

INTERMUNICIPAL AGREEMENT

This is an Agreement between the Town of Mamaroneck, a municipal corporation existing under the laws of the State of New York with offices at 740 West Boston Post Road, Mamaroneck, New York 10543 (Town) and the Village of Mamaroneck, a municipal corporation existing under the laws of the State of New York with offices at 123 Mamaroneck Avenue, Mamaroneck New York 10543 (Village).

Recitals

Whereas, the Town's sanitary sewer line on Hommocks Road does not extend south of the manhole located just north of Eagle Knolls Road, and

Whereas, the owner of a parcel located in the Village ~~has decided to~~has agreed to construct the Extension (defined in paragraph 1, below), at his sole cost and expense, so that the property at 203 Hommocks Road will have sanitary sewer service, and

Whereas, though the majority of the Extension will be located within the Village, approximately 720 feet thereof will lie between the municipal boundary line separating the Town and the Village and the manhole located just north of Eagle Knolls Road and therefore will be located within the unincorporated area of the Town, and

Whereas, owners of other parcels in the Village may abandon their septic systems and convert to municipal sewer service by tying their waste lines into the Extension, and

~~Whereas, there is an unincorporated area of the Town along Hommocks Road that lies between 203 Hommocks Road and the Long Island Sound, and~~

~~Whereas, the owners of parcels in this unincorporated area of the Town may abandon their septic systems and convert to municipal sewer service by tying their properties' waste lines~~

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into the Extension, and

Whereas, there are certain homes lying along Hommocks Road south of the manhole located just north of Eagle Knolls Road that are in the unincorporated area of the Town that also may abandon their septic systems and convert to municipal sewer service by tying their waste lines into the Extension, and

Whereas, ordinarily the Village compensates the Town for the use of the Town's sanitary sewer system by parcels located within the Village, and

Whereas, ordinarily the Town is responsible for approving the construction of, and maintaining sections of sewer lines that lie within the unincorporated area of the Town, and

Whereas, the Town and the Village have concluded that by co-operating with each other, they can reduce their respective costs, afford sanitary sewer service to certain residents of the Town and the Village who currently do not have municipal sewer service available to them and potentially improve the environment by eliminating septic systems, and

Whereas, General Municipal Law §119-o authorizes a municipality to enter into or assign a municipal function to another municipality by executing an inter-municipal agreement with that municipality.

Now, therefore, in consideration of the terms and conditions below, the Town and the Village agree as follows:

First: For the purpose of this Agreement,

"Addition to the Extension" means a sanitary sewer line that may be constructed to connect to the Extension so that properties that lie in the unincorporated area of the Town

between 203 Hommocks Road and the Long Island Sound may connect waste lines to a sanitary sewer line that is connected to the Extension.

“Extension” means the sanitary sewer line under Hommocks Road that will constructed at the sole cost and expense of the owners of 203 Hommocks Road from the manhole that exists near 203 Hommocks Road to the manhole located just north of Eagle Knolls Road.

“Installation” means the original construction of the Extension.

Second: The parties confirm the accuracy of the factual statements made in the Recitals.

Third: (a) The Village shall be responsible for

(i) reviewing and exercising the regulatory authority of the Town and the Village with respect to the engineering and construction plans for the Extension which must be designed to transport at least 55 gallons of effluent per minute, and the Town delegates to the Village its authority to do so;

(ii) issuing permit(s) therefor, and verifying that the person performing the Installation has obtained all permits required by other governmental agencies having jurisdiction over the Installation, and

(iii) regulating the traffic on Hommocks Road in the area of the Installation until the Installation is completed.

(b) The Village shall retain all fees paid to it in connection with reviewing the plans for the Extension and the Installation.

(c) The Village will not issue any permits allowing waste lines to be connected to the Extension until it accepts dedication of the Extension.

(d) The Village will not charge the Town a sewer use fee for the discharge of waste through the Extension by any parcel lying within the unincorporated area of the Town.

(e) The Village may charge the owner of a parcel lying within the unincorporated area of the Town the same fees it would charge to a resident of the Village for connecting waste lines from that parcel to the Extension.

(f) After Installation is completed, the Village ~~and not the Town~~, shall maintain, repair, replace or reconstruct the Extension, ~~including~~ ~~excluding~~ the section thereof that will lie within the unincorporated area of the Town when and if necessary. The Village, at its own cost and expense, shall repave and where appropriate, repaint the sections of Hommocks Road or Eagle Knolls Road that are disturbed when it performs work pursuant to this agreement.

(g) If after the Town gives the Village twenty (20) business days' notice of the need for the Village to satisfy its obligations under paragraph Third (f), the Village fails to satisfy those obligations in ~~either the section of the Extension that will lie within the unincorporated area of the Town and~~ the section of the Extension that will lie wholly within the Village, the Town shall have the right to do so.

(h) The Village shall reimburse the Town for all of its "soft" and "hard" costs in connection with performing the work described in Third (g), including the pro-rated portion of the salaries (including overtime) of Town employees who perform or supervise all or some of the work.

Fourth: The Town shall not charge the Village a sewer use fee for the discharge of waste from any parcel located within the Village that has waste lines tied into the Extension.

Fifth: The Town grants the Village an easement to excavate the portion of Hommocks Road lying between the municipal boundary line between the Town and the Village and the manhole located just north of Eagle Knolls Road for the purpose of maintaining, repairing, replacing or reconstructing the Extension. This grant includes allowing the Village to store vehicles, equipment and materials needed for the work to be done on Town-owned property in the vicinity of the intersection of Eagle Knolls Road and Hommocks Road.

Sixth: (a) The Village grants the Town an easement to excavate the portion of Hommocks Road lying within the Village in the area of the Extension for the purpose of exercising the rights given to the Town under paragraph Third (f) and/or for the purpose of installing, maintaining, repairing, replacing or reconstructing an Addition to the Extension. This grant includes allowing the Town to store vehicles, equipment and materials needed for the work to be done on Village-owned property in the vicinity of the manhole that exists near 203 Hommocks Road. The Town may assign the rights granted to it in this subparagraph to a private contractor engaged by the owner of property along the unincorporated section of Hommocks Road for the purpose of installing an Addition to the Extension provided that such entity agrees to comply with the obligations imposed upon the Town hereunder.

(b) The Village shall not be responsible for the cost and expense of installing an Addition to the Extension. After an Addition to the Extension is connected to the Extension, the Town, at its sole cost and expense, shall maintain, repair, replace or reconstruct the Addition to the Extension, including the section thereof that will lie within the Village.

(c) The Town, at its own cost and expense, shall repave and where appropriate, repaint

the sections of Hommocks Road that are disturbed when the Town performs work pursuant to this agreement.

(d) (i) If after the Village gives the Town twenty (20) business days' notice of the need to maintain, repair, replace or reconstruct the section of the Addition to the Extension lying within the Village or to repave and where appropriate, repaint the section of Hommocks Road lying within the Village that the Town disturbs when it performs work pursuant to this agreement, the Town does not do so, the Village shall have the right, but not the obligation, to perform such work.

(ii) The Town shall reimburse the Village for all of its "soft" and "hard" costs in connection with performing the work described in Sixth (d) (i), including the pro-rated portion of the salaries (including overtime) of Village employees who perform or supervise all or some of the work.

Seventh: The areas disturbed when work is performed by either the Village or the Town pursuant to this agreement will not be left in a hazardous condition when work ceases at the end of a day.

Eighth: Each party shall indemnify and hold the other harmless from and against all costs, damages or claims that may arise as a result of, or in connection with the negligent performance of its obligations under this agreement, including without limitation, liability for personal injury, wrongful death or property damage and reasonable attorney's fees and litigation expense.

Ninth: The parties may delegate the rights granted to them in this agreement to any municipal authority or private company; provided that such entity (a) agrees to comply with the

obligations imposed upon that party hereunder and (b) maintain insurance policies satisfactory to both the Town and the Village with respect to which it names both the Town and the Village as additional insureds. The party making the delegation continues to be responsible to perform those obligations if that entity fails to do so.

Tenth: (a) A notice that is required or may be given under this agreement must be in writing. An electronic communication shall be considered a “writing”.

(b) A notice shall be deemed to have been made either (i) on the day that it is hand delivered or sent electronically to the other party and a person who is entitled to a copy of the notice or (ii) on the first business day after it is sent, if it is sent by a reputable overnight courier or (iii) on the third business day after it is mailed, if it is mailed by certified mail, return receipt requested. The addresses of the parties and the names of the persons who are entitled to receive a notice or a copy of a notice (“addressees”) are:

If the Town:	Town of Mamaroneck 740 West Boston Post Road Mamaroneck, NY 10543 Att: Town Administrator
With a copy to:	Town of Mamaroneck 740 West Boston Post Road Mamaroneck, NY 10543 Att: Town Attorney
If the Village:	Village of Mamaroneck 123 Mamaroneck Avenue Mamaroneck New York 10543 Att: Village Manager
With a copy to:	Village of Mamaroneck 123 Mamaroneck Avenue Mamaroneck New York 10543

Att: Village Attorney

or to such other address that an addressee shall have specified in a notice to the other addressees.

(c) The requirement to give twenty (20) business days' notice contained in paragraphs Third (g) and Sixth (d) (i) and the requirement that notice be in writing shall not apply if an emergency exists. If an emergency occurs, the party giving notice shall be required only to give or to attempt to give such notice to the other party as it can, based upon the exigencies then existing before performing the work necessary to end the emergency.

Eleventh: The failure of either party to insist upon the strict performance of, or to commence an action to enforce any provision of this agreement shall not be construed as a waiver of the right to do so should a breach of this agreement occur subsequently.

Twelfth: Whenever required or appropriate, words in the singular number shall be construed as if they were in the plural number and words of one gender shall be construed as if they were in either of the other two genders.

Thirteenth: If any court determines that a portion of this agreement is invalid, illegal or unenforceable, the remaining provisions shall remain in effect.

Fourteenth: This agreement constitutes the entire understanding between the parties regarding the subject matter contained herein. The parties acknowledge that there have been no representations, warranties, covenants or understandings other than those expressly set herein and that all prior agreements between the parties regarding the subject matter contained herein – whether oral or written – are merged into this agreement and do not survive it as this agreement expresses their entire understanding on the subject matter contained herein.

Fifteenth: This agreement shall be governed by and construed in accordance with the laws of the State of New York without regard to principles of conflicts of law.

Sixteenth: This agreement may only be changed by a writing executed by a duly authorized representative of each party.

Seventeenth: This agreement may be executed in one or more counterparts, each of which shall be considered an original. Facsimile signatures or signatures that are transmitted electronically shall be considered original signatures.

Eighteenth: Except to the extent permitted by paragraph Ninth, neither party shall have the right to assign, transfer, convey, pledge or encumber his rights under this agreement.

In Witness Whereof, the Town and the Village have agreed to the terms and conditions set forth therein.

Town of Mamaroneck

By: _____
Stephen V. Altieri, Town Administrator Date: _____

Village of Mamaroneck

By: _____
Jerome Barberio, Village Manager Date: _____

Certificate of Authorization

I, Christina A. Battalia, certify that (a) I am the Town Clerk of the Town of Mamaroneck, a municipality existing under the laws of the State of New York, (b) Stephen V. Altieri, the person who signed this Agreement on behalf of the Town of Mamaroneck ("Town"), is the Town Administrator of the Town, (c) Mr. Altieri was authorized by the Town Board of the Town to execute this Agreement on behalf of the Town and (d) such authority was in full force and effect when Mr. Altieri executed this Agreement on behalf of the Town.

Christina A. Battalia, Town Clerk

Certificate of Authorization

I, Augustino A. Fusco, certify that (a) I am the Village Clerk-Treasurer of the Village of Mamaroneck, a municipality existing under the laws of the State of New York, (b) Jerome Barberio, the person who signed this Agreement on behalf of the Village of Mamaroneck ("Village"), is the Village Manager of the Village, (c) Mr. Barberio was authorized by the Board of Trustees of the Village to execute this Agreement on behalf of the Village and (d) such authority was in full force and effect when Mr. Barberio executed this Agreement on behalf of the Village.

Augustino A. Fusco, Village Clerk-Treasurer

Prep'd: September ~~14~~²³, 2020

