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**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2**

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In the Matter of: :
: :
Town of North Hempstead, :
: :
Respondent. : CONSENT AGREEMENT
: AND
: FINAL ORDER
: :
Proceeding Under Section : Docket No. RCRA-02-2018-7501
9006 of the Solid Waste :
Disposal Act, as amended. :
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PRELIMINARY STATEMENT

This administrative proceeding was instituted pursuant to Section 9006 of the Solid Waste Disposal Act, as amended by various laws including the Resource Conservation and Recovery Act and the Hazardous and Solid Waste Amendments of 1984 (“HSWA”), 42 U.S.C. § 6901 *et seq.* (collectively referred to as “RCRA” or the “Act”).

The Complainant in this proceeding is the Director of the Division of Enforcement and Compliance Assistance, United States Environmental Protection Agency Region 2 (“EPA”), who has been duly delegated the authority to institute and carry forward this proceeding. The Respondent is the Town of North Hempstead, a municipal corporation duly organized and validly existing under the laws of the State of the New York and is the “owner” and “operator” of “underground storage tanks” (“USTs”) or “UST Systems” as those terms are defined in Section 9001 of the Act, 42 U.S.C. § 6991, and 40 C.F.R. § 280.12, with executive offices located at Town Hall, 220 Plandome Road, Manhasset, New York 11030 at times relevant to this action. Pursuant to 40 Code of Federal Regulations (“C.F.R.”) § 22.13(b), where parties agree to settlement of one or more causes of action before the filing of a Complaint, a proceeding may simultaneously be commenced and concluded by the issuance of a Consent Agreement and Final Order (“CA/FO”) pursuant to 40 C.F.R. § 22.18.

The Complainant and Respondent agree that settling this matter by entering into this CA/FO pursuant to 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) is an appropriate means of resolving this matter without further litigation.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Respondent is the Town of North Hempstead, a municipal corporation duly organized and validly existing under the laws of the State of New York (hereinafter “Respondent” or “North Hempstead” or “TNH”).

2. Respondent is a "person" as that term is defined in Section 9001(6) of RCRA, 42 U.S.C. § 6991(6), and 40 C.F.R. § 280.12.

3. Respondent was and continues to be an "owner" and an "operator" of multiple "underground storage tanks" ("UST") or "UST systems" as those terms are defined in Section 9001 of the Act, 42 U.S.C. § 6991, and 40 C.F.R. § 280.12.

4. Respondent's UST systems are or were located at the following addresses (hereinafter the "Facilities" or separately "Facility"):

- a) Highway Department, Shore Road Yard, 700 West Shore Road, Port Washington, NY 11050
- b) Highway Department, 285 Denton Avenue, New Hyde Park, NY 11040
- c) Albertson Highway Shop, 1 Highway Yard, Albertson, NY 11507
- d) Solid Waste Management Authority, 802 West Shore Road, Port Washington, NY 11059
- e) Harbor Links Golf Course, 1 West Fairway Drive, Port Washington, NY 11050.

5. Pursuant to Section 9005 of the Act, 42 U.S.C. § 6991d, an authorized representative of the EPA inspected Respondent's UST systems located at the Facilities, specified above, between April 26, 2012 and April 3, 2013, in order to determine Respondent's compliance with the Act and 40 C.F.R. Part 280. Each Facility was inspected twice.

6. EPA sent a RCRA § 9005 Notice of Violation/Information Request Letter ("NOV/IRL") dated June 6, 2012 to TNH in order to determine TNH's compliance with the requirements of the Act and 40 C.F.R. Part 280 pertaining to USTs at Highway Department, Shore Road Yard, 700 West Shore Road, Port Washington facility.

7. Respondent submitted a response dated July 6, 2012 to the aforementioned NOV/IRL referred to in paragraph number 6, above.

8. In a letter dated July 11, 2013 EPA issued a "Pre-filing Settlement Opportunity for Prospective Civil Enforcement Action Concerning Violations of Underground Storage Tanks" which included a list of potential violations of the UST regulations at various TNH Facilities and an offer to discuss the alleged violations prior to filing of a Complaint.

9. In a letter dated September 11, 2013 TNH responded to EPA's July 11, 2013 letter. In a letter dated August 29, 2014, TNH submitted a supplemental response. These responses identified a broader universe of compliance issues.

10. On November 19, 2015 EPA and TNH met at the EPA offices in New York City to discuss compliance issues and settlement.

11. In a letter dated December 3, 2015, TNH submitted a "Compliance Plan and Timeline" for the USTs at the Facilities.

12. In a letter dated May 25, 2016, TNH submitted an "update" on its Compliance Plan

