ALBANY COUNTY INTER-MUNICIPAL AGREEMENT AND MEMORANDUM OF UNDERSTANDING TO CONTINUE AN EXISTING COALITION FOR COOPERATION ON ISSUES RELATED TO STORM WATER MANAGEMENT

1.0 Purpose and Authority

This Agreement is authorized pursuant to Article 5-G of the General Municipal Law, as it applies to municipalities. For those regulated Non-Traditional MS4s which are not municipalities, this Agreement serves as a memorandum of understanding between municipal and non-municipal signatories. Its purpose is to foster cooperation and to provide for the provision of joint services related to compliance with the requirements of the MS4 program established under state and federal law specifically, and for matters related to management of storm water more generally.

2.0 Definitions

For purposes of the Agreement, the following terms are defined:

2.1 "Additional Service" shall mean services in addition to the Basic Services which are approved by the Board of Directors; these are provided to individual Members who pay separately for the Additional Service.

2.2 "Basic Services" shall mean those services available to all Members.

2.3 "Board of Directors" shall mean the governing board of the Coalition, comprised of one representative from each Member.

2.4 "Coalition" or "Stormwater Coalition of Albany County" shall mean the group of municipalities and other governmental entities that are parties to this Agreement.

2.5 "Coalition Account" shall mean the account which holds all funds of the Coalition.

2.6 "Coalition Stormwater Program Director" shall mean the staff person responsible for the day-today business of the Coalition and implementing the Work Plan.

- 2.7 "Director" shall mean an individual serving on the Coalition Board of Directors.
- 2.8 "Grant Account" shall mean any account which is created by the Chief Fiscal Officer of the County to maintain funds provided to the Coalition through grants to the Host.
- 2.9 "Host" means Albany County.
- 2.10 "Host Liaison" shall mean a person appointed by the Host's Chief Executive Officer who attendsBoard of Director meetings and serves as a liaison between the Host and the Coalition.
- 2.11 "MS4 Program" shall mean the municipal separate storm sewer system program established under federal and state law.
- 2.12 "Member" or "Members" shall mean any dues paying entity which serves on the Coalition Board of Directors.
- 2.13 "Membership Fee" shall mean the total amount of annual dues paid by a Member.
- 2.14 "Municipality" shall mean any village, town, or city within Albany County.
- 2.15 "Non-MS4 Municipality" shall mean any municipality in Albany County that is not subject to the MS4 Program.
- 2.16 "Non-Traditional MS4" shall mean any government entity wholly or partially in Albany County subject to the MS4 Program that is not a Traditional MS4, including state and federal prisons, office complexes, hospitals, state transportation agencies, university campuses, public housing authorities, schools, other special districts.
- 2.17 "Signatory" shall mean the individual authorized by each Member or Supporter to enter into contracts.
- 2.18 "Statement of Intent" shall mean a written statement from an individual Member indicating their commitment to continue as a paying Member at the amount approved by the Board of Directors for the upcoming fiscal year.

- 2.19 "Supporters" shall mean an entity not subject to the MS4 permit who wishes to join theCoalition upon its own initiative.
- 2.20 "Traditional MS4" shall mean any city, town, or village in Albany County subject to the requirements of the MS4 program and the County of Albany.
- 2.21 "Working Group" shall mean the group of representatives appointed by individual Members to implement the Work Plan.
- 2.22 "Work Plan" shall mean the annually prepared document approved by the Coalition Board of Directors which shows projected services and related activities for the upcoming fiscal year.
- 3.0 Parties to the Agreement
- 3.1 Current Members.

Traditional MS4s who participated in the fully executed inter-municipal agreement titled "ALBANY COUNTY INTER-MUNICIPAL AGREEMENT AND MEMORANDUM OF UNDERSTANDING TO CONTINUE AN EXISTING COALITION FOR COOPERATION ON ISSUES RELATED TO STORM WATER MANAGEMENT" effective October 19, 2015, are Current Members of the Coalition. Current Members include: Albany County, City of Albany, Town of Bethlehem, City of Cohoes, Town of Colonie, Village of Colonie, Village of Green Island, Town of Guilderland, Village of Menands, Town of New Scotland, City of Watervliet, and the University at Albany—SUNY.

3.2 Additional Members.

Membership in the Coalition will also be available to Non-Traditional MS4s which are not municipal corporations, newly regulated MS4s, and Non-MS4 Municipalities. Any such entity desiring to become a Member will present a statement indicating their interest to become a Member of the coalition and commitment to abide by the terms of this Agreement. For Non-Traditional MS4s, the statement is signed by the individual authorized to enter into contracts and the individual (by job title) who signed the MS4 Permit Notice of Intent. For Traditional MS4s, the resolution is authorized by a majority vote of the voting strength of its governing body, and then signed by the Chief Elected Official, or their designated representative. Upon receiving a majority vote of the Coalition Board of Directors, such an entity will then execute the Agreement and become a Member.

3.3 Rights of Members.

All Members will have the following rights under the Agreement:

- a. Access to all Basic Services on the same basis.
- Attendance and participation in all meetings of the Coalition and of its Working Groups, committees, and subcommittees.
- c. Access to all financial information concerning the operation of the Coalition.
- d. The ability to cast a single vote on all issues before the Board of Directors.

3.4 Non-Traditional MS4s Not Eligible For Membership

If, for whatever reasons, a Non-Traditional MS4 may not be eligible to participate as a voting Member serving on the Board of Directors, to the extent that such a Non-Traditional MS4 and Coalition can enter into contracts, the Board of Directors may contract with a Non-Traditional MS4 upon such terms and conditions as it determines appropriate.

3.5 Participating Entities Not Subject to the MS4 Program.

At the request of an entity that is not subject to the MS4 Program or on its own initiative, the Board of Directors may invite any such entity to participate in some or all of the Coalition's activities upon terms it determines appropriate. Such terms may involving charging a fee to participate in Coalition activities, with participation and fees both subject to approval by the Board of Directors. The purpose of these fees is to cover the direct and indirect costs of the activity, and the activities must be a component of the adopted Coalition Work Plan. Such entities may also contribute tangible, non-monetary support to the Coalition.

- 4.0 Basic Services of the Coalition.
- 4.1 The Parties agree that the Coalition will perform the following Basic Services:
 - Serve as a clearinghouse for information concerning the MS4 Program and stormwater management by conducting Working Group Meetings, preparing and maintaining the Coalition's website, and facilitating the routine sharing of stormwater experiences and expertise.
 - b. Contract for the provision of services and the purchase of goods in support of its purposes.
 The procurement of any services will comply with the requirements of General Municipal Law.
 - c. Subject to the approval of the municipal sponsors: apply for, administer, and implement grants on behalf of its Members related to the MS4 Program or stormwater management more generally.
 - Assist in the preparation and submission of a joint annual report to NYSDEC <u>as allowed in</u> the most current MS4 permit.
 - Provide for the development, distribution, and annual review of a joint stormwater management program document which may describe Best Management Practices and Measurable Goals pertaining to the MS4 permit compliance.
 - f. Implement MS4 permit requirements collaboratively for the purpose of individual MS4 permit compliance.
 - g. Implement MS4 permit requirements for individual Members as requested and funded by the Member, provided the services do not impact the delivery of Basic Services for all Members.

- h. Represent Members' interests.
- i. Provide support for regulatory audits.
- j. Develop long term, sustainable funding mechanisms for all aspects of the MS4 Program.
- Identify issues of growing concern and recommend approaches to investigating and addressing them.
- I. Support CSO permit implementation where mandated Best Management Practices shall duplicate or be similar to mandated MS4 permit Best Management Practices.
- m. Support MS4 program implementation based on watershed boundaries.
- n. Manage Coalition operations.
- o. Support shared stormwater mapping across Member jurisdictional boundaries.
- 4.2 The Coalition may perform any Additional Service related to the MS4 Program or stormwater management more generally by one of the following mechanisms:
 - a. An amendment to this Agreement which adds a service to the Basic Services listed above.
 - b. By having one or more Members identify the additional costs associated with that
 Additional Service and establishing a mechanism for interested Members to receive the
 Additional Service through payment of an additional fee over and above the fees set forth in
 Article 9.0, such that the additional fees cover all direct and indirect costs of the Additional
 Service.
- 4.3 Where one of more Members propose to undertake any Additional Service at their expense, as provided for in section 4.2 (b), the Board of Directors will be required to approve such service to ensure that it shall not interfere with the Basic Services of the Coalition.
- 5.0 Board of Directors.
- 5.1 A Board of Directors will be established consisting of one representative of each Member, each such representative being known as a Director. The governing board of each Coalition Member,

if a Traditional MS4 or Non-MS4 municipality, shall designate a permanent representative and one or more alternates (as it shall see fit) to serve on the Coalition for a period of one (1) year or such other period determined by the Member. In the event no permanent representative or alternate has been designated, or no designated permanent representative or alternate is able to act, the supervisor of the town, or mayor of the village or city, or the Chief Executive Officer, as the case may be, or their designee shall serve as the representative to the Coalition. If a Non-Traditional MS4, the individual responsible for signing the MS4 Permit Notice of Intent shall designate a permanent representative and one or more alternates (as it shall see fit) to serve on the Coalition for a period of one (1) year or such other period determined by the Member.

- 5.2 The Host will appoint a representative to serve in an advisory capacity to the Board of Directors and Coalition Stormwater Program Director. They will be appointed by the Host Chief Executive Officer and their title shall be Host Liaison.
- 5.3 Each Director shall have one vote. A majority vote of the total number of Directors will be necessary to pass any resolution.
- 5.4 At the first Board Meeting of the fiscal year, the Board of Directors will select a chairperson of the Coalition. The chair will help guide Coalition operations, address personnel issues, facilitate Board meetings, and assist the Coalition Stormwater Program Director as needed.
- 5.5 A majority of the total number of Directors will constitute a quorum and no business of the Board of Directors will be conducted without a quorum.
- 5.6 Meetings of the Board of Directors will be subject to the Open Meetings Law.
- 5.7 The Board of Directors will keep and provide minutes of its meetings.
- 5.8 Approval of the Board of Directors is needed for the following actions by the Coalition:
 - a. Adoption of the annual Work Plan and budget.
 - b. All personnel decisions.

- c. Application for grants.
- d. Adoption and amendment of bylaws.
- e. Approval of contract awards.
- f. Authorization to make a contract and purchase payments in excess of five thousand (\$5,000.00) dollars.
- g. Provision of policy direction and oversight for the Coalition Stormwater Program Director.
- h. Permit entities that are not eligible for Coalition Membership to participate in Coalition activities.
- i. Any other action for which this Agreement requires Board of Directors approval.
- 6.0 Coalition Stormwater Program Director and Other Employees.
- 6.1 The Board of Directors will appoint the Coalition Stormwater Program Director, subject to consensus with the Host. The Coalition Stormwater Program Director will be responsible for the day-to-day business of the Coalition under the direction of the Board of Directors.
- 6.2 The Board of Directors may appoint such other part-time and full-time employees of theCoalition as may be funded in the Annual Budget, subject to consensus with the Host.
- 6.3 All such employees will be deemed employees of the County of Albany. The Coalition will establish any such position through the Department of Civil Service of Albany County, to be updated as needed.
- 6.4 All such employees will be entitled to the same benefits as employees of the County of Albany, including the making of employer's contributions for retirement, social security, health insurance, worker's compensation, and other similar benefits.
- 6.5 The cost of all salary and benefits for any such employee will be an expense of the Coalition.
- 7.0 Finances of the Coalition.
- 7.1 The Chief Fiscal Officer of the County of Albany will have custody of all funds of the Coalition.

- Funds of the Coalition shall be deposited in a separate account which shall only be used forCoalition expenses, referred to as the Coalition Account.
- 7.3 Funds provided to the Host as detailed in grant contracts may be deposited into a separate account which may only be used for grant expenses, referred to as the Grant Account.
- 7.4 In the event the Coalition undertakes any activity beyond the Basic Services, a separate account may be established for each service beyond those Basic Services, and deposits and withdrawals from those accounts will correspond to payments made on behalf of work provided for each Additional Service.
- 7.5 The Chief Fiscal Officer of the County of Albany has the authority to dispense funds from the Coalition Account for all personnel expenses, all non-personnel expenses of five thousand (\$5,000) or less upon the review and audit of proper documentation for such expenses and all non-personnel expenses in excess of five thousand (\$5,000.00) upon the authorization of the Board of Directors. No funds will be dispensed unless they are within the overall budget expenditure adopted by the Board of Directors and unless the obligation was incurred in accordance with applicable procurement policies, if any.
- 7.6 All funds collected as Membership Fees or from whatever other source that are the property of the Coalition will be delivered to the Chief Fiscal Officer of the County of Albany for deposit in the Coalition Account.
- 7.7 The Coalition will not incur any obligations which cumulatively exceed the budget allocations for any given fiscal year.
- 8.0 Budget and Work Plan
- 8.1 The fiscal year of the Coalition will be from January 1 to December 31.
- 8.2 On or before June 25 of each year, the Coalition Stormwater Program Director will provide a proposed budget to the Board of Directors together with a proposed Work Plan.

- 8.3 The proposed budget will show the projected cost of all Coalition activities for Basic Services for the upcoming fiscal year, the projected amount of grant funds that will be received during the upcoming fiscal year, any other non-local income, and the amount of local income to be raised through Membership Fees. The Membership Fee will be itemized by Coalition Member, to include fees from Non-Traditional MS4s Not Eligible for Membership (3.4).
- 8.4 The proposed budget will separately show the cost of any Additional Services that will be paid for through a supplemental fee.
- 8.5 The proposed budget will separately show the in-kind services to be provided by the County of Albany pursuant to Section 9.4 of this Agreement.
- 8.6 The proposed Work Plan will show the projected services and related activities for the upcoming fiscal year and projected costs for each such activities where possible and appropriate.
- 8.7 The Board of Directors will approve the proposed budget and Work Plan as submitted or make such modifications as it determines are necessary.
- 8.8 When the proposed budget is approved, the Coalition Stormwater Program Director will finalize the amount of fees owed by each Member for the Basic Services pursuant to Article 9.0 of this Agreement and for each Additional Service requested by a Member. The Coalition Stormwater Program Director will send a letter to the Chief Executive Officer of such Member on or before July 15 with such information, or as soon as possible thereafter.
- 8.9 On or before August 15, the governing body of each Member will send a Statement of Intent to the Coalition indicating whether it intends to continue its Membership for the upcoming fiscal year.
- 8.10 When an Additional Service is to be undertaken by the Coalition, the budget shall provide a separate accounting for any such service and the means with which such service will be paid for.

- 9.0 Membership Fee.
- 9.1 The Members will make payments to the Coalition on the following basis, subject to change as adopted by the Coalition Board of Directors:

| Base Fee for Traditional MS4 other than Albany County | \$3,500.00 |
|---|------------|
| Base Fee for Albany County | \$7,000.00 |
| Base Fee for Non-Traditional MS4 | \$3,500.00 |
| Base Fee for Non-MS4 Municipalities | \$1,750.00 |

Members may pay a supplemental fee. If so, the supplemental fee will be paid by the Members based on the following point system and formula.

Each Traditional MS4 except Albany County is designated a number of points based on the following system:

<u>Total Population</u>. In the case of Towns that have Villages that are separate Current Members, the population will be based on the population of the Town, excluding that Village.

Population is based on the most recent census figures.

| 50,000+ | 3 points |
|------------------|----------|
| 25,001 to 50,000 | 2 points |
| 7,501 to 25,000 | 1 point |
| Up to 7,500 | 0 points |

<u>Total Square Mileage in MS4 Designated Areas.</u> In the case of Towns that have Villages that are separate Current Members, the total square mileage will be based on the square mileage in the MS4-designated area of the Town, excluding that Village.

| 30 sq. miles+ | 2 points |
|-----------------|----------|
| 10-30 sq. miles | 1 point |

Up to 10 sq. miles

Additional Points. Members may agree to a Member-wide increase of equal point value

0 points

to be assigned to all Members and individual Members may request additional "points" from the Coalition where the points represent service hours.

These additional points are added to the Traditional MS4 "points" to calculate total points for a given budget year. The value of each point will be calculated by reducing the budget by the amount of the total base fees paid by all Members. The remainder will be divided by the total number of points associated with all methods for determining points. This is the price per point.

The supplemental fee for each Member will be the price per point times the number of points for each Member.

The annual Membership Fee for each Member is the base fee plus any supplemental fee.

9.2 Membership Fees for all Members will be due on January 31 of each year. A one percent (1%) surcharge will be added to the fees due that are a month or more overdue. Such surcharge will accumulate at the rate of one percent (1%) of each month or part thereof for which the fees are overdue.

- 9.3 If a Member fails to pay its fees in full within six (6) months after such fees are due, the Board of Directors may suspend the rights of such Member until payment is made in full, including any surcharge.
- 9.4 In addition to its base fee and any supplemental fees, Albany County agrees to provide the Coalition with the following in-kind services, such services to constitute a non-monetary portion of its total Membership Fee:

Office space, furniture, and storage for Coalition records
Payroll and benefits support
Computer services
Legal support for grants, contracts, and minor questions of law
Purchasing services
Telephone and office equipment
County fleet
Budgeting
Legislative support

- 10.0 Role of the Host
- 10.1 The Host will assign to various County departments the delivery of in-kind services. The Host Liaison described in Section 5.2 will facilitate the delivery of these services.
- 10.2 Routine payroll and purchasing services will be provided by the Albany County Department of Public Works. Legislative action initiated by the Coalition will be communicated to the Albany County Department of Public Works and coordinated with the Albany County Department of Public Works and/or with the Host Liaison. Communication regarding routine deadlines and

County initiatives thought to be relevant to the Coalition will be the responsibility of the Albany County Department of Public Works and Host Liaison.

- 11.0 Working Group and Subcommittees.
- 11.1 Each Member will appoint one or more representatives who will participate in the Working Group of the Coalition. That representative may also be a Director.
- 11.2 The Working Group will meet on a periodic basis to be determined by the Coalition Stormwater Program Director but not less frequently then once every two months.
- 11.3 The Working Group will establish and abolish such subcommittees as may be needed from time to time to handle the business of the Coalition. The Members agree to participate in good faith on the subcommittees on which they serve.
- 11.4 The Coalition Stormwater Program Director will coordinate the activities of the Working Group and its subcommittees, providing administrative support directly or through other employees of the Coalition.
- 12.0 Miscellaneous Provisions
- 12.1 All records of the Coalition are subject to the Freedom of Information Law.

12.2 Each Member shall indemnify and hold harmless the other Members, their officers, agents, and assigns, from all liability arising as a result of its own acts and omissions regarding the activities under this Agreement.

12.3 This Agreement will be governed by and construed in accordance with the laws of the State of New York.

12.4 This Agreement will become effective upon the execution of this Agreement by all of the interested Traditional MS4s after authorizing resolutions have been duly adopted by their governing bodies or, if not executed by all of the Traditional MS4s by September 30, 2017, the Agreement will

become effective when executed by a least ten of the Current Members, after authorization resolutions have been duly adopted by their governing bodies, so long as Albany County is among those who have executed this Agreement. Any Current Member that has not executed this Agreement when it becomes effective may renew their status as a Current Member thereafter when that Current Member executes this Agreement after being duly authorized by the governing body.

12.5 Whenever an entity is admitted to Membership in the middle of the Coalition's fiscal year, the Board of Directors may decide to prorate the Membership Fee for such new Member and charge an administrative fee to cover the cost of updating relevant Stormwater Coalition documents.

12.6 Any Member may withdraw from the Coalition upon sixty (60) days written notice to the Coalition Stormwater Program Director. The withdrawal of a Member will not entitle that Member to the refund of any Membership Fee.

12.7 Should an existing Member or Non-Traditional MS4 Not Eligible for Membership (See Section 3.4) choose to leave in the middle of the Coalition's fiscal year, then return within a two (2) year period, their Membership Fee or contractual annual fee for a Non-Traditional MS4 Not Eligible for Membership, is the full amount as itemized in the budget adopted by the Board of Directors at the time of departure. This fee is an annual charge for each fiscal year of their absence, to compensate for benefits that continued to be derived during that absence, excluding the fiscal year of their departure, due within thirty (30) days of their date of re-entry, with that date determined and approved by the Coalition Board of Directors. The Board of Directors may decide to charge an administrative fee to cover the cost of updating relevant Stormwater Coalition documents.

12.8 This Agreement may be executed in duplicate originals.

12.9 This Agreement may be amended upon the written consent of a majority of all Members, such consent to be given by their respective governing bodies in the same manner as the initial approval of this Agreement.

12.10 This Agreement may be terminated upon the written consent of a majority of the Current Members, such consent to be given by their respective governing bodies.

12.11 Prior to termination, the Coalition Board of Directors will dispose of all Coalition assets and legal documents. These assets may include intellectual property, such as printed material; equipment and software, such as computers, printers and mapping equipment, the Coalition Stormwater Web Mapper; or the Stormwater Coalition website. Legal documents include those documents pertaining to recordkeeping requirements noted in past and current NYSDEC SPDES General Permits for Stormwater Discharges from Municipal Separate Storm Sewer System (MS4s) and documents named in grant contracts where the Host is the contractual party and the Coalition implements grant deliverables.

12.12 If not terminated earlier, this Agreement will remain in effect until December 31, 2022.

WHEREFORE, IN CONSIDERATION OF THE FOREGOING, THE GOVERNING BODIES OF EACH OF THE FOLLOWING MUNICIPALITIES AND SIGNATORIES FOR NON-TRADITIONAL MS4S HAVE DULY AUTHORIZED THE EXECUTION OF THIS AGREEMENT BY THE SIGNATURES BELOW

Date: _____

City of Albany

Ву: _____

12.9 This Agreement may be amended upon the written consent of a majority of all Members, such consent to be given by their respective governing bodies in the same manner as the initial approval of this Agreement.

12.10 This Agreement may be terminated upon the written consent of a majority of the Current Members, such consent to be given by their respective governing bodies.

12.11 Prior to termination, the Coalition Board of Directors will dispose of all Coalition assets and legal documents. These assets may include intellectual property, such as printed material; equipment and software, such as computers, printers and mapping equipment, the Coalition Stormwater Web Mapper; or the Stormwater Coalition website. Legal documents include those documents pertaining to recordkeeping requirements noted in past and current NYSDEC SPDES General Permits for Stormwater Discharges from Municipal Separate Storm Sewer System (MS4s) and documents named in grant contracts where the Host is the contractual party and the Coalition implements grant deliverables.

12.12 If not terminated earlier, this Agreement will remain in effect until December 31, 2022.

WHEREFORE, IN CONSIDERATION OF THE FOREGOING, THE GOVERNING BODIES OF EACH OF THE FOLLOWING MUNICIPALITIES AND SIGNATORIES FOR NON-TRADITIONAL MS4S HAVE DULY AUTHORIZED THE EXECUTION OF THIS AGREEMENT BY THE SIGNATURES BELOW

Date: 7/28/17

Albany Water Board for the City of Albany

By: Sullicing Way Title: Chairman, AWB

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Town of Bethlehem By: JOHN CLARKSON

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SUPERVISOR, TOWN OF BETHLEHEM

Date: _____

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City of Cohoes

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Town of Bethlehem

Town of Colonie By: Paula a. Mahan

Title: TOWN SUPERVISOR

Date:_____

Town of Guilderland

Ву:_____

City of Cohoes Date: Ву:_____ Title: **City of Watervliet** Date:_____ By: _____ Title: Date:_____ Town of Bethlehem Ву:_____ Title: Date:_____ Town of Colonie Ву:_____ Title Date: _____7/ 19/17 Town of Guilderland By: Hope Denter Title: Supervisor

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Date: 9-26-2017 Town of New Scotland By: DlP.My Title: Supervisor Date: _____ Village of Colone Ву: ______ Title: Date: _____ Village of Green Island Ву: _____ Title: Date: ______ Village of Menands By:_____ Title: County of Albany Date: _____ Ву:_____ Title:

| Date: | Town of New Scotland |
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Village of Green Island

By: Celen M. Mc Nulty-Ryan Title: 7-10-17 Mayor

Date: _____

Date: <u>7-18-17</u>

Date: _____

County of Albany

Village of Menands

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Date: 9/15/2017

University of Albany-SUNY (Uptown) ву:____

Title: DIRECTOR, CODE ADMINISTRATION

Date: _____

University of Albany-SUNY (Uptown)

By: _____

Title:

Date: 6/25/19

Village of Voorheesville Ву: 52 Title: MAYOR

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