

AGREEMENT FOR  
USE OF WATER INFRASTRUCTURE IMPROVEMENTS

This Agreement is made as of July 13, 2017 by and between the following parties:

COUNTY: NORTH CHAUTAUQUA COUNTY WATER DISTRICT  
A County Water District pursuant to  
Article 5-A of New York County Law  
Gerace Office Building  
Mayville, New York 14757-1007  
hereinafter called "County,"

-and-

CONTRACTOR: VILLAGE OF BROCTON, NEW YORK  
A Municipal Corporation  
34 West Main Street  
Brocton, New York 14716  
hereinafter called "Village."

WITNESSETH:

WHEREAS, pursuant to Resolutions 39-16 and 81-16, the Chautauqua County Legislature established the North Chautauqua County Water District (the "District"), to comprise an area in Chautauqua County consisting of parts of the towns of Portland, Pomfret, Sheridan and Hanover and all of the town of Dunkirk, and authorized bonding in a maximum amount of \$11,750,000 for the cost of the initial capital improvements for the District; and

WHEREAS, the Village of Brocton (the "Village"), which will be one of the six (6) municipal purchasers of water from the District, has been offered a \$2,000,000 grant and a \$5,575,500 interest free loan from the New York State Environmental Facilities Corporation (NYSEFC) to pay for a portion of the proposed capital improvements for the District, to include the construction of a new 500,000 gallon water storage tank on the

site of the Village water treatment plant, a new water booster pump station on the site of the Town of Portland water storage tank on NYS Route 5, and the installation of 10,000 linear feet of 8-inch PVC and 28,000 linear feet of 16-inch PVC along NYS Route 5 and Willow Road, along with valves, fire hydrants, and appurtenances (the "Capital Improvements"); and

WHEREAS, in order for the Village and the District to take advantage of the aforementioned NYSEFC grant and financing, it is necessary for the Village to own the Capital Improvements during the term of the NYSEFC loan, and enter into an inter-municipal agreement ("IMA") with the District for the use, operation, maintenance, and payment of the debt service on the loan;

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. Use, Operation, and Maintenance. After the Village's completion of the construction of the Capital Improvements and during the term of the IMA, the District shall have exclusive use of the Capital Improvements for District purposes, and be solely responsible for the operation and maintenance of the Capital Improvements.

2. Term. The term of the IMA shall commence upon execution and extend to the end of the term of the loan between NYSEFC and the Village, being thirty (30) years after the date the Village closes on the long-term financing with NYSEFC.

3. Payment. The District will make an annual payment to the Village equal to the amount of the Village's NYSEFC debt service payment obligation. Said annual payment shall be made not later than five (5) days prior to the Village's annual payment due date for its NYSEFC debt service obligation.

4. State Reimbursement. In the event the Village receives partial reimbursement for the Capital Improvements from

the New York State Department of Corrections and Community Supervision (DOCCS), the reimbursement funds shall be transferred to the District.

5. Transfer of Capital Improvements Upon Termination of IMA. After the last loan payment is made by the Village to NYSEFC, the ownership of the Capital Improvements will be transferred by the Village to the District.

6. Indemnification. The District shall indemnify and hold Village harmless from any liability, claim, demand, or judgment, including the costs of defense, arising from or relating to its performance of this Agreement, including, but not limited to, its use of the Capital Improvements.

The Village shall indemnify and hold the District harmless from any liability, claim, demand, or judgment, including the costs of defense, arising from or relating to its performance of this Agreement, including, but not limited to, its construction of the Capital Improvements.

7. Independent Contractor. The District is independent from the Village and not an employee, servant, or agent of the Village. The District shall have the exclusive responsibility for the means, manner, and method of performing its obligations under the terms of this Agreement.

8. Assignment. The District shall not assign, transfer, convey, sublet, or otherwise dispose of this Agreement or any of its right, title, or interest therein, or the power to execute this Agreement, without the prior written consent of the Village.

9. Entire Agreement. This Agreement contains the sole and entire agreement between the parties relating to the services provided hereunder and shall supersede any and all other agree-

ments between the parties. Any other statements or representations made by either party are void and have no force or effect.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first set forth above.

NORTH CHAUTAUQUA COUNTY WATER DISTRICT

BY *Donald Steger* DATE 7/13/17  
Donald Steger, Chairman

VILLAGE OF BROCTON

BY *Richard Frost* DATE 6-21-17  
Richard Frost, Mayor

STATE OF NEW YORK )  
COUNTY OF CHAUTAUQUA ) ss:

On the 13<sup>th</sup> day of July, in the year 2017 before me, the undersigned, personally appeared DONALD STEGER, 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 executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

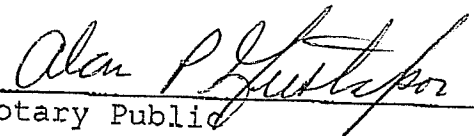
LORI J. FOSTER, #01F06244339  
Notary Public, State of New York  
Qualified in Chautauqua County  
My Commission Expires July 5, 2019

*Lori J. Foster*  
Notary Public

STATE OF NEW YORK )  
COUNTY OF CHAUTAUQUA ) ss:

On the 21<sup>st</sup> day of June, in the year 2017, before me, the undersigned, personally appeared RICHARD FROST, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

ALAN P. GUSTAFSON  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 01GU6343691  
Qualified In Chautauqua County  
My Commission Expires 06-13-2020

  
Notary Public