

RESOLUTION NO. 2015178

RE: AUTHORIZING THE SALE OF PROPERTY LOCATED
AT GREENTREE DRIVE AND ROUTE 9G IN THE
TOWN OF HYDE PARK

Legislators HUTCHINGS, BOLNER, FARLEY, and PERKINS offer the following and move its adoption:

WHEREAS, a parcel located in the Town of Hyde Park, which is designated as tax map number 133200-6165-02-547872-0000 (hereinafter the "Property") is a subject parcel of Dutchess County's 2015 *in rem* foreclosure proceeding to enforce delinquent taxes, and

WHEREAS, the record owner of the Property has failed to pay property taxes since 2005, and

WHEREAS, the Town of Hyde Park desires to assume ownership of this Property and upon doing so shall put the Property to public use, and

WHEREAS, the Town of Hyde Park shall remediate the Property which is in a blighted condition, and

WHEREAS, prior to the transfer of ownership, the Town Board of the Town of Hyde Park shall submit a resolution to the County stating its intent to acquire the Property and use it exclusively for a public purpose, and

WHEREAS the Town shall tender the sum of \$1.00 and other good and valuable consideration to the Dutchess County Commissioner of Finance for any right, title and interest the County will acquire in and to the above Property at the culmination of the *in rem* foreclosure proceeding, and

WHEREAS, although Resolution No. 244 of 1997 (Land Disposition Policy) confers upon the former landowner an exclusive right to reacquire the Property until 5:00 pm the night before the *in rem* foreclosure auction, since the record owner has not paid taxes on the Property since 2005, in this instance the County is desirous of extinguishing the former owner's right to reacquire this Property immediately following the County's acquisition of title to the Property, now therefore be it

RESOLVED, the County Executive is hereby authorized to execute an agreement with the Town of Hyde Park, in substantially the same form as attached hereto and made a part hereof, transferring ownership of the Property described herein subject to the contingencies of the contract of sale, and be it further

RESOLVED, that the County Executive is hereby authorized to execute the three (3) party contract between the County, Town of Hyde Park and State of New York which is referred to as Exhibit A attached to the Contract of Sale, and be it further

RESOLVED, that the County Executive is hereby authorized, empowered and directed to make, execute and deliver in the name of the County of Dutchess and of the Legislature of said County a quitclaim deed to the Town of Hyde Park, immediately upon the County acquiring title to the Property by reason of its *in rem* foreclosure proceeding, and be it further

RESOLVED, that the record owner's exclusive right to reacquire the Property, pursuant to (Resolution No. 244 of 1997) is extinguished with regard to this Property.

CA-116-15

CEN/kvh/G-0194

06/18/15

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 13th day of July 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 13th day of July 2015.

CAROLYN MORRIS, CLERK OF THE LEGISLATURE

EXHIBIT A

In the Matter of the Investigation and
Remediation of Real Property Pursuant to
Article 12 of the Navigation Law, by the

AGREEMENT

REGARDING TAX
FORECLOSURE SALE

**TOWN OF HYDE PARK,
COUNTY OF DUTCHESS**

WHEREAS:

1. The New York Environmental Protection and Spill Compensation Fund (the "Fund") was created by Navigation Law § 179. The Administrator of the Fund is authorized to settle claims on behalf of the Fund. (Navigation Law § 180).

2. The County of Dutchess ("County") is a county, as defined in County Law 3, with its principal place of business located at 22 Market St., Poughkeepsie, NY 12601.

3. The Town of Hyde Park is a town located wholly within the County of Dutchess, State of New York, with its principal place of business located at 4383 Albany Post Rd., Hyde Park NY 12538.

3. Pursuant to Navigation Law Article 12, the State of New York has expended cleanup and removal costs at Route 9G and Greentree Drive, Hyde Park (Site or property) located in Dutchess County.

4. Navigation Law § 173 prohibits the discharge of petroleum, and Navigation Law § 181 provides that any person who discharges petroleum shall be strictly liable, without regard to fault, for all cleanup and removal costs.

5. The County is owed real property and school taxes together with accrued interest.

6. The County has commenced and desires to complete an In Rem Tax Foreclosure proceeding ("Foreclosure Proceeding") pursuant to Real Property Tax Law Article 11 with respect to the site.

7. The County is desirous of completing the Foreclosure Proceeding in order to transfer the property to the Town of Hyde Park for use as open green space, but is concerned that, should it take possession of the property, it may be deemed a responsible party under the strict liability provisions of Navigation Law Article 12.

8. The Town is desirous of removing the existing structure on the site and converting the site to open green space in order to reduce blight and enhance the existing residential neighborhood.

8. To date, the Fund has no knowledge of any fact which indicates that the County or Town is a responsible party under the strict liability provisions of Navigation Law Article 12.

9. The Fund, County and Town therefore agree that this Agreement is warranted in order to achieve the following goals:

- a. Release of the County and Town, and their eligible successors and assigns as set forth in Section II of this Agreement, from any and all liability for costs incurred by the Fund which have accrued as of the effective date of this Agreement, relating to the site; and
- b. Consideration to the Fund for offset for any costs the State may incur should additional clean up at the site be necessary.
- c. Removal of existing blight from residential neighborhood.

NOW THEREFORE, the Fund, Town and the County agree as follows:

I. Parties

A. County

- i. The County will foreclose on its tax lien in an in rem proceeding and transfer the property to the Town.
- ii. The County will obtain any necessary legislative resolutions or other legal prerequisites to effectuate this agreement:

B. Town

- i. The Town will pay the Fund \$10,000.00 as consideration for the release of liability. The check shall be made out to "New York Environmental Protection and Spill Compensation Fund" and mailed to Office of State Comptroller, New York Environmental Protection and Spill Compensation Fund, 110 State Street, 8th Floor, Albany, New York 12236.
- ii. The Town will obtain any necessary legislative resolutions or other legal prerequisites to effectuate this agreement.
- iii. The Town will remove the existing building on the property at its own expense and convert the property to open green space.

C. Fund

- i. The Fund will provide releases of liability to the County and Town as further specified in this agreement.
- ii. The Department of Environmental Conservation will complete any necessary cleanup of the petroleum contamination at the property in its discretion using Fund monies.

II. Foreclosure Proceeding

- A. To the extent allowed under Law, the County shall complete the Foreclosure Proceeding pursuant to RPTL Article 11. If the County does not complete the

foreclosure proceeding and take title to the subject property, this agreement shall terminate and there shall be no further obligation or liability to any of the parties by reason of this Agreement.

B. The property shall be delivered to the Town only. Should the County transfer the property to any other party except the Town, this agreement along with the release contained herein shall be void.

C. The County shall not deliver the tax deed or other instrument of ownership to the Town until the Town has paid the Fund.

III. Release of Liability

A. Upon completion of the Foreclosure Proceeding and after compliance by the County and Town with Section I of this Agreement, the Fund hereby, acquits, and forever discharges the County and Town from any legal or equitable rights, claims, actions, proceedings, suits, causes of action, liabilities or demands which the State asserted or could have asserted against the County and Town, for the cleanup and removal costs incurred by the State through the date of this Agreement, including interest thereon and applicable penalties, which specifically relate to the Discharge of petroleum product at the spill site known as Route 9G and Greentree Drive, Hyde Park, New York.

B. The release set forth in Paragraph A of this Section shall extend to the successors or assigns of the County and Town; provided however, that it shall not extend, nor can it be transferred to, any successor or assign of the County who is a person deemed responsible according to applicable principles of statutory or common law or to a

person with interest by either a business, contractual, familial or agency, relationship for the discharge of petroleum known as Route 9G and Greentree Drive, Hyde Park, New York.

- C. The Fund makes no agreements, promises, covenants, representations, or warranties regarding the past, present or future condition of the Site, including but not limited to any contamination, or other effects, resulting either directly or indirectly from the discharges at the Site.
- D. By this Agreement, the Fund releases the County and Town from any and all claims, losses, costs and expenses and liabilities, direct or indirect, that can be made by the State now or in the future under Article 12 of the Navigation Law or under any other State law, rule or regulation for clean-up costs associated with, arising out of, and/or relating to the condition of the site, including but not limited to any and all discharges occurring or existed prior to the date Dutchess County becomes the owner of the property by reason of the foreclosure action.

IV. Reservation of Rights

- A. Except as provided in Section II of this Agreement, nothing contained in this Agreement shall be construed as barring, diminishing, adjudicating, or in any way affecting the rights of the Fund with respect to any party other than the County and Town and their qualified successors and assigns with respect to the spill at Route 9G and Greentree Drive, Hyde Park, New York.
- B. Except as provided in Section II of this Agreement, the Fund explicitly reserves all rights with respect to any person, including the County and Town and their

successors or assigns, who is responsible according to applicable principles of statutory or common law for any discharge of petroleum at or on the property.

V. Miscellaneous

- A. By entering into this Agreement, the County and Town certify that, to the best of their knowledge and belief, they have not caused or contributed to a discharge of petroleum at the site.
- B. If the Fund determines that the information provided by the County or Town is not materially accurate or complete, this Agreement may be declared null and void and all rights that the Fund may have against the County and Town shall thereby be reinstated.
- C. The County and Town, for themselves and their employees, agents, lessees, successors and assigns, affirmatively waive any right to make a claim against the Fund pursuant to Navigation Law Article 12 with respect to the spill at Route 9G and Greentree Drive, Hyde Park and release the State of New York from any and all present or future claims, with respect to Route 9G and Greentree Drive, Hyde Park, New York.
- D. The provisions of this Agreement do not constitute and shall not be deemed a waiver of any right the County or Town otherwise may have to seek and obtain contribution and/or indemnification from other potentially responsible parties or their insurers, or the County's insurers or Town's insurers, for payments made previously or in the future for cleanup and removal costs.
- E. If any party to this Agreement desires that any provision of the Agreement be

changed, that party shall make timely written application to all other parties to the Agreement, which application shall set forth the grounds for the relief sought.

- F. No term, condition, understanding or agreement purporting to modify or vary any term of this Agreement shall be binding unless made in writing and subscribed by all parties to the Agreement. No informal advice, guidance, suggestion or comment by the Fund regarding any report, proposal, plan, specification, schedule or the like shall be construed as relieving the County or Town of their obligation to comply with any formal terms of this Agreement.
- G. The effective date of this Agreement shall be the date that the signature of the duly designated representative of the last of the three parties thereto is affixed.

VI. Communications

- A. All written communications required by this Agreement shall be transmitted by United States Postal Service, by private courier service, or hand delivered to the parties.

Dated: June , 2015
Albany, New York

NEW YORK ENVIRONMENTAL
PROTECTION AND SPILL
COMPENSATION FUND
Office of the New York State Comptroller
110 State Street, 8th Floor
Albany, New York 12236

By: _____
Suzette Baker
Executive Director

CONSENT BY COUNTY

The County of Dutchess hereby consents to the entering of this Agreement and agrees to be bound by the terms and conditions of this Agreement.

By: _____

Title: _____

Address: _____

Dated: _____

STATE OF NEW YORK
COUNTY OF DUTCHESS

On this _____ day of _____, 2015, before me personally came _____, to me known, who being by me duly sworn did depose and say that he resides at _____, that he is the _____, of _____, the municipal corporation described in and which executed the foregoing instrument, and that he signed his name as authorized by said municipal corporation.

NOTARY PUBLIC

CONSENT BY TOWN

The Town of Hyde Park hereby consents to the entering of this Agreement and agrees to be bound by the terms and conditions of this Agreement.

By: _____

Title: _____

Address: _____

Dated: _____

STATE OF NEW YORK
COUNTY OF DUTCHESS

On this _____ day of _____, 2015, before me personally came _____, to me known, who being by me duly sworn did depose and say that he resides at _____, that he is the _____, of _____, the municipal corporation described in and which executed the foregoing instrument, and that he signed his name as authorized by said municipal corporation.

NOTARY PUBLIC

PURCHASE AND SALE CONTRACT

This Purchase and Sale contract is made effective as of the ___ day of _____, 2015, between **DUTCHESS COUNTY**, a municipal corporation of the State of New York with offices at 22 Market Street, Poughkeepsie New York 12603 (hereinafter the "Seller") and **TOWN OF HYDE PARK**, a municipal corporation of the State of New York, with offices at 4383 Albany Post Road, Hyde Park, NY 12538 (hereinafter the "Buyer" or "Purchaser").

RECITALS:

WHEREAS, Seller anticipates that it will acquire title through Article 11 of the NYS Real Property Tax Law to certain parcels of real property located in the Town of Hyde Park, County of Dutchess, State of New York, which is identified as tax map number: 133200-6165-02-547872-0000 (hereinafter the "Property"); and

WHEREAS, Seller desires to sell the Property and Buyer desires to purchase the Property, as further set forth in this Contract; and

WHEREAS, because the Property has been impacted by contamination that was not caused by either Seller or Purchaser and, as a result, Seller and Purchaser, as described herein, must prior to closing, first reach an agreement with the State of New York Department of Environmental Conservation as to a liability release for any contaminated or deteriorated conditions, and also for the approval of a plan to rehabilitate the property, and

WHEREAS, the Purchaser intends to remove the existing building on the property and landscape the same for use as open greenspace, but not as a public park, for the enjoyment of the public and the enhancement of the surrounding community, and

WHEREAS, upon foreclosure by the Seller pursuant to Article 11 of the Real Property Tax Law, Seller shall execute a Quit Claim Deed conveying any interest of Seller to Purchaser; and,

NOW THEREFORE, in consideration of the promises and the mutual covenants and Contract herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

CONTRACT:

1. Sale and Purchase of Property. Subject to the terms, conditions and provisions of this Contract, upon Seller's obtaining title to the Property through an *in rem* foreclosure proceeding, and any contingencies contained herein and in the three-way Agreement referred to hereinafter among the Seller, Buyer and New York State having been satisfied, Seller shall forthwith sell, transfer, deliver and assign by Quit Claim Deed, to Buyer, and Buyer agrees to purchase from Seller, all of Seller's right, title and interest in and to the following parcel of land, with any buildings and improvements, free of any encumbrances and liensto the full extent such where extinguished by RPTL Article 11 being in the Town of Hyde Park, County of Dutchess, and

State of New York, and which is identified as tax map number: 13200-6165-02-547872-0000 (“the Property”).

2. Purchase Price. The total purchase price to be paid (the “Purchase Price”) by Buyer to Seller for the Property is ten (\$ 10.00) dollars, which is deemed accepted, and other good and valuable consideration the public purpose and use of the Property being paramount among them.
3. Title and Seller’s Obligations to Acquire the Property.
 - a. Seller has commenced a proceeding for the foreclosure of any tax liens it holds on the Property pursuant to Article 11 of the Real Property Law (hereinafter the “RPTL”). Seller agrees to take all ordinary measures required by RPTL Article 11 to take the proceeding to judgment and to acquire fee title to the Property. Seller will not be obligated to take any extraordinary measures unless Buyer agrees to reasonably compensate the Seller for the cost of taking such measures, such costs to include reasonable attorney fees. For the purpose of this Contract, these terms are defined as follows:
 - i. “Ordinary measures required by RPTL Article 11” shall mean the filing of a foreclosure petition, compliance with all notice requirements, the filing for a default judgment or the filing and prosecuting of a motion for summary judgment such that title is transferred to the Seller in accordance with the Real Property Tax law.
 - ii. “Extraordinary measures” shall mean any measure not defined as an ordinary measure and specifically includes participation in any evidentiary hearing, defending motion practice initiated by any party with an interest in the Property; any proceeding in bankruptcy or the appeal of any ruling, order, decision or judgment.
 - b. Prior to closing, the Buyer shall submit a resolution to the Dutchess County Commissioner of Finance and the Clerk of the Dutchess County Legislature stating its intent to acquire the Property for a legitimate public purpose.
 - c. Prior to closing Seller, Buyer and the DEC shall execute an agreement in substantially the same form as that attached hereto and made a part hereof as Exhibit “A” providing for, among other consideration, the waiver of claims and release of liability under the Navigation Law of the State of New York.
 - d. Seller then will promptly prepare a quitclaim deed to convey the Property to the Buyer.

- e. In the event the Buyer does not submit such a resolution, title will remain in the name of the County.
 - f. Buyer may, at its option, purchase title insurance for the Property. Notwithstanding, it is specifically understood and agreed that this contract and the parties' obligations hereunder are not contingent upon same, and Seller shall not be responsible for satisfying/clearing any exceptions to title which may be included in said title report and which are not specifically an obligation of Seller under the terms of this Agreement. However, Seller agrees to cooperate with the Buyer's title insurance company and to make all public records concerning the foreclosure promptly available. In addition, the Seller will make the title report on the property together with the list of suggested defendants available to the Buyer. After the title report has been delivered, the Buyer will have ten (10) calendar days to review and identify any other party who in its opinion requires notification pursuant to Article 11 of the RPTL, together with a mailing address for such party. So long as the Buyer notifies all parties on the list of suggested defendants and any other party identified by the Buyer, Buyer will be obligated to purchase the property regardless of whether a title insurance policy is issued to its benefit. If service of the petition and notice of petition by certified and ordinary mail are both returned by the United States Postal Service as undeliverable for lack of current address, Buyer's title company shall be advised of the same and shall have ten (10) business days to recommend alternative or additional addresses for service of the notice of petition and petition.
 - g. In the event that a proceeding is commenced to set aside the deed given to Buyer which challenges whether the foreclosure proceeding was regular and in accordance with all provisions of law relating thereto, Seller agrees to defend such proceeding. In the event of a lawsuit, Buyer agrees to cooperate fully with the Seller. In the event that the transfer of fee title to the Property is set aside by a Court of competent jurisdiction, Seller shall return all funds paid by Buyer to Seller, within thirty (30) days of the entry of a final judgment setting aside the foreclosure, providing that such judgment is not stayed pending appeal. In the event that either party chooses to appeal any such judgment, it may do so, or the Seller may reinstitute a new foreclosure proceeding and, if successful, the Buyer agrees to re-pay the funds that were returned and to close the property, if it hasn't already done so. This provision will survive the Closing and will constitute continuing obligations of the Seller and Buyer.
 - h. Seller and Buyer shall also not be obligated to close title until such time as there is a fully executed three-way agreement among the Town, County and the State.
4. Closing. This Contract shall be closed in the following manner.
- a. **Closing Date.** The Closing time and Date shall be as close in temporal proximity as possible to the time and date when the presiding justice of the

Supreme Court, Dutchess County executes the order conveying title in the *in rem* foreclosure proceeding to the County of Dutchess and all contingencies set forth herein have been met.

- b. The closing will take place at the Dutchess County Department of Law located at 22 Market Street, 5th Floor, Poughkeepsie, New York 12601.
- c. Seller will transfer the title to the property at closing (hereinafter the "closing"), by Quitclaim Deed, which shall contain a description of the property solely by tax map number.
- d. **Additional Conditions.** The Quitclaim Deed shall contain the following provisions:
 - a. Nothing contained in any description herein is intended to convey more than the assessed owner owned at the time of the levy of the tax, the non-payment of which resulted in the tax sale. There is no representation as to the extent of the acreage conveyed herein;
 - b. The Quitclaim Deed to Buyer will be recorded in the Dutchess County Clerk's office as soon as practicable after the closing. Either party shall have the right to record the Quitclaim Deed.
- e. **Seller's Deliveries at Closing.** At the closing, Seller will deliver to Buyer the following:
 - a. The Quitclaim Deed and such other documents and instruments as may be required under New York law in order to record the deed (i.e. NYS TP-584 and RP-5217 form).
 - b. Such documents as reasonably requested by Buyer's title insurance company consistent with the terms of this agreement, including, but not limited to, any authorizing resolutions of Seller's legislature and/or County Executive.
- f. **Buyer's Deliveries at Closing.** At the closing Buyer will deliver, or cause the Escrow Agent to deliver, Seller the following:
 - a. A certified check for Ten Dollars (\$10.00), receipt of which is hereby acknowledged.
 - b. Such other documents and instruments as may be required hereunder or that are otherwise necessary for the Closing.

g. **Costs.**

- a. Buyer shall pay the premiums and expenses for the fee title insurance and all costs relating to any financing of the purchase. Each party shall pay for its own attorney fees.

There shall be no proration of taxes which have accrued prior to closing of title, and no adjustment for such taxes. Assuming title closes prior to January 1, 2016, the Buyer shall be responsible for payment of the 2016 State/County/Town taxes and all taxes accruing thereafter until such time that the property is exempted from property taxes by the Town Assessor in accordance with applicable laws.

5. Remediation Work. Buyer acknowledges that the Property has been the subject of Navigation Law remediation by New York State. Buyer shall be solely responsible for any necessary due diligence investigation of such property. Buyer acknowledges that Seller shall not be responsible for the remediation of any contamination on the property under the direction of the DEC. This provision shall survive the closing and will constitute a continuing obligation of the Buyer which obligation is considered an element of the consideration of this contract and for which the Seller may require specific performance thereof.
6. "As Is" Sale. The Property is sold "as is". Acceptance of the property shall be acceptance of the condition of the property whether known or unknown.
 - a. Seller shall take no steps to change the condition of the Property following execution of the Contract. Buyer is entering into this Contract based solely upon such inspection and investigation as it has undertaken and not upon any information, data, statements or representations, written or oral, as to the physical condition, state of repair, use, cost of operation or any other matter related to the Property given or made by Seller or its representatives, and shall accept the same "as is" in the condition and state of repair at the time of the Closing, without any reduction in the purchase price or claim of any kind.
 - b. Seller has not entered into any oral or written leases or agreements which would grant occupancy to any individuals or entities. Accordingly, any/all evictions shall be the obligation of the Buyer after closing.
7. The Parties' Indemnification and Insurance.
 - a. Each party shall defend and indemnify the other party with regard to any and all claims arising all claims, lawsuits or damages arising from the other party's non-feasance, misfeasance or malfeasance and shall hold the other party harmless for any such claims. In the event that a claim is made by either party, that party shall notify the other party of the claim and shall cooperate with the other party with regard to the other party's duty to defend and indemnify.

8. Representations of Seller. Seller represents and warrants to Buyer as follows:

- a. Seller has full power to carry out the transaction provided for in this Contract; the execution and delivery of this Contract by Seller and the consummation by Seller of the transactions contemplated herein have been duly and validly authorized, and this Contract constitutes the valid and legally binding obligation of Seller, enforceable against Seller in accordance with its terms.
- b. There are no other tax districts (as that term is defined in Article 11 of the Real Property Tax Law) that have tax liens on the Property.
- c. Seller shall provide fee title to Purchaser free of encumbrances and liens to the full extent provided for by law and the provisions of RPTL Article 11.

9. Representations of Buyer. Buyer represents as follows: The foregoing representations are true as of the date hereof and will be true as of the date of the closing:

- a. Buyer has full power to carry out the transactions provided for in this Contract, the execution and delivery of this Contract by Buyer and the consummation by Buyer of the transactions contemplated herein has been duly and validly authorized by all necessary action on Buyer's party and this Contract constitutes a valid and legally binding obligation of Buyer, enforceable against Buyer in accordance with its terms. If the Buyer is governed by a Board of Directors or any governing authority, Buyer's representative shall execute this agreement representing that he/she does so with the express authority of such governing authority. Neither the execution and delivery of this Contract, nor the consummation by Buyer of the transactions contemplated hereby, nor compliance by Buyer with any of the provisions hereof will (i) violate any of its constituent documents, or (ii) violate any order, injunction, decree, statute, rule or regulation applicable to Buyer or any of its assets or properties.
- b. No consent of any governmental agency or authority is required for the execution of this Contract by Buyer and the consummation of the transaction contemplated herein, except as otherwise provided in this Contract.
- c. Buyer is not a party to any bankruptcy, or similar proceeding, nor are there any other matters pending which would affect Buyer's ability to purchase the Property as provided herein.
- d. Buyer acknowledges that the Property is conveyed subject to the express condition and covenant that the lands and premises shall forever be owned by the Town or its successors. The entirety of the Property shall be used

by the Buyer exclusively for public use and public purposes, and in the event the Town or its successors shall ever cease such public use or purposes, title to the land shall revert back to the County of Dutchess. Further, in the event the Town determines that it no longer desires to own the premises and land for any reason whatsoever, it may not sell or otherwise convey its right, title and interest to the same but instead title to the premises and land along with all improvements thereon shall revert to the County of Dutchess without the necessity for tender to and acceptance by the County.

10. Default of Buyer.

- a. If either party defaults hereunder (including any default of its obligations post-closing) in addition to any other remedies the non-defaulting party may have at law or equity, the parties agree that, as an essential term, the non-defaulting party shall be entitled to specific performance of this Contract.

11. Interpretation. Each of the parties acknowledges that it has been or has had the opportunity to be represented by an attorney in connection with the preparation and execution of this Contract. Where appropriate, references to one gender will be deemed to include any other gender and references to the singular or the plural will be deemed to include either the singular or the plural.

12. Extensions. Any extension of time granted for the performance of any obligation under this Contract will not be considered an extension of time for the performance of any other obligation.

13. Severability. Unenforceability for any reason of any provision of this Contract will not limit or impair the operation or validity of any other provision of this Contract.

14. Exhibits and Recitals. Each Exhibit attached to this Contract and each recital is incorporated and made a part of this Contract by this reference.

15. Notices. All notices, demands, requests and other communications required or permitted hereunder will be effective when reduced to writing and either delivered personally or sent first class, US Postal service mail, which shall be deemed delivered, the third business day following mailing, to the appropriate party at the following addresses unless and until a different address has been designated by written notice to the other party as provided herein:

Buyer: Town of Hyde Park
4383 Albany Post Road
Hyde Park, NY 12538
845-229-5111
dmcgrogan@hydeparkny.us

With cc to: Warren S. Replansky, P.C.
Attorney to the Town of Hyde Park
PO Box 659, 2990 Church Street
Pine Plains, NY 12567
518-398-5208
wreplansky@optonline.net

Seller: Dutchess County Department of Law
County Office Building – 5th Floor
22 Market Street
Poughkeepsie, NY 12603
845-486-2110

Any notice hand delivered will be deemed given on the date of delivery. Any notice sent by overnight courier will be deemed given one (1) day following the date such notice was properly deposited, prepaid, with such courier for delivery the following day. The party providing such notice will use its best efforts to concurrently send a copy thereof by facsimile to the facsimile number set forth above or to such other facsimile number as has been designated by written notice as provided herein. Neither may be sent by the parties or by their counsel on their behalf. Notice by email shall be deemed invalid and unacceptable.

16. Entire Contract. This contract represents the entire contract among the parties with respect to the subject matter hereof and supersedes all prior agreements and understandings of the parties concerning the same. No provision of this Contract will be waived or altered or otherwise amended except pursuant to an instrument in writing signed by the party to be charged and no consent to any departure by any party from the provisions of this Contract will be effective except pursuant to an instrument in writing signed by the party who is claimed to have so consented and then such consent will be effective only in the specific instance and for the specific purpose for which given.

17. Additional Instruments. The parties will cooperate with each other to execute and deliver such instruments and documents and take such actions as may be required, or as a party may reasonably deem desirable, to effectuate the provisions of this Contract.

18. Binding Effect. This Contract will be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Buyer may assign the Contract to one or more entities in which an affiliate of Buyer holds such interest. In addition Buyer may designate the name of the entities to take title at closing. Any other assignment shall be subject to Seller's prior written consent which shall not be unreasonably withheld or delayed.

19. Applicable Law. This contract will be governed by and construed in accordance with the laws of the State of New York. Venues shall be Dutchess County, New York. The parties hereby agree to waive the right to a trial by jury.

20. Captions. The captions of the Sections of this Contract are inserted for convenience only and will not control or affect the meaning or construction of any provisions hereof.

21. Counterparts. This Contract may be executed in several counterparts, each of which will be deemed an original but all of which will constitute only contract.

22. Authority. Each person signing below represents and warrants that he or she is fully authorized to execute and deliver this Contract in the capacity set forth beneath his or her signature.

23. Survival. None of the contract provisions shall survive closing unless specifically stated herein.

24. Executive. Deliver of a draft of this Contract by Seller to Buyer shall not be deemed an offer to sell and this Contract shall not be binding upon Seller until a fully executed original has been delivered to Buyer.

IN WITNESS WHEREOF:

DUTCHESS COUNTY

TOWN OF HYDE PARK

By: _____
Marcus J. Molinaro
County Executive

By: _____
Warren S. Replansky
Town Attorney

APPROVED AS TO FORM

APPROVED AS TO CONTENT

By: _____
County Attorney

By: _____
Heidi Seelbach
Commissioner Of Finance

14/97 - 7/13/00

2) resulted as follows:

d

IO. 243 OF 1997

**THE ENVIRONMENTAL
COUNCIL**

llowing and moves its adoption:

t on the Dutchess County Environmental
piration of the terms of James Benson,
el Trimble, and

regoing have indicated a desire to be
re, be it

County Legislature does hereby reappoint
the Dutchess County Environmental
commencing July 1, 1997, and expiring

ERM:

- 1/97 - 6/30/99
- 1/97 - 6/30/99
- 1/97 - 6/30/99
- 1/97 - 6/30/99

Roll call on the foregoing resolution (#243) resulted as follows:

AYES: 33 NAYS: 0

ABSENT: 2 - Bleakley O'Neill, Hammond

Resolution adopted.

RESOLUTION NO. 244 OF 1997

**RE: ADOPTING THE RECOMMENDATIONS OF THE AD HOC
COMMITTEE ON LAND DISPOSITION AS COUNTY POLICY**

Legislators KENDALL, KLOSE, and KNAPP offer the following and
move its adoption:

WHEREAS, on April 22, 1997, the Dutchess County Legislature formed
a committee known as the Ad Hoc Committee on Land Disposition, and

WHEREAS, said committee consists of Dutchess County Legislators and
elected and appointed officials, and

WHEREAS, on June 10, 1997, said committee filed a report with the
Dutchess County Legislature with respect to land disposition outlining a policy
with respect thereto, and

WHEREAS, the Dutchess County Legislature has examined the policy
as outlined in said report, now, therefore, be it

RESOLVED, that the land disposition policy of Dutchess County with
respect to property acquired by the county through in rem tax proceedings is as
follows:

- 1) The county will extend to the former landowner an exclusive
opportunity to reacquire his/her property by payment of all back taxes,
fees, and accrued interest costs after the conclusion of the in rem
proceedings, but only until 5:00 p.m. on the day prior to the next county
auction of properties, subject to approval of the Legislature.



2) Following the completion of the *in rem* proceedings, the Department of Real Property Tax shall circulate, to all municipal entities of Dutchess County, a list of all available properties, along with a copy of this policy, in order to provide an opportunity for municipalities to acquire county-owned property for legitimate public purpose. The municipality must notify, by resolution, the Commissioner of Finance and the Clerk of the Legislature by 5:00 p.m. on the day prior to the auction of its interest. The resolution must set forth the purpose or municipal need for the property. Upon receipt of the resolution, the Commissioner of Finance shall withdraw the property from the auction. Within 60 days of the receipt of the resolution from the municipality, the municipality must provide payment in full to the Commissioner of Finance. Transfer of the property shall be subject to the approval of the Legislature. If transfer does not occur, the property will be held until the next available auction. Withdrawal from the auction for municipal interest shall not extend the former landowner's exclusive right to reacquire.

3) Subsequent to the auction the Commissioner of Finance may negotiate a private sale of property that was not sold at auction. The Economic Development Corporation shall notify the Commissioner of Finance and the Clerk of the Legislature of any interest it may have in marketing any property that may have economic development potential. The Commissioner of Finance shall inform the Clerk of the Legislature of all reasonable and appropriate written offers for county-owned property along with the outstanding liabilities of the county on said parcel. Any private sale is subject to the approval of the Legislature.

4) Notwithstanding the above policy, the county may continue to retain parcels acquired through the *in rem* procedure in order to further its legitimate municipal purposes. The county may also transfer title of acquired property to duly constituted public authorities in order to further municipal purposes, subject to the approval of the Legislature.

June 12, 1997
Land Disposition Policy

Objective:

To return property acquired by the county through the *in rem* process to taxable status as quickly as possible at minimal cost to the county while also providing a mechanism for the intermunicipal transfer of property to meet legitimate municipal purposes.

ie in rem proceedings, the Department te, to all municipal entities of Dutchess erties, along with a copy of this policy, tunity for municipalities to acquire nate public purpose. The municipality ommissioner of Finance and the Clerk on the day prior to the auction of its irth the purpose or municipal need for the resolution, the Commissioner of rty from the auction. Within 60 days of the municipality, the municipality must mmissioner of Finance: Transfer of the approval of the Legislature. If transfer be held until the next available auction. municipal interest shall not extend the ht to reacquire.

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he county through the *in rem* process to ible at minimal cost to the county while the intermunicipal transfer of property poses.

Findings:

- The county continues to be well served by the use of public auction to dispose of properties acquired through the *in rem* procedure.
- The county recognizes the legitimate public purposes of local municipalities and should continue to circulate a list of available properties to all municipal entities in Dutchess County.
- In order to meet the economic development needs of Dutchess County, the list of available properties should be circulated to the Economic Development Corporation (EDCC) for its review and potential marketing services.
- The county recognizes the potential hardship on the part of the former landowner who has lost property and should extend to said landowner a reasonable opportunity after the *in rem* proceeding to reacquire his/her property.

Procedures:

- 1) The county will extend to the former landowner an exclusive opportunity to reacquire his/her property by payment of all back taxes, fees, and accrued interest costs after the conclusion of the *in rem* proceedings, but only until 5:00 p.m. the day prior to the next county auction of properties, subject to approval of the Legislature.
- 2) Following the completion of the *in rem* proceedings, the Department of Real Property Tax shall circulate, to all municipal entities of Dutchess County, a list of all available properties, along with a copy of this policy, in order to provide an opportunity for municipalities to acquire county-owned property for legitimate public purpose. The municipality must notify, by resolution, the Commissioner of Finance and the Clerk of the Legislature by 5:00 p.m. of the day prior to the auction of its interest. The resolution must set forth the purpose or municipal need for the property. Upon receipt of the resolution, the Commissioner of Finance shall withdraw the property from the auction. Within 60 days of the receipt of the resolution from the municipality, the municipality must provide payment in full to the Commissioner of Finance. Transfer of the property shall be subject to the approval of the Legislature. If transfer does not occur, the property will be held until the next available auction. Withdrawal from the auction for municipal interest shall not extend the former landowner's exclusive right to reacquire.

- 3) Subsequent to the auction the Commissioner of Finance may negotiate a private sale of property that was not sold at auction. The Economic Development Corporation shall notify the Commissioner of Finance and the Clerk of the Legislature of any interest it may have in marketing any property that may have economic development potential. The Commissioner of Finance shall inform the Clerk of the Legislature of all reasonable and appropriate written offers for county-owned property along with the outstanding liabilities of the county on said parcel. Any private sale is subject to the approval of the Legislature.
- 4) Notwithstanding the above policy, the county may continue to retain parcels acquired through the in rem procedure in order to further its legitimate municipal purposes. The county may also transfer title of acquired property to duly constituted public authorities in order to further municipal purposes, subject to the approval of the Legislature.

Roll call on the foregoing resolution (#244) resulted as follows:

AYES: 33 NAYS: 0

ABSENT: 2 - Bleakley O'Neill, Hammond

Resolution adopted.

RESOLUTION NO. 245 OF 1997

**RE: DISPOSITION OF MONIES OBTAINED FROM FUTURE
SALE OF STAATSBURG RESERVOIR, PREVIOUSLY
OBTAINED BY DUTCHESS COUNTY, VIA TAX
FORECLOSURE AND CURRENTLY UNDER COUNTY
STEWARDSHIP**

Legislator HELLMANN offers the following and moves its adoption:

WHEREAS, the customers of the Staatsburg Water Co., had, in good faith, since 1900, paid their water bills, to the then owner(s), in part for maintaining the system, and all of the other company assets, to include the reservoir and all other company property, and