

RESOLUTION NO. 2015129

RE: AUTHORIZING EXECUTION OF MAINTENANCE AGREEMENTS WITH THE VILLAGE OF MILLERTON, TOWN OF NORTH EAST, TOWN OF AMENIA AND HARLEM VALLEY RAIL TRAIL ASSOCIATION, INC. FOR THE REPAIR AND MAINTENANCE OF THE HARLEM VALLEY RAIL TRAIL

Legislators HUTCHINGS, PULVER, SURMAN, SAGLIANO, THOMES MACAVERY, KELSEY, and FARLEY offer the following and move its adoption:

WHEREAS, by Resolution No. 204016 this Legislature authorized an agreement and any amendments thereto with the Village of Millerton and the Harlem Valley Rail Trail Association, Inc., for the repair and maintenance of the Harlem Valley Rail Trail, and

WHEREAS, by Resolution No. 204015 this Legislature authorized an agreement and any amendments thereto with the Town of North East and the Harlem Valley Rail Trail Association, Inc., for the repair and maintenance of the Harlem Valley Rail Trail, and

WHEREAS, by Resolution No. 204014 this Legislature authorized an agreement and any amendments thereto with the Town of Amenia and the Harlem Valley Rail Trail Association, Inc., for the repair and maintenance of the Harlem Valley Rail Trail, and

WHEREAS, by Resolution No. 209228, this Legislature authorized agreements and any amendments thereto with the Town of North East, Town of Amenia, Village of Millerton and the Harlem Valley Rail Trail Association, Inc. for the repair and maintenance of the Harlem Valley Rail Trail, and

WHEREAS, the term of said agreements with each of the municipalities has expired and the County, Towns, Village and Harlem Valley Real Trail Association, Inc. desire to enter into the agreements pursuant to the terms and conditions contained in the attached agreements, now therefore, be it

RESOLVED, that the County Executive is authorized and empowered to execute agreements and any amendments thereto with the Village of Millerton, Town of North East, Town of Amenia and Harlem Valley Rail Trail Association, Inc., on behalf of the County of Dutchess, in substantially the same form as attached hereto.

CA-094-15 G-0173
CAB/kvh/C-6183, C-6184 & C-6185
Fiscal Impact: See attached statement

STATE OF NEW YORK

ss:

COUNTY OF DUTCHESS

This is to certify that I, the undersigned Clerk of the Legislature of the County of Dutchess have compared the foregoing resolution with the original resolution now on file in the office of said clerk, and which was adopted by said Legislature on the 11th day of May 2015, and that the same is a true and correct transcript of said original resolution and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of said Legislature this 11th day of May 2015.

CAROLYN MORRIS, CLERK OF THE LEGISLATURE

FISCAL IMPACT STATEMENT

NO FISCAL IMPACT PROJECTED

APPROPRIATION RESOLUTIONS

(To be completed by requesting department)

Total Current Year Cost \$ 0

Total Current Year Revenue \$ 0
and Source

Source of County Funds *(check one)*: Existing Appropriations, Contingency,
 Transfer of Existing Appropriations, Additional Appropriations, Other *(explain)*.

Identify Line Items(s):

Related Expenses: Amount \$ _____

Nature/Reason:

Anticipated Savings to County: \$7,500

Net County Cost (this year): _____
Over Five Years: _____

Additional Comments/Explanation:

The County has inter-municipal agreements with the Town of North East, the Town of Amenia, the Village of Millerton and the Harlem Valley Rail Trail Association, Inc. for maintenance on the Harlem Valley Rail Trail. These agreements are at no cost to the County and provide an annual cost savings of approximately \$7,500 in routine trail maintenance as well as considerable efficiency savings for parks staff.

Prepared by: Rachel Kashimer, Budget Office

Prepared On: 4/15/2015

INTERMUNICIPAL AGREEMENT

THIS AGREEMENT, bearing the date set forth on the signature page, by and between the COUNTY OF DUTCHESS, a municipal corporation with offices at 22 Market Street, Poughkeepsie, New York 12601 (hereinafter referred to as the "COUNTY") and the VILLAGE OF MILLERTON, a municipal corporation, with its offices at P.O. Box 528, 21 Dutchess Avenue, Millerton, NY 12546 (hereinafter referred to as the "MUNICIPALITY") and the HARLEM VALLEY RAIL TRAIL ASSOCIATION, INC., a not-for-profit corporation whose address is P.O. Box 356, 51 South Center Street, Millerton, New York 12546 (hereinafter referred to as the "HVRTA").

WITNESSETH:

WHEREAS, the Municipality and the HVRTA desire to encourage the development of the Harlem Valley Rail Trail ("Trail") and to assist the county in providing proper maintenance for the Trail to encourage its use,

NOW, THEREFORE, it is mutually agreed by and between the parties hereto as follows:

1. SCOPE OF SERVICES. The Municipality and the HVRTA shall assist the County in the repair and maintenance of the Trail by providing the services as set forth on Exhibit "A," "Scope of Services," attached hereto and made a part hereof.
2. TERM OF AGREEMENT. This Agreement shall be effective for three (3) years commencing on March 1, 2015 and terminating on February 28, 2018. This agreement may be renewed automatically for an additional three (3) year term unless one or more parties to the agreement provides written notice of its intent not to renew at least thirty (30) days prior to the expiration of the agreement.
3. COUNTY TO INDEMNIFY MUNICIPALITY AND HVRTA. The County shall defend, protect, and indemnify the Municipality and the HVRTA for damages done to property, injury or death to persons resulting from the negligence of the County arising hereunder.
4. MUNICIPALITY TO INDEMNIFY COUNTY AND HVRTA. The Municipality shall defend, protect, and indemnify the County and HVRTA for damages done to property, injury or death to persons resulting from the negligence of the Municipality arising hereunder.
5. HVRTA TO INDEMNIFY COUNTY AND MUNICIPALITY. THE HVRTA shall defend, protect, and indemnify the Municipality and the County for damages to property, injury or death to persons resulting from the negligence of the HVRTA arising hereunder.
6. HVRTA INSURANCE. HVRTA will be required to provide the following insurance and shall provide proof thereof to the County, in the form of a Certificate of Insurance, prior to commencing work under this Agreement:

Worker's Compensation Employer's Liability (statutory limits). In compliance with the Workers' Compensation Law of the State of New York, each contractor shall provide:

- a. a certificate of insurance on an Acord form indicating proof of coverage for Worker's Compensation, Employer's Liability, **OR**
- b. a New York State Workers Compensation Notice of Compliance (Form C-105, Form U-26.3, Form SI-12 or Form SI-105.2P).
- c. In the event that the Contractor is exempt from providing coverage, he must provide a properly executed copy of the Certificate of Attestation of Exemption from NYS Workers' Compensation Board, Form CE-200.

Commercial General Liability Insurance coverage including blanket contractual coverage for the operation of the program under this Agreement with limits not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate. This insurance shall be written on an occurrence coverage form and include bodily injury and property damage liability. The County and Municipality must be listed as additional insureds. The additional insured endorsement for the Commercial General Liability insurance required above shall not contain any exclusion for bodily injury or property damage arising from completed operations.

The Acord form certificate of insurance must contain the following provisions:

- (A) The County of Dutchess must be listed as certificate holder and additional insured on the commercial general, umbrella/excess, and automobile liability policies. In addition, the commercial general liability policy must include the additional insured endorsement forms cg 2037 July 2004 edition and the cg 2010 April 2013 edition or their equivalent.
- (B) The commercial general and automobile policies are primary and noncontributory.
- (C) The commercial general liability, auto liability and workers compensation policies must contain a waiver of subrogation in favor of the County of Dutchess.
- (D) The umbrella/excess policy is primary and noncontributory and must contain a waiver of subrogation in favor of the County of Dutchess.
- (E) If the workers compensation Notice of Compliance is used instead of the Acord certificate of insurance, the Notice of Compliance must indicate that a waiver of subrogation in favor of the County of Dutchess is provided.

All policies of insurance referred to above shall be underwritten by companies authorized to do business in the State of New York with an A.M. Best financial strength rating of A- or better. In the alternative, the policies of insurance referred to above may be underwritten by Non-Admitted companies with an A.M. Best financial strength rating of A+ or higher. In addition, every policy required above shall be primary and noncontributory. Any insurance carried by the County, its officers, or its employees shall be excess and noncontributory insurance to that provided by the

HVRTA. The HVRTA shall be solely responsible for any deductible losses under each of the policies required above.

Prior to cancellation or material change in any policy, a thirty (30) day notice shall be given to the County Attorney at the address listed below:

For the County:

Dutchess County Attorney's Office
County Office Building
22 Market Street
Poughkeepsie, New York 12601

For the Municipality:

Village of Millerton
P.O. Box 528
21 Dutchess Avenue
Millerton, New York 12546

On receipt of such notice, the County shall have the option to cancel this Agreement without further expense or liability to the County, or to require the HVRTA to replace the cancelled insurance policy, or rectify any material change in the policy, so that the insurance coverage required by this paragraph is maintained continuously throughout the term of this Agreement in form and substance acceptable to the County. Failure of the HVRTA to take out or to maintain, or the taking out or the maintenance of any required insurance, shall not relieve the HVRTA from any liability under this Agreement nor shall the insurance requirements be construed to conflict with or to limit the obligations of the HVRTA concerning indemnification.

All losses of County property shall be adjusted with and made payable directly to the County.

The policy shall contain a clause waiving all right of subrogation against the County and the Municipality regardless of the cause of the damage or loss.

7. MUNICIPALITY'S RESPONSIBILITIES. (a) In the event the Municipality does not complete its obligations under this agreement, the County shall notify the Municipality of the problem in writing. The County shall request that the Municipality complete its obligations in a time specified manner with due consideration for the nature and seriousness of the problem. In the event the Municipality disagrees with the notification, the Municipality shall notify the County in writing as to why the Municipality feels that the work in question is not within its scope of services. If the County and the Municipality can't come to an agreement and the Municipality fails to act, the County shall consider retaining independent contractors to perform the work. If this should occur, the Municipality will be asked to reimburse the County for the cost of the work performed.

(b) The Municipality will provide workers' Compensation Insurance for all of its employees and will be liable for any injuries they sustain while conducting Trail maintenance, repair, or related activities or for any personal injury or property damage they cause.

(c) The Municipality will provide the same proof of general liability insurance coverage as indicated in paragraph 6 above.

8. ENTIRE AGREEMENT. The terms of this Agreement, including its attachments and exhibits, represent the final intent of the parties. Any modification, rescission or waiver of the terms of this Agreement must be in writing and executed and acknowledged by the parties with the same formalities accorded this basic Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

APPROVED AS TO FORM:

ACCEPTED: COUNTY OF DUTCHESS

County Attorney's Office

BY: _____
Marcus J. Molinaro
County Executive

APPROVED AS TO CONTENT:

VILLAGE OF MILLERTON

Department of Public Works

BY: _____
Martin Markonic, Mayor

HVRTA

BY: _____

Print Name: _____

Title: _____

SCOPE OF SERVICE- Millerton

1. **Repairs.** The County shall be responsible for all repairs, replacements, and improvements associated with the Harlem Valley Rail Trail (HVRT).
2. **Inspection and Monitoring.** The County will conduct regular inspections of the HVRT to identify obstacles, hazards, or items needing repair or maintenance. The Town will also inspect the respective Town sections of the HVRT for same on at least a monthly basis and will report to the County any obstacles, hazards, or items needing repair and maintenance as soon as practical.
3. **Vegetation Removal.** The County shall be responsible for a regular schedule of vegetation maintenance, including cutting, clearing, and removal, to limit encroachment on the HVRT. This work shall be performed a minimum of twice a year in June and August. The Town shall perform light trimming and removal of small tree limbs, branches and encroaching brush at the trail heads and parking lots associated with the HVRT four (4) times per year between April and November. The Municipality's DPW department shall cut and place to the side any fallen tree if it encroaches across the trail, if it is located in their municipality. After removing the tree, the County Parks Division should be notified of the action.
4. **Mowing.** The County shall mow the shoulder of the HVRT a minimum of four (4) times per year. The Town shall mow and weed whack the areas around the trail heads and parking lots associated with the HVRT a minimum of four (4) times per year between April and November.
5. **Litter Removal.** The County shall install signs which indicate that the HVRT is a carry-in/carry-out linear park.
6. **Graffiti.** The Town shall notify the County of the existence of any graffiti on the HVRT as soon as it is noticed. The Town is not responsible for removal of graffiti on the HVRT.
7. **Surface Maintenance during Winter Months.** The HVRT shall be kept in its natural condition during winter months, with neither the HVRT nor the access walkways being plowed or sanded by the County. The Town agrees to plow and sand the designated HVRT parking areas as soon as practical after a weather event, based on the Town's road plowing and sanding scheduling. The Town shall sweep the parking areas on an annual basis during the spring of each year. The County shall post signs in each parking area or at each trail head indicating that the HVRT, associated parking areas and walkways may be used by the public at their own risk.
8. **Sign Repair.** The County shall inspect the condition and placement of required signs in its periodic inspections of the HVRT. It shall be the County's responsibility to maintain, repair and/or replace any signs. The Town shall notify the County of any necessary sign repairs that are seen on their monthly inspections (or reported at any time) as soon as

practical.

9. **Drainage/Storm water Management Facilities.** The County shall inspect and maintain all of the drainage culverts and storm water management facilities on the HVRT on an annual basis and shall undertake any necessary repairs or replacements. The Town shall notify the County of any potential drainage or storm water issues that are seen on their monthly inspections (or reported at any time) as soon as practical.

10. **Emergencies.** Both the County and the Town shall have the right to close any section of the HVRT for emergency or safety purposes. The Town official who makes the decision to close any portion of the HVRT shall be responsible for immediately contracting the appropriate fire, police and/or rescue authorities, post a "HVRT closed" sign, and contact the County Parks Duty Officer (914-456-6403). The following information should be provided when reporting a closure: the nature and location of the incident, the end points of the closed portion of the HVRT, the time and expected duration of the closures, and what, if any, assistance is required from the County. The County will also notify the Town should closure of the HVRT be required. Town shall designate those Town officials authorized to close the HVRT and take the above action.

INTERMUNICIPAL AGREEMENT

THIS AGREEMENT, made on the date appearing on the signature page, by and between the COUNTY OF DUTCHESS, a municipal corporation with offices at 22 Market Street, Poughkeepsie, New York 12601 (hereinafter referred to as the "COUNTY") and the TOWN OF NORTHEAST, a municipal corporation, with its offices at P.O. Box 516, Maple Avenue, Millerton, NY 12546 (hereinafter referred to as the "MUNICIPALITY") and the HARLEM VALLEY RAIL TRAIL ASSOCIATION, INC., a not-for-profit corporation whose address is P.O. Box 356, 51 South Center Street, Millerton, New York 12546 (hereinafter referred to as the "HVRTA").

WITNESSETH:

WHEREAS, the Municipality and the HVRTA desire to encourage the development of the Harlem Valley Rail Trail ("Trail") and to assist the county in providing proper maintenance for the Trail to encourage its use,

NOW, THEREFORE, it is mutually agreed by and between the parties hereto as follows:

1. SCOPE OF SERVICES. The Municipality and the HVRTA shall assist the County in the repair and maintenance of the Trail by providing the services as set forth on Exhibit "A," "Scope of Services," attached hereto and made a part hereof.
2. TERM OF AGREEMENT. This Agreement shall be effective for three (3) years commencing on March 1, 2015 and terminating on February 28, 2018. This agreement may be renewed automatically for an additional three (3) year term unless one or more parties to the agreement provides written notice of its intent not to renew at least thirty (30) days prior to the expiration of the agreement.
3. COUNTY TO INDEMNIFY MUNICIPALITY AND HVRTA. The County shall defend, protect, and indemnify the Municipality and the HVRTA for damages done to property, injury or death to persons resulting from the negligence of the County arising hereunder.
4. MUNICIPALITY TO INDEMNIFY COUNTY AND HVRTA. The Municipality shall defend, protect, and indemnify the County and HVRTA for damages done to property, injury or death to persons resulting from the negligence of the Municipality arising hereunder.
5. HVRTA TO INDEMNIFY COUNTY AND MUNICIPALITY. THE HVRTA shall defend, protect, and indemnify the Municipality and the County for damages to property, injury or death to persons resulting from the negligence of the HVRTA arising hereunder.
6. HVRTA INSURANCE REQUIREMENTS. At all during the term of this Agreement, HVRTA, shall maintain at its own cost the following insurance and shall provide proof thereof to the County, in the form of a Certificate of Insurance, prior to commencing work under this Agreement:

Worker's Compensation Employer's Liability (statutory limits). In compliance with the Workers' Compensation Law of the State of New York, each contractor shall provide:

- a. a certificate of insurance on an Acord form indicating proof of coverage for Worker's Compensation, Employer's Liability, **OR**
- b. a New York State Workers Compensation Notice of Compliance (Form C-105, Form U-26.3, Form SI-12 or Form SI-105.2P).
- c. In the event that the Contractor is exempt from providing coverage, he must provide a properly executed copy of the Certificate of Attestation of Exemption from NYS Workers' Compensation Board, Form CE-200.

Commercial General Liability Insurance coverage including blanket contractual coverage for the operation of the program under this Agreement with limits not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate. This insurance shall be written on an occurrence coverage form and include bodily injury and property damage liability. The County and Municipality must be listed as additional insured. The additional insured endorsement for the Commercial General Liability insurance required above shall not contain any exclusion for bodily injury or property damage arising from completed operations.

The Acord form certificate of insurance must contain the following provisions:

- (A) The County of Dutchess must be listed as certificate holder and additional insured on the commercial general, umbrella/excess, and automobile liability policies. In addition, the commercial general liability policy must include the additional insured endorsement forms cg 2037 July 2004 edition and the cg 2010 April 2013 edition or their equivalent.
- (B) The commercial general and automobile policies are primary and noncontributory.
- (C) The commercial general liability, auto liability and workers compensation policies must contain a waiver of subrogation in favor of the County of Dutchess.
- (D) The umbrella/excess policy is primary and noncontributory and must contain a waiver of subrogation in favor of the County of Dutchess.
- (E) If the workers compensation Notice of Compliance is used instead of the Acord certificate of insurance, the Notice of Compliance must indicate that a waiver of subrogation in favor of the County of Dutchess is provided.

All policies of insurance referred to above shall be underwritten by companies authorized to do business in the State of New York with an A.M. Best financial strength rating of A- or better. In the alternative, the policies of insurance referred to above may be underwritten by Non-Admitted companies with an A.M. Best financial strength rating of A+ or higher. In addition, every policy required above shall be primary and noncontributory. Any insurance carried by the County, its officers, or its employees shall be excess and noncontributory insurance to that provided by the

Contractor. The Contractor and his sub-contractor(s), if any, shall be solely responsible for any deductible losses under each of the policies required above.

Payment(s) to the Contractor may be suspended in the event the Contractor and his sub-contractor(s), if any, fails to provide the required insurance documentation in a timely manner.

Prior to cancellation or material change in any policy, a thirty (30) day notice shall be given to the County Attorney at the address listed below:

For the County:

Dutchess County Attorney's Office
County Office Building
22 Market Street
Poughkeepsie, New York 12601

For the Municipality:

Town of Northeast
P.O. Box 516
19 North Maple Avenue
Millerton, New York 12546

On receipt of such notice, the County shall have the option to cancel this Agreement without further expense or liability to the County, or to require the Contractor to replace the cancelled insurance policy, or rectify any material change in the policy, so that the insurance coverage required by this paragraph is maintained continuously throughout the term of this Agreement in form and substance acceptable to the County. Failure of the Contractor to take out or to maintain, or the taking out or the maintenance of any required insurance, shall not relieve the Contractor from any liability under this Agreement nor shall the insurance requirements be construed to conflict with or to limit the obligations of the Contractor concerning indemnification.

All losses of County property shall be adjusted with and made payable directly to the County.

The policy shall contain a clause waiving all right of subrogation against the County and the Municipality regardless of the cause of the damage or loss.

7. MUNICIPALITY'S RESPONSIBILITIES. (a) In the event the Municipality does not complete its obligations under this agreement, the County shall notify the Municipality of the problem in writing. The County shall request that the Municipality complete its obligations in a time specified manner with due consideration for the nature and seriousness of the problem. In the event the Municipality disagrees with the notification, the Municipality shall notify the County in writing as to why the Municipality feels that the work in question is not within its scope of services. If the County and the Municipality can't come to an agreement and the Municipality fails to act, the County shall consider retaining independent contractors to

perform the work. If this should occur, the Municipality will be asked to reimburse the County for the cost of the work performed.

(b) The Municipality will provide workers' Compensation Insurance for all of its employees and will be liable for any injuries they sustain while conducting Trail maintenance, repair, or related activities or for any personal injury or property damage they cause.

(c) The Municipality will provide the same proof of general liability insurance coverage as indicated in paragraph 6 above.

8. ENTIRE AGREEMENT. The terms of this Agreement, including its attachments and exhibits, represent the final intent of the parties. Any modification, rescission or waiver of the terms of this Agreement must be in writing and executed and acknowledged by the parties with the same formalities accorded this basic Agreement.

IN WITNESS WHEREOF, on the ____ day of _____, 2015 the parties hereto have executed this Agreement.

APPROVED AS TO FORM:

ACCEPTED: COUNTY OF DUTCHESS

County Attorney's Office

BY: _____
Marcus J. Molinaro
County Executive

APPROVED AS TO CONTENT:

TOWN OF NORTHEAST

Department of Public Works

BY: _____
John Merwin, Supervisor

HVRTA

BY: _____

Print Name: _____

Title: _____

SCOPE OF SERVICE- Town of North East

1. **Repairs.** The County shall be responsible for all repairs, replacements, and improvements associated with the Harlem Valley Rail Trail (HVRT).
2. **Inspection and Monitoring.** The County will conduct regular inspections of the HVRT to identify obstacles, hazards, or items needing repair or maintenance. The Town will also inspect the respective Town sections of the HVRT for same on at least a monthly basis and will report to the County any obstacles, hazards, or items needing repair and maintenance as soon as practical.
3. **Vegetation Removal.** The County shall be responsible for a regular schedule of vegetation maintenance, including cutting, clearing, and removal, to limit encroachment on the HVRT. This work shall be performed a minimum of twice a year in June and August. The Town shall perform light trimming and removal of small tree limbs, branches and encroaching brush at the trail heads and parking lots associated with the HVRT four (4) times per year between April and November. The Municipality's DPW department shall cut and place to the side any fallen trees if it encroaches across the trail, if it is located in their municipality. After removing the tree, the County Parks Division should be notified of the action.
4. **Mowing.** The County shall mow the shoulder of the HVRT a minimum of four (4) times per year. The Town shall mow and weed whack the areas around the trail heads and parking lots associated with the HVRT a minimum of four (4) times per year between April and November.
5. **Litter Removal.** The County will place one (1) litter receptacle in the parking area associated with the HVRT only at Coleman Station parking lot. The Town shall remove garbage, litter and other small debris at the trail head and in the associated parking lot on a weekly basis. The County shall install signs which indicate that the HVRT is a carry-in/carry-out linear park.
6. **Graffiti.** The Town shall notify the County of the existence of any graffiti on the HVRT as soon as it is noticed. The Town is not responsible for removal of graffiti on the HVRT.
7. **Surface Maintenance during Winter Months.** The HVRT shall be kept in its natural condition during winter months, with neither the HVRT nor the access walkways being plowed or sanded by the County. The Town agrees to plow and sand the designated HVRT parking areas as soon as practical after a weather event, based on the Town's road plowing and sanding scheduling. The Town shall sweep the parking areas on an annual basis during the spring of each year. The County shall post signs in each parking area or at each trail head indicating that the HVRT, associated parking areas and walkways may be used by the public at their own risk.
8. **Sign Repair.** The County shall inspect the condition and placement of required signs in

its periodic inspections of the HVRT. It shall be the County's responsibility to maintain, repair and/or replace any signs. The Town shall notify the County of any necessary sign repairs that are seen on their monthly inspections (or reported at any time) as soon as practical.

9. Drainage/Storm water Management Facilities. The County shall inspect and maintain all of the drainage culverts and storm water management facilities on the HVRT on an annual basis and shall undertake any necessary repairs or replacements. The Town shall notify the County of any potential drainage or storm water issues that are seen on their monthly inspections (or reported at any time) as soon as practical.

10. Emergencies. Both the County and the Town shall have the right to close any section of the HVRT for emergency or safety purposes. The Town official who makes the decision to close any portion of the HVRT shall be responsible for immediately contracting the appropriate fire, police and/or rescue authorities, post a "HVRT closed" sign, and contact the County Parks Duty Officer (914-456-6403). The following information should be provided when reporting a closure: the nature and location of the incident, the end points of the closed portion of the HVRT, the time and expected duration of the closures, and what, if any, assistance is required from the County. The County will also notify the Town should closure of the HVRT be required. Town shall designate those Town officials authorized to close the HVRT and take the above action.

INTERMUNICIPAL AGREEMENT

THIS AGREEMENT, bearing the date set forth on the signature page, by and between the COUNTY OF DUTCHESS, a municipal corporation with offices at 22 Market Street, Poughkeepsie, New York 12601 (hereinafter referred to as the "COUNTY") and the TOWN OF AMENIA, a municipal corporation, with its offices at 4988 Route 22, Amenia, NY 12501 (hereinafter referred to as the "MUNICIPALITY") and the HARLEM VALLEY RAIL TRAIL ASSOCIATION, INC., a not-for-profit corporation whose address is P.O. Box 356, 51 South Center Street, Millerton, New York 12546 (hereinafter referred to as the "HVRTA").

WITNESSETH:

WHEREAS, the Municipality and the HVRTA desire to encourage the development of the Harlem Valley Rail Trail ("Trail") and to assist the county in providing proper maintenance for the Trail to encourage its use,

NOW, THEREFORE, it is mutually agreed by and between the parties hereto as follows:

1. SCOPE OF SERVICES. The Municipality and the HVRTA shall assist the County in the repair and maintenance of the Trail by providing the services as set forth on Exhibit "A," "Scope of Services," attached hereto and made a part hereof.

2. TERM OF AGREEMENT. This Agreement shall be effective for three years commencing on March 1, 2015 and terminating on February 29, 2018. This agreement may be renewed automatically for an additional three year term unless one or more parties to the agreement provides written notice of its intent not to renew at least thirty (30) days prior to the expiration of the agreement.

3. COUNTY TO INDEMNIFY MUNICIPALITY AND HVRTA. The County shall defend, protect, and indemnify the Municipality and the HVRTA for damages done to property, injury or death to persons resulting from the negligence of the County arising hereunder.

4. MUNICIPALITY TO INDEMNIFY COUNTY AND HVRTA. The Municipality shall defend, protect, and indemnify the County and HVRTA for damages done to property, injury or death to persons resulting from the negligence of the Municipality arising hereunder.

5. HVRTA TO INDEMNIFY COUNTY AND MUNICIPALITY. THE HVRTA shall defend, protect, and indemnify the Municipality and the County for damages to property, injury or death to persons resulting from the negligence of the HVRTA arising hereunder.

6. HVRTA INSURANCE. HVRTA will be required to provide the following insurance and shall provide proof thereof to the County, in the form of a Certificate of Insurance, prior to commencing work under this Agreement:

Worker's Compensation Employer's Liability (statutory limits). In compliance with the Workers' Compensation Law of the State of New York, each contractor shall provide:

- a. a certificate of insurance on an Acord form indicating proof of coverage for Worker's Compensation, Employer's Liability, **OR**
- b. a New York State Workers Compensation Notice of Compliance (Form C-105, Form U-26.3, Form SI-12 or Form SI-105.2P).
- c. In the event that the Contractor is exempt from providing coverage, he must provide a properly executed copy of the Certificate of Attestation of Exemption from NYS Workers' Compensation Board, Form CE-200.

Commercial General Liability Insurance coverage including blanket contractual coverage for the operation of the program under this Agreement with limits not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate. This insurance shall be written on an occurrence coverage form and include bodily injury and property damage liability. The County and Municipality must be listed as additional insureds. The additional insured endorsement for the Commercial General Liability insurance required above shall not contain any exclusion for bodily injury or property damage arising from completed operations.

The Acord form certificate of insurance must contain the following provisions:

- (A) The County of Dutchess must be listed as certificate holder and additional insured on the commercial general, umbrella/excess, and automobile liability policies. In addition, the commercial general liability policy must include the additional insured endorsement forms cg 2037 July 2004 edition and the cg 2010 April 2013 edition or their equivalent.
- (B) The commercial general and automobile policies are primary and noncontributory.
- (C) The commercial general liability, auto liability and workers compensation policies must contain a waiver of subrogation in favor of the County of Dutchess.
- (D) The umbrella/excess policy is primary and noncontributory and must contain a waiver of subrogation in favor of the County of Dutchess.
- (E) If the workers compensation Notice of Compliance is used instead of the Acord certificate of insurance, the Notice of Compliance must indicate that a waiver of subrogation in favor of the County of Dutchess is provided.

All policies of insurance referred to above shall be underwritten by companies authorized to do business in the State of New York with an A.M. Best financial strength rating of A- or better. In the alternative, the policies of insurance referred to above may be underwritten by Non-Admitted companies with an A.M. Best financial strength rating of A+ or higher. In addition, every policy required above shall be primary and noncontributory. Any insurance carried by the County, its officers, or its employees shall be excess and noncontributory insurance to that provided by the HVRTA. The HVRTA shall be solely responsible for any deductible losses under each of the policies required above.

Prior to cancellation or material change in any policy, a thirty (30) day notice shall be given to the County Attorney at the address listed below:

For the County:

Dutchess County Attorney's Office
County Office Building
22 Market Street
Poughkeepsie, New York 12601

For the Municipality:

Town of Amenia
4988 Route 22
Amenia, NY 12501

On receipt of such notice, the County shall have the option to cancel this Agreement without further expense or liability to the County, or to require the HVRTA to replace the cancelled insurance policy, or rectify any material change in the policy, so that the insurance coverage required by this paragraph is maintained continuously throughout the term of this Agreement in form and substance acceptable to the County. Failure of the HVRTA to take out or to maintain, or the taking out or the maintenance of any required insurance, shall not relieve the HVRTA from any liability under this Agreement nor shall the insurance requirements be construed to conflict with or to limit the obligations of the HVRTA concerning indemnification.

All losses of County property shall be adjusted with and made payable directly to the County.

The policy shall contain a clause waiving all right of subrogation against the County and the Municipality regardless of the cause of the damage or loss.

7. MUNICIPALITY'S RESPONSIBILITIES. (a) In the event the Municipality does not complete its obligations under this agreement, the County shall notify the Municipality of the problem in writing. The County shall request that the Municipality complete its obligations in a time specified manner with due consideration for the nature and seriousness of the problem. In the event the Municipality disagrees with the notification, the Municipality shall notify the County in writing as to why the Municipality feels that the work in question is not within its scope of services. If the County and the Municipality can't come to an agreement and the Municipality fails to act, the County shall consider retaining independent contractors to perform the work. If this should occur, the Municipality will be asked to reimburse the County for the cost of the work performed.

(b) The Municipality will provide workers' Compensation Insurance for all of its employees and will be liable for any injuries they sustain while conducting Trail maintenance, repair, or related activities or for any personal injury or property damage they cause.

(c) The Municipality will provide the same proof of general liability insurance coverage as indicated in paragraph 6 above.

8. ENTIRE AGREEMENT. The terms of this Agreement, including its attachments and exhibits, represent the final intent of the parties. Any modification, rescission or waiver of the terms of this Agreement must be in writing and executed and acknowledged by the parties with the same formalities accorded this basic Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

APPROVED AS TO FORM:

ACCEPTED: COUNTY OF DUTCHESS

County Attorney's Office

BY: _____
Marcus J. Molinaro
County Executive

APPROVED AS TO CONTENT:

TOWN OF AMENIA

Department of Public Works

BY: _____
Victoria Perotti, Supervisor

HVRTA

BY: _____

Print Name: _____

Title: _____

SCOPE OF SERVICE- Amenia

1. **Repairs.** The County shall be responsible for all repairs, replacements, and improvements associated with the Harlem Valley Rail Trail (HVRT).
2. **Inspection and Monitoring.** The County will conduct regular inspections of the HVRT to identify obstacles, hazards, or items needing repair or maintenance. The Town will also inspect the respective Town sections of the HVRT for same on at least a monthly basis and will report to the County any obstacles, hazards, or items needing repair and maintenance as soon as practical.
3. **Vegetation Removal.** The County shall be responsible for a regular schedule of vegetation maintenance, including cutting, clearing, and removal, to limit encroachment on the HVRT. This work shall be performed a minimum of twice a year in June and August. The Town shall perform light trimming and removal of small tree limbs, branches and encroaching brush at the trail heads and parking lots associated with the HVRT four (4) times per year between April and November. The Municipality's DPW department shall cut and place to the side any fallen tree if it encroaches across the trail, if it is located in their municipality. After removing the tree, the County Parks Division should be notified of the action.
4. **Mowing.** The County shall mow the shoulder of the HVRT a minimum of four (4) times per year. The Town shall mow and weed whack the areas around the trail heads and parking lots associated with the HVRT a minimum of four (4) times per year between April and November.
5. **Litter Removal.** The County shall install signs which indicate that the HVRT is a carry-in/carry-out linear park.
6. **Graffiti.** The Town shall notify the County of the existence of any graffiti on the HVRT as soon as it is noticed. The Town is not responsible for removal of graffiti on the HVRT.
7. **Surface Maintenance during Winter Months.** The HVRT shall be kept in its natural condition during winter months, with neither the HVRT nor the access walkways being plowed or sanded by the County. The Town agrees to plow and sand the designated HVRT parking areas as soon as practical after a weather event, based on the Town's road plowing and sanding scheduling. The Town shall sweep the parking areas on an annual basis during the spring of each year. The County shall post signs in each parking area or at each trail head indicating that the HVRT, associated parking areas and walkways may be used by the public at their own risk.
8. **Sign Repair.** The County shall inspect the condition and placement of required signs in its periodic inspections of the HVRT. It shall be the County's responsibility to maintain, repair and/or replace any signs. The Town shall notify the County of any necessary sign repairs that are seen on their monthly inspections (or reported at any time) as soon as

practical.

9. **Drainage/Storm water Management Facilities.** The County shall inspect and maintain all of the drainage culverts and storm water management facilities on the HVRT on an annual basis and shall undertake any necessary repairs or replacements. The Town shall notify the County of any potential drainage or storm water issues that are seen on their monthly inspections (or reported at any time) as soon as practical.
10. **Emergencies.** Both the County and the Town shall have the right to close any section of the HVRT for emergency or safety purposes. The Town official who makes the decision to close any portion of the HVRT shall be responsible for immediately contracting the appropriate fire, police and/or rescue authorities, post a "HVRT closed" sign, and contact the County Parks Duty Officer (914-456-6403). The following information should be provided when reporting a closure: the nature and location of the incident, the end points of the closed portion of the HVRT, the time and expected duration of the closures, and what, if any, assistance is required from the County. The County will also notify the Town should closure of the HVRT be required. Town shall designate those Town officials authorized to close the HVRT and take the above action.

Public Works & Capital Projects

RESOLUTION NO. 204016

RE: AUTHORIZING AGREEMENT AMONG THE COUNTY, THE VILLAGE OF MILLERTON AND THE HARLEM VALLEY RAIL TRAIL ASSOCIATION, INC. FOR THE REPAIR AND MAINTENANCE OF THE HARLEM VALLEY RAIL TRAIL

Legislators COOPER, KENDALL, MOLINARO, FETTES, and KELLY offer the following and move its adoption:

WHEREAS, this Legislature, by Resolution No. 166 of 1995, authorized acceptance and execution of a grant agreement with the New York State Department of Transportation relating to the construction of the Harlem Valley Rail Trail, and

WHEREAS, the grant agreement requires maintenance provisions be implemented for the trail, and

WHEREAS, the Trail has proven to be popular with both residents and visitors alike, and

WHEREAS, the various municipalities that the trail passes through and the Harlem Valley Rail Trail Association, Inc., a not-for-profit association, formed specifically for the purpose of maintaining and enhancing the trail have agreed to assist the County with routine repairs and maintenance of the trail, now, therefore, be it

RESOLVED, that the County Executive is authorized and empowered to execute an agreement and any amendments thereto with the Village of Millerton and the Harlem Valley Rail Trail Association, Inc., on behalf of the County of Dutchess, in substantially the same form attached hereto.

CA-15-04
C-6183
1/5/04

Fiscal Impact: See attached statement

APPROVED



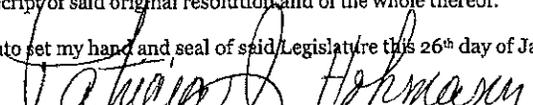
WILLIAM R. STEINHAUS
COUNTY EXECUTIVE

Date 2/2, 2004

STATE OF NEW YORK
ss:
COUNTY OF DUTCHESS

This is to certify that I, the undersigned Clerk of the Legislature of the County of Dutchess have compared the foregoing resolution with the original resolution now on file in the office of said clerk, and which was adopted by said Legislature on the 26th day of January, 2004, and that the same is a true and correct transcript of said original resolution and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of said Legislature this 26th day of January, 2004.


PATRICIA J. HOHMANN, CLERK OF THE LEGISLATURE

Public Works & Capital Projects

RESOLUTION NO. 204015

RE: AUTHORIZING AGREEMENT AMONG THE COUNTY, THE TOWN OF NORTH EAST AND THE HARLEM VALLEY RAIL TRAIL ASSOCIATION, INC. FOR THE REPAIR AND MAINTENANCE OF THE HARLEM VALLEY RAIL TRAIL

Legislators COOPER, KENDALL, MOLINARO, FETTES, and KELLY offer the following and move its adoption:

WHEREAS, this Legislature, by Resolution No. 166 of 1995, authorized acceptance and execution of a grant agreement with the New York State Department of Transportation relating to the construction of the Harlem Valley Rail Trail, and

WHEREAS, the grant agreement requires maintenance provisions be implemented for the trail, and

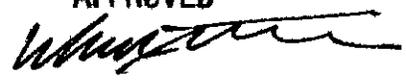
WHEREAS, the Trail has proven to be popular with both residents and visitors alike, and

WHEREAS, the various municipalities that the trail passes through and the Harlem Valley Rail Trail Association, Inc., a not-for-profit association, formed specifically for the purpose of maintaining and enhancing the trail have agreed to assist the County with routine repairs and maintenance of the trail, now, therefore, be it

RESOLVED, that the County Executive is authorized and empowered to execute an agreement and any amendments thereto with the Town of North East and the Harlem Valley Rail Trail Association, Inc., on behalf of the County of Dutchess, in substantially the same form attached hereto.

CA-14-04
C-6184
1/5/04

Fiscal Impact: See attached statement

APPROVED


WILLIAM R. STEINHAUS
COUNTY EXECUTIVE

Date 2/2, 2004

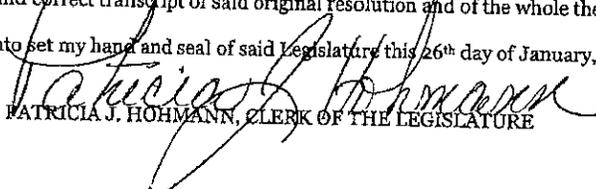
STATE OF NEW YORK

ss:

COUNTY OF DUTCHESS

This is to certify that I, the undersigned Clerk of the Legislature of the County of Dutchess have compared the foregoing resolution with the original resolution now on file in the office of said clerk, and which was adopted by said Legislature on the 26th day of January, 2004, and that the same is a true and correct transcript of said original resolution and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of said Legislature this 26th day of January, 2004.


PATRICIA J. HOHMANN, CLERK OF THE LEGISLATURE

Public Works & Capital Projects

RESOLUTION NO. 204014

RE: AUTHORIZING AGREEMENT AMONG THE COUNTY, THE TOWN OF AMENIA AND THE HARLEM VALLEY RAIL TRAIL ASSOCIATION, INC. FOR THE REPAIR AND MAINTENANCE OF THE HARLEM VALLEY RAIL TRAIL

Legislators COOPER, MOLINARO, KENDALL, FETTES, and KELLY offer the following and move its adoption:

WHEREAS, this Legislature, by Resolution No. 166 of 1995, authorized acceptance and execution of a grant agreement with the New York State Department of Transportation relating to the construction of the Harlem Valley Rail Trail, and

WHEREAS, the grant agreement requires maintenance provisions be implemented for the trail, and

WHEREAS, the Trail has proven to be popular with both residents and visitors alike, and

WHEREAS, the various municipalities that the trail passes through and the Harlem Valley Rail Trail Association, Inc., a not-for-profit association, formed specifically for the purpose of maintaining and enhancing the trail have agreed to assist the County with routine repairs and maintenance of the trail, now, therefore, be it

RESOLVED, that the County Executive is authorized and empowered to execute an agreement and any amendments thereto with the Town of Amenia and the Harlem Valley Rail Trail Association, Inc., on behalf of the County of Dutchess, in substantially the same form attached hereto.

CA-16-04
C-6185
1/5/04

Fiscal Impact: See attached statement

STATE OF NEW YORK
COUNTY OF DUTCHESS

ss:

APPROVED

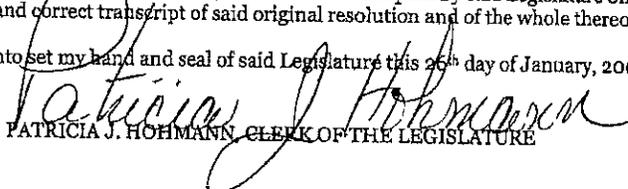


WILLIAM R. STEINHAUS
COUNTY EXECUTIVE

Date 2/2, 2004

This is to certify that I, the undersigned Clerk of the Legislature of the County of Dutchess have compared the foregoing resolution with the original resolution now on file in the office of said clerk, and which was adopted by said Legislature on the 26th day of January, 2004, and that the same is a true and correct transcript of said original resolution and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of said Legislature this 26th day of January, 2004.


PATRICIA J. HOHMANN, CLERK OF THE LEGISLATURE

Public Works and Capital Projects

RESOLUTION NO. 209228

RE: AUTHORIZING RENEWAL OF MAINTENANCE AGREEMENTS WITH THE VILLAGE OF MILLERTON, TOWN OF NORTH EAST, TOWN OF AMENIA AND HARLEM VALLEY RAIL TRAIL ASSOCIATION, INC. FOR THE REPAIR AND MAINTENANCE OF THE HARLEM VALLEY RAIL TRAIL

Legislators KELLER-COFFEY, MANSFIELD, and FETTES offer the following and move its adoption:

WHEREAS, by Resolution No. 204016 this Legislature authorized an agreement and any amendments thereto with the Village of Millerton and the Harlem Valley Rail Trail Association, Inc., for the repair and maintenance of the Harlem Valley Rail Trail, and

WHEREAS, by Resolution No. 204015 this Legislature authorized an agreement and any amendments thereto with the Town of North East and the Harlem Valley Rail Trail Association, Inc., for the repair and maintenance of the Harlem Valley Rail Trail, and

WHEREAS, by Resolution No. 204014 this Legislature authorized an agreement and any amendments thereto with the Town of Amenia and the Harlem Valley Rail Trail Association, Inc., for the repair and maintenance of the Harlem Valley Rail Trail, and

WHEREAS, the term of said agreements with each of the municipalities has expired and the County, Towns, Village and Harlem Valley Real Trail Association, Inc. desire to renew the agreements pursuant to the terms and conditions contained in the attached agreements, now therefore, be it

RESOLVED, that the County Executive is authorized and empowered to execute an agreement and any amendments thereto with the Village of Millerton, Town of North East, Town of Amenia and Harlem Valley Rail Trail Association on behalf of the County of Dutchess, in substantially the same form as attached hereto.

CA-112-09
ca/C-6183, C-6184 & C-6185
6/11/09
Fiscal Impact: See attached statement

APPROVED



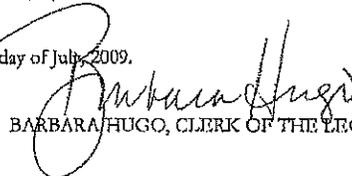
WILLIAM R. STEINHAUS
COUNTY EXECUTIVE

Date July 22, 2009

STATE OF NEW YORK
COUNTY OF DUTCHESS

This is to certify that I, the undersigned Clerk of the Legislature of the County of Dutchess have compared the foregoing resolution with the original resolution now on file in the office of said clerk, and which was adopted by said Legislature on the 13th day of July, 2009, and that the same is a true and correct transcript of said original resolution and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of said Legislature this 13th day of July, 2009.


BARBARA HUGO, CLERK OF THE LEGISLATURE