

VILLAGE OF SPRINGVILLE
2020 MINUTES

November 2, 2020

7:00 P. M.

The Regular Meeting of the Trustees of the Village of Springville was held at the Village Municipal Building, 65 Franklin Street, Springville, New York at the above date and time. Present were:

Mayor	William Krebs
Trustees	Reed Braman Kim Pazzuti Terry Skelton Nils Wikman
Village Administrator	Liz C. Melock
Village Attorney	Paul Weiss
Building Inspector/ Code Enforcement Officer	Michael Kaleta
Police Officer in Charge	Nicholas Budney
Deputy Clerk	Holly Murtiff
Also Attending	Max Borsuk, Springville Journal
Absent	Marc Gentner, Fire Chief Duane Boberg, DPW Superintendent

Mayor Krebs called the meeting to order at 7:00 PM.

1. Minutes Minutes of the Regular Meeting of October 19, 2020 were approved as written by Trustee Braman, seconded by Trustee Wikman; carried, Mayor Krebs, Trustees Braman, Wikman, Skelton and Pazzuti voting yes, none opposed.

PUBLIC COMMENT

There being no public comment Mayor Krebs closed the public comment period.

DEPARTMENT REPORTS

ADMINISTRATOR REPORT

2. DEC Consent Order After explanation by Administrator Melock, motion was made by Trustee Pazzuti, seconded by Trustee Wikman; carried, Mayor Krebs, Trustees Pazzuti, Wikman, Braman and Skelton voting yes, none opposed to authorized Mayor Krebs to sign the NYSDEC Consent Order as attached.
110220 A.1
3. Employee Handbook Updates Motion was made by Trustee Pazzuti, seconded by Trustee Wikman; carried, Mayor Krebs, Trustees Pazzuti, Wikman, Braman and Skelton voting yes, none opposed to approving the adding of the following sections to the Village of Springville Employee's Handbook.
- ½ day holiday pay for Christmas Eve as per the Union Contract
 - Adding the Per Diem Policy
 - Adding the Social Media Policy
 - Adding the Sexual Harassment Policy
 - Adding the Workplace Violence Policy

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4. Investment Policy Motion was made by Mayor Krebs, seconded by Trustee Braman; carried, Mayor Krebs, Trustees Braman, Pazzuti, Skelton and Wikman voting yes, none opposed to approve the attached Village of Springville Investment Policy. **110220 A.2**
5. Purchasing Policy Motion was made by Mayor Krebs, seconded by Trustee Skelton; carried, Mayor Krebs, Trustees Skelton, Braman, Pazzuti and Wikman voting yes, none opposed to approve the attached Village of Springville Purchasing Policy. **110220 A.3**

At this time Administrator Melock updated the Mayor and Board on the following;

- PSC and Financial report discussion will be addressed at the November 16th meeting.
- Electric payment arrangements are being offered to those having difficulties paying their bills due to COVID circumstances.
- The winter parking ban will begin between the hours of 2:00 a.m. and 7:00 a.m. from November 10 to April 1.
- The bid date for 37 S. Central demolition is set for 11/5/20 at 11:00am.

SUPERINTENDENT REPORT

There was no Superintendent's report this evening.

POLICE DEPARTMENT

Officer in Charge Budney reported on the following;

- SPD October 2020 report
- ECSO October 2020 report
- Police Reform Committee meeting was held on 10/2.
- Shop with a Cop 2020 will be held on 12/12/20 at 9 am at Walmart.
- SPD has been awarded \$1212 in DOJ Vest Grant money
- SPD has received \$3500 from NYS Governors Traffic Safety Counsel for grant funded patrols.

FIRE DEPARTMENT

In the absence of Chief Gentner Administrator Melock read the fire report and updated the Board on the following;

- Calls
- Training
- General information
 - Parking lot was completed in October
 - Breathing air compressor has been serviced and bottles for the Cascade system will be going for certification this week
 - The new sanitizing machine is in and is working out great. Thanks to Village Administration for securing the machine.

BUILDING INSPECTOR/CEO

BI/CEO Kaleta updated the Mayor and Board on the following items;

- 100 Spring Street has been secured and the info regarding this property has been sent to VAPE in an effort to find the next of kin.
- 431 Waverly (Luthern Church) has an application before the Planning Board to discuss subdivision plans.

CONTROL CENTER

There was no report this evening.

NEW BUSINESS

There was no new business to discuss this evening.

OLD BUSINESS

There was no old business to discuss this evening.

BILLS

Bills, as examined by members of the Board of Trustees were approved for payment in accordance with Abstracts #128 through #141 total of \$165,985.93 of 2020/2021 for the General, Water/Sewer, Electric, Trust and Agency Funds by motion of Trustee Wikman, seconded by Trustee Pazzuti; carried, Mayor Krebs, Trustees Wikman, Pazzuti, Braman and Skelton voting yes, none opposed.

PERMITS AND APPLICATIONS

Motion was made by Trustee Wikman, seconded by Trustee Braman; carried, Mayor Krebs, Trustees Wikman, Braman, Skelton and Pazzuti voting yes, none opposed to accept the consent agenda below.

Minutes of the Planning Board meeting on October 13, 2020.

PROJECT: 000009311 - RESIDENTIAL ALTERATION TYPE: RESIDENTIAL
PROPERTY: 24 N CENTRAL AVE ALTERATION
ISSUED DATE: 10/19/2020
ISSUED TO: DANIEL D SMITH CONSTRUCTION
2283 MIDDLE ROAD
SILVER CREEK, NY 14136

PROJECT: 000009312 - SHEDS, UP TO 144 SQ.FT. TYPE: SHEDS
PROPERTY: 67 EAST AVE
APPLIED DATE: 10/19/2020
ISSUED TO: WIKMAN, NILS
67 EAST AVE
SPRINGVILLE, NY 14141

PROJECT: 000009313 - UTILITY CHANGES TYPE: UTILITY
PROPERTY: 336 E MAIN ST CHANGES
APPLIED DATE: 10/19/2020
ISSUED TO: HAGEN, JONATHAN
336 E MAIN ST
SPRINGVILLE, NY 14141

PROJECT: 000009314 - GARAGE SALE TYPE: GARAGE SALES
PROPERTY: 150 WOODWARD AVE
ISSUED DATE: 10/14/2020
ISSUED TO: PARENT, KAREN
150 WOODWARD AVE
SPRINGVILLE, NY 14141

PROJECT: 000009315 - HISTORIC PRESERVATION TYPE: HISTORIC
PROPERTY: 40 W MAIN ST PRESERV REVIEW
ISSUED DATE: 10/19/2020
ISSUED TO: SIGN AND LIGHTING SERVICES, LL
530 ROUTE 104, PO BOX 597
ONTARIO, NY 08065-0000

PROJECT: 0000009316 - SUBDIVISION
PROPERTY: 256 ELM ST
ISSUED DATE: 10/20/2020
ISSUED TO: SAUNDERS, DANIEL
2383 SENECA ST
BUFFALO, NY 14210

TYPE: SUBDIVISION

PROJECT: 0000009317 - DECKS
PROPERTY: 74 SMITH ST
ISSUED DATE: 10/20/2020
ISSUED TO: KRUSE, KENNETH J
74 SMITH ST
SPRINGVILLE, NY 14141

TYPE: DECKS

PROJECT: 0000009318 - SUBDIVISION
PROPERTY: 431 WAVERLY ST
ISSUED DATE: 10/20/2020
ISSUED TO: REDING, DEREK
4453 MARSHFIELD ROAD
LAWTONS, NY 14091

TYPE: SUBDIVISION

PROJECT: 0000009319 - ROOFING
PROPERTY: 96 S CENTRAL AVE
ISSUED DATE: 10/23/2020
ISSUED TO: KESTER, BRYAN L
96 S. CENTRAL AVE.
SPRINGVILLE, NY 14141

TYPE: ROOF

PROJECT: 0000009320 - UTILITY CHANGES-SEWER
PROPERTY: 51 W EDGEWOOD DR
ISSUED DATE: 10/26/2020
ISSUED TO: CELLINO PLUMBING AND HVAC
631 BULLIS ROAD
ELMA, NY 14059

TYPE: UTILITY CHANGES

PROJECT: 0000009321 - ROOFING
PROPERTY: 224 E MAIN ST
ISSUED DATE: 10/26/2020
ISSUED TO: RP MECHANICAL
7165 GENESEE RD
SPRINGVILLE, NY 14141

TYPE: ROOF

PROJECT: 0000009322 - NONRES NONSTRUCTURAL
PROPERTY: 222 E MAIN ST
ISSUED DATE: 10/26/2020
ISSUED TO: RP MECHANICAL
7165 GENESEE RD
SPRINGVILLE, NY 14141

TYPE: NONRES NONSTRUCTURAL

PROJECT: 0000009323 - NONRES NONSTRUCTURAL
PROPERTY: 198 S CASCADE DR
ISSUED DATE: 10/26/2020
ISSUED TO: BISON CONSTRUCTION CORP
417 PORTAGE ROAD
NIAGARA FALLS, NY 14303

TYPE: NONRES
NONSTRUCTURAL

PROJECT: 0000009324 - SHEDS, UP TO 144 SQ.FT.
PROPERTY: 246 WAVERLY ST
ISSUED DATE: 10/27/2020
ISSUED TO: KOMENDA, MARIAH
246 WAVERLY ST
SPRINGVILLE, NY 14141

TYPE: SHEDS

PROJECT: 0000009325 - DECKS
PROPERTY: 306 NEWMAN ST
ISSUED DATE: 10/27/2020
ISSUED TO: MORITZ, JOSHUA
306 NEWMAN ST
SPRINGVILLE, NY 14141

TYPE: DECKS

VILLAGE ATTORNEY REPORT

Village Attorney Paul Weiss had nothing to report this evening.

TRUSTEE NOTES & PROJECT REPORTS

Trustee Wikman reported on the following;

- He and Administrator Melock recently attended a Dispatcher's meeting
- He recently attended an Electric Division Inventor Control meeting
- Finally Trustee Wikman reminded everyone to get out and vote

Trustee Pazzuti had no report this evening.

Trustee Skelton had no report this evening.

Trustee Braman commented that he and Administrator Melock recently attended a Southtowns Planning Group meeting together.

Mayor Krebs reminded everyone to vote and that there will be a service held on Veteran's Day, 11/11/20 at 11:00 am at Shuttleworth Park.

6. Adjourn Motion was made by Trustee Wikman, seconded by Trustee Skelton; carried, Mayor Krebs, Trustees Wikman, Skelton, Pazzuti and Braman voting yes, none opposed to adjourn the Regular Session at 7:30 pm.

Respectfully submitted,

Holly Murtiff
Deputy Clerk

**INVESTMENT POLICY
FOR VILLAGE OF SPRINGVILLE
Updated 11-2-2020**

110220 A.2

I. SCOPE

This investment policy applies to all moneys and other financial resources available for investment on its own behalf or on behalf of any other entity or individual.

II. OBJECTIVES

The primary objectives of the local government's investment activities are, in priority order,

- * To conform with all applicable federal, state and other legal requirements (legal);
- * To adequately safeguard principal (safety);
- * To provide sufficient liquidity to meet all operating requirements (liquidity); and
- * To obtain a reasonable rate of return (yield).

III. DELEGATION OF AUTHORITY

The governing board's responsibility for administration of the investment program is delegated to the Administrator/Clerk-Treasurer who shall establish written procedures for the operation of the investment program consistent with these investment guidelines. Such procedures shall include an adequate internal control structure to provide a satisfactory level of accountability based on a database or records incorporating description and amounts of investments, transaction dates and other relevant information and regulate the activities of subordinate employees.

IV. PRUDENCE

All participants in the investment process shall seek to act responsibly as custodians of the public trust and shall avoid any transaction that might impair public confidence in the Village of Springville to govern effectively.

Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the safety of the principal as well as the probable income to be derived.

All participants involved in the investment process shall refrain from personal business activity that could conflict with proper execution of the investment program, or which could impair their ability to make impartial investment decisions.

V. DIVERSIFICATION

It is the policy of the Village of Springville to diversify its investments by financial institution, by investment instrument, and by maturity scheduling as much as feasibility possible due to current interest rates and hard costs.

VI. INTERNAL CONTROLS

The Administrator/Clerk-Treasurer is responsible for establishing and maintaining an internal control structure to provide reasonable, but not absolute, assurance that deposits and investments are safeguarded against loss from unauthorized use or disposition, that transactions are executed in accordance with management's authorization and recorded properly, and are managed in compliance with applicable laws and regulations.

VII. DESIGNATION OF DEPOSITARIES

The banks and trust companies authorized for the deposit of monies up to the maximum amounts are:

<u>Depository Name</u>	<u>Maximum Amount</u>
JPMorgan Chase	10,000,000
Key Bank of New York	10,000,000
Northwest Bank	10,000,000
M&T Bank	10,000,000
Cattaraugus County Bank	10,000,000
Community Bank	10,000,000
NYCLASS	10,000,000

VIII. COLLATERALIZING OF DEPOSITS

In accordance with the provisions of General Municipal Law, §10, all deposits of the Village of Springville, including certificates of deposit and special time deposits, in excess of the amount insured under the provisions of the Federal Deposit Insurance Act shall be secured:

- I. By a pledge of "eligible securities" with an aggregate "market value" as provided by GML §10, equal to the aggregate amount of deposits from the categories designated in Appendix A to the policy.
2. By an eligible "irrevocable letter of credit" issued by a qualified bank other than the bank with the deposits in favor of the government for a term not to exceed 90 days with an aggregate value equal to 140% of the aggregate amount of deposits and the agreed upon interest, if any. A qualified bank is one whose commercial paper and other unsecured short-term debt obligations are rated in one of the three highest rating categories by at least one nationally recognized statistical rating organization or by a bank that is in compliance with applicable federal minimum risk-based capital requirements.
3. By an eligible surety bond payable to the government for an amount at least equal to 100% of the aggregate amount of deposits and the agreed upon interest, if any, executed by an insurance company authorized to do business in New York State, whose claims-paying ability is rated in the highest rating category by at least two nationally recognized statistical rating organizations.

IX. SAFEKEEPING AND COLLATERALIZATION

Eligible securities used for collateralizing deposits shall be held by the depository and/or a third party bank or trust company subject to security and custodial agreements.

The security agreement shall provide that eligible securities are being pledged to secure local government deposits together with agreed upon interest, if any, and any costs or expenses arising out of the collection of such deposits upon default. It shall also provide the conditions under which the securities may be sold, presented for payment, substituted or released and the events which will enable the local government to

exercise its rights against the pledged securities. In the event that the securities are not registered or inscribed in the name of the local government, such securities shall be delivered in a form suitable for transfer or with an assignment in blank to the Village of Springville or its custodial bank.

The custodial agreement shall provide that securities held by the bank or trust company, or agent of and custodian for, the local government, will be kept separate and apart from the general assets of the custodial bank or trust company and will not, in any circumstances, be co-mingled with or become part of the backing for any other deposit or other liabilities. The agreement should also describe that the custodian shall confirm the receipt, substitution or release of the securities. The agreement shall provide for the frequency of revaluation of eligible securities and for the substitution of securities when a change in the rating of a security may cause ineligibility. Such agreement shall include all provisions necessary to provide the local government a perfected interest in the securities.

X. PERMITTED INVESTMENTS

As authorized by General Municipal Law, §11, the Village of Springville authorizes the Administrator/Clerk-Treasurer to invest moneys not required for immediate expenditure for terms not to exceed its projected cash flow needs in the following types of investments:

- Special time deposit accounts;
- Certificates of deposit;
- Obligations of the United States of America;
- Obligations guaranteed by agencies of the United States of America where the payment of principal and interest are guaranteed by the United States of America;
- Obligations of the State of New York
- Obligations issued pursuant to LPL §24.00 or 25.00 (with approval of the State Comptroller) by any municipality, school district or district corporation other than the Village of Springville.
- Obligations of public authorities, public housing authorities, urban renewal agencies and industrial development agencies where the general State statutes governing such entities or whose specific enabling legislation authorizes such investments.
- Certificates of Participation (COPs) issued pursuant to GML §109-b.
- Obligations of this local government, but only with any monies in a reserve fund established pursuant to GML §6-c, 6-d, 6-e, 6-g, 6-h, 6-j, 6-k, 6-l, 6-m, or 6-n.

All investment obligations shall be payable or redeemable at the option of the Village of Springville within such times as the proceeds will be needed to meet expenditures for purposes for which the moneys were provided and, in the case of obligations purchased with the proceeds of bonds or notes, shall be payable or redeemable at the option of the Village of Springville within two years of the date of purchase.

XI. AUTHORIZED FINANCIAL INSTITUTIONS AND DEALERS

The Village of Springville shall maintain a list of financial institutions and dealers approved for investment purposes and establish appropriate limits to the amount of investments which can be made with each financial institution or dealer. All financial institutions with which the local government conducts business must be credit worthy. Banks shall provide their most recent Consolidated Report of Condition (Call Report) at the request of the Village of Springville. Security dealers not affiliated with a bank shall be required to be classified as reporting dealers affiliated with the New York Federal Reserve Bank, as primary dealers. The Administrator/Clerk-Treasurer is responsible for evaluating the financial position and maintaining a listing of proposed depositaries, trading partners and custodians. Such listing shall be evaluated at least annually.

XII. PURCHASE OF INVESTMENTS

The Administrator/Clerk-Treasurer is authorized to contract for the purchase of investments:

1. Directly, including through a repurchase agreement, from an authorized trading partner.
2. By participation in a cooperative investment program with another authorized governmental entity pursuant to Article 5G of the General Municipal Law where such program meets all the requirements set forth in the Office of the State Comptroller Opinion No. 88-46, and the specific program has been authorized by the governing board.
3. By utilizing an ongoing investment program with an authorized trading partner pursuant to a contract authorized by the governing board.

All purchased obligations, unless registered or inscribed in the name of the local government, shall be purchased through, delivered to and held in the custody of a bank or trust company. Such obligations shall be purchased, sold or presented for redemption or payment by such bank or trust company only in accordance with prior written authorization from the officer authorized to make the investment. All such transactions shall be confirmed in writing to the Village of Springville by the bank or trust company. Any obligation held in the custody of a bank or trust company shall be held pursuant to a written custodial agreement as described in General Municipal Law, §10.

The custodial agreement shall provide that securities held by the bank or trust company, as agent of and custodian for, the local government, will be kept separate and apart from the general assets of the custodial bank or trust company and will not, in any circumstances, be commingled with or become part of the backing for any other deposit or other liabilities. The agreement shall describe how the custodian shall confirm the receipt and release of the securities. Such agreement shall include all provisions necessary to provide the local government a perfected interest in the securities.

XIII. REPURCHASE AGREEMENTS

Repurchase agreements are authorized subject to the following restrictions:

- * All repurchase agreements must be entered into subject to a Master Repurchase Agreement.
- * Trading partners are limited to banks or trust companies authorized to do business in New York State and primary reporting dealers.
- * Obligations shall be limited to obligations of the United States of America and

obligations guaranteed by agencies of the United States of America.

- * No substitution of securities will be allowed.
- * The custodian shall be a party other than the trading partner.

APPENDIX A

Schedule of Eligible Securities

- (i) Obligations issued, or fully insured or guaranteed as to the payment of principal and interest, by the United States of America, an agency thereof or a United States government sponsored corporation.

- (ii) Obligations issued or fully guaranteed by the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, and the African Development Bank.

- (iii) Obligations partially insured or guaranteed by any agency of the United States of America, at a proportion of the Market Value of the obligation that represents the amount of the insurance or guaranty.

- (iv) Obligations issued or fully insured or guaranteed by the State of New York, obligations issued by a municipal corporation, school district or district corporation of such State or obligations of any public benefit corporation which under a specific State statute may be accepted as security for deposit of public moneys.

VILLAGE OF SPRINGVILLE**PROCUREMENT POLICY****Updated 11-2-2020**

WHEREAS, Section 104-b of the New York State General Municipal Law requires the governing body of every municipality to adopt a procurement policy for all goods and services which are not required by law to be publicly bid, and

NOW, THEREFORE, BE IT RESOLVED, that the VILLAGE OF SPRINGVILLE does hereby adopt the following procurement policy which is intended to apply to all goods and services which are not required by law to be publicly bid.

PROCUREMENT POLICY FOR THE VILLAGE OF SPRINGVILLE

1. Every purchase to be made must be initially reviewed to determine whether it is a purchase contract or a public works contract. Once that determination is made, a good faith effort will be made to determine whether it is known or can reasonably be expected that the aggregate amount to be spent on the item of supply or service is not subject to competitive bidding, taking into account past purchases and the aggregate amount to be spent in a year. The following items are not subject to competitive bidding pursuant to Section 103 of the General Municipal Law: purchase contracts under \$20,000 and public works contracts under \$35,000; emergency purchases; certain municipal hospital purchases; goods purchased from agencies for the blind or severely handicapped; goods purchased from correctional institutions; purchases under State and county contracts; and surplus and second-hand purchases from another governmental entity.

The decision that a purchase is not subject to competitive bidding will be documented in writing by the individual making the purchase. This documentation may include written or verbal quotes from vendors, a memo from the purchaser indicating how the decision was arrived at, a copy of the contract indicating the source which makes the item or service exempt, a memo from the purchaser detailing the circumstances which led to an emergency purchase, or any other written documentation that is appropriate.

2. All goods and services will be secured by use of written requests for proposals, written quotations, verbal quotations, or any other method that assures that goods will be purchased at the lowest price and that favoritism will be avoided, except in the following circumstances: purchase contracts over \$20,000 and public works contracts over \$35,000; goods purchased from agencies for the blind or severely handicapped pursuant to Section 175-b of the State Finance Law; goods purchased from correctional institutions pursuant to Section 186 of the Correction Law; purchases under State contracts pursuant to Section 104 of the General Municipal Law; purchases under county contracts pursuant to Section 103(3) of the General Municipal Law; or purchases pursuant to subdivision 6 and 7 of this policy:

3. The following method of purchase will be used when required by this policy in order to achieve the highest savings:

**Estimated Amount
of Purchase Contract**

Method

\$1,500 - \$3,999	2 verbal quotations
\$4,000 - \$19,999	3 written quotations or 3 written requests for proposals
\$20,000 and above	Formally bid pursuant to Section 103 of NYS General Municipal Law

**Estimated Amount
of Public Works Contract**

Method

\$1,500 - \$3,999	2 verbal quotations
\$4,000 - \$34,999	3 written quotations or 3 written requests for proposals
\$35,000 and above	Formally bid pursuant to Section 103 of NYS General Municipal Law

A good faith effort shall be made to obtain the required number of proposals or quotations. If the Village purchaser is unable to obtain the required number of proposals or quotations, the purchaser will document the attempt made at obtaining the proposals. In no event shall the failure to obtain the proposals be a bar to the procurement.

4. Documentation is required of each action taken in connection with each procurement.

5. Documentation and a detailed explanation are required whenever a contract is awarded to other than the lowest responsible offer. This documentation will include an explanation of how the award will achieve savings or how the offer was not responsible. A determination that the offer is not responsible shall be made by the purchaser and may not be challenged under any circumstances.

6. Pursuant to General Municipal Law Section 104-b(2)(f), the procurement policy may contain circumstances when, or types of procurement for which, in the sole discretion of the governing body, the solicitation of alternative proposals or quotations will not be in the best interest of the municipality. In the following circumstances it may not be in the best interests of the VILLAGE OF SPRINGVILLE to solicit quotations or document the basis for not accepting the lowest bid:

a. Professional services or services requiring special or technical skill, training or expertise. The individual or company must be chosen based on accountability, reliability, responsibility, skill, education and training, judgment, integrity, and moral worth. These qualifications are not necessarily found in the individual or company that offers the lowest price and the nature of these services are such that they do not readily lend themselves to competitive procurement procedures.

In determining whether a service fits into this category the BOARD OF TRUSTEES shall take into consideration the following guidelines: (a) whether the services are subject to State licensing

or testing requirements; (b) whether substantial formal education or training is a necessary prerequisite to the performance of the services; and (c) whether the services require a personal relationship between the individual and municipal officials. Professional or technical services shall include but not be limited to the following: services of an attorney; services of a physician; technical services of an engineer engaged to prepare plans, maps and estimates; securing insurance coverage and/or services of an insurance broker; services of a certified public accountant; investment management services; printing services involving extensive writing, editing or art work; management of municipally owned property; and computer software or programming services for customized programs, or services involved in substantial modification and customizing of pre-packaged software. RFP's or RFQ's will be required at the discretion of the department head seeking the professional service.

b. Emergency purchases pursuant to Section 103(4) of the General Municipal Law. Due to the nature of this exception, these goods or services must be purchased immediately and a delay in order to seek alternate proposals may threaten the life, health, safety or welfare of the residents. This section does not preclude alternate proposals if time permits.

c. Purchases of surplus and second-hand goods from any source. If alternate proposals are required, the VILLAGE is precluded from purchasing surplus and second-hand goods at auctions or through specific advertised sources where the best prices are usually obtained. It is also difficult to try to compare prices of used goods and a lower price may indicate an older product.

d. Goods or services under \$1500. The time and documentation required to purchase through this policy may be more costly than the item itself and would therefore not be in the best Interests of the taxpayer. In addition, it is not likely that such de minimis contracts would be awarded based on favoritism.

7. The Village, in accordance with subdivision 16 of General Municipal Law (GML) § 103, is authorized to purchase apparatus, materials, equipment and supplies, and to contract for services related to the installation, maintenance or repair of those items, through the use of contracts let by the United States or any agency thereof, any state or any other political subdivision or district therein. The contract must be let in a manner that constitutes competitive bidding "consistent with state law," and made available for use by other governmental entities.

8. This policy shall go into effect immediately and will be reviewed annually.

110220 A.1

New York State Department of Environmental Conservation

In the Matter of Violations of Article 17 of the Environmental Conservation Law and Part 750, et seq., of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York and SPDES Permit No. NY0021474

CONSENT ORDER

By: Village of Springville
5 West Main Street
Springville, New York 14141

Case No.
R9-20200415-28

Respondent.

WHEREAS:

Jurisdiction

1. The New York State Department of Environmental Conservation (the "Department") is an Executive Agency of the State of New York (the "State") with jurisdiction over the environmental policy and programs of the State pursuant to the provisions of the New York State Environmental Conservation Law ("ECL") and Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York ("6 NYCRR" or the "Regulations").
2. The Department's jurisdiction includes, *inter alia*, the safeguarding of the waters of the State from pollution pursuant to the provisions of ECL Article 17, the regulations promulgated thereunder at 6 NYCRR Parts 750 *et seq.*, and the implementation of the State Pollutant Discharge Elimination System (SPDES) permit program.
3. This Order on Consent (the "Order") is issued in accordance with the Department's enforcement authority pursuant to ECL Articles 3 and 71.

Parties

4. The Village of Springville ("Respondent"), is a municipality, maintaining a place of business at 5 West Main Street, Springville, New York, Erie County, and is a "person" as defined in ECL § 17-0105(1).
5. Respondent owns and operates a Waste Water Treatment Plant ("WWTP" or "Facility") located at 145 Mill Street, Springville.

6. The Facility is subject to the terms of SPDES Permit No. NY0021474 (the "Permit").
7. Treated sewage from the Facility discharges into Spring Brook (Outfall 002), a C/C(TS) waterbody per 6 NYCRR § 838.6 water index number E-23-32.

Facts

8. Pursuant to the terms of the Permit Respondent must monitor the effluent discharges from the Facility and submit Discharge Monitoring Reports ("DMR's") to the Department each month.
9. Discharges that must be monitored include, but are not limited to, Flow, Settleable Solids, Suspended Solids, Phosphorus, and Biological Oxygen Demand ("BOD").
10. On or about August 20, 2018 the Department issued Respondent a Notice of Violation ("NOV").
11. The NOV related to effluent discharge results contained in Respondent's DMR's submitted from November 1, 2017 through May 31, 2018.
12. The DMR's showed that during this period, the Facility recorded twenty-three (23) exceedances of its effluent discharge limitations.
13. The NOV notified Respondent that it must prepare and submit, a corrective action plan by September 28, 2018, that included the date by which the Facility would return to compliance.
14. Respondent submitted an engineering plan in September 2019 that laid out corrective action alternatives and a recommended plan of action. However, the plan did not include a commitment to undertake the work or a proposed date by which the Facility would return to compliance.
15. From November 2017 to August 2020 the Facility recorded twenty-six (26) exceedances of its effluent limitations.
16. Over ninety (90) percent of the exceedances were the result of higher than allowed discharges of Total Suspended Solids ("TSS").

Provisions of Law

17. The SPDES permit system was created to regulate the discharge of pollutants from point sources into waters of the State. (See ECL§17-0801)
18. Prohibited SPDES discharges are defined in ECL §17-0807(4) as “any discharge not permitted by the provisions of this article, rules and regulations adopted or applicable pursuant hereto, the Act or a provision of a permit issued hereunder.”
19. The regulations at 6 NYCRR § 750-2.1(e) require that a permittee comply with all the terms and conditions of the permit. Any permit noncompliance constitutes a violation of the Environmental Conservation Law and the Clean Water Act and is grounds for: enforcement action; for permit suspension, revocation or modification; and for denial of a permit renewal application.
20. Pursuant to ECL § 71-1929(1) “a person who violates any of the provision of, or who fails to perform any duty imposed by titles 1 through 11 inclusive and title 19 of Article 17, or the rules, regulations, orders or determinations of the Commissioner promulgated thereto or the terms of any permit issued thereunder, shall be liable to a penalty not to exceed thirty-seven thousand five hundred dollars (\$37,500) per day for each violation, and, in addition thereto, such person may be enjoined from continuing such violation....”

Violations

21. By discharging effluent from its WWTP that exceeded the effluent limitations of SPDES Permit No. NY0021474 Respondent is in violation 6 NYCRR §750-2.1(e) and ECL § 17-0807(4);
22. Respondent affirmatively waives its right to a hearing as provided by law, and consents to the issuing and entry of this Order pursuant to the provisions of Articles 17 and 71 of the ECL and agrees to be bound by the provisions, terms, and conditions contained in this Order and attachments thereto.

NOW, having considered this matter, **IT IS ORDERED THAT:**

- I. **Compliance.** Respondent is bound by, and agrees to follow and comply with, the terms, provisions and requirements set forth in this Order, including Schedule A, which is incorporated and made enforceable herein.
- II. **Civil Penalty.** With respect to the violations identified in this Order, the Department hereby assesses against the Respondent a civil penalty in the

amount of Forty-One Thousand Four Hundred Dollars (\$41,400) to be paid as follows:

- A. Payable Penalty: Eight Thousand Three Hundred Dollars (\$8,300) shall be paid within Thirty (30) days of the Department’s execution of this Order by electronic payment at <http://www.dec.ny.gov/about/61016.html#On-Line> or by check made payable to the order of the “New York State Department of Environmental Conservation,” with the enclosed invoice and the Case Number of this Order on Consent written in the memo section of the check, which shall be sent to the Department of Environmental Conservation, Division of Management and Budget Services, 625 Broadway, 10th Floor, Albany, NY 12233-4900.

Once signed, this Order on Consent, along with any applicable submissions shall be sent to the Department of Environmental Conservation, Office of General Counsel, 270 Michigan Avenue, Buffalo, New York 14203, attention: Karen Draves, Esq.

Technical Submissions should be sent to the attention of Mr. Sevon Thompson, with electronic copies to sevon.thompson@dec.ny.gov

- B. Suspended Penalty: The remaining penalty amount, Thirty-Three Thousand One Hundred Dollars (\$33,100), shall be suspended, and shall not be payable provided that Respondent fully complies with the requirements of this Order, including all incorporated attachments. If, in the Department’s sole discretion, Respondent violates any term of this Order, including the Schedule of Compliance, the whole amount of the suspended penalty, or any portion thereof, shall be due from Respondent within 30 days of receiving written notice from the Department that penalties are due.
- C. Stipulated Penalty: If Respondent fails to meet any of the milestone dates set forth in Schedule A, the Department shall have judgment against Respondent, and Respondent consents to entry of judgment in a Court of competent jurisdiction for a stipulated penalty in the amounts set forth below, for each day of violation:

<u>PERIOD OF NON-COMPLIANCE</u>	<u>PENALTY PER-DAY</u>
1st day through 30th day	\$500
31st 60th day	\$1000
Each day beyond the 60th day	\$1,500

- III. **Default of Payment.** The penalty assessed in this Order constitutes a debt owed to the State of New York. Failure to pay the assessed penalty, or any part thereof, in accordance with the schedule contained in the Order, may result in referral to the New York State Attorney General for collection of the entire amount owed (including the assessment of interest, and a charge to cover the cost of collecting the debt), or referral to the New York State Department of Taxation and Finance, which may offset any tax refund or other monies that may be owed to you by the State of New York by the penalty amount. Any suspended and/or stipulated penalty provided for in this Order will constitute a debt owed to the State of New York when and if such penalty becomes due.
- IV. **Remedial Action.** Within One Hundred and Eighty Days (180) days of the Effective Date of this Order, Respondent shall provide the Department with a Work Plan to address the effluent limit exceedances at the WWTP caused by the Respondent's violations. Respondent shall hire a qualified engineering consultant to develop the Work Plan.
- V. **Interim Measures, Limits and Controls.** Respondent shall operate the WWTP in accordance with the interim effluent discharge limits and monitoring requirements set forth in Appendix A. The interim limits shall apply as set forth therein.
- VI. **Scope of Settlement.** This Order shall be in full settlement of all claims for civil and administrative penalties that have been or could be asserted by the Department against Respondent, their trustees, officers, employees, successors and assigns for the above-referenced violations. This Order shall not be construed as being in settlement of events regarding which the Department lacks knowledge, or which occur after the effective date of this Order.
- VII. **Reservation of Rights.** This Order on Consent does not bar, diminish, adjudicate or in any way affect the Department's rights or authorities, except as set forth in the Order on Consent, including but not limited to, exercising summary abatement powers, recovery of any Natural Resource Damages, the collection of regulatory fees, and requiring the Respondent to undertake any additional measures required for the protection of human health or the environment.
- VIII. **Access.** The Department, including its employees, agents and representatives shall have the right at all reasonable times during normal business hours on normal business days, and after proper notification to the Respondent and proper identification as Department employees, agents and/or representatives, to enter

and inspect any property or premises related to this Order for the purpose of ascertaining compliance with the Order. The Respondent shall provide a person to accompany the Department's representative during an inspection when notification is provided, be it written or verbal, at least 24 hours prior to such inspection.

- IX. **Force Majeure.** If Respondent cannot comply with a deadline or requirement of this Order on Consent, because of natural disaster, epidemic or pandemic, war, terrorist attack, strike, riot, judicial injunction, or other, similar unforeseeable event which was not caused by the negligence or willful misconduct of Respondent and which could not have been avoided by the Respondent through the exercise of due care, Respondent shall apply in writing to the Department within a reasonable time after obtaining knowledge of such fact and request an extension or modification of the deadline or requirement. Respondent shall include in such application the measures taken by Respondent to prevent and/or minimize any delays. Failure to give such notice constitutes a waiver of any claim that a delay is not subject to penalties. Respondent shall have the burden of proving that an event is a defense to a claim of non-compliance with this Order on Consent pursuant to this subparagraph.
- X. **Default.** Respondent's failure to comply fully and in timely fashion with any provision, term, or condition of this Order shall constitute a default and a failure to perform an obligation under this Order and under the ECL and shall constitute sufficient grounds for revocation of any permit, license, certification, or approval issued to the Respondent by the Department.
- XI. **Communication.** Except as otherwise specified in this Order, any reports, submissions, and notices herein required shall be made to Mr. Sevon Thompson, NYSDEC, 270 Michigan Avenue, Buffalo New York 14203 with email copy to sevon.thompson@dec.ny.gov
- XII. **Modification.** No change or modification to this Order will become effective except as specifically set forth in writing and approved by the Commissioner or a duly authorized representative. All modification requests shall be submitted in writing to the Commissioner, or his/her designee. All modification requests shall include the case number, the named Respondent, and an explanation for the request. Any requests to modify a milestone date must be submitted to the Department prior to the milestone date and include a justification for the requested extended timeframe.
- XIII. **Indemnification.** Respondent will indemnify and hold the Department, the State of New York, and their representatives and employees harmless for all claims,

suits, actions, damages, and costs of every name and description arising out of or resulting from the acts and/or omissions of Respondent, its trustees, officers, employees, servants, agents, successors, or assigns, resulting from the compliance or attempted compliance with the provisions of this Order.

- XIV. **Binding Effect.** The provisions, terms, and conditions of this Order shall be deemed to bind Respondent, its heirs, its employees, servants, agents, successors and assigns, and all persons, firms, and corporations acting subordinate thereto.
- XV. **Entirety of Order.** The provisions of this Order constitute the complete and entire Order issued to the Respondent, concerning resolution of the violations identified in this Order. Terms, conditions, understandings or agreements purporting to modify or vary any term hereof shall not be binding unless made in writing and subscribed by the party to be bound, pursuant to the Modification paragraph of this Order. No oral or written advice, guidance, suggestion or comment by the Department regarding any report, proposal, plan, specification, schedule, comment or statement made or submitted by the Respondent shall be construed as relieving the Respondent of his/her obligations to obtain such formal approvals as may be required by this Order.
- XVI. **Obligations.** This Order is not a permit, or a modification of any permit, under any federal, State, or local laws or regulations. Unless otherwise allowed by statute or regulation, Respondent is responsible for achieving and maintaining complete compliance with all applicable federal, State, and local laws, regulations, and permits. Respondent's compliance with this Order on Consent shall be no defense to any action commenced pursuant to any laws, regulations, or permits, except as set forth herein.
- XVII. **Effective Date and Period of Order.** The effective date of this Order shall be the date upon which it is signed on behalf of the Department. This Order shall terminate when all requirements imposed by this Order on Consent are completed to the Department's satisfaction.

Dated: ___/___/_____
Buffalo, New York

Basil Seggos, Commissioner
New York State Department of
Environmental Conservation

By: _____

Abby M. Snyder
Regional Director

CONSENT BY RESPONDENT

Respondent _____ hereby consents to the issuing and entering of this Order without further notice, waives its right to a hearing herein, and agrees to be bound by the terms, conditions and provisions contained in this Order. The undersigned further hereby declares that they have been given the authority to bind the Respondent to the requirements of this Order.

Village of Springville

By [signature]: _____
Signature of Authorized Representative

Print name: _____

Title: _____

Date: _____

ACKNOWLEDGMENT

STATE OF NEW YORK)
) ss:
COUNTY OF)

On the _____ day of _____, in the year 2020, 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

SCHEDULE A
Village of Springville
CASE NO. R9-20200415-28

<p>1. PLANS AND SPECIFICATIONS</p> <p>Submit approvable plans and specifications, along with an approvable schedule for construction, prepared by a New York State licensed professional engineer, for plant upgrades to achieve compliance with SPDES effluent limits.</p> <p>2. CONSTRUCTION</p> <p>a. Begin construction of the approved plant upgrades in accordance with the approved schedule.</p> <p>b. Complete construction of plant upgrades; commence operation of the system; and comply with all effluent limitations.</p> <p>c. Submit As-built drawings of the plant improvements.</p> <p>3. PROGRESS REPORTS</p> <p>Submit a progress report summarizing the status of all Order and permit related items, with a description of actual or potential delays, and the measures taken to resolve any issues or potential delays.</p>	<p>Within 6 months after the Effective Date of Order</p> <p>Within 12 months after the Effective Date of Order</p> <p>Within 2 years and 6 months after the Effective Date of Order</p> <p>Within 2 years and 10 months after the Effective Date of Order</p> <p>Every 6 months after the Effective Date of Order</p>
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APPENDIX A

Interim Limits

Parameter	Type	Limit	Limit	Sample Frequency	Sample Type	Location	FN
Total Suspended Solids	7-Day Average	90 mg/L	863 lb/d	1/week	24-hr. Comp	Effluent	1,2
Total Suspended Solids	Daily Maximum	60 mg/L	575 lb/d	1/week	24-hr. Comp	Effluent	1,2

FOOTNOTE:

1. Interim limits shall take effect only after approval from the DEC in conjunction with a DEC approved construction schedule.
2. This interim limit shall expire within **two (2) years and 6 months after the Effective Date of this Order**. Once the interim limit expires the plant must be in compliance with the discharge limits specified in the Permit.



**Department of
Environmental
Conservation**

**Consent Order
INVOICE**

Customer #: 138136
Invoice #: 7779000000231
Invoice Date: 14-Dec-2020

Legally Responsible Party:
VILLAGE OF SPRINGVILLE
5 WEST MAIN STREET
SPRINGVILLE, NY 14141

Instructions for viewing your invoices on-line and paying electronically can be found at:
<https://www.dec.ny.gov/about/61016.html#On-Line>

DEC Order Number	Billing Year	Description	Qty	Unit Price	Payable Penalty Due
R9-20200415-28		CIVIL PENALTY	1	8,300.00	8,300.00

SubTotal	8,300.00
Payments	0.00
Credits	0.00
Outstanding balance as of 29-Oct-2020 in USD	8,300.00
Payment Due Date	14-Dec-2020

CIVIL PENALTY DUE DECEMBER 14, 2020

=====TEAR HERE=====

**CHECKS SHOULD BE MADE PAYABLE TO: NYS DEPARTMENT OF ENVIRONMENTAL CONSERVATION.
PLEASE TEAR THE BOTTOM PORTION AND INCLUDE IT ALONG WITH YOUR PAYMENT.**

Customer #: 138136
Invoice #: 7779000000231
Invoice Date: 14-Dec-2020

Amount Enclosed: _____
Check Number: _____

Bill To:
VILLAGE OF SPRINGVILLE
5 WEST MAIN STREET
SPRINGVILLE, NY 14141

Remit To:
NYS Department of Environmental
Conservation
Division of Management & Budget, 10th Floor
625 Broadway
ALBANY, NY 12233-4900