

MARCELLUS TOWN BOARD AGENDA

January 11, 2016

CALL TO ORDER

SALUTE TO FLAG

- I. Accept Town Clerk's minutes of previous meetings
- II. Approve monthly activity, monthly statement of accounts, audit of bills
- III. New Business
  - A. MAVES
  - B. Fire Department
  - C. Approval of Town Court Financials
  - D. Approval of Town Clerk Financials
  - E. Approval of Tax Collector Financial
  - F. Approval of Park/Rec Financial
  - G. Library Contract
  - H. Official Undertaking
  - I. Court Clerk Comp Time
  - J. Ascap
  - K. 2015 JCAP Grant
  - L. TDK Contract

Discussion Agenda

- A. Items from the Board
- B. Items from the Floor

Adjournment

**NOTE:** This is a tentative agenda and is subject to change.

Future Meeting Dates:

Workshop Meeting – Thursday, January 28, 2016 – 7:00 pm Town Hall

Planning/Zoning Board Meeting – Monday, February 1, 2016 – 7:00 pm - Town Hall

Town Board Meeting – Monday, February 8, 2016 – 7:00 pm – Town Hall

**AGREEMENT FOR  
AMBULANCE SERVICE (2016)**

**THIS AGREEMENT** made the 1st day of January, 2016 by and between the Town of Marcellus, Marcellus, New York hereinafter referred to as the "TOWN" and Marcellus Volunteer Emergency Services, Inc., a not-for-profit corporation, having its principal office in Marcellus, New York, hereinafter referred to as "MAVES."

**WITNESSETH**

**WHEREAS**, the Town Board has determined that it is in the public interest for the Town of Marcellus to enter into a contract with MAVES to furnish emergency medical ambulance services for all persons in the Town of Marcellus including the entire corporate limits of the Village of Marcellus; and

**WHEREAS**, at a meeting of the Board of Directors of MAVES held in Marcellus, New York on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, MAVES agreed to furnish such emergency medical Ambulance Services; and

**WHEREAS**, this contract is authorized by Town Law Article 12-A.

**NOW, THEREFORE**, it is mutually agreed by the parties as follows:

**1. SERVICES TO BE PROVIDED**

- a. MAVES shall provide 24 hour, 7 days per week, emergency medical ambulance services for all persons situate in the entire corporate limits of the Town of Marcellus, including the Village of Marcellus requiring such service and shall provide pre-hospital emergency medical treatment and shall transport sick or injured persons found within the boundaries of the Town to a hospital or other treatment facility for treatment of such illness or injury. MAVES warrants and represents that it has, and will continue to have, sufficient trained and certified personnel, equipment and supplies to provide the services provided herein. The Town recognizes that MAVES has a limited supply of ambulances and is not capable of responding to unlimited emergencies at one time, or while "out of service." "Out of service" shall mean such times as when the ambulances have arrived at a health care facility with a patient but, it is either cleaning or restocking the ambulance, or at such times as the ambulances are being routinely serviced and are "out of service" for a temporary short period of time during such routine service.
- b. When notified of the need for ambulance services within the town, MAVES will respond and attend to any such request without delay.

- c. MAVES shall make reasonable and necessary efforts to employ or contract with a person or persons certified at the advance life support level as an emergency medical technician in New York State, who shall be available to respond to emergencies twenty-four (24) hours per day, seven (7) days per week.
- d. Nothing herein shall prohibit MAVES from serving other municipalities on a primary or mutual aid basis.

2. **INSURANCE**

The parties agree that members of MAVES, who provide such services on a volunteer basis, will be covered with the statutory coverage under the Volunteer MAVES Worker's Benefit Law, which insurance coverage shall be paid by the Town. MAVES shall pay for the insurance coverage of MAVES's employees.

3. **CERTIFIED AMBULANCE**

- a. MAVES agrees that it shall provide an ambulance service with all of the personnel, equipment and supplies required by the Public Health Law and the regulations promulgated by the Department of Health.
- b. MAVES agrees to keep in force its Ambulance operating certificate, and comply with all the applicable requirements of Article 30 of the Public Health Law and State Emergency Medical Services Code (10 NYCRR Part 800).
- c. MAVES shall procure and pay all permits and licenses necessary for the ambulance services to be rendered hereunder.

4. **BILLING; FUND RAISING**

- a. MAVES may charge its usual and customary rate, which shall not be unreasonable.
- b. Town recognizes that MAVES intends to bill patients directly for services and transportation it renders and approves of the practice. MAVES may collect these fees directly and retain such fees. MAVES reserves the right to initiate legal action against any person who does not tender payments for MAVES's services. Attached by Schedule B is the list of user fees MAVES may bill. Incorporated by reference into Schedule B and this Agreement are any rates paid by any government private employer-based or third-party insurance. Town and MAVES have established a contract price that includes payment for an estimated co-payment (but not deductible) of an ambulance bill to be due from residents. In light of such contract amount, MAVES shall not attempt to collect any co-payment from any resident of the Town of Marcellus. MAVES accepts the annual payment made by the Town to

MAVES as a payment for residence co-payments. However, MAVES shall, make all reasonable and necessary attempts to collect these funds from non-residents and from persons located in other municipalities.

- c. Nothing herein shall be constructed to prevent MAVES from soliciting and accepting donations and from conducting fund-raising activities to assist in defraying its operating and capital expenses.

**5. CONSIDERATION; PAYMENT; TERM**

- a. The term of this agreement shall be one (1) year, and shall Commence on January 1, 2016 and expire on December 31, 2016.
- b. The Town shall pay to MAVES, for the calendar year 2016, that amount listed in Schedule A on the dates herein stated, subject only to the presentation of proof of insurance and proof that the Town has been named as an additional insured.
- c. MAVES, for such consideration, shall pay all expenses incurred by the operation of such ambulance service, including, but not limited to all personnel and personnel related expenses, personal training costs, repairs and maintenance of equipment, supplies including consumables, gas and oil, and insurance premiums for the insurance coverage hereinafter specified.

**6. INSURANCE; HOLD HARMLESS**

- a. MAVES agrees that it will insure and keep insured, during the term of this agreement, at its own cost and expense, it vehicles, equipment and members against any and all claims and damages arising from personal injury or property damage, with a policy of commercial general liability insurance with at least \$1,000,000/\$3,000,000 limits and vehicle insurance with a policy limit of at least \$1,000,000. The Town shall be named as additional insured on said policy.
- b. MAVES agrees to defend, indemnify and hold harmless the Town, its offices, agents and/or employees from any liability imposed or threatened upon the Town, its officers, agents and/or employees arising from the acts of negligence, active or passive, of MAVES, in providing emergency medical care.
- c. Town shall have the right to review the insurance policy purchased by MAVES upon reasonable notice to MAVES at reasonable hours.

**7. INDEPENDENT CONTRACTOR**

It is hereby mutually covenanted agreed that the relation of MAVES to the work performed by it under this contract shall be that of an independent contractor. The Town shall not supervise or control the method or manner of providing emergency services.

## **8. REVIEW OF FINANCES AND PERFORMANCE**

- a. MAVES shall provide Town a report on or within five days of January 15, April 15, July 15 and October 15, indicating all of the line item expensed and income of MAVES. The purpose of such review is not for the Town to supervise or control MAVES, but instead to predict the expenses and income for the future years and to plan accordingly. MAVES covenants that it maintains the record of the finances in a form sufficient to be audited and/or reviewed and that upon a request from the Town, an audit or review will be permitted upon reasonable notice, so long as the Town bears the expenses. MAVES covenants that it has put in place reasonable steps to monitor the funds and prevent theft, or improper accounting practices.
- b. On or within five days of January 15, April 15, July 15, and October 15, MAVES shall provide to the Town a report indicating the following:
  - i. The number of calls to which MAVES was dispatched
  - ii. The number of calls to which MAVES responded
  - iii. The number of calls to which MAVES was unable to respond
  - iv. The town, village or other area in which each patient was located v, If possible, the number of BLS calls and ALS calls
  - v. If possible the number of patients that refused transport
  - vi. If possible, the collection rate of all patients served in each respective town or village
- c. MAVES shall make a good faith attempt to present a preliminary budget to the Town no later than September 1.

## **9 NO ASSIGNMENT**

In accordance with the provisions of Section 109 of the General Municipal Law, MAVES is hereby prohibited from assigning, transferring, conveying, subletting or otherwise disposing of this agreement, or of its right, title or interest in the agreement, or its power to execute the agreement, to any other person or corporation without the previous consent in writing of the Town.

## **10. COMPLIANCE WITH LAWS**

MAVES shall at all times comply with all applicable laws, statutes, codes, rules, and regulations.

## **11. APPLICABLE LAW**

This agreement is governed by the laws of the State of New York.

**12. MODIFICATION**

This agreement constitutes the complete understanding of the parties. No modifications of any provisions thereof shall be valid unless in writing and signed by both, parties.

**13. NOTICES**

Any and all notices and payments required hereunder shall be addressed as follows, or to such other address as may hereafter be designed in writing by either party hereto:

To Town:           Attention Supervisor  
                          24 E. Main Street  
                          Marcellus, New York 13108

To MAVES:        Attention President

---

Marcellus, New York 13108

**14. WAIVER**

No waiver of any breach of any condition of the agreement shall be binding unless in writing and signed by the party waiving said breach. No such waiver shall in any way affect any other term or condition of this agreement or constitute a cause or excuse for a repetition of such or any other breach unless the waiver shall include the same.

**15. COMPLIANCE WITH LAWS; SEPERABILITY OF TERMS**

Should any clause be deemed to be illegal or unenforceable by action of law or regulation, this Agreement shall be amended by the parties within sixty (60) days of the effective date of such law or regulation. Should a sufficient amendment not be obtainable in order to adhere to the spirit of this Agreement, such clause shall, be stricken without affection the validity of any other clause of term of this Agreement. Any clause deemed void, illegal or otherwise unfair or unenforceable shall be stricken from the agreement without voiding the agreement or otherwise affecting the other rights or obligations imposed by this Agreement.

**16. TERMINATION**

The Town may terminate this Agreement if MAVES fails to provide the services required under this Agreement for a period of nine (9) continuous days. MAVES may terminate this Agreement should the Town fail to make payment as required herein.

**IN WITNESS WHEREOF**, the parties caused this agreement to be executed by their duly authorized officers as the day and year first above written

**TOWN OF MARELLUS**

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

Karen Pollard, Supervisor

**MARCELLUS AMBULANCE VOLUNTEER EMERGENCY SERVICES, INC.**

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

, President

**Schedule A**  
**MAVES Contract**  
**2016**

**Contract Amount: \$ 283,951.00**

Method of Payment: In advance commencing with February 1, then May 1, August 1, and November 1

	<u>Feb. 1<sup>st</sup></u>	<u>May 1<sup>st</sup></u>	<u>Aug. 1<sup>st</sup></u>	<u>Nov. 1<sup>st</sup></u>	<u>Total</u>
Contract	\$70,987.75	\$70,760.25	\$70,760.25	\$70,760.25	<b>\$283,951.00</b>

## AGREEMENT

**THIS AGREEMENT**, made the 1<sup>st</sup> day of January, 2016, by and between the Town of Marcellus, a municipal corporation situated in the County of Onondaga, State of New York (hereinafter "Town"), and Marcellus Fire Department, Inc., a Not-For-Profit corporation, organized and existing under the laws of the State of New York and having its principal place of business in Marcellus, New York (hereinafter "Department").

### WITNESSETH:

**WHEREAS**, Department is a Not-For-Profit Corporation organized exclusively for charitable and educational purposes and as part of those purposes, desires to provide fire protection and rescue services to persons in the Town of Marcellus including the entire corporate limits of the village of Marcellus; and

**WHEREAS**, such fire protection and rescue services are vital and necessary to the health and welfare of the inhabitants of the Town of Marcellus including the corporate limits of the village of Marcellus, as now included in the Marcellus Fire Protection District; and

**WHEREAS**, the Department maintains adequate and suitable apparatus, appliances and equipment for the furnishing of fire protection of said district; and

**WHEREAS**, the Town agrees that Department shall be the exclusive provider of primary fire protection services in the Town of Marcellus, including the village of Marcellus as now included in the fire protection district; and

**WHEREAS**, the Department does not maintain an ambulance and will not provide general ambulance services.

**WHEREAS**, a special law has been enacted that has permitted the town and village to extend the Marcellus Fire Protection District into the village of Marcellus, thus creating one fire protection district encompassing all of the limits of the town, including the corporate limits of the village of Marcellus, and such extension has now occurred.

**NOW, THEREFORE**, in consideration of the mutual covenants and conditions herein contained, the parties hereto mutually agree as follows:

#### 1. PROVISION OF EMERGENCY SERVICES

Department will provide Town with personnel, apparatus, vehicles and equipment necessary to provide fire protection and rescue services capable of properly responding to emergencies on an on-going basis within the Town of Marcellus Fire Protection District. Fire protection shall be defined as Section 184 of the Town Law, but shall not include inspections of buildings and properties in the Town of Marcellus for the purposes specified in and as authorized by sections 187-a and 183 of the Multiple Residence Law, and section 189 of the Town Law. Fire Protection shall not include the provision of general ambulance services.

## **2. THE FIRE STATION**

During the term of this agreement, the Town shall provide Department with suitable housing in order to house the Department's apparatus, equipment, vehicles and supplies and in order to provide such fire protection and shall maintain such housing in good order.

The Department acknowledges the Marcellus Fire Hall located at 4242 Slate Hill Road, Marcellus, New York constitutes suitable housing.

The maintenance of the building and property shall be the responsibility of the Department utilizing designated funds from Schedule "A"

The Department may establish a reserve fund for the maintenance of the fire station. The balance of said building maintenance reserve fund shall not exceed \$50,000. The Department further agrees to notify the Town Board and obtain approval from the Town, for any maintenance projects in excess of \$5,000 and follow all Department procurement policies with respect to same.

## **3. TERM**

The term of this Agreement shall commence on January 1, 2016 and shall continue until December 31, 2016 unless sooner terminated as herein provided.

## **4. COMPENSATION AND VFBL**

Town agrees to pay Department those amounts as provided in Schedule "A", payable in installments as set forth in Schedule "B". Such funds shall be used by the Department solely for the administration of the fire department equipping fire department as necessary for recruitment and retention, and for such other purposes as related to providing fire protection or administering a fire department and as permitted by the Department's not-for-profit status.

Department shall provide reports to the Town, no less than quarterly, with itemized income and expenses. Department shall notify the town of any change in expense line item from which funds were originally budgeted, but in no event shall the Department expend funds in excess of \$500 outside the line item budget without Town approval. Except as may be restricted by paragraph two (2) above, the Department may transfer any unexpended portion of any line item to a capital or reserve fund. The Department will provide a report annually of the amount of the capital and reserve funds. The report will also include the line item surpluses from that year applied to the capital or reserve fund.

Town shall arrange coverage for benefits required under the Volunteer Firefighters Benefit Law and shall be responsible for all increases in costs of any coverage.

## **5. HOLD HARMLESS AGREEMENT**

Town recognizes that Department is staffed by volunteers and that Department can only make reasonable efforts to recruit and retain volunteers. Town agrees to hold Department harmless for Department's failure to provide sufficient manpower at any single incident. Town shall also hold Department harmless for all claims, actions and suits against the Town for any act or omission of the Department beyond the amount of any exposure covered by insurance.

## **6. INSURANCE**

Town agrees to maintain liability insurance sufficient to insure itself against claims for unintentional torts resulting in personal injuries in an amount of not less than One Million Dollars (\$1,000,000.00). Town shall name the Department as an additional insured in Town's insurance policy and shall provide proof of such insurance to the Department.

Department shall at all times and without any gap in coverage maintain automobile insurance for personal injuries and property damage arising out of the operation of emergency and firefighting vehicles in an amount of not less than One Million Dollars (\$1,000,000.00). Department shall name the Town as an additional insured, shall provide proof of such coverage to the Town, and shall cause the Town to be notified by the insurance carrier in case of any lapse of coverage.

## **7. BILLING**

Department shall not bill any person for any fire protection or rescue services.

## **8. EXPIRATION OR TERMINATION OF RESPONSIBILITIES**

Upon expiration or termination of the Agreement as provided hereunder, Department shall have no liability or responsibility for providing services under this Agreement to any person or property within the boundaries of the Town of Marcellus. Town agrees to defend, indemnify and hold Department harmless for any claim, suit, proceeding or action, arising from Department's failure to provide adequate or sufficient services to any person or property within the Town of Marcellus's boundaries after this Agreement expires or terminates.

## **9. GROUNDS FOR TERMINATION**

Department may terminate this Agreement upon the Town's failure to deliver the monies due Department under this Agreement by the date due, so long as Department provides twenty (20) days written notice to the Town of the date it will cease providing services. If the Town remits such funds to the Department during this twenty (20) day notice period, Department shall not terminate services based upon the Town's failure to pay this annual contract payment.

Town may terminate this Agreement upon the loss or suspension of Department's ability to deliver fire protection services, or upon the failure of Department to continuously respond to requests for fire protection or rescue services within the Town's boundaries for a period of no less than two (2) weeks, so long as Town provides Department written notice of the date services will no longer be permitted. Department shall be provided the opportunity to cure such loss, suspension or failure, and shall have three (3) days from receipt of notice from the Town to provide such protection under the terms of this Agreement.

## **10. EQUIPMENT**

The parties agree that trucks and equipment purchased in whole or in part with public funds provided by the Town shall be owned and maintained by the Department. The Department agrees however that said trucks and equipment shall be made available for the exclusive benefit of the residents of the Town of Marcellus and for mutual aid, without limitation, for the duration of this agreement and for a period of five (5) years following the termination or expiration of this Agreement.

It is furthermore the clear intent of the parties that Department trucks and equipment always be available for the benefit of the Town residents. Accordingly, in addition to the foregoing, the Department, as consideration for the right to own and hold title to the trucks and equipment, will also amend its Certificate of Incorporation to state that said equipment and trucks will be available for and utilized without limitation for the benefit of the residents of the Town of Marcellus and for mutual aid.

The Department further agrees to amend the Certificate of Incorporation such that the intent of the Department is that upon dissolution of the Department, said equipment and trucks ownership revert to the Town of Marcellus or to an entity designated by the Town.

The foregoing amendments to the Certificate of Incorporation may not be altered or amended without the approval of the Town of Marcellus and are a condition precedent to this Agreement.

The Department agrees to establish and maintain a separate capital account for vehicle purchases and agrees that said funds will be restricted to the purchase of said vehicles only.

All of the provisions of this paragraph ten (10) pertaining to Equipment shall survive the expiration or termination of this Agreement.

#### **11. RESTRICTION ON CAPITAL PURCHASES**

Department shall not make any capital purchase or incur any debt, either of which requires financing, if such purchase/financing would require an increase in the Department's budget in the future years for the term of the financing beyond the term of this Agreement, unless Department first obtains the approval of the Town.

#### **12. QUARTERLY REPORTS**

Department shall provide quarterly reports to town, no later than April 15, July 15, October, 15 January 15, detailing the number of calls to which the Department responded, in which town the call was located, and of such other information as the town may from time to time require.

Department shall also provide each quarter an income and expense report detailing the income and expenses of the Department pertaining to the contractual funds. The expenses shall be itemized by line item. Each line item shall indicate the amount of funds budgeted, spent and remaining. The Department shall also obtain an annual independent audit and provide a report of the audit along with an inventory of equipment to the Town within thirty (30) days of its receipt of the audit report. Town shall not consider the success of fundraising efforts or donations received by the Department when evaluating the budget of the Fire Department. The Town has paid for that portion of the audit which relates to public funds as part of the funds budgeted in Schedule A.

**13. NOTICES**

All notices, requests, demands and other communications required or permitted to be given hereunder shall be in writing, and shall be deemed duly given if delivered by hand or mailed by registered or certified mail, return receipt requested, to the parties at the following address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Town of Marcellus  
Attn: Supervisor  
24 East Main Street  
Marcellus, New York 13108

**14. SAVINGS CLAUSE**

If any provision of this Agreement is determined to be legally invalid, inoperative or unenforceable, only that particular provision shall be affected, such determination shall have no effect whatsoever on any other provision of this Agreement, and all other provisions shall remain in full force and effect. Should the law be amended such that any term of this Agreement shall be rendered null and void or unenforceable, or should the law require a provision in this Agreement that is not presently recited, such agreement shall be deemed amended as of the effective date of the amendment to the law.

**15. WAIVER**

No delay or failure to exercise any remedy or right occurring upon any default shall be construed as a waiver of such remedy or right, or acquiescence in such default, nor shall; it affect any subsequent default of the same or a different nature. All rights and remedies herein conferred shall be in addition to and not exclusive of any and all other rights or remedies now or hereafter existing at law or in equity.

**16. HEADINGS**

All headings and captions in this Agreement are for convenience only. They shall not be deemed part of this Agreement and shall in no way define, limit, extend or describe the scope or intent of any provisions hereof.

**17. FURTHER ASSURANCES**

The parties shall execute and deliver all documents, provide all information and take or forbear from all such action as may be necessary or appropriate to achieve the purposes set forth in this Agreement.

**18. BINDING EFFECT**

This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, executor, administrators, successors and assigns.

**19. COUNTERPARTS**

This Agreement may be executed in counterparts and each such counterpart, when taken together, shall constitute a single and binding Agreement.

**20. GOVERNING LAW**

This Agreement shall be governed by and construed in accordance with the laws of the State of New York. The County of Onondaga in the State of New York is hereby designated as the place of trial for any action or proceeding arising from or in any way connected to this Agreement.

**21. NO ASSIGNMENT**

In accordance with the provisions of Section 109 of the General Municipal Law of the State of New York, Department is hereby prohibited from assigning, transferring, conveying, or otherwise disposing of this agreement, or its power to execute this Agreement, to any other person or corporation without the express written consent of Town. Any such assignment or disposition without such consent shall be void and unenforceable.

**22. ENTIRE AGREEMENT**

This Agreement is the entire agreement among the parties and shall not be changed, except by a writing signed by the party to be charged. This Agreement shall supersede all prior agreements between the parties.

**IN WITNESS WHEREOF**, the parties hereto have set their respective hands and seals as of the day and year first above written.

**Town of Marcellus**

**Marcellus Fire Department, Inc.**

By: \_\_\_\_\_  
**Karen Pollard, Supervisor**

By: \_\_\_\_\_  
**, President**

**SCHEDULE A**

Contractual Payment:	\$249,775.00
-plus-	
Truck & Equipment Reserve:	\$ 73,492.00
-plus-	
Building Maintenance Fund:	<u>\$ 30,000.00</u>
TOTAL:	\$353,267.00

**SCHEDULE B**

On or before January 15, 2016  
On or before February 15, 2016  
On or before May 15, 2016

Ten Percent (10%) of Schedule A  
Thirty Percent (30%) of Schedule A  
Sixty Percent (60%) of Schedule A

Account#	Account Description	Fee Description	Qty	Local Share
A2544	Dog Licensing	Female, Spayed	344	1,755.00
		Female, Unspayed	27	297.00
		Male, Neutered	324	1,630.00
		Male, Unneutered	33	363.00
		Replacement Tags	4	8.00
		Impoundment Fee	Impoundment Fee	11
			<b>Sub-Total:</b>	<b>\$4,193.00</b>
A2590	Conservation	Conservation	151	858.93
	Fireworks	Fireworks	2	100.00
	Freon Removal	Freon Rremoval	24	480.00
	Haulers Permit	Haulers Permit	4	400.00
	Marr. Lic	Marriage Licensing Fees	29	362.50
	Misc Fees	Fax	2	2.00
	Misc. Fees	Certified Copies - Marriage	23	230.00
		Photo Copies	1899	325.80
		Returned Check Fee	2	40.00
	Passport	Passport	72	1,800.00
	Permit Fee	Trash Permit-Trailer	50	2,250.00
	Permit Fees	Tire	123	369.00
		Trash Permit-Passenger	149	2,970.00
		Trash Permit-truck	148	5,142.50
			<b>Sub-Total:</b>	<b>\$15,330.73</b>
B2110	Building	Building	136	11,654.90
	Plan & Zone	Zoning Fees	15	1,670.00
		Zoning Ordinance Book	2	12.00
	Site Plan	Site Plan	5	350.00
			<b>Sub-Total:</b>	<b>\$13,686.90</b>
			<b>Total Local Shares Remitted:</b>	<b>\$33,210.63</b>
Amount paid to:	NYS Ag. & Markets for spay/neuter program			857.00
Amount paid to:	NYS Environmental Conservation			15,935.07
Amount paid to:	State Health Dept. for Marriage Licenses			652.50
<b>Total State, County &amp; Local Revenues:</b>		<b>\$50,655.20</b>	<b>Total Non-Local Revenues:</b>	
			<b>\$17,444.57</b>	

To the Supervisor:

Pursuant to Section 27, Sub 1, of the Town Law, I hereby certify that the foregoing is a full and true statement of all fees and monies received by me, Sandra Taylor, Town Clerk, Town of Marcellus during the period stated above, in connection with my office, excepting only such fees and monies, the application of which are otherwise provided for by law.

_____	_____	_____	_____
Supervisor	Date	Town Clerk	Date

**LIBRARY CONTRACT**

**THIS AGREEMENT** made this \_\_\_\_\_ day of January, 2016, by and between the **Town of Marcellus** (hereinafter "Town"), a municipal corporation of the County of Onondaga and State of New York, and **Marcellus Free Library Association** (hereinafter "Library"), a library association chartered by the Regents of the State of New York, of the Village of Marcellus, County of Onondaga and State of New York.

**WITNESSETH**

That the parties hereto, pursuant to the provisions of the Education Law of the State of New York, do hereby mutually covenant and agree:

1. The Library shall henceforth and as long as this contract is in force, furnish free library privileges to the people of the Town of Marcellus, under reasonable rules and regulations set forth by the Library Board and Administration.

2. Further, in consideration for payment made by the Town as described below, the Library will make its facility available to the Town upon reasonable request and provided the facility is available and not otherwise being utilized and at no cost to the Town.

3. In consideration of the foregoing, the Town does hereby appropriate the sum of Twenty-Seven Thousand Five Hundred Dollars (\$27,500.00) and shall pay the same to the Library during the year 2016 and each subsequent year this contract is in force. Pursuant to statute, such sum shall be a charge upon the Town of Marcellus, and shall be raised, appropriated and paid in the same manner as other Town Charges.

4. This Agreement shall continue for each succeeding year, from year to year, unless either party hereto shall elect to terminate said Agreement by personal service upon an officer of the other party of a notice of such election, which service, to be effective, must be made at least thirty (30) days before October 1 of any succeeding year.

**IN WITNESS WHEREOF**, the parties have duly executed and delivered this Agreement as of the day and year above mentioned.

TOWN OF MARCELLUS

By: \_\_\_\_\_  
Karen Pollard, Supervisor

ATTEST:

MARCELLUS FREE LIBRARY ASSOCIATION

By: \_\_\_\_\_  
\_\_\_\_\_, President

## OFFICAL UNDERTAKING OF MUNICIPAL OFFICIALS

WHEREAS, various sections of New York State Town Law and Public Officers Law require that certain officials execute an Official Undertaking; and

WHEREAS, the Town Board of the Town of Marcellus hereby requires the Supervisor, Town Clerk, Tax Collector, Town Justices, Highway Superintendent and Deputy Town Supervisor, Court Clerk and Deputy Court Clerk to execute said Official Undertaking as required by said law;

NOW, THEREFORE BE IT RESOLVED the Town Board of the Town of Marcellus approves the document entitled "Town of Marcellus Official Undertaking of Municipal Officers" as to its form and manner of execution and the sufficiency of the insurance, and

BE IT FURTHER RESOLVED that said Official Undertaking containing the notarized signatures of those named municipal officials be filed in the Office of the Town Clerk, as well as the original copies of the insurance policies indicating the sufficiency of the sureties to indemnify the Town against losses which may arise from failure of such officials to properly discharge their duties.

### TOWN OF MARCELLUS

#### OFFICIAL UNDERTAKING OF MUNICIPAL OFFICERS

WHEREAS, Karen R. Pollard , of the Town of Marcellus, County of Onondaga, New York has been elected to the Office of Supervisor of the Town of Marcellus, and

WHEREAS, Sandra H. Taylor, of the Town of Marcellus, County of Onondaga, New York has been elected to the Office of Town Clerk of the Town of Marcellus, and

WHEREAS, Elaine M. Potter, of the Town of Marcellus, County of Onondaga, New York has been elected to the Office of Town Tax Collector of the Town of Marcellus, and

WHEREAS, Mary Reagan Dailey, of the Town of Marcellus, County of Onondaga, New York has been elected to the Office of Town Justice of the Town of Marcellus, and

WHEREAS, Matthew S. Moses, of the Town of Marcellus, County of Onondaga, New York has been elected to the Office of Town Justice of the Town of Marcellus, and

WHEREAS, Donald MacLachlan, of the Town of Marcellus, County of Onondaga, New York has been elected to the Office of Superintendent of Highways of the Town of Marcellus, and

WHEREAS, Helen Stevens, of the Town of Marcellus, County of Onondaga, New York has been appointed to the position of Deputy Town Supervisor, and

WHEREAS, Judith Schneider, of the Town of Marcellus, County of Onondaga, New York has been appointed to the position of Court Clerk, and

WHEREAS, Heidi Randall, of the Town of Marcellus, County of Onondaga, New York, has been appointed to the position of Deputy Court Clerk, and

NOW, THEREFORE, we as respective officers above, do hereby undertake with the Town of Marcellus that we will faithfully perform and discharge the duties of our office, and will promptly account for and pay over all moneys or property received as a Town Officer , in accordance with the law; and

This undertaking of the Town Supervisor is further conditioned that she will well and truly keep, pay over and account for all moneys and property, including any special district funds, belonging to the Town and coming into her hands as such Supervisor; and

This undertaking of the Town Clerk is further conditioned that she will well and truly keep, pay over and account for all moneys and property coming into her hands as such Town Clerk; and

This undertaking of the Tax Collector is further conditioned that she will well and truly keep, pay over and account for all moneys and property coming into her hands as such Tax Collector; and

This undertaking of the Town Justices is further conditioned that they will well and truly keep, pay over and account for all moneys and property coming into their hands as such Town Justices; and

This undertaking of the Superintendent of Highways is further conditioned that he will well and truly keep, pay over and account for all moneys and property coming into his hands as such Superintendent of Highways; and

This undertaking of the Deputy Town Supervisor is further conditioned that he will well and truly keep, pay over and account for all moneys and property coming into his hands as such Deputy Town Supervisor; and

This undertaking of the Court Clerk is further conditioned that she will well and truly keep, pay over and account for all moneys and property coming into her hands as such Court clerk; and

This undertaking of the Deputy Court Clerk is further conditioned that she will well and truly keep, pay over and account for all moneys and property coming into her hands as such Deputy Court Clerk; and

The town does and shall maintain insurance coverage, presently with ENB Insurance, in the sum of \$450,000.00 for the Tax Collector, \$50,000.00 for Supervisor , \$25,000.00 each for the Town Justices, \$25,000.00 for Highway Superintendent, \$25,000.00 for Town Clerk and \$25,000 for the Deputy Town Supervisor and \$25,000.00 each for the Court Clerk and the

Deputy Court Clerk to indemnify the Town against losses through the failure of the officers, clerks and employees covered thereunder faithfully to perform their duties or to account properly for all monies or property received by virtue of their positions or employment, and through fraudulent or dishonest acts committed by the officer, clerks and employees covered thereunder.

A copy of the certificate of said insurance evidencing the said insurance coverage is annexed hereto as exhibit "A".

Dated: January 11, 2016  
Town of Marcellus

\_\_\_\_\_  
Town Supervisor

\_\_\_\_\_  
Town Clerk

\_\_\_\_\_  
Tax Collector

\_\_\_\_\_  
Town Justice

\_\_\_\_\_  
Town Justice

\_\_\_\_\_  
Highway Superintendent

\_\_\_\_\_  
Deputy Town Supervisor

\_\_\_\_\_  
Court Clerk

\_\_\_\_\_  
Deputy Court Clerk

STATE OF NEW YORK:

:SS:

## MEMORANDUM

**TO:** Karen Pollard, Town Supervisor  
And Members of the Marcellus Town Board

**FROM:** Mary Reagan Dailey, Town Justice  
Matthew S. Moses, Town Justice

**RE:** Comp Time Policy

**DATE:** January 7, 2016

Town Policy states that Compensatory Time carried into the new year must be used by January 31<sup>st</sup>. The Court requests permission to allow Judi Schneider to extend use of 2015 Comp Time this year into February for the benefit of the Court. Any 2015 Comp Time not used on or before February 5th would be forfeited.

There is a greater demand on Judi's time right now. Therefore, the use of Comp Time in January would create a hardship for the Court. As there are only three (3) Court sessions scheduled in February, the workload will be a little more manageable at that time.

## **700 COMPENSATION**

---

### **701 Wage and Salary**

**Rate of Pay** – An employee's rate of pay will be established by the Town Board.

### **702 Overtime / Compensatory Time**

**Authorization** – A Department Head/Superintendent of Highways may require an employee to work additional hours beyond the employee's normal workday and workweek. An employee must receive prior approval from the employee's Department Head/Superintendent of Highways before working additional hours.

**FLSA Non-Covered and Exempt Employees** – In accordance with the Fair Labor Standards Act, FLSA non-covered and exempt employees will not be paid for overtime nor receive "compensatory time" for any hours worked in excess of the employee's normal workday or workweek.

**FLSA Non-Exempt/Hourly Employees** – In accordance with the Fair Labor Standards Act, a FLSA non-exempt employee will be paid one and one-half times the employee's regular hourly rate of pay for all authorized time worked over forty hours in a given workweek. Compensatory Time – With pre-authorization from the Department Head/Superintendent of Highways, a non-exempt/hourly employee will have the option of receiving "compensatory time" in lieu of paid overtime. When a non-exempt employee chooses to receive compensatory time, it will be calculated as time and one-half for all authorized time worked over forty hours in a given workweek. An employee may accumulate a maximum of 60 hours in compensatory time credits; which may be carried forward from one calendar year to the next.

**FLSA Non-Exempt/Salaried Employees** – There shall be no cash payment for any overtime hours worked by this category of employees. Compensatory Time – A non-exempt/salaried employee will receive "compensatory time" for any hours worked in excess of the employee's regularly scheduled workweek. The employee will be credited with the equivalent of straight time for all such authorized excess time worked up to forty hours in a given workweek. The employee will be credited with the equivalent of time and one-half for all authorized time worked over forty hours in a given workweek. An employee may accumulate a maximum of 60 hours in compensatory time credits. Any compensatory time credits carried forward from one calendar year to the next must be used no later than January 31<sup>st</sup>.

**Computing Overtime/Compensatory Time** – Holidays are included as hours worked for the purpose of computing overtime/compensatory time. Lunch time is also included as hours worked for the purpose of computing overtime/compensatory time. Personal leave, vacation leave, sick leave, bereavement leave, jury duty leave, and military leave will not be included as time worked for the purpose of computing overtime/compensatory time.

**Termination from Employment** – An employee whose employment with the Town is terminated will receive cash payment for all unused compensatory credits to which the employee is properly entitled. Payment shall be calculated at the average regular rate of pay for the final three years of employment, or the final regular rate received by the employee, whichever is higher.



PO BOX 331608-7515  
 Nashville, TN 37203-9998  
 Attn: Account Services  
 Phone: 1-800-505-4052  
 Fax: 1-615-691-7795

ASCAP

December 20, 2015

G56JTK001005457 -

Daniel J Ross  
 Town Of Marcellus, NY  
 Town Of Marcellus, NY  
 24 E Main St  
 Marcellus, NY 13108-1206

RECEIVED  
 JAN 04 2016  
 MARCELLUS TOWN CLERK

Re: Account No. - 500704066  
 Town Of Marcellus, NY  
 Town Of Marcellus, NY  
 24 E Main St  
 Marcellus, NY 13108-1206



Dear Mr. Ross:

Your 2016 ASCAP Rate Schedule is attached. Based on the Consumer Price Index, All Urban Consumers - (CPI-U) between October 2014 and October 2015, the 2016 Rate Schedule increased by 0.17057% over the 2015 Rate Schedule. We recommend that you attach the Rate Schedule to your License Agreement for future reference.

In accordance with the terms of the Agreement, Base Licensee Fees are due and payable within 30 days of the renewal date, and shall be accompanied by a statement confirming whether any Special Events were presented during the previous calendar year. Please complete and return the enclosed report form, along with your payment within 30 days of the renewal date of your License Agreement, which is 09/14/2016. You may also copy this form to report any Special Events you have during the year.

Should you prefer to make a payment via Electronic Check or Credit Card, and/or view your account balance and payment history, you may visit us at our secure ASCAP website: [www.ASCAP.com/mylicense](http://www.ASCAP.com/mylicense). Your account information is encrypted for maximum security. It is our strict policy not to make any individual customer data available to third parties for any reason. You may continue to send your report form by mail, via fax (1-615-691-7795) or to us via email at [glcs@ascap.com](mailto:glcs@ascap.com).

We at ASCAP are proud to serve your licensing needs and would like to take this opportunity to extend our best wishes to you for a successful new year.

Sincerely,

*Account Services*

Account Services

Enclosures:

- Rate Schedule
- Report Form
- Return Envelope

F0166\_0116  
 IMLA



**LOCAL GOVERNMENT ENTITIES**  
**2016 Rate Schedule and Report Form**

Account No.: 500704066

Premise Name: Town Of Marcellus, NY; Marcellus, NY

Report Due: 12/30/2016

**SCHEDULE A: Base License Fee**

Population Size			Base License Fee
1	to	50,000	\$336.00
50,001	to	75,000	\$669.00
75,001	to	100,000	\$805.00
100,001	to	125,000	\$1,073.00
125,001	to	150,000	\$1,341.00
150,001	to	200,000	\$1,743.00
200,001	to	250,000	\$2,145.00
250,001	to	300,000	\$2,548.00
300,001	to	350,000	\$2,951.00
350,001	to	400,000	\$3,353.00
400,001	to	450,000	\$3,753.00
450,001	to	500,000	\$4,158.00
500,001	Plus***		\$5,095.00

\*\*\* \$5,095.00 plus \$500 for each 100,000 of population above 500,000 to a maximum fee of **\$67,043.00**

**SCHEDULE B: Special Events**

The rate for Special Events shall be 1% of Gross Revenue.

"Special Events" means musical events, concerts, shows, pageants, sporting events, festivals, competitions, and other events of limited duration presented by LICENSEE for which the "Gross Revenue" of such Special Event exceeds \$25,000.

"Gross Revenue" means all monies received by LICENSEE or on LICENSEE'S behalf from the sale of tickets for each Special Event. If there are no monies from the sale of tickets, "Gross Revenue" shall mean contributions from sponsors or other payments received by LICENSEE for each Special Event.

**SCHEDULE C: State Municipal and/or County Leagues or State Associations of Attorneys**

The annual license fee for LICENSEES who are legally organized as state municipal and/or county leagues or state associations of municipal and/or county attorneys shall be \$336.00

**License Fee for Year 2017 and Thereafter**

For each calendar year commencing 2017, all dollar figures set forth in Schedules A, B and C above (except for \$500.00 add-on for populations of 500,001 or more) shall be the license fee for the preceding calendar year, adjusted in accordance with the increase in the Consumer Price Index - All Urban Consumers (CPI-U) between the preceding October and the next preceding October. Any additional license fees due resulting from the CPI adjustment shall be payable upon billing by ASCAP.







**TOWN OF MARCELLUS**  
**STANDARD TERMS AND CONDITIONS**  
*Effective January 1, 2016*

1. LABOR BILLING RATES

Principal.....	\$140.00 per hour
Project Engineer .....	\$135.00 per hour
Engineer.....	\$130.00 per hour
Junior Engineer .....	\$115.00 per hour
Senior Technician/Designer .....	\$100.00 per hour
Technician.....	\$80.00 per hour
Senior CADD Designer .....	\$85.00 per hour
CADD Drafter .....	\$70.00 per hour
Administrative Assistant.....	\$55.00 per hour
Expert Witness .....	\$280.00 per hour

2. BILLING / PAYMENTS

Invoices will be submitted monthly according to TDK Engineering Associates' standard format, to the CLIENT for services and reimbursable expenses and, unless other mutually satisfactory arrangements have been made between the CLIENT and TDK Engineering Associates, are due upon receipt. The invoices shall be considered past due if not paid within 60 days after the invoice date and TDK Engineering Associates may, without waiving any claim or right against the CLIENT, and without liability whatsoever to the CLIENT, terminate the performance of the service.

If the CLIENT fails to make payments when due or otherwise is in breach of this Agreement, TDK Engineering Associates may suspend performance of services upon five (5) calendar days' notice to the CLIENT. TDK Engineering Associates shall have no liability whatsoever to the CLIENT caused by any breach of this Agreement by the CLIENT. If the CLIENT fails to make payment to TDK Engineering Associates in accordance with the payment terms herein, this shall constitute a material breach of this Agreement and shall be cause for termination by TDK Engineering Associates.

Payment of invoices is in no case subject to unilateral discounting or set-offs by the CLIENT, and payment is due regardless of suspension or termination of the Agreement by either party. All projects will require a retainer of 25% of the estimated costs to begin work unless prior arrangements are made. The obtained retainer will be applied at the completion of the project.

3. EQUIPMENT/MISCELLANEOUS CHARGES

Equipment and related out-of-pocket expenses incurred for the job will be billed at our cost plus 15%. All other overhead is included in the above rates.

4. TRAVEL

Travel time plus 54.0¢ per mile will be charged portal-to-portal. If an overnight stay is required, the hotel will be billed at our cost and a \$30.00 per day meal charge will be billed for each day's travel.

5. ACCESS TO SITE

Unless otherwise stated, TDK Engineering Associates will have access to the Site for activities necessary for the performance of the services. TDK Engineering Associates, will take precautions to minimize damage due to these activities, but shall not be held responsible for the restoration of any resulting damage. Arrangements and/or permission for site access shall be made by the CLIENT unless otherwise stated. The CLIENT shall provide for TDK Engineering Associates right to enter the property owned by the CLIENT and/or others in order for TDK Engineering Associates to fulfill the scope of services included hereunder. The CLIENT understands that use of testing or other equipment may unavoidably cause some damage, the correction of which is not part of this Agreement.

6. BURIED UTILITIES

TDK Engineering Associates and/or its authorized subconsultant will conduct the research that in its professional opinion is necessary with respect to the assumed locations of underground improvements. Such services by TDK Engineering Associates or its subconsultant will be performed in a manner consistent with the ordinary standard of care. The CLIENT recognizes that the research may not identify all underground improvements and that the information upon which TDK Engineering Associates relies may contain errors and/or may not be complete. The CLIENT agrees, to the fullest extent permitted by law, to waive all claims and causes of action against TDK Engineering Associates and anyone for whom TDK Engineering Associates may be legally liable, for damages to underground improvements resulting from subsurface penetration locations established by TDK Engineering Associates, provided TDK exercises the ordinary standard of care described above.

7. HIDDEN CONDITIONS AND HAZARDOUS MATERIALS

A condition is hidden if it cannot be investigated by reasonable visual observation or records reviewed as customary in the performance of the services being rendered. If TDK Engineering Associates has reason to believe that such a condition may exist, TDK Engineering Associates shall notify the CLIENT who shall authorize and pay for costs associated with the investigation of such a condition and, if necessary, costs necessary to correct said condition. If (1) the CLIENT fails to authorize such investigation or correction after due notification, or (2) TDK Engineering Associates has no reason to believe that such a condition exists, the CLIENT is responsible for all risks associated with this condition, and TDK Engineering Associates shall not be responsible for the existing condition nor any resulting damages to persons or property. Unless specifically agreed upon prior to the commencement of service, TDK Engineering Associates shall have no responsibility for the discovery, presence, handling, removal, disposal, or exposure of persons to hazardous materials of any form.

8. INSURANCE

TDK Engineering Associates shall maintain general and professional liability insurance coverage with the following minimum coverage:

General Liability - \$1,000,000

Professional Liability - \$1,000,000

Workers Compensation – Proof of Coverage

Copies of insurance certificates are attached hereto. The Town of Marcellus is named as an additional insured on the General Liability Insurance policy.

9. TERMINATION

This Agreement may be terminated upon 10 calendar days written notice by either party. In the event of termination, the CLIENT shall pay TDK Engineering Associates for all services rendered to the date of termination, all reimbursable expenses, and reasonable termination expenses.

**TDK STANDARD TERMS AND CONDITIONS – TOWN OF MARCELLUS**

*Effective January 1, 2016*

10. OWNERSHIP OF DOCUMENTS

All documents produced by TDK Engineering Associates, under this Agreement shall remain the property of TDK Engineering Associates and will not be used by the CLIENT for any other endeavor without the written consent of TDK Engineering Associates.

11. DISPUTE RESOLUTION

Any claim or dispute between the CLIENT and TDK Engineering Associates shall first be submitted to non-binding mediation, subject to the parties agreeing to a mediator(s), prior to any legal action.

12. GOVERNING LAW

The CLIENT and TDK Engineering Associates, agree that all disputes arising out of or in any way connected to this Agreement, its validity, interpretation and performance, and remedies for breach of contract, or any other claims related to this Agreement shall be governed by the laws of the State of New York.

13. ASSIGNMENT

Neither party to this Agreement shall transfer, sublet, or assign any rights under or interest in this Agreement (including but not limited to monies that are due or monies that may be due), without the prior written consent of the other party.

14. EXTENT OF AGREEMENT

This Agreement comprises the final and complete agreement between the CLIENT and TDK Engineering Associates. It supersedes all prior or contemporaneous communications, representations, or agreements, whether oral or written, relating to the subject matter of this Agreement. Execution of this Agreement signifies that each party has read the document thoroughly, has had any questions explained by independent counsel, and is satisfied. Amendments to this Agreement shall not be binding unless made in writing and signed by both the CLIENT and TDK Engineering Associates. Unexecuted agreements, proposals or work plans are valid for 30 days.

15. ADDITIONAL SERVICES

Services not explicitly detailed in this Agreement will be considered additional and subject to increased project fees. Additional services will not be provided without the CLIENT's prior authorization to proceed.

16. ATTORNEYS' FEES

In the event of any litigation arising from or related to the services provided under this Agreement, the prevailing party will be entitled to recovery of all reasonable costs incurred, including staff time, court costs, reasonable attorneys' fees, and other related expenses.

17. CONSEQUENTIAL DAMAGES

Notwithstanding any other provision of the Agreement, neither party shall be liable to the other for any consequential damages incurred due to the fault of the other party, regardless of the nature of this fault or whether it was committed by the CLIENT or TDK Engineering Associates, their employees, agents, subconsultants, or subcontractors. Consequential damages include, but are not limited to, loss of use and loss of profit.

DELAYS

TDK Engineering Associates is not responsible for delays caused by factors beyond TDK Engineering Associates' reasonable control. When such delays beyond TDK Engineering Associates' reasonable control occur, the CLIENT agrees TDK Engineering Associates is not responsible for damages, nor shall TDK Engineering Associates be deemed to be in default of this Agreement.

19. JOBSITE SAFETY

Neither the professional activities of TDK Engineering Associates, nor the presence of TDK Engineering Associates or its employees and subconsultants at a construction site, shall relieve the General Contractor and any other entity of their obligations, duties, and responsibilities including, but not limited to, construction means, methods, sequence, techniques, or procedures necessary for performing, superintending, or coordinating all portions of the work of construction in accordance with the contract documents and any health or safety precautions required by any regulatory agencies.

TDK Engineering Associates and its personnel have no authority to exercise any control over any construction contractor or other entity or their employees in connection with their work or any health or safety precautions. The CLIENT agrees that the General Contractor and its subcontractors are responsible for jobsite safety, and warrants that this intent shall be made evident in the CLIENT's agreement with the General Contractor.

20. SUBCONTRACTORS AND SUBCONSULTANTS

TDK Engineering Associates may use the services of subconsultants when, in TDK Engineering Associates' sole opinion, it is appropriate and customary to do so.

21. SEVERABILITY

Any provision of this Agreement later held to be unenforceable for any reason shall be deemed void, and all remaining provisions shall continue in full force and effect.

22. TIMELINES

TDK Engineering Associates will perform its services with due and reasonable diligence consistent with sound professional practices.

23. UNAUTHORIZED CHANGES

In the event that the CLIENT consents to, allows, authorizes, or approves of changes to any plans, specifications, or other documents, and these changes are not approved by TDK Engineering Associates, the CLIENT recognizes that such changes and results thereof are not the responsibility of TDK Engineering Associates. Therefore, the CLIENT agrees to release TDK Engineering Associates from any liability arising from the construction, use, or result of such changes.

24. TITLES

The titles used in this Agreement are for general reference only and are not part of the Agreement.