

(DRAFT)

INSTALLMENT SALE AND SECURITY AGREEMENT

Installment sale and security agreement (this "agreement") made _____ between Town of New Haven, a municipal corporation organized under the laws of New York, having its principal office at 4979 State Route 104, Oswego, NY ("buyer" or "Town"), and New Haven Water Service Area #9 ("seller" or "District"), an improvement district of the Town of New Haven established under the laws of New York.

SECTION ONE.

PURCHASE OF EQUIPMENT

Buyer, for valuable consideration, receipt of which is acknowledged by seller, purchases from seller the following described equipment:

One Pickup Truck: Mfr: _____, Year: _____, Model: _____; agreed fair market value \$40,000.

One Equipment Trailer: Mfr: _____, Year: _____, Model: _____; agreed fair market value \$11,000.

One Excavator: Mfr: _____, Year: _____, Model: _____; agreed fair market value \$70,020.

SECTION TWO.

GRANT OF SECURITY INTEREST

Buyer grants to seller a security interest, pursuant to New York Uniform Commercial Code, Article 9, in the above-described equipment, together with all replacements of the same, all similar collateral acquired in the future, and all accessories, parts and other equipment now or later affixed to or used in connection with the equipment. A security interest is likewise granted and the proceeds of such equipment and similar collateral; however, such grant shall not be construed to mean that seller consents to any sale of such equipment and similar collateral. All such equipment, similar collateral, accessories, parts, equipment affixed to or used in connection with the equipment, and proceeds are collectively referred to in this agreement as "equipment."

SECTION THREE.

TERMS OF SALE

Payment by buyer for equipment under this agreement shall be on the following terms and conditions:

1.	CASH PRICE	\$ 121,020.00
2.	Less: CASH DOWN PAYMENT	\$ 20,170.00
3.	UNPAID BALANCE OF CASH PRICE	\$ 100,850.00
4.	AMOUNT FINANCED	\$ 100,850.00
5.	ANNUAL PERCENTAGE RATE	0.0
6.	TOTAL OF PAYMENTS	\$ 100,850.00
7.	DEFERRED PAYMENT PRICE	\$ 121,020.00

The initial Cash Down Payment shall be provided by buyer to seller at execution of this Agreement in the amount of \$20,170.00. Thereafter, buyer agrees to pay to seller, the TOTAL OF PAYMENTS shown above in five (5) annual installments of \$20,170.00 the first installment is due and payable under this agreement on July ____, 2027 and all subsequent equal installments are due and payable on a like date of each subsequent year, until paid in full.

All payments shall be paid by the Town and the Town Supervisor shall cause rents to be deposited in and credited to District's accounts. All installments shall be paid without notice or demand and without abatement, deduction, or set-off of any amount whatsoever.

Until all installments and all other amounts due under this agreement have been paid, seller shall retain title and a security interest in equipment. The equipment is and shall remain personal property.

This contract shall be deemed executory only to the extent of monies appropriated and available for the purpose of the contract, and no liability on account thereof shall be incurred by the political subdivision beyond the amount of such monies. The installment purchase contract is not a general obligation of the Town of New Haven. Neither the full faith and credit nor the taxing power of the Town of New Haven are pledged to the payment of any amount due or to become due under such installment purchase contract. It is understood that neither this contract nor any representation by any public employee or officer creates any legal or moral obligation to appropriate or make monies available for the purpose of the contract.

SECTION FOUR. LOCATION OF EQUIPMENT

So long as buyer shall not be in default under this lease it shall be entitled to the possession and use of the equipment in accordance with the terms of this Agreement. The equipment shall be used in the conduct of the lawful business of the Town, shall be kept at New Haven Town Hall or elsewhere as may be required in performing the lawful business of the Town. The Town shall not, without District's prior written consent, part with possession or control of the equipment or attempt to sell, pledge, mortgage, or otherwise encumber any of the equipment or attempt to purport to sell, pledge, assign, transfer, or otherwise dispose of or encumber any interest under this Agreement.

SECTION FIVE. PROTECTION OF EQUIPMENT

Buyer shall keep equipment in good condition and free from liens and other security interests, shall pay promptly all taxes and assessments on equipment or with respect to equipment's use, shall not use equipment illegally and shall not dispose of equipment without seller's prior written consent. Repairs to equipment and additions of accessories shall be at buyer's expense and shall constitute component parts of equipment, subject to the terms of this Agreement.

If any equipment is totally destroyed, the liability of buyer to pay installments for the equipment may be discharged by paying to seller all the unpaid balance due on the equipment, on a pro-rata basis based upon the fair market values stated above, if applicable, less the net amount of the recovery, if any, actually received by seller from insurance or otherwise for such loss or damage. Seller shall not be obligated to undertake, by litigation or otherwise, the collection of any claim against any person for loss or damage of the leased equipment. Except as provided in this section, no loss of or damage to equipment shall release buyer from its obligations under this Agreement.

SECTION SIX. OPERATION; COMPLIANCE WITH LAWS

Buyer agrees, at its own cost and expense:

A. to pay all registration fees or other transfer expenses incurred in connection with registration, permits or transfer of the equipment by the seller to the buyer;

B. to pay all charges and expenses in connection with the operation of each item of equipment;

C. to comply with all governmental laws, ordinances, regulations, requirements, and rules with respect to the use, maintenance, and operation of the equipment;

D. to maintain at all times public liability, property damage, fire, theft, and comprehensive insurance in an amount appropriate to protect lessor's interest;

E. to make all repairs and replacements required to be made to maintain the leased equipment in good condition, reasonable wear and tear excepted.

SECTION SEVEN. INSURANCE

Buyer shall insure equipment against all hazards against which insurance is requested by seller and in form and amounts satisfactory to seller. If buyer fails to obtain such insurance, seller shall have the right to obtain insurance at buyer's expense. Buyer assigns to seller all right to receive proceeds of insurance not exceeding the unpaid balance under this Agreement, directs any insurer to pay all proceeds directly to seller, and authorizes seller to indorse any draft or drafts for insurance proceeds.

SECTION EIGHT. PERFECTION OF SECURITY INTEREST

Buyer shall pay all costs of filing this agreement, or any financing or termination statement, with respect to equipment. The Town in its discretion may perfect or continue perfected the District's security interest in equipment pursuant to New York Uniform Commercial Code, Article 9.

SECTION NINE. ASSIGNMENT

Seller and buyer shall not assign this Agreement or its interests under this agreement or enter into any sublease with respect to the leased equipment.

SECTION TEN. FURTHER ASSURANCES

Buyer or seller shall execute and deliver to the other party such instruments and assurances as the party deems necessary or advisable for the confirmation of this lease and lessor's rights under this Agreement.

SECTION ELEVEN. REMEDIES

In the event of a default, seller shall have the right to: (1) declare all unpaid installments immediately due; (2) enter any premises and without breach of the peace take possession of equipment; and (3) exercise any or all of the rights on default of a secured party under New York Uniform Commercial Code, Article 9.

**SECTION TWELVE.
WARRANTIES**

SELLER, NOT BEING THE MANUFACTURER OF THE EQUIPMENT, NOR MANUFACTURER'S AGENT, MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE FITNESS, DESIGN, OR CONDITION OF, OR AS TO THE QUALITY OR CAPACITY OF THE MATERIAL, EQUIPMENT, OR WORKMANSHIP IN THE EQUIPMENT, NOR ANY WARRANTY THAT THE EQUIPMENT WILL SATISFY THE REQUIREMENTS OF ANY LAW, RULE, SPECIFICATION, OR CONTRACT WHICH PROVIDES FOR SPECIFIC MACHINERY OR OPERATORS, OR SPECIAL METHODS, IT BEING AGREED THAT ALL SUCH RISKS, AS BETWEEN THE SELLER AND THE BUYER ARE TO BE BORNE BY THE BUYER AT ITS SOLE RISK AND EXPENSE.

No oral agreement, guaranty, promise, condition, representation, or warranty shall be binding; all prior conversations, agreements, or representations related to this agreement or to the equipment are integrated in this Agreement, and no modification of this Agreement shall be binding unless in writing signed by seller.

The parties have executed this agreement at the New Haven Town Hall, New Haven, New York, the day and year first above written.

Town of New Haven

By:

Town Supervisor
Dale Little

New Haven Water Service Area #9

By:

Town Supervisor
Dale Little