available to AGENCY on a 24/7 basis through the Internet-based FORTE platform.

6.17 Temporary Suspension of Services. Should any of the following occur: (i) FORTE observes irregular, suspicious or possible fraudulent Transaction activity on AGENCY's account; (ii) FORTE determines there is an irregularity in AGENCY's account, documentation, processes or financial condition that is inconsistent with FORTE's risk requirements; (iii) AGENCY is in material breach of its payment or other financial obligations to FORTE; or (iv) FORTE is required by Laws, Rules or a Payment Network, FORTE reserves the right to temporarily suspend Services to AGENCY without prior written notice. In the event FORTE suspends Services to AGENCY under the terms of this Section, FORTE will provide AGENCY with notice of the suspension and the reason for such suspension, along with remediation actions so long as communicating such would not create a security risk or violate any legal obligation of FORTE.

6.18 Authorization. AGENCY specifically authorizes FORTE to (i) to debit and credit AGENCY's designated bank account in order to carry out its duties under this Agreement and (ii) debit its designated bank account and any account owned by the same entity as AGENCY or by an entity with the same tax identification number as AGENCY to collect any payment obligation owed to FORTE by AGENCY hereunder. Further, AGENCY authorizes FORTE to act as its agent for receipt of settlement funds in connection with the Services and FORTE accepts such appointment subject to any conditions and

limitations of this Agreement. AGENCY agrees that receipt by FORTE of funds from AGENCY's Customer shall constitute receipt of payment to AGENCY, extinguishing such Customer's payment obligation to AGENCY (to the extent such obligation has not otherwise been extinguished) as if such Customer had paid AGENCY directly. If FORTE fails to fund AGENCY's account in an amount corresponding to such Customer's payment, AGENCY's sole recourse shall be to FORTE, not the Customer.

7. TRANSACTION AUTHORIZATION

7.1 Constituent Authorization. AGENCY shall obtain authorization from Constituent prior to requesting a Transaction to or from Constituent's account.

7.2 Retention. AGENCY shall retain proof of Constituent's authorization for a period of not less than two (2) years for standard Transactions and for a period of not less than five (5) years for health-related Transactions from the Authorization date or revocation of Authorization date and shall provide such proof of Authorization to FORTE upon request within five (5) business days of the request.

7.3 Revoked Authorization. AGENCY shall cease initiating Transactions to or from a Constituent's account immediately upon receipt of any actual or constructive notice of a Constituent's termination or revocation of authorization. AGENCY may re-initiate Transactions to or from a Constituent's account only upon receiving new Authorization from Constituent.

8. AGENCY PROHIBITIONS

AGENCY must not (i) require a cardholder to complete a postcard or similar device that includes the cardholder's account number, card expiration date, signature, or any other card account data in plain view when mailed; (ii) add any tax to Transactions unless applicable Law expressly requires that AGENCY impose a tax (any tax amount, if allowed, must be included in the Transaction amount and not collected separately); (iii) request or use an account number for any purpose other than as payment for its goods or services; (iv) disburse funds in the form of travelers checks if the sole purpose is to allow the cardholder to make a cash purchase of goods or services from AGENCY; (v) disburse funds in the form of cash unless AGENCY is dispensing funds in the form of travelers checks, TravelMoney cards, or foreign currency (in such case, the Transaction amount is limited to the value of the travelers checks, TravelMoney cards, or foreign currency, plus any commission or fee charged by AGENCY) or unless AGENCY is participating in a cash back service; (vi) submit any Transaction receipt for a Transaction that was previously charged back to the Acquirer and subsequently returned to AGENCY, irrespective of cardholder approval; (vii) accept a Visa consumer credit card or commercial Visa product issued by a U.S. issuer to collect or refinance an existing debt that has been deemed uncollectable by AGENCY; or (viii) submit a Transaction that represents collection of a dishonored check. AGENCY further agrees that under no circumstance will AGENCY store cardholder data in violation of the Laws or the operating regulations of any Payment Network, including, but not limited to, the storage of track-2 data. Neither AGENCY nor its agent shall retain or store magnetic-stripe data subsequent to the authorization of a sales Transaction.

9. AUTHORIZATION

9.1 ACH Authorization. AGENCY authorizes FORTE to electronically debit and credit AGENCY's designated bank account(s) for any amounts owed to or by AGENCY in accordance with the terms of this Agreement. Further, AGENCY authorizes FORTE to act as its agent for receipt of settlement funds in connection with the Services and FORTE accepts such appointment subject to any conditions and limitations of this Agreement. AGENCY agrees that receipt by FORTE of a Constituent's funds shall constitute receipt of payment to AGENCY, extinguishing the Constituent's payment obligation to AGENCY as if the Constituent had paid AGENCY directly. If FORTE fails to fund AGENCY's account in an amount corresponding to a Constituent's payment, AGENCY's sole recourse shall be to FORTE, not the Constituent.

9.2 Third Party Service Provider. If AGENCY uses the Services through or in conjunction with a

third-party service provider that is not a party to this Agreement, AGENCY authorizes FORTE to provide the authorized third party with its FORTE merchant account information and credentials. If applicable, AGENCY authorizes the third party to originate Transactions and receive the corresponding results on its behalf.

10. CONSTITUENT DISPUTES

All disputes between AGENCY and its Constituents relating to any Transaction processed under this Agreement will be settled by and between AGENCY and Constituent. AGENCY agrees FORTE bears no responsibility or involvement in any such dispute.

11. COMPLIANCE WITH LAWS, RULES AND REGULATIONS

In performing its duties under this Agreement, each Party agrees to comply with all applicable Rules, regulations and Laws, including but not limited to all confidentiality and security requirements of the USA Patriot Act (or similar law, rule or regulation), all Rules of any applicable Payment Networks, all requirements under the Payment Card Industry Data Security Standard (or similar applicable data security law, rule or regulation) including but not limited to the VISA Cardholder Information Security Program, the MasterCard Site Data Protection Program, and any other program or requirement that may be published and/or mandated by the Payment Networks. Each Party agrees to cooperate and provide information reasonably requested by the other to facilitate its compliance with any applicable Law, Rule or regulation. Additionally, should a Payment Network or regulatory body impose a fee or fine on AGENCY for any violation of the Rules or Laws or regulations by AGENCY, such fee or fine may be charged to FORTE as a pass-through to AGENCY. If any such fee or fine is charged to FORTE, AGENCY shall reimburse FORTE for any such fees or fines.

12. DATA SECURITY

FORTE shall implement and maintain a commercially reasonable security program, in accordance with the Information Security Requirements attached hereto as Appendix E.

13. PRICING AND PAYMENT

13.1 FORTE will provide the Services in accordance with the fees listed on the Pricing Fee Schedule, attached hereto as Schedule 1, or any amendments thereto. Pricing based on AGENCY absorbing the fees for the Services (“Absorbed Fee Model”) will result in fees being billed to the AGENCY monthly in arrears and will automatically be debited from AGENCY’s designated account via ACH debit.

13.2 Pricing based on a service fee that is charged to Constituents per Transaction (“Service Fee Model”) will result in a non-refundable service fee either (i) added to or (ii) charged as a separate Transaction to Constituent at the time of payment. Pricing under the Service Fee Model is calculated based on historical or estimated transactional amount activity by AGENCY. In the event that experiential transaction activity varies significantly from the historical or estimated amounts, FORTE shall have the right to adjust the service fee in accordance with the experiential transaction activity.

13.3 FORTE’s pricing is subject to the underlying fees established by the Payment Networks and its service providers. As such, in the event FORTE experiences an increase in cost for any processing services utilized by AGENCY during Term of this Agreement, FORTE will pass through the increases with no additional markup to AGENCY. FORTE will provide AGENCY a minimum of thirty (30) days’ notice of any change or adjustment in fees.

14. LIMITS OF LIABILITY

14.1 NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY OR TO ANY THIRD PARTY FOR ANY SPECIAL, CONSEQUENTIAL, INCIDENTAL OR PUNITIVE DAMAGES OF ANY KIND OR NATURE INCURRED IN RELATION TO THIS AGREEMENT. THE AMOUNT OF DAMAGES RECOVERABLE BY EITHER PARTY FROM THE OTHER WILL NOT EXCEED THAT PARTY’S ACTUAL, DIRECT DAMAGES AND WILL BE LIMITED TO THE AMOUNT OF

THE AVERAGE MONTHLY FEES AND CHARGES PAID BY AGENCY TO FORTE, EXCLUDING ANY PASS-THROUGH FEES, FOR THE SERVICES FOR THE IMMEDIATE THREE (3) MONTH PERIOD PRIOR TO THE EVENT GIVING RISE TO THE APPLICABLE CLAIM. NEITHER PARTY WILL BE LIABLE FOR FAILURE TO PERFORM ANY OF ITS OBLIGATIONS UNDER THIS AGREEMENT IF SUCH PERFORMANCE WOULD RESULT IN IT BEING IN BREACH OF ANY LAW, RULE, REGULATION OR REQUIREMENT OF ANY GOVERNMENTAL AUTHORITY. THE PROVISIONS OF THIS SECTION WILL SURVIVE TERMINATION OF THIS AGREEMENT.

14.2 FORTE SHALL NOT BE RESPONSIBLE FOR ERRORS, ACTS OR FAILURES TO ACT OF OTHERS, INCLUDING, AND AMONG OTHER ENTITIES, BANKS, OTHER PROCESSORS, COMMUNICATIONS CARRIERS OR CLEARING HOUSES, THROUGH WHICH TRANSACTIONS MAY BE ORIGINATED OR THROUGH WHICH FORTE MAY RECEIVE OR TRANSMIT INFORMATION, AND NO SUCH ENTITY SHALL BE DEEMED AN AGENT OF FORTE.

15. REPRESENTATIONS AND WARRANTIES.

15.1 FORTE's Representations and Warranties. FORTE makes no representations or warranties concerning the Services except as may be specifically authorized, in writing, or set out herein.

15.1.1 FORTE hereby warrants that its software solutions and the Services will perform in accordance with their published specifications in all material respects.

15.1.2 FORTE further warrants that in performing its obligations hereunder, it shall exercise due care and reasonable efforts to ensure that information originated by AGENCY is transmitted accurately.

15.2 AGENCY's Representations and Warranties. AGENCY represents and warrants to FORTE:

15.2.1 If applicable, with respect to all Transactions originated by FORTE on behalf of AGENCY, (i) each Transaction in all respects has been properly authorized by Receiver; (ii) each Transaction is for an amount agreed to by the Receiver; and (iii) AGENCY shall provide proof of Authorization in compliance with applicable Rules for any Transaction to FORTE upon request within five (5) Business Banking Days.

15.2.2 AGENCY agrees to adhere to the warranties within the applicable Rules for each Transaction FORTE processes on AGENCY's behalf.

15.3 Mutual Representations and Warranties. Each Party represents and warrants to the other:

15.3.1 The execution of this Agreement does not violate any applicable international, federal, state, or local law, Payment Network rule or contract to which such Party is subject.

15.3.2 There are no actions, suits or proceedings existing or pending against or affecting it before any judicial or regulatory authority which would have a material adverse effect on its ability to perform its obligations hereunder.

15.3.3 When executed and delivered, this Agreement will constitute a legal, valid, and binding obligation, enforceable in accordance with its terms.

15. FORTE SERVICE POLICY

FORTE makes no representations or warranties concerning the Services except as may be specifically authorized, in writing, or set out herein. AGENCY acknowledges and understands that FORTE does not warrant that the Services will be uninterrupted or error free and that FORTE may occasionally experience delays or outages due to disruptions that are not within FORTE's control. Any such interruption shall not be considered a breach of the Agreement by FORTE. FORTE shall use its best efforts to remedy any such interruption in the Services as quickly as possible.

16. FORCE MAJEURE

Neither Party will be held liable for any damages, delays or failure to perform any of its obligations under this Agreement if such damages, delays or failure is due to circumstances beyond the reasonable

control of such Party and without its fault or negligence, such as acts of God, fire, flood, earthquakes or other natural disasters, epidemics, industry-wide strikes and governmental acts or orders or restrictions. The Party affected by such circumstances will use all commercially reasonable efforts to avoid or remove such causes of non-performance. Nothing herein shall relieve a Party from its payment obligations for Services rendered.

17. ASSIGNMENT

The terms and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the Parties. Neither Party may assign any of its rights hereunder, nor delegate any of its duties hereunder, without the prior written consent of the other Party, and each Party acknowledges and agrees that, absent such prior written consent, any attempted assignment or delegation hereunder shall be null, void and of no effect. Notwithstanding the foregoing, either Party may assign this Agreement or any rights and obligations hereunder either to an Affiliate or to a third-party successor to all or substantially all of its business, stock or assets, in each case, without the prior written consent of the other Party.

18. CHOICE OF LAW

This Agreement shall be governed by and construed in accordance with the Laws of the State of New York without reference to choice of laws rules.

19. AMENDMENT

Except as otherwise provided for herein, the terms and conditions of this Agreement shall not be modified or amended except in writing and agreed to by the Parties. Notwithstanding the foregoing, this Agreement is subject to such modifications, changes, and additions as may be required by reason of any applicable Law, regulation or Rule.

20. PUBLICITY

Neither Party shall use the other Party's name, logo or service marks in conjunction with a press release or advertisement without first obtaining written approval.

21. NOTICE

Any notice, consent or other communication required or contemplated by this Agreement shall be in writing, and shall be delivered in person, by U.S. mail, by overnight courier, by electronic mail or by fax to the intended recipient at the address most recently provided in writing.

22. HEADINGS

The headings contained in this Agreement are for convenience of reference only and shall not affect the meaning of any provision of this Agreement.

23. SEVERABILITY

Should any term, clause or provision herein be found invalid or unenforceable by a court of competent jurisdiction, such invalidity shall not affect the validity or operation of any other term, clause or provision and such invalid term, clause or provision shall be construed to most closely reflect the original intent of the Parties.

24. ENTIRE AGREEMENT; WAIVER; COUNTERPARTS

This Agreement constitutes the entire understanding of the Parties and revokes and supersedes all prior agreements between the Parties and are intended as a final expression of their agreement. Either Party's waiver of any breach of any provision of this Agreement shall not be deemed a waiver of any subsequent breach of the same or other provision. This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original and all of which together shall constitute one instrument.

25. ELECTRONIC SIGNATURES.

Under the Electronic Signatures in Global and National Commerce Act (E-Sign), this Payment Processing Agreement and all electronically executed documents related hereto are legally binding in the same manner as are hard copy documents executed by hand signature when (i) a person authorized to bind AGENCY indicates acceptance of the terms of this Agreement by following procedures that associate his/her electronic signature with this Agreement and related documents, (ii) such authorized person consents and intends to be bound by the Payment Processing Agreement and related documents, and (iii) the Payment Processing Agreement is delivered in an electronic record capable of retention by the recipient at the time of receipt (i.e., print or otherwise store the electronic record). This Agreement and all related electronic documents shall be governed by the provisions of E-Sign.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto by their respective organizations, have executed this Agreement.

VILLAGE OF WESLEY HILLS

CSG FORTE PAYMENTS, INC.

By: _____

By: _____

Name: **Marshall Katz**

Name: _____

Title: **Mayor**

Title: _____

Date: **August 9, 2023**

Date: _____

APPENDIX A DEFINITIONS

ACH Network. “ACH Network” or “Automated Clearing House Network” is a batch processing, store-and-forward system that accumulates and distributes ACH Transactions that are received from ODFI (defined below) and are forwarded to the specified RDFI (defined below) according to the specific schedules established by the participants.

Acquirer. “Acquirer” means a sponsoring financial institution or payment processor that enters into an agreement which enables merchants, government entities or their Agent(s) to submit Transactions to a payment network.

Affiliate. “Affiliate” means an entity controlled or managed by the same centralized federal, state or local government.

Agent. “Agent” means any director, officer, employee, representative, Affiliate, third-party vendor or any other person acting on behalf of Agency with the actual, implied or apparent authority of Agency.

Authorization. “Authorization” means a Transaction request on a Consumer bank account or card account to confirm Consumer’s account is open, in good standing, and has sufficient funds to complete the submitted transaction.

Business Banking Day. “Business Banking Day” means Monday through Friday excluding banking holidays.

Confidential Information. “Confidential Information” may include information regarding all of the computer software and technologies, systems, structures, architectures, processes, formulae, compositions, improvements, devices, know-how, inventions, discoveries, concepts, ideas, designs, methods, and information and databases developed, acquired, owned, produced or practiced at any time by a Party or any Affiliate thereof, including software programs and documentation licensed by third parties to the disclosing Party, any business or financial information directly or indirectly related to the disclosing Party’s company(s) or investments or its internal administrative audit reports on internal controls, internal risk and underwriting guidelines and policies, billing and accounting systems, Customer and vendor lists and information, employee personnel information and policies and procedures, information regarding the disclosing Party’s products and services that is not generally available to the public.

Consumer. “Consumer” means the individual end users, Constituents of AGENCY.

CPA. “CPA” or “Canadian Payment Association” is responsible for operating the two primary settlement systems (payment networks) in Canada, as well as establishing, revising and enforcing the operating Rules for the Canadian payment networks.

Chargeback. “Chargeback” means a Transaction that is rejected by the owner of the account debited or charged because a dispute exists between the Originator of the Transaction (typically Agency) and the account owner.

Credit Entry. “Credit Entry” means an ACH/EFT Transaction that is intended to deposit funds into a Receiver’s (defined below) account which has been withdrawn from AGENCY’s Settlement Account (defined below).

Debit Entry. “Debit Entry” means an ACH/EFT Transaction that is intended to withdraw funds from a Receiver’s account for deposit into AGENCY’s Settlement Account (defined below).

Laws. “Laws” means all international, national, regional and local regulations or laws which are applicable to the Services provided herein, including but not limited to federal Regulation E and Title 31 of the Code of Federal Regulations Part 210, Gramm-Leach-Bliley Act, US Bank Secrecy Act (“BSA”), applicable privacy and data security laws, US and local export control laws, including US Foreign Corrupt Practices Act, the Export Administration Act, US Department of Treasury Office of Foreign Assets Control (“OFAC”) and similar restrictions under US law, executive order, regulation or Rule (collectively, “Export Laws”), and Fair Credit Reporting Act and USA Patriot Act.

Merchant. “Merchant” means AGENCY.

NACHA. “NACHA” or “National Automated Clearing House Association” is responsible for establishing, revising and enforcing the Operating Rules for the US ACH Network.

ODFI. “ODFI” or “Originating Depository Financial Institution” means the financial institution that receives ACH Transactions from Merchant through FORTE and then forwards these Transactions (defined below) to the ACH Network.

Originator. “Originator” means the AGENCY who has contracted with FORTE to initiate ACH entries, on its behalf, to the ACH Network.

Payment Network. “Payment Network” means an entity that facilitates and governs payment Transactions, including but not limited to VISA, M/C, Discover, NACHA, CPA and may also be referred to as “Payment Association”.

Payment Network Resources:

VISA Regulations (from VISA website): <https://usa.visa.com/dam/VCOM/download/about-visa/visa-rules-public.pdf>

MasterCard Rules (from MC website):

<https://www.mastercard.us/en-us/about-mastercard/what-we-do/rules.html>

Discover rules (from Discover website):

<http://www.discovernetwork.com/merchants/index.html>

NACHA: www.nacha.org

PCI-DSS. “PCI-DSS” or “Payment Card Industry Data Security Standard” means the system security measures established by the major credit card companies. The PCI-DSS is mandated by the credit card companies but administered by the Payment Card Industry Security Standards Council.

Personally Identifiable Information or PII. “PII” means unencrypted, unredacted, or non-anonymized personally identifiable information regarding a Consumer or non-personally identifiable information regarding a Consumer that has been aggregated, disaggregated or decompiled in a manner that is sufficient to cause a Consumer to be identified, directly or indirectly, in particular by reference to an identification number or to one or more factors specific to such Consumer’s physical, physiological, mental, economic, cultural or social identity, including, by way of example, financial account numbers, credit or debit card numbers (with or without access or pin numbers, if collected), personal addresses, IP addresses, identity cards, residency permits, passport numbers, driver’s license numbers and/or other government issued numbers. PII includes “Personal Data” as commonly defined by privacy laws.

RDFI. “RDFI” or “Receiving Depository Financial Institution” means the financial institution that receives the ACH Transactions from the ODFI through the ACH Network and posts these Transactions to the accounts of Receivers (defined below).

Receiver. “Receiver” means an entity or individual Consumer that has an established account with a card issuer or financial institution upon which a Transaction is or may be acted upon.

Reserve. “Reserve” means a specific amount of money that is held in the AGENCY account to be used by FORTE to offset amounts owed to FORTE for Services provided, such as returned items, chargebacks, fees/fines, billing or other AGENCY obligations to FORTE that FORTE is unable to collect from AGENCY.

Rules. “Rules” means the operational rules, policies and procedures established by each applicable Payment Network to govern all transactions and parties that participate in processing Transactions through the associated Payment Network.

Settlement Account. “Settlement Account” means an account established and maintained by AGENCY with a financial institution through which the following may occur: (a) deposit of funds for Debit Entries, (b) the extractions of funds for Credit Entries, reserve funds or fee obligations unless otherwise agreed to by the Parties.

Settlement Entry. “Settlement Entry” means a Debit or Credit Entry to AGENCY’s Settlement Account which corresponds to the net amount owed AGENCY by FORTE at the end of each Business Banking Day.

Transaction. “Transaction means any transfer of data or information to FORTE in a format pre-approved by FORTE, including but not limited to payment, verification and authentication items.

Users. “Users” mean all individuals who access a FORTE website or utilize any portion of the FORTE Services on behalf of AGENCY directly or through software that accesses the FORTE systems through AGENCY’s systems, by using AGENCY’s access credentials or any other access reasonably presumed to be on behalf of AGENCY.

APPENDIX B

ACCOUNT VERIFICATION AND AUTHENTICATION SERVICES

1. Representation by Agency. Each request for data through the verification and authentication services shall constitute a representation, warranty and certification by AGENCY that the data (i) shall be used and disclosed only in accordance with the terms of the Agreement, and in accordance with any applicable Rules, regulations or Laws; (ii) shall be used solely for the intended use as stated by AGENCY on AGENCY's application and that use is in compliance with the permissible uses under the Fair Credit Reporting Act ("FCRA") as provided in the FCRA Requirements Addendum located at <http://www.forte.net/fair-credit-reporting-act>; (iii) AGENCY will follow proper procedures for adverse action notification to its Constituents, as provided by the FCRA Requirements Addendum; and (iv) AGENCY acknowledges it has implemented security measures to prohibit the unauthorized access to the information provided.

2. Use of Services.

2.1 AGENCY SHALL USE THE VERIFICATION SERVICES ONLY IN CONNECTION WITH PAYMENTS PRESENTED TO AGENCY BY ITS CONSTITUENTS IN EXCHANGE FOR GOODS OR SERVICES. AGENCY SHALL NOT RESELL THE VERIFICATION DATA OR SERVICES TO ANY THIRD PARTIES.

2.2 AGENCY understands and agrees that it cannot decline services to a consumer, Constituent or Customer after receiving an approval result from FORTE on a verification inquiry unless AGENCY is declining based on other grounds and/or information. Further, if AGENCY does decline Services to a FORTE approved consumer, Constituent or Customer based on alternate information, AGENCY shall not provide FORTE's contact information as recourse for the consumer, Constituent or Customer to pursue a dispute of the result under FCRA Adverse Action requirements.

2.3 AGENCY shall provide to FORTE, as part of a verification inquiry, the accurate amount for each Transaction AGENCY wants to verify.

3. Retention of Data. AGENCY acknowledges and agrees that it shall not retain, store, compile or aggregate the results of verification or authentication inquiries received from FORTE except as required by applicable Law or to perform its obligations under this Agreement.

4. AGENCY acknowledges and agrees, on behalf of itself and its Constituents, that all information submitted by AGENCY to FORTE in order for FORTE to provide the Services to AGENCY or otherwise contributed by AGENCY pursuant to these Services (including Transaction results) is held in FORTE's database, and may be used by FORTE for the purpose of providing the Services to its Customers in compliance with all applicable Laws and Rules, including in accordance with the federal Fair Credit Reporting Act ("FCRA"). Further, FORTE may track, review, compile, store and use any information or data received from AGENCY as part of a Transaction or information or data received from a Payment Association or financial institution regarding a Transaction for regulatory compliance or any other legally permissible purpose. Without limiting the foregoing, AGENCY agrees and acknowledges that FORTE (and/or certain of its Affiliates) may use the routing numbers, account numbers and other PII submitted by AGENCY as well as Transaction results provided to or received by FORTE for the purpose of supporting FORTE's (or certain of its Affiliates) fraud detection, account validation and verification, and/or other commercially available services.

APPENDIX C

ACCOUNT UPDATER SERVICES

1. **Description of Services.** Participating Visa/MasterCard issuers submit the account changes to FORTE's Account Updater database. On a monthly basis, FORTE will compare all of AGENCY's recurring tokenized Transactions against the Account Updater database. FORTE will then update the tokenized card information on file with updated account information.
2. **Agency Requirements for Account Updater Participation.**
 - a. AGENCY must be properly established and registered in the United States.
 - b. AGENCY must not have been disqualified from participating in the Visa, MasterCard, or Discover programs.
 - c. AGENCY must be in compliance with all Card Association Operating Regulations.
 - d. AGENCY must submit inquiries only for those accounts with which it has an ongoing Customer relationship and Customer's authority to submit such payments.
 - e. AGENCY may not request Authorization on accounts that have been returned "Contact Cardholder" or "Closed."
 - f. AGENCY must not submit inquiries on behalf of any other entity.
 - g. AGENCY assumes all risk associated with the use of the Account Updater Service. FORTE shall have no liability whatsoever to AGENCY for any liability associated with the Account Updater Service, including but not limited to the accuracy or completeness of the information provided via the Account Updater Service.

APPENDIX D AMERICAN EXPRESS CARD ACCEPTANCE

1. Merchant hereby acknowledges and agrees that for purposes of acceptance of American Express, the American Express Merchant Operating Guide and any amendments thereto (the “Operating Guide”) is hereby incorporated by reference into this Agreement and can be found at www.americanexpress.com/merchantopguide.

All capitalized terms found in this section shall have the attributed meaning from the Operating Guide.

2. Merchant hereby acknowledges and agrees that it is not a party to any agreement between FORTE and American Express.

3. Merchant hereby authorizes FORTE and/or Acquirer to submit American Express transactions to, and receive settlement from, American Express on behalf of Merchant. Merchant must accept the American Express card as payment for goods and services (other than those goods and services prohibited under the Operating Guide) sold, or (if applicable) for charitable contributions made, at all of its establishments, except as expressly permitted by applicable Law. Merchant is jointly and severally liable for the obligations of Merchant’s establishments under the Agreement. For the avoidance of doubt, “cardholder” as used in this Agreement shall include Cardmembers as defined in the Operating Guide.

4. Merchant hereby acknowledges and agrees that (i) FORTE or Acquirer may disclose American Express Transaction Data (which for purposes of this section shall have the same definition as “Transaction Data” in the Operating Guide), Merchant Data (as defined below), and other information about Merchant to American Express, (ii) American Express may use such information to perform its responsibilities in connection with the American Express Program, promote the American Express Network, perform analytics and create reports, and for any other lawful business purpose, including marketing purposes, and (iii) American Express may use the information obtained in this application at the time of setup to screen and/or monitor Merchant in connection with American Express Card (the “Card”) marketing and administrative purposes. If Merchant has provided a wireless phone number in connection with this Agreement, Merchant hereby agrees that it may be contacted at that number and the communications sent may include autodialed text messages or automated prerecorded calls. If Merchant has provided a fax number, Merchant hereby agrees that it may be sent fax communications. To opt out of American Express-related marketing communications, Merchant may contact FORTE customer service as described in this Agreement. For purposes of this section, “Merchant Data” means names, postal and email addresses, tax ID numbers, names and social security numbers of the authorized signer of Merchant and similar identifying information about Merchant. For clarification, Merchant Data does not include American Express Transaction Data.

5. Merchant will adhere to the following website information display guidelines in the event Merchant has a website and/or operates an e-commerce business. Merchant’s website must display the following:

- An accurate description of the goods/services offered, including the currency type for the Transaction (e.g., U.S. Dollars). Note: Transaction currency must be in U.S. Dollars.
- Merchant's physical address in the U.S.
- An email address or telephone number for customer service disputes.
- Return/refund policy.
- A description of Merchant's delivery policy (e.g., no overnight delivery).
- A description of Merchant's security practices (e.g., information highlighting security practices Merchant uses to secure Transactions on its systems, including Transactions conducted on the Internet).
- A statement of known export restrictions, tariffs, and any other regulations.

- A privacy statement regarding the type of personal information collected and how the information is used. Additionally, Merchant must provide to customers the option to decline being included in marketing campaigns or having their personal information included on lists sold to third parties.
6. Merchant hereby agrees that, in the event that Merchant becomes a High Charge Volume Merchant (as defined below), Merchant will be converted from the American Express Program to a direct American Express Card acceptance relationship with American Express, and upon such conversion, (i) Merchant will be bound by American Express' then-current card acceptance agreement, and (ii) American Express will set pricing and other fees payable by Merchant for American Express Card acceptance. "High Charge Volume Merchant" for purposes of this section means an American Express Program Merchant with either (i) greater than \$1,000,000 in American Express charge volume in a rolling twelve (12) month period or (ii) greater than \$100, 000 in American Express charge volume in any three (3) consecutive months. For clarification, if Merchant has multiple establishments, the American Express charge volume from all establishments shall be summed together when determining whether Merchant has exceeded the thresholds above.
7. Except as expressly permitted by applicable Law, Merchant must not: (a) indicate or imply that Merchant prefers, directly or indirectly, any Other Payment Products over the Card, (b) try to dissuade Cardmembers from using the Card, (c) criticize or mischaracterize the Card or any of American Express' services or programs, (d) try to persuade or prompt Cardmembers to use any Other Payment Products or any other method of payment (e.g., payment by check), (e) impose any restrictions, conditions, disadvantages, or fees when the Card is accepted that are not imposed equally on all other payment products, except for electronic funds transfer, cash or check, (f) suggest or require Cardmembers to waive their right to dispute any Transaction, (g) engage in activities that harm American Express' business or the American Express Brand (or both), (h) promote any Other Payment Products (except, if applicable, Merchant's own private label card that it issues for use solely at its Establishments) more actively than Merchant promotes the Card, or (i) convert the currency of the original sale Transaction to another currency when requesting Authorization or submitting Transactions (or both).
8. Merchant may offer discounts or in-kind incentives from its regular prices for payments in cash, ACH funds transfer, check, debit card, or credit/charge card, provided that (to the extent required by applicable Law): (i) Merchant clearly and conspicuously discloses the terms of the discount or in-kind incentive to its customers, (ii) the discount or in-kind incentive is offered to all of Merchant's prospective customers, and (iii) the discount or in-kind incentive does not differentiate on the basis of the Issuer or, except as expressly permitted by applicable state statute, payment card network (e.g., Visa, MasterCard, Discover, JCB, American Express). The offering of discounts or in-kind incentives in compliance with the terms of this paragraph will not constitute a violation of the provisions set forth Section 3.2 of the Operating Guide.
9. Whenever payment methods are communicated to customers, or when customers ask what payments are accepted, Merchant must indicate its acceptance of the Card and display American Express' Marks (including any Card application forms provided to Merchant) as prominently and in the same manner as any Other Payment Products. Merchant must not use American Express' Marks in any way that injures or diminishes the goodwill associated with the American Express Mark, nor in any way (without American Express' prior written consent) indicate that American Express endorses Merchant's goods or services. Merchant shall use the American Express brand and marks in accordance with the requirements set forth in the Operating Guide and shall remove the American Express brand and marks from Merchant's website and wherever else they are displayed upon termination Merchant's acceptance of American Express cards.
10. Any and all Cardmember Information is confidential and the sole property of the Issuer, American

Express or its Affiliates. Except as otherwise specified, Merchant must not disclose Cardmember Information, nor use nor store it, other than to facilitate Transactions in accordance with this Agreement. For more information, refer to the Operating Guide, Section 4.2, "Completing a Transaction at the Point of Sale" and Chapter 8, "Protecting Cardmember Information".

11. Merchant shall not assign to any third party any American Express-related payments due to it under this Agreement, and all indebtedness arising from American Express Charges (as defined below) will be for bona fide sales of goods and services (or both) at its establishments (as defined below) and free of liens, claims, and encumbrances other than ordinary sales taxes; provided, however, that Merchant may sell and assign future American Express transaction receivables to FORTE, its affiliated entities and/or any other cash advance funding source that partners with FORTE or its affiliated entities, without consent of American Express.

12. Merchant hereby agrees that American Express shall have third party beneficiary rights, but not obligations, to enforce this Agreement as against Merchant to the extent applicable to American Express processing. Merchant understands and agrees that it shall have no third party beneficiary rights under any agreement between FORTE and American Express and/or Acquirer. Merchant shall maintain refund policies for purchases on the American Express card that are at least as favorable as its refund policy for purchases on any other payment product. Merchant will disclose any such refund policy to Cardmembers at the time of purchase and in compliance with the Operating Guide and all applicable Laws. Merchant's termination of American Express Card acceptance shall have no direct or indirect effect on Merchant's rights to accept other card brands. To terminate American Express acceptance, Merchant may contact FORTE customer service as described in this Agreement.

13. Without limiting any other rights provided herein, FORTE and/or Acquirer shall have the right to immediately terminate Merchant's acceptance of American Express cards upon request of American Express. Merchant may not bill or collect from any Cardmember for any purchase or payment on the Card unless a chargeback has been exercised, Merchant has fully paid for such charge, and it otherwise has the right to do so. Merchant will comply with all procedural requirements relating to chargebacks, as provided in the Operating Guide, Chapter 11.

14. American Express Liability. SPONSORED MERCHANT ACKNOWLEDGES AND AGREES THAT IN NO EVENT SHALL AMERICAN EXPRESS, ITS AFFILIATES, AGENTS, SUCCESSORS, OR ASSIGNS BE LIABLE TO SPONSORED MERCHANT FOR ANY DAMAGES, LOSSES, OR COSTS INCURRED, INCLUDING INCIDENTAL, INDIRECT, SPECULATIVE, CONSEQUENTIAL, SPECIAL, PUNITIVE, OR EXEMPLARY DAMAGES OF ANY KIND (WHETHER BASED ON CONTRACT, TORT, INCLUDING NEGLIGENCE, STRICT LIABILITY, FRAUD, OR OTHERWISE, OR STATUTES, REGULATIONS, OR ANY OTHER THEORY), ARISING OUT OF OR IN CONNECTION WITH THE AGREEMENT.

APPENDIX E

INFORMATION SECURITY REQUIREMENTS

1. Acknowledgment of Information Security Requirements. FORTE acknowledges and agrees to have a “Security Program” that is compliant with all legal and industry mandated information security requirements applicable to its duties and obligations specified under this Agreement.
2. Compliance with Laws and Industry Standards. FORTE agrees to abide by all Laws, Rules and industry-mandated information security standards applicable to its duties and obligations related to information security for Services provided by FORTE to AGENCY under this Agreement.
3. Definitions.
 - a. Consumer Information. “Consumer Information” means collectively PII and Source Data, as defined below.
 - b. Source Data. “Source Data” means data provided by AGENCY relating to AGENCY’s account activity or other information collected from the AGENCY in order to process a transaction on a AGENCY’s behalf or otherwise necessary for a AGENCY’s use of Forte’s products and services, whether in individual or aggregate form. Source Data may include PII but is not limited to PII. Source Data is and shall remain the property of a AGENCY and /or its Consumer customer. To the extent that ISV or FORTE have access to or collects such Source Data, each agrees that it does so solely on behalf of the AGENCY and the AGENCY’s Consumer customers pursuant to the obligations hereunder and shall maintain the confidentiality of such Source Data and shall treat it in accordance with applicable Law.
4. Security Obligations.
 - a. FORTE hereby acknowledges that AGENCY has a responsibility under the law to keep PII (as defined in Appendix A) private and confidential, and as a result of any PII received by FORTE in the performance of this Agreement, FORTE shall have the same responsibility. FORTE also acknowledges that the PII to which it will have access pursuant to this Agreement (if any), that FORTE shall gain possession of any ownership or other proprietary rights with respect to such PII. FORTE acknowledges and understands that PII may be subject to applicable local, state and federal Rules and Laws and applicable information industry standards; provided however, to the extent that AGENCY informs FORTE of a local law expanding the definition of PII in Appendix A, FORTE shall only be required to use commercially reasonable efforts to comply with such expanded local requirements.
 - b. Consumer Information that is collected or obtained from AGENCY pursuant to this Agreement shall be stored and maintained by FORTE in a secure environment and transmitted by FORTE in a secure form that meets industry-mandated data security standards. Although FORTE will protect and safeguard PII in a manner that meets industry-mandated data security standards, the parties agree that there may be some instances in which PII or certain PII data elements are protected in a more secure manner than other data (e.g., encryption).
5. Rights to Use and Access. AGENCY hereby grants to FORTE a non-exclusive right to use all of AGENCY’s Source Data including PII provided by AGENCY’s customers, necessary to perform the Services under this Agreement. FORTE shall limit the use and access to AGENCY’s Source Data to uses pursuant to the terms of the Agreement and to FORTE’s bona fide employees or independent consultants, contractors or auditors and required governmental agencies, who have a need to know such information

and who agree to comply with use and non-disclosure restrictions similar to those contained within this Agreement.

6. Security of Consumer Information. Each Party shall implement and maintain a Security Program that includes appropriate administrative, technical and physical safeguards reasonably designed to: (i) ensure the security and confidentiality of Consumer Information within its systems; (ii) protect against any anticipated threats or hazards to the security or integrity of Consumer Information within its systems; and (iii) protect against unauthorized access to or use of Consumer Information stored on its systems; and (iv) dispose of Consumer Information in a secure manner per applicable Rules and Laws.
 - a. In order to comply with safeguard obligations generally described in the preceding paragraph, each Party shall (1) designate an employee or employees to coordinate its Security Program, (2) identify reasonably foreseeable internal and external risks to the security, confidentiality and integrity of Consumer Information located on its systems that could result in the unauthorized disclosure, misuse, alteration, destruction or other compromise of such information, and assess the sufficiency of any safeguards in place to control these risks. At a minimum, such risk assessment should include consideration of risks in each relevant area of a Party's operations, including: (i) employee training and management; (ii) information systems, including network and software design, as well as information processing, storage, transmission and disposal; and (iii) detecting, preventing and responding to attacks, intrusions, or other systems failures, which shall include the use of commercially reasonable efforts to establish procedures and logging mechanisms for FORTE systems and networks that will allow tracking and analysis in the event there is a compromise of its systems, and maintain an audit trail history for at least three (3) months for review by AGENCY upon reasonable request; (3) design and implement information safeguards to control the risks identified through risk assessment, and regularly test or otherwise monitor the effectiveness of the safeguards' key controls, systems, and procedures; and (4) use commercially reasonable efforts to assure data security when disposing of any Consumer Information.
7. Disclosures. Neither Party shall have an obligation to maintain the confidentiality of any Consumer Information which: (i) has been received by it from a third party without restriction on disclosure and without breach of agreement or other wrongful act by the receiving party; or (ii) is independently developed by it without reference to any Consumer Information. If required by any court of competent jurisdiction or other governmental authority, each Party may disclose to such authority, data, information or materials involving or pertaining to Consumer Information to the extent required by such order or authority. FORTE shall, if not otherwise prohibited, give the other Party as much advance notice of the possibility of such disclosure as is practical so that it may, at its own expense, attempt to stop such disclosure or obtain a protective order concerning such disclosure.
8. Breach Notification. In the event of an actual or validated breach of security of a Party's system, website, database, equipment or storage medium or facility that results in unauthorized access to Consumer Information on a Party's system by any third party (including any consultant or subcontractor of the Party that is not authorized to access such information), the Party that experienced the breach shall notify the other Party within a commercially reasonable time after taking any appropriate measures necessary to prevent further access, and shall take commercially reasonable efforts to resecure its systems as soon as possible. The Party that experienced the breach shall provide any information that the other Party reasonably requests pertaining to the incident, unless prohibited from doing so by applicable Rule or Law and shall provide reasonable cooperation to investigate any such incident. In addition, in the event of an actual or validated breach of security to a Party's system regarding PCI data related to AGENCY's account with FORTE, the Party that experienced the breach shall, to the extent reasonably practicable, cooperate with the investigative actions of the appropriate forensic unit and/or law enforcement agency and agrees to provide the other Party with a copy of the final Incident Report, if any, upon request.

9. FORTE's Annual Validation of Adherence to Security Standards. FORTE and AGENCY agree to utilize existing FORTE assessment reports and Certifications (SSAE report and PCI Certification), to validate FORTE's compliance with the Information Security Requirements set forth in this Appendix E.
- a. FORTE shall maintain all records pertaining to the Services as required by applicable Rule or Law
 - b. FORTE shall provide at its expense, upon AGENCY's written request on no more than an annual basis, its most current independent, SSAE report (third party service organization report). An SSAE report for purposes of this Agreement is defined as a specialized report or reports of controls, generally accepted in the industry, in the areas of financial reporting and general information technology controls for the services provided by a hosted solutions provider, managed services provider, service organization, service bureau or other similarly structured provider of software and hardware solutions. FORTE shall select the type of SSAE report that will be provided based upon the relationship between the parties and the products and services provided by FORTE. In the event AGENCY wishes to receive a type of SSAE report not currently provided by FORTE, AGENCY shall provide no less than eighteen (18) months prior written notice to FORTE and FORTE in its sole discretion shall determine whether it will provide the additional type of SSAE report to AGENCY. FORTE will provide a copy of the most current report prepared; provided that AGENCY shall accept and agree to any conditions imposed by the independent audit firm for access to such report. FORTE will use good faith efforts to assist in resolving any issues that may arise between AGENCY and any independent auditor firm regarding the viewing of the SSAE report. AGENCY may not distribute or provide FORTE's SSAE report to third parties without FORTE's prior written consent.
 - c. FORTE is PCI DSS certified and undergoes an annual audit in order to maintain PCI DSS compliance against the current version of PCI DSS published on the PCI SSC (PCI Security Standards Council) website.
 - d. AGENCY and its auditors will maintain the confidentiality of FORTE's procedures and processes, which FORTE describes as confidential, and which are disclosed as a result of any review or audit. FORTE agrees that any material failure, as defined by AGENCY in its reasonable discretion, to cooperate fully and promptly in the conduct of any audit requested pursuant to this paragraph will constitute grounds for AGENCY to immediately terminate the Agreement and cease receiving Services from FORTE; provided, however, AGENCY shall provide FORTE with written notice of such material failure to cooperate and FORTE shall have thirty (30) days opportunity to cure. Such termination shall be [AGENCY/Agency]'s sole and exclusive remedy for any such failure to cooperate.
10. Network and Application Scans. FORTE shall perform network and application security scans that test the FORTE's systems for (i) security vulnerabilities, (ii) denial of service vulnerabilities and (iii) system access. FORTE will have processes that review and remediate vulnerabilities.

SCHEDULE 1

PRICING FEE SCHEDULE

Such Pricing Fee Schedule is executed and attached to AGENCY's "Merchant Application" and incorporated herein by reference.

AGREEMENT

Item 9.

THIS AGREEMENT, made this _____th day of _____ between the VILLAGE OF WESLEY HILLS, 432 Route 306, Wesley Hills, NY 10952, hereinafter referred to as “VILLAGE” and FUSCO ENGINEERING & LAND SURVEYING, P.C., 233 East Main Street, Middletown, New York 10940, hereinafter referred to as “CONTRACTOR”:

WITNESSETH:

WHEREAS, the VILLAGE and the CONTRACTOR wish to enter into an Agreement for the purpose of providing the VILLAGE with Code Enforcement Services for the Village of Wesley Hills, New York.

NOW THEREFORE; BE IT RESOLVED, that the parties hereto mutually agree as follows:

GENERAL: The VILLAGE hereby hires and retains FUSCO ENGINEERING & LAND SURVEYING, D.P.C. to provide Code Enforcement Services to and for the Village of Wesley Hills. The purpose of the Contract is to outline the understanding of the parties related to the services to be performed by CONTRACTOR and on behalf of the VILLAGE.

1. The term of this agreement shall be for August 2023 through August 2024, unless otherwise amended pursuant to the terms herein or unless otherwise terminated; and
2. This agreement shall terminate in the month on which the Agreement is set to expire unless renewed by the parties in writing on or before July 31st, in the year of said Agreement is scheduled to expire; and
3. Either party to this agreement may terminate same upon thirty (30) days written notice sent by certified Mail, Return Receipt Requested. In the event of such early termination of the Agreement, CONTRACTOR shall be paid for all work, property authorized and completed as of the date of termination; and
4. CONTRACTOR shall provide the VILLAGE with proof of Professional Liability Insurance \$1,000,000 - \$2,000,000 coverage for all work performed on behalf of the Village relative to design projects. Contractors not to be considered employees of the Village but as officers of the Village taking the oath of office to sign official documents.
5. It is understanding of the parties of this Agreement that CONTRACTOR has not requested and will not require health insurance coverage from the VILLAGE for any staff providing services to the VILLAGE nor request or be provided with any type of employee benefits.
6. Village to provide Fusco Engineering and Land Surveying, P.C. and contractor's Code Enforcement Officers (Alfred A. Fusco, Jr., P.E., CEO, Daniel Dodd, CEO, Alfred A. Fusco III, CEO and Yuri

Badovich, CEO, Mark Mazan, CEO, Chris Watson, CEO, NICET, Christopher Fratto, CEO) with public officers liability insurance coverage for work as Code Enforcement Officers. Item 9.

7. The relationship of contractor to the Village shall be one of independent contractor.
8. Village to provide vehicle or pay IRS mileage for work within Village limits.

BUILDING DEPARTMENT AND CODE ENFORCEMENT;

1. The VILLAGE shall pay the CONTRACTOR a monthly fee of \$125.00 per hour (see Schedule A) for plan reviews and comment letters. CONTRACTOR shall provide Building Inspector Services and Code Enforcement Officer Services as same are defined and set forth in the Zoning Law of the Village of Wesley Hills and any revision thereof as requested by the Mayor. Duties to include conducting fire inspections, rental inspections and building inspections as required.
2. CONTRACTOR shall provide a Certified Building Inspectors, to provide Building Inspection Services for all new projects within the boundaries of the Village of Wesley Hills and also to perform Code Enforcement Services on a written per-complaint basis. Contractor will only have certified persons doing any work requiring such certification or trainees who are in line for certification.
3. Village to allow Code Enforcement Officers 24-hours annually for required training; and
4. The VILLAGE shall provide CONTRACTOR with suitable office space along with the clerk.
5. The VILLAGE, via a designated Village Employee or official other than contractor, shall collect all fees for the services performed; and

In WITNESS WHEREOF, the parties hereto have hereunder set their hands and seals the day and year first above written.

On the _____ day of _____, 2023, before me, the undersigned, a Notary Public in and for said State, personally appeared ALFRED A. FUSCO, JR., P.E., Principal of FUSCO ENGINEERING & LAND SURVEYING, P.C., personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he has executed the same in his capacity, and that by his signature on this instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

BY: Alfred A. Fusco, Jr., P.E.

Notary Public

FUSCO ENGINEERING & LAND SURVEYING, D.P.C.

STATE OF NEW YORK)
) SS:
COUNTY OF ORANGE)

On the _____ day of _____, 2023, before me, the undersigned, a Notary Public in and for said State, personally appeared Marshall Katz, Village Mayor of the Village of Wesley Hills, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he has executed the same in his capacity, and that by his signature on this instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

BY: Marshall Katz, Mayor

Notary Public

VILLAGE OF WESLEY HILLS

STATE OF NEW YORK)
) SS:
COUNTY OF ORANGE)

SCHEDULE A

CODE ENFORCEMENT REVIEWS	\$ 125.00/hour
COURT	\$ 125.00/hour
FIRE CALLS	\$ 125.00/hour (4 hour minimum)

400 Columbus Avenue
Suite 180E
Valhalla New York 10595
Main: 877 627 3772
colliersengineering.com

July 27, 2023

Mayor Marshall Katz
Village of Wesley Hills
432 Route 306
Wesley Hills, NY 10952

Proposal for Professional Services
Traffic Calming Evaluation
Lime Kiln Road and Wilder Road
Village of Wesley Hills, Rockland County, New York
Colliers Engineering & Design Proposal No.: 22012066P

Dear Mayor Katz,

Colliers Engineering & Design CT, P.C. (DBA Maser Consulting Engineering & Land Surveying) is pleased to submit this proposal to provide professional traffic engineering services for a traffic calming evaluation for intersection of Lime Kiln Road and Wilder Road located in the Village of Wesley Hills, Rockland County, New York.

This proposal is divided into four sections as follows:

- Section I** – Scope of Services
- Section II** – Business Terms and Conditions
- Section III** – Technical Staff Hourly Rate Schedule and Reimbursable Expenses
- Section IV** – Client Contract Authorization

The order in which the following scope of services are presented generally follows the sequence in which the project will be accomplished; however, depending on the project, the various authorized services contained in this proposal may be performed in a sequence as deemed appropriate by Colliers Engineering & Design to meet project schedules.

Section I – Scope of Services

Based on the information provided, we propose to complete the following:

Data Collection – Counts/Speed/Accident

The following tasks will be undertaken for this work effort:

- We will review any record speed/volume speed data collected by the Village and the State and supplement it with new traffic volume and speed measurements. We propose to install two (2) Automatic Traffic Recorder (ATR) machines, one along Lime Kiln Road east of Wilder Road and a second on Wilder Road south of Lime Kiln Road (each on higher volumes sections of roadway). These machines will capture current volume, speed, vehicle classification for a 3-day period.
- We will review the accident data provided by the Police Department for the intersection for the last 5 years of data collection. This information will be summarized in tabular form that will assist in identifying accident patterns and causes thereof.
- We will review all existing signing, roadway conditions, and pedestrian accommodations in the immediate intersection area.

Estimated Budget Fee \$3,650.00 plus Reimbursables

Traffic Calming Evaluation

- Based on above, Colliers Engineering & Design will identify potential alternative means for speed reduction at the intersection of Lime Kiln Road and Wilder Road using various calming measures as per the New York State Department of Transportation (NYSDOT) and the Institute of Transportation Engineers (ITE) guidelines. Such measures might include use of speed tables, speed humps, flashback speed signs (permanent), pavement markings or other measures such as chicanes, or a mini roundabout. We will prepare a matrix of alternatives with advantage/disadvantage (potential land acquisition needs) and relative cost of each alternative.

Estimated Budget Fee \$2,800.00 plus Reimbursables

Conceptual Improvement Plans

Based on the recommendations for improvements identified above, a conceptual improvement plan identifying the preferred measure(s) to be implemented will be prepared. We will make use of aerial photography to produce this plan.

Estimated Budget Fee: \$3,150.00 plus Reimbursables

Meetings & Follow Up

Attendance at agency and project coordination (including with client and other consultants) meetings or conducting follow up will be billed hourly in accordance with the Schedule of Hourly Rates in effect at the time the meeting is held or follow up performed. Time spent preparing for meetings and follow up tasks will be billed hourly in accordance with the Schedule of Hourly Rates in effect at the time the service is completed. For the purposes of this proposal, we are assuming attendance at two (2) meetings.

Estimated Budget Fee: \$1,300.00

Should detailed design documents be requested, the cost to produce such will be subject of a separate client authorization with cost to be determined.

Schedule of Fees

For your convenience, we have broken down the total estimated cost of the project into the categories identified within the scope of services.

Task Name	Fee
Speed Data Collection	\$3,650.00
Traffic Calming Evaluation	\$2,800.00
Conceptual Improvement Plans	\$3,150.00
Meetings & Follow Up	\$1,300.00
Total Estimated Budget:	\$10,900.00

This Contract and Fee Schedule are based upon the acceptance of Colliers Engineering & Design's Business Terms and Conditions contained in Section II of this Contract. Delivery, mileage, printing and reproduction, overnight mail service and postage costs are not included in the fees and will be added to each monthly invoice. **Payment terms are NET30 of receipt of invoice.**

Exclusions and Understandings

Services relating to the following items are not anticipated for the project or cannot be quantified at this time. Therefore, any service associated with the following items is specifically excluded from the scope of professional services within this agreement.

- Services not specifically outlined in Section I
- Field topographic survey and base map preparation;
- Boundary survey;
- Detail Intersection Improvement Design;
- As-built plans.

If an item listed herein, or otherwise not specifically mentioned within this agreement, is deemed necessary, Colliers Engineering & Design may prepare an addendum to this agreement for your review, outlining the scope of additional services and associated professional fees regarding the extra services.

Section II – Business Terms and Conditions

Colliers Engineering & Design agrees to provide professional services under the following terms and conditions:

The term Client referenced herein is the person, persons, corporation, partnership, or organization referenced in the proposal between Colliers Engineering & Design and said Client.

1.0 SCOPE OF SERVICES:

Services not set forth in the Scope of Services, are excluded from the Scope of Services, and Colliers Engineering & Design will assume no responsibility to perform such services under the base contract. In situations where a written contract is not executed or where additional services becomes necessary during the course of the project, Colliers Engineering & Design may provide such services using our Technical Staff Hourly Rate Schedule in effect at the time of services. The hourly rates listed in our Technical Staff Hourly Rate Schedule are adjusted semi-annually and the Client shall be billed at the rates that are in effect at the time of service.

Since there are substantial costs to stop and restart a project once it is underway, should a project's progress be halted at any time by the client, for any reason, Colliers Engineering & Design reserves the right to charge a restart fee and/or to renegotiate the remaining fees within the contract.

These Business Terms and Conditions are applicable for any additional professional services rendered for this project including, but not limited to, change orders, client service authorization forms, etc.

2.0 STANDARD OF CARE:

In performing services, we agree to exercise professional judgment, made on the basis of the information available to us, and to use the same degree of care and skill ordinarily exercised in similar circumstances and conditions by reputable consultants performing comparable services in the same locality. This standard of care shall be judged as of the time the services are rendered, and not according to later standards.

Reasonable people may disagree on matters involving professional judgment and, accordingly, a difference of opinion on a question of professional judgment shall not excuse a Client from paying for services rendered. NO OTHER REPRESENTATION OR WARRANTY, EXPRESSED OR IMPLIED, IS MADE.

3.0 INVOICES:

Colliers Engineering & Design bills its Clients on a monthly basis using a standard invoice format. This format provides for a description of services performed and a summary of professional fees, expenses, and other charges. For more detailed invoicing requests, Colliers Engineering & Design reserves the right to charge for invoice preparation time by staff members. Monthly invoices will be submitted based upon percentage of services completed and reimbursable expenses. Any comments or discrepancies, relative to invoices shall be submitted in writing within fourteen (14) days or the account will be considered correct.

For professional services billed on an hourly basis, Colliers Engineering & Design reserves the right to invoice all overtime services performed by our employees using our Technical Staff Hourly Rate Schedule in effect at the time of services at ONE AND ONE-HALF TIMES our standard hourly rate for those employees.

Expenses incurred for services, equipment, and facilities not furnished by Colliers Engineering & Design are charged to the Client at cost plus an up-charge not to exceed 15 percent of the invoice for said services.

Client shall pay Colliers Engineering & Design for reimbursable expenses, including, but not limited to, application fees, printing and reproduction, mileage, courier and express delivery service, special/overnight mailings, facsimile transmissions, specialized equipment and laboratory charges, and costs of acquiring materials specifically for the Client. Reimbursable charges will be added to each monthly invoice and are part of Client's responsibility.

4.0 PAYMENT:

Colliers Engineering & Design bills are payable in full UPON RECEIPT and **payment is expected within thirty (30) days**. We reserve the right to assess a late charge of 1.5 percent per month for any amounts not paid within 45 days of the billing date. In the event payment is not made according to the terms and conditions herein, the matter may proceed to a collections agency or to an attorney for collection. Client shall be responsible for fees charged by the collections agency and/or attorney's fees incurred to collect the monies owed. Should the matter proceed to court, client shall also be responsible for court costs.

In addition, where payment is not received in accordance with the terms of this contract, Colliers Engineering & Design reserves the right to withdraw any applications to federal, state, or local regulatory agencies / boards filed on behalf of the client with the understanding that these applications are the property of Colliers Engineering & Design. Colliers Engineering & Design will provide you with written notification two (2) weeks prior to taking any action to withdraw an application submitted on behalf of the client. If payment of all outstanding invoices is not received within two (2) weeks of receipt of this letter, Colliers Engineering & Design will withdraw all pending applications for the project.

5.0 RETAINER:

Colliers Engineering & Design reserves the right to request a retainer from the Client prior to the commencement of services on a project. While retainers are collected prior to the start of a project, the retainer is held to the end of the project, and will be applied to the final invoices. Retainers are not applied to the beginning of the project.

6.0 RIGHT OF ENTRY/JOBSITE:

Client will provide for right of entry for Colliers Engineering & Design personnel and equipment necessary to complete our services. While Colliers Engineering & Design will take all reasonable precautions to minimize any damage to the property, it is understood by the Client that in the normal course of our services some damage may occur, the correction of which is not part of this Agreement.

Client shall furnish or cause to be furnished to Colliers Engineering & Design all documents and information known to the Client that relate to the identity, location, quantity, nature or characteristics of any hazardous or toxic substances at, on, or under the site. In addition, the Client will furnish or cause to be furnished such other information on surface and subsurface site conditions required by Colliers Engineering & Design for proper performance of its services. Colliers Engineering & Design shall be entitled to rely on the accuracy and completeness of Client provided documents and information in performing the services required under this Agreement and Colliers Engineering & Design assumes no responsibility or liability for their accuracy or completeness.

Colliers Engineering & Design will not direct, supervise, or control the work of Client's contractors or their subcontractors. Colliers Engineering & Design shall not have authority over or responsibility for the construction means, methods, techniques, sequences, or procedures and Colliers Engineering & Design's services will not include a review or evaluation of the contractors (or subcontractor's) safety precautions, programs or measures.

Colliers Engineering & Design shall be responsible only for its activities and that of its employees on any site. Neither the professional activities nor the presence of Colliers Engineering & Design or its employees or subcontractors on a site shall imply that Colliers Engineering & Design controls the operations of others, nor shall this be construed to be an acceptance by Colliers Engineering & Design of any responsibility for jobsite safety.

7.0 UTILITIES:

In the execution of our services, Colliers Engineering & Design will take reasonable precautions in accordance with the professional standard of care to avoid damage or injury to subterranean structures or utilities. The Client agrees to hold Colliers Engineering & Design harmless and defend and indemnify Colliers Engineering & Design for any claims or damages to subterranean structures or utilities, which have not been marked-out under the One-Call system or are not shown or are incorrectly shown on the plans furnished.

8.0 TERMINATION OR SUSPENSION OF SERVICES:

Should Client fail to make payments when due or is otherwise in material breach of this Agreement, Colliers Engineering & Design at their election may suspend services at any time after PROVIDING WRITTEN NOTICE TO THE CLIENT until payments are brought current. Colliers Engineering & Design shall have no liability whatsoever to the Client for any costs or damages as a result of such suspension and the Client agrees to indemnify and hold Colliers Engineering & Design harmless from any claim or liability resulting from such suspension.

This Agreement may be terminated by either party upon seven (7) days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof. Such termination shall not be effective if that substantial failure has been remedied before expiration of the period specified in the written notice. In the event of termination, Colliers Engineering & Design shall be paid for service performed to the termination notice date plus reasonable termination expenses.

In the event of termination, or suspension for more than three (3) months, prior to completion of all services contemplated by the Agreement, Colliers Engineering & Design may complete such analyses and records as are necessary to complete its files and may also complete a report on the services performed to the date of notice of termination or suspension. The expenses of termination or suspension shall include all direct costs of Colliers Engineering & Design in completing such analyses, records and reports.

9.0 SUBCONSULTANTS/SUBCONTRACTORS:

Colliers Engineering & Design prefers that its Clients directly retain others whose services are required in connection with a project (e.g., drillers, analytical laboratories, transporters, other experts, etc.), except in unusual circumstances. As a service, we will advise Clients with respect to selecting other such subconsultants/subcontractors and will assist Clients in coordinating and monitoring their performance. In no event will we assume any liability or responsibility for the work performed by other subconsultants/subcontractors, or for their failure to perform any work, regardless of whether we hire them directly as subconsultants/subcontractors, or only coordinate and monitor their work. When Colliers Engineering & Design does engage a subconsultant/subcontractor on behalf of the Client, the expenses incurred, including rental of special equipment necessary for the work, will be billed as they are incurred, at cost plus an up-charge not to exceed 20 percent of the invoice. By engaging us to perform services, you agree to defend, indemnify and hold Colliers Engineering & Design its directors, officers, employees, and other agents harmless from and against any and all claims, losses, liabilities, damages, demands, costs, or judgments arising out of or relating in any way to the performance or non-performance of work by another subconsultant/subcontractor. In addition, Client agrees to pursue recovery of and assert any claims based upon its loss, expenses and/or damages solely and directly against those subconsultants/subcontractors. In consideration of such indemnity and waiver, Colliers Engineering & Design agrees to assign its rights and/or claims against those subconsultants/subcontractors pursuant to the subconsultants/subcontractors agreements with Colliers Engineering & Design to the Client.

10.0 AGREED REMEDY:

Colliers Engineering & Design shall be liable to the Client only for direct damages to the extent caused by Colliers Engineering & Design's negligence in the performance of its services. UNDER NO CIRCUMSTANCES SHALL COLLIERS ENGINEERING & DESIGN BE LIABLE FOR INDIRECT, CONSEQUENTIAL, PUNITIVE, SPECIAL, OR EXEMPLARY DAMAGES, OR FOR DAMAGES CAUSED BY THE CLIENT'S FAILURE TO PERFORM ITS OBLIGATIONS. With regard to services involving hazardous substances, Colliers Engineering & Design has neither created nor contributed to the

creation or existence of any actually or potentially hazardous, radioactive, toxic, or otherwise dangerous substance or condition at any site, and its compensation is in no way commensurate with the potential liability that may be associated with a substance or site.

To the fullest extent permitted by law, the total liability, in the aggregate, of Colliers Engineering & Design and Colliers Engineering & Design's officers, directors, employees, agents and consultants to Client and anyone claiming by, through or under Client, for any and all injuries, claims, losses, expenses, or damages whatsoever arising out of in any way related to Colliers Engineering & Design's services, the Project or this Agreement, from any cause or causes whatsoever, including but not limited to, negligence, strict liability, breach of contract or breach of warranty shall not exceed the total compensation received by Colliers Engineering & Design under this Agreement, not including reimbursable expenses and any subconsultant/contractor fees rendered on the project.

It is intended by the parties to this Agreement that Colliers Engineering & Design's services in connection with the project shall not subject Colliers Engineering & Design's individual employees, officers or directors to any personal legal exposure for the risks associated with this project. Therefore, the Client agrees that as the Client's sole and exclusive remedy, any claim, demand or suit shall be directed and/or asserted only against Colliers Engineering & Design, a New Jersey corporation, and not against any of Colliers Engineering & Design's employees, officers or directors.

11.0 LIABILITY TO THIRD PARTIES:

The Client agrees to be solely responsible for, and to defend, indemnify, and hold Colliers Engineering & Design harmless from any and all liabilities, claims, damages and costs (including reasonable attorney's fees and defense costs) by third parties arising out of, or in any way related to, our performance or non-performance of services, except claims for personal injury, death, or personal property damage to the extent caused by the sole negligence, gross negligence or willful misconduct of employees of Colliers Engineering & Design.

12.0 INDEMNIFICATION:

Colliers Engineering & Design shall maintain, at its own expense, Workers Compensation Insurance, Comprehensive General Liability Insurance and Professional Liability Insurance at all times and will, upon request, furnish insurance certificates to the Client.

To the fullest extent permitted by law, Client shall indemnify, defend and hold harmless Colliers Engineering & Design and its agents, officers, directors and employees, subcontracts or consultants (herein for the remainder of this section collectively referred to as Colliers Engineering & Design) from and against all claims, damages, losses and expenses, whether direct, indirect or consequential or punitive, including but not limited to fees and charges of attorneys and court and arbitration costs, arising out of or resulting from the services of Colliers Engineering & Design or any claims against Colliers Engineering & Design arising from the acts, omissions or work of others, unless it is proven in a court of competent jurisdiction that Colliers Engineering & Design is guilty of negligence, gross negligence, or willful misconduct in connection with the services and such negligence, gross negligence, or willful misconduct was the sole cause of the damages, claims, and liabilities.

Client agrees to defend, indemnify and hold harmless Colliers Engineering & Design from and against all claims, damages, losses and expenses, direct or indirect, and consequential damages, including but not limited to fees and charges of attorneys and court, and arbitration costs, brought by any person or entity, or claims against Colliers Engineering & Design which arise out of, are related to, or are based upon, the actual or threatened dispersal, discharge, escape, release, or saturation of smoke, vapors, soot, fumes, acids, alkalis, toxic chemical, radioactive materials, liquids, gases, or any other material, upon it or into the surface or subsurface soil, water or watercourse, objects, or any tangible or intangible matter.

To the fullest extent permitted by law, such indemnification shall apply regardless of the fault, negligence breach of warranty or contract, or strict liability of Colliers Engineering & Design. This indemnification shall not apply to claims, damages, losses, or expenses which are determined by a court of competent jurisdiction to be the sole result of negligence or willful misconduct by Colliers Engineering & Design of obligations under this Agreement.

13.0 ASSIGNS:

The Client may not delegate, assign, sublet, or transfer his duties or interest in the Agreement without written consent of Colliers Engineering & Design. Colliers Engineering & Design shall not, in connection with any such assignment by the Client, be required to execute any documents that in any way might, in the sole judgment of Colliers Engineering & Design, increase Colliers Engineering & Design's contractual or legal obligations or risks, or the availability or costs of its professional or general liability insurance.

The Agreement shall not create any rights or benefits to parties other than the Client and Colliers Engineering & Design, and nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Client or Colliers Engineering & Design. Colliers Engineering & Design's services hereunder are being performed solely for the benefit of the Client, and no other entity shall have any claim against Colliers Engineering & Design because of this Agreement of Colliers Engineering & Design's performance or nonperformance of services hereunder.

14.0 OWNERSHIP AND RESTRICTION ON REUSE OF DOCUMENTS:

All drawings, calculations, reports, plans, specifications, computer files, field data, notes, and other documents and instruments ("Documents") prepared by Colliers Engineering & Design are and remain the property of Colliers Engineering & Design as instruments of service. The Documents may not be copied by the Client or others on extensions of this project or on any other project. The Client agrees not to use Colliers Engineering & Design's Documents for marketing purposes, for projects other than the project for which the Documents were prepared by Colliers Engineering & Design, or for future modifications to this project, without Colliers Engineering & Design's express written permission. Any reuse or distribution to third parties without such express written permission or project-specific adaptation by Colliers Engineering & Design will

be at the Client's sole risk and without liability to Colliers Engineering & Design or its employees, subsidiaries, independent professional associates, sub consultants, and subcontractors. The Client shall, to the fullest extent permitted by law, indemnify, defend, and hold harmless Colliers Engineering & Design from and against any and all expenses, fees, demands, liabilities, suits, actions, claims, damages or losses including attorneys' fees and costs, arising out of or resulting from such unauthorized distribution or reuse of Documents.

Computer files are not considered part of deliverables unless specifically requested or required by the signed contract. If computer files are required, Colliers Engineering & Design shall provide Client files subject to the following conditions:

The Client must execute our standard Electronic Media Release form prior to any distribution of files. The Client recognizes that data, plans, specifications, reports, documents or other information recorded on or transmitted as electronic media are subject to undetectable alteration, either intentional or unintentional due to, among other causes, transmission, conversion, media degradation, software error, or human alteration. Accordingly, it is understood that electronic files provided to the Client are for informational purposes only and are not intended as an end-product. Colliers Engineering & Design makes no representation of any warranties, either expressed or implied, regarding the fitness or suitability of the electronic documents. Accordingly, the Client agrees to waive any and all claims against Colliers Engineering & Design and Colliers Engineering & Design's consultants relating in any way to the unauthorized use, reuse or alteration of the electronic documents. Any unlicensed use or reuse of the documents without our written consent will constitute a violation of our copyright. Only original plans and reports of the most recent date bearing the signature and the embossed seal of the professional will be considered documents of record.

Colliers Engineering & Design, shall maintain in its storage facility, samples collected as part of their services provided for a period of three (3) months after issuance of final reports. After the three (3) month time limit, all samples will be disposed of in accordance with appropriate regulations at the time. Extended storage of samples can be arranged at an additional cost to be established on a project by project basis.

15.0 GENERAL CONDITIONS:

Colliers Engineering & Design shall not be responsible for the delays caused by factors beyond its reasonable control, including but not limited to delay due to accidents, an act of God, fire, hurricane, flood, explosions, strike, boycott or other labor dispute, failure of the Client to furnish timely information or approve or disapprove of Colliers Engineering & Design's services or work product, delays caused by faulty performance by the Client or contractors of any level, or by acts of Government, which, in the opinion of Colliers Engineering & Design, could not have been reasonably foreseen and provided for, such delay will entitle Colliers Engineering & Design to an extension of time in performing its Services. If there is any increase in the total cost of providing Services by reason of any such delay, Colliers Engineering & Design will notify Client of particulars, and Client will pay for such increase. When such delays beyond Colliers Engineering & Design's reasonable control occur, the Client agrees that Colliers Engineering & Design shall not be responsible for damages, nor shall Colliers Engineering & Design be deemed in default of this Agreement.

The fees quoted in this proposal assume that upon authorization, this project will commence through to completion without a stop work order from the Client. Should a stop work order be received from the Client before completion of the project or any task, additional fees may be required to restart the project.

16.0 ENTIRE AGREEMENT:

This Agreement comprises the final and complete Agreement between the Client and Colliers Engineering & Design. It supersedes all prior or contemporaneous communications, representations, or Agreements, whether oral or written, relating to the subject matter of this Agreement. Execution of this Agreement signifies that each party has read the document thoroughly, has had the opportunity to have questions explained by independent counsel and is satisfied with the terms and conditions contained herein. Amendments to this Agreement shall not be binding unless made in writing and signed by both the Client and Colliers Engineering & Design.

To the extent Client provides its own Agreement and that Agreement conflicts with or is silent with respect to any term or condition expressed herein, these conditions shall prevail and shall be binding upon the parties.

Section III – Rate Schedule

Technical Staff Rates 2023

Billing Titles	Hourly Rates
Executive Principal	260.00
Senior Principal	250.00
Principal	245.00
Senior Technical Director	225.00
Senior Project Manager	210.00
Technical Director	200.00
Project Manager	195.00
Senior Project Specialist	185.00
Project Specialist	175.00
Technical Professional	155.00
Technical Specialist	135.00
Specialist	130.00
Senior Data Technician	125.00
Senior Technical Assistant	110.00
Technical Assistant	100.00
Field Technician	95.00
Data Technician	90.00
Survey Crew – 1 Person w/Robotic Equipment	195.00
Additional Survey Crew Member	45.00
SUE Crew (designating) – 1 Person	125.00
Additional (designating) Member	50.00
SUE Crew (locating) – 2 Person	185.00
Additional (locating) Member	45.00
Expert Witness	360.00

Reimbursable Expenses

General Expenses	Cost + 20%
Travel (Hotel, Airfare, Meals)	Cost + 20%
Sub-Consultants/Sub-Contractors	Cost + 20%
Plotting	3.95 / Each
Computer Mylars / Color Plots	95.00 / Each
Photocopies	0.19 / Each
Color Photocopies	2.00 / Each
Document Binding	4.00 / Each
Portable Media	95.00 / Each
Portable Media	25.00 / Additional Each
Exhibit Lamination (24" x 36" or larger)	75.00 / Each
Automatic Traffic Recorders (ATR)	800 / Per Week
Initial Digital Signature	275.00
Additional Digital Signatures	75.00 / Each
Mileage Reimbursement*	0.655 / Per Mile
	Field Vehicle 0.70 / Per Mile

*Mileage reimbursement subject to change based upon IRS standard mileage rate.

Westchester Schedule Municipal

Rates are effective through December 31, 2023

Section IV – Client Contract Authorization

I hereby declare that I am duly authorized to sign binding contractual documents. I also declare that I have read, understand, and accept this contract.

Signature

Date

Printed Name

Title

If you find this proposal acceptable, please sign where indicated above in Section IV, and return one signed copy to this office. **Payment terms are NET30 of receipt of invoice.** This proposal is valid until September 25, 2023.

We very much appreciate the opportunity of submitting this proposal and look forward to performing these services for you.

Sincerely,

Colliers Engineering & Design CT, P.C.
(DBA Maser Consulting Engineering & Land Surveying)

A handwritten signature in blue ink, appearing to read "A. Peter Russillo".

A. Peter Russillo, P.E., PTOE
Senior Project Manager

cc: Leonardo E. Ponzio, PLS, Colliers Engineering & Design (via email)

R:\Projects\2022\22012066P\230727APR_Katz Proposal.docx



Perfect Cut Tree Service

229 QUAKER ROAD • POMONA, NY 10970

(845) 735-5291 • (201) 825-1188

Fax (845) 362-5426

Fully Insured

Rockland Lic. # H-08812-15-18-00

Westchester Lic. # WC-25720-H13

New Jersey Lic. # 10096

Item 11.

NAME VILLAGE Wesley Hills	PHONE HOME 845 OFFICE 354-0400	DATE OF ESTIMATE 6-5-23	TIME
STREET # 37 Lime Kiln RD	LOCATION & INTERSECTIONS		
CITY, STATE AND ZIP CODE Wesley Hills NY / Camille			

SPECIFICATIONS

	COST
(A) Remove marked oak and pine 3 Remaining trees keep healthy and safe	1600
(B) Remove marked ash Rt side walking path cutting low to ground	
(C) Remove 4 marked Rt side center 3 ash 1 large double oak	2650
(D) ALSO Remove approx 45 more trees cutting stumps low to ground. Fly chip where poss	\$
(E) Clean up what's on ground	\$

NOTES

June 2023 \$ 25,000
June 2024 \$ 25,000

Please cut dangerous trees first. Thank You.

WORK INSTRUCTION

Crane ☒
Manual ☒
Bucket ☒
Stump Grinding ☒
Log Truck ☒
Wood Remain ☒ Remove ☒
Wood Chips Remain ☒ Remove ☒

Sub Total

Deposit

All work subject to appropriate sales tax

* Total



\$50,000

NOTE: This proposal can be withdrawn if not accepted in ___ days.

We, Perfect Cut Tree Service Inc. hereby propose to do the work as specified. We carry the necessary license, insurance and workman's compensation. In addition, Perfect Cut and its employees shall not be held liable for pre-existing property or lawn damage. Any alterations or deviations from the above specifications will involve an additional charge. All work contingent upon strikes, accidents or delays beyond our control.

Submitted by JHW Date _____

Acceptance of Proposal The above prices,

specifications and conditions are satisfactory and are hereby accepted. I hereby authorize Perfect Cut Tree Service to do the work as specified. A 20% nonrefundable deposit is due at the time of acceptance. All permit requirements are customers responsibility. Balance to be paid at completion of work.

Signature [Signature]

Thank you for choosing PERFECT CUT TREE SERVICE INC.

Approximate Start Date: _____ Approximate Completion: _____

A late charge of up to 2% per month shall be payable on the balance of this invoice that is not paid when due. In the event of non-payment, the customer agrees to reimburse seller for all collection costs including attorney fees.

*Subject to 4% credit card fee.

Customer has the right to cancel up to 3 days before work commences.



21 Holt Drive Stony Point, NY 10980
845-429-0497

Submitted to Owner:
VILLAGE OF WESLEY HILLS
ATTN: Camile

PROPOSAL

Item 12.

DATE: **8/7/2023**

RE : TRAFFIC LIGHT RENTAL

JOB NAME/LOCATION	
Schedule for Completion of Work:	
APPROXIMATE STARTING DATE:	
APPROXIMATE COMPLETION DATE:	
THE CONTRACTOR AND OWNER HAVE DETERMINED	
☐ IS OF THE ESSENCE	☐ IS NOT OF THE ESSENCE

WE PROPOSE TO: Install 4 Temporary Traffic lights at 4-way intersection for approximately 12 months but not less than 11 months.

TOTAL \$168,000.00

Includes motor sensor & battery upgrade per unit.

***Lead in signage available upon request - SEPARATE PRICING**

Delivery not included:

Monthly service check - 4 units plus charge batteries @ \$156.25 per unit per month

TOTAL per Month \$625.00

This proposal does not include the following: any unforeseen obstacles and/or obstructions, rock excavation, major de-watering, permits, fees, stake-outs, engineering costs or removal of hazardous materials if present.

WE PROPOSE hereby to furnish material and labor - complete in accordance with above specifications, for the sum Of :
One Hundred Sixty-Eight Thousand **\$168,000.00**

Payment Schedule: One-third deposit; balance upon completion.

All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control.

Authorized Signature:

CONTRACTOR

Note: This proposal may be withdrawn by us if not accepted within 30 days.

Acceptance of Proposal: I have read this document and accept the prices, specifications and conditions stated. I understand that upon signing, this proposal becomes a binding contract. You are authorized to do the work as specified. Payment will be made as outlined above.

Signature _____ Date _____

(CONTRACTOR)

Signature _____ Date _____

(OWNER)

Additional Notices to Owner

Right to Stop Work: If any payment under this agreement is not made when due, the contractor may suspend work on the job until such time as all payments due have been made.

Notice of Lien: The contractor or subcontractor who performs on the contract and is not paid may have a claim against the owner which may be enforced against the property in accordance with the applicable Lien Laws.

Cancellation: The owner has an unconditional right to cancel the contract, without penalty or obligation, until midnight of the third business day after he/she signs the contract. Cancellation must be done by giving the contractor a written notice indicating the owners intention not to be bound. Notice of cancellation shall be deemed given when deposited in a mailbox, properly addressed and postage prepaid. Upon cancellation, any property traded in, any payments made under this contract, and any negotiable instrument executed by you will be returned within 10 business days following receipt by the contractor of a cancellation notice. Any security interest arising out of this transaction will be canceled.

Sponsor: **Village of Wesley Hills**PIN: **8762.88** BIN: **N/A**Comptroller's Contract No. **D040727**Supplemental Agreement No. **1**Date Prepared: **8/3/2023** By: **GC**

Initials

Press F1 for instructions in the blank fields:

SUPPLEMENTAL AGREEMENT No. 1 to D040727 (Comptroller's Contract No.)

This Supplemental Agreement is by and between:

the New York State Department of Transportation ("NYSDOT"), having its principal office at 50 Wolf Road, Albany, NY 12232, on behalf of New York State ("State")
and

Village of Wesley Hills (the Sponsor)Acting by and through the **Mayor**with its office at **432 Route 306, Wesley Hills, NY 10952.**

This amends the existing Agreement between the parties in the following respects only:

Amends a previously adopted Schedule A by (check as applicable):

☐ amending a project description☐ amending the contract end date☐ amending the scheduled funding by:☐ adding additional funding (check and enter the # phase(s) as applicable):☐ adding phase _____ which covers eligible costs incurred on/after / / ☐ adding phase _____ which covers eligible costs incurred on/after / / ☒ increasing funding for a project phase(s)☐ adding a pin extension☐ change from Non-Marchiselli to Marchiselli☒ deleting/reducing funding for a project phase(s)☐ other (_____)☐ Amends a previously adopted Schedule "B" (Phases, Sub-phase/Tasks, and Allocation of Responsibility)☒ Amends a previously adopted Agreement by replacing the Appendix A dated October 2019 with the Appendix A dated June 2023.☐ Amends a previously adopted Agreement by adding:☐ Appendix B M/WBE/SDVOB.☐ Retention Exhibit.☐ Other: _____☐ Amends the text of the Agreement as follows (insert text below):

Sponsor: Village of WesleyPIN: 8762.88 BIN: N/AComptroller's Contract No. D040727Supplemental Agreement No. 1Date Prepared: 8/3/2023 By: GC

Initials

Press F1 for instructions in the blank fields:

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officials as of the date first above written.

SPONSOR:

SPONSOR ATTORNEY:

By: _____

By: _____

Print Name: _____

Print Name: _____

Title: _____

STATE OF NEW YORK

)ss.:

COUNTY OF ROCKLAND

On this _____ day of _____, 20____ before me personally came _____ to me known, who, being by me duly sworn did depose and say that he/she resides at _____; that he/she is the _____ of the Municipal/Sponsor Corporation described in and which executed the above instrument; (except New York City) that it was executed by order of the _____ of said Municipal/Sponsor Corporation pursuant to a resolution which was duly adopted on _____ and which a certified copy is attached and made a part hereof; and that he/she signed his/her name thereto by like order.

Notary Public

APPROVED FOR NYSDOT:

APPROVED AS TO FORM:

STATE OF NEW YORK ATTORNEY GENERAL

BY: _____

For Commissioner of Transportation

Agency Certification: In addition to the acceptance of this contract I also certify that original copies of this signature page will be attached to all other exact copies of this contract.

By: _____
Assistant Attorney General

Date: _____

COMPTROLLER'S APPROVAL:

By: _____
For the New York State Comptroller
Pursuant to State Finance Law ' 112

SCHEDULE A – Description of Project Phase, Funding and Deposit Requirements
NYS DOT/ State-Local Agreement - Schedule A for PIN 8762.88

OSC Contract #: <u>D040727</u>	Contract Start Date: <u>2/8/2023</u> (mm/dd/yyyy) Contract End Date: <u>12/30/2028</u> (mm/dd/yyyy) ☐ Check, if date changed from the last Schedule A
Purpose: ☐ Original Standard Agreement ☒ Supplemental Schedule A No. 1	
Agreement Type: ☒ Locally Administered Municipality/Sponsor (Contract Payee): Village of Wesley Hills Other Municipality/Sponsor (if applicable): _____ ☐ State Administered <i>List participating Municipality(ies) and the % of cost share for each and indicate by checkbox which Municipality this Schedule A applies.</i> ☐ Municipality: _____ % of Cost share ☐ Municipality: _____ % of Cost share ☐ Municipality: _____ % of Cost share	
Authorized Project Phase(s) to which this Schedule applies: ☒ PE/Design ☒ ROW Incidentals ☐ ROW Acquisition ☐ Construction/CI/CS	
Work Type: BIKE/PED./FACILITIES	County (If different from Municipality): Rockland
(Check, if Project Description has changed from last Schedule A): ☐ Project Description: Willow Tree Road ADA-Compliant Sidewalk System, Village of Wesley Hills, Rockland County, NY	
Marchiselli Eligible ☐ Yes ☒ No	

A. Summary of Participating Costs FOR ALL PHASES For each PIN Fiscal Share below, show current costs on the rows indicated as "Current." Show the old costs from the previous Schedule A on the row indicated as "Old." All totals will calculate automatically.

PIN Fiscal Share	"Current" or "Old" entry indicator	Funding Source (Percentage)	TOTAL Costs	FEDERAL Funds	STATE Funds	LOCAL Funds	LOCAL DEPOSIT AMOUNT (Required only if State Administered)
8762.88.121	Current	TAP (80%)	\$271,000.00	\$216,800.00	\$0.00	\$54,200.00	\$0.00
	Old	TAP (80%)	\$339,000.00	\$271,200.00	\$0.00	\$67,800.00	\$0.00
8762.88.221	Current	TAP (80%)	\$38,000.00	\$30,400.00	\$0.00	\$7,600.00	\$0.00
	Old	TAP (80%)	\$10,000.00	\$8,000.00	\$0.00	\$2,000.00	\$0.00
. .	Current		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Old		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
. .	Current		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Old		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
. .	Current		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Old		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
. .	Current		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Old		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
. .	Current		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Old		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
. .	Current		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Old		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
. .	Current		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Old		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
TOTAL CURRENT COSTS:			\$309,000.00	\$247,200.00	\$ 0.00	\$61,800.00	\$ 0.00

NYSDOT/State-Local Agreement – Schedule A PIN 8762.88

B. Local Deposit(s) from Section A:	\$ 0.00
Additional Local Deposit(s)	\$0.00
Total Local Deposit(s)	\$ 0.00

C. Total Project Costs <i>All totals will calculate automatically.</i>			
Total FEDERAL Cost	Total STATE Cost	Total LOCAL Cost	Total ALL SOURCES Cost
\$247,200.00	\$ 0.00	\$61,800.00	\$309,000.00
		Total FEDERAL Cost	\$247,200.00
		Total STATE Cost	\$ 0.00
SFS TOTAL CONTRACT AMOUNT			\$247,200.00

D. Point of Contact for Questions Regarding this Schedule A (Must be completed)	Name: <u>Giselle Conrad</u> Phone No: <u>845-431-5731</u>
--	--

See Agreement (or Supplemental Agreement Cover) for required contract signatures.

Footnotes (FN): (See [LPB's](#) SharePoint for link to sample footnotes)

- Project Description Continued: The project will provide an ADA-compliant sidewalk system on Willow Tree Road from NYS Route 306 near Mile Marker 1036 west to Wilder Road. The project will also complete a major portion of the Village's ADA-transition plan by connecting two ADA-compliant sidewalk systems on Willow Tree Road - the Village's completed TAP project on East Willow Tree Road connecting East Willow Tree at McNamara Road to Route 306, and Rockland County's project to the west of on Forshay/Wilder Road at the new roundabout
- This project is a 2021 Transportation Alternatives Program (TAP) and the federal share of the project may not exceed 80 percent of the total project cost. Sponsors must provide a minimum 20 percent share of the funding for the project
- This project is funded through the Transportation Alternatives Program, with a capped federal award amount of \$1,797,112.
- This Schedule A transfers preliminary design funds to the ROW incidentals phase.
- xx.121 represents \$169,000 for Preliminary Design and \$102,000 for Detailed Design.
- xx.221 represents \$38,000 for Right-of-way Incidentals.
- Construction Authorization (NYSDOT concurred with Construction Contract bid documents) must be granted and the project must proceed to construction within 24 months of award (award is defined as a fully executed SLA).
- The remaining \$40,000 to be included in the construction phase.
-
-

- 8762.88 7/31/2023 gc

APPENDIX A

STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

**PLEASE RETAIN THIS DOCUMENT
FOR FUTURE REFERENCE.**

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STANDARD CLAUSES FOR NYS CONTRACTS

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, “the contract” or “this contract”) agree to be bound by the following clauses which are hereby made a part of the contract (the word “Contractor” herein refers to any party other than the State, whether a contractor, licenser, licensee, lessor, lessee or any other party):

1. EXECUTORY CLAUSE. In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.

2. NON-ASSIGNMENT CLAUSE. In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the State’s previous written consent, and attempts to do so are null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract let pursuant to Article XI of the State Finance Law may be waived at the discretion of the contracting agency and with the concurrence of the State Comptroller where the original contract was subject to the State Comptroller’s approval, where the assignment is due to a reorganization, merger or consolidation of the Contractor’s business entity or enterprise. The State retains its right to approve an assignment and to require that any Contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments without the State’s prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

3. COMPTROLLER’S APPROVAL. In accordance with Section 112 of the State Finance Law, if this contract exceeds \$50,000 (or \$75,000 for State University of New York or City University of New York contracts for goods, services, construction and printing, and \$150,000 for State University Health Care Facilities) or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$25,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller’s approval of contracts let by the Office of General Services, either for itself or its customer agencies by the Office of General Services Business Services Center, is required when such contracts exceed \$85,000. Comptroller’s approval of contracts established as centralized contracts through the Office of General Services is required when such contracts exceed \$125,000, and when a purchase order or other procurement transaction issued under such centralized contract exceeds \$200,000.

4. WORKERS’ COMPENSATION BENEFITS. In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers’ Compensation Law.

5. NON-DISCRIMINATION REQUIREMENTS. To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment, nor subject any individual to harassment, because of age, race, creed, color, national origin, citizenship or immigration status, sexual orientation, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, or domestic violence victim status or because the individual has opposed any practices forbidden under the Human Rights Law or has filed a complaint, testified, or assisted in any proceeding under the Human Rights Law. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

6. WAGE AND HOURS PROVISIONS. If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor’s employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in

accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the State of any State approved sums due and owing for work done upon the project.

7. NON-COLLUSIVE BIDDING CERTIFICATION. In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive bidding certification on Contractor's behalf.

8. INTERNATIONAL BOYCOTT PROHIBITION. In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2 NYCRR § 105.4).

9. SET-OFF RIGHTS. The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Comptroller.

10. RECORDS. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, the "Records"). The Records

must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION. (a) Identification Number(s). Every invoice or New York State Claim for Payment submitted to a New York State agency by a payee, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. The number is any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Failure to include such number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or Claim for Payment, must give the reason or reasons why the payee does not have such number or numbers.

(b) Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN.

In accordance with Section 312 of the Executive Law and 5 NYCRR Part 143, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:

(a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State contracts and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

(b) at the request of the contracting agency, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein; and

(c) the Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

Contractor will include the provisions of "(a), (b) and (c)" above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not

apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this clause. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

13. CONFLICTING TERMS. In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.

14. GOVERNING LAW. This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

15. LATE PAYMENT. Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article 11-A of the State Finance Law to the extent required by law.

16. NO ARBITRATION. Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

17. SERVICE OF PROCESS. In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

18. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS. The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law, (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this

law will be the responsibility of the contractor to establish to meet with the approval of the State.

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in § 165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

19. MACBRIDE FAIR EMPLOYMENT PRINCIPLES (APPLICABLE ONLY IN NON-FEDERAL AID NEW YORK STATE CONTRACTS). In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

20. OMNIBUS PROCUREMENT ACT OF 1992 (APPLICABLE ONLY IN NON-FEDERAL AID NEW YORK STATE CONTRACTS). It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority- and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development
Division for Small Business and Technology Development
625 Broadway
Albany, New York 12245
Telephone: 518-292-5100

A directory of certified minority- and women-owned business enterprises is available from:

NYS Department of Economic Development
Division of Minority and Women's Business Development
633 Third Avenue 33rd Floor
New York, NY 10017
646-846-7364
email: mwbusinessdev@esd.ny.gov
<https://ny.newnycontracts.com/FrontEnd/searchcertifieddirectory.asp>

The Omnibus Procurement Act of 1992 (Chapter 844 of the Laws of 1992, codified in State Finance Law § 139-i and Public

Authorities Law § 2879(3)(n)-(p)) requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than \$1 million:

(a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority- and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;

(b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;

(c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and

(d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

21. RECIPROCITY AND SANCTIONS PROVISIONS. Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively, codified in State Finance Law § 165(6) and Public Authorities Law § 2879(5)) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 2023, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii.

22. COMPLIANCE WITH BREACH NOTIFICATION AND DATA SECURITY LAWS. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law §§ 899-aa and 899-bb and State Technology Law § 208).

23. COMPLIANCE WITH CONSULTANT DISCLOSURE LAW. If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal or similar services, then, in accordance with Section 163 (4)(g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual

employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.

24. PROCUREMENT LOBBYING. To the extent this agreement is a “procurement contract” as defined by State Finance Law §§ 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law §§ 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

25. CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS.

To the extent this agreement is a contract as defined by Tax Law § 5-a, if the contractor fails to make the certification required by Tax Law § 5-a or if during the term of the contract, the Department of Taxation and Finance or the covered agency, as defined by Tax Law § 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.

26. IRAN DIVESTMENT ACT. By entering into this Agreement, Contractor certifies in accordance with State Finance Law § 165-a that it is not on the “Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012” (“Prohibited Entities List”) posted at: <https://ogs.ny.gov/iran-divestment-act-2012>

Contractor further certifies that it will not utilize on this Contract any subcontractor that is identified on the Prohibited Entities List. Contractor agrees that should it seek to renew or extend this Contract, it must provide the same certification at the time the Contract is renewed or extended. Contractor also agrees that any proposed Assignee of this Contract will be required to certify that it is not on the Prohibited Entities List before the contract assignment will be approved by the State.

During the term of the Contract, should the state agency receive information that a person (as defined in State Finance Law § 165-a) is in violation of the above-referenced certifications, the state agency will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then the state agency shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, imposing sanctions,

seeking compliance, recovering damages, or declaring the Contractor in default.

The state agency reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities list after contract award.

27. ADMISSIBILITY OF REPRODUCTION OF CONTRACT. Notwithstanding the best evidence rule or any other legal principle or rule of evidence to the contrary, the Contractor acknowledges and agrees that it waives any and all objections to the admissibility into evidence at any court proceeding or to the use at any examination before trial of an electronic reproduction of this contract, in the form approved by the State Comptroller, if such approval was required, regardless of whether the original of said contract is in existence.

ABSTRACT OF AUDITED VOUCHERS

GENERAL FUND NO 5/2023

DATE OF AUDIT:

May 2, 2023

Transac #	4903-4950		
4908	Abbey Ice	Water Service Village Hall	33.50
4926	Aflac	supplemental insurance for Employees	579.98
4921	Aflac Vision	Vision Insurance	30.65
4925	Brooker Engineering	Engineering Services - March 2023	9,126.50
4946	Cioffi Services	Martha Road Drainage Improvements	169,540.00
4905	Civic Plus	Village Website	6,180.00
4922	Creighton Manning	Willow Tree Road Sidewalk Project	5,075.51
4903	Edmonds GovTech	IPS Maintenance & Tax Program Maint	2,647.10
4919	Extreme Pavers & Masonry	Village Hall and Park Mnaintenance	1,810.00
4914	FYS	Service support contract	6,500.00
4913	Guido-Downey, Camille	Death Certificates	200.00
4916	International Code Council	Membership	145.00
4904	J & K Backflow	Annual Backflow Prevention Test	100.00
4929	John P. LaRue	Playground Inspection	789.00
4910	Justice Court	Refund of overpayment for Comptroller	30.00
4927	M.J. Engineering	Traffic Calming Analysis - E. Willow Tree Rd	2,500.00
4915	M & T Credit card	Credit Card Activity March 2023	736.97
4911	NYCOM	Annual Membership 6/23-5/24	3,022.00
4918	New York State Health Ins. Plan	Health Insurance June 2023	12,694.42
4912	NYS Municipal Workers Comp Alliance	Workers Comp Funding Contribution 5th Installm	1,013.50
4909	Office of the State Comptroller	NYS Share of Court fines- March 2023	3,992.00
4930	On Site Confidential Shredding	Shred BD files	444.00
4923	Optimum	internet service - May 2022	364.27
4907	Orange & Rockland	4/13/23 67754-57000 Village Hall Service	506.23
		4/12/2023 31214-49002 Willow Tree Park	23.47
		4/12/2023 55471-01007 Lime Kiln Park	124.66
		4/19/2023 71828-28009 Street Lights	3,721.96
4924	Press, Bill	Mileage Reimbursement	188.64
4906	Shell Ann Printing	Cards and office supplies	214.99
4920	Veolia	Water Service Village Hall	14.16
4917	TIAA Commercial Finance	Copy Machine Rental -	215.00
4931	Town of Ramapo	May 2023 Highway Maintenance	35,617.40
4947	Zarin & Steinmetz	Professional Service	6,376.50
4928	Zebra Cleaning Services	April 2023 cleaning services	455.00
	Total Vouchers		275,012.41
was			
4934	Vera Brown	Planning March 2023-May 2023	500.00
4932	Albert Tew	Planning March 2023-May 2023	250.00
4937	Joseph Zupnik	Planning March 2023-May 2023	250.00
4938	Josh Scheinberg	Planning March 2023-May 2023	250.00
4939	Lon Lieberman	Planning March 2023-May 2023	250.00
4940	Neal Wasserman	Planning March 2023-May 2023	250.00
4944	Vaness Caren	Planning March 2023-May 2023	250.00
4942	4948 Menny Schwab	Zoning March 2023-May 2023	333.32
	4941 Randy Marlin	Zoning March 2023-May 2023	250.00
4933	4950 Caroline Anderson	Zoning March 2023-May 2023	166.66
	4935 Dennis Dale	Zoning March 2023-May 2023	250.00
	4943 Stephanie Collantes	Zoning March 2023-May 2023	250.00
4936	4949 Jonathan Gewirtz	Zoning March 2023-May 2023	333.32
	4945 Richard Weinberg	Zoning March 2023-May 2023	250.00
Note: two signatures required over \$30,000 (7/7/15)			278,845.71

TO THE TREASURER OF THE VILLAGE:

In Witness Whereof, I have hereunto set my hand as Village Clerk _____ of the
Village of Wesley Hills on this _____ 2023

ABSTRACT OF AUDITED VOUCHERS

GENERAL FUND NO 5/2022

DATE OF AUDIT:

May 10, 2022

Transac #	4903-4947		
4908	Abbey Ice	Water Service Village Hall	33.50
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4921	Aflac Vision	Vision Insurance	30.65
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4944	Vaness Caren	Planning March 2023-May 2023	250.00
4942	Menny Schwab	Zoning March 2023-May 2023	500.00
4941	Randy Marlin	Zoning March 2023-May 2023	250.00
4933	Caroline Anderson	Zoning March 2023-May 2023	250.00
4935	Dennis Dale	Zoning March 2023-May 2023	250.00
4943	Stephanie Collantes	Zoning March 2023-May 2023	250.00
4936	Jonathan Gewirtz	Zoning March 2023-May 2023	250.00
4945	Richard Weinberg	Zoning March 2023-May 2023	250.00
Note: two signatures required over \$30,000 (7/7/15)			279,012.41

TO THE TREASURER OF THE VILLAGE:

In Witness Whereof, I have hereunto set my hand as Village Clerk _____ of the
Village of Wesley Hills on this _____, 2023

7/25/2023

RECEIVED

JUL 25 2023

Village of Wesley Hills

VILLAGE OF WESLEY HILLS

432 Route 306

Wesley Hills, NY 10952

Attn: Board of Trustees, Village of Wesley Hills

John Lane, Wesley Hills Building Inspector

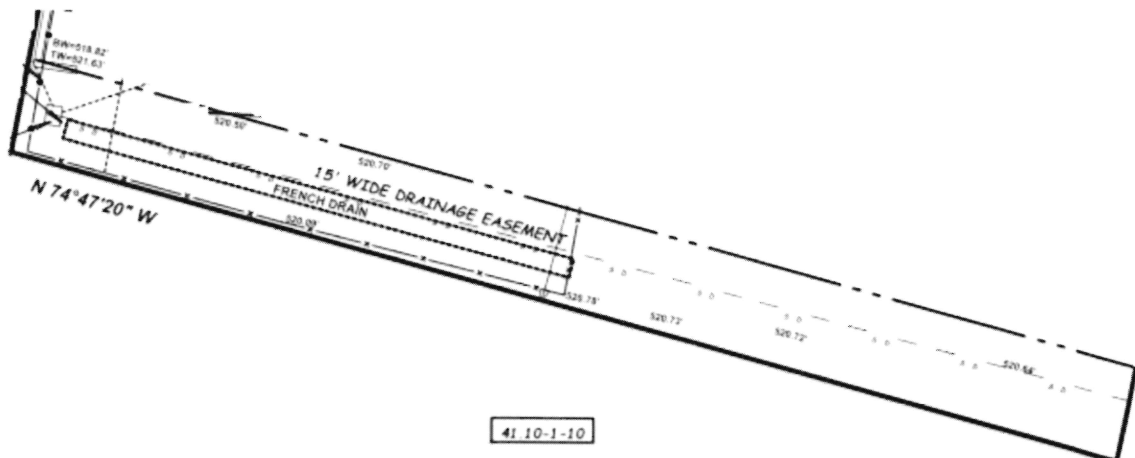
Re: 3 Villa Lane, As-built Review (x2)

Dear Board of Trustees,

We are in receipt of the As-built review (x2) of our residence, 3 Villa Ln, and are working diligently to address the comments contained within so that a final certificate of occupancy can be issued. Item #3 on the review states:

"French drain, fencing, landscaping, and retaining wall appear to be located within the 15' wide drainage easement. These items shall be relocated north outside of the easement."

An image of the easement is referenced below:



The easement currently contains the following items as pictured above:

A 6 foot privacy fence

Green giant arborvitae for privacy

A french drain with pebbles to facilitate proper drainage.

The return of the rear retaining wall

Relocating those items would come at significant expense, so in lieu we would like to issue a hold harmless statement to the Village to satisfy this line item.

In the event that any work needs to be performed to access the easement, we will ensure that the Village of Wesley Hills has the necessary access and will hold the village harmless for any work that is necessary to be performed.

Thank you,

Israel Nachfolger

Israel & Miriam Nachfolger



BROOKER ENGINEERING PLLC

NY OFFICE
74 Lafayette Avenue, Suite 501 845.357
Suffern, NY 10901 845.357.1896 Fax

Item 20.

NJ OFFICE
22 Paris Avenue, Suite 105 201.750.3527 Tel
Rockleigh, NJ 07647

April 5, 2023

Village of Wesley Hills
432 Route 306
Wesley Hills, New York 10952

Attn: Tara Roberts, Deputy Village Clerk

Re: 3 Villa Lane
As-built Review (x2)

BUILDING DEPT.
APR - 5 2023
VILLAGE OF WESLEY HILLS

Dear Ms. Roberts,

Our office has reviewed the "Final Survey for 3 Villa", prepared by Anthony Celentano, P.L.S. last revised February 7, 2023. A site visit was most recently performed by our office on April 5, 2023. At this time, we do not recommend the issuance of a Certificate of Occupancy. Our comments are as follows:

1. Updated survey indicates a 14.4' setback to pool patio and indicates "Remove portion of patio to ensure 15' ". Modifications to be made and survey to be updated reflecting this to avoid need for variance.
2. Superscript in Bulk Table for 'Pool From Lot Line' to be revised. It currently appears to indicate that the 14.4' setback was part of the granted variance in April 2018.
3. French drain, fencing, landscaping, and retaining wall appear to be located within the 15' wide drainage easement. These items shall be relocated north outside of the easement.
4. The water valve curb box and meter pit shown on survey.
5. Gas valve curb box could not be located during site visit. Curb box to be brought to grade if not done so already. Location to be shown on survey.
6. Signoff from the Town of Ramapo for sewer connection to be provided.
7. Sanitary sewer cleanout and connection inverts to be provided.
8. Broken sanitary sewer cleanout cap near property line to be replaced.
9. Existing contours to be provided. During the site visit, it does not appear that swales were constructed as per approved plot plan. Survey to display contours to ensure positive discharge of stormwater away from neighboring properties.
10. During the site visit, maintenance manhole grates for the drywells were not observed. Maintenance manhole access covers to be brought to grade or installed. Our office recommends a minimum of two maintenance grates at opposite ends of the drywell cluster.
11. Footing drain location and invert to be provided.
12. The installed driveway appears to pitch towards the garage and a trench drain has been installed along the length of the garage. Inverts and conveyance of the drainage pipe for the trench drain discharge to be provided.
13. Drywell overflow pipe connection and invert at the existing catch basin near the northeast corner of the property to be provided.
14. During the site visit, it was observed that a 4" PVC pipe was connected to and another 4" PVC pipe was daylighting at the edge of the existing catch basin at the southwest corner of the property. The 4" PVC pipe connecting to the catch basin shall be cut flush to the catch basin wall and properly mortared. The 4" PVC pipe daylighting at the catch basin should connect directly to the catch basin or cut back and have proper outlet protection installed. Both pipes, as well as their inverts, shall be show on survey.

- It was also observed that a piece of PVC pipe was left in bottom of catch basin and should be removed.
15. Fence height is now indicated as 6'. The installed fence built upon a 4-foot-plus retaining wall along the western property line may require a variance as per Village code 230-14-L-(3) & 230-14-L-(11). We defer further interpretation to the Building Inspector. A variance may not be necessary, should the Building Inspector deem the wall necessary, as per Village code 230-14-L-(5).
16. Certification by professional engineer for installation of retaining wall over 4 feet in height to be provided.
17. Certification for proper installation of pervious pavers in driveway to be provided.

Our office will continue our review upon submission of a revised survey, requested documentation, and satisfaction to the outstanding comments above.

Very truly yours,



Matthew Trainor, P.E.

Project Engineer

BROOKER ENGINEERING, PLLC

Y:\VILLAGES\WH Wesley Hills\WH0146 - 2018 Plot Plans\3 Villa Lane\2023-04-05 As-Built Survey Review x2.docx