Amherst Town Board

Regular Meeting of the Town Board

Minutes

5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Monday, September 18, 2023 | **7:00 PM** | **Amherst Municipal Building**

I. IN MEMORY

II. INVOCATION

Supervisor Kulpa

III. PLEDGE OF ALLEGIANCE

IV. ROLL CALL:

7:00 PM Meeting called to order on September 18, 2023 at Amherst Municipal Building, 5583 Main Street, Williamsville, NY.

Attendee Name	Organization	Title	Status	Arrived
Brian J. Kulpa	Town of Amherst	Supervisor	Present	
Deborah Bruch Bucki	Town of Amherst	Deputy Supervisor	Present	
Jacqualine Berger	Town of Amherst	Councilmember	Present	
Shawn Lavin	Town of Amherst	Councilmember	Present	
Michael Szukala	Town of Amherst	Councilmember	Present	
Francina J. Spoth	Town of Amherst	Town Clerk	Present	
Timothy Koller	Town of Amherst	Deputy Town Clerk	Present	
Martin A. Polowy	Town of Amherst	Town Attorney	Present	
Daryl Bramer	Town of Amherst	Comptroller	Present	
Dan Howard	Town of Amherst	Planning Director	Present	
Lynda Juul	Town of Amherst	Director of Finance	Present	
Patrick G. Lucey	Town of Amherst	Highway Superintendent	Present	
Christopher P. Schregel	Town of Amherst	Traffic-Safety Coordinator	Present	

V. MINUTES APPROVAL

1. Tuesday, September 05, 2023

RESULT:	**ACCEPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Jacqualine Berger, Councilmember
AYES:	Kulpa, Bucki, Berger, Lavin, Szukala

VI. PROCLAMATIONS AND ANNOUNCEMENTS

VII. PUBLIC HEARINGS

Speakers will be limited to 3 minutes.

1. Resolution 2023-774

Town Culvert Replacement Projects (Bond Resolution - $100,000)

AGENDA ITEM : SEPTEMBER 18TH, 2023

TO: **Town Board**

FROM: **Martin A. Polowy, Esq., Town Attorney**

DATE: **September 13, 2023**

RE: **Town Culvert Replacement Projects**
2023 CIP Project Nos. E-33
Bond Resolution - $100,000

The above-referenced matter is scheduled for a Public Hearing on September 18, 2023 at 7:00 p.m. In this regard, kindly adopt a resolution (1) Adopting the attached SEQR determination for the above project as determined by the Town of Amherst Planning Department **prior to the Public Hearing being deemed closed**; and (2) Adopting the attached bond documents **once the Public Hearing has been deemed closed**.

For ease of reference and to provide detailed information regarding the bond action, also attached is the Map Plan and Report for the project.

Thank you.

MAP:nmb
Attachments
c: Tim Koller, Deputy Town Clerk
(w/attachment, **Agenda Item - September 18, 2023**)
Daryl C. Bramer, Comptroller *(w/attachment)*
Lynda Juul, Director of Finance *(w/attachment)*

Dan Howard, Director of Planning *(w/attachment)*
Christopher P. Schregel, Project Manager *(w/attachment)*

9/18/2023
A motion to open the public hearing was made by Supervisor Kulpa, seconded by Deputy Supervisor Bucki and unanimously approved 5-0. The public hearing was opened at 7:04 PM.

Chris Schregel, Project Manager, presented.

A motion to approve the SEQR determination was made by Supervisor Kulpa, seconded by Deputy Supervisor Bucki and unanimously approved 5-0.

There were no speakers from the public, therefore Supervisor Kulpa moved to close the hearing, seconded by Deputy Supervisor Bucki and unanimously approved 5-0. The public hearing was closed at 7:09 PM.

A motion to adopt the Bond Resolution was made by Supervisor Kulpa, seconded by Deputy Supervisor Bucki and unanimously approved via Roll Call vote 5-0.

RESULT:	**ROLL CALL VOTE (ADOPTED) [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Deputy Supervisor
AYES:	Kulpa, Bucki, Berger, Lavin, Szukala

2. Resolution 2023-775

Special Use Permit for Tier III Solar Energy System at 800 & 850 New Road

Request for a special use permit for a Tier III Solar Energy System at 800 & 850 New Road.

9/18/2023
A motion to open the public hearing was made by Supervisor Kulpa, seconded by Deputy Supervisor Bucki and unanimously approved 5-0. The public hearing was opened at 7:10 PM.

Marc Kenward of Erdman Anthony & Leigh McEntire of Sol Source Power LLC, presented.

The following speakers opposed the project:
Sally Blazynski, 905 New Rd
Heidi Wagonblott, 885 New Rd
Christopher Wyles, 861 New Rd

There were no further speakers from the public, therefore Supervisor Kulpa moved to adjourn, seconded by Deputy Supervisor Bucki and unanimously approved 5-0. The public hearing was adjourned at 7:50 PM.

RESULT:	**ADJOURNED [UNANIMOUS]**	**Next: 10/2/2023 7:00 PM**
MOVER:	Brian J. Kulpa, Supervisor	
SECONDER:	Deborah Bruch Bucki, Deputy Supervisor	
AYES:	Kulpa, Bucki, Berger, Lavin, Szukala	

VIII. DEVELOPMENT REVIEW ACTIONS

IX. PERSONAL APPOINTMENTS TO BOARDS & COMMITTEES

Board Appointments - Amherst Conservation Advisory Council, Board of Ethics, Historic Preservation, IDA, Planning, Recreation, Recycling & Waste, Traffic Safety and the Zoning Board of Appeals.

NOTE - The number of vacancies is listed after the Committee name.

1. **9/11 Commemoration Committee**

   Membership is unlimited.

2. **Amherst Committee on Disabilities (6)**

3. **Amherst Community Diversity Commission (4)**

4. **Amherst Conservation Advisory Council (5)**

5. **Amherst Government Financial Advisory Board**

   Membership is full.

6. **Amherst Industrial Development Agency**

   Membership is full.

7. **Amherst Veterans Committee (4)**

8. **Arts & Culture in Public Places Board**

9. **Board of Assessment Review**

   Membership is full.

10. **Board of Electrician Examiners**

    Membership is full.

11. **Board of Ethics (1)**

12. **Board of Plumbing and Drainage Examiners**

Membership is full.

13. **Design Advisory Board**

14. **Employee Suggestion Program Merit Award Board**
    Membership is full.

15. **Employee Suggestion Review Committee**

16. **Energy Conservation Citizens Advisory Committee (3)**

17. **Freedom of Information Law (FOIL) Board**

18. **Glen Park Joint Board**

19. **Historic Preservation Commission**
    Membership is full.

20. **Information Technology Advisory Committee (1)**

21. **Library Board of Trustees**
    Membership is full.

22. **Minority / Woman Owned Business (4)**

23. **Open Government Advisory Board (7)**

24. **Planning Board**
    Membership is full.

25. **Recreation Commission (1)**

26. **Recycling and Waste Committee (3)**

27. **Senior Services Advisory Board (7)**

28. **Traffic Safety Board**
    Membership is full.

29. **Youth Board**
    Adult vacancies (6), Youth vacancies (0)

30. **Zoning Board of Appeals**

X. PUBLIC EXPRESSION

This is an opportunity for residents to <u>comment</u> on matters involving Amherst other than those pertinent to Public Hearings that day. <u>Speakers will be limited to 3 minutes.</u>

A motion to open Public Expression was made by Supervisor Kulpa, seconded by Deputy Supervisor Bucki and unanimously approved 5-0. Public Expression was opened at 7:51 PM.

The following speakers addressed the Town Board:
Monica Simoneau, 91 Westfield Rd - oppose speed bumps on Westfield
Janet De Cicco, 79 Westfield Rd - oppose speed bumps on Westfield
Karen Drilling, 139 Westfield Rd - oppose speed bumps on Westfield
Kate Smidt, 136 Westfield Rd - oppose speed bumps on Westfield
Geri DiCosmo, 378 Meyer Rd - migrants
Tom Frank, 5403 Main St - Glen Park Joint Board
Highway Superintendent Pat Lucey spoke on the proposed speed bumps on Westfield Road

There were no further speakers from the public, therefore Supervisor Kulpa moved to close Public Expression, seconded by Councilmember Berger and unanimously approved 5-0. Public Expression was closed at 8:19 PM.

XI. CONSENT AGENDA

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Deputy Supervisor
AYES:	Kulpa, Bucki, Berger, Lavin, Szukala

XII. COUNCILMEMBER RESOLUTIONS

A. SUPERVISOR KULPA:

B. DEPUTY SUPERVISOR BUCKI:

1. Resolution 2023-776

Appointment to Senior Services Advisory Board

WHEREAS, the Amherst Senior Center Advisory Board shall consist of twelve (12) appointed members; each appointed by a majority of the Amherst Town Board, who shall serve a term of two (2) years and may be appointed for two (2) additional two (2) year terms; and

WHEREAS, the Amherst Senior Center Advisory Board currently has a Board of five (5) members, who shall continue to serve until their term of appointment expires, as follows:

James W. Bardot, Chair, term expires 12/31/2024
Aaron Carlson, member, term expires 12/31/2024

Rev. Susan Frawley, member, term expires 12/31/2024
Rhonda Frederick, member, term expires 12/31/2023
Dr. Julie Whitbeck-Lewinski, term expires 12/31/2024; and

WHEREAS, James W. Bardot has been selected by the Director of Senior Services to serve as Senior Center Advisory Board Chairperson for a term to expire 12/31/2024; and

WHEREAS, in addition to appointed members, the following individuals shall serve in ex-officio capacity:

Deputy Supervisor Deborah Bruch Bucki, PhD, RN, Liaison to Senior Services
Melissa Abel, Executive Director, Town of Amherst Senior Services
Mary-Diana Pouli, Executive Director, Town of Amherst Youth & Recreation
Michael Camilleri, Town of Amherst Assistant Chief of Police
Dal Giuliani, Executive Director, Amherst Generations Foundation
Ms. Del Szczesniak, President, Senior Center Representatives Council; and

WHEREAS, Ann Nichols has expressed interest in serving on the Senior Services Advisory Board.

NOW, THEREFORE, BE IT RESOLVED that the Amherst Town Board appoints Ann Nichols to serve as an ex-officio representative from Amherst Town Court to serve on the Senior Center Advisory Board for the term to expire December 31, 2025.

9/18/2023
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Deborah Bruch Bucki, Deputy Supervisor
SECONDER:	Brian J. Kulpa, Supervisor
AYES:	Kulpa, Bucki, Berger, Lavin, Szukala

C. COUNCILMEMBER BERGER:

1. Resolution 2023-777

Climate Smart Communities Task Force

WHEREAS, the Town of Amherst Town Board adopted the Climate Smart Communities Pledge on May 7, 2012; and

WHEREAS, the Town Board recognizes the need to create a team of local officials, professionals and stakeholders that can promote and support the policies, plans, and programs that are part of a Climate Smart Community and are necessary in achieving the Climate Smart Community Certification; and

WHEREAS, the team will be known as the Climate Smart Communities (CSC) Task Force

and will serve as an advisory committee that advises and collaborates with the local government to accomplish the activities that are part of the CSC certification program; and now therefore

BE IT RESOLVED, that the Town of Amherst Town Board establishes a Climate Smart Communities Task Force.

BE IT FURTHER RESOLVED, that the Town of Amherst Town Board appoints Jacqualine G. Berger, Town Board member as the Climate Smart Communities Coordinator, and Christopher Schregel, Project Coordinator, Engineering Department, as Climate Smart Communities Co-coordinator who will lead the task force and facilitate communication between the task force and Town stakeholders.

BE IT FURTHER RESOLVED, the Task Force shall consist of the following members:

Coordinator
Co-coordinator
Town Energy Manager
Town Engineer
UB Regional Institute Members
Town Attorney
Comptroller
Director of Finance
Planning Department Designee
Resident(s)

9/18/2023
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Jacqualine Berger, Councilmember
SECONDER:	Deborah Bruch Bucki, Deputy Supervisor
AYES:	Kulpa, Bucki, Berger, Lavin, Szukala

D. COUNCILMEMBER LAVIN:

E. COUNCILMEMBER SZUKALA:

1. Resolution 2023-778

Set Public Hearing Date – Meyer Road

Please schedule a public hearing on November 13, 2023 to modify the parking restriction on Meyer Road east of Bowmart Parkway to remove the timeframe of April 1st to August 1st:

"The Parking Restriction on the north side of Meyer Road is hereby changed to a 'No Parking Any Time' restriction year-round between Bowmart Parkway to the first point of curvature of

the cul-de-sac."

9/18/2023
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Michael Szukala, Councilmember
SECONDER:	Deborah Bruch Bucki, Deputy Supervisor
AYES:	Kulpa, Bucki, Berger, Lavin, Szukala

XIII. DEPARTMENT HEAD RESOLUTIONS AND REPORTS

A. TOWN ATTORNEY:

1. Resolution 2023-779

Request for a Public Hearing on the Acquisition by Eminent Domain of a Boulevard Mall Parcel

AGENDA ITEM : SEPTEMBER 18TH, 2023

TO: **Town Board**

FROM: **Martin A. Polowy, Esq., Senior Deputy Town Attorney**

DATE: **September 13, 2023**

RE: **Request For A Public Hearing On The Possible Acquisition By Eminent Domain of a Boulevard Mall Parcel**

Kindly adopt the following resolution with respect to the above matter:

Resolution Calling for a Public Hearing on the Possible Acquisition by Eminent Domain of a Boulevard Mall Parcel, Consisting of SBL/Tax ID No. 54.03-1-14 in the Town of Amherst, in Connection with the Town of Amherst's Boulevard Central District Urban Renewal Plan adopted October 24, 2022

WHEREAS, pursuant to Article 15 of the General Municipal Law ("GML"), Section 503, the Town of Amherst is authorized to plan and/or implement one or more urban renewal projects for the purpose of eliminating certain areas within the Town that may, from time to time, exhibit deteriorating, substandard, or other negative conditions or characteristics, and which as a result have become slum and/or blighted; and

WHEREAS, by resolution dated June 27, 2022, the Town of Amherst designated the Boulevard Central District Urban Renewal Area as an area containing several such slum and/or blighted properties that are injurious and/or detrimental to the public safety, health,

morals and welfare, making those properties appropriate for urban renewal under GML § 502(3); and

WHEREAS, the Boulevard Central District Urban Renewal Area consists of several properties within the Town, including those parcels on which the Boulevard Mall is currently located and operates, as well as properties adjacent to/surrounding the Boulevard Mall; and

WHEREAS, by resolution dated October 24, 2022, the Town Board, acting as the Urban Renewal Agency for the Town, formally adopted the Town of Amherst's Boulevard Central District Urban Renewal Plan (the "Urban Renewal Plan"), which describes the Town's proposal for the revitalization and redevelopment of the Boulevard Central District Urban Renewal Area as a whole, including the Boulevard Mall; and

WHEREAS, the Town Board recognizes that the implementation of the Urban Renewal Plan is a significant undertaking that will require considerable time and resources, and which may involve one or more properties currently not under Town control, requiring that plan to be implemented in one or more phases, as the properties, approvals, resources, and/or other considerations needed to implement the Urban Renewal Plan are acquired, obtained, and/or otherwise addressed; and

WHEREAS, the Town Board is considering the acquisition by eminent domain of the following property, which is part of the Boulevard Mall and is within the Boulevard Central District Urban Renewal Area: 3891 Maple Road in the Town of Amherst having SBL/Tax ID No. 54.03-1-14 (the "Property"); and

WHEREAS, the Town Board is considering said acquisition for the following public purpose(s): as further set forth in the Urban Renewal Plan, because the Boulevard Mall is a main driver of economic underdevelopment, underutilization, declining property valuations and assessments, as well as stagnation and blight within the Town, the Town Board has determined that the Boulevard Central District Urban Renewal Area, including the Property specifically, should be redeveloped to: (i) eliminate that blight and transform those properties into a walkable, mixed-use, transit-oriented development that is capable of acting as a community center for both the Town and the greater Buffalo region; (ii) improve the quality and appearance of non-residential development within the Town; (iii) encourage reinvestment and capital investment (public and private) in commercial corridors and residential neighborhoods in the Town; (iv) further the Town's plans of establishing a Town-wide network of parks, open spaces, and greenway corridors; and (iv) establish the necessary site control required to implement the land use and other development goals set forth in the Urban Renewal Plan and the Town of Amherst's Bicentennial Comprehensive Plan, as specifically applied to the Boulevard Mall Parcels and/or the Boulevard Central District Urban Renewal Area as a whole; and

WHEREAS, the Town Board has determined that there are no viable alternate locations for the proposed public project because the Urban Renewal Plan only contemplates and authorizes the redevelopment of a geographically limited and specifically delineated area of the Town (the Boulevard Central District Urban Renewal Area, of which the Property is a part), with that area both currently exhibiting blight and being centrally located on a main thoroughfare and commercial corridor in the Town, such that the redevelopment of that area is most likely to further the purposes of the Urban Renewal Plan described above; and

WHEREAS, the Town Board held a hearing pursuant to Article 2 of the Eminent Domain Procedure Law on November 22, 2022 and notice thereof was published in the papers and was served on the owner of the Property by certified mail, return receipt requested and by personal service by serving the Property owner's statutory agent, the New

York Secretary of State; nevertheless, the property owner alleged that the New York Secretary of State failed to timely deliver the notice in advance of the hearing and that the postal service failed to deliver the notice; and

WHEREAS, the Town Board determines to hold an additional public hearing under Article 2 of the Eminent Domain Procedure Law with respect to the Property to allow the owner and the public to provide information at the hearing to be considered by the Town Board;

NOW THEREFORE, BE IT RESOLVED by the Town Board of the Town of Amherst as follows:

1. A public hearing will be held at 7:00 p.m. on October 16, 2023 at Town Hall, 5583 Main Street, Williamsville, New York, 14221: (a) to inform the public of the Town Board's proposal to take, by eminent domain, all the real property located at 3891 Maple Road in the Town of Amherst having SBL/Tax ID No. 54.03-1-14; and (b) to review both the public use to be served by the proposed acquisition and the furtherance of the Urban Renewal Plan as applied to the property, as well as the impact on the environment and residents of the locality where those actions will occur.

2. The Town Clerk is directed to publish the attached Public Notice in the Town's Official Newspaper, the Amherst Bee, which is a weekly paper, in two successive weekly issues, with the first publication no less than ten nor more than 30 days before the hearing, and to post the Public Hearing Notice at Town Hall.

3. The Town's special counsel is to mail notice of the hearing, certified mail, return receipt requested, to the record owners of the subject property, no less than ten nor more than 30 days before the hearing, and upon their counsel of record. The Town's special counsel is also directed to complete personal service upon the property owner.

4. Town staff and special counsel are authorized to take such steps as are necessary to effectuate the purposes of this Resolution.

5. This Resolution is effective immediately.

PASSED AND ADOPTED by the Town Board of the Town of Amherst the 18th day of September, 2023.

MAP:nmb
Attachment
c: Tim Koller, Deputy Town Clerk
(*w/attachment*, **Agenda Item - September 18, 2023**)

9/18/2023
A motion to approve was made by Supervisor Kulpa, seconded by Councilmember Berger and unanimously approved 5-0.

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Jacqualine Berger, Councilmember
AYES:	Kulpa, Bucki, Berger, Lavin, Szukala

B. TOWN CLERK:

C. ASSESSOR:

D. BUILDING/BUILDING MAINTENANCE:

E. CENTRAL ALARM:

F. COMPTROLLER:

1. Resolution 2023-780

Budget Transfers and Amendments

For September 18, 2023 Town Board Agenda

To: Town Board
From: Office of Town Comptroller
Date: 9/13/2023
Re: Various Department Budget Transfers / Amendments

I have received the following request(s) requiring budget transfers and / or amendments. Based on my review, I ask that the Town Board approve the following list;

BUDGET TRANSFERS - 2023

FROM:	***TO:***
A7450.1000 Museum - Personal Services $87.35 A7450.8030 Museum - FICA $6.68	A7450.4050 Mileage $94.03

To transfer funds to clean up budget.

BUDGET AMENDMENTS - 2023

INCREASE:	***INCREASE:***
A3120.05001 Police Office- Refund of CY Exp $134.15	A3120.4110 Contractual $134.15
A3122.02410 Bailey Ave- Rentals $10,300.00	A3122.4220 Bldgs & Grounds $10,300.00

To recognize revenue received and increase expenditures.

N2223.02785 CDBG & Vg. - PI $4,253.60	N2223.4000 Contractual $4,253.60
N2225.02785 CDBG Admin. $1,063.40	N2225.1000 Personal Services $987.82
	N2225.8030 FICA $75.58

To recognize Community Development program income from 653 Niagara Falls Blvd, Amherst.

N2241.02785 Homebuyer- PI $4,500.00	N2241.4000 Contractual $4,500.00
N2254.02785 HOME Admin $500.00	N2254.4003 10% Admin $500.00

To recognize Community Development program income from 2359 Kensington, Amherst.

N2240.02785 AMH HOME- PI $4,936.69	N2240.4000 Contractual $4,936.69

N2254.02785 HOME Admin $548.52 N2254.4003 10% Admin $548.52
To recognize Community Development program income from 370 Windermere, Amherst.

N2244.02785 Cheek HOME- PI $8,517.60 N2244.4000 Contractual $8,517.60
N2249.02785 Cheek Admin- PI $946.40 N2249.4003 10% Admin $946.40
To recognize Community Development program income from 40 Candace, Depew.

B3620.02770 Bldg- Other Revenue $16,147.50 B3620.1000 Personal Svcs $15,000.00
B3620.8030 FICA $1,147.50
To increase revenue from Williamsville in for shared services and expenditures.

N2241.02785 Homebuyer- PI $210,009.50 N2241.4000 Contractual $210,009.50
N2254.02785 HOME Admin $15,001.05 N2254.4003 10% Admin $15,001.05
To recognize Community Development program income from 345 Grover Cleveland, Amherst.

N2244.02785 Cheek HOME- PI $4,500.00 N2244.4000 Contractual $4,500.00
N2249.02785 Cheek Admin- PI $500.00 N2249.4003 10% Admin $500.00
To recognize Community Development program income from 1298 Harlem, Cheektowaga.

N2223.02785 CDBG & Vg. - PI $170.00 N2223.4000 Contractual $170.00
To recognize Community Development program income from 169 Hillcrest, Amherst.

N0001.20092 CDBG Income 23/24 $628,897.00 See attached detail $628,897.00
N0001.20093 Amherst HOME 23/24 $404,375.00 See attached detail $404,375.00
N0001.20094 Cheektowaga HOME 23/24 $303,282.00 See attached detail $303,282.00
N0001.20095 Tonawanda HOME 23/24 $303,282.00 See attached detail $303,282.00
To setup CDBG and HOME budget amounts for CRS# 4270 & CRS# 4271, pending release of funds from HUD.

9/18/2023
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Deputy Supervisor
AYES:	Kulpa, Bucki, Berger, Lavin, Szukala

G. CONTRACT COMPLIANCE:

1. Resolution 2023-781

Award Bid #2023037 Town Wide Tree Planting - CRS #4295

WHEREAS, the Contract Compliance and Administration Department received bids on August 24, 2023 for Town Wide Tree Planting; and

WHEREAS, the bid process resulted in responses from five (5) vendors, as per the attached bid analysis form;

NOW, THEREFORE, BE IT RESOLVED, the Town Board authorizes the Contract Compliance and Administration Department to award this bid to Landscape Associate of WNY; and

BE IT FURTHER RESOLVED, the Town Board authorizes the Supervisor to sign the contract with Landscape Associate of WNY.

9/18/2023
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Deputy Supervisor
AYES:	Kulpa, Bucki, Berger, Lavin, Szukala

2. Resolution 2023-782

Award Bid #2023038 Crane & Hoist Services - CRS #4296

WHEREAS, the Contract Compliance and Administration Department received bids on August 24, 2023 for Crane & Hoist Services; and

WHEREAS, the bid process resulted in responses from three (3) vendors, as per the attached bid analysis form;

NOW, THEREFORE, BE IT RESOLVED, the Town Board authorizes the Contract Compliance and Administration Department to award this bid to Vital Crane Services, Inc.; and

BE IT FURTHER RESOLVED, the Town Board authorizes the Supervisor to sign the contract with Vital Crane Services, Inc.

9/18/2023
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Deputy Supervisor
AYES:	Kulpa, Bucki, Berger, Lavin, Szukala

3. Resolution 2023-783

Award Bid #2023034 Kubota Tractor - CRS #4297

WHEREAS, the Contract Compliance and Administration Department received bids on July 27, 2023 for Kubota Tractor, Trade In, Maintenance & Repair Service; and

WHEREAS, the bid process resulted in responses from two (2) vendors, as per the attached bid analysis form;

NOW, THEREFORE, BE IT RESOLVED, the Town Board authorizes the Contract Compliance and Administration Department to award the Kubota Tractor and Trade In to Monroe Tractor; and

BE IT FURTHER RESOLVED, the Town Board authorizes the trade in of a 1993 Ford Tractor Model Number 7109, Serial Number WL88525 for $7,500, as per the attached bid analysis form; and

BE IT FURTHER RESOLVED, the Town Board authorizes the Supervisor to sign the contract with Monroe Tractor; and

BE IT FURTHER RESOLVED, that approval is pending successful completion of the Contract Routing System due to the fact the WPCF is in need of the new tractor as soon as possible.

9/18/2023
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Deputy Supervisor
AYES:	Kulpa, Bucki, Berger, Lavin, Szukala

4. Resolution 2023-784

Award Bid #2023033 Town Wide Kitchen Hood Inspections - CRS #4302

WHEREAS, the Contract Compliance and Administration Department received bids on July 27, 2023 for Town Wide Kitchen Hood Inspection and Service; and

WHEREAS, the bid process resulted in responses from three (3) vendors as per the attached bid tabulation form;

NOW, THEREFORE, BE IT RESOLVED, the Town Board authorizes the Contract Compliance and Administration Department to award this bid to Davis-Ulmer Sprinkler Company, Inc. DBA All State Fire & Security; and

BE IT FURTHER RESOLVED, The Town Board authorizes the Supervisor to sign the contract with Davis-Ulmer Sprinkler Company, Inc. DBA All State Fire & Security.

9/18/2023
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Deputy Supervisor
AYES:	Kulpa, Bucki, Berger, Lavin, Szukala

5. Resolution 2023-785

Town Wide Glass Repair Service Contract - CRS #4301

WHEREAS, the Contract Compliance and Administration Department is requesting approval to use the Erie County Contract for Glass Repair Service - Erie County Bid #219137-002 with Jens Glass Company, Inc.; and

WHEREAS, the contract term will be through May 31, 2025;

NOW, THEREFORE, BE IT RESOLVED, the Town Board approves and authorizes the Supervisor to sign the contract with Jens Glass Company, Inc.

9/18/2023
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Deputy Supervisor
AYES:	Kulpa, Bucki, Berger, Lavin, Szukala

H. COURT:

I. ECONOMIC DEVELOPMENT:

J. EMERGENCY SERVICES:

K. ENGINEERING SERVICES:

1. Resolution 2023-786

Award of Bid - Installation of Radar Speed Feedback Signs at Brompton Road & Park Club Lane Concrete Applied Technologies Corp. Dba CATCO Town-Wide Traffic Calming Project

On September 7, 2023 bids were received for the above referenced project. After review of the four (4) bids received (tabulation attached), and information pertaining to the

qualifications and experience of the bidders, we recommend the contract be awarded to Concrete Applied Technologies, DBA CATCO, 1266 Townline Road, Alden, NY 14004 at their low base bid amount of $92,000.00.

Funding is available from the project bond account KP2237-4972.

May I please have your approval to award this low contract? Thank you for considering this request.

9/18/2023
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Deputy Supervisor
AYES:	Kulpa, Bucki, Berger, Lavin, Szukala

2. Resolution 2023-787

Award of Bid - ADA Ramp & Sidewalk Installation and Repair Master's Edge, Inc.

On September 7, 2023 bids were received for the above referenced project. After review of the two (2) bids received (tabulation attached), and information pertaining to the qualifications and experience of the bidders, we recommend the contract be awarded to Master's Edge, INC., 3409 Broadway, Cheektowaga, NY 14227 at their low bid amount of $196,472 for the summation of the following items: SW1, SW2, SW3, SW4, SW5, SW7, SW8, SW9, SW13, SW14, SW17, SW18, SW19, SW23 (CDBG funding), SW24 and Alternate C.

Funding is available from the project bond account KP2319-4972 that includes CDBG funds.

May I please have your approval to award this low contract? Thank you for considering this request.

9/18/2023
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Deputy Supervisor
AYES:	Kulpa, Bucki, Berger, Lavin, Szukala

L. FINANCE:

M. HIGHWAY

1. Resolution 2023-788

Authorize Supervisor to Sign Contract with VCS - Visual Computer Solutions Inc - CRS #4309

NOW THEREFORE BE IT RESOLVED, that the Town of Amherst approves the contract with VCS - Visual Computer Solutions Inc. software for the time keeping and scheduling software system that is compatible with the Town's MUNIS System.

The Town of Amherst contract is for the period 11/01/23 through 10/31/2024 and includes the SAAS renewal time keeping service to include time sheets and scheduling.

NOW THEREFORE BE IT FURTHER RESOLVED, that the Town Board authorizes the Supervisor to sign this contract that is subject to the Contract Routing System (CRS #4309).

9/18/2023
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Deputy Supervisor
AYES:	Kulpa, Bucki, Berger, Lavin, Szukala

N. HUMAN RESOURCES:

1. Resolution 2023-789

Associate Planner/Planning Department

Please appoint an Associate Planner to the Planning Department. Permanent, from list, pending satisfactory completion of a probationary term as set forth in the Civil Service Rule XIII. Effective September 19, 2023 at an annual salary of $72,306, Grade 18, Step D for Gary Palumbo.

This is a Permanent appointment for an employee currently serving Provisionally.

9/18/2023
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Deputy Supervisor
AYES:	Kulpa, Bucki, Berger, Lavin, Szukala

2. Resolution 2023-790

Contracts Technician/Highway

Please reappoint a Contracts Technician to the Highway Department, Provisional, pending satisfactory completion of a Civil Service Examination. Effective September 19, 2023, at an annual salary of $66,437.32, Grade 5, Step I of the Exempt Non-Department Head Salary Schedule for Stephen Bryan.

This is a reappointment of the employee currently serving Provisionally.

9/18/2023
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Deputy Supervisor
AYES:	Kulpa, Bucki, Berger, Lavin, Szukala

3. Resolution 2023-791

Chief Accountant/Comptroller's Office

Please appoint a Chief Accountant to the Comptroller's Office. Permanent, from list, pending satisfactory completion of a probationary term as set forth in the Civil Service Rule XIII. Effective September 19, 2023 at an annual salary of $103,454.70, Grade 4, Step I of the Exempt Department Head Salary Schedule for Jennifer Brock.

This is a Permanent appointment for an employee currently serving Provisionally.

9/18/2023
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Deputy Supervisor
AYES:	Kulpa, Bucki, Berger, Lavin, Szukala

4. Resolution 2023-792

Program Coordinator-Senior Services/Sr. Services

Please appoint a Program Coordinator-Senior Services to the Senior Services Department. Permanent, from list, pending satisfactory completion of a probationary term as set forth in the Civil Service Rule XIII. Effective September 19, 2023 at an annual salary of $57,267, Grade 9, Step J for Tammy Jacobs.

This is a Permanent appointment for an employee currently serving Provisionally.

9/18/2023
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Deputy Supervisor
AYES:	Kulpa, Bucki, Berger, Lavin, Szukala

5. Resolution 2023-793

Public Safety Dispatcher/Police Department (2 Positions)

Please appoint two (2) Public Safety Dispatchers to the Police Department. Permanent, from list, pending satisfactory completion of a probationary term as set forth in the Civil Service Rule XIII. Effective September 19, 2023 at an annual salary of $49,206, Grade 13, Step A for Jessica Rechin and Deanna DiBlasi.

Contingent upon completing all Pre-Employment Requirements and Erie County Civil Service Rules and Regulations.

Replacing employees who retired and resigned.

9/18/2023
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Deputy Supervisor
AYES:	Kulpa, Bucki, Berger, Lavin, Szukala

6. Resolution 2023-794

Public Safety Dispatcher/Police Department (3 Positions)

Please appoint three (3) Public Safety Dispatchers to the Police Department. Permanent, from list, pending satisfactory completion of a probationary term as set forth in the Civil Service Rule XIII. Effective September 19, 2023 at an annual salary of $52,247, Grade 13, Step B for Elizabeth Henry, Corrine Yard & Morgan Johnson.

Contingent upon completing all Pre-Employment Requirements and Erie County Civil Service Rules and Regulations.

These are Permanent appointments for employees currently serving Provisionally.

9/18/2023
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Deputy Supervisor
AYES:	Kulpa, Bucki, Berger, Lavin, Szukala

O. INFORMATION TECHNOLOGY:

P. PLANNING:

1. Resolution 2023-795

Scheduling a Public Hearing Regarding Designation of 22 Chateau Terrace as a Local Historic Landmark

WHEREAS, The Town of Amherst has many significant historic, architectural and cultural landmarks within its borders; and

WHEREAS, On March 21, 2023 the Town of Amherst Historic Preservation Commission heard a resident petition for a landmark designation application for 22 Chateau Terrace; and

WHEREAS, The Amherst Historic Preservation Commission held a public hearing on August 8, 2023 on the designation of the 22 Chateau Terrace as a Town historic landmark; and

WHEREAS, Finding that it is associated with the lives of individuals or of people or of events significant in national, state or local history and embodies the distinctive characteristics of the Craftsman-style architecture and represents an established and familiar visual feature of the neighborhood as the first residential structure for the gateway of the Chateau neighborhood, and the HPC voted at its September 12, 2023 meeting to recommend historic designation of the 22 Chateau Terrace to the Town Board; now therefore be it

RESOLVED, In accordance with the Historic Preservation Commission Rules of Order, the Amherst Town Board schedules a public hearing on the date of October 16, 2023 on the matter of designation of 22 Chateau Terrace as a local historic landmark.

9/18/2023
A motion to withdraw was made by Supervisor Kulpa, seconded by Councilmember Berger and unanimously approved 5-0.

RESULT:	**WITHDRAWN**

2. Resolution 2023-796

To Authorize Amendments to the Community Development Program First-Time Homebuyer Program

WHEREAS, the Community Development Program has offered assistance for over 20 years to income eligible first-time homebuyers by assisting them with closing costs in order to purchase a home and this program is a priority in the 5 Year Consolidated Plan to expand homeownership opportunities to low-and-moderate income individuals; and

WHEREAS, due to the increased cost of housing and high interest rates the program can no longer qualify any clients with the current program terms; and

WHEREAS, Community Development staff are proposing program revisions to offer down payment assistance in addition to closing cost assistance, with a limit of up to $50,000 and that assistance will be in the form of interest-free loans with the closing cost portion due back when the house is sold or transferred while the down payment portion will be forgiven after 15 years; NOW THEREFORE,

BE IT RESOLVED, the Town of Amherst Town Board hereby authorizes the above amendments to the First-Time Homebuyer Program.

9/18/2023
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Deputy Supervisor
AYES:	Kulpa, Bucki, Berger, Lavin, Szukala

Q. POLICE:

1. Resolution 2023-797

Grant Agreement FY 2023 Homeland Security Grant Program Red Team Exercise (CRS#4268) New York State Division of Homeland Security and Emergency Services

TOWN BOARD AGENDA ITEM: SEPTEMBER 18, 2023

TO: **Town Board**

FROM: **Scott P. Chamberlin, Chief of Police**

RE: **Grant Agreement**
FY 2023 Homeland Security Grant Program
Red Team Exercise (CRS#4268)
New York State Division of Homeland Security and Emergency Services

Kindly adopt a resolution authorizing the Supervisor to adopt and execute the attached grant agreement between the Town of Amherst (Police) and the New York State Division of Homeland Security and Emergency Services with regard to the above-entitled matter. This grant agreement has successful completed the Contract Routing System.

Thank you.

SPC:msl
Attachment
C: Tim Koller, Deputy Town Clerk **(Agenda Item: September 18, 2023)**

9/18/2023
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Deputy Supervisor
AYES:	Kulpa, Bucki, Berger, Lavin, Szukala

R. SENIOR SERVICES:

1. Resolution 2023-798

Xavus Maintenance and Service Agreement CRS #4305

We respectfully request Town Board permission to authorize the Supervisor to sign the Agreement to extend the Maintenance and Service Agreement between the Town of Amherst (Department of Senior Services) and Xavus Solutions, LLC DBA MySeniorCenter after successful completion of the CRS Routing System.

9/18/2023
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Deputy Supervisor
AYES:	Kulpa, Bucki, Berger, Lavin, Szukala

S. SEWER/PLANT 16:

1. Resolution 2023-799

USGS Joint Funding Agreement - REVISED For Water Resource Investigations FY 2023-2024, CRS #4292

The Engineering Department is requesting Town Board approval and permission for the Supervisor to sign the above referenced Joint Funding Agreement. This agreement is for the operation and maintenance of the gaging stations with telemetry at Ellicott Creek below Williamsville (04218518) and Tonawanda Creek Rapids (04218000). The term of this agreement is October 1, 2023 to September 30, 2024.

The gaging stations are used by the Town for flood studies, and also to forecast the possibility of impending flooding. The water level monitors located in Ellicott Creek and Tonawanda Creek are extremely beneficial and necessary for our town's flood monitoring.

The Town of Amherst's share for the upcoming term will be $16,121.00 and the Town of Clarence's will be $921.00. U.S. Geological Survey contributions for this agreement are $4,097.00 for a combined total of $21,139.00. Funds are available in Account H-8000-4110.

This request is pending successful completion of the contract review process. Thank you for considering our request.

9/18/2023
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Deputy Supervisor
AYES:	Kulpa, Bucki, Berger, Lavin, Szukala

2. Resolution 2023-800

Payment Authorization New Enterprise Stone & Lime

The Engineering Department - Water Pollution Control Facility is requesting the Town Board authorize payment to New Enterprise Stone & Lime for invoice 8142302 in the amount of $1,283.66. The contractor mistakenly got Type 3 Binder Asphalt from them in August but the contract for this type of asphalt is with Cambria Asphalt.

Funding for this purchase is available in account G9000-4330.

Thank you for considering this request.

9/18/2023
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Deputy Supervisor
AYES:	Kulpa, Bucki, Berger, Lavin, Szukala

T. YOUTH AND RECREATION:

XIV. UNFINISHED BUSINESS

XV. COMMUNICATIONS

1. Communication 2023-110

Request to Set a Public Hearing for the FY2024 Annual Action Plan

Please set a Public Hearing date of October 16, 2023 for the Community Development FY2024 Annual Action Plan.

9/18/2023
Consent

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Deputy Supervisor
AYES:	Kulpa, Bucki, Berger, Lavin, Szukala

2. Communication 2023-111

Notice of Claim: Marcus Elliot Sr., as Parent and Natural Guardian of Marcus Elliot Jr. Vs. Town of Amherst

9/18/2023
Referred to Town Attorney

RESULT:	**REFERRED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Deputy Supervisor
AYES:	Kulpa, Bucki, Berger, Lavin, Szukala

3. Communication 2023-112

Notice of Claim: Peter C. Bonsey & Jan E. Hamilton Vs. Town of Amherst

9/18/2023
Referred to Town Attorney

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Deputy Supervisor
AYES:	Kulpa, Bucki, Berger, Lavin, Szukala

4. Communication 2023-113

Notice of Claim: Matthew C. Pretorius Vs. Town of Amherst

9/18/2023

Referred to Town Attorney

RESULT:	**REFERRED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Deputy Supervisor
AYES:	Kulpa, Bucki, Berger, Lavin, Szukala

5. Communication 2023-114

Third Notice of Claim: Lee Fang Vs. Town of Amherst

9/18/2023
Referred to Town Attorney

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Deputy Supervisor
AYES:	Kulpa, Bucki, Berger, Lavin, Szukala

6. Communication 2023-115

Summons and Complaint: U.S. Bank Trust National Association Vs. Town of Amherst Et Al.

9/18/2023
Referred to Town Attorney

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Deputy Supervisor
AYES:	Kulpa, Bucki, Berger, Lavin, Szukala

XVI. PUBLIC IMPROVEMENT PERMITS

XVII. SUSPENSION OF RULES

Supervisor Kulpa moved to open Suspension of Rules to bring forth 1 unlisted item. The motion was seconded by Councilmember Lavin and unanimously approved 5-0. Suspension of Rules was opened at 8:21 PM.

There being no further business requiring Suspension of Rules, Supervisor Kulpa moved to close, seconded by Councilmember Berger and unanimously approved 5-0. Suspension of Rules was closed at 8:22 PM.

1. Resolution 2023-801

Request Change Order Proposal

The Supervisor requested to make a motion to ask Engineering Services to request a Change Order Proposal for an addition of a Radar Speed Feedback Sign for Westfield Road.

9/18/2023
A motion to approve was made by Supervisor Kulpa, seconded by Councilmember Lavin and unanimously approved 5-0.

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Shawn Lavin, Councilmember
AYES:	Kulpa, Bucki, Berger, Lavin, Szukala

XVIII. PUBLIC EXPRESSION #2

This is an opportunity for residents to comment on matters involving Amherst other than those pertinent to Public Hearings that day. Speakers will be limited to 3 minutes.

A motion to open Public Expression was made by Supervisor Kulpa, seconded by Deputy Supervisor Bucki and unanimously approved 5-0. Public Expression was opened at 8:22 PM.

There were no speakers from the public, therefore Supervisor Kulpa moved to close Public Expression, seconded by Deputy Supervisor Bucki and unanimously approved 5-0. Public Expression was closed at 8:22 PM.

XIX. ADJOURNMENT

There being no further business to come before the Town Board, Supervisor Kulpa moved to adjourn, seconded by Councilmember Lavin and unanimously approved 5-0. The Town Board meeting of September 18, 2023 was adjourned at 8:22 PM.

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 09/18/23 07:00 PM
Department: Town Attorney
Initiated by: **Martin A. Polowy**
Co-Sponsored by:

DOC ID: 27987 **RESOLUTION 2023-774** **ROLL CALL VOTE (ADOPTED)**

Town Culvert Replacement Projects (Bond Resolution - $100,000)

AGENDA ITEM : SEPTEMBER 18TH, 2023

TO: **Town Board**

FROM: **Martin A. Polowy, Esq., Town Attorney**

DATE: **September 13, 2023**

RE: **Town Culvert Replacement Projects**
2023 CIP Project Nos. E-33
Bond Resolution - $100,000

The above-referenced matter is scheduled for a Public Hearing on September 18, 2023 at 7:00 p.m. In this regard, kindly adopt a resolution (1) Adopting the attached SEQR determination for the above project as determined by the Town of Amherst Planning Department **prior to the Public Hearing being deemed closed**; and (2) Adopting the attached bond documents **once the Public Hearing has been deemed closed**.

For ease of reference and to provide detailed information regarding the bond action, also attached is the Map Plan and Report for the project.

Thank you.

MAP:nmb
Attachments
c: Tim Koller, Deputy Town Clerk
(w/attachment, **Agenda Item - September 18, 2023**)
Daryl C. Bramer, Comptroller *(w/attachment)*
Lynda Juul, Director of Finance *(w/attachment)*
Dan Howard, Director of Planning *(w/attachment)*
Christopher P. Schregel, Project Manager *(w/attachment)*

9/18/2023
A motion to open the public hearing was made by Supervisor Kulpa, seconded by Deputy Supervisor Bucki and unanimously approved 5-0. The public hearing was opened at 7:04 PM.

Chris Schregel, Project Manager, presented.

A motion to approve the SEQR determination was made by Supervisor Kulpa, seconded by

Deputy Supervisor Bucki and unanimously approved 5-0.

There were no speakers from the public, therefore Supervisor Kulpa moved to close the hearing, seconded by Deputy Supervisor Bucki and unanimously approved 5-0. The public hearing was closed at 7:09 PM.

A motion to adopt the Bond Resolution was made by Supervisor Kulpa, seconded by Deputy Supervisor Bucki and unanimously approved via Roll Call vote 5-0.

FINANCIAL IMPACT:

Bond Resolution - $100,000

RESULT:	**ROLL CALL VOTE (ADOPTED) [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Deputy Supervisor
AYES:	Kulpa, Bucki, Berger, Lavin, Szukala

Amherst

Town of Amherst Planning Department *Erie County, New York*

Brian J. Kulpa
Supervisor

Daniel C. Howard, AI
Planning Director

Daniel J. Ulatowski, AI
Assistant Planning Dire

Transmitted electronically

MEMORANDUM August 14, 2023

TO: Christopher Schregel, Project Manager
Engineering Department

FROM: Daniel J. Ulatowski, AICP, Assistant Planning Director

RE: SEQR Determination
Town Culvert Replacement Projects
2023-2028 C.I.P. Project E-33

The Planning Department has reviewed the Map, Plan & Report for the subject project and has determined it to be a Type II action under the provisions of SEQR according to Part 617.5. Therefore, no further environmental work is required.

Please contact our office if you have any questions.

X:\Special_Projects\SEQR_Engineering & Other TOA\Type_II_Actions_(PJ-2015-001)\E_33 Town Culvert Replacement_08_14_2023.docx

cc: Martin Polowy, Town Attorney
Daniel Howard, Planning Director

Attachment: SEQR E-33 (RES-2023-774 : Town Culvert Replacement Projects (Bond Resolution - $100,000))

EXTRACT OF MINUTES

Meeting of the Town Board of the

Town of Amherst, in the County of Erie, New York

September 18, 2023

A regular meeting of the Town Board of the Town of Amherst, in the County of Erie, New York, was held at the Town Hall, 5583 Main Street, Williamsville, New York, on September 18, 2023.

There were present:	Hon. Brian J. Kulpa, Supervisor; and
Board Members:	Jacqualine Berger, Councilwoman, Deborah Bruch Bucki, Deputy Supervisor/Councilwoman, Shawn Lavin, Councilman Michael R. Szukala, Councilman
There were absent:	
Also present:	Francina J. Spoth, Town Clerk

* * *

The Supervisor stated that a public hearing had been called for this meeting at the Town Hall, 5583 Main Street, Williamsville, New York, at 7 o'clock P.M. (Prevailing Time) to consider the increase and improvement of facilities of the Town's Consolidated Sanitary Sewer District (the "District"), consisting of the planning costs for Town Culvert Replacement Projects, at the estimated maximum cost of $100,000 (2023-2028 CIP Project No. E-33), as described in the map, plan and report dated August, 2023 prepared by the Town Engineering Department; and to hear all persons interested in the subject thereof concerning the same and for such other action on the part of the Town Board with relation thereto as may be required by law. The Town Clerk presented affidavits showing that the Notice of said public hearing had been duly published and posted pursuant to the provisions of Article 12 of the Town Law.

Attachment: CertExMins (RES-2023-774 : Town Culvert Replacement Projects (Bond Resolution - $100,000))

The Supervisor stated that the hearing in the said matter was now open and asked if there were any interested persons present who desired to be heard. The following persons appeared in favor of such increase and improvement of facilities of said District:

The following persons appeared in opposition to such increase and improvement of facilities:

The Supervisor inquired as to whether there were any other persons present who wished to be heard. No one appeared, whereupon the Supervisor declared the public hearing closed.

Attachment: CertExMins (RES-2023-774 : Town Culvert Replacement Projects (Bond Resolution - $100,000))

CERTIFICATE

I, FRANCINA J. SPOTH, Town Clerk of the Town of Amherst, in the County of Erie, State of New York, HEREBY CERTIFY that the foregoing annexed Extract of Minutes of a meeting of the Town Board of said Town of Amherst duly called and held on September 18, 2023, has been compared by me with the original minutes as officially recorded in my office as Town Clerk, and is a true, complete and correct copy thereof and of the whole of said original minutes.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of said Town of Amherst this 18th day of September, 2023.

(SEAL)

Francina J. Spoth, Town Clerk
Town of Amherst

Attachment: CertExMins (RES-2023-774 : Town Culvert Replacement Projects (Bond Resolution - $100,000))

BOND RESOLUTION OF THE TOWN OF AMHERST, NEW YORK, ADOPTED SEPTEMBER 18, 2023, APPROPRIATING $100,000 FOR THE INCREASE AND IMPROVEMENT OF FACILITIES OF THE TOWN'S CONSOLIDATED SANITARY SEWER DISTRICT, AND AUTHORIZING THE ISSUANCE OF BONDS OF SAID TOWN IN THE PRINCIPAL AMOUNT OF $100,000 TO FINANCE SAID APPROPRIATION

Offered by: _____

Seconded By: _____

Recital

WHEREAS, after a public hearing duly called and held on September 18, 2023, the Town Board of the Town of Amherst (the "Town") determined that it is in the public interest to increase and improve the facilities of the Consolidated Sanitary Sewer District (herein referred to as the "District") in the estimated maximum cost of $100,000, consisting of the planning costs for Town Culvert Replacement Projects, as described in the map, plan and report dated August, 2023 prepared by the Town Engineering Department, and ordered that such facilities be so increased and improved;

Now, therefore, be it

RESOLVED BY THE TOWN BOARD OF THE TOWN OF AMHERST, IN THE COUNTY OF ERIE, NEW YORK (by the favorable vote of not less than two-thirds of all the members of said Board) AS FOLLOWS:

Attachment: CertBondReso (RES-2023-774 : Town Culvert Replacement Projects (Bond Resolution - $100,000))

Section 1. The Town hereby appropriates the amount of $100,000 for the increase and improvement of facilities of the District, consisting of the planning costs for Town Culvert Replacement Projects, at the estimated maximum cost of $100,000 (2023-2028 CIP Project No. E-33) in connection therewith, as described in the map, plan and report dated August, 2023 prepared by the Town Engineering Department. The estimated maximum cost thereof, including preliminary costs and costs incidental thereto and the financing thereof, is $100,000. The plan of financing includes the issuance of $100,000 bonds of the Town to finance said appropriation and the assessment, levy and collection of assessments upon the several lots and parcels of land within the District which the Town Board shall deem especially benefited by said facilities, so much upon and from each as shall be in just proportion to the amount of benefit which the improvement shall confer upon the same.

Section 2. Bonds of the Town are hereby authorized to be issued in the principal amount of $100,000 pursuant to the provisions of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (herein called the "Law"), to finance said appropriation.

Section 3. The following additional matters are hereby determined and stated:

(a) The period of probable usefulness of the specific object or purpose for which said bonds are authorized to be issued, within the limitations of Section 11.00 a. 62(2nd) of the Law, is five (5) years.; and

(b) The proceeds of the bonds herein authorized and any bond anticipation notes issued in anticipation of said bonds may be applied to reimburse the Town for expenditures made after the effective date of this resolution. The foregoing statement of intent with respect to

Attachment: CertBondReso (RES-2023-774 : Town Culvert Replacement Projects (Bond Resolution - $100,000))

reimbursement is made in conformity with Treasury Regulation Section 1.150-2 of the United States Treasury Department.

(c) The proposed maturity of the serial bonds authorized by this resolution will exceed five (5) years.

Section 4. Each of the bonds authorized by this resolution and any bond anticipation notes issued in anticipation of said bonds shall contain the recital of validity prescribed by Section 52.00 of the Law and said bonds and any notes issued in anticipation said bonds shall be general obligations of the Town, payable as to both principal and interest by a general tax upon all the taxable real property within the Town. The faith and credit of the Town are hereby irrevocably pledged to the punctual payment of the principal of and interest on said bonds and any notes issued in anticipation of the sale of said bonds, and provision shall be made annually in the budget of the Town by appropriation for (a) the amortization and redemption of the bonds and any notes issued in anticipation thereof to mature in such year and (b) the payment of interest to be due and payable in such year.

Section 5. Subject to the provisions of this resolution and of the Law and pursuant to the provisions of Section 21.00 of the Law relative to the authorization of the issuance of bonds with substantially level or declining annual debt service, Section 30.00 relative to the authorization of the issuance of bond anticipation notes and Section 50.00 and Sections 56.00 to 60.00 and 168.00 of the Law, the powers and duties of the Town Board relative to authorizing bond anticipation notes and prescribing the terms, form and contents and as to the sale and issuance of the bonds herein authorized, and the renewals of said bond anticipation notes, and as to executing contracts for credit enhancements and providing for substantially level or declining annual debt service, are hereby delegated to the Supervisor, the chief fiscal officer of the Town.

Attachment: CertBondReso (RES-2023-774 : Town Culvert Replacement Projects (Bond Resolution - $100,000))

Section 6. The validity of the bonds authorized by this resolution, and of any notes issued in anticipation of said bonds, may be contested only if:

(a) such obligations are authorized for an object or purpose for which the Town is not authorized to expend money, or

(b) the provisions of law which should be complied with at the date of the publication of such resolution, or a summary thereof, are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or

(c) such obligations are authorized in violation of the provisions of the constitution.

Section 7. This resolution shall take effect immediately and the Town Clerk is hereby authorized and directed to publish the foregoing bond resolution, in summary, in *"The Amherst Bee,"* a newspaper having a general circulation in said Town, which newspaper is hereby designated as the official newspaper of the Town for such publication, together with the Town Clerk's statutory notice in the form prescribed by Section 81.00 of the Local Finance Law of the State of New York.

Attachment: CertBondReso (RES-2023-774 : Town Culvert Replacement Projects (Bond Resolution - $100,000))

The adoption of the foregoing Resolution was duly put to a vote on roll call, which resulted as follows:

Supervisor Brian J. Kulpa	voting _____
Councilwoman Jacqualine Berger	voting _____
Deputy Supervisor/Councilwoman Deborah Bruch Bucki	voting _____
Councilman Shawn Lavin	voting _____
Councilman Michael R. Szukala	voting _____

The Resolution was declared adopted.

Attachment: CertBondReso (RES-2023-774 : Town Culvert Replacement Projects (Bond Resolution - $100,000))

CERTIFICATE

I, FRANCINA J. SPOTH, Town Clerk of the Town of Amherst, in the County of Erie, State of New York, HEREBY CERTIFY that the foregoing annexed resolution of the Town Board of said Town adopted at a meeting duly called and held on September 18, 2023, has been compared by me with the original resolution as officially recorded in my office in the Minute Book of said Town Board and is a true, complete and correct copy thereof and of the whole of said resolution.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of said Town of Amherst this 18th day of September, 2023.

(SEAL)

Francina J. Spoth, Town Clerk
Town of Amherst

Attachment: CertBondReso (RES-2023-774 : Town Culvert Replacement Projects (Bond Resolution - $100,000))

At a meeting of the Town Board of the Town of Amherst, in the County of Erie, New York, held at the Town Hall, 5583 Main Street, Williamsville, New York, on the 18th day of September, 2023.

PRESENT:

Hon. Brian J. Kulpa, Supervisor
Jacqualine Berger, Councilwoman
Deborah Bruch Bucki, Deputy Supervisor/ Councilwoman
Shawn Lavin, Councilman
Michael R. Szukala, Councilman

In the Matter

of the

Increase and Improvement of Facilities of the Consolidated Sanitary Sewer District, in the Town of Amherst, in the County of Erie, New York, pursuant to Section 202-b of the Town Law

---

Offered by: _____

Seconded By: _____

RESOLUTION AND
ORDER AFTER PUBLIC
HEARING

WHEREAS, the Town Board of the Town of Amherst (herein called the "Town"), in the County of Erie, New York, on behalf of Consolidated Sanitary Sewer District (herein referred to as the "District"), has caused the Town Engineering Department, engineers duly licensed by the State of New York (the "Engineer"), to prepare a map, plan and report dated

Attachment: CertResoOrderAfterPH (RES-2023-774 : Town Culvert Replacement Projects (Bond Resolution - $100,000))

August, 2023 for the increase and improvement of facilities of the District, consisting of the planning costs for Town Culvert Replacement Projects, at the estimated maximum cost of $100,000 (2023-2028 CIP Project No. E-33) required in connection therewith as described in said report; and

WHEREAS, the Engineer has estimated that the cost of such increase and improvement of facilities shall be $100,000 and said map, plan and report have been filed with the Town Board; and

WHEREAS, the Town Board adopted an Order describing in general terms the proposed increase and improvement of such facilities, specifying the estimated cost thereof, and stating the Town Board would meet to hear all persons interested in said increase and improvement of facilities on September 18, 2023 at 7 o'clock P.M. (Prevailing Time) at the Town Hall, 5583 Main Street, Williamsville, New York; and

WHEREAS, a Notice of such public hearing was duly published and posted pursuant to the provisions of Article 12 of the Town Law; and

WHEREAS, such public hearing was duly held by the Town Board on the 18th day of September, 2023 at 7 o'clock P.M. (Prevailing Time) at the Town Hall, 5583 Main Street, Williamsville, New York, with considerable discussion on the matter having been had and all persons desiring to be heard having been heard, including those in favor of and those in opposition to said increase and improvement of such facilities; and

WHEREAS, the Town Board, as lead agency, has given due consideration to the impact that the project described herein may have on the environment and has determined that such project is a Type II project which will not result in any significant adverse environmental

Attachment: CertResoOrderAfterPH (RES-2023-774 : Town Culvert Replacement Projects (Bond Resolution - $100,000))

impacts, pursuant to the State Environmental Quality Review Act (SEQRA), constituting Article 8 of the Environmental Conservation Law, and 6 N.Y.C.R.R., Regulations Part 617.5;

Now, therefore, be it

DETERMINED, that it is in the public interest to increase and improve the facilities of the District as hereinabove described, at the estimated total cost of $100,000; and it is hereby

ORDERED, that the facilities of the District shall be so increased and improved and that the Engineer shall prepare plans and specifications and make a careful estimate of the expense of said increase and improvement of such facilities and, with the assistance of the Town Attorney, shall prepare a proposed contract for such increase and improvement of facilities of the District, which plans and specifications, estimate and proposed contract shall be presented to the Town Board as soon as possible; and it is hereby

FURTHER ORDERED, that the expense of said increase and improvement of facilities shall be financed by the issuance of $100,000 bonds of the Town, and the cost of said increase and improvement of facilities, including payment of principal of and interest on said bonds, shall be paid by the assessment, levy and collection of assessments upon the several lots and parcels of land within the District which the Town Board shall deem especially benefited by said facilities, so much upon and from each as shall be in just proportion to the amount of benefit which the improvement shall confer upon the same; and it is hereby

FURTHER ORDERED, that the Town Clerk record, or cause to be recorded, a certified copy of this Resolution and Order After Public Hearing in the office of the Clerk of Erie County within ten (10) days after adoption thereof.

DATED: September 18, 2023

(SEAL)

TOWN BOARD OF THE TOWN OF AMHERST

Attachment: CertResoOrderAfterPH (RES-2023-774 : Town Culvert Replacement Projects (Bond Resolution - $100,000))

The adoption of the foregoing Resolution and Order was duly put to a vote on roll call, which resulted as follows:

Supervisor Brian J. Kulpa	voting _____
Councilwoman Jacqualine Berger	voting _____
Deputy Supervisor/Councilwoman Deborah Bruch Bucki	voting _____
Councilman Shawn Lavin	voting _____
Councilman Michael R. Szukala	voting _____

The Resolution and Order were declared adopted.

Attachment: CertResoOrderAfterPH (RES-2023-774 : Town Culvert Replacement Projects (Bond Resolution - $100,000))

CERTIFICATE

I, FRANCINA J. SPOTH, Town Clerk of the Town of Amherst, in the County of Erie, State of New York, HEREBY CERTIFY that the foregoing annexed resolution and order of the Town Board of said Town adopted at a meeting duly called and held on September 18, 2023, has been compared by me with the original resolution and order as officially recorded in my office in the Minute Book of said Town Board and is a true, complete and correct copy thereof and of the whole of said resolution and order.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of said Town of Amherst this 18th day of September, 2023.

(SEAL)

Francina J. Spoth, Town Clerk
Town of Amherst

Attachment: CertResoOrderAfterPH (RES-2023-774 : Town Culvert Replacement Projects (Bond Resolution - $100,000))

Attachment: MPR E-33 Town Culvert Replacement Projects (RES-2023-774 : Town Culvert Replacement Projects (Bond Resolution - $100,000))

Town of Amherst
Engineering Department
Town Culvert Replacement Projects

2023 – 2028 Capital Improvement Project E-33
TOA Project # 2022.033A
MAP, PLAN & REPORT

AUGUST 2023

Contents:

- Background
- Location
- Existing Conditions – Frankhauser Culvert
- Scope of Work – Frankhauser Culvert
- Funds from any other Sources
- Anticipated Project Schedule
- Financial Summary
- Project Cost Estimate
- Taxation Summary
- SEQR Negative Declaration
- Appendices
  - Appendix A: Location Map
  - Appendix B: Existing Plan
  - Appendix C: Photographs

Prepared by:
Town of Amherst Engineering Department
1100 North Forest Rd., Williamsville, NY 14221
(716) 631 – 7154 / (716) 631 – 7222

Town of Amherst
Engineering Department
Town Culvert Replacement Projects

BACKGROUND:

Culverts are an essential component in the conveyance of Storm Water. The Town of Amherst, NY has hundreds of Town-owned culverts of varying size and condition throughout its stormwater system. A drainage culvert is a structure, such as a pipe or concrete box, that allows water to freely flow under various obstructions. These pipes provide effective stormwater management – allowing the free flow of water under roads, trails, and railways.

When stormwater culverts begin to deteriorate or show signs of structural damage, Town staff and officials are often faced with the following options:

1) Leave the culvert in disrepair, assuming it is still operating at an acceptable level, or
2) Repair to regain its structural integrity, or
3) Complete culvert replacement

This project is for the design of the above option #3 for culvert replacements town wide.

LOCATION:

While, this project is for the design of various culvert replacements town wide in the Town of Amherst, NY, there is a concentration on a culvert replacement Frankhauser Road over Ditch #4.

Specific to Frankhauser Road, this is a two-lane residential road owned and maintained the town of Amherst. Frankhauser Road is a primary connector between NY 324, Sheridan Drive, and NY 263 Millersport Highway for approximately 840 residents located within the surrounding subdivisions, Maple mere Elementary school, Linden Hill Park and Restoration Church. Frankhauser Road aligns with Flint Road at the intersection with Millersport Highway. Flint Road is one of the main entrances to SUNY University of Buffalo, providing an alternate route for students and faculty to connect to Sheridan Drive and Maple Road. See Appendix 'A' for a location of the Frankhauser Rd. culvert.

EXISTING CONDITION - FRANKHAUSER CULVERT:

The existing Frankhauser culvert is a corrugated metal steel plate arch structure. The original 34' section of the culvert is heavily deteriorated along the lower portion with significant sections of the bottom disconnected from the culvert walls due to corrosion along the lower bolt line. An existing gas line runs through the crown of the culvert at the interface. The crown of the culvert shows signs of flattening under the roadway section due to minimal cover. Significant settlement (up to 7") and possible loss of fill is noted along full length of the culvert on both sides. The remaining 50' extension constructed in 1961 is somewhat better condition with corrosion along the lower portion. See Appendix 'B' for an existing plan and Appendix 'C' for existing photographs.

Attachment: MPR E-33 Town Culvert Replacement Projects (RES-2023-774 : Town Culvert Replacement Projects (Bond Resolution - $100,000))

Town of Amherst
Engineering Department
Town Culvert Replacement Projects

SCOPE OF WORK - FRANKHAUSER CULVERT:

In December 2022, the Town of Amherst hired an engineering firm to conduct a Condition Study and Load Rating Report, and a Preliminary Hydraulics Analysis of the existing Frankhauser Culvert. The conclusion of these reports recommends that the culvert be replaced as soon as possible due to the significant deterioration of the structure. The project scope entails a design phase for the complete removal of the existing culvert and head walls. Preliminary analysis indicates that the design phase consider a culvert replacement with a new 12' x 8' precast concrete culvert with 2' of streambed material placed along the invert to provide a 6' clear opening. Other culvert sizes and materials will be explored as part of the design phase. Additional work will include the excavation required to remove the existing structure, realignment of an existing gas and water line, backfill with structural fill, construction of new pavement, including mill and overlay of the approaches, new sidewalks and pedestrian railing along the north side.

FUNDS FROM ANY OTHER SOURCES:

The Town of Amherst continues to seek grant funding from various State and Federal programs. BridgeNY program in particular, is in the New York State Governor's five-year Capital Program at a funding level of $200M per year. BridgeNY is available for local governments to rehabilitate and replace bridges and culverts statewide, implemented by the New York State Department of Transportation (NYSDOT). The Town has been previously successful in receiving BridgeNY grants, and will continue to seek future awards for other funds for culvert replacements, remaining project funds from this bond action will be used to supplement grant funding as either a local overmatch or as a local share for design, as needed. If grant funding and local funds do not entirely cover design phases, additional bond action to supplement these funds will be pursued.

ANTICIPATED PROJECT SCHEDULE:

Bond Action: August 21, 2023
Design Completion: December 31, 2024

FINANCIAL SUMMARY:

The Town of Amherst appropriated funds in the approved 2023-2028 Capital Improvement Program by amendment of the CIP by Town Resolution 2023-681. This project was added as Project E-33, Town Culvert Replacement Projects. The funds have been identified as a Storm Drainage District Bond. Project Completion date is 12/31/24.

Attachment: MPR E-33 Town Culvert Replacement Projects (RES-2023-774 : Town Culvert Replacement Projects (Bond Resolution - $100,000))

Town of Amherst
Engineering Department
Town Culvert Replacement Projects

PROJECT COST ESTIMATE:

Design	$ 99,500
Legal / Administrative / Interest:	$ 500
Amount to be bonded:	**$ 100,000**

TAXATION SUMMARY:

The funds have been identified as a Storm Drainage District Bond with a bond term of 5 years.

Total Amount to be bonded:	**$ 100,000.00**
Bond Term:	**5 Years**
Annual Tax Impacts:	$0.0018 per year, per $1,000 AV
Typical Property Taxation Impacts:	$0.4393 per year, per $250,000 property

Attachment: MPR E-33 Town Culvert Replacement Projects (RES-2023-774 : Town Culvert Replacement Projects (Bond Resolution - $100,000))

Amherst

Town of Amherst Planning Department *Erie County, New York*

Brian J. Kulpa
Supervisor

Daniel C. Howard, AI
Planning Director

Daniel J. Ulatowski, AI
Assistant Planning Dire

Transmitted electronically

MEMORANDUM August 14, 2023

TO: Christopher Schregel, Project Manager
Engineering Department

FROM: Daniel J. Ulatowski, AICP, Assistant Planning Director

RE: SEQR Determination
Town Culvert Replacement Projects
2023-2028 C.I.P. Project E-33

The Planning Department has reviewed the Map, Plan & Report for the subject project and has determined it to be a Type II action under the provisions of SEQR according to Part 617.5. Therefore, no further environmental work is required.

Please contact our office if you have any questions.

X:\Special_Projects\SEQR_Engineering & Other TOA\Type_II_Actions_(PJ-2015-001)\E_33 Town Culvert Replacement_08_14_2023.docx

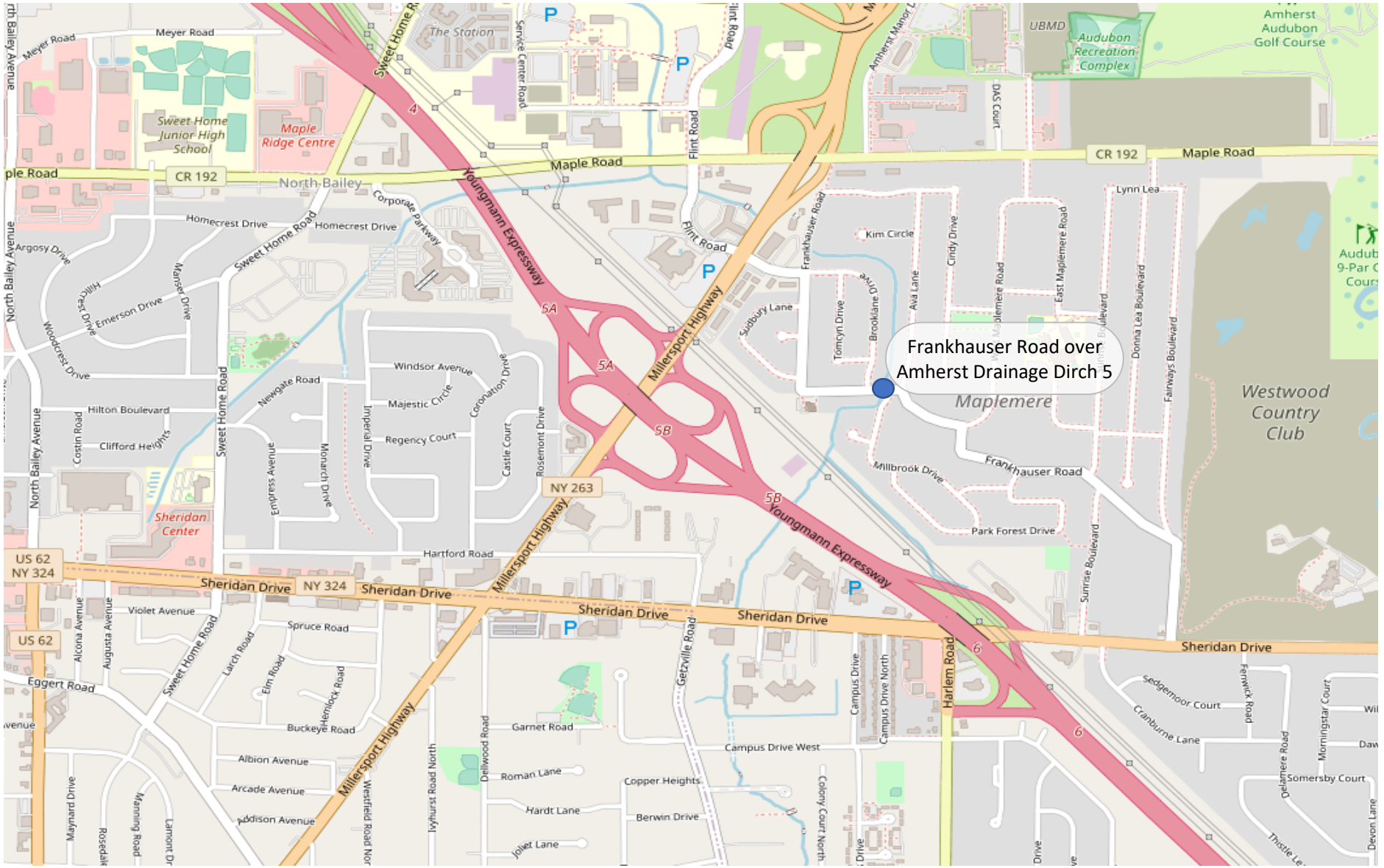
cc: Martin Polowy, Town Attorney
Daniel Howard, Planning Director

Attachment: MPR E-33 Town Culvert Replacement Projects (RES-2023-774 : Town Culvert Replacement Projects (Bond Resolution - $100,000))

Attachment: MPR E-33 Town Culvert Replacement Projects (RES-2023-774 : Town Culvert Replacement Projects (Bond Resolution - $100,000))

Appendix A

Project Location Map for Frankhauser Road Culvert



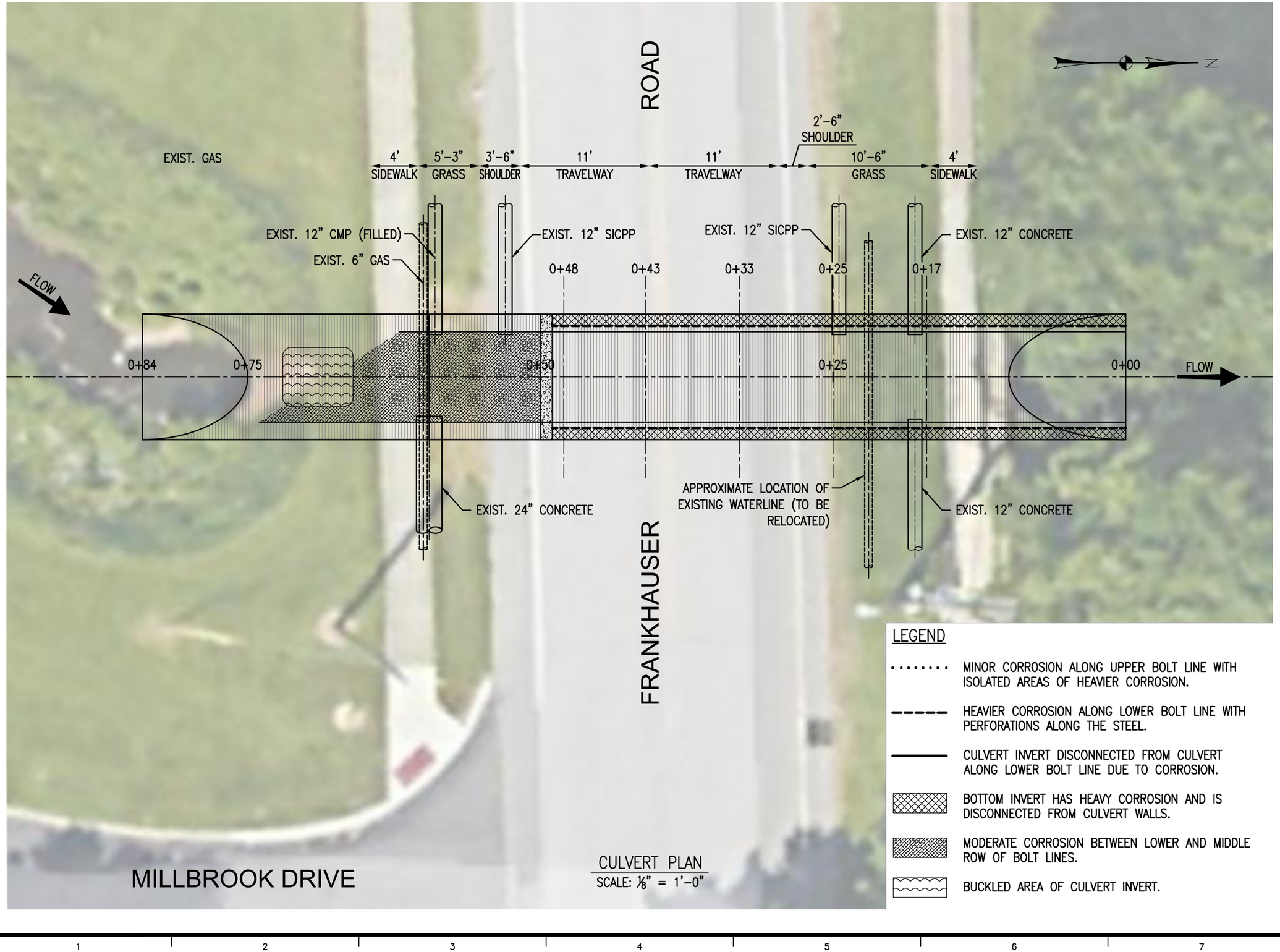
Location Map

Carried:	Frankhauser Road	Owner:	Town of Amherst
Crossed:	Amherst Drainage Ditch 5	County:	Erie County
Latitude:	42.985065	Longitude:	-78.785964

Attachment: MPR E-33 Town Culvert Replacement Projects (RES-2023-774 : Town Culvert Replacement

Attachment: MPR E-33 Town Culvert Replacement Projects (RES-2023-774 : Town Culvert Replacement Projects (Bond Resolution - $100,000))

Appendix B
Existing Culvert Plan for Frankhauser Road Culvert



CULVERT PLAN
SCALE: ⅛" = 1'-0"

LEGEND

- MINOR CORROSION ALONG UPPER BOLT LINE WITH ISOLATED AREAS OF HEAVIER CORROSION.
- HEAVIER CORROSION ALONG LOWER BOLT LINE WITH PERFORATIONS ALONG THE STEEL.
- CULVERT INVERT DISCONNECTED FROM CULVERT ALONG LOWER BOLT LINE DUE TO CORROSION.
- BOTTOM INVERT HAS HEAVY CORROSION AND IS DISCONNECTED FROM CULVERT WALLS.
- MODERATE CORROSION BETWEEN LOWER AND MIDDLE ROW OF BOLT LINES.
- BUCKLED AREA OF CULVERT INVERT.

DIDONATO
ENGINEERING & ARCHITECTURAL PROFESSIONALS
689 Main Street Buffalo, NY 14203
P 716 656-1900 F 716 656-1987
www.didonato.cc

NOTE: UNAUTHORIZED ALTERATION OR ADDITION TO THIS DOCUMENT IS A VIOLATION OF SECTION 7209, PROVISION 2 OF THE NEW YORK STATE EDUCATION LAW

TOWN OF AMHERST
HIGHWAY DEPARTMENT

FRANKHAUSER DITCH 5
CONDITION REPORT

MARK	DATE	DESCRIPTION
ISSUE:		
PROJECT NO:		
DESIGNER PROJECT NO:		22-337
CAD DWG FILE:		ST-06.DWG
DRAWN BY:		JJF
CHECKED BY:		JAI
SCALE:		AS NOTE
COPYRIGHT:		

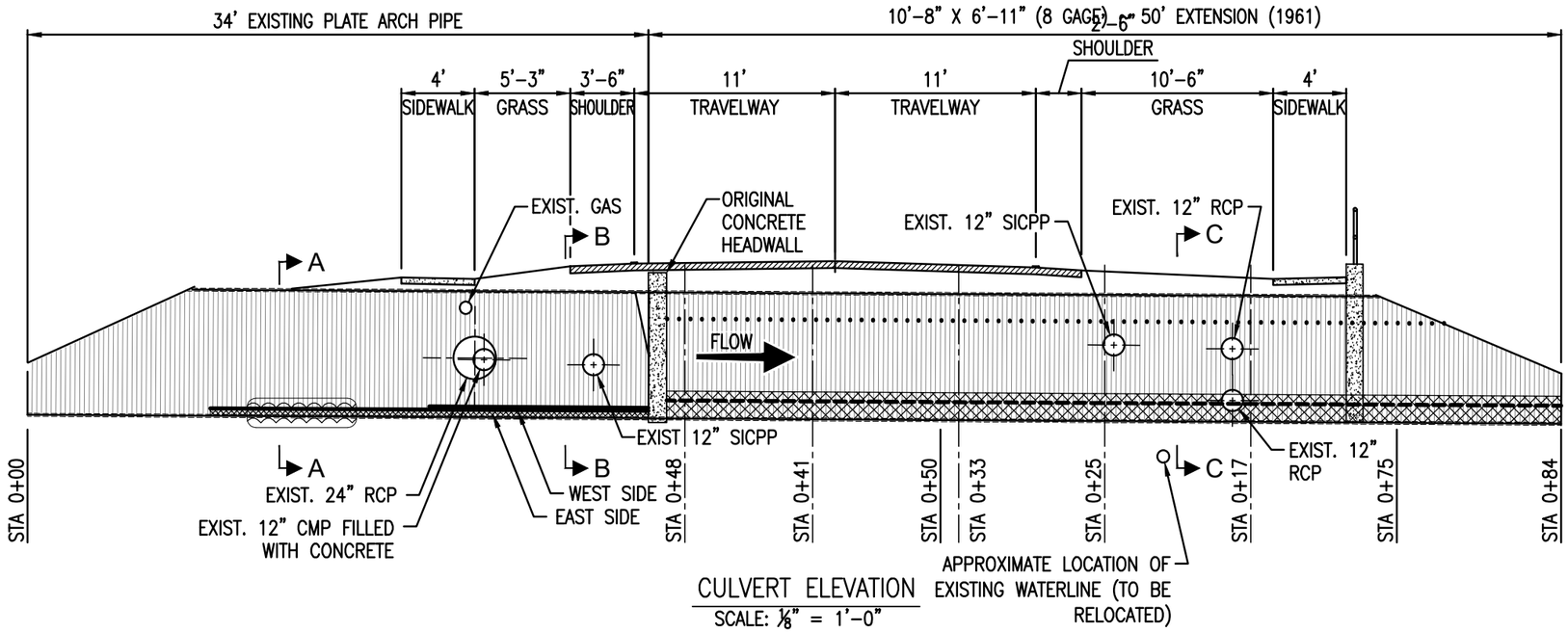
SHEET TITLE

EXISTING PLAN

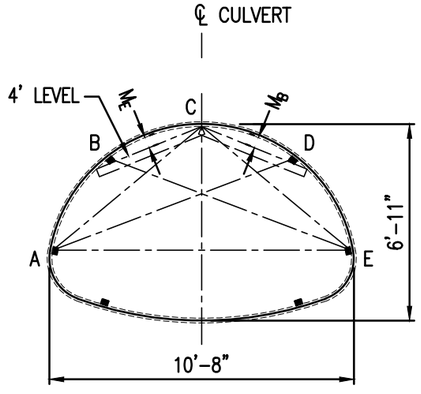
DRAWING# CR1

SHEET# 1 OF 2

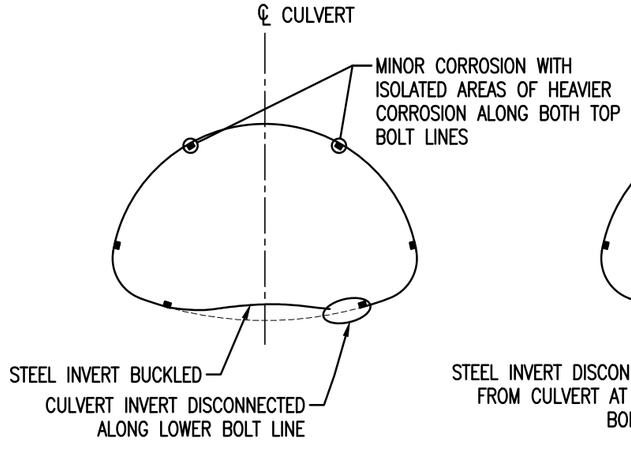
Attachment: MPR E-33 Town Culvert Replacement Projects (RES-2023-774 : Town Culvert Replacement Projects (Bond Resolution - $100,000))



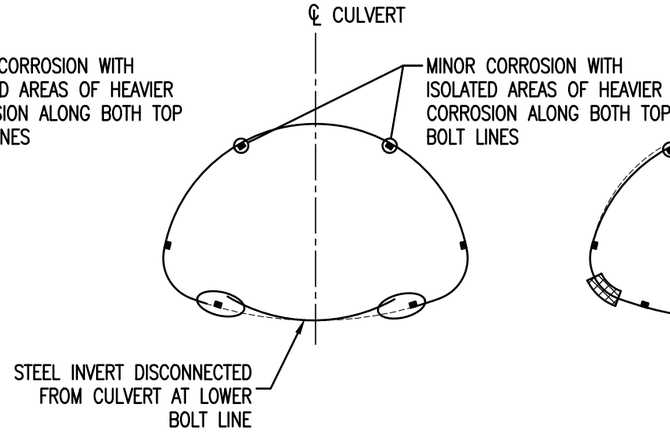
CULVERT ELEVATION
SCALE: ⅛" = 1'-0"



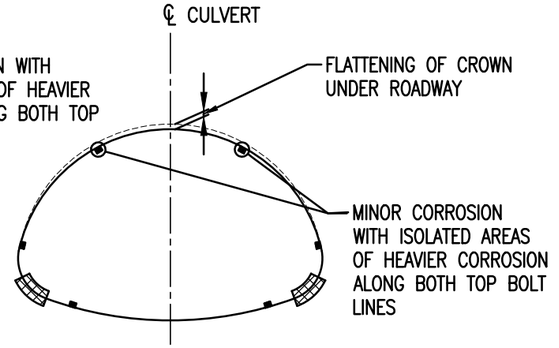
TYPICAL CULVERT SECTION
SCALE: 3/16" = 1'-0"



CULVERT SECTION A-A
SCALE: 3/16" = 1'-0"



CULVERT SECTION B-B
SCALE: 3/16" = 1'-0"



CULVERT SECTION C-C
SCALE: 3/16" = 1'-0"

DIDONATO
ENGINEERING & ARCHITECTURAL PROFESSIONALS
689 Main Street Buffalo, NY 14203
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TOWN OF AMHERST
HIGHWAY DEPARTMENT

FRANKHAUSER DITCH 5
CONDITION REPORT

MARK	DATE	DESCRIPTION
ISSUE:		
PROJECT NO:		
DESIGNER PROJECT NO:		22-337
CAD DWG FILE:		ST-06.DWG
DRAWN BY:		JJE
CHECKED BY:		JAI
SCALE:		AS NOTED
COPYRIGHT:		

SHEET TITLE

GENERAL PLAN AND ELEVATION

DRAWING# CR2

SHEET# 2 OF 2

Attachment: MPR E-33 Town Culvert Replacement Projects (RES-2023-774 : Town Culvert Replacement Projects (Bond Resolution - $100,000))

Attachment: MPR E-33 Town Culvert Replacement Projects (RES-2023-774 : Town Culvert Replacement Projects (Bond Resolution - $100,000))

Appendix C
Photographs for
Frankhauser Road Culvert

Original culvert separated from extension at south shoulder line and gas line running through pipe. Looking south

Original culvert separated from extension at south shoulder line and gas line running through pipe. Looking north.

Gas line running through top of culvert.

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 09/18/23 07:00 PM
Department: Town Clerk
Initiated by: **Timothy Koller**
Co-Sponsored by:

DOC ID: 27999 **RESOLUTION 2023-775** **ADJOURNED**

Special Use Permit for Tier III Solar Energy System at 800 & 850 New Road

Request for a special use permit for a Tier III Solar Energy System at 800 & 850 New Road.

9/18/2023
A motion to open the public hearing was made by Supervisor Kulpa, seconded by Deputy Supervisor Bucki and unanimously approved 5-0. The public hearing was opened at 7:10 PM.

Marc Kenward of Erdman Anthony & Leigh McEntire of Sol Source Power LLC, presented.

The following speakers opposed the project:
Sally Blazynski, 905 New Rd
Heidi Wagonblott, 885 New Rd
Christopher Wyles, 861 New Rd

There were no further speakers from the public, therefore Supervisor Kulpa moved to adjourn, seconded by Deputy Supervisor Bucki and unanimously approved 5-0. The public hearing was adjourned at 7:50 PM.

RESULT:	**ADJOURNED [UNANIMOUS]**	**Next: 10/2/2023 7:00 PM**
MOVER:	Brian J. Kulpa, Supervisor	
SECONDER:	Deborah Bruch Bucki, Deputy Supervisor	
AYES:	Kulpa, Bucki, Berger, Lavin, Szukala	

Amherst
Town of Amherst Planning Department
Erie County, New York

Brian J. Kulpa
Supervisor

Daniel C. Howard,
Planning Direct

Daniel J. Ulatowski,
Assistant Planning Di

Attachment: SP-2023-05 TB letter 091823 (RES-2023-775 : Special Use Permit for Tier III Solar Energy System at 800 & 850 New Road)

Town Board Agenda of September 18, 2023

September 12, 2023

The Honorable Town Board
Town of Amherst
5583 Main Street
Williamsville, NY 14221

Subject: Request for a Special Use Permit for a Tier III Solar Energy System; property located at 800 & 850 New Road, Sol Source Power LLC, Petitioner. (SP-2023-01).

Honorable Members:

The project consists of the construction of a Tier III Solar Energy System (5Mw of power) that includes an access road, the solar array equipment and associated pads interior to the site. The array will be located on 27.52 ± acres of the total 51.98 ± acres of land. A fence will surround the entire project site and vegetative screening will be used along all property lines to conceal the array.

The subject property is a 51.98 ± acre rectangular parcel located on the west side of New Road approximately 800 ± feet north of its intersection with Millersport Highway. The subject site is vacant with scattered trees. The site includes two (2) Federal Jurisdictional Wetland areas and is located within the 100-Year Floodplain. New Road is an Erie County roadway, classified as a collector roadway in Figure 9 of the Bicentennial Comprehensive Plan.

For information on the surrounding zoning and land use, please refer to the attached sketch.

HISTORY OF PREVIOUS REZONING REQUESTS / SITE PLAN ACTIONS:

Rezoning:

The subject site was zoned Suburban Agriculture (SA) with the adoption of the Town wide Zoning Map & Ordinance on January 19, 1976.

Z-1984-26:
A request to rezone land (3.4± acres) at 800 New Road from Suburban Agriculture (SA) to General Business (GB) for the establishment of a nursery-garden center was approved by the Town Board on December 3, 1984 subject to the following deed restriction;

1. That said parcel, together with any additions or improvements thereon, shall solely and exclusively have a primary use as a nursery and secondary use as a landscaping contract business only as started above, and shall not be at any time devoted to any other business use unless consented to or approved by the Town Board of the Town of Amherst.

Honorable Town Board

Request for a Special Use Permit;
Property located at 800 & 850 New Road
Agenda of September 18, 2023

Z-1984-26_A:
A request to remove a declaration of restrictions imposed as part of a rezoning decision limiting use to nursery and landscaping business was approved for the property located at 800 New Road by the Town Board on March 20, 2023.

Z-2022-12:
Request to rezone 3.4± Acres of Land from GB to SA for the property located at 800 New Road was approved by the Town Board on March 20, 2023.

Site Plans:

SP-1985-03	A site plan for the construction of a 1,140 sq. ft. building with 11 parking spaces for a nursery with retail sales on 3.26 +/- acres of land zoned GB was approved by the Planning Board on January 17, 1985.
SP-1985-03_A	Proposal to construct a one-story, 1,728 sq. ft. building with 15 parking spaces on approx. 3 acres of land zoned GB was approved by the Planning Board on November 19, 1987.

The Planning Board offers the following findings consistent with §8-3 of the Zoning Ordinance.

INTENT AND OBJECTIVES OF THE COMPREHENSIVE PLAN
Section 3.3.8 of the Bicentennial Comprehensive Plan states:

> *"Ensuring the long-term viability of agricultural and farming operations is key to maintaining diverse neighborhoods including those with rural character."*

The subject parcel is located within 500 feet of an Erie County Agricultural District and consists of soils that are of statewide importance for farming. A decommissioning plan has been submitted that documents the required procedure to return the land to the state in which it exists prior to development. The proposed use is not a farming activity, however the applicant is required to co-locate an agricultural use, such as an apiary or sheep grazing. The long-term viability of the land to be an agricultural use will not be threatened by the proposed use as a Tier III Solar Energy System and therefore is consistent with the Bicentennial Comprehensive Plan.

Section 4-7 of the Bicentennial Comprehensive Plan states:

> *"Apply best management practices (BMP's) to reduce water quality impact of development."*

Preserve natural vegetation and institute clearing limits for new construction.

The subject project contains two jurisdictional wetlands, Wetland 1, which is 0.92± acres and Wetland 2, which is 11.36± acres. Within Wetland 2, 2.18± acres of trees will be removed as part of the subject solar project. Mitigation for impacts to the wetland habitat for such tree losses should be sought by the Town.

INTENT AND OBJECTIVES OF THE ZONING ORDINANCE
The proposed Tier III Solar Energy System is consistent with Section 3-3-1 of the Zoning Ordinance which establishes the purpose of the Suburban Agriculture district as providing areas for the development of uses that include farms, farm-related activities and non-intensive compatible uses. A Tier III Solar energy system is a non-intensive farm compatible use and therefore is consistent with the intent of the zoning district.

Attachment: SP-2023-05 TB letter 091823 (RES-2023-775 : Special Use Permit for Tier III Solar Energy System at 800 & 850 New Road)

Honorable Town Board

Request for a Special Use Permit;
Property located at 800 & 850 New Road
Agenda of September 18, 2023

CONSISTENCY/COMPATIBILITY WITH SURROUNDING DEVELOPMENT/ZONING

The project is located in the Suburban Agriculture (SA) zoning district; neighboring uses are single family residential on the east, west, and south zoned SA, vacant land to the north zoned SA, and vacant land to the east and south zoned Traditional Neighborhood Development District (TND); therefore, the project is consistent with surrounding land use and zoning designations.

ADEQUATE SERVICES AND UTILITIES

All services and utilities necessary for the proposed rezoning are available and adequate at the subject location. This is a Type I action, and an environmental assessment consistent with SEQR has been prepared for the subject proposal.

The applicant, as required in §203-6-10-7B3(d)(5) has provided confirmation from National Grid for establishment of interconnection to the grid. The applicant has also submitted an Operations and Maintenance Plan that outlines the applicant or their contractor's responsibility for maintaining each component of the system in working condition on a regular basis including inspections on an annual or semi-annual schedule. The Operations and Maintenance Plan also outlines applicable safety requirements for the maintenance of the system.

RECOMMENDATION

The Planning Board at their meeting of August 17, 2023 held a public hearing and approved a site plan for the subject request, and pursuant to Local Law #3-82, as amended, made a determination that the requirements of SEQR have been completed and issued a Negative Declaration for the subject site plan.

Tier III Solar Energy Systems are a permitted use subject to the issuance of a Special Use Permit by the Town Board pursuant to §203-8-6-1D of Town Code,

The Planning Department requests that if the Town Board desires to act on the Special Use Permit request, that a decision date be established after the public hearing so that the Planning Department can prepare a determination of environmental significance pursuant to SEQR, and prepare a resolution for the Town Board's consideration. The petitioner has not yet met with the Amherst IDA to discuss terms of a P.I.L.O.T. Agreement or a Community Benefit Agreement. The Town Board is encouraged to delay a decision date until the Amherst IDA has a draft P.I.L.O.T. and Community Benefit Agreement from the petitioner. Additionally, as a condition of Special Permit approval, the petitioner should provide a wetland habitat restoration plan for the 2.18± acres of tree removal that are proposed within jurisdictional wetland 2.

Very truly yours,

Daniel C. Howard, AICP
Planning Director

DH/TV/ac
Att.
X:\Current_Planning\Files\Site Plans\2023\SP-2023-01_(800_&_850_New_Road)_2023\SP-2023-01_TB_Letter.docx
cc: Martin Polowy, Town Attorney

Planning Board Approval August 17, 2023
Ayes 6; Noes 0; Absent 1

Attachment: SP-2023-05 TB letter 091823 (RES-2023-775 : Special Use Permit for Tier III Solar Energy System at 800 & 850 New Road)

Amherst

Town of Amherst Planning Department *Erie County, New York*

Brian J. Kulpa
Supervisor

Daniel C. Howard,
Planning Direct

Daniel J. Ulatowski,
Assistant Planning Di

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SEQR
Negative Declaration

NOTICE OF DETERMINATION OF NON-SIGNIFICANCE

Lead Agency:	Town of Amherst Planning Board	**Project:**	SP-2023-01
Address:	5583 Main Street Williamsville, NY 14221 (716) 631-7051	**Date:**	August 17, 2023

This notice is issued pursuant to Part 617 and Local Law #3-82, as amended, of the implementing regulations pertaining to Article 8 (State Environmental Quality Review) of the Environmental Conservation Law.

The Lead Agency has determined that the proposed action described below will not have a significant adverse effect on the environment.

Title of Action: Site Plan Review

SEQR Status: Type 1 Action

Description of Action: The construction of a Tier III Solar Energy System (5Mw of power) that includes a solar array, an access road and associated equipment pads interior to the site. The array will be located on 27.52 ± acres of the total 51.98 ± acres of land and a fence will surround the entire project site. Work will include the site improvements not specifically stated above, including, stormwater, utilities, grading, lighting, paving, and landscaping.

Location: 800 & 850 New Road, Amherst, Erie County

Petitioner: Sol Source Power, LLC

Attachment: SP-2023-05 TB letter 091823 (RES-2023-775 : Special Use Permit for Tier III Solar Energy System at 800 & 850 New Road)

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REASONS SUPPORTING THIS DETERMINATION

Based on information submitted by the applicant including a Full Environmental Assessment Form (EAF) - Part I, (as amended) and a complete site plan application, a preliminary staff analysis was undertaken. Compared to the criteria listed in Section 617.7, all indications are that this action will not have a significant impact on the environment, as follows:

1. The Engineering Department on April 18, 2023 reviewed the Grading, Drainage and Utility, and Erosion Control Plans submitted on April 14, 2023. A Custom Soil Resource Report for the subject site was prepared by the United States Department of Agriculture with the National Resources Conservation Services and submitted to the Planning Department on January 23, 2023. The project is not expected to cause a substantial adverse change in existing air quality, ground or surface water quality or quantity, or noise levels; a substantial increase in solid waste production; or a substantial increase in the potential for erosion, flooding, leaching or drainage problems.

   The Stormwater Pollution Prevention Plan (SWPPP) submitted on July 20, 2023 was also reviewed. Based on its review of these documents, the Stormwater Management Officer has determined that the project has or will have met all applicable requirements and has no objection to its approval.

2. The Planning Department reviewed a Landscape Plan submitted on July 18, 2023 and determined that it meets or exceeds Zoning Ordinance requirements for greenspace. The Landscape Plan has or will have met all Zoning Ordinance and Town requirements for landscaping.

   A Forestry Assessment Report prepared by Keister Consulting Inc., stated that the removal of tress on the subject site is justified due to the lack of significant trees both in size and health. It was further stated that many of the existing trees are being negatively impacted by insects and that the existing groundcover would prohibit the growth of new trees.

   Further, a Habitat Assessment Report was prepared by Earth Dimensions Inc., concluded that the subject site contains a potentially suitable habitat for the Monarch Butterfly and the Northern long-eared Bat. In response, the petitioner has agreed to use a wildflower seed mix to mitigate for the potential impacts to the Monarch Butterfly' habitat. The New York State Department of Environmental Conservation (NYSDEC) in their letter dated May 23, 2023, states that there is "no records of rare or state-listed animals or plants, or significant natural communities at the project site or in its immediate vicinity".

   Therefore, the project will not result in the removal or destruction of large quantities of vegetation or fauna; or in significant adverse impacts to fish or wildlife species, habitats or other natural resources.

Attachment: SP-2023-05 TB letter 091823 (RES-2023-775 : Special Use Permit for Tier III Solar Energy System at 800 & 850 New Road)

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3. The project is not expected to create any substantive conflict with the Town Comprehensive Plan. The Planning Department in their review of August 1, 2023 has reviewed the application documents and Building Department in their review of April 19, 2023 has reviewed the application documents and determined that the subject project has or will have met all International Building Code – 2015 and Zoning Ordinance regulations.

4. The project is within an area identified by the State as having potential archaeological or historical significance. A Phase 1 Archeological Investigation was prepared by Hartgen Archeological Resources and received by the Planning Department on July 18, 2023 concluded that the project will not have a significant impact on historical or cultural resources. The NYS Office of Parks, Recreation and Historic Preservation has reviewed the project and, as stated in their letter of June 13, 2023, determined that there will be no impact on these resources.

5. The project will not impair the character or quality of important aesthetic resources or of existing community or neighborhood character. The project is located in the Suburban Agriculture (SA) zoning district; neighboring uses are single family residential on the east, west, and south zoned SA, vacant land to the north zoned SA, and vacant land to the east and south zoned Traditional Neighborhood Development District (TND); therefore, the project is consistent with surrounding land use and zoning designations.

6. The proposed subject development will include the construction of a Tier III Solar Energy System which will not cause a major change in the use of either the quantity or type of energy.

7. The project will not create any hazard to human health. The Fire Chief's Association on April 21, 2023, has reviewed the project and has no objection to the approval of the site plan, as all requirements of this agency has or will have been met.

8. The project will not cause a substantial change in the use, or intensity of use, of land including agricultural, open space or recreational resources, or in its capacity to support existing uses. The use of sheep, goats, lambs or practices such as Apiculture is required to be incorporated into the project to maintain an agricultural use of that land. Further, a vegetative management plan has been submitted and reviewed by the Town's Landscape Architect that includes the preservation of existing vegetation and soils. The construction of a Tier III Solar Energy System on approximately 53% of the subject site (27.52 out of 51.98 acres) will be consistent with the scale of surrounding land uses.

9. The function of the proposed construction of a Tier III Solar Energy System will not significantly increase the number of people using the site over its previous level of use.

Attachment: SP-2023-05 TB letter 091823 (RES-2023-775 : Special Use Permit for Tier III Solar Energy System at 800 & 850 New Road)

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10. Review by the Town Traffic/Safety Board dated April 20, 2023, and NYSDOT dated February 2, 2023, indicates that significant negative traffic impacts are not expected to result from the proposed project.

11. A coordinated review of the project has been undertaken by Town Departments, in addition to those mentioned above, Highway on March 27, 2023, Assessor on February 2, 2023, , and Right-of-Way Agent on February 2, 2023 along with outside agencies including the Erie County Department of Environment and Planning on February 22, 2023, New York State Department of Transportation on February 2, 2023, New York State Department of Environmental Conservation on February 9, 2023, and the New York State Office of Parks, Recreation and Historic Preservation on June 13, 2023. These reviews have not identified any significant environmental issues and indicate that the proposal will not have a significant damaging impact on the environment.

12. Issues not specifically mentioned above and/or those not specifically reviewed were not raised by Town departments, outside agencies or the public and are not determined to cause significant negative environmental impacts.

Planning Board Approval
Moved by: Chmiel; Seconded by: Kahn Ayes 6, Noes 0, Absent 1 (Raffaele)

Thomas J. Voigt, Assistant Planner — Date 8/24/23

Robert J. Gilmour, Planning Board Chair — Date 8/24/23.

TV/ac
X:\Current_Planning\Files\Site Plans\2023\SP-2023-01_(800_&_850_New_Road)_2023\SP-2023-01_neg dec_081723.docx
cc: Commissioner of Building
Town Engineer
Fire Chiefs'
Highway
Traffic/Safety
ECDEP
NYSDEC
Steve Long, Sol Source Power, 1 Washington Place, Troy, NY 12180
Marc Kenward, Erdman Anthony Consulting, 145 Culver Rd., Ste. 200, Rochester, NY 14620

Attachment: SP-2023-05 TB letter 091823 (RES-2023-775 : Special Use Permit for Tier III Solar Energy System at 800 & 850 New Road)

TOWN OF AMHERST
PLANNING BOARD
SITE PLAN RESOLUTION
SP-2023-01

PETITIONER

Sol Source Power, LLC
1 Washington Place
Troy, NY 12180

PROPERTY LOCATION

800 & 850 New Road

'23 AUG 25 AM9:46

WHEREAS, the Town of Amherst Planning Board on Thursday, August 17, 2023 held a public hearing on a Site Plan for the construction of a Tier III Solar Energy System, and

WHEREAS, the Planning Board reviewed the plans and specifications for the proposed project, and

WHEREAS, the Site Plan was referred to the Town's various review agencies, and

WHEREAS, in accordance with Section 8-7-9 of the Zoning Ordinance, the Planning Board finds that:

A. The proposed site plan is consistent with the development plan if one is required.

B. The proposed site plan is consistent with the purpose and specific requirements of the Zoning Ordinance and generally consistent with the policies of the Comprehensive Plan.

C. Adequate services and utilities will be available prior to occupancy.

D. The site plan is consistent with all other applicable laws.

E. Pursuant to Local Law #3-82, as amended, the Planning Board has determined that the requirements of SEQR are complete and that the subject proposal is not expected to have a significant adverse effect on the environment.

F. Review by the US Army Corps of Engineers under Section 404 of the Clean Water Act is required since hydric / potentially hydric soils have been identified on the parcel.

NOW THEREFORE BE IT RESOLVED that in accordance with 6 NYCRR, Part 617 and Local Law #3-82, as amended, the Planning Board has issued a Negative Declaration attached hereto, and

NOW THEREFORE BE IT FURTHER RESOLVED that the Planning Board, in accordance with Section 8-7 of the Zoning Ordinance approves said Site Plan subject to the following conditions:

1. That the consideration of signs is specifically excluded from this approval as they require a separate review and approval by the Town.

Attachment: SP-2023-05 TB letter 091823 (RES-2023-775 : Special Use Permit for Tier III Solar Energy System at 800 & 850 New Road)

TOWN OF AMHERST
PLANNING BOARD
SITE PLAN RESOLUTION
SP-2023-01

PETITIONER

Sol Source Power, LLC

PROPERTY LOCATION

800 & 850 New Road

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2. That all dumpsters/trash containers and all mechanical equipment, utility structures, multiple meter boards, generators, and similar appurtenances, including those which are mounted on any part of a primary structure shall be appropriately screened with a fence, wall, and/or landscaping. Provide gate on dumpster enclosure that shall be closed whenever dumpster is not being serviced, enclosure shall be high enough to screen the dumpster(s) within.

3. That as-built record drawings, including location of utilities, be provided to the Engineering Department prior to issuance of a Certificate of Occupancy by the Building Department.

4. At the time of inspection for the certificate of compliance, the Town can require supplemental plantings in accordance with §203-7-2-4B(a) of Town Code to satisfy buffer and screening requirements.

5. The parcels located at 800 & 850 New Road to be merged prior to issuance of final approved site plan drawings.

6. That the petitioner is required to mitigate any glare produced by the array along Hopkins, Smith, New Roads and Millersport Highway by supplementing the existing vegetative screening with additional line-of-sight plantings on the subject site if complaints relating to glare are received by the Building Department.

7. That the petitioner provide a copy of any and all USACOE, USFW, and NYSDEC permit applications to the Planning Department when filed.

8. Tree removals outside of the fenced compound will not be authorized without evidence that such removals are necessary for the operation of the solar arrays.

9. That the petitioner or petitioner's contractor obtain any and all permits from the Erie County Department of Public Works- Highways Division for any work within the New Road right-of-way.

10. That the petitioner satisfy the requirements of the Stormwater Management Officer in their review letter dated May 2, 2023 to the satisfactory of the Officer.

11. That the petitioner provide documentation of the co-location of an agricultural use as required by §203-6-10-7B(8) of Town Code.

12. That any potentially hazardous metals in the solar panels be securely contained in the event of a breakage or fire.

Attachment: SP-2023-05 TB letter 091823 (RES-2023-775 : Special Use Permit for Tier III Solar Energy System at 800 & 850 New Road)

TOWN OF AMHERST
PLANNING BOARD
SITE PLAN RESOLUTION
SP-2023-01

PETITIONER

Sol Source Power, LLC

PROPERTY LOCATION

800 & 850 New Road

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13. That the Town Board issue a Special Use Permit pursuant to §203-8-6-1(D) of Town Code.

The foregoing resolution was adopted by the Town of Amherst Planning Board, August 17, 2023; moved by Chmiel; seconded by Kahn; ayes 6, noes 0; absent 1 (Raffele).

Robert J. Gilmour, Planning Board Chair

8/24/23
Date

TV/ac
X:\Current_Planning\Files\Site Plans\2023\SP-2023-01_(800_&_850_New_Road)_2023\SP-2023-01_resolution_081723.doc
cc: Commissioner of Building
Town Engineer
Fire Chiefs
Traffic/Safety
Highway Superintendent
ECDEP
NYSDEC
Steve Long, Sol Source Power, 1 Washington Place, Troy, NY 12180
Marc Kenward, Erdman Anthony Consulting, 145 Culver Rd., Ste. 200, Rochester, NY 14620

Approved Plan: Erdman Anthony
Received: July 18, 2023

Attachment: SP-2023-05 TB letter 091823 (RES-2023-775 : Special Use Permit for Tier III Solar Energy System at 800 & 850 New Road)

TOWN OF AMHERST PLANNING DEPARTMENT

Application for Major Site Plan Review

For Official Use

File #: _____ **Acreage** _____ **Fee $** _____

Address Verified by Assessor's Office _____ VERIFIED BY DATE

Materials Received by Planning Department _____ RECEIVED BY DATE

Fee Paid to Town Clerk _____ RECEIVED BY DATE

Site Plan Review		**Fill In Applicable Fees**
1 acre or less	$1,250.00	_____
Each additional acre or fraction thereof	$ 650.00/acre	_____
Amendments to Site Plans	$1,200.00	_____
Request for Relief of / Change to Conditions of Site Plan Approval	$1,200.00	_____
Request for Extension of Site Plan Approval	$ 450.00	_____
Stormwater Pollution Prevention Plan		
1 - 4.99 Acres	$ 500.00	_____
5 - 10 Acres	$ 750.00	_____
>10 Acres	$1,000.00	_____
Affidavit Fee for Public Hearing	$ 15.00	_____
	TOTAL FEE:	$_____

To Be Completed By Applicant

Petitioner:

Name: New Road Solar 1, LLC; c/o Sol Source Power [contact -Steve Long]

Address: 1 Washington Place

Troy (city) NY (state) 12180 (zip code)

Phone: (603) 455-9483 Fax: _____

E Mail: Steve@solsourcepower.com

Attachment: SP-2023-05 TB letter 091823 (RES-2023-775 : Special Use Permit for Tier III Solar Energy System at 800 & 850 New Road)

Representative (Architect, Engineer, Landscape Architect, Surveyor, or Attorney):

Name: Erdman Anthony Consulting Engineers [contact - Marc Kenward]

Address: 145 Culver Rd., Suite 200

Rochester (city) NY (state) 14620 (zip code)

Phone: (585) 427-8888 Fax:

E Mail: KenwardMD@erdmananthony.com

Project Location (must be verified by Town Assessor's Office):

Address: 850 New Road, Amherst, NY 14228 &

800 New Road, Amherst, NY 14228

SBL No(s): 16.00-2-14.1 & 16.00-2-14.2

Project Name: New Road Solar 1, LLC.

Project Description: The proposed project will construct and operate a 5 Mw (AC) ground-mounted utility grade solar energy system on 28.77 +/- acres of a combined parcel area of 51.98 acres of agricultural land.

Attachment: SP-2023-05 TB letter 091823 (RES-2023-775 : Special Use Permit for Tier III Solar Energy System at 800 & 850 New Road)

If this petition is an amendment to a previously approved site plan, please describe the proposed changes (include type and size of existing structures and number of existing parking spaces):

	existing	proposed	total
Gross Floor Area (non-residential):			
Gross Floor Area Residential:			
Number of Residential Units:			
Number of Parking Spaces:			

Acreage of Parcel: 40.468 Acres (850 New Road)

(list each parcel separately) 11.511 Acres (800 New Road)

Frontage on Public Roads: 60 ft

(list each road separately)

Existing Zoning District(s) Suburban Agricultural & General Business

Attachment: SP-2023-05 TB letter 091823 (RES-2023-775 : Special Use Permit for Tier III Solar Energy System at 800 & 850 New Road)

Site Plan Submittal Requirements and Checklist

The following checklist outlines the information required by the Planning Department to accept a Site Plan application for review. ***It is strongly recommended that you make an appointment with Planning Staff to determine which items apply to your application***.

Item No.	Item	Submitted	Official use
I	**Basic Drawing Information**		
1.0	**Drawing size not to exceed 24" x 36"**		
2.0	**Title of Drawing**		
3.0	**Name and address of Applicant**		
4.0	**Name of person preparing drawing**		
5.0	**Wet seal/raised seal and signature of NYS licensed architect, engineer, landscape architect, or surveyor (as applicable)**		
6.0	**Project address**		
7.0	**Zoning of subject property and adjacent parcels**		
8.0	**North point, scale, date, and revision date(s)**		
9.0	**4" x 6" reserved area in lower right hand corner for official Town use**		
II	**Structures, Paved Areas, & Open Space**		
1.0	**Existing and Proposed Streets**		
1.1	Names of all existing and proposed streets		
1.2	Width and radii of proposed curb-cuts		
1.3	Existing curb-cuts on adjacent and opposite properties		
1.4	Show ROW width, pavement dimensions, lane widths, pavement markings, and proposed signage on proposed streets		
1.5	Show proposed ROW consistent with planned NYSDOT, Erie County, or Town road projects (if applicable)		
1.6	Show location of proposed cross access to adjacent parcels along with a draft easement		
1.7	Designation of Fire Lanes (if applicable)		
1.8	Fire apparatus access roads		
1.9	Label any proposed roads as public or private		
1.10	Location and dimensions of sidewalks		
1.11	Typical cross sections and profiles of proposed streets, pedestrian walkways, and bikeways		
2.0	**Proposed Structures**		
2.1	Location and complete dimensions of proposed structures		
2.2	Setback dimensions of structure(s) to all property lines		
2.3	Proposed use of structures		
2.4	Gross square feet area of each structure		
2.5	Location of all building entrances		
2.6	Indicate type of roof construction/materials		
2.7	Location, height, and design detail of existing and proposed fences and walls		
2.8	Location of light standards and building mounted lights		
2.9	Location of dumpster and detail of dumpster enclosure with gate		
2.10	Layout and dimensions of the lot(s) proposed for development		

Town of Amherst Planning Department 5583 Main Street Williamsville-NY-14221
(716) 631-7051- Fax: (716) 631-7153

Attachment: SP-2023-05 TB letter 091823 (RES-2023-775 : Special Use Permit for Tier III Solar Energy System at 800 & 850 New Road)

Item No.	Item	Submitted	Official use
II Structures, Paved Areas, & Open Space (cont'd)			
3.0	**Floor Plans with individual rooms and spaces labeled** (fully dimensioned)		
4.0	**Building elevations with height dimensions from finished grade to the highest point of the roof and to midpoint of gable or hip of a pitched roof.** (fully dimensioned)		
4.1	Show screening of mechanical equipment		
5.0	**Parking/Loading/Stacking Areas**		
5.1	Location and complete dimensions of all paved areas		
5.2	Setback dimensions of all paved areas to property lines		
5.3	Dimension of typical parking space and drive aisles		
5.4	Location and layout of handicapped parking spaces & access aisles		
5.5	Detail of vertical signage for handicapped parking and access aisles		
5.6	Indicate minimum parking requirement & number of spaces provided		
5.7	Proposed signage for directing and guiding traffic		
5.8	Curb cut permits from NYS, Erie County, or Town (if applicable)		
5.9	Pedestrian connections (from proposed structures to public sidewalk network)		
6.0	**Location and proposed development of all open spaces, including parks, playgrounds, and open reservations**		
III Utilities and Drainage			
1.0	**Engineers Report** (bound separately from the Stormwater Pollution Prevention Plan [SWPPP])		
1.1	Stamped/sealed and signed by NYS licensed architect or professional engineer		
1.2	Proposed water service sizing, RPZ pressure and fire safety flow and pressure calculations		
1.3	Proposed sanitary sewer facility load calculations (avg. & peak flows) including calculation of the peaking factor		
1.4	Proposed storm drainage facility calculations (see information included with this application)		
2.0	**Grading Plan**		
2.1	Existing and proposed grades indicated (proposed grades may not exceed 1 on 3)		
3.0	**Water Service**		
3.1	Location, size and material of existing and proposed facilities		
3.2	Location of existing and proposed fire hydrant location(s)		
3.3	Indicate use of sprinklers, location of Fire Department connection, and proposed fire protection systems		
3.4	Existing and proposed meter/RPZ size and location		
3.5	Applicable construction details		
4.0	**Sanitary Sewers**		
4.1	Locations, sizes, slopes, inverts, and materials of all existing and proposed facilities		

Attachment: SP-2023-05 TB letter 091823 (RES-2023-775 : Special Use Permit for Tier III Solar Energy System at 800 & 850 New Road)

Town of Amherst Planning Department 5583 Main Street Williamsville-NY-14221
(716) 631-7051- Fax: (716) 631-7153

Item No.		Submitted	Official use
III Utilities and Drainage (cont'd)			
4.2	Applicable construction details		
4.3	Proposed water/oil/grease interceptor sizing calculations by a professional engineer (if applicable)		
5.0	**Storm Drainage**		
5.1	Locations, sizes, slopes, inverts, and materials of existing and proposed storm drainage facilities		
5.2	Connection of roof drains to proposed drainage system		
5.3	Applicable Town Standard construction details		
5.4	Existing and proposed swales and ditches		
5.5	Detention area cross-section and high-level elevations		
5.6	County and State approval for tie-in to existing sewers		
6.0	**Stormwater Pollution Prevention Plan (SWPPP) as applicable** (bound separately from the Engineer's Report) **See attached checklist.**		
7.0	**Natural Gas Service**		
8.0	**Location of transformers, generators and other mechanical equipment; include detail drawings (if applicable)**		
9.0	**Downstream Sanitary Capacity Analysis (DSCA) Report** (must be submitted if proposed average flows are greater than 2,500 gallons per day)		
9.1	The DSCA Report must include a detailed downstream sewer capacity analysis and the calculations of and commitment to (via Developer commitment letter) the required financial contribution to the Town's I/I mitigation fund based on peak flow conditions. The contribution must be based on $250 per gallon per minute of mitigated flow		
IV Lighting Plan			
1.0	**Photometric plan showing light spread in foot candles at property lines**		
1.1	Detail of all light standards, including dimension of height from finished grade		
1.2	Detail of all exterior lighting fixtures		
V Landscape Plan			
1.0	**Wet/raised seal and signature of a licensed Landscape Architect**		
2.0	**Provide a calculation of the total Parking area and a calculation of interior parking area in square feet and as a percentage**		
3.0	**Indicate location, size, number and type of proposed landscape materials**		
4.0	**Indicate location, type and size of <u>all</u> existing trees 4" caliper or larger and indicate which will be removed or retained**		
VI Other Required Information/General Requirements			
1.0	**Complete boundary survey that includes all existing structures, acreage, legal description with reference to a property line, street, or other known feature, and easements plotted to scale by a NYS licensed land surveyor**		

Town of Amherst Planning Department 5583 Main Street Williamsville-NY-14221
(716) 631-7051- Fax: (716) 631-7153

Attachment: SP-2023-05 TB letter 091823 (RES-2023-775 : Special Use Permit for Tier III Solar Energy System at 800 & 850 New Road)

Item No.		Submitted	Official Use
VI Other Required Information/General Requirements (cont'd)			
1.1	Copies of all easements, reciprocal access agreement or similar leag documents		
2.0	**Topographic Survey with a 30 ft. buffer outside all property lines by a NYS licensed land surveyor**		
3.0	**Draft of any deed restrictions, covenants, provisions for home associations and common ownership, and reciprocal easement agreements (as applicable).**		
4.0	**For assessment purposes, state intent to apply for condominium status (if applicable).**		
5.0	**Completed and signed Environmental Assessment Form**		
5.1	Soil boring report and geotechnical report prepared by a qualified Professional Engineer (if applicable)		
5.2	Traffic Impact Study (if applicable)		
5.3	Archaeological survey (if applicable		
5.4	Wetland Delineation report (if applicable)		
6.0	**Show existing zoning(s) of both the subject property and adjacent parcels on the Site Plan and the Landscape Plan**		
7.0	**Location of NYSDEC wetlands (including buffer area) and/or federal wetlands; indicate jurisdictional status**		
8.0	**Location of Floodway and floodplain** (if applicable)		
9.0	**Documentation pertaining to any conditions of zonings, including copies of required deed restrictions; indicate date of rezoning and the parcel address under which it was rezoned (if applicable)**		
10.0	**Documentation related to any required variances granted by the ZBA**		
11.0	**For residential site plans, provide a statement from the appropriate school district that adequate school sites and facilities are available.**		
12.0	**8 1/2" X 11" reduction of primary site plan drawing (see appendix "B" of application package for specifications)**		
13.0	**A CD containing a PDF of all site plan drawings (Must also be provided with revised drawings)**		
VII Additional Required Information for Projects in the Mixed Use Districts			
1.0	**Design Advisory Board Application**		
1.1	Required for Major Site Plan		
1.2	Required at the Planning Directors Discretion for Minor Site Plans		
2.0	**Block & Street Network Plan**		
2.1	Designation of Core, Local & Alley streets		
2.2	Dimensions of Blocks		
3.0	**Block Usage Plan (as applicable)**		
3.1	Designation of site usage for each block including open space areas		
4.0	**Phasing Plan**		

Attachment: SP-2023-05 TB letter 091823 (RES-2023-775 : Special Use Permit for Tier III Solar Energy System at 800 & 850 New Road)

Town of Amherst Planning Department 5583 Main Street Williamsville-NY-14221
(716) 631-7051- Fax: (716) 631-7153

For official use only:

_____
Approved/Date

X:\Current_Planning\Application Forms 2013 Working Doc\Major Site Plan\Site Plan Submittal Requirements and Checklist (3).doc

Attachment: SP-2023-05 TB letter 091823 (RES-2023-775 : Special Use Permit for Tier III Solar Energy System at 800 & 850 New Road)

Town of Amherst Planning Department 5583 Main Street Williamsville-NY-14221
(716) 631-7051- Fax: (716) 631-7153

TOWN OF AMHERST
State Environmental Quality Review
ENVIRONMENTAL ASSESSMENT FORM
-- ADDENDUM --

1. For each applicable category of proposed new structures, including additions to existing structures, provide the following information for all soil types on the project site (*according to Soil Survey of Erie County, NY; Table 11, Building Site Development, pp 294-305):*

Soil Name	Shallow excavations	Dwellings without basements	Dwellings with basements	Small commercial buildings	Local roads and streets
Lakemont Silt Loam	severe	severe	severe	severe	severe
Niagara Silt Loam	severe	severe	severe	severe	severe
Odessa Silt Loam	severe	severe	severe	severe	severe

2. If the Soil survey indicates either "severe" or "moderate" suitability for the proposed types of construction, a geotechnical and hydrological analysis based on one test per 3.5 acres of project area must be provided (per Town Board resolution, 3/17/03, amended 6/16/03).

____ Geotechnical report attached ✓ Not applicable Utility Trenching & Electrical Equipment Pads

3. Is your property located: On Youngs Road between Dodge and Klein Roads? ☐ Yes ☑ No
On Wehrle Dr. between Spindrift Dr. and Oakwood Rd? ☐ Yes ☑ No

If so, the property may be within an area of the Town that is affected by a moratorium on connections to the sanitary sewer system.

4. Are there alternative locations on the site for this project? ☐ Yes ☑ No

5. Location and size of real property owned by petitioner within one (1) mile of subject proposal:

6. Are you aware of current or future plans or intentions by others in the Town of Amherst to develop property within 1000± ft. of the present project request: ☑ Yes ☐ No

Describe

(Potential environmental impacts from adjacent or nearby projects undergoing the approval process will receive a coordinated environmental review to determine cumulative effects on common receivers (e.g. traffic and drainage corridors) and other relevant environmental concerns.)

7. Maximum number of vehicular trips to be generated per peak hour upon completion of project None
Source: N/A

8. Will blasting occur during construction? ☐ Yes ☑ No

9. Does the project propose to connect and be tributary to the public sanitary sewer system? ☐ Yes ☑ No

10. Proposed net additional gallons per day (gpd) of sanitary sewer discharge upon completion of project:
N/A average flow N/A peak flow.

(Average flows of 2,500 gpd or greater will require an Engineer's Report that includes a detailed downstream sewer capacity analysis and the identification of and commitment to required I/I offset work during peak wastewater flow conditions.)

11. Based on the Town's *2011 Reconnaissance Level Survey of Historic Resources,* is your property 'blue-rated' for historic significance? ☐ Yes ☑ No

Attachment: SP-2023-05 TB letter 091823 (RES-2023-775 : Special Use Permit for Tier III Solar Energy System at 800 & 850 New Road)

Full Environmental Assessment Form
Part 1 - Project and Setting

Instructions for Completing Part 1

Part 1 is to be completed by the applicant or project sponsor. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification.

Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information; indicate whether missing information does not exist, or is not reasonably available to the sponsor; and, when possible, generally describe work or studies which would be necessary to update or fully develop that information.

Applicants/sponsors must complete all items in Sections A & B. In Sections C, D & E, most items contain an initial question that must be answered either "Yes" or "No". If the answer to the initial question is "Yes", complete the sub-questions that follow. If the answer to the initial question is "No", proceed to the next question. Section F allows the project sponsor to identify and attach any additional information. Section G requires the name and signature of the applicant or project sponsor to verify that the information contained in Part 1is accurate and complete.

A. Project and Applicant/Sponsor Information.

Name of Action or Project: 800 & 850 New Road Solar Project		
Project Location (describe, and attach a general location map): 800 & 850 New Road, Amherst, NY 14228 (Tax Map No.'s 16.00-2-14.1 & 16.00-2-14.2)		
Brief Description of Proposed Action (include purpose or need): Construct and operate a 5.0 Mw (AC) ground mounted, utility grade solar energy system.		
Name of Applicant/Sponsor: New Road Solar 1, LLC. c/o Sol Source Power, LLC. [contact - Steve Long]	Telephone: (603) 455 - 9483 E-Mail: Steve@solsourcepower.com	
Address: 1 Washington Place		
City/PO: Troy	State: NY	Zip Code: 12180
Project Contact (if not same as sponsor; give name and title/role): Erdman Anthony Consulting Engineers [contact - Marc Kenward]	Telephone: (585) 427 - 8888 E-Mail: KwnwardMD@erdmananthony.com	
Address: 145 Culver Road, Suite 200		
City/PO: Rochester	State: NY	Zip Code: 14620
Property Owner (if not same as sponsor): Anthony Cimato; Cimato Enterprises, Inc.; [contact for both - Ferdinando Cimato, President]	Telephone: (716) 861-3529 E-Mail: cimatoenterprises5647@gmail.com	
Address: 9220 Transit Rd.		
City/PO: East Amherst	State: NY	Zip Code: 14051

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B. Government Approvals

B. Government Approvals, Funding, or Sponsorship. ("Funding" includes grants, loans, tax relief, and any other forms of financial assistance.)

Government Entity	If Yes: Identify Agency and Approval(s) Required	Application Date (Actual or projected)
a. City Council, Town Board, or Village Board of Trustees ☐Yes ☑No		
b. City, Town or Village Planning Board or Commission ☑Yes ☐No	Town of Amherst Planning Board: Special Use Permit & Site Plan Review	January 2023
c. City, Town or Village Zoning Board of Appeals ☐Yes ☑No		
d. Other local agencies ☑Yes ☐No	Town of Amherst Building Department: Floodplain Development Permit	January 2023
e. County agencies ☑Yes ☐No	Erie County Planning Board	TBD
f. Regional agencies ☐Yes ☑No		
g. State agencies ☑Yes ☐No	NYSDEC GP-0-20-001 for Stormwater Discharges NYS DEC Wetland Permit	TBD
h. Federal agencies ☑Yes ☐No	US Army Corps of Engineers - Nationwide Permit 51 (Renewable Energy) for minor wetland impacts	TBD

i. Coastal Resources.

i. Is the project site within a Coastal Area, or the waterfront area of a Designated Inland Waterway? ☐Yes ☑No

ii. Is the project site located in a community with an approved Local Waterfront Revitalization Program? ☐Yes ☑No

iii. Is the project site within a Coastal Erosion Hazard Area? ☐Yes ☑No

C. Planning and Zoning

C.1. Planning and zoning actions.

Will administrative or legislative adoption, or amendment of a plan, local law, ordinance, rule or regulation be the only approval(s) which must be granted to enable the proposed action to proceed? ☐Yes ☑No

- **If Yes,** complete sections C, F and G.
- **If No,** proceed to question C.2 and complete all remaining sections and questions in Part 1

C.2. Adopted land use plans.

a. Do any municipally- adopted (city, town, village or county) comprehensive land use plan(s) include the site where the proposed action would be located? ☑Yes ☐No

If Yes, does the comprehensive plan include specific recommendations for the site where the proposed action would be located? ☑Yes ☐No

b. Is the site of the proposed action within any local or regional special planning district (for example: Greenway; Brownfield Opportunity Area (BOA); designated State or Federal heritage area; watershed management plan; or other?) ☑Yes ☐No

If Yes, identify the plan(s):

NYS Heritage Areas: West Erie Canal Corridor

c. Is the proposed action located wholly or partially within an area listed in an adopted municipal open space plan, or an adopted municipal farmland protection plan? ☑Yes ☐No

If Yes, identify the plan(s):

Town of Amherst Farmland Protection & Agricultural Development Plan - June 2021.

Attachment: SP-2023-05 TB letter 091823 (RES-2023-775 : Special Use Permit for Tier III Solar Energy System at 800 & 850 New Road)

C.3. Zoning

a. Is the site of the proposed action located in a municipality with an adopted zoning law or ordinance. ☑ Yes ☐ No
If Yes, what is the zoning classification(s) including any applicable overlay district?
Suburban Agricultural & General Business (General Business to be rezoned to Suburban Agricultural)

b. Is the use permitted or allowed by a special or conditional use permit? ☑ Yes ☐ No

c. Is a zoning change requested as part of the proposed action? ☐ Yes ☑ No
If Yes,
i. What is the proposed new zoning for the site? General Business to Suburban Agricultural

C.4. Existing community services.

a. In what school district is the project site located? Williamsville Central School District

b. What police or other public protection forces serve the project site?
Amherst Police Department, Erie County Sheriff's Office, NY State Police

c. Which fire protection and emergency medical services serve the project site?
North Amherst Fire Department,

d. What parks serve the project site?
Jurek Park, The Paw Park-Off-Leash Dog Park, Dann Lake Park

D. Project Details

D.1. Proposed and Potential Development

a. What is the general nature of the proposed action (e.g., residential, industrial, commercial, recreational; if mixed, include all components)? Construct and Operate a utility grade (large scale) solar energy project

b. a. Total acreage of the site of the proposed action? 51.98 acres
b. Total acreage to be physically disturbed? 6.834 acres
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? 51.98 acres

Project will encompass approximately 28.766 +/- acres of the total parcel area.

c. Is the proposed action an expansion of an existing project or use? ☐ Yes ☑ No
i. If Yes, what is the approximate percentage of the proposed expansion and identify the units (e.g., acres, miles, housing units, square feet)? % _____ Units: _____

d. Is the proposed action a subdivision, or does it include a subdivision? ☐ Yes ☑ No
If Yes,
i. Purpose or type of subdivision? (e.g., residential, industrial, commercial; if mixed, specify types)
ii. Is a cluster/conservation layout proposed? ☐ Yes ☐ No
iii. Number of lots proposed? _____
iv. Minimum and maximum proposed lot sizes? Minimum _____ Maximum _____

e. Will the proposed action be constructed in multiple phases? ☐ Yes ☑ No
i. If No, anticipated period of construction: _____ months
ii. If Yes:
- Total number of phases anticipated _____
- Anticipated commencement date of phase 1 (including demolition) _____ month _____ year
- Anticipated completion date of final phase _____ month _____ year
- Generally describe connections or relationships among phases, including any contingencies where progress of one phase may determine timing or duration of future phases: _____

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f. Does the project include new residential uses? ☐Yes ☑No
If Yes, show numbers of units proposed.

	One Family	Two Family	Three Family	Multiple Family (four or more)
Initial Phase				
At completion of all phases				

g. Does the proposed action include new non-residential construction (including expansions)? ☐Yes ☑No
If Yes,
i. Total number of structures _____
ii. Dimensions (in feet) of largest proposed structure: _____height; _____width; and _____ length
iii. Approximate extent of building space to be heated or cooled: _____ square feet

h. Does the proposed action include construction or other activities that will result in the impoundment of any liquids, such as creation of a water supply, reservoir, pond, lake, waste lagoon or other storage? ☐Yes ☑No
If Yes,
i. Purpose of the impoundment: _____
ii. If a water impoundment, the principal source of the water: ☐ Ground water ☐ Surface water streams ☐Other specify:
_____
iii. If other than water, identify the type of impounded/contained liquids and their source.
_____
iv. Approximate size of the proposed impoundment. Volume: _____ million gallons; surface area: _____ acres
v. Dimensions of the proposed dam or impounding structure: _____ height; _____ length
vi. Construction method/materials for the proposed dam or impounding structure (e.g., earth fill, rock, wood, concrete):
_____

D.2. Project Operations

a. Does the proposed action include any excavation, mining, or dredging, during construction, operations, or both? ☐Yes ☑No
(Not including general site preparation, grading or installation of utilities or foundations where all excavated materials will remain onsite)
If Yes:
i. What is the purpose of the excavation or dredging? _____
ii. How much material (including rock, earth, sediments, etc.) is proposed to be removed from the site?
- Volume (specify tons or cubic yards): _____
- Over what duration of time? _____

iii. Describe nature and characteristics of materials to be excavated or dredged, and plans to use, manage or dispose of them.
_____
_____
iv. Will there be onsite dewatering or processing of excavated materials? ☐Yes ☐No
If yes, describe. _____
_____
v. What is the total area to be dredged or excavated? _____acres
vi. What is the maximum area to be worked at any one time? _____ acres
vii. What would be the maximum depth of excavation or dredging? _____ feet
viii. Will the excavation require blasting? ☐Yes ☐No
ix. Summarize site reclamation goals and plan: _____
_____
_____

b. Would the proposed action cause or result in alteration of, increase or decrease in size of, or encroachment into any existing wetland, waterbody, shoreline, beach or adjacent area? ☑Yes ☐No
If Yes:
i. Identify the wetland or waterbody which would be affected (by name, water index number, wetland map number or geographic description): Wetland W2. See separately submitted Wetland Delineation Report Dated August 2022.
_____

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ii. Describe how the proposed action would affect that waterbody or wetland, e.g. excavation, fill, placement of structures, or alteration of channels, banks and shorelines. Indicate extent of activities, alterations and additions in square feet or acres:
Approximately 0.172 AC of Wetland W2 will be within the fenced solar array. Trees in this area will be cut and stumps removed.

iii. Will the proposed action cause or result in disturbance to bottom sediments? ☑ Yes ☐ No
If Yes, describe: Trees will be cut and tree stumps will be removed.

iv. Will the proposed action cause or result in the destruction or removal of aquatic vegetation? ☐ Yes ☑ No
If Yes:

- acres of aquatic vegetation proposed to be removed: _____
- expected acreage of aquatic vegetation remaining after project completion: _____
- purpose of proposed removal (e.g. beach clearing, invasive species control, boat access): _____
- proposed method of plant removal: _____
- if chemical/herbicide treatment will be used, specify product(s): _____

v. Describe any proposed reclamation/mitigation following disturbance: _____

c. Will the proposed action use, or create a new demand for water? ☐ Yes ☑ No
If Yes:

i. Total anticipated water usage/demand per day: _____ gallons/day

ii. Will the proposed action obtain water from an existing public water supply? ☐ Yes ☐ No
If Yes:

- Name of district or service area: _____
- Does the existing public water supply have capacity to serve the proposal? ☐ Yes ☐ No
- Is the project site in the existing district? ☐ Yes ☐ No
- Is expansion of the district needed? ☐ Yes ☐ No
- Do existing lines serve the project site? ☐ Yes ☐ No

iii. Will line extension within an existing district be necessary to supply the project? ☐ Yes ☐ No
If Yes:

- Describe extensions or capacity expansions proposed to serve this project: _____
- Source(s) of supply for the district: _____

iv. Is a new water supply district or service area proposed to be formed to serve the project site? ☐ Yes ☐ No
If, Yes:

- Applicant/sponsor for new district: _____
- Date application submitted or anticipated: _____
- Proposed source(s) of supply for new district: _____

v. If a public water supply will not be used, describe plans to provide water supply for the project: _____

vi. If water supply will be from wells (public or private), what is the maximum pumping capacity: _____ gallons/minute.

d. Will the proposed action generate liquid wastes? ☐ Yes ☑ No
If Yes:

i. Total anticipated liquid waste generation per day: _____ gallons/day

ii. Nature of liquid wastes to be generated (e.g., sanitary wastewater, industrial; if combination, describe all components and approximate volumes or proportions of each): _____

iii. Will the proposed action use any existing public wastewater treatment facilities? ☐ Yes ☐ No
If Yes:

- Name of wastewater treatment plant to be used: _____
- Name of district: _____
- Does the existing wastewater treatment plant have capacity to serve the project? ☐ Yes ☐ No
- Is the project site in the existing district? ☐ Yes ☐ No
- Is expansion of the district needed? ☐ Yes ☐ No

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- Do existing sewer lines serve the project site? ☐Yes ☐No
- Will a line extension within an existing district be necessary to serve the project? ☐Yes ☐No

If Yes:

- Describe extensions or capacity expansions proposed to serve this project: _____

iv. Will a new wastewater (sewage) treatment district be formed to serve the project site? ☐Yes ☐No

If Yes:

- Applicant/sponsor for new district: _____
- Date application submitted or anticipated: _____
- What is the receiving water for the wastewater discharge? _____

v. If public facilities will not be used, describe plans to provide wastewater treatment for the project, including specifying proposed receiving water (name and classification if surface discharge or describe subsurface disposal plans):

vi. Describe any plans or designs to capture, recycle or reuse liquid waste: _____

e. Will the proposed action disturb more than one acre and create stormwater runoff, either from new point sources (i.e. ditches, pipes, swales, curbs, gutters or other concentrated flows of stormwater) or non-point source (i.e. sheet flow) during construction or post construction? ☑Yes ☐No

If Yes:

i. How much impervious surface will the project create in relation to total size of project parcel?

2824 Square feet or _____ acres (impervious surface)

_____ Square feet or _____ acres (parcel size)

ii. Describe types of new point sources. Electrical Equipment Pads and equipment. Note that solar arrays are considered disconnected roof-top draining onto grass meadow. New access drive is permeable stone.

iii. Where will the stormwater runoff be directed (i.e. on-site stormwater management facility/structures, adjacent properties, groundwater, on-site surface water or off-site surface waters)?

Sheet flow across grass meadow. Proposed stormwater run-off is equal to the existing conditions with an overall composite (run-off) curve number (CN) of 79 compared to the existing curve number of 79.

- If to surface waters, identify receiving water bodies or wetlands: _____
- Will stormwater runoff flow to adjacent properties? ☑Yes ☐No

iv. Does the proposed plan minimize impervious surfaces, use pervious materials or collect and re-use stormwater? ☑Yes ☐No

f. Does the proposed action include, or will it use on-site, one or more sources of air emissions, including fuel combustion, waste incineration, or other processes or operations? ☐Yes ☑No

If Yes, identify:

i. Mobile sources during project operations (e.g., heavy equipment, fleet or delivery vehicles)

ii. Stationary sources during construction (e.g., power generation, structural heating, batch plant, crushers)

iii. Stationary sources during operations (e.g., process emissions, large boilers, electric generation)

g. Will any air emission sources named in D.2.f (above), require a NY State Air Registration, Air Facility Permit, or Federal Clean Air Act Title IV or Title V Permit? ☐Yes ☑No

If Yes:

i. Is the project site located in an Air quality non-attainment area? (Area routinely or periodically fails to meet ambient air quality standards for all or some parts of the year) ☐Yes ☐No

ii. In addition to emissions as calculated in the application, the project will generate:

- _____Tons/year (short tons) of Carbon Dioxide (CO_2)
- _____Tons/year (short tons) of Nitrous Oxide (N_2O)
- _____Tons/year (short tons) of Perfluorocarbons (PFCs)
- _____Tons/year (short tons) of Sulfur Hexafluoride (SF_6)
- _____Tons/year (short tons) of Carbon Dioxide equivalent of Hydroflourocarbons (HFCs)
- _____Tons/year (short tons) of Hazardous Air Pollutants (HAPs)

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h. Will the proposed action generate or emit methane (including, but not limited to, sewage treatment plants, landfills, composting facilities)? ☐Yes ☑No

If Yes:

i. Estimate methane generation in tons/year (metric): _____

ii. Describe any methane capture, control or elimination measures included in project design (e.g., combustion to generate heat or electricity, flaring): _____

i. Will the proposed action result in the release of air pollutants from open-air operations or processes, such as quarry or landfill operations? ☐Yes ☑No

If Yes: Describe operations and nature of emissions (e.g., diesel exhaust, rock particulates/dust):

_____

j. Will the proposed action result in a substantial increase in traffic above present levels or generate substantial new demand for transportation facilities or services? ☐Yes ☑No

If Yes:

i. When is the peak traffic expected (Check all that apply): ☐ Morning ☐ Evening ☐ Weekend ☐ Randomly between hours of _____ to _____.

ii. For commercial activities only, projected number of truck trips/day and type (e.g., semi trailers and dump trucks): _____

iii. Parking spaces: Existing _____ Proposed _____ Net increase/decrease _____

iv. Does the proposed action include any shared use parking? ☐Yes ☐No

v. If the proposed action includes any modification of existing roads, creation of new roads or change in existing access, describe:

vi. Are public/private transportation service(s) or facilities available within ½ mile of the proposed site? ☐Yes ☐No

vii Will the proposed action include access to public transportation or accommodations for use of hybrid, electric or other alternative fueled vehicles? ☐Yes ☐No

viii. Will the proposed action include plans for pedestrian or bicycle accommodations for connections to existing pedestrian or bicycle routes? ☐Yes ☐No

k. Will the proposed action (for commercial or industrial projects only) generate new or additional demand for energy? ☐Yes ☑No

If Yes:

i. Estimate annual electricity demand during operation of the proposed action: _____

ii. Anticipated sources/suppliers of electricity for the project (e.g., on-site combustion, on-site renewable, via grid/local utility, or other):

iii. Will the proposed action require a new, or an upgrade, to an existing substation? ☐Yes ☐No

l. Hours of operation. Answer all items which apply.

i. During Construction:

- Monday - Friday: 7:00 am - 6:00 pm
- Saturday: _____
- Sunday: _____
- Holidays: _____

ii. During Operations:

- Monday - Friday: Daylight Hours
- Saturday: Daylight Hours
- Sunday: Daylight Hours
- Holidays: Daylight Hours

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m. Will the proposed action produce noise that will exceed existing ambient noise levels during construction, operation, or both? ☐ Yes ☑ No

If yes:

i. Provide details including sources, time of day and duration:

ii. Will the proposed action remove existing natural barriers that could act as a noise barrier or screen? ☐ Yes ☐ No

Describe:

n. Will the proposed action have outdoor lighting? ☐ Yes ☑ No

If yes:

i. Describe source(s), location(s), height of fixture(s), direction/aim, and proximity to nearest occupied structures:

ii. Will proposed action remove existing natural barriers that could act as a light barrier or screen? ☐ Yes ☐ No

Describe:

o. Does the proposed action have the potential to produce odors for more than one hour per day? ☐ Yes ☑ No

If Yes, describe possible sources, potential frequency and duration of odor emissions, and proximity to nearest occupied structures:

p. Will the proposed action include any bulk storage of petroleum (combined capacity of over 1,100 gallons) or chemical products 185 gallons in above ground storage or any amount in underground storage? ☐ Yes ☑ No

If Yes:

i. Product(s) to be stored

ii. Volume(s) _____ per unit time _____ (e.g., month, year)

iii. Generally, describe the proposed storage facilities:

q. Will the proposed action (commercial, industrial and recreational projects only) use pesticides (i.e., herbicides, insecticides) during construction or operation? ☐ Yes ☑ No

If Yes:

i. Describe proposed treatment(s):

ii. Will the proposed action use Integrated Pest Management Practices? ☐ Yes ☐ No

r. Will the proposed action (commercial or industrial projects only) involve or require the management or disposal of solid waste (excluding hazardous materials)? ☐ Yes ☑ No

If Yes:

i. Describe any solid waste(s) to be generated during construction or operation of the facility:

- Construction: _____ tons per _____ (unit of time)
- Operation : _____ tons per _____ (unit of time)

ii. Describe any proposals for on-site minimization, recycling or reuse of materials to avoid disposal as solid waste:

- Construction:
- Operation:

iii. Proposed disposal methods/facilities for solid waste generated on-site:

- Construction:
- Operation:

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s. Does the proposed action include construction or modification of a solid waste management facility? ☐ Yes ☑ No

If Yes:

i. Type of management or handling of waste proposed for the site (e.g., recycling or transfer station, composting, landfill, or other disposal activities): _____

ii. Anticipated rate of disposal/processing:

- _____ Tons/month, if transfer or other non-combustion/thermal treatment, or
- _____ Tons/hour, if combustion or thermal treatment

iii. If landfill, anticipated site life: _____ years

t. Will the proposed action at the site involve the commercial generation, treatment, storage, or disposal of hazardous waste? ☐ Yes ☑ No

If Yes:

i. Name(s) of all hazardous wastes or constituents to be generated, handled or managed at facility: _____

ii. Generally describe processes or activities involving hazardous wastes or constituents: _____

iii. Specify amount to be handled or generated _____ tons/month

iv. Describe any proposals for on-site minimization, recycling or reuse of hazardous constituents: _____

v. Will any hazardous wastes be disposed at an existing offsite hazardous waste facility? ☐ Yes ☐ No

If Yes: provide name and location of facility: _____

If No: describe proposed management of any hazardous wastes which will not be sent to a hazardous waste facility:

E. Site and Setting of Proposed Action

E.1. Land uses on and surrounding the project site

a. Existing land uses.

i. Check all uses that occur on, adjoining and near the project site.

☐ Urban ☐ Industrial ☐ Commercial ☑ Residential (suburban) ☑ Rural (non-farm)
☑ Forest ☑ Agriculture ☐ Aquatic ☑ Other (specify): General Business

ii. If mix of uses, generally describe:

b. Land uses and covertypes on the project site.

Land use or Covertype	Current Acreage	Acreage After Project Completion	Change (Acres +/-)
• Roads, buildings, and other paved or impervious surfaces	0.130	0.065	-0.115
• Forested	15.332	9.940	-5.392
• Meadows, grasslands or brushlands (non-agricultural, including abandoned agricultural)	36.518	40.731	+4.213
• Agricultural (includes active orchards, field, greenhouse etc.)	0	0	0
• Surface water features (lakes, ponds, streams, rivers, etc.)	0	0	0
• Wetlands (freshwater or tidal)	12.283	12.111	-0.172
• Non-vegetated (bare rock, earth or fill)	0	0	0
• Other Describe: Pervious Driveway	0	1.243	+1.243

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c. Is the project site presently used by members of the community for public recreation? ☐ Yes ☑ No
i. If Yes: explain: _____

d. Are there any facilities serving children, the elderly, people with disabilities (e.g., schools, hospitals, licensed day care centers, or group homes) within 1500 feet of the project site? ☑ Yes ☐ No
If Yes,
i. Identify Facilities:
Amherst Baby & Child Care Center, Inc.

e. Does the project site contain an existing dam? ☐ Yes ☑ No
If Yes:
i. Dimensions of the dam and impoundment:
- Dam height: _____ feet
- Dam length: _____ feet
- Surface area: _____ acres
- Volume impounded: _____ gallons OR acre-feet

ii. Dam's existing hazard classification: _____
iii. Provide date and summarize results of last inspection:

f. Has the project site ever been used as a municipal, commercial or industrial solid waste management facility, or does the project site adjoin property which is now, or was at one time, used as a solid waste management facility? ☐ Yes ☑ No
If Yes:
i. Has the facility been formally closed? ☐ Yes ☐ No
- If yes, cite sources/documentation: _____

ii. Describe the location of the project site relative to the boundaries of the solid waste management facility:

iii. Describe any development constraints due to the prior solid waste activities: _____

g. Have hazardous wastes been generated, treated and/or disposed of at the site, or does the project site adjoin property which is now or was at one time used to commercially treat, store and/or dispose of hazardous waste? ☐ Yes ☑ No
If Yes:
i. Describe waste(s) handled and waste management activities, including approximate time when activities occurred:

h. Potential contamination history. Has there been a reported spill at the proposed project site, or have any remedial actions been conducted at or adjacent to the proposed site? ☐ Yes ☑ No
If Yes:
i. Is any portion of the site listed on the NYSDEC Spills Incidents database or Environmental Site Remediation database? Check all that apply: ☐ Yes ☐ No

☐ Yes – Spills Incidents database — Provide DEC ID number(s): _____
☐ Yes – Environmental Site Remediation database — Provide DEC ID number(s): _____
☐ Neither database

ii. If site has been subject of RCRA corrective activities, describe control measures: _____

iii. Is the project within 2000 feet of any site in the NYSDEC Environmental Site Remediation database? ☐ Yes ☑ No
If yes, provide DEC ID number(s): _____

iv. If yes to (i), (ii) or (iii) above, describe current status of site(s):

Attachment: SP-2023-05 TB letter 091823 (RES-2023-775 : Special Use Permit for Tier III Solar Energy System at 800 & 850 New Road)

v. Is the project site subject to an institutional control limiting property uses? ☐ Yes ☑ No

- If yes, DEC site ID number: _____
- Describe the type of institutional control (e.g., deed restriction or easement): _____
- Describe any use limitations: _____
- Describe any engineering controls: _____
- Will the project affect the institutional or engineering controls in place? ☐ Yes ☐ No
- Explain: _____

E.2. Natural Resources On or Near Project Site

a. What is the average depth to bedrock on the project site? >6.67 feet

b. Are there bedrock outcroppings on the project site? ☐ Yes ☑ No
If Yes, what proportion of the site is comprised of bedrock outcroppings? _____ %

c. Predominant soil type(s) present on project site:

Lakemont silt loam	47.5 %
Odessa silt loam	31.5 %
Niagara silt loam	20.1 %

d. What is the average depth to the water table on the project site? Average: 0 to 1.5 feet

e. Drainage status of project site soils:
☐ Well Drained: _____ % of site
☐ Moderately Well Drained: _____ % of site
☑ Poorly Drained 100 % of site

f. Approximate proportion of proposed action site with slopes:
☑ 0-10%: 100 % of site
☐ 10-15%: _____ % of site
☐ 15% or greater: _____ % of site

g. Are there any unique geologic features on the project site? ☐ Yes ☑ No
If Yes, describe: _____

h. Surface water features.

i. Does any portion of the project site contain wetlands or other waterbodies (including streams, rivers, ponds or lakes)? ☑ Yes ☐ No

ii. Do any wetlands or other waterbodies adjoin the project site? ☑ Yes ☐ No

If Yes to either *i* or *ii*, continue. If No, skip to E.2.i.

iii. Are any of the wetlands or waterbodies within or adjoining the project site regulated by any federal, state or local agency? ☑ Yes ☐ No

iv. For each identified regulated wetland and waterbody on the project site, provide the following information:

- Streams: Name _____ Classification _____
- Lakes or Ponds: Name _____ Classification _____
- Wetlands: Name Federal Waters Approximate Size _____
- Wetland No. (if regulated by DEC) _____

v. Are any of the above water bodies listed in the most recent compilation of NYS water quality-impaired waterbodies? ☐ Yes ☑ No

If yes, name of impaired water body/bodies and basis for listing as impaired: _____

i. Is the project site in a designated Floodway? ☐ Yes ☑ No

j. Is the project site in the 100-year Floodplain? ☑ Yes ☐ No

k. Is the project site in the 500-year Floodplain? ☑ Yes ☐ No

l. Is the project site located over, or immediately adjoining, a primary, principal or sole source aquifer? ☐ Yes ☑ No
If Yes:

i. Name of aquifer: _____

Attachment: SP-2023-05 TB letter 091823 (RES-2023-775 : Special Use Permit for Tier III Solar Energy System at 800 & 850 New Road)

m. Identify the predominant wildlife species that occupy or use the project site:
Deer, possum, raccoon, skunk
Fox, woodchucks
Songbirds, Turkey, Hawks, blackbirds
Meadow Moles, Field Mice

n. Does the project site contain a designated significant natural community? ☐Yes ☑No
If Yes:
i. Describe the habitat/community (composition, function, and basis for designation):
ii. Source(s) of description or evaluation:
iii. Extent of community/habitat:
- Currently: _____ acres
- Following completion of project as proposed: _____ acres
- Gain or loss (indicate + or -): _____ acres

o. Does project site contain any species of plant or animal that is listed by the federal government or NYS as endangered or threatened, or does it contain any areas identified as habitat for an endangered or threatened species? ☐Yes ☑No
If Yes:
i. Species and listing (endangered or threatened):

p. Does the project site contain any species of plant or animal that is listed by NYS as rare, or as a species of special concern? ☐Yes ☑No
If Yes:
i. Species and listing:

q. Is the project site or adjoining area currently used for hunting, trapping, fishing or shell fishing? ☑Yes ☐No
If yes, give a brief description of how the proposed action may affect that use:
Proposed action will limit hunting activities to areas outside the fenced array.

E.3. Designated Public Resources On or Near Project Site

a. Is the project site, or any portion of it, located in a designated agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304? ☑Yes ☐No
If Yes, provide county plus district name/number:

b. Are agricultural lands consisting of highly productive soils present? ☑Yes ☐No
i. If Yes: acreage(s) on project site? Farmland of Statewide Importance - 48.4% of site. Prime Farmland if Drained - 51.6% of site.
ii. Source(s) of soil rating(s): USDA NRCS Web Soil Survey

c. Does the project site contain all or part of, or is it substantially contiguous to, a registered National Natural Landmark? ☐Yes ☑No
If Yes:
i. Nature of the natural landmark: ☐ Biological Community ☐ Geological Feature
ii. Provide brief description of landmark, including values behind designation and approximate size/extent:

d. Is the project site located in or does it adjoin a state listed Critical Environmental Area? ☐Yes ☑No
If Yes:
i. CEA name:
ii. Basis for designation:
iii. Designating agency and date:

Attachment: SP-2023-05 TB letter 091823 (RES-2023-775 : Special Use Permit for Tier III Solar Energy System at 800 & 850 New Road)

e. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places? ☐ Yes ☑ No

If Yes:

i. Nature of historic/archaeological resource: ☐ Archaeological Site ☐ Historic Building or District

ii. Name: _____

iii. Brief description of attributes on which listing is based:

_____

f. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory? ☑ Yes ☐ No

g. Have additional archaeological or historic site(s) or resources been identified on the project site? ☑ Yes ☐ No

If Yes:

i. Describe possible resource(s): Archaeological Buffer Area

ii. Basis for identification: NYS Office of Parks, Recreation & Historic Preservation - Cultural Resource Information System (CRIS) website

h. Is the project site within fives miles of any officially designated and publicly accessible federal, state, or local scenic or aesthetic resource? ☑ Yes ☐ No

If Yes:

i. Identify resource: Jurek Park, The Paw Park-Off-Leash Dog Park, Dann Lake Park, Depeau Park, Billy Wilson Park, Nature View Park, Great Baehre Conservation Park, Amherst Veterans Canal Park, Meadow Lakes Park, Walton Woods Park, and Bassett Park

ii. Nature of, or basis for, designation (e.g., established highway overlook, state or local park, state historic trail or scenic byway, etc.): Scenic points, & parks

iii. Distance between project and resource: 0.54, 0.68, 1.46, 1.85, 3.18, 3.60, 3.60, 3.70, 3.88, 3.89, and 4.13 miles

i. Is the project site located within a designated river corridor under the Wild, Scenic and Recreational Rivers Program 6 NYCRR 666? ☐ Yes ☑ No

If Yes:

i. Identify the name of the river and its designation: _____

ii. Is the activity consistent with development restrictions contained in 6NYCRR Part 666? ☐ Yes ☐ No

F. Additional Information

Attach any additional information which may be needed to clarify your project.

If you have identified any adverse impacts which could be associated with your proposal, please describe those impacts plus any measures which you propose to avoid or minimize them.

G. Verification

I certify that the information provided is true to the best of my knowledge.

Applicant/Sponsor Name Marc Kenward Date January 20, 2023

Signature Marc Kenward Title Senior Associate

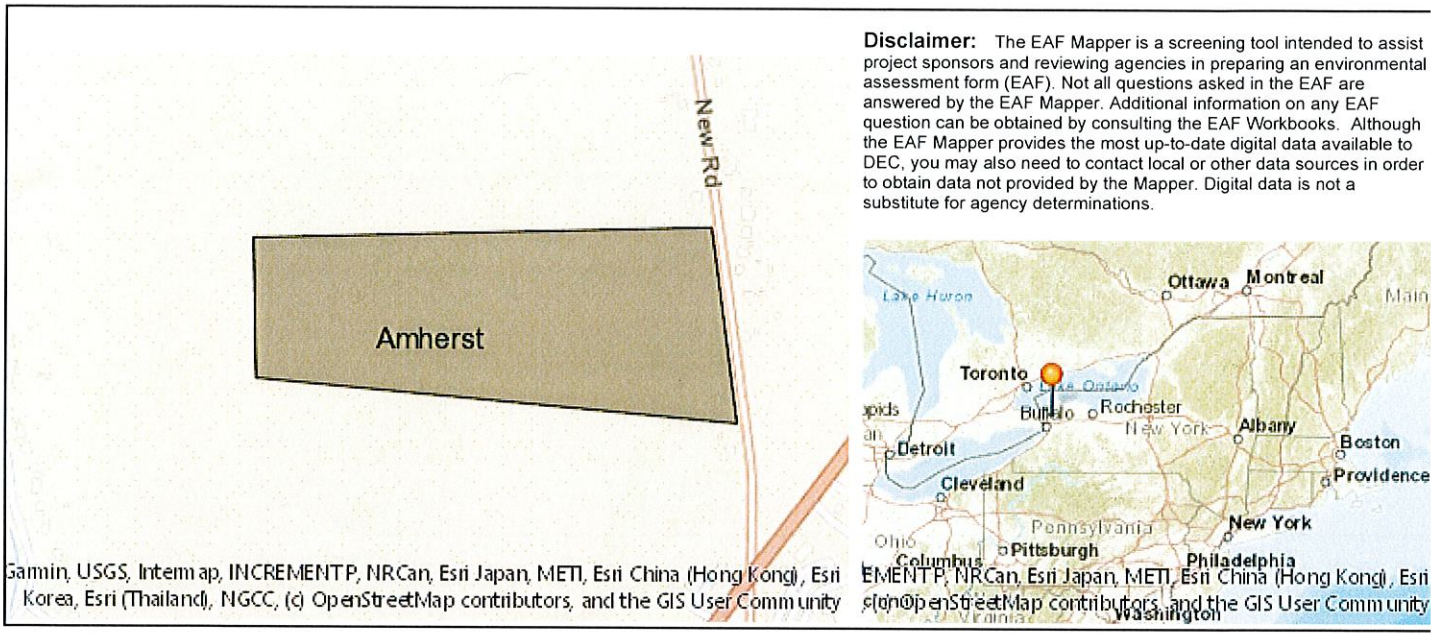
Erdman Anthony Consulting Engineers
145 Culver Road, Suite 200
Rochester, NY 14620 (585) 427 - 8888
KenwardMD@erdmananthony.com

PRINT FORM

Attachment: SP-2023-05 TB letter 091823 (RES-2023-775 : Special Use Permit for Tier III Solar Energy System at 800 & 850 New Road)

EAF Mapper Summary Report

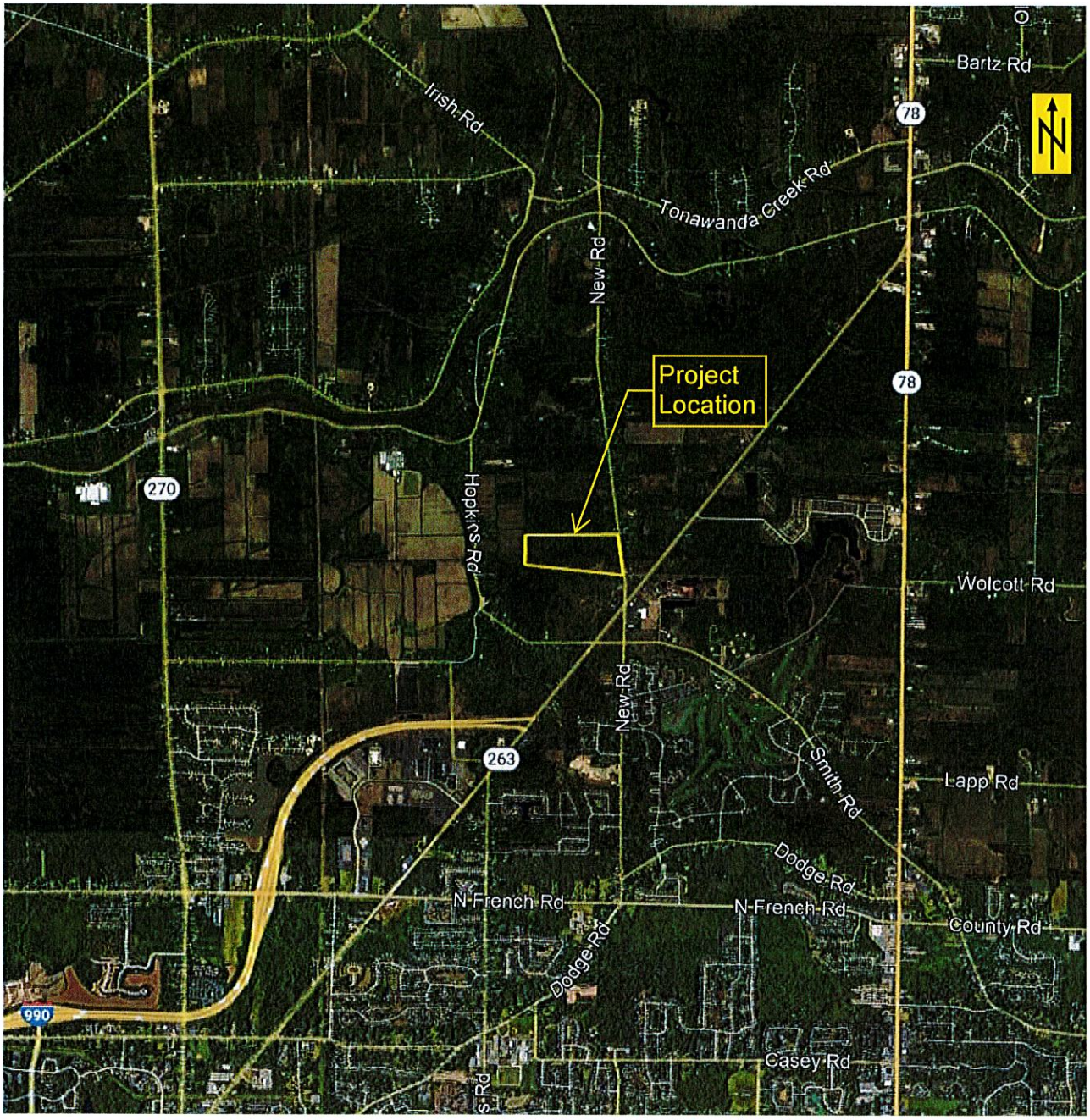
Tuesday, November 15, 2022 1:55 PM



Disclaimer: The EAF Mapper is a screening tool intended to assist project sponsors and reviewing agencies in preparing an environmental assessment form (EAF). Not all questions asked in the EAF are answered by the EAF Mapper. Additional information on any EAF question can be obtained by consulting the EAF Workbooks. Although the EAF Mapper provides the most up-to-date digital data available to DEC, you may also need to contact local or other data sources in order to obtain data not provided by the Mapper. Digital data is not a substitute for agency determinations.

B.i.i [Coastal or Waterfront Area]	No
B.i.ii [Local Waterfront Revitalization Area]	No
C.2.b. [Special Planning District]	Yes - Digital mapping data are not available for all Special Planning Districts. Refer to EAF Workbook.
C.2.b. [Special Planning District - Name]	NYS Heritage Areas:West Erie Canal Corridor
E.1.h [DEC Spills or Remediation Site - Potential Contamination History]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Listed]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Environmental Site Remediation Database]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.iii [Within 2,000' of DEC Remediation Site]	No
E.2.g [Unique Geologic Features]	No
E.2.h.i [Surface Water Features]	Yes
E.2.h.ii [Surface Water Features]	Yes
E.2.h.iii [Surface Water Features]	Yes - Digital mapping information on local and federal wetlands and waterbodies is known to be incomplete. Refer to EAF Workbook.
E.2.h.iv [Surface Water Features - Wetlands Name]	Federal Waters
E.2.h.v [Impaired Water Bodies]	No
E.2.i. [Floodway]	No
E.2.j. [100 Year Floodplain]	Yes
E.2.k. [500 Year Floodplain]	Yes
E.2.l. [Aquifers]	No
E.2.n. [Natural Communities]	No

Attachment: SP-2023-05 TB letter 091823 (RES-2023-775 : Special Use Permit for Tier III Solar Energy System at 800 & 850 New Road)



ERDMAN ANTHONY

145 Culver Road, Suite 200
Rochester, NY 14620
(585) 427-8888

TITLE:

PROJECT LOCATION MAP

850 & 800 New Road, Amherst, New York

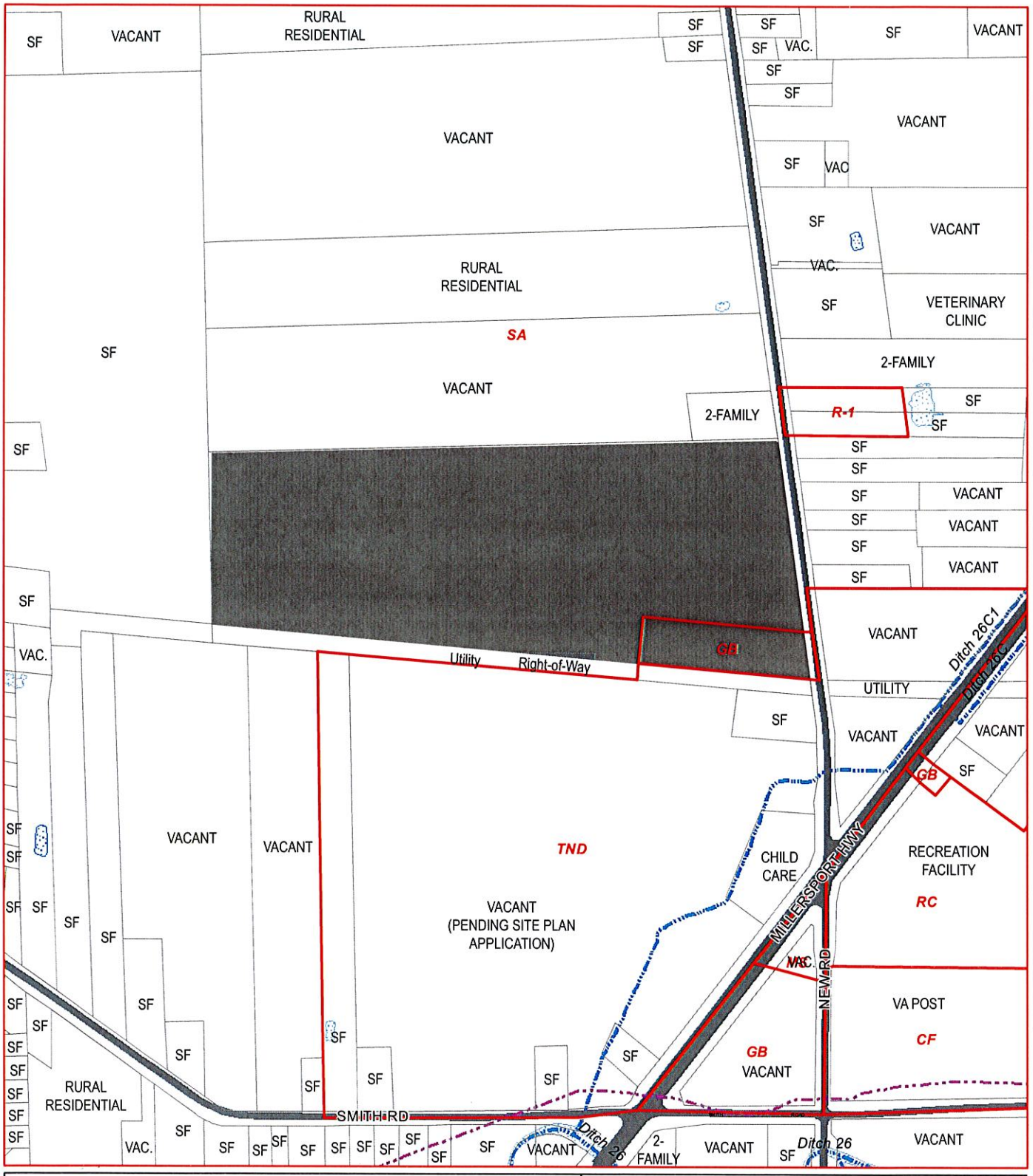
Prepared For: Sol Source Power, Inc.

DRAWING BY:	DATE:	PROJECT:
NA	November, 2022	19720.01

SCALE: NTS

REFERENCE: FIGURE I

Attachment: SP-2023-05 TB letter 091823 (RES-2023-775 : Special Use Permit for Tier III Solar Energy System at 800 & 850 New Road)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Recommended Plant List

SYMBOL	QUANTITY	BOTANICAL NAME	COMMON NAME	SIZE	NOTES
DECIDUOUS TREES					
CO	1	Celtis occidentalis 'Prairie Pride'	Prairie Pride Common Hackberry	2½"-3"Cal.	B&B; Grows to 45 feet high, 30 feet wide
NS	3	Nyssa sylvatica 'Wildfire'	Wildfire Blackgum	2½"-3"Cal.	B&B; Grows to 40 feet high, 25 feet wide
QB	3	Quercus bicolor	Swamp White Oak	2½"-3"Cal.	B&B; Grows 50 to 60 feet high and wide
SMALL/ORNAMENTAL TREES					
AI	8	Amelanchier laevis	Allegheny Serviceberry	8-ft. to 10-ft.*	B&B; grows 25-35 feet high
CC	7	Cercis canadensis	Eastern Redbud	8-ft. to 10-ft.*	B&B; grows 20-30 feet high
CH	7	Crataegus crus-galli 'Cruzam'	Crusader Hawthorn	1.5" - 2" Cal. *multi-stem, minimum 3 major stems	B&B; grows 20-30 feet high
SHRUBS					
AA	28	Aronia arbutifolia 'Brilliantissima'	Red Chokeberry	3 ft. high min.	No.5 Cont.; grows 8-12 feet high
CA	40	Corylus americana	American hazelnut	3 ft. high min.	No.5 Cont.; grows 6-10 feet high
RD	66	Cornus alba 'Siberica'	Red Twig dogwood	4 ft. high min.	B&B; grows 6-9 feet high
SD	40	Cornus amomum	Silky Dogwood	4 ft. high min.	B&B; grows 6-10 feet high
HV	28	Hamamelis vernalis	Vernal Witchhazel	5 ft. high min.	B&B; multi-stem; grows 10-12 feet high
SC	24	Sambucus canadensis	Elderberry	24" high min.	No. 3 Cont.; grows 5-12 feet high
EVERGREEN TREES					
AC	13	Abies concolor	Concolor Fir	5' high min.**	B&B; Full to Ground; grows 40-60 feet high
JV	22	Juniperus virginiana	Eastern Red Cedar	5' high min.**	B&B; Full to Ground; grows 55-60 feet high
PG	24	Picea glauca	White Spruce	5' high min.**	B&B; Full to Ground; grows 40-60 feet high

**Measured from ground to bottom of leader

NOTE: All planting beds and tree saucers shall receive a minimum 3-inch depth of dark shredded hardwood bark mulch

Town of Amherst Zoning Ordinance § 7-2, Landscaping, Buffers and Screening.

Sec. 7-2-6: Buffers and Screening.

Buffering and screening may consist of healthy trees and shrubs existing on the site prior to development providing that they form an immediately effective visual screen at least 36 inches above the grade at the adjacent VUA and that the existing trees and shrubs are thoroughly protected from damage during construction by establishing a work limit line on all site plan drawings. The work limit line shall be delineated in the field prior to site clearing in the vicinity of the required yard area. Supplemental plantings may be required in addition to the existing vegetation as determined by the Planning Board or Planning Director in order to improve the screening properties of the buffer.

LANDSCAPE PLAN

Z-2022-12
800 New Road

Attachment: SP-2023-05 TB letter 091823 (RES-2023-775 : Special Use Permit for Tier III Solar Energy System at 800 & 850 New Road)

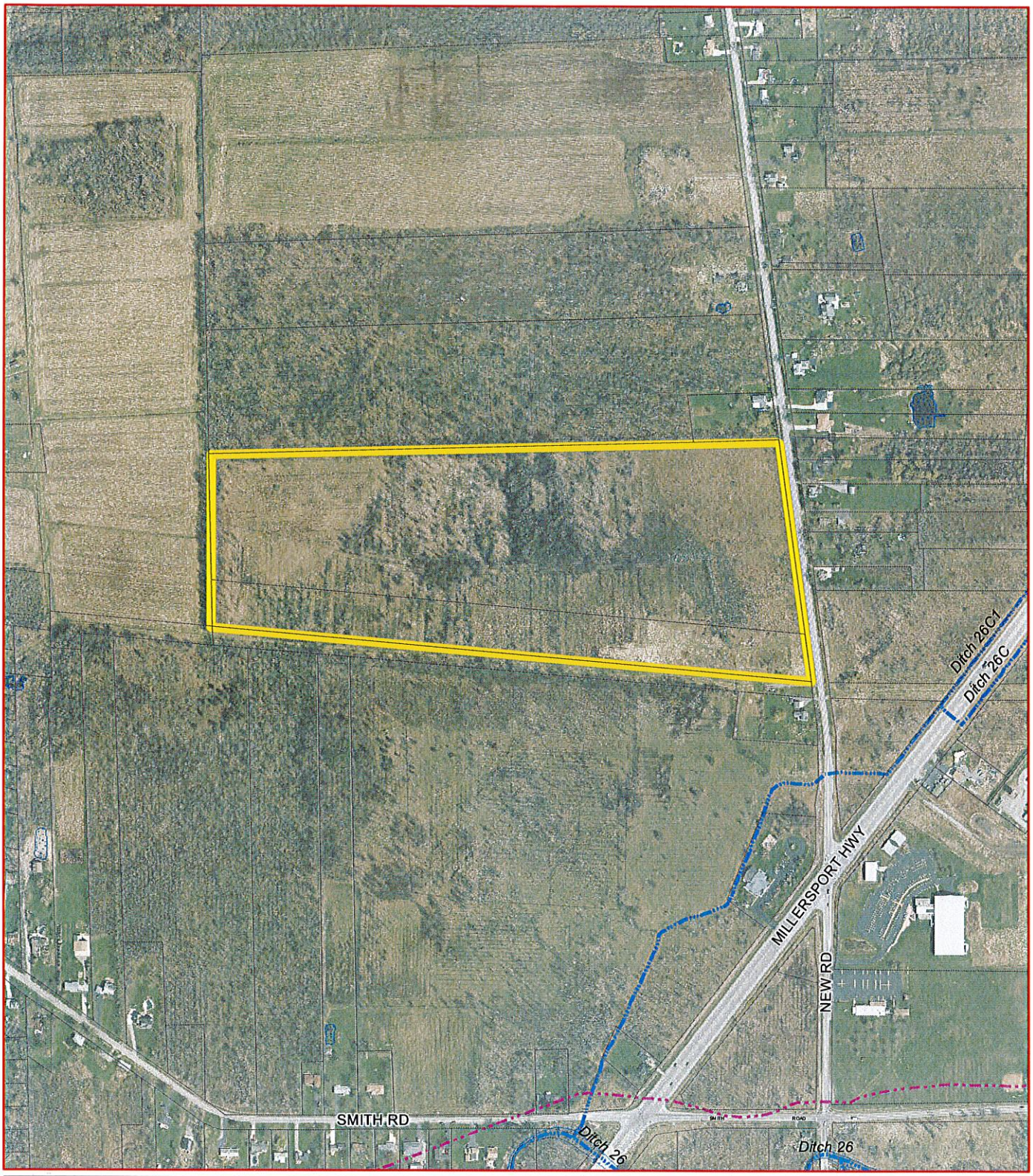
New Road: Proposed Conditions at the Time of Planting

New Road: Proposed Conditions at the Time of Planting

SIMULATIONS

SP-2023-01
800 New Road

Attachment: SP-2023-05 TB letter 091823 (RES-2023-775 : Special Use Permit for Tier III Solar Energy System at 800 & 850 New Road)



SP-2023-01

Proposed Tier III Solar Energy System
Property Located at 800 & 850 New Road

Sol Source Power, LLC, Petitioner

August 17, 2023

800 & 850 New Road

Floodway Boundary

Prepared by the Town of Amherst Planning Department

Attachment: SP-2023-05 TB letter 091823 (RES-2023-775 : Special Use Permit for Tier III Solar Energy System at 800 & 850 New Road)

Amherst

Town of Amherst Planning Department *Erie County, New York*

Brian J. Kulpa, Supervisor
Daniel C. Howard, AI Planning Director
Daniel J. Ulatowski, AI Assistant Planning Dire

August 1, 2023

Steve Long
Sol Source Power
1 Washington Place
Troy, NY 12180

SUBJECT:	Site Plan Review	**SP-2023-01**
	Proposed:	Tier III Solar Energy System
	Property located at:	**800 & 850 New Road**
	Revised plans received:	July 18, 2023
	Architect/Engineer:	Erdman Anthony

Dear Sir or Madam:

Please consider the following comments:

ZONING ENFORCEMENT OFFICER:

Approvable with the following conditions;

1. At the time of inspection for the certificate of compliance, the Town can require supplemental plantings in accordance with §203-7-2-4(a) of Town Code to satisfy buffer and screening requirements.

2. The parcels located at 800 & 850 New Road to be merged prior to issuance at final approved site plan drawing.

3. That the petitioner is required to mitigate any glare produced by the array along Hopkins, Smith, New Roads and Millersport Highway by supplementing the existing vegetative screening with additional line-of-sight plantings on the subject site if complaints relating to glare are received by the Building Department.

4. That the petitioner provide a copy of any and all USACOE, USFW, and NYSDEC permit applications to the Planning Department when filed.

5. Tree removals outside of the fenced compound (within wetlands) will not be authorized without evidence that such removals are necessary for the operation of the solar arrays.

PLANNING DEPARTMENT REVIEW

1. The rezoning and the request for relief of deed restriction on the portion of 800 New Road must be finalized and the special use permit request must be approved by the Town Board prior to issuance of final approved site plan drawings.

Attachment: SP-2023-05 TB letter 091823 (RES-2023-775 : Special Use Permit for Tier III Solar Energy System at 800 & 850 New Road)

LANDSCAPE ARCHITECT REVIEW:

No comments on the revised site plan drawings submitted on July 18, 2023.

This is a review only and does not constitute approval of the Major Site Plan. Final approval will occur after Planning Board approval, any conditions imposed by that board are addressed, and approved Major Site Plan drawings are issued by this department. Should you have questions regarding this correspondence, please contact Thomas Voigt, Assistant Planner at tvoigt@amherst.ny.us or Scott A. Marshall, Principal Planner at smarshall@amherst.ny.us.

Very truly yours,

Daniel C. Howard, AICP
Planning Director

DH/SM/bf
X:\Current_Planning\Files\Site Plans\2023\SP-2023-01_(800_&_850_New_Road)_2023\SP-2023-01_Pln_Dpt_Rvw_080123.docx
cc: Daniel Ulatowski, Zoning Enforcement Officer
Mark S. Berke, Commissioner of Building
Jeffrey Burroughs, Town Engineer
Jeffrey Szatkowski, Landscape Architect
Marc Kenward, Erdman Anthony Consulting, 145 Culver Rd., Ste. 200, Rochester, NY 14620

Attachment: SP-2023-05 TB letter 091823 (RES-2023-775 : Special Use Permit for Tier III Solar Energy System at 800 & 850 New Road)

TOWN OF AMHERST
ENGINEERING DEPARTMENT
ERIE COUNTY – NEW YORK
JEFFREY S. BURROUGHS, P.E., TOWN ENGINEER

May 2, 2023

TO: Scott A. Marshall – Principal Planner
Douglas Gesel – Senior Code Enforcement Officer
Jeffrey S. Burroughs, P.E – Town Engineer

REVIEWER: Vaishali Reberholt, P.E, CPESC – SMO

SUBJECT: Site Plan Review: SP-2023-01
Proposed Tier III Solar Energy System
Town Job #2023.006

ADDRESS: 800 & 850 New Road

PETITIONER: Sol Source Power

SITE PLAN SWPPP NOT REVIEWABLE

No SWPPP sent – therefore not reviewable.
However, upon review of the plans, a bio-retention area has been added. This now will require a Stormwater Maintenance Agreement to maintain this post-construction stormwater control. A profile of the bio-retention is also required along with verbiage on the ESC plan stating that no bio-retention media will be installed until the site has been stabilized. Please also show silt sock around the bio-retention area on the ESC plan.

The following are from the March 2, 2023 review:

- Please include the 25-year storm event calculations so that the review can be completed.

Other noted comments:

- Per the NYSDEC and the 2010 MS4 Permit, all urbanized areas shall be extended to the municipal's boundary line, so the Town of Amherst will have jurisdiction over this project. Please change the SWPPP on page 1 to reflect this.
- On page 9, written authorization for disturbance over 5 acres comes from the Town of Amherst, not NYSDEC.
- The owner certification and SWPPP preparer form need to be signed.
- On page 5, Swett Road appears to be referring to New Road instead.

VR/SKB

Cc: Steve Long, Sol Source Power, 1 Washington Place, Troy, NY 12180
Marc Kenward, Erdman Anthony Consulting, 145 Culver Rd., Suite 200, Rochester, NY 14620

ENGINEERING OFFICE – SEWER MAINTENANCE
1100 N. FOREST ROAD
WILLIAMSVILLE, N.Y. 14221
(716) 631-7154 FAX: (716) 631-7222

WASTEWATER TREATMENT FACILITY – ENVIRONMENTAL CONTROL
455 TONAWANDA CREEK ROAD
AMHERST, N.Y. 14228
(716) 691-9771 FAX: (716) 691-4496

Attachment: SP-2023-05 TB letter 091823 (RES-2023-775 : Special Use Permit for Tier III Solar Energy System at 800 & 850 New Road)

TOWN OF AMHERST

RECEIVED
APR 21 2023
TOWN OF AMHERST
PLANNING DEPT.

TRAFFIC SAFETY BOARD

ENGINEERING DEPARTMENT – 1100 NORTH FOREST ROAD, WILLIAMSVILLE, NEW YORK 14221
TRAFFIC SAFETY COORDINATOR - TELEPHONE 631-7154 - FAX 631-7222

MICHAEL SZUKALA
Councilmember & Liaison Officer

ERIC FRAAS
Chairman

GREGORY DIONNE
Vice Chairman

CHRISTOPHER P. SCHREGEL
Traffic Safety Coordinator

MEMBERS

DANIEL J. RIDER, P.E.
KENNETH A. SMITH
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MARK STORCH
MAXWELL KAHN
KEVIN CANTWELL
KRISTIN GOSS

DEPT. LIAISONS

THOMAS VOIGT
Planning

CAPT. KEVIN BROWN
Police

WILLIAM PRENEVAU
Building

AL SPOTH
Highway

April 20, 2023

TO: Scott Marshall – Principal Planner
Mark S. Berke – Commissioner of Buildings

FROM: Christopher P. Schregel – Traffic Safety Coordinator

SUBJECT: Proposed Major Site Plan Review **SP-2023-01**
Proposed Tier III Solar Energy System
TOA Job # 2023.006

ADDRESS: 800 & 850 New Road

PETITIONER: Sol Source Power

X **MAJOR SITE PLAN IS**

X **APPROVED AS SUBMITTED**

CPS/ch
Cc: Steve Long, Sol Source Power, 1 Washington Place, Troy NY 12180
Marc Kenward, Erdman Anthony Consulting, 145 Culver Road, Suite 200, Rochester, NY 14620

Attachment: SP-2023-05 TB letter 091823 (RES-2023-775 : Special Use Permit for Tier III Solar Energy System at 800 & 850 New Road)

AMHERST FIRE CHIEFS' ASSOCIATION INC.

To: Dan Howard, Planning Director Date:

From: Krista Halt, Liaison to Amherst Fire Safety Committee

RE: Site Plan Review: SP-2023-01 PROPOSED TIER III SOLAR ENERGY SYSTEM
Address: 800 & 850 NEW RD. **REV. 4/21/23**

Petitioner: SOL SOURCE POWER

The above referenced ☒ Site Plan is ☐ Subdivision is ☐ Minor Modification is:

☒ Approved with conditions: See comments

☐ Denied due to the following:

☐ Not reviewable at this time due to the following:

☐ 1. Section 503 FCNYS 2020 – Fire Apparatus Access Road

- ☐ A. Section 503 Firelanes (fire apparatus access roads) be provided in accordance with the FCNYS 2020
- ☐ B. 503.1.1 – provide for the fire apparatus access road to within 150 feet of all portions of the building or within 300 feet if the building is sprinkled.
- ☐ C. 503.1.2 – provide an additional fire apparatus access road
- ☐ D. 503.2 – specifications – fire apparatus access roads shall be installed and arranged in accordance with section 503.2.1 through 503.2.7
  - ☐ 1. 503.2.1 – fire apparatus access road must be an unobstructed width of not less than 20 feet and a vertical clearance of 13 feet 6 inches.
  - ☐ 2. 503.2.2 – increase width of fire apparatus access road to ____ feet to be adequate for fire or rescue operations.
  - ☐ 3. 503.2.4 – the turning radius for fire apparatus access roads is 22 inside and 45 outside.
  - ☐ 4. 503.2.5 – dead end fire apparatus access roads in excess of 150 feet, shall be provided with an approved area for turning around fire apparatus.
  - ☐ 5. 503.3 – fire apparatus access roads must be marked as firelanes per the signage specification established by Appendix D FCNYS 2020
  - ☐ 6. Appendix D – Access Roads: Width, Distance from bldgs. Remoteness requiring 2 separate access roads.

☐ 2. Section 506 FCNYS 2020 – Key Boxes – A fire department Knox key box is required for access to building keys.

☐ 3. Section 507 FCNYS 2020 – Fire Protection Water Supplies

- ☐ A. Indicate all existing Fire Hydrants on plans.
- ☐ B. All waterlines with numerous hydrants should be looped or on a grid system.
- ☐ C. All fire hydrants must be within 500 feet of each other. (Subdivisions)
- ☐ D. Section 507.5.1 – provide an additional Fire Hydrant within 400 feet of the most remote point of the building (as the fire hose would be laid out) or within 600 feet if the building is equipped with a Fire Sprinkler system.
- ☐ E. [B] Section 912 - This project may be required to install a Fire Sprinkler system, if so, indicate the location of the fire department connection for the sprinkler system, which must be located on the street side of the building

COMMENTS: 1- Provide a Knox lock on the access gate for fire department access in an emergency. 4/21/23 OK SOD C-102 2- A clear, brush-free area of 10-ft. shall be required and maintained.4/21/23 OK NOTE ON C-102 3- Personnel contact information shall be provided for the fire department. 4- Emergency shut down operations shall be posted for fire department. 4/21/23 OK SIGNAGE PROVIDED.

X:\DOCS\KBH\Site Plan Reviews\2023\800 & 850 NEW RD. SOLAR PANELS SP-2023-01.docx 4/21/2023

Attachment: SP-2023-05 TB letter 091823 (RES-2023-775 : Special Use Permit for Tier III Solar Energy System at 800 & 850 New Road)

TOWN OF AMHERST
BUILDING DEPARTMENT
ERIE COUNTY, NEW YORK
5583 MAIN STREET
WILLIAMSVILLE, NEW YORK 14221

PHONE: (716) 631-7080
FAX: (716) 631-7192

Mark S. Berke, P.E.
Commissioner of Building

DATE: April 19, 2023

TO: Planning Department

FROM: Doug Gesel Supervising Code Enforcement Officer

RE: Major Site Plan SP-2023-01Tier III Solar energy system @ 800& 850 New Rd

☒ Site Plan is: ☐ Subdivision is: ☐ ODA is: ☐ CSP is:

☒ Approved as Submitted

☐ Approved with the following conditions or changes:

☐ Denied for the following reasons:

☐ Not reviewable at this stage because the following information is not provided:

☐ Not applicable to this department at this time.

NOTE:

☒ Floodplain Development Permit required.

☒ Wetlands on property.

☐

*This review was for site compliance only.
*Approval does not grant permission to start construction.

Douglas Gesel

Supervising Code Enforcement Officer
Town of Amherst Building Department

Attachment: SP-2023-05 TB letter 091823 (RES-2023-775 : Special Use Permit for Tier III Solar Energy System at 800 & 850 New Road)

TOWN OF AMHERST ENGINEERING DEPARTMENT
ENGINEERING SERVICES DIVISION
BRIAN J. ARMSTRONG – DIRECTOR OF ENGINEERING SERVICES

April 18, 2023

TO: Daniel J. Ulatowski, AICP – Assistant Planning Director
Doug Gesel – Senior Code Enforcement Officer
Patrick G. Lucey - Highway Superintendent
Emily Murphy - Town Assessor
Anne Demopoulos – Legal Department

FROM: Brian J. Armstrong – Director of Engineering Services

SUBJECT: Major Site Plan Review; SP-2023-01
Proposed Tier III Solar Energy System
Town of Amherst Job No. 2023.006

ADDRESS: 800 & 850 New Rd.

PETITIONER: SOL Source Power

SITE PLAN REVIEW IS APPROVED AS SUBMITTED

cc: Steve Long, SOL Source Power, 1 Washington Place, Troy, NY 12180
Marc Kenward, Erdman Anthony Consulting, 145 Culver Rd., Suite 200, Rochester, NY 14620
Scott Marshall – Principal Planner

Attachment: SP-2023-05 TB letter 091823 (RES-2023-775 : Special Use Permit for Tier III Solar Energy System at 800 & 850 New Road)

AMHERST HIGHWAY DEPARTMENT

1042 North Forest Road Williamsville, New York 14221

Patrick Lucey
Superintendent of Highways
plucey@amherst.ny.us

PHONE (716) 631-7117

FAX (716) 631-7265

www.amherst.ny.us

March 27, 2023

To: Scott Marshall, Principal Planner

From: Patrick Lucey, Superintendent of Highways

Re: MAJOR SITE PLAN REVIEW, **SP-2023-01;** PROPOSED TIER III SOLAR ENERGY SYSTEM; PROPERTY LOCATED AT **800 & 850 NEW ROAD;** SOL SOURCE POWER, PETITIONER.

After review relative to Highway Department concerns, the plan is approved as submitted.

Daniel J. Ulatowski, AICP, Assistant Planning Director
Douglas Gesel, Supervising Code Enforcement Officer
Jeffrey Burroughs, Town Engineer
Vaishali Reberholt, PE, Stormwater Management Officer (Eng)
Emily Murphy, Town Assessor
Chris Schregel, Traffic/Safety Coordinator (Eng)
Bryan Parnell, Fire Chief's Association (c/o Bldg)
Alan Herberger, Senior Plumbing Inspector, (c/o Bldg)
Ann Demopoulos, Deputy Town Attorney, ROW Agent
Jeffrey Szatkowski, Landscape Architect
Brian Barnes, Senior GIS Analyst (Eng)
ECDEP
NYSDOT
ECDPW
NYSDEC
Steve Long, Sol Source Power, 1 Washington Place, Troy, NY 12180
Marc Kenward, Erdman Anthony Consulting, 145 Culver Road Suite 200, Rochester, NY 14620

PL/EB/TL/ke

Attachment: SP-2023-05 TB letter 091823 (RES-2023-775 : Special Use Permit for Tier III Solar Energy System at 800 & 850 New Road)

SITE PLAN OR ZONING REFERRAL TO COUNTY OF ERIE, N.Y. AND REPLY TO MUNICIPALITY

Submit this form with full statement of proposed action (as described in GML 239-m(c)) at www.Erie.gov/IRonline, OR mail a hard copy (retain a copy for your files) to: Erie County Division of Planning, 95 Franklin Street, Room 1053, Buffalo, N.Y., 14202

DO NOT WRITE IN THIS SPACE

Case No.: SP-23-112

Postmark/Delivery Date: 1/27/2023

The proposed action described herein is referred in accordance with the provisions of NYS General Municipal Law §239 l - nn

A Municipal Referral Map is available to help determine whether an applicable action is subject to referral.

Description of Proposed Action

1. Name of Municipality: Town of Amherst, New York

§239-m(4)(b) provides that the county shall have 30 days after receipt of a full statement of the proposed action to reply. If the county fails to reply within such period, the referring body may take final action. However, any county reply received after 30 days but 2 or more days prior to final action by the referring body shall be subject to §239-m(5) The referring body shall file a report of its final action with the county within 30 days per §239-m(6).

2. Hearing Schedule: Date 3/16/2023 Time 6:30pm Location 5583 Main Street, Williamsville, New York 14221

3. Action is before: ☐ Legislative Body ☐ Board of Appeals ☑ Planning Board

4. Action consists of: ☐ New Ordinance ☐ Rezone/Map Change ☐ Ordinance Amendment

☑ Site Plan ☐ Variance ☐ Special Use Permit ☐ Other:

5. Location of Property: ☐ Entire Municipality ☑ Address: 800 + 850 NEW ROAD

5a. S.B.L. of Property: 16.00-2-14.2 16.00-2-14.1

6. Referral required as site is within 500' of: ☐ State or County Property/Institution ☐ Municipal Boundary ☑ Farm Operation located in an Agricultural District

☐ Expressway ☑ County Road ☑ State Highway ☐ Proposed State or County Road, Property, Building/Institution, Drainageway

7. Proposed change or use: *(specify the action, such as the scope of variances or site plans)* PROPOSED TIER III SOLAR ENERGY SYSTEM + SPECIAL USE PERMIT

8. Other remarks: SP-2023-01

9. Submitted by: Thomas Voigt, Assistant Planner **Email:** tvoigt@amherst.ny.us

10. Return Address: Town of Amherst Planning Department, 5583 Main Street, Williamsville, New York 14221

Reply to Municipality by Erie County Division of Planning

Receipt of the above-described proposed action is acknowledged on 1/27/2023**. The Division herewith submits its review and reply under the provisions of applicable state and local law, based on the information submitted with this referral.**

1. ☐ **The proposed action is not subject to review under the law.**
2. ☒ **Comment on proposed action is attached hereto.**
3. ☐ **The proposed action is subject to review; Recommendation on Proposed Action is attached hereto.**
4. ☐ **No Recommendation; proposed action has been reviewed and determined to be of local concern.**

By the Division of Planning: Dan M. Hall **Date:** 2/22/2023

ZR1
Revised 5/22

Attachment: SP-2023-05 TB letter 091823 (RES-2023-775 : Special Use Permit for Tier III Solar Energy System at 800 & 850 New Road)

Attachment: SP-2023-05 TB letter 091823 (RES-2023-775 : Special Use Permit for Tier III Solar Energy System at 800 & 850 New Road)

COUNTY OF ERIE

MARK C. POLONCARZ
COUNTY EXECUTIVE

February 22, 2023

Mr. Daniel J. Ulatowski, AICP
Assistant Planning Director/ZEO
Town of Amherst
5583 Main Street
Amherst, NY 14221

Re: **SEQR Lead Agency Request and Major Site Plan Review for Proposed Tier III Solar Energy System**

Location: **800-850 New Road, Town of Amherst**
Review No.: **SP-23-112**

Dear Mr. Ulatowski,

Pursuant to New York General Municipal Law Section 239-m and Article 8 of the New York Environmental Conservation Law, the Erie County Department of Environment and Planning (DEP) is in receipt of the above-referenced project received on January 27, 2023, and consents to the Town of Amherst acting as lead agency in the environmental review of this action. DEP offers the following comments based upon its review of the project:

- The majority of the project site is within a Special Flood Hazard Area or 100-year floodplain, while the remainder of the site is within the 500-year floodplain, according to the FEMA Flood Insurance Rate Maps.

- The project occurs within 500 feet of land in agricultural production and Erie County North Agricultural District #1.

- While the Agricultural District program enforces no financial penalty for the conversion of farmland to non-farm use, there is such a penalty associated with the Agricultural Value Assessment program. If these parcels have received such an assessment, the landowner should be aware that payment recapture may be imposed by New York State.

- Nearly half of the project site contains Farmland of Statewide Importance, and more than half of the site is listed as Prime Farmland if Drained according to the USDA NRCS Web Soil Survey. As required in

Section 6-10 of the Town of Amherst Zoning Code, the applicant should provide the Town with an operations and maintenance plan that includes an agricultural soils preservation plan that is in compliance with the New York State Department of Agriculture and Markets Guidelines for Solar Energy Projects - Construction Mitigation for Agricultural Lands.

- The project site is shown as an "Area of Existing/Potential Agricultural Activity" on Map 8 of the Town's Farmland Protection & Agricultural Development Plan. The Town should continue its efforts to preserve the rural and agricultural nature of the northern portion of the town, as recommended in the Bicentennial Comprehensive Plan and the Farmland Protection & Agricultural Development Plan. Protecting this undeveloped land should involve expanding the use of conservation easements and, as stated in both plans, restricting the expansion of sewer service or the existing sewer district beyond its current boundaries.

- The Town is encouraged to continue its practice of working with landowners to incorporate co-location of agricultural uses where feasible on this and future projects in locations identified as appropriate for agricultural use in the Farmland Protection & Agricultural Development Plan.

- Solar projects exempted from local property taxes under Real Property Tax Law Section 487 may be subject to a payment-in-lieu-of-taxes (PILOT) agreement. The developer must notify the Department of Environment and Planning (DEP) of their intent to construct such projects. Within sixty days, DEP will notify the developer if a PILOT agreement will be required. Notices must be mailed to:

  Attn: Sarah Gatti
  Erie County Department and Environment and Planning
  95 Franklin Street, Tenth Floor
  Buffalo, NY 14202

This review pertains to the above referenced project submitted to DEP. This should not be considered sufficient for any County approvals. The applicant and/or its contractors must still obtain any other permits and regulatory approvals applicable to this project.

Sincerely,

David Hall
Planner

Attachment: SP-2023-05 TB letter 091823 (RES-2023-775 : Special Use Permit for Tier III Solar Energy System at 800 & 850 New Road)

Carrato, Amy

From: Robinson, Judy A CIV USARMY CELRB (USA) <Judy.A.Robinson@usace.army.mil>
Sent: Tuesday, February 21, 2023 3:56 PM
To: Voigt, Thomas J.
Cc: Carrato, Amy
Subject: FW: LRB-2022-01059- DoD Sage Link 2.14.2023-SP-2023-01, 800 & 520 New Rd.
Attachments: SP-2023-01_USACE_021323.pdf

CAUTION: This email originated from outside of the organization.
Please do not click links or open attachments unless you recognize the sender and know the content is safe.

Tom,

In reference to the Town's request for comments on the proposed project, please consider the following:

Under Section 404 of the Clean Water Act, the USACE has jurisdiction of the placement of fill or dredged material into a jurisdictional water of the United States.

Under Section 10 of the Rivers and Harbors act, the USACE has jurisdiction of the placement of fill or dredged material, and all work in, over, and under a Section 10 water.

In terms of tree removal - the Corps does not have jurisdiction over tree cutting in a jurisdictional wetland. That said, the manner in which the removal is proposed may require a Department of the Army permit. For instance, if trees are cut to the ground and left in place or winched off the site, this would not likely require a DA permit. If the tree removal, winching, and transporting of trees leaves the site so disturbed that grading uneven areas to prep the site for panel installation - a DA permit would likely be required. If removal of stumps is proposed; this activity would require a DA permit.

My professional suggestion would be to have SOL Source Power submit a permit application (or a request for a "no permit required" letter, that would not necessarily require a permit application) complete with the work proposed in the jurisdictional areas so that the file can be assigned and reviewed by a project manager to evaluate. If the tree removal falls within the non-jurisdictional parameters associated with the activity, SOL Source Power could request a "no permit required" letter, which would be beneficial to them and to the Town for your evaluation as well. Note that the USACE cannot make SOL Source Power submit a permit application if they are moving forward on the premise that their activity would not be regulated. However, it appears that this is something that the Town could require for their purposes.

Note that if the proposal to remove trees IS NOT deemed to require a DA permit, then the project manager is not required to coordinate with the USFWS with regard to bat habitat. The Town may want to require SOL Source Power to gain a response from the USFWS independently should a DA permit not be required.

I hope that these comments are helpful.

Regards,

Judy Robinson

-----Original Message-----
From: Carrato, Amy <acarrato@amherst.ny.us>

Attachment: SP-2023-05 TB letter 091823 (RES-2023-775 : Special Use Permit for Tier III Solar Energy System at 800 & 850 New Road)

Sent: Monday, February 13, 2023 4:39 PM
To: LRB.Regulatory.New York Actions <LRB.Regulatory.NewYork_Actions@usace.army.mil>
Cc: Voigt, Thomas J. <tvoigt@amherst.ny.us>
Subject: LRB-2022-01059-Plans Changing a bit-will send docs-Sent DoD Sage Link 2.14.2023-SP-2023-01, 800 & 520 New Rd.

Good afternoon,

Please see the attached regarding:
Major Site Plan Review, SP-2023-01; Proposed Tier III Solar Energy System; property located at 800 & 850 New Road; Sol Source Power, Petitioner.

Digital versions of the site plan materials may be viewed and/or downloaded from:
Blockedhttps://us-east-2.protection.sophos.com?d=amherst.ny.us&u=aHR0cHM6Ly93d3cuYW1oZXJzdC5ueS51cy9jb250ZW50L2RldmVsb3BtZW50X3Byb2plY3RzX3BlbmRpbmcucGhw&i=NWQ1NDQ3ZTFhNzY3NTgxMGE3OGJmYzZk&t=Y082WFExSDFKaXB2elJJbi9xNWFNWEcxTmh3OXVOa2lyTWpwQURvNDZOVT0=&h=8f88a0e660eb450c92f6e822663105e7&s=AVNPUEhUT0NFTkNSWVBUSVYKYh5CwA3I525AKcEpIj5hqNNvtWAEDsxEm0LIyUSy_A

Thank you,

Amy Carrato
Community Development Assistant
Town of Amherst Planning Department
5583 Main Street, Williamsville, NY 14221
716-631-7051

Attachment: SP-2023-05 TB letter 091823 (RES-2023-775 : Special Use Permit for Tier III Solar Energy System at 800 & 850 New Road)

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Permits, Region 9
700 Delaware Avenue, Buffalo, NY 14209
P: (716) 851-7165 I F: (716) 851-7168
www.dec.ny.gov

February 9, 2023

Thomas Voigt
Town of Amherst Planning Department
5583 Main Street
Williamsville, New York 14221

Dear Thomas Voigt:

SEQR Lead Agency Coordination
800/850 New Road Solar Energy System
800/850 New Road
Town of Amherst, Erie County

This is to acknowledge receipt of your January 26, 2022, submission regarding the above referenced project under the State Environmental Quality Review Act (SEQR). The Department recommends that the Town of Amherst should act as SEQR Lead Agency, since the environmental impacts of the proposal are primarily of local significance. However please be aware of the following:

1. If project activities will involve land disturbance of 1 acre or more, the project sponsor, owner or operator is required to obtain a State Pollutant Discharge Elimination System General Permit for Stormwater Discharges from Construction Activity (GP-0-15-002). This General Permit requires the project sponsor, owner or operator to control stormwater runoff according to a Stormwater Pollution Prevention Plan (SWPPP), which is to be prepared prior to filing a Notice of Intent (NOI) and prior to commencement of the project. More information on General Permit GP-0-15-002, as well as the NOI form, is available on the Department's website at www.dec.ny.gov/chemical/43133.html. Information on permitting requirements and preparation of a necessary Stormwater Pollution Prevention Plan (SWPPP) is available on the Department's website at www.dec.ny.gov/chemical/8468.html.

   The Town of Amherst is designated as an MS4 community. The project sponsor, owner or operator of a construction activity that is subject to the requirements of a regulated, traditional land use control MS4 shall have their SWPPP reviewed and accepted by the MS4 community. The "MS4 SWPPP Acceptance" form must be signed by the principle executive officer or ranking elected official from the MS4 community, or by a duly authorized representative of that person, and submitted along with the NOI, to the Department at NOTICE OF INTENT, NYSDEC, Bureau of Water Permits, 625 Broadway, 4th Floor, Albany, New York 12233-3505, telephone: 518/402-8111 to receive Department approval before construction commences.

NEW YORK STATE | Department of Environmental Conservation

Attachment: SP-2023-05 TB letter 091823 (RES-2023-775 : Special Use Permit for Tier III Solar Energy System at 800 & 850 New Road)

2. It was noted on the Federal Emergency Management Agency's (FEMA) FIRM Map No. 36029COO78H that the site may be located within a flood hazard area. The proposed project should be designed in accordance with all applicable local municipal laws for flood damage reduction.

3. The site) appears to be within an archaeologically sensitive area based on information obtained through the Cultural Resource Information System (CRIS) on the New York State Office of Parks, Recreation and Historic Preservation's (OPRHP) website at https://cris.parks.ny.gov/. As part of the SEQR process, this concern should be evaluated, unless it can be verified by appropriate documentation that the sites have been significantly disturbed in a way that would destroy potential artifacts. Please recognize that normal agricultural activities, such as plowing, would not constitute such land disturbance. If there are any questions regarding this, contact OPRHP (telephone: 518/237-8643).

4. It appears that the project site may involve work in / near areas identified as federal wetlands. A permit from the U.S. Army Corps of Engineers may be required for this proposal. If a Corps permit is required, Water Quality Certification from this Department may also be necessary.

If you have any other questions, please feel free to contact Bruno DiBella of my staff or me at 716/851-7165.

Sincerely,

David S. Denk

David S. Denk
Regional Permit Administrator

BAD/slr

Attachment: SP-2023-05 TB letter 091823 (RES-2023-775 : Special Use Permit for Tier III Solar Energy System at 800 & 850 New Road)

Fadel, Bryan

From: Marshall, Scott
Sent: Thursday, February 2, 2023 11:55 AM
To: Carrato, Amy; Fadel, Bryan
Subject: FW: 2023-RZ445 - T. Amherst - 800 New Road - Sol Source Power development - NYSDOT comments

NYSDOT Review below

Scott A. Marshall, Principal Planner

Town of Amherst
Planning Department
5583 Main Street
Williamsville, New York 14221
Phone: (716) 631-7051 Fax: (716) 631-7153

From: Przepasniak, Justin (DOT) <Justin.Przepasniak@dot.ny.gov>
Sent: Tuesday, January 31, 2023 8:49 AM
To: Marshall, Scott <SMarshall@amherst.ny.us>
Cc: Gordon, Casey (DOT) <Casey.Gordon@dot.ny.gov>
Subject: 2023-RZ445 - T. Amherst - 800 New Road - Sol Source Power development - NYSDOT comments

CAUTION: This email originated from outside of the organization.
Please do not click links or open attachments unless you recognize the sender and know the content is safe.
Good morning Scott,

The New York State Department of Transportation (NYSDOT) has reviewed the documentation provided for 800 New Road - Sol Source Power development and has the following comments:

- NYSDOT concurs with the Town of Amherst acting as Lead Agency.
- Based upon the information provided, the proposed project does not appear to have a significant impact to traffic on the State Highway System

Sincerely,

Justin Przepasniak
Planning and Program Management

New York State Department of Transportation, Region 5
100 Seneca Street
Buffalo, NY 14203
Office (716) 847-3967 | Cell (716) 574-0759 justin.przepasniak@dot.ny.gov
www.dot.ny.gov

NEW YORK STATE OF OPPORTUNITY. Department of Transportation

Attachment: SP-2023-05 TB letter 091823 (RES-2023-775 : Special Use Permit for Tier III Solar Energy System at 800 & 850 New Road)

TOWN OF AMHERST

ERIE COUNTY, NEW YORK

5583 MAIN STREET
WILLIAMSVILLE, NEW YORK 14221
(716) 631-7030
FAX (716) 631-7101
www.amherst.ny.us

Martin A. Polowy
Town Attorney

Nicole M. Burroughs
Senior Paralegal

Samuel A. Alba
Sr. Deputy Town Attorney

Ann Demopoulos
Deputy Town Attorney

Brittanylee Penberthy
Town Prosecutor

TO: **Scott Marshall, Planning Department**

FROM: **Ann Demopoulos, Deputy Town Attorney** AD|rms
Right-of-Way Review

DATE: **February 1, 2023**

RE: **Proposed Major Site Plan Review**
SP-2023-01
800 &850 New Road
Sol Source Power, Petitioner

This office has reviewed the materials submitted by your correspondence dated January 27, 2023 and have no comments.

AD:rms
Attachment
c: Douglas Gesel, Senior Code Enforcement Officer
Jeffrey S. Burroughs, PE, Town Engineer
Steve Long, Sol Source Power
Marc Kenward, Erdman Anthony Consulting

Attachment: SP-2023-05 TB letter 091823 (RES-2023-775 : Special Use Permit for Tier III Solar Energy System at 800 & 850 New Road)

TOWN OF AMHERST
ASSESSOR'S OFFICE

5583 MAIN STREET
WILLIAMSVILLE, NEW YORK 14221
PHONE: 716-631-7038

Emily A. Murphy
Assessor
emurphy@amherst.ny.us

MEMORANDUM

TO: Daniel Ulatowski, AICP, Associate Planning Director
Douglas Gesel, Supervising Code Enforcement Officer
Jeff Burroughs, Town Engineer
Scott Marshall, Principle Planner

FROM: Bonnie B. Arnold, Real Property Appraiser

DATE: January 31, 2023

SUBJECT: Major Site Plan Review: **SP-2023-01**
Proposed: **Tier III Solar Energy System**
Property Location: 800 & 850 New Rd
Petitioner: **Sol Source Power**

Site plan Conditionally Approved as submitted. Properties need to be merged.

cc: Steve Long, Sol Source Power, 1 Washington Place, Troy, NY 12180
Marc Kenward, Erdman Anthony Consulting, 145 Culver Rd., Ste. 200, Rochester, NY 14620

Attachment: SP-2023-05 TB letter 091823 (RES-2023-775 : Special Use Permit for Tier III Solar Energy System at 800 & 850 New Road)

Carrato, Amy

From: Maria Abraham <[redacted]>
Sent: Thursday, August 17, 2023 4:16 PM
To: Carrato, Amy
Subject: Public Hearing - Proposed Tier III Solar Energy System at 800 & 850 New Rd., File No. SP-2023-01

CAUTION: This email originated from outside of the organization.
Please do not click links or open attachments unless you recognize the sender and know the content is safe.

Amherst Planning Department:

I reside at 941 New Rd. and my elderly parents reside at 931 New Rd. I feel the above-noted subject will definitely affect my family and since we are not able to attend the public hearing, I would like to submit my comments below. I'm hoping my comments can be heard at the public meeting and they are strongly considered.

Comments:

With all of the properties available in Amherst, NY, why would a residential road be considered for such a project? Solar panel farms are not a pretty sight to view out your front window. My family and I pass one everyday on the 990 and all I can do is shake my head wondering why this was allowed. Now another one planning to be installed so close to the first one? Seems as if the business folks are creating their own convenience and not considering the residents! They are a hideous sight and shouldn't be anywhere near a residential area. Instead of beautifying the area, you are destroying it with what may potentially become an abandoned waste area, which our children and future residents will most likely have to pay for in taxes to clean up the mess. No thank you!

Consider what you are doing to the homeowners on New Rd. You are certainly going to depreciate the value of our homes. We have all worked very hard, spending many years of our lives, time, and money in keeping the value of our homes high. If there is a solar panel farm installed on New Rd., who do you think will want to buy a home on New Rd. and see a solar panel farm either out their front window or having to drive past it day after day? NOBODY! This definitely causes our homes to depreciate in value. Everything we have worked for goes down the tubes.

MY FAMILY AND I AGREE THAT YOU SHOULDN'T GO FORTH WITH THIS PROJECT ACROSS THE STREET FROM OUR HOMES! MY FAMILY AND I ARE COMPLETELY AGAINST IT!

New Rd. residents shot down the Walmart plan not too long ago. In the end, it would have turned into a mess tax payers would have to clean up. This solar panel farm proposed project is really no different.

One question for you: Are you certain, in regards to the safety of our health, the solar panels don't create any kind of harmful field to the residents? Having two farms in such close proximity of each other makes me worry! I would have to insist on REQUIRING scientific proof the solar panels are not going to be harmful to our health over the years. Was any scientific proof given when the solar panel farm was installed alongside the 990?

If, for any reason, this project moves forward, and causes the depreciation of our homes and property, due to greed of business folks, their financial benefit and their convenience, and not the benefit of New Rd. home owners/residents, I STRONGLY suggest it be REQUIRED to have trees covering the solar panel farm so they ARE NOT VISIBLE, AT ALL, TO ANY OF THE NEW RD. RESIDENTS. I would also have to STRONGLY suggest ALL OF THE BUSINESS FOLKS INVOLVED, who will be profiting from this solar panel farm, be the ones who are RESPONSIBLE FOR ANY CLEAN UP down the road and NOT HAVE IT FALL ONT HE SHOULDERS OF THE AMHERST TAX PAYERS!

Thank you for your time in this sensitive matter.
Sincerely,

MARIA ABRAHAM

Attachment: SP-2023-05 TB letter 091823 (RES-2023-775 : Special Use Permit for Tier III Solar Energy System at 800 & 850 New Road)

NORMAN ABRAHAM
ROSALIA DOLCE
ANTONINIO DOLCE

Attachment: SP-2023-05 TB letter 091823 (RES-2023-775 : Special Use Permit for Tier III Solar Energy System at 800 & 850 New Road)

Carrato, Amy

From: sally blazynski [redacted]
Sent: Wednesday, August 16, 2023 10:09 PM
To: Carrato, Amy
Subject: 800 & 850 New Road Solar Farm

CAUTION: This email originated from outside of the organization.
Please do not click links or open attachments unless you recognize the sender and know the content is safe.

To whom it may concern,

We reside at 905 New Road and have lived here for over 30 years.

Wr never recieved notice of first town meeting concerning the New Road Solar Farm Proposal, but will be attending the one on Thursday, August 17th.

Please know from the start that we are opposed to living directly across the street the proposed New Road solar farm or any other power factory, for a multitude of reasons.

First and most importantly the very possible and likely health hazards. Per many sources, including the World Health Organization, houses should never be as close to a Solar Farm as our house would. For new builds, The World Health Organization recommends houses be built no closer than 1.2 miles.

Possible health hazards living as close as our house is to proposed solar farm can include headaches, fatigue, disrupted sleep and more potentially life threatening illnesses.

A solar farm is nothing short of an Open Air Power Factory and our home would be downwind of dangerous air pollutants during constuction and the life of the solar farm.

Environmental activist are concerned about endangered birds and plants being further harmed by solar farms, we are concerned about our family and neighbors quality of life and our health. Living directly across the street is just too close.

Also, I have researched property values being negatively impacted living close to solar farms. Houses living with one that is pretty much in their front yard are most likely to suffer drastic decline in value. Selling a house this close can prove to be almost impossible, many would not live this close to one for free.

I would hope that if the town board is seriously considering approval of this proposal, the board insist that the neighboring home owners on New Road be offered a relocation option. One that would include current market value of comparable house and property. Also any moving expenses that would be incurred.

These are only a few of our many concerns of the proposal before you.

Sincerely,

Attachment: SP-2023-05 TB letter 091823 (RES-2023-775 : Special Use Permit for Tier III Solar Energy System at 800 & 850 New Road)

Walter and Sally Blazynski

Attachment: SP-2023-05 TB letter 091823 (RES-2023-775 : Special Use Permit for Tier III Solar Energy System at 800 & 850 New Road)

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 09/18/23 07:00 PM
Department: Councilmembers
Initiated by: **Deborah Bruch Bucki**
Co-Sponsored by:

DOC ID: 27982 **RESOLUTION 2023-776** **ADOPTED**

Appointment to Senior Services Advisory Board

WHEREAS, the Amherst Senior Center Advisory Board shall consist of twelve (12) appointed members; each appointed by a majority of the Amherst Town Board, who shall serve a term of two (2) years and may be appointed for two (2) additional two (2) year terms; and

WHEREAS, the Amherst Senior Center Advisory Board currently has a Board of five (5) members, who shall continue to serve until their term of appointment expires, as follows:

James W. Bardot, Chair, term expires 12/31/2024
Aaron Carlson, member, term expires 12/31/2024
Rev. Susan Frawley, member, term expires 12/31/2024
Rhonda Frederick, member, term expires 12/31/2023
Dr. Julie Whitbeck-Lewinski, term expires 12/31/2024; and

WHEREAS, James W. Bardot has been selected by the Director of Senior Services to serve as Senior Center Advisory Board Chairperson for a term to expire 12/31/2024; and

WHEREAS, in addition to appointed members, the following individuals shall serve in ex-officio capacity:

Deputy Supervisor Deborah Bruch Bucki, PhD, RN, Liaison to Senior Services
Melissa Abel, Executive Director, Town of Amherst Senior Services
Mary-Diana Pouli, Executive Director, Town of Amherst Youth & Recreation
Michael Camilleri, Town of Amherst Assistant Chief of Police
Dal Giuliani, Executive Director, Amherst Generations Foundation
Ms. Del Szczesniak, President, Senior Center Representatives Council; and

WHEREAS, Ann Nichols has expressed interest in serving on the Senior Services Advisory Board.

NOW, THEREFORE, BE IT RESOLVED that the Amherst Town Board appoints Ann Nichols to serve as an ex-officio representative from Amherst Town Court to serve on the Senior Center Advisory Board for the term to expire December 31, 2025.

9/18/2023
Consent

FINANCIAL IMPACT:

None.

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Deborah Bruch Bucki, Deputy Supervisor
SECONDER:	Brian J. Kulpa, Supervisor
AYES:	Kulpa, Bucki, Berger, Lavin, Szukala

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 09/18/23 07:00 PM
Department: Councilmembers
Initiated by: **Jacqualine Berger**
Co-Sponsored by:

DOC ID: 27994 **RESOLUTION 2023-777** **ADOPTED**

Climate Smart Communities Task Force

WHEREAS, the Town of Amherst Town Board adopted the Climate Smart Communities Pledge on May 7, 2012; and

WHEREAS, the Town Board recognizes the need to create a team of local officials, professionals and stakeholders that can promote and support the policies, plans, and programs that are part of a Climate Smart Community and are necessary in achieving the Climate Smart Community Certification; and

WHEREAS, the team will be known as the Climate Smart Communities (CSC) Task Force and will serve as an advisory committee that advises and collaborates with the local government to accomplish the activities that are part of the CSC certification program; and now therefore

BE IT RESOLVED, that the Town of Amherst Town Board establishes a Climate Smart Communities Task Force.

BE IT FURTHER RESOLVED, that the Town of Amherst Town Board appoints Jacqualine G. Berger, Town Board member as the Climate Smart Communities Coordinator, and Christopher Schregel, Project Coordinator, Engineering Department, as Climate Smart Communities Co-coordinator who will lead the task force and facilitate communication between the task force and Town stakeholders.

BE IT FURTHER RESOLVED, the Task Force shall consist of the following members:

Coordinator
Co-coordinator
Town Energy Manager
Town Engineer
UB Regional Institute Members
Town Attorney
Comptroller
Director of Finance
Planning Department Designee
Resident(s)

9/18/2023
Consent

FINANCIAL IMPACT:

None.

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Jacqualine Berger, Councilmember
SECONDER:	Deborah Bruch Bucki, Deputy Supervisor
AYES:	Kulpa, Bucki, Berger, Lavin, Szukala

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 09/18/23 07:00 PM
Department: Councilmembers
Initiated by: **Michael Szukala**
Co-Sponsored by:

DOC ID: 27990 **RESOLUTION 2023-778** **ADOPTED**

Set Public Hearing Date – Meyer Road

Please schedule a public hearing on November 13, 2023 to modify the parking restriction on Meyer Road east of Bowmart Parkway to remove the timeframe of April 1st to August 1st:

"The Parking Restriction on the north side of Meyer Road is hereby changed to a 'No Parking Any Time' restriction year-round between Bowmart Parkway to the first point of curvature of the cul-de-sac."

9/18/2023
Consent

FINANCIAL IMPACT:

None.

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Michael Szukala, Councilmember
SECONDER:	Deborah Bruch Bucki, Deputy Supervisor
AYES:	Kulpa, Bucki, Berger, Lavin, Szukala

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 09/18/23 07:00 PM
Department: Town Attorney
Initiated by: **Martin A. Polowy**
Co-Sponsored by:

DOC ID: 27998 **RESOLUTION 2023-779** **ADOPTED**

Request for a Public Hearing on the Acquisition by Eminent Domain of a Boulevard Mall Parcel

AGENDA ITEM : SEPTEMBER 18TH, 2023

TO: **Town Board**

FROM: **Martin A. Polowy, Esq., Senior Deputy Town Attorney**

DATE: **September 13, 2023**

RE: **Request For A Public Hearing On The Possible Acquisition By Eminent Domain of a Boulevard Mall Parcel**

Kindly adopt the following resolution with respect to the above matter:

Resolution Calling for a Public Hearing on the Possible Acquisition by Eminent Domain of a Boulevard Mall Parcel, Consisting of SBL/Tax ID No. 54.03-1-14 in the Town of Amherst, in Connection with the Town of Amherst's Boulevard Central District Urban Renewal Plan adopted October 24, 2022

WHEREAS, pursuant to Article 15 of the General Municipal Law ("GML"), Section 503, the Town of Amherst is authorized to plan and/or implement one or more urban renewal projects for the purpose of eliminating certain areas within the Town that may, from time to time, exhibit deteriorating, substandard, or other negative conditions or characteristics, and which as a result have become slum and/or blighted; and

WHEREAS, by resolution dated June 27, 2022, the Town of Amherst designated the Boulevard Central District Urban Renewal Area as an area containing several such slum and/or blighted properties that are injurious and/or detrimental to the public safety, health, morals and welfare, making those properties appropriate for urban renewal under GML § 502(3); and

WHEREAS, the Boulevard Central District Urban Renewal Area consists of several properties within the Town, including those parcels on which the Boulevard Mall is currently located and operates, as well as properties adjacent to/surrounding the Boulevard Mall; and

WHEREAS, by resolution dated October 24, 2022, the Town Board, acting as the Urban Renewal Agency for the Town, formally adopted the Town of Amherst's Boulevard Central District Urban Renewal Plan (the "Urban Renewal Plan"), which describes the Town's proposal for the revitalization and redevelopment of the Boulevard Central District Urban Renewal Area as a whole, including the Boulevard Mall; and

WHEREAS, the Town Board recognizes that the implementation of the Urban Renewal Plan is a significant undertaking that will require considerable time and resources, and which may involve one or more properties currently not under Town control, requiring that plan to be implemented in one or more phases, as the properties, approvals, resources, and/or other considerations needed to implement the Urban Renewal Plan are acquired, obtained, and/or otherwise addressed; and

WHEREAS, the Town Board is considering the acquisition by eminent domain of the following property, which is part of the Boulevard Mall and is within the Boulevard Central District Urban Renewal Area: 3891 Maple Road in the Town of Amherst having SBL/Tax ID No. 54.03-1-14 (the "Property"); and

WHEREAS, the Town Board is considering said acquisition for the following public purpose(s): as further set forth in the Urban Renewal Plan, because the Boulevard Mall is a main driver of economic underdevelopment, underutilization, declining property valuations and assessments, as well as stagnation and blight within the Town, the Town Board has determined that the Boulevard Central District Urban Renewal Area, including the Property specifically, should be redeveloped to: (i) eliminate that blight and transform those properties into a walkable, mixed-use, transit-oriented development that is capable of acting as a community center for both the Town and the greater Buffalo region; (ii) improve the quality and appearance of non-residential development within the Town; (iii) encourage reinvestment and capital investment (public and private) in commercial corridors and residential neighborhoods in the Town; (iv) further the Town's plans of establishing a Town-wide network of parks, open spaces, and greenway corridors; and (iv) establish the necessary site control required to implement the land use and other development goals set forth in the Urban Renewal Plan and the Town of Amherst's Bicentennial Comprehensive Plan, as specifically applied to the Boulevard Mall Parcels and/or the Boulevard Central District Urban Renewal Area as a whole; and

WHEREAS, the Town Board has determined that there are no viable alternate locations for the proposed public project because the Urban Renewal Plan only contemplates and authorizes the redevelopment of a geographically limited and specifically delineated area of the Town (the Boulevard Central District Urban Renewal Area, of which the Property is a part), with that area both currently exhibiting blight and being centrally located on a main thoroughfare and commercial corridor in the Town, such that the redevelopment of that area is most likely to further the purposes of the Urban Renewal Plan described above; and

WHEREAS, the Town Board held a hearing pursuant to Article 2 of the Eminent Domain Procedure Law on November 22, 2022 and notice thereof was published in the papers and was served on the owner of the Property by certified mail, return receipt requested and by personal service by serving the Property owner's statutory agent, the New York Secretary of State; nevertheless, the property owner alleged that the New York Secretary of State failed to timely deliver the notice in advance of the hearing and that the postal service failed to deliver the notice; and

WHEREAS, the Town Board determines to hold an additional public hearing under Article 2 of the Eminent Domain Procedure Law with respect to the Property to allow the

owner and the public to provide information at the hearing to be considered by the Town Board;

NOW THEREFORE, BE IT RESOLVED by the Town Board of the Town of Amherst as follows:

1. A public hearing will be held at 7:00 p.m. on October 16, 2023 at Town Hall, 5583 Main Street, Williamsville, New York, 14221: (a) to inform the public of the Town Board's proposal to take, by eminent domain, all the real property located at 3891 Maple Road in the Town of Amherst having SBL/Tax ID No. 54.03-1-14; and (b) to review both the public use to be served by the proposed acquisition and the furtherance of the Urban Renewal Plan as applied to the property, as well as the impact on the environment and residents of the locality where those actions will occur.

2. The Town Clerk is directed to publish the attached Public Notice in the Town's Official Newspaper, the Amherst Bee, which is a weekly paper, in two successive weekly issues, with the first publication no less than ten nor more than 30 days before the hearing, and to post the Public Hearing Notice at Town Hall.

3. The Town's special counsel is to mail notice of the hearing, certified mail, return receipt requested, to the record owners of the subject property, no less than ten nor more than 30 days before the hearing, and upon their counsel of record. The Town's special counsel is also directed to complete personal service upon the property owner.

4. Town staff and special counsel are authorized to take such steps as are necessary to effectuate the purposes of this Resolution.

5. This Resolution is effective immediately.

PASSED AND ADOPTED by the Town Board of the Town of Amherst the 18th day of September, 2023.

MAP:nmb
Attachment
c: Tim Koller, Deputy Town Clerk
(*w/attachment*, **Agenda Item - September 18, 2023**)

9/18/2023
A motion to approve was made by Supervisor Kulpa, seconded by Councilmember Berger and unanimously approved 5-0.

FINANCIAL IMPACT:

None for the purposes of this resolution.

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Jacqualine Berger, Councilmember
AYES:	Kulpa, Bucki, Berger, Lavin, Szukala

Attachment: TBAgenda9.18.23NOPH (RES-2023-779 : Request for a Public Hearing on the Acquisition by Eminent Domain of a Boulevard Mall

NOTICE OF PUBLIC HEARING PURSUANT TO ARTICLE 2 OF THE NEW YORK STATE EMINENT DOMAIN PROCEDURE LAW IN CONNECTION WITH THE PROPOSED ACQUISITION OF THE BOULEVARD MALL PARCELS IN THE TOWN OF AMHERST, NEW YORK, IN CONNECTION WITH THE TOWN OF AMHERST'S BOULEVARD CENTRAL DISTRICT URBAN RENEWAL PLAN

NOTICE IS HEREBY GIVEN THAT, pursuant to Article 2 of the New York State Eminent Domain Procedure Law ("EDPL"), the Town Board of the Town of Amherst (the "Town Board") will hold a public hearing on the 16th day of October, 2023 at 7:00 p.m., local time, at the Municipal Building (Town Hall) located at 5583 Main Street, Williamsville, New York 14221, to outline and/or describe the proposed acquisition by the Town of certain property located in the Town of Amherst, New York (the "Town"), hereafter known as the "Property", which consist of the following property:

No.	Address/Street	Tax Map Number
1.	3891 Maple Rd	54.03-1-14

The Town has proposed to acquire the Property for the following public purpose(s): as further set forth in the Town of Amherst's Boulevard Central District Urban Renewal Plan, adopted October 24, 2022 (the "Urban Renewal Plan"), the Boulevard Mall is a main driver of economic underdevelopment, underutilization, declining property valuations and assessments, as well as stagnation and blight within the Urban Renewal Area. Thus, the Town Board has determined that the Property specifically, should be redeveloped to eliminate that blight, and should be transformed into a walkable, mixed-use, transit-oriented development that is capable of acting as a community center for both the Town and the greater Buffalo region. Redevelopment of the Property is intended to: (i) improve the quality and appearance of non-residential development within the Town; (ii) encourage reinvestment and capital investment (public and private) in commercial corridors and residential neighborhoods within the Town; (iii) further the Town's plans of establishing a Town-wide network of parks, open spaces, and greenway corridors; and (iv) establish site control of the Boulevard Mall Parcels, which is a necessary and integral step towards furthering and realizing the land use and other development goals set forth in the Urban Renewal Plan and the Town of Amherst's Bicentennial Comprehensive Plan, as specifically applied to the Boulevard Mall Parcels and/or the Boulevard Central District Urban Renewal Area as a whole.

Acquisition of the above-described Property will include acquisition of land, buildings and other improvements, if any, situated thereon; and all other real property interests of any kind or nature. There are no viable alternate locations for the proposed public project because the Urban Renewal Plan only contemplates and authorizes the redevelopment of a geographically limited and specifically delineated area of the Town (the Boulevard Central District Urban Renewal Area, of which the Property is a part), with that area both currently exhibiting blight and being centrally located on a main thoroughfare and commercial corridor in the Town, such that the redevelopment of that area is most likely to further the purposes of the Urban Renewal Plan described above.

The public hearing is intended to inform the property owner(s) and the public about the proposed acquisition of the above-described Property and to outline and review the public use, benefit and purpose to be served by the proposed redevelopment of those parcels pursuant to the Urban Renewal Plan. The property owner(s) and public are invited to attend the public hearing and to present oral and/or written statements or other documents concerning this matter.

Please be advised that pursuant to Article 2 of the EDPL, any property owners who may subsequently wish to challenge condemnation of their property via judicial review may do so only on the basis of issues, facts and objections raised at such hearing.

For additional information, please contact Daniel Howard, Planning Director, Town of Amherst, Town Hall, 5583 Main Street, Williamsville, New York 14221; Telephone (716) 631-7051.

Attachment: TBAgenda9.18.23NOPH (RES-2023-779 : Request for a Public Hearing on the Acquisition by Eminent Domain of a Boulevard Mall

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 09/18/23 07:00 PM
Department: Comptroller
Initiated by: **Daryl Bramer**
Co-Sponsored by:

DOC ID: 27984 **RESOLUTION 2023-780** **ADOPTED**

Budget Transfers and Amendments

For September 18, 2023 Town Board Agenda

To: Town Board
From: Office of Town Comptroller
Date: 9/13/2023
Re: Various Department Budget Transfers / Amendments

I have received the following request(s) requiring budget transfers and / or amendments. Based on my review, I ask that the Town Board approve the following list;

BUDGET TRANSFERS - 2023

FROM:	***TO:***
A7450.1000 Museum - Personal Services $87.35 A7450.8030 Museum - FICA $6.68	A7450.4050 Mileage $94.03

To transfer funds to clean up budget.

BUDGET AMENDMENTS - 2023

INCREASE:	***INCREASE:***
A3120.05001 Police Office- Refund of CY Exp $134.15 A3122.02410 Bailey Ave- Rentals $10,300.00	A3120.4110 Contractual $134.15 A3122.4220 Bldgs & Grounds $10,300.00

To recognize revenue received and increase expenditures.

N2223.02785 CDBG & Vg. - PI $4,253.60 N2225.02785 CDBG Admin. $1,063.40	N2223.4000 Contractual $4,253.60 N2225.1000 Personal Services $987.82 N2225.8030 FICA $75.58

To recognize Community Development program income from 653 Niagara Falls Blvd, Amherst.

N2241.02785 Homebuyer- PI $4,500.00 N2254.02785 HOME Admin $500.00	N2241.4000 Contractual $4,500.00 N2254.4003 10% Admin $500.00

To recognize Community Development program income from 2359 Kensington, Amherst.

N2240.02785 AMH HOME- PI $4,936.69 N2254.02785 HOME Admin $548.52	N2240.4000 Contractual $4,936.69 N2254.4003 10% Admin $548.52

To recognize Community Development program income from 370 Windermere, Amherst.

N2244.02785 Cheek HOME- PI $8,517.60 N2249.02785 Cheek Admin- PI $946.40	N2244.4000 Contractual $8,517.60 N2249.4003 10% Admin $946.40

To recognize Community Development program income from 40 Candace, Depew.

B3620.02770 Bldg- Other Revenue $16,147.50	B3620.1000 Personal Svcs $15,000.00 B3620.8030 FICA $1,147.50

To increase revenue from Williamsville in for shared services and expenditures.

N2241.02785 Homebuyer- PI $210,009.50 N2254.02785 HOME Admin $15,001.05	N2241.4000 Contractual $210,009.50 N2254.4003 10% Admin $15,001.05

To recognize Community Development program income from 345 Grover Cleveland, Amherst.

N2244.02785 Cheek HOME- PI $4,500.00	N2244.4000 Contractual $4,500.00

N2249.02785 Cheek Admin- PI $500.00 N2249.4003 10% Admin $500.00
To recognize Community Development program income from 1298 Harlem, Cheektowaga.

N2223.02785 CDBG & Vg. - PI $170.00 N2223.4000 Contractual $170.00
To recognize Community Development program income from 169 Hillcrest, Amherst.

N0001.20092 CDBG Income 23/24 $628,897.00 See attached detail $628,897.00
N0001.20093 Amherst HOME 23/24 $404,375.00 See attached detail $404,375.00
N0001.20094 Cheektowaga HOME 23/24 $303,282.00 See attached detail $303,282.00
N0001.20095 Tonawanda HOME 23/24 $303,282.00 See attached detail $303,282.00
To setup CDBG and HOME budget amounts for CRS# 4270 & CRS# 4271, pending release of funds from HUD.

9/18/2023
Consent

FINANCIAL IMPACT:

See Descriptions.

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Deputy Supervisor
AYES:	Kulpa, Bucki, Berger, Lavin, Szukala

Town of Amherst
2023 - 2024 N Fund Budget Amendment

		Increase	Increase	
N0001.20092	CDBG Income 23/24	628,897.00		
N2320.4000	CDBG Stabilization Rehab Vg Section House		44,023.00	
N2321.4000	CDBG Housing Rehabilitation		229,674.00	
N2323.4000	CDBG & Vg. Program Income		-	
N2324.1000	CDBG Payroll - Personal Services		60,225.29	
N2324.1300	CDBG Payroll - Longevity		1,725.00	
N2324.1853	CDBG Payroll - Sick Leave Incentive		526.10	
N2324.4050	CDBG Payroll - Mileage		2,518.00	
N2324.8030	CDBG Payroll - FICA		4,757.51	
N2324.8010	CDBG Payroll - Retirement		8,169.86	
N2324.8050	CDBG Payroll - Health Insurance		18,265.80	
N2324.8051	CDBG Payroll - Dental		736.12	
N2324.8052	CDBG Payroll - Vision		76.32	
N2325.1000	CDBG Admin Staff & Fringe - Personal Services		61,545.12	
N2325.1300	CDBG Admin Staff & Fringe - Longevity		1,690.00	
N2325.1853	CDBG Admin Staff & Fringe - Sick Leave Incentive		738.80	
N2325.4050	CDBG Admin Staff & Fringe - Mileage		76.00	
N2325.8030	CDBG Admin Staff & Fringe - FICA		4,711.65	
N2325.8010	CDBG Admin Staff & Fringe - Retirement		6,689.10	
N2325.8050	CDBG Admin Staff & Fringe - Health Insurance		18,689.13	
N2325.8051	CDBG Admin Staff & Fringe - Dental		782.00	
N2325.8052	CDBG Admin Staff & Fringe - Vision		78.20	
N2326.4010	CDBG Office Expenses		1,200.00	
N2327.4000	CDBG Public Information Advertising		2,000.00	
N2328.4000	CDBG Lead Based Paint Testing / Clearance		10,000.00	
N2329.4000	CDBG Weatherization Services		10,000.00	
N2330.4000	CDBG Con. Plan Planning Activities		18,000.00	
N2331.4000	CDBG Meals on Wheel - Cook		42,500.00	
N2332.4000	CDBG Family Justice Center - Case Manager		10,000.00	
N2333.4000			-	
N2334.4000	CDBG HOME Fair Housing Counseling		8,000.00	
N2335.4000	CDBG Belmont Housing Counseling Services		16,500.00	
N2336.4000	CDBG BUL Foreclosure Prevention Counseling		6,000.00	
N2337.4000	CDBG Public Infrastructure		39,000.00	
	Total CDBG Budget	***628,897.00***	***628,897.00***	RES 2023 -
To set up 2023 - 2024 CDBG Budget.				CRS# 4270
N0001.20093	Amherst Home 23/24	404,375.00		
N2340.4000	Amherst Home Housing Rehab		203,281.00	
N2354.1000	Amherst Home Admin - Personal Services		65,692.50	
N2354.1300	Amherst Home Admin - Longevity		2,090.16	
N2354.1853	Amherst Home Admin - Sick Leave Incentive		829.59	
N2354.4050	Amherst Home Admin - Mileage		1,484.80	
N2354.8030	Amherst Home Admin - FICA		5,276.21	
N2354.8010	Amherst Home Admin - Retirement		7,325.09	
N2354.8050	Amherst Home Admin - Health Insurance		17,586.25	
N2354.8051	Amherst Home Admin - Dental		735.82	
N2354.8052	Amherst Home Admin - Vision		73.58	
N2355.4000	Amherst Home Rental Subsidy		100,000.00	

Attachment: 2023 - 2024 Budget N Fund Accounts 9.18.2023 (RES-2023-780 : Budget Transfers and Amendments)

		404,375.00	*404,375.00*

To set up 2023 - 2024 Amherst Home Budget.

N0001.20094	Cheektowaga Home 23/24	303,282.00	
N2344.4000	Cheektowaga Home Housing Rehabilitation		151,641.00
N2346.4000	Cheektowaga Acquisition New Construction		151,641.00
		303,282.00	*303,282.00*

To set up 2023 - 2024 Cheektowaga Home Budget.

N0001.20095	Tonawanda Home 23/24	303,282.00	
N2350.4000	Tonawanda Home Housing Rehab		283,282.00
N2351.4000	Tonawanda Home Closing Cost Assistance		20,000.00
		303,282.00	*303,282.00*

To set up 2023 - 2024 Tonawanda Home Budget.

	Total Home Budget	***1,010,939.00***	***1,010,939.00***

RES 2023 - CRS# 4271

Attachment: 2023 - 2024 Budget N Fund Accounts 9.18.2023 (RES-2023-780 : Budget Transfers and Amendments)

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 09/18/23 07:00 PM
Department: Contract Compliance
Initiated by: **Lynda Juul**
Co-Sponsored by: **Supervisor Brian J. Kulpa**

DOC ID: 27947 **RESOLUTION 2023-781** **ADOPTED**

Award Bid #2023037 Town Wide Tree Planting - CRS #4295

WHEREAS, the Contract Compliance and Administration Department received bids on August 24, 2023 for Town Wide Tree Planting; and

WHEREAS, the bid process resulted in responses from five (5) vendors, as per the attached bid analysis form;

NOW, THEREFORE, BE IT RESOLVED, the Town Board authorizes the Contract Compliance and Administration Department to award this bid to Landscape Associate of WNY; and

BE IT FURTHER RESOLVED, the Town Board authorizes the Supervisor to sign the contract with Landscape Associate of WNY.

9/18/2023
Consent

FINANCIAL IMPACT:

Town Wide; Various Accounts; Amount TBD

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Deputy Supervisor
AYES:	Kulpa, Bucki, Berger, Lavin, Szukala

Bid #2023037 - Town Wide Tree Planting

	Low Bid		Vendor	Regan Landscape	Murray Brothers	Landscape Associate of WNY	Beau Enterprises	Ironwood Industries
ITEM No.	QTY.	U/M	CATALOG NO/DESCRIPTION	Balled & Burlap	Balled & Burlap	Balled & Burlap	Balled & Burlap	Balled & Burlap
1	1	EA	Freeman Maple – 1-3/4” – 2” Caliper Minimum	$811.00	$640.00	$570.00	$689.00	$1,399.00
2	1	EA	Red Maple - 1-3/4” – 2” Caliper Minimum	$811.00	$640.00	$576.00	$694.00	$1,399.00
3	1	EA	Common Hackberry - 1-3/4” – 2” Caliper Minimum	$822.00	$690.00	$564.00	$689.00	$1,449.00
4	1	EA	Katsura Tree - 1-3/4” – 2” Caliper Minimum	$822.00	$690.00	$632.00	$754.00	$1,490.00
5	1	EA	Yellowwood - 1-3/4” – 2” Caliper Minimum	$822.00	$710.00	$626.00	$779.00	$1,489.00
6	1	EA	Ginko or Maidenhair Tree - 1-3/4” – 2” Caliper Minimum	$937.00	$860.00	$638.00	$794.00	$1,450.00
7	1	EA	Kentucky Coffee tree - 1-3/4” – 2” Caliper Minimum	$811.00	$710.00	$595.00	$749.00	$1,439.00
8	1	EA	Dawn Redwood - 1-3/4” – 2” Caliper Minimum	$811.00	$640.00	$534.00	$684.00	$1,469.00
9	1	EA	Black Tupelo or Sour Gum or Black Gum	$937.00	$860.00	$620.00	$744.00	$1,469.00
10	1	EA	American Hophornbeam or Ironwood – not Carpinius Carolina - 1-3/4” – 2” Caliper Minimum	$822.00	$710.00	$625.00	$749.00	$1,409.00
11	1	EA	London Plane tree - 1-3/4” – 2” Caliper Minimum	$811.00	$640.00	$558.00	$679.00	$1,429.00
12	1	EA	Hedge Maple - 1-3/4” – 2” Caliper Minimum	$822.00	$710.00	$632.00	$754.00	$1,439.00
13	1	EA	Cardinal Crab Apple - 1-3/4” – 2” Caliper Minimum	$822.00	$610.00	$620.00	$729.00	$1,389.00
14	1	EA	Japanese Tree Lilac - 1-3/4” – 2” Caliper Minimum	$822.00	$690.00	$638.00	$764.00	$1,419.00
15	1	EA	Tartanian Maple - 1-3/4” – 2” Caliper Minimum	$856.00	$640.00	$590.00	$729.00	$1,490.00
16	1	EA	Callery Pear - 1-3/4” – 2” Caliper Minimum	$822.00	$640.00	$564.00	$684.00	$1,490.00
17	1	EA	Common Bald cypress - 1-3/4” – 2” Caliper Minimum	$822.00	$640.00	$565.00	$709.00	$1,409.00
18	1	EA	Bradford Pear - 1-3/4” – 2” Caliper Minimum	$822.00	$640.00	$564.00	$684.00	$1,490.00
19	1	EA	Little Leaf Linden - 1-3/4” – 2” Caliper Minimum	NO BID	$640.00	$600.00	$721.00	$1,429.00
20	1	EA	Crimean Linden -1-3/4” – 2” Caliper Minimum	$822.00	$640.00	$620.00	$744.00	$1,409.00
21	1	EA	Elm Hybrids - 1-3/4” – 2” Caliper Minimum	$822.00	$660.00	$576.00	$694.00	$1,409.00
22	1	EA	Japanese Zelkova - 1-3/4” – 2” Caliper Minimum	$822.00	$710.00	$606.00	$700.00	$1,439.00
23	1	EA	Cleveland Pear - 1-3/4” – 2” Caliper Minimum	$822.00	$640.00	$564.00	$685.00	$1,490.00
24	1	EA	Linden - 1-3/4” – 2” Caliper Minimum	$822.00	$640.00	$600.00	$721.00	$1,490.00
25	1	EA	Large Elm Hybrid - 1-3/4” – 2” Caliper Minimum	$822.00	$660.00	$576.00	$694.00	$1,490.00
26	1	EA	Swamp White Oak – 2” – 4” Caliper Minimum	$1,211.00	$830.00	$644.00	$770.00	$1,419.00
27	1	EA	Pin Oak - 2” – 4” Caliper Minimum	$1,211.00	$830.00	$644.00	$770.00	$1,419.00
28	1	EA	Northern Red Oak - 2” – 4” Caliper Minimum	$1,211.00	$830.00	$644.00	$770.00	$1,419.00
29	1	EA	Skyline or Honey Locust - 2” – 4” Caliper Minimum	$1,211.00	$810.00	$632.00	$755.00	$1,419.00
30	1	EA	Heritage and Dura-Heat River Birch - 2” – 4” Caliper Min.	$1,211.00	$810.00	$614.00	$770.00	$1,489.00
31	1	EA	Evergreen – 5’ – 6’ High	$886.00	$690.00	$547.00	$689.00	$1,439.00

Attachment: Bid Tab 2023037 Town Wide Tree Planting (RES-2023-781 : Award Bid #2023037 Town Wide

	Low Bid		Vendor	Regan Landscape	Murray Brothers	Landscape Associate of WNY	Beau Enterprises	Ironwood Industries
ITEM No.	QTY.	U/M	CATALOG NO/DESCRIPTION	Balled & Burlap	Balled & Burlap	Balled & Burlap	Balled & Burlap	Balled & Burlap
32	1	EA	Tulip Tree – 1 -3/4 " - 2" Caliper Minimum	$873.00	$710.00	$595.00	$710.00	$1,409.00
33	1	EA	Serviceberry – 3-4 multi-stem	$873.00	$560.00	$520.00	$650.00	$1,419.00
34	1	EA	Eastern Redbud – 2.5" – 3.0" Caliper Minimum	NO BID	$985.00	$688.00	$835.00	$1,409.00
35	1	EA	White Flowering Dogwood - single stem	$911.00	$730.00	$585.00	$715.00	$1,375.00
36	1	EA	Adirondack Crabapple – 2.5" – 3.0" Caliper Minimum	$980.00	$960.00	$680.00	$875.00	$1,449.00
37	1	EA	Golden Weeping Willow – 1.75"-2.0" Caliper Minimum	$822.00	$640.00	$540.00	$690.00	$1,409.00
38	1	EA	Minimum	$790.00	$640.00	$496.00	$630.00	$1,365.00
39	1	EA	Arborvitae (Dark American or Green Giant) 8' High	$1,043.00	$960.00	$583.00	$845.00	$1,589.00
40	1	EA	Canadian Hemlock 5' High Minimum	$1,052.00	$690.00	$553.00	$695.00	$1,490.00
			TOTAL	$34,222.00	$28,625.00	$23,818.00	$29,185.00	$57,691.00
			B & B trees should be available in each species.					

Attachment: Bid Tab 2023037 Town Wide Tree Planting (RES-2023-781 : Award Bid #2023037 Town Wide

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 09/18/23 07:00 PM
Department: Contract Compliance
Initiated by: **Lynda Juul**
Co-Sponsored by: **Supervisor Brian J. Kulpa**

DOC ID: 27955 **RESOLUTION 2023-782** **ADOPTED**

Award Bid #2023038 Crane & Hoist Services - CRS #4296

WHEREAS, the Contract Compliance and Administration Department received bids on August 24, 2023 for Crane & Hoist Services; and

WHEREAS, the bid process resulted in responses from three (3) vendors, as per the attached bid analysis form;

NOW, THEREFORE, BE IT RESOLVED, the Town Board authorizes the Contract Compliance and Administration Department to award this bid to Vital Crane Services, Inc.; and

BE IT FURTHER RESOLVED, the Town Board authorizes the Supervisor to sign the contract with Vital Crane Services, Inc.

9/18/2023
Consent

FINANCIAL IMPACT:

Town Wide; Various Accounts; Amount TBD

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Deputy Supervisor
AYES:	Kulpa, Bucki, Berger, Lavin, Szukala

Bid #2023038 Crane & Hoist Services										
Low Bidder				Vital Crane Services		Simmers Crane Design & Services		Royal ARC	
			Vendor Name:						
Item #	QTY	U/M		Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price
1	32	Each	Cost per unit for inspection/certification of our CAL-Come-Alongs	$40.00	$1,280.00	$35.00	$1,120.00	$60.00	$1,920.00
2	15	Each	Cost per unit for inspection/certification of our CFP-Chain Falls, Portable	$40.00	$600.00	$35.00	$525.00	$80.00	$1,200.00
3	1	Each	Cost per unit for inspection/certification of our FJF-Floor Jacks, Fixed	$60.00	$60.00	$70.00	$70.00	$230.00	$230.00
4	4	Each	Cost per unit for inspection/certification of our GH-Gantry Hoist Frame	$100.00	$400.00	$70.00	$280.00	$180.00	$720.00
5	9	Each	Cost per unit for inspection/certification of our HCT-Hoist Cranes, Travel	$400.00	$3,600.00	$140.00	$1,260.00	$280.00	$2,520.00
6	9	Each	Cost per unit for inspection/certification of our HMF-Hoist Motor, Fixed	$100.00	$900.00	$140.00	$1,260.00	$180.00	$1,620.00
7	10	Each	Cost per unit for inspection/certification of our HMT-Hoist Motor, Travel	$100.00	$1,000.00	$140.00	$1,400.00	$230.00	$2,300.00
8	2	Each	Cost per unit for inspection/certification of our JA-Jib Arms	$100.00	$200.00	$70.00	$140.00	$130.00	$260.00
9	1	Each	Cost per unit for inspection/certification of our JAH-Jib Arm and Hoist	$100.00	$100.00	$70.00	$70.00	$155.00	$155.00
10	2	Each	Cost per unit for inspection/certification of our MLH-Material Lift, Hand	$100.00	$200.00	$70.00	$140.00	$105.00	$210.00
11	1	Each	Cost per unit for inspection/certification of our SLH-Safety Lift	$100.00	$100.00	$70.00	$70.00	$200.00	$200.00
12	35	Each	Cost per unit for inspection/certification of our Lifting Slings & Cables	$10.00	$350.00	$10.00	$350.00	$48.51	$1,697.85
13	80	Hour	An On-Site hourly labor charge to cover maintenance and repairs, as further detailed within this bid document	$120.00	$9,600.00	$140.00	$11,200.00	$126.00	$10,080.00
14	40	Hour	An Off-Site hourly labor charge to cover maintenance and repairs, as further detailed within this bid document	$120.00	$4,800.00	$125.00	$5,000.00	$165.00	$6,600.00
15	$5,000	%	A Percentage Markup over the awarded vendors cost. This would be for the TOA to purchase parts, materials and components as further detailed within this bid document.	20%	$6,000.00	35%	$6,750.00	15%	$5,750.00
			TOTAL		**$29,190.00**		**$29,635.00**		**$35,462.85**
			NO ADDITIONAL CHARGES WILL BE CONSIDERED						

Attachment: Bid Tab 2023038 Crane & Hoist Services (RES-2023-782 : Award Bid #2023038 Crane & Hoist Services - CRS #4296)

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 09/18/23 07:00 PM
Department: Contract Compliance
Initiated by: **Lynda Juul**
Co-Sponsored by: **Supervisor Brian J. Kulpa**

DOC ID: 27956 **RESOLUTION 2023-783** **ADOPTED**

Award Bid #2023034 Kubota Tractor - CRS #4297

WHEREAS, the Contract Compliance and Administration Department received bids on July 27, 2023 for Kubota Tractor, Trade In, Maintenance & Repair Service; and

WHEREAS, the bid process resulted in responses from two (2) vendors, as per the attached bid analysis form;

NOW, THEREFORE, BE IT RESOLVED, the Town Board authorizes the Contract Compliance and Administration Department to award the Kubota Tractor and Trade In to Monroe Tractor; and

BE IT FURTHER RESOLVED, the Town Board authorizes the trade in of a 1993 Ford Tractor Model Number 7109, Serial Number WL88525 for $7,500, as per the attached bid analysis form; and

BE IT FURTHER RESOLVED, the Town Board authorizes the Supervisor to sign the contract with Monroe Tractor; and

BE IT FURTHER RESOLVED, that approval is pending successful completion of the Contract Routing System due to the fact the WPCF is in need of the new tractor as soon as possible.

9/18/2023
Consent

FINANCIAL IMPACT:

KP2326-2600; $46,366.24

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Deputy Supervisor
AYES:	Kulpa, Bucki, Berger, Lavin, Szukala

Bid #2023034 Kubota Tractor							
Low Bidder				Monroe Tractor		Land Pro Equipment	
			Vendor Name:				
Item #	QTY	U/M		Unit Price	Total Price	Unit Price	Total Price
1	1	EA	2023 Kubota L6060HSTC Model V2403CRTE4GL4/GL5 or Equiv.	$53,866.240	$53,866.24	$60,727.56	$60,727.56
2	1	EA	Price offered for the trade-in or for the sale of our 1993 Ford Tractor Model Number 7109, Serial Number WL88525.	$7,500.00	-$7,500.00	$8,400.00	-$8,400.00
			Total Equipment Cost		**$46,366.24**		$52,327.56
3	24	HR	This hourly labor charge is to cover PM Service and Repairs performed off-site for PM Service and repairs on our 2023 Kubota Tractor or equivalent and its attachments.	NO BID	NO BID	$140.00	$3,360.00
4	2	EA	This charge is to cover round trip transportation of the 2023 Kubota Tractor or equivalent for work performed under bid item 3.	NO BID	NO BID	$253.00	$506.00
5	24	HR	This hourly labor charge is to cover PM Service and Repairs performed at the TOA WPCF for PM Service and Repairs on awarded 2023 Kubota Tractor or equivalent and its attachments.	NO BID	NO BID	$225.00	$5,400.00
6	750	%	This percentage mark-up is to cover parts, materials, and/or components required to make any repairs on our 2023 Kubota Tractor and its attachments. Percentage % mark-up over vendors cost.	NO BID	NO BID	35%	$1,012.50
			Total Cost		No bid		$10,278.50
			NO ADDITIONAL CHARGES WILL BE CONSIDERED				

Notes:

Monroe Tractor: References Contract PC#69404/2693861

Land Pro Equipment: References Contract PC69378

Attachment: Bid Tab 2023034 Kubota Tractor (RES-2023-783 : Award Bid #2023034 Kubota Tractor - CRS #4297)

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 09/18/23 07:00 PM
Department: Contract Compliance
Initiated by: **Lynda Juul**
Co-Sponsored by: **Supervisor Brian J. Kulpa**

DOC ID: 27964 **RESOLUTION 2023-784** **ADOPTED**

Award Bid #2023033 Town Wide Kitchen Hood Inspections - CRS #4302

WHEREAS, the Contract Compliance and Administration Department received bids on July 27, 2023 for Town Wide Kitchen Hood Inspection and Service; and

WHEREAS, the bid process resulted in responses from three (3) vendors as per the attached bid tabulation form;

NOW, THEREFORE, BE IT RESOLVED, the Town Board authorizes the Contract Compliance and Administration Department to award this bid to Davis-Ulmer Sprinkler Company, Inc. DBA All State Fire & Security; and

BE IT FURTHER RESOLVED, The Town Board authorizes the Supervisor to sign the contract with Davis-Ulmer Sprinkler Company, Inc. DBA All State Fire & Security.

9/18/2023
Consent

FINANCIAL IMPACT:

Town Wide; Various Accounts; Amount TBD

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Deputy Supervisor
AYES:	Kulpa, Bucki, Berger, Lavin, Szukala

Bid #2023033 Town Wide Kitchen Hood Inspections									
Low Bidder				Elwood Fire Protectioin		All State Fire & Security		Davis Ulmer	
			Vendor Name:						
Item #	QTY	U/M		Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price
			Kitchen Hood Inspection						
1	2	YEARLY	Audubon Golf Course	$250.00	$500.00	$239.00	$478.00	$375.00	$750.00
2	2	YEARLY	Harlem Road Community Center	$250.00	$500.00	$239.00	$478.00	$375.00	$750.00
3	2	YEARLY	Amherst Senior Center	$250.00	$500.00	$449.00	$898.00	$375.00	$750.00
4	2	YEARLY	Williamsville Youth & Family Center (WYFC)	$250.00	$500.00	$239.00	$478.00	$375.00	$750.00
5	2	YEARLY	O'Connell & Co.	$250.00	$500.00	$239.00	$478.00	$375.00	$750.00
6	2	YEARLY	Buffalo Niagara Heritage Village (Shaw Bldg.)	$250.00	$500.00	$239.00	$478.00	$375.00	$750.00
7	4	YEARLY	Northtown Center	$250.00	$1,000.00	$239.00	$956.00	$230.00	$920.00
8	2	YEARLY	Garnet Park Softball	$250.00	$500.00	$239.00	$478.00	$375.00	$750.00
9	2	YEARLY	Lou Gehrig Youth Baseball & Softball	$250.00	$500.00	$239.00	$478.00	$375.00	$750.00
10	2	YEARLY	Mathewson McCarthy	$250.00	$500.00	$239.00	$478.00	$375.00	$750.00
11	2	YEARLY	Amherst Girls Softball League Diamonds	$250.00	$500.00	$239.00	$478.00	$375.00	$750.00
					$6,000.00		**$6,156.00**		**$8,420.00**
			Kitchen Hood Repair & Modification						
13	1	Per Hour	Standard Hourly Rate (Prevailing Wage) Normal hours, Monday through Friday, 7:30 am to 5:30 pm	$175.00	$175.00	$150.00	$150.00	$140.00	$140.00
14	1	Per Hour	Overtime Hourly Rate (Prevailing Wage) Overtime hours, Monday through Friday, 5:31 pm to 7:29 am, anytime Saturdays Sundays and Federal Holidays	$200.00	$200.00	$175.00	$175.00	M-F, Sat: $210 Sun. Hol.: $280	$210.00
15	1	Per Hour	Off-site Hourly Rate (Non-Prevailing Wage) Includes any hours not on-site (parts, pickup, etc.)	$135.00	$135.00	$140.00	$140.00	$120.00	$120.00
16	1	$2,000	Materials/Parts - Cost Plus Rate All parts and materials used for sprinkler modifications. To be billed at supplier's invoice plus markup percentage of ___%	35%	$2,700.00	15%	$2,300	25%	$2,500.00
			TOTAL		**$9,210.00**		**$8,921.00**		**$11,390.00**
			No Additional Charges Will be Allowed						

NOTES:

Elwood Fire Protection - Item #7 - confirmed it is $250 per inspection for each kitchen hood. Total yearly for 2 kitchen hoods is $1,000. Item #16 - 35% markup is correct, not 1.35. Example provided $100 x 1.35% markup.

Davis Ulmer - Item #7 - Confirmed the semi-annual $460 inspection fee is for both kitchen hoods, $920 for the year.

Attachment: Bid Tab 2023033 Kitchen Hood Inspections (RES-2023-784 : Award Bid #2023033 Town Wide

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 09/18/23 07:00 PM
Department: Contract Compliance
Initiated by: **Lynda Juul**
Co-Sponsored by: **Supervisor Brian J. Kulpa**

DOC ID: 27963 **RESOLUTION 2023-785** **ADOPTED**

Town Wide Glass Repair Service Contract - CRS #4301

WHEREAS, the Contract Compliance and Administration Department is requesting approval to use the Erie County Contract for Glass Repair Service - Erie County Bid #219137-002 with Jens Glass Company, Inc.; and

WHEREAS, the contract term will be through May 31, 2025;

NOW, THEREFORE, BE IT RESOLVED, the Town Board approves and authorizes the Supervisor to sign the contract with Jens Glass Company, Inc.

9/18/2023
Consent

FINANCIAL IMPACT:

Town Wide; Various Accounts; Amount TBD

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Deputy Supervisor
AYES:	Kulpa, Bucki, Berger, Lavin, Szukala

TOWN OF AMHERST

Erie County, New York

SUPERVISOR
Brian J. Kulpa
716-631-7032

DEPUTY SUPERVISOR/COUNCILMEMBER
Deborah Bruch Bucki, RN, PhD

COUNCILMEMBERS
Shawn Lavin
Michael Szukala
Jacqualine Berger

AGREEMENT

Let this document stand as an Agreement between Jens Glass Company, Inc. and the Town of Amherst permitting the Town to participate in the Erie County Bid #219137-002 for Glass Repair Service, through May 31, 2025..

Agreed to and Accepted by:

Jens Glass Company, Inc.

By: _____
Signature

Christopher E Jensen
Printed name

President
Title

Date: 8/29/23

Agreed to and Accepted by:

TOWN OF AMHERST

By: _____
Brian J. Kulpa, Supervisor

Date: _____

Attachment: Jens Glass CRS (RES-2023-785 : Town Wide Glass Repair Service Contract - CRS #4301)

TOWN OF AMHERST

Erie County, New York

SUPERVISOR
Brian J. Kulpa
716-631-7032

DEPUTY SUPERVISOR/COUNCILMEMBER
Deborah Bruch Bucki, RN, PhD

COUNCILMEMBERS
Shawn Lavin
Michael Szukala
Jacqualine Berger

NEW YORK STATE PREVAILING WAGE

*On contracts which are subject to New York Department of Labor Prevailing Wage laws and regulations, the contractor is required to submit certified payroll record every thirty (30) days after the issuance of your first payroll under this contract. Required forms are available at the New York Department of Labor's website https://labor.ny.gov/workerprotection/publicwork/PWFormsOnWeb.shtm

This project's PRC# 2023010342

The schedule can be found at the following link

https://apps.labor.ny.gov/wpp/publicViewProject.do?method=showIt&id=1555467

In addition, if applicable, contractor is required to attach a copy of proof of completion of the OSHA 10 course to the first certified payroll submitted and on each succeeding payroll where any new or additional employee is first listed.

Failure to submit the legally required records will result in delayed payments.

Attachment: Jens Glass CRS (RES-2023-785 : Town Wide Glass Repair Service Contract - CRS #4301)

COUNTY OF ERIE
DIVISION OF PURCHASE
MEMORANDUM

To: All Using Departments

From: Jamie Kucewicz, Buyer

Date: April 13, 2023

Subject: GLASS REPAIR SERVICE

Bid No.: 219137-002

Effective Dates: Extended through May 31, 2025

Vendor #: 103906

Vendor: JENS GLASS COMPANY, INC.
2903 Lakeview Road
Hamburg, NY 14075

Telephone: 716-432-5464

Pricing: per attached document

Attachment: Jens Glass CRS (RES-2023-785 : Town Wide Glass Repair Service Contract - CRS #4301)

DIVISION OF PURCHASE
VALLIE M. FERRARACCIO
DIRECTOR

April 6, 2023

Jens Glass Company
2903 lakeview Rd
Hamburg, NY 14075
Attn: Christopher Jensen

Re: Bid # 219137-002 GLASS REPAIR SERVICE

Dear Mr. C. Jensen:

The County of Erie wishes to extend this agreement for an additional year, through May 31, 2025 under the same prices, terms and conditions as the original agreement.

Extension is provided for per paragraph 26, Page 5 of 6 of the "Instructions to Bidders". This offer is for your immediate consideration and acceptance. Please indicate below whether you agree to extend or do not wish to extend. Please respond **within seven days upon receipt of this request.**

After approval and execution by the County, a fully signed copy will be returned to you for your files.

__X__ Yes, I agree to extend ____ No, I do not wish to extend

Company Name: Jens Glass Company Inc.

Representative (Please print): Christopher E. Jensen Title: President

Signature: Christopher E Jensen Date: 04/6/23

Sincerely,

James D. Kucewicz
Buyer

Vallie M. Ferraraccio
Director of Purchase
4/12/2023
DATE

Attachment: Jens Glass CRS (RES-2023-785 : Town Wide Glass Repair Service Contract - CRS #4301)

TOWN OF AMHERST
AMHERST, NEW YORK 14221

Addendum to Contract Award Major Exposure

1. Notwithstanding any other provision in this Agreement, the following clauses shall be controlling. Should any other provision of the Agreement conflict with the clauses in this Addendum then the provisions of this Addendum are to be enforceable and any conflicting provision shall be considered null and void.

2. No rules, requirements or customs of any society or association of professional Contractors or any similar association shall affect this Agreement in any way whatsoever or be binding upon the Town.

3. To the fullest extent permitted by law, Contractor shall indemnify and hold the Town, its officers, agents, and employees, harmless from any and all liability, demands, claims, or expenses, awards or judgments imposed upon the Town, its officers, agents, and/or employees, arising out of the work of the Contractor its officers, agents, subcontractors, and/or employees as well as the negligence, active or passive, of the Contractor, its officers, agents, subcontractors, and/or employees.

4. Contractor shall not commence work under this Agreement until it has obtained all insurance specified below, produced satisfactory proof of the same and such insurance has been approved by the Town.

(a) Workers' Compensation Insurance: Contractor shall take out and maintain during the life of this Agreement, Workers' Compensation Insurance (both Part A and Part B) for its employees to be assigned to the work hereto under.

(b) General Liability, Professional (if applicable) Liability and Property Damage Insurance: Contractor shall take out and maintain during the life of this Agreement, such general liability and property damage insurance as shall protect it and the Town of Amherst from claims for damages for personal injury, including accidental death, as well as from claims for property damage, which may arise from operations under this Agreement. The amounts of such insurance shall be as follows in an amount not less than $1,000,000.00 per occurrence for bodily injury and property damage including wrongful death, and $2,000,000.00 aggregate. Umbrella coverage shall be in an amount of at least $5,000,000.00.

(c) Contractor shall furnish the above insurances, including subcontractors' insurances, to the Town and shall also assure that any policy procured by it shall name the Town as an additional insured on a primary and non-contributory basis.

(d) Contractor shall ensure all its subcontractors, if any, have obtained all the above insurances and shall also assure that any policy procured by any subcontractor or sub-subcontractor shall name the Town as an additional insured on a primary and non-contributory basis.

Attachment: Jens Glass CRS (RES-2023-785 : Town Wide Glass Repair Service Contract - CRS #4301)

5. Any accident shall be reported to the Office of the Town Attorney as soon as possible and not later than twenty-four (24) hours from the time of such accident. A detailed written report must be submitted to the Town of Amherst as soon thereafter as possible as and no later than three (3) days after the date of such accident.

6. No Assignment: In accordance with the provisions of section 109 of the General Municipal Law, the Contractor is hereby prohibited from assigning, transferring, conveying, subletting or otherwise disposing of this Agreement, or of its right, title or interest in this agreement, or its power to execute this Agreement, to any other person or corporation without the previous consent in writing of the Town.

7. Required Provisions of Law: Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to have been inserted herein. If any such provision is not inserted through mistake or otherwise, then upon the application of either party this Agreement shall be physically amended forthwith to make such insertion. In particular, the Contractor shall, among other things, fully comply with:

(a) Article 8 of the NYS Labor Law for public work contracts and Article 9 of the Labor Law regarding prevailing wage for Building Service employees.
(b) Labor Law Section 220-e and Executive Law Sections 291-299 and the Civil Rights Law relating to prohibition against discrimination and equal opportunity.
(c) Affirmative action as required by the Labor Law.
(d) Prevention of dust hazard required by Labor Law Section 222-a.
(e) Preference in employment of persons required by Labor Law Section 222.
(f) Eight-hour workday as required by Labor Law Section 220(2).
(g) Chapter 32 of the Town of Amherst: Minority Women and Business Utilization Commitment.
(h) Chapter 163 of the Town of Amherst: Registration of Sex Offenders.

8. The Contractor, in accordance with its status as an independent Contractor, covenants and agrees that it will conduct itself consistent with such status. It will neither hold itself out as nor claim to be, an officer or employee of the Town by reason hereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the Town, including, but not limited to: workers' compensation coverage, unemployment insurance benefits, Social Security coverage, or retirement membership or credit.

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.

Attachment: Jens Glass CRS (RES-2023-785 : Town Wide Glass Repair Service Contract - CRS #4301)

9. This Agreement shall be governed by, and interpreted according to the laws of the State of New York. If the contract between the parties refers to the laws, statutes, rules, regulations or ordinances for any state other than New York State, to the laws, statutes, rules, regulations or ordinances for any county other than Erie County, New York or to the laws, statutes, rules, regulations or ordinances for any municipality other than the Town of Amherst, then the laws, statutes, rules, regulations or ordinances for New York State, Erie county and/or the Town of Amherst shall apply as applicable. Any and all legal action necessary to enforce the Agreement will be venued in Supreme Court, Erie County, New York or in the United States District Court for the Western District of New York, Buffalo Division.

10. It is hereby acknowledged that performance of this Contract will be undertaken in accordance with the specifications and pricing on which the bid was submitted.

Authority for execution on behalf of Town: The Supervisor has executed this Agreement pursuant to a Resolution adopted by the Town Board of the Town, at a meeting thereof held on_____. Brian J. Kulpa, the Supervisor whose signature appears hereafter, is duly authorized and empowered to execute this instrument and enter into such an Agreement on behalf of the Town as a result of that Resolution. This instrument shall be executed in triplicate. At least one (1) copy shall be permanently filed, after execution thereof, in the office of the Town Clerk of Town.

Agreed to and Accepted by:

Jens Glass Co
Print Name of Company

By: [signature]
Signature

Christopher E Jens
Printed name

Date: 9/11/23

Agreed to and Accepted by:

Town of Amherst

_____
By: Brian J. Kulpa, Supervisor

Date: _____

Attachment: Jens Glass CRS (RES-2023-785 : Town Wide Glass Repair Service Contract - CRS #4301)

COUNTY OF ERIE

MARK C. POLONCARZ
COUNTY EXECUTIVE

DIVISION OF PURCHASE

INVITATION TO BID

Bids, as stated below, will be received and publicly opened by the Division of Purchase in accordance with the attached specifications. FAX bids are unacceptable. Bids must be submitted in a sealed envelope to:

County of Erie
Division of Purchase
Attention: JAMES D. KUCEWICZ, BUYER (716) 858-6336
95 Franklin Street, Room 1254
Buffalo, New York 14202-3967

NOTE: Lower left hand corner of envelope MUST indicate the following:

BID NUMBER: 219137-002

OPENING DATE: APRIL 24, 2019 TIME: 11:00AM

FOR: GLASS REPAIR SERVIC

JENS GLASS
2903 LAKEVIEW RD
HAMBURG NY 14075

NAME OF BIDDER: _____

If you are submitting other Invitations to Bid, each bid must be enclosed in a separate envelope.

Following EXHIBITS are attached to and made a part of the bid specifications, and part of any agreement entered into pursuant to this Invitation to Bid:

- X EXHIBIT "A" - Assignment of Public Contracts
- X EXHIBIT "B" - Purchases by Other Local Governments or Special Districts
- ____ EXHIBIT "C" - Construction/Reconstruction Contracts
- ____ EXHIBIT "D" - Bid Bond (Formal Bid)
- ____ EXHIBIT "E" - Bid Bond (Informal Bid)
- X EXHIBIT "EP" - Equal Pay Certification
- ____ EXHIBIT "F" - Standard Agreement
- X EXHIBIT "G" - Non-Collusive Bidding Certification
- X EXHIBIT "H" - MBE/ WBE Commitment
- X EXHIBIT "IC" - Insurance **CLASSIFICATION "A"**
- ____ EXHIBIT "P" & EXHIBIT "PBI" - Performance Bond
- ____ EXHIBIT "Q" - Confined Space Program Certification
- X EXHIBIT "PW" - NYS Prevailing Wage

(Rev. 1/00)

Attachment: Jens Glass CRS (RES-2023-785 : Town Wide Glass Repair Service Contract - CRS #4301)

EXHIBIT "G"

County of Erie

DIVISION OF PURCHASE

NON-COLLUSIVE BIDDING CERTIFICATION

By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of his knowledge and belief:

(1) the prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or any competitor;

(2) unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and

(3) no attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

NOTICE

(Penal Law, Section 210.45)

IT IS A CRIME, PUNISHABLE AS A CLASS A MISDEMEANOR UNDER THE LAWS OF THE STATE OF NEW YORK, FOR A PERSON, IN AND BY A WRITTEN INSTRUMENT, TO KNOWINGLY MAKE A FALSE STATEMENT, OR TO MAKE A FALSE STATEMENT, OR TO MAKE A STATEMENT WHICH SUCH PERSON DOES NOT BELIEVE TO BE TRUE.

BID NOT ACCEPTABLE WITHOUT FOLLOWING CERTIFICATION:

Affirmed under penalty of perjury this 23 day of April, 20 19

TERMS 30 Days DELIVERY DATE AT DESTINATION 10 Days

FIRM NAME Jens Glass Company, Inc.

ADDRESS 2903 Lakeview Road

Hamburg, NY ZIP 14075

AUTHORIZED SIGNATURE

TYPED NAME OF AUTHORIZED SIGNATURE

TITLE President TELEPHONE NO. 716-432-5464

(Rev 1/2000)

ERIE COUNTY OFFICE BUILDING, 95 FRANKLIN STREET, BUFFALO, NEW YORK 14202 (716) 858-6336

Attachment: Jens Glass CRS (RES-2023-785 : Town Wide Glass Repair Service Contract - CRS #4301)

County of Erie

DIVISION OF PURCHASE
BID SPECIFICATIONS

BID NO: 219137-002

Ship to: County of Erie
Attention: VARIOUS COUNTY DEPARTMENTS
Address: VARIOUS LOCATIONS

Ship Via: N/A
Date Required at Destination: AS NEEDED

ITEM NO.	QUAN -TITY	UM	CATALOG NO./DESCRIPTION	UNIT PRICE	TOTAL PRICE
			Vendor to provide Glass Repair Service for various Erie		
			County departments per the attached specifications.		
			Contract period is June 1, 2019 – May 31, 2021		
			This is a New York State Prevailing Wage job.		
			Please refer to PRC #2019004294.		

NOTE: Bid results cannot be given over the phone. All requests for bid results should be submitted in writing or faxed to:

ERIE COUNTY DIVISION OF PURCHASE
Freedom of Information Officer
95 Franklin Street, Rm. 1254
Buffalo, NY 14202
FAX #: **716/858-6465**

NAME OF BIDDER Jens Glass Company, Inc.

(Rev. 9/95)
ERIE COUNTY OFFICE BUILDING, 95 FRANKLIN STREET, BUFFALO, NEW YORK 14202 (716) 858-6336

Attachment: Jens Glass CRS (RES-2023-785 : Town Wide Glass Repair Service Contract - CRS #4301)

BID SPECIFICATIONS

Contract period will be June 1, 2019 through May 31, 2021.

Department will call vendor for service on an "as needed" basis.

Vendor must respond in a timely manner on all calls for service.

Bidder must be a vendor whose principal business is glass sales/installation and who has been in this business for at least the past three consecutive years.

If requested, bidder must provide references of customers for whom such service has been provided within the last 12 months.

Bidder is required to indicate a "cost + %" for materials and a labor rate per hour to be charged for installation.

All calls to be billed separately. Payment will be made in arrears upon submission of detailed invoice, listing materials, % markup and labor separately, and certified payroll. Material invoices, showing vendor's costs, must also be submitted on request.

Pricing to remain firm throughout entire length of contract.

PLEASE NOTE: For the sole purpose of awarding this contract, a hypothetical job comprising $1,000.00 (cost) of materials plus 10 hours of regular time labor will be used.

PRICING

LABOR RATE PER HOUR:

Regular Time $ 95.00

Overtime $ 142.50

MATERIALS:

Cost plus 30 %

Attachment: Jens Glass CRS (RES-2023-785 : Town Wide Glass Repair Service Contract - CRS #4301)

ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 8/29/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer any rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
USI Insurance Services, LLC
726 Exchange St. Ste 618
Buffalo, NY 14210
716 314-2000

CONTACT NAME: Janet Naples
PHONE (A/C, No, Ext): 716 314-2036 **FAX (A/C, No):**
E-MAIL ADDRESS: Janet.Naples@usi.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Main Street America Assurance Co.	29939
INSURER B : ACE American Insurance Company	22667
INSURER C : AmTrust Insurance Company	15954
INSURER D : NGM Insurance Company	14788
INSURER E :	
INSURER F :	

INSURED
Jen's Glass Co. Inc.
2903 Lakeview Road
Hamburg, NY 14075-6007

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE / OCCUR X Contractual Liab X X,C,U Incl GEN'L AGGREGATE LIMIT APPLIES PER: POLICY / X PRO-JECT / LOC OTHER:	X	X	MPZ8913C	05/21/2023	05/21/2024	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$1,000,000 $500,000 $10,000 $1,000,000 $2,000,000 $2,000,000
D	AUTOMOBILE LIABILITY X ANY AUTO OWNED AUTOS ONLY / SCHEDULED AUTOS X HIRED AUTOS ONLY / X NON-OWNED AUTOS ONLY	X	X	B2U6129Z	05/21/2023	05/21/2024	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$1,000,000 $ $ $
B	UMBRELLA LIAB / OCCUR X EXCESS LIAB / X CLAIMS-MADE DED / X RETENTION $10000	X	X	N11074030004	05/21/2023	05/21/2024	EACH OCCURRENCE AGGREGATE	$5,000,000 $5,000,000
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y / N: Y (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N / A	X	KWC1311885	02/22/2023	02/22/2024	X PER STATUTE / OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	 $1,000,000 $1,000,000 $1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Additional Insured/Waiver of Subrogation coverage shown above and marked with an X apply only when such coverage is required by written contract signed by the insured prior to a loss.

To the extent covered by form(s):

(See Attached Descriptions)

CERTIFICATE HOLDER

Town of Amherst
5583 Main Street
Williamsville, NY 14221

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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Attachment: Jens Glass CRS (RES-2023-785 : Town Wide Glass Repair Service Contract - CRS #4301)

DESCRIPTIONS (Continued from Page 1)

General Liability:
BPM 3105A 05-15 - Contractors Extension Endorsement
BPM 3148 10-15 - Primary/Non-Contributory Additional Insured
BP 04 51 01-06 - AI-Owner, Lessees or Construction w/Additional Insured Request
BPM 3112 12-07 - Amendment-Aggregate Limits Per Premises
BP 07 02 07-02 - Amendment Aggregate Limits (Per Project)
BP 04 97 01-06 - Waiver of Transfer Rights

Auto:
64-K291 05-18 - Commercial Auto Elite Plus

Umbrella:
XS41866 01/14 - Aggregate Limits of Insurance Per Project
XS-41864 01/14 - Waiver of Our Right to Recover Payment
XS-41887a (02/18) - Other Valid and Collectible Insurance (additional insured)

Workers Compensation:
WC000313 - Waiver of Our Right to Recover from Others Endorsement

Town of Amherst is included as an additional insured. Coverage applies on a Primary and Non-Contributory Basis for all ongoing and completed operations.

Attachment: Jens Glass CRS (RES-2023-785 : Town Wide Glass Repair Service Contract - CRS #4301)

NEW YORK STATE | Workers' Compensation Board

CERTIFICATE OF NYS WORKERS' COMPENSATION INSURANCE COVERAGE

1a. Legal Name & Address of Insured (use street address only)	1b. Business Telephone Number of Insured
Jen's Glass Co. Inc. 2903 Lakeview Road Hamburg, NY 14075 6007	716 432-5464 1c. NYS Unemployment Insurance Employer Registration Number of Insured
Work Location of Insured *(Only required if coverage is specifically limited to certain locations in New York State, i.e., a Wrap-Up Policy)*	1d. Federal Employer Identification Number of Insured or Social Security Number 161593010
2. Name and Address of Entity Requesting Proof of Coverage (Entity Being Listed as the Certificate Holder) Town of Amherst 5583 Main Street Williamsville NY 14221	3a. Name of Insurance Carrier KWC1311885 3b. Policy Number of Entity Listed in Box "1a" AmTrust Insurance Company 3c. Policy effective period 02/22/2023 to 02/22/2024 3d. The Proprietor, Partners or Executive Officers are ☒ included. (Only check box if all partners/officers included) ☐ all excluded or certain partners/officers excluded.

This certifies that the insurance carrier indicated above in box "3" insures the business referenced above in box "1a" for workers' compensation under the New York State Workers' Compensation Law. **(To use this form, New York (NY) must be listed under Item 3A on the INFORMATION PAGE of the workers' compensation insurance policy).** The Insurance Carrier or its licensed agent will send this Certificate of Insurance to the entity listed above as the certificate holder in box "2".

The insurance carrier must notify the above certificate holder and the Workers' Compensation Board within 10 days IF a policy is canceled due to nonpayment of premiums or within 30 days IF there are reasons other than nonpayment of premiums that cancel the policy or eliminate the insured from the coverage indicated on this Certificate. (These notices may be sent by regular mail.) **Otherwise, this Certificate is valid for one year after this form is approved by the insurance carrier or its licensed agent, or until the policy expiration date listed in box "3c", whichever is earlier.**

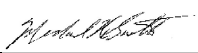
This certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend or alter the coverage afforded by the policy listed, nor does it confer any rights or responsibilities beyond those contained in the referenced policy.

This certificate may be used as evidence of a Workers' Compensation contract of insurance only while the underlying policy is in effect.

Please Note: Upon cancellation of the workers' compensation policy indicated on this form, if the business continues to be named on a permit, license or contract issued by a certificate holder, the business must provide that certificate holder with a new Certificate of Workers' Compensation Coverage or other authorized proof that the business is complying with the mandatory coverage requirements of the New York State Workers' Compensation Law.

Under penalty of perjury, I certify that I am an authorized representative or licensed agent of the insurance carrier referenced above and that the named insured has the coverage as depicted on this form.

Approved by: Michael Bonetto
(Print name of authorized representative or licensed agent of insurance carrier)

Approved by:  02/22/2023
(Signature) (Date)

Title: Regional Director

Telephone Number of authorized representative or licensed agent of insurance carrier: Carrier Phone

Please Note: Only insurance carriers and their licensed agents are authorized to issue Form C-105.2. Insurance brokers are NOT authorized to issue it.

C-105.2 (9-17) www.wcb.ny.gov

Attachment: Jens Glass CRS (RES-2023-785 : Town Wide Glass Repair Service Contract - CRS #4301)

Workers' Compensation Law

Section 57. Restriction on issue of permits and the entering into contracts unless compensation is secured.

1. The head of a state or municipal department, board, commission or office authorized or required by law to issue any permit for or in connection with any work involving the employment of employees in a hazardous employment defined by this chapter, and notwithstanding any general or special statute requiring or authorizing the issue of such permits shall not issue such permit unless proof duly subscribed by an insurance carrier is produced in a form satisfactory to the chair, that compensation for all employees has been secured as provided by this chapter. Nothing herein however, shall be construed as creating any liability on the part of such state or municipal department, board commission or office to pay any compensation to any such employee if so employed.

2. The head of a state or municipal department, board, commission or office authorized or required by law to enter into any contract for or in connection with any work involving the employment of employees in a hazardous employment defined by this chapter, notwithstanding any general or special statute requiring or authorizing any such contract, shall not enter into any such contract unless proof duly subscribed by an insurance carrier is produced in a form satisfactory to the chair, that compensation for all employees has been secured as provided by this chapter.

Attachment: Jens Glass CRS (RES-2023-785 : Town Wide Glass Repair Service Contract - CRS #4301)

NEW YORK STATE Workers' Compensation Board

CERTIFICATE OF INSURANCE COVERAGE
NYS DISABILITY AND PAID FAMILY LEAVE BENEFITS LAW

PART 1. To be completed by NYS disability and Paid Family Leave benefits carrier or licensed insurance agent of that carrier

1a. Legal Name & Address of Insured (use street address only)
JEN'S GLASS COMPANY, INC.
2903 LAKEVIEW ROAD
HAMBURG, NY 14075

Work Location of Insured *(Only required if coverage is specifically limited to certain locations in New York State, i.e., Wrap-Up Policy)*

1b. Business Telephone Number of Insured
716-648-6300

1c. Federal Employer Identification Number of Insured or Social Security Number
161593010

2. Name and Address of Entity Requesting Proof of Coverage (Entity Being Listed as the Certificate Holder)
Town Of Amherst
5583 Main Street
Williamsville, NY 14221

3a. Name of Insurance Carrier
ShelterPoint Life Insurance Company

3b. Policy Number of Entity Listed in Box "1a"
DBL395323

3c. Policy effective period
01/01/2023 to 12/31/2023

4. Policy provides the following benefits:
- [x] A. Both disability and paid family leave benefits.
- [ ] B. Disability benefits only.
- [ ] C. Paid family leave benefits only.

5. Policy covers:
- [x] A. All of the employer's employees eligible under the NYS Disability and Paid Family Leave Benefits Law.
- [ ] B. Only the following class or classes of employer's employees:

Under penalty of perjury, I certify that I am an authorized representative or licensed agent of the insurance carrier referenced above and that the named insured has NYS Disability and/or Paid Family Leave Benefits insurance coverage as described above.

Date Signed 5/22/2023 By _____
(Signature of insurance carrier's authorized representative or NYS Licensed Insurance Agent of that insurance carrier)

Telephone Number 516-829-8100 Name and Title Richard White, Chief Executive Officer

IMPORTANT: If Boxes 4A and 5A are checked, and this form is signed by the insurance carrier's authorized representative or NYS Licensed Insurance Agent of that carrier, this certificate is COMPLETE. Mail it directly to the certificate holder.

If Box 4B, 4C or 5B is checked, this certificate is NOT COMPLETE for purposes of Section 220, Subd. 8 of the NYS Disability and Paid Family Leave Benefits Law. It must be emailed to PAU@wcb.ny.gov or it can be mailed for completion to the Workers' Compensation Board, Plans Acceptance Unit, PO Box 5200, Binghamton, NY 13902-5200.

PART 2. To be completed by the NYS Workers' Compensation Board (Only if Box 4B, 4C or 5B have been checked)

State of New York
Workers' Compensation Board

According to information maintained by the NYS Workers' Compensation Board, the above-named employer has complied with the NYS Disability and Paid Family Leave Benefits Law(Article 9 of the Workers' Compensation Law) with respect to all of their employees.

Date Signed _____ By _____
(Signature of Authorized NYS Workers' Compensation Board Employee)

Telephone Number _____ Name and Title _____

Please Note: *Only insurance carriers licensed to write NYS disability and paid family leave benefits insurance policies and NYS licensed insurance agents of those insurance carriers are authorized to issue Form DB-120.1.* ***Insurance brokers are NOT authorized to issue this form.***

DB-120.1 (12-21)

DB-120.1 (12-21)

Attachment: Jens Glass CRS (RES-2023-785 : Town Wide Glass Repair Service Contract - CRS #4301)

Additional Instructions for Form DB-120.1

By signing this form, the insurance carrier identified in Box 3 on this form is certifying that it is insuring the business referenced in Box 1a for disability and/or Paid Family Leave benefits under the NYS Disability and Paid Family Leave Benefits Law. The insurance carrier or its licensed agent will send this Certificate of Insurance Coverage (Certificate) to the entity listed as the certificate holder in Box 2.

The insurance carrier must notify the above certificate holder and the Workers' Compensation Board within 10 days IF a policy is cancelled due to nonpayment of premiums or within 30 days IF there are reasons other than nonpayment of premiums that cancel the policy or eliminate the insured from coverage indicated on this Certificate. (These notices may be sent by regular mail.) Otherwise, this Certificate is valid for one year after this form is approved by the insurance carrier or its licensed agent, or until the policy expiration date listed in Box 3c, whichever is earlier.

This Certificate is issued as a matter of information only and confers no rights upon the certificate holder. This Certificate does not amend, extend or alter the coverage afforded by the policy listed, nor does it confer any rights or responsibilities beyond those contained in the referenced policy.

This Certificate may be used as evidence of a NYS disability and/or Paid Family Leave benefits contract of insurance only while the underlying policy is in effect.

Please Note: Upon the cancellation of the disability and/or Paid Family Leave benefits policy indicated on this form, if the business continues to be named on a permit, license or contract issued by a certificate holder, the business must provide that certificate holder with a new Certificate of Insurance Coverage for NYS disability and/or Paid Family Leave Benefits or other authorized proof that the business is complying with the mandatory coverage requirements of the NYS Disability and Paid Family Leave Benefits Law.

NYS DISABILITY AND PAID FAMILY LEAVE BENEFITS LAW

§220. Subd. 8

(a) The head of a state or municipal department, board, commission or office authorized or required by law to issue any permit for or in connection with any work involving the employment of employees in employment as defined in this article, and not withstanding any general or special statute requiring or authorizing the issue of such permits, shall not issue such permit unless proof duly subscribed by an insurance carrier is produced in a form satisfactory to the chair, that the payment of disability benefits and after January first, two thousand and twenty-one, the payment of family leave benefits for all employees has been secured as provided by this article. Nothing herein, however, shall be construed as creating any liability on the part of such state or municipal department, board, commission or office to pay any disability benefits to any such employee if so employed.

(b) The head of a state or municipal department, board, commission or office authorized or required by law to enter into any contract for or in connection with any work involving the employment of employees in employment as defined in this article and notwithstanding any general or special statute requiring or authorizing any such contract, shall not enter into any such contract unless proof duly subscribed by an insurance carrier is produced in a form satisfactory to the chair, that the payment of disability benefits and after January first, two thousand eighteen, the payment of family leave benefits for all employees has been secured as provided by this article.

Attachment: Jens Glass CRS (RES-2023-785 : Town Wide Glass Repair Service Contract - CRS #4301)

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 09/18/23 07:00 PM
Department: Engineering Services
Initiated by: **Brian J. Armstrong**
Co-Sponsored by:

DOC ID: 27996 **RESOLUTION 2023-786** **ADOPTED**

Award of Bid - Installation of Radar Speed Feedback Signs at Brompton Road & Park Club Lane Concrete Applied Technologies Corp. Dba CATCO Town-Wide Traffic Calming Project

On September 7, 2023 bids were received for the above referenced project. After review of the four (4) bids received (tabulation attached), and information pertaining to the qualifications and experience of the bidders, we recommend the contract be awarded to Concrete Applied Technologies, DBA CATCO, 1266 Townline Road, Alden, NY 14004 at their low base bid amount of $92,000.00.

Funding is available from the project bond account KP2237-4972.

May I please have your approval to award this low contract? Thank you for considering this request.

9/18/2023
Consent

FINANCIAL IMPACT:

KP2237-4972; $92,000.00

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Deputy Supervisor
AYES:	Kulpa, Bucki, Berger, Lavin, Szukala

Townwide Traffic Calming Project

TOA Job # 2022.031
9/7/2023

	Contractor	Base Bid	Bid Bond?
1	CATCO	$ 92,000.00	Yes
2	Syracuse Signal Systems	$ 133,260.00	Yes
3	Power & Construction Group	$ 133,500.00	Yes
4	Cold Spring Construction	$ 146,900.00	Yes

Attachment: Bid Opening Sheet, 22-31 Traffic calming (RES-2023-786 : Award of Bid - Installation of Radar

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 09/18/23 07:00 PM
Department: Engineering Services
Initiated by: **Brian J. Armstrong**
Co-Sponsored by:

DOC ID: 27997 **RESOLUTION 2023-787** **ADOPTED**

Award of Bid - ADA Ramp & Sidewalk Installation and Repair Master's Edge, Inc.

On September 7, 2023 bids were received for the above referenced project. After review of the two (2) bids received (tabulation attached), and information pertaining to the qualifications and experience of the bidders, we recommend the contract be awarded to Master's Edge, INC., 3409 Broadway, Cheektowaga, NY 14227 at their low bid amount of $196,472 for the summation of the following items: SW1, SW2, SW3, SW4, SW5, SW7, SW8, SW9, SW13, SW14, SW17, SW18, SW19, SW23 (CDBG funding), SW24 and Alternate C.

Funding is available from the project bond account KP2319-4972 that includes CDBG funds.

May I please have your approval to award this low contract? Thank you for considering this request.

9/18/2023
Consent

FINANCIAL IMPACT:

KP2319-4972; $196,472.00

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Deputy Supervisor
AYES:	Kulpa, Bucki, Berger, Lavin, Szukala

ADA Ramp & Sidewalk Installation and Repair

TOA Job # 2016.059C

9/7/2023

	Contractor	Base Bid	Alternate A	Alternate B	Alternate C	Alternate D	Bid Bond?
1	Master's Edge Inc.	$291,654.00	$17,000.00	$19,000.00	$17,000.00	$19,000.00	**Yes** / No
2	P + J	$454,990.00	$25,000.00	$25,000.00	$25,000.00	$25,000.00	**Yes** / No

Attachment: bid_tab_2016.059c_final (RES-2023-787 : Award of Bid - ADA Ramp & Sidewalk Installation

ADA Ramp & Sidewalk Installation and Repair Bid Tabulation				TOA Job # 2016.059C
				9/12/2023
Description	**Master's Edge, INC.**	**P + J**	**Items to Award**	
SW1 - Cascade Drive	$5,100.00	$7,500.00	Award	
SW2 - Stonebridge Drive	$7,225.00	$11,475.00	Award	
SW3 & SW4 - Sunset Court	$14,960.00	$22,000.00	Award	
SW5 - Covent Garden Lane	$18,360.00	$32,400.00	Award	
SW7, SW8 & SW9 - West Klein Road	$24,820.00	$40,880.00	Award	
SW10 - Sweet Home Road	$16,150.00	$22,960.00	Not Awarded	
SW11 - Cooper Heights	$22,100.00	$36,400.00	Not Awarded	
SW12 - Kaymar Drive	$6,000.00	$7,000.00	Not Awarded	
SW13 - Willow Green Drive	$6,000.00	$13,000.00	Award	
SW14 - Grover Cleveland Highway	$6,000.00	$8,000.00	Award	
SW15 - Roman Lane	$13,260.00	$21,000.00	Not Awarded	
SW16 - Sunshine Drive	$14,960.00	$23,500.00	Not Awarded	
SW17 - Hopkins Road	$12,920.00	$19,000.00	Award	
SW18 - Cherry Laurel Lane	$5,500.00	$11,500.00	Award	
SW19 - North Forest Road	$30,175.00	$44,375.00	Award	
SW20 - Willow Wood Park	$39,712.00	$60,000.00	Not Awarded	
SW24 - Hopkins Road	$26,812.00	$39,000.00	Award	
Alternate A : Sidewalk Replacement - Main Line	$17,000.00	$25,000.00	Not Awarded	
Alternate B : Sidewalk Replacement - Driveway	$19,000.00	$25,000.00	Not Awarded	
Alternate C : Sidewalk Installation - Main Line	$17,000.00	$25,000.00	Award	
Alternate D : Sidewalk Installation - Driveway	$19,000.00	$25,000.00	Not Awarded	
Total - Bid Items	**$270,054.00**	**$419,990.00**		
Total - Awarded Items	**$174,872.00**	**$274,130.00**		

Attachment: bid_tab_2016.059c_final (RES-2023-787 : Award of Bid - ADA Ramp & Sidewalk Installation and Repair)

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 09/18/23 07:00 PM
Department: Highway
Initiated by: **Stephen Bryan**
Co-Sponsored by:

DOC ID: 27985 **RESOLUTION 2023-788** **ADOPTED**

Authorize Supervisor to Sign Contract with VCS - Visual Computer Solutions Inc - CRS #4309

NOW THEREFORE BE IT RESOLVED, that the Town of Amherst approves the contract with VCS - Visual Computer Solutions Inc. software for the time keeping and scheduling software system that is compatible with the Town's MUNIS System.

The Town of Amherst contract is for the period 11/01/23 through 10/31/2024 and includes the SAAS renewal time keeping service to include time sheets and scheduling.

NOW THEREFORE BE IT FURTHER RESOLVED, that the Town Board authorizes the Supervisor to sign this contract that is subject to the Contract Routing System (CRS #4309).

9/18/2023
Consent

FINANCIAL IMPACT:

$12,459.00

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Deputy Supervisor
AYES:	Kulpa, Bucki, Berger, Lavin, Szukala

Visual Computer Solutions, Inc.
4400 US Highway 9 South
Suite 3500
Freehold, NJ 07728
(732) 730-9009
www.vcssoftware.com

Invoice 19836

BILL TO
Town of Amherst
Highway Department
1042 North Forest Road
Williamsville, NY 14221

DATE	PLEASE PAY	DUE DATE
09/01/2023	$12,459.00	10/31/2023

SALES REP
HS

QTY	DESCRIPTION	PRICE EACH	AMO
1	SaaS Renewal Services SaaS-Renewal Services - (164) For term of Nov 2023 to Oct 2024	12,459.00 EA	12,459

VCS accepts payments via ACH:
Account #69437016
Routing #021052053

TOTAL DUE $12,459.0

THANK Y

Agreed to and Accepted by:

VCS, Inc.
Print Name of Company

By: _____
Signature

Guy DiMenno
Printed name

Date: 9/6/23

Agreed to and Accepted by:

Town of Amherst

By: _____
Brian J. Kulpa, Supervisor

Date: _____

Attachment: DOC091323-09132023085922 (RES-2023-788 : Authorize Supervisor to Sign Contract with VCS - VisualComputer Solutions Inc -

Addendum to Contract Minor Exposure

1. Notwithstanding any other provision in this Agreement, the following clauses shall be controlling. Should any other provision of the Agreement conflict with the clauses in this Addendum then the provisions of this Addendum are to be enforceable and any conflicting provision shall be considered null and void.

2. No rules, requirements or customs of any society or association of professional Contractors or any similar association shall affect this Agreement in any way whatsoever or be binding upon the Town.

3. To the fullest extent permitted by law, Contractor shall indemnify and hold the Town, its officers, agents, and employees, harmless from any and all liability, demands, claims, or expenses, awards or judgments imposed upon the Town, its officers, agents, and/or employees, arising out of the work of the Contractor its officers, agents, subcontractors, and/or employees as well as the negligence, active or passive, of the Contractor, its officers, agents, subcontractors, and/or employees.

4. Contractor shall not commence work under this Agreement until it has obtained all insurance specified below, produced satisfactory proof of the same and such insurance has been approved by the Town.

(a) Workers' Compensation Insurance: Contractor shall take out and maintain during the life of this Agreement, Workers' Compensation Insurance (both Part A and Part B) for its employees to be assigned to the work hereto under.

(b) General Liability, Professional (if applicable) Liability and Property Damage Insurance: Contractor shall take out and maintain during the life of this Agreement, such general liability and property damage insurance as shall protect it and the Town of Amherst from claims for damages for personal injury, including accidental death, as well as from claims for property damage, which may arise from operations under this Agreement. The amounts of such insurance shall be as follows in an amount not less than $1,000,000.00 per occurrence for bodily injury and property damage including wrongful death, and $2,000,000.00 aggregate

(c) Contractor shall furnish the above insurances, including subcontractors' insurances, to the Town and shall also assure that any policy procured by it shall name the Town as an additional insured on a primary and non-contributory basis.

(d) Contractor shall ensure all its subcontractors, if any, have obtained all the above insurances and shall also assure that any policy procured by any subcontractor or sub-subcontractor shall name the Town as an additional insured on a primary and non-contributory basis.

Attachment: DOC091323-09132023085922 (RES-2023-788 : Authorize Supervisor to Sign Contract with VCS - VisualComputer Solutions Inc -

5. Any accident shall be reported to the Office of the Town Attorney as soon as possible and not later than twenty-four (24) hours from the time of such accident. A detailed written report must be submitted to the Town of Amherst as soon thereafter as possible as and no later than three (3) days after the date of such accident.

6. No Assignment: In accordance with the provisions of section 109 of the General Municipal Law, the Contractor is hereby prohibited from assigning, transferring, conveying, subletting or otherwise disposing of this Agreement, or of its right, title or interest in this agreement, or its power to execute this Agreement, to any other person or corporation without the previous consent in writing of the Town.

7. Required Provisions of Law: Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to have been inserted herein. If any such provision is not inserted through mistake or otherwise, then upon the application of either party this Agreement shall be physically amended forthwith to make such insertion. In particular, the Contractor shall, among other things, fully comply with:

(a) Article 8 of the NYS Labor Law for public work contracts and Article 9 of the Labor Law regarding prevailing wage for Building Service employees.
(b) Labor Law Section 220-e and Executive Law Sections 291-299 and the Civil Rights Law relating to prohibition against discrimination and equal opportunity.
(c) Affirmative action as required by the Labor Law.
(d) Prevention of dust hazard required by Labor Law Section 222-a.
(e) Preference in employment of persons required by Labor Law Section 222.
(f) Eight-hour workday as required by Labor Law Section 220(2).
(g) Chapter 32 of the Town of Amherst: Minority Women and Business Utilization Commitment.
(h) Chapter 163 of the Town of Amherst: Registration of Sex Offenders.

8. The Contractor, in accordance with its status as an independent Contractor, covenants and agrees that it will conduct itself consistent with such status. It will neither hold itself out as nor claim to be, an officer or employee of the Town by reason hereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the Town, including, but not limited to: workers' compensation coverage, unemployment insurance benefits, Social Security coverage, or retirement membership or credit.

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.

Attachment: DOC091323-09132023085922 (RES-2023-788 : Authorize Supervisor to Sign Contract with VCS - VisualComputer Solutions Inc -

9. This Agreement shall be governed by, and interpreted according to the laws of the State of New York. If the contract between the parties refers to the laws, statutes, rules, regulations or ordinances for any state other than New York State, to the laws, statutes, rules, regulations or ordinances for any county other than Erie County, New York or to the laws, statutes, rules, regulations or ordinances for any municipality other than the Town of Amherst, then the laws, statutes, rules, regulations or ordinances for New York State, Erie county and/or the Town of Amherst shall apply as applicable. Any and all legal action necessary to enforce the Agreement will be venued in Supreme Court, Erie County, New York or in the United States District Court for the Western District of New York, Buffalo Division.

10. It is hereby acknowledged that performance of this Contract will be undertaken in accordance with the specifications and pricing on which the bid was submitted.

Authority for execution on behalf of Town: The Supervisor has executed this Agreement pursuant to a Resolution adopted by the Town Board of the Town, at a meeting thereof held on Sept 6, 2023. Brian J. Kulpa, the Supervisor whose signature appears hereafter, is duly authorized and empowered to execute this instrument and enter into such an Agreement on behalf of the Town as a result of that Resolution. This instrument shall be executed in triplicate. At least one (1) copy shall be permanently filed, after execution thereof, in the office of the Town Clerk of Town.

Agreed to and Accepted by:

VCS, Inc.

Print Name of Company

By: _____

Signature

Guy D. Menna

Printed name

Date: 9/6/23

Agreed to and Accepted by:

Town of Amherst

By: _____

Brian J. Kulpa, Supervisor

Date: _____

Revised 12.30.19

Attachment: DOC091323-09132023085922 (RES-2023-788 : Authorize Supervisor to Sign Contract with VCS - VisualComputer Solutions Inc -

IRAN DIVESTMENT ACT CERTIFICATION

As a result of the Iran Divestment Act of 2012 (Act), Chapter 1 of the 2012 Laws of New York, a provision was added to the State Finance Law (SFL), Section 165-a, effective April 12, 2012. Under the Act, the Commissioner of the Office of General Services (OGS) will develop a list (prohibited entities list) of "persons" who are engaged in "investment activities in Iran" (both are defined terms in the law). This list is posted on the OGS website.

By submitting a response to this solicitation, or by assuming the responsibility under a Contract/Lease awarded hereunder, Bidder/Contractor/Vendor (or any assignee) certifies that it will not utilize on such Contract/Lease any subcontractor that is identified on the prohibited entities list.

Additionally, Bidder/Contractor/Vendor is advised that any Bidder/ Contractor/Vendor seeking to renew or extend a Contract/Lease (or assume responsibility of a Contract/Lease awarded must certify at the time the Contract/Lease is renewed, extended or assigned that it is not included on the prohibited entities list.

During the term of the Contract/Lease, should the Town of Amherst (Town) receive information that a person is in violation of the above-referenced certification, the Town will offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment which is in violation of the Act within 90 days after the determination of such violation, then the Town shall take such action as appropriate including, but not limited to, imposing sanctions, seeking compliance, recovering damages or declaring the Bidder/Contractor/Vendor in default.

The Town reserves the right to reject any Contract/Lease or request for assignment for an entity that appears on the prohibited entities list prior to the award of a Contract/Lease, and to pursue a responsibility review with respect to any entity that is awarded a Contract/Lease and appears on the prohibited entities list after Contract/Lease award.

Company Name: VGS, Inc.

Signature:

Print Name: Guy D'Menno

Title: CEO

Date: 9/6/23

Sworn To Before Me This

6th Day of September 2023

Notary Public

KIMBERLY CATTELONA
Commission # 2201831
Notary Public, State of New Jersey
My Commission Expires
November 24, 2023

Revised 4.2017

Attachment: DOC091323-09132023085922 (RES-2023-788 : Authorize Supervisor to Sign Contract with VCS - VisualComputer Solutions Inc -

ACORD®

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
06/05/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME: Joseph Syndennis	
NorthEast Insurance Services 4400 Route 9 South Suite 3300 Freehold NJ 07728	PHONE (A/C, No, Ext): (732) 972-1771	FAX (A/C, No): (732) 577-1578
	E-MAIL ADDRESS: jsyndennis@northeastins.com	
	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A : Selective Ins. Co. of America	12572
	INSURER B : Hartford Fire Insurance Company	19682
	INSURER C :	
	INSURER D :	
	INSURER E :	
	INSURER F :	

INSURED
VISUAL COMPUTER SOLUTIONS, INC DBA JOBS FOR BLUE
4400 US HIGHWAY 9 STE 3500
FREEHOLD NJ 07728-4232

COVERAGES **CERTIFICATE NUMBER:** CL2342814381 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	[X] COMMERCIAL GENERAL LIABILITY [ ] CLAIMS-MADE [X] OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: [ ] POLICY [X] PRO-JECT [ ] LOC [ ] OTHER:			S 2388035	05/23/2023	05/23/2024	EACH OCCURRENCE	$ 2,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 300,000
							MED EXP (Any one person)	$ 10,000
							PERSONAL & ADV INJURY	$ Included
							GENERAL AGGREGATE	$ 4,000,000
							PRODUCTS - COMP/OP AGG	$ 4,000,000
								$
A	AUTOMOBILE LIABILITY [ ] ANY AUTO [ ] OWNED AUTOS ONLY [ ] SCHEDULED AUTOS [X] HIRED AUTOS ONLY [X] NON-OWNED AUTOS ONLY			S 2388035	05/23/2023	05/23/2024	COMBINED SINGLE LIMIT (Ea accident)	$ 2,000,000
							BODILY INJURY (Per person)	$
							BODILY INJURY (Per accident)	$
							PROPERTY DAMAGE (Per accident)	$
								$
A	[X] UMBRELLA LIAB [X] OCCUR EXCESS LIAB [ ] CLAIMS-MADE [ ] DED [X] RETENTION $ Nil			S 2388035	05/23/2023	05/23/2024	EACH OCCURRENCE	$ 1,000,000
							AGGREGATE	$ 1,000,000
								$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y/N ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? [ ] (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N/A					PER STATUTE [ ] OTH-ER	
							E.L. EACH ACCIDENT	$
							E.L. DISEASE - EA EMPLOYEE	$
							E.L. DISEASE - POLICY LIMIT	$
B	Errors & Omissions/Cyber Liability			13 TE 0453018-23	05/08/2023	05/08/2024	Per Occurrence	$2,000,000
							Aggregate	$3,000,000
							Deductible	$5,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

When required by written agreement: The Town of Amherst NY is included as an Additional Insured.

CERTIFICATE HOLDER

Town of Amherst NY
5573 Main Street
Williamsville NY 14221

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Frank Schiliro

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Attachment: DOC091323-09132023085922 (RES-2023-788 : Authorize Supervisor to Sign Contract with VCS - VisualComputer Solutions Inc -

DA 09/06/2023

CERTIFICATE OF LIABILITY INSURANCE Acct#: 2984306

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. T CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLIC BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORI REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endor If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statemen this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER LOCKTON COMPANIES, LLC 2100 ROSS AVE., SUITE 1400 DALLAS, TX 75201	CONTACT NAME: PHONE (A/C, No, Ext): 214-771-4411 FAX (A/C, No): E-MAIL ADDRESS: REI.WC@ONEDIGITAL.COM
INSURED Visual Computer Solutions, Inc. 4400 US Highway 9 Ste 3500 Freehold, NJ 07728	INSURER(S) AFFORDING COVERAGE — NAI INSURER A : Indemnity Insurance Co. of North America — 435 INSURER B : INSURER C : INSURER D : INSURER E : INSURER F :

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PER INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH T CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TER EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
	COMMERCIAL GENERAL LIABILITY CLAIMS- OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY PRO- LOC OTHER:						EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ $ $ $ $ $
	AUTOMOBILE LIABILITY ANY AUTO OWNED AUTOS ONLY HIRED AUTOS ONLY SCHEDULED AUTOS NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ $ $ $
	UMBRELLA LIAB OCCUR EXCESS LIAB CLAIMS-MADE DED RETENTION $						EACH OCCURRENCE AGGREGATE	$ $
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y/N ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? N / A (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below			C52149058	01/01/2023	10/01/2023	X PER STATUTE OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	 $ 1,000,000 $ 1,000,000 $ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
COVERAGE PROVIDED FOR ALL LEASED EMPLOYEES BUT NOT SUBCONTRACTORS OF: Visual Computer Solutions, Inc.

CERTIFICATE HOLDER

2984306

Town of Amherst
5573 Main Street
Williamsville, NY 14221

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELL BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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Attachment: DOC091323-09132023085922 (RES-2023-788 : Authorize Supervisor to Sign Contract with VCS - VisualComputer Solutions Inc -

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 09/18/23 07:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 27979 **RESOLUTION 2023-789** **ADOPTED**

Associate Planner/Planning Department

Please appoint an Associate Planner to the Planning Department. Permanent, from list, pending satisfactory completion of a probationary term as set forth in the Civil Service Rule XIII. Effective September 19, 2023 at an annual salary of $72,306, Grade 18, Step D for Gary Palumbo.

This is a Permanent appointment for an employee currently serving Provisionally.

9/18/2023
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Deputy Supervisor
AYES:	Kulpa, Bucki, Berger, Lavin, Szukala

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 09/18/23 07:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 27986 **RESOLUTION 2023-790** **ADOPTED**

Contracts Technician/Highway

Please reappoint a Contracts Technician to the Highway Department, Provisional, pending satisfactory completion of a Civil Service Examination. Effective September 19, 2023, at an annual salary of $66,437.32, Grade 5, Step I of the Exempt Non-Department Head Salary Schedule for Stephen Bryan.

This is a reappointment of the employee currently serving Provisionally.

9/18/2023
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Deputy Supervisor
AYES:	Kulpa, Bucki, Berger, Lavin, Szukala

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 09/18/23 07:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 27971 **RESOLUTION 2023-791** **ADOPTED**

Chief Accountant/Comptroller's Office

Please appoint a Chief Accountant to the Comptroller's Office. Permanent, from list, pending satisfactory completion of a probationary term as set forth in the Civil Service Rule XIII. Effective September 19, 2023 at an annual salary of $103,454.70, Grade 4, Step I of the Exempt Department Head Salary Schedule for Jennifer Brock.

This is a Permanent appointment for an employee currently serving Provisionally.

9/18/2023
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Deputy Supervisor
AYES:	Kulpa, Bucki, Berger, Lavin, Szukala

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 09/18/23 07:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 27969 **RESOLUTION 2023-792** **ADOPTED**

Program Coordinator-Senior Services/Sr. Services

Please appoint a Program Coordinator-Senior Services to the Senior Services Department. Permanent, from list, pending satisfactory completion of a probationary term as set forth in the Civil Service Rule XIII. Effective September 19, 2023 at an annual salary of $57,267, Grade 9, Step J for Tammy Jacobs.

This is a Permanent appointment for an employee currently serving Provisionally.

9/18/2023
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Deputy Supervisor
AYES:	Kulpa, Bucki, Berger, Lavin, Szukala

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 09/18/23 07:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 27991 **RESOLUTION 2023-793** **ADOPTED**

Public Safety Dispatcher/Police Department (2 Positions)

Please appoint two (2) Public Safety Dispatchers to the Police Department. Permanent, from list, pending satisfactory completion of a probationary term as set forth in the Civil Service Rule XIII. Effective September 19, 2023 at an annual salary of $49,206, Grade 13, Step A for Jessica Rechin and Deanna DiBlasi.

Contingent upon completing all Pre-Employment Requirements and Erie County Civil Service Rules and Regulations.

Replacing employees who retired and resigned.

9/18/2023
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Deputy Supervisor
AYES:	Kulpa, Bucki, Berger, Lavin, Szukala

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 09/18/23 07:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 27992 **RESOLUTION 2023-794** **ADOPTED**

Public Safety Dispatcher/Police Department (3 Positions)

Please appoint three (3) Public Safety Dispatchers to the Police Department. Permanent, from list, pending satisfactory completion of a probationary term as set forth in the Civil Service Rule XIII. Effective September 19, 2023 at an annual salary of $52,247, Grade 13, Step B for Elizabeth Henry, Corrine Yard & Morgan Johnson.

Contingent upon completing all Pre-Employment Requirements and Erie County Civil Service Rules and Regulations.

These are Permanent appointments for employees currently serving Provisionally.

9/18/2023
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Deputy Supervisor
AYES:	Kulpa, Bucki, Berger, Lavin, Szukala

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 09/18/23 07:00 PM
Department: Planning
Initiated by: **Dan Howard**
Co-Sponsored by:

DOC ID: 28000 **RESOLUTION 2023-795** **WITHDRAWN**

Scheduling a Public Hearing Regarding Designation of 22 Chateau Terrace as a Local Historic Landmark

WHEREAS, The Town of Amherst has many significant historic, architectural and cultural landmarks within its borders; and

WHEREAS, On March 21, 2023 the Town of Amherst Historic Preservation Commission heard a resident petition for a landmark designation application for 22 Chateau Terrace; and

WHEREAS, The Amherst Historic Preservation Commission held a public hearing on August 8, 2023 on the designation of the 22 Chateau Terrace as a Town historic landmark; and

WHEREAS, Finding that it is associated with the lives of individuals or of people or of events significant in national, state or local history and embodies the distinctive characteristics of the Craftsman-style architecture and represents an established and familiar visual feature of the neighborhood as the first residential structure for the gateway of the Chateau neighborhood, and the HPC voted at its September 12, 2023 meeting to recommend historic designation of the 22 Chateau Terrace to the Town Board; now therefore be it

RESOLVED, In accordance with the Historic Preservation Commission Rules of Order, the Amherst Town Board schedules a public hearing on the date of October 16, 2023 on the matter of designation of 22 Chateau Terrace as a local historic landmark.

9/18/2023
A motion to withdraw was made by Supervisor Kulpa, seconded by Councilmember Berger and unanimously approved 5-0.

FINANCIAL IMPACT:

This action will have no impact on the Town operating budget or on the tax rate.

RESULT:	**WITHDRAWN**

TOWN OF AMHERST
HISTORIC PRESERVATION COMMISSION

RESOLUTION NO. ___ OF 2023

Re: Recommendation for local landmark designation of 22 Chateau Terrace

WHEREAS, the Town of Amherst has many significant historic, architectural and cultural landmarks within its borders; and

WHEREAS, 22 Chateau Terrace meets Local Landmark Criterion A(i): Is associated with the lives of individuals or of people or of events significant in the national, state or local history (ii): embodies the distinctive characteristics of the Craftsman-style residence; and (v): represents an established and familiar visual feature of the neighborhood and

WHEREAS, Built ca. 1920, this property is also associated with the history of suburban development in the Town of Amherst; and

WHEREAS, It retains a moderate level of integrity of design, materials, craftsmanship and settings; and

WHEREAS, It represents an established and familiar visual feature of the neighborhood as the first residential structure for the gateway of the Chateau Terrace neighborhood; and

WHEREAS, The proposed nomination is further described in the attached documents; now therefore be it

RESOLVED, Pursuant Amherst Code Section 121-6 of the duties of designation by the Historic Preservation Commission, the Commission would like to recommend for designation the property at 22 Chateau Terrace, in Amherst New York as a local landmark under Local Landmark Criterion A(i), A(ii), and A(v).

The foregoing resolution was adopted by the Town of Amherst Historic Preservation Commission, September 12, 2023; moved by – Waterman-Kulpa ; seconded by - Mancuso; ayes 5, noes 1 (Palmer), Absent (0).

Susan Palmer _____ Sept 12, 2023

Susan Palmer, Chair Date

Attachment: RES_SignedRecommendtoTB (RES-2023-795 : Scheduling a Public Hearing Regarding Designation of 22 Chateau Terrace as a

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 09/18/23 07:00 PM
Department: Planning
Initiated by: **Dan Howard**
Co-Sponsored by:

DOC ID: 27983 **RESOLUTION 2023-796** **ADOPTED**

To Authorize Amendments to the Community Development Program First-Time Homebuyer Program

WHEREAS, the Community Development Program has offered assistance for over 20 years to income eligible first-time homebuyers by assisting them with closing costs in order to purchase a home and this program is a priority in the 5 Year Consolidated Plan to expand homeownership opportunities to low-and-moderate income individuals; and

WHEREAS, due to the increased cost of housing and high interest rates the program can no longer qualify any clients with the current program terms; and

WHEREAS, Community Development staff are proposing program revisions to offer down payment assistance in addition to closing cost assistance, with a limit of up to $50,000 and that assistance will be in the form of interest-free loans with the closing cost portion due back when the house is sold or transferred while the down payment portion will be forgiven after 15 years; NOW THEREFORE,

BE IT RESOLVED, the Town of Amherst Town Board hereby authorizes the above amendments to the First-Time Homebuyer Program.

9/18/2023
Consent

FINANCIAL IMPACT:

Adoption of the proposed resolution involves no local monetary consideration and will have no impact on the Town Budget or tax rate.

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Deputy Supervisor
AYES:	Kulpa, Bucki, Berger, Lavin, Szukala

Amherst

Town of Amherst Planning Department *Erie County, New York*

Brian J. Kulpa,
Supervisor
Daniel C. Howard, AICP
Planning Director
Daniel J. Ulatowski, AICP
Assistant Planning Director

September 11, 2023

Agenda of September 18, 2023

Honorable Town Board
Town of Amherst
5583 Main Street
Williamsville, NY 14221

Subject: To Authorize Amendments to the Amherst First-Time Homebuyer Program

Honorable Board Members:

The Amherst Community Development Program has offered assistance for over 20 years to income eligible first-time homebuyers by assisting them with closing costs in order to purchase a home. This program is a priority in our 5 Year Consolidated Plan to expand homeownership opportunities to low and moderate income individuals. Our assistance has been as loans that are interest free and paid back when the home is sold. The average loan amount is approximately $8,000.

Unfortunately, with the increased cost of housing and high interest rates the program can no longer qualify clients with our current program terms, and therefore hasn't assisted a client since 2021. Community Development Staff are proposing program revisions to offer downpayment assistance in addition to closing cost assistance, with a limit of up to $50,000. The assistance will be in the form of interest-free loans, with the closing cost portion due back when the house is sold or transferred. The downpayment portion will be forgiven after 15 years. We have attached a power point presentation and program information for your reference.

A proposed resolution for adopting the amendments to the First-Time Homebuyer Program is attached for your consideration. Please contact Susan Fitzpatrick with any questions you may have.

Very truly yours,

Daniel C. Howard, AICP
Planning Director

Enc.
X:\Community Development\New Structure\HOUSING PROGRAMS\First-Time_HB\Downpayment & Closing Cost Assistance\TB_Letter_FTHB_changes_9.18.23.docx

Attachment: tb letter-09122023144115 (RES-2023-796 : To Authorize Amendments to the Amherst First-Time Homebuyer Program)

Town of Amherst

First-Time Homebuyer Program

Proposed Program Amendments

September 18, 2023

Laurie Stillwell, Community Development Director

Susan Fitzpatrick, Community Development Specialist & Program Lead

Attachment: point-09122023151631 (RES-2023-796 : To Authorize Amendments to the Amherst First-Time

Current First-time Homebuyer Program:

- Priority of Community Development's 5 Year Consolidated Plan.
- Expands housing opportunities to low & moderate income individuals.
- Homeownership opportunities contribute to economic stability, stable neighborhoods and generational wealth building.
- Current Program is an interest-free deferred loan for **closing costs only**.
- Limited to households at or below 80% area median income.
- House must be "affordable" – 35% of debt-to-income ratio

Attachment: point-09122023151631 (RES-2023-796 : To Authorize Amendments to the Amherst First-Time

Current Program's Challenges:

Example: 1 Person Household - $52,000 HUD income limit

$179,900 house purchase
- 5,400 ~3% down
$174,500 mortgage

8% interest rate = **$1,570 mortgage payment** (including taxes & insurance)

= 39% debt-to-income (over limit & unaffordable)

* With increased cost of housing and interest rates, plus income limits of homebuyers, the current program can not assist our clients.

Attachment: point-09122023151631 (RES-2023-796 : To Authorize Amendments to the Amherst First-Time

Proposed Program Amendments:

Down Payment & Closing Cost Assistance

- Loans to 1st time homebuyers **up to $50,000** to use towards their down payment and closing costs.
  - Closing Costs Assistance = long term, deferred payment, **interest-free loan**.
  - Down payment Assistance = 15 year forgivable loan, **interest-free**.

Other Terms

- Max assistance cannot exceed $50,000 between both loans.
- Amount of assistance will be based on the mortgage amount that the homebuyer can borrow in order to bring the debt-to-income ratio to 35% or lower.

Attachment: point-09122023151631 (RES-2023-796 : To Authorize Amendments to the Amherst First-Time

Other Program Details:

- Single-family or two-family home price can not exceed $230,000.
- All the other conditions from the current program will apply.
- Other financial assistance programs are allowed to match (bank programs).
- Funded by HUD HOME Investment Partnerships Program Funds.
- Estimated to assist 3 households per year.

Attachment: point-09122023151631 (RES-2023-796 : To Authorize Amendments to the Amherst First-Time

Next Steps:

- Program policies require Town Board Approval of significant changes.
- Resolution is on evening agenda for Board approval.

Questions?

Attachment: point-09122023151631 (RES-2023-796 : To Authorize Amendments to the Amherst First-Time

Amherst

Town of Amherst Planning Department *Erie County, New York*

Brian J. Kulpa, Supe
Daniel C. Howard, A
Planning Director
Daniel J. Ulatowski,
Assistant Planning D r

TOWN OF AMHERST
First-Time Homebuyer Program
Down Payment/Closing Cost Assistance

Dear Potential Homebuyer:

The Town of Amherst, as a member of the Amherst-Cheektowaga-Tonawanda HOME Consortium, using the HOME Investment Partnerships Program, offers loans for first-time homebuyers with qualifying incomes to cover the down payment and closing costs associated with the purchase of their first home in the Town of Amherst. These are **long term, deferred payment, interest-free loans**. You need not make any payments toward the loan until your home is sold, transferred in title, refinanced (home equity, mortgage, etc.) or you cease to occupy the property as your principal residence. At that time the loan would have to be repaid in full. The enclosed information outlines the income and property qualifications for potential applicants to the program.

Supplementary mortgage products with lower down payments are presently available through most lenders to qualified applicants who are eligible for the Town's assistance. A free consultation with a mortgage representative offers valuable information on the home buying process, mortgage availability, credit concerns and the financial assistance available through the Community Development Programs for potential purchases. **It is a requirement that you attend a First-Time Homebuyer Workshop offered for this program by Belmont Housing Resources for WNY, Inc. or the Buffalo Urban League. Please contact housing counselors at Belmont; 884-7791, x. 131 for an appointment or at Buffalo Urban League; 250-2418. A copy of the completion certificate must be included with your application for assistance.**

If you think you may be interested in taking advantage of the program, our Town's website contains the information and application packet at www.amherst.ny.us, go to the Planning Department on the home page and it will direct you to the program information. You may also contact the Town's Community Development staff at 631-7053 between 9:00 a.m. and 5:00 p.m., Monday through Friday. You can also e-mail us at sfitzpatrick@amherst.ny.us.

Very truly yours,

Community Development Staff
Laurie Stillwell
Susan Fitzpatrick
Jeffrey Klein
Rachel Boerschig

Attachment: info-09122023144137 (RES-2023-796 : To Authorize Amendments to the Amherst First-Time Homebuyer Program)

TOWN OF AMHERST
First-Time Homebuyer Program
Down Payment/Closing Cost Assistance

2023 Fact Sheet

Purpose

To provide financial assistance to low and moderate income first-time homebuyers for down paymen and/or closing costs related to the purchase of their first home.

This is a long term, deferred payment, **interest-free loan**. You need not make any payments towards thi loan until your home is sold, transferred in title, no longer used as a primary residence or refinanced. If you liv in the property for 15 years or longer, the down payment assistance is forgiven, however, the closing costs portio will not be forgiven and will be due back to the Town of Amherst.

Eligibility

1. The applicant must be an income-eligible first-time homebuyer, that is, one who has not owned a home during the 3-year period prior to this purchase under the program. This eligibility extend also to displaced homemakers, that is, persons who have been divorced or widowed and are nov forced to (re)enter the workplace, persons with disabilities requiring a more accessible dwelling and income-eligible senior citizens.

2. The property must be a single-family or two-family dwelling located in the Town of Amherst o in the Village of Williamsville. (Two-family units may be assisted with down payment and/o closing costs attributed only to the owner-occupied unit). Condominiums and townhouses als qualify for the program.

Verification of household income must be supplied. To qualify, you must be under 80% of the FY 2023 median income guidelines below:

Annual Household Income – FY 2023
(Effective June 15, 2023)

Household Size	80% AMI
1	$52,000
2	$59,400
3	$66,850
4	$74,250
5	$80,200
6	$86,150
7	$92,100
8	$98,050

NO application will be processed until all necessary, required documents for the program are submitted to the Community Development staff.

Attachment: info-09122023144137 (RES-2023-796 : To Authorize Amendments to the Amherst First-Time Homebuyer Program)

TOWN OF AMHERST
First-Time Homebuyer Program
Down Payment/Closing Cost Assistance
2023 Program Guidelines

Purpose

The goal of the Down Payment/Closing Cost Assistance Program is to expand home-ownership opportunities for low-to-moderate income households. Funds for the program are provided using the HOME Investment Partnerships Program, administered by the Amherst-Cheektowaga-Tonawanda HOME Consortium (the Consortium).

Assistance

Deferred, zero percent (0%) loans up to $50,000 for down payment and closing costs will be provided to income-eligible homebuyers obtaining mortgage financing for the purchase of a home. The property to be purchased must be located within the legal limits of the Town of Amherst.

Down Payment Assistance

The Town of Amherst will provide up to $50,000 to assist homebuyers with their first-home purchase. The amount of the assistance will be based on a household's income versus the housing debt (front-end debt ratio). The Town will provide funding to bring the front-end debt ratio down to 35%. The overall household debt (back-end debt ratio) cannot be more than 45%. If there is funding left over, then the Town will cover all the closing costs or a portion of the closing costs. The down payment assistance will be forgiven in a period of 15 years if the homebuyer continues to occupy the home as their principal residence.

Closing Costs Covered

- Buyer's financial responsibilities associated with purchase of home at closing [as listed on page 2 of the closing disclosure statement, **including** fees paid outside closing such as the property appraisal, property inspection & 1st year of homeowner's insurance;
- Property and school tax adjustments and reimbursements and escrow funds;
- Title insurance, recording fees and tax stamp fees;
- Bank attorney fees;
- First year mortgage insurance premium.

Non-Discrimination

Loan funds are available to persons without regard to race, religion, color, national origin, sex, age disability, marital status, military status or familial status and source of income. (As of March 5, 2012 sexual orientation or gender identity is included as protected classes).

Definition of Income Eligible

Income eligible means having a gross, annual household income of no more than 80% of the area median income as established by the federal government.

Attachment: info-09122023144137 (RES-2023-796 : To Authorize Amendments to the Amherst First-Time Homebuyer Program)

Town of Amherst
First-Time Homebuyer Program
Program Guidelines - Page 2

Definition of Household

A household consists of all persons, related or unrelated, who will reside together within one year of sai purchase of the property assisted by this program.

Definition of Income

Gross Annual Household Income means the income of ALL household members age 16 and older, fron ALL sources including: wages, salaries, commissions, tips, bonuses, severance pay, interest, dividends, alimony maintenance or support payments, child support, Social Security, SSI, unemployment compensation, pensions retirement benefits, disability payments, worker's compensation payments, annuity benefits, public assistanc payments, net business income, royalties, IRA distributions, self-employment income, etc. **Taxable** as well a **nontaxable** forms of income are considered as household income for purposes of this program. Gross incom means income **before** any applicable withholding taxes or deductions are subtracted.

Determination of Income-Eligibility

An applicant's current gross household income will be utilized as the basis for determining income eligibility. Income from all sources will be verified with supporting documentation. An applicant must submi all the information outlined on the First-Time Home buyers Program application and any additional informatio or documentation determined by the Town to be necessary to adequately determine household income Calculation of household income must fairly and accurately represent household income pursuant to federa regulations at 24 CFR Part 5.609. If the household income of an applicant cannot be determined, the applicant' household income will be presumed to be greater than 80% of area median income, and therefore the household will not qualify. Verification of income eligibility will be valid for a period of up to 180 days.

Pre-Purchase Requirements

1) Prospective homebuyers must attend the homebuyers workshop/seminar offered by Belmont Housin Resources for WNY, Inc. or the Buffalo Urban League for the Town of Amherst's Program. In certai circumstances this requirement may be waived. See page 5.

2) Prospective homebuyers must have a prequalification letter from a bank or mortgage company stating th amount of the mortgage and the interest rate before they can be approved for the program

3) Prospective homebuyer must not have owned a home during the past three years. The exceptions are:

- a "displaced homemaker", defined as an adult individual who has not worked full-time in the labor force fo a number of years but has, during such years, worked primarily without remuneration to care for the hom and family, **and**, is unemployed or underemployed and is experiencing difficulty in obtaining or upgradin employment; and,
- a "displaced single parent", defined as a person who is unmarried or legally separated from a spouse, **and**, ha one or more minor children for whom the person has custody or joint custody.
- people with disabilities requiring a more accessible dwelling to accommodate their disability.
- income-eligible senior citizens.

Attachment: info-09122023144137 (RES-2023-796 : To Authorize Amendments to the Amherst First-Time Homebuyer Program)

Town of Amherst
First-Time Homebuyer Program
Program Guidelines - Page 3

Security

All loans will be secured by a collateral mortgage on the subject property. All owners of record must execute a mortgage instrument to secure the loan. A mortgage filing fee may be added to the loan amount to cover the cost of filing the mortgage with the Erie County Clerk's Office or paid out of pocket at closing. The filing of this mortgage will be the responsibility of the purchaser's attorney at closing.

Property Maintenance

The loan recipient will required to keep their property in a state of good repair, free of violations of Town of Amherst and State of New York codes and housing standards and in compliance with federal Housing Quality Standards.

Property Insurance

The loan recipient will be required to keep the property insured against loss by fire and other risks at all times and to name the Town of Amherst as an additional mortgagee on the insurance policy.

Eligibility of Property to be Purchased

1) **Condition of Property**: The property to be purchased must be in good condition, not in need of repairs and be in compliance with both federal Housing Quality Standards and Town of Amherst Housing Standards.

2) **Property Value**: Pursuant to federal regulations at 24 CFR § 92.254, the value of the property to be purchased cannot exceed 95 percent of the median purchase price for the area (Erie County). The house must be an existing structure. New construction is not allowed under the Town's program.

3) **Purchase Price**: As of August 21, 2023 the purchase price of a single-family or two-family home cannot exceed **$230,000**. The mortgage amount (loan from bank or mortgage company) for each applicant will be based upon household income, subject to underwriting by Community Development staff. The homebuyer will be informed upon acceptance into the program what their allowable maximum mortgage amount will be, nevertheless, the homebuyer's front end debt-to-income ratio cannot exceed 35% and the homebuyer's back end debt-to income ratio cannot exceed 45%.

4) **Type of Property**: The home to be purchased must be a single-family home, condominium or townhouse situated on a parcel of land to be owned by the purchaser (Two-family units may be assisted for the amount of closing cost attributed to the owner-occupied unit only.)

5) **Location:** The property to be purchased must be located:
- within the legal limits of the Town of Amherst and,
- outside of the established 100-year floodplain.

Mortgage Financing

Attachment: info-09122023144137 (RES-2023-796 : To Authorize Amendments to the Amherst First-Time Homebuyer Program)

Mortgage financing for a house purchased under this program must escrow property and school taxes and have a fixed interest rate for the entire term of the loan. Interest only loans are not allowed. The homebuyer is required to have at least a $1,000 towards the down payment. The homebuyer may have up to $70,000 of their own funds or from other grants to contribute to the down payment.

Recapture of Program Funds

HOME Program funds provided for herein will be repaid to the Consortium upon the sale or transfer of title of the assisted property, upon mortgage refinancing or securing of additional debt requiring subordination of the Consortium's lien, or if the homebuyer does not maintain the assisted property as his/her/their primary place of residence. The Town will adhere to other conditions for the recapture of Program funds related to mortgage refinancing or otherwise requiring the subordination of the Consortium's lien established by mutual agreement of the Consortium members. The amount of funds to be recaptured will be determined pursuant to applicable federal regulations and program policy.

Principal Residence

The homebuyer must utilize the property to be purchased as its principal residence. A principal residence is defined as being lived in at least 9 months of the year by the homebuyer.

Lead Paint Requirements

If the property has visibly deteriorated paint on the interior and exterior, it will automatically fail the Town of Amherst property inspection. The deteriorated paint will have to be addressed before the closing and then the premises must pass a "clearance test" **paid for by the seller or buyer** to ensure compliance with lead-based paint requirements. The clearance test results must be submitted to our office upon completion. The clearance tests range from $150-$300. The Community Development office can give the contact information of local testing companies.

Policy Changes

In order to effectively administer and implement the Program and ensure the achievement of the Program's goals it may be necessary to periodically revise, modify or expand these guidelines. Changes or modifications considered to be of a substantial nature, (i.e. changes substantially affecting the purpose, scope, location or beneficiaries of the Program), will require the approval of the Town Board. Other modifications, revisions or additions to these guidelines, including those of a procedural, functional or administrative nature, may be made by the Community Development Director.

Program Acceptance

The homebuyer will have six months or 180 days from the approval date to sign a sales contract. If the homebuyer has not found a property within six months, they can be placed on a waiting list established by the Town and when funding become available again, they will be notified by the Town of Amherst Community Development.

Attachment: info-09122023144137 (RES-2023-796 : To Authorize Amendments to the Amherst First-Time Homebuyer Program)

Town of Amherst
First-Time Homebuyer Program
Down Payment/Closing Cost Assistance Program

Procedures

1. Prospective Homebuyer(s) get pre-qualified for a mortgage and attends First Time Homebuyer Workshops.

2. Homebuyer submits application with necessary income documentation to Community Development office.

3. Community Development staff reviews application for income eligibility after **all** documentation has been submitted and the application is verified as complete.

4. Homebuyers will be notified by email or mail of their eligibility status. A copy of the letter sent to eligible applicants will be sent to lender, if requested.

5. Homebuyer should meet with a mortgage consultant *prior* to application. The Town of Amherst will inform the homebuyer of the maximum mortgage amount they can obtain to receive the down payment and closing cost assistance.

6. Lender approves homebuyer for a mortgage equal to or less than the amount approved by the Town with escrow of property and school taxes and a fixed interest rate.

7. Homebuyer has 180 days (six months) to enter into a purchase contract. Purchase contracts must be contingent on the property passing an inspection by the program's building inspector. Community Development staff strongly recommends the homebuyer obtains an independent inspection in addition to the Town's inspection.

8. Community Development staff provides a letter of inspection approval to homebuyer.

9. Lender conducts appraisal of the property, (copy to Community Development program), and approves for mortgage (a copy of mortgage commitment to Community Development program).

10. Lender and its closing attorney sets date for closing and provides an estimate of closing costs to the Town of Amherst.

11. Community Development staff provides funds for closing costs in the form of a **check** made payable to homebuyer's attorney and sends the check to the homebuyer's attorney prior to closing.

12. The Town of Amherst requires a reimbursement check from the homebuyer's attorney if the final closing costs are less than the estimated closing costs. There is no cash-out at closing.

13. The homebuyer signs the Town of Amherst's Note and Mortgages prior to the closing and will take it to the closing to be filed by their attorney.

Equal Housing Opportunity

Attachment: info-09122023144137 (RES-2023-796 : To Authorize Amendments to the Amherst First-Time Homebuyer Program)

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 09/18/23 07:00 PM
Department: Police
Initiated by: **Scott Chamberlin**
Co-Sponsored by:

DOC ID: 27988 **RESOLUTION 2023-797** **ADOPTED**

Grant Agreement FY 2023 Homeland Security Grant Program Red Team Exercise (CRS#4268) New York State Division of Homeland Security and Emergency Services

TOWN BOARD AGENDA ITEM: SEPTEMBER 18, 2023

TO: **Town Board**

FROM: **Scott P. Chamberlin, Chief of Police**

RE: **Grant Agreement**
FY 2023 Homeland Security Grant Program
Red Team Exercise (CRS#4268)
New York State Division of Homeland Security and Emergency Services

Kindly adopt a resolution authorizing the Supervisor to adopt and execute the attached grant agreement between the Town of Amherst (Police) and the New York State Division of Homeland Security and Emergency Services with regard to the above-entitled matter. This grant agreement has successful completed the Contract Routing System.

Thank you.

SPC:msl
Attachment
C: Tim Koller, Deputy Town Clerk **(Agenda Item: September 18, 2023)**

9/18/2023
Consent

FINANCIAL IMPACT:

A 3121 .04389: ($4,376.00)

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Deputy Supervisor
AYES:	Kulpa, Bucki, Berger, Lavin, Szukala

13.Q.1.a

STATE AGENCY New York State Division of Homeland Security and Emergency Services 1220 Washington Avenue Building 7A Suite 710 Albany, NY 12242	NYS COMPTROLLER'S NUMBER: T180243 (Contract Number) ORIGINATING AGENCY CODE: 01077
GRANTEE/CONTRACTOR: (Name & Address) Amherst, Town of 5583 Main St Williamsville, NY 14221	TYPE OF PROGRAMS: WM2020 SHSP CFDA NUMBER: 97.067 DHSES NUMBERS: WM20180243
FEDERAL TAX IDENTIFICATION NO: 16-6002157 MUNICIPALITY NO: (if applicable) SFS VENDER NO: 1000003949 DUN & BRADSTREET NO: 030212336	INITIAL CONTRACT PERIOD: FROM 08/01/2023 TO 10/31/2023 FUNDING AMOUNT FOR INITIAL PERIOD: $4,376.00
STATUS: Contractor is not a sectarian entry. Contractor is not a not-for-profit organization.	MULTI-YEAR TERM: (if applicable)
CHARITIES REGISTRATION NUMBER: N/A (Enter number of Exempt) if "Exempt" is entered above, reason for exemption. n/a Contractor has ____ has not ____ timely filed with the Attorney General's Charities Bureau all required periodic or annual written reports.	APPENDIX ATTACHED AND PART OF THIS AGREEMENT __ APPENDIX A Standard Clauses required by the Attorney General for all State contracts _X_ APPENDIX A1 Agency-specific Clauses _X_ APPENDIX B Budget _X_ APPENDIX C Payment and Reporting Schedule _X_ APPENDIX D Program Workplan and Special Conditions __ APPENDIX X Modification Agreement Form (to accompany modified appendices for changes in terms or considerations on an existing period or for renewal periods) __ DHSES-55 Budget Amendment/Grant Extension Request __ Other - Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion

IN WITNESS THEREOF, the parties hereto have electronically executed or approved this AGREEMENT on the dates of their signatures.

NYS Division of Homeland Security and Emergency Services

BY: , Date:

State Agency Certification: "In addition to the acceptance of this contract, I also certify that original copies of this signature page will be attached to all other exact copies of this contract".

GRANTEE:

BY: Mr. Brian J. Kulpa , Supervisor Date:

ATTORNEY GENERAL'S SIGNATURE	COMPTROLLER'S SIGNATURE
_____ Title: _____ Date: _____	_____ Title: _____ Date: _____

Attachment: 31784 (RES-2023-797 : Grant Agreement: NYS DHSES: Red Team Exercise (CRS# 4268))

13.Q.1.a
SHSP

Award Contract

Project No.
SH20-1082-D00

Grantee Name
Amherst, Town of

08/21/202

Attachment: 31784 (RES-2023-797 : Grant Agreement: NYS DHSES: Red Team Exercise (CRS# 4268))

Award Contract

Project No.
SH20-1082-D00

Grantee Name
Amherst, Town of

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Budget Summary by Participant

Amherst, Town of
Town of Amherst Police Department - Version 1

#	Personnel	Number	Unit Cost	Total Cost	Grant Funds	Matching Funds
1	Overtime/Backfill for Red Team Exercise	1	$2,906.00	$2,906.00	$2,906.00	$0.00
	Total			$2,906.00	$2,906.00	$0.00

#	Fringe Benefits	Number	Unit Cost	Total Cost	Grant Funds	Matching Funds
1	Fringe Benefits Expenses	1	$1,470.00	$1,470.00	$1,470.00	$0.00
	Total			$1,470.00	$1,470.00	$0.00

Total Project Costs	Total Cost	Grant Funds	Matching Funds
	$4,376.00	$4,376.00	$0.00

Total Contract Costs	Total Cost	Grant Funds	Matching Funds
	$4,376.00	$4,376.00	$0.00

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08/21/2023

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Award Contract

13.Q.1.a
SHSP

Project No.
SH20-1082-D00

Grantee Name
Amherst, Town of

08/21/202:

Work Plan

Goal

Prevent terrorist attacks; Respond to terrorist attacks; Minimize the danger and recover from terrorist attacks.

Objective #1

G & T Workplan Code - 19. Establish/enhance public-private emergency preparedness program.

Investment Justification - Enhance the Protection of Soft Targets/Crowded Places

NYS Critical Capability
Primary - Law Enforcement Counter-Terrorism Operations

To enhance Safeguard NY Program.

Task #1 for Objective #1

Conduct red team exercise to test effectiveness of Operation Safeguard.

#	Performance Measure
1	Exercise conducted. Provide brief narrative and report number of personnel involved and how the project enhanced the Safeguard NY program.

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Award Contract

13.Q.1.a
SHSP

Project No.
SH20-1082-D00

Grantee Name
Amherst, Town of

08/21/202

STATE OF NEW YORK LETTER OF AGREEMENT

Homeland Security Grant Programs

This State of New York Letter of Agreement ("Letter of Agreement") by and between the State of New York ("State") acting by and through the applicable State Agency ("State Agency") and the public or private entity ("Recipient" and, together with the State, the "Parties") hereby supplements the purchase order ("Purchase Order" and, together with this Letter Agreement, the "Purchase Order Agreements") attached hereto and entered into by and between the Parties listed thereto.

STANDARD TERMS AND CONDITIONS

A. Executory Clause: The State shall have no liability under either Purchase Order Agreement to the Recipient, or to anyone else, beyond funds appropriated and available for the Purchase Order Agreements.

B. Performance: The Recipient shall perform all services or work, as applicable, and comply with all provisions of the Purchase Order Agreements to the satisfaction of the State. The Recipient shall provide services or work, as applicable, and meet the agreed upon program objectives in accordance with the provisions of this Letter of Agreement, the Purchase Order, relevant laws, rules and regulations, administrative, program and fiscal guidelines, and where applicable, operating certificate for facilities or licenses for an activity or program.

C. Funding: Funding for the term of the Purchase Order Agreements shall not exceed the amount specified on the Purchase Order.

D. Term: The term of the Purchase Order Agreements shall be specified on the Purchase Order, unless terminated sooner as provided herein, and may be extended subject to agreement by the Parties and compliance with applicable State law.

E. Subrecipients: If the Recipient enters into subagreements for the performance of work pursuant to the Purchase Order Agreements, the Recipient shall take full responsibility for the acts and omissions of its subrecipients. Nothing in the subagreement shall impair the rights of the State under Purchase Order Agreements. No contractual relationship shall be deemed to exist between the subrecipient and the State.

F. Indemnification: The Recipient shall be solely responsible and answerable in damages for any and all accidents and/or injuries to persons (including death) or property arising out of or related to the services to be rendered by the Recipient or its subrecipients pursuant to the Purchase Order Agreements. The Recipient shall indemnify and hold harmless the State and its officers and employees from claims, suits, actions, damages and cost of every nature arising out of the provision of services pursuant to the Purchase Order Agreements.

G. Set-Off Rights: The State shall have all of its common law, equitable, and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold, for the purposes of set-off, any moneys due to the Recipient under the Purchase Order Agreements up to any amounts due and owing to the State with regard to the Purchase Order Agreements, any other agreement with any State department or agency, including any agreement for a term commencing prior to the term of the Purchase Order Agreements, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies, or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State Agency, its representatives, or the New York State Office of the State Comptroller.

H. Legal Action: No litigation or regulatory action shall be brought against the State of New York, the State Agency, or against any county or other local government entity with funds provided under the Purchase Order Agreements. The term "litigation" shall include commencing or threatening to commence a lawsuit, joining or threatening to join as a party to ongoing litigation, or requesting any relief from any of the State of New York, the State Agency, or any county, or other local government entity. The term "regulatory action" shall include commencing or threatening to commence a regulatory proceeding, or requesting any regulatory relief from any of the State of New York, the State Agency, or any county, or other local government entity.

I. No Arbitration: Disputes involving the Purchase Order Agreements, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

J. Non-Assignment Clause: In accordance with Section 138 of the State Finance Law, the Purchase Order Agreements may not be assigned by the Recipient or its right, title or interest therein assigned, transferred, conveyed, sublet, or otherwise disposed of without the State's previous written consent, and attempts to do so shall be considered to be null and void.

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Notwithstanding the foregoing, such prior written consent of an assignment of the Purchase Order Agreements, let pursuant to Article XI of the State Finance Law, may be waived at the discretion of the State Agency and where the assignment is due to a reorganization, merger, or consolidation of the Recipient's business entity or enterprise. The State retains its right to approve an assignment and to require that the merged Recipient demonstrate its responsibility to do business with the State. The Recipient may, however, assign its right to receive payments without the State's prior written consent unless the Purchase Order Agreements concern Certificates of Participation pursuant to Article 5-A of the State Finance Law.

K. Non-Collusive Bidding Certification: In accordance with Section 139-d of the State Finance Law, if the Purchase Order Agreements were awarded based upon the submission of bids, the Recipient affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. The Recipient further affirms that, at the time the Recipient submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive bidding certification on the Recipient's behalf.

L. Grounds for Termination:

1. Mutual Consent: The Purchase Order Agreements may be terminated at any time upon mutual written consent of the State and the Recipient.

2. Cause: The State may terminate the Purchase Order Agreements immediately, upon written notice of termination to the Recipient, if the Recipient fails to comply with any of the terms and conditions of either Purchase Order Agreement and/or with any laws, rules, regulations, policies, or procedures that are applicable to either Purchase Order Agreement.

3. Non-Responsibility: The State may make a final determination that the Recipient is non-responsible. In such event, the State may terminate the Purchase Order Agreements at the Recipient's expense, complete the contractual requirements in any manner the State deems advisable and pursue available legal or equitable remedies for breach.

4. Convenience: The State may terminate the Purchase Order Agreements in its sole discretion upon thirty (30) calendar days' prior written notice.

5. Lack of Funds: If for any reason the State or the Federal government terminates or reduces its appropriation to the applicable State Agency entering into the Purchase Order Agreements or fails to pay the full amount of the allocation for the operation of one or more programs funded under the Purchase Order Agreements, the State Agency, may at its discretion, terminate or reduce the Purchase Order Agreements, provided that no such reduction or termination shall apply to allowable costs already incurred by the Recipient where funds are available to the State Agency for payment of such costs. Upon termination or reduction of the Purchase Order Agreements, all remaining funds paid to the Recipient that are not subject to allowable costs already incurred by the Recipient shall be returned to the State Agency. In any event, no liability shall be incurred by the State (including the State Agency) beyond monies available for the purposes of the Purchase Order Agreements. The Recipient acknowledges that any funds due to the State Agency or the State because of disallowed expenditures after audit shall be the Recipient's responsibility.

6. Force Majeure: The State may terminate or suspend its performance under the Purchase Order Agreements immediately upon the occurrence of a "force majeure." For purposes of the Purchase Order Agreements, "Force majeure" shall include, but not be limited to, natural disasters, war, rebellion, insurrection, riot, strikes, lockout, and any unforeseen circumstances and acts beyond the control of the State which render the performance of its obligations impossible.

M. Notice of Termination:

1. Service of notice: Written notice of termination shall be sent by (i) personal messenger service; or (ii) certified mail, return receipt requested and first class mail.

2. Effective date of termination: The effective date of the termination shall be the later of (i) the date indicated in the notice and (ii) the date the notice is received by the Recipient, and shall be established as follows: (a) if the notice is delivered by hand, the date of receipt shall be established by the receipt given to the Recipient or by affidavit of the individual making such hand delivery attesting to the date of delivery; or (b) if the notice is delivered by registered or certified mail, by the receipt returned from the United States Postal Service, or (c) if no receipt is returned, five (5) business days from the date of mailing of the first class letter, postage prepaid, in a depository under the care and control of the United States Postal Service.

N. Effect of Notice and Termination on State's Payment Obligations:

1. Upon receipt of notice of termination, the Recipient agrees to cancel, prior to the effective date of any prospective termination, as many outstanding obligations as possible, and agrees not to incur any new obligations after receipt of the notice without approval by the State.

2. The State shall be responsible for payment on claims for services or work provided and costs incurred pursuant to the terms of the Purchase Order Agreements. In no event shall the State be liable for expenses and obligations arising from the

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requirements of the Purchase Order Agreements after its termination date.

O. Notices of Matters Not Related to Termination: All notices, except for notices of termination, shall be in writing and shall be transmitted either:

1. by certified or registered United States mail, return receipt requested;

2. by facsimile transmission;

3. by personal delivery;

4. by expedited delivery service; or

5. by electronic mail.

P. Notification of Significant Occurrences:

1. If any specific event or conjunction of circumstances threatens the successful completion of this project, in whole or in part, including where relevant, timely completion of milestones or other program requirements, the Recipient agrees to submit to the State Agency within three (3) calendar days of becoming aware of the occurrence or of such problem, a written description thereof together with a recommended solution thereto.

2. The Recipient shall immediately notify in writing the program manager assigned to the Purchase Order Agreements of any unusual incident, occurrence, or event that involves the staff, volunteers, directors or officers of the Recipient, any subrecipient or program participant funded through the Purchase Order Agreements, including but not limited to the following: death or serious injury; an arrest or possible criminal activity that could impact the successful completion of this project; any destruction of property; significant damage to the physical plant of the Recipient; or other matters of a similarly serious nature.

Q. Suspension: The State may, in its discretion, order the Recipient to suspend performance for a reasonable period of time. In the event of such suspension, the Recipient shall be given a formal written notice outlining the particulars of such suspension. Upon issuance of such notice, the Recipient shall comply with the particulars of the notice. The State shall have no obligation to reimburse Recipient's expenses during such suspension period. Activities may resume at such time as the State issues a formal written notice authorizing a resumption of performance under the Purchase Order Agreements.

R. Confidentiality: The Recipient agrees that it shall use and maintain personally identifiable information relating to individuals who may receive services, and their families pursuant to the Purchase Order Agreements, or any other information, data or records marked as, or reasonably deemed, confidential by the State ("Confidential Information") only for the limited purposes of the Purchase Order Agreements and in conformity with applicable provisions of State and Federal law. The Recipient understands and agrees that it (i) has an affirmative obligation to safeguard any such Confidential Information from unnecessary or unauthorized disclosure and (ii) must comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208).

S. Publicity:

1. "Publicity" shall mean, but not be limited to, news conferences, news releases, public announcements, advertising, brochures, reports, discussions or presentations at conferences or meetings; and/or the inclusion of State materials, the State's name or other such references to the State in any document or forum. Publicity regarding this project may not be released without prior written approval from the State.

2. Any publications, presentations or announcements of conferences, meetings or trainings which are funded in whole or in part through any activity supported under the Purchase Order Agreements may not be published, presented or announced without prior approval of the State. Any such publication, presentation or announcement shall:

a) Acknowledge the support of the State of New York and, if funded with Federal funds, the applicable Federal funding agency; and

b) State that the opinions, results, findings and/or interpretations of data contained therein are the responsibility of the Recipient and do not necessarily represent the opinions, interpretations or policy of the State or if funded with Federal funds, the applicable Federal funding agency.

3. Notwithstanding the above, (i) if the Recipient is an educational institution, the Recipient may, for scholarly or academic purposes, use, present, discuss, report or publish any material, data or analyses, other than Confidential Information, that derives from activity under the Purchase Order Agreements and the Recipient agrees to use best efforts to provide copies of any manuscripts arising from Recipient's performance under the Purchase Order Agreements, or if requested by the State, the Recipient shall provide the State with a thirty (30) day period in which to review each manuscript for compliance with

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Confidential Information requirements; or (ii) if the Recipient is not an educational institution, the Recipient may submit for publication, scholarly or academic publications that derive from activity under the Purchase Order Agreements (but are not deliverable under the Purchase Order Agreements), provided that the Recipient first submits such manuscripts to the State forty-five (45) calendar days prior to submission for consideration by a publisher in order for the State to review the manuscript for compliance with confidentiality requirements and restrictions and to make such other comments as the State deems appropriate. All derivative publications shall follow the same acknowledgments and disclaimer as described in Section S(2) hereof.

T. MacBride Fair Employment Principles: In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Recipient hereby stipulates that the Recipient either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

U. Iran Divestment Act:
1. By entering into the Purchase Order Agreements, the Recipient certifies in accordance with State Finance Law §165-a that it is not on the "Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012" ("Prohibited Entities List").
2. The Recipient further certifies that it shall not utilize on the Purchase Order Agreements any subrecipient that is identified or the Prohibited Entities List. The Recipient agrees that should it seek to renew or extend the Purchase Order Agreements, it must provide the same certification at the time the Purchase Order Agreements are renewed or extended. The Recipient also agrees that any proposed assignee of the Purchase Order Agreements shall be required to certify that it is not on the Prohibited Entities List before the Purchase Order Agreements assignment shall be approved by the State.
3. During the term of the Agreement, should the State receive information that a person (as defined in State Finance Law §165-a) is in violation of the above-referenced certifications, the State will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the New York State Iran Divestment Act of 2012 within 90 calendar days after the determination of such violation, then the State shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Recipient in default.
4. The State reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of the Purchase Order Agreements, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities list after contract award.
V. Severability: Any provision of the Purchase Order Agreements that is held to be invalid, illegal or unenforceable in any respect by a court of competent jurisdiction, shall be ineffective only to the extent of such invalidity, illegality or unenforceability, without affecting in any way the remaining provisions hereof; provided, however, that the parties to the Purchase Order Agreements shall attempt in good faith to reform the Purchase Order Agreements in a manner consistent with the intent of any such ineffective provision for the purpose of carrying out such intent. If any provision is held void, invalid or unenforceable with respect to particular circumstances, it shall nevertheless remain in full force and effect in all other circumstances.

W. Governing Law: The Purchase Order Agreements shall be governed by the laws of the State of New York except where the Federal Supremacy Clause requires otherwise.

X. Additional Grant Terms

1. In accordance with 2 CFR §§200.112 and 200.113, Contractor understands and agrees that it must:
(1) disclose in writing any potential conflict of interest to DHSES; and
(2) disclose, in a timely manner, in writing to DHSES all violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the grant award. The Contractor shall explain the actual or potential conflict in writing in sufficient detail so that the State contracting agency is able to assess the actual or potential conflict. The Contractor shall provide any additional information necessary for the State contracting agency to fully assess and address the actual or potential conflict of interest. Failure to make required disclosures can result in any remedy available to DHSES for Contractor's noncompliance, including suspension or debarment.

2. Required Contract Clauses: The Contractor must ensure that, for all contracts entered into by the Contractor, the contract provisions required by 2 CFR §200.327 (and Appendix II to 2 CFR Part 200) are included in such contracts. The Contractor further agrees to impose and enforce this requirement for any Contractor subaward agreements.

3. Advance Payments: Where advance payments are approved by DHSES, the Contractor agrees to expend the advance payments in accordance with the purposes set forth in Appendix D and consistent with Appendix B. The advanced funds must be placed in an interest-bearing account and are subject to the rules outlined in 2 CFR Part 200, (Uniform Administrative Requirements for Grants and Cooperative Contracts to State and Local Governments) which require Contractors to promptly remit back to the federal government, through New York State Division of Homeland Security and Emergency Services, any interest earned on these advanced funds. The Contractor may keep interest earned up to $500 per federal fiscal year for administrative expenses. This maximum limit is not per award; it is inclusive of all interest earned as the result of all federal

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grant program funds received per year. Interest must be reported on Fiscal Cost Reports and remitted to DHSES quarterly.

4. Audit Requirements: This Contract, and any sub-awards resulting from this Contract, may be subject to fiscal and program audits by DHSES, NYS Office of State Comptroller, pertinent federal agencies, and other designated entities to ascertain financial compliance with federal and/or State laws, regulations, and guidelines applicable to this Contract. The Contractor shall meet all audit requirements of the federal government and State of New York. Such audits may include review of the Contractor's accounting, financial, and reporting practices to determine compliance with the Contract and reporting requirements; maintenance of accurate and reliable original accounting records in accordance with governmental accounting standards as well as generally accepted accounting principles; and specific compliance with allowable cost and expenditure documentation standards prescribed by applicable federal, State, and DHSES guidelines.

5. Equipment Markings: The Contractor further agrees that, when practicable, any equipment purchased with grant funding shall be prominently marked as follows: "Purchased with funds provided by the U.S. Department of Homeland Security."

6. Administrative, Cost and Audit Requirements: The Contractor must comply with the most recent version of the Administrative Requirements, Cost Principles, and Audit requirements. Failure to do so may result in disallowance of costs upon audit. A list of regulations and guidance applicable to United States Department of Homeland Security (DHS) grants are listed below:

General Administrative Requirements:
a. 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

Cost Principles:
a. 2 CFR Part 200, Subpart E

Audit Requirements:
a. 2 CFR Part 200, Subpart F

7. Contracting with small and minority firms, women's business enterprise and labor surplus area firms:
a. Consistent with 2 CFR §200.321, the grantee and any subgrantees will take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible. Affirmative steps must include:

1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;
4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises;
5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in subsections 1 through 5 of this section.

8. Compliance with Laws, Regulations and Program Guidance: The Contractor shall ensure it is aware of and complies with all applicable laws, regulations and program guidance. It is the responsibility of the Contractor to become familiar with and comply with all terms and conditions associated with acceptance of funds.

9. Adequate Documentation: The Contractor must ensure full compliance with all cost documentation requirements, including specific personal service documentation, as applicable directly to the Contractor, sub-recipient or collaborative agency/organization. The Contractor must maintain specific documentation as support for project related personal service expenditures as this Contract is supported by federal funds. Depending upon the nature or extent of personal service provided under this Contract, the Contractor shall maintain semi-annual (or more frequent) personal service certifications and/or an after-the-fact personnel activity reporting system (or equivalent) which complies with all applicable laws, regulations and program guidance. Failure to do so may result in disallowance of costs.

10. Single Audit Requirements: For audits of fiscal years beginning on or after December 26, 2014, recipients that expend $750,000 or more from all federal funding sources during their fiscal year are required to submit an organization-wide financial and compliance audit report. The audit must be performed in accordance with the requirements of GAO's Government Auditing Standards, located at https://www.gao.gov/topics/auditing-and-financial-management, and the requirements of Subpart F of 2 C.F.R. Part 200 located at http://www.ecfr.gov/cgi-bin/text-idx?SID=63811dc3410c008e2f8e28c325cdc09e&mc=true&node=sp2.1.200.f&rgn=div6. The final report for such audit must be completed within nine months of the end of the Contractor's fiscal year. The Contractor must provide one copy of such audit report to DHSES within nine (9) months of the end of its fiscal year, or communicate in writing to DHSES that Contractor is

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exempt from such requirement.

11. Program Income: Program income earned by the Contractor during the grant funding Period must be reported in writing to DHSES, in addition to any other statutory reporting requirements. Program income consists of income earned by the grant recipient that is directly generated by a supported activity or earned as a result of the grant program. Program income includes, but is not limited to, income from fees for services performed, the use of rental or real or personal property acquired under federally funded projects, the sale of commodities or items fabricated under an award, license fees and royalties on patents and copyrights and interest on loans made with federal award funds. For example, if the purpose of a grant is to conduct conferences, any training fees that are generated would be considered program income. Interest earned on grant funds is not considered program income unless specified in Appendix D. The Contractor agrees to report the receipt and expenditures of grant program income to DHSES. Program income (not to include interest earned), generated by the use of these grant funds will be used to enhance the grant project.

12. Accounting for Grant Expenditures:

a. Grant funds may be expended only for purposes and activities set forth in this Contract. Accordingly, the most important single requirement of accounting for this grant is the complete and accurate documentation of grant expenditures. If the Contractor receives funding from two or more sources, all necessary steps must be taken to ensure that grant-related transactions are not commingled. This includes, but is not limited to, the establishment of unique budget codes, a separate cost center, or a separate chart of accounts. Expenditures must be cross-referenced to supporting source documents (purchase orders, contracts, real estate leases, invoices, vouchers, timesheets, mileage logs, etc.).

b. Contractor agrees that it shall maintain adequate internal controls and adhere to Generally Accepted Accounting Principles for Government or Generally Accepted Accounting Principles for Not-for-Profit Organizations.

c. None of the goals, objectives or tasks, as set forth in Appendix D, shall be sub-awarded to another organization without specific prior written approval by DHSES. Where the intention to make sub-awards is clearly indicated in the application, DHSES approval is deemed given, if these activities are funded, as proposed.

d. If this Contract makes provisions for the Contractor to sub-grant funds to other recipients, the Contractor agrees that all sub-Contractors shall be held accountable by the Contractor for all terms and conditions set forth in this Contract in its entirety. The Contractor further agrees that it shall assume sole and complete responsibility for fulfilling all the obligations set forth in the Contract and the Contractor must guarantee the work of any sub-Contractor as if it were its own.

e. The Contractor agrees that all sub-Contractor arrangements shall be formalized in writing between the parties involved. The writing must, at a minimum, include the following information:

- Activities to be performed;
- Time schedule;
- Project policies;
- Other policies and procedures to be followed;
- Dollar limitation of the Contract;
- Appendix A-1, Appendix C, Certified Assurances for Federally Supported Projects, Certification Regarding Lobbying, Debarment and Suspension and any special conditions set forth in the Contract;
- Applicable federal and/or State cost principles to be used in determining allowable costs; and
- Property Records or Equipment Inventory Reports.

13. Expenditures: The Contractor will not be reimbursed for sub-granted funds unless all expenditures by a sub-Contractor are listed on detailed itemization forms or a form deemed acceptable to DHSES. Backup documentation for such expenditures must be made available to DHSES upon request. All expenditures must be programmatically consistent with the goals and objectives of this Contract and with the Budget set forth in Appendix B.

14. Space Rental: Space rental provided by this Contract must be supported by a written lease, maintained on file and made available by the Contractor upon request.

15. Equipment and Property:

a. Any equipment, furniture or supplies or other property purchased pursuant to this Contract is deemed to be the property of the State, except as may otherwise be governed by federal or State laws, rules or regulations or stated in this Contract.

b. Equipment means tangible, nonexpendable, personal property having a useful life of more than one year and an acquisition cost of $5,000 or more per unit. A Contractor may use its own definition of equipment provided that such definition would at least include all equipment defined above. A copy of the property record(s) or equipment inventory report(s) with relevant purchasing and supporting documentation must be made available to DHSES upon request. Property records or equipment inventory reports must be maintained, by award, that include a description of the property, a serial number or other

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identification number, the source of property, who holds title, the acquisition date, and cost of the property, percentage of federal participation in the cost of the property, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property. The Contractor must document receipt of all applicable equipment purchased with grant funds. A physical inventory of the property must be taken and the results reconciled with the property records at least once every two (2) years.

c. Upon completion of all contractual requirements by the Contractor, DHSES will consider a request for continued use and possession of the equipment purchased with grant funds provided the equipment continues to be used in connection with a public security program. When disposing of equipment purchased with homeland security grant funding, a State agency must dispose of equipment in accordance with State Laws and procedures. All other Contractors shall dispose of equipment as follows:

1) Items of equipment with a current per unit market value of less than $5,000 may be retained, sold or otherwise disposed of with no further obligation to the awarding agency.

2) Items of equipment with a current per unit fair market value of $5,000 or more may be retained or sold. If sold, the awarding agency shall have a right to an amount calculated by multiplying the proceeds from the sale by the awarding agency's share of the equipment. If retained, the current market value is to be used in the calculation. To remit payments, award recipients should contact DHSES at 1-866-837-9133 for guidance.

3) Upon completion of all contractual requirements by the Contractor under this Contract, DHSES shall accept a request for continued use and possession of the equipment purchased with grant funds providing the equipment continues to be used in accordance with the contracted activities and guidelines in this Contract.

4) The Contractor must conduct a physical inventory of property records at least once every two years to verify the existence, current utilization and continued need for the property. In the event the property is no longer required by the Contractor, this fact should be reported to DHSES as soon as possible and appropriate guidelines followed, as specified in this Appendix.

5) If Contractor disposes of any equipment purchased under this Contract during the active lifespan of said equipment, Contractor must reinvest any proceeds from the disposal into additional equipment items to continue Contractor's organization's activities subject to the guidelines of this Contract. If the Contractor does not reinvest proceeds to continue activities subject to this Contract, the percentage of the proceeds equal to the proportion of the original purchase price paid by funds for the Contract must be repaid to the State of New York.

16. Remedies
In the event Contractor fails to observe or perform any term or condition of the agreement, the State may exercise all rights and remedies available to law or in equity.

17. Prohibition on Contracting for Covered Telecommunications Equipment or Services

a) Definitions. As used in this clause, the terms backhaul; covered foreign country; covered telecommunications equipment or services; interconnection arrangements; roaming; substantial or essential component; and telecommunications equipment or services have the meaning as defined in FEMA Policy 405-143-1, Prohibitions on Expending FEMA Award Funds for Covered Telecommunications Equipment or Services (Interim), as used in this clause—

b) Prohibitions.

1) Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, and 2 C.F.R. § 200.216 prohibit the head of an executive agency on or after Aug.13, 2020, from obligating or expending grant, cooperative agreement, loan, or loan guarantee funds on certain telecommunications products or from certain entities for national security reasons.

2) Unless an exception in paragraph (c) of this clause applies, the contractor and its subcontractors may not use grant, cooperative agreement, loan, or loan guarantee funds from the Federal Emergency Management Agency to:

i) Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;

ii) Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;

iii) Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system; or

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iv) Provide, as part of its performance of this contract, subcontract, or other contractual instrument, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

c) Exceptions.

1) This clause does not prohibit contractors from providing—

i) A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

(ii) Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.

2) By necessary implication and regulation, the prohibitions also do not apply to: (i) Covered telecommunications equipment o services that: i. Are not used as a substantial or essential component of any system; and ii. Are not used as critical technology of any system. (ii) Other telecommunications equipment or services that are not considered covered telecommunications equipment or services.

d) Reporting requirement.

1) In the event the contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the contractor is notified of such by a subcontractor at any tier or by any other source, the contractor shall report the information in paragraph (d)(2) of this clause to the recipient or subrecipient, unless elsewhere in this contract are established procedures for reporting the information.

2) The Contractor shall report the following information pursuant to paragraph (d)(1) of this clause:

i) Within one business day from the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.

ii) Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: Any further available information about mitigation actions undertaken or recommended. In addition, the contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

e) Subcontracts. The Contractor shall insert the substance of this clause, including this paragraph (e), in all subcontracts and other contractual instruments.

18. Domestic Preferences for Procurements

Domestic Preference for Procurements As appropriate, and to the extent consistent with law, the contractor should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. This includes, but is not limited to iron, aluminum, steel, cement, and other manufactured products. For purposes of this clause: Produced in the United States means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States. Manufactured products mean items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

19. Access to Records/Retention of Records.

a) The Contractor agrees to provide the State of New York, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this Agreement for the purposes of making audits, examinations, excerpts, and transcriptions.

b) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

c) The Contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the Agreement.

d) In compliance with the Disaster Recovery Act of 2018, the State of New York and the Contractor acknowledge and agree

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that no language in this Agreement is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

e) The Contractor shall establish and maintain complete records, including accurate books, financial records, supporting documents, accounts and other evidence directly pertinent to performance of work performed under this Contract consistent with generally accepted bookkeeping practices. Contractor shall retain all financial records, supporting documents, statistical records, and all other records pertinent to the Agreement (collectively, the "Records") (i) for three (3) years from the time of closeout of FEMA's grant to the State or for the period provided in the FEMA regulations at 2 C.F.R. 200.333-337 or (ii) for six (6) years after the closeout of the Agreement, or, as long as required by state law, whichever may be longer.

20. Federal Debt.

The Contractor certifies that it is non-delinquent in its repayment of any federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowance, and benefit overpayments.

21. DHS Seal, Logo, and Flags.

The Contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

22. Compliance with Federal Law, Regulations, and Executive Orders.

This is an acknowledgement that FEMA financial assistance may be used to fund all or a portion of the Agreement. The Contractor will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives, including but not limited to the applicable Office of Management and Budget Circulars, which may impact the administration of funds and/or set forth certain cost principles, including the allowability of certain expenses.

23. No Obligation by Federal Government.

The Federal Government is not a party to this Agreement and is not subject to any obligations or liabilities to the nonFederal entity, Contractor, or any other party pertaining to any matter resulting from the Agreement.

24. Program Fraud and False or Fraudulent Statements or Related Acts.

The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this Agreement.

25. Affirmative Socioeconomic Steps

If subcontracts are to be let, the prime contractor is required to take all necessary steps identified in 2 C.F.R. § 200.321(b)(1)-(5) to ensure that small and minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

26. Copyright

The Contractor grants to DHSES, a paid-up, royalty-free, nonexclusive, irrevocable, worldwide license in data first produced in the performance of this contract to reproduce, publish, or otherwise use, including prepare derivative works, distribute copies to the public, and perform publicly and display publicly such data. For data required by the contract but not first produced in the performance of this contract, the Contractor will identify such data and grant to the DHSES or acquires on its behalf a license of the same scope as for data first produced in the performance of this contract. Data, as used herein, shall include any work subject to copyright under 17 U.S.C. § 102, for example, any written reports or literary works, software and/or source code, music, choreography, pictures or images, graphics, sculptures, videos, motion pictures or other audiovisual works, sound and/or video recordings, and architectural works. Upon or before the completion of this contract, the Contractor will deliver to DHSES data first produced in the performance of this contract and data required by the contract but not first produced in the performance of this contract in formats acceptable by DHSES.

27. U.S. Executive Order 13224.

Contractor, and its subcontractors, must comply with U.S. Executive Order 13224 and U.S. Laws that prohibit transactions with and provision of resources and support to individuals and organizations associated with terrorism.

28. Subcontracting.

The Contractor represents to DHSES that all work shall be performed by personnel experienced in the appropriate and applicable profession and areas of expertise, taking into account the nature of the work to be performed under this contract.

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The Contractor must include the contract provisions required by 2 CFR §200.327 (and Appendix II to 2 CFR Part 200), in every contract issued by it so that such provisions will be binding upon each of its contractors as well as the requirement to flow down such terms to all lower-tiered subcontractors.

Y. Additional U.S. DHS Requirements

1. Hatch Act
The Contractor agrees, as a material condition of the Contract, to comply with all applicable provisions of the Hatch Act (5 U.S.C. 1501 et seq.), as amended.

2. Acknowledgement of Federal Funding from DHS
All recipients must acknowledge their use of federal funding when issuing statements, press releases, requests for proposals, bid invitations, and other documents describing projects or programs funded in whole or in part with Federal funds.

3. Activities Conducted Abroad
All recipients must ensure that project activities carried on outside the United States are coordinated as necessary with appropriate government authorities and that appropriate licenses, permits, or approvals are obtained.

4. Age Discrimination Act of 1975
All recipients must comply with the requirements of the Age Discrimination Act of 1975 (42 U.S.C. § 6101 et seq.), which prohibits discrimination on the basis of age in any program or activity receiving Federal financial assistance.

5. Americans with Disabilities Act of 1990
All recipients must comply with the requirements of Titles I, II, and III of the Americans with Disabilities Act, which prohibits recipients from discriminating on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12101–12213).

6. Best Practices for Collection and Use of Personally Identifiable Information (PII)
All recipients who collect PII are required to have a publically-available privacy policy that describes what PII they collect, how they use the PII, whether they share PII with third parties, and how individuals may have their PII corrected where appropriate. Award recipients may also find as a useful resource the DHS Privacy Impact Assessments: Privacy Guidance and Privacy template respectively.

7. Title VI of the Civil Rights Act of 1964
All recipients must comply with the requirements of Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.), which provides that no person in the United States will, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal Financial assistance. Implementing regulations for the Act are found at 6 C.F.R. Part 21 and 44 C.F.R. Part 7.

8. Civil Rights Act of 1968
All recipients must comply with Title VIII of the Civil Rights Act of 1968, which prohibits recipients from discriminating in the sale, rental, financing, and advertising of dwellings, or in the provision of services in connection therewith, on the basis of race, color, national origin, religion, disability, familial status, and sex (42 U.S.C. § 3601 et seq.), as implemented by the Department of Housing and Urban Development at 24 C.F.R. Part 100. The prohibition on disability discrimination includes the requirement that new multifamily housing with four or more dwelling units—i.e., the public and common use areas and individual apartment units (all units in buildings with elevators and ground-floor units in buildings without elevators)—be designed and constructed with certain accessible features (see 24 C.F.R. § 100.201).

9. Copyright
All recipients must affix the applicable copyright notices of 17 U.S.C. §§ 401 or 402 and an acknowledgement of Government sponsorship (including award number) to any work first produced under Federal financial assistance awards, unless the work includes any information that is otherwise controlled by the Government (e.g., classified information or other information subject to national security or export control laws or regulations).

10. Assurances, Administrative Requirements and Cost Principles
Recipients of DHS federal financial assistance must complete OMB Standard Form 424B Assurances – Non-Construction Programs. Certain assurances in this document may not be applicable to your program, and the awarding agency may require applicants to certify additional assurances. Please contact the program awarding office if you have any questions. The administrative and audit requirements and cost principles that apply to DHS award recipients originate from 2 C.F.R. Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, as adopted by DHS at 2 C.F.R. Part 3002

11. Debarment and Suspension
All recipients must comply with Executive Orders 12549 and 12689, which provide protection against waste, fraud, and abuse by debarring or suspending those persons deemed irresponsible in their dealings with the Federal government.

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12. Drug-Free Workplace Regulations
All recipients must comply with the Drug-Free Workplace Act of 1988 (41 U.S.C. § 701 et seq.), which requires that all organizations receiving grants from any Federal agency agree to maintain a drug-free workplace. DHS has adopted the Act's implementing regulations at 2 C.F.R Part 3001.

13. Duplication of Benefits
Any cost allocable to a particular Federal award provided for in 2 C.F.R. Part 200, Subpart E may not be charged to other Federal awards to overcome fund deficiencies, to avoid restrictions imposed by Federal statutes, regulations, or terms and conditions of the Federal awards, or for other reasons. However, this prohibition would not preclude the non-Federal entity from shifting costs that are allowable under two or more Federal awards in accordance with existing Federal statutes, regulations, or the terms and conditions of the Federal awards.

14. Energy Policy and Conservation Act
All recipients must comply with the requirements of 42 U.S.C. § 6201 which contain policies relating to energy efficiency that are defined in the state energy conservation plan issues in compliance with this Act.

15. Reporting Subawards and Executive Compensation
The Applicant agrees to comply with applicable provisions of the Federal Funding Accountability and Transparency Act (FFATA) (2 CFR Chapter 1, Part 170), specifically (a) the reporting of subawards obligating $25,000 or more in federal funds and (b) executive compensation data for first tier subawards. This includes the provisions of FFATA, which includes requirements on executive compensation, and also requirements implementing the Act for the non-Federal entity at 2 CFR part 25 Financial Assistance Use of Universal Identifier and Central Contractor Registration and 2 CFR part 170 Reporting Subaward and Executive Compensation Information.

16. False Claims Act and Program Fraud Civil Remedies
All recipients must comply with the requirements of 31 U.S.C. § 3729 which set forth that no recipient of federal payments shal submit a false claim for payment. See also 38 U.S.C. § 3801-3812 which details the administrative remedies for false claims and statements made.

17. Federal Debt Status
All recipients are required to be non-delinquent in their repayment of any Federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowances, and benefit overpayments. See OMB Circular A-129 and form SF-424B, item number 17 for additional information and guidance.

18. Fly America Act of 1974
All recipients must comply with Preference for U.S. Flag Air Carriers: (air carriers holding certificates under 49 U.S.C. § 41102) for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. § 40118) and the interpretative guidelines issued by the Comptroller General of the United States in the March 31, 1981, amendment to Comptroller General Decision B-138942.

19. Hotel and Motel Fire Safety Act of 1990
In accordance with Section 6 of the Hotel and Motel Fire Safety Act of 1990, 15 U.S.C. §2225a, all recipients must ensure that all conference, meeting, convention, or training space funded in whole or in part with Federal funds complies with the fire prevention and control guidelines of the Federal Fire Prevention and Control Act of 1974, as amended, 15 U.S.C. §2225.

20. Limited English Proficiency (Civil Rights Act of 1964, Title VI)
All recipients must comply with the Title VI of the Civil Rights Act of 1964 (Title VI) prohibition against discrimination on the basis of national origin, which requires that recipients of federal financial assistance take reasonable steps to provide meaningful access to persons with limited English proficiency (LEP) to their programs and services. Providing meaningful access for persons with LEP may entail providing language assistance services, including oral interpretation and written translation. In order to facilitate compliance with Title VI, recipients are encouraged to consider the need for language services for LEP persons served or encountered in developing program budgets. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency (August 11, 2000), requires federal agencies to issue guidance to recipients, assisting such organizations and entities in understanding their language access obligations. DHS published the required recipient guidance in April 2011, DHS Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 76 Fed. Reg. 21755-21768, (April 18, 2011). The Guidance provides helpful information such as how a recipient can determine the extent of its obligation to provide language services; selecting language services; and elements of an effective plan on language assistance for LEP persons. For additional assistance and information regarding language access obligations, please refer to the DHS Recipient Guidance https://www.dhs.gov/guidance-published-help-department-supported-organizations-provide-meaningful-accesspeople-limited and additional resources on http://www.lep.gov.

21. Lobbying Prohibitions

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All recipients must comply with 31 U.S.C. §1352, which provides that none of the funds provided under an award may be expended by the recipient to pay any person to influence, or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any Federal action concerning the award or renewal.

22. Non-supplanting Requirement
All recipients who receive awards made under programs that prohibit supplanting by law must ensure that Federal funds do not replace (supplant) funds that have been budgeted for the same purpose through non-Federal sources. Where federal statues for a particular program prohibits supplanting, applicants or recipients may be required to demonstrate and document that a reduction in non-Federal resources occurred for reasons other than the receipt of expected receipt of Federal funds.

23. Patents and Intellectual Property Rights
Unless otherwise provided by law, recipients are subject to the Bayh-Dole Act, Pub. L. No. 96-517, as amended, and codified in 35 U.S.C. § 200 et seq. All recipients are subject to the specific requirements governing the development, reporting, and disposition of rights to inventions and patents resulting from financial assistance awards are in 37 C.F.R. Part 401 and the standard patent rights clause in 37 C.F.R. § 401.14.

24. Procurement of Recovered Materials
All recipients must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired by the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

25. Contract Provisions for Non-federal Entity Contracts under Federal Awards
a. Contracts for more than the simplified acquisition threshold set at $150,000. All recipients who have contracts exceeding the acquisition threshold currently set at $150,000, which is the inflation adjusted amount determined by Civilian Agency Acquisition Council and the Defense Acquisition Regulation Council as authorized by 41 U.S.C. §1908, must address administrative, contractual, or legal remedies in instance where contractors violate or breach contract terms and provide for such sanctions and penalties as appropriate.

b. Contracts in excess of $10,000.
All recipients that have contracts exceeding $10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

26. SAFECOM
All recipients who receive awards made under programs that provide emergency communication equipment and its related activities must comply with the SAFECOM Guidance for Emergency Communication Grants, including provisions on technical standards that ensure and enhance interoperable communications.

27. Terrorist Financing E.O. 13224
All recipients must comply with U.S. Executive Order 13224 and U.S. law that prohibit transactions with, and the provisions of resources and support to, individuals and organizations associated with terrorism. It is the legal responsibility of recipients to ensure compliance with the E.O. and laws.

28. Title IX of the Education Amendments of 1972 (Equal Opportunity in Education Act)
All recipients must comply with the requirements of Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 et seq.), which provides that no person in the United States will, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving Federal financial assistance. Implementing regulations are codified at 6 C.F.R. Part 17 and 44 C.F.R. Part 19

29. Trafficking Victims Protection Act of 2000
All recipients must comply with the requirements of the government-wide award term which implements Section 106(g) of the Trafficking Victims Protection Act (TVPA) of 2000, as amended (22 U.S.C. § 7104). This is implemented in accordance with OMB Interim Final Guidance, Federal Register, Volume 72, No. 218, November 13, 2007. Full text of the award term is located at 2 CFR § 175.15.

30. Rehabilitation Act of 1973
All recipients must comply with the requirements of Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, as amended, which provides that no otherwise qualified handicapped individual in the United States will, solely by reason of the handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. These requirements pertain to the provision of benefits or services as well as to employment.

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31. System of Award Management and Universal Identifier Requirements
Unless you are exempted from this requirement under 2 CFR 25.110, you as the subrecipient must maintain the currency of your information in the System of Award Management (SAM) until you submit the final financial report required under this award or receive the final payment, whichever is later. This requires that you review and update the information at least annually after the initial registration, and more frequently if required by changes in your information or another award term. Pursuant to section 2 CFR §25.300, Contractors must maintain a current unique entity identifier prior to and during the life of the Contract. Nonprofit organizations that are first tier subrecipients for Nonprofit Security Grant Program (NSGP) funding must have a unique entity identifier, but are not required to be registered in SAM.

32. USA Patriot Act of 2001
All recipients must comply with requirements of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT Act), which amends 18 U.S.C. §§ 175–175c. Among other things, the USA PATRIOT Act prescribes criminal penalties for possession of any biological agent, toxin, or delivery system of a type or in a quantity that is not reasonably justified by a prophylactic, protective, bona fide research, or other peaceful purpose.

33. Use of DHS Seal, Logo and Flags
All recipients must obtain DHS's approval prior to using the DHS seal(s), logos, crests or reproductions of flags or likenesses of DHS agency officials, including use of the United States Coast Guard seal, logo, crests or reproductions of flags or likenesses of Coast Guard officials.

34. Whistleblower Protection Act
All recipients must comply with the statutory requirements for whistleblower protections (if applicable) at 10 U.S.C § 2409, 41 U.S.C. 4712, and 10 U.S.C. § 2324, 41 U.S.C. §§ 4304 and 4310.

35. DHS Specific Acknowledgements and Assurances
All recipients must acknowledge and agree—and require any sub-recipients, contractors, successors, transferees, and assignees acknowledge and agree—to comply with applicable provisions governing DHS access to records, accounts, documents, information, facilities, and staff.

1. Recipients must cooperate with any compliance review or complaint investigation conducted by DHS.
2. Recipients must give DHS access to and the right to examine and copy records, accounts, and other documents and sources of information related to the grant and permit access to facilities, personnel, and other individuals and information as may be necessary, as required by DHS regulations and other applicable laws or program guidance.
3. Recipients must submit timely, complete, and accurate reports to the appropriate DHS officials and maintain appropriate backup documentation to support the reports.
4. Recipients must comply with all other special reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.
5. If, during the past three years, the recipient has been accused of discrimination on the grounds of race, color, national origin (including limited English proficiency), sex, age, disability, religion, or familial status, the recipient must provide a list of all such proceedings, pending or completed, including outcome and copies of settlement agreements to the DHS awarding office and the DHS Office of Civil Rights and Civil Liberties.
6. In the event any court or administrative agency makes a finding of discrimination on grounds of race, color, national origin (including limited English proficiency), sex, age, disability, religion, or familial status against the recipient, or the recipient settles a case or matter alleging such discrimination, recipients must forward a copy of the complaint and findings to the DHS Component and/or awarding office. The United States has the right to seek judicial enforcement of these obligations.

36. Disposition of Equipment Acquired Under the Federal Award
When original or replacement equipment acquired under this award by the recipient or its sub-recipients is no longer needed for the original project or program or for other activities currently or previously supported by DHS/FEMA, you must request instructions from DHS/FEMA to make proper disposition of the equipment pursuant to 2 C.F.R. § 200.313.

37. Prior Approval for Modification of Approved Budget
Before making any change to the DHS/FEMA approved budget for this award, you must request prior written approval from DHS/FEMA where required by 2 C.F.R. § 200.308. For awards with an approved budget greater than $150,000, you may not transfer funds among direct cost categories, programs, functions, or activities without prior written approval from DHS/FEMA where the cumulative amount of such transfers exceeds or is expected to exceed ten percent (10%) of the total budget DHS/FEMA last approved. You must report any deviations from your DHS/FEMA approved budget in the first Federal Financial Report (SF-425) you submit following any budget deviation, regardless of whether the budget deviation requires prior written approval.

38. Acceptance of Post Award Changes
In the event FEMA determines that changes are necessary to the award document after an award has been made, including changes to period of performance or terms and conditions, recipients will be notified of the changes in writing. Once

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notification has been made, any subsequent request for funds will indicate recipient acceptance of the changes to the award. Please call the FEMA/GMD Call Center at (866) 927-5646 or via e-mail to ASK-GMD@dhs.gov if you have any questions.

v. 11/2022

Certified by - on

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Award Contract

Project No.
SH20-1082-D00

Grantee Name
Amherst, Town of

13.Q.1.a
SHSP

08/21/202

Certified by - on

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Award Contract

13.Q.1.a

Project No.
SH20-1082-D00

Grantee Name
Amherst, Town of

SHSP

08/21/202

Special Conditions

I. ALL GRANT FUNDS:

Federal grant funds provided are a subaward of Homeland Security Grant Program (HSGP) funds awarded to the New York State Division of Homeland Security and Emergency Services (DHSES) from the U.S. Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA).

A. Permissible Use of Funding

1. HSGP funds must be used in accordance with the guidelines set forth in the HSGP Notice of Funding Opportunity, which can be located at https://www.fema.gov/grants.

2. All expenditures under this grant must support the Goals and Objectives outlined in the 2022-2025 NYS Homeland Security Strategy and approved investment justifications. New York State's Homeland Security Strategy can be located on the DHSES website at https://www.dhses.ny.gov/new-york-states-homeland-security-strategy.

3. Designated Urban Areas under the Urban Areas Security Initiative (UASI) must have a charter document on file with the Federal Emergency Management Agency (FEMA) prior to drawing down UASI funding. The charter must address critical issues such as membership, governance structure, voting rights, grant management and administration responsibilities, and funding allocation methodologies.

B. Record Requirements

1. Subrecipients shall keep an agenda and meeting minutes on file for all meetings conducted regarding HSGP funded activities.

2. Any documents produced as a result of these meetings such as plans, schedules, or procedures, will also be kept on file and be made available to DHSES, upon request.

C. Equipment Purchases

1. Equipment purchased with grant funds must fall within the allowable equipment categories for HSGP as listed on the Authorized Equipment List (AEL) (https://www.fema.gov/grants/tools/authorized-equipment-list).

2. Subrecipients are responsible to request a determination of eligibility from the U.S. Department of Homeland Security (DHS), through DHSES, for any equipment item in question. Unless otherwise stated in the program guidance, equipment must meet all mandatory regulatory and/or DHS adopted standards to be eligible for purchase using HSGP funds.

3. The New York State Communication Interoperability Plan (SCIP), as well as DHS Grant Guidance for grant funding, requires that all interoperable communications equipment must be on the Authorized Equipment List (AEL) and must comply with the SAFECOM Guidance for Emergency Communication Grants, including provisions on technical standards that ensure and enhance interoperable communications.

4. Recipients and subrecipients of FEMA federal financial assistance are subject to the prohibitions described in section 889 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (FY 2019 NDAA), Pub. L. No. 115 232 (2018) and 2 C.F.R. §§ 200.216, 200.327, 200.471, and Appendix II to 2 C.F.R. Part 200. Beginning August 13, 2020, the statute as it applies to FEMA recipients, subrecipients, and their contractors and subcontractors prohibits obligating or expending federal award funds on certain telecommunications and video surveillance products and contracting with certain entities for national security reasons.

D. Training & Exercise Related Activities

1. Any non DHS training course to be supported by this award must be submitted in advance to DHSES for written approval.

Attachment: 31784 (RES-2023-797 : Grant Agreement: NYS DHSES: Red Team Exercise (CRS# 4268))

2. All exercises conducted must be managed and executed in accordance with the Homeland Security Exercise and Evaluation Program (HSEEP). Report scheduled exercises to the DHSES Office of Emergency Management (OEM) Training and Exercise Section using NY Responds 60 days prior to the start of the exercise. An After Action Report/Improvement Plan (AAR/IP) must be prepared and submitted to DHSES following every exercise, regardless of type or scope. AAR/IPs must conform to the HSEEP format and must be submitted to DHSES using NY Responds within 60 days of completion of the exercise.

3. Subrecipients are required to be NIMS compliant. DHSES requires that subrecipients contact their county point of contact to determine how the particular county requires reporting. Subrecipients are expected to provide DHSES upon request any data required for annual NIMS certification purposes.

E. Law Enforcement Requirements

1. Subrecipients that are law enforcement agencies agree that such funding shall be utilized for prevention, preparedness, and response initiatives consistent with the New York State Homeland Security Strategy, and with Counter Terrorism Zone (CTZ) efforts at the State and local level. This will ensure that fiscal resources are used for seamless and effective counter terrorism planning, training, information sharing, investigation, equipment acquisition, and response functions.

2. Particular attention must be paid to equipment and technology acquisitions, and, where similar technology already exists in the State's law enforcement communities, subrecipients will ensure that interoperability between and among existing law enforcement systems, and the New York State Intelligence Center (NYSIC), is accomplished.

3. Subrecipients further agree to consult with the NYSIC to ensure agency participation and inclusion in New York State's Field Intelligence Officer (FIO) Program.

F. EHP Requirements

1. Subrecipients shall comply with all applicable federal, State, and local environmental and historic preservation (EHP) requirements and shall provide any information requested by FEMA to ensure compliance with applicable laws including: National Environmental Policy Act, National Historic Preservation Act, Endangered Species Act, and Executive Orders on Floodplains (11988), Wetlands (11990) and Environmental Justice (12898).

2. Failure of subrecipients to meet federal, State, and local EHP requirements and obtain applicable permits may jeopardize federal funding. Subrecipients shall not undertake any project having the potential to impact EHP resources without the prior approval of FEMA, including but not limited to communications towers, physical security enhancements, new construction, and modifications to buildings. Subrecipients must comply with all conditions placed on the project as the result of the EHP review.

3. Any change to the approved project scope of work will require re evaluation for compliance with these EHP requirements.

4. If ground disturbing activities occur during project implementation, subrecipients must ensure monitoring of ground disturbance and if any potential archeological resources are discovered, such subrecipient will immediately cease construction in that area and notify FEMA and the appropriate State Historic Preservation Office.

5. Any activities requiring environmental and historic preservation review that have been initiated prior to FEMA approval could result in non compliance finding. For your convenience, the screening form is available at: https://www.dhses.ny.gov/environmental-planning-and-historic-preservation-ehp.

G. Equipment Maintenance Requirements

1. Subrecipients must track grant funds used for maintenance contracts, warranties, repair or replacement costs and upgrades, and report such expenditures in fiscal and program reports.

H. New York State Emergency Management Certification and Training Program

1. Participation in and successful completion of the New York State Emergency Management Certification and Training Program (EMC Training Program) is a mandatory requirement under this Contract and a condition of funding. The EMC Training Program will be made available to, and required for, DHSES specified county and city government officials in order to ensure a consistent emergency management preparedness and response strategy across the State. Attendee substitutions, except as expressly approved by DHSES, shall not be permitted or deemed to be in compliance with this requirement.

2. To fulfill the EMC Training Program requirement of the Contract and in order to be eligible for funding under this Contract, subrecipients must arrange for DHSES specified subrecipient employees to receive and acknowledge receipt of EMC Training no later than 180 days after execution of this Contract. Copies of the training certificates for each required participant must be

Attachment: 31784 (RES-2023-797 : Grant Agreement: NYS DHSES: Red Team Exercise (CRS# 4268))

13.Q.1.a

submitted to DHSES upon execution of the Contract, or, in the event that training is scheduled, but not yet complete, the subrecipient will be required to submit a signed statement indicating the scheduled future dates of attendance, and no later than thirty (30) days after the training is complete, forward such training certificates to DHSES. Continued compliance with the EMC Training Program also requires an annual refresher training of one day per 365 day cycle from the date of initial training for previously trained individuals if such person remains employed by the subrecipient and fulfilling the same functions as he c she fulfilled during the initial training. Should a new employee be designated to serve in the DHSES specified positions, then he or she must come into compliance with the EMC Training Program requirements not later than 180 days after taking office.

3. Subrecipient must commit to active participation in a DHSES Annual Capabilities Assessment as a condition of funding. Active participation includes making reasonable staff, records, information, and time resources available to DHSES to perform the Annual Capabilities Assessment and meet the objectives and goals of the program. Subrecipients must be aware that the process of conducting a DHSES Annual Capabilities Assessment is an ongoing process and requires a continued commitmen on the part of the subrecipient to ensure that it is effective.

4. All subrecipients funded through this program agree to provide DHSES, upon request at any time during the life of the grant contract, such cooperation and information deemed necessary by DHSES to ascertain: (1) the nature and extent of any threats or hazards that may pose a risk to the subrecipient; and (2) the status of any corresponding subrecipient plans, capabilities, or other resources for preventing, protecting against, mitigating, responding to, and recovering from such threats or hazards.

5. Additionally, pursuant to Article 26 of the NYS Executive law, DHSES is authorized to undertake periodic drills and simulations designed to assess and prepare responses to terrorist acts or threats and other natural and man made disasters. Funded subrecipients agree to attend and participate in any DHSES sponsored conferences, training, workshops or meetings (excluding those identified by DHSES as voluntary) that may be conducted, by and at the request of DHSES, during the life of the grant contract.

6. Failure to comply with any of the requirements, as listed above, may result in sanctions up to and including the immediate suspension and/or revocation of the grant award.

Attachment: 31784 (RES-2023-797 : Grant Agreement: NYS DHSES: Red Team Exercise (CRS# 4268))

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 09/18/23 07:00 PM
Department: Senior Services
Initiated by: **Melissa Abel**
Co-Sponsored by:

DOC ID: 27989 **RESOLUTION 2023-798** **ADOPTED**

Xavus Maintenance and Service Agreement CRS #4305

We respectfully request Town Board permission to authorize the Supervisor to sign the Agreement to extend the Maintenance and Service Agreement between the Town of Amherst (Department of Senior Services) and Xavus Solutions, LLC DBA MySeniorCenter after successful completion of the CRS Routing System.

9/18/2023
Consent

FINANCIAL IMPACT:

A6772-4110

$2700.00

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Deputy Supervisor
AYES:	Kulpa, Bucki, Berger, Lavin, Szukala

Brian J. Kulpa
Supervisor, Town of Amherst

Melissa Abel
Executive Director, Senior Center

Town of Amherst Center for Senior Services

Xavus Solutions
PO Box 55071 #30713
Boston, MA 02205-5071

Re: Exercise of Option to Extend Maintenance and Service

Please be advised that the Town of Amherst hereby extends its option to renew the Maintenance and Service Agreement with Xavus Solutions for an additional 12 month period starting on September 27, 2023 and ending on September 26, 2024.

Brian j. Kulpa
Supervisor, Town of Amherst

Date

Chris Hamilton
President, Xavus Solutions, LLC

9/7/2023
Date

Attachment: Xavus-09112023143112 (RES-2023-798 : Xavus Maintenance and Service Agreement CRS #4305)

370 John James Audubon Parkway~Amherst, New York~14228
Phone: 716-636-3050 Fax: 716-639-7572
AmherstCenterforSeniorServices.com

Xavus Solutions
PO Box 55071 #30713
Boston, MA 02205-5071
5088344113
tina@myseniorcenter.com

myseniorcenter
XAVUS SOLUTIONS

INVOICE

BILL TO

Melissa Abel
Town of Amherst
Purchasing Department - 2nd Floor
5583 Main Street
Williamsville, NY 14221

SHIP TO

Melissa Abel
Amherst Senior Center
370 John James Audubon
Amherst, NY 14228

INVOICE # 22218
DATE 10/03/2023
DUE DATE 10/03/2023
TERMS Due Upon Receipt

DESCRIPTION	QTY	RATE	AMOUNT
MySeniorCenter - Annual Upgrades, Maintenance & Support for staff system software and first touchscreen software. The fee covers the database license, security for the staff system and application/cloud hosting. It also entitles you to: • Access to our technical support team via telephone, email and web between 8:30 am and 8:30 pm ET • Generally available product updates pushed out automatically • Nightly database back-up services • Periodic web-based refresher training	1	1,800.00	1,800.00
MySeniorCenter - Annual Upgrades, Maintenance & Support for 2nd touchscreen software	1	300.00	300.00
MySeniorCenter - Annual Upgrades, Maintenance & Support for 3rd touchscreen software	1	300.00	300.00
MySeniorCenter - Annual Upgrades, Maintenance & Support for 4th touchscreen software	1	300.00	300.00
Broadcast PREMIUM 1 year - unlimited calls; allows for Center's number to show on caller id when using the service. Also includes access to email and text/SMS broadcast functions. This is an annual fee	1	300.00	300.00
Burstable Zoom license integrated with MySeniorCenter. Allows for unlimited concurrent meetings. This is an annual fee	1	300.00	300.00
Discount - Sponsor-based model	1	-600.00	-600.00

Please make check payable to:
Xavus Solutions, LLC
PO Box 55071 #30713
Boston, MA 02205-5071

BALANCE DUE **$2,700.00**

To pay by credit card call 508-834-4113
Tax ID # 20-3434634

All prices are in USD unless otherwise stated.

Attachment: Xavus-09112023143112 (RES-2023-798 : Xavus Maintenance and Service Agreement CRS #4305)

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 09/18/23 07:00 PM
Department: Sewer/Plant 16
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 27993 **RESOLUTION 2023-799** **ADOPTED**

USGS Joint Funding Agreement - REVISED For Water Resource Investigations FY 2023-2024, CRS #4292

The Engineering Department is requesting Town Board approval and permission for the Supervisor to sign the above referenced Joint Funding Agreement. This agreement is for the operation and maintenance of the gaging stations with telemetry at Ellicott Creek below Williamsville (04218518) and Tonawanda Creek Rapids (04218000). The term of this agreement is October 1, 2023 to September 30, 2024.

The gaging stations are used by the Town for flood studies, and also to forecast the possibility of impending flooding. The water level monitors located in Ellicott Creek and Tonawanda Creek are extremely beneficial and necessary for our town's flood monitoring.

The Town of Amherst's share for the upcoming term will be $16,121.00 and the Town of Clarence's will be $921.00. U.S. Geological Survey contributions for this agreement are $4,097.00 for a combined total of $21,139.00. Funds are available in Account H-8000-4110.

This request is pending successful completion of the contract review process. Thank you for considering our request.

9/18/2023
Consent

FINANCIAL IMPACT:

H-8000-4110; Town of Amherst's share $16,121.00, Town of Clarence $921.00, U.S. Geological Survey $4,097.00

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Deputy Supervisor
AYES:	Kulpa, Bucki, Berger, Lavin, Szukala

Cooperator Cost Summary

Report generated: 8/23/2023 7:09:27 AM

for the period: 10/1/2023 to 9/30/2024

Town of Amherst (NY081)

04218000 *TONAWANDA CREEK AT RAPIDS NY*

Element	FY	Qty.	Wgt.	Months	Match %	Coop	USGS
PHONE	2024	--	--	--	--	$921	$197
					Station Cost Share	**$921**	**$197**
					Station Total		**$1,118**

04218518 *ELLICOTT CREEK BELOW WILLIAMSVILLE NY*

Element	FY	Qty.	Wgt.	Months	Match %	Coop	USGS
QCONT	2024	1	1	12	22	$15,090	$3,644
REPEQ(QCONT)	2024	1	1	12	22	$594	$150
TRAVL (Erie)	2024	1	1	12	22	$0	$0
POWER	2024	--	--	--	--	$437	$106
					Station Cost Share	**$16,121**	**$3,900**
					Station Total		**$20,021**
					Cooperator Cost Share	**$17,042**	**$4,097**
					Cooperator Total		**$21,139**

Attachment: Coorperate Cost Summary-09132023112055 (RES-2023-799 : USGS Joint Funding Agreement - REVISED)

United States Department of the Interior

U.S. GEOLOGICAL SURVEY
New York Water Science Center
425 Jordan Rd
Troy, NY 12180

August 24, 2023

Mr. Jeffrey Burroughs
Town Engineer
Town of Amherst
1100 North Forest Road
Williamsville, NY 14221

Dear Mr. Burroughs:

Enclosed is one signed original of our standard joint-funding agreement for the operation and maintenance of the Tonawanda Creek at Rapids NY (04218000) and Ellicott Creek below Williamsville NY (04218518) gages, during the period October 1, 2023 through September 30, 2024 in the amount of $17,042 from your agency. U.S. Geological Survey contributions for this agreement are $4,097 for a combined total of $21,139. Please sign and return one fully-executed original to Kimberly Black at the address above.

Federal law requires that we have a signed agreement before we start or continue work. Please return the signed agreement by **October 1, 2023**. If, for any reason, the agreement cannot be signed and returned by the date shown above, please contact Guy Foster by phone (518) 285-5694 or email gfoster@usgs.gov to make alternative arrangements.

This is a fixed cost agreement to be billed annually via Down Payment Request (automated Form DI-1040). Please allow 30-days from the end of the billing period for issuance of the bill. If you experience any problems with your invoice(s), please contact Tracy Bristol at phone number (518) 285-5626 or email at tbristol@usgs.gov.

The results of all work performed under this agreement will be available for publication by the U.S. Geological Survey. We look forward to continuing this and future cooperative efforts in these mutually beneficial water resources studies.

Sincerely,

Gary R. Wall
Acting Director

Enclosure
24LKJFA24570008

Attachment: USGS (RES-2023-799 : USGS Joint Funding Agreement - REVISED)

Form 9-1366
(May 2018)

U.S. Department of the Interior
U.S. Geological Survey
Joint Funding Agreement
FOR
Water Resource Investigations

Customer #: 6000000393
Agreement #: 24LKJFA24570008
Project #: LK00GPU
TIN #: 16-6002157

Fixed Cost Agreement YES[X] NO[ ]

THIS AGREEMENT is entered into as of the October 1, 2023, by the U.S. GEOLOGICAL SURVEY, New York Water Science Center, UNITED STATES DEPARTMENT OF THE INTERIOR, party of the first part, and the Town of Amherst party of the second part.

1. The parties hereto agree that subject to the availability of appropriations and in accordance with their respective authorities there shall be maintained in cooperation Water Resource Investigations (per attachment), herein called the program. The USGS legal authority is 43 USC 36C; 43 USC 50, and 43 USC 50b.

2. The following amounts shall be contributed to cover all of the cost of the necessary field and analytical work directly related to this program. 2(b) include In-Kind-Services in the amount of $0.00

(a) $4,097 by the party of the first part during the period October 1, 2023 to September 30, 2024

(b) $17,042 by the party of the second part during the period October 1, 2023 to September 30, 2024

(c) Contributions are provided by the party of the first part through other USGS regional or national programs, in the amount of: $0.00

Description of the USGS regional/national program:

(d) Additional or reduced amounts by each party during the above period or succeeding periods as may be determined by mutual agreement and set forth in an exchange of letters between the parties.

(e) The performance period may be changed by mutual agreement and set forth in an exchange of letters between the parties.

3. The costs of this program may be paid by either party in conformity with the laws and regulations respectively governing each party.

4. The field and analytical work pertaining to this program shall be under the direction of or subject to periodic review by an authorized representative of the party of the first part.

5. The areas to be included in the program shall be determined by mutual agreement between the parties hereto or their authorized representatives. The methods employed in the field and office shall be those adopted by the party of the first part to insure the required standards of accuracy subject to modification by mutual agreement.

6. During the course of this program, all field and analytical work of either party pertaining to this program shall be open to the inspection of the other party, and if the work is not being carried on in a mutually satisfactory manner, either party may terminate this agreement upon 60 days written notice to the other party.

7. The original records resulting from this program will be deposited in the office of origin of those records. Upon request, copies of the original records will be provided to the office of the other party.

8. The maps, records or reports resulting from this program shall be made available to the public as promptly as possible. The maps, records or reports normally will be published by the party of the first part. However, the party of the second part reserves the right to publish the results of this program, and if already published by the party of the first part shall, upon request, be furnished by the party of the first part, at cost, impressions suitable for purposes of reproduction similar to that for which the original copy was prepared. The maps, records or reports published by either party shall contain a statement of the cooperative relations between the parties. The Parties acknowledge that scientific information and data developed as a result of the Scope of Work (SOW) are subject to applicable USGS review, approval, and release requirements, which are available on the USGS Fundamental Science Practices website (https://www2.usgs.gov/fsp/).

Attachment: USGS (RES-2023-799 : USGS Joint Funding Agreement - REVISED)

Form 9-1366
(May 2018)

U.S. Department of the Interior
U.S. Geological Survey
Joint Funding Agreement
FOR
Water Resource Investigations

Customer #: 6000000393
Agreement #: 24LKJFA24570008
Project #: LK00GPU
TIN #: 16-6002157

9. Billing for this agreement will be rendered **annually**. Invoices not paid within 60 days from the billing date will bear Interest, Penalties, and Administrative cost at the annual rate pursuant the Debt Collection Act of 1982, (codified at 31 U.S.C. § 3717) established by the U.S. Treasury.

USGS Technical Point of Contact

Name: Guy Foster
Supervisory Hydrologist
Address: District Office - Troy 425 Jordan Road
Troy, NY 12180
Telephone: (518) 285-5694
Fax: (518) 285-5601
Email: gfoster@usgs.gov

Customer Technical Point of Contact

Name: Jeffrey Burroughs
Town Engineer
Address: 1100 North Forest Road
Williamsville, NY 14221
Telephone: (716) 631-7154
Fax: (716) 631-7222
Email: jburroughs@amherst.ny.us

USGS Billing Point of Contact

Name: Tracy Bristol
Administrative Officer
Address: District Office - Troy 425 Jordan Road
Troy, NY 12180
Telephone: (518) 285-5626
Fax: (518) 285-5601
Email: tbristol@usgs.gov

Customer Billing Point of Contact

Name: Jeffrey Burroughs
Town Engineer
Address: 1100 North Forest Road
Williamsville, NY 14221
Telephone: (716) 631-7154
Fax: (716) 631-7222
Email: jburroughs@amherst.ny.us

U.S. Geological Survey
United States
Department of Interior

Signature

By_____ Date: 8/24/2023
Name: Gary R Wall
Title: Acting Director

Town of Amherst

Signatures

By_____ Date: _____
Name:
Title:

By_____ Date: _____
Name:
Title:

By_____ Date: _____
Name:
Title:

Attachment: USGS (RES-2023-799 : USGS Joint Funding Agreement - REVISED)

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 09/18/23 07:00 PM
Department: Sewer/Plant 16
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 27995 **RESOLUTION 2023-800** **ADOPTED**

Payment Authorization New Enterprise Stone & Lime

The Engineering Department - Water Pollution Control Facility is requesting the Town Board authorize payment to New Enterprise Stone & Lime for invoice 8142302 in the amount of $1,283.66. The contractor mistakenly got Type 3 Binder Asphalt from them in August but the contract for this type of asphalt is with Cambria Asphalt.

Funding for this purchase is available in account G9000-4330.

Thank you for considering this request.

9/18/2023
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Deputy Supervisor
AYES:	Kulpa, Bucki, Berger, Lavin, Szukala

New Enterprise Stone & Lime Co., Inc.
Buffalo, NY 14227
(716) 826-7310

E-INVOICE

Invoice No.
8142302
Invoice Date
8/09/2023

INVOICE

Sold To: Amherst Town Engineer
1100 N. Forest Rd
Williamsville , NY 14221

FOB:
Wehrle Hot Mix Asphalt
8615 Wehrle Drive
Wehrle Hot Mix Asphalt
Williamsville, NY 14221

SERVICE CHARGE OF 1 1/2% PER MONTH (18% PER ANNUM) WILL BE APPLIED TO THE ACCOUNT ON ALL PAST DUE INVOICES.

TERMS	ACCT. NO.
Net 30 Days	80987

PURCHASE ORDER	SALES ORDER	PLANT
2023 T. OF AMHERST BID SEASONAL	1000379559	54530371 Wehrle Hot Mix Asphalt

JOB NO.	JOB NAME
2023 T. OF AMHERST BID SEASONAL	2023 T. OF AMHERST BID SEASONAL

Date	Ticket	Description		Qty	Unit	Unit Price	Amount
8/09/2023	50874971	TYPE 3 BINDER F9		6.00	Ton	70.28	421.68
8/09/2023	50874971	ASPHALT, ADJUSTMENT, CREDIT		-6.00	Ton	7.74	-46.44
			Subtotal	**6.00**		**SubTotal**	**375.24**
						Sales Tax	**0.00**
						Amount Due	**375.24**
8/09/2023	50874982	TYPE 7F2,F3 TOP-HIGH FRICTION		5.97	Ton	79.76	476.17
8/09/2023	50874982	ASPHALT, ADJUSTMENT, CREDIT		-5.97	Ton	9.34	-55.76
8/09/2023	50874987	TYPE 7F2,F3 TOP-HIGH FRICTION		6.93	Ton	79.76	552.74
8/09/2023	50874987	ASPHALT, ADJUSTMENT, CREDIT		-6.93	Ton	9.34	-64.73
			Subtotal	**12.90**		**SubTotal**	**908.42**
						Sales Tax	**0.00**
						Amount Due	**908.42**

Please detach and submit this portion with your payment. Thank you.
All invoices already reflect the cash price discount.

ACH/Wire Payment PNC Bank
Bank Acct # 8026302441
Routing # 031207607
EIN: 23-1374051

Payment Voucher

INVOICE NO.	DUE DATE	ACCT NO.	TOTAL DUE
8142302	**9/08/2023**	**80987**	**1,283.66**

Make checks payable to New Enterprise Stone & Lime Co., Inc.

MAIL TO: **New Enterprise Stone & Lime Co., Inc.**
PO BOX 645211
Pittsburgh, PA 15264-5211

Amount Remitted $_____

Customer: Amherst Town Engineer

Attachment: New Enterprise Invoice (RES-2023-800 : Payment Authorization)

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 09/18/23 07:00 PM
Department: Planning
DOC ID: 27976

COMMUNICATION 2023-110 **APPROVED**

Request to Set a Public Hearing for the FY2024 Annual Action Plan

Please set a Public Hearing date of October 16, 2023 for the Community Development FY2024 Annual Action Plan.

9/18/2023
Consent

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Deputy Supervisor
AYES:	Kulpa, Bucki, Berger, Lavin, Szukala

Amherst

Town of Amherst Planning Department — Erie County, New York

Brian J. Kulpa
Supervisor
Daniel C. Howard,
Planning Direct
Daniel J. Ulatowski
Assistant Planning I

September 11, 2023

Agenda of September 18, 2023

Honorable Town Board
Town of Amherst
5583 Main Street
Williamsville, NY 14221

Subject: Set 1st Public Hearing for FY 2024 Action Plan (Community Development Program)

Honorable Board Members:

The FY 2024 program year for the Town's Community Development Programming will begin on April 1, 2024. This funding cycle includes both the Community Development Block Grant (CDBG) and the HOME Investment Partnership Grant applications to the U.S. Department of Housing & Urban Development (HUD). The Annual Action Plan is a listing of projects to be funded in the 2024 applications.

As part of the process of developing the Action Plan, the Town is required to hold a public hearing prior to the assembly of a draft budget to advise residents of the availability of funds, outline how funds are currently being used and obtain suggestions for programming. Staff requests that this hearing be held at the Town Board meeting of October 16, 2023. A second public hearing must be held in January 2024, after draft documents have been prepared. The final documents must be submitted to HUD by February 15, 2024. A proposed schedule for the application process is attached for your reference.

Please set a public hearing date of October 16, 2023 for soliciting input on housing and community development needs in the Town. Thank you for your assistance with this matter.

Very truly yours,

Daniel C. Howard, AICP
Planning Director

Att.
X:\Community Development\New Structure\ANNUAL PLAN\Data 2024\Public Hearings\Set 1st Public Hearing TB ltr 9.18.23.docx

Attachment: tb letter-plan-09112023101755 (COM-2023-110 : Request to Set a Public Hearing for the FY2024 Annual Action Plan)

TOWN OF AMHERST
COMMUNITY DEVELOPMENT PROGRAM
2024 ANNUAL ACTION PLAN

Deadline September 13th

September 18, 2023 — Request Town Board through resolution to set 1st public hearing date of October 16th.

Deadline September 27th

October 4th Edition — **Display Ad and Legal Notice** in Amherst BEE announcing October 16th public hearing and beginning of period for citizen input on Community Development, Housing and Homeless needs. (At least 10 days prior to PH)

October 16th
7:00 PM — 1st Public Hearing to provide information on amount of CDBG, and HOME funds available (including program income) and eligible activities; obtain views of citizens on housing and community development needs. Town of Amherst Council Chambers (no resolution required from Board meeting)

October 17th — Send out department/organization requests for funding packages-30 day deadline for response

November 17th — Last date to accept citizen comments and Department Head requests regarding community development, housing and homeless needs.

Deadline December 13th

December 18th — Request Town Board to set 2nd public hearing date on the second January Town Board meeting (16 or 17th, 2024). *Provide TB with a summary of budget before the Draft Plan is in the libraries.*

Deadline December 6th

December 13th — **Display Ad** in Amherst Bee; "Draft Action Plan & Consolidated Plan" published; request citizen comments.

December 13th — "Draft Action Plan" available in libraries, selected locations and the Town of Amherst website. 30 Day Comment Period – (12/13/22 - 1/16/23.) Town/Village Boards receive Consortium's "Draft Annual Action Plan & Consolidated Plan" for review.

Deadline December 20th, 2023 (Holiday Deadlines)

January 3, 2024 — **Display Ad** and **Legal Notice** published in Amherst Bee announcing Second January Town Board Meeting - Public Hearing; request citizen comment on "Draft Action Plan & Consolidated Plan"

January 16th — **End of comment period & Public Hearing**

Prep PPT and send to Clerk's office ahead of time

January 16th — 2nd Public Hearing to review and accept comments on "Draft Annual Action Plan & Consolidated Plan". Town of Amherst Council Chambers, 7:00 p.m.

Attachment: schedule-09112023101818 (COM-2023-110 : Request to Set a Public Hearing for the FY2024 Annual Action Plan)

Prep resolution and submit for consideration by Feb 7th

February 12th	Town Board adopts resolution authorizing Supervisor to submit "Final Action Plan & Consolidated Plan" to HUD and act as official representative.

Deadline

To be announced	Wait until the Final Allocations are announced to submit the Consortium Annual Action Plan to HUD as per NOTICE CPD-16-18. This is when we submit the signed SF 424's & the citizen participation documents. (Submit within 60 days after announcement but no later than August 16, 2024).
To be announced	**Display Ad published** in Amherst Bee announcing "Final Annual Action Plan & Consolidated Plan" available for review at Town/Village Clerk's offices, Office of Community Development, the Town of Amherst website and at various organizations.

January 12*	Environmental Reviews Begin (as applicable).
March 30*	Environmental Review for Public Improvements completed
April 15*	Release of funds received from HUD
April 20*	Grant agreement with HUD executed.
April 30*	Notice of letter of credit received from HUD.

*** Approximate dates**

X:\Community Development\New Structure\ANNUAL PLAN\Data 2024\2024 Annual Plan development full schedule.doc

Attachment: schedule-09112023101818 (COM-2023-110 : Request to Set a Public Hearing for the FY2024 Annual Action Plan)

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 09/18/23 07:00 PM
Department: Town Clerk
DOC ID: 27962

COMMUNICATION 2023-111 **REFERRED**

Notice of Claim: Marcus Elliot Sr., as Parent and Natural Guardian of Marcus Elliot Jr. Vs. Town of Amherst

9/18/2023
Referred to Town Attorney

RESULT:	**REFERRED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Deputy Supervisor
AYES:	Kulpa, Bucki, Berger, Lavin, Szukala

IN THE MATTER OF THE CLAIM OF

MARCUS ELLIOT SR., as Parent and
Natural Guardian of MARCUS ELLIOT JR.

vs.

NOTICE OF CLAIM

TOWN OF AMHERST

TO: TOWN OF AMHERST

PLEASE TAKE NOTICE that MARCUS ELLIOT JR. makes a claim against the TOWN OF AMHERST for damages and in support of such claim states:

1. Claimant, MARCUS ELLIOT JR., resides at

which is his present post office address.

2. Claimant's attorneys are Muscato & Shatkin, LLP, which has the post office address 415 Franklin Street, Buffalo, New York 14202.

3. This claim is against the TOWN OF AMHERST for injuries and damages sustained by reason of the negligence, carelessness, omissions, and reckless disregard for the safety of others by the TOWN OF AMHERST through its officers, agents, employees, and/or servants as more specifically set forth below.

4. The time and date when the claim arose and when the injuries and damages hereinafter alleged were sustained commenced on or about July 8, 2023, around 8:00 P.M.

5. The particular place where the injuries and damages hereinafter alleged were sustained was Creekwood Park, located at 370 Sundridge Drive, in the Town of

'23 SEP 5 PM 12:29

Attachment: DOC090523-09052023143344 (COM-2023-111 : Notice of Claim: Marcus Elliot Sr., as Parent and Natural Guardian of Marcus Elliot

Amherst and State of New York. Specifically, the Claimant tripped in a large hole, located next to a drainage grate, which is on the northwest side of Creekwood Park and behind the basketball courts.

6. On the aforementioned date, the claim arose when Claimant fell by reason of the aforesaid large hole, which was hidden due to a lack of lawn maintenance.

7. On the aforementioned date, and for a considerable period before, the TOWN OF AMHERST negligently and carelessly permitted and caused the dangerous condition to exist, including the lack of lawn or other maintenance, which caused a hidden trap for lawful pedestrians passing the said area.

8. On the aforementioned date, and for a considerable period before, the TOWN OF AMHERST failed to maintain, inspect, and warn, lawful pedestrians of the dangerous defects in Creekwood Park, which were caused by the negligence, carelessness, and acts and/or omissions of the TOWN OF AMHERST in failing to properly maintain, inspect, warn about the dangerous and hazardous condition, and a trap to lawful pedestrians passing in said area.

9. Claimant, MARCUS ELLIOT JR., solely by reason of the foregoing conduct of the TOWN OF AMHERST, was caused to sustain and suffer injuries, including a broken thumb, and damages, including mental and physical anguish and pain, entitling him to an undetermined sum for such injuries, pain, suffering and damages.

10. Claimant, MARCUS ELLIOT JR., further states that upon failure to honor the claim within the action for damages sustained as hereinbefore set forth upon the

Attachment: DOC090523-09052023143344 (COM-2023-111 : Notice of Claim: Marcus Elliot Sr., as Parent and Natural Guardian of Marcus Elliot

within claim.

DATED: August 31, 2023

MARCUS ELLIOT SR.

STATE OF NEW YORK)
COUNTY OF ERIE)

MARCUS ELLIOT SR., being duly sworn, deposes and says that he is the claimant herein; that he has read the foregoing Claim, and knows the contents thereof; the same is true to his knowledge, except as to those matters therein stated to be alleged upon information and belief, and as to those matters, he believes them to be true.

MARCUS ELLIOT SR.

Subscribed and sworn to me on this
28 day of August.

NOTARY PUBLIC

MARC SHATKIN
Notary Public, State of New York
Qualified in Erie County
My Commission Expires March 27, 20 27

Attachment: DOC090523-09052023143344 (COM-2023-111 : Notice of Claim: Marcus Elliot Sr., as Parent and Natural Guardian of Marcus Elliot

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 09/18/23 07:00 PM
Department: Town Clerk
DOC ID: 27967

COMMUNICATION 2023-112 **APPROVED**

Notice of Claim: Peter C. Bonsey & Jan E. Hamilton Vs. Town of Amherst

9/18/2023
Referred to Town Attorney

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Deputy Supervisor
AYES:	Kulpa, Bucki, Berger, Lavin, Szukala

Peter C. Bonsey & Jan E. Hamilton
220 Lakewood Pkwy.
Snyder NY 14226

To whom it may concern.
Town Of Amherst NY.
cc. Brian Kulpa, Patrick Lucy

8/26/2023

Reference 220 Lakewood Pkwy Snyder

Dear Sir, or Madams

Please be advised that I am writing to you as a result of an egregious action on the part of the town involving storm water disposal. On or around the 13th of this month I contacted the Highways department regarding an issue with my storm water outlet. The problem was that my sump pump pushed water to the bubbler at the curb edge. The water flowed freely to the bubbler but was unable to enter the city storm drain system. The town sent a worker and truck that proceeded to blast into our side of the bubbler. This surfaced and exited at a drainage point on the side of the house. The worker stated that that showed the blockage was on my side of curb. While I am not an engineer or trained in these matters, I accepted his opinion. Upon reflection it just showed that the water was able to flow back to the house and not into your drainage system. He advised that we make a new connect to your system in front of house number 160 on our street. This did not make sense as that is uphill from our home.

Once again, I contacted the Highways department and requested that the location of the town's storm drain be marked for a plumber to commence remedial work. I was contact by someone from the department that informed me in no uncertain manner that it was my problem as the blockage was on my end of the system. That the town was only responsible up to the curb. Therefore, I took the, so called town's expert knowledge and engaged a plumber. After conveying our problem to the plumber, I was given a written quote to remediate the issue. (See attachment A)

With only my limited knowledge of drainage I became confused. If the water from the sump pump made it to the bubbler it should have been able to enter your system with any excessive water exiting the bubble at the curb. It did not seem logical that any water entered your system as vast amount of water kept entering the street and decaying into a green slime. My concern with this is that my wife has a severely compromised immune system. Any disease or risk of infection could be transferred into our home. A risk we cannot take.

When the plumbers came and excavated the area of concern It became very apparent that the Highways department person was completely wrong. It was revealed that the town's section of the line from the curb to your system was completely blocked by a calcified matter of some sort. (See attachment B) I have the section of pipe should you wish to see it. The plumbers replaced the gravel surround to increase the chance of the area to disperse disposing the excess water into the ground.

I am extremely angry and feel that the bullying attitude from the town employee as unwarranted. None of the advice seemed to make sense and that I was being brushed off. I am $1,816 out of pocket and feel that we have been forced into this situation by the town. (See attachment C). Which clearly details the plumber's findings. As we are both retired and living of a fixed income, this cost is a significant blow as the town should have addressed the problem and not pushed it onto us gullible citizens.

I do not wish to take the route of asking Chanel four to get involved on our behalf, or indeed the Attorney General's office. I hope that we get a swift and acceptable resolution to this before resorting to further action.

Very Respectfully

Jan E. Hamilton — Peter C. BonSey

'23 SEP 8 AM9:09

Attachment: DOC090823-09082023132436 (COM-2023-112 : Notice of Claim: Peter C. Bonsey & Jan E. Hamilton Vs. Town of Amherst)

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 09/18/23 07:00 PM
Department: Town Clerk
DOC ID: 27972

COMMUNICATION 2023-113 **REFERRED**

Notice of Claim: Matthew C. Pretorius Vs. Town of Amherst

9/18/2023
Referred to Town Attorney

RESULT:	**REFERRED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Deputy Supervisor
AYES:	Kulpa, Bucki, Berger, Lavin, Szukala

September 8, 2023

Matthew C. Pretorius

E:
P:
Vehicle: 2017 Mazda 6, red
License Plate:
Registration number:

To Town of Amherst,

I am requesting reimbursement for the following damages that occurred during a motor vehicle accident between myself and an Amherst police officer.

On July 5th, 2023 around 10:15PM I was stopped at a red light on Transit Rd at the intersection of Transit Rd and Greiner/Maple Rd heading northbound when I was rear-ended by an Amherst Police Officer. We both pulled over into the parking lot of the plaza for Starbucks and Jersey Mikes, southwest corner. At which time Office Buscher came out to document and record the incident, # 23-329483. Attached is a copy of the incident form that I was supplied by Officer Buscher.

There was no damage done to the officer's vehicle. There was property damage to the rear portion of my car. Officer Buscher at the time stated he would submit the claim into the system and in the mean time I should obtain a quote of the damages to the vehicle. Attached is a preliminary estimate of the property damage that I am looking to obtain, $1,840.26.

If there is any additional information that is required you may contact me via email or cell phone. Please look into the matter and oblige.

Sincerely,

Matthew Pretorius

9/8/2023

CASSANDRA KERR
Notary Public - State of New York
No. 01KE6386147
Qualified in Erie County
My Commission Expires 01/22/2027

'23 SEP 8 PM 1:25

Attachment: DOC090823-09082023134206 (COM-2023-113 : Notice of Claim: Matthew C. Pretorius Vs. Town of Amherst)

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 09/18/23 07:00 PM
Department: Town Clerk
DOC ID: 27960

COMMUNICATION 2023-114 **APPROVED**

Third Notice of Claim: Lee Fang Vs. Town of Amherst

9/18/2023
Referred to Town Attorney

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Deputy Supervisor
AYES:	Kulpa, Bucki, Berger, Lavin, Szukala

SUPREME COURT OF STATE OF NEW YORK
COUNTY OF ERIE

Lee Fang, Claimant,	)	
- Against -	) ss.:	**THIRD NOTICE OF CLAIM** - A follow up notice and a clarification to the first and the second notice of claims
Town of Amherst Respondent.	)	

This is a follow up notice to the first and the second notice of claims served upon the Town of Amherst on June 30, 2023 and July 31, 2023 respectively. Furthermore, this third notice is also served as a clarification to the said first and second notice of claims.

PLEASE TAKE NOTICE that the claimant herein hereby makes claim and demand against you as follow:

1. Claimant Lee Fang is a resident of the State of New York and resides at 344 Capen Boulevard, Amherst, New York 14226.

2. The nature of the claim is Damages Resulting From:

    a. Construction errors of pavement and curbs of town road as the results of Amherst Highway Department's Capen Boulevard Repaving Project; and
    b. Amherst Highway Department's erroneous and self-conflicting "Curb Cut and Driveway Apron Specification."

3. On or about August 17, 2020, the construction errors of the said repaving project causes damages to the driveway apron in front of 344 Capen Boulevard, Amherst, New York 14226. The said damages are:

    a. A 4.5-inch elevation differential created at where the new town road pavement meets the driveway apron of claimant's property; and
    b. Ponding runoff water in front of the said driveway apron after rains; and
    c. Excessive 9-inch high curbs on each side of the said driveway apron.

    The above referenced damages have rendered and continuously render the driveway entrance unsafe and have subjected the residences at the referenced address in the unsafe conditions day in and day out.

RECEIVED
Amherst Town Clerk

4. The items of damages claimed are that:

    a. Due to the ownership of the said town road pavement and curbs, the Amherst

'23 AUG 31 PM3:28

Attachment: DOC090123-09012023103854 (COM-2023-114 : Third Notice of Claim: Lee Fang Vs. Town of Amherst)

Highway Department has the duty to correct the said errors of pavement and curbs of town road and is responsible for the cost of doing so; and

b. The Amherst Highway Department is responsible to install a new driveway apron which affected by the said construction errors and is responsible the cost of removing the existing apron and then installing a new one. The said cost will be in excess of $1,500 (in 2020) according to the former Town Attorney Mr. Stanley J. Sliwa, having been increasing due to the inflation.
c. Town of Amherst's failing and/or refusing to remediate the said unsafe conditions have violated and have been violating claimant's lawful and constitutional rights of having a safe entrance to claimant's property.

That said claim and demand is hereby presented for adjustment, remediation and payment. You are hereby notified for the third time that unless it is adjusted and paid within the time provided by law from the date June 30, 2023 when the original Notice Of Claim served upon you, the claimant intends to commence an action on this claim.

Dated this 31st day of August, 2023

Lee Fang, Pro Se

Claimant

STATE OF NEW YORK)
) ss.:
COUNTY OF ERIE)

VERIFICATION

I, Lee Fang, being duly sworn, depose and say:

I am the Claimant in the above-entitled action. I have read the foregoing Complaint and know the contents thereof. The contents are true to my knowledge, except as to matters therein stated to be alleged upon information and belief, and as to those matters, I believe them to be true.

Lee Fang
Claimant

Sworn to before me this
31st day of August, 2023

NOTARY PUBLIC

My commission expires: 06/09/2026

LESLIE ALVAREZ
NOTARY PUBLIC STATE OF NEW YORK
ERIE COUNTY
LIC. #01AL6305725
COMM. EXP. 06/09/26

Attachment: DOC090123-09012023103854 (COM-2023-114 : Third Notice of Claim: Lee Fang Vs. Town of Amherst)

Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 09/18/23 07:00 PM
Department: Town Clerk
DOC ID: 27961

COMMUNICATION 2023-115

APPROVED

Summons and Complaint: U.S. Bank Trust National Association Vs. Town of Amherst Et Al.

9/18/2023
Referred to Town Attorney

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, Deputy Supervisor
AYES:	Kulpa, Bucki, Berger, Lavin, Szukala

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE

----------X

U.S. BANK TRUST NATIONAL ASSOCIATION, NOT IN ITS INDIVIDUAL CAPACITY BUT SOLELY AS OWNER TRUSTEE FOR RCF 2 EBO TRUST,

Plaintiff,

-against-

BARBARA A. GARDNER; PATRICIA M. GARDNER A/K/A PATRICIA M. TURNER A/K/A PATRICIA TURNER; TOWN OF AMHERST, ACTING ON BEHALF OF THE AMHERST- CHEEKTOWAGA-TONAWANDA HOME CONSORTIUM; COMMISSIONER OF THE ERIE COUNTY DEPARTMENT OF SOCIAL SERVICES; MIDLAND FUNDING LLC; "JOHN DOE #1" through "JOHN DOE #10" inclusive, the names of the ten last name Defendants being fictitious, real names unknown to the Plaintiff, the parties intended being persons or corporations having an interest in, or tenants or persons in possession of, portions of the mortgaged premises described in the Complaint,

Defendants.

----------X

Filed:
Index No.:

Plaintiff designates ERIE County as place of trial Venue is based upon County in which premises are being situate

SUMMONS TO FORECLOSE ACTION TO FORECLOSE A MORTGAGE

TO THE ABOVE NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer the Complaint in this action and to serve a copy of your Answer or, if the Complaint is not served with this Summons, to serve a Notice of Appearance upon the Plaintiff's attorney within twenty (20) days after the service of this Summons, exclusive of the date of service or within thirty (30) days after the service is complete if this Summons is not personally delivered to you within the State of New York. If you fail to so appear or answer, judgment will be taken against you by default for the relief demanded in the Complaint.

2296-004392-FC/Selene Finance

Attachment: DOC090123-090120231357O4 (COM-2023-115 : Summons and Complaint: U.S. Bank Trust National Association Vs. Town of

15.6.a

NOTICE

YOU ARE IN DANGER OF LOSING YOUR HOME

If you do not respond to this summons and complaint by serving a copy of the answer on the attorney for the mortgage company who filed this foreclosure proceeding against you and filing the answer with the court, a default judgment may be entered and you can lose your home.

Speak to an attorney or go to the court where your case is pending for further information on how to answer the summons and protect your property.

Sending a payment to your mortgage company will not stop this foreclosure action.

YOU MUST RESPOND BY SERVING A COPY OF THE ANSWER ON THE ATTORNEY FOR THE PLAINTIFF U.S. BANK TRUST NATIONAL ASSOCIATION, NOT IN ITS INDIVIDUAL CAPACITY BUT SOLELY AS OWNER TRUSTEE FOR RCF 2 EBO TRUST AND FILING THE ANSWER WITH THE COURT.

DATED: August 11, 2023
Elmsford, New York

Mark R. Knuckles, Esq.
Knuckles, Komosinski & Manfro, LLP
Attorneys for Plaintiff
565 Taxter Road, Suite 590
Elmsford, NY 10523
Phone: (914) 345-3020

NOTICE TO OCCUPANTS: U.S. BANK TRUST NATIONAL ASSOCIATION, NOT IN ITS INDIVIDUAL CAPACITY BUT SOLELY AS OWNER TRUSTEE FOR RCF 2 EBO TRUST IS FORECLOSING AGAINST THE OWNER OF THIS PREMISES. IF YOU LIVE HERE, THIS LAWSUIT MAY RESULT IN YOUR EVICTION. YOU MAY WISH TO CONTACT A LAWYER TO DISCUSS ANY RIGHTS AND POSSIBLE DEFENSES YOU MAY HAVE.

2296-004392-FC/Selene Finance

Attachment: DOC090123-090120231357O4 (COM-2023-115 : Summons and Complaint: U.S. Bank Trust National Association Vs. Town of

15.6.a

NOTICE OF OBJECT OF ACTION AND RELIEF SOUGHT

THE OBJECT of the above-entitled action is to foreclose a mortgage to secure $56,534.00 and recorded in Book 12830 Page 4991 in the office of the County Clerk/City Register of Erie County on March 12, 1999 and which mortgage was assigned to HSBC Bank USA, N.A. as evidenced by written instrument dated July 18, 2012 and recorded with the County Clerk/City Register of Erie County on July 30, 2012 in Book 13592 Page 6115 and which mortgage was modified by agreement dated June 5, 2018 given by Patricia M. Turner f/k/a Patricia M. Gardner and Barbara Gardner to HSBC Bank USA, N.A. to form a single lien in the amount of $43,389.81 and recorded in Book 13860 Page 6502 in the office of the County Clerk/City Register of Erie County on June 28, 2015 and which mortgage was ultimately assigned to the Plaintiff herein on August 17, 2022 and recorded with the County Clerk on February 6, 2023 in Book 14082, Page 2922.

covering the premises described as follows:

73 South Glidden Street a/k/a Glidden Street, Cheektowaga, NY 14206

The relief sought in the within action includes a final judgment directing the sale of the premises described above to satisfy the debt secured by the mortgage.

Although Plaintiff reserves its rights pursuant to Section 1371 of the Real Property Actions and Proceedings Law against Patricia M. Gardner and Barbara A. Gardner no personal claims are made against any defendants herein.

2296-004392-FC/Selene Finance

Packet Pg. 252

Attachment: DOC090123-090120231357O4 (COM-2023-115 : Summons and Complaint: U.S. Bank Trust National Association Vs. Town of

15.6.a

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE

----------X

U.S. BANK TRUST NATIONAL ASSOCIATION, NOT IN ITS INDIVIDUAL CAPACITY BUT SOLELY AS OWNER TRUSTEE FOR RCF 2 EBO TRUST,

Plaintiff,

-against-

BARBARA A. GARDNER; PATRICIA M. GARDNER A/K/A PATRICIA M. TURNER A/K/A PATRICIA TURNER; TOWN OF AMHERST, ACTING ON BEHALF OF THE AMHERST- CHEEKTOWAGA-TONAWANDA HOME CONSORTIUM; COMMISSIONER OF THE ERIE COUNTY DEPARTMENT OF SOCIAL SERVICES; MIDLAND FUNDING LLC; "JOHN DOE #1" through "JOHN DOE #10" inclusive, the names of the ten last name Defendants being fictitious, real names unknown to the Plaintiff, the parties intended being persons or corporations having an interest in, or tenants or persons in possession of, portions of the mortgaged premises described in the Complaint,

Defendants.

----------X

Filed:
Index No.:

COMPLAINT FOR THE FORECLOSURE OF A MORTGAGE AS MODIFIED

Plaintiff, as and for its Complaint, alleges:

1. That the Plaintiff was and still is a national association organized and existing under the laws of the United States of America.

2. That upon information and belief, the individual Defendant(s) was/were and still is/are resident(s) of the State of New York or are engaged in business in the State of New York.

2296-004392-FC/Selene Finance

Attachment: DOC090123-090120231357O4 (COM-2023-115 : Summons and Complaint: U.S. Bank Trust National Association Vs. Town of

3. That the Plaintiff is the owner and/or holder of the subject mortgage ("Mortgage") and note ("Note") or has been delegated the authority to institute a mortgage foreclosure action by the owner and/or holder of the subject mortgage, and if applicable, the Plaintiff and/or its assignor as originator of the subject loan have complied with all of the provisions of section five hundred ninety-five-a of the banking law and any rules and regulations promulgated thereunder, and section six-l or six-m of the banking law, for loans governed by those provisions, section six-l or six-m of the banking law, and section thirteen hundred four of Article Thirteen of the Real Property Actions and Proceedings Law for all residential mortgage loans covering a one to four family dwelling.

4. That upon information and belief, this action involves a residential, one-to-four family property.

5. That on 03/12/1999, Defendant(s) Patricia M. Gardner and Barbara A. Gardner ("Borrowers") duly executed, acknowledged, and delivered to Plaintiff's assignor a Note wherein and whereby the Borrowers acknowledged to be indebted to the Plaintiff's assignor to be paid according to its terms **(Exhibit "1")**.

6. That as collateral security for the payment of the aforesaid sum, including interest, the Defendants Patricia M. Gardner and Barbara A. Gardner on the same day duly executed, acknowledged and delivered a Mortgage to the mortgagee named therein. **Exhibit "2"**. That the Mortgage was duly recorded in the Office of the County Clerk/City Register of the County of Erie on March 12, 1999, as Book 12830 Page 4991, and the mortgage tax thereon was duly paid.

7. That the Mortgage was assigned to HSBC Bank USA, N.A. as evidenced by written instrument dated July 18, 2012 and recorded with the County Clerk/City Register of Erie County on July 30, 2012 in Book 13592 Page 6115 **(Exhibit "3")**.

Attachment: DOC090123-090120231357O4 (COM-2023-115 : Summons and Complaint: U.S. Bank Trust National Association Vs. Town of

15.6.a

8. That on or about June 5, 2018, Defendant Patricia M. Gardner and Barbara A. Gardner duly executed, acknowledged, and delivered Modification Agreement to HSBC Bank USA, N.A. which among other things, modified the principal balance, interest rate and monthly payment of the original indebtedness **Exhibit "5"**. The Modification Agreement was duly recorded in the Office of the County Clerk/City Register of the County of Erie on June 28, 2015 in Book 13860 Page 6502, and the mortgage tax thereon if any, was duly paid.

9. That the Note and Mortgage or either of them provide that in the event of a default in the payment of said principal or interest, or any part thereof, or by reason of any default that is more particularly set forth in the Note or Mortgage, the holder thereof is empowered to sell the mortgaged premises according to law.

10. That the mortgage was ultimately assigned to the Plaintiff herein on August 17, 2022 and recorded with the County Clerk on February 6, 2023 in Book 14082, Page 2922.

11. That in and by the Note and the Mortgage, it was covenanted and agreed, among other things, that in the event any default was made in the monthly payment the Holder, at its option might declare the entire principal sum due and payable.

12. That the Borrowers, pursuant to the Note, has defaulted in making the aforesaid monthly payments for a period exceeding thirty (30) days.

13. That notices of default pursuant to the Mortgage were mailed to the Borrowers in the form and manner required by the Mortgage. **(Exhibit "4")**.

14. That 90-day notices were mailed to the Borrowers in the form and manner prescribed by RPAPL §1304 and completed the registration requirements of RPAPL § 1306 **(Exhibit "4")**.

2296-004392-FC/Selene Finance

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Attachment: DOC090123-090120231357O4 (COM-2023-115 : Summons and Complaint: U.S. Bank Trust National Association Vs. Town of

15. That by reason of the default of the Defendant Patricia M. Gardner and Barbara A. Gardner, and pursuant to the acceleration provisions of said Note and Mortgage, the Plaintiff has elected and does elect that the whole of the principal sum secured thereby become immediately due and payable and there is now justly due and payable. to the Plaintiff by virtue of such acceleration, the principal sum of $40,044.38 plus interest at the contract rate from January 1, 2023.

16. That no other action has been had for the recovery of said sum secured by the Note and Mortgage or any part thereof except an action commenced in the Supreme Court of the County of Erie bearing Index No. 800974/2018 which action was discontinued.

17. That the terms as contained in the Mortgage are incorporated herein by reference as **Exhibit "2"**.

18. That the Plaintiff shall not be deemed to have waived, altered, released or changed the election hereinbefore made by reason of the payment after the date of the commencement of this action of all or any part of the arrears due and owing or the curing of any or all of the defaults mentioned herein, and such election shall continue and remain effective until all the costs and disbursements of this action, and any and all future defaults under the aforesaid Note and Mortgage occurring prior to the discontinuance of this action, are fully paid or cured.

19. That in order to protect its security, the Plaintiff may be compelled, before and/or during the pendency of this action, to pay taxes, water rates, fire insurance premiums and other charges affecting the said mortgaged premises, and the Plaintiff requests that any sums so paid be added to the amount due to the Plaintiff upon the Note and Mortgage and be deemed secured thereby.

20. That the premises are or may be subject to covenants, restrictions, easements and agreements of record, if any; to any state of facts an accurate survey may show; to financing statements of record, if any; to existing prior mortgages and liens, if any; to existing tenancies and/or occupancies, if any; to violations in any state or municipal department, if any; to the statutory right of the United States of America to redeem, if any; and the Plaintiff requests that the premises be sold subject thereto.

2296-004392-FC/Selene Finance

Attachment: DOC090123-090120231357O4 (COM-2023-115 : Summons and Complaint: U.S. Bank Trust National Association Vs. Town of

21. That the Defendants Commissioner of The Erie County DEPARTMENT OF SOCIAL SERVICES, and Midland Funding LLC are made parties to this action by virtue of judgments/liens, in various amounts, against Defendants Patricia M. Gardner and Barbara A. Gardner and/or individuals with names similar to those of the Defendants Patricia M. Gardner and Barbara A. Gardner, residing at the subject premises and/or at various other addresses, which judgments/liens, if liens against the property, are subject and subordinate to the lien of the Plaintiff's Mortgage **(Exhibit "6")**.

22. That the Defendant Town of Amherst, acting on behalf of the Amherst-Cheektowaga-Tonawanda HOME Consortium is made a party to this action as assignee of a mortgage dated March 12, 1999 given by Patricia M. Gardner and Barbara A. Gardner to Town of Amherst, acting on behalf of the Amherst-Cheektowaga-Tonawanda HOME Consortium in the amount of $4,898.28 and recorded with the County Clerk/City Register of Erie County on March 12, 1999 in Book 12830 Page 5000, which mortgage, if a lien against the property, is subject and subordinate to the lien of the Plaintiff's mortgage **(Exhibit "7")**.

23. That pursuant to the provisions of the Civil Practice Law and Rules 3012-b(a) of the State of New York, an executed copy of the original certificate of merit filed simultaneously with the summons and complaint is attached hereto **(Exhibit "8")**.

Attachment: DOC090123-09012023135704 (COM-2023-115 : Summons and Complaint: U.S. Bank Trust National Association Vs. Town of

15.6.a

WHEREFORE, the Plaintiff demands judgment that the Defendant(s) herein and all persons claiming under them or any or either of them, subsequent to the commencement of this action, may be forever barred and foreclosed of all right, claim, lien and equity of redemption in the said mortgaged premises and that the said premises be decreed to be sold according to law subject to the provisions contained herein and that the monies arising from the sale may be brought into Court and that the Plaintiff may be paid the amount due on the said Note and Mortgage with interest to the time of such payment, together with expenses of sale, attorney's fees, and the costs, allowances, disbursements and additional allowances granted herein, so far as the amount of such monies properly applicable thereto will pay the same and that the Defendant Patricia M. Gardner and Barbara A. Gardner may be adjudged to pay the whole residue, or so much thereof as the Court may determine to be just and equitable, of the debt remaining unsatisfied after the sale of the mortgaged premises and the application of the proceeds pursuant to the provisions contained in such Judgment, the amount thereof to be determined by the Court as provided in Section 1371 of the Real Property Actions and Proceedings Law.

DATED: August 11, 2023
Elmsford, New York

Mark R. Knuckles, Esq.
Knuckles, Komosinski & Manfro, LLP
Attorneys for Plaintiff
565 Taxter Road, Suite 590
Elmsford, NY 10523
Phone: (914) 345-3020

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Amherst Town Board
5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 09/18/23 07:00 PM
Department: Supervisor
Initiated by: **Brian J. Kulpa**
Co-Sponsored by:

DOC ID: 28008 **RESOLUTION 2023-801** **ADOPTED**

Request Change Order Proposal

The Supervisor requested to make a motion to ask Engineering Services to request a Change Order Proposal for an addition of a Radar Speed Feedback Sign for Westfield Road.

9/18/2023
A motion to approve was made by Supervisor Kulpa, seconded by Councilmember Lavin and unanimously approved 5-0.

FINANCIAL IMPACT:

tbd.

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Shawn Lavin, Councilmember
AYES:	Kulpa, Bucki, Berger, Lavin, Szukala