

The Plattsburgh Compact between the City and the Town

WHEREAS, the City of Plattsburgh Common Council, under the leadership of Mayor Rosenquest, and the Town of Plattsburgh Town Board, under the leadership of Supervisor Cashman, do hereby make a commitment to come together on this 16th day of April in the year 2021 with a reconciling spirit, to resolve the conflicts of past administrations that painfully bleed into the present day, and to focus on mutually beneficial solutions, shared goals, and regional successes that will establish a strong foundational bedrock that will last far into the future; and

WHEREAS, the respective councils of the City and Town hereby vow to proceed from this day forth with a commitment to **communication**: so we may speak for ourselves and hear each other; **collaboration**: so we may plan and work together on projects, especially those that create shared prosperity; and **compromise**: so we may resolve disputes by mutual allowance; and

WHEREAS, the respective councils acknowledge that the work we do, the relationships we build, and initiatives we create all build towards a legacy that will impact not only the current but also future generations of residents that call Plattsburgh home, and

WHEREAS, both municipalities value and wish to act upon the proven benefits of intentional community development, including Smart Growth, comprehensive land use, zoning, Complete Streets and any future planning methods that serve to embrace our natural resources, and enrich the lives of our residents and the shared economy of our communities; and

WHEREAS, both municipalities recognize the vast public safety responsibility and economic power of quality infrastructure, principally clean and safe water—one of our most precious resources—and waste-water treatment, an equally important and potentially valuable resource; and

WHEREAS, both municipalities host assets shared by local residents and enjoyed by visitors, and both municipalities own land of significant value, or would benefit from the acquisition of certain lands of value located within the boundary of the other for immediate cost savings and/or long term planning; and

WHEREAS, litigation between the municipalities should be a last resort and any on-going litigation strains the fabric of our community, wastes municipal resources and hurts relationships, negates the urgency of progress and diminishes community confidence with far greater cost than benefit to the residents of the City or Town.

NOW THEREFORE BE IT RESOLVED that the City of Plattsburgh and Town of Plattsburgh enter into this Plattsburgh Compact (“Compact”) to re-claim and re-establish our municipal partnership and uphold the virtues of communication, collaboration, and compromise. This Compact describes a specific framework so we can accomplish numerous goals, including: the resolution of all pending litigation between the municipalities; a binding path to resourcefully and efficiently adjust the boundaries of the City and the Town so that both municipalities mutually benefit; a joint planning initiative for areas where our communities intersect; and a joint infrastructure initiative, which includes the water and waste-water systems and the Plattsburgh Organics Recycling Plant; now

BE IT FURTHER RESOLVED that the City and Town agree to develop and execute a binding Settlement Agreement in which the City and Town will, in consideration of each component of the Settlement Agreement, mutually discontinue the “Falcon Seaboard Litigation” (Index No. 2018-0333), and mutually discontinue all litigation involving or related to the Reeve’s Lane Annexation Petition (AD3d Case No. 532792). As part of that Settlement Agreement, the City and Town will commit to commence and facilitate the legal process allowing the City to expeditiously adjust its boundaries to include the City-owned parcels located at 205 Reeves Lane (Tax Map No. 220.-4-32) and 217 Sharron Avenue (Tax Map No. 233.7-1-14), while providing payments established in the 5-year District Protection Program; and allowing the Town to commence and facilitate the legal process to expeditiously adjust its boundaries to include the County-owned parcel located at 17/27 LeMay Drive (Tax Map No. 233.6-1-2.1); now

BE IT FURTHER RESOLVED that the City and Town shall forthwith develop and enter into a Memorandum of Agreement to work toward the advancement of shared opportunities for comprehensive planning and zoning initiatives that lead to direct commercial corridor enhancements, including, but not limited to, (i) those on Cornelia Street, Rugar Street, Commodore Thomas MacDonough Highway, Route 9 South and South Peru Street; (ii) to establish procedures and processes that will foster compatible zoning and development at municipal boundaries, complete with outlined coordination between the City and Town where development projects are substantially contiguous to the municipal boundary and/or may result in impacts to traffic, utilities, community character, and development patterns within the adjacent community and (iii) establish a process for meaningful discussion and compromise in the event that future mutually beneficial boundary line adjustment opportunities arise; now

BE IT FURTHER RESOLVED that the City and Town shall forthwith develop and enter into a Memorandum of Agreement to explore opportunities related to enhancements to and resiliencies and efficiencies of each municipality’s individual infrastructure and that of shared infrastructure in the future which shall include water systems, waste water systems, and the Plattsburgh Organics Recycling Plant; now

BE IT FURTHER RESOLVED that the Common Council of the City of Plattsburgh and the Town Board of the Town of Plattsburgh do hereby come together on this 16th day of April in the year 2021 with mutual respect and appreciation for one another and with a renewed commitment to strive for generational and transformational change that creates harmony, prosperity and lasting impacts for the people and businesses of greater Plattsburgh; and finally,

BE IT FURTHER RESOLVED that the Common Council and the Town Board respectfully beseech future administrations to sustain this vision and to always reimagine what can be accomplished through communication, collaboration and compromise.

TOGETHER we sign this Compact in a spirit of partnership and public service, understanding that we serve the citizens of our respective communities and that our citizens deserve the best government possible.

IN WITNESS WHEREOF, the undersigned have executed this Compact on this 16th day of April, 2021.

CITY OF PLATTSBURGH

TOWN OF PLATTSBURGH

By: _____

By: _____

Name: Christopher Rosenquest

Name: Michael Cashman

Title: Mayor

Title: Town Supervisor

SETTLEMENT AGREEMENT

Between the CITY OF PLATTSBURGH, a political subdivision of the State of New York having its principal office at 41 City Hall Place, Plattsburgh, NY 12901 ("**City**") and the TOWN OF PLATTSBURGH, a political subdivision of the State of New York having its principal office at 151 Banker Road, Plattsburgh, NY 12901 ("**Town**") as of April 16, 2021 ("**Effective Date**")

WITNESSETH:

WHEREAS, the City and Town have entered into that certain "Plattsburgh Compact Between the City and the Town" dated as of April 16, 2021 (the "**Plattsburgh Compact**") whereby their respective legislative bodies have recognized the benefits of cooperation and their mutual desire to resolve outstanding grievances; and

WHEREAS, at times those grievances have resulted in litigation or threatened litigation between the City and Town; and

WHEREAS, a brief description of such litigation and potential litigation claims is beneficial; and

WHEREAS, in or around 1992, Saranac Power Partners, L.P. entered into a Payment in Lieu of Tax Agreement (PILOT) with the Clinton County Area Development Corp. and the County of Clinton Industrial Development Agency; and

WHEREAS, the City and Town entered into a separate agreement which provided that the Town would pay the City two-thirds of the monies it received pursuant to the PILOT agreement; and

WHEREAS, in 2018, the City commenced an action against the Town in Supreme Court, Clinton County, principally to enforce its interpretations of the provisions of such agreement, which action was filed under Index Number 255250 and is commonly referred to as the "**Falcon Seaboard Litigation**"; and

WHEREAS, the Town appeared in the Falcon Seaboard Litigation and raised affirmative defenses and interposed counterclaims against the City; and

WHEREAS, such litigation remains pending; and

WHEREAS, unrelated to the Falcon Seaboard Litigation, in 2019 the City began to pursue annexation of certain City-owned land located in the Town pursuant to New York State General Municipal Law Article 17 (the "**Reeves Lane Annexation**"); and

WHEREAS, the land at issue in the Reeves Lane Annexation consists of 224± acres identified by Clinton County tax map parcel numbers 220.-4-31.2 and 220.-4-32, which lands are located within the municipal boundaries of the Town but are adjoining the municipal boundaries of the City; and

WHEREAS, during the course of the municipal review process of the Reeves Lane Annexation, the Town commenced a combined declaratory judgment action and CPLR Article 78 proceeding in Supreme Court, Clinton County on or about September 1, 2020 (Index Number 2020-20563) seeking to enjoin the scheduled Reeves Lane Annexation public hearing and seeking a determination concerning public hearing requirements and limitations pursuant to COVID-19 executive orders (the "**Public Hearing Litigation**"); and

WHEREAS, following denial of the claims raised therein, the Town filed a Notice of Appeal dated October 21, 2020, bearing Supreme Court Appellate Division, Third Department docket number 532261 ("**Public Hearing Appeal**"); and

WHEREAS, the Town and City conducted a joint public hearing concerning the proposed annexation of Reeves Lane on September 24, 2020; and

WHEREAS, the Town raised a number of objections to the Reeves Lane Annexation and ultimately adopted a Determination and Order on December 17, 2020, concluding, among other things, that the Reeves Lane Annexation is not in the overall public interest; and

WHEREAS, the City adopted a Determination and Order on December 3, 2020, concluding that the Reeves Lane Annexation is in the overall public interest and the City thereafter commenced an original proceeding on or about January 18, 2021 in the Supreme Court Appellate Division, Third Department pursuant to General Municipal Law Article 17, seeking a judicial determination as to whether the Reeves Lane Annexation is in the overall public interest ("**Reeves Lane Annexation Litigation**"); and

WHEREAS, the Town made a motion to dismiss the Reeves Lane Annexation Litigation, alleging that the Reeves Lane Annexation petition was procedurally barred as a result of the City's failure to timely commence a proceeding under CPLR Article 78 to challenge the Town's objections to the form and content of the annexation petition; and

WHEREAS, in addition, the Town has indicated that it may commence a separate CPLR Article 78 proceeding to challenge the City's adoption of a Negative Declaration pursuant to the State Environmental Quality Review Act (SEQRA) during its review of the Reeves Lane Annexation; and

WHEREAS, the Town and City previously entered into a separate agreement effective March 1, 2021 to toll the statute of limitations applicable to the Town's potential SEQRA-related claims and to allow the parties the opportunity to pursue settlement ("**Tolling Agreement**"); and

WHEREAS, the City and Town wish to resolve the foregoing litigation matters through this Settlement Agreement and further wish to provide a means by which they may modify their shared municipal boundary line to effectuate their respective goals, all as set forth more fully herein.

NOW, THEREFORE, BE IT AGREED BY AND BETWEEN THE PARTIES AS FOLLOWS:

I. PURPOSE

This Settlement Agreement is entered into by and between the City and Town in an effort to forge a more positive relationship between these neighboring communities and to encourage and pursue a more cooperative and mutually beneficial resolution to outstanding controversies.

II. RECITALS

The foregoing recitals are made a part hereof and are incorporated into this Settlement Agreement.

III. BINDING AGREEMENT

This Settlement Agreement constitutes a binding Agreement between the Town and City and each party's respective obligations set forth herein constitute valuable consideration, the sufficiency of which is hereby acknowledged by the parties. Each party has been aided by legal counsel of its choosing to negotiate and draft the terms contained herein and each is entering into this Agreement of its own volition and accord and without duress.

IV. DISCONTINUANCE AND WAIVER OF REEVES LANE ANNEXATION-RELATED LITIGATION CLAIMS

In reliance upon the covenants and conditions contained herein, the City and Town agree as follows:

A. **DISCONTINUANCE OF REEVES LANE ANNEXATION LITIGATION.** The City agrees to discontinue the Reeves Lane Annexation Litigation and the Town and City will execute a Stipulation of Discontinuance substantially similar to the Stipulation attached to and incorporated into this Settlement Agreement at "**Exhibit 1**" ("**Stipulation of Discontinuance**"). Upon the filing with and acceptance of such Stipulation of Discontinuance by the Appellate Division, Third Department, the Town's motion to dismiss the Reeves Lane Annexation Litigation will be rendered moot. The Town and City shall execute the Stipulation of Discontinuance simultaneously with this Settlement Agreement and the City shall hold such Stipulation of Discontinuance in escrow until the Town and the City approve the annexation proceeding(s) set forth in Article V. The City shall seek any necessary adjournments or extensions of time from the Appellate Division, Third Department, between the execution of this Settlement Agreement and the filing of such Stipulation of Discontinuance. The Town will consent and join in any such requests. If the Appellate Division, Third Department denies such request for an adjournment or extension of time, the City shall immediately release the Stipulation of Discontinuance from Escrow and cause it to be filed with the Court. Notwithstanding the foregoing, if the Town adopts a Determination, Order or Resolution pursuant to General Municipal Law Article 17 finding that either of the annexations contemplated in Article V(A) below would not be in the overall public interest, the Stipulation of

Discontinuance shall be released from escrow and the City may opt not to file it. In addition, the City may immediately recommence an annexation proceeding regarding the lands described in Article V(A) pursuant to General Municipal Law §703.

B. Subject to the provisions set forth in this Article V(B), the Town agrees to waive all claims that it may otherwise raise to challenge the SEQRA Negative Declaration adopted by the City in relation to the Reeves Lane Annexation. Simultaneously with execution of this Settlement Agreement, the Town shall execute a waiver and release of SEQRA-related claims substantially similar to the Waiver and Release attached to and incorporated into this Settlement Agreement at "**Exhibit 2**" ("**SEQRA Waiver and Release**"). Provided, however, the Town shall hold such SEQRA Waiver and Release in escrow until the following conditions are satisfied:

i. Upon release of the Stipulation of Discontinuance attached at Exhibit 1 and the filing and acceptance of such Stipulation of Discontinuance with the Appellate Division, Third Department, the SEQRA Waiver and Release shall be released from escrow and immediately issued to the City. While the Waiver and Release is held in escrow pursuant to this Article V(B), the Town and City agree to further toll the statute of limitation applicable to the Town's SEQRA claims and to execute any additional tolling agreements that may be necessary to effectuate the terms of this provision.

ii. In the event that the Stipulation of Discontinuance set forth at Exhibit 1 is not filed with the Court, the SEQRA Waiver and Release need not be released from escrow. However, the Town and the City agree that any tolling agreement then in effect will be understood to require commencement of the contemplated SEQRA challenge no later than thirty days from the issuance of a Resolution, Order or Determination by the Town that either of the annexations contemplated in Article V(A) below would not be in the overall public interest.

iii. If the City adopts a Determination, Order or Resolution finding that annexation of the County Lands as described in Article V(B) is not in the overall public interest, the SEQRA Waiver and Release shall be rendered null and void and shall have no legal effect. Any tolling agreement then in place shall remain in effect and the contemplated SEQRA challenge may be commenced within the time permitted therein.

C. The Town agrees to waive and forever forego its Public Hearing Appeal. To effectuate this provision, the Town will submit a letter to the Supreme Court Appellate Division, Third Department affirmatively withdrawing its Notice of Appeal within 14 days of the parties' execution of this Settlement Agreement.

V. FURTHER ANNEXATION PROCEEDINGS

The City and Town are considering reconfiguration of their shared municipal boundaries whereby certain land now a part of the Town would become part of the City and lands now part of the City would become part of the Town.

A. ANNEXATION FROM THE TOWN TO THE CITY - The Town and City hereby agree to comply with the provisions of General Municipal Law §706(2) in reference to annexation of the following lands and all City Council authorizations necessary to pursue such annexations are hereby granted:

1. **"Second Reeves Lane Annexation"** – The City currently owns 224± acres of land identified by Clinton County tax map parcel numbers 220.-4-31.2 and 220.-4-32, which lands are currently located within the Town but are adjoining the Municipal Boundaries of the City ("**Reeves Lane Lands**"). The Reeves Lane Lands are the same lands at issue in the Reeves Land Annexation Litigation.
2. **"Sharron Avenue Annexation"** - The City currently owns 2.8± acres of land identified by Clinton County tax map parcel number 233.7-1-14, which lands are currently located within the Town but are adjoining the Municipal Boundaries of the City ("**Sharron Avenue Lands**").

B. ANNEXATION FROM THE CITY TO THE TOWN - Clinton County is the record owner of approximately 18.05± acres of land located along LeMay Drive in the City, which lands are more particularly identified by Clinton County tax map parcel number 233.6-1-2.1 ("**County Lands**"). In the event Clinton County submits an annexation petition to the City pursuant to General Municipal Law Article 17 seeking to annex the County Lands, the Town and City agree to conduct a joint Public Hearing at a mutually convenient time and day to be held at a mutually agreeable location. In addition, and provided that conducting such a Public Hearing remotely using a videoconferencing platform is lawful at the time the Public Hearing is conducted, the Town and City agree that neither will object to allowing remote participation during such Public Hearing.

C. In reference to the annexation proceedings set forth in Article V(A), the Town agrees to employ reasonable efforts to begin such proceedings within 30 days of execution of this Settlement Agreement. In reference to the annexation proceedings set forth in Article V(B), the City and Town agree to work together in order to avoid any unnecessary delays in the scheduling of the requisite joint Public Hearing and/or the making of any necessary determinations.

D. Upon (i) Town approval of the Second Reeves Lane Annexation and the Sharron Avenue Annexation, and (ii) City approval of Town annexation of the County Lands, the Reeves Lane Annexation Litigation Stipulation of Discontinuance (Exhibit 1), if not already released and filed, shall be released from escrow and the City shall immediately cause that Stipulation of Discontinuance to be filed with Supreme Court Appellate Division, Third Department and the SEQRA Waiver and

Release (Exhibit 2) shall be released from escrow and immediately provided to the City.

E. Each of the annexation proceedings contemplated herein constitutes a separate Action for SEQRA purposes and will be subject to its own separate SEQRA review prior to the adoption of any final determination concerning annexation. As the Town is the only SEQRA Involved Agency that will be reviewing annexation of the Sharron Avenue Lands pursuant to this Settlement Agreement, the City hereby waives any objection it may otherwise have to the Town conducting SEQRA review of such Action. The Town hereby waives any objection it may otherwise have to the City conducting SEQRA review in reference to annexation of the County Lands. This provision is not contingent upon the ultimate outcome of the respective annexation proceedings.

F. Nothing contained herein shall require either the Town Board or the City Council to make any particular finding in relation to SEQRA and/or any future annexation proceeding described in this Settlement Agreement. However, if the Town adopts a Determination, Order or Resolution pursuant to General Municipal Law Article 17 finding that either the Second Reeves Lane Annexation or the Sharron Avenue Annexation would not be in the overall public interest, the City may immediately recommence/commence an annexation proceeding regarding the Reeves Lane or Sharron Avenue Lands pursuant to General Municipal Law §703. Similarly, if the City adopts a Determination, Order or Resolution finding that annexation of the County Lands is not in the overall public interest, the Town may pursue any rights it has to commence a proceeding in the Supreme Court, Clinton County and/or Appellate Division, Third Department pursuant to the provisions of General Municipal Law Article 17.

VI. REEVES LANE TOWN DISTRICT PROTECTION PROGRAM

A. The City and Town acknowledge that annexation of the Reeves Lane Lands may have an unexpected initial impact upon Town taxpayers. In 2021, the City's total tax liability to the Town was \$10,754.07 and such sum would approximate future City tax liability if such lands were to remain within the Town. To mitigate any unintended effects upon Town taxpayers and to provide the Town sufficient time to prepare for the loss of such revenue, the Town and City hereby agree to create the Reeves Lane District Protection Program, effective upon Town approval of the Reeves Lane and Sharron Avenue annexations described in Article V.

B. Pursuant to the Reeves Lane Town District Protection Program, the City will continue to make payments to the Town for a period of five years, which shall be due and payable consistent with the Town's tax billing cycle, as if such payments constituted real property taxes. The districts include: Highway, Consolidated Ambulance District, Fire District #3, Consolidated Lighting General, Consolidated Sewer District Special/General/Gen Capital, and Consolidated Water District Special/General/Gen Capital. The first Town District Protection payment shall be

made in the year directly following the year in which annexation of the Reeves Lane land is accomplished and payments shall be made as follows:

Year 1	Year 2	Year 3	Year 4	Year 5
100%	100%	100%	50%	25%
\$10,754.07	\$10,754.07	\$10,754.07	\$5377.04	\$2688.52

C. The provisions in this Article VI shall not apply in the event that the Second Reeves Lane Annexation and/or the Sharron Avenue Annexation is/are not accomplished or if either is accomplished over the objections of the Town.

VII. FALCON SEABOARD LITIGATION DISCONTINUANCE

A. The City and Town hereby mutually agree to discontinue all claims and counter-claims raised in the Falcon Seaboard Litigation by executing the Stipulation of Discontinuance attached to and incorporated into this Settlement Agreement at "**Exhibit 3**" ("**Falcon Seaboard Stipulation**").

B. The City shall hold this Falcon Seaboard Stipulation in escrow pending Town approval of the Reeves Lane and Sharron Avenue annexation proceedings at which time the City shall cause this Falcon Seaboard Stipulation to be filed with Supreme Court, Clinton County. If the Town adopts a Determination, Order or Resolution finding that either the Second Reeves Lane Annexation or Sharron Avenue annexations would not be in the overall public interest, the Falcon Seaboard Stipulation shall be released from escrow and the City may opt not to file it.

VIII. NO ADMISSIONS

This Settlement Agreement does not constitute nor shall it be construed to be an admission of liability by any party with respect to the asserted or potential legal claims referenced in this Settlement Agreement. Except as expressly set forth herein, no party is waiving any rights, claims or defenses it may otherwise have.

IX. CHOICE OF LAW AND VENUE

This Settlement Agreement shall be governed by the laws of the State of New York. In the event any proceeding between the Town and City is commenced which arises out of or in connection with this Settlement Agreement or its terms, such proceeding shall be venued in Supreme Court, Clinton County. The terms of this Settlement Agreement shall be afforded their plain and fair meaning without regard to which party caused the same to be drafted or revised.

X. NO THIRD PARTY BENEFICIARIES

This Settlement Agreement is intended for the exclusive benefit of the parties hereto and shall not be for the benefit of, and shall not create any rights in, or be enforceable by, any other person or entity.

XI. COUNTERPARTS

This Settlement Agreement may be signed in counterparts, using scanned, facsimile, or digital signatures, each of which together will constitute the agreement.

XII. ENTIRE AGREEMENT

The City and Town are in the process of resolving a number of outstanding issues and controversies, a portion of which are addressed herein. However, this Settlement Agreement contains the entire agreement between the parties at it pertains to the matters set forth herein and the terms of this Agreement are not contingent upon any occurrences not expressly set forth herein.

XIII. MODIFICATIONS IN WRITING

This Settlement Agreement shall not be modified unless the modification is in writing and signed by each party.

XIV. DULY AUTHORIZED REPRESENTATIVES

Each of the undersigned Officials certifies that he has been duly authorized by his respective Board to enter into this Settlement Agreement and to execute and bind such party to the terms, covenants, conditions, acknowledgments and assertions contained herein.

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

TOWN OF PLATTSBURGH

CITY OF PLATTSBURGH

By: _____
Michael S. Cashman, Supervisor

By: _____
Christopher C. Rosenquest, Mayor

Approved as to form:

Approved as to form:

By: _____
James Coffey, Esq.
Town Attorney for the Town
of Plattsburgh

By: _____
Dean C. Schneller, Esq.
Corporation Counsel for the
City of Plattsburgh

EXHIBIT 1

To Settlement Agreement Between the City of Plattsburgh and the Town of Plattsburgh

STATE OF NEW YORK SUPREME COURT
APPELLATE DIVISION THIRD DEPARTMENT

In the Matter of a Special Proceeding

CITY OF PLATTSBURGH,

Petitioner,

-against-

STIPULATION OF

DISCONTINUANCE

TOWN OF PLATTSBURGH

Docket No.: 532792

Respondent.

IT IS HEREBY STIPULATED AND AGREED by and between the undersigned attorneys of record for the respective parties herein, that whereas no party is an infant, incompetent person for whom a committee has been appointed and no person not a party has an interest in the subject matter of the action, the above captioned action be and the same is hereby discontinued with prejudice and without costs to either party as against the other. This stipulation may be filed without further notice with the Clerk of the Court.

DATED:

Dean C. Schneller, Esq.
Corporation Counsel for the
City of Plattsburgh
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EXHIBIT 2

To Settlement Agreement Between the City of Plattsburgh and the Town of Plattsburgh

WAIVER AND RELEASE OF CLAIMS

WHEREAS, the Town of Plattsburgh is a political subdivision of the State of New York having its principal office at 151 Banker Road, Plattsburgh, NY 12901 (“Town”); and

WHEREAS, the City of Plattsburgh is a political subdivision of the State of New York having its principal office at 41 City Hall Place, Plattsburgh, NY 12901 (“City”); and

WHEREAS, on or about August 4, 2020, the City filed a certain annexation petition with the Town pursuant to General Municipal Law Article 17 seeking to annex properties identified by Clinton County tax map parcel numbers 220.-4-31.2 and 220.-4-32 (“the Annexation”); and

WHEREAS, pursuant to the State Environmental Quality Review Act (SEQRA), annexation constitutes an Action subject to SEQRA review; and

WHEREAS, the City conducted SEQRA review in its capacity as Lead Agency, which resulted in City adoption of a SEQRA Negative Declaration on May 28, 2020 which Declaration was further amended and adopted on December 3, 2020; and

WHEREAS, the Town has raised certain objections to the City’s adoption of a SEQRA Negative Declaration in relation to the Annexation; and

WHEREAS, the Town has contemplated commencement of a proceeding to challenge the City’s SEQRA review effort and/or its findings and determinations; and

WHEREAS, the City and Town entered into a Tolling Agreement effective March 1, 2021 to permit the parties an opportunity to pursue settlement of such controversies; and

WHEREAS, the City and Town have since reached certain agreements concerning these potential SEQRA-related claims.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL AGREEMENTS OF THE PARTIES:

The Town hereby forever waives and releases all legal claims it may otherwise have concerning, relating to or in any way arising from the SEQRA review effort undertaken by the City in relation to the Annexation. This includes any and all claims that the Town could raise in an effort to invalidate the City’s SEQRA Negative Declaration. It is the Town’s intention that this Waiver and Release supersede the terms of the parties’ previous Tolling Agreement.

DATED:

TOWN OF PLATTSBURGH

By: _____
Michael S. Cashman, Supervisor

EXHIBIT 3

To Settlement Agreement Between the City of Plattsburgh and the Town of Plattsburgh

STATE OF NEW YORK
SUPREME COURT CLINTON COUNTY

CITY OF PLATTSBURGH,

Plaintiff,

-against-

STIPULATION OF
DISCONTINUANCE

TOWN OF PLATTSBURGH

Defendant.

Docket No.: 255120

IT IS HEREBY STIPULATED AND AGREED by and between the undersigned attorneys of record for the respective parties herein, that whereas no party is an infant, incompetent person for whom a committee has been appointed and no person not a party has an interest in the subject matter of the action, the above captioned action, including all claims and counterclaims raised herein shall be and the same is hereby discontinued with prejudice and without costs to either party as against the other. This stipulation may be filed without further notice with the Clerk of the Court.

DATED:

William L. Owens, Esq.
STAFFORD, OWENS, PILLER,
MURNANE, KELLEHER, and
TROMBLEY, PLLC
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**MEMORANDUM OF AGREEMENT
BETWEEN
CITY OF PLATTSBURGH AND TOWN OF PLATTSBURGH

PLATTSBURGH ORGANICS RECYCLING PLANT**

This **MEMORANDUM OF AGREEMENT** (“MOA”), dated as of the 16th day of April, 2021, by and between the **CITY OF PLATTSBURGH, NEW YORK**, a municipal corporation duly organized under the laws of the State of New York, with offices at 41 City Hall Place, Plattsburgh, Clinton County, New York (the “City”) and the **TOWN OF PLATTSBURGH, NEW YORK**, a municipal corporation duly organized under the laws of the State of New York, with offices at 151 Banker Road, Plattsburgh, Clinton County, New York (the “Town”).

WITNESSETH:

WHEREAS, the City and Town are municipal corporations duly established and validly existing under the laws of the State of New York; and

WHEREAS, in furtherance of the Plattsburgh Compact between the City and the Town (“Compact”), in which both municipalities recognize the vast public safety responsibility and economic power of quality organic waste treatment; and

WHEREAS, pursuant to the Compact, both the City and Town desire to enter into this MOA to explore opportunities related to enhancements to and resiliencies and efficiencies of each municipality’s individual infrastructure and that of shared infrastructure in the future which shall include a utilization of and reliance on the City owned Plattsburgh Organics Recycling Plant (“PORP”), particularly upon the annexation of the property underlying the PORP into the City; and

WHEREAS, the purpose of this MOA is to establish a framework of collaboration and communication upon which the City and Town may develop procedures and processes to ensure the safe, sustainable, and consistent operation of the PORP to service our communities for future generations; and

WHEREAS, the PORP, formerly known as the Clinton County Composting Facility, is a City-owned facility permitted by the NYSDEC to use alkaline treatment for converting wastewater treatment residuals (which includes sludge and bio-solids) into a marketable product used for enhancing soil and agricultural property. The NYSDEC permit authorizes the use of an alkaline treatment process for up to 40 wet tons per day. However, the PORP has not actively operated since 2005. Presently, the City has contracts to transport the wastewater bio-solids—which due to the interconnection of the City and Town waste-water treatment infrastructure includes wastewater bio-solids originating from Town properties—to two landfills and a recycling facility. The NYSDEC permit authorizes a fourth bio-solid disposal alternative, under

local control, in case the other three sites become impractical. As such, in the future, the PORP has the opportunity to be an important part of a regional organics management strategy; and

WHEREAS, the PORP is currently located within the Town and in addition to State and Federal regulations, is currently subject to the Town of Plattsburgh Solid Waste Management Facilities Local Law #6 of 2011. On December 11, 2012 the Town Planning Board issued a permit to operate PORP in accordance with the Town's Local Law and 22 conditions noted in the resolution of approval; and

WHEREAS, upon the annexation of the real property underlying the PORP into the City, both the Town and the City want to ensure that reasonable safeguards remain in place to allow the operation of the PORP in a way which will not cause undue adverse impacts to residents or patrons in either community.

WHEREAS, Section 20 of the General City Law of the State of New York authorizes, among other things, each city located in the State to contract and be contracted with; and

WHEREAS, Section 64 of the Town Law of the State of New York authorizes, among other things, incorporated Towns located in the State to contract and be contracted with; and

WHEREAS, by Resolution No. _____, duly adopted by the City on April 15, 2021, the City authorized the execution and delivery of this MOA and all documents necessary and incidental hereto (the "City Planning Resolution"); and

WHEREAS, by Resolution No. _____, duly adopted by the Town on April 15, 2021, the Town authorized the execution and delivery of this MOA and all documents necessary and incidental hereto (the "Town Planning Resolution"); and

NOW, THEREFORE, in consideration of the promises set forth herein, be it known that the parties agrees to the terms and conditions as follows:

1. The City and Town acknowledge the "special relationship" of interconnected and interdependent systems for the provision of wastewater services to City and Town residents—which necessarily includes the treatment and/or disposal of wastewater bio-solids.

2. Upon the annexation of the real property underlying the PORP into City, the City and Town acknowledge that Local Law #6 of 2011 would no longer have jurisdiction over the PORP. Nonetheless, the City and Town find it mutually beneficial, and the best opportunity to maximize the public health benefits, to commit to a framework of collaboration and communication for the future PORP operations.

3. As such, the PORP must at all times comply with all conditions and requirements set forth in DEC Permit Nos. 5-0942-00006/00006 (Solid Waste Management) & 5-0942-00006/00009 (Air State Facility).

4. The City shall notify the Town Board no less than 90 days prior to initiating and/or resuming operations at the PORP, except in the case of an emergency expected to be of finite duration.

5. The City shall notify the Town no less than 90 days prior to any application to modify the terms of DEC Permit Nos. 5-0942-00006/00006 or 5-0942-00006/00009. For example, this would include any application for modification with respect to quantity, source, and process.

6. Prior to the renewed operation of the PORP by the City shall require the establishment of a formal Council/Board authorized Citizens Advisory Committee (“CAC”) to review and investigate potential odor complaints. The CAC shall be comprised of three (3) City residents, appointed by City Council and three (3) Town residents, appointed by the Town Board. City staff shall provide technical support to the CAC. The CAC shall develop their own rules of procedures and bylaws, which shall include at the least the following duties and responsibilities:

- a. obtain operational knowledge of the PORP;
- b. meet as necessary to, at a minimum, review operational performance, odor control performance and odor complaint history;
- c. review odor complaints and if necessary investigate to provide an independent assessment to provide any enforcement or mitigation recommendations;
- d. otherwise advise the Town and City as appropriate; and
- e. report their findings and or recommendations to the City Council and Town Board.

7. All non-confidential PORP records (i.e. maintenance, product, and environmental reports) shall be available for inspection and review by authorized personnel. Members of the Town Board and the CAC shall be considered authorized personnel.

8. Operation of the PORP shall require the City to establish and maintain a Spill Contingency Plan which must be provided to the Town Board and local emergency services. The Spill Contingency Plan shall include hazard scenarios inclusive of hauling of sludge to, and product from site, as well as on-site spills.

9. Operation of the PORP shall require the City to establish and maintain a disaster and emergency plan for accidents, fires, weather events, and related emergency events, which must be provided to the Town Board and local emergency services.

10. General Covenants of the City and the Town.

(i) All necessary resolutions and actions authorizing the execution and delivery of this MOA, as well as the covenants and agreements contained herein, have been duly adopted and recorded.

(ii) This MOA is neither a fiscal nor a funds obligation document. This MOA is intended to set forth the general agreements among the parties and their respective rights and obligations. Any endeavor involving reimbursement or contribution of funds between the parties of this MOA will be handled in accordance with applicable laws, regulations, and procedures. Such endeavors will be outlined in separate agreements that shall be made in writing by representatives of the parties.

11. Notice. The principal contacts for this agreement are:

Christopher Rosenquest, Mayor of the City of Plattsburgh
41 City Hall Place
Plattsburgh, NY 12901
Phone: (518) 563-7701
Email: mayor@cityofplattsburgh-ny.gov

Michael Cashman, Supervisor, Town of Plattsburgh
151 Banker Rd
Plattsburgh, NY 12901
Phone: (518) 562-6800
Email: michaelc@townofplattsburgh.org

12. Miscellaneous.

(i) Governing Law. This MOA, and any dispute, claim or controversy arising out of or in connection with it, shall be governed by and construed in accordance with the law of State of New York.

(ii) Limitation of Liability. This MOA in no way assumes either party liable for risks or injuries incurred on any part of the property identified in this document.

(iii) No Oral Modification. This MOA may be modified or amended upon written consent of both parties or may be terminated for cause with 30-day written notice of either party.

(iv) Term and Termination. Unless terminated in accordance with the terms set forth herein, this MOA will remain in force and-effect.

(v) Counterparts. This MOA may be executed in multiple counterparts, each counterpart of which shall, for all purposes, be deemed an original, but which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the undersigned have executed this Memorandum of Agreement as of the day and year first written above.

Date: April 16, 2021

CITY OF PLATTSBURGH

By: _____
Name: Christopher Rosenquest
Title: Mayor

Date: April 16, 2021

TOWN OF PLATTSBURGH

By: _____
Name: Michael Cashman
Title: Town Supervisor

**MEMORANDUM OF AGREEMENT
BETWEEN
CITY OF PLATTSBURGH AND TOWN OF PLATTSBURGH**

PLANNING & COMMUNITY DEVELOPMENT

This **MEMORANDUM OF AGREEMENT** (“MOA”), dated as of the 16th day of April, 2021, by and between the **CITY OF PLATTSBURGH, NEW YORK**, a municipal corporation duly organized under the laws of the State of New York, with offices at 41 City Hall Place, Plattsburgh, Clinton County, New York (the “City”) and the **TOWN OF PLATTSBURGH, NEW YORK**, a municipal corporation duly organized under the laws of the State of New York, with offices at 151 Banker Road, Plattsburgh, Clinton County, New York (the “Town”).

W I T N E S S E T H:

WHEREAS, the City and Town are municipal corporations duly established and validly existing under the laws of the State of New York; and

WHEREAS, in an effort to maintain the respective communities as viable social, cultural and economic city centers and encourage development therein, the parties hereto are desirous of entering into this MOA setting forth the terms of their mutual agreements regarding the potential development of property, and to establish a framework of cooperation upon which the City & Town may work collaboratively to develop procedures and processes to ensure mutually compatible zoning and development at municipal boundaries; and

WHEREAS, the City and Town agree upon the benefits of intentional community development, including Smart Growth, Comprehensive land use planning, Zoning, Complete Streets, and any future planning methods not yet identified, that serve to enrich the lives of their residents and the shared economy of their respective communities; and

WHEREAS, such cooperation shall be completed with outlined coordination between the City and Town in those instances where development projects are substantially contiguous to a municipal boundary, and may result in impacts to traffic, utilities, community character, etc. and/or development patterns within the adjacent community; and

WHEREAS, in 2019 the Town developed “Elevate Plattsburgh,” a Smart Growth Plan designed promote the development of a more livable, authentic, and diverse Town Center; and

WHEREAS, Elevate Plattsburgh envisions Town Center with an array of housing options, access to multiple modes of transportation, increased density, infrastructure efficiency & community resiliency, both environmental and economic; and

WHEREAS, the Town followed development of Elevate Plattsburgh with a Zoning Ordinance amendment focused on the commercial Town Center with an emphasis on high quality design, public spaces and human-scale development; and

WHEREAS, beyond a name and a border, the City shares these same values with the Town and is currently revising its comprehensive plan, focusing on each Ward individually, followed by development of a cohesive plan for the City as a whole; and

WHEREAS, the City's plan intends to focus on transportation diversity, enhancement and development of parks and social spaces, fostering a robust local business environment, and the City intends to provide for a range of housing options and mixed use in-fill development, all with an over-arching purpose of celebrating local culture, history, and community; and

WHEREAS, both the City and Town value and wish to act upon the proven benefits of intentional community development, including Smart Growth, comprehensive land use, zoning, Complete Streets and any future planning methods not yet identified that serve to enrich the lives of our residents and the shared economy of our communities; and

WHEREAS, it is the intention of this agreement to outline practical and reasonable methods for collaboration to achieve the aforementioned shared goals; and

WHEREAS, Section 20 of the General City Law of the State of New York authorizes, among other things, each city located in the State to contract and be contracted with; and

WHEREAS, Section 64 of the Town Law of the State of New York authorizes, among other things, incorporated Towns located in the State to contract and be contracted with; and

WHEREAS, by Resolution No. _____, duly adopted by the City on April 15, 2021, the City authorized the execution and delivery of this MOA and all documents necessary and incidental hereto (the "City Planning Resolution"); and

WHEREAS, by Resolution No. _____, duly adopted by the Town on April 15, 2021, the Town authorized the execution and delivery of this MOA and all documents necessary and incidental hereto (the "Town Planning Resolution"); and

NOW, THEREFORE, in consideration of the above mutual covenants, conditions and agreements contained herein, and pursuant to the authority vested in them, the parties agree as follows:

1. To conduct comprehensive planning, zoning, and land use development strategies with mindfulness and circumspection, that considers the impacts upon each community's neighbors and the entire region; to communicate intentionally, and meaningfully with each other when developing such plans; to invite each other to participate in the planning process; to

celebrate and promote the parties' shared history, shared values, and shared opportunities; and, to open and maintain the pathways of communication between the municipalities in order to explore those countless opportunities.

2. To acknowledge and respect the parties' borders and jurisdictions, but to also recognize the invisibility of such borders to visitors, students, and people in transit; to acknowledge and analyze the differences in the City and Town's historical patterns of development; and to recognize land use patterns may transcend municipal borders.

3. Where meaningful and practical, to develop zoning and land use patterns that strive for compatibility, and at a minimum, do not detract from the character of the adjacent community.

4. The parties shall agree to inform each other of proposed development projects that are substantially contiguous to the municipal boundary that may result in impacts to traffic, utilities, and/or community character, etc.; and, to invite comment and participation from the other in the review and consideration of such projects.

5. To collaborate on shared commercial corridor enhancements, including, but not limited to, those on Cornelia Street, Rugar Street, Commodore Thomas Macdonough Highway, Route 9 North & South and South Peru Street; and, to share existing plans, ideas, and opportunities with each other so that improvements may advance together with greater impact and benefit; and, to collaborate on funding and implementation opportunities for mutually beneficial projects.

6. General Covenants of the City and the Town.

(i) All necessary resolutions and actions authorizing the execution and delivery of this MOA, as well as the covenants and agreements contained herein, have been duly adopted and recorded.

(ii) This MOA is neither a fiscal nor a funds obligation document. This MOA is intended to set forth the general agreements among the parties and their respective rights and obligations. Any endeavor involving reimbursement or contribution of funds between the parties of this MOA will be handled in accordance with applicable laws, regulations, and procedures. Such endeavors will be outlined in separate agreements that shall be made in writing by representatives of the parties.

7. Notice. The principal contacts for this agreement are:

Christopher Rosenquest, Mayor of the City of Plattsburgh
41 City Hall Place
Plattsburgh, NY 12901
Phone: (518) 563-7701
Email: mayor@cityofplattsburgh-ny.gov

Michael Cashman, Supervisor, Town of Plattsburgh
151 Banker Rd
Plattsburgh, NY 12901
Phone: (518)562-6800
Email: michaelc@townofplattsburgh.org

8. Miscellaneous.

(i) Governing Law. This MOA, and any dispute, claim or controversy arising out of or in connection with it, shall be governed by and construed in accordance with the law of State of New York.

(ii) Limitation of Liability. This MOA in no way assumes either party liable for risks or injuries incurred on any part of the property identified in this document.

(iii) No Oral Modification. This MOA may be modified or amended upon written consent of both parties or may be terminated with 30-day written notice of either party.

(iv) Term and Termination. Unless terminated in accordance with the terms set forth herein, this MOA will remain in force and-effect.

(v) Counterparts. This MOU may be executed in multiple counterparts, each counterpart of which shall, for all purposes, be deemed an original, but which together shall constitute one and the same instrument.

IN WITNESS WHEREOF the undersigned have executed this Memorandum of Agreement as of the day and year first written above.

Date: April 16, 2021

CITY OF PLATTSBURGH

By: _____
Name: Christopher Rosenquest
Title: Mayor

Date: April 16, 2021

TOWN OF PLATTSBURGH

By: _____
Name: Michael Cashman
Title: Town Supervisor

**MEMORANDUM OF AGREEMENT
BETWEEN
CITY OF PLATTSBURGH AND TOWN OF PLATTSBURGH
INFRASTRUCTURE**

This **MEMORANDUM OF AGREEMENT** (“MOA”), dated as of the 16th day of April, 2021, by and between the **CITY OF PLATTSBURGH, NEW YORK**, a municipal corporation duly organized under the laws of the State of New York, with offices at 41 City Hall Place, Plattsburgh, Clinton County, New York (the “City”) and the **TOWN OF PLATTSBURGH, NEW YORK**, a municipal corporation duly organized under the laws of the State of New York, with offices at 151 Banker Road, Plattsburgh, Clinton County, New York (the “Town”).

WITNESSETH:

WHEREAS, the City and Town are municipal corporations duly established and validly existing under the laws of the State of New York; and

WHEREAS, in furtherance of the Plattsburgh Compact between the City and the Town (“Compact”), in which both municipalities recognize the vast public safety responsibility and economic power of quality infrastructure, principally clean and safe water—one of our most precious resources—and waste-water treatment, an equally important and potentially valuable resource; and

WHEREAS, pursuant to the Compact, both the City and Town desire to enter into this MOA to explore opportunities related to enhancements to and resiliencies and efficiencies of each municipality’s individual infrastructure and that of shared infrastructure in the future which shall include water systems and waste water systems; and

WHEREAS, the purpose of this MOA is to establish a framework of cooperation upon which the City and Town may develop procedures and processes to ensure the safe, sustainable and consistent provision of water and wastewater services to our communities for future generations; and

WHEREAS, both the City and Town operate and maintain drinking water and sewer systems which are interconnected at certain integral locations; and

WHEREAS, in more populated areas and commercial corridors, the Town sources public water supplies from multiple wells located through-out the Town which service extensive public systems. In these same areas, wastewater is collected by public infrastructure and ultimately conveyed to the City wastewater treatment facility. In rural areas of the Town private wells provide safe drinking water and individual sewage treatment systems are used to handle wastewater; and

WHEREAS, the City sources its drinking water from a combination of surface reservoirs and the Saranac River. The public water supply is filtered and treated at the Hammond Lane water plant located in the Town. The City is also exploring a groundwater well field near Mead Reservoir. The City operates and maintains a robust wastewater treatment facility at the mouth of the Saranac River on Lake Champlain, which as noted above, receives wastewater from the Town as well as septage from haul trucks which operate within the Town; and

WHEREAS, where practical and necessary, the City and Town have established interconnection of water and wastewater services.

WHEREAS, Section 20 of the General City Law of the State of New York authorizes, among other things, each city located in the State to contract and be contracted with; and

WHEREAS, Section 64 of the Town Law of the State of New York authorizes, among other things, incorporated Towns located in the State to contract and be contracted with; and

WHEREAS, by Resolution No. _____, duly adopted by the City on April 15, 2021, the City authorized the execution and delivery of this MOA and all documents necessary and incidental hereto (the “City Planning Resolution”); and

WHEREAS, by Resolution No. _____, duly adopted by the Town on April 15, 2021, the Town authorized the execution and delivery of this MOA and all documents necessary and incidental hereto (the “Town Planning Resolution”); and

NOW, THEREFORE, in consideration of the promises set forth herein, be it known that the parties agree to the terms and conditions as follows:

1. The City and Town acknowledge the “special relationship” of interconnected and interdependent systems for the provision of water and wastewater services to City and Town residents. To advance this “special relationship”, the City and Town acknowledge and respect the shared public health and economic benefits of this relationship and to use public and economic health as the guiding principle for maintenance, repair, and expansion of services.

2. Where financially practical and mutually beneficial, or where the greatest public health benefits can be achieved, the City and Town commit to research and explore opportunities to offer and extend public water and wastewater services to neighborhoods and businesses in need of such service.

3. The City and Town commit to seek shared opportunities for funding from Local, State, and Federal sources for improvement, rehabilitation, and resiliency fortification of the existing water and wastewater infrastructure.

4. Where financially practical and mutually beneficial, the City and Town will seek opportunities for interconnection of water services for the purposes of reliability, redundancy, resiliency, robustness, and emergency fire protection.

5. To share knowledge between relevant City and Town departments as it relates to maintenance, repairs, and installation of new utilities, where such knowledge would expedite and facilitate such work in the interest of public health and safety.

6. Where mutually beneficial, and with the greatest public benefit in mind, the City and Town will seek opportunities for collaboration and cooperation on matters beyond infrastructure to include “social infrastructure” such as public space, recreation, public institutions, events, and amenities.

7. That this MOA is neither a fiscal nor a funds obligation document. Any endeavor involving reimbursement or contribution of funds between the parties of this MOA will be handled in accordance with applicable laws, regulations, and procedures. Such endeavors will be outlined in separate agreements that shall be made in writing by representatives of the parties.

8. General Covenants of the City and the Town.

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IN WITNESS WHEREOF, the undersigned have executed this Memorandum of Agreement as of the day and year first written above.

Date: April 16, 2021

CITY OF PLATTSBURGH

By: _____
Name: Christopher Rosenquest
Title: Mayor

Date: April 16, 2021

TOWN OF PLATTSBURGH

By: _____
Name: Michael Cashman
Title: Town Supervisor