

**INTERMUNICIPAL AGREEMENT
ROAD REPAVING – HIGHLAND AVENUE**

THIS AGREEMENT (the “Agreement”), dated as of the date this agreement is last executed by the parties hereto, is entered into by and between the **VILLAGE OF THOMASTON** (the “Village”), a Municipality duly organized and validly existing under the laws of the State of New York (the “State”), with offices located at 100 East Shore Road, Great Neck, New York 11023, and the **MANHASSET-LAKEVILLE WATER DISTRICT** (the “District”), a special improvement district duly organized and validly existing under the laws of the State, with offices located at 170 East Shore Road, Great Neck, New York 11023. The Village and the District are hereinafter referred to, jointly, as the “Parties”, and individually, as a “Party”.

WITNESSETH:

WHEREAS, pursuant to Article 8, Sections 1 and 2-a of the New York State Constitution, as effectuated by General Municipal Law §119-o municipal corporations are empowered to enter into agreements for the performance among themselves or one for the other of their respective functions, powers and duties on a cooperative or contract basis; and

WHEREAS, the District has previously engaged in the construction of District-related improvements (the “District Work”), in Highland Avenue in Thomaston, New York (hereinafter the “Roadways”); and

WHEREAS, the Village and the District desire to repave the Roadways in order to restore their condition and share in the cost of the repaving (altogether, the “Project”); and

WHEREAS, the Village and the District desire to cooperate to complete the Project; and

WHEREAS, by Resolution of the Village Board duly adopted at its meeting held on _____, 2023, the Village Board of Trustees authorized the Village to enter this Agreement with the District to complete the Project; and

WHEREAS, the Parties have determined that it is in their best interests to enter into this Agreement setting forth the terms, provisions, covenants and conditions with respect to the cooperative undertaking described in this Agreement.

NOW THEREFORE, in consideration of the terms, provisions, covenants and conditions more fully set forth below, the Parties agree as follows:

1. Cooperative Undertaking.

(a) The Village shall provide for the repaving of the Roadways using its contracted paving contractor (the “Repaving”). The Village shall be responsible for managing such Repaving and the activities of the paving contractor.

(b) Within thirty (30) days of the completion of the Repaving (notice of which shall be provided by the Village to the District’s Superintendent), the District shall pay the Village one-half (1/2) of the costs of Repaving (the “District Payment”). Upon payment of the District Payment to the Village, all District obligations with respect to the

restoration of the Roadways with respect to the District Work in the Roadways shall be deemed satisfied.

2. Term of Agreement.

(a) The term of this Agreement shall commence on the date this Agreement is last executed by the Parties hereto (the “Commencement Date”) and shall expire upon payment of the District Payment to the Village, unless earlier terminated upon written notice given pursuant to Section 2 (b) hereof.

(b) This Agreement may be terminated only upon written agreement between the Village and the District.

3. Status of Employees.

All Village employees whose services shall be utilized to implement the terms of this Agreement shall for all purposes remain the employees of the Village. All District employees participating in implementing the terms of this Agreement shall for all purposes remain the employees of the District.

4. Notices.

Unless otherwise specified in this Agreement, all notices required by this Agreement must be sent by certified mail, return receipt requested, as follows:

if mailed to the District, to:

Superintendent
Manhasset-Lakeville Water District
170 East Shore Road
Great Neck, New York 11023

with a copy to:

Christopher Prior, Esq.
McLaughlin & Stern LLP
1122 Franklin Avenue, Suite 300
Garden City, New York 11530

if mailed to the Village, to:

Office of the Village Clerk
Village of Thomaston
100 East Shore Road
Great Neck, NY 11023

5. Reserved.

6. Indemnification, Hold Harmless, Defense, Cooperation.

(a) To the fullest extent permitted by law, each Party (an "Indemnitor"):

(i) shall be solely responsible for and shall indemnify and hold harmless the other Party, and its officers, employees, agents, and servants (collectively, the "Indemnitees"), from and against any and all liabilities, losses, costs, expenses (including, without limitation, attorneys' fees and disbursements) and damages (collectively, "Losses") arising out of or in connection with this Agreement; provided, however, that nothing hereunder shall obligate an Indemnitor to indemnify or hold harmless an Indemnitee from and against any losses arising from the negligence of the Indemnitee.

(ii) shall, upon the Indemnitee's demand and at the Indemnitee's direction, promptly and diligently defend, at the Indemnitor's sole risk and expense, any and all suits, actions or proceedings which may be brought or instituted against one or more Indemnitees and which arise out of or in connection with Section 6(a)(i), and the Indemnitor shall pay and satisfy any judgment, decree, loss, or settlement in connection therewith.

(b) Each Party shall, and shall cause its respective employees, servants, agents, or independent contractors, to cooperate with the other Party in connection with the investigation, defense, or prosecution of any action, suit, or proceeding arising out of or in connection with Section 6(a)(i).

(b) The obligations of the Parties pursuant to Section 6(a) hereof shall not be limited by reason of enumeration of any insurance coverage provided under this Agreement.

(c) The provisions of this Section 6 shall survive the termination of this Agreement.

7. Enforcement by Third Parties. This agreement is not intended to grant any rights to any person or entity ("Person") other than the parties signatory hereto, and shall be enforceable only by the signatory parties.

8. Insurance.

The Village and the District agree to procure and maintain and furnish certificates of insurance evidencing commercial general liability insurance with a State admitted carrier holding an "A" rating from AM Best Company or equivalent covering the liability of the other Party and indemnifying, defending, and holding harmless the other Party, its agents, employees and representatives from any and all loss and/or damage arising out of the performance of this Agreement with a combined single limit (bodily injury/property damage) of Two Million Dollars (\$2,000,000). Each Party and its agents, employees, and representatives shall be named as additional insureds on said policies, and entitled to thirty (30) days advance written notice of any cancellation or termination thereof. Each Party shall also be required to procure and maintain workers' compensation insurance and disability benefits insurance, as evidenced by certificates or affidavits approved by the State Workers' Compensation Board pursuant to State Workers'

Compensation Law §§ 57(2) and 220(8).

9. No Arrears or Default.

Neither Party is in arrears to the other upon any debt or contract and it is not in default as surety, contractor, or otherwise upon any obligation to the other Party, including any obligation to pay taxes to, or perform services for or on behalf of, the other Party.

10. Assignment.

Neither party hereto may assign its rights and/or obligations hereunder without the prior written consent of the other party and any purported assignment without such consent shall be of no force and effect.

11. Section and Other Headings.

The section and other headings contained in this Agreement are for reference purposes only and shall not affect the meaning or interpretation of this Agreement.

12. Compliance with Law.

(a) The Village and the District shall comply with any and all applicable and relevant Federal, State and local Laws, including those relating to conflicts of interest, discrimination, procurement and confidentiality, in connection with its performance under this Agreement. As used in this Agreement the word “Law” means any and all statutes, rules, regulations, orders, ordinances, writs, injunctions, official resolutions, official interpretations, or decrees, as the same may be amended from time to time, enacted, adopted, promulgated, released, or issued, by or on behalf of any government or political subdivision thereof, quasi-governmental authority, court, or official investigative body.

(b) Records Access. The parties acknowledge and agree that all records, information, and data (“Information”) acquired in connection with performance or administration of this Agreement shall be used and disclosed solely for the purpose of performance and administration of the contract or as required by law. The Parties acknowledge that a Party’s information in the other Party’s possession may be subject to disclosure under Section 87 of the New York State Public Officer’s Law. In the event that such a request for disclosure is made, the Party being asked to disclose such information shall make reasonable efforts to notify the other Party of such request prior to disclosure of the Information so that the other party may take such action as it deems appropriate.

13. Governing Law; Severability.

This Agreement shall be governed by the laws of the State of New York. The provisions of this Agreement are intended to be severable. If for any reason any provision of this Agreement shall be held invalid or unenforceable in whole or in part, such provision shall be ineffective to the extent of such invalidity or unenforceability without in any manner affecting the validity or enforceability of the remaining provisions hereof.

14. Executory Clause.

Notwithstanding any other provision of this Agreement:

(a) Approval and Execution. The Village and/or the District shall have no liability under this Agreement (including any extension or other modification of this Agreement) to any Person unless (i) all relevant and required Village and District approvals have been obtained, including, if required, approval by the Village Board and the District Board of Commissioners, and (ii) this Agreement has been executed by the Mayor of the Village and the Chairman of the Board of Commissioners of the District.

(b) Availability of Funds. The Village and/or the District shall have no liability under this Agreement (including any extension or other modification of this Agreement) to any Person beyond funds appropriated or otherwise lawfully available for this Agreement.

15. Entire Agreement.

This Agreement represents the full and entire understanding and agreement between the parties hereto with regard to the subject matter hereof and supersedes all prior agreements (whether written or oral) of the parties relating to the subject matter of this Agreement.

IN WITNESS WHEREOF, the Parties have hereto set their hands as of the day and year first above written.

VILLAGE OF THOMASTON

By: _____
Steven Weinberg, Mayor

MANHASSET-LAKEVILLE WATER DISTRICT

By: _____
Mark Sauvigne, Chairman