

**VILLAGE OF PORT DICKINSON**  
**Village Board Meeting Agenda**  
**August 11, 2015**  
**6:00 pm**  
**Port Dickinson Village Hall**

APPROVAL OF MINUTES: July 14, 2015

PUBLIC PARTICIPATION:

TREASURER'S REPORT:

AUDIT & PAYMENT OF CLAIMS: Abstract #3 (2015-2016)

1. No. 1-19, 25-29 as listed on the Abstract of Unaudited vouchers for the General Fund for \$64,502.58
2. No. 23-24 as listed on the Abstract of Unaudited vouchers for the Water Fund for \$638.15
3. No. 19-22 as listed on the Abstract of Unaudited vouchers for the Sewer Fund for \$1,694.70

COMMUNICATIONS:

COMMITTEE REPORTS:

- Administration/Code Enforcement/Community Association – James DeGennaro, Trustee
- Planning Board –
- Parks/Public Works – Robert Aagre, Trustee
- Public Safety – Michael Cashman, Trustee

The Port Dickinson Fire Department responded to 12 calls in the month of July. These calls are broken down as follows, 4 fire calls and 8 medical assistance calls. 6 calls in the Village, 5 calls in the Village of Dickinson and 1 call in the city of Binghamton.

The Fire Department also offered 6 hours of training (8.5 present 52.5 man hours)

The Port Dickinson Police Department received 117 Complaints, they assisted other agencies 2 times, they issued 5 parking tickets and 13 Traffic tickets.

- Water/Sewer – Charles Harding, Trustee
- Zoning Board of Appeals

OLD BUSINESS:

RESOLUTIONS FOR APPROVAL:

1. Resolution approving correction to tax roll for parcel #128.84-1-14, age exemption not applied. Billed \$601.08, corrected tax \$510.92, refund due 90.16.
2. Resolution approving correction to tax roll for parcel #128.59-1-25, water/sewer relevy incorrectly applied. Billed \$2620.99, corrected amount \$615.17, refund due 2005.82
3. Resolution approving correction to tax roll for parcel #128.60-2-25, water/sewer relevy not applied. Billed \$605.36, corrected amount \$2611.18.
4. Resolution authorizing the Mayor to sign the following Road Use and Preservation Policy

NEW BUSINESS:

ADJOURNMENT

## A RESOLUTION ADOPTING A ROAD USE AND PRESERVATION POLICY

WHEREAS, pursuant to Municipal Home Rule Law § 10, New York State Constitution Article IX § 2(c)6, Village Law § 1(ii)(a)(6), Environmental Conservation Law § 23-0303, Highway Law §§ 140, 320 and 326, Village Law § 130, and Vehicle and Traffic Law §§ 1640, 1650 and 1660, a local municipality has the authority to regulate the acquisition, care, management, protection, repair and use of its highways, roads, streets, avenues and property owned by the municipality, including the authority to establish weight restrictions and truck routes and to seek treble damages for damage to Village roads [the “Roads”];

WHEREAS, Broome County has created a the Broome County Road Use and Preservation Program (“Program”) whereby it has agreed to provide certain incentives and benefits to municipalities in Broome County which adopt a road use protection and preservation policy or local law that meets the criteria established by the Program;

WHEREAS, the Board of Trustees of the Village of Port Dickinson [the “Village”] has determined that the most efficient and economical way for both the Village and Persons who may cause Concentrated Traffic as defined in the Program to establish the rights and responsibilities of the parties with regards to use, protection and repair of the Roads is to enter into a road use agreement;

WHEREAS, the Board of Trustees of the Village desires to participate in the Program as well as protect the highways, roads, bridges, culverts, sidewalks and the related fee owned lands, rights-of-way and easements owned or maintained by the Village (collectively, “Roads”) from the damage resulting from Concentrated Traffic;

NOW THEREFORE, at a meeting of the Board of Trustees of the Village of Port Dickinson, Broome County, New York, held at the Village Hall on the 11<sup>th</sup> day of August, 2015 at 6:00 pm, the Board of Trustees, duly convened in regular session, does hereby resolve as follows:

### Section 1. Purpose.

The purpose of this Policy is to maintain the safety and general welfare of Village residents by protecting Roads. By adoption of this Policy, it is the intent of the Village to participate in the Program.

### Section 2. Definitions.

Activity: Any activity, within or without the Village, which requires travel upon Roads to or from the activity.

Concentrated Traffic: A vehicle or Related Vehicles which have 3 or more axels and which at any time make or will make collectively 5 or more trips over Roads during any 5 consecutive days.

Local delivery: Essential delivery or pickup of merchandise or other property along the Roads, the failure of which would create a hardship.

Person: Any person, persons, corporation, partnership, limited liability company, or other entity.

Related Vehicles: More than one vehicle, including those that are owned, used, rented, leased, hired (including independent contractors) or in any way utilized for Activity. When calculating if Related Vehicles meet the definition of Concentrated Traffic, the number of trips shall be the combination of all trips made by all Related Vehicles.

### Section 3. Permanent Travel Restriction and Truck Route

A. This Policy shall apply to any Person who, individually or in concert with another Person, undertakes any Activity that will at any time during the Activity result in Concentrated Traffic. The initial determination that the standards of Concentrated Traffic have been met shall be made by the [Village [Commissioner of Public Works/Highway Superintendent].

B. It shall be the policy of the Village to require that any Person who will create Concentrated Traffic to either 1) restrict use of the Roads to the “Village of Port Dickinson Truck Route”, which is defined as routes on, over and along any and all State and County owned/maintained roadways lying within the boundaries of the Village, or 2) submit a haul route notification form and enter into a road use agreement with the Village, substantially in the form as that Agreement attached hereto as Appendix A (“Road Use Agreement”). The Road Use Agreement shall contain provisions requiring the approval by the Village of the Person’s haul route; payment of a non-refundable deposit; maintenance of an escrow account; insurance, bonding and indemnification; and the repair of, or reimbursement of the Village for its repair of, all damages caused to Roads.

D. The following vehicles are granted exemptions from this Policy: Maintenance, repair and service vehicles owned and operated by municipalities or fire companies on official municipal or firefighting business; maintenance, repair and service vehicles owned and operated by a utility company/authority on official utility business; Local Delivery; and vehicles related solely to “farm woodland” or “land used in agricultural production,” as those terms are defined pursuant to New York Agriculture & Markets Law § 301.

### Section 4. Enforcement, Stop Work Orders, Revocation and Penalties

A. This Policy and the Road Use Agreement shall be administered and jointly enforced by the Village enforcement officers (including but not limited to Commissioner of Public Works and Building and Code Enforcement Officer), the police agencies of Broome County and NYS and/or officials authorized by the Board of Trustees of the Village. The Commissioner of Public Works and the Building and Code Enforcement Officer shall each have the right and authority to issue stop work orders and/or take any action permitted by applicable law or allowable under the Road Use Agreement.

B. If the Violation is of a continuing nature, each twenty-four hour period during which it occurs shall constitute an additional, separate and distinct Violation.

C. An action or proceeding may be instituted in the name of the Village, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any Violation or to enforce any provision of this Policy or the Road Use Agreement. The Village may seek restitution for costs incurred by the Village in remedying each Violation, including but not limited to reasonable attorney’s fees.

G. No remedy or penalty specified in this section shall be the exclusive remedy or penalty available to address any Violation described in this Policy. Any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this section.

### Section 5. Severability

If any part or provision of this Policy or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation

to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Policy or the application thereof to other persons or circumstances, and the Board of Trustees of the Village hereby declares that it would have passed this Policy or the remainder thereof had such invalid application or invalid provision been apparent.

Section 6. Repealer

All ordinances, local laws and parts thereof inconsistent with this Policy are hereby repealed.

Section 7. Effective Date.

This resolution shall take effect immediately.

## APPENDIX A

### ROAD USE AGREEMENT

This Road Use Agreement is entered into this \_\_\_day of July, 2012 between COMPANY\_\_\_\_\_ having offices at \_\_\_\_\_ hereinafter "COMPANY", and the Village of \_\_\_\_\_, a municipal corporation having offices \_\_\_\_\_, hereinafter "Village".

#### RECITALS

WHEREAS COMPANY is an independent natural gas and oil exploration and production corporation engaged in the exploration and development of properties; including but not limited to sites in Pennsylvania- close to \_\_\_\_\_ New York; and

WHEREAS COMPANY intends to engage in certain natural gas activities in Pennsylvania; including but not limited to drilling and that as part of those natural gas activities, COMPANY, its employees, representatives, independent contractors and agents, in support of its natural gas activities in Pennsylvania need to travel on certain Village of \_\_\_\_\_ roads; and

WHEREAS COMPANY will necessarily need to traverse Village highways, roads, bridges and related fee owned land, rights-of-way or easements owned or maintained by the Village (collectively "Roads") with heavy machinery, including but not limited to, trucks, water trucks, construction machinery and equipment and other related items; and

WHEREAS COMPANY acknowledges that the nature of heavy vehicular traffic during natural gas activities, reworking activities, and other activities will exceed the normal and anticipated use of public roadways within the Village's limits, causing distress to said roads which may either be structural or functional and which in turn will increase overall maintenance, oversight, repair, and replacement costs to the Village in connection with the natural gas activities and which distress may be immediate or may be gradual and delayed, and also will exceed the design criteria for said roadways, thus causing greater than ordinary wear and tear and damaging of the roadways; and

WHEREAS the Village seeks guarantees and assurances from COMPANY that COMPANY will repair, pay and/or otherwise indemnify the Village for any distress or damage to the roads arising from or related to natural gas activities; and

NOW, THEREFORE, in consideration of these promises and other good and valuable consideration, the receipt and sufficiency which are hereby acknowledged, COMPANY and the Village, each intending to be legally bound, agree as follows:

#### **1. COMPANY Responsibilities.**

a. COMPANY shall be responsible for obtaining any approvals, permits, and/or orders, including renewals thereof which are or may be required by governing law for its natural gas activities in Pennsylvania and New York. COMPANY understands that this road use agreement in no way authorizes hydro-fracturing or drilling in \_\_\_\_\_ and it does not supersede current New York State Law regarding hydro-fracturing or drilling in New York State.

b. COMPANY agrees to submit a non-refundable deposit with the Village sufficient to reimburse the Village for all reasonable costs of traffic control, landowner and public notification and whatever other needs the Village Board considers necessary in connection with this road use agreement. The deposit shall be the sum of \$20,000.

c. COMPANY agrees that it shall be responsible for insuring that all debris, garbage, and waste upon roads related to natural gas activities and/or construction activities are disposed of in accordance with governing law.

d. COMPANY shall not block or obstruct or interfere with the flow of traffic.

e. The term "COMPANY" shall include its employees, officers, directors, members, managers, partners and/or other principals along with COMPANY's agents, licensees, vendors, contractors, subcontractors, haulers and the like. COMPANY shall require that each and every person or entity, including all employees, officers, directors, members, managers, partners and/or other principals along with the COMPANY's agents, licensees, vendors, contractors, subcontractors, haulers and the like will comply with the terms and conditions of this agreement. A failure of any of the COMPANY's employees, officers, directors, members, managers, partners and/or other principals along with COMPANY's agents, licensees, vendors, contractors, subcontractors, haulers and the like to comply with the terms and conditions of this agreement shall constitute a default by COMPANY regardless of any intent or knowledge on behalf of COMPANY and regardless of any defense Contractor may have at law, in contract or in equity against any such person or entity.

## **2. Road Surveys and Routes.**

a. Prior to the commencement of any road use activities, COMPANY shall provide the Village with a proposed truck route containing the list of the roads/bridges that it intends to traverse as part of the natural gas activities.

b. As soon as practical thereafter, but prior to the commencement of any natural gas activities, COMPANY and the Village shall agree upon any changes or additions to the designated route to be used for all vehicles engaged in natural gas activities. Factors to be used in considering such route shall include the condition of each proposed road, the condition of any and all bridges, the population affected by the proposed traffic and the impact of the proposed traffic on the surrounding environment. In the event the parties are unable to agree, final decision shall be that of the Village Engineer. A description of the truck route and road crossing is attached to this agreement, incorporated herein as Exhibit "A", and made a part hereof, and shall serve as the basis for the required bonding set forth herein.

c. Prior to the commencement of road use activities, COMPANY and the Village will cooperatively prepare a suitable video survey of the roads and bridges identified in the road route and shall provide a copy thereof to the Village.

d. If, in the opinion of the Village Engineer and/or Highway Superintendent a proposed road route includes seasonal or dirt roads which cannot, due to their condition, withstand the structural and functional distress anticipated by heavy vehicular traffic resulting from the road use activities, the Village may make such improvements as may be necessary to accommodate the heavy vehicular traffic. Within 15 days of receipt of a written invoice detailing the costs, expenses and fees incurred by the Village to improve the road, COMPANY shall pay the invoice unless COMPANY reasonably disputes the invoice amount. If COMPANY and the Village are unable to negotiate a settlement of the amount due and owing the Municipality, then in that event, COMPANY and the Village shall engage in the dispute resolution procedure set forth in paragraph 4 (entitled "Dispute Resolution") below.

e. If during the pendency of this agreement the Village Engineer and/or Village Highway Superintendent determines in his sole discretion that a certain road/bridge cannot, due to its condition, withstand or continue to withstand the structural and functional distress anticipated by further heavy vehicular traffic, COMPANY shall immediately cease use of the road or the road encompassing the bridge and the bridge and shall utilize a traffic route specified by the Village Engineer and/or Village Highway Superintendent until such time as a determination is made regarding the structural integrity of the road/bridge and the appropriateness of continued use. Such determination shall be made as soon as practical and any costs associated with the employment of a structural engineer[s] shall be borne by COMPANY.

f. Immediately following the completion of road use activities, COMPANY and the Village

shall cooperatively prepare a suitable post-construction video road/bridge survey of the roads identified in the road route and notify the Village that construction activities have been completed.

g. Immediately following the completion of the post-construction video road/bridge survey, COMPANY will provide to the Village all pre and post construction road/bridge surveys of the roads/bridges identified in the road route exhibit.

h. In the event COMPANY deviates from the road route designated in the Exhibit(s), the Village may request and COMPANY shall upon such request cease and desist such deviation. COMPANY shall be liable for any and all damages to the Village for repair of the roads in accordance with the procedure set forth in paragraph 3, below.

### **3. Road Damage.**

a. With the exception of normal wear and tear, COMPANY agrees that it is responsible for all damages, injuries, discharges or spills that occur on or to the Village Road, other Village property, ditches, curbs, culverts, sidewalks or other improvements that it has caused.

b. If any damage occurs to Village roads during natural gas or road use activities and such damage is, in the opinion of the Village Engineer and/or Village Highway Superintendent, an immediate danger to the public using said roadway, then the Village shall undertake immediate emergency repairs to said road. In the event COMPANY becomes aware of any such damage, it shall notify the Village within 24 hours of such damage. The Village shall submit a written invoice to COMPANY detailing the costs, fees, expenses and any other bills incurred to or by the Village to repair said damage. COMPANY shall pay the invoice within 15 days, unless COMPANY reasonably disputes the invoice. In the event of a dispute, then both parties shall abide by the procedure set forth herein for dispute resolution.

c. Within 45 days following the completion of natural gas activities and/or construction activities and notification to the Village by COMPANY of its completion; the Village must notify COMPANY in writing if the Village believes the damages to the road arise from or are related to natural gas activities and/or construction activities. Damage may include but not necessarily be limited to accelerated deterioration, cracking, imprinting, pitting, tracking, buckling or asphalt and road base damage, damage to culverts, bridges an/or drainage facilities (hereinafter "damage").

d. Within 7 days of a receipt of an allegation of damage from the Village, COMPANY shall notify the Village in writing of its agreement or disagreement with the allegations. The Village shall then submit a written invoice (hereinafter "invoice") to COMPANY detailing the costs, fees, and/or expenses incurred or to be incurred by the Village to repair the damage which occurred.

e. COMPANY shall pay the invoice and any other billings within 30 days unless COMPANY reasonably disputes the invoice. If COMPANY disputes any invoice, it shall pay the Village for all undisputed items and shall provide a written statement as to its basis for contesting the disputed amount(s) within the foregoing 30 day period. In the event of a dispute, then both parties shall abide by the procedure set forth herein for dispute resolution in paragraph 4 below.

f. The manner of repair of any road or bridge damage described in this agreement shall be at the discretion of the Village Engineer and/or Village Highway Superintendent or his designee. The Village Engineer and/or Village Highway Superintendent or his designee in exercising his discretion shall apply Village road or bridge standards that are otherwise applicable throughout the Village for the type of road or bridge involved.

g. COMPANY will be expected to compensate the Village for any emergency repairs to the roads, including the pavement, drainage structures, or any other highway related appurtenance that is damaged and which the Village determines must be repaired. The Municipality will inform COMPANY of required emergency repairs and the repair. There must be ongoing communication between the Village Engineer and/or Village

Highway Superintendent and COMPANY. All costs of the repair shall be paid for by COMPANY.

h. Upon agreement by both parties, COMPANY may be allowed to repair any or all damage to the roads, instead of the Village repairing or arranging for the repair of the road. If COMPANY is allowed to proceed with the repairs, such repairs will be done to the specifications, timeline and any and all other requirements of the Village.

i. Regardless of whether COMPANY or the Village repairs or arranges for repair; the road shall be repaired/restored to its condition/state prior to COMPANY's natural gas activities. The restoration and integrity of the repair of the roads shall be maintained for a period of one year from the date of any repairs. Particular attention is called to the necessity of thoroughly compacting the backfill, which will be required by the Village.

#### **4. Dispute Resolution.**

a. In the event a dispute arises between COMPANY and the Village with regard to either the causation of damage alleged by the Village to the roads and whether such damage occurred as a result of the natural gas activities and/or construction activities described in this agreement, or in the event COMPANY disputes an invoice as described in this agreement, then either party may notify the other in writing that a dispute exists (hereinafter "dispute").

b. In the event of a dispute, COMPANY and the Village agree to submit for 30 days to non-binding mediation with a neutral mediator approved by all parties to the dispute, during which each party will have their authorized representative's attempt in good faith to negotiate a resolution of the dispute.

c. Any action arising under the terms and conditions of this Agreement shall lie in Broome County, New York or the United States Court for the Northern District of New York.

#### **5. Bonding.**

a. Prior to the commencement of any construction activities across or under any Road, COMPANY shall obtain and deliver to the Village a bond in the amount of Two Million Dollars (\$2,000,000.00) which amount is calculated based upon the truck route calculated by the mileages and types of road set forth in the Exhibits and types of bridges as set forth in the Exhibits. Such Bond shall be executed by a reliable bonding or insurance institution authorized to do business in the State of New York and acceptable to the Village, and shall be attached to this agreement as Exhibit B.

b. The bond shall be effective prior to any road use activities and shall remain in full force and effect for at least a period of 12 months following the termination of road use activities.

c. COMPANY shall be listed as principal with the instrument benefiting the Village, as obligee, and shall be conditioned that the COMPANY will comply with the terms and conditions of this agreement. The original bond shall be delivered to the Village Mayor.

d. The Village shall be authorized to demand payment from and against any bond to recover any amounts due from COMPANY for repairs to the roads and/or bridges. Upon receipt of the monies, the Village will proceed with completing the required reparations. If the Issuer of the bond refuses to honor any draft by the Village, then COMPANY shall cease all operations until such time as it has complied or abated the default. Nothing in this subparagraph will prevent the Village from proceeding by way of a civil action to obtain compliance and abate the default.

e. In the event the Bond contains a stated termination date, then COMPANY shall renew or obtain a new Bond in the agreed upon amount no later than 30 days prior to the stated termination date. It is the



intention of the parties that the Bond for the stated amount remains in effect throughout the term of this agreement. In addition, should COMPANY convey any or all of its interest in this agreement, and then the new owner will obtain a Bond to comply with this agreement.

f. The Bond is to guarantee reimbursement to the Village for all labor, material and equipment expenses the Village may incur in repairing any Road or bridge damage arising from or related to natural gas activities and/or road construction if COMPANY fails to comply with its duties and responsibilities set forth in this agreement.

g. The cancellation of any bond will not release the COMPANY from its obligation to meet all the requirements of this agreement.

h. In the event the cost of any such reparation is less than \$25,000, such amount may be deposited by the COMPANY in an escrow account for the Village to draw upon to complete repairs.

## **6. Escrow Fund**

The Village Board may hire any consultant and/or expert necessary to assist the Village Board in reviewing and evaluating the work and requirements of this road use agreement.

a. COMPANY agrees to deposit with the Village funds sufficient to reimburse the Village for all reasonable costs of consultant and expert evaluation and consultation to the Village Board in connection with this road use agreement. The initial deposit shall be the sum of \$5,000. These funds shall accompany the filing of an application and the Village shall maintain a separate escrow account for all such funds. The Village's consultants/experts shall, in accordance with an agreement between the Village and its consultants or experts, bill or invoice the Village not less frequently than monthly for its services in reviewing the application and performing its duties. If at any time during the process this escrow account has a balance that shall not reasonably cover the cost of the remaining work of the Village's consultants/experts, the Village will require applicant to immediately replenish said escrow account in an amount set by the Village, but not to exceed \$2,500. Such additional escrow funds must be deposited with the Village before any further action or consideration is taken. If, at the conclusion of the process, the cost of such consultant/expert services is more than the amount escrowed pursuant hereto, the applicant shall pay the difference to the Village. In the event that the amount held in escrow by the Village is more than the amount of the actual billing or invoicing by the Village's consultants or experts, the difference shall be promptly refunded to the applicant.

## **7. Indemnification and Insurance.**

COMPANY, at its own cost and expense, agrees to the insurance, indemnification and general terms and conditions set forth herein.

a. Certificates of Insurance. COMPANY shall present to the Village Certificates of Insurance evidencing the acquisition of liability insurance coverage naming the Village as additional insured, on a primary noncontributory basis, in the amount of at least:

Death/Bodily Injury: \$1,000,000 per person; \$2,000,000 aggregate.  
Property Damage: \$1,000,000.

b. Said insurance shall be maintained throughout the term of the agreement and the aforementioned certificate shall provide for 30 days notice to the Village prior to cancellation of coverage.

c. To the extent permitted by the law, COMPANY agrees to at all times defend, indemnify, protect, save, hold harmless, and exempt the Village and its officers, boards, employees, committee members, attorneys, agents, and consultants from any and all penalties, damages, costs, or charges arising out of any and all claims, suits, demands, causes of action, or award of damages, whether compensatory or punitive, or expenses arising therefrom, either at law or in equity, which might arise out of, or are caused by, any and all claims

arising out of this road use agreement. With respect to the penalties, damages or charges referenced herein, reasonable attorneys' fees, consultants' fees, and expert witness fees are included in those costs that are recoverable by the Village.

**8. Captions and Headings.**

Captions and headings throughout this agreement are for convenience and reference only and the words contained therein shall in no way be held or deemed to define, limit, describe, explain, modify, amplify or add to the interpretation, construction or meaning of any provision or of the scope or intent of this agreement nor in any way affect this agreement.

**9. Modifications.**

This agreement cannot be changed orally, but only by agreement in writing signed by the parties against whom enforcement of the change, modification or discharge is sought or by its duly authorized agent.

**10. Severability; No Waiver.**

If any provision of this agreement, or any portion of any provision of this agreement, is declared null and void, such provision or such portion of a provision shall be considered separate and apart from the remainder of this agreement, which shall remain in full force and effect. The waiver by any party hereto of a breach or violation of any term or provision of this agreement shall not operate or be construed as a waiver of any subsequent breach or violation.

**11. Governing Law.**

This agreement shall be governed and construed in accordance with the laws of the State of New York.

**12. Binding Effect.**

This agreement shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns.

**13. Entire Agreement.**

The entire agreement of the parties is contained in this agreement. No promises, inducements or considerations have been offered or accepted except as herein set forth. This agreement supersedes any prior oral or written agreement, understandings, discussion, negotiations, and offers of judgment or statements concerning the subject matter thereof. The parties hereto agree to execute and deliver such other documents and to perform such other acts as may, from time to time, be reasonably required to give full force and effect to the intent and purpose of this Agreement.

**14. Counterparts.**

This agreement may be entered in counterparts, each of which will be considered an original, and all of said counterparts shall together constitute one and the same instrument which may be sufficiently evidenced by one counterpart.

**15. Authority of Parties.**

The individuals who have executed this agreement on behalf of the respective parties expressly represent and warrant that they are authorized to sign on behalf of such entities for the purpose of duly binding such entities to this agreement.

**16. Notice.**

a. Any notice or other communication required or permitted under this agreement shall be in writing and shall be deemed to have been duly given (1) upon hand delivery, or (2) upon the third day following delivery via the U.S. Postal Service, or (3) on the first day following delivery via a nationally registered United States overnight courier service, or (4) on the day when telecopies are sent by facsimile transmission if additional notice is also given under (1), (2), or (3) above within three (3) business days thereafter.

b. For purposes of this agreement only, any notices to the parties shall be directed to the party as set forth below:

For COMPANY .:

\_\_\_\_\_

For the Village of \_\_\_\_\_:

\_\_\_\_\_

**17 Term.**

The Term of this Agreement shall be as of the date executed through the completion of remediation/repair to the Village Roads.

**18. Termination.**

This Agreement may be terminated by the Village, upon COMPANY's failure to initiate, within thirty (30) days of receiving written notice from the Village, reasonable steps to cure any default of this agreement and/or the filing of a petition in bankruptcy by COMPANY or by its creditors or the appointment of a receiver of all or substantially all of the assets of the COMPANY.

**19. Assignment.**

COMPANY is prohibited from assigning, transferring, conveying, subletting or otherwise disposing of this agreement or of its right, title, or interest therein, or its power to execute such agreement, to any other person or corporation.

**IN WITNESS WHEREOF**, COMPANY and the Village have caused their respective, duly authorized officers to execute this agreement under seal as of the day and year first above written.

COMPANY

Village of \_\_\_\_\_,

By: \_\_\_\_\_

By: \_\_\_\_\_

Mayor

CERTIFICATION

I, **Susan Fox**, do hereby certify that I am the **Village Clerk** of the **Village of Port Dickinson** and that the foregoing constitutes a true, correct and complete copy of a resolution duly adopted by the **Village Board** of the **Village of Port Dickinson** at a meeting thereof held at the **Village Hall** on the **11th** day of **August**, 2015. Said resolution was adopted by the following roll call vote:

<b>Trustee Aagre</b>	<b>Voted</b>
<b>Trustee Cashman</b>	<b>Voted</b>
<b>Trustee DeGennaro</b>	<b>Voted</b>
<b>Trustee Harding</b>	<b>Voted</b>

The resolution was thereupon declared duly adopted by a vote of \_\_\_\_\_.

**Dated: August 11, 2015**

**Village of Port Dickinson Seal**

**Susan Fox, Village Clerk**