
**CLIMATE CHANGE MITIGATION EASEMENT GRANTED PURSUANT TO ARTICLE 54,
TITLE 15, OF THE NEW YORK STATE ENVIRONMENTAL CONSERVATION LAW (ECL)
§54-1513**

THIS INDENTURE made this [day] day of [month], [year], between Owner(s) Village of Scotia, having a principal office at 4 N. Ten Broeck Street, County of Schenectady, State of New York (the "Grantor"), and Town of Glenville, having an office at 18 Glenridge Rd, County of Schenectady, State of New York (the "Grantee."),

WHEREAS, the Legislature of the State of New York has declared that it is in the public interest to establish within the Department of Environmental Conservation (the "Commissioner", or "NYSDEC" or "Department" as the context requires) with its headquarters located at 625 Broadway, Albany, New York 12233, a climate smart communities project funding program ("CSC Funding Program") to provide competitive funding to municipalities to implement eligible climate change mitigation and adaptation projects as described Article 54, Title 15, of the New York State Environmental Conservation Law.

WHEREAS, pursuant to ECL §54-1513 a municipality that receives funding from the CSC Funding Program is entitled to develop, improve, restore or rehabilitate real property that is not owned by the municipality so long as it obtains a Climate Change Mitigation Easement from the owner of the real property to be enforced as Conservation Easement pursuant to §ECL 49-0305.

WHEREAS, NYSDEC has set the minimum standards for the Climate Change Mitigation Easements as the following:

- The property shall be accessible to the municipality (Grantee) for any necessary work to achieve the funded purpose throughout the anticipated life of the project; and
- The property shall provide the identified public benefit, e.g., public row of way for pedestrian access; and
- The property shall be used to achieve climate protection and mitigation goals pursuant to ECL Article 54 Title 15 "Climate Smart Community Projects," e.g., reduction of greenhouse gas emissions from municipal and community transportation, throughout the anticipated life of the project; and
- The property owner (Grantor) shall provide information and data to the municipality, or will provide access to the municipality for collection of data, as specified in the rebate contract; and
- A minimum ten-year term for the easement to adequately reflect the service life of both subcategory types of infrastructure."

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WHEREAS, Grantee and Grantor jointly declare that it is in public interest to collaborate to pursue funding from the CSC Funding Program for the project described in Schedule B, and that property subject to this easement shall be used to achieve climate protection and mitigation goals pursuant to ECL Article 54 Title 15 "Climate Smart

Community Projects,” including reduction of greenhouse gas emissions from municipal and community transportation throughout the anticipated life of the project.

WHEREAS, Grantor is the owner of the real property upon which this Climate Change Mitigation Easement is placed (the "Controlled Property"). The Controlled Property is a Right-of-Way located on [Broad Street](#) in the [Village](#) of [Scotia](#), County of [Schenectady](#) and State of New York, along privately owned parcels known and designated on the tax map of the County Clerk of [Schenectady](#) as tax map parcel numbers: [29.17-1-2](#); [29.82-2-2](#); [29.82-2-51](#); and [29.82-2-28](#).

NOW THEREFORE, in consideration of the mutual covenants contained herein, Grantor conveys to Grantee a Climate Change Mitigation Easement pursuant to ECL Article 54, Title 15 in, on, over, under, and upon the Controlled Property described herein.

1. Purposes. Grantor and Grantee acknowledge that the purpose of this Climate Change Mitigation Easement is to convey to Grantee real property rights and interests as elaborated in the CSC Project Management Plan (CPMP) attached as Schedule B, and that these rights are binding on the Grantor and the Grantor's successors and assigns and are enforceable in law or equity against any owner of the Controlled Property, any lessees and any person using the Controlled Property.
2. CSC Project Management Plan (CPMP). Grantor and Grantee agree to structure the CPMP in the following format, and that the intent of each section is as described herein:
 - A. Description and Public Use Purpose: This section describes the project, and its intended users and overall public benefit. Grantor and Grantee agree that if ever further interpretation of the rights conveyed in this easement are needed, that they are intended to be the minimum needed to achieve the public use purpose described in this section.
 - B. Controlled Improvements: This section includes a list of equipment, materials, and other improvements installed or implemented with funding from the CSC Funding Program and therefore subject to this Climate Change Mitigation Easement. Improvements not listed, are not subject to this easement.
 - C. Easement Term: This section sets the duration and sunset date of the easement that adequately reflect the service life of the Controlled Improvements. After the sunset date, the easement is automatically extinguished.
 - D. Site Description: This section includes a site map, sketch, or description of the Controlled Property to adequately describe the location of improvements and any access right of way's necessary to ensure the improvements are adequately accessible to fulfill the projects intended public purpose.
 - E. Access Rights: This section describes and covenants physical access rights and procedures, including limitations, on time of use and number of spaces. Grantor and Grantee agree that access rights, excepting those provided to Grantee as described in Site Management, are limited to and must be associated with making use of Controlled Improvements at permitted locations and times as described in the CPMP.
 - F. Site Management: This section describes the Grantor and Grantee's plan for managing the Controlled Improvements, and covenants and lists access rights needed by Grantee and its designees to support implementation of the plan. This may include, but is not limited to, site access to collect data as required to the project or rebate contract.
3. Right to Enter and Inspect. Grantee, its agents, employees, or other designees of the

Grantee may enter and inspect the Controlled Property in a reasonable manner and at reasonable times to assure compliance with this Climate Change Mitigation Easement and the CPMP.

4. Reserved Grantor's Rights. Grantor reserves for itself, its assigns, representatives, and successors in interest with respect to the Property, all rights as fee owner of the Property, including:

- a. Use of the Controlled Property for all purposes not inconsistent with, or limited by the terms of this Climate Change Mitigation Easement;
- b. The right to give, sell, assign, or otherwise transfer part or all of the underlying fee interest to the Controlled Property, subject and subordinate to this Climate Change Mitigation Easement

5. Enforcement

- a. This Climate Change Mitigation Easement may be enforced in law or equity by the Grantor and the Grantee, and is enforceable against the owner of the Controlled Property. Enforcement shall not be defeated because of any subsequent adverse possession, laches, estoppel or waiver. No general law of the state which operates to defeat the enforcement of any interest in real property shall operate to defeat the enforcement of this easement unless such general law expressly states the intent to defeat the enforcement of such easement or provides for the exercise of the power of eminent domain. It is not a defense in any action to enforce this easement that: it is not appurtenant to an interest in real property; it can be or has been assigned to another holder; it is not of a character that has been recognized traditionally at common law; it imposes a negative burden; it imposes affirmative obligations upon the owner of any interest in the burdened property, or upon the holder; the benefit does not touch or concern real property; or there is no privity of estate or of contract.
- b. Grantee shall notify Grantor of a breach or suspected breach of any of the terms of this Climate Change Mitigation Easement. Such notice shall set forth how Grantor can cure such breach or suspected breach and give Grantor a reasonable amount of time from the date of receipt of notice in which to cure. At the expiration of such period of time to cure, or any extensions granted by Grantee, the Grantee shall notify Grantor of any failure to adequately cure the breach or suspected breach, and Grantee may take any other appropriate action reasonably necessary to remedy any breach of this Climate Change Mitigation Easement, including the commencement of any proceedings in accordance with applicable law.
- c. The failure of Grantee to enforce any of the terms contained herein shall not be deemed a waiver of any such term nor bar any enforcement rights.

6. Recordation. Grantor shall record this instrument, within thirty (30) days of execution of this instrument by Grantee or her/his authorized representative in the office of the recording officer for the county or counties where the Property is situated in the manner prescribed by Article 9 of the Real Property Law.

7. Amendment. Any amendment to this Climate Change Mitigation Easement may only be executed by an agreement between the Grantor and Grantee, and filed with the office of the

recording officer for the county or counties where the Property is situated in the manner prescribed by Article 9 of the Real Property Law.

8. Extinguishment. This Climate Change Mitigation Easement will extinguish automatically at the end of term specified in the CPMP in Schedule B. Otherwise, it can only be extinguished if a duly executed release is filed by the Grantee with the office of the recording officer for the county or counties where the Property is situated in the manner prescribed by Article 9 of the Real Property Law.

9. Joint Obligation. If there are two or more parties identified as Grantor herein, the obligations imposed by this instrument upon them shall be joint and several.

10. Notice. All notices and correspondence between Parties shall be delivered by hand, by registered mail or by Certified mail and return receipt requested to the following contacts:

Representative of the Grantor

Thomas A. Gifford

Representative of the Grantee

Julie Davenport, Town Clerk
Glenville Town Hall
18 Glenridge Rd
Glenville NY 12302

The Parties may provide for other means of receiving and communicating notices.

IN WITNESS, WHEREOF, Village of Scotia, Grantor, acting by and through the Office of the **Mayor** has caused this instrument to be signed in its name.

Enter Grantor's Name:

By: _____

Print Name: _____

Title: _____ Date: _____

Grantor's Acknowledgment

STATE OF NEW YORK)

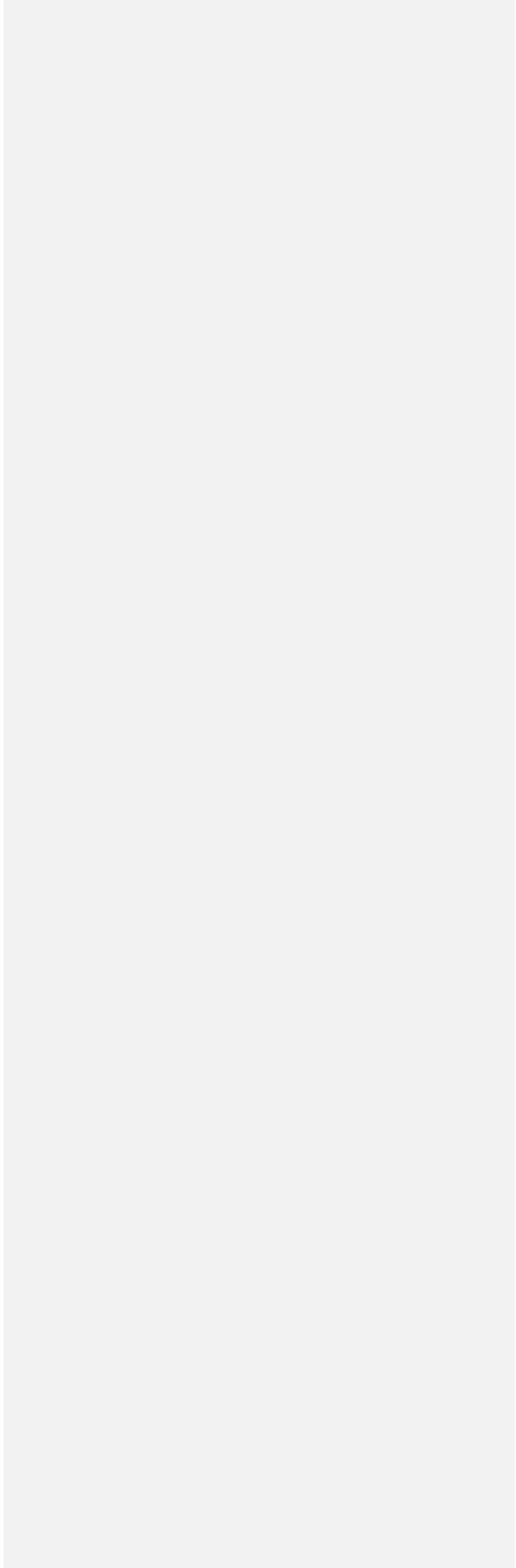
) ss:

COUNTY OF)

On the _____ day of _____, in the year 20____, before me, the undersigned, personally appeared _____, personally known to me or proved to me on

the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public - State of New
York



THIS ENVIRONMENTAL EASEMENT IS HEREBY ACCEPTED BY THE
Town of Glenville, acting by and through the Office of the Town Supervisor,

By:
Town Supervisor
Town of Glenville

Grantee's Acknowledgment

STATE OF NEW YORK)
)
ss: COUNTY OF ALBANY)

On the _____ day of _____, in the year 20 , before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/ executed the same in his/her/ capacity as Designee of the Commissioner of the State of New York Department of Environmental Conservation, and that by his/her/ signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public - State of New York

SCHEDULE "A" PROPERTY
DESCRIPTION

Easement rights only in and to all that parcel of land situate in the Village of Scotia, Town of Glenville, County of Schenectady and State of New York being within the right of way of Broad Street and described as follows:

Beginning at the northerly edge of the carriageway of Broad Street at a point about 25 feet southerly of the lands now or formerly of William M. and Amy M. Wilcox (Book 1838 of Deeds at page 464) as measured along a line which is an extension southerly of the easterly line of lands of the Scotia Glenville School District which line runs parallel to and 113.35 feet westerly of Seeley Street and running thence easterly along the northerly margin of the carriageway of Broad Street about 90 feet to a crosswalk and continuing easterly about 50 feet to the centerline of Seeley Street; thence northerly along the centerline of Seeley street, 5 feet 6 inches to a point; thence westerly parallel to the first above course about 140 feet to the extension southerly of the easterly line of the School District; thence southerly along said line 5 feet 6 inches to the point of beginning.

Also, easement rights only in and to all that parcel of land situate in the Village of Scotia, Town of Glenville, County of Schenectady and State of New York being within the right of way of Broad Street and described as follows:

Beginning at the southerly edge of the carriageway of Broad Street at its intersection with the westerly line of the right of way of North Toll Street, which point is about 12 feet northerly of the northeast corner of lands of Jackson as measured along an extension northerly of the easterly line of Terrance D. and Karen M. Jackson (Book 1237 of Deeds at page 343) and running thence westerly along the southerly line of the carriageway of Broad Street about 220 feet to a crosswalk and continuing westerly about 20 feet to the centerline of Seeley Street; thence southerly along the centerline of Seeley Street 4 feet 6 inches; thence easterly and parallel to the first above course about 250 feet to the carriageway of North Toll Street; thence northerly and westerly along the westerly and southerly edge of the carriageways of North Toll Street and Broad Street about 10 feet to the point of beginning.

SCHEDULE "B" CSC PROJECT MANAGEMENT PLAN

A. Description and Intended Public Use Purpose

The project used CSC Program Funding resources to install approximately one-mile of sidewalk in the ROW along Broad Street between the School starting at SBL#29.19-1-6, crossing Seeley Street and ending at Toll Street in front of SBL#29.82-2-28.

B. Controlled Improvements

Five-foot-wide concrete pavement, six-inch curbing with ADA compliant ramps.

C. Easement Term:

A minimum ten-year term for the easement to adequately reflect the service life of the sidewalk starting on the date of agreement and ending ten years.

D. Site Description Subject to Easement:

See attached

E. Access Rights for Intended Public Use Purpose:

Grantor covenants that the site improvements will be accessible by the Grantee and the general public. Grantor covenants that it will ensure that site will remain accessible for this purpose, excepting routine needs for site maintenance.

F. Site Management:

It shall be the duty and responsibility of the adjoining homeowner to maintain and repair that portion of the premises described in Schedule A which is adjacent to their property as set forth in Scotia Village Code § 210-19 and § 210-20. Any study or data collection necessary for this grant will be completed by the Grantee.