

## INTERMUNICIPAL COOPERATION AGREEMENT

**THIS AGREEMENT** made and entered into this \_\_\_\_\_ day of December, 2017, by and between the **TOWN OF NORTH EAST**, a municipal corporation, with offices located at 19 North Maple Avenue, Millerton, New York 12546 (hereinafter the "Town of North East" or "Town"), and the **VILLAGE OF MILLERTON**, a municipal corporation, with offices located at 21 Dutchess Avenue, Millerton, New York 12546 (hereinafter the "Village of Millerton" or "Village").

### WITNESSETH:

**WHEREAS**, §272-a(1) of the New York State Town Law provides, in relevant part, as follows:

- “(a) Significant decisions and actions affecting the immediate and long-range protection, enhancement, growth and development of the state and its communities are made by local governments.
- (b) Among the most important powers and duties granted by the legislature to a town government is the authority and responsibility to undertake town comprehensive planning and to regulate land use for the purpose of protecting the public health, safety and general welfare of its citizens.
- (c) The development and enactment by the town government of a town comprehensive plan which can be readily identified, and is available for use by the public, is in the best interest of the people of each town.
- (d) The great diversity of resources and conditions that exist within and among the towns of the state compels the consideration of such diversity in the development of each town comprehensive plan.
- (e) The participation of citizens in an open, responsible and flexible planning process is essential to the designing of the optimum town comprehensive plan.
- (f) The town comprehensive plan is a means to promote the health, safety and general welfare of the people of the town and to give due consideration to the needs of the people of the region of which the town is a part.

(g) The comprehensive plan fosters cooperation among governmental agencies planning and implementing capital projects and municipalities that may be directly affected thereby.

(h) It is the intent of the legislature to encourage, but not to require, the preparation and adoption of a comprehensive plan pursuant to this section.”

and

**WHEREAS**, §7-722(1) of the New York State Village Law contains identical provisions with regard to a village’s Comprehensive Plan; and

**WHEREAS**, both New York State statutes define the Town and Village Comprehensive Plan, in relevant part, as follows:

“The materials, written and/or graphic, including, but not limited to, maps, charts, studies, resolutions, reports and other descriptive materials that identify the goals, objectives, principles, guidelines, policy standards, devices and instruments for the immediate and long-range protection, enhancement, growth and development of the [municipality] located”

and

**WHEREAS**, both New York State statutes provide, in relevant part, that the Town Board and/or Village Board of Trustees may by resolution prepare a Town/Village Comprehensive Plan and amendments thereto; and

**WHEREAS**, the contents of the Town and/or Village Comprehensive Plan, as set forth in Town Law§272-a(3) may include the following topics at a level of detail adapted by the special requirements of the municipality:

:(a) General statements of goals, objectives, principles, policies, and standards upon which proposals for the immediate and long-range enhancement, growth and development of the town are based.

(b) Consideration of regional needs and the official plans of other government units and agencies within the region.

(c) The existing and proposed location and intensity of land uses.

- (d) Consideration of agricultural uses, historic and cultural resources, coastal and natural resources and sensitive environmental areas.
- (e) Consideration of population, demographic and socio-economic trends and future projections.
- (f) The location and types of transportation facilities.
- (g) Existing and proposed general location of public and private utilities and infrastructure.
- (h) Existing housing resources and future housing needs, including affordable housing.
- (i) The present and future general location of educational and cultural facilities, historic sites, health facilities and facilities for emergency services.
- (j) Existing and proposed recreation facilities and parkland.
- (k) The present and potential future general location of commercial and industrial facilities.
- (l) Specific policies and strategies for improving the local economy in coordination with other plan topics.
- (m) Proposed measures, programs, devices, and instruments to implement the goals and objectives of the various topics within the comprehensive plan.
- (n) All or part of the plan of another public agency.
- (o) Any and all other items which are consistent with the orderly growth and development of the Town

and

**WHEREAS**, §7-722(3) of the Village Law contains identical provisions with regard to the topics which may be included in the Village Comprehensive Plan; and

**WHEREAS**, §272-a of the Town Law and §7-722 of the Village Law provide, in relevant part, that all of the Town's/Village's land use regulations must be in accordance with the Comprehensive Plan adopted pursuant to these sections of the law; and

**WHEREAS**, the Town and the Village adopted a joint Comprehensive Plan in 1976 and the Town amended its plan in the 1980s with a housing plan and a plan for Route 44, east of the Village and a Farm Land Protection Plan adopted in 2010; and

**WHEREAS**, the Town and Village adopted an amended joint Comprehensive Plan in 1992; and

**WHEREAS**, a 1992 joint Comprehensive Plan provides, in relevant part, that the plan was not intended to be a rigid document and should serve as a flexible guide and to be part of a continuous planning process; and

**WHEREAS**, both the Town Law and Village Law recommend periodic reviews of the adopted Comprehensive Plans; and

**WHEREAS**, the New York State Town Law and Village Law provide, in relevant part, that all Town/Village land use regulations must be in accordance with a Comprehensive Plan adopted pursuant to the respective sections of the law; and

**WHEREAS**, the Town Board and the Village Board have determined that the current zoning codes for the respective municipalities are in need of revision and update, and that, as a condition precedent to that process, the joint Comprehensive Plans of the Town and Village must be updated in accordance with the requirements of the New York State Town and Village Laws; and

**WHEREAS**, the Town of North East, by Local Law No. 2 of 2002, pursuant to the provisions of §44-0119 of the Environmental Conservation Law of the State of New York adopted the Statement of Land Use Policies, Principles and Guides entitled: "Greenway Connections: Greenway Compact Program and Guides for Dutchess County Communities" by

which action the Town of North East became a participating community in the Greenway Compact (See, Chapter 26 of the Town Code); and

**WHEREAS**, the Village of Millerton, similarly, became a participating community in the Greenway Compact by Local Law No. 2 of 2002 (See, Chapter 16 of the Village Code); and

**WHEREAS**, the Town, as project sponsor, has applied for, and received, a grant pursuant to the Hudson River Valley Greenway grant program to cover a portion of the costs of the proposed Comprehensive Plan revisions; and

**WHEREAS**, the grant provides for \$25,000 of Greenway funds with a required Grantee match of \$25,000; and

**WHEREAS**, the Town and the Village have agreed that the Grantee match, as specified in the grant application, shall include: (i) \$19,500 of “in kind services” provided equally by both municipalities; (ii) a Town of North East cash contribution of \$3,000; (iii) a Village of Millerton cash contribution of \$1,000; and (iv) a Townscape cash contribution of \$1,000; and

**WHEREAS**, a Memorandum of Understanding (“MOU”) dated October 17, 2017 setting forth the terms and conditions of the grant has been submitted to the Town for execution by Hudson River Valley Greenway and the MOU has been reviewed by the Village Board of Trustees, the Town Board and the parties’ respective legal counsel; and

**WHEREAS**, the MOU requires, in relevant part, adherence to a prescribed project schedule; the provision of the matching funds by the municipalities; an accounting of actual volunteer time and other in kind services to be provided; submission of claim funds to Greenway for payment of services performed pursuant to the MOU; submission of a final report, as well as other requirements; and

**WHEREAS**, the New York State Town and Village statutes provide, in relevant part, that the municipalities may by resolution direct a “special board” to prepare the proposed amendments to the Comprehensive Plan and prescribe certain procedures to be followed by the special board and the respective municipal boards in adoption of the Comprehensive Plan amendments; and

**WHEREAS**, the Town Board and the Village Board, in or about January of 2017, created a Comprehensive Plan committee and appointed the following members to that committee:

- (a) Edith Greenwood – committee chair (Co-Chair of the Town of North East Zoning Board of Appeals);
- (b) Dale Culver (Chairman of the Town of North East Planning Board);
- (c) C. Lance Middlebrook (Chairman of the Planning Board of the Village of Millerton);
- (d) John Midwood (Town of North East Town Board member);
- (e) Steven Waite (Deputy Mayor of the Village of Millerton);
- (f) Diane Engleke (Chairperson of the Conservation Advisory Council of the Town of North East);
- (g) John Crodelle (Retired Town of North East Justice); and
- (h) Edward Downey (President of the North East Historical Society; former Supervisor of the Town of North East; former member of the North East Planning Board; and member of the 1976 Town/Village Comprehensive Plan Committee);

and

**WHEREAS**, the Comprehensive Plan Committee has conducted committee meetings on March 30; April 27; May 25; June 22; July 27; September 27; and October 26, 2017; and

**WHEREAS**, the minutes of those meetings have been posted on the Town and Village websites; and

**WHEREAS**, the Village Board of Trustees, the Town Board and the Comprehensive Plan Committee determined it will require the services of a professional planner experienced in comprehensive plan adoption and amendment process to assist in the preparation of the Comprehensive Plan amendments and the retention of a consultant planner is required by the terms of the Greenway Grant; and

**WHEREAS**, the Committee prepared a Request for Qualifications ("RFQ") for professional planning services in conjunction with the Comprehensive Plan amendment process; received several proposals; interviewed four qualified applicants; and selected Nan C. Stolzenburg d/b/a/ Community Planning and Environmental Associates (AICP CEP) (hereinafter "Stolzenburg") as the planning consultant to assist the Comprehensive Plan Committee, and the Town and Village in the adoption of the amended Comprehensive Plan; and

**WHEREAS**, Stolzenburg has submitted to the Town and the Village a proposed Consulting Agreement for her services and has prepared a tentative schedule of work in conjunction with the Comprehensive Plan update process which has been presented, and approved by, the Comprehensive Plan Committee and both the Town and Village Boards (a copy of which is annexed hereto as Exhibit "A"); and

**WHEREAS**, the Town and the Village are desirous of ensuring that the Comprehensive Plan revision process is carried out in full compliance with the requirements of §272-a of the Town Law and §7-722 of the Village Law and is conducted in a manner which is fully open,

transparent and inclusive of the comments, recommendations and concerns of the residents of the Town and the Village.

**NOW, THEREFORE**, pursuant to the provisions of Article 5-g, §119-o of the General Municipal Law of the State of New York, the parties hereto agree as follows:

1. That the “Comprehensive Plan Committee” is hereby reconstituted as a “Special Board” pursuant to the provisions of §272-a(6)(b) of the Town Law and §7-722(6)(b) of the Village Law. However, the said Board shall continue to be commonly referred to as the “North East/Millerton Comprehensive Plan Update Committee” (“Committee”).

2. That the Committee shall consist of nine (9) members, and the original eight (8) members are hereby reappointed retroactive to January 1, 2017 with Edith Greenwood designated as the Chairperson of said Committee.

3. The Town and Village shall solicit applications for the additional Committee member through announcements at their respective meetings; advertisement on their respective websites; and the posting of solicitation for applicants on their respective municipal boards, and shall endeavor to mutually select the ninth member of the Committee among the applicants, to include representation on the Committee from a segment of the Town/Village not already represented on the Committee.

4. Notwithstanding the fact that the Committee shall function in an advisory capacity, the Committee shall comply with all of the requirements of Article 7 of the Public Officers Law commonly known as the “Open Meetings Law” and all meetings of the Committee shall be open to the public with public notice of said meetings provided pursuant to §104 of the Public Officers Law. In addition, minutes of the Committee shall be kept and posted on the Town and Village websites and filed in the offices of the Town and Village Clerks.



5. The Committee shall have the right to establish its own rules of procedure for the conduct of its meetings and public participation and comment at those meetings. All public hearings conducted by the Committee shall be conducted in accordance with the requirements of §272-a of the Town Law and §7-722 of the Village Law and the normal and customary requirements for the conduct and notice of municipal public hearings.

6. The Committee shall provide reports on its work and progress to the Town Board and the Village Board on a periodic basis, but no less than once every two months. Those reports shall be presented to the Boards in open sessions of the respective municipal boards and shall be posted on the parties' websites and filed in the offices of the Town and Village Clerks.

7. The Town, as the grantee of the Hudson River Valley Greenway grant shall execute the MOU with Hudson River Valley Greenway after approval of the same by the Town Board and the Attorney to the Town. A copy of the MOU is annexed hereto as Exhibit "B".

8. Notwithstanding the fact that the Town will be the signatory to the MOU, both the Town and the Village agree to comply with all of the terms, conditions and requirements of the MOU and shall cooperate in providing all required matching funds; in kind services; claim forms; reports and other requirements of the MOU to insure the reimbursement to the Town of the grant funds.

9. The Town shall be responsible for the payment of all expenses pursuant to the Comprehensive Plan Update Project ("the Project") as incurred, and shall be entitled to reimbursements for those expenses from Hudson River Valley Greenway as provided by the MOU.

10. Both the Town and the Village shall cooperate in supplying the necessary in kind services and their respective portions of the Grantee Match for the project in accordance with the

MOU and this IMA. The Town agrees to pay the cost of any reasonable additional expenses in conjunction with the Project provided the same can be paid out of Town-wide funds.

11. The Town shall execute the agreement with Stolzenburg in the same or substantially similar form as submitted to the Town and the Village by Stolzenburg, together with the rider to that agreement prepared by the Attorney to the Town and the payments shall be made by the Town to Stolzenburg in accordance with that agreement and this Intermunicipal Agreement ("IMA"). The Town agrees to pay such additional fees to Stolzenburg not included in the basic agreement with Stolzenburg, but which are reasonably incurred and deemed necessary for the Project by the Committee, the Town Board and the Village Board of Trustees provided those costs can be paid by the Town out of the Town-wide fund.

12. In addition to the public hearings and meetings required of the Committee by New York State law, the Committee shall also conduct "focus groups" to receive the input, comments and concerns of various segments of the communities on the proposed Comprehensive Plan amendments. Those focus groups may be conducted by one or more individual members of the Committee not constituting a quorum of the same, and shall not be subject to the requirements of the Open Meetings Law, but a report of the information gained from those focus groups shall be made to the Committee for utilization by the Committee in performing its functions and shall be part of the records of the Committee.

13. The Town Board and the Village Board shall conduct joint public hearings in accordance with the requirements of the New York State laws with regard to the adoption of the Comprehensive Plan and shall adhere to the requirements of §7-722 of the Village Law and §272-a of the Town Law and New York State Environmental Quality Review Act ("SEQRA") in the Comprehensive Plan amendment adoption process.

14. All notices pursuant to this IMA shall be addressed as set forth herein:

**Town of North East**

Hon. George Kaye,  
Town of North East Supervision  
19 North Maple Avenue, PO Box 516  
Millerton, NY 12546  
518-769-3300  
E-mail: ne.supervisor@taconic.net

**Village of Millerton**

Hon. Debra Middlebrook  
Village of Millerton Mayor  
21 Dutchess Avenue  
Millerton, NY 12546  
518-789-4489  
E-mail: dmiddlebrook.villagemillerton@gmail.com

15. The term of this agreement shall be retroactive to January 1, 2017 and shall terminate on the adoption of the amended joint Comprehensive Plan.

16. Each party agrees to indemnify and hold harmless the other party and its respective agents, officials and employees from any cause, claim, action, liability, fine, penalty or proceeding including all reasonable attorneys' fees arising directly, or indirectly, out of the negligent acts or omissions of the other party.

17. This agreement constitutes the complete understanding of the parties. No modification of any provisions hereof shall be valid unless in writing and signed by both parties.

18. No waiver of any breach of any condition of this agreement shall be binding unless in writing and signed by the other party waiving such breach. No such waiver shall, in any way, affect any other term or condition of this agreement or constitute or excuse for repetition of such or any other breach unless the waiver shall include the same.

**IN WITNESS WHEREOF**, the undersigned municipalities have caused this agreement to be signed by its duly authorized officer after approval of the respective municipal boards by Resolution as of the day and year first above written.

**TOWN OF NORTH EAST**

**DATED:** \_\_\_\_\_

**By:** \_\_\_\_\_  
**GEORGE KAYE, Supervisor**

**VILLAGE OF MILLERTON**

**DATED:** \_\_\_\_\_

**By:** \_\_\_\_\_  
**DEBRA MIDDLEBROOK, Mayor**