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, April 29, 2024 | **7:00 PM** | **Amherst Municipal Building**

I. IN MEMORY

Laura Ehrenreich (Long-term employee of the Youth & Recreation Dept.)

II. INVOCATION

III. PLEDGE OF ALLEGIANCE

IV. ROLL CALL:

7:00 PM Meeting called to order on April 29, 2024 at Amherst Municipal Building, 5583 Main Street, Williamsville, NY.

Attendee Name	Organization	Title	Status	Arrived
Brian J. Kulpa	Town of Amherst	Supervisor	Present	
Shawn Lavin	Town of Amherst	Deputy Supervisor	Absent	
Jacqualine Berger	Town of Amherst	Councilmember	Present	
Michael Szukala	Town of Amherst	Councilmember	Present	
Angela Marinucci	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	
Dan Howard	Town of Amherst	Planning Director	Present	
Jeffrey S. Burroughs	Town of Amherst	Town Engineer	Present	
Lynda Juul	Town of Amherst	Director of Finance	Present	

V. MINUTES APPROVAL

1. Monday, March 25, 2024

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

VI. PROCLAMATIONS AND ANNOUNCEMENTS

VII. PUBLIC HEARINGS

Speakers will be limited to 3 minutes.

1. Resolution 2024-338

Boulevard Central District Sanitary Sewer Improvements (Bond Resolution-$21M ($11M LT/Up to $10M ST)

AGENDA ITEM : APRIL 29TH, 2024

TO: **Town Board**

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

DATE: **April 24, 2024**

RE: **Boulevard Central District Sanitary Sewer Improvements**
2024 C.I.P. - Project No. S-4
Bond Resolution - $21,000,000 ($11M Long-Term Borrowing; Up To $10M Short-Term Borrowing For Working Capital)

The above-referenced matter is scheduled for a Public Hearing on April 29, 2024 at 7:00 p.m. In this regard, kindly adopt a resolution (1) Adopting the attached SEQR determination and draft SEQR Negative Declaration Notice of Determination of Non-Significance issued by the Town of Amherst Planning Department and authorize the Supervisor to execute the same **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 - April 29, 2024**)
Daryl C. Bramer, Comptroller *(w/attachments)*
Lynda Juul, Director of Finance *(w/attachments)*
Dan Howard, Director of Planning *(w/attachment)*
Jeffrey S. Burroughs, PE, Town Engineer (*w/attachments*)
Vaishali Reberholt, PE, Assistant Town Engineer (*w/attachments*)

4/29/2024
A motion to open the public hearing was made by Supervisor Kulpa, seconded by Councilmember Berger and unanimously approved 4-0. The public hearing was opened at 7:06 PM.

Jeffrey Burroughs, Town Engineer, presented.

The following residents spoke:
Don Smith, 201 N Long St
Jina Gentry, 65 Bissell Dr
Dan Rider, 38 Garden Pkwy

Joe Voytovich, 35 Bucyrus Dr
Matt Plunkett, 299 Northill Dr
Dennis Hoban, 216 California Dr
Allison Sagraves, 171 Amherstdale Rd
Alicia Schreier, 79 Tristan Ln
Kathleen Marando, 81A Foxberry Dr
Chris Drongosky, Youngs Rd

A motion to approve the SEQR determination was made by Supervisor Kulpa, seconded by Councilmember Berger and unanimously approved 4-0.

There were no further speakers from the public, therefore Supervisor Kulpa moved to close the hearing, seconded by Councilmember Berger and unanimously approved 4-0. The public hearing was closed at 8:06 PM.

A motion to adopt the Bond Resolution was made by Supervisor Kulpa, seconded by Councilmember Berger and unanimously approved via Roll Call vote 4-0.

RESULT:	**ROLL CALL VOTE (ADOPTED) [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Jacqualine Berger, Councilmember
AYES:	Kulpa, Berger, Szukala, Marinucci
ABSENT:	Lavin

2. Resolution 2024-339

Extension of Consolidated Lighting District - Miller's Crossing

AGENDA ITEM : APRIL 29th, 2024

TO: **Town Board**

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

DATE: **April 24, 2024**

RE: **Lighting District Extension:**
In the Matter of the Extension of the Town of Amherst Consolidated Lighting District to Miller's Crossing Subdivision and Improvements In Connection Therewith

The above matter is scheduled for a Public Hearing on April 29, 2024 at 7:00 p.m. In this regard, In this regard, kindly adopt a resolution (1) Adopting the attached SEQR determination and draft SEQR Negative Declaration Notice of Determination of Non-Significance issued by the Town of Amherst Planning Department and authorize the Supervisor to execute the same **prior to the Public Hearing being deemed closed**; and (2) Adopting the attached Certified Resolution and Order subject to a thirty-day permissive referendum period **once the Public Hearing has been deemed closed**.

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

Thank you.

MAP:nmb
Attachments
c: Tim Koller, Deputy Town Clerk (*w/attachments)* **(Agenda Item : April 29, 2024)**
Daryl C. Bramer, Comptroller (*w/attachments)*
Lynda Juul, Director of Finance (*w/attachments)*
Jessica Boudreau, PE, Project Manager
Steve Floss, Highway Superintendent (*w/attachments)*
Kurt Stanley, Deputy Highway Superintendent (*w/attachments)*
Al Spoth, General Crew Chief - Sign/Signal/Streetlighting (*w/attachments)*

4/29/2024
A motion to open the public hearing was made by Supervisor Kulpa, seconded by Councilmember Berger and unanimously approved 4-0. The public hearing was opened at 8:07 PM.

Jessica Boudreau, Project Manager, presented.

The following residents spoke:
Chris Drongosky, Youngs Rd
Karen Russell, 600 Casey Rd

A motion to approve the SEQR determination was made by Supervisor Kulpa, seconded by Councilmember Berger and unanimously approved 4-0.

There were no further speakers from the public, therefore Supervisor Kulpa moved to close the hearing, seconded by Councilmember Berger and unanimously approved 4-0. The public hearing was closed at 8:17 PM.

A motion to adopt was made by Supervisor Kulpa, seconded by Councilmember Berger and unanimously approved 4-0.

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

3. Resolution 2024-340

Extension of Consolidated Lighting District - Harding Road Subdivision

AGENDA ITEM : APRIL 29th, 2024

TO: **Town Board**

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

DATE: **April 24, 2024**

RE: **Lighting District Extension:**
In the Matter of the Extension of the Town of Amherst Consolidated Lighting District to Harding Road Subdivision and Improvements In Connection Therewith

The above matter is scheduled for a Public Hearing on April 29, 2024 at 7:00 p.m. In this regard, In this regard, kindly adopt a resolution (1) adopting the attached SEQR determination and draft SEQR Negative Declaration Notice of Determination of Non-Significance issued by the Town of Amherst Planning Department and authorize the Supervisor to execute the same **prior to the Public Hearing being deemed closed**; and (2) Adopting the attached Certified Resolution and Order subject to a thirty-day permissive referendum period **once the Public Hearing has been deemed closed**.

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

Thank you.

MAP:nmb
Attachments
c: Tim Koller, Deputy Town Clerk (*w/attachments)*
(Agenda Item : April 29, 2024)
Daryl C. Bramer, Comptroller (*w/attachments)*
Lynda Juul, Director of Finance (*w/attachments)*
Jessica Boudreau, PE, Project Manager (*w/attachments)*
Steve Floss, Highway Superintendent (*w/attachments)*
Kurt Stanley, Deputy Highway Superintendent (*w/attachments)*
Al Spoth, General Crew Chief - Sign/Signal/Streetlighting (*w/attachments)*

4/29/2024
A motion to open the public hearing was made by Supervisor Kulpa, seconded by Councilmember Marinucci and unanimously approved 4-0. The public hearing was opened at 8:18 PM.

Jessica Boudreau, Project Manager, presented.

The following residents spoke:
Jina Gentry, 65 Bissell Dr
Bob Drdul, 92 Chateau Ter
Mahesh Sankaran, 95 Ruskin Rd

A motion to approve the SEQR determination was made by Supervisor Kulpa, seconded by Councilmember Berger and unanimously approved 4-0.

There were no further speakers from the public, therefore Supervisor Kulpa moved to close the hearing, seconded by Councilmember Berger and unanimously approved 4-0. The public

hearing was closed at 8:26 PM.

A motion to adopt was made by Supervisor Kulpa, seconded by Councilmember Berger and unanimously approved 4-0.

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

VIII. DEVELOPMENT REVIEW ACTIONS

1. Resolution 2024-173

Adoption to Amend the SEQR Statement of Findings (1565, 1575-1659 & 1641-1703 Niagara Falls Boulevard & Z-1996-02_B)

RESOLVED, that pursuant to 6NYCRR Part 617 (SEQR) and Town Code Section 104, as amended, that the requirements of SEQR have been completed, and be it further

RESOLVED, that pursuant to NYS Town Law Sec.272-a, the Town Board concurs with the findings of the Planning Board as stated in their resolution of November 16, 2023 that the proposed amendments to the adopted SEQR certification of findings for Boulevard Consumer Square dated October 18, 2007 for signage is consistent with the adopted Bicentennial Comprehensive Plan, as amended, and be it further

RESOLVED, that in accordance with Section 203-8-3 of the Town Code (Zoning), the Town Board adopts to amend the SEQR certification of findings for Boulevard Consumer Square dated October 18, 2007 as recommended by the Planning Board for section 6 Land Use & Zoning, paragraphs i & j as follows:

1. That the Certification of Findings be revised to include the following mitigation measures:

   i. No signage shall be placed facing northerly, within 400 feet of the southern edge of the Ridge Lea Road right-of-way from a point at the intersection of the centerlines of Ridge Lea Road and Niagara Falls Boulevard between 400 feet and 1,500 feet easterly.

   j. No pole, or ground signs shall be permitted along Ridge Lea Road beyond 300’ of the eastern edge of Niagara Falls Blvd and that message center signs are prohibited along any of the roadways adjacent to the development This excludes directional signs at driveways or other traffic control signs that do not have any logos or advertising.

Supervisor Kulpa made a motion to adjourn to the March 25th meeting per the petitioner's request, seconded by Councilmember Berger and unanimously approved 4-0.

3/25/2024
A motion to open the public hearing was made by Supervisor Kulpa, seconded by Councilmember Berger and unanimously approved 5-0. The public hearing was opened at 7:06 PM.

James Boglioli, Esq. presented.

The following resident spoke:
Allison Sagraves, 171 Amherstdale Rd

There were no further speakers from the public, therefore Supervisor Kulpa moved to close the hearing and set a decision date for the April 29th Town Board meeting, seconded by Councilmember Berger and unanimously approved 5-0. The public hearing was closed at 7:14 PM.

4/29/2024
A motion to approve was made by Supervisor Kulpa, seconded by Councilmember Berger and unanimously approved 4-0.

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

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 (6)**

5. **Amherst Government Financial Advisory Board**

   Membership is full.

6. **Amherst Industrial Development Agency**
   Membership is full.

7. **Amherst Veterans Committee (6)**

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**
    Membership is full.

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 (2)**

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

23. **Open Government Advisory Board (8)**

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

25. Recreation Commission (1)

26. Recycling and Waste Committee (3)

27. Senior Services Advisory Board (6)

28. Traffic Safety Board (2)

29. Youth Board

Adult vacancies (6), Youth vacancies (0)

30. Zoning Board of Appeals

X. PUBLIC EXPRESSION

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 Councilmember Berger and unanimously approved 4-0. Public Expression was opened at 8:27 PM.

The following speakers addressed the Town Board:
Andrea Morgante, 253 Woodshire Ct - Musicalfare referendum
Dennis Hoban, 216 California Dr - streetlights
Jina Gentry, 65 Bissell Dr - Town spending
Dan Rider, 38 Garden Pkwy - Town's reserve funds
Judy Ferraro, 213 Donna Lea Blvd - Musicalfare referendum & spending
John Trabert, 234 Mt Vernon Rd - taxes
Allison Sagraves, 171 Amherstdale Rd - Musicalfare referendum & Ethics Board
Geri DiCosmo, 278 Meyer Rd - Resolution 2024-116
Shelly Schratz, 1952 Kensington Ave - Musicalfare referendum
Jane Cox, 4584 Harlem Rd - Resolution 2024-341 & 384
Chris Drongosky, Youngs Rd - spending
Karen Howard, 194 Roycroft Blvd - Musicalfare referendum
Dave Howard, 194 Roycroft Blvd - bond issues
Matt Plunkett, 299 Northill Dr - Boulevard mall project
Robert MacVittie, 222 Evans St - taxes and spending
Julie VanLente, 116 Parkwood Dr - Westwood
Don Smith, 201 N Long St - Resolution 2024-371
Sam Smith, 60 Fruehauf Ave - PUD and Town sewers
Christina Coyle-Lenz, 64 Chateau Ter E - Boulevard mall project
Deborah Kilbourn, 35 Arlington Rd - Royal Parkway project
Bob Drdul, 92 Chateau Ter - taxes

There were no further speakers from the public, therefore Supervisor Kulpa moved to close Public Expression, seconded by Councilmember Berger and unanimously approved 4-0. Public Expression was closed at 10:02 PM.

XI. CONSENT AGENDA

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Jacqualine Berger, Councilmember
AYES:	Brian J. Kulpa, Jacqualine Berger, Michael Szukala, Angela Marinucci
ABSENT:	Shawn Lavin

XII. COUNCILMEMBER RESOLUTIONS

A. SUPERVISOR KULPA:

1. Resolution 2024-341

Amend 2024-2029 Capital Improvement Program

BE IT RESOLVED, the attached amended 2024-2029 Capital Improvement Program is hereby adopted.

4/29/2024
Consent

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

2. Resolution 2024-342

Temporary License Agreement – Village Preservation Board (2024 Williamsville Farmers Market) (CRS #4747)

Kindly adopt a resolution authorizing the Supervisor to execute the attached License Agreement for the Village Preservation Foundation to use the Town Lot for the Williamsville Farmer's Market for the year 2024, beginning 5/18/24 and ending 10/26/24 subject to successful completion of the contract routing system. (CRS #4747).

4/29/2024
Consent

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

B. DEPUTY SUPERVISOR LAVIN:

1. Resolution 2024-343

Amherst IT Advisory Board Re-Appointments

WHEREAS, the purpose of the Information Technology Advisory Committee, also known as IT Committee, is to assist the Town Board in the development and implementation of information technology policy; and

WHEREAS, the Information Technology Advisory Committee meets quarterly or when the Amherst Town Board requests; and

WHEREAS, the Information Technology Advisory Committee maximum membership of eight (8) members, each appointed by a majority of the Amherst Town Board, who shall serve a term of four (4) years; and

WHEREAS, the IT Committee currently has a Board of six (6) members, who shall continue to serve until their term of appointment expires, as follows:

John Davis, Member, term expires 12/31/2025
Kathryn Francis, Member, term expires 12/31/2026
Michael Kistner, Member, expires 12/31/2025
Mary Ann Meyer, Member, 12/31/2025; and

WHEREAS, the Members of the IT Committee shall, by majority vote, elect a Chairperson from among the members and such officers as may be deemed necessary from time to time; and

WHEREAS, Don Smith and Gregory Struzik have served on the Information Technology Advisory Committee and has expressed interest in serving another term.

NOW, THEREFORE, BE IT RESOLVED that the Amherst Town Board reappoints Don Smith and Gregory Struzik to the Information Technology Advisory Committee for a term to conclude December 31, 2027.

4/29/2024
Consent

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

C. COUNCILMEMBER BERGER:

1. Resolution 2024-344

9/11 Commemoration Committee Appointments

WHEREAS, after the tragic events of September 11, 2001, the Town of Amherst created a 9/11 Commemoration Committee to plan, organize and conduct an annual ceremony to remember those lost; and

WHEREAS, the membership for this committee is unlimited; and

WHEREAS, the 9/11 Commemoration Committee current members terms have expired; and

WHEREAS, the members listed below have expressed interest to continue serving on the 9/11 Commemoration Committee:

Susan Grelick, Chair
Karen Eckert, Member
Patrice Fischer, Member
Stephen DiPasquale, Member; and

WHEREAS, other members representing the Town of Amherst include liaison Francina Spoth, Town Clerk, Captain Pearsons, Amherst Police Department representative, Brandon Peters, Emergency Services representative, Mary-Diana Pouli, Director of Youth & Recreation and a representative of the Highway Department.

NOW, THEREFORE, BE IT RESOLVED that the Amherst Town Board re-appoints residents Susan Grelick, Karen Eckert, Patrice Fischer, and Stephen DiPasquale to the 9-11 Commemoration Committee, for terms to conclude December 31, 2025.

4/29/2024
Consent

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

D. COUNCILMEMBER SZUKALA:

1. Resolution 2024-345

Bornhava Specialized Early Childhood Center

WHEREAS, the Town of Amherst received a request from Bornhava to establish a school zone along Chateau Terrace in advance of, and adjacent to, Bornhava Specialized Early Childhood Center; and

WHEREAS, the request was reviewed by the Traffic Safety Board where it was determined that the criteria for establishing a school speed zone is met in accordance with NYSDOT Traffic Engineering Directive OS 03-002; and

THEREFORE BE IT RESOLVED, the Amherst Town Board approves the posting of a 20 mph school speed zone on Chateau Terrace in the immediate vicinity of Bornhava more than 400 feet but less than 1320 feet; and

THEREFORE BE IT FURTHER RESOLVED, the reduced school speed zone shall be effective Mondays through Fridays between 7:00 a.m. and 6:00 p.m.; and

THEREFORE BE IT FURTHER RESOLVED, that the Town's Highway Department post school zone signage on Chateau Terrace and Chateau Terrace South for the maximum distances allowed by the Manual on Uniform Traffic Control Devices.

4/29/2024
Consent

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

2. Resolution 2024-346

Board of Electrician Examiners Re-Appointments

WHEREAS, the Board of Electrician Examiners shall have jurisdiction and examination authority over all persons desiring or intending to engage in the trade, business or calling of electrical contracting or construction in the Town; and

WHEREAS, with the power to examine and certify persons applying for certificates of competency as a Master Electrician or a Residential Electrician; and

WHEREAS, to determine their fitness and qualification for acting as such and to issue certificates of competency to all such persons who shall have satisfactorily passed examinations before such Board and shall be by it deemed to qualified for such certificate; and

WHEREAS, the Town of Amherst Board of Electrician Examiners shall consist of five (5) members: the Building Commissioner, the Senior Electrical Inspector of the Town, the Electrical Inspector of the Town with the most seniority and two persons who have been actively engaged in the electrical business for at least ten (10) years with the last two members appointed by the Town Supervisor; and

WHEREAS, the following be appointed by the Supervisor, per Town Code §83-3-1¶1-2, to the Town of Amherst Board of Electrician Examiners:

Mark Berke, Building Commissioner
Joseph Hoehman, Senior Electrical Inspector
John Garven, Town Electrical Inspector

WHEREAS, Brian Schaefer and Robert Zacher, Town residents, have expressed interest in continuing to serve on the Amherst Board of Electrician Examiners.

NOW, THEREFORE, BE IT RESOLVED that the Amherst Town Board reappoint Brian Schaefer and Robert Zacher to the Amherst Board of Electrician Examiners for terms to conclude December 31, 2026.

4/29/2024
Consent

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

3. Resolution 2024-347

Set Public Hearing Date – Stop Sign Relocations Along Getzville Road

Please schedule a public hearing on May 28, 2024 to reconfigure the stop signs on Getzville Road at the intersections of Woodbury Drive, Greenbrier Road, and Meadowstream Drive.

"The southbound stop sign at the northern intersection of Woodbury Drive and Getzville Road shall be removed and relocated to the northwest corner of Greenbrier Road and Getzville Road, whereby making the Greenbrier Road and Getzville Road intersection an all-way stop."

and,

"The northbound stop sign at the intersection of Meadowstream Drive and Getzville Road shall be removed and relocated to the southeast corner of the southern intersection of Woodbury Drive and Getzville Road, whereby making the Woodbury Drive and Getzville Road intersection an all-way stop."

4/29/2024
Consent

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

E. COUNCILMEMBER MARINUCCI:

1. Resolution 2024-348

Appointment to Library Board of Trustees

WHEREAS, the Town of Amherst Library Board of Trustees mission is to connect the diverse community with library resources that enrich, enlighten and entertain; and

WHEREAS, the Library Board of Trustees has a roster of eight (8) members who serve five (5) year terms; and

WHEREAS, the Library Board of Trustees current roster of six (6) members, who shall continue to serve until their term of appointment expires, as follows:

Jeffrey Voelkl, Chairperson, term expires 12/31/2025
Oliver Young, Esq., Vice Chairperson, term expires 12/31/2027
Marilyn Feuerstein, Secretary, term expires 12/31/2027
Carolyn Giambra, Treasurer, term expires 12/31/2026
Penny Wolfgang, Member, term expires 12/31/2028

WHEREAS, David Saia has expressed an interest in serving on this Board;

NOW, THEREFORE, BE IT RESOLVED that the Amherst Town Board appoints David Saia to the Amherst Library Board of Trustees for terms ending December 31, 2029.

4/29/2024
Consent

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

XIII. DEPARTMENT HEAD RESOLUTIONS AND REPORTS

A. TOWN ATTORNEY:

1. Resolution 2024-349

Town Road Pavement Improvements (Bond Resolution - $1M)

AGENDA ITEM : APRIL 29th, 2024

TO: **Town Board**

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

DATE: **April 24, 2024**

RE: **Town Road Pavement Improvements**
2024-2029 C.I.P. - Project H-2
Bond Resolution - $1M

Kindly take the following action with respect to the above bond request:

(1) Adopt the attached SEQR determination for the above project as determined by the Town of Amherst Planning Department; and

(2) Adopt the attached bond resolution authorizing the issuance of $1,000,000 in serial bonds for the above-referenced Town improvement.

The adoption of the bond resolution does not require a public hearing to be held because the improvement is a Town improvement not involving a special district.

Also attached is the Map Plan and Report which provides further detail on the scope of the project.

Thank you.

MAP:nmb
Attachments

c: Tim Koller, Deputy Town Clerk (*w/attachments*, **Agenda Item - April 29, 2024**)
Daryl C. Bramer, Comptroller (*w/attachments*)
Lynda Juul, Director of Finance (*w/attachments*)
Dale Ulatowski, AICP, Assistant Planning Director/ZEO (*w/attachments*)
Dan Howard, Director of Planning (*w/attachments*)
Asher S. Pontikos, GIS Analyst (*w/attachments*)
Steven Floss, Highway Superintendent (*w/attachments*)
Kurt Stanley, Deputy Highway Superintendent (*w/attachments*)

4/29/2024
A motion to adopt the SEQR determination was made by Supervisor Kulpa, seconded by Councilmember Berger and unanimously approved 4-0. A motion to approve the Bond resolution was made by Supervisor Kulpa, seconded by Councilmember Berger and unanimously approved via Roll Call vote 4-0.

RESULT:	**ROLL CALL VOTE (ADOPTED) [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Jacqualine Berger, Councilmember
AYES:	Kulpa, Berger, Szukala, Marinucci
ABSENT:	Lavin

2. Resolution 2024-350

Facility Improvements - Facilities Vehicles (Bond Resolution - $150,000)

AGENDA ITEM : APRIL 29th, 2024

TO: **Town Board**

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

DATE: **April 24, 2024**

RE: **Facility Improvements - Facilities Vehicles**
2024-2029 C.I.P. - Project F-1
Bond Resolution - $150,000

Kindly take the following action with respect to the above bond request:

(1) Adopt the attached bond resolution authorizing the issuance of $150,000.00 in serial bonds for the above-referenced Town improvement.

The adoption of the bond resolution does not require a public hearing to be held because the improvement is a Town improvement not involving a special district.

Also attached is the Map Plan and Report which provides further detail on the scope

of the project.

Thank you.

MAP:nmb
Attachments
c: Tim Koller, Deputy Town Clerk
(*w/attachments*, **Agenda Item - April 29, 2024**)
Daryl C. Bramer, Comptroller (*w/attachments*)
Lynda Juul, Director of Finance (*w/attachments*)
Dale Ulatowski, AICP, Assistant Planning Director/ZEO (*w/attachments*)
Dan Howard, Director of Planning (*w/attachments*)
Daniel J. Rizzo, Expansion Coordinator, Special Projects (*w/attachments*)

4/29/2024
A motion to approve the Bond resolution was made by Supervisor Kulpa, seconded by Councilmember Marinucci and unanimously approved via Roll Call vote 4-0.

RESULT:	**ROLL CALL VOTE (ADOPTED) [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Angela Marinucci, Councilmember
AYES:	Kulpa, Berger, Szukala, Marinucci
ABSENT:	Lavin

3. Resolution 2024-351

Settlement of Article 7 Matter - MF Associates V. Town of Amherst

AGENDA ITEM : APRIL 29TH, 2024

TO: **Town Board**

FROM: **Samuel A. Alba, Esq., Senior Deputy Town Attorney**

DATE: **April 18, 2024**

RE: **Settlement of Article 7 Matter**
M/F Associates v. Town of Amherst

Kindly adopt a resolution authorizing the following:

(1) Settlement of the above matter as detailed in the attached Consent Order and Judgment; and

(2) Authorizing Senior Deputy Town Attorney Samuel A. Alba, Esq. to sign the attached Consent Order and Judgment as the Attorney for the Respondent, Town of Amherst.

Thank you.

SAA:rms
Attachment
c: Tim Koller, Deputy Town Clerk
(*w/attachment,* **Agenda Item : April 29, 2024**)
Emily Murphy, Town Assessor

4/29/2024
Consent

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

4. Resolution 2024-352

Settlement of Article 7 Matter - Michael Nazareth V. Town of Amherst

AGENDA ITEM : APRIL 29TH, 2024

TO: **Town Board**

FROM: **Samuel A. Alba, Esq., Senior Deputy Town Attorney**

DATE: **April 18, 2024**

RE: **Settlement of Article 7 Matter**
Michael Nazareth v. Town of Amherst

Kindly adopt a resolution authorizing the following:

(1) Settlement of the above matter as detailed in the attached Consent Order; and

(2) Authorizing Senior Deputy Town Attorney Samuel A. Alba, Esq. to sign the attached Consent Order as the Attorney for the Respondent, Town of Amherst.

Thank you.

SAA:rms
Attachment
c: Tim Koller, Deputy Town Clerk
(*w/attachment,* **Agenda Item : April 29, 2024**)
Emily Murphy, Town Assessor

4/29/2024
Consent

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

5. Resolution 2024-353

Settlement of Article 7 Matter - O&J 2006 Dodge Road V. Town of Amherst

AGENDA ITEM : APRIL 29TH, 2024

TO: **Town Board**

FROM: **Samuel A. Alba, Esq., Senior Deputy Town Attorney**

DATE: **April 18, 2024**

RE: **Settlement of Article 7 Matter**
93 NYRPT, LLC v. Town of Amherst

Kindly adopt a resolution authorizing the following:

(1) Settlement of the above matter as detailed in the attached Consent Order; and

(2) Authorizing Senior Deputy Town Attorney Samuel A. Alba, Esq. to sign the attached Consent Order as the Attorney for the Respondent, Town of Amherst.

Thank you.

SAA:rms
Attachment
c: Tim Koller, Deputy Town Clerk
(*w/attachment,* **Agenda Item : April 29, 2024**)
Emily Murphy, Town Assessor

4/29/2024
Consent

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

B. TOWN CLERK:

1. Resolution 2024-354

Edmunds GovTech Software CRS #4738

Please authorize the Supervisor to sign the Annual Software & Support Agreement with Edmunds GovTech (CRS #4738) for the Clerk Software Maintenance Contract (including Online Dog License Portal). This agreement is valid from 5/1/2024 to 4/30/2025.

4/29/2024
Consent

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

2. Resolution 2024-355

Penflex Actuarial Services LLC CRS #4753

Please authorize the Supervisor to sign the proposed agreement with Penflex Actuarial Services (CRS #4753) to update the LOSAP Service Award Program Plan Documents pending successful completion of the contract routing process.

4/29/2024
Consent

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

3. Resolution 2024-356

Fireworks Display - Country Club of Buffalo 250 Youngs Rd

Location: Country Club of Buffalo at 250 Youngs Road, Williamsville, NY 14221

Date/Time Event: Saturday, April 27, 2024
Time: 9 pm

In accordance with the information set forth in the penal law, and the application upon which this permit is granted, along with the following:

1. That the spectators, parking areas and structures be 350 feet from the fireworks discharge location for vertical mortars. (max. 5 inch shells).
2. That one (1) 5-lb. ABC fire extinguisher, with a current inspection tag, is located at the firing site with a qualified operator. Additional extinguishers maybe required depending on site layout.
3. That the trajectory of shells shall not come within 25 feet of overhead objects.
4. That the approved shooters are Jerry Behlau and Karl Grohs and changes must be in writing to the Amherst Fire Inspectors a minimum of five (5) days prior to the event.
5. If you would like to start the display earlier than the time proposed you must call 689-1212 before starting to be approved by our office.
6. Display shall follow NFPA 1123-2018 & IFC 2020
7. Outdoor crowds over 1000 people require a certified crowd managers as per the International Fire Code.
8. The Amherst Town Board shall designate a time when the Fireworks display must conclude.
9. The submitted launch site is approved.

The Town Board pre-approved this permit.

4/29/2024
Consent

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

4. Resolution 2024-357

Amusement License for 1565-1703 Niagara Falls Blvd.

Request by Benderson Development for a First Class Amusement License to hold the following events:
May 4, 2024, June 1, 2024, July 6, 2024, August 8, 2024, September 7, 2024, October 19, 2024, October 26, 2024, December 14, 2024, December 21, 2024. The event time for all dates is 11:00am - 2:00pm.

Code Enforcement Officer recommends a fee of $50.00 per day

The following conditions apply:

1. That all fire lanes be kept clear at all times.
2. All temporary power must be code compliant.
3. Bathroom facility must be made available & accessible.
4. Fire Department access must be maintained at all times in the event of an emergency.
5. Tents over 400sf require a Fire Prevention Permit.
6. Mobile Food Vendors must be Town Licensed.
7. Events with 1,000 guests or more will require "Crowd Managers" per the 2020 FCNYS.
8. The applicant must abide by Chapter 138 of the Town of Amherst Code regarding noise.

4/29/2024
Consent

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

5. Resolution 2024-358

Amusement License for 665 North French Rd, Tree Head Culture

Request by Tree Head Culture, for a First Class Amusement License to hold an event on April 20, 2024. The event time for the date is 12:00pm - 5:00pm.

Code Enforcement Officer recommends a fee of $50.00 per day

The following conditions apply:

1. Food Trucks must have a current Town of Amherst Food Vendor License and have the current inspection sticker affixed to the vehicle.
2. That all fire lanes be kept clear at all times.
3. All temporary power must be code compliant.
4. Bathroom facility must be made available & accessible.
5. For any tents in excess of 400 square feet being used, a fire prevention tent permit must be obtained.
6. On site accessible parking must be maintained.
7. Vehicle impact protection must be provided for the guest area.
8. Fire Department access must be maintained at all times in the event of an emergency.
9. Events with 1,000 guests or more will require "Crowd Managers" that are in compliance with Chapter 4 of the 2020 FCNYS.
10. The applicant must abide by Chapter 138 of the Town of Amherst Code regarding noise.

4/29/2024
Consent

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

6. Resolution 2024-359

New Firefighter for East Amherst Fire Department

New firefighter for the East Amherst Fire Department lives in the Town of Clarence and resides in the East Amherst Fire district.

Ronald Daigler
8401 Clarence Center Road
Clarence Center, NY 14032

4/29/2024
Consent

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

C. ASSESSOR:

D. BUILDING/BUILDING MAINTENANCE:

1. Resolution 2024-360

Fire Extinguisher Inspection and Repair CRS #4739

Please authorize the Supervisor to sign agreement between the Town of Amherst and Dival Safety & Supplies for Life to inspect and repair Town of Amherst fire extinguishers.

4/29/2024
Consent

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

E. CENTRAL ALARM:

F. COMPTROLLER:

1. Resolution 2024-361

Budget Transfers and Amendments

For April 29, 2024 Town Board Agenda

To: Town Board
From: Office of Town Comptroller

Date: 04/24/2024
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 - 2024

FROM:	***TO:***
N2025.1000 CDBG- Personal Svcs $712.55 N2025.4050 CDBG- Mileage $16.84 N2025.8030 CDBG- FICA $50.61	N2025.4000 CDBG- Contractual $780.00
Requested per department.	
A7250.4110 Audubon Golf - Contractual $702.49	A7250.9000 Interfund Transfers $702.49
To transfer funds into KP2215 Audubon Golf Course Improvements.	
N2068.4000 CDBG NWCC- Contractual $27,711.50 N2069.4000 CDBG NWCC- Contractual $2,429.84 N2026.4010 CDBG- Office Exp. $849.21	N2067.4000 CDBG Senior Ctr. $30,990.55
Requested per department.	
A1430.1000 HR - Personal Services $29,297.31 A1430.8030 HR - FICA $2,241.24	A1620.1000 Building Maintenance $29,297.31 A1620.8030 Building Maintenance $2,241.24
To transfer personal services and related FICA to Building Maintenance for project manager hire.	

BUDGET AMENDMENTS - 2024

INCREASE:	***INCREASE:***
F3012.05001 Swormville- Refund of CY Exp $37,750.30 F3013.05001 East Amherst- Refund of CY Exp $32,992.53	F3012.4090 Professional Svcs $37,750.30 F3013.4090 Professional Svcs $32,992.53
To recognize Clarence's portion of LOSAP.	
N2323.02785 CDBG & VG- PI $10,453.60 N2325.02785 CDBG Admin- PI $2,613.40	N2323.4000 Contractual $10,453.60 N2325.1000 Personal Svcs $2,427.68 N2325.8030 FICA $185.72
To recognize Community Development program income from 7 N.Burbank, Amherst.	
N1042.05002 Amh Home- Health Ins. Contr $1,921.08	N1042.8050 Health Insurance $1,921.08
To recognize 1st Qtr. 2024 employee health insurance contributions.	
A6773.05001 Nutrition - Refund of C/Y Exp. $12,282.54	A6773.1000 Personal Services $7,917.68 A6773.8030 FICA $572.38 A6773.8010 Retirement $1,179.54 A6773.8050 Insurance $2,489.40 A6773.8051 Dental $111.00 A6773.8052 Vision $12.54
To recognize reimbursement from CDBG for cook at Senior Center.	
KP2215.05031 Interfund Transfers $702.49	KP2215.4972 Construction $702.49
To setup budget for transfer from A7250 into KP2215 Audubon Golf Course Improvements.	
A1310.02770 Comptroller - Other Revenues $2,508.00	A1620.4060 Facilities - Phone $2,508.00
To recognize Other Revenue for Comptroller's Office and increase phone expenditures for Facilities for 30 S. Cayuga.	
N2323.02785 CDBG & VG- PI $170.00	N2323.4000 Contractual $170.00
To recognize Community Development program income from 169 Hillcrest, Cheektowaga.	
N2350.02785 TON REHAB- PI $31,500.00 N2353.02785 TON Admin- PI $3,500.00	N2350.4000 Contractual $31,500.00 N2353.4003 10% Admin $3,500.00
To recognize Community Development program income from 166 Lyndale, Tonawanda.	

KP2301.02710 Premium on Obligations $27,238.12	KP2301.9000 Interfund Transfers $27,238.12
KP2302.02710 Premium on Obligations $5,204.74	KP2302.9000 Interfund Transfers $5,204.74
KP2304.02710 Premium on Obligations $5,204.74	KP2304.9000 Interfund Transfers $5,204.74
KP2305.02710 Premium on Obligations $6,939.65	KP2305.9000 Interfund Transfers $6,939.65
KP2309.02710 Premium on Obligations $3,296.33	KP2309.9000 Interfund Transfers $3,296.33

To setup the budget for bond premiums and Interfund Transfers to move funds into debt reserve.

4/29/2024
Consent

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

G. CONTRACT COMPLIANCE:

1. Resolution 2024-362

Extension of Town Wide Office Supplies Piggyback Agreement through Omnia - CRS #4673

WHEREAS, Eaton Office Supplies has agreed to extend their piggyback agreement through Omnia (Contract # R190301) for Town Wide Office Supplies (Original CRS #4212);

NOW, THEREFORE, BE IT RESOLVED, the Town Board approves a one-year extension of the contract with Eaton Office Supplies for the period June 1, 2024 through May 31, 2025; and

BE IT FURTHER RESOLVED, the Town Board authorizes the Supervisor to sign the contract extension with Eaton Office Supplies.

4/29/2024
Consent

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

2. Resolution 2024-363

Tires & Tubes Contract - 3-Month Extension - CRS #4727

WHEREAS, the contract for Tires and Tubes through New York State OGS (Contract #PC68490) with Dunn Tire, dba Airport Commerce Park (Original CRS #1529) has been extended through June 30, 2024;

NOW, THEREFORE, BE IT RESOLVED, the Town Board approves an extension of the contract with Dunn Tire LLC, dba Airport Commerce Park through June 30, 2024; and

BE IT FURTHER RESOLVED, the Town Board authorizes the Supervisor to sign the contract extension with Dunn Tire LLC, dba Airport Commerce Park.

4/29/2024
Consent

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

3. Resolution 2024-364

Award Bid #2024014 Police Vehicles - CRS #4731

WHEREAS, the Contract Compliance and Administration Department received bids on March 21, 2024 for Bid #2024014 Police Vehicles; and

WHEREAS, the bid process resulted in a response from four (4) 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 C. Basil Ford, Inc.; and

BE IT FURTHER RESOLVED, the Town Board authorizes the Police Department to trade in the vehicles listed in the table below:

CAR #	YEAR	VIN	MAKE/MODEL	MILEAGE	C Basil Ford
108	2023	1FM5K8AB1PGA06482	Explorer	72,466	$18,000
109	2023	1FM5K8AB1PGA06269	Explorer	66,587	$19,000
110	2022	1FM5K8AWXNNA00207	Explorer Hybrid	90,933	$15,000
111	2022	1FM5K8AWXNNA00210	Explorer Hybrid	99,762	$15,000
116	2020	1FM5K8AW6LGD01980	Explorer Hybrid	78,348	$12,000
124	2020	1FM5K8AW8LGA18433	Explorer Hybrid	82,897	$13,000
139	2016	1FAHP2MK5GG119336	Taurus	73,490	$4,500

157	2014	1FM5K8AR8EGA55219	Explorer	66,869	$4,000
164	2014	1FAHP2MK0EG124196	Taurus	76,321	$3,500
173	2014	1FM5K8AR7EGB63668	Explorer	88,900	$4,000
188	2020	1FM5K8AW8LGD01981	Explorer Hybrid	65,364	$14,000
181	2014	1FAHP2MK4EG185535	Taurus	97,468	$3,000
182	2015	1FAHP2MK2FG162045	Taurus	97,105	$3,000
185	2020	1FM5K8AWXLGA18434	Explorer Hybrid	102,931	$10,000
		TOTAL			**$138,000**

BE IT FURTHER RESOLVED, the Town Board authorizes the Supervisor to sign the contract with C. Basil Ford, Inc.

4/29/2024
Consent

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

4. Resolution 2024-365

Award Mini-Bid #2024016 for (1) 2025 Ford F750 with Dump Body - CRS #4749

WHEREAS, Contract Compliance issued Mini-Bid #2024016 through NYS OGS for one (1) 2025 Ford F750 with Airflo 11' Steel Dump Body; and

WHEREAS, bids were received from three (3) vendors as per the attached Bid Tabulation Form;

NOW, THEREFORE, BE IT RESOLVED, the Town Board authorizes the Mini-Bid be awarded to Ferrario Ford for their low bid of $120,072.40; and

BE IT FURTHER RESOLVED, The Town Board authorizes the Supervisor to sign the contract with Ferrario Ford.

4/29/2024
Consent

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

5. Resolution 2024-366

Award Bid #2024017 Commercial Plumbing and HVAC Supplies - CRS #4751

WHEREAS, the Contract Compliance and Administration Department received bids on April 11, 2024 for Bid #2024017 for Commercial Plumbing and HVAC Supplies; and

WHEREAS, the bid process resulted in a response from one (1) vendor, as per the attached bid tabulation form;

NOW, THEREFORE, BE IT RESOLVED, the Town Board authorizes the Contract Compliance and Administration Department to award the bid to Erb Company Inc.; and

BE IT FURTHER RESOLVED, the Town Board authorizes the Supervisor to sign the contract with Erb Company Inc.

4/29/2024
Consent

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

6. Resolution 2024-367

Overhead Door Repairs (Erie County Bid #240070-002) - CRS #4754

WHEREAS, the Contract Compliance and Administration Department is requesting approval to use the Erie County Contract for Overhead Door Repairs - Erie County Bid #240070-002 with National Overhead Door, Inc.; and

WHEREAS, the contract term will be through February 28, 2026;

NOW, THEREFORE, BE IT RESOLVED, the Town Board approves and authorizes the Supervisor to sign the contract with National Overhead Door, Inc.

4/29/2024
Consent

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

7. Resolution 2024-368

Extension of Wellness Program Contract - CRS #4760

WHEREAS, CHC Wellbeing, Inc. has agreed to extend the Wellness Program Contract (Original CRS #2988) as per the terms of the original agreement;

NOW, THEREFORE, BE IT RESOLVED, the Town Board approves a two-year extension of the contract with CHC Wellbeing, Inc. for the period of January 1, 2024 through December 31, 2025; and

BE IT FURTHER RESOLVED, the Town Board authorizes the Supervisor to sign the contract extension with CHC Wellbeing, Inc.; and

BE IT FURTHER RESOLVED, that approval is pending successful completion of the Contract Routing System due to the fact that the current contract is expired.

4/29/2024
Consent

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

H. COURT:

1. Resolution 2024-369

Amherst Court Employees to Attend Drug Court Conference

Amherst Town Justice, Amherst Court Administrator, Drug Court Analyst and Bench Clerk to the Town Justice to attend RISE24 Drug Court Conference in Anaheim, CA from 5/20/24 to 5/25/24 at a cost of $12,156.20.

4/29/2024
Consent

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

I. ECONOMIC DEVELOPMENT:

1. Resolution 2024-370

MOU - Council of Heritage and Arts of India, Inc. (CRS #4759)

AGENDA ITEM : APRIL 29TH, 2024

TO: **Town Board**

FROM: **Emily Melski, Deputy Director, Economic Development**

DATE: **April 24, 2024**

RE: **To Authorize the Town Supervisor to Enter into a Memorandum of Understanding (CRS #4759)with the Council of Heritage and Arts of India, Inc. for the Establishment and Management of a Sister City Relationship with the City of Palakkad, India**

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

WHEREAS, the Sister City Program, administered by Sister Cities International, was initiated by the President of the United States of America in 1965 to encourage greater friendship and understanding between the United States and other nations through direct personal contact;

WHEREAS, the Town of Amherst is interested in establishing a mutually beneficial relationship (a "Sister City relationship") with the City of Palakkad in the state of Kerala, India to promote international goodwill, understanding, and cooperation between the two communities and their respective nations by the exchange of people, ideas, and information in a wide variety of potential social, cultural, and economic endeavors;

WHEREAS, the mission of the Council of Heritage and Arts of India, Inc. ("CHAI") is to preserve and promote Indian arts and culture as well as foster continuing relationships between the people of Western New York and the people of India; and

WHEREAS, CHAI is well-positioned to facilitate the establishment and implementation of a Sister City relationship because of its strong relationships with the Town and with Palakkad;

NOW, THEREFORE, BE IT RESOLVED, that subject to the satisfactory completion of the contract routing process, the Town Board of the Town of Amherst authorizes the Supervisor to enter into a Memorandum of Understanding with CHAI to facilitate the establishment and implementation of such a Sister City relationship.

c: Tim Koller, Deputy Town Clerk
(*w/attachment*, **Agenda Item - April 29, 2024**)

4/29/2024
Consent

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

2. Resolution 2024-371

First Amendment to Agreement with County of Erie (CRS #4769/Original CRS #3761)

Whereas, the County and the Town have entered into an Intermunicipal Agreement dates on January 18, 2023 whereby the County shall assist the Town with planning, design, and engineering expenses related to the development of Amherst Central Park located at 772 North Forest Road and 391 Maple Road; and

Whereas, the parties desire to amend Section 2.0, "Schedule B" and "Schedule C" of the attached agreement to reflect a revised scope of work, increased contract amount and a revised Town Rate Schedule; and

Whereas, in consideration of the above, and to reflect the current status of the project, the County and the Town agree to the referenced changes to be made to the agreement,

Now therefore be it resolved, that the Town Board authorizes the Supervisor to sign the first amendment to the Intermunicipal agreement between the Town and County for the Amherst Central Park Project.

4/29/2024
Consent

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

J. EMERGENCY SERVICES:

K. ENGINEERING SERVICES:

1. Resolution 2024-372

Change Order No. 1 Scope of Work Change & Extend Completion Date – Master's Edge Inc. ADA Ramp and Sidewalk Installation and Repair Town of Amherst Job # 2016.059 CRS# 4764

We are requesting the Town Board to approve the above referenced Change Order No. 1 which calls for a change in scope of work as well as a contract time extension through December 1, 2024. This scope reallocation will allow for improvements to be made to higher priority locations due to increased levels of pedestrian safety exposure. There is no increase in cost associated with this request.

This request is pending the successful completion of the contract review procedure. Thank you for considering this request.

4/29/2024
Consent

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

2. Resolution 2024-373

Agreement Extension - Street Light Maintenance Services Town of Amherst Job# 2023.034 CRS #4763

On October 30, 2023, the Town of Amherst entered into an agreement with LED Energy Solutions, LLC (LEDES) for streetlight maintenance services for a period of six (6) months to expire on April 30, 2024. In accordance with the agreement, this term can be renewed for an additional six-month period by mutual agreement.

May I please have your approval to extend the current contract with LEDES to terminate on October 29, 2024 and in accordance with the revised rate sheet? New rates reflect a minor labor escalation and will go into effect beginning June 1, 2024. Funding is available from the Street Lighting District Account E9997-4110 and the General Lighting Account A5182-4110.

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

4/29/2024
Consent

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

3. Resolution 2024-374

Award of Bid – Goodwin Electric Corporation Central Amherst Little League Ball Field Lighting T.O.A. Project No. 840127E

On March 21, 2024, bids were received for the above referenced project. After review of the three (3) bids received (bid tabulation attached), we recommend award of the contract to Goodwin Electric Corp., 201 S. Youngs Rd., Williamsville, NY 14221, in the amount of $115,000.00, which was negotiated down from their low bid amount of $117,500.00. Funding for this contract shall be as per the following:

Account KP2343.4972	$ 56,532.00
Account KP2207.4972	$ 58,468.00
Total:	$115,000.00

4/29/2024
Consent

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

L. FINANCE:

M. HIGHWAY

N. HUMAN RESOURCES:

1. Resolution 2024-375

Recreation Attendant - PT/Youth & Recreation (5 Positions)

Recreation Attendant - PT/Youth & Recreation, Effective April 30, 2024, Temporary, $15.00 ph, Step 1 for Wylie Cole, Jacklynn Cole, Anthony Ludwig, Adam Lorey and Eric Cunningham.

4/29/2024
Consent

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

2. Resolution 2024-376

Recreation Attendant - PT/Youth & Recreation

Recreation Attendant - PT/Youth & Recreation, Effective April 30, 2024, Temporary, $15.50 ph, Step 1 for Corey Fleck.

4/29/2024
Consent

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

3. Resolution 2024-377

Recreation Attendant - PT/Youth & Recreation

Recreation Attendant - PT/Youth & Recreation, Effective April 30, 2024, Temporary, $15.00 ph, Step 1 for Gouripriya Nadarajan.

4/29/2024
Consent

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

4. Resolution 2024-378

Extended Sick Leave of Absence Without Pay/Highway Department

Please authorize an Extended Sick Leave of Absence Without Pay to Carl Bennett, Jr. at the Highway Department. Effective April 4, 2024 through October 3, 2024.

4/29/2024
Consent

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

5. Resolution 2024-379

Extended Sick Leave of Absence Without Pay/Highway Department

Please authorize an Extended Sick Leave of Absence Without Pay to Thomas Trabert, III at the Highway Department. Effective April 20, 2024 through July 19, 2024.

4/29/2024
Consent

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

6. Resolution 2024-380

Cook/Senior Services

Please appoint a Cook to the Amherst Center for Senior Services, Permanent, pending satisfactory completion of a probationary term as set forth in the Civil Service Rule XIII. Effective April 30, 2024 at an annual salary of $36,295, Grade 5, Step A for Christin Estrada.

4/29/2024
Consent

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

7. Resolution 2024-381

Senior Wastewater Treatment Plant Operator/Eng.-Plant #16

Please appoint a Senior Wastewater Treatment Plant Operator to the Engineering Department-Plant #16. Permanent, from list, pending satisfactory completion of a

probationary term as set forth in the Civil Service Rule XIII. Effective April 30, 2024 at an hourly rate of $35.11, Grade VI, Step 7 for Kyle Bennett.

This is a promotion for an employee currently serving as WWTP Operator.

4/29/2024
Consent

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

8. Resolution 2024-382

Working Crew Chief/Building Maintenance-Facilities

Please appoint a Working Crew Chief to the Building Maintenance/Facilities Department. Permanent, pending satisfactory completion of a probationary term as set forth in the Civil Service Rule XIII. Effective April 30, 2024 at an hourly rate of $27.91, Grade 8, Step G for Mark Abbarno.

This is a promotion for an employee currently serving as Maintenance Worker.

4/29/2024
Consent

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

9. Resolution 2024-383

Senior Recreation Supervisor/Youth & Recreation

Please appoint a Senior Recreation Supervisor to the Youth & Recreation Department. Permanent, from list, pending satisfactory completion of a probationary term as set forth in the Civil Service Rule XIII. Effective April 30, 2024 at an annual salary of $64,362, Grade 13, Step G for Bradley Waltz.

This is a Permanent appointment for a current employee who has been serving Provisionally.

4/29/2024
Consent

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

10. Resolution 2024-384

Project Manager - Construction/Building Maintenance-Facilities Department

Please appoint a Project Manager-Construction to the Building Maintenance-Facilities Department. Provisional, pending satisfactory completion of a Civil Service Examination. Effective April 30, 2024 at an annual salary of $79,416.09, Grade 2, Step A of the Exempt Non-Department Head Salary Schedule for Jeffrey Ailing.

Contingent upon completing all pre-employment requirements.

Please authorize a six (6) month residency waiver.

4/29/2024
Consent

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

O. INFORMATION TECHNOLOGY:

P. PLANNING:

1. Resolution 2024-385

Amendment to Resolution 2021-109 (1695,1701 &1721 Dodge Rd)

WHEREAS, on February 24, 2020 the Amherst Town Board approved a rezoning request for the property identified as 1695, 1701 & 1721 Dodge Road for the development of a 32 lot realty subdivision, AND

WHEREAS, such rezoning decision was made with conditions of approval including a condition that 6.5 acres of the project site which included federally regulated wetland areas remain as a conservation area and that such conservation area be donated to the Town of Amherst, AND

WHEREAS, on January 19, 2021 the Amherst Town Board amended the original rezoning decision of February 24, 2020 by correcting the acreage in condition number 6 and number 7 of the original resolution, AND

WHEREAS, since the adoption of the amended resolution, the developer constructed the required public improvements, and on March 10, 2021 the developer filed a protective covenant (L11376, P1208) to restrict development on 4.49 acres of open space and which placed additional development constraints on the subject properties, consistent with the Town Board rezoning resolution, AND

WHEREAS, the Town has accepted the dedication of the public improvements for the realty subdivision and no longer desires to accept the 6.5 acres of conservation lands as originally requested in its resolution of February 24, 2020 and amended on January 19, 2021, NOW THEREFORE BE IT

RESOLVED, that the Town of Amherst will not accept the 6.5 acres of conservation lands as originally depicted in the Carmina Wood Morris PDC [Drawing C-100- Date 02/13/20] as "Conservation Area", AND BE IT

FURTHER RESOLVED, that Developer is directed to amend his/her offering plan with the Attorney General's Office to include the declined acreage, which shall be maintained by the newly formed Home Owners Association as permanent open space.

4/29/2024
Consent

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

Q. POLICE:

1. Resolution 2024-386

Training & Travel Request Gun Involved Violence Elimination (GIVE) Training

TOWN BOARD AGENDA ITEM : APRIL 29, 2024

TO: **Town Board**

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

RE: **Training & Travel Request**
Gun Involved Violence Elimination (GIVE) Training

Kindly adopt a Resolution authorizing one (1) Officer to attend the above entitled training course. This course was held in Albany, New York from March 24, 2024 through March 26, 2024. The cost for this training and travel is $718.88.

Thank you.

SPC:msl
Attachment
C: Tim Koller, Deputy Town Clerk *(Agenda Item: April 29, 2024)*

4/29/2024
Consent

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

2. Resolution 2024-387

Training & Travel Request NCFI Basic Network Investigative Training

TOWN BOARD AGENDA ITEM : APRIL 29, 2024

TO: **Town Board**

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

RE: **Training & Travel Request**
NCFI Basic Network Investigative Training

Kindly adopt a Resolution authorizing one (1) Officer to attend the above entitled training course. This course is being held in Hoover, Alabama from June 23, 2024 through June 28, 2024. The cost for the training and travel for this course is paid for by the organization hosting the course.

Thank you.

SPC:msl
Attachment
C: Tim Koller, Deputy Town Clerk *(Agenda Item: April 29, 2024)*

4/29/2024
Consent

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

3. Resolution 2024-388

Training & Travel Request NYS Police Officers Memorial Remembrance Ceremony

TOWN BOARD AGENDA ITEM : APRIL 29, 2024

TO: **Town Board**

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

RE: **Training & Travel Request**
NYS Police Officers Memorial Remembrance Ceremony

Kindly adopt a Resolution authorizing four (4) Officers to attend the above entitled ceremony. This event is being held in Albany, New York from May 7, 2024 through May 8, 2024. The cost for this ceremony and travel is approximately $1,187.91.

Thank you.

SPC:msl
Attachment
C: Tim Koller, Deputy Town Clerk (Agenda Item: April 29, 2024)

4/29/2024
Consent

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

4. Resolution 2024-389

Memorandum of Understanding Use of Amherst Police Department Community Policing and Training Facility: Buffalo Armory Group, LLC (CRS#4734)

TOWN BOARD AGENDA ITEM : APRIL 29, 2024

TO: **Town Board**

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

RE: **Memorandum of Understanding**
Use of Amherst Police Department Community Policing and Training Facility: Buffalo Armory Group, LLC (CRS#4734)

Kindly adopt a resolution authorizing the Supervisor to adopt and execute the attached Memorandum of Understanding between the Town of Amherst (Police) and Buffalo Armory Group, LLC, with regard to the above-entitled matter. This MOU has successfully completed the Contract Routing System.

Thank you.

SPC:msl
Attachment
C: Tim Koller, Deputy Town Clerk *(w/attachment, Agenda Item: April 29, 2024)*

4/29/2024
Consent

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

5. Resolution 2024-390

Sweet Home Central School District (CRS #4666) Student Resource Officer Program

TOWN BOARD AGENDA ITEM : APRIL 29, 2024

TO: **Town Board**

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

RE: **Sweet Home Central School District (CRS #4666) Student Resource Officer Program**

Kindly adopt a resolution authorizing the Supervisor to adopt and execute the attached agreement between the Town of Amherst (Police) and Sweet Home Central School District with regard to the above-entitled matter. This agreement will run from July 1, 2024 through June 30, 2025. This agreement has successfully completed the Contract Routing process.

Thank you.

SPC:msl
Attachment
C: Tim Koller, Deputy Town Clerk (Agenda Item: April 29, 2024)

4/29/2024
Consent

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

6. Resolution 2024-391

Williamsville Central School District (CRS #4665) Student Resource Officer Program

TOWN BOARD AGENDA ITEM : APRIL 29, 2024

TO: **Town Board**

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

RE: Williamsville Central School District (CRS #4665)
Student Resource Officer Program

Kindly adopt a resolution authorizing the Supervisor to adopt and execute the attached agreement between the Town of Amherst (Police) and Williamsville Central School District with regard to the above-entitled matter. This agreement will run from July 1, 2024 through June 30, 2025. This agreement has successfully completed the Contract Routing process.

Thank you.

SPC:msl
Attachment
C: Tim Koller, Deputy Town Clerk (Agenda Item: April 29, 2024)

4/29/2024
Consent

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

7. Resolution 2024-392

Amherst Central School District (CRS #4667) Student Resource Officer Program

TOWN BOARD AGENDA ITEM : APRIL 29, 2024

TO: Town Board

FROM: Scott P. Chamberlin, Chief of Police

RE: Amherst Central School District (CRS #4667)
Student Resource Officer Program

Kindly adopt a resolution authorizing the Supervisor to adopt and execute the attached agreement between the Town of Amherst (Police) and Amherst Central School District with regard to the above-entitled matter. This agreement will run from July 1, 2024 through June 30, 2025. Approval of this agreement is pending upon the successful completion of the Contract Routing process.

Thank you.

SPC:msl
Attachment

C: Tim Koller, Deputy Town Clerk (Agenda Item: April 29, 2024)

4/29/2024
Consent

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

R. SENIOR SERVICES:

1. Resolution 2024-393

Travel Authorization for Maplevale Farms Food Show

Please authorize expense reimbursement for travel for Jamie Sullivan for the 2024 Maplevale Farms Food Show in Erie, PA. The total cost was $139.74. Funds are available in the senior services budget.

4/29/2024
Consent

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

S. SEWER/PLANT 16:

1. Resolution 2024-394

Toshiba Density Meter Parts Procurement Giangarlo Scientific Company, Inc. CRS – 4728

The Engineering Department-WPCF Division is requesting that the Town Board authorize the Supervisor to sign the attached agreement with Giangarlo Scientific Company, Inc. to purchase Toshiba Density Meter parts. The total cost of this procurement as listed on the attached quote 12573JJE-R, dated March 06, 2024 is $2,740.00 plus freight. We would

also request a waiver from insurance as this company would be utilizing a third party delivery service. The term of this agreement will be from date of Town Board approval by the Town of Amherst through June 15, 2024.

Funds will be available in KP2027-4972.

Thank you for considering this request.

4/29/2024
Consent

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

2. Resolution 2024-395

Moyno™ Stator & Rotor- Procurement Shrier Martin Process Equipment, Inc. CRS – 4733

The Engineering Department-WPCF Division is requesting that the Town Board authorize the Supervisor to sign an agreement with Shrier-Martin Process Equipment. This agreement is for Moyno™ progressive cavity pump parts and Shrier-Martin Process Equipment is the "sole source" supplier of Moyno™ parts for our territory. The total cost of this procurement as listed on the attached Shrier Martin quote 11146 would be $14,726.26 plus freight. The term of this contract will be from date of Town Board approval by the Town of Amherst through August 30, 2024.

Funds will be available in KP2027-4972

Thank you for considering this request.

4/29/2024
Consent

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

3. Resolution 2024-396

Lift Station Communication Hosting Agreement Extension Colacino Industries, Inc. CRS No. 4758

The Engineering Department, WPCF division is requesting that the Town Board authorize the Supervisor to sign the attached contract extension agreement with Colacino Industries, Inc. The terms and conditions within the current Lift Station hosting Agreement will remain the same. This extension will be from the date of Town Board Approval by the Town of Amherst and be effective from July 10, 2024 through July 09, 2025.

Funds for this request are available in G9916-4110.

This request is pending successful completion of the contract review process.

Thank you for considering this request.

4/29/2024
Consent

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

4. Resolution 2024-397

TabWare Server Migration Aptean, Inc. CRS – 4743

The Engineering Department-WPCF Division is requesting that the Town Board authorize the Supervisor to sign the attached agreement with Aptean, Inc. to complete a server migration for our purchase order and inventory program, TabWare. We require migration of this application to new server hardware due to the age of the existing hardware and server software version. The existing in-place hardware is long out of warranty and the most cost effective option was to migrate our application to newer hardware that was provided by the IT Dept. We will require assistance from the software vendor in the migration due to customizations they performed to the software. The term of this agreement will be from date of Town Board approval by the Town of Amherst through December 31, 2024.

Funds will be available in G9916-2130.

This request is pending successful completion of the contract review process.

Thank you for considering this request.

4/29/2024
Consent

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

5. Resolution 2024-398

Travel Request Backflow Testing Certification Course

The Engineering Department is requesting approval to send two (2) employees to attend the Backflow Testing Certification course at the MCC Applied Tech Center in Rochester, NY in June 2024.

The cost for each employee to attend the course is estimated to be $1,298.98, $2,597.96 total, and includes registration and tolls/mileage reimbursement.

Funding for this request will be available in accounts G9916-4040 and G9916-4120.

Thank you for considering this request.

4/29/2024
Consent

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

6. Resolution 2024-399

WPCF Centrifuge #6 Critical Repair Sentrimax Centrifuges (NE) Ltd. CRS – 4740

The Engineering Department-WPCF is currently seeking Town Board approval to authorize the Supervisor to sign the attached proposal from Sentrimax Centrifuges (NE) Ltd. Quote 20240322, dated March 22, 2024. The reason for this request is to bring in a company qualified to repair our Alfa Laval D3-125 Centrifuge, which is currently out of

service due to bearing failures. The WPCF did receive two proposals for this work and Sentrimax came in with the lowest cost proposal at $5,800.00. Alfa Laval was originally approved under Res- 2024-205 to complete this repair, but we haven't been able to get the required paperwork from the vendor in over 2 months and the repair is critical.

This request is pending completion of the contract routing process.

Funds for this request are available in KP2136-2150.

Thank you for considering this request.

4/29/2024
Consent

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

7. Resolution 2024-400

Purchase of One 18" Pressure Style Steel Gate

We are requesting Town Board approval to purchase one 18" Fresno Model 4200 W pressure style gate to replace an existing gate that was originally installed in 1996 for Georgian Lane Condominium. The total cost for the purchase will be $3,798.

Funding for this purchase is available from budget code G9000-2600 which requires Town Board approval.

Thank you for considering this request.

4/29/2024
Consent

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

8. Resolution 2024-401

Onondaga County Piggyback – Kenyon Pipeline Inspection LLC Cured-In-Place Pipe Lining – for Pipes Sizes 30-72 Inches CRS No. 4549

The Engineering Department is requesting that the Town Board authorize an agreement to piggyback the Onondaga County bid 0010984 with Kenyon Pipeline Inspection LLC for Cured-In-Place Pipe Lining services for pipes sizes 30-72 inches. The services of this contract will only be utilized in case of emergency need to re-line sections of the Town's sewer system. This contract will be valid through December 31, 2024.

This is a town wide contract, so funding is available for this contract from various accounts in amounts to be determined.

This request is pending the successful completion of the contract review procedure.

Thank you for considering this request.

4/29/2024
Consent

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

9. Resolution 2024-402

TabWare Software Maintenance & Support Renewal AssetPoint, LLC CRS – 4761

The WPCF utilizes TabWare Software provided by AssetPoint LLC ("Aptean") to control and monitor all assets and equipment for the WPCF. To maintain on-line maintenance, technical support, and software updates, a licensing agreement with the software provider is required. The WPCF is requesting Town Board approval for the attached one-year maintenance & support renewal with AssetPoint LLC ("APTEAN") for the AssetPoint TabWare Software.

This contract shall be valid from May 06, 2024 through May 05, 2025. In addition, the WPCF requests a waiver of the insurance requirements because the vendor will provide this service remotely and will NOT enter Town property.

This request is pending successful completion of the contract review process.

Funds for this request are available in G9916-4110.

Thank you for considering this request.

4/29/2024
Consent

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

10. Resolution 2024-403

Purchase of 1-Year Identifix Government Subscription Vehicle Maintenance and Repair Program CRS# 4765

We respectfully request the Town Board to authorize the expenditure of $1,428.00 for a 1-Year Subscription for Identifix ($119.00 per month). The subscription provides a database of updated, experience-based information for vehicle maintenance and repairs, including genuine OEM service and repair information for unedited factory data.

We are also requesting an insurance waiver as this is an online-only subscription and Identifix representatives will not be on site. The total amount for the 1-year subscription is $1,428.00 and funding will be available from the Sewer Maintenance account G 9000 - 4240.

This request is pending the successful completion of the contract review procedure. Thank you for considering this request.

4/29/2024
Consent

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

T. YOUTH AND RECREATION:

1. Resolution 2024-404

Sheltering Agreement - CRS #4722

Authorize the Supervisor to sign a contract between the Town of Amherst (Youth & Recreation Department) and SOSF Ventures d/b/a Fredonia Place of Williamsville to use the Williamsville Youth & Family Center as an emergency shelter.

4/29/2024
Consent

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

2. Resolution 2024-405

Polling Location Lease Agreement (HRCC) - CRS #4723

Authorize the Supervisor to sign a contract between the Town of Amherst (Youth & Recreation Department) and the Erie County Board of Elections for a polling site at the Harlem Road Community Center for 2024.

4/29/2024
Consent

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

3. Resolution 2024-406

Polling Location Lease Agreement (CCC) - CRS #4724

Authorize the Supervisor to sign a contract between the Town of Amherst (Youth & Recreation Department) and the Erie County Board of Elections for a polling site at the Clearfield Community Center for 2024.

4/29/2024
Consent

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

4. Resolution 2024-407

Evaluation Services - CRS #4652

Authorize the Supervisor to sign a contract between the Town of Amherst (Youth & Recreation Department) and Catalyst Research, LLC for evaluation services required by the Town's Drug Free Communities grant.

4/29/2024
Consent

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

5. Resolution 2024-408

Rental Agreement WNYRHL - CRS #4737

Authorize the Supervisor to sign a contract between the Town of Amherst (Youth & Recreation Department) the WNY Roller Hockey League for rental of the Feature Rink.

4/29/2024
Consent

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

6. Resolution 2024-409

Software Upgrade - CRS #4660

Authorize the Supervisor to sign a contract between the Town of Amherst (Youth & Recreation Department) and DaySmart Recreation for software transition from RecPro to DaySmart.

4/29/2024
Consent

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

7. Resolution 2024-410

Summer 2024 Ice Rates

Approve a $5.00 increase in hourly ice rates for weekday ice and a $10.00 increase in hourly ice rates for weekend ice for the period May 1, 2024 through August 31, 2024. These proposed increases were discussed with the user groups and approved by the Amherst Recreation Commission.

4/29/2024
Consent

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

8. Resolution 2024-411

Emergency Purchase Authorization R 22

Authorize the emergency purchase of R 22 for the Northtown Center at Amherst due to a refrigerant leak on the north end of the building during the NYSAHA state hockey tournaments.

4/29/2024
Consent

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

9. Resolution 2024-412

Piggyback Agreement (Musco) - CRS #4745

Authorize the Supervisor to sign an agreement between Musco Sports Lighting, LLC and the Town of Amherst under Sourcewell Cooperative Purchasing Contract #041123-MSL.

4/29/2024
Consent

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

10. Resolution 2024-413

Field Lighting Agreement - Amendment to CRS #4745

Authorize the Supervisor to sign an agreement between the Town of Amherst and Musco Sports Lighting, LLC for the installation of lights at the Amherst Central Little League complex, pending successful completion of the contract routing process.

4/29/2024
Consent

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

XIV. UNFINISHED BUSINESS

XV. COMMUNICATIONS

1. Communication 2024-24

Request for Public Hearing - 6000-6040 North Bailey Avenue Rezoning

Request from James Boglioli, Esq. for a public hearing with respect to the rezoning of 6000-6040 North Bailey Avenue from RD to GI.

This hearing has been scheduled for May 28th.

4/29/2024
Consent

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

2. Communication 2024-25

Request for Public Hearing - 2280 Wehrle Drive Rezoning

Request from Jeff Palumbo, Esq. for a public hearing with respect to the rezoning of 2280 Wehrle Drive from R-3 to MFR-4A.

This hearing has been scheduled for May 28th.

4/29/2024
Consent

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

3. Communication 2024-26

Correspondence from Joe Rubino

Letter from Joe Rubino regarding the SA zoning report and the proposed rezoning of 1789 Dodge Road.

4/29/2024
Referred to Town Attorney & Planning

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

4. Communication 2024-27

Notice of Claim: Stephen Ostrye Vs. Town of Amherst

4/29/2024
Referred to Town Attorney

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

5. Communication 2024-28

Notice of Claim: Antwan Green Vs. Town of Amherst Et Al.

4/29/2024
Referred to Town Attorney

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

6. Communication 2024-29

Notice of Claim: Kelton Enterprise/Tim Hortons Vs. Town of Amherst

4/29/2024
Referred to Town Attorney

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

7. Communication 2024-30

Notice of Claim: Verizon Vs. Town of Amherst

4/29/2024
Referred to Town Attorney

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

8. Communication 2024-31

Summons and Complaint: KeyBank National Association Vs. Town of Amherst Et Al.

4/29/2024
Referred to Town Attorney

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

9. Communication 2024-32

Summons and Complaint: Pamela A. Kubek & Brian J. Kubek Vs. Town of Amherst Et Al.

4/29/2024
Referred to Town Attorney

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

10. Communication 2024-33

Summons and Verified Complaint: Wilmington Savings Fund Society, FSB Vs. Town of Amherst Et Al

4/29/2024
Referred to Town Attorney

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

XVI. PUBLIC IMPROVEMENT PERMITS

XVII. 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 Councilmember Berger and unanimously approved 4-0. Public Expression was opened at 10:13 PM.

The following speakers addressed the Town Board:
Allison Sagraves, 171 Amherstdale Rd - taxes
Dennis Hoban, 216 California Dr - Resolution 2024-350
Matt Plunkett, 299 Northill Dr - consent agenda
Andrea Morgante, 253 Woodshire Ct - Town board streaming
Jane Cox, 4584 Harlem Rd - rules of order
Don Smith, 201 N Long St - rules of order
Christina Coyle-Lenz, 64 Chateau Ter E - 22 Chateau Terr

There were no further speakers from the public, therefore Supervisor Kulpa moved to close Public Expression, seconded by Councilmember Berger and unanimously approved 4-0. Public Expression was closed at 10:26 PM.

XVIII. ADJOURNMENT

There being no further business to come before the Town Board, Supervisor Kulpa moved to adjourn, seconded by Councilmember Berger and unanimously approved 4-0. The Town Board meeting of April 29, 2024 was adjourned at 10:26 PM.

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Town Attorney
Initiated by: **Martin A. Polowy**
Co-Sponsored by:

DOC ID: 28912 **RESOLUTION 2024-338** **ROLL CALL VOTE (ADOPTED)**

Boulevard Central District Sanitary Sewer Improvements (Bond Resolution-$21M ($11M LT/Up to $10M ST)

AGENDA ITEM : APRIL 29TH, 2024

TO: **Town Board**

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

DATE: **April 24, 2024**

RE: **Boulevard Central District Sanitary Sewer Improvements**
2024 C.I.P. - Project No. S-4
Bond Resolution - $21,000,000 ($11M Long-Term Borrowing; Up To $10M Short-Term Borrowing For Working Capital)

The above-referenced matter is scheduled for a Public Hearing on April 29, 2024 at 7:00 p.m. In this regard, kindly adopt a resolution (1) Adopting the attached SEQR determination and draft SEQR Negative Declaration Notice of Determination of Non-Significance issued by the Town of Amherst Planning Department and authorize the Supervisor to execute the same **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 - April 29, 2024**)
Daryl C. Bramer, Comptroller *(w/attachments)*
Lynda Juul, Director of Finance *(w/attachments)*
Dan Howard, Director of Planning *(w/attachment)*
Jeffrey S. Burroughs, PE, Town Engineer (*w/attachments*)
Vaishali Reberholt, PE, Assistant Town Engineer (*w/attachments*)

4/29/2024
A motion to open the public hearing was made by Supervisor Kulpa, seconded by Councilmember Berger and unanimously approved 4-0. The public hearing was opened at 7:06 PM.

Jeffrey Burroughs, Town Engineer, presented.

The following residents spoke:
Don Smith, 201 N Long St
Jina Gentry, 65 Bissell Dr
Dan Rider, 38 Garden Pkwy
Joe Voytovich, 35 Bucyrus Dr
Matt Plunkett, 299 Northill Dr
Dennis Hoban, 216 California Dr
Allison Sagraves, 171 Amherstdale Rd
Alicia Schreier, 79 Tristan Ln
Kathleen Marando, 81A Foxberry Dr
Chris Drongosky, Youngs Rd

A motion to approve the SEQR determination was made by Supervisor Kulpa, seconded by Councilmember Berger and unanimously approved 4-0.

There were no further speakers from the public, therefore Supervisor Kulpa moved to close the hearing, seconded by Councilmember Berger and unanimously approved 4-0. The public hearing was closed at 8:06 PM.

A motion to adopt the Bond Resolution was made by Supervisor Kulpa, seconded by Councilmember Berger and unanimously approved via Roll Call vote 4-0.

FINANCIAL IMPACT:

Bond Resolution - $21,000,000 ($11M Long-Term Borrowing; Up To $10M Short-Term Borrowing For Working Capital)

RESULT:	**ROLL CALL VOTE (ADOPTED) [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Jacqualine Berger, Councilmember
AYES:	Kulpa, Berger, Szukala, Marinucci
ABSENT:	Lavin

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

Transmitted electronically

MEMORANDUM March 11, 2024

TO: Vaishali Reberholt, P.E., Assistant Municipal Engineer
Engineering Department

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

RE: SEQR Determination
N. Bailey Sanitary Sewer Extension
2023-2028 C.I.P. Project – Part of S-4

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)\S-4- N Bailey Saniatry Sewer Extension_03_11_2024.docx

cc:
Martin A. Polowy, Esq., Town Attorney
Daniel Howard, Planning Director

5583 Main Street • Williamsville • New York • 14221 • (716) 631-7051 • Fax (716) 631-7153

Attachment: SEQRS-4 (RES-2024-338 : Boulevard Central District Sanitary Sewer Improvements (Bond Resolution-$21M ($11M LT/Up to $10M

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

DRAFT SEQR
NEGATIVE DECLARATION

NOTICE OF DETERMINATION OF NON-SIGNIFICANCE

Lead Agency: Town of Amherst
Town Board

Project: West Side Interceptor
Pump Station /Forcemain
2024 - 2029 C.I.P.
Project S-4

Address: 5583 Main Street
Williamsville, NY 14221
(716) 631-7051

Date:

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: West Side Interceptor Lift Station /Forcemain

SEQR Status: Unlisted action

Description of Action:

Construction of a new 15 MGD sanitary pump station with a connection to the existing West Side Interceptor sanitary sewer. The pump station will be located within an existing right of way area near Rensch Road. 11,400 linear feet of 24-inch sanitary force main will be constructed from the pump station at Rensch Road within existing road right of ways along Rensch Road and Sweet Home Road to the Town's Peanut Line sanitary sewer interceptor.

Location: Southern terminus of Rensch Road to Sweet Home Road, continuing northerly to Ellicott Creek, Town of Amherst, Erie County, New York

Petitioner: Town of Amherst , c/o Amherst Engineering Department

Attachment: SEQRS-4 (RES-2024-338 : Boulevard Central District Sanitary Sewer Improvements (Bond Resolution-$21M ($11M LT/Up to $10M

Reasons Supporting This Determination

Based on information submitted by the applicant, including a Map, Plan and Report, a preliminary staff analysis was undertaken. Compared to the criteria listed in Section 617.7, all indications are that the proposed project will not have a significant impact on the environment, as follows:

1. 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 proposed pump station provides for carbon air filtration to mitigate for potential odor releases during operation. The project area does contain floodplain, wetland areas and a protected stream (Ellicott Creek). The project will be contained to the developed road right of ways. Any work within 50 feet of Ellicott Creek to construct a pipe Bridge will be done with a protection of waters permit issued by NYSDEC. All protective measures will be employed during construction to minimize soil erosion and sedimentation consistent with the NYSDEC requirements.

2. The project will not result in the removal or destruction of vegetation or fauna; or in significant adverse impacts to fish or wildlife species, habitats or other natural resources. All disturbances will occur within the developed street right of ways. Work done adjacent to Ellicott Creek to construct a pipe bridge will be done in coordination with NYSDEC to identify any significant wildlife species before any authorized disturbance.

3. The project is not expected to create any material conflict with the Town Comprehensive Plan or the regulations of the Town Zoning Ordinance. The project is consistent with Section 7.2 of the Comprehensive Plan, which has an objective of maintaining and upgrading existing sanitary sewer infrastructure and elimination sanitary sewer overflows, which the project will achieve by providing necessary sanitary downstream sewer capacity in the west side of Town during wet weather conditions.

4. The project is within an area identified by the State as potentially containing significant cultural or archeological resources, however the project will occur within previously disturbed areas currently improved with roadways. The project will be done in coordination with NYSOPRHP before any areas which were not previously disturbed are impacted.

5. The project will not impair the character or quality of important aesthetic resources or of existing community or neighborhood character. The project is within a Local Waterfront Revitalization Program (LWRP). A required consistency review was performed by the

Attachment: SEQRS-4 (RES-2024-338 : Boulevard Central District Sanitary Sewer Improvements (Bond Resolution-$21M ($11M LT/Up to $10M

Town of Amherst Planning Department and the project does not conflict with the LWRP policy standards.

6. The proposed project will cause a change in the use of electrical energy. The new pump station will utilize electricity, however the pumps will only be operational during wet weather conditions when additional sanitary sewer capacity is needed.

7. The proposed project is not anticipated to create any hazard to human health. Any noise generated by the sewage pumps will be 40 feet below grade and within a concrete chamber. Odors from the pump station will mitigated with carbon filtration and after wet weather use, the pump station chamber will be washed down with a wet interior sprinkler system.

8. The proposed project will not cause a change in land use. The project will however, meet future upstream capacity needs of anticipated development within the Town's Boulevard Central District opportunity zone.

9. The project will not increase the number of people using the site over its current level of use as a road right of way.

10. The project will not create a material demand for other actions resulting in a negative impact or consequence.

_____ _____
Signature & title of preparer date

_____ _____
Brian J. Kulpa, Supervisor date

DU/ac
X:\Special_Projects\SEQR_Engineering & Other TOA\Type_I_Unlisted__Other_Actions (PJ-2015-001A)\Neg Dec_ Evergreen Landing Street Lighting_020722_H16.docx
cc: Amherst Engineering Department
ECDEP
NYSDEC

Attachment: SEQRS-4 (RES-2024-338 : Boulevard Central District Sanitary Sewer Improvements (Bond Resolution-$21M ($11M LT/Up to $10M

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

Transmitted electronically

MEMORANDUM March 11, 2024

TO: Vaishali Reberholt, P.E., Assistant Municipal Engineer
Engineering Department

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

RE: SEQR Determination
N. Bailey Sanitary Sewer Extension
2023-2028 C.I.P. Project – Part of S-4

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)\S-4- N Bailey Saniatry Sewer Extension_03_11_2024.docx

cc:
Martin A. Polowy, Esq., Town Attorney
Daniel Howard, Planning Director

5583 Main Street • Williamsville • New York • 14221 • (716) 631-7051 • Fax (716) 631-7153

Attachment: SEQRS-4 (RES-2024-338 : Boulevard Central District Sanitary Sewer Improvements (Bond Resolution-$21M ($11M LT/Up to $10M

EXTRACT OF MINUTES

Meeting of the Town Board of the

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

April 29, 2024

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 April 29, 2024.

There were present:	Hon. Brian J. Kulpa, Supervisor; and
Board Members:	Jacqualine Berger, Councilwoman, Angela Marinucci, Councilwoman, Shawn Lavin, Deputy Supervisor/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"), at the estimated total cost of $42,000,000, with a portion of such cost not to exceed $21,000,000 to be financed through bonds or bond anticipation notes to be issued by the Town, and consisting of sanitary sewer improvements (2024 CIP Project No. S-4) as described in the map, plan and report, dated March 2024, 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

Attachment: CertExMins (RES-2024-338 : Boulevard Central District Sanitary Sewer Improvements (Bond Resolution-$21M ($11M LT/Up to

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.

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-2024-338 : Boulevard Central District Sanitary Sewer Improvements (Bond Resolution-$21M ($11M LT/Up to

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 April 29, 2024, 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 ____ day of _____, 2024.

(SEAL)

_____
Francina J. Spoth, Town Clerk
Town of Amherst

Attachment: CertExMins (RES-2024-338 : Boulevard Central District Sanitary Sewer Improvements (Bond Resolution-$21M ($11M LT/Up to

BOND RESOLUTION OF THE TOWN OF AMHERST, NEW YORK, ADOPTED APRIL 29, 2024, APPROPRIATING $42,000,000 FOR THE INCREASE AND IMPROVEMENT OF FACILITIES OF THE TOWN'S CONSOLIDATED SANITARY SEWER DISTRICT, AND AUTHORIZING THE ISSUANCE OF BONDS IN THE PRINCIPAL AMOUNT NOT TO EXCEED $21,000,000 TO FINANCE A PORTION OF SAID APPROPRIATION AND THE APPLICATION OF $21,000,000 IN GRANTS AND OTHER FUNDS RECEIVED OR EXPECTED TO BE RECEIVED AND TO BE EXPENDED TOWARDS THE COST OF SAID OBJECT OR PURPOSE

Offered by: _____

Seconded By: _____

Recital

WHEREAS, following preparation of a map, plan and report and an estimate of cost for the increase and improvement of facilities of the Consolidated Sanitary Sewer District (herein referred to as the "District"), consisting of sanitary sewer improvements, in the Town of Amherst (herein called the "Town"), in the County of Erie, New York, and after a public hearing duly called and held on April 29, 2024, the Town Board of the Town determined that it is in the public interest to increase and improve the facilities of the District, and ordered that such facilities be so increased and improved;

Attachment: CertBondReso (RES-2024-338 : Boulevard Central District Sanitary Sewer Improvements ($11M LT/Up to ($21M Bond Resolution-

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:

Section 1. The Town hereby appropriates the amount of $42,000,000 for the increase and improvement of facilities of the District, consisting of sanitary sewer improvements (2024 CIP Project No. S-4), as described in the map, plan and report dated March 2024, prepared by the Town Engineering Department. The estimated maximum cost thereof, including preliminary costs and costs incidental thereto and the financing thereof, is $42,000,000. The plan of financing includes (i) the issuance of bonds in the aggregate principal amount of $21,000,000 to finance said appropriation, (ii) $21,000,000 of such cost is to be funded with certain grants and other funds received or expected to be received, and (iii) 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 $21,000,000 pursuant to the provisions of the Local Finance Law, constituting

Attachment: CertBondReso (RES-2024-338 : Boulevard Central District Sanitary Sewer Improvements (Bond Resolution-$21M ($11M LT/Up to

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 object or purpose for which said bonds are authorized to be issued, within the limitations of Section 11.00 a. 4 of the Law, is forty (40) years.

(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 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

Attachment: CertBondReso (RES-2024-338 : Boulevard Central District Sanitary Sewer Improvements (Bond Resolution-$21M ($11M LT/Up to

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.

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.

Attachment: CertBondReso (RES-2024-338 : Boulevard Central District Sanitary Sewer Improvements (Bond Resolution-$21M ($11M LT/Up to

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-2024-338 : Boulevard Central District Sanitary Sewer Improvements (Bond Resolution-$21M ($11M LT/Up to

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 _____
Councilwoman Angela Marinucci	voting _____
Deputy Supervisor/Councilman Shawn Lavin	voting _____
Councilman Michael R. Szukala	voting _____

The Resolution was declared adopted.

Attachment: CertBondReso (RES-2024-338 : Boulevard Central District Sanitary Sewer Improvements (Bond Resolution-$21M ($11M LT/Up to

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 April 29, 2024, 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 ____ day of _____, 2024.

(SEAL)

_____
Francina J. Spoth, Town Clerk
Town of Amherst

Attachment: CertBondReso (RES-2024-338 : Boulevard Central District Sanitary Sewer Improvements (Bond Resolution-$21M ($11M LT/Up to

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 29th day of April, 2024.

PRESENT:

Hon. Brian J. Kulpa, Supervisor
Jacqualine Berger, Councilwoman
Angela Marinucci, Councilwoman
Shawn Lavin, Deputy Supervisor/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 the map, plan and report dated

Attachment: CertROAfterPH (RES-2024-338 : Boulevard Central District Sanitary Sewer Improvements (Bond Resolution-$21M ($11M LT/Up to

March 2024, for the increase and improvement of facilities of the District, consisting sanitary sewer improvements (2024 CIP Project No. S-4); and

WHEREAS, the Engineer has estimated that the cost of such increase and improvement of facilities shall be at the estimated total cost of $42,000,000, with a portion of such cost not to exceed $21,000,000 to be financed through bonds or bond anticipation notes to be issued by the Town; 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 April 29, 2024 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 29th day of April, 2024 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 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;

Attachment: CertROAfterPH (RES-2024-338 : Boulevard Central District Sanitary Sewer Improvements (Bond Resolution-$21M ($11M LT/Up to

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 $42,000,000; 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 a portion of the expense of said increase and improvement of facilities shall be financed by the issuance of not to exceed $21,000,000 serial bonds of the Town, and the cost of said portion 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.

Attachment: CertROAfterPH (RES-2024-338 : Boulevard Central District Sanitary Sewer Improvements (Bond Resolution-$21M ($11M LT/Up to

DATED: April 29, 2024

(SEAL)

TOWN BOARD OF THE TOWN OF AMHERST

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 _____
Councilwoman Angela Marinucci	voting _____
Deputy Supervisor/Councilman Shawn Lavin	voting _____
Councilman Michael R. Szukala	voting _____

The Resolution and Order were declared adopted.

Attachment: CertROAfterPH (RES-2024-338 : Boulevard Central District Sanitary Sewer Improvements (Bond Resolution-$21M ($11M LT/Up to

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 April 29, 2024, 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 _____ day of _____, 2024.

(SEAL)

_____
Francina J. Spoth, Town Clerk
Town of Amherst

Attachment: CertROAfterPH (RES-2024-338 : Boulevard Central District Sanitary Sewer Improvements (Bond Resolution-$21M ($11M LT/Up to

TOWN OF AMHERST
ENGINEERING DEPARTMENT

BOULEVARD CENTRAL DISTRICT SANITARY SEWER IMPROVEMENTS

2024 CIP PROJECT S-4
CONSOLIDATED SANITARY SEWER DISTRICT
TOWN OF AMHERST JOB NO. 2019.038 & 2022.026

MAP, PLAN & REPORT

March 2024

Contents:

- Executive Summary
- Project Description
- Financial Summary w/costs & taxation
- Environmental Assessment Form
- SEQR

Appendices:

A. Project Location Map

Attachment: MPR S-4 Boulevard Central District Sanitary Sewer Improvements (RES-2024-338 : Boulevard Central District Sanitary Sewer

TOWN OF AMHERST
BOULEVARD CENTRAL DISTRICT SANITARY SEWER IMPROVEMENTS

EXECUTIVE SUMMARY:

The Town of Amherst Engineering Department completed a preliminary study and basis of design for the Westside Interceptor in 2022 and is proceeding with the final design and construction as per the 2024 Capital Improvement Program (CIP Project S-4). As defined during the numerous downstream sewer capacity studies for projects proposed in Williamsville, Eggertsville and Snyder, the Westside Interceptor and Niagara Falls Blvd have wet weather capacity issues. The well documented wet weather capacity issues are significant enough to provide a possible barrier to the necessary development and redevelopment plans for the older areas of the town.

Over the past two decades, the town has been focused on eliminating its Sanitary Sewer Overflows (SSOs) which occur due to insufficient downstream pipe capacity. In 2007, the NYSDEC levied an Order on Consent against the town to prepare a plan to eliminate its last four remaining SSOs. Since that action, the town has eliminated two of the four and is working toward the elimination of the last two. It is possible that this project, as well as operational changes at the plant and future capital improvement projects focusing on Inflow and Infiltration (I&I) removal, will mitigate the final two SSOs.

As the town has defined and identified the solutions to the SSO issue, several initiatives have been implemented to remove extraneous wet weather flows (I&I) within the public and private side of the sewer system. Over the summer of 2017, the town adopted a “time of sale” law and amended its I&I Mitigation Program. In addition, the NYS Department of Environment Conservation (NYSDEC) as part of its CMOM (Capacity Management Operations and Maintenance) plan review has required that the town study each mini-system in the Westside Interceptor sewer shed with the goal of developing future effective I&I mitigation projects.

The I&I mitigation program is mandated by the NYSDEC and all new projects that require NYSDEC approval of a sanitary sewer extension (with flow greater than 2,500 gallons/day) are required to mitigate the equivalent volume of sewage equal to four times the development’s peak flow. The town’s new program requires that the developer of the project pay a fee in the amount of $250/gpm for mitigation of I&I flow. The payment is deposited into a trust account for use on future capital projects targeting I&I removal.

The town will embark on its mini-system studies with the goal of systematically removing as much I&I as feasible. As a start, the town is planning on studying three smaller mini systems and will program capital work for each. It is anticipated that each mini-system will yield at least one if not two capital projects focused on I&I work.

Given the above, and the considerable redevelopment opportunities that are forecasted in the Amherst Opportunity Zone located within the West Side Interceptor sewer shed, it is assumed that a methodical approach to I&I removal alone will not yield the capacities necessary in the West Side Interceptor in a time frame amenable to the Boulevard Central District redevelopment.

PROJECT DESCRIPTION:

The project includes design and construction of improvements to the sanitary sewer infrastructure in the Boulevard Central District, from around the Boulevard Mall from Sweet Home Road & the I-290 to Sweet Home Road & approx. N. Ellicott Creek Road, as well as the area from the Boulevard Mall north toward Ridge Lea Road via N. Bailey Avenue. Once complete, the sanitary sewer improvements will address the lack of capacity within the existing sanitary sewer network in this section of Town and support the future development potential of the Boulevard Mall site into a new walkable, mixed-use, mixed-income, transit-oriented place in Amherst with a “town center” feel.

The improvements include construction of a new 15 MGD pump station with a connection to the existing West Side Interceptor. The pump station will be located within the interceptor easement area near Rensch Road. 11,400 linear feet of

Attachment: MPR S-4 Boulevard Central District Sanitary Sewer Improvements (RES-2024-338 : Boulevard Central District Sanitary Sewer

24-inch force main will be constructed from the pump station at Rensch Road to the Peanut Line interceptor. Also included is the construction of 5,240 linear feet of 18" sanitary sewer from Maple Road to the Ridge Lea Road sanitary sewer trunk line via N. Bailey Avenue.

The proposed project described herein will be constructed during 2024-2026 at a cost not to exceed $42,000,000. A New York State Empire State Development grant of $31,000,000.00 has been obtained and will be allocated entirely towards design and construction of the project, with the remaining costs to be an $11,000,000.00 contribution by the Town of Amherst. The Town may have to issue bond anticipation notes in an amount not to exceed $10,000,000 to provide cash flow for the project. Such notes will be redeemed upon receipt of the grant and will not be part of the project's long-term financing.

FINANCIAL/TAXATION SUMMARY:

Financial Summary

Engineering Design	$2,945,000.00
Construction	$39,000,000.00
Legal & Administration	$55,000.00
Total Cost	$42,000,000.00
Empire State Development Grant Funds	($31,000,000.00)
Long-Term Project Financing	$11,000,000.00[1]
Additional Short-Term Project Financing for Cash flow	*$10,000,000.00*[2]
Total amount authorized to be bonded	$21,000,000.00

[1] Town's portion of the project
[2] If necessary. To be reimbursed with grant proceeds

Proceeds from Boulevard Central District Mitigation Fees may be used to assist in payment of debt.

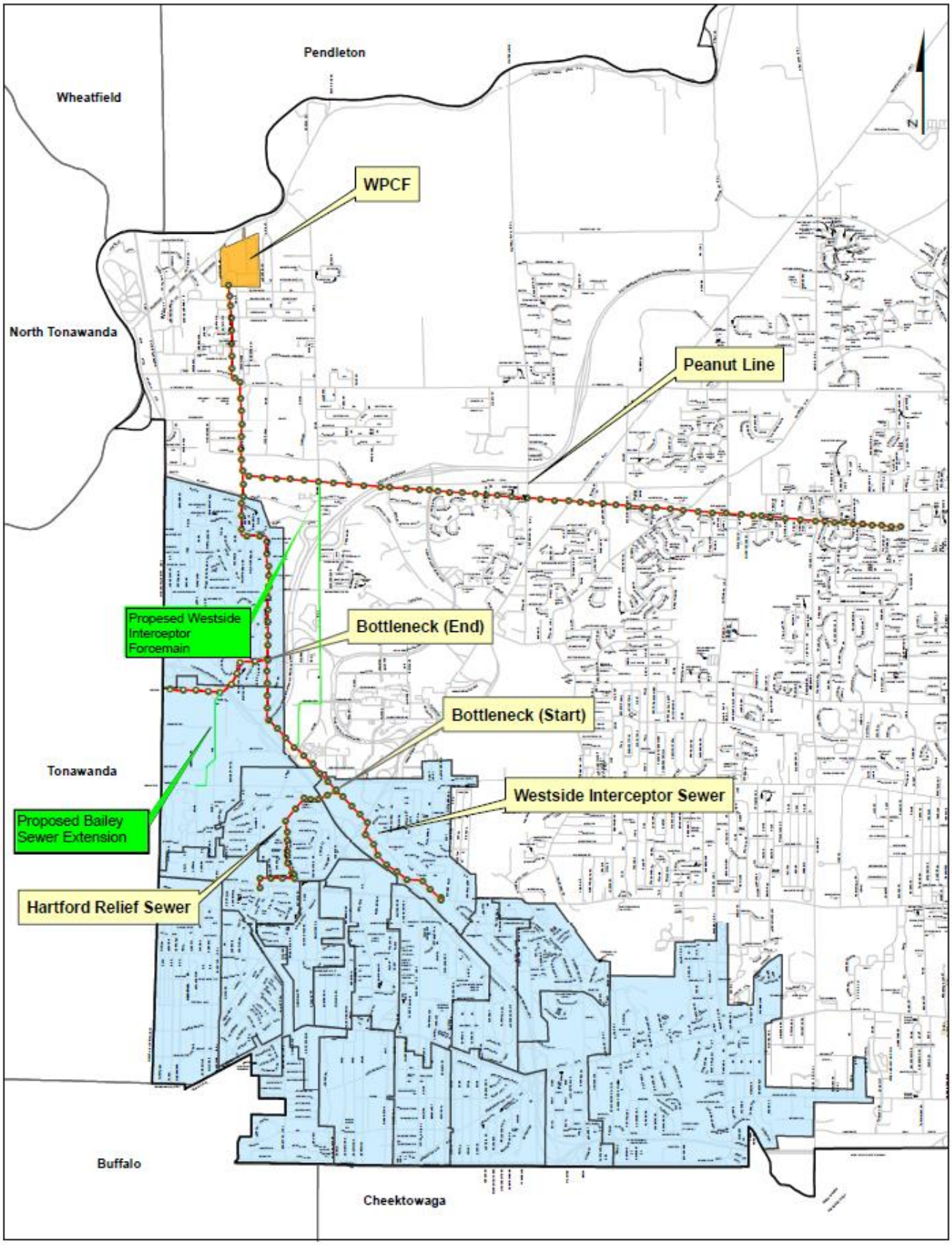
Taxation Summary:

Long-Term Bond Request	$11,000,000.00 (Sewer District)
Bond Term	30 Years
Annual Tax Impacts	$0.0314 per $1,000 AV at 100% equalization
Typical Property Impacts	$9.4086 per $300,000 AV at 100% equalization
*Short-Term Bond Request**	*$10,000,000.00 (Sewer District)*
Bond Term	*2-3 Years*
Annual Tax Impacts	*$0.0197 per $1,000 AV at 100% equalization*
Typical Property Impacts	*$5.9161 per $300,000 AV at 100% equalization*

**Short-term borrowing is not anticipated until 2025. The least amount necessary for cash flow will be borrowed. Principal will be reimbursed through grant funds; only interest is considered in the taxation summary.*

Attachment: MPR S-4 Boulevard Central District Sanitary Sewer Improvements (RES-2024-338 : Boulevard Central District Sanitary Sewer

APPENDIX A



Attachment: MPR S-4 Boulevard Central District Sanitary Sewer Improvements (RES-2024-338 : Boulevard Central District Sanitary Sewer

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

DRAFT SEQR
NEGATIVE DECLARATION

NOTICE OF DETERMINATION OF NON-SIGNIFICANCE

Lead Agency: Town of Amherst
Town Board

Project: West Side Interceptor
Pump Station /Forcemain
2024 - 2029 C.I.P.
Project S-4

Address: 5583 Main Street
Williamsville, NY 14221
(716) 631-7051

Date:

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: West Side Interceptor Lift Station /Forcemain

SEQR Status: Unlisted action

Description of Action:

Construction of a new 15 MGD sanitary pump station with a connection to the existing West Side Interceptor sanitary sewer. The pump station will be located within an existing right of way area near Rensch Road. 11,400 linear feet of 24-inch sanitary force main will be constructed from the pump station at Rensch Road within existing road right of ways along Rensch Road and Sweet Home Road to the Town's Peanut Line sanitary sewer interceptor.

Location: Southern terminus of Rensch Road to Sweet Home Road, continuing northerly to Ellicott Creek, Town of Amherst, Erie County, New York

Petitioner: Town of Amherst , c/o Amherst Engineering Department

Attachment: MPR S-4 Boulevard Central District Sanitary Sewer Improvements (RES-2024-338 : Boulevard Central District Sanitary Sewer

Reasons Supporting This Determination

Based on information submitted by the applicant, including a Map, Plan and Report, a preliminary staff analysis was undertaken. Compared to the criteria listed in Section 617.7, all indications are that the proposed project will not have a significant impact on the environment, as follows:

1. 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 proposed pump station provides for carbon air filtration to mitigate for potential odor releases during operation. The project area does contain floodplain, wetland areas and a protected stream (Ellicott Creek). The project will be contained to the developed road right of ways. Any work within 50 feet of Ellicott Creek to construct a pipe Bridge will be done with a protection of waters permit issued by NYSDEC. All protective measures will be employed during construction to minimize soil erosion and sedimentation consistent with the NYSDEC requirements.

2. The project will not result in the removal or destruction of vegetation or fauna; or in significant adverse impacts to fish or wildlife species, habitats or other natural resources. All disturbances will occur within the developed street right of ways. Work done adjacent to Ellicott Creek to construct a pipe bridge will be done in coordination with NYSDEC to identify any significant wildlife species before any authorized disturbance.

3. The project is not expected to create any material conflict with the Town Comprehensive Plan or the regulations of the Town Zoning Ordinance. The project is consistent with Section 7.2 of the Comprehensive Plan, which has an objective of maintaining and upgrading existing sanitary sewer infrastructure and elimination sanitary sewer overflows, which the project will achieve by providing necessary sanitary downstream sewer capacity in the west side of Town during wet weather conditions.

4. The project is within an area identified by the State as potentially containing significant cultural or archeological resources, however the project will occur within previously disturbed areas currently improved with roadways. The project will be done in coordination with NYSOPRHP before any areas which were not previously disturbed are impacted.

5. The project will not impair the character or quality of important aesthetic resources or of existing community or neighborhood character. The project is within a Local Waterfront Revitalization Program (LWRP). A required consistency review was performed by the

Attachment: MPR S-4 Boulevard Central District Sanitary Sewer Improvements (RES-2024-338 : Boulevard Central District Sanitary Sewer

Town of Amherst Planning Department and the project does not conflict with the LWRP policy standards.

6. The proposed project will cause a change in the use of electrical energy. The new pump station will utilize electricity, however the pumps will only be operational during wet weather conditions when additional sanitary sewer capacity is needed.

7. The proposed project is not anticipated to create any hazard to human health. Any noise generated by the sewage pumps will be 40 feet below grade and within a concrete chamber. Odors from the pump station will mitigated with carbon filtration and after wet weather use, the pump station chamber will be washed down with a wet interior sprinkler system.

8. The proposed project will not cause a change in land use. The project will however, meet future upstream capacity needs of anticipated development within the Town's Boulevard Central District opportunity zone.

9. The project will not increase the number of people using the site over its current level of use as a road right of way.

10. The project will not create a material demand for other actions resulting in a negative impact or consequence.

_____ _____
Signature & title of preparer date

_____ _____
Brian J. Kulpa, Supervisor date

DU/ac
X:\Special_Projects\SEQR_Engineering & Other TOA\Type_I_Unlisted__Other_Actions (PJ-2015-001A)\Neg Dec_ Evergreen Landing Street Lighting_020722_H16.docx
cc: Amherst Engineering Department
ECDEP
NYSDEC

Attachment: MPR S-4 Boulevard Central District Sanitary Sewer Improvements (RES-2024-338 : Boulevard Central District Sanitary Sewer

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 March 11, 2024

TO: Vaishali Reberholt, P.E., Assistant Municipal Engineer
Engineering Department

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

RE: SEQR Determination
N. Bailey Sanitary Sewer Extension
2023-2028 C.I.P. Project – Part of S-4

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)\S-4- N Bailey Saniatry Sewer Extension_03_11_2024.docx

cc:
Martin A. Polowy, Esq., Town Attorney
Daniel Howard, Planning Director

Attachment: MPR S-4 Boulevard Central District Sanitary Sewer Improvements (RES-2024-338 : Boulevard Central District Sanitary Sewer

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Town Attorney
Initiated by: **Martin A. Polowy**
Co-Sponsored by:

DOC ID: 28920 A **RESOLUTION 2024-339** **ADOPTED**

Extension of Consolidated Lighting District - Miller's Crossing

AGENDA ITEM : APRIL 29th, 2024

TO: **Town Board**

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

DATE: **April 24, 2024**

RE: **Lighting District Extension:**
In the Matter of the Extension of the Town of Amherst Consolidated Lighting District to Miller's Crossing Subdivision and Improvements In Connection Therewith

The above matter is scheduled for a Public Hearing on April 29, 2024 at 7:00 p.m. In this regard, In this regard, kindly adopt a resolution (1) Adopting the attached SEQR determination and draft SEQR Negative Declaration Notice of Determination of Non-Significance issued by the Town of Amherst Planning Department and authorize the Supervisor to execute the same **prior to the Public Hearing being deemed closed**; and (2) Adopting the attached Certified Resolution and Order subject to a thirty-day permissive referendum period **once the Public Hearing has been deemed closed**.

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

Thank you.

MAP:nmb
Attachments
c: Tim Koller, Deputy Town Clerk (*w/attachments)* **(Agenda Item : April 29, 2024)**
Daryl C. Bramer, Comptroller (*w/attachments)*
Lynda Juul, Director of Finance (*w/attachments)*
Jessica Boudreau, PE, Project Manager
Steve Floss, Highway Superintendent (*w/attachments)*
Kurt Stanley, Deputy Highway Superintendent (*w/attachments)*
Al Spoth, General Crew Chief - Sign/Signal/Streetlighting (*w/attachments)*

4/29/2024
A motion to open the public hearing was made by Supervisor Kulpa, seconded by Councilmember Berger and unanimously approved 4-0. The public hearing was opened at 8:07 PM.

Jessica Boudreau, Project Manager, presented.

The following residents spoke:
Chris Drongosky, Youngs Rd
Karen Russell, 600 Casey Rd

A motion to approve the SEQR determination was made by Supervisor Kulpa, seconded by Councilmember Berger and unanimously approved 4-0.

There were no further speakers from the public, therefore Supervisor Kulpa moved to close the hearing, seconded by Councilmember Berger and unanimously approved 4-0. The public hearing was closed at 8:17 PM.

A motion to adopt was made by Supervisor Kulpa, seconded by Councilmember Berger and unanimously approved 4-0.

FINANCIAL IMPACT:

As detailed in attached MPR.

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

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 April 1, 2024

TO: Nicole Burroughs, NYSCP, Senior Paralegal
Attorney's Office

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

RE: SEQR Determination
Lighting District Extensions for Millers Crossing and Harding Road Realty Subdivisions

Please be advised that the attached negative SEQR declarations have been issued for the subject approved realty subdivisions, both of which required the extension of a lighting district as part of the resolutions of subdivision approval. 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)\Lighting District Extensions_Millers Crossing and Harding Road.docx

cc:
Martin A. Polowy, Esq., Town Attorney
Daniel Howard, Planning Director

Attachment: Lighting District Extensions_Millers Crossing and Harding Road.SEQR (RES-2024-339 : Extension of Consolidated Lighting

Amherst

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

Brian J. Kulpa
Supervisor
Daniel C. Howard, AICP
Planning Director
Ellen M. Kost, AICP
Assistant Planning Director

SEQR
Negative Declaration

MAY23'19 PM 4:24 RCVD

NOTICE OF DETERMINATION OF NON-SIGNIFICANCE

Lead Agency:	Town of Amherst Planning Board	**Project:**	SUB-2018-02PP
Address:	5583 Main Street Williamsville, NY 14221 (716) 631-7051	**Date:**	May 16, 2019

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 I action

Description of Action: Proposal to subdivide 56.3± acres of land into 85 single-family sublots which range in size from 8,450± to 264,767± sq. ft. The subdivision will connect to New Road and Autumn Meadows Lane via public roads, one portion of which will terminate in a cul-de-sac; a private loop road off the public road is also proposed. Four stormwater drainage areas are shown in the central portion of the project. Conservation areas are also labeled at the rear of several parcels, corresponding to existing wetlands. The development is proposed to impact 2.9± acres of federal jurisdictional wetlands including a crossing of Town ditch 26B, and 0.14± acre of State wetland buffer area. A section of ditch 26B is proposed to be re-aligned. Work will include the site improvements not specifically stated above, including, stormwater, utilities, grading, lighting, paving, and landscaping.

Location: 284 New Road, Amherst, Erie County

Petitioner: Natale Building Corporation

Attachment: Lighting District Extensions_Millers Crossing and Harding Road.SEQR (RES-2024-339 : Extension of Consolidated Lighting

MAY23'19 PM 4:24 RCVD

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 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 Engineering Department on April 25, 2019 reviewed the Grading, Drainage and Utility Plans; Engineer's Report; and Erosion Control Plan submitted on April 15, 2019 and Geotechnical Report prepared by Ray M. Teeter, PE submitted at the rezoning stage (April 17, 2017).

   The Stormwater Pollution Prevention Plan (SWPPP) was submitted on April 15, 2019. Any revisions/improvements to that document will be made prior to Preliminary Plat approval. Based on its review of these documents, the Department has determined that the project has or will have met all applicable requirements prior to Preliminary Plat approval and has no objection to issuance of a Negative Declaration.

2. 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.

3. The project is not expected to create any material conflict with the Town Comprehensive Plan. The Building Department will determine that the subject project has or will have met all building code regulations prior to Preliminary Plat approval.

4. The site is not within an area identified by the State as potentially containing significant cultural or archeological resources. No archaeological or historic resources listed in or eligible for the NYS and National Registers of Historic Places will be impacted by this project.

5. The action will not impair the character or quality of important aesthetic resources or of existing community or neighborhood character. The subject site is within the Residential District Three (R-3) zoning district and is adjacent to single-family residential uses to the north, east and south. Therefore, the project is consistent with surrounding land use.

6. The proposed subject development will include construction of 85 single-family homes 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.

Attachment: Lighting District Extensions_Millers Crossing and Harding Road.SEQR (RES-2024-339 : Extension of Consolidated Lighting

MAY23'19 PM 4:24 RCVD

8. The project will change the land use at this location from its current state as vacant land. The proposed subdivision will be consistent with the R-3 zoning district and with the scale of surrounding land uses.

9. The function of the proposed 85-lot single-family subdivision will increase the number of people using the site over its previous level of use. All road and utility infrastructure is or will be in place to handle the anticipated increase.

10. Review of the Traffic Impact Study (TIS) prepared by Greenman-Pedersen, Inc., submitted to the Planning Department on April 15, 2019 and reviewed by the Town Traffic/Safety Board on May 9, 2019. That review identified the need for an internal sidewalk plan, a New Road sidewalk plan from the subdivision to North French Road, and a revision of traffic count data in the TIS. These items will be fully addressed prior to Preliminary Plat approval. 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 including, in addition to those mentioned above, Highway on April 24, 2019, Assessor on April 18, 2019, Plumbing Division on May 2, 2019, and Right-of-Way Agent on May 14, 2019. These reviews did not identify any potential significant adverse environmental issues and indicated 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 Giuliani; Seconded by Herberger; Ayes – 6; Noes – 0; Abstain – 1 (Penberthy).

Ellen Mlost, Asst. Planning Director 5/22/19
signature & title of preparer Date

Robert J. Gilmour, Planning Board Chair 5-23-2019
Date

EK/ac
X:\Current_Planning\Files\Subdivisions\SUB-2018\SUB-2018-02_(284_New_Rd)_2018\SUB-2018-02PP\Blurb (SEQR)_051619.doc
cc: Amherst Town Clerk
Amherst Building Department
ECDEP
NYSDEC (type 1's)
NYSDOT (if on state hwy.)
Angelo Natale, Natale Building Corp., 9159 Main Street, Clarence, NY 14031
Ken Zollitsch, Greenman-Pedersen, Inc., 4950 Genesee Street, Suite 100, Buffalo, NY 14225

Attachment: Lighting District Extensions_Millers Crossing and Harding Road.SEQR (RES-2024-339 : Extension of Consolidated Lighting

Amherst

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

Brian J. Kulpa
Supervisor
Daniel C. Howard,
Planning Direct
Daniel J. Ulatowski,
Assistant Planning D

SEQR
Negative Declaration

'22 OCT 28 AM9:0

NOTICE OF DETERMINATION OF NON-SIGNIFICANCE

Lead Agency:	Town of Amherst Planning Board	**Project:**	SUB-2022-01PP
Address:	5583 Main Street Williamsville, NY 14221 (716) 631-7051	**Date:**	October 20, 2022

This notice is issued pursuant to Chapter 104 of the Town Code and Part 617, 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: Preliminary Plat Review

SEQR Status: Unlisted Action

Description of Action: Subdivision of 1.44± acres into 8 lots in order to allow construction of eight single-family residences. Proposed lots are along existing public streets (Harding Road and McKinley Avenue). Subdivision is comprised of 6 internal lots being a minimum of 50 feet in width by 132 feet in depth, and 2 corner lots being 78± feet in width and 132 feet in depth. Work will include the site improvements not specifically stated above, including, stormwater, water and sewer utilities, grading, lighting and sidewalks.

Location: 468 Harding Road, Amherst, Erie County

Petitioner: Harding Road, LLC

Attachment: Lighting District Extensions_Millers Crossing and Harding Road.SEQR (RES-2024-339 : Extension of Consolidated Lighting

'22 OCT 28 AM9:05

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 subdivision 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 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 creation of eight single family lots is not anticipated to significantly increase potential noise impacts, as noise impact is dependent on occupant behavior and not on the number of homes. The net increase of eight single family dwellings will not significantly increase the potential impact from solid waste production town-wide where there are an estimated 50,842 households. The Engineering Department on July 19, 2022 reviewed the Grading, Drainage and Utility Plans, Engineer's Report and Erosion Control Plan submitted on August 22, 2022, and Geotechnical Report prepared by Ray M. Teeter, PE. The Stormwater Pollution Prevention Plan (SWPPP) submitted on July 13, 2022 was also reviewed. Based on its review of these documents, the Department has determined that the project has or will have met all applicable requirements. Due to the depth of bedrock, should blasting be necessary for the installation of building foundations the requirements of §78 of Town Code shall be adhered to.

2. 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. This determination is based on review of the NYSDEC Environmental Resource Mapper, which shows the site does not contain any significant natural communities, or habitat for rare, threatened or endangered plants or animal species. This determination is also based on the lack of significant existing natural vegetation. Currently, the predominant vegetative cover on the site is landscaped lawn, with approximately 12 trees. The Planning Department reviewed a Preliminary Plat Plan submitted on August 22, 2022 and determined in their letter dated September 6, 2022 that it meets or exceeds Zoning Ordinance requirements for greenspace. The Preliminary Plat Plan has or will have met all Zoning Ordinance and Town requirements for lot coverage on a single family lot.

3. The project is not expected to create a material conflict with the Town Comprehensive Plan. The resulting infill development will be consistent in use and character with the surrounding single family residential neighborhood. The Building Department has reviewed the application documents, along with the Geotechnical Report submitted on July 13, 2022 and determined in their review of July 18, 2022 that the subject project has or will have met all Zoning Ordinance regulations.

4. The project is within an area identified by the State as having potential archaeological or historical significance. In 2005, a Stage 1 A/B/ Cultural Resource Investigation was conducted by Robert Dean, Heritage Preservation & Interpretation Inc. for subject property.

Attachment: Lighting District Extensions_Millers Crossing and Harding Road.SEQR (RES-2024-339 : Extension of Consolidated Lighting

'22 OCT 28 AM9:0

The report summary concludes that "*There were no cultural resources identified as a result of this investigation.*". The NYS Office of Parks, Recreation and Historic Preservation has reviewed the project and, as stated in their letter dated August 23, 2022 that: "*...no properties, including archaeological and/or historic resources, listed or eligible for the New York State and National Registers of Historic Places will be impacted by this project*".

5. The project will not impair the character or quality of important aesthetic resources or of existing community or neighborhood character because the proposed detached single family residences are consistent with the current TR-3 zoning, and because the infill development is limited to single family detached dwellings, consistent with the existing surrounding single family land use to the north, west and south. Therefore, the project is consistent with surrounding land use.

6. The proposed development includes eight single family dwellings, which will increase energy use over the current vacant condition. However, new home construction is required to meet the NYS Energy Code for new construction and therefore, is not anticipated to cause a significant adverse impact related to the quantity or type of energy.

7. The project will not create any hazard to human health. A search of NYSDEC data bases (Spill Incidents Database, Remedial Site Database, Bulk Storage Database) did not result in evidence of any known contamination concerns, and therefore, the proposed subdivision will not create any hazard to human health. The Fire Chief's Association on September 17, 2022, reviewed the project and has no objection to the approval of the subdivision, as all requirements of this agency have or will have been met.

8. The project will result in a change in use from its current vacant state. However, the preliminary plat will not cause a substantial change in the use, or intensity of use to agricultural, open space or recreational resources, or in its capacity to support those uses, as the current land use is not agricultural, or publically-owned open space, or publically-owned recreation resources. Based on inter-departmental reviews, the existing water, sewer, storm water and street infrastructure have sufficient capacity to serve the creation of eight single family residential lots, which will be consistent with the scale of surrounding land uses.

9. The function of the proposed eight-lot subdivision will not significantly increase the number of people using the site over the level of use over that anticipated in the Bicentennial Comprehensive Plan.

10. Review by the Town Traffic/Safety Board dated September 8, 2022, and NYSDOT dated April 29, 2022 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 including, in addition to those mentioned above, Highway on August 10, 2022, Assessor on July 19, 2022, Plumbing Division on September 1, 2022, and Right-of-Way Agent on September 2, 2022. These reviews did not identify any potential significant adverse environmental issues and indicated that the proposal will not have a significant damaging impact on the environment.

Attachment: Lighting District Extensions_Millers Crossing and Harding Road.SEQR (RES-2024-339 : Extension of Consolidated Lighting

'22 OCT 28 AM9:01

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: Raffaele Ayes 5; Noes 1 (Penberthy); Absent (Gill)

Gary Palumbo, Associate Planner — 10.26.2022
signature & title of preparer — Date

Robert J. Gilmour, Planning Board Chair — 10-28-2022
Date

GP/bf
X:\CURRENT_PLANNING\FILES\SUBDIVISIONS\SUB-2022\SUB-2022-01_(468_HARDING_RD)_2022\SUB-2022-01PP_(468_HARDING_RD)_2022\SUB-2022-01PP_NEG DEC_102022.DOC
cc: Commissioner of Building
Town Engineer
Highway Superintendent
Fire Chiefs Council
ECDEP
NYSDOT
Rami Herzellah, Camina Wood Design, 487 Main Street, Suite 500, Buffalo, NY 14203
Jeffrey D. Palumbo, Block, Longo LaMarca & Brzezinski, 9276 Main St., Ste. 3, Clarence, NY 14031

Attachment: Lighting District Extensions_Millers Crossing and Harding Road.SEQR (RES-2024-339 : Extension of Consolidated Lighting

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 29th day of April, 2024.

PRESENT:

Hon. Brian J. Kulpa, Supervisor
Shawn Lavin, Deputy Supervisor/Councilman
Jacqualine Berger, Councilwoman
Angela Marinucci, Councilwoman
Michael R. Szukala, Councilman

In the Matter

of the

Extension of the Town of Amherst Consolidated Lighting District to Miller's Crossing Subdivision and improvements in connection therewith

Offered by: _____

Seconded By: _____

RESOLUTION AND ORDER

WHEREAS, the Town Board of the Town of Amherst (herein called the "Town"), in the County of Erie, New York, on behalf of Consolidated Lighting District (herein referred to as the "District"), has caused the Town to prepare a map, plan and report for the proposed extension of the Town's Consolidated Lighting District, pursuant to Article 12-A of the Town Law, which shall consist of the installation of approximately 25 LED Street Lights (the "Project") to be installed by the developer, Natale Building Corp. (the "Developer") and turned over to the Town

Attachment: CertROAfterPH (RES-2024-339 : Extension of Consolidated Lighting District - Miller's Crossing Subdivision)

following the completion of the Public Improvement Permit (PIP) process in the Miller's Crossing Subdivision; and

WHEREAS, the Town Board adopted an Order Calling for a Public Hearing describing in general terms the Project, specifying the estimated cost thereof, the boundaries of the proposed extension, that no capital expenses nor borrowings would be necessary, the fact that the map, plan and report describing the same is on file in the Town Clerk's Office for public inspection, and stating the Town Board would meet to hear all persons interested in said proposed extension on April 29, 2024 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-A of the Town Law; and

WHEREAS, such public hearing was duly held by the Town Board on the 29th day of April, 2024 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 the proposed extension; and

WHEREAS, the Town Board, as lead agency, has reviewed the Short Form Environmental Assessment Form and has determined that the proposed extension is an "unlisted action", will not have a significant effect on the environment and has issued a negative declaration in connection therewith 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;

Attachment: CertROAfterPH (RES-2024-339 : Extension of Consolidated Lighting District - Miller's Crossing Subdivision)

WHEREAS, it is the intention of the Developer to construct the entirety of the proposed extension and Project solely at its own expense; and

WHEREAS, permission of the State Comptroller for the proposed extension is not required because the cost for the proposed extension and Project is not to be financed by bonds, notes or other evidence of indebtedness;

Now, therefore, be it

ORDERED, that the notice of public hearing was published and posted as required by law; and be it

ORDERED, that all property and property owners within the proposed extension are benefitted thereby; and be it

ORDERED, that all the property and property owners benefitted are included within the limits of the proposed extension; and be it

ORDERED, that it is in the public interest to extend said District as set forth in the accompanying map, plan and report; and it is

FURTHER ORDERED, that the Project and the proposed extension is an "unlisted action", will not have a significant effect on the environment and the Town has issued a negative declaration in connection therewith 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; and it is

FURTHER RESOLVED AND ORDERED, that all expenses attendant upon the Project and the proposed extension shall be the responsibility of the Developer; and it is

FURTHER RESOLVED, DETERMINED AND ORDERED, that the proposed extension of the District be approved in accordance with the boundaries and descriptions set forth

Attachment: CertROAfterPH (RES-2024-339 : Extension of Consolidated Lighting District - Miller's Crossing Subdivision)

in the map, plan and report prepared in connection therewith, subject to the permissive referendum waiting period in the manner provided in Town Law Article 7 for this Resolution and Order; and be it

FURTHER RESOLVED, that this Resolution and Order is subject to permissive referendum in accordance with the provisions of Town Law Articles 7 and 12-A and the Town Board authorizes and directs the Town Clerk to file, post and publish such Notice of this Resolution and Order as may be required by law and if no such petition is filed within 30 days after adoption of this Resolution and Order to file a Certificate to that effect in the Office of the Erie County Clerk.

DATED: April 29, 2024

(SEAL)

TOWN BOARD OF THE TOWN OF AMHERST

Attachment: CertROAfterPH (RES-2024-339 : Extension of Consolidated Lighting District - Miller's Crossing Subdivision)

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

Hon. Brian J. Kulpa, Supervisor	Voting _____
Shawn Lavin, Deputy Supervisor/Councilman	Voting _____
Jacqualine Berger, Councilwoman	Voting _____
Angela Marinucci, Councilwoman	Voting _____
Michael R. Szukala, Councilman	Voting _____

The Final Order was declared adopted.

Attachment: CertROAfterPH (RES-2024-339 : Extension of Consolidated Lighting District - Miller's Crossing Subdivision)

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 April 29, 2024, 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 ____ day of ____, 2024.

(SEAL)

_____
Town Clerk

Attachment: CertROAfterPH (RES-2024-339 : Extension of Consolidated Lighting District - Miller's Crossing Subdivision)

Town of Amherst, New York
Lighting District Extension
Map, Plan & Report

Miller's Crossing Subdivision
March 2024

Lighting to be installed by the developer, Natale Building Corp. and turned over to the Town of Amherst following the completion of the Public Improvement Permit (PIP) process.

Estimated number of streetlights:	25
Estimated number of parcels in district expansion:	55
Estimated Tax Implication at 62% equalization:	$0.656792 per $1000 AV (2024 Rate)
Estimated Tax Implication at 100% equalization:	$0.407211 per $1000 AV

Estimated Annual Cost for a $300,000 Property at 100% Equalization: $122.1633

See attached subdivision map for detailed parcel information.

Attachment: Miller's Crossing Streetlight MPR - March 2024 (RES-2024-339 : Extension of Consolidated Lighting District - Miller's Crossing

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

a) That the proposed facilities for water supply and sewage collection and/or treatment shall be installed in conformity with said plans.
b) That no lot of remaining land shall be subdivided without plans for such resubdivision being submitted to and approved by the Erie County Department of Health (ECDOH).
c) That the developer shall furnish each purchaser of a lot on which water supply and/or sewage treatment facilities were installed with a reproduction of the approved plans and an accurate as-built plan depicting all installed sanitary facilities.
d) That the developer shall furnish each purchaser of a lot on which there was no water supply and/or sewage treatment facilities installed with a reproduction of the approved plans and shall notify the purchaser of the necessity of installing such facilities in accordance with the approved plans.
e) That the sanitary facilities (i.e., individual water wells and sewage treatment systems) on these lots shall be inspected for compliance with the approved plans at the time of construction by a P.E., R.A., or exempt L.L.S. and written certification to that effect shall be submitted to the ECDOH and the Town of Amherst Building Code Enforcement Officer within 30 days and prior to occupancy.
f) That individual wells and sewage treatment systems shall no longer be constructed or used for household domestic purposes when public facilities become available. Connection to the public sewerage system is required within one year of the system(s) becoming available.
g) That plan approval is limited to 5 years and shall expire on December 22, 2025. Time extensions for plan approval may be granted by the ECDOH based upon development facts and the realty subdivision regulations in effect at that time. A new plan submission may be required to obtain a time extension.
h) That the approved plans must be filed with the Erie County Clerk prior to offering lots for sale within 90 days of the date of approval.

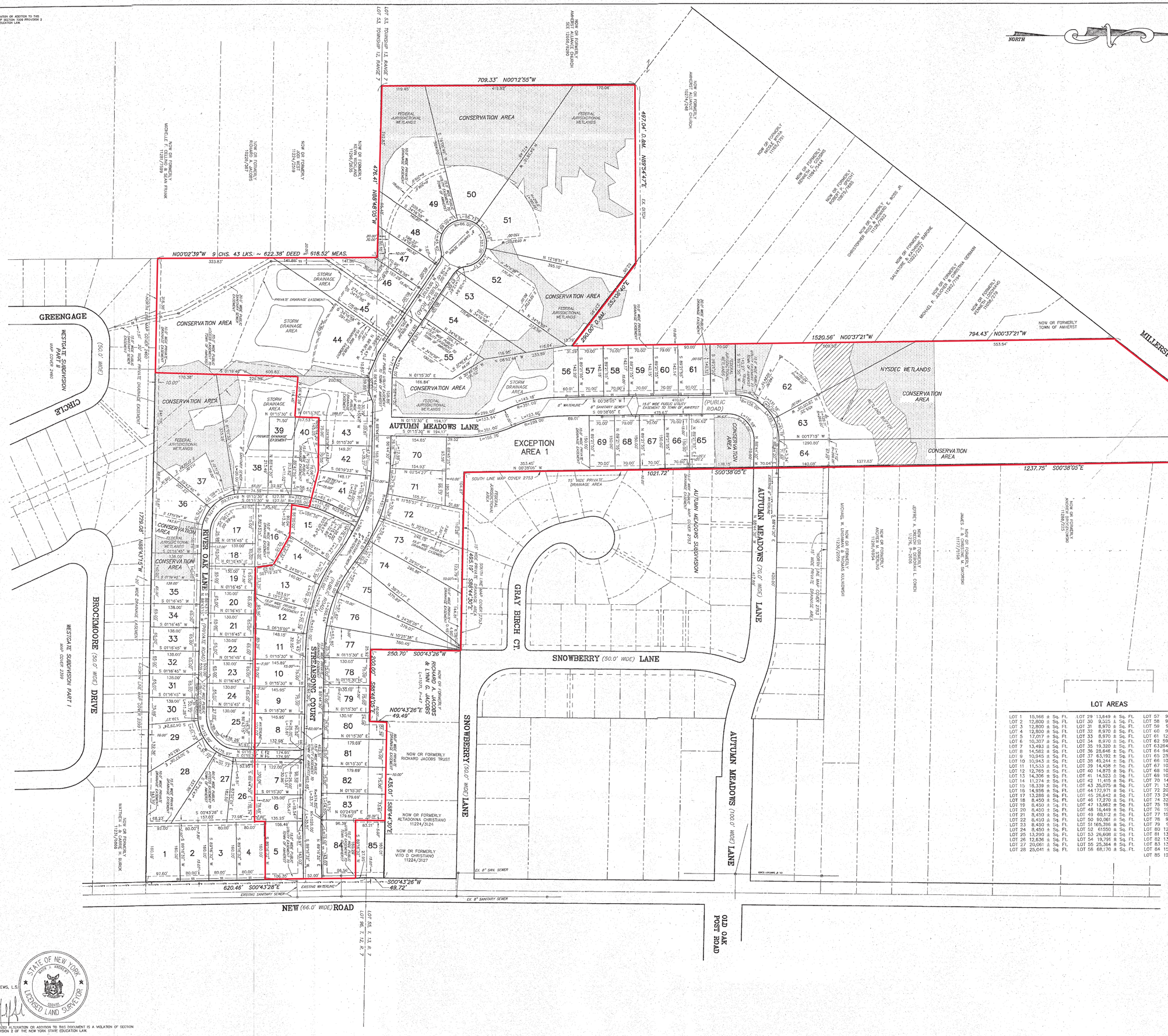
STATE OF NEW YORK * JOHN C. TOMANI * 090151 * LICENSED PROFESSIONAL ENGINEER

ERIE COUNTY DEPARTMENT OF HEALTH
Division of Environmental Health Services Buffalo, NY
This is to certify that the proposed arrangements for water supply and sewage disposal for
Miller's Crossing Subdivision
Subdivision in the (T) of Amherst, Erie County
were approved on December 22, 2020
Valid only if all construction conforms with all applicable State, County and local regulations.
John C. Tomani
John C. Tomani, PE Senior Public Health Engineer
Permit # IRUL-BWCMLT

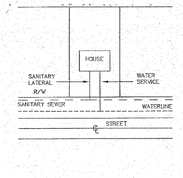
RESERVED FOR ERIE COUNTY DEPARTMENT OF FINANCE

NORTH

GRAPHIC SCALE
100 0 50 100 200 400
(IN FEET)
1 inch = 100 ft.



SANITARY SEWER FACILITIES, EXISTING AND PROPOSED, AND WATER SUPPLY FACILITIES, EXISTING AND PROPOSED, SHOWN ON THIS SUBDIVISION MAP ARE FOR THE PURPOSE OF COMPLIANCE WITH NEW YORK STATE HEALTH SUBDIVISION LAW. GPI ENGINEERING, LANDSCAPE ARCHITECTURE AND SURVEYING, LLP ASSUMES NO RESPONSIBILITY FOR THE ACCURACY OF SANITARY SEWER AND WATER FACILITIES SHOWN ON THIS MAP OR FOR THE APPROVAL, CONSTRUCTION OR ACCEPTANCE BY APPROPRIATE GOVERNMENT AGENCIES OF SAID FACILITIES.



NOTES:

ALL IMPROVEMENTS WILL BE INSTALLED UNDER TOWN PERMITS WITH ALL PLANS CONSISTENT WITH PRELIMINARY PLAT.

PUBLIC DRAINAGE EASEMENTS SHALL BE GRANTED TO THE TOWN OF AMHERST TO PROVIDE ACCESS TO STORM WATER FACILITIES. THESE EASEMENTS SHALL REMAIN FREE OF OBSTRUCTIONS.

PRIVATE DRAINAGE EASEMENTS SET FORTH ON THE SUBDIVISION MAP ARE FOR THE BENEFIT OF THE OWNERS OF PROPERTY WITHIN THE SUBDIVISION AND THE BENEFIT DERIVED FROM THESE EASEMENTS IS FOR THE PROPERTY ONLY AND THE TOWN OF AMHERST ASSUMES NO RESPONSIBILITY FOR THE MAINTENANCE THEREOF.

A MONUMENT TO BE SET

SEE SURVEY PREPARED BY GPI ENGINEERING, LANDSCAPE ARCHITECTURE & SURVEYING, LLP JOB NO. 2016127 DATED: MARCH 3, 2017

SUBDIVISION AREA: 56.30± Acres
EXCLUDING EXCEPTION

OWNERS CONSENT FOR FILING :

OWNER DATE 12-1-2020

APPROVED BY THE TOWN OF AMHERST PLANNING BOARD, ERIE COUNTY, NEW YORK :

CHAIRMAN DATE 1/28/21

FILED IN THE ERIE COUNTY CLERK'S OFFICE UNDER MAP COVER: 3828 DATE: 2/8/21

LOT AREAS

LOT 1	15,168 ± Sq. Ft.	LOT 29	13,649 ± Sq. Ft.	LOT 57	9,953 ± Sq. Ft.
LOT 2	12,800 ± Sq. Ft.	LOT 30	9,525 ± Sq. Ft.	LOT 58	9,952 ± Sq. Ft.
LOT 3	12,800 ± Sq. Ft.	LOT 31	8,970 ± Sq. Ft.	LOT 59	9,951 ± Sq. Ft.
LOT 4	12,800 ± Sq. Ft.	LOT 32	8,970 ± Sq. Ft.	LOT 60	9,950 ± Sq. Ft.
LOT 5	17,017 ± Sq. Ft.	LOT 33	8,970 ± Sq. Ft.	LOT 61	12,792 ± Sq. Ft.
LOT 6	10,307 ± Sq. Ft.	LOT 34	8,970 ± Sq. Ft.	LOT 62	59,585 ± Sq. Ft.
LOT 7	13,493 ± Sq. Ft.	LOT 35	19,320 ± Sq. Ft.	LOT 63	264,767 ± Sq. Ft.
LOT 8	14,582 ± Sq. Ft.	LOT 36	28,646 ± Sq. Ft.	LOT 64	94,934 ± Sq. Ft.
LOT 9	10,945 ± Sq. Ft.	LOT 37	63,192 ± Sq. Ft.	LOT 65	25,826 ± Sq. Ft.
LOT 10	10,963 ± Sq. Ft.	LOT 38	49,244 ± Sq. Ft.	LOT 66	10,500 ± Sq. Ft.
LOT 11	11,553 ± Sq. Ft.	LOT 39	14,458 ± Sq. Ft.	LOT 67	10,500 ± Sq. Ft.
LOT 12	12,765 ± Sq. Ft.	LOT 40	14,875 ± Sq. Ft.	LOT 68	10,500 ± Sq. Ft.
LOT 13	14,306 ± Sq. Ft.	LOT 41	14,523 ± Sq. Ft.	LOT 69	10,500 ± Sq. Ft.
LOT 14	11,274 ± Sq. Ft.	LOT 42	11,415 ± Sq. Ft.	LOT 70	14,132 ± Sq. Ft.
LOT 15	18,339 ± Sq. Ft.	LOT 43	35,075 ± Sq. Ft.	LOT 71	13,273 ± Sq. Ft.
LOT 16	14,956 ± Sq. Ft.	LOT 44	172,971 ± Sq. Ft.	LOT 72	20,336 ± Sq. Ft.
LOT 17	13,288 ± Sq. Ft.	LOT 45	25,642 ± Sq. Ft.	LOT 73	24,725 ± Sq. Ft.
LOT 18	8,450 ± Sq. Ft.	LOT 46	17,270 ± Sq. Ft.	LOT 74	32,058 ± Sq. Ft.
LOT 19	8,450 ± Sq. Ft.	LOT 47	13,662 ± Sq. Ft.	LOT 75	19,460 ± Sq. Ft.
LOT 20	8,450 ± Sq. Ft.	LOT 48	16,449 ± Sq. Ft.	LOT 76	19,471 ± Sq. Ft.
LOT 21	8,450 ± Sq. Ft.	LOT 49	69,112 ± Sq. Ft.	LOT 77	15,727 ± Sq. Ft.
LOT 22	8,450 ± Sq. Ft.	LOT 50	90,061 ± Sq. Ft.	LOT 78	9,755 ± Sq. Ft.
LOT 23	8,450 ± Sq. Ft.	LOT 51	165,396 ± Sq. Ft.	LOT 79	9,761 ± Sq. Ft.
LOT 24	8,450 ± Sq. Ft.	LOT 52	61,550 ± Sq. Ft.	LOT 80	12,257 ± Sq. Ft.
LOT 25	13,290 ± Sq. Ft.	LOT 53	26,608 ± Sq. Ft.	LOT 81	13,477 ± Sq. Ft.
LOT 26	12,636 ± Sq. Ft.	LOT 54	19,791 ± Sq. Ft.	LOT 82	13,477 ± Sq. Ft.
LOT 27	20,061 ± Sq. Ft.	LOT 55	25,364 ± Sq. Ft.	LOT 83	13,468 ± Sq. Ft.
LOT 28	25,041 ± Sq. Ft.	LOT 56	68,170 ± Sq. Ft.	LOT 84	15,568 ± Sq. Ft.
				LOT 85	12,863 ± Sq. Ft.

SUBDIVISION MAP OF

MILLER'S CROSSING

BEING PART OF LOT 53, TOWNSHIP 13, RANGE 7
BEING PART OF LOT 53 TOWNSHIP 12, RANGE 7
HOLLAND LAND SURVEY
TOWN OF AMHERST, ERIE COUNTY, NEW YORK

GPI ENGINEERING, LANDSCAPE ARCHITECTURE & SURVEYING, LLP
ENGINEERING • SURVEYING • LANDSCAPE ARCHITECTURE
4820 SENECA STREET, SUITE 300
BUFFALO, NEW YORK 14225
(716) 633-4646 FAX 633-4940

Job No. 2016127 Date: NOVEMBER 3, 2020

MARK J. ANDREWS, L.S.

STATE OF NEW YORK * MARK J. ANDREWS * 050455 * LICENSED LAND SURVEYOR

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

Attachment: Millers Crossing_Final Plat_Lighting District Extension_3-8-2024 (RES-2024-339 : Extension of Consolidated Lighting District - Miller's Crossing Subdivision)

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Town Attorney
Initiated by: **Martin A. Polowy**
Co-Sponsored by:

DOC ID: 28921 **RESOLUTION 2024-340** **ADOPTED**

Extension of Consolidated Lighting District - Harding Road Subdivision

AGENDA ITEM : APRIL 29th, 2024

TO: **Town Board**

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

DATE: **April 24, 2024**

RE: **Lighting District Extension:**
In the Matter of the Extension of the Town of Amherst Consolidated Lighting District to Harding Road Subdivision and Improvements In Connection Therewith

The above matter is scheduled for a Public Hearing on April 29, 2024 at 7:00 p.m. In this regard, In this regard, kindly adopt a resolution (1) adopting the attached SEQR determination and draft SEQR Negative Declaration Notice of Determination of Non-Significance issued by the Town of Amherst Planning Department and authorize the Supervisor to execute the same **prior to the Public Hearing being deemed closed**; and (2) Adopting the attached Certified Resolution and Order subject to a thirty-day permissive referendum period **once the Public Hearing has been deemed closed**.

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

Thank you.

MAP:nmb
Attachments
c: Tim Koller, Deputy Town Clerk (*w/attachments)*
(Agenda Item : April 29, 2024)
Daryl C. Bramer, Comptroller (*w/attachments)*
Lynda Juul, Director of Finance (*w/attachments)*
Jessica Boudreau, PE, Project Manager (*w/attachments)*
Steve Floss, Highway Superintendent (*w/attachments)*
Kurt Stanley, Deputy Highway Superintendent (*w/attachments)*
Al Spoth, General Crew Chief - Sign/Signal/Streetlighting (*w/attachments)*

4/29/2024
A motion to open the public hearing was made by Supervisor Kulpa, seconded by Councilmember Marinucci and unanimously approved 4-0. The public hearing was opened at

8:18 PM.

Jessica Boudreau, Project Manager, presented.

The following residents spoke:
Jina Gentry, 65 Bissell Dr
Bob Drdul, 92 Chateau Ter
Mahesh Sankaran, 95 Ruskin Rd

A motion to approve the SEQR determination was made by Supervisor Kulpa, seconded by Councilmember Berger and unanimously approved 4-0.

There were no further speakers from the public, therefore Supervisor Kulpa moved to close the hearing, seconded by Councilmember Berger and unanimously approved 4-0. The public hearing was closed at 8:26 PM.

A motion to adopt was made by Supervisor Kulpa, seconded by Councilmember Berger and unanimously approved 4-0.

FINANCIAL IMPACT:

As detailed in the attached MPR.

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

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 April 1, 2024

TO: Nicole Burroughs, NYSCP, Senior Paralegal
Attorney's Office

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

RE: SEQR Determination
Lighting District Extensions for Millers Crossing and Harding Road Realty Subdivisions

Please be advised that the attached negative SEQR declarations have been issued for the subject approved realty subdivisions, both of which required the extension of a lighting district as part of the resolutions of subdivision approval. 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)\Lighting District Extensions_Millers Crossing and Harding Road.docx

cc:
Martin A. Polowy, Esq., Town Attorney
Daniel Howard, Planning Director

Attachment: Lighting District Extensions_Millers Crossing and Harding Road.SEQR (RES-2024-340 : Extension of Consolidated Lighting

Amherst
Town of Amherst Planning Department
Erie County, New York

Brian J. Kulpa
Supervisor
Daniel C. Howard, AICP
Planning Director
Ellen M. Kost, AICP
Assistant Planning Director

SEQR
Negative Declaration

MAY23'19 PM 4:24 RCVD

NOTICE OF DETERMINATION OF NON-SIGNIFICANCE

Lead Agency:	Town of Amherst Planning Board	**Project:**	SUB-2018-02PP
Address:	5583 Main Street Williamsville, NY 14221 (716) 631-7051	**Date:**	May 16, 2019

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 I action

Description of Action: Proposal to subdivide 56.3± acres of land into 85 single-family sublots which range in size from 8,450± to 264,767± sq. ft. The subdivision will connect to New Road and Autumn Meadows Lane via public roads, one portion of which will terminate in a cul-de-sac; a private loop road off the public road is also proposed. Four stormwater drainage areas are shown in the central portion of the project. Conservation areas are also labeled at the rear of several parcels, corresponding to existing wetlands. The development is proposed to impact 2.9± acres of federal jurisdictional wetlands including a crossing of Town ditch 26B, and 0.14± acre of State wetland buffer area. A section of ditch 26B is proposed to be re-aligned. Work will include the site improvements not specifically stated above, including, stormwater, utilities, grading, lighting, paving, and landscaping.

Location: 284 New Road, Amherst, Erie County

Petitioner: Natale Building Corporation

Attachment: Lighting District Extensions_Millers Crossing and Harding Road.SEQR (RES-2024-340 : Extension of Consolidated Lighting

MAY23'19 PM 4:24 RCVD

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 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 Engineering Department on April 25, 2019 reviewed the Grading, Drainage and Utility Plans; Engineer's Report; and Erosion Control Plan submitted on April 15, 2019 and Geotechnical Report prepared by Ray M. Teeter, PE submitted at the rezoning stage (April 17, 2017).

   The Stormwater Pollution Prevention Plan (SWPPP) was submitted on April 15, 2019. Any revisions/improvements to that document will be made prior to Preliminary Plat approval. Based on its review of these documents, the Department has determined that the project has or will have met all applicable requirements prior to Preliminary Plat approval and has no objection to issuance of a Negative Declaration.

2. 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.

3. The project is not expected to create any material conflict with the Town Comprehensive Plan. The Building Department will determine that the subject project has or will have met all building code regulations prior to Preliminary Plat approval.

4. The site is not within an area identified by the State as potentially containing significant cultural or archeological resources. No archaeological or historic resources listed in or eligible for the NYS and National Registers of Historic Places will be impacted by this project.

5. The action will not impair the character or quality of important aesthetic resources or of existing community or neighborhood character. The subject site is within the Residential District Three (R-3) zoning district and is adjacent to single-family residential uses to the north, east and south. Therefore, the project is consistent with surrounding land use.

6. The proposed subject development will include construction of 85 single-family homes 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.

Attachment: Lighting District Extensions_Millers Crossing and Harding Road.SEQR (RES-2024-340 : Extension of Consolidated Lighting

MAY23'19 PM 4:24 RCVD

8. The project will change the land use at this location from its current state as vacant land. The proposed subdivision will be consistent with the R-3 zoning district and with the scale of surrounding land uses.

9. The function of the proposed 85-lot single-family subdivision will increase the number of people using the site over its previous level of use. All road and utility infrastructure is or will be in place to handle the anticipated increase.

10. Review of the Traffic Impact Study (TIS) prepared by Greenman-Pedersen, Inc., submitted to the Planning Department on April 15, 2019 and reviewed by the Town Traffic/Safety Board on May 9, 2019. That review identified the need for an internal sidewalk plan, a New Road sidewalk plan from the subdivision to North French Road, and a revision of traffic count data in the TIS. These items will be fully addressed prior to Preliminary Plat approval. 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 including, in addition to those mentioned above, Highway on April 24, 2019, Assessor on April 18, 2019, Plumbing Division on May 2, 2019, and Right-of-Way Agent on May 14, 2019. These reviews did not identify any potential significant adverse environmental issues and indicated 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 Giuliani; Seconded by Herberger; Ayes – 6; Noes – 0; Abstain – 1 (Penberthy).

Ellen Mlost, Asst. Planning Director 5/22/19
signature & title of preparer Date

Robert J. Gilmour, Planning Board Chair 5-23-2019
Date

EK/ac
X:\Current_Planning\Files\Subdivisions\SUB-2018\SUB-2018-02_(284_New_Rd)_2018\SUB-2018-02PP\Blurb (SEQR)_051619.doc
cc: Amherst Town Clerk
Amherst Building Department
ECDEP
NYSDEC (type 1's)
NYSDOT (if on state hwy.)
Angelo Natale, Natale Building Corp., 9159 Main Street, Clarence, NY 14031
Ken Zollitsch, Greenman-Pedersen, Inc., 4950 Genesee Street, Suite 100, Buffalo, NY 14225

Attachment: Lighting District Extensions_Millers Crossing and Harding Road.SEQR (RES-2024-340 : Extension of Consolidated Lighting

Amherst

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

Brian J. Kulpa
Supervisor
Daniel C. Howard,
Planning Direct
Daniel J. Ulatowski,
Assistant Planning D

SEQR
Negative Declaration

'22 OCT 28 AM9:0

NOTICE OF DETERMINATION OF NON-SIGNIFICANCE

Lead Agency:	Town of Amherst Planning Board	**Project:**	SUB-2022-01PP
Address:	5583 Main Street Williamsville, NY 14221 (716) 631-7051	**Date:**	October 20, 2022

This notice is issued pursuant to Chapter 104 of the Town Code and Part 617, 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: Preliminary Plat Review

SEQR Status: Unlisted Action

Description of Action: Subdivision of 1.44± acres into 8 lots in order to allow construction of eight single-family residences. Proposed lots are along existing public streets (Harding Road and McKinley Avenue). Subdivision is comprised of 6 internal lots being a minimum of 50 feet in width by 132 feet in depth, and 2 corner lots being 78± feet in width and 132 feet in depth. Work will include the site improvements not specifically stated above, including, stormwater, water and sewer utilities, grading, lighting and sidewalks.

Location: 468 Harding Road, Amherst, Erie County

Petitioner: Harding Road, LLC

Attachment: Lighting District Extensions_Millers Crossing and Harding Road.SEQR (RES-2024-340 : Extension of Consolidated Lighting

'22 OCT 28 AM9:05

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 subdivision 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 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 creation of eight single family lots is not anticipated to significantly increase potential noise impacts, as noise impact is dependent on occupant behavior and not on the number of homes. The net increase of eight single family dwellings will not significantly increase the potential impact from solid waste production town-wide where there are an estimated 50,842 households. The Engineering Department on July 19, 2022 reviewed the Grading, Drainage and Utility Plans, Engineer's Report and Erosion Control Plan submitted on August 22, 2022, and Geotechnical Report prepared by Ray M. Teeter, PE. The Stormwater Pollution Prevention Plan (SWPPP) submitted on July 13, 2022 was also reviewed. Based on its review of these documents, the Department has determined that the project has or will have met all applicable requirements. Due to the depth of bedrock, should blasting be necessary for the installation of building foundations the requirements of §78 of Town Code shall be adhered to.

2. 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. This determination is based on review of the NYSDEC Environmental Resource Mapper, which shows the site does not contain any significant natural communities, or habitat for rare, threatened or endangered plants or animal species. This determination is also based on the lack of significant existing natural vegetation. Currently, the predominant vegetative cover on the site is landscaped lawn, with approximately 12 trees. The Planning Department reviewed a Preliminary Plat Plan submitted on August 22, 2022 and determined in their letter dated September 6, 2022 that it meets or exceeds Zoning Ordinance requirements for greenspace. The Preliminary Plat Plan has or will have met all Zoning Ordinance and Town requirements for lot coverage on a single family lot.

3. The project is not expected to create a material conflict with the Town Comprehensive Plan. The resulting infill development will be consistent in use and character with the surrounding single family residential neighborhood. The Building Department has reviewed the application documents, along with the Geotechnical Report submitted on July 13, 2022 and determined in their review of July 18, 2022 that the subject project has or will have met all Zoning Ordinance regulations.

4. The project is within an area identified by the State as having potential archaeological or historical significance. In 2005, a Stage 1 A/B/ Cultural Resource Investigation was conducted by Robert Dean, Heritage Preservation & Interpretation Inc. for subject property.

Attachment: Lighting District Extensions_Millers Crossing and Harding Road.SEQR (RES-2024-340 : Extension of Consolidated Lighting

'22 OCT 28 AM9:0

The report summary concludes that "*There were no cultural resources identified as a result of this investigation.*". The NYS Office of Parks, Recreation and Historic Preservation has reviewed the project and, as stated in their letter dated August 23, 2022 that: "*...no properties, including archaeological and/or historic resources, listed or eligible for the New York State and National Registers of Historic Places will be impacted by this project*".

5. The project will not impair the character or quality of important aesthetic resources or of existing community or neighborhood character because the proposed detached single family residences are consistent with the current TR-3 zoning, and because the infill development is limited to single family detached dwellings, consistent with the existing surrounding single family land use to the north, west and south. Therefore, the project is consistent with surrounding land use.

6. The proposed development includes eight single family dwellings, which will increase energy use over the current vacant condition. However, new home construction is required to meet the NYS Energy Code for new construction and therefore, is not anticipated to cause a significant adverse impact related to the quantity or type of energy.

7. The project will not create any hazard to human health. A search of NYSDEC data bases (Spill Incidents Database, Remedial Site Database, Bulk Storage Database) did not result in evidence of any known contamination concerns, and therefore, the proposed subdivision will not create any hazard to human health. The Fire Chief's Association on September 17, 2022, reviewed the project and has no objection to the approval of the subdivision, as all requirements of this agency have or will have been met.

8. The project will result in a change in use from its current vacant state. However, the preliminary plat will not cause a substantial change in the use, or intensity of use to agricultural, open space or recreational resources, or in its capacity to support those uses, as the current land use is not agricultural, or publically-owned open space, or publically-owned recreation resources. Based on inter-departmental reviews, the existing water, sewer, storm water and street infrastructure have sufficient capacity to serve the creation of eight single family residential lots, which will be consistent with the scale of surrounding land uses.

9. The function of the proposed eight-lot subdivision will not significantly increase the number of people using the site over the level of use over that anticipated in the Bicentennial Comprehensive Plan.

10. Review by the Town Traffic/Safety Board dated September 8, 2022, and NYSDOT dated April 29, 2022 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 including, in addition to those mentioned above, Highway on August 10, 2022, Assessor on July 19, 2022, Plumbing Division on September 1, 2022, and Right-of-Way Agent on September 2, 2022. These reviews did not identify any potential significant adverse environmental issues and indicated that the proposal will not have a significant damaging impact on the environment.

Attachment: Lighting District Extensions_Millers Crossing and Harding Road.SEQR (RES-2024-340 : Extension of Consolidated Lighting

'22 OCT 28 AM9:01

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: Raffaele Ayes 5; Noes 1 (Penberthy); Absent (Gill)

Gary Palumbo, Associate Planner — 10.26.2022
signature & title of preparer — Date

Robert J. Gilmour, Planning Board Chair — 10-28-2022
Date

GP/bf
X:\CURRENT_PLANNING\FILES\SUBDIVISIONS\SUB-2022\SUB-2022-01_(468_HARDING_RD)_2022\SUB-2022-01PP_(468_HARDING_RD)_2022\SUB-2022-01PP_NEG DEC_102022.DOC
cc: Commissioner of Building
Town Engineer
Highway Superintendent
Fire Chiefs Council
ECDEP
NYSDOT
Rami Herzellah, Camina Wood Design, 487 Main Street, Suite 500, Buffalo, NY 14203
Jeffrey D. Palumbo, Block, Longo LaMarca & Brzezinski, 9276 Main St., Ste. 3, Clarence, NY 14031

Attachment: Lighting District Extensions_Millers Crossing and Harding Road.SEQR (RES-2024-340 : Extension of Consolidated Lighting

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 29th day of April, 2024.

PRESENT:

Hon. Brian J. Kulpa, Supervisor
Shawn Lavin, Deputy Supervisor/Councilman
Jacqualine Berger, Councilwoman
Angela Marinucci, Councilwoman
Michael R. Szukala, Councilman

In the Matter

of the

Extension of the Town of Amherst Consolidated Lighting District to Harding Road Subdivision and improvements in connection therewith

Offered by: _____

Seconded By: _____

RESOLUTION AND ORDER

WHEREAS, the Town Board of the Town of Amherst (herein called the "Town"), in the County of Erie, New York, on behalf of Consolidated Lighting District (herein referred to as the "District"), has caused the Town to prepare a map, plan and report for the proposed extension of the Town's Consolidated Lighting District, pursuant to Article 12-A of the Town Law, which shall consist of the installation of approximately 5 LED Street Lights (the "Project") to be installed by the developer, Harding Road LLC (the "Developer") and turned over to the Town following

Attachment: ResoOrderAfterPH (RES-2024-340 : Extension of Consolidated Lighting District - Harding Road Subdivision)

the completion of the Public Improvement Permit (PIP) process in the Harding Road Subdivision; and

WHEREAS, the Town Board adopted an Order Calling for a Public Hearing describing in general terms the Project, specifying the estimated cost thereof, the boundaries of the proposed extension, that no capital expenses nor borrowings would be necessary, the fact that the map, plan and report describing the same is on file in the Town Clerk's Office for public inspection, and stating the Town Board would meet to hear all persons interested in said proposed extension on April 29, 2024 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-A of the Town Law; and

WHEREAS, such public hearing was duly held by the Town Board on the 29th day of April, 2024 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 the proposed extension; and

WHEREAS, the Town Board, as lead agency, has reviewed the Short Form Environmental Assessment Form and has determined that the proposed extension is an "unlisted action", will not have a significant effect on the environment and has issued a negative declaration in connection therewith 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;

Attachment: ResoOrderAfterPH (RES-2024-340 : Extension of Consolidated Lighting District - Harding Road Subdivision)

WHEREAS, it is the intention of the Developer to construct the entirety of the proposed extension and Project solely at its own expense; and

WHEREAS, permission of the State Comptroller for the proposed extension is not required because the cost for the proposed extension and Project is not to be financed by bonds, notes or other evidence of indebtedness;

Now, therefore, be it

ORDERED, that the notice of public hearing was published and posted as required by law; and be it

ORDERED, that all property and property owners within the proposed extension are benefitted thereby; and be it

ORDERED, that all the property and property owners benefitted are included within the limits of the proposed extension; and be it

ORDERED, that it is in the public interest to extend said District as set forth in the accompanying map, plan and report; and it is

FURTHER ORDERED, that the Project and the proposed extension is an "unlisted action", will not have a significant effect on the environment and the Town has issued a negative declaration in connection therewith 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; and it is

FURTHER RESOLVED AND ORDERED, that all expenses attendant upon the Project and the proposed extension shall be the responsibility of the Developer; and it is

FURTHER RESOLVED, DETERMINED AND ORDERED, that the proposed extension of the District be approved in accordance with the boundaries and descriptions set forth

Attachment: ResoOrderAfterPH (RES-2024-340 : Extension of Consolidated Lighting District - Harding Road Subdivision)

in the map, plan and report prepared in connection therewith, subject to the permissive referendum waiting period in the manner provided in Town Law Article 7 for this Resolution and Order; and be it

FURTHER RESOLVED, that this Resolution and Order is subject to permissive referendum in accordance with the provisions of Town Law Articles 7 and 12-A and the Town Board authorizes and directs the Town Clerk to file, post and publish such Notice of this Resolution and Order as may be required by law and if no such petition is filed within 30 days after adoption of this Resolution and Order to file a Certificate to that effect in the Office of the Erie County Clerk.

DATED: April 29, 2024

(SEAL)

TOWN BOARD OF THE TOWN OF AMHERST

Attachment: ResoOrderAfterPH (RES-2024-340 : Extension of Consolidated Lighting District - Harding Road Subdivision)

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

Hon. Brian J. Kulpa, Supervisor	Voting _____
Shawn Lavin, Councilman	Voting _____
Jacqualine Berger, Councilwoman	Voting _____
Angela Marinucci, Councilwoman	Voting _____
Michael R. Szukala, Councilman	Voting _____

The Final Order was declared adopted.

Attachment: ResoOrderAfterPH (RES-2024-340 : Extension of Consolidated Lighting District - Harding Road Subdivision)

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 April 29, 2024, 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 29th day of April, 2024.

(SEAL)

_____
Town Clerk

Attachment: ResoOrderAfterPH (RES-2024-340 : Extension of Consolidated Lighting District - Harding Road Subdivision)

Town of Amherst, New York
Lighting District Extension
Map, Plan & Report

Harding Road Subdivision
March 2024

Lighting to be installed by the developer, Harding Road LLC and turned over to the Town of Amherst following the completion of the Public Improvement Permit (PIP) process.

Estimated number of streetlights:	5
Estimated number of parcels in district expansion:	8
Estimated Tax Implication at 62% equalization:	$0.656792 per $1000 AV (2024 Rate)
Estimated Tax Implication at 100% equalization:	$0.407211 per $1000 AV

Estimated Annual Cost for a $300,000 Property at 100% Equalization: $122.1633

See attached subdivision map for detailed parcel information.

Attachment: Harding Road Streetlight MPR - March 2024 (RES-2024-340 : Extension of Consolidated Lighting District - Harding Road

SUBDIVISION OF LITTLE WILLIAMSVILLE FARMS, INC.
REFERENCE MAP FILED IN E.C.C.O.
UNDER MAP COVER NO. 1525

(FORMERLY LINCOLN AVE.)

(60.0' WIDE)

LOT–46

LOT–45

(60.0' WIDE)

60'± MAP

REPUTED OWNER
MIA I. BANASZAK
L–11277, P–7220

REPUTED OWNER
MATTHEW W. & JASMINE J. LARSON
L–11378, P–8218

LANDS ACQUIRED BY THE PEOPLE OF THE STATE OF NEW YORK FOR TRANSIT, PART 4, S.H. 1334 A–1 MAP NO. 203, PARCEL NO. 231

92'± MAP

92'± MAP

REPUTED OWNER
GOVERNORS LLC
L–11137, P–6280

SOUTH LINE ABRAHAM SIDER, ET UX L–2268, P–123 (DEED)

276.55' MEAS.

141.54'

135.01'

60'± MAP

89°–21'–13" M.
88°–54' D.

10.01'

91°–25'–44"

337.28' DEED = 336.55' MEAS.

90°–30'–35"

52.80'

LOT–8
7,389± SQ. FT.

LOT–1
6,821± SQ. FT.

51.37'

50.00'

PROPOSED
10' WIDE SANITARY
SEWER EASEMENT
TO THE TOWN OF AMHERST

10'

90°–03'–59"

90°–04'–13"

142.23'

134.18'

ROAD

AVENUE

51'± MAP

LOT–7
7,129± SQ. FT.

LOT–2
6,689± SQ. FT.

50.00'

N.F.V.

50.01'

230.18'

90°–03'–59"

90°–04'–13"

243.01'± DEED
200.50' MEAS.

142.92'

133.38'

205'± MAP = 205.15' MEAS.

LANDS ACQUIRED BY THE PEOPLE OF THE STATE OF NEW YORK FOR TRANSIT, PART 4, S.H. 1334 A–1, MAP NO. 202, PARCEL NO. 230 L–11116, P–7706

236.56'± DEED

WEST LINE GORDON M. ROYLE
L–3837, P–428 & L– 3377, P–292
& WEST LINE ABRAHAM SIDER, ET UX
L–3166, P–165 & L–3031, P–221 (DEED)

REPUTED OWNER
HARDING ROAD LLC
L–11393, P–3392

LOT–6
7,163± SQ. FT.

LOT–3
6,649± SQ. FT.

3" GAS

90°–03'–59"

90°–04'–13"

143.60'

132.58'

HARDING

47.70'

55.15

LOT–5
10,863± SQ. FT.

LOT–4
10,122± SQ. FT.

78.65'

McKINLEY

133°–56'–19"

140°–11'–00"

42'± MAP

45'± MAP=
45.28' MEAS.

135°–54'–22"

130°–06'–37"

30.17' MAP=
30.05' MEAS.

112.07'

112.07'

S.E. CORNER
GORDON M. ROYLE
L–3837, P–428

224.14' MAP & MEAS.
335.02'± DEED = 335'± MAP

308.02'± DEED

NORTH LINE SHADOW ROAD

PARALLEL WITH SOUTH LINE LOT–83 (DEED)

LANDS ACQUIRED BY THE PEOPLE OF THE STATE OF NEW YORK FOR TRANSIT, PART 4, S.H. 1334 A–1, MAP NO. 202, PARCEL NO. 230 L–11116, P–7706

HARDING ROAD (FORMERLY SHADOW ROAD)

(60.0' WIDE) (FORMERLY STILES COURT)

(FORMERLY STILES COURT)
(50.0' WIDE) (ABANDONED)
L–10151, P–33

NOW OR FORMERLY
PROTOCOL RESTAURANT, INC.
L–7801, P–425
L–8447, P–125
L–10151, P–33

REPUTED OWNER
ROBERT & CAROL KERN
FAMILY TRUST
L–11384, P–3974

REPUTED OWNER
DENISE M. KIRWAN
L–10975, P–4311

LEGEND

G — GAS
SA — PROPOSED SANITARY SEWER
W — PROPOSED WATER

NOTES

1) SBL – TOWN OF AMHERST TAX MAP NO. 82.09–6–20

OWNER'S CONSENT FOR FILING

_____ DATE: 5/24/23

APPROVED BY TOWN OF AMHERST TOWN BOARD
ERIE COUNTY, NEW YORK

_____ DATE: 5/25/23
PLANNING BOARD CHAIRMAN

_____ DATE: _____
SENIOR CLERK PLANNING & BUILDING

FILED IN THE ERIE COUNTY CLERK'S OFFICE UNDER
MAP COVER NO. 3935/1 DATE: 9/26/23
INST. NO. _____

PURSUANT TO CHAPTER 605 OF THE LAWS OF 1985 I HEREBY CERTIFY THAT THIS SUBDIVISION MAP WAS PREPARED UNDER MY DIRECTION AND THE OUTBOUNDS SURVEY OF THE PREMISES CONTAINED WITHIN SAID SUBDIVISION WAS PREPARED UNDER MY DIRECTION AND IS SHOWN ON OUR MAP DATED DECEMBER 21, 2021 AND IDENTIFIED AS JOB NO. 9927–A.

JOHN E. McINTOSH, III L.S. NO. 49928

STATE OF NEW YORK · JOHN E. MC INTOSH · No. 049928 · LICENSED LAND SU

PLAT OF
HARDING ROAD SUBDIVISI(

MAP OF PART OF LOT–83, TWP.–11, R.–7, HOLLAND P
TOWN OF AMHERST, ERIE COUNTY, NEW YORK

PREPARED BY

McINTOSH & McINTOSH, P.C.
CONSULTING ENGINEERS, LAND SURVEYORS, PLANN
429 PINE STREET, LOCKPORT, NY 14094
LOCKPORT, NEW YORK PHONE 434–9138
BUFFALO, NEW YORK PHONE 625–8360

JOB NO.: 9927–SUB SCALE: 1"= 20' DATE: FEBRUA

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ALL RIGHTS RESERVED

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

Attachment: Harding Road_SUB-2022-01FP - Map Cover 3935_Lighting District Extension (RES-2024-340 : Extension of Consolidated Lighting District - Harding Road Subdivision)

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Town Clerk
Initiated by: **Timothy Koller**
Co-Sponsored by:

DOC ID: 28670 **RESOLUTION 2024-173** **ADOPTED**

Adoption to Amend the SEQR Statement of Findings (1565, 1575-1659 & 1641-1703 Niagara Falls Boulevard & Z-1996-02_B)

RESOLVED, that pursuant to 6NYCRR Part 617 (SEQR) and Town Code Section 104, as amended, that the requirements of SEQR have been completed, and be it further

RESOLVED, that pursuant to NYS Town Law Sec.272-a, the Town Board concurs with the findings of the Planning Board as stated in their resolution of November 16, 2023 that the proposed amendments to the adopted SEQR certification of findings for Boulevard Consumer Square dated October 18, 2007 for signage is consistent with the adopted Bicentennial Comprehensive Plan, as amended, and be it further

RESOLVED, that in accordance with Section 203-8-3 of the Town Code (Zoning), the Town Board adopts to amend the SEQR certification of findings for Boulevard Consumer Square dated October 18, 2007 as recommended by the Planning Board for section 6 Land Use & Zoning, paragraphs i & j as follows:

1. That the Certification of Findings be revised to include the following mitigation measures:

   i. No signage shall be placed facing northerly, within 400 feet of the southern edge of the Ridge Lea Road right-of-way from a point at the intersection of the centerlines of Ridge Lea Road and Niagara Falls Boulevard between 400 feet and 1,500 feet easterly.

   j. No pole, or ground signs shall be permitted along Ridge Lea Road beyond 300’ of the eastern edge of Niagara Falls Blvd and that message center signs are prohibited along any of the roadways adjacent to the development This excludes directional signs at driveways or other traffic control signs that do not have any logos or advertising.

2/26/2024
Supervisor Kulpa made a motion to adjourn to the March 25th meeting per the petitioner’s request, seconded by Councilmember Berger and unanimously approved 4-0.

3/25/2024
A motion to open the public hearing was made by Supervisor Kulpa, seconded by Councilmember Berger and unanimously approved 5-0. The public hearing was opened at 7:06 PM.

James Boglioli, Esq. presented.

The following resident spoke:
Allison Sagraves, 171 Amherstdale Rd

There were no further speakers from the public, therefore Supervisor Kulpa moved to close the hearing and set a decision date for the April 29th Town Board meeting, seconded by Councilmember Berger and unanimously approved 5-0. The public hearing was closed at 7:14 PM.

4/29/2024
A motion to approve was made by Supervisor Kulpa, seconded by Councilmember Berger and unanimously approved 4-0.

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

Amherst
Town of Amherst Planning Department
Erie County, New York

Brian J. Kulpa
Supervisor

Daniel C. Howard,
Planning Direct

Daniel J. Ulatowski,
Assistant Planning D r

Attachment: Z-1996-02B TB letter packet 022624 (RES-2024-173 : 1565, 1575-1659 & 1641-1703 Niagara Falls Boulevard Requesting a

Town Board Agenda of February 26, 2024

February 21, 2024

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

Subject: Request to Amend the SEQR Findings for Boulevard Consumer Square relating to signage, Z-1996-02_B; Property Located At 1565, 1575-1659 & 1641-1703 Niagara Falls Boulevard.

Honorable Members:

The subject property is bounded by Niagara Falls Boulevard on the west, Ridge Lea Road on the north, North Bailey on the east, and Romney Road on the south. The subject sites are currently improved with 700,000± s.f. of retail and restaurant uses (35+ commercial tenants), with on-site parking for 3,234± vehicles, and an internal circulation network accessing Niagara Falls Boulevard, Romney Road, Ridge Lea Road and North Bailey Avenue.

The purpose of this request is to remove signage restrictions in the SEQR Findings Statement for Boulevard Consumer Square. The petitioner is seeking the removal of SEQR findings that limit the placement of signage on the rear facades of buildings that face Romney Road, Ridge Lea Road, and North Bailey Avenue. Additionally, the request includes the removal of a SEQR finding that limits the number of pole, pylon, or ground signs along Romney Road, Ridge Lea Road, and North Bailey Avenue. **(See page 5 of the attached draft amended certification of findings for proposed amendments).**

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

History of the adoption of SEQRA Findings:
The subject site was zoned Research & Development (RD) district with the adoption of the Town wide Zoning Map & Ordinance on January 19, 1976.

An application to rezone the subject property (37.2± acres) was filed in 1996 to change the zoning district of the property to General Business (GB). A Draft Environmental Impact Statement (DEIS) was prepared, and accepted by the Town Board on May 9, 1996. The Planning Board, on May 16, 1996 held a public hearing and recommended approval of the rezoning consistent with the findings of the DEIS. A Final Environmental Impact Statement (FEIS) was subsequently accepted by the Town Board on December 2, 1996.

Honorable Town Board

Request to Amend the SEQR Statement of Findings as it relates to signage; property located at 1565, 1575-1659 & 1641-1703 Niagara Falls Boulevard
Agenda of February 26, 2024

In February of 2003 a request to amend the Certification of Findings was filed and accepted in order to make the following changes consistent with the DEIS and FEIS;

1. Land Use and Zoning (DEIS Sec. V.B.)
   - 6k. Delete
   - 6n. All loading docks and paved areas at the rear of the structures along Ridge Lea Road, North Bailey Avenue, and Romney Road extension must be screened and/or buffered by berms, landscaping, fences, and/or walls. In addition, the following must be provided at the rear of the "K-Mart" building:
     1. That a ten (10) foot high masonry wing-wall be provided to screen and buffer the view of the proposed loading docks and trucks making deliveries at those loading docks from both Ridge Lea Road and existing residences adjacent north.
     2. That an eight (8) foot high fence or wall be provided along the rear of the proposed structure. Evergreen and deciduous trees and shrubs be provided to buffer the appearance of the wall and to help screen the structure from Ridge Lea Road. The Planning Board will determine at site plan review the location and species of plantings and the length and materials of the fence or wall.
   - 6o. That the petitioner request permission from the owners of the existing "K-Mart" building to construct an eight (8) foot high fence and/or wall along the rear or north property line to screen the building from Ridge Lea Road. If permission is granted, the petitioner shall also make every effort to work with the owner and/or operators of the "K-Mart" store to remove trash and debris from their property, particularly along Ridge Lea Road.

9. Transportation (See IV.D.)
   - 9v. The requirements of the NYSDOT and the Town of Amherst must be addressed prior to final site plan approval.

The Certification of Findings was further amended and accepted by the Town Board on October 18, 2007 to make the following changes:

6. Land Use and Zoning (DEIS Sec. V.B.)
   - 6j. No pole, pylon, or ground signs shall be permitted on Ridge Lea Road, North Bailey Avenue and Romney Road. This excludes directional signs at driveways or other traffic control signs that do not have any logos or advertising.
   - 6n. All loading docks and paved areas at the rear of the structures along Ridge Lea Road, North Bailey Avenue, and Romney Road extension must be screened and/or buffered by berms, landscaping, fences, and/or walls. The Planning Board will determine the height of berms and landscaping requirements at site plan review. A fifty (50) foot setback will be required adjacent to residential zoning or development to permit additional screening. Utility or pipeline easements shall be in addition to the required setbacks.

Attachment: Z-1996-02B TB letter packet 022624 (RES-2024-173 : 1565, 1575-1659 & 1641-1703 Niagara Falls Boulevard Requesting a

Honorable Town Board

Request to Amend the SEQR Statement of Findings as it relates to signage; property located at 1565, 1575-1659 & 1641-1703 Niagara Falls Boulevard
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The Planning Board offers the following findings consistent with Section 8-3 of the Zoning Ordinance.

INTENT AND OBJECTIVES OF THE COMPREHENSIVE PLAN

Signage is not specifically addressed in the Comprehensive Plan however Chapter 5: Economic Development, discusses the un-wanted outcomes of a ridgid regulatory environment on business growth within the Town of Amherst. A recommendation of the Comprehensive Plan is to facilitate flexible regulatory polices so that employers are able to "grow in place" both physically and economically. A nexus can be drawn from the regulatory control of signage through the Zoning Ordinance that could limit the advertising ability of business and prevent growth. Therefore, this request is consistent with the policies of the Bicentennial Comprehensive Plan as they relate to economic growth.

INTENT AND OBJECTIVES OF THE ZONING ORDINANCE

As required by §7-8 of the Zoning Ordinance, Boulevard Consumer Square is subject to the requirements of a Coordinated Sign Plan. If this request is approved, an amendment to the previously approved sign plan will be required. At that time, the proposed amendment would be reviewed by the Planning Department and Building Department for compliance with the regulations on signage. The request itself does not need to be consistent with the Zoning Ordinance, however the subsequent approval of any sign permits must be consistent with §7-8.

CONSISTENCY/COMPATIBILITY WITH SURROUNDING DEVELOPMENT/ZONING

The proposed amendment to the Findings Statement is consistent with surrounding land uses and zoning. Uses to the north and south include retail plazas, commercial businesses and office/warehousing, as well as the commercial uses in the Town of Tonawanda on the west side of Niagara Falls Boulevard, and is also compatible with the retail/warehouse/office uses proposed for the parcels on the east side of North Bailey Avenue.

RECOMMENDATION

The Planning Board at their meeting of November 16, 2023 held a public hearing on the subject request and recommended that the Town Board find that pursuant to Local Law #3-82, as amended, the requirements of SEQR have been completed and that the subject request will not have a significant adverse effect on the environment. The Planning Board also recommended that the subject request to amend the SEQR Statement of Findings be approved subject to the following conditions;

1. That the Certification of Findings be revised to include the following mitigation measures:

   i. No signage shall be placed facing northerly, within 400 feet of the southern edge of the Ridge Lea Road right-of-way from a point at the intersection of the centerlines of Ridge Lea Road and Niagara Falls Boulevard between 400 feet and 1,500 feet easterly.

Attachment: Z-1996-02B TB letter packet 022624 (RES-2024-173 : 1565, 1575-1659 & 1641-1703 Niagara Falls Boulevard Requesting a

Honorable Town Board

Request to Amend the SEQR Statement of Findings as it relates to signage; property located at 1565, 1575-1659 & 1641-1703 Niagara Falls Boulevard
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j. No pole, or ground signs shall be permitted along Ridge Lea Road beyond 300' of eastern edge of Niagara Falls Blvd and that message center signs are prohibited along any of the roadways adjacent to the development This excludes directional signs at driveways or other traffic control signs that do not have any logos or advertising.

The Planning Department is providing the attached draft resolution, should the Town Board desire to act on the subject request after the public hearing.

Very truly yours,

Daniel C. Howard, AICP
Planning Director

DH/TV/ac
Att.
X:\Current_Planning\Files\Rezonings\1996\Z-1996-02_B_(1565_1575-1659_&_1641-1703 _Niagara_Falls_Blvd)_2023\Z-1996-02_B_Town_Board_Letter.docx
cc: Martin Polowy, Town Attorney

Planning Board Approval, November 16, 2023
Ayes 6, Noes 0, Abstain 1

Attachment: Z-1996-02B TB letter packet 022624 (RES-2024-173 : 1565, 1575-1659 & 1641-1703 Niagara Falls Boulevard Requesting a

DRAFT RESOLUTION
(2/26/2024)

Adoption of Local Law to Amend the SEQR Statement of Findings
(1565, 1575-1659 & 1641-1703 Niagara Falls Boulevard & Z-1996-02_B)

RESOLVED, that pursuant to 6NYCRR Part 617 (SEQR) and Town Code Section 104, as amended, that the requirements of SEQR have been completed, and be it further

RESOLVED, that pursuant to NYS Town Law Sec.272-a, the Town Board concurs with the findings of the Planning Board as stated in their resolution of November 16, 2023 that the proposed amendment of adopted SEQR findings for Boulevard Consumer Square for signage is consistent with the adopted Bicentennial Comprehensive Plan, as amended, and be it further

RESOLVED, that in accordance with Section 203-8-3 of the Town Code (Zoning), the Town Board adopts Local Law (#) to amend the adopted SEQR findings for Boulevard Consumer Square subject to the following conditions as recommended by the Planning Board:

1. That the Certification of Findings be revised to include the following mitigation measures:

   i. No signage shall be placed facing northerly, within 400 feet of the southern edge of the Ridge Lea Road right-of-way from a point at the intersection of the centerlines of Ridge Lea Road and Niagara Falls Boulevard between 400 feet and 1,500 feet easterly.

   j. No pole, or ground signs shall be permitted along Ridge Lea Road beyond 300' of the eastern edge of Niagara Falls Blvd and that message center signs are prohibited along any of the roadways adjacent to the development This excludes directional signs at driveways or other traffic control signs that do not have any logos or advertising.

"X:\Current_Planning\Files\Rezonings\1996\Z-1996-02_B_(1565_1575-1659_&_1641-1703 _Niagara_Falls_Blvd)_2023\Z-1992-02_B_TB_resolution.doc"

Attachment: Z-1996-02B TB letter packet 022624 (RES-2024-173 : 1565, 1575-1659 & 1641-1703 Niagara Falls Boulevard Requesting a

Amherst

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

Satish B. Moh
Supervisor
Eric W. Gillett, A
Planning Direc
Gary Black, AI
Assistant Planning D

DRAFT
BOULEVARD CONSUMER SQUARE
1621 NIAGARA FALLS BLVD. (Z-1996-02)
AMENDED CERTIFICATION OF FINDINGS

(Note: Proposed changes to these Findings are highlighted in yellow – see page 5)

Having considered the Draft EIS, Final EIS, and Statement of Findings, as amended and corrected, adopted by the Town Board and Planning Board, having considered the preceding written facts and conclusions relied upon to meet the requirements of 6 NYCRR 617, this Statement of Findings certifies that:

1. The requirements of 6 NYCRR Part 617 have been met;

2. Consistent with the social, economic and other essential considerations from among the reasonable alternatives thereto, the action approved is one which minimizes or avoids adverse environmental effects to the maximum extent practicable; including the effects disclosed in the Environmental Impact Statement, and

3. Consistent with social, economic and other essential considerations, to the maximum extent practicable, adverse environmental effects revealed in the Environmental Impact Statement process will be minimized or avoided by incorporating as conditions to the decision those mitigative measures which were identified as practicable.

TOWN OF AMHERST
Name of Agency

Signature of Responsible Official

Brian Kulpa
Name of Responsible Official

Town Supervisor
Title of Responsible Official

Date

5583 MAIN STREET, WILLIAMSVILLE, NY 14221
Address of Agency

Attachment: Z-1996-02B TB letter packet 022624 (RES-2024-173 : 1565, 1575-1659 & 1641-1703 Niagara Falls Boulevard Requesting a

RESOLUTION

WHEREAS, following the May 1, 1996, submittal of a Draft Environmental Impact Statement (DEIS) prepared by Clough, Harbour & Associates on behalf of First Amherst Development/Randall Benderson 1973-1 Trust, the DEIS was accepted by the Town Board on May 6, 1996. The DEIS was submitted for the proposed rezoning from RD (Research Development) to GB (General Business) and development of 37.2± acres of land located at the rear of 1621 Niagara Falls Boulevard. On May 16, 1996, the Planning Board held a public hearing on the DEIS and rezoning request and recommended approval of the subject petition. Subsequently, a public hearing on the DEIS and rezoning request was held by the Town Board on June 17, 1996. A Final Environmental Impact Statement (FEIS) was accepted by the Town Board on December 2, 1996 and a Notice of Completion of the FEIS was filed on December 4, 1996; and

WHEREAS, the Planning and Town Boards have considered the content of the DEIS, the FEIS, and all other documents and comments and submissions made during and after the hearings.

NOW THEREFORE THE TOWN BOARD FINDS AND DETERMINES THAT:

1. These Findings set forth specific conditions and criteria consistent with 6 NYCRR Sections 617.7, 617.9, 617.11, and 617.12 under which the site plan process can proceed. This process provides procedures to supplement the FEIS if necessary and for public notice and opportunity to participate in hearings before the Town Planning Board before it approves a site plan. An Environmental Assessment Form and an Erosion & Sedimentation Control Plan will be required with site plan application for environmental review. If the proposed development does not conform with these Findings, a Supplemental Findings Statement, a supplement to the FEIS, or a Negative Declaration shall be prepared to comply with 6 NYCRR Section 617.9.

2. The proposed commercial development as presented in the FEIS is consistent with the intent and objectives of the Zoning Ordinance.

3. Adequate services and utilities must be available prior to occupancy. Review and approval of services and utilities by the Town agencies will be required for site plan approval.

4. Development will be consistent with all other applicable laws, rules and regulations.

5. HYDROLOGY AND DRAINAGE (DEIS Sec. IV. A.)

   a. Town policy requires that all developments provide facilities adequate to assure disposition of surface water without adverse effect on other property. The Town of Amherst Engineering and Building Departments shall review, approve, and monitor proposed drainage plans and the impacts of proposed developments on the entire watershed. The developer will retain a professional engineer to calculate the size locations of all storm water detention areas for site plan review.

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Attachment: Z-1996-02B TB letter packet 022624 (RES-2024-173 : 1565, 1575-1659 & 1641-1703 Niagara Falls Boulevard Requesting a

All designs and engineering calculations must then be approved by the appropriate town, state or federal agencies having jurisdiction over this project. The DEIS drainage studies thoroughly analyze existing drainage problems and increased runoff from new development and how the stormwater detention basins will mitigate impacts related to both problems. The proposed detention basins are integral parts of the drainage system and are designed to protect downstream areas. The developers will pay for these improvements as the project is built.

b. Town drainage ditches TA-3 and TA-2 which currently flow north and east across the property will be relocated to the north side of the proposed Romney Road extension and the west side of North Bailey Avenue. The specific design of the relocated ditches must be approved by the Town of Amherst Engineering and Highway Departments. The construction of a series of culverts along the ditch and under North Bailey Avenue as proposed in Sec. IV-A. of the DEIS will not be permitted.

c. A stormwater detention site will be constructed adjacent to the northeast corner of the site in two sections, one located contiguous to the proposed development, the second across Ridge Lea Road adjacent to the I-290. These sites will provide the required 16.3 acres of stormwater detention area needed to meet Town of Amherst requirements (as per Sec. IV A., DEIS) and will provide additional capacity to alleviate downstream flooding from the proposed development for a 50-year event.

d. The project sponsor anticipates that the stormwater detention areas described above will be acquired from New York State. Should the project sponsor be unable to purchase the land, the site layout shall be redesigned to accommodate detention of all stormwater on-site. The redesigned stormwater detention shall be adequate to assure disposition of surface water without adverse effect on other property. The Town of Amherst Engineering and Building Departments shall review, approve and monitor proposed drainage plans and the impacts of proposed developments on the entire watershed. The developer will retain a professional engineer to calculate the size and locations of all storm water detention areas. All designs and engineering calculations must then be approved by town, state or federal agencies having jurisdiction over this project.

e. No landscaping may be planted or berms constructed over the relocated and tiled ditches unless approved by the Town of Amherst Highway and Planning Departments. Sufficient landscaped areas to accommodate required landscaping and/or berms as determined by the Planning Department will be provided adjacent to the relocated ditches.

f. The parking lot of the proposed development shall not be used for stormwater detention.

g. The petitioner shall design, construct and maintain ponded areas in a manner that discourages or eliminates mosquito propagation. The Highway Department's mosquito control operation (DEIS has been approved by the NYSDEC) shall have permission to monitor for mosquito larvae and shall treat the water with larvicide if the situation warrants it.

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h. The Highway Department requires that proper pond maintenance, such as mowing and eliminating standing water, be performed. Pond maintenance shall be the sole responsibility of the property owner.

i. The developer shall fund up to a maximum amount of $20,000 for the construction of a connection between the "Evergreen" ditch and an existing ditch within an abandoned railroad right-of-way in the Town of Tonawanda if the Town of Tonawanda can secure permission for this work from property owners or otherwise as the Town of Tonawanda may deem appropriate.

j. The developer shall contribute $25,000 to the Town of Tonawanda for the purpose of funding a drainage study of the "Evergreen" ditch.

k. The Town of Tonawanda will be given an opportunity to review drainage plans as part of all site plan applications for this project. Their input shall be sought and where appropriate will be incorporated into the final design.

l. Implementation of New York State Soil Erosion & Sediment Control measures shall insure that water quality in Town Ditches TA-2 and TA-3 will not be negatively impacted. The Engineering Department shall require submittal of an erosion control plan with the site plan application and a specific erosion control plan with any subsequent site plan request.

m. During construction, all construction equipment should be properly maintained to prevent contamination due to spills. During operation, the perched water table will be controlled by on site drainage. Road salt should be used only as necessary and pesticide applications, if required, applied professionally.

n. Mitigation for potential pollutants and sediments shall include a properly designed, constructed and maintained storm water system designed to the satisfaction of the Town Engineer. Catch basins and other storm structures will provide areas for trapping and removal of sediments and pollutants, especially grease and oils. Swales and detention basins will also allow sediments and pollutants to settle out of surface water. Plant materials shall be used in these areas to further act as a water emission cleanser.

6. LAND USE & ZONING (DEIS Sec. V. B.)

a. The proposal is consistent with Part I, Section 2-1.11 of the Zoning Ordinance which seeks to guide the future development of the Town so as to bring about the gradual conformity of land and building uses in accordance with the objectives of the Comprehensive Plan.

b. Wherever possible, the project will retain or relocate existing trees.

c. A tree survey shall be provided for the entire site, including the stormwater detention areas, identifying the type, size and location of all trees 4 inches in caliper or larger.

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d. To visually break-up the massiveness of the parking lot and improve pedestrian safety, the petitioner shall provide four (4) concrete pedestrian walkways through the parking lot at regular intervals to connect buildings within the development. Each sidewalk shall be five (5) feet wide with ten (10) foot wide curbed landscaped panels on each side of the sidewalk, except in driving lanes. Shade trees of species approved by the Planning Department shall be planted at forty (40) foot intervals on both sides of the sidewalk; the plantings shall be staggered to avoid being opposite each other on each side of the sidewalks.

e. Curbed landscape islands shall be placed at regular intervals throughout the parking lot. Where practical, each island shall contain two deciduous shade trees.

f. A minimum of 20% of the site must be landscape area.

g. The petitioner shall be encouraged to bring the existing K-Mart parcel into compliance with the Town's current landscape regulations.

h. Foundation landscaping shall be required at the perimeter of each building.

~~**i.** No signage shall be placed on the rear of any structure that is visible from a public right-of-way, such as Ridge Lea Road, North Bailey Avenue, Romney Road, and the proposed Romney Road extension.~~

i. No signage shall be placed facing northerly, within 400 feet of the southern edge of the Ridge Lea Road right-of-way from a point at the intersection of the centerlines of Ridge Lea Road and Niagara Falls Boulevard 1,500 feet easterly.

~~**j.** No pole, pylon, or ground signs shall be permitted on Ridge Lea Road, North Bailey Avenue, and Romney Road. This excludes directional signs at driveways or other traffic control signs that do not have logos or advertising.~~

j. No pole, or ground signs shall be permitted along Ridge Lea Road and that message center signs are prohibited along any of the roadways adjacent to the development This excludes directional signs at driveways or other traffic control signs that do not have any logos or advertising.

k. DELETE ON 6/16/03.

l. No outdoor public address systems will be permitted.

m. The project owner or its successors will confine exterior cleaning operations, deliveries, garbage collection, or other activities that exceed ambient noise levels to the hours of 7:00 AM to 11:00 PM.

n. All loading docks and paved areas at the rear of structures along Ridge Lea Road, North Bailey Ave., and both the existing and proposed Romney Road extension must be

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screened and/or buffered by berms landscaping, and/or fences and/or walls. The Planning Board shall determine the height of berms and landscaping requirements at site plan review. A fifty (50) ft. setback will be required adjacent to residential zoning or development to permit additional screening. Utility or pipeline easements shall be in addition to required setbacks.

7. FISCAL ANALYSIS (Sec. IV. G. DEIS

a. The fiscal impact of the project is discussed in Sec. IV.G. of the DEIS. That analysis indicates that the proposed project will have a beneficial economic impact on the Town.

8. COMMUNITY SERVICES (Sec. IV. C. DEIS)

a. The Engineering Department shall review site specific development plans to determine the adequacy of the water supply and the location of fire hydrants for fire protection purposes. A plan for ownership and maintenance of all drainage facilities will be required for site plan review. Any discharge of storm water into protected streams shall require a permit from the NYSDEC. The waterlines will be looped with existing lines on North Bailey Avenue, Romney Road, and Niagara Falls Blvd. The waterline along Niagara Falls Blvd. shall be replaced by the developer.

b. Water and sewer services will be designed and constructed in accordance with the Erie County Water Authority, Erie County Health Department, NYSDEC, the Town of Amherst and any other agencies having jurisdiction over the project. If the parcel across Ridge Lea Road adjacent to the I-290 is used for stormwater detention purposes, a sanitary sewer easement will be granted to the Town of Amherst by the developer for sanitary sewer flows at a location to be determined by the Town Engineer.

c. The project sponsor will adhere to all design and maintenance requirements and guidelines of the owners of private pipelines impacted by this project. Written approval of the design of the development from all such pipeline owners will be required prior to site plan approval. The developer will assume all costs associated with relocating the pipeline, if required, and any damages incurred during development of the project.

d. The developer or its successors shall assume costs associated with pipeline maintenance and repairs necessitated by the development of this project, including but not limited to pavement repairs.

e. All future occupants of the development will be made aware of the potential for possible disruptions in their operation due to pipeline maintenance and repair. Those occupants will not seek compensation from the pipeline owners or their successors for losses incurred as a result of such disruptions.

f. The pipelines will not be left exposed during construction activities. All utilities must pass below the pipelines at a depth required by the pipeline owners. An on-site inspector will be present as required by pipeline owners during construction.

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g. Private refuse collection will be utilized.

9. TRAFFIC (DEIS Sec. IV. D.)

a. An internal north-south circulation drive shall be provided between Romney Drive and Ridge Lea Road.

b. The Romney Road extension will be dedicated to the Town of Amherst. Design, alignment, and right-of-way width will be determined by the Town of Amherst. The petitioner will complete the Romney Road extension to North Bailey Avenue prior to issuance of any conditional, temporary, or permanent certificate of occupancy.

c. The eastbound approach of the Romney Road extension at North Bailey Avenue will consist of one left turn lane, one right turn lane, and one entrance lane.

d. The alignment of the Romney Road extension's terminus at North Bailey Avenue with the existing Amherst Commerce Park driveways across North Bailey Avenue shall be approved by the Town of Amherst as part of site plan review.

e. The number, design, and location of curb cuts from the development to North Bailey Avenue shall be approved by the Town of Amherst as part of site plan review.

f. The number, design, and location of curb cuts from the development to Ridge Lea Road shall be approved by the Town of Amherst as part of site plan review.

g. The number, design, and location of curb cuts from the development to Romney Road and the Romney Road extension shall be approved by the Town of Amherst as part of site plan review.

h. The developer will construct a left turn lane on North Bailey Avenue to service the Romney Road extension intersection and all site access drives. The design and alignment of the turn lane shall be approved by the Town of Amherst at site plan review.

i. The developer will provide an eastbound right turn lane into the site access drive on Ridge Lea Road east of the existing K-Mart. The design and alignment of the turn lane must be approved by the Town of Amherst at site plan review.

j. The northbound approach of the eastern site access drive on Ridge Lea Road will consist of one entrance lane, one outbound right turn lane, and one outbound left turn lane.

k. The developer or its successors shall conduct a signal warrant analysis at both the intersection of the Ridge Lea Road site access drive east of the existing K-Mart and the intersection of the Romney Road extension and North Bailey Avenue when the development reaches 75% occupancy of the entire project, including that portion constructed on land currently zoned GB (75% occupancy will be defined as 415,000 gross square feet of occupied space). If a signal is not warranted at either location, a

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second warrant analysis will be conducted when over 500,000 gross square feet is constructed and 90% occupancy is achieved. The developer or its successors will be required to pay for all costs associated with the provision of a signal at both locations at any time that it is determined by the Town that warrants are met. This shall include interconnection with nearby signals and pavement modifications as necessary.

l. The developer or its successors shall conduct a study of the intersection of the existing site driveway west of K-Mart on Ridge Lea Road to determine if any traffic safety problems exist. This analysis shall be completed when the project achieves 75% occupancy as defined in (9-k.) above. The developer or its successors will be required to close this driveway at the first opportunity permitted by lease arrangements with existing tenants if a traffic-safety problem is identified.

m. The developer will provide an internal connection to the existing Tim Horton's doughnut shop if an agreement can be reached with the doughnut shop ownership.

n. The developer will meet the requirements of the NYSDOT for a second right turn lane from westbound Ridge Lea Road onto Niagara Falls Blvd. at site plan review.

o. Sidewalks shall be required along the perimeter of all public roads adjacent to the plaza; sidewalk along Ridge Lea Road will be required at the time of construction of building(s) adjacent to that road or earlier if required by the Town Board.

p. The developer will provide a driveway to Romney Road from the Romney Research Park at a location that will be approved by the Town of Amherst at site plan review.

q. The developer will lengthen the left turn storage lane on the southbound left turn lane on the North Bailey Avenue approach to Maple Road as recommended by Erie County.

r. The requirements of Erie County relative to transportation shall be met.

s. The requirements of the Niagara Frontier Transportation Authority relative to public transportation shall be met.

t. The mitigations stated in the NYSDOT letters of June 27, 1996 and August 23, 1996 to the Town of Amherst Planning Director shall be implemented to the satisfaction of the NYSDOT; all other requirements of the NYSDOT relative to transportation shall be met.

u. The requirements of the Town of Amherst relative to transportation shall be met.

10. ARCHAEOLOGY (DEIS Sec. IV. E.)

a. The NYS Office of Parks, Recreation and Historic Preservation must confirm in writing the determination that the project will have no impact on cultural resources eligible for inclusion in the State & National Registers of Historic Places prior to site plan approval.

DRAFT

Attachment: Z-1996-02B TB letter packet 022624 (RES-2024-173 : 1565, 1575-1659 & 1641-1703 Niagara Falls Boulevard Requesting a

11. WETLANDS (DEIS Sec. IV. F.)

a. The project sponsor must submit an approved and valid US Army Corps of Engineers permit to the Town prior to final site plan approval

12. The letters received from the Town of Tonawanda dated 2/26/96, 5/23/96, 7/31/96, 8/1/96, and 9/10/96 have been considered by the Town Board and they are directed to be added to the appendix of the FEIS.

"X:\Current_Planning\Files\Rezonings\1996\Z-1996-02_B_ (1565_1575-1659_&_1641-1703 _Niagara_Falls_Blvd) _2023\Consumers_Square_Findings_Statement_(SP-1997-05) _10182007.docx"

DRAFT

Attachment: Z-1996-02B TB letter packet 022624 (RES-2024-173 : 1565, 1575-1659 & 1641-1703 Niagara Falls Boulevard Requesting a

TOWN OF AMHERST
PLANNING BOARD
ZONING RESOLUTION
Z-1996-02_B

PETITIONER

Benderson Development Co.
570 Delaware Avenue
Buffalo, NY 14202

PROPERTY LOCATION

1541-1703 Niagara Falls Boulevard

NOV 20 2023 AM9:2

WHEREAS the Town of Amherst Planning Board on Thursday, November 16, 2023 held a public hearing on the proposed amendment to the Certification of Findings for Boulevard Consumer Square for Signage, and

WHEREAS the Planning Board has reviewed plans and other materials regarding the rezoning proposal, and

WHEREAS the materials and plans have been referred to the Town's various review agencies, and

WHEREAS in accordance with Section 8-3-5 of the Zoning Ordinance the Planning Board finds that:

A. The proposed amendment to the Certification of Findings is generally consistent with the policies of the Comprehensive Plan and the Zoning Ordinance.

B. The proposal is compatible with the present zoning and conforming uses of nearby property and with the character of the neighborhood.

C. The proposed change does tend to improve the balance of uses, or meets a specific demand in the Town.

D. Review by the US Army Corps of Engineers under Section 404 of the Clean Water Act may be waived because the parcel is developed.

WHEREAS pursuant to Local Law #3-82, as amended, the Planning Board recommends that the Town Board determine that the requirements of SEQR are complete and that the subject proposal is not expected to have a significant adverse effect on the environment.

NOW THEREFORE BE IT RESOLVED that the Planning Board recommends to the Town Board in accordance with Section 8-3-4 of the Zoning Ordinance, that the amendment to the Certification of Findings be **approved subject** to the following conditions:

1. That the Certification of Findings be revised to include the following mitigation measures:

Attachment: Z-1996-02B TB letter packet 022624 (RES-2024-173 : 1565, 1575-1659 & 1641-1703 Niagara Falls Boulevard Requesting a

TOWN OF AMHERST
PLANNING BOARD
ZONING RESOLUTION
Z-1996-02_B

PETITIONER

Benderson Development Co.

PROPERTY LOCATION

1541-1703 Niagara Falls Boulevard

NOV 20 2023 AM9:2

i. No signage shall be placed facing northerly, within 400 feet of the southern edge of the Ridge Lea Road right-of-way from a point at the intersection of the centerlines of Ridge Lea Road and Niagara Falls Boulevard between 400 feet and 1,500 feet easterly.

j. No pole, or ground signs shall be permitted along Ridge Lea Road beyond 300' of eastern edge of Niagara Falls Blvd and that message center signs are prohibited along any of the roadways adjacent to the development This excludes directional signs at driveways or other traffic control signs that do not have any logos or advertising.

The foregoing resolution was adopted by the Town of Amherst Planning Board, November 16, 2023; moved by Giuliani; seconded by Raffaele; ayes 6, noes 0; abstain 1 (Chmiel).

Robert J. Gilmour, Planning Board Chair

11-18-2023.
Date

TV/ac
X:\Current_Planning\Files\Rezonings\1996\Z-1996-02_B_(1565_1575-1659_&_1641-1703 _Niagara_Falls_Blvd)_2023\Z-1996-02_B_resolution_111623.doc
cc: Town Clerk
Commissioner of Building
Highway Superintendent
Town Engineer
Traffic/Safety Coordinator
James Boglioli, Benderson Development, 570 Delaware Avenue, Buffalo, NY 14202

Attachment: Z-1996-02B TB letter packet 022624 (RES-2024-173 : 1565, 1575-1659 & 1641-1703 Niagara Falls Boulevard Requesting a

TOWN OF AMHERST PLANNING DEPARTMENT

Application for Rezoning

For Official Use

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

Address Verified by Assessor's Office _____ VERIFIED BY DATE

Application Received by Planning Department _____ ACCEPTED BY DATE

Materials Checked by Zoning Enforcement Officer _____ CHECKED BY DATE

Materials & Fee Paid to Town Clerk _____ ACCEPTED BY DATE

		Fill In Applicable Fees
2 ACRES OR LESS	**$1,250.**	_____
2 – 20 ACRES **$1,250 + $250/acre or fraction thereof over 2 acres** (fractions of an acre to be counted as 1 acre)		_____
21 – 30 ACRES **$5,700 + $150/acre or fraction thereof over 21 acres** (fractions of an acre to be counted as 1 acre)		_____
OVER 30 ACRES **$6,900 +$75/acre or fraction thereof over 30 acres** (fractions of an acre to be counted as 1 acre)		_____
Request for Relief of / Change to Conditions of Zoning Approval	**$1,200.**	_____
AFFIDAVIT FEE FOR PUBLIC HEARING	**$15.**	_____
	TOTAL FEE:	**$**_____

Town of Amherst Planning Department 5583 Main Street Williamsville New York 14221
(716) 631-7051 Fax (716) 631-7153 Web www.amherst.ny.us

Attachment: Z-1996-02B TB letter packet 022624 (RES-2024-173 : 1565, 1575-1659 & 1641-1703 Niagara Falls Boulevard Requesting a

TO BE COMPLETED BY APPLICANT

1. **Petitioner:**

Name: Benderson Development Company, LLC

Address: 570 Delaware Avenue

Buffalo, New York 14202

City State Zip Code

Phone: 716-878-9626 Fax cell 716-9989915

E Mail: jmb@benderson.com

2. **The undersigned hereby petitions the Honorable Town Board to rezone the following described property:**

From: N/A District

To: N/A District

3. **Street address of land to be rezoned:** (must be verified by Town Assessor's Office)

1561- 1703 Niagara Falls Boulevard

SBL #: 54.01-2-12.112, 14.2 & 20

4. **Area of land to be rezoned** (in acres): 64.087

5. **Owner of Land**:

Name: Blvdcon, LLC

Address: 570 Delaware Avenue

Buffalo, New York 14202

City State Zip Code

Phone: 716-878-9626

6. **Representative** (Architect, Engineer, Landscape Architect, Surveyor or Attorney):

Name: James A. Boglioli

Address: 570 Delaware Avenue

Buffalo, New York 14202

City State Zip Code

Phone: 716-878-9626 Fax cell: 716-998-9915

E Mail: jmb@benderson.com

Attachment: Z-1996-02B TB letter packet 022624 (RES-2024-173 : 1565, 1575-1659 & 1641-1703 Niagara Falls Boulevard Requesting a

7. **Petitioner's interest in property**

_____ Option to purchase
_____ Owner
X Other (explain) Affiliate

8. **The following are all others having an interest in this application and join herein with the petitioner named above:** (describe extent of interest; attach sheets as needed)

N/A

9. **Attach Survey and Legal description of land to be rezoned. The Survey must be prepared by a New York State Licensed Land Surveyor.**

10. **Said property has the following deed restrictions or covenants:** (attach copy)

Liber _____ Page _____

11. **Information on proposed project:**

A. Description of the character of the proposed development:
Please see attached letter of intent

B. Rationale for rezoning request:

1. Why was this site chosen? Please see attached letter of intent

2. Why cannot land be used with the existing zoning?
Please see attached letter of intent

3. How will this rezoning impact surrounding properties?
Please see attached letter of intent

4. How will this rezoning impact the school system?
Please see attached letter of intent

Attachment: Z-1996-02B TB letter packet 022624 (RES-2024-173 : 1565, 1575-1659 & 1641-1703 Niagara Falls Boulevard Requesting a

12. Quantitative Data:

A. Total # of dwelling units N/A

B. Distribution of dwelling units by type N/A

C. Gross Residential Density per acre N/A

D. Total amount of Open Space N/A

E. Proposed Non-Residential Floor Area N/A

13. Development Schedule:

Start Existing

Finish Existing

Stages (# of) Existing

14. If any portion of the proposed development is planned to be sold or leased, please describe:

N/A

15. Open Space ownership and maintenance provisions (if applicable):

N/A

16. Basis for Findings (Sec. 8-3-5 of the Town Zoning Code) (Attach sheets and supplemental materials as necessary.)

A. <u>The proposed zoning and development plan must be generally consistent with the policies of the Comprehensive Plan and the Town Zoning Ordinance.</u>

1. State in detail why the proposed zoning is consistent with the adopted <u>Town of Amherst Bicentennial Comprehensive Plan</u>. Cite specific sections, maps, and/or figures in the Plan that support the proposed zoning at this location (The Comprehensive Plan document is available at the Planning Department, Town Clerk's Office, Amherst libraries, or at <u>www.amherst.ny.us</u>). Add sheets as needed.

Please see attached letter of intent

Attachment: Z-1996-02B TB letter packet 022624 (RES-2024-173 : 1565, 1575-1659 & 1641-1703 Niagara Falls Boulevard Requesting a

2. Pursuant to NYS Town Law Section 272a(11), "All Town land use regulations must be in accordance with a comprehensive plan adopted pursuant to this Section." The Amherst Town Board adopted the Bicentennial Comprehensive Plan pursuant to NYS Town Law 272 on January 2, 2007. If the rezoning is approved, the Town Board may require the Plan to be amended, as applicable.

   Cite all text, maps, or figures that must be amended to support the proposed zoning at this location (attach pages as necessary) and provide detailed suggested amendments.

   The proposed rezoning is consistent with the comprehensive plan.

3. State why the proposed zoning is consistent with intent and objectives (Sec. 1-2-2) of the Zoning Ordinance:

   Please see attached letter of intent

B. Adequate Services and Utilities are available or are proposed to be made available with the construction of the development:

1. Sanitary Sewer Existing
2. Storm Sewer/Drainage Existing
3. Water Existing
4. Other

C. Compatibility with the present zoning and conforming uses of nearby property and with the character of the neighborhood:

Please see attached letter of intent

D. Suitability of the subject property for uses permitted by the current versus the proposed district:

Please see attached letter of intent

E. Whether the proposed change tends to improve the balance of uses, or meets a specific demand in the Town:

Please see attached letter of intent

Attachment: Z-1996-02B TB letter packet 022624 (RES-2024-173 : 1565, 1575-1659 & 1641-1703 Niagara Falls Boulevard Requesting a

17. The petitioner encloses herewith the sum of $9,540 to pay the fee, and consents to the placement of a sign(s) at the described location identifying this request for a period of time to be determined by the Town Clerk.

18. The undersigned certifies that all information required to be disclosed pursuant to Section 809 of the General Municipal Law (see below) is as follows:

The undersigned swears or affirms that all statements made herein are true, that all drawings submitted correctly show the situation involved in this petition.

Signature of Petitioner

Subscribed and sworn to before me this 22 *day of* September, 2023

Notary Public, Erie County, New York

COURTNEY L. ADAMO
Notary Public-State of New York
No. 01AD6413282
Qualified In Niagara County
Commission Expires January 25, 2025

N.Y.S. General Municipal Law - Section 809 Disclosure in certain applications:

1. Every application, petition or request submitted for a variance, amendment, change of zoning, approval of a plat, exemption from a plat or official map, license or permit, pursuant to the provision of any ordinance, local law, rule or regulation constituting the zoning and planning regulations of a municipality shall state the name, residence and the nature and extent of the interest of any state office or any office or employee of such municipality or of a municipality of which such municipality is a part, in the person, partnership or association making such application, petition or request (hereinafter called the applicant) to the extent known to such applicant.

2. For the purpose of this section an officer or employee shall be deemed to have an interest in the applicant when he, his spouse, or their brothers, sisters, parents, children, grandchildren, or the spouse of any of them

   (a) is the applicant, or
   (b) is an officer, director, partner or employee of the applicant, or
   (c) legally or beneficially owns or controls stock of a corporate applicant or is a member of a partnership or association applicant, or
   (d) is a party to an agreement with such an applicant, express or implied, whereby he may receive any payment or other benefit, whether or not for services rendered, dependent or contingent upon the favorable approval of such applicant, petition or request.

3. In the county of Nassau the provisions of subdivisions one and two of this section shall also apply to a party officer. "Party Officer" shall mean any person holding any position or office, whether by election, appointment or otherwise, in any party as defined by subdivision four or section two of the election law.

4. Ownership of less than five per cent of the stock of a corporation whose stock is listed on the New York or American Stock Exchanges shall not constitute an interest for the purposes of this section.

5. A person who knowingly and intentionally violates this section shall be guilty of a misdemeanor.

Attachment: Z-1996-02B TB letter packet 022624 (RES-2024-173 : 1565, 1575-1659 & 1641-1703 Niagara Falls Boulevard Requesting a

Rezoning Application Requirements and Checklist

The following checklist outlines the information required by the Town of Amherst to accept a Rezoning application. ***It is strongly recommended that you make an appointment with Planning Staff to discuss what information will be needed to address the items shown on the checklist.***

Item No.	Item	Submitted	Official use
I Application Information			
1.0	**Town of Amherst Rezoning / Comprehensive Plan Amendment Application Form (available from Planning Department)**		
1.1	Name, address, and contact information of the petitioner		
1.2	Name and address of property owners(s) – if different than petitioner		
1.3	If petitioner is different than property owner, provide statement describing interest in property and a letter from the property owner authorizing the application		
1.4	Identify existing and proposed zoning and acreage of area proposed to be rezoned		
1.5	Parcel addresses and Section, Block, and Lot (SBL) numbers of all properties proposed to be rezoned. Indicate if a portion of any parcel is involved, if applicable		
1.6	Statement of planning objectives to be achieved by the proposed rezoning, including the following: • How the proposed zoning and development plan meets the objectives of the Comprehensive Plan • A description of the character of the proposed development • The rationale behind the assumptions that are presented		
1.7	Cite specific maps and/or figures in the Comprehensive Plan that must be amended to support the proposed zoning and provide suggested amendments		
1.8	A general statement about how any proposed open space will be maintained (if applicable)		
1.9	A development schedule indicating the approximate date when construction is expected to begin and be completed. Identify schedule of any proposed phasing of the development (attach pages as necessary)		
1.10	A statement of the petitioner's intentions regarding future sale or leasing of all or portions of the proposed development		
II Survey and Legal Description			
1.0	**Complete boundary survey that includes all existing structures, acreage, legal description, and easements plotted to scale by a NYS licensed land surveyor**		
1.1	Raised/wet seal and signature of licensed surveyor		
1.2	Clear delineation and acreage of area to be rezoned if different than property boundary		
2.0	**Legal Description of the total area proposed to be rezoned. (must be consistent with area shown to be rezoned on boundary survey)**		

Attachment: Z-1996-02B TB letter packet 022624 (RES-2024-173 : 1565, 1575-1659 & 1641-1703 Niagara Falls Boulevard Requesting a

Item No.	Item	Submitted	Official use
III Concept Plan (if required by the Planning Board)			
1.0	**Conceptual development plan drawn to scale (no larger than 24" x36" format and folded into 8 ½" x 11" size)**		
1.1	North arrow		
1.2	Scale of drawing		
1.3	Property lines (existing and proposed)		
1.4	Unique natural features and tree cover		
1.5	Information on land controlled by the applicant located within 500 feet of the perimeter of the area proposed to be rezoned		
1.6	Location of all proposed structures and other improvements		
1.7	Number and type of dwelling units (if applicable)		
1.8	Gross square feet of commercial space (if applicable)		
1.9	Maximum structure heights		
1.10	Architectural sketches		
1.11	Existing and proposed contours		
1.12	Existing utility systems (sanitary sewers, water, storm drainage)		
1.13	Location of proposed storm water detention or retention facilities		
1.14	Proposed land use arrangement		
1.15	Location of all parking, loading, stacking and interior circulation drives		
1.16	Location of proposed curb cuts		
1.17	Location of cross access drives to adjacent parcels		
1.18	Pedestrian circulation system		
1.19	Location of NYSDEC wetlands (including buffer area) and/or federal wetlands; indicate jurisdictional status		
1.20	Location of floodway and 100-year floodplain (if applicable)		
1.21	Location and purpose of any proposed easements		
1.22	Location and proposed development of all open spaces, including parks, playgrounds, conservation areas, and dedicated open space; indicate intended ownership of such areas		
1.23	Additional data as required by the Planning Board		
V Other Required Information			
1.0	**Completed and signed Environmental Assessment Form**		
11	Soil boring report and geotechnical report prepared by a qualified Professional Engineer (if applicable)		
1.2	Traffic impact study (if applicable)		
1.3	Archaeological assessment (if applicable)		
1,4	Wetland Delineation report (if applicable)		
2.0	**8 1/2" X 11" reduction of concept plan drawing (see appendix B)**		
3.0	**A CD containing a PDF of the complete submittal package, including all drawings.**		

For official use only:

_____
Approved/Date

Attachment: Z-1996-02B TB letter packet 022624 (RES-2024-173 : 1565, 1575-1659 & 1641-1703 Niagara Falls Boulevard Requesting a

Short Environmental Assessment Form
Part 1 - Project Information

Instructions for Completing

Part 1 – Project Information. The applicant or project sponsor is responsible for the completion of Part 1. 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.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 – Project and Sponsor Information		
Name of Action or Project:		
Project Location (describe, and attach a location map):		
Brief Description of Proposed Action:		
Name of Applicant or Sponsor:	Telephone: E-Mail:	
Address:		
City/PO:	State:	Zip Code:

	NO	YES
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.	☐	☐
2. Does the proposed action require a permit, approval or funding from any other government Agency? If Yes, list agency(s) name and permit or approval:	☐	☐

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

4. Check all land uses that occur on, are adjoining or near the proposed action:
   ☐ Urban ☐ Rural (non-agriculture) ☐ Industrial ☐ Commercial ☐ Residential (suburban)
   ☐ Forest ☐ Agriculture ☐ Aquatic ☐ Other(Specify):
   ☐ Parkland

Attachment: Z-1996-02B TB letter packet 022624 (RES-2024-173 : 1565, 1575-1659 & 1641-1703 Niagara Falls Boulevard Requesting a

	NO	YES	N/A
5. Is the proposed action,			
a. A permitted use under the zoning regulations?	☐	☐	☐
b. Consistent with the adopted comprehensive plan?	☐	☐	☐

	NO	YES
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	☐	☐

	NO	YES
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area?		
If Yes, identify: _____	☐	☐

	NO	YES
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	☐	☐
b. Are public transportation services available at or near the site of the proposed action?	☐	☐
c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?	☐	☐

	NO	YES
9. Does the proposed action meet or exceed the state energy code requirements?		
If the proposed action will exceed requirements, describe design features and technologies: _____ _____	☐	☐

	NO	YES
10. Will the proposed action connect to an existing public/private water supply?		
If No, describe method for providing potable water: _____ _____	☐	☐

	NO	YES
11. Will the proposed action connect to existing wastewater utilities?		
If No, describe method for providing wastewater treatment: _____ _____	☐	☐

	NO	YES
12. a. 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?	☐	☐
b. 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?	☐	☐

	NO	YES
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?	☐	☐
b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody?	☐	☐
If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____ _____ _____		

Attachment: Z-1996-02B TB letter packet 022624 (RES-2024-173 : 1565, 1575-1659 & 1641-1703 Niagara Falls Boulevard Requesting a

14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply:

☐ Shoreline ☐ Forest ☐ Agricultural/grasslands ☐ Early mid-successional

☐ Wetland ☐ Urban ☐ Suburban

	NO	YES
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	☐	☐
16. Is the project site located in the 100-year flood plan?	☐	☐
17. Will the proposed action create storm water discharge, either from point or non-point sources?	☐	☐
If Yes,		
a. Will storm water discharges flow to adjacent properties?	☐	☐
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)?	☐	☐
If Yes, briefly describe: _____		
18. Does the proposed action include construction or other activities that would result in the impoundment of water or other liquids (e.g., retention pond, waste lagoon, dam)?	☐	☐
If Yes, explain the purpose and size of the impoundment: _____		
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility?	☐	☐
If Yes, describe: _____		
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste?	☐	☐
If Yes, describe: _____		

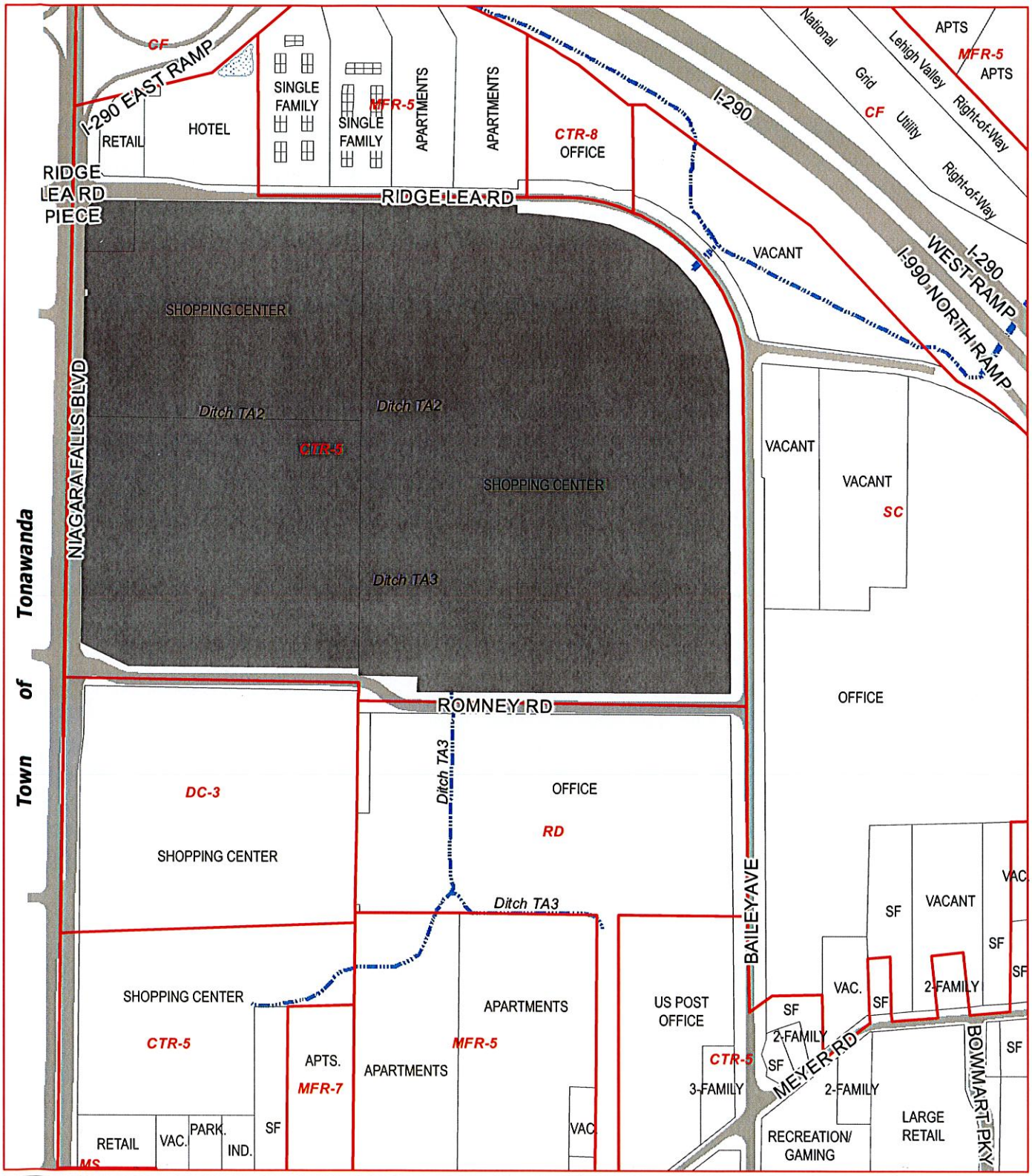
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE

Applicant/sponsor/name: _____ Date: _____

Signature: _____ Title: _____

PRINT FORM

Attachment: Z-1996-02B TB letter packet 022624 (RES-2024-173 : 1565, 1575-1659 & 1641-1703 Niagara Falls Boulevard Requesting a



Z-1996-02B

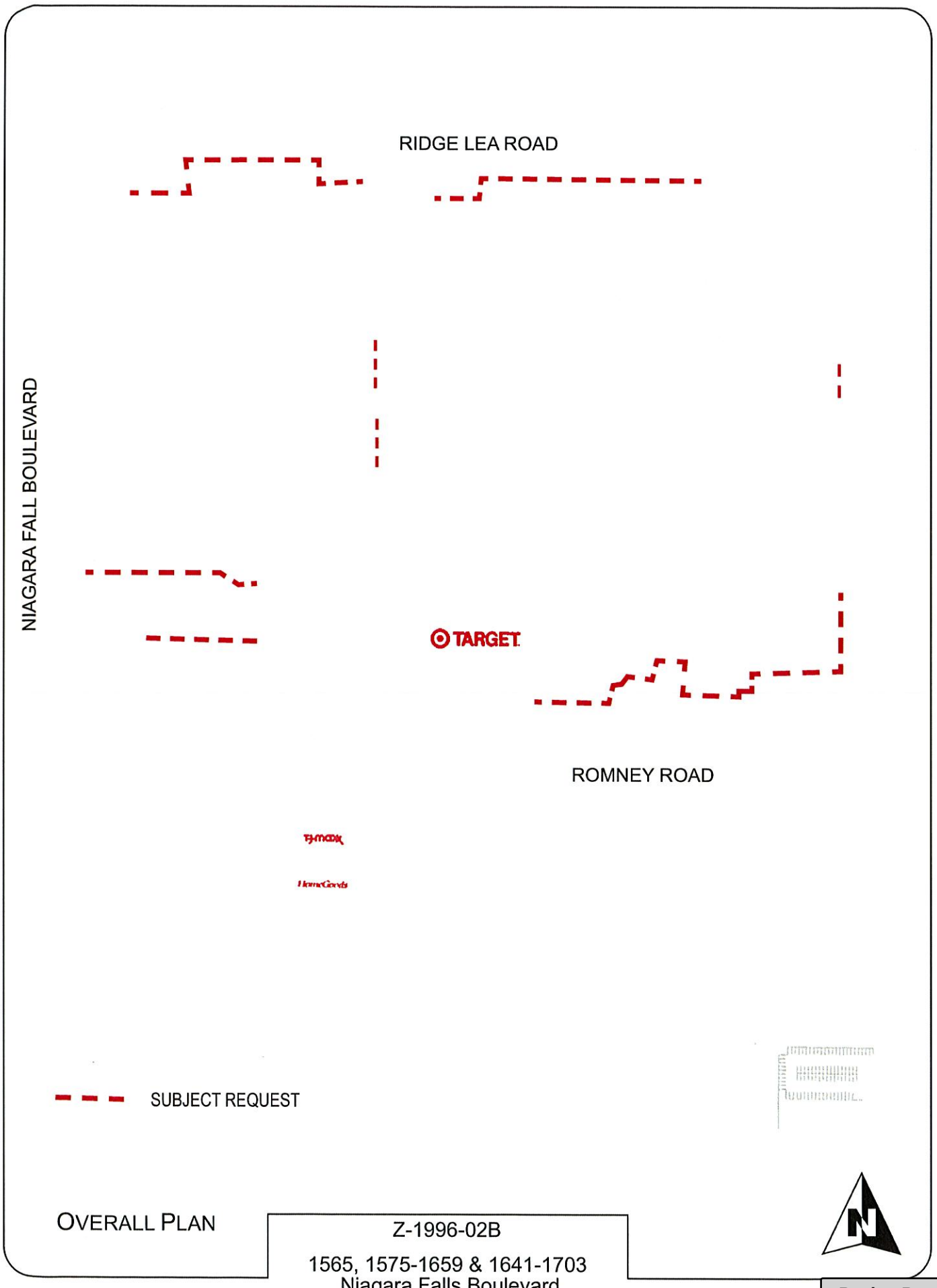
Request to Amend SEQR Finding for Signage
Property Located at 1565, 1575-1659 & 1641-1703
Niagara Falls Boulevard
Benderson Development, Petitioner

November 16, 2023

1565, 1575-1659 & 1641-1703
Niagara Falls Boulevard

Prepared by the Town of Amherst Planning Department

Attachment: Z-1996-02B TB letter packet 022624 (RES-2024-173 : 1565, 1575-1659 & 1641-1703 Niagara Falls Boulevard Requesting a

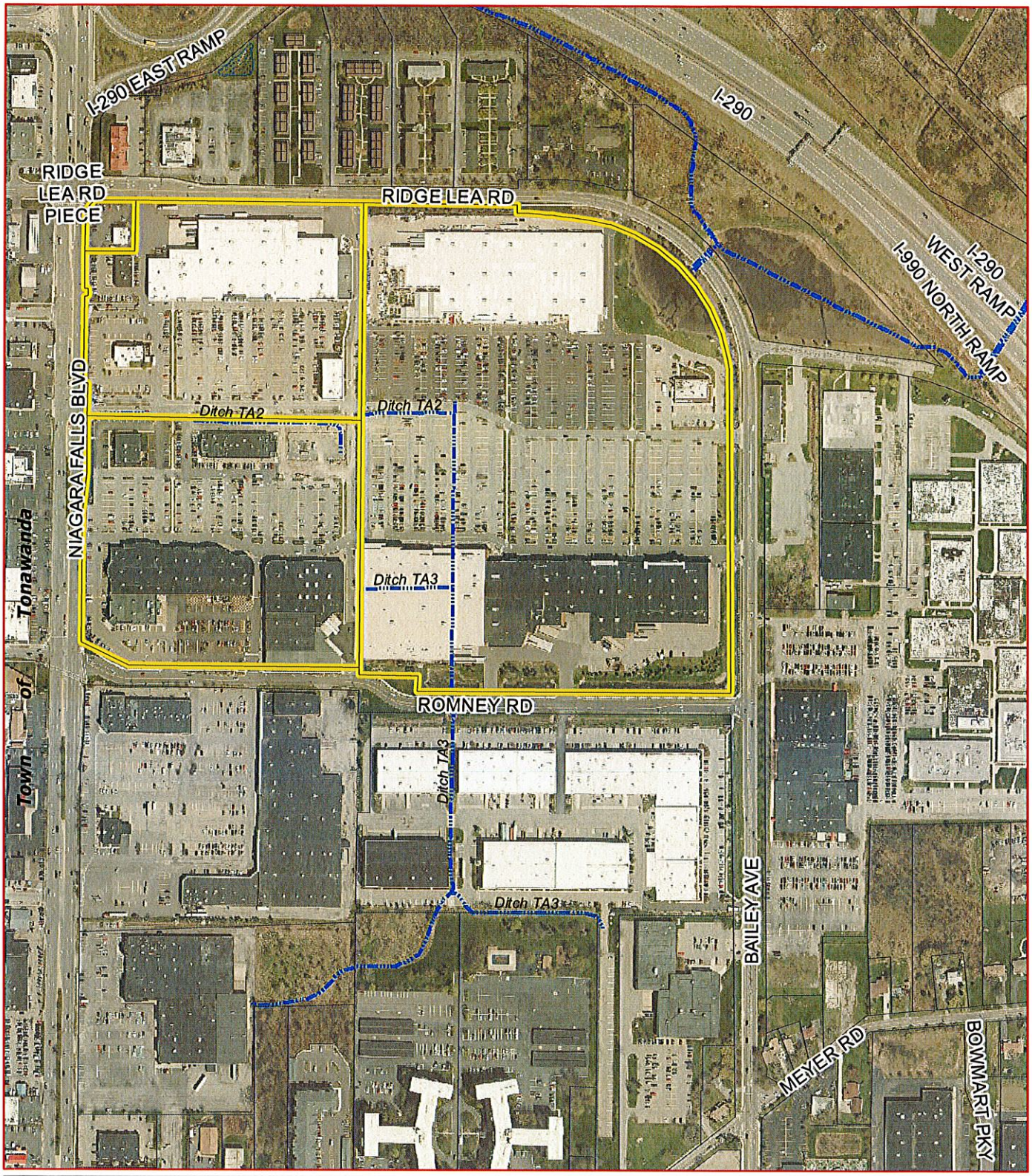


OVERALL PLAN

Z-1996-02B

1565, 1575-1659 & 1641-1703
Niagara Falls Boulevard

Attachment: Z-1996-02B TB letter packet 022624 (RES-2024-173 : 1565, 1575-1659 & 1641-1703 Niagara Falls Boulevard Requesting a



Z-1996-02B

Request to Amend SEQR Finding for Signage
Property Located at 1565, 1575-1659 & 1641-1703
Niagara Falls Boulevard
Benderson Development, Petitioner

November 16, 2023

1565, 1575-1659 & 1641-1703
Niagara Falls Boulevard

Prepared by the Town of Amherst Planning Department

Attachment: Z-1996-02B TB letter packet 022624 (RES-2024-173 : 1565, 1575-1659 & 1641-1703 Niagara Falls Boulevard Requesting a

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

RECEIVED
SEP 28 2023
TOWN ATTORNEY

RECEIVED
OCT 19 2023
TOWN OF AMHERST
PLANNING DEPT.

MEMORANDUM

September 27, 2023

TO: Tim Koller, Deputy Town Clerk
Daniel J. Ulatowski, AICP, Zoning Enforcement Officer
Douglas Gesel, Supervising Code Enforcement Officer, Building Department
Martin Polowy, Town Attorney (Local Law Only)
Integrated Review Coordinator, ECDEP

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

SUBJECT: REQUEST FOR RELIEF OF CONDITIONS OF ZONING APPROVAL AS AMENDMENT TO SEQR FINDINGS – SIGNAGE, **Z-1996-02_B**; PROPERTY LOCATED AT **1541-1703 NIAGARA FALLS BOULEVARD**. BENDERSON DEVELOPMENT CO., PETITIONER.

REVIEW:

Do you agree with all statements made? _____.

If you do not, briefly state why: _____

_____.

General comments relative to your agency interests: No immediate concerns – our office will continue to review as appropriate.

If improvements are required involving your agency, please state schedule for completion (sewer construction, road widening, etc.)

_____

_____

_____.

Please call the Planning Department if additional information is required (631-7051).

Signature: Mon B Robshaw **Date:** 10/17/23

DU/GP/ac
X:\Current_Planning\Files\Rezonings\1996\Z-1996-02_B_(1541-1703_Niagara_Falls_Blvd)_2023\Z-1996-02_B_Transmittal_092723.doc
cc: Scott Marshall, Principal Planner
Jeff Burroughs, Town Engineer
James Boglioli, Benderson Development Co., 570 Delaware Ave., Buffalo, NY 14202

Attachment: Z-1996-02B TB letter packet 022624 (RES-2024-173 : 1565, 1575-1659 & 1641-1703 Niagara Falls Boulevard Requesting a

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

October 6, 2023

James Boglioli
Benderson Development Company, LLC
570 Delaware Avenue
Buffalo, New York 14202

SUBJECT:	Rezoning Application Review	**Z-1996-02_B**
	Request:	Relief of Conditions of Zoning Approval/Amendment to Certification of SEQR Findings
	Property located at:	**1541-1703 Niagara Falls Boulevard**
	Application received:	September 25, 2023
	Representative:	James Boglioli, Benderson Development Co. LLC

Dear Mr. Boglioli,

Please consider the following comments:

1. The following items on the Short Environmental Assessment Form should be corrected or completed:
   - Question No. 1 should be answered "Yes". As an amendment to the Findings Statement (last revised October 2007) and limited to signage, the Action will not affect any natural resources.
2. Complete a Town of Amherst Addendum to the EAF, as applicable to the project.
3. Note that any other SEQR-related issues raised during the review process for this rezoning must be addressed prior to action by the Planning Board.
4. Provide a draft local law granting relief of rezoning conditions in Microsoft Word format.
5. Provide an 8½ " x 11" reduction of any revised concept plan **and an electronic version** of any revised plans or information submitted for review.

This is a review only and does not constitute approval of the Rezoning Request. Should you have questions regarding this correspondence, please contact Gary Palumbo, AICP, Associate Planner at gpalumbo@amherst.ny.us Scott A. Marshall, Principal Planner at smarshall@amherst.ny.us.

Very truly yours,

Daniel C. Howard, AICP
Planning Director

DH/SM/GP/bf

X:\Current_Planning\Files\Rezonings\1996\Z-1996-02_B_(1541-1703_Niagara_Falls_Blvd)_2023\Z-1996-02_B-Pln_Rvw_DRAFT.docx
cc:

Attachment: Z-1996-02B TB letter packet 022624 (RES-2024-173 : 1565, 1575-1659 & 1641-1703 Niagara Falls Boulevard Requesting a

Amherst
Town of Amherst Planning Department

RECEIVED
NOV 08 2023
TOWN OF AMHERST
PLANNING DEPT.

Erie County, New York

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

MEMORANDUM

September 27, 2023

TO: Tim Koller, Deputy Town Clerk
Daniel J. Ulatowski, AICP, Zoning Enforcement Officer
Douglas Gesel, Supervising Code Enforcement Officer, Building Department
Martin Polowy, Town Attorney (Local Law Only)
Integrated Review Coordinator, ECDEP

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

SUBJECT: REQUEST FOR RELIEF OF CONDITIONS OF ZONING APPROVAL AS AMENDMENT TO SEQR FINDINGS – SIGNAGE, **Z-1996-02_B**; PROPERTY LOCATED AT **1541-1703 NIAGARA FALLS BOULEVARD**. BENDERSON DEVELOPMENT CO., PETITIONER.

REVIEW:

Do you agree with all statements made? Yes

If you do not, briefly state why: _____

General comments relative to your agency interests: none

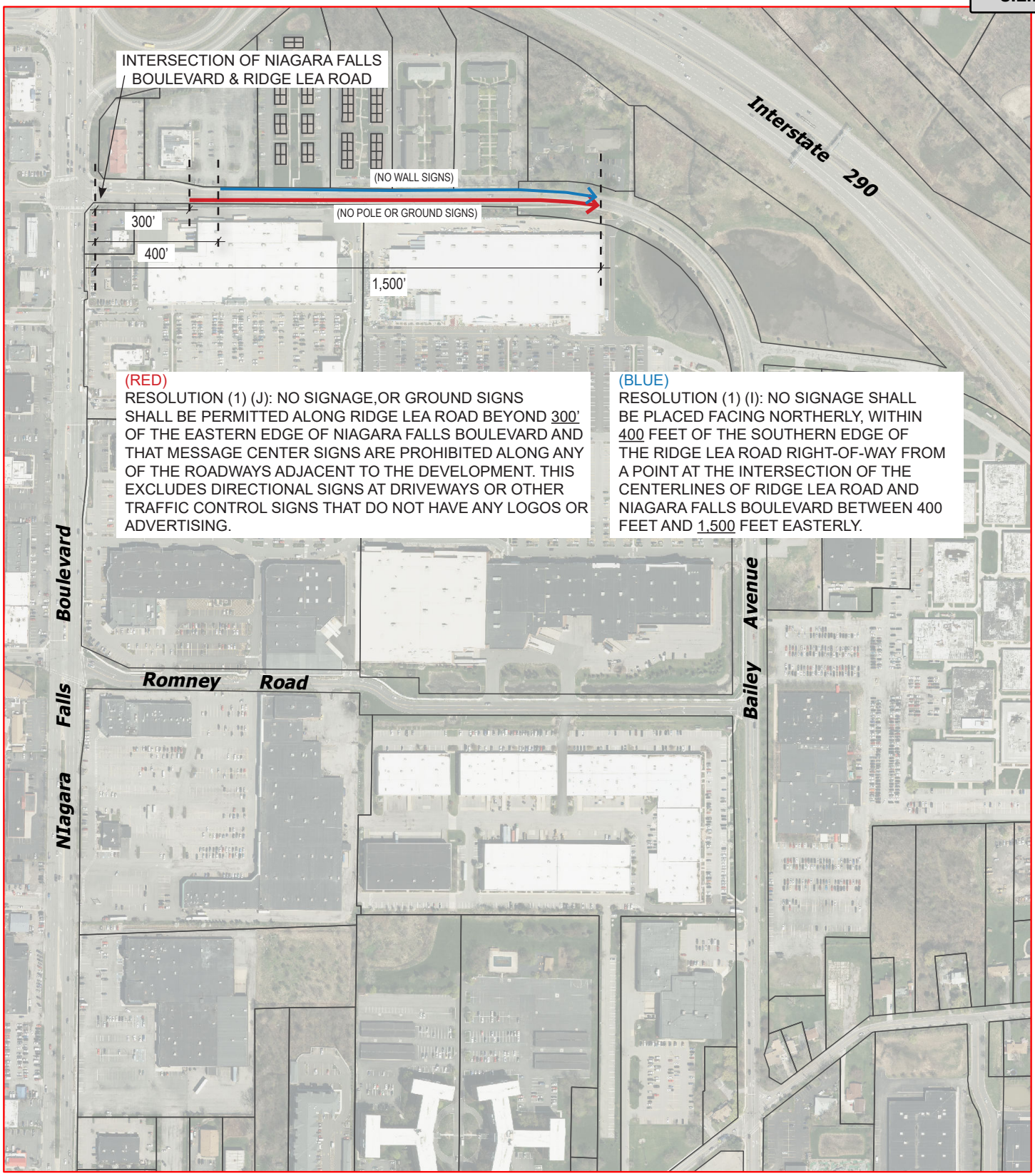
If improvements are required involving your agency, please state schedule for completion (sewer construction, road widening, etc.)

Please call the Planning Department if additional information is required (631-7051).

Signature: Doug Gesel **Date:** 11/8/23

DU/GP/ac
X:\Current_Planning\Files\Rezonings\1996\Z-1996-02_B_(1541-1703_Niagara_Falls_Blvd)_2023\Z-1996-02_B_Transmittal_092723.doc
cc: Scott Marshall, Principal Planner
Jeff Burroughs, Town Engineer
James Boglioli, Benderson Development Co., 570 Delaware Ave., Buffalo, NY 14202

Attachment: Z-1996-02B TB letter packet 022624 (RES-2024-173 : 1565, 1575-1659 & 1641-1703 Niagara Falls Boulevard Requesting a



Z-1996-02B

Property Located at 1565, 1575-1659 & 1641-1703 Niagara Falls Boulevard
Benderson Development, Petitioner

April 2024

NO WALL SIGNS ON BUILDINGS

NO POLE OR GROUND SIGNS

Prepared by the Town of Amherst Planning Department

Attachment: tb exhibit (RES-2024-173 : 1565, 1575-1659 & 1641-1703 Niagara Falls Boulevard Requesting a Modification to Amend SEQRA

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Finance
Initiated by: **Lynda Juul**
Co-Sponsored by:

DOC ID: 28938 **RESOLUTION 2024-341** **ADOPTED**

Amend 2024-2029 Capital Improvement Program

BE IT RESOLVED, the attached amended 2024-2029 Capital Improvement Program is hereby adopted.

4/29/2024
Consent

FINANCIAL IMPACT:

N/A for current budget. Reduction in authorized bonding in all years, reduces future obligations.

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

Town of Amherst **Amended 2024-2029 Capital Improvement Program** **April 29, 2024**

Project ID	Project Title/Description	Funding Source	2024 (1000's)	2025 (1000's)	2026 (1000's)	2027 (1000's)	2028 (1000's)	2029 (1000's)		Total Cost 2024-2029
ACP-1	ACP Recreation Corner, Roadway & Parking Lot	LA F/S	4,200 2,500	4,000 1,250	4,000					$15,950,000
ACP-2	ACP Winter Market	X	545							$545,000
ACP-3	ACP New Theater	LA X	4,000 1,000	5,000 1,000						$11,000,000
ACP-4	ACP Existing Clubhouse	LA								
ACP-5	ACP BNHV Relocation	LA X		250		 2,000				$2,250,000
UR-1	Boulevard Mall Acquisition	LA								
UR-2	Boulevard Mall Demolition	LA								
UR-3	Boulevard Mall Infrastructure	LA			5,000	7,000	5,000			$17,000,000
ES-1	Emergency Communications System	LA F/S	 900	2,100						$3,000,000
E-1	Waterlines	LI	700	750	750	750	750	750		$4,450,000
E-2	Reist Street Culvert	F/S	800							$800,000
E-3	Frankhauser Culvert Replacement	LH		750						$750,000
E-4	Klein Road Complete Street Improvements	LA								
E-5	N. Forest / JJ Audubon Traffic Signal Replacement	LA								
S-1	Sewer Division Vehicles & Equipment	LG								
S-2	WPCF Vehicles & Equipment	LW	50							$50,000
S-3	Misc. Sanitary Sewer Relining & manhole Rehab.	LG I/M	500 150	750 150	750 150	750 150	750 150	750 150		$5,150,000
S-4	BCD Sanitary Sewer Improvements	LG F/S	11,000 31,000							$42,000,000
S-5	Parallel Peanut Line Sanitary Sewer Interceptor	LG X	200		600 2,600					$3,400,000
S-6	Sanitary Sewer Interceptor Evaluation	LG			250	250	250			$750,000
S-7	Mini-System Study - Area 1	LG	75							$75,000
S-8	WPCF Building & Equipment Infrastructure Phase 4	LW			1,000	1,000	1,000	1,000		$4,000,000
S-9	WPCF Strutural Repair/Rebuild of Concrete Tanks	LW			500	500				$1,000,000
S-10	WPCF Cryogenic O2 Plant Replacement	LW			4,000					$4,000,000
S-11	WPCF HVAC Facility Improvements Phase 5	LW		350						$350,000
S-12	WPCF Digester Rehabilitation	LW				500	2,500			$3,000,000
S-13	WPCF Building Envelope Improvements Phase 1	LW				800	850	850		$2,500,000
S-14	WPCF Incinerator Rehabilitation	LW								
S-15	WPCF Electrical Upgrades Phase 5	LW				500	500			$1,000,000
S-16	WPCF Lift Station Pump Controls Replacement Phase 2	LW			400	400	400			$1,200,000
S-17	Hendricks Boulevard Drainage Improvements	LH		150		1,000				$1,150,000
S-18	Eggertsville Drainage Improvements	LH			650	575	600			$1,825,000

Attachment: CIP Amendment 4-29-2024 (RES-2024-341 : Amend 2024-2029 Capital Improvement Program)

Town of Amherst **Amended 2024-2029 Capital Improvement Program** **April 29, 2024**

Project ID	Project Title/Description	Funding Source	2024 (1000's)	2025 (1000's)	2026 (1000's)	2027 (1000's)	2028 (1000's)	2029 (1000's)		Total Cost 2024-2029
S-19	Tonawanda Creek Grinder Pump Forcemain Ext.	LG				650				$650,000
F-1	Facilities Vehicles	LA	150	150	100					$400,000
F-2	Town Parking Lot Paving	LA		100	100	100	100	100		$500,000
F-3	Town Parking Lot Sealing & Striping	LA		100	100	100	100	100		$500,000
F-4	Museum Contract Improvements	LA								
F-5	Annual Masonry Restoration / Brick Re-Pointing	LA		75	75	85	95	95		$425,000
F-6	Town-Wide Arc Flash Study	LA			160	180				$340,000
F-7	Town Hall and 30 S. Cayuga Renovations	LA		300	80	80	200	200		$860,000
F-8	5005 Sheridan Roof Restoration	LA		504						$504,000
F-9	Senior Center Improvements	LA								
F-10	Senior Center Roof System Improvements	LA			750					$750,000
F-11	Harlem Road Community Center HVAC Controls Repl.	LA		375						$375,000
F-12	Harlem Road Community Center Auditorium Restoration	LA F/S		100 400						$500,000
F-13	Harlem Road Community Center Building Impr.	LA			75	75	75	75		$300,000
F-14	Highway Building Improvements	LD		1,000	1,000	1,000	1,000	1,000		$5,000,000
F-15	Engineering Department Building Improvements	LA				200	200			$400,000
F-16	Shaw Building Improvements	LA			150	150	150	150		$600,000
H-1	Vac Truck	LH								
H-2	Paving	LD	1,000	1,000	1,000	1,000	1,000	1,000		$6,000,000
H-3	Town-Wide Road Striping	LD	50	100	100	100	100	100		$550,000
H-4	Town-Wide Curbing Repair	LD		100						$100,000
H-5	Town-Wide Guide Rail Replacement	LD		50		50		50		$150,000
H-6	Town-Wide Repair of Park Structures	LA		100	100	100	100	100		$500,000
H-7	Town-Wide Tree Maintenance	LB	100							$100,000
H-8	Various Signal Upgrades	LA	150							$150,000
H-9	Reconstruction of the Town Bike Path	LA		100	100	100	100	100		$500,000
H-10	Reconstruction of Burroughs Drive	LA		650						$650,000
H-11	Highway Fuel System Upgrades	LD						600		$600,000
IT-1	Enterprise System	LA								
P-1	Comprehensive Planning	LA	100							$100,000
P-2	Youngs Road Extension - Casey to N. French	LD								
PO-1	APD Detective & Record Bureau Improvements	LA				355				$355,000
PO-2	Town-Wide Centralized Security Improvements	LA	50	50	50	50	50	50		$300,000
PO-3	APD Building Improvements	LA				150	150	150		$450,000
PO-4	Police Court & Maintenance Garage Roof Impr.	LA			395					$395,000
PO-5	Police HVAC System Improvements Phase 5	LA			450					$450,000
PO-6	Police Dispatch Expansion	F/S		750						$750,000
YR-1	Y&R Vehicles & Equipment	LA		150						$150,000

Attachment: CIP Amendment 4-29-2024 (RES-2024-341 : Amend 2024-2029 Capital Improvement Program)

Town of Amherst **Amended 2024-2029 Capital Improvement Program** **April 29, 2024**

Project ID	Project Title/Description	Funding Source	2024 (1000's)	2025 (1000's)	2026 (1000's)	2027 (1000's)	2028 (1000's)	2029 (1000's)		Total Cost 2024-2029
YR-1A	Rec. Complexes Concession & Restroom Impr.	LA F/S		 350	 250	1,400				$2,000,000
YR-2A	NTC Rubber Floor Replacement	LA					200	500		$700,000
YR-3A	Lou Gehrig Parking Improvements	LA				200	850	1,000		$2,050,000
YR-4A	Youth & Recreation Facilities Building Control System	LA								
YR-5A	Ice Resurfacer Replacement	LA		320						$320,000
YR-6A	NTC Sound System & Scoreboard Replacement	LA				75	125			$200,000
YR-7A	NWACC Playground & Outdoor Improvements	LA X		100 100						$200,000
YR-8A	Clearfield Tennis Court Lighting	LA						163		$163,000
YR-9A	NTC Ice Expansion	LA								
YR-10A	NTC Storage Facility	LA								
YR-11A	CALL Backstop & Lighting	LA								
YR-12A	Audubon Golf Course Improvements	LA		500	500					$1,000,000
YR-13A	NTC Parking Area Curbing / Fencing Improvements	LA		50						$50,000
YR-1B	75 Tupelo Park Space	LA F/S		250 250						$500,000
YR-2B	Dellwood Park Inclusive Baseball Field & Park Impr.	LA								
YR-3B	Billy Wilson Park Parking Lot Expansion	LA						168		$168,000
YR-4B	Park Area Renovations	LA			100		100			$200,000
YR-5B	Playground Safety Equipment & Surfacing	LA		250		250		250		$750,000
YR-6B	LED Facility & Park Wayfinding Signage	LA								
YR-7B	Pickleball Courts	F/S		100						$100,000
YR-1C	Great Baehre Boardwalk Trail Rehab.	LA								
YR-2C	Ellicott Creek Trailway Extension (LWRP)	LA								
YR-3C	BNHV & Erie CanalCorridor Improvements (LWRP)	LA								
YR-4C	Amherst State Park Boardwalk Trials (LWRP)	LA								
YR-5C	Dann Lake Park Pedestrian Safety Improvements (LWRP)	LA								
YR-6C	Nature View Park Pedestrian Safety Improvements (LWRP)	LA								
TOTAL ANTICIPATED BONDING			22,325	20,574	23,285	20,475	17,295	9,301		$113,255,000
TOTAL ANTICIPATED OUTSIDE FUNDING			36,895	4,350	3,000	2,150	150	150		$46,695,000
GRAND TOTAL			59,220	24,924	26,285	22,625	17,445	9,451		$159,950,000

Funding Source

L - Bond
I/M - I&I or Mitigation Funds
F/S - Federal or State Aid
X - Private Source

Funding Account

A - General Fund
B - Part Town
C - Community Env.
D - Highway Fund
F - Lighting District
G - Sanitary Sewer District
H - Storm Drainage
I - Water District
W - Water Pollution Control Facility

Attachment: CIP Amendment 4-29-2024 (RES-2024-341 : Amend 2024-2029 Capital Improvement Program)

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Supervisor
Initiated by: **Brian J. Kulpa**
Co-Sponsored by:

DOC ID: 28757 **RESOLUTION 2024-342** **ADOPTED**

Temporary License Agreement – Village Preservation Board (2024 Williamsville Farmers Market) (CRS #4747)

Kindly adopt a resolution authorizing the Supervisor to execute the attached License Agreement for the Village Preservation Foundation to use the Town Lot for the Williamsville Farmer's Market for the year 2024, beginning 5/18/24 and ending 10/26/24 subject to successful completion of the contract routing system. (CRS #4747).

4/29/2024
Consent

FINANCIAL IMPACT:

A1420-02770 ($50.00)

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

March 11, 2024

Town of Amherst
5583 Main Street
Williamsville, NY 14221

Town Board:

The Williamsville Farmer's Market would like to request permission to use the town parking lot between the Williamsville Library and the Amherst Town Hall every Saturday for the upcoming 2024 Season. The back south west parking lot would be used the Saturday following Old Home Days which is TBD and whenever sealing of the front parking lot is taking place. We would also request permission to use the green space on the west side of the Town Hall Entrance. The season will begin on 5/18/2024 and end on 10/26/2024.

Insurance Certificate is being retained listing the Town of Amherst as additionally insured. We will not be requesting use of power from the library.

Thank you for your continued support of the Williamsville Farmer's Market.

Sincerely

Ellie Grenauer

Ellie Grenauer
Williamsville Farmer's Market
Executive Officer

CC: Village of Williamsville Board

Attachment: 2024 Letter for Farmers Market (RES-2024-342 : Temporary License Agreement – Village Preservation Board (2024 Williamsville

LICENSE AGREEMENT

THIS TEMPORARY LICENSE AGREEMENT (this "Agreement") entered into as of the 18th day of May, 2024, by and between the **TOWN OF AMHERST** (hereinafter "Town"), a municipal corporation organized and existing under and by virtue of the laws of the State of New York and with offices and principal place of business at 5583 Main Street, Williamsville, New York 14221, and the **VILLAGE PRESERVATION FOUNDATION** (hereinafter "Foundation"), a not-for-profit corporation organized and existing under and by virtue of the laws of the State of New York and with offices and principal place of business at 130 Milton Street, Williamsville, New York 14221.

WHEREAS, the Town has ownership of certain lands described as the parking lot located between the Williamsville Library and the Amherst Town Hall, the grassy area outside of the Town Hall and the Williamsville Library and the steps of the Town Hall (hereinafter "Licensed Property").

WHEREAS, the Foundation wishes to operate a Farmer's Market every Saturday during the 2024 growing and harvest season (hereinafter "Farmer's Market") utilizing the Licensed Property.

WHEREAS, the Town wishes to accommodate the operation of the Farmer's Market by the Foundation on the Licensed Property upon and subject to the terms and conditions set forth in this Agreement.

NOW THEREFORE, the Town and the Foundation, in consideration of the foregoing and of the mutual agreements contained herein, agree as follows:

1. Grant of License. The Town hereby grants to the Foundation, and the Foundation hereby accepts from the Town, a non-exclusive license to use the Licensed Property for the purpose of operating the Farmer's Market, subject, however, to the terms and conditions of this Agreement.

2. License Fee. The Foundation shall pay the Town a license fee in the amount of Fifty Dollars and Zero Cents ($50.00) to be paid in full by June 9, 2024, for use of the Licensed Property for the Term as defined in this Agreement.

3. Term of License. The term of the license granted by this Agreement shall commence on May 18, 2024 and shall terminate on October 26, 2024 (hereinafter "Term").

4. Hours of Operation and Compliance with Laws. The Foundation's use of the Licensed Property shall be limited to each Saturday, between 6:00 am and 2:00 pm, from May 18, 2024 through October 26, 2024, inclusive. The Foundation shall use the Licensed Property solely for purposes of the Farmer's Market. The Foundation, in exercising its rights hereunder, shall comply with all applicable Federal, New York State, County of Erie and Town of Amherst statutes, ordinances, local laws, codes, rules and regulations.

Attachment: 2024 Farmers Market Contract w Village Preservation Foundation (RES-2024-342 : Temporary License Agreement – Village

5. Permitted Uses. Upon the Licensed Property, the Foundation may allow vendors to operate and, if needed, may place up to four (4) garbage cans, two (2) recycling totes, and two (2) picnic tables. Neither the Foundation nor any of its Farmer's Market vendors shall mark any of the sidewalks or other paved area with any substance other than sidewalk chalk.

6. Indemnification. To the fullest extent permitted by law, the Foundation shall at all times defend, indemnify and hold the Town and their respective members, officers, agents, employees, contractors, visitors and invitees, harmless from and against any and all damages, claims, demands, actions, or causes of action and all related costs and expenses (including reasonable attorneys' fees and expert witness fees), losses, fines, penalties, injury and liabilities of every kind and nature (hereinafter collectively referred to as "Claims"), for personal injuries, death and/or property damage arising from or out of the Foundation's use of the Licensed Property, its exercise of the license rights and privileges granted pursuant to this Agreement, and/or by reason of the Foundation's failure to observe or perform any of the terms, conditions, covenants or agreements to be observed or performed under or pursuant to this Agreement, whether such Claims are asserted by the Town, the Foundation, third parties, or their respective agents, contractors, employees, invitees, or licensees, excepting those Claims which are the result of either (i) the negligence or intentional acts of the Town or their respective agents, employees, invitees or contractors; or (ii) the any failure on the part of the Town to observe or perform any of the terms, conditions, covenants or agreements to be observed or performed under or pursuant to this Agreement. Expiration or termination of the Term of this Agreement shall not affect the continuing obligations of the Foundation as an indemnitor hereunder for any such Claims which accrue or relate to an event which occurred prior to the expiration or termination of this Agreement.

7. Insurance. The Foundation shall, during the Term herein, carry and maintain, at its own cost and expense comprehensive general liability insurance with a combined single limit of at least One Million Dollars and Zero Cents ($1,000,000.00), protecting and indemnifying the Foundation, the Town against any and all claims for injury or damage to persons or property or for loss of life or of property occurring upon, in or about the Licensed Property, excepting such claims which are the result of either (i) the negligence or intentional acts of the Town or their respective agents, employees, invitees or contractors; or (ii) the any failure on the part of the Town to observe or perform any of the terms, conditions, covenants or agreements to be observed or performed by the Town pursuant to this Agreement; such insurance to include, without limitation, contractual liability insurance coverage with respect to the obligations and liabilities of the Foundation under this Agreement to indemnify the Town. In addition, the Foundation shall require each Farmer's Market vendor to procure both general liability and products liability insurance with limits of not less than One Million Dollars and Zero Cents ($1,000,000.00) per occurrence naming the Town as additional insured on a primary basis as certificate holders. Prior to the commencement of the Term of this Agreement, the Foundation shall deliver to the Town a list of vendors all certificates evidencing the insurance required by this section. Neither the Town, nor its agents or employees, makes any representation with respect to the adequacy of the scope or limits of the insurance coverage specified in this Agreement.

Attachment: 2024 Farmers Market Contract w Village Preservation Foundation (RES-2024-342 : Temporary License Agreement – Village

8. Release of Liability. To the fullest extent permitted by law, the Foundation, for itself and its Farmer's Market vendors, and their respective employees, agents, contractors, and invitees, hereby releases the Town and its respective officers, employees, contractors, agents, successors and assigns (hereinafter collectively referred to as "Related Parties") of and from any and all damages, claims, demands, actions, or causes of action, losses, fines, injury, and liabilities of every kind and nature for personal injuries, death and/or property damage arising out of the Foundation's exercise of the license rights granted pursuant to this Agreement, except to the extent caused by the gross negligence or willful misconduct of the Town.

9. No Waiver. The failure of the Town to insist, in any one or more instances, upon the performance by the Foundation of any of the covenants of this Agreement, or to exercise any right hereunder, shall not be construed as a waiver or a relinquishment for the future of any such covenant or right, but the same shall continue and remain in full force and effect.

10. 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 not later than three (3) days after the date of such accident.

11. Nature of License Agreement. The revocable license granted herein:

(a) Is not a conveyance or lease of real property;

(b) Is not intended to grant or convey to the Foundation the exclusive use of the land on which the Farmer's Market is operated;

(c) Is granted subject to grants, conveyances, easements, and rights-of-way heretofore made to others; and

(d) Is granted subject to the right (which the Town hereby reserves) of the Town to:

(i) Use and enjoy the lands within the boundaries of the Licensed Area in any manner that does not unreasonably interfere with the rights herein granted to the Foundation, and

(ii) Grant and convey easements and rights-of-way to others over, across, under, and through the Licensed Area, provided such easements and rights-of-way do not unreasonably interfere with the rights herein granted to the Foundation.

12. Maintenance and Repairs. The Foundation agrees to take good care of the Licensed Property and to perform, at its sole cost and expense, all maintenance and make all repairs (except any repairs and maintenance required by latent defects in the Licensed Property) during the Term of this Agreement made necessary by the Foundation's use of said

Attachment: 2024 Farmers Market Contract w Village Preservation Foundation (RES-2024-342 : Temporary License Agreement – Village

all repairs (except any repairs and maintenance required by latent defects in the Licensed Property) during the Term of this Agreement made necessary by the Foundation's use of said property. Upon the expiration or earlier termination of this Agreement, the Foundation shall deliver up the Licensed Property to the Town in good order and the condition is what it existed prior to the Foundation's use of the property. The Foundation's obligations under this section shall survive the expiration or earlier termination of this Agreement.

13. Restriction against Assignment. The Foundation shall not assign this Agreement or its rights or interest herein, without the express, prior written consent of the Town, which the Town may deny in its sole discretion.

14. Miscellaneous. This Agreement shall be construed in accordance with the laws of the State of New York, and constitutes the complete understanding and agreement of the parties with respect to the subject matter hereof. No modification or amendment of any of the provisions hereof shall be valid unless in writing and signed by both parties hereto. This Agreement is not intended to benefit or be enforceable by anyone other than the Town and the Foundation.

15. Counterparts and Electronic Signatures. This Agreement may be executed in counterparts, and may be executed and delivered by facsimile or e-mail transmission. Facsimile or e-mail copies of the fully executed Agreement shall have the same force and effect as originals and the same admissibility in evidence as an Agreement containing an original signature. The parties hereby waive any objection to the contrary.

IN WITNESS WHEREOF, the Town and the Foundation have caused this Agreement to be executed by their respective duly authorized officers as of the day and year first above written.

TOWN OF AMHERST	**WILLIAMSVILLE FARMERS MARKET**
By: _____	By: _____
Name: Brian J. Kulpa	Name: Elise Grenauer
Title: Supervisor	Title: Market Coordinator

Attachment: 2024 Farmers Market Contract w Village Preservation Foundation (RES-2024-342 : Temporary License Agreement – Village

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Councilmembers
Initiated by: **Shawn Lavin**
Co-Sponsored by:

DOC ID: 28835 **RESOLUTION 2024-343** **ADOPTED**

Amherst IT Advisory Board Re-Appointments

WHEREAS, the purpose of the Information Technology Advisory Committee, also known as IT Committee, is to assist the Town Board in the development and implementation of information technology policy; and

WHEREAS, the Information Technology Advisory Committee meets quarterly or when the Amherst Town Board requests; and

WHEREAS, the Information Technology Advisory Committee maximum membership of eight (8) members, each appointed by a majority of the Amherst Town Board, who shall serve a term of four (4) years; and

WHEREAS, the IT Committee currently has a Board of six (6) members, who shall continue to serve until their term of appointment expires, as follows:

John Davis, Member, term expires 12/31/2025
Kathryn Francis, Member, term expires 12/31/2026
Michael Kistner, Member, expires 12/31/2025
Mary Ann Meyer, Member, 12/31/2025; and

WHEREAS, the Members of the IT Committee shall, by majority vote, elect a Chairperson from among the members and such officers as may be deemed necessary from time to time; and

WHEREAS, Don Smith and Gregory Struzik have served on the Information Technology Advisory Committee and has expressed interest in serving another term.

NOW, THEREFORE, BE IT RESOLVED that the Amherst Town Board reappoints Don Smith and Gregory Struzik to the Information Technology Advisory Committee for a term to conclude December 31, 2027.

4/29/2024
Consent

FINANCIAL IMPACT:

None

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

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Councilmembers
Initiated by: **Jacqualine Berger**
Co-Sponsored by:

DOC ID: 28947 **RESOLUTION 2024-344** **ADOPTED**

9/11 Commemoration Committee Appointments

WHEREAS, after the tragic events of September 11, 2001, the Town of Amherst created a 9/11 Commemoration Committee to plan, organize and conduct an annual ceremony to remember those lost; and

WHEREAS, the membership for this committee is unlimited; and

WHEREAS, the 9/11 Commemoration Committee current members terms have expired; and

WHEREAS, the members listed below have expressed interest to continue serving on the 9/11 Commemoration Committee:

Susan Grelick, Chair
Karen Eckert, Member
Patrice Fischer, Member
Stephen DiPasquale, Member; and

WHEREAS, other members representing the Town of Amherst include liaison Francina Spoth, Town Clerk, Captain Pearsons, Amherst Police Department representative, Brandon Peters, Emergency Services representative, Mary-Diana Pouli, Director of Youth & Recreation and a representative of the Highway Department.

NOW, THEREFORE, BE IT RESOLVED that the Amherst Town Board re-appoints residents Susan Grelick, Karen Eckert, Patrice Fischer, and Stephen DiPasquale to the 9-11 Commemoration Committee, for terms to conclude December 31, 2025.

4/29/2024
Consent

FINANCIAL IMPACT:

None

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

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Councilmembers
Initiated by: **Michael Szukala**
Co-Sponsored by:

DOC ID: 28861 **RESOLUTION 2024-345** **ADOPTED**

Bornhava Specialized Early Childhood Center

WHEREAS, the Town of Amherst received a request from Bornhava to establish a school zone along Chateau Terrace in advance of, and adjacent to, Bornhava Specialized Early Childhood Center; and

WHEREAS, the request was reviewed by the Traffic Safety Board where it was determined that the criteria for establishing a school speed zone is met in accordance with NYSDOT Traffic Engineering Directive OS 03-002; and

THEREFORE BE IT RESOLVED, the Amherst Town Board approves the posting of a 20 mph school speed zone on Chateau Terrace in the immediate vicinity of Bornhava more than 400 feet but less than 1320 feet; and

THEREFORE BE IT FURTHER RESOLVED, the reduced school speed zone shall be effective Mondays through Fridays between 7:00 a.m. and 6:00 p.m.; and

THEREFORE BE IT FURTHER RESOLVED, that the Town's Highway Department post school zone signage on Chateau Terrace and Chateau Terrace South for the maximum distances allowed by the Manual on Uniform Traffic Control Devices.

4/29/2024
Consent

FINANCIAL IMPACT:

$500.00 (Signs)

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

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Councilmembers
Initiated by: **Michael Szukala**
Co-Sponsored by:

DOC ID: 28905 **RESOLUTION 2024-346** **ADOPTED**

Board of Electrician Examiners Re-Appointments

WHEREAS, the Board of Electrician Examiners shall have jurisdiction and examination authority over all persons desiring or intending to engage in the trade, business or calling of electrical contracting or construction in the Town; and

WHEREAS, with the power to examine and certify persons applying for certificates of competency as a Master Electrician or a Residential Electrician; and

WHEREAS, to determine their fitness and qualification for acting as such and to issue certificates of competency to all such persons who shall have satisfactorily passed examinations before such Board and shall be by it deemed to qualified for such certificate; and

WHEREAS, the Town of Amherst Board of Electrician Examiners shall consist of five (5) members: the Building Commissioner, the Senior Electrical Inspector of the Town, the Electrical Inspector of the Town with the most seniority and two persons who have been actively engaged in the electrical business for at least ten (10) years with the last two members appointed by the Town Supervisor; and

WHEREAS, the following be appointed by the Supervisor, per Town Code §83-3-1¶1-2, to the Town of Amherst Board of Electrician Examiners:

Mark Berke, Building Commissioner
Joseph Hoehman, Senior Electrical Inspector
John Garven, Town Electrical Inspector

WHEREAS, Brian Schaefer and Robert Zacher, Town residents, have expressed interest in continuing to serve on the Amherst Board of Electrician Examiners.

NOW, THEREFORE, BE IT RESOLVED that the Amherst Town Board reappoint Brian Schaefer and Robert Zacher to the Amherst Board of Electrician Examiners for terms to conclude December 31, 2026.

4/29/2024
Consent

FINANCIAL IMPACT:

None

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

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Councilmembers
Initiated by: **Michael Szukala**
Co-Sponsored by:

DOC ID: 28894 **RESOLUTION 2024-347** **ADOPTED**

Set Public Hearing Date – Stop Sign Relocations Along Getzville Road

Please schedule a public hearing on May 28, 2024 to reconfigure the stop signs on Getzville Road at the intersections of Woodbury Drive, Greenbrier Road, and Meadowstream Drive.

"The southbound stop sign at the northern intersection of Woodbury Drive and Getzville Road shall be removed and relocated to the northwest corner of Greenbrier Road and Getzville Road, whereby making the Greenbrier Road and Getzville Road intersection an all-way stop."

and,

"The northbound stop sign at the intersection of Meadowstream Drive and Getzville Road shall be removed and relocated to the southeast corner of the southern intersection of Woodbury Drive and Getzville Road, whereby making the Woodbury Drive and Getzville Road intersection an all-way stop."

4/29/2024
Consent

FINANCIAL IMPACT:

< $200 in sign materials

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

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Councilmembers
Initiated by: **Angela Marinucci**
Co-Sponsored by:

DOC ID: 28868 **RESOLUTION 2024-348** **ADOPTED**

Appointment to Library Board of Trustees

WHEREAS, the Town of Amherst Library Board of Trustees mission is to connect the diverse community with library resources that enrich, enlighten and entertain; and

WHEREAS, the Library Board of Trustees has a roster of eight (8) members who serve five (5) year terms; and

WHEREAS, the Library Board of Trustees current roster of six (6) members, who shall continue to serve until their term of appointment expires, as follows:

Jeffrey Voelkl, Chairperson, term expires 12/31/2025
Oliver Young, Esq., Vice Chairperson, term expires 12/31/2027
Marilyn Feuerstein, Secretary, term expires 12/31/2027
Carolyn Giambra, Treasurer, term expires 12/31/2026
Penny Wolfgang, Member, term expires 12/31/2028

WHEREAS, David Saia has expressed an interest in serving on this Board;

NOW, THEREFORE, BE IT RESOLVED that the Amherst Town Board appoints David Saia to the Amherst Library Board of Trustees for terms ending December 31, 2029.

4/29/2024
Consent

FINANCIAL IMPACT:

None

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

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Town Attorney
Initiated by: **Martin A. Polowy**
Co-Sponsored by:

DOC ID: 28918 **RESOLUTION 2024-349** **ROLL CALL VOTE (ADOPTED)**

Town Road Pavement Improvements (Bond Resolution - $1M)

AGENDA ITEM : APRIL 29th, 2024

TO: **Town Board**

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

DATE: **April 24, 2024**

RE: **Town Road Pavement Improvements**
2024-2029 C.I.P. - Project H-2
Bond Resolution - $1M

Kindly take the following action with respect to the above bond request:

(1) Adopt the attached SEQR determination for the above project as determined by the Town of Amherst Planning Department; and

(2) Adopt the attached bond resolution authorizing the issuance of $1,000,000 in serial bonds for the above-referenced Town improvement.

The adoption of the bond resolution does not require a public hearing to be held because the improvement is a Town improvement not involving a special district.

Also attached is the Map Plan and Report which provides further detail on the scope of the project.

Thank you.

MAP:nmb
Attachments
c: Tim Koller, Deputy Town Clerk (*w/attachments*, **Agenda Item - April 29, 2024**)
Daryl C. Bramer, Comptroller (*w/attachments*)
Lynda Juul, Director of Finance (*w/attachments*)
Dale Ulatowski, AICP, Assistant Planning Director/ZEO (*w/attachments*)
Dan Howard, Director of Planning (*w/attachments*)
Asher S. Pontikos, GIS Analyst (*w/attachments*)
Steven Floss, Highway Superintendent (*w/attachments*)
Kurt Stanley, Deputy Highway Superintendent (*w/attachments*)

4/29/2024
A motion to adopt the SEQR determination was made by Supervisor Kulpa, seconded by Councilmember Berger and unanimously approved 4-0. A motion to approve the Bond

resolution was made by Supervisor Kulpa, seconded by Councilmember Berger and unanimously approved via Roll Call vote 4-0.

FINANCIAL IMPACT:

Bond Resolution - $1M

RESULT:	**ROLL CALL VOTE (ADOPTED) [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Jacqualine Berger, Councilmember
AYES:	Kulpa, Berger, Szukala, Marinucci
ABSENT:	Lavin

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 April 12, 2024

TO: Asher S. Pontikos, GIS Analyst
Engineering Department

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

RE: SEQR Determination
Town Road Pavement Improvements
2024-2029 C.I.P. Project H-2

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)\Town Road Pavement Imrovements_04_12_2024.docx

cc:
Martin A. Polowy, Esq., Town Attorney
Daniel Howard, Planning Director

Attachment: H-2_Town Road Pavement Imrovements_04_12_2024.SEQR (RES-2024-349 : Town Road Pavement Improvements (Bond

EXTRACT OF MINUTES

Meeting of the Town Board of the

Town of Amherst, in the

County of Erie, New York

April 29, 2024

* * *

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 April 29, 2024.

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

* * *

_____ offered the following resolution and moved its adoption:

Attachment: CertBondReso (RES-2024-349 : Town Road Pavement Improvements (Bond Resolution - $1M))

BOND RESOLUTION OF THE TOWN OF AMHERST, NEW YORK, ADOPTED APRIL 29, 2024, AUTHORIZING IMPROVEMENTS TO VARIOUS TOWN ROADS, STATING THE ESTIMATED MAXIMUM COST THEREOF IS $1,000,000, APPROPRIATING SAID AMOUNT FOR SUCH PURPOSE, AND AUTHORIZING THE ISSUANCE OF BONDS IN THE PRINCIPAL AMOUNT OF $1,000,000 TO FINANCE SAID APPROPRIATION

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

Section 1. The Town of Amherst, in the County of Erie, New York (herein called the "Town"), is hereby authorized to undertake improvements to various Town roads, including paving; as described in the map, plan and report dated April 2024 and prepared by the Town of Amherst Engineering Department (2024-2029 Capital Improvement Program, Project H-2). The estimated maximum cost thereof, including preliminary costs and costs incidental thereto and the financing thereof, is $1,000,000 and said amount is hereby appropriated for such purpose. The plan of financing includes the issuance of bonds in the principal amount of $1,000,000 to finance said appropriation, and the levy and collection of taxes on all the taxable real property in the Town to pay the principal of said bonds and the interest thereon as the same shall become due and payable.

Section 2. Bonds of the Town in the principal amount of $1,000,000 are hereby authorized to be issued 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.

Attachment: CertBondReso (RES-2024-349 : Town Road Pavement Improvements (Bond Resolution - $1M))

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

(a) The period of probable usefulness applicable to the class of objects or purposes for which said bonds are authorized to be issued, within the limitations of Section Sections 11.00 a. 20(c) of the Law, is fifteen (15) years.

(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 for the purpose for which said bonds are authorized. The foregoing statement of intent with respect to reimbursement is made in conformity with Treasury Regulation Section 1.150-2 of the United States Treasury Department.

(c) The proposed maturity of the 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 the sale of said bonds, shall contain the recital of validity as prescribed by Section 52.00 of the Law and said bonds, and any notes issued in anticipation of said bonds, shall be general obligations of the Town, payable as to both principal and interest by 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 in anticipation thereof to mature in such year, and (b) the payment of interest to be due and payable in such year.

Attachment: CertBondReso (RES-2024-349 : Town Road Pavement Improvements (Bond Resolution - $1M))

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 of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said bond anticipation notes, and as to the execution of agreements for credit enhancements, are hereby delegated to the Supervisor, the chief fiscal officer of the Town.

Section 6. The validity of the bonds authorized by this resolution, and of any notes issued in anticipation of the sale 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.

Attachment: CertBondReso (RES-2024-349 : Town Road Pavement Improvements (Bond Resolution - $1M))

Section 7. This bond resolution is subject to a permissive referendum and the Town Clerk is hereby authorized and directed, within ten (10) days after the adoption of this resolution, to cause to be published, in full, in "The Amherst Bee," a newspaper having a general circulation within said Town and hereby designated the official newspaper of the Town for such publication and posted on the sign board of the Town maintained pursuant to the Town Law, a Notice in substantially the following form:

Attachment: CertBondReso (RES-2024-349 : Town Road Pavement Improvements (Bond Resolution - $1M))

TOWN OF AMHERST. NEW YORK

PLEASE TAKE NOTICE that on April 29, 2024, the Town Board of the Town of Amherst, in the County of Erie, New York, adopted a bond resolution entitled:

> "Bond Resolution of the Town of Amherst, New York, adopted April 29, 2024, authorizing improvements to various Town roads, stating the estimated maximum cost thereof is $1,000,000, appropriating said amount for such purpose, and authorizing the issuance of bonds in the principal amount of $1,000,000 to finance said appropriation,"

an abstract of which bond resolution concisely stating the purpose and effect thereof, being as follows:

FIRST: AUTHORIZING said Town to undertake improvements to various Town roads, including paving; as described in the map, plan and report dated April 2024 and prepared by the Town of Amherst Engineering Department (2024-2029 Capital Improvement Program, Project H-2); STATING the estimated maximum cost thereof, including preliminary costs, and costs incidental thereto and the financing thereof, is $1,000,000; APPROPRIATING said amount for such purpose; and STATING the plan of financing includes the issuance of bonds in the principal amount of $1,000,000 to finance said appropriation, and the levy and collection of taxes on all the taxable real property in the Town to pay the principal of said bonds and the interest thereon;

SECOND: AUTHORIZING the issuance of bonds in the principal amount of $1,000,000 pursuant to the Local Finance Law of the State of New York (the "Law") to finance said appropriation;

THIRD: DETERMINING and STATING the period of probable usefulness applicable to the purpose for which said bonds are authorized to be issued is fifteen (15) years; the proceeds of said bonds and any bond anticipation notes issued in anticipation thereof may be applied to reimburse the Town for expenditures made after the effective date of this bond resolution for the purpose for which said bonds are authorized; and the proposed maturity of said bonds will exceed five (5) years;

FOURTH: DETERMINING that said bonds, and any bond anticipation notes issued in anticipation of said bonds, and the renewals of said bond anticipation notes shall be general obligations of the Town; and PLEDGING to their payment the faith and credit of the Town;

FIFTH: DELEGATING to the Supervisor the powers and duties as to the issuance of said bonds, and any bond anticipation notes issued in anticipation of said bonds, or the renewals thereof; and

Attachment: CertBondReso (RES-2024-349 : Town Road Pavement Improvements (Bond Resolution - $1M))

SIXTH: DETERMINING that the bond resolution is subject to a permissive referendum.

DATED: April 29, 2024

FRANCINA J. SPOTH
Town Clerk

Section 8. The Town Clerk is hereby authorized and directed to cause said bond resolution to be published, in summary, after said bond resolution shall take effect, in the newspaper referred to in Section 7 hereof, and hereby designated the official newspaper for said publication, together with a Notice in substantially the form as provided by Section 81.00 of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York.

* * *

Attachment: CertBondReso (RES-2024-349 : Town Road Pavement Improvements (Bond Resolution - $1M))

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

AYES:

NOES:

The resolution was declared adopted.

****

Attachment: CertBondReso (RES-2024-349 : Town Road Pavement Improvements (Bond Resolution - $1M))

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 from the minutes of a meeting of the Town Board of said Town of Amherst duly called and held on April 29, 2024, has been compared by me with the original minutes 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 original minutes so far as the same relate to the subject matters referred to in said extract.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of said Town of Amherst this _____day of April, 2024.

(SEAL)

_____
Town Clerk

Attachment: CertBondReso (RES-2024-349 : Town Road Pavement Improvements (Bond Resolution - $1M))

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Town Attorney
Initiated by: **Martin A. Polowy**
Co-Sponsored by:

DOC ID: 28916 **RESOLUTION 2024-350** **ROLL CALL VOTE (ADOPTED)**

Facility Improvements - Facilities Vehicles (Bond Resolution - $150,000)

AGENDA ITEM : APRIL 29th, 2024

TO: **Town Board**

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

DATE: **April 24, 2024**

RE: **Facility Improvements - Facilities Vehicles**
2024-2029 C.I.P. - Project F-1
Bond Resolution - $150,000

Kindly take the following action with respect to the above bond request:

(1) Adopt the attached bond resolution authorizing the issuance of $150,000.00 in serial bonds for the above-referenced Town improvement.

The adoption of the bond resolution does not require a public hearing to be held because the improvement is a Town improvement not involving a special district.

Also attached is the Map Plan and Report which provides further detail on the scope of the project.

Thank you.

MAP:nmb
Attachments
c: Tim Koller, Deputy Town Clerk
(*w/attachments*, **Agenda Item - April 29, 2024**)
Daryl C. Bramer, Comptroller (*w/attachments*)
Lynda Juul, Director of Finance (*w/attachments*)
Dale Ulatowski, AICP, Assistant Planning Director/ZEO (*w/attachments*)
Dan Howard, Director of Planning (*w/attachments*)
Daniel J. Rizzo, Expansion Coordinator, Special Projects (*w/attachments*)

4/29/2024
A motion to approve the Bond resolution was made by Supervisor Kulpa, seconded by Councilmember Marinucci and unanimously approved via Roll Call vote 4-0.

FINANCIAL IMPACT:

Bond Resolution - $150,000

RESULT:	**ROLL CALL VOTE (ADOPTED) [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Angela Marinucci, Councilmember
AYES:	Kulpa, Berger, Szukala, Marinucci
ABSENT:	Lavin

EXTRACT OF MINUTES

Meeting of the Town Board of the

Town of Amherst, in the

County of Erie, New York

April 29, 2024

* * *

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 April 29, 2024.

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

* * *

_____ offered the following resolution and moved its adoption:

Attachment: CertBondReso (RES-2024-350 : Facility Improvements - Facilities Vehicles (Bond Resolution - $150,000))

BOND RESOLUTION OF THE TOWN OF AMHERST, NEW YORK, ADOPTED APRIL 29, 2024, AUTHORIZING THE ACQUISITION OF VEHICLES AND EQUIPMENT FOR THE FACILITIES DEPARTMENT, STATING THE ESTIMATED TOTAL MAXIMUM COST THEREOF IS $150,000, APPROPRIATING SAID AMOUNT FOR SUCH PURPOSE, AND AUTHORIZING THE ISSUANCE OF BONDS IN THE PRINCIPAL AMOUNT OF $150,000 TO FINANCE SAID APPROPRIATION.

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

Section 1. The Town of Amherst, in the County of Erie, New York (herein called the "Town"), is hereby authorized to finance the acquisition of vehicles and equipment for the Facilities Department, as described in the map, plan and report dated April 2024, prepared by the Town Facilities Department (2024-2029 Capital Improvement Program Project F-1). The estimated total maximum cost thereof, including preliminary costs and costs incidental thereto and the financing thereof, is $150,000 and said amount is hereby appropriated for such purpose. The plan of financing includes the issuance of bonds in the aggregate principal amount of $150,000 to finance said appropriation, and the levy and collection of taxes on all the taxable real property in the Town to pay the principal of said bonds and the interest thereon as the same shall become due and payable.

Section 2. Bonds of the Town in the principal amount of $150,000 are hereby authorized to be issued 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 objects or purposes as set forth in section 1 hereof.

Attachment: CertBondReso (RES-2024-350 : Facility Improvements - Facilities Vehicles (Bond Resolution - $150,000))

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

(a) The period of probable usefulness applicable to the class of objects or purposes for which said $150,000 bonds are authorized to be issued, within the limitations of Section 11.00 a. 28 of the Law, is fifteen (15) years.

(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 for the purpose for which said bonds are authorized. The foregoing statement of intent with respect to reimbursement is made in conformity with Treasury Regulation Section 1.150-2 of the United States Treasury Department.

(c) The proposed maturity of the 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 the sale of said bonds, shall contain the recital of validity as prescribed by Section 52.00 of the Law and said bonds, and any notes issued in anticipation of said bonds, shall be general obligations of the Town, payable as to both principal and interest by 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 in anticipation thereof to mature in such year, and (b) the payment of interest to be due and payable in such year.

Attachment: CertBondReso (RES-2024-350 : Facility Improvements - Facilities Vehicles (Bond Resolution - $150,000))

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 of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said bond anticipation notes, and as to the execution of agreements for credit enhancements, are hereby delegated to the Supervisor, the chief fiscal officer of the Town.

Section 6. The validity of the bonds authorized by this resolution, and of any notes issued in anticipation of the sale 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.

Attachment: CertBondReso (RES-2024-350 : Facility Improvements - Facilities Vehicles (Bond Resolution - $150,000))

Section 7. This bond resolution is subject to a permissive referendum and the Town Clerk is hereby authorized and directed, within ten (10) days after the adoption of this resolution, to cause to be published, in full, in "The Amherst Bee," a newspaper having a general circulation within said Town and hereby designated the official newspaper of the Town for such publication and posted on the sign board of the Town maintained pursuant to the Town Law, a Notice in substantially the following form:

Attachment: CertBondReso (RES-2024-350 : Facility Improvements - Facilities Vehicles (Bond Resolution - $150,000))

TOWN OF AMHERST. NEW YORK

PLEASE TAKE NOTICE that on April 29, 2024, the Town Board of the Town of Amherst, in the County of Erie, New York, adopted a bond resolution entitled:

"BOND RESOLUTION OF THE TOWN OF AMHERST, NEW YORK, ADOPTED APRIL 29, 2024, AUTHORIZING THE ACQUISITION OF VEHICLES AND EQUIPMENT FOR THE FACILITIES DEPARTMENT, STATING THE ESTIMATED TOTAL MAXIMUM COST THEREOF IS $150,000, APPROPRIATING SAID AMOUNT FOR SUCH PURPOSE, AND AUTHORIZING THE ISSUANCE OF BONDS IN THE PRINCIPAL AMOUNT OF $150,000 TO FINANCE SAID APPROPRIATION,"

an abstract of which bond resolution concisely stating the purpose and effect thereof, being as follows:

FIRST: AUTHORIZING said Town is authorized to finance the acquisition of vehicles and equipment for the Facilities Department, as described in the map, plan and report dated April 2024, prepared by the Town Facilities Department (2024-2029 Capital Improvement Program Project F-1); STATING the estimated total maximum cost thereof, including preliminary costs, and costs incidental thereto and the financing thereof, is $150,000; APPROPRIATING said amount for such purpose; and STATING the plan of financing includes the issuance of bonds in the principal amount of $150,000 to finance said appropriation, and the levy and collection of taxes on all the taxable real property in the Town to pay the principal of said bonds and the interest thereon;

SECOND: AUTHORIZING the issuance of bonds in the principal amount of $150,000 pursuant to the Local Finance Law of the State of New York (the "Law") to finance said appropriation;

THIRD: DETERMINING and STATING the period of probable usefulness applicable to the purpose for which said bonds are authorized to be issued is fifteen (15) years; the proceeds of said bonds and any bond anticipation notes issued in anticipation thereof may be applied to reimburse the Town for expenditures made after the effective date of this bond resolution for the purpose for which said bonds are authorized; and the proposed maturity of said bonds will exceed five (5) years;

FOURTH: DETERMINING that said bonds, and any bond anticipation notes issued in anticipation of said bonds, and the renewals of said bond anticipation notes shall be general obligations of the Town; and PLEDGING to their payment the faith and credit of the Town;

Attachment: CertBondReso (RES-2024-350 : Facility Improvements - Facilities Vehicles (Bond Resolution - $150,000))

FIFTH: DELEGATING to the Supervisor the powers and duties as to the issuance of said bonds, and any bond anticipation notes issued in anticipation of said bonds, or the renewals thereof; and

SIXTH: DETERMINING that the bond resolution is subject to a permissive referendum.

DATED: April 29, 2024

FRANCINA J. SPOTH,
Town Clerk

Section 8. The Town Clerk is hereby authorized and directed to cause said bond resolution to be published, in summary, after said bond resolution shall take effect, in the newspaper referred to in Section 7 hereof, and hereby designated the official newspaper for said publication, together with a Notice in substantially the form as provided by Section 81.00 of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York.

* * *

Attachment: CertBondReso (RES-2024-350 : Facility Improvements - Facilities Vehicles (Bond Resolution - $150,000))

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

AYES:

NOES:

The resolution was declared adopted.

****

Attachment: CertBondReso (RES-2024-350 : Facility Improvements - Facilities Vehicles (Bond Resolution - $150,000))

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 from the minutes of a meeting of the Town Board of said Town of Amherst duly called and held on April 29, 2024, has been compared by me with the original minutes 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 original minutes so far as the same relate to the subject matters referred to in said extract.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of said Town of Amherst this _____day of April, 2024.

(SEAL)

_____
Town Clerk

Attachment: CertBondReso (RES-2024-350 : Facility Improvements - Facilities Vehicles (Bond Resolution - $150,000))

Town of Amherst

Facilities Department

2024 – 2029 Capital Improvement Projects
Facility Improvements
F-1 Facilities Vehicles

MAP, PLAN & REPORT

April 2024

Contents:

• Background
• Project Description
• Financial Summary
• Taxation Summary

Prepared by:
Town of Amherst
Facilities Department
5583 Main Street, Williamsville, NY 14221
(716) 631 – 7080 | (716) 631 – 7109

Attachment: MPR 2024 F-1 Facilities Vehicles (RES-2024-350 : Facility Improvements - Facilities Vehicles (Bond Resolution - $150,000))

Town of Amherst, Facilities Vehicles
2024-2029 Capital Improvement Projects F-1
Map, Plan & Report

Background

The Town of Amherst owns a variety of buildings and properties which need continued maintenance. With the addition of different skilled trades and maintenance workers the Town has the opportunity to provide in-house maintenance to reduce the overall cost of maintenance on Town-owned facilities and properties. The purchasing of vehicles for Town of Amherst use will make it possible for Town of Amherst Staff and service technicians to make service calls to Town owned facilities including, but not limited to Town Hall, Amherst Central Park, Amherst Senior Center and Community Centers and any future additional facilities purchased by the Town.

The Town of Amherst has identified Project "**F-1**", referred to as "Facilities Vehicles" as a 2024 project to purchase vehicles for the Town of Amherst departmental use when making service calls to town owned buildings and properties.

Facilities Department *Recommended Schedule (X $1,000)*

Project ID	Project Title/Description	2024	2025	2026	2027	2028	2029	Total Cost 2024-2029
F-1	**Facilities Vehicles:** Purchase and maintenance of vehicles for departmental use when making service calls to Town buildings and properties, including ACP maintenance equipment.	150 LA	250 LA					$400,000
F-2	**Town Parking Lot Paving:** Parking lot paving improvements at Town buildings and facilities to correct deterioration and conduct subsequent maintenance.	100 LA	100 LA	100 LA	100 LA	100 LA	100 LA	$600,000
F-3	**Town Parking Lot Sealing & Striping:** Parking lot seal coating, crack filling and striping at Town buildings and facilities to prevent premature failure of asphalt surfacing.		100 LA	100 LA	100 LA	100 LA	100 LA	$500,000
F-4	**Museum Contract Improvements:** Maintain Town-owned buildings at the Buffalo Niagara Heritage Village required by the Town's contract.				100 LA	100 LA	100 LA	$300,000

Key:

Funding Source
T – Tax
L – Bond
S – Surplus
E - Encumbered
I/M – I&I or Mitigation Funds
RF – Recreation Fund
OF – Open Space Fund
F/S – Federal or State Aid
X – Private Source
ARPA – American Rescue Plan

Funding Account
A – General Account
B – Part Town
C – Community Environment
D – Highway
F – Lighting
G – Sanitary Sewer District
H – Storm Drainage District
I – Water District
W – Water Pollution Control Facility
– Special District Number
NS – None Submitted

6

Attachment: MPR 2024 F-1 Facilities Vehicles (RES-2024-350 : Facility Improvements - Facilities Vehicles (Bond Resolution - $150,000))

Project Description

The project includes the purchase of the following vehicles and equipment, with estimated costs:

1-Ton Pickup Truck w/ Snowplow Package	$60,000
Commercial / Industrial Mower	$39,250
4x4 Utility Terrain Vehicle	$25,000
Dump-Trailer	$25,000
Total	$149,250

Alternate/additional equipment may be purchased if needs change or funding allows.

Financial Summary

Purchase of Equipment	$149,250
Legal/Admin	$750
Total	$150,000

Taxation Summary

Total Bond Amount	$150,000 (General Fund)
Bond Term	15 Years
Annual Tax Impact	$0.0008 per $1000 AV at 100% Equal.
Typical Property Impact	$0.2331 per $300,000 AV at 100% Equal.

Attachment: MPR 2024 F-1 Facilities Vehicles (RES-2024-350 : Facility Improvements - Facilities Vehicles (Bond Resolution - $150,000))

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Town Attorney
Initiated by: **Samuel A Alba**
Co-Sponsored by:

DOC ID: 28890 **RESOLUTION 2024-351** **ADOPTED**

Settlement of Article 7 Matter - MF Associates V. Town of Amherst

AGENDA ITEM : APRIL 29TH, 2024

TO: **Town Board**

FROM: **Samuel A. Alba, Esq., Senior Deputy Town Attorney**

DATE: **April 18, 2024**

RE: **Settlement of Article 7 Matter**
M/F Associates v. Town of Amherst

Kindly adopt a resolution authorizing the following:

(1) Settlement of the above matter as detailed in the attached Consent Order and Judgment; and

(2) Authorizing Senior Deputy Town Attorney Samuel A. Alba, Esq. to sign the attached Consent Order and Judgment as the Attorney for the Respondent, Town of Amherst.

Thank you.

SAA:rms
Attachment
c: Tim Koller, Deputy Town Clerk
(*w/attachment,* **Agenda Item : April 29, 2024**)
Emily Murphy, Town Assessor

4/29/2024
Consent

FINANCIAL IMPACT:

Assessment

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

At an IAS Term of the Supreme Court of the State of New York, held for the County of Erie, Buffalo, New York on the __ day of _____, 2024.

PRESENT: HON. DEBORAH CHIMES

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE

IN THE MATTER OF THE APPLICATION FOR REVIEW UNDER ARTICLE 7 OF THE REAL PROPERTY TAX LAW OF A TAX ASSESSMENT BY M/F ASSOCIATES, LLC

CONSENT ORDER AND JUDGMENT

Petitioner,

Index No.: 809076/2023

-vs.-

THE BOARD OF ASSESSMENT REVIEW FOR THE TOWN OF AMHERST; THE ASSESSOR OF THE TOWN OF AMHERST; and THE TOWN OF AMHERST, NEW YORK

Respondents.

For Review of the Assessment of Certain Real Property known as 704-744 Maple Road in the said Town of Amherst for the 2023-24Tax Year.

WHEREAS Petitioner has heretofore commenced the within proceedings under Article 7 of the Real Property Tax Law to review the assessment of a certain parcel of real property located at and known as 704-744 Maple Road (SBL #55.04-1-8.1) in the Town of Amherst, County of Erie and State of New York for the tax year 2023-24, and

WHEREAS this proceeding has duly come before an IAS Term of this Court, and Kavinoky Cook LLP, Scott C. Becker, Esq., of counsel, having appeared for the Petitioner, Samuel A. Alba, Esq., Town of Amherst Counsel, having appeared for the Respondent Town of Amherst, Hodgson

Attachment: O&J 704-744 Maple MF Associates (RES-2024-351 : Settlement of Article 7 Matter - M/F Associates V. Town of Amherst)

Russ LLP, Michael B. Risman, Esq., of counsel, having appeared for the Intervenor-Respondent Williamsville Central School District and Lippes Mathias LLP, Margaret A. Hurley, Esq., of counsel, having appeared for the Intervenor-Respondents County of Erie, and the parties having agreed to a settlement of this proceeding, it is hereby

STIPULATED, ORDERED and ADJUDGED, that the assessment on the property designated as SBL #55.04-1-8.1 on the tax assessment roll of the Town of Amherst for the following tax year, has been and shall remain as follows:

Assessment Year	Assessment
2023-24	$2,840,000

and it is further

STIPULATED, ORDERED and ADJUDGED, that the assessment on the property designated as SBL #55.04-1-8.1 on the tax assessment roll of the Town of Amherst for the following tax years, shall be as follows:

Assessment Year	Assessment
2024-25	The assessment for the 2024-25 tax year will be based on a FMV of $3,250,000
2025-26	The assessment for the 2025-26 tax year will be based on a FMV of $3,250,000
2026-27	The assessment for the 2026-27 tax year will be based on a FMV of $3,250,000

and it is further

STIPULATED, ORDERED and ADJUDGED, that the assessments as reduced, corrected and adjusted herein are fair, equitable and proper for the purposed of this settlement, and it is further

STIPULATED, ORDERED and ADJUDGED, that the officer or officers having custody of the aforesaid assessment rolls and the tax rolls of the Town of Amherst shall make or cause to be made upon the proper books and records of said Town the entries, changes and corrections necessary

Attachment: O&J 704-744 Maple MF Associates (RES-2024-351 : Settlement of Article 7 Matter - M/F Associates V. Town of Amherst)

to conform said assessments to such corrected and reduced valuations that the appropriate financial officers are hereby directed and authorized to calculate and disburse any resulting refunds of taxes, and it is further

STIPULATED, ORDERED and ADJUDGED, that the provisions of Real Property Tax Law Sections 727 (2)(a) and 727 (2)(b) shall not apply to the terms of this settlement. All other provisions of Real Property Tax Law Section 727 shall apply to the terms of this settlement, and it is further

STIPULATED, ORDERED and ADJUDGED, that Petitioner shall have the right to seek specific enforcement of this Consent Order and Judgment by whatever means provided by law, and it is further

STIPULATED, ORDERED and ADJUDGED, that this Consent Order and Judgment hereby constitutes and represents the entire understanding and agreement among the parties and the full settlement of the assessment review proceeding herein, that there are no costs or disbursements awarded to, by, or against any party and that upon compliance with the terms of this Consent Order and Judgment, the above proceeding shall be, and the same hereby is, settled and discontinued with prejudice, and it is further

STIPULATED, ORDERED and ADJUDGED, that this Consent Order and Judgment may be executed in multiple counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument.

Signing and entry of the within Order and
Judgment is hereby consented to:

KAVINOKY COOK LLP

Dated: _____

By: _____
Scott C. Becker, Esq.
Attorneys for Petitioner
726 Exchange Street, Suite 800
Buffalo, New York 14210

Attachment: O&J 704-744 Maple MF Associates (RES-2024-351 : Settlement of Article 7 Matter - M/F Associates V. Town of Amherst)

TOWN OF AMHERST

Dated:_____ By: _____

Samuel A. Alba, Esq.
Senior Deputy Attorney
Attorney for Respondent, Town of Amherst
5583 Main Street
Williamsville, New York 14221

HODGSON RUSS LLP

Dated:_____ By: _____

Michael B. Risman, Esq.
Attorneys for Intervenor-Respondent, Williamsville Central School District
140 Pearl Street, Suite 100
Buffalo, New York 14202-4040

LIPPES MATHIAS LLP

Dated: _____ By: _____

Margaret A. Hurley, Esq.
Attorneys for Intervenor-Respondent, County of Erie
50 Fountain Plaza, Suite 1700
Buffalo, New York 14202

SO ORDERED:

_____
HON. DEBORAH CHIMES

ENTER:

0000052/0037424/628218 v1

Attachment: O&J 704-744 Maple MF Associates (RES-2024-351 : Settlement of Article 7 Matter - M/F Associates V. Town of Amherst)

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Town Attorney
Initiated by: **Samuel A Alba**
Co-Sponsored by:

DOC ID: 28891 **RESOLUTION 2024-352** **ADOPTED**

Settlement of Article 7 Matter - Michael Nazareth V. Town of Amherst

AGENDA ITEM : APRIL 29TH, 2024

TO: **Town Board**

FROM: **Samuel A. Alba, Esq., Senior Deputy Town Attorney**

DATE: **April 18, 2024**

RE: **Settlement of Article 7 Matter**
Michael Nazareth v. Town of Amherst

Kindly adopt a resolution authorizing the following:

(1) Settlement of the above matter as detailed in the attached Consent Order; and

(2) Authorizing Senior Deputy Town Attorney Samuel A. Alba, Esq. to sign the attached Consent Order as the Attorney for the Respondent, Town of Amherst.

Thank you.

SAA:rms
Attachment
c: Tim Koller, Deputy Town Clerk
(*w/attachment,* **Agenda Item : April 29, 2024**)
Emily Murphy, Town Assessor

4/29/2024
Consent

FINANCIAL IMPACT:

Assessment

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

At a Special Term of the Supreme Court, Erie County, held at Delaware Avenue, Buffalo, New York, on the ____ day of _____, 20____.

PRESENT: HON. JOSEPH C. LORIGO, J.S.C

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

IN THE MATTER OF THE APPLICATION UNDER ARTICLE 7 OF THE REAL PROPERTY TAX LAW
BY

MICHAEL R. NAZARETH,

Petitioner,

v.

CONSENT ORDER

Index No.: 808510/2023

TOWN OF AMHERST,

Respondent.

FOR REVIEW OF THE 2023-2024 TAX ASSESSMENT OF CERTAIN REAL PROPERTY IN THE SAID TOWN OF AMHERST

The above-entitled special proceedings involving real property tax certiorari for the premises owned by Petitioner in the Town of Amherst, New York, known as:

Address	Section/Block/Lot
6680 Main Street	69.20-2-2.21
28 Beresford Court	69.20-2-2.111

having progressed for trial, and negotiations for settlement having been conducted, and said settlement having been approved and recommended by the Attorney for the Town of Amherst, the Attorney for the Williamsville CSD, and the Attorney for Petitioner, and it further appearing that the assessment of premises in the Town of Amherst provides the basis for the imposition of ad valorem taxes assessed by the Town of Amherst, the Williamsville CSD, and the County of Erie, it is hereby

Attachment: Nazareth Order ScannedDocument (RES-2024-352 : Settlement of Article 7 Matter - Michael Nazareth V. Town of Amherst)

ORDERED, STIPULATED, AND ADJUDGED that the property tax certiorari for the tax year 2023-2024 for the premises previously listed be discontinued and withdrawn without costs and allowances to either party as against the other, and it is further

ORDERED, STIPULATED, AND ADJUDGED that the real property tax assessment for the tax years 2024-2025, 2025-2026, 2026-2027 and 2027-2028 for the premises be set as follows:

Address	Section/Block/Lot	Assessed Value
6680 Main Street	69.20-2-2.21	$500,000
28 Beresford Court	69.20-2-2.111	$1,300,000

, and it is further

ORDERED, STIPULATED, AND ADJUDGED that the provisions of Section 727 of the Real Property Tax Law shall apply to the aforementioned tax years without regard to revaluation or update, and it is further

ORDERED, STIPULATED, AND ADJUDGED that in the event that the assessment is increased for any stated year at a level higher than provided herein when there has been no assessable addition or improvement to the property, Petitioner retains the right to reinstate and reinstitute its Article 7 proceedings herein settled with respect to that parcel only, and it is further

ORDERED, STIPULATED, AND ADJUDGED that the fiscal officers of Erie County, the Town of Amherst, Williamsville CSD, and any other taxing unit affected by the above assessment reductions shall apply such adjusted assessment and determine any overpayment of taxes, and in the event of overpayment, refund the overpayment with statutory interest within 45

Attachment: Nazareth Order ScannedDocument (RES-2024-352 : Settlement of Article 7 Matter - Michael Nazareth V. Town of Amherst)

days by official check payable to the order of Wolfgang & Weinmann, as attorneys and agents for Petitioner, accompanied by a calculation sheet, such attorneys to hold the proceeds as trust funds for appropriate distribution, and are to remain subject to the further jurisdiction of this Court relative to their attorney's lien pursuant to Judiciary Law Section 475, or in the event that any such tax payment has not been paid, issue corrected tax bills which reflect the proper reduced assessment for the property, with a copy of corrected tax bills sent to the attorneys for Petitioner, said corrected tax bills to be paid without interest or penalty if paid within 90 days of receipt of said corrected bills, and it is further

ORDERED, STIPULATED, AND ADJUDGED that this Court shall retain jurisdiction over this proceeding pending the expiration of the periods herein recited, and that all applications to enforce any or all of the terms of this Consent Order shall be brought by motion before this Court, and it is further

ORDERED, STIPULATED, AND ADJUDGED that Petitioner shall have the right to seek specific enforcement of this Order, Stipulation and Judgment by all means provided by law, and it is further

ORDERED, STIPULATED, AND ADJUDGED that this Order, Stipulation and Judgment hereby constitutes and represents the entire understanding and agreement amongst the

Attachment: Nazareth Order ScannedDocument (RES-2024-352 : Settlement of Article 7 Matter - Michael Nazareth V. Town of Amherst)

parties, and the full settlement of the tax certiorari herein; there are no costs or disbursements awarded to, by or against any party, and upon compliance with the terms of this Order, Stipulation and Judgment, the proceedings herein shall be, and the same hereby are, settled and discontinued with prejudice.

_____
Hon. Joseph C. Lorigo, J.S.C.

DATED:

The parties consent to be bound by the terms of this Court Order by subscribing hereunto their names and legal authority:

FOR PETITIONER

By: _____
Ryan K. Parisi, Esq.
Attorney for Petitioner

Date: _____

FOR RESPONDENT
Town of Amherst

By: _____
Samuel A. Alba, Esq.
Attorney for Respondent

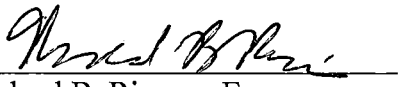
Date: _____

FOR PETITIONER

By: _____
Michael R. Nazareth
As Agent

Date: _____

FOR INTERVENOR
Williamsville CSD

By: 
Michael B. Risman, Esq.
Attorney for Intervenor

Date: 9/16/24

Attachment: Nazareth Order ScannedDocument (RES-2024-352 : Settlement of Article 7 Matter - Michael Nazareth V. Town of Amherst)

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Town Attorney
Initiated by: **Samuel A Alba**
Co-Sponsored by:

DOC ID: 28892 **RESOLUTION 2024-353** **ADOPTED**

Settlement of Article 7 Matter - O&J 2006 Dodge Road V. Town of Amherst

AGENDA ITEM : APRIL 29TH, 2024

TO: **Town Board**

FROM: **Samuel A. Alba, Esq., Senior Deputy Town Attorney**

DATE: **April 18, 2024**

RE: **Settlement of Article 7 Matter**
93 NYRPT, LLC v. Town of Amherst

Kindly adopt a resolution authorizing the following:

(1) Settlement of the above matter as detailed in the attached Consent Order; and

(2) Authorizing Senior Deputy Town Attorney Samuel A. Alba, Esq. to sign the attached Consent Order as the Attorney for the Respondent, Town of Amherst.

Thank you.

SAA:rms
Attachment
c: Tim Koller, Deputy Town Clerk
(*w/attachment,* **Agenda Item : April 29, 2024**)
Emily Murphy, Town Assessor

4/29/2024
Consent

FINANCIAL IMPACT:

Assessment

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

At an IAS Term of the Supreme Court of the State of New York, held for the County of Erie, Buffalo, New York on the __ day of _____, 2024.

PRESENT: HON. SHEILA DITULLIO

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE

IN THE MATTER OF THE APPLICATION FOR REVIEW UNDER ARTICLE 7 OF THE REAL PROPERTY TAX LAW OF A TAX ASSESSMENT BY 93 NYRPT, LLC

CONSENT ORDER AND JUDGMENT

Petitioner,

-vs.-

Index No.: 809107/2023

THE BOARD OF ASSESSMENT REVIEW FOR THE TOWN OF AMHERST; THE ASSESSOR OF THE TOWN OF AMHERST; and THE TOWN OF AMHERST, NEW YORK

Respondents.

For Review of the Assessment of Certain Real Property known as 2006 Dodge Road in the said Town of Amherst for the 2023-24 Tax Year.

WHEREAS Petitioner has heretofore commenced the within proceedings under Article 7 of the Real Property Tax Law to review the assessment of a certain parcel of real property located at and known as 2006 Dodge Road (SBL #28.14-4-41) in the Town of Amherst, County of Erie and State of New York for the tax year 2023-24, and

WHEREAS this proceeding has duly come before an IAS Term of this Court, and Kavinoky Cook LLP, Scott C. Becker, Esq., of counsel, having appeared for the Petitioner, Samuel A. Alba, Esq., Town of Amherst Counsel, having appeared for the Respondent Town of Amherst and

Attachment: O&J 2006 Dodge Road (RES-2024-353 : Settlement of Article 7 Matter - 93 NYRPT, LLC V. Town of Amherst)

Hodgson Russ LLP, Michael B. Risman, Esq., of counsel, having appeared for the Intervenor-Respondent Williamsville Central School District, and the parties having agreed to a settlement of this proceeding, it is hereby

STIPULATED, ORDERED and ADJUDGED, that the assessment on the property designated as SBL #28.14-4-41 on the tax assessment roll of the Town of Amherst for the following tax year, has been and shall remain as follows:

Assessment Year	Assessment
2023-24	$320,000

and it is further

STIPULATED, ORDERED and ADJUDGED, that the assessment on the property designated as SBL #28.14-4-41 on the tax assessment roll of the Town of Amherst for the following tax years, shall be as follows:

Assessment Year	Assessment
2024-25	The assessment for the 2024-25 tax year will be based on a FMV of $350,000
2025-26	The assessment for the 2025-26 tax year will be based on a FMV of $350,000
2026-27	The assessment for the 2026-27 tax year will be based on a FMV of $350,000

and it is further

STIPULATED, ORDERED and ADJUDGED, that the assessments as reduced, corrected and adjusted herein are fair, equitable and proper for the purposed of this settlement, and it is further

STIPULATED, ORDERED and ADJUDGED, that the officer or officers having custody of the aforesaid assessment rolls and the tax rolls of the Town of Amherst shall make or cause to be made upon the proper books and records of said Town the entries, changes and corrections necessary to conform said assessments to such corrected and reduced valuations that the appropriate financial

Attachment: O&J 2006 Dodge Road (RES-2024-353 : Settlement of Article 7 Matter - 93 NYRPT, LLC V. Town of Amherst)

officers are hereby directed and authorized to calculate and disburse any resulting refunds of taxes, and it is further

STIPULATED, ORDERED and ADJUDGED, that the provisions of Real Property Tax Law Sections 727 (2)(a) and 727 (2)(b) shall not apply to the terms of this settlement. All other provisions of Real Property Tax Law Section 727 shall apply to the terms of this settlement, and it is further

STIPULATED, ORDERED and ADJUDGED, that Petitioner shall have the right to seek specific enforcement of this Consent Order and Judgment by whatever means provided by law, and it is further

STIPULATED, ORDERED and ADJUDGED, that this Consent Order and Judgment hereby constitutes and represents the entire understanding and agreement among the parties and the full settlement of the assessment review proceeding herein, that there are no costs or disbursements awarded to, by, or against any party and that upon compliance with the terms of this Consent Order and Judgment, the above proceeding shall be, and the same hereby is, settled and discontinued with prejudice, and it is further

STIPULATED, ORDERED and ADJUDGED, that this Consent Order and Judgment may be executed in multiple counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument.

Signing and entry of the within Order and
Judgment is hereby consented to:

KAVINOKY COOK LLP

Dated: _____

By: _____
Scott C. Becker, Esq.
Attorneys for Petitioner
726 Exchange Street, Suite 800
Buffalo, New York 14210

Attachment: O&J 2006 Dodge Road (RES-2024-353 : Settlement of Article 7 Matter - 93 NYRPT, LLC V. Town of Amherst)

TOWN OF AMHERST

Dated:_____ By: _____

Samuel A. Alba, Esq.
Senior Deputy Attorney
Attorney for Respondent, Town of Amherst
5583 Main Street
Williamsville, New York 14221

HODGSON RUSS LLP

Dated:_____ By: _____

Michael B. Risman, Esq.
Attorneys for Intervenor-Respondent, Williamsville Central School District
140 Pearl Street, Suite 100
Buffalo, New York 14202-4040

SO ORDERED:

_____
HON. SHEILA DITULLIO

ENTER:

0000052/0037424/628218 v1

Attachment: O&J 2006 Dodge Road (RES-2024-353 : Settlement of Article 7 Matter - 93 NYRPT, LLC V. Town of Amherst)

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Town Clerk
Initiated by: **Joanne A. Schultz**
Co-Sponsored by:

DOC ID: 28907 **RESOLUTION 2024-354** **ADOPTED**

Edmunds GovTech Software CRS #4738

Please authorize the Supervisor to sign the Annual Software & Support Agreement with Edmunds GovTech (CRS #4738) for the Clerk Software Maintenance Contract (including Online Dog License Portal). This agreement is valid from 5/1/2024 to 4/30/2025.

4/29/2024
Consent

FINANCIAL IMPACT:

$5,700.58 A 1410 4000

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

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Town Clerk
Initiated by: **Joanne A. Schultz**
Co-Sponsored by:

DOC ID: 28929 **RESOLUTION 2024-355** **ADOPTED**

Penflex Actuarial Services LLC CRS #4753

Please authorize the Supervisor to sign the proposed agreement with Penflex Actuarial Services (CRS #4753) to update the LOSAP Service Award Program Plan Documents pending successful completion of the contract routing process.

4/29/2024
Consent

FINANCIAL IMPACT:

$8,750.00

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

PENFLEX
SERVICE AWARDS FOR FIRE & EMS

50 Century Hill Drive, Suite 3
Latham, New York 12110

penflexinc.com

t 800-742-1409
f 518-783-6915
Email: info@penflexinc.cor

April 1, 2024

Lynda Juul
Director of Finance
Town of Amherst Town Office
5583 Main Street
Williamsville, New York 14221

Proposal to update Service Award Program Plan Documents:

Dear Lynda,

At our meeting on June 8th, 2022 with Joanne Schultz, Mike Szukala and Darryl Bramer, Ed Holohan and I discussed submitting a proposal to update the Plan Documents for the five Service Award Programs sponsored by the Town of Amherst and the two Service Award Programs jointly sponsored by the Towns of Amherst and Clarence. There have been additional discussions between Ed Holohan, Joanne Schultz and myself over time regarding the need to update the plan documents and the best way to approach this objective since that initial meeting.

As a brief history, the five town of Amherst sponsored programs were established in 1992. Most of the initial work was done by then Town Attorney Jim Nesper. The Town hired Ed Holohan and Penflex to help Jim establish the programs and prepare the required plan documents.

The original five programs were not all the same. For example, some included life insurance funded pre-entitlement age death benefits while others did not and one, the North Amherst Fire Company program, provided less generous benefits to members than the other four (the North Amherst Program provisions were eventually amended to match the other four). Over the past thirty years, the provisions of all five programs have been amended more than once including in 2006 when the purported age discrimination in the program provisions was eliminated.

Moreover, the program administrators have changed, the investment advisors have changed numerous times and the Town Attorney/attorneys assigned to the Service Award Program have changed as well. The last time the plan documents for these five programs were updated was in 1997.

Similarly, the program provisions of the jointly sponsored programs for the Swormville Fire Company and the East Amherst Fire Company have changed as well. The major differences have been due to the separate administration of the two programs. Up until about five years ago, the Swormville and East Amherst programs were administered solely by the Town of Clarence. Moreover, for the original establishment of these programs the Town of Clarence retained a life insurance agency, VFIS, to provide administrative, actuarial and investment services for the two programs. As a result, the provisions and

Attachment: 4753_original_contract_10706 (RES-2024-355 : Penflex Actuarial Services LLC CRS #4753)

funding vehicles for the programs were insurance company oriented versus the provisions and funding vehicles of the five Amherst programs which are more traditional pension plan oriented.

About five years ago, the two Towns formed a Joint Sponsoring Board (the Towns of Amherst and Clarence being the joint sponsors) and determined that these two programs should be administered in the same manner as the other five sponsored programs. However, all the plan documents for Swormville and East Amherst were prepared by VFIS and not by Penflex.

In our opinion, it is extremely important that all seven plan documents be consistent, reflect accurate and complete plan amendment histories and have proper NYS General Municipal Law and Internal Revenue Code compliant LOSAP language in them. We propose that all seven of these plan documents be updated by Penflex Actuarial Services staff. Should the Town approve this proposal, Ed would be a key contributor to the project along with Penflex staff in helping draft new documents. Ed will also work together with Joanne as she reviews and approves the drafts we prepare of the updated documents. Ed will also answer any questions from the individual fire companies about the drafts which we strongly suggest be given to the fire company representatives for their review.

The complete project is estimated to take 4-5 months given the amount of work required and the time needed for the discussions with interested Town and Fire Company officials.

Our normal fee to draft a single plan document and to review/explain the amended plan provisions to a client is $2,000, but considering we have existing documents as a starting point for each program and Ed Holohan's long involved history serving the Towns of Amherst and Clarence, we would reduce the fee to $1,500. More importantly because the Town of Amherst is a long-term valued client, we would gladly give this discount to the Towns. The Towns of Amherst and Clarence would receive a total discounted savings of $3,500. The total reduced amount to draft seven new plan documents would be $8,750. Penflex would require $2,917 to start the project and $2,917 would be billed at the middle of the project and $2,916 at the completion of the project. Please let us know if this proposal is acceptable and what additional steps are required to move this project forward.

If you should have any questions Ed or I would be happy to speak to you.

Thank You,

Paul Cognetta
VP of Operations
Penflex Actuarial Services, LLC

Cc: Joanne Schultz Esq.
Daryl Bramer
Mike Szukala

Attachment: 4753_original_contract_10706 (RES-2024-355 : Penflex Actuarial Services LLC CRS #4753)

FIRE DISTRICT	Org.	Object	NUMBER OF PARTICIPANTS	Per Participant 10.80
East Amherst	F3013	4090	83	897
Swormville	F3012	4090	91	983
Ellicott Creek	F3009	4090	141	1,523
Getzville	F3011	4090	180	1,944
Main Transit	F3014	4090	161	1,739
North Amherst	F3010	4090	56	605
North Bailey	F3018	4090	98	1,059
8,750			810	8,750

Attachment: 4753_original_contract_10706 (RES-2024-355 : Penflex Actuarial Services LLC CRS #4753)

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Town Clerk
Initiated by: **Timothy Koller**
Co-Sponsored by:

DOC ID: 28862 **RESOLUTION 2024-356** **ADOPTED**

Fireworks Display - Country Club of Buffalo 250 Youngs Rd

Location: Country Club of Buffalo at 250 Youngs Road, Williamsville, NY 14221

Date/Time Event: Saturday, April 27, 2024
Time: 9 pm

In accordance with the information set forth in the penal law, and the application upon which this permit is granted, along with the following:

1. That the spectators, parking areas and structures be 350 feet from the fireworks discharge location for vertical mortars. (max. 5 inch shells).
2. That one (1) 5-lb. ABC fire extinguisher, with a current inspection tag, is located at the firing site with a qualified operator. Additional extinguishers maybe required depending on site layout.
3. That the trajectory of shells shall not come within 25 feet of overhead objects.
4. That the approved shooters are Jerry Behlau and Karl Grohs and changes must be in writing to the Amherst Fire Inspectors a minimum of five (5) days prior to the event.
5. If you would like to start the display earlier than the time proposed you must call 689-1212 before starting to be approved by our office.
6. Display shall follow NFPA 1123-2018 & IFC 2020
7. Outdoor crowds over 1000 people require a certified crowd managers as per the International Fire Code.
8. The Amherst Town Board shall designate a time when the Fireworks display must conclude.
9. The submitted launch site is approved.

The Town Board pre-approved this permit.

4/29/2024
Consent

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

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 Berke P.E.
Commissioner of Building

Memorandum

DATE: April 5, 2024

TO: Francina Spoth, Town Clerk

FROM: Bryan W. Parnell, Senior Fire Inspector

RE: Fireworks Display – Country Club of Buffalo 250 Youngs Rd

DATE & TIME: Saturday April 27, 2024 @ 9 PM

All items required on the application appear to be in order. Therefore, we hereby recommend the approval of this application with the following conditions.

1) That the Spectators, parking areas and structures be 350 feet from the fireworks discharge location for vertical mortars. (max. 5 inch shells)
2) That one (1) 5-lb. ABC fire extinguisher, with a current inspection tag, is located at the firing site with a qualified operator. Additional extinguishers maybe required depending on site layout.
3) That the trajectory of shells shall not come within 25 feet of overhead objects.
4) That the approved shooters are Jerry Behlau and Karl Grohs and changes must be in writing to the Amherst Fire Inspectors a minimum of 5 days prior to the event.
5) If you would like to start the display earlier than the time proposed you must call 689-1212 before starting to be approved by our office.
6) Display shall follow **NFPA 1123-2018** & **IFC 2020**.
7) Outdoor crowds over 1000 people require a certified crowd managers as per the International Fire Code.
8) The Amherst Town Board shall designate a time when the Fireworks display must conclude.
9) The submitted launch site is approved.

Bryan W. Parnell

Senior Fire Inspector
Fire Safety Division

X:\DOCS\BWP\fireworks display\2023\1595 Hopkins 9-21-2023.docx

Attachment: fireworks (RES-2024-356 : Fireworks Display - Country Club of Buffalo 250 Youngs Rd)

TOWN OF AMHERST
BUILDING DEPARTMENT
DIVISION OF FIRE SAFETY
5583 MAIN STREET
WILLIAMSVILLE, NEW YORK 14221
(716) 631-7142

FIRE PREVENTIOI / OPERATING PERMI

APPLICATION DATE	DATE ISSUED	EXPIRATION DATE	PERMIT NUMBER
04/05/2024	**04/15/2024**	**10/15/2024**	**FP-2024-0015**

APPLICANT	ADDRESS	PHONE NUMBER
Youngs Explosives Corporation	**PO Box 18653 Rochester**	**585-394-1783**

LOCATION OF ACTIVITY: Country Club of Buffalo - (SITE) 250-309 Youngs Rd, Amherst, NY

THE ABOVE NAMED INDIVIDUAL/BUSINESS HEREBY MAKES APPLICATION TO CONDUCT THE FOLLOWING ACTIVITY PER CHAPTER 83 OF THE BUILDING CONSTRUCTION ADMINISTRATION CODE OF THE TOWN OF AMHERST. AND FOR THE KEEPING, STORAGE, OCCUPANC' USE, SALE, HANDLING, OR MANUFACTURE OF THE FOLLOWING: (STATE QUANTITIES NORMALLY TO BE STORED, HOW STORED, OR USEI GIVING AMOUNTS FOR EACH KIND OR CATEGORY.)

Fireworks Display
Saturday April 27, 2024 at approx 9 PM
Must comply with IFC and NFPA
5 inch shell max (350 Foot Clearance)
Fire extinguishers required
Amherst Town Board shall set a time for display to conclude

IN ACCORDANCE WITH THE FIRE PREVENTION CODE OR NFPA SECTION(S):

APPROVED BY FIRE OFFICIAL	DATE	FEE PAID
By W. Pratt	**04/15/2024**	**150.00**

THIS PERMIT MUST BE POSTED ON THE ABOVE MENTIONED PREMISES

STATEMENT

I HEREBY ACKNOWLEDGE THAT: I HAVE READ THIS APPLICATION, THAT THE INFORMATION GIVEN IS CORRECT, AND THAT I AM THE OWNER OR DULY AUTHORIZED TO ACT IN THE OWNER'S BEHALF AND AS SUCH HEREBY AGREE TO COMPLY WITH THE APPLICABLE REQUIREMENTS OF THE FIRE PREVENTION CODE.

Signature

James R. Young - President
Title

DO NOT WRITE BELOW THIS LINE

COMMENTS:

SIGN HERE

APPROVED BY FIRE OFFICIAL

DATE

WHERE APPLICABLE - SEPARATE PERMITS ARE REQUIRED FOR BUILDING CONSTRUCTION ACTIVITY INCLUDING ELECTRICAL, PLUMBING, AND MECHANICAL INSTALLATIONS.

Attachment: fireworks (RES-2024-356 : Fireworks Display - Country Club of Buffalo 250 Youngs Rd)

Town of Amherst, 5583 Main St., Williamsville, NY 14221 PH: 716-631-7045 FX: 716-631-7152

APPLICATION FOR FIREWORKS DISPLAY

The undersigned hereby makes application to the Town Board of the Town of Amherst to acquire a license pursuant to Chapter 68 (Amusements) of the Code of the Town of Amherst for the public display of fireworks in the Town of Amherst, Erie County, New York:

1. Name of individual/company sponsoring the display and the names of the persons actually to be in charge of the firing of the display areas:

   Young Explosives Corporation

2. Date and time of day at which the display is to be held: Add reason for display: wedding, corporate event etc.

   Saturday, April 27, 2024 @ 9:00 pm for a wedding held at the Country Club of Buffalo

3. Exact location planned for the display:

   Below 18th hole on golf course at Country Club of Buffalo (site map attached)

4. Age, experience and physical characteristics of individuals who are to discharge fireworks:

   Jerry Behlau - over age 18, 22+ years of experience. Karl Grohs- over age 18, 3+ years of experience. Ben Polselli- Over age 18, 3+ years of experience.

5. Number and kind of fireworks to be discharged (include largest shell size):

   Approx. 190 misc. 1.3G and 1.4G shells with the largest shell size of 5" (350' fallout radius)

6. Manner and place of storage of these fireworks prior to the display:

   With Young Explosives at all times.

7. Attached is a diagram of the grounds on which the display is to be held. This diagram shows the point at which the fireworks are to be discharged, the location of all the buildings, highways, and other lines of communications in addition to the lines behind which the audience will be restrained, the location of all nearby trees, telegraph or telephone lines or other overhead obstructions.

8. This application shall be accompanied by a bond or policy of public liability insurance with a limit of $3,000,000 for personal injuries and $1,000,000 for property damage and proof of Workers' Compensation Insurance.

9. This application for a Fire Prevention Operating Permit (Code 52) must be accompanied by a check in the amount of $90 made out to "Town of Amherst".

Date:

Company, Corporation or Individual

James R. Young on behalf of Country Club of Buffalo

By: James R. Young

STATE OF NEW YORK
Monroe COUNTY
TOWN OF Rochester

Sworn to before me this 15 day of March 2024

Notary Public

GINA M. AMO
Notary Public - State of New York
NO. 01AM6376443
Qualified in Monroe County
My Commission Expires June 11, 2026

9/30/09

Attachment: fireworks (RES-2024-356 : Fireworks Display - Country Club of Buffalo 250 Youngs Rd)

NYSIF
New York State Insurance Fund

PO Box 66699, Albany, NY 12206
| nysif.com

CERTIFICATE OF WORKERS' COMPENSATION INSURANCE (RENEWED)

^ ^ ^ ^ ^ ^ 160900107
YOUNG EXPLOSIVES CORP
P O BOX 18653
ROCHESTER NY 14618

SCAN TO VALIDATE
AND SUBSCRIBE

POLICYHOLDER	CERTIFICATE HOLDER
YOUNG EXPLOSIVES CORP P O BOX 18653 ROCHESTER NY 14618	YOUNG EXPLOSIVES CORPORATION PO BOX 18653 ROCHESTER NY 14618-1461

POLICY NUMBER	CERTIFICATE NUMBER	POLICY PERIOD	DATE
R 400 999-9	135554	01/01/2024 TO 01/01/2025	1/16/2024

THIS IS TO CERTIFY THAT THE POLICYHOLDER NAMED ABOVE IS INSURED WITH THE NEW YORK STATE INSURANCE FUND UNDER POLICY NO. 400 999-9, COVERING THE ENTIRE OBLIGATION OF THIS POLICYHOLDER FOR WORKERS' COMPENSATION UNDER THE NEW YORK WORKERS' COMPENSATION LAW WITH RESPECT TO ALL OPERATIONS IN THE STATE OF NEW YORK, EXCEPT AS INDICATED BELOW, AND, WITH RESPECT TO OPERATIONS OUTSIDE OF NEW YORK, TO THE POLICYHOLDER'S REGULAR NEW YORK STATE EMPLOYEES ONLY.

IF YOU WISH TO RECEIVE NOTIFICATIONS REGARDING SAID POLICY, INCLUDING ANY NOTIFICATION OF CANCELLATIONS, OR TO VALIDATE THIS CERTIFICATE, VISIT OUR WEBSITE AT HTTPS://WWW.NYSIF.COM/CERT/CERTVAL.ASP. THE NEW YORK STATE INSURANCE FUND IS NOT LIABLE IN THE EVENT OF FAILURE TO GIVE SUCH NOTIFICATIONS.

THIS POLICY DOES NOT COVER CLAIMS OR SUITS THAT ARISE FROM BODILY INJURY SUFFERED BY THE OFFICERS OF THE INSURED CORPORATION.

PRESIDENT
JAMES YOUNG
1 OF 1 EXECUTIVE OFFICER OF
YOUNG EXPLOSIVES CORP

THE POLICY INCLUDES A WAIVER OF SUBROGATION ENDORSEMENT UNDER WHICH NYSIF AGREES TO WAIVE ITS RIGHT OF SUBROGATION TO BRING AN ACTION AGAINST THE CERTIFICATE HOLDER TO RECOVER AMOUNTS WE PAID IN WORKERS' COMPENSATION AND/OR MEDICAL BENEFITS TO OR ON BEHALF OF AN EMPLOYEE OF OUR INSURED IN THE EVENT THAT, PRIOR TO THE DATE OF THE ACCIDENT, THE CERTIFICATE HOLDER HAS ENTERED INTO A WRITTEN CONTRACT WITH OUR INSURED THAT REQUIRES THAT SUCH RIGHT OF SUBROGATION BE WAIVED.

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS NOR INSURANCE COVERAGE UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICY.

BY CAUSING THIS CERTIFICATE TO BE ISSUED TO THE CERTIFICATE HOLDER, THE POLICYHOLDER UNDERTAKES TO PROVIDE THE CERTIFICATE HOLDER 5 CALENDAR DAYS' NOTICE OF ANY CANCELLATION OF THE POLICY.

NEW YORK STATE INSURANCE FUND

DIRECTOR,INSURANCE FUND UNDERWRITING

VALIDATION NUMBER: 406881560

U-26.3

Attachment: fireworks (RES-2024-356 : Fireworks Display - Country Club of Buffalo 250 Youngs Rd)

NEW YORK STATE | Workers' Compensation Board

CERTIFICATE OF INSURANCE COVERAGE
DISABILITY AND PAID FAMILY LEAVE BENEFITS LAW

PART 1. To be completed by Disability and Paid Family Leave Benefits Carrier or Licensed Insurance Agent of that Carrier

1a. Legal Name & Address of Insured (use street address only) YOUNG EXPLOSIVES CORP. 2165 NEW MICHIGAN ROAD CANANDAIGUA, NY 14424 Work Location of Insured *(Only required if coverage is specifically limited to certain locations in New York State, i.e., a Wrap-Up Policy)*	1b. Business Telephone Number of Insured (585) 394-1783 1c. Federal Employer Identification Number of Insured or Social Security Number 160900107
2. Name and Address of Entity Requesting Proof of Coverage (Entity Being Listed as the Certificate Holder) YOUNG EXPLOSIVES CORPORATION P.O. BOX 18653 ROCHESTER, NY 14618	3a. Name of Insurance Carrier **New York State Insurance Fund (NYSIF)** 3b. Policy Number of Entity Listed in Box "1a" DBL 6163 63 - 9 3c. Policy effective period 04/01/2023 to 04/01/2025

4. Policy provides the following benefits:
- ☒ A. Both disability and paid family leave benefits
- ☐ B. Disability benefits only
- ☐ C. Paid family leave benefits only

5. Policy covers:
- ☒ 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 3/4/2024 By Kristin Markwica
(Signature of insurance carrier's authorized representative or NYS Licensed Insurance Agent of that insurance carrier)

Telephone Number (866) 697-4332 Name and Title **Kristin Markwica, Head of Disability Insurance Unit**

IMPORTANT: If Box 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 mailed for completion to the Workers' Compensation Board, DB Plans Acceptance Unit, PO Box 5200, Binghamton, NY 13902-5200

PART 2. To be completed by the NYS Workers' Compensation Board (Only if Box 4C or 5B of Part 1 has 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 with respect to all of his/her 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 (10-17)

Certificate Number 777716

Attachment: fireworks (RES-2024-356 : Fireworks Display - Country Club of Buffalo 250 Youngs Rd)

U.S. Department of Justice
Bureau of Alcohol, Tobacco, Firearms and Explosives

Federal Explosives License/Permit
(18 U.S.C. Chapter 40)

In accordance with the provisions of Title XI, Organized Crime Control Act of 1970, and the regulations issued thereunder (27 CFR Part 555), you may engage in the activity specified in this license or permit within the limitations of Chapter 40, Title 18, United States Code and the regulations issued thereunder, until the expiration date shown. **THIS LICENSE IS NOT TRANSFERABLE UNDER 27 CFR 555.53.** See "WARNINGS" and "NOTICES" on reverse.

Direct ATF Correspondence To	ATF - Chief, FELC 244 Needy Road Martinsburg, WV 25405-9431	License/Permit Number	6-NY-069-21-4K-00338
Chief, Federal Explosives Licensing Center (FELC)	Mama Howard	Expiration Date	October 1, 2024

Name
YOUNG EXPLOSIVES CORP

Premises Address (Changes? Notify the FELC at least 10 days before the move.)
2165 NEW MICHIGAN ROAD
CANANDAIGUA, NY 14424-0000

Type of License or Permit
21-MANUFACTURER OF EXPLOSIVES

Purchasing Certification Statement

The licensee or permittee named above shall use a copy of this license or permit to assist a transferor of explosives to verify the identity and the licensed status of the licensee or permittee as provided by 27 CFR Part 555. The signature on each copy must be an original signature. A faxed, scanned or e-mailed copy of the license or permit with a signature intended to be an original signature is acceptable. The signature must be that of the Federal Explosives Licensee (FEL) or a responsible person of the FEL. I certify that this is a true copy of a license or permit issued to the licensee or permittee named above to engage in the business or operations specified above under "Type of License or Permit."

Mailing Address (Changes? Notify the FELC of any changes.)

YOUNG EXPLOSIVES CORP
PO BOX 18653
ROCHESTER, NY 14618-0000

Licensee/Permittee Responsible Person Signature	Position/Title
James R. Young	11/4/2021
Printed Name	Date

Previous Edition is Obsolete YOUNG EXPLOSIVES CORP:2165 NEW MICHIGAN ROAD:14424:6-NY-069-21-4K-00338:October 1, 2024:21-MANUFACTURER OF EXPLOSIVES

ATF Form 5400.14/5400.15 Part I
Revised September 2011

Federal Explosives License (FEL) Customer Service Information

Federal Explosives Licensing Center (FELC)
244 Needy Road
Martinsburg, WV 25405-9431

Toll-free Telephone Number: (877) 283-3352
Fax Number (304) 616-4401
E-mail: FELC@atf.gov

ATF Homepage: www.atf.gov

Change of Address *(27 CFR 555.54(a)(1))*. Licensees or permittees may during the term of their current license or permit remove their business or operations to a new location at which they intend regularly to carry on such business or operations. The licensee or permittee is required to give notification of the new location of the business or operations not less than 10 days prior to such removal with the Chief, Federal Explosives Licensing Center. The license or permit will be valid for the remainder of the term of the original license or permit. **The Chief, FELC, shall, if the licensee or permittee is not qualified, refer the request for amended license or permit to the Director of Industry Operations for denial in accordance with § 555.54.)**

Right of Succession *(27 CFR 555.59)*. (a) Certain persons other than the licensee or permittee may secure the right to carry on the same explosive materials business or operations at the same address shown on, and for the remainder of the term of, a current license or permit. Such persons are: (1) The surviving spouse or child, or executor, administrator, or other legal representative of a deceased licensee or permittee; and (2) A receiver or trustee in bankruptcy, or an assignee for benefit of creditors. (b) In order to secure the right provided by this section, the person or persons continuing the business or operations shall furnish the license or permit for for that business or operations for endorsement of such succession to the Chief, FELC, within 30 days from the date on which the successor begins to carry on the business or operations.

(Continued on reverse side)

Cut Here ✂

Federal Explosives License/Permit (FEL) Information Card

License/Permit Name: **YOUNG EXPLOSIVES CORP**

Business Name:

License/Permit Number: **6-NY-069-21-4K-00338**

License/Permit Type: **21-MANUFACTURER OF EXPLOSIVES**

Expiration: **October 1, 2024**

Please Note: Not Valid for the Sale or Other Disposition of Explosives.

For Permit Use Only

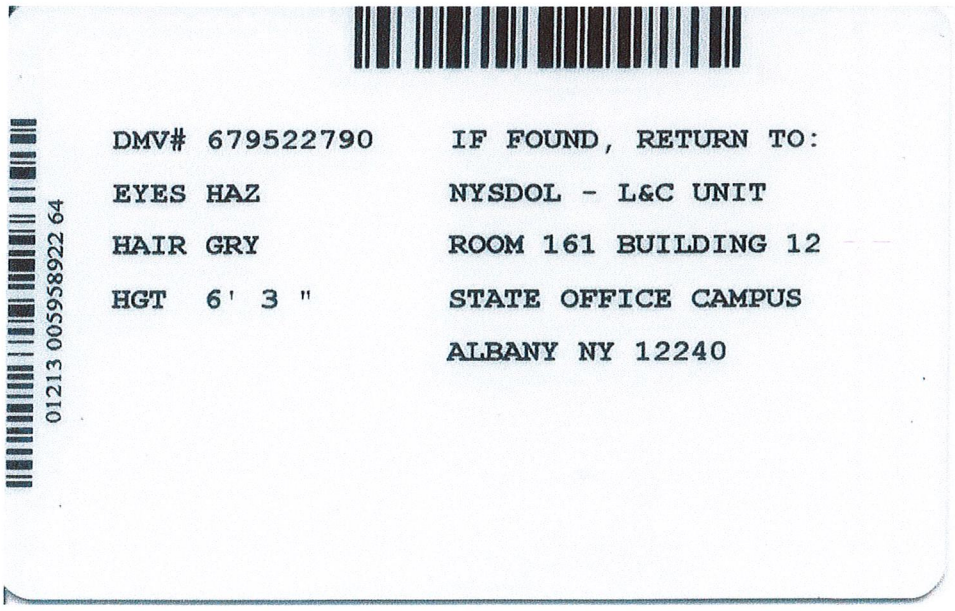
Attachment: fireworks (RES-2024-356 : Fireworks Display - Country Club of Buffalo 250 Youngs Rd)

Country Club of Buffalo
250 Youngs Road, Buffalo, NY 14221
5" maximum shell (350' fallout radius required)
392.90' fallout radius shown
January (2024)



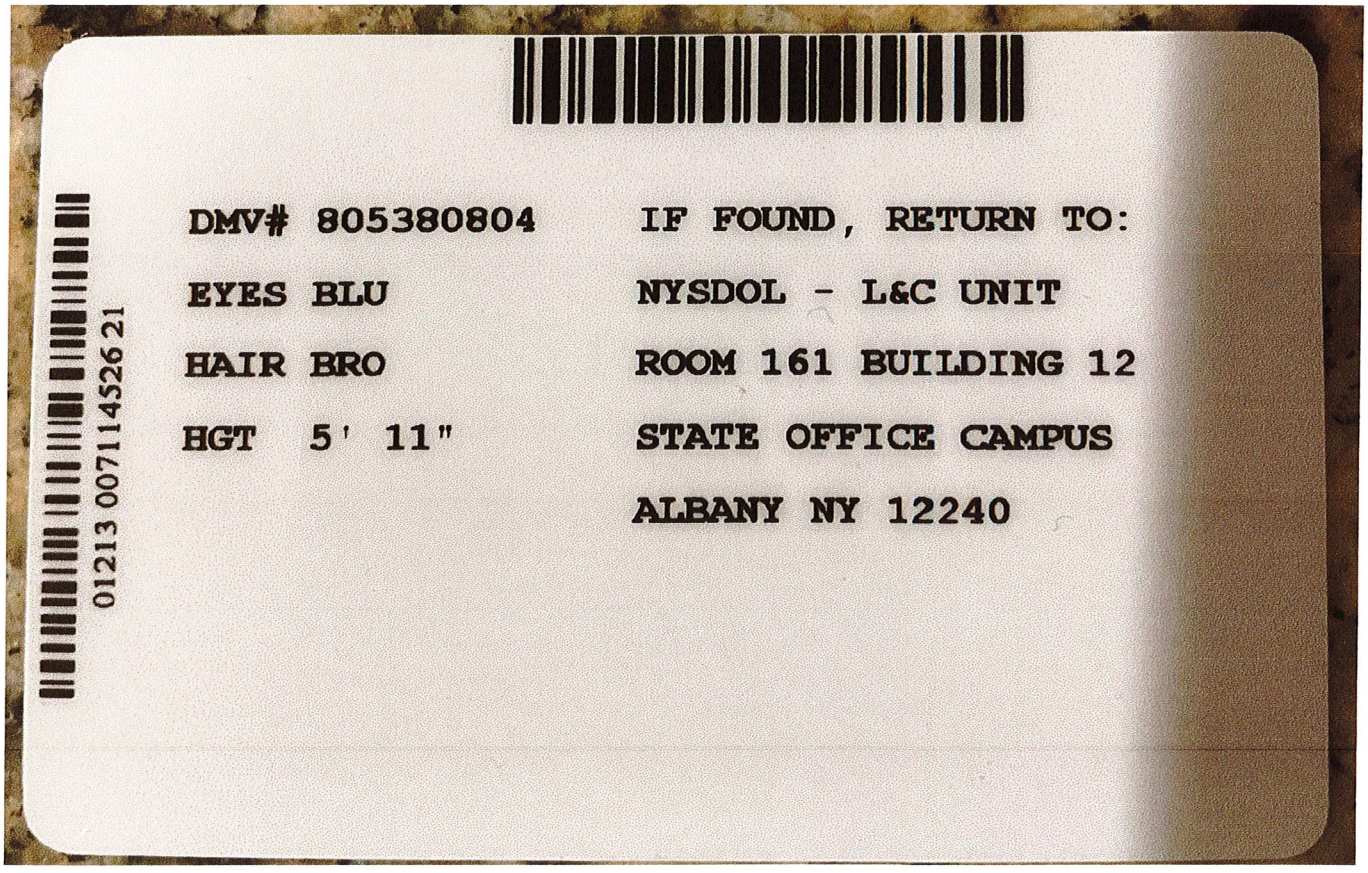
Attachment: fireworks (RES-2024-356 : Fireworks Display - Country Club of Buffalo 250 Youngs Rd)





Attachment: fireworks (RES-2024-356 : Fireworks Display - Country Club of Buffalo 250 Youngs Rd)





Attachment: fireworks (RES-2024-356 : Fireworks Display - Country Club of Buffalo 250 Youngs Rd)

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 3/12/2024

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 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
Acrisure, LLC dba Britton Gallagher & Associates
One Cleveland Center, Floor 30
1375 East 9th Street
Cleveland OH 44114

CONTACT NAME:
PHONE (A/C, No, Ext): 216-658-7100 **FAX (A/C, No):** 216-658-7101
E-MAIL ADDRESS:

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Everest National Insurance Company	10120
INSURER B : Axis Surplus Insurance Company	26620
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

INSURED
Young Explosives Corporation
P.O. Box 18653
Rochester NY 14618

COVERAGES **CERTIFICATE NUMBER:** 581665488 **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	Y	Y	SI8GL00353-241	3/20/2024	3/20/2025	EACH OCCURRENCE	$ 1,000,000
	CLAIMS-MADE X OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 500,000
							MED EXP (Any one person)	$
							PERSONAL & ADV INJURY	$ 1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$ 2,000,000
	POLICY X PRO-JECT LOC						PRODUCTS - COMP/OP AGG	$ 2,000,000
	OTHER:							$
A	AUTOMOBILE LIABILITY	Y	Y	SI8CA00054-241	3/20/2024	3/20/2025	COMBINED SINGLE LIMIT (Ea accident)	$ 1,000,000
	X ANY AUTO						BODILY INJURY (Per person)	$
	ALL OWNED AUTOS / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	X HIRED AUTOS / X NON-OWNED AUTOS						PROPERTY DAMAGE (Per accident)	$
								$
B	UMBRELLA LIAB X OCCUR	Y	Y	P-001-000088056-06	3/20/2024	3/20/2025	EACH OCCURRENCE	$ 4,000,000
	X EXCESS LIAB CLAIMS-MADE						AGGREGATE	$ 4,000,000
	DED RETENTION $							$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y/N						PER STATUTE OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	N/A					E.L. EACH ACCIDENT	$
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$
							E.L. DISEASE - POLICY LIMIT	$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Additional Insured extension of coverage is provided by above referenced General Liability policy where required by written agreement.
Date: Saturday, April 27, 2024
Location: Country Club of Buffalo, 250 Youngs Road, Buffalo, NY 14221
Additional Insured: Country Club of Buffalo; Town of Amherst, NY
Group Code: Cert#24-175

CERTIFICATE HOLDER

Sheila Roehmholdt
239 Village Pointe Lane
Williamsville NY 14221
United States

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

© 1988-2014 ACORD CORPORATION. All rights reserved.

Attachment: fireworks (RES-2024-356 : Fireworks Display - Country Club of Buffalo 250 Youngs Rd)

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Town Clerk
Initiated by: **Timothy Koller**
Co-Sponsored by:

DOC ID: 28842 **RESOLUTION 2024-357** **ADOPTED**

Amusement License for 1565-1703 Niagara Falls Blvd.

Request by Benderson Development for a First Class Amusement License to hold the following events:
May 4, 2024, June 1, 2024, July 6, 2024, August 8, 2024, September 7, 2024, October 19, 2024, October 26, 2024, December 14, 2024, December 21, 2024. The event time for all dates is 11:00am - 2:00pm.

Code Enforcement Officer recommends a fee of $50.00 per day

The following conditions apply:

1. That all fire lanes be kept clear at all times.
2. All temporary power must be code compliant.
3. Bathroom facility must be made available & accessible.
4. Fire Department access must be maintained at all times in the event of an emergency.
5. Tents over 400sf require a Fire Prevention Permit.
6. Mobile Food Vendors must be Town Licensed.
7. Events with 1,000 guests or more will require "Crowd Managers" per the 2020 FCNYS.
8. The applicant must abide by Chapter 138 of the Town of Amherst Code regarding noise.

4/29/2024
Consent

FINANCIAL IMPACT:

Income for the Town

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

Request by Benderson Development for a First Class Amusement License to hold the following events: May 4, 2024, June 1, 2024, July 6, 2024, August 8, 2024, September 7, 2024, October 19, 2024, October 26, 2024, December 14, 2024, December 21, 2024. The event time for all dates is 11:00am – 2:00pm.

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4. Fire Department access must be maintained at all times in the event of an emergency.
5. Events with 1,000 guests or more will require “Crowd Managers” per the 2020 FCNYS.
6. The applicant must abide by Chapter 138 of the Town of Amherst Code regarding noise.
7. Tents over 400sf require a Fire Prevention Permit.
8. Mobile Food Vendors must be Town Licensed.

Attachment: Resolution 2024- Numerous Events Benderson Development (RES-2024-357 : Amusement License for 1565-1703 Niagara Falls

Town of Amherst
Amusement License Application

Organization or Resident: Benderson Development Company

Address of Event: The Boulevard
1565-1703 Niagara Falls Blvd
Amherst, NY 14228

Describe Event: See Attached – Weather Permitting

List All Dates: 3/30, 5/4, 6/1, 7/6, 8/3, 9/7, ~~Friday Night Music Nights~~, 10/19, 10/26, 12/14, 12/21
day/month/year & day of week

Number of Occasions: 8

Time (Start & End): 11AM-2PM

PLEASE ATTACH A SITE PLAN WITH DESIGNATED AREA FOR EVENT

Name of Organizer Benderson Development Company, LLC

Address 570 Delaware Avenue, Buffalo, NY 14202

Phone Number (716)225-3647

Signature of Organizer

Date 4/2/24

Office use only:
Submitted to Police & Building _____
Fee determined by Town Board _____
Business or Resident notified _____
Payment Rcvd _____
License issued and mailed out _____

Attachment: Benderson-04292024095916 (RES-2024-357 : Amusement License for 1565-1703 Niagara Falls Blvd.)

2024 Boulevard - Event Themes/Ideas

Alternatively: Saturday, March 30th - Easter

- May 4 - mother's day themed
- June 1 - Summer Family Fun Fest - Sports Spectacular themed last year
    - Mascots
        - Sabres - tentative 11:30 - 12:30
        - Bisons - tentative 12:00 - 1:00

        Bandettes - CONFIRMED - 11:00 - 12:30

        UB Mascot - HL to call Darren Mason to schedule 716-645-2890
- July 6 (the 4th is on Thursday before) - Fun in The Sun
    - Hot dogs
    - Ice Cream
    - Face painter/balloon twister
- ~~Friday nights - music nights 7-9~~
- August 3 - Circus Fun Day
    - Circus/carnival theme

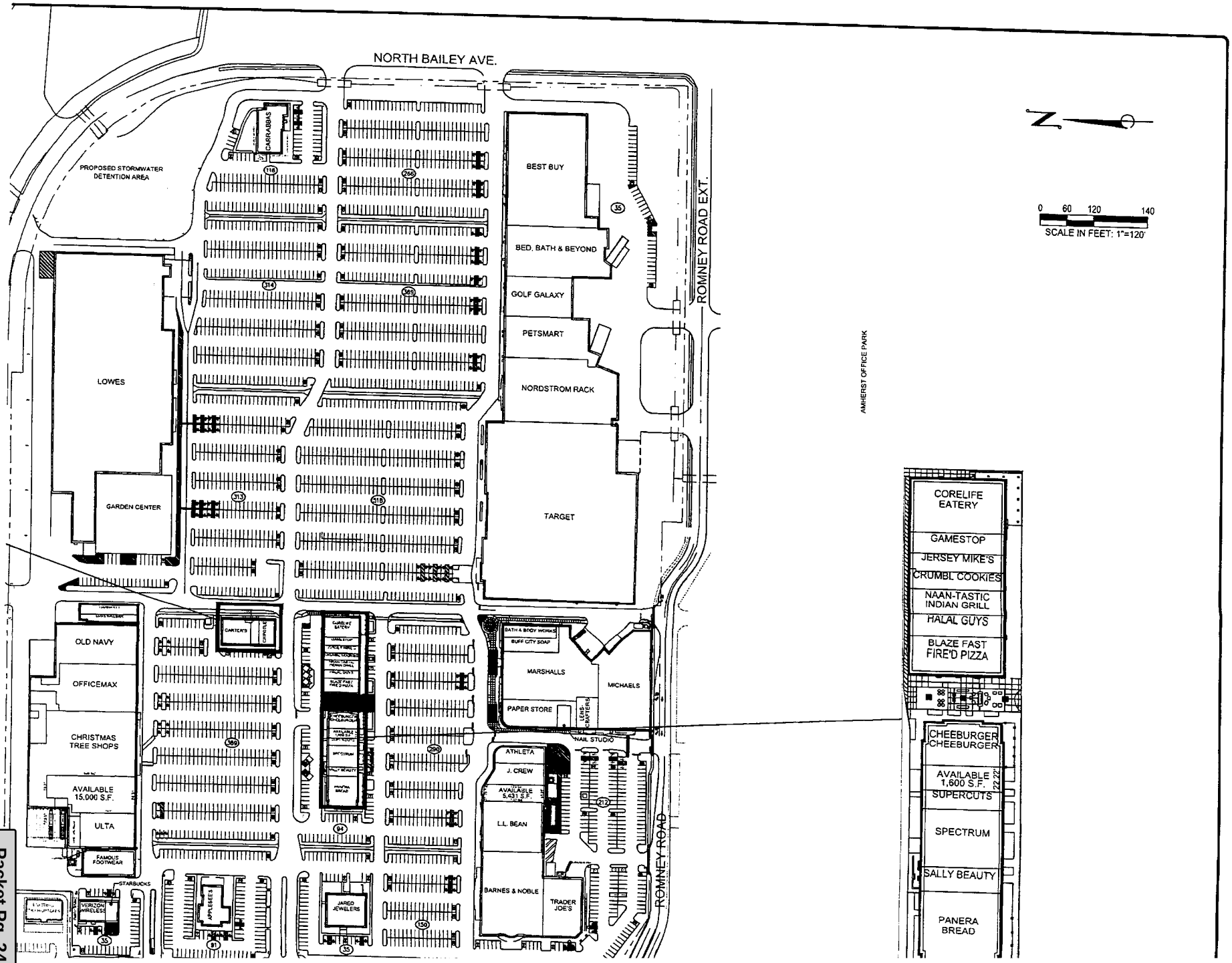
      Juggler / stilt walker
    - Decor
    - Aerialist - love - but maybe a little longer
    - Magician - Mike Seege
    - Cotton candy
    - Popcorn machine
- September 7 - Heroes Day
    - Fire Department/Police Department

      Superheroes

- October 19 - Fall Fest - fall crafts, decor, live DJ, face painting, etc.
- October 26 - Fall Fest - fall crafts, decor, live DJ, face painting, etc.

- December 14 - Winter Fest - Caroling, Santa, performances, etc. custom Santa hats
- December 21 - Winter Fest - Carolling, Santa, performances, etc. custom Santa hats

Attachment: Benderson-04292024095916 (RES-2024-357 : Amusement License for 1565-1703 Niagara Falls Blvd.)


NORTH BAILEY AVE.
PROPOSED STORMWATER DETENTION AREA
CARRABBA'S
BEST BUY
BED, BATH & BEYOND
GOLF GALAXY
PETSMART
NORDSTROM RACK
TARGET
ROMNEY ROAD EXT.
AMHERST OFFICE PARK
LOWES
GARDEN CENTER
OLD NAVY
OFFICEMAX
CHRISTMAS TREE SHOPS
AVAILABLE 15,000 S.F.
ULTA
FAMOUS FOOTWEAR
STARBUCKS
VERIZON WIRELESS
APPLESEED'S
JARED JEWELERS
CARTER'S
CHRISTUS
BATH & BODY WORKS
BUFF CITY SOAP
MARSHALLS
MICHAELS
PAPER STORE
LENS CRAFTERS
NAIL STUDIO
ATHLETA
J. CREW
AVAILABLE 5,431 S.F.
L.L. BEAN
BARNES & NOBLE
TRADER JOE'S
ROMNEY ROAD
CORELIFE EATERY
GAMESTOP
JERSEY MIKE'S
CRUMBL COOKIES
NAAN-TASTIC INDIAN GRILL
HALAL GUYS
BLAZE FAST FIRE'D PIZZA
CHEEBURGER CHEEBURGER
AVAILABLE 1,600 S.F.
SUPERCUTS
SPECTRUM
SALLY BEAUTY
PANERA BREAD
0 60 120 140
SCALE IN FEET: 1"=120'

Brownson, Ashley

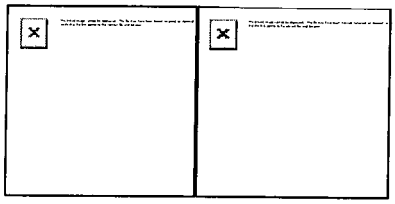
From: Scott Chamberlin
Sent: Tuesday, April 2, 2024 3:45 PM
To: Brownson, Ashley
Subject: Re: Amusement License - Benderson Development

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.

We have no issue with this.

Regards,

Scott P. Chamberlin
Chief of Police
Town of Amherst Police Department
500 John James Audubon Parkway
Amherst, NY 14228
(716) 689-1351



On Tue, Apr 2, 2024 at 1:46 PM Brownson, Ashley <abrownson@amherst.ny.us> wrote:
Attached is an application from Daniel Gaeta, Benderson Development, to hold events at The Boulevard at 1565 -1703 Niagara Falls Boulevard. The events will be from May 4th, 2024 through December 21st, 2024.

Please review and send any written comments back to me as soon as possible so we can place this on the earliest Town Board Agenda. Thank you for your cooperation.

Ashley Brownson
Tax Supervising Clerk
Town of Amherst
716-631-7048

Attachment: Benderson-04292024095916 (RES-2024-357 : Amusement License for 1565-1703 Niagara Falls Blvd.)

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Town Clerk
Initiated by: **Timothy Koller**
Co-Sponsored by:

DOC ID: 28895 **RESOLUTION 2024-358** **ADOPTED**

Amusement License for 665 North French Rd, Tree Head Culture

Request by Tree Head Culture, for a First Class Amusement License to hold an event on April 20, 2024. The event time for the date is 12:00pm - 5:00pm.

Code Enforcement Officer recommends a fee of $50.00 per day

The following conditions apply:

1. Food Trucks must have a current Town of Amherst Food Vendor License and have the current inspection sticker affixed to the vehicle.
2. That all fire lanes be kept clear at all times.
3. All temporary power must be code compliant.
4. Bathroom facility must be made available & accessible.
5. For any tents in excess of 400 square feet being used, a fire prevention tent permit must be obtained.
6. On site accessible parking must be maintained.
7. Vehicle impact protection must be provided for the guest area.
8. Fire Department access must be maintained at all times in the event of an emergency.
9. Events with 1,000 guests or more will require "Crowd Managers" that are in compliance with Chapter 4 of the 2020 FCNYS.
10. The applicant must abide by Chapter 138 of the Town of Amherst Code regarding noise.

4/29/2024
Consent

FINANCIAL IMPACT:

Income for the Town

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

Request by Tree Head Culture, for a First Class Amusement License to hold an event on April 20, 2024. The event time for the date is 12:00pm – 5:00pm.

Code Enforcement Officer recommends a fee of $50.00 per day

The following conditions apply:

1. Food Trucks must have a current Town of Amherst Food Vendor License and have the current inspection sticker affixed to the vehicle.
2. That all fire lanes be kept clear at all times.
3. All temporary power must be code compliant.
4. Bathroom facility must be made available & accessible.
5. For any tents in excess of 400 square feet being used, a fire prevention tent permit must be obtained.
6. On site accessible parking must be maintained.
7. Vehicle impact protection must be provided for the guest area.
8. Fire Department access must be maintained at all times in the event of an emergency.
9. Events with 1,000 guests or more will require “Crowd Managers” that are in compliance with Chapter 4 of the 2020 FCNYS.
10. The applicant must abide by Chapter 138 of the Town of Amherst Code regarding noise.

Attachment: Resolution 2024- Tree Head Culture (RES-2024-358 : Amusement License for 665 North French Rd, Tree Head Culture)

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Town Clerk
Initiated by: **Timothy Koller**
Co-Sponsored by:

DOC ID: 28869 **RESOLUTION 2024-359** **ADOPTED**

New Firefighter for East Amherst Fire Department

New firefighter for the East Amherst Fire Department lives in the Town of Clarence and resides in the East Amherst Fire district.

Ronald Daigler
8401 Clarence Center Road
Clarence Center, NY 14032

4/29/2024
Consent

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

TOWN OF AMHERST
VOLUNTEER FIRE DEPARTMENT MEMBERSHIP
RESIDENCY VERIFICATION FORM

Applicant Name: Ronald DAigler

Applicant Home Address: 8401 Clarence Ctr. Rd, Clarence Ctr, NY. 14032

Under penalty of perjury I, Ronald DAigler affirm I am an applicant to be a member of the, East Amherst Fire Department (fire dept.) and my address of residence is listed above.

☑ My address is in the fire distract I've applied to or territory which is afforded protection by the fire department of the fire district or fire company pursuant to contract.

☐ My address is outside the district or territory that provides protection by the fire district or company, but is in the vicinity of my occupation, in which I will be able to render active service as a volunteer. My occupation address is:

Signature of Applicant: Ronald Daigler

I have verified the applicant's address or employment, where applicable, by examining their driver's license or other suitable document such as a utility bill, lease or pay stub.

Signature:

Title: President

Date:

Submit this completed form to:
Amherst Town Clerk
5583 Main Street
Williamsville, NY 14221

Attachment: Amherst Residency - Daigler (RES-2024-359 : New Firefighters for East Amherst Fire Department)

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Building/Building Maintenance
Initiated by: **Daniel Rizzo**
Co-Sponsored by:

DOC ID: 28872 **RESOLUTION 2024-360** **ADOPTED**

Fire Extinguisher Inspection and Repair CRS #4739

Please authorize the Supervisor to sign agreement between the Town of Amherst and Dival Safety & Supplies for Life to inspect and repair Town of Amherst fire extinguishers.

4/29/2024
Consent

FINANCIAL IMPACT:

Not to exceed $10,000 A1620-4280

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

TOWN OF AMHERST

Erie County, New York

SUPERVISOR
Brian J. Kulpa
716-631-7032

DEPUTY SUPERVISOR/COUNCILMEMBER
Shawn Lavin

COUNCILMEMBERS
Jacqualine Berger
Angela Marinucci
Michael Szukala

AGREEMENT

Let this document stand as an Agreement between Dival Safety & Supplies for Life. and the Town of Amherst for fire extinguisher inspection and repair. This will be a one-year contract from May 1, 2024 through April 30, 2025.

Agreed to and Accepted by:

Dival Safety & Supplies for Life

By: _____
Signature

Donald C. Brzezicki
Printed name

Services Operations Manager
Title

Date: 4/2/24

Agreed to and Accepted by:

TOWN OF AMHERST

By: _____
Brian J. Kulpa, Supervisor

Date: _____

Attachment: Divalsignedcontract (RES-2024-360 : Fire Extinguisher Inspection and Repair CRS #4739)

Addendum to Contract Minor Exposure

1. Notwithstanding any other provision in this Agreement, the following clauses shall be controllin; Should any other provision of the Agreement conflict with the clauses in this Addendum then th provisions of this Addendum are to be enforceable and any conflicting provision shall be considered nu and void.

2. No rules, requirements or customs of any society or association of professional Contractors or an 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 officer agents, and employees, harmless from any and all liability, demands, claims, or expenses, awards c judgments imposed upon the Town, its officers, agents, and/or employees, arising out of the work of th Contractor its officers, agents, subcontractors, and/or employees as well as the negligence, active or passiv of the Contractor, its officers, agents, subcontractors, and/or employees.

4. Contractor shall not commence work under this Agreement until it has obtained all insuranc specified below, produced satisfactory proof of the same and such insurance has been approved by th Town.

(a) Workers' Compensation Insurance: Contractor shall take out and maintain during the life of thi Agreement, Workers' Compensation Insurance (both Part A and Part B) for its employees to be assigned t the work hereto under.

(b) General Liability, Professional (if applicable) Liability and Property Damage Insurance: Contracto shall take out and maintain during the life of this Agreement, such general liability and property damag insurance as shall protect it and the Town of Amherst from claims for damages for personal injur including accidental death, as well as from claims for property damage, which may arise from operation under this Agreement. The amounts of such insurance shall be as follows in an amount not less tha $1,000,000.00 per occurrence for bodily injury and property damage including wrongful death, an $2,000,000.00 aggregate

(c) Contractor shall furnish the above insurances, including subcontractors' insurances, to the Tow and shall also assure that any policy procured by it shall name the Town as an additional insured on primary and non-contributory basis.

(d) Contractor shall ensure all its subcontractors, if any, have obtained all the above insurances an shall also assure that any policy procured by any subcontractor or sub-subcontractor shall name the Tow as an additional insured on a primary and non-contributory basis.

Revised 12.30..1

Attachment: Divalsignedcontract (RES-2024-360 : Fire Extinguisher Inspection and Repair CRS #4739)

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:

DiVal Safety Inc
Print Name of Company

By: _____
Signature

Donald C Brzezicki
Printed name

Date: 3/27/2024

Agreed to and Accepted by:

Town of Amherst

By: _____
Brian J. Kulpa, Supervisor

Date: _____

Attachment: Divalsignedcontract (RES-2024-360 : Fire Extinguisher Inspection and Repair CRS #4739)

DIVALL for Life

QUOTE CONFIRMATION Page 1

1721 Niagara St • Buffalo, NY 14207 • Phone: 800.3431354 • Fax: 716.874.4686 • www.divalsafety.com

Bill to: TOWN OF AMHERST BLDG DEPARTMNT
5583 MAIN STREET
WILLIAMSVILLE NY 14221

Ship to: TOWN OF AMHERST BLDG DEPARTMNT
5583 MAIN STREET
WILLIAMSVILLE NY 14221

CUSTOMER NUMBER	CONTACT	PRINT DATE
10343	RICK	2/13/24

ORDER NUMBER	CUSTOMER PURCHASE ORDER	SALES REPRESENTATIVE	INSTRUCTIONS
6R623 00	PENDING FIRE EXT QTE	119 BIN TRANSITIONAL	

Ordered	Shipped	B.O.	U/M	Item and Description	Unit Price	Extended Price
115	115		EA	INSPEC 1042 N FOREST - HIGHWAY EXTINGUISHER INSP	$6.45000	$741.75
47	47		EA	INSPEC 1100 N FOREST - ENGINEERING EXTINGUISHER INSP	$6.45000	$303.15
1	1		EA	FRIC 146 BRENON RD - VETERAN PARK EXTINGUISHER INSP - 1-18 UNITS	$114.75000	$114.75
32	32		EA	INSPEC 1615 AMHERST MANOR - NORTHTOWN EXTINGUISHER INSP	$6.45000	$206.40
1	1		EA	FRIC 208 PLAZA DR - CLEARFIELD EXTINGUISHER INSP - 1-18 UNITS	$114.75000	$114.75
1	1		EA	FRIC 220 N POINTE PKWY - NW AMHERST EXTINGUISHER INSP - 1-18 UNITS	$114.75000	$114.75
1	1		EA	FRIC 30 S CAYUGA EXTINGUISHER INSP - 1-18 UNITS	$114.75000	$114.75
1	1		EA	FRIC 350 JOHN JAMES - AUD LIBRARY EXTINGUISHER INSP - 1-18 UNITS	$114.75000	$114.75
1	1		EA	FRIC 3575 TONAWANDA CREEK - OAKWOOD EXTINGUISHER INSP - 1-18 UNITS	$114.75000	$114.75
1	1		EA	FRIC 370 JOHN JAMES - SENIOR CENTER EXTINGUISHER INSP - 1-18 UNITS	$114.75000	$114.75

Quote Confirmation - Not an Invoice

* CONTINUED

Attachment: Divalsignedcontract (RES-2024-360 : Fire Extinguisher Inspection and Repair CRS #4739)

DIVALL for Life

QUOTE CONFIRMATION Page 2

1721 Niagara St • Buffalo, NY 14207 • Phone: 800.3431354 • Fax: 716.874.4686 • www.divalsafety.com

Bill to: TOWN OF AMHERST BLDG DEPARTMNT
5583 MAIN STREET
WILLIAMSVILLE NY 14221

Ship to: TOWN OF AMHERST BLDG DEPARTMNT
5583 MAIN STREET
WILLIAMSVILLE NY 14221

CUSTOMER NUMBER	CONTACT	PRINT DATE
10343	RICK	2/13/24

ORDER NUMBER	CUSTOMER PURCHASE ORDER	SALES REPRESENTATIVE	INSTRUCTIONS
6R623 00	PENDING FIRE EXT QTE	119 BIN TRANSITIONAL	

Ordered	Shipped	B.O.	U/M	Item and Description	Unit Price	Extended Price
22	22		EA	INSPEC 4420 BAILEY AVE - POLICE TRAIN ING EXTINGUISHER INSP	$6.45000	$141.90
21	21		EA	INSPEC 4255 HARLEM RD - EXTINGUISHER INSP	$6.45000	$135.45
1	1		EA	FRIC 4415 MILLERSPORT HWY - EXTINGUISHER INSP - 1-18 UNITS	$114.75000	$114.75
1	1		EA	FRIC 450 MAPLE RD - PARKS EXTINGUISHER INSP - 1-18 UNITS	$114.75000	$114.75
131	131		EA	INSPEC 455 TONAWANDA CREEK - PLANT 16 EXTINGUISHER INSP	$6.45000	$844.95
1	1		EA	FRIC 4622 MAIN ST - EGGERTSVILLE EXTINGUISHER INSP - 1-18 UNITS	$114.75000	$114.75
1	1		EA	FRIC 475 MAPLE RD - AUD PAR #3 EXTINGUISHER INSP - 1-18 UNITS	$114.75000	$114.75
91	91		EA	INSPEC 500 JOHN JAMES - POLICE EXTINGUISHER INSP	$6.45000	$586.95
1	1		EA	FRIC 500 MAPLE RD - AUD GOLF COURSE EXTINGUISHER INSP - 1-18 UNITS	$114.75000	$114.75
1	1		EA	FRIC 500 SMITH RD - EXTINGUISHER INSP - 1-18 UNITS	$114.75000	$114.75

Quote Confirmation - Not an Invoice

* CONTINUED

Attachment: Divalsignedcontract (RES-2024-360 : Fire Extinguisher Inspection and Repair CRS #4739)

DIVAL for Life

QUOTE CONFIRMATION Page 3

1721 Niagara St • Buffalo, NY 14207 • Phone: 800.3431354 • Fax: 716.874.4686 • www.divalsafety.com

Bill to: TOWN OF AMHERST BLDG DEPARTMNT
5583 MAIN STREET
WILLIAMSVILLE NY 14221

Ship to: TOWN OF AMHERST BLDG DEPARTMNT
5583 MAIN STREET
WILLIAMSVILLE NY 14221

CUSTOMER NUMBER	CONTACT	PRINT DATE
10343	RICK	2/13/24

ORDER NUMBER	CUSTOMER PURCHASE ORDER	SALES REPRESENTATIVE	INSTRUCTIONS
6R623 00	PENDING FIRE EXT QTE	119 BIN TRANSITIONAL	

Ordered	Shipped	B.O.	U/M	Item and Description	Unit Price	Extended Price
1	1		EA	FRIC 5005 SHERIDAN DR - WILL YOUTH EXTINGUISHER INSP - 1-18 UNITS	$114.75000	$114.75
1	1		EA	FRIC 5571 MAIN ST - WILL LIBRARY EXTINGUISHER INSP - 1-18 UNITS	$114.75000	$114.75
1	1		EA	FRIC 5583 MAIN ST - TOWN HALL EXTINGUISHER INSP - 1-18 UNITS	$114.75000	$114.75
1	1		EA	FRIC 770 HOPKINS RD - CLEARFIELD LIB EXTINGUISHER INSP - 1-18 UNITS	$114.75000	$114.75
1	1		EA	FRIC 772 N FOREST - CENTRAL PARK EXTINGUISHER INSP - 1-18 UNITS	$114.75000	$114.75
1	1		EA	FRIC 892 N FOREST - POOL EXTINGUISHER INSP - 1-18 UNITS THANK YOU FOR THE OPPORTUNITY TO QUOTE!	$114.75000	$114.75

Quote Confirmation -
Not an Invoice

Total Line Items 26

* COMPLETE *

Subtotal	Tax Pct	Sales tax	Total
$5140.80	.000		$5140.80

Attachment: Divalsignedcontract (RES-2024-360 : Fire Extinguisher Inspection and Repair CRS #4739)

DIVALL for Life

QUOTE CONFIRMATION Page 1

1721 Niagara St • Buffalo, NY 14207 • Phone: 800.3431354 • Fax: 716.874.4686 • www.divalsafety.com

Bill to: TOWN OF AMHERST BLDG DEPARTMNT
5583 MAIN STREET
WILLIAMSVILLE NY 14221

Ship to: TOWN OF AMHERST BLDG DEPARTMNT
5583 MAIN STREET
WILLIAMSVILLE NY 14221

CUSTOMER NUMBER	CONTACT	PRINT DATE
10343	RICK	2/13/24

ORDER NUMBER	CUSTOMER PURCHASE ORDER	SALES REPRESENTATIVE	INSTRUCTIONS
6R873 00	PENDING SVC WORK QUOTE	500 FIRE SERVICE	

Ordered	Shipped	B.O.	U/M	Item and Description	Unit Price	Extended Price
				QUOTE IS FOR COST OF POTENTIAL SERVICE WORK PER EXTINGUISHER BELOW IS THE COST FOR 6YR MAINTENANCE FOR ABC EXTINGUSIHERS		
1	1		EA	EXTPART APPROX COST FOR 6YR ON A 2.5# ABC EXTINGUISHER	$44.50000	$44.50
1	1		EA	EXTPART APPROX COST FOR 6YR ON A 5# ABC EXTINGUISHER	$39.50000	$39.50
1	1		EA	EXTPART APPROX COST FOR 6YR ON A 10# ABC EXTINGUISHER	$57.50000	$57.50
1	1		EA	EXTPART APPROX COST FOR 6YR ON A 20# ABC EXTINGUISHER	$79.00000	$79.00
				BELOW IS COST TO HYDROTEST ABC EXTINGUISHERS		
1	1		EA	EXTPART APPROX COST TO HYDROTEST A 5# ABC EXTINGUISHER	$60.50000	$60.50
1	1		EA	EXTPART APPROX COST TO HYDROTEST A 10# ABC EXTINGUISHER	$78.50000	$78.50
1	1		EA	EXTPART APPROX COST TO HYDRO TEST A 20# ABC EXTINGUISHER	$100.00000	$100.00
				BELOW IS THE COST FOR NEW EXTINGUISHERS		
1	1		EA	438735 Ansul Fire Extinguisher 2.5 lb. ABC, w/ VB, A02SVB	$56.50000	$56.50

Quote Confirmation - Not an Invoice

* CONTINUED

Attachment: Divalsignedcontract (RES-2024-360 : Fire Extinguisher Inspection and Repair CRS #4739)

DIVALL for Life

QUOTE CONFIRMATION Page 2

1721 Niagara St • Buffalo, NY 14207 • Phone: 800.3431354 • Fax: 716.874.4686 • www.divalsafety.com

Bill to: TOWN OF AMHERST BLDG DEPARTMNT
5583 MAIN STREET
WILLIAMSVILLE NY 14221

Ship to: TOWN OF AMHERST BLDG DEPARTMNT
5583 MAIN STREET
WILLIAMSVILLE NY 14221

CUSTOMER NUMBER	CONTACT	PRINT DATE
10343	RICK	2/13/24

ORDER NUMBER	CUSTOMER PURCHASE ORDER	SALES REPRESENTATIVE	INSTRUCTIONS
6R873 00	PENDING SVC WORK QUOTE	500 FIRE SERVICE	

Ordered	Shipped	B.O.	U/M	Item and Description	Unit Price	Extended Price
1	1		EA	INSTAG Tagged for inspection & certification	$3.90000	$3.90
1	1		EA	442257 Ansul fire extinguisher 5# ABC AA05S-1	$89.50000	$89.50
1	1		EA	INSTAG Tagged for inspection & certification	$3.90000	$3.90
1	1		EA	436500 Ansul ABC 10 # dry chemical fire extinguisher	$115.75000	$115.75
1	1		EA	INSTAG Tagged for inspection & certification	$3.90000	$3.90
1	1		EA	434747 Ansul fire extinguisher w/ wall hook , 20#, ABC, AA20-1	$199.75000	$199.75
1	1		EA	INSTAG Tagged for inspection & certification THANK YOU FOR THE OPPORTUNITY TO QUOTE!!!	$3.90000	$3.90

Quote Confirmation -
Not an Invoice

Total Line Items 15

* COMPLETE *

Subtotal	Tax Pct	Sales tax	Total
$936.60	.000		$936.60

Attachment: Divalsignedcontract (RES-2024-360 : Fire Extinguisher Inspection and Repair CRS #4739)

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: Divalsignedcontract (RES-2024-360 : Fire Extinguisher Inspection and Repair CRS #4739)

Fire Extinguisher Inspection Comparison

			All State Fire & Security		Dival Safety	
Inspection Location	**Address**	**Quantity**	**Cost**	**Total Cost**	**Cost**	**Total Cost**
Highway	1042 North Forest	115	$ 8.95	$ 1,029.25	$ 6.45	$ 741.75
Engineering	1100 North Forest	47	$ 8.95	$ 420.65	$ 6.45	$ 303.15
Veteran Park	146 Brenon Road	6	$ 8.95	$ 89.95	$ 6.45	$ 114.75
Northtown Center	1615 Amherst Manor	32	$ 8.95	$ 286.40	$ 6.45	$ 206.40
Clearfield	208 Plaze Drive	17	$ 8.95	$ 152.15	$ 6.45	$ 114.75
NW Amherst Center	220 N Pointe Parkway	6	$ 8.95	$ 89.95	$ 6.45	$ 114.75
30 S Cayuga	30 South Cayuga	3	$ 8.95	$ 89.95	$ 6.45	$ 114.75
Audubon Library	350 John James	10	$ 8.95	$ 89.95	$ 6.45	$ 114.75
Oakwood	3575 Tonawanda Creek	6	$ 8.95	$ 89.95	$ 6.45	$ 114.75
Senior Center	370 John James	6	$ 8.95	$ 89.95	$ 6.45	$ 114.75
Police Training	4220 Bailey Ave.	22	$ 8.95	$ 196.90	$ 6.45	$ 141.90
Harlem Rd Community Center	4255 Harlem Road	21	$ 8.95	$ 187.95	$ 6.45	$ 135.45
North Amherst Rec Center	4415 Millersport Highway	14	$ 8.95	$ 125.30	$ 6.45	$ 114.75
Football		4	$ 8.95	$ 89.95	$ 6.45	$ 114.75
Parks	450 Maple Road	13	$ 8.95	$ 116.35	$ 6.45	$ 114.75
Plant 16	455 Tonawanda Creek	131	$ 8.95	$ 1,172.45	$ 6.45	$ 844.95
Eggertsville/Snyder Library	4622 Main Street	4	$ 8.95	$ 89.95	$ 6.45	$ 114.75
Audubon Par 3	475 Maple Road	1	$ 8.95	$ 89.95	$ 6.45	$ 114.75
Police Station	500 John James	91	$ 8.95	$ 814.45	$ 6.45	$ 586.95
Audubon Golf	500 Maple Road	6	$ 8.95	$ 89.95	$ 6.45	$ 114.75
The Paw Park	500 Smith Road	7	$ 8.95	$ 89.95	$ 6.45	$ 114.75
Williamsville Youth & Rec	5005 Sheridan	7	$ 8.95	$ 89.95	$ 6.45	$ 114.75
Williamsville Library	5571 Main Street	3	$ 8.95	$ 89.95	$ 6.45	$ 114.75
Town Hall	5583 Main Street	8	$ 8.95	$ 89.95	$ 6.45	$ 114.75
Clearfield Library	770 Hopkins	4	$ 8.95	$ 89.95	$ 6.45	$ 114.75
Central Park	772 North Forest	6	$ 8.95	$ 89.95	$ 6.45	$ 114.75
Pool	892 North Forest	2	$ 8.95	$ 89.95	$ 6.45	$ 114.75
			Total	$ 6,031.00		$ 5,255.55
Services	Quantity 2024					
Recharge 2.5 # ABC	0		N/A		$ 44.50	$ -
Recharge 5 # ABC	0		$ 49.00	$ -	$ 39.50	$ -
Recharge 10 # ABC	0		$ 58.50	$ -	$ 57.50	$ -
Recharge 20 # ABC / K-Class	0		$ 189.00	$ -	$ 79.00	$ -
6 yr maitenance / exchange 2.5 # ABC	1		N/A		$ 44.50	$ 44.50
6 yr maitenance / exchange 5 # ABC	1		$ 59.50	$ 59.50	$ 39.50	$ 39.50
6 yr maitenance / exchange 10 # ABC	1		$ 78.50	$ 78.50	$ 57.50	$ 57.50
6 yr maitenance / exchange 20 # ABC / K-Class	1		N/A		$ 79.00	$ 79.00
Hydro-test 2.5 # ABC	0		N/A		N/A	
Hydro-test 5 # ABC	5		N/A		$ 60.50	$ 302.50
Hydro-test 10 # ABC	5		N/A		$ 78.50	$ 392.50
Hydro-test 20 # ABC / K-Class	5		$ 215.00	$ 1,075.00	$ 100.00	$ 500.00
New Extinguishers						
Ansul Fire Extinguisher 2.5 #	0		$ 52.50	$ -	$ 56.50	$ -
Ansul Fire Extinguisher 5 #	0		$ 89.95	$ -	$ 89.50	$ -
Ansul Fire Extinguisher 10 #	0		$ 109.50	$ -	$ 115.75	$ -
Ansul Fire Extinguisher 20 # / K-Class	0		$ 395.00	$ -	$ 199.75	$ -
Tags	0		N/A		$ 3.90	$ -
			Total	$ 1,213.00		$ 1,415.50
Total Cost Comparison				$ 7,244.00		$ 6,671.05
Materials						
Billing			MSRP or below			MSRP or below
Notes:						
Allstate: $8.95 per extinguisher inspection, with a minimum charge of $89.95 per site. Veteran Park, NW Amherst center,						
Oakwood, Senior Center, and Central Park locations were not included on their quote.						
Dival: $6.45 per inspection, with a minimum charge of $114.75. Football location is not included on their quote.						

Attachment: Divalsignedcontract (RES-2024-360 : Fire Extinguisher Inspection and Repair CRS #4739)

Fire Extinguishers

1042 N Forest	Highway	115	
1100 N Forest	Engineering	47	
146 Brenon Rd	Veteran Park	1	
1615 Amherst Manor	Northtown	32	
208 Plaza Dr	Clearfiled	17	
220 N Pointe Pkwy	NW Amherst Community Center		
30 S Cayuga		3	
350 John James	Aud Library	10	
3575 Tonawanda Creek	Oakwood		
370 John James	Senior Center		
4420 Baily Ave	Police Training	22	
4255 Harlem Rd		21	
4415 Millersport Hwy	North Amherst	14	
	Football	4	
450 Maple Rd	Parks	13	
455 Tonawanda Creek	Plant 16	131	
4622 Main St	Eggertsville/Snyder	4	
475 Maple Rd	Aud Par #3	1	
500 John James	Police	91	
500 Maple Rd	Aud Golf Course	6	
500 Smith Rd		7	
5005 Sheridan Dr	Williamsville Youth	7	
5571 Main St	Williamsville Library	3	
5583 Main St	Town Hall	8	
770 Hopkins Rd	Clearfield Library	4	
772 N Forest	Central Park		
892 N Forest	Pool	2	Total=562

Attachment: Divalsignedcontract (RES-2024-360 : Fire Extinguisher Inspection and Repair CRS #4739)

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
DiVal Safety Equipment, Inc. 1721 Niagara Street Buffalo, NY 14207 Work Location of Insured *(Only required if coverage is specifically limited to certain locations in New York State, i.e., a Wrap-Up Policy)*	716-874-9060 1c. NYS Unemployment Insurance Employer Registration Number of Insured 8520664-1 1d. Federal Employer Identification Number of Insured or Social Security Number 16-1104585
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 Zurich American Ins Co 3b. Policy Number of Entity Listed in Box "1a" WC202811704 3c. Policy effective period 04/01/2024 to 04/01/2025 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 3 on the INFORMATION PAGE of the workers' compensation insurance policy).** The Insurance Carrier or its licensed agent will send 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 cancel due to nonpayment of premiums or within 30 days IF there are reasons other than the nonpayment of premiums that cancel the policy o eliminate the insured from the coverage indicated on this certificate. (These notices may be sent by regular mail) Otherwise, this Certific is valid for one year after this form is approved by the insurance carrier or the licensed agent, or until the policy expiration date listed in t "3c", whichever is earlier.

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 n 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: Tracy Williams
(Print name of authorized representative or licensed agent of insurance carrier)

Approved by: Tracy Williams 4/1/2024
(Signature) (Date)

Title: Strategic Account Manager

Telephone Number of authorized representative or licensed agent of insurance carrier: 312-381-1893

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.

Attachment: Divalsignedcontract (RES-2024-360 : Fire Extinguisher Inspection and Repair CRS #4739)

CERTIFICATE OF LIABILITY INSURANCE

DATE(MM/DD/YYYY) 03/19/2024

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
Aon Risk Services Central, Inc.
Chicago IL Office
200 East Randolph
Chicago IL 60601 USA

CONTACT NAME:
PHONE (A/C. No. Ext): (866) 283-7122 **FAX (A/C. No.):** (800) 363-0105
E-MAIL ADDRESS:

INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A:	Zurich American Ins Co	16535
INSURER B:	National Union Fire Ins Co of Pittsburgh	19445
INSURER C:		
INSURER D:		
INSURER E:		
INSURER F:		

INSURED
DiVal Safety Equipment, Inc.
a division of DiVal Safety
1721 Niagara Street
Buffalo NY 14207 USA

COVERAGES **CERTIFICATE NUMBER:** 570104431670 **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. **Limits shown are as requested**

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: X POLICY PRO-JECT LOC OTHER:	Y		GLO202811804	04/01/2024	04/01/2025	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$2,000,000 $500,000 $10,000 $2,000,000 $4,000,000 $4,000,000
A	AUTOMOBILE LIABILITY X ANY AUTO OWNED AUTOS ONLY HIRED AUTOS ONLY SCHEDULED AUTOS NON-OWNED AUTOS ONLY			BAP 2028119-04	04/01/2024	04/01/2025	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$2,000,000
B	X UMBRELLA LIAB X OCCUR EXCESS LIAB CLAIMS-MADE DED X RETENTION			BE042676489 SIR applies per policy terms & conditions	04/01/2024	04/01/2025	EACH OCCURRENCE AGGREGATE SIR	$9,000,000 $9,000,000 $10,000
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICER/MEMBER EXCLUDED? Y/N N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N/A		WC202811704	04/01/2024	04/01/2025	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)
The Town of Amherst is included as Additional Insured in accordance with the policy provisions of the General Liability policy. General Liability policy evidenced herein is Primary and Non-Contributory to other insurance available to an Additional Insured, but only in accordance with the policy's provisions. Workers Compensation includes owners.

CERTIFICATE HOLDER
Town of Amherst
5583 Main Street
Williamsville NY 14221 USA

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
Aon Risk Services Central Inc.

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Attachment: Divalsignedcontract (RES-2024-360 : Fire Extinguisher Inspection and Repair CRS #4739)

NEW YORK STATE | Workers' Compensation Board

CERTIFICATE OF INSURANCE COVERAGE
DISABILITY AND PAID FAMILY LEAVE BENEFITS LAW

PART 1. To be completed by Disability and Paid Family Leave Benefits Carrier or Licensed Insurance Agent of that Carrier

1a. Legal Name & Address of Insured (use street address only)
DIVAL SAFETY EQUIPMENT INC.
ATTN: KRISTINA PAGLINO
1721 NIAGARA STREET
BUFFALO, NY 14207

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
716-874-9060

1c. Federal Employer Identification Number of Insured or Social Security Number
161104585

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"
DBL531427

3c. Policy effective period
04/01/2024 to 03/31/2025

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 03/26/24 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 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 4C or 5B of Part 1 has 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 with respect to all of his/her 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 (10-17)

DB-120.1 (10-17)

Attachment: Divalsignedcontract (RES-2024-360 : Fire Extinguisher Inspection and Repair CRS #4739)

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Comptroller
Initiated by: **Daryl Bramer**
Co-Sponsored by:

DOC ID: 28930 **RESOLUTION 2024-361** **ADOPTED**

Budget Transfers and Amendments

For April 29, 2024 Town Board Agenda

To: Town Board
From: Office of Town Comptroller
Date: 04/24/2024
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 - 2024

FROM:	***TO:***
N2025.1000 CDBG- Personal Svcs $712.55 N2025.4050 CDBG- Mileage $16.84 N2025.8030 CDBG- FICA $50.61	N2025.4000 CDBG- Contractual $780.00
Requested per department.	
A7250.4110 Audubon Golf - Contractual $702.49	A7250.9000 Interfund Transfers $702.49
To transfer funds into KP2215 Audubon Golf Course Improvements.	
N2068.4000 CDBG NWCC- Contractual $27,711.50 N2069.4000 CDBG NWCC- Contractual $2,429.84 N2026.4010 CDBG- Office Exp. $849.21	N2067.4000 CDBG Senior Ctr. $30,990.55
Requested per department.	
A1430.1000 HR - Personal Services $29,297.31 A1430.8030 HR - FICA $2,241.24	A1620.1000 Building Maintenance $29,297.31 A1620.8030 Building Maintenance $2,241.24
To transfer personal services and related FICA to Building Maintenance for project manager hire.	

BUDGET AMENDMENTS - 2024

INCREASE:	***INCREASE:***
F3012.05001 Swormville- Refund of CY Exp $37,750.30 F3013.05001 East Amherst- Refund of CY Exp $32,992.53	F3012.4090 Professional Svcs $37,750.30 F3013.4090 Professional Svcs $32,992.53
To recognize Clarence's portion of LOSAP.	
N2323.02785 CDBG & VG- PI $10,453.60 N2325.02785 CDBG Admin- PI $2,613.40	N2323.4000 Contractual $10,453.60 N2325.1000 Personal Svcs $2,427.68 N2325.8030 FICA $185.72
To recognize Community Development program income from 7 N.Burbank, Amherst.	
N1042.05002 Amh Home- Health Ins. Contr $1,921.08	N1042.8050 Health Insurance $1,921.08
To recognize 1st Qtr. 2024 employee health insurance contributions.	
A6773.05001 Nutrition - Refund of C/Y Exp. $12,282.54	A6773.1000 Personal Services $7,917.68 A6773.8030 FICA $572.38 A6773.8010 Retirement $1,179.54

A6773.8050 Insurance $2,489.40
A6773.8051 Dental $111.00
A6773.8052 Vision $12.54
To recognize reimbursement from CDBG for cook at Senior Center.

KP2215.05031 Interfund Transfers $702.49 KP2215.4972 Construction $702.49
To setup budget for transfer from A7250 into KP2215 Audubon Golf Course Improvements.

A1310.02770 Comptroller - Other Revenues $2,508.00 A1620.4060 Facilities - Phone $2,508.00
To recognize Other Revenue for Comptroller's Office and increase phone expenditures for Facilities for 30 S. Cayuga.

N2323.02785 CDBG & VG- PI $170.00 N2323.4000 Contractual $170.00
To recognize Community Development program income from 169 Hillcrest, Cheektowaga.

N2350.02785 TON REHAB- PI $31,500.00 N2350.4000 Contractual $31,500.00
N2353.02785 TON Admin- PI $3,500.00 N2353.4003 10% Admin $3,500.00
To recognize Community Development program income from 166 Lyndale, Tonawanda.

KP2301.02710 Premium on Obligations $27,238.12 KP2301.9000 Interfund Transfers $27,238.12
KP2302.02710 Premium on Obligations $5,204.74 KP2302.9000 Interfund Transfers $5,204.74
KP2304.02710 Premium on Obligations $5,204.74 KP2304.9000 Interfund Transfers $5,204.74
KP2305.02710 Premium on Obligations $6,939.65 KP2305.9000 Interfund Transfers $6,939.65
KP2309.02710 Premium on Obligations $3,296.33 KP2309.9000 Interfund Transfers $3,296.33
To setup the budget for bond premiums and Interfund Transfers to move funds into debt reserve.

4/29/2024
Consent

FINANCIAL IMPACT:

See Descriptions.

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

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Contract Compliance
Initiated by: **Lynda Juul**
Co-Sponsored by: **Supervisor Brian J. Kulpa**

DOC ID: 28748 **RESOLUTION 2024-362** **ADOPTED**

Extension of Town Wide Office Supplies Piggyback Agreement through Omnia - CRS #4673

WHEREAS, Eaton Office Supplies has agreed to extend their piggyback agreement through Omnia (Contract # R190301) for Town Wide Office Supplies (Original CRS #4212);

NOW, THEREFORE, BE IT RESOLVED, the Town Board approves a one-year extension of the contract with Eaton Office Supplies for the period June 1, 2024 through May 31, 2025; and

BE IT FURTHER RESOLVED, the Town Board authorizes the Supervisor to sign the contract extension with Eaton Office Supplies.

4/29/2024
Consent

FINANCIAL IMPACT:

Town Wide; Various Accounts; Amount TBD

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

TOWN OF AMHERST

Erie County, New York

SUPERVISOR
Brian J. Kulpa
716-631-7032

COUNCILMEMBERS
Jacqualine Berger
Shawn Lavin
Angela Marinucci
Michael Szukala

March 5, 2024

Eaton Office Supply
180 John Glenn Dr.
Amherst, NY 14228
Attn: Tom DiNunzio & Fay Schreiner, Account Executives

Re: CRS 4212 – Town Wide Office Supplies Piggyback Agreement (Omnia contract R190301)

Dear Mr. DiNunzio & Ms. Schreiner,

The Town of Amherst wishes to extend this agreement for an additional contract period, through May 31, 2025, under the same pricing structure, terms and conditions as the original agreement.

Extension is provided for per the attached contract renewal. 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.**

If you wish to extend, please return three (3) originals to:
Town of Amherst Contract Compliance Department
5583 Main Street
Williamsville, NY 14221

After approval and execution by the Town of Amherst, 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: Eaton Office Supply Co., Inc.

Representative (Please print): Andrea L. Bradley Title: President

Signature: Andrea L. Bradley Date: 3/6/2024

Acceptance by the Town of Amherst:

Brian Kulpa, Supervisor Date

Attachment: Eaton Extension Signed (RES-2024-362 : Extension of Town Wide Office Supplies Piggyback Agreement through Omnia - CRS

DocuSign Envelope ID: 39E94EEB-D2DB-4655-A855-19E8E790A522



August 25, 2023

Mr. Scott Zintz
zintz@epicbusinessessentials.com
Managing Director
EPIC Business Essentials
5600 N River Road Suite 700
Rosemont, IL 60018

Re: Renewal Award of Contract #R190301

Dear Mr. Zintz:

Per official action taken by the Board of Directors of Region 4 Education Service Center on August 22, 2023, Region 4 ESC is pleased to announce that EPIC Business Essentials has been awarded an annual contract renewal for the following, based on the sealed proposal submitted to Region 4 on January 24, 2019, and subsequent performance thereafter:

Contract

Office Supplies, Related Products and Services

The contract will expire on May 31, 2025, completing the sixth year of a ten-year term contract. The contract is available through OMNIA Partners, Public Sector. Your designated OMNIA Partners, Public Sector contact is Christine Dorantes, at (615) 431-8182 or christine.dorantes@omniapartners.com.

The partnership between EPIC Business Essentials, Region 4 and OMNIA Partners, Public Sector can be of great help to participating agencies. Please provide copies of this letter to your sales representative(s) to assist in their daily course of business.

Sincerely,

DocuSigned by:
Robert Zingelmann
30EE15BEEF1C4C6...

Robert Zingelmann
Chief Financial Officer, Finance and Operations Services

Attachment: Eaton Extension Signed (RES-2024-362 : Extension of Town Wide Office Supplies Piggyback Agreement through Omnia - CRS

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Contract Compliance
Initiated by: **Lynda Juul**
Co-Sponsored by: **Supervisor Brian J. Kulpa**

DOC ID: 28832 **RESOLUTION 2024-363** **ADOPTED**

Tires & Tubes Contract - 3-Month Extension - CRS #4727

WHEREAS, the contract for Tires and Tubes through New York State OGS (Contract #PC68490) with Dunn Tire, dba Airport Commerce Park (Original CRS #1529) has been extended through June 30, 2024;

NOW, THEREFORE, BE IT RESOLVED, the Town Board approves an extension of the contract with Dunn Tire LLC, dba Airport Commerce Park through June 30, 2024; and

BE IT FURTHER RESOLVED, the Town Board authorizes the Supervisor to sign the contract extension with Dunn Tire LLC, dba Airport Commerce Park.

4/29/2024
Consent

FINANCIAL IMPACT:

Town Wide; Various Accounts; Amount TBD

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

TOWN OF AMHERST
Erie County, New York

SUPERVISOR
Brian J. Kulpa
716-631-7032

COUNCILMEMBERS
Jacqualine Berger
Shawn Lavin
Angela Marinucci
Michael Szukala

March 26, 2024

Dunn Tire LLC. Dba Airport Commerce Park
475 Cayuga Rd, Suite 500
Buffalo, NY 14225
Attn: Roger Allgeier

Re: CRS 1529 – Tires and Tubes Purchase Agreement (OGS contract PC 68490)

Dear Mr. Allgeier,

The Town of Amherst wishes to extend this agreement for an additional contract period, through June 30, 2024, under the same pricing structure, terms and conditions as the OGS contract PC68490, Award PGB-23149, Group 30600.

Extension is provided for per the attached contract renewal. 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.**

If you wish to extend, please return three (3) originals to:
Town of Amherst Contract Compliance Department
5583 Main Street
Williamsville, NY 14221

After approval and execution by the Town of Amherst, a fully signed copy will be returned to you for your files.

✓ Yes, I agree to extend ___ No, I do not wish to extend

Company Name: EXPRESS TIRE

Representative (Please print): ROGER ALLGEIER Title: DIRECTOR

Signature: Roger Allgeier Date: 3-25-24

Acceptance by the Town of Amherst:

Brian Kulpa, Supervisor Date

Attachment: Signed Extension 3-25-24 (RES-2024-363 : Tires & Tubes Contract - 3-Month Extension - CRS #4727)

NEW YORK STATE | Office of General Services
Procurement Services

Corning Tower, Empire State Plaza, Albany, NY 12242 | https://ogs.ny.gov/procurement | customer.services@ogs.ny.gov | 518-474-6717

Contract Award Notification Update

Subject: Contract Extension and Updated Authorized Dealer List

DATE: March 22, 2024 **AWARD #:** PGB-23149 **GROUP #:** 30600

AWARD DESCRIPTION: Tires, Tubes, and Services

CONTRACT PERIOD: April 1, 2019 to June 30, 2024

CONTACT: Jeff Grzywaczewski | 518-473-1427 | Jeffrey.Grzywaczewski@ogs.ny.gov

CONTRACT NO.: PC68490 **CONTRACTOR:** The Goodyear Tire and Rubber Company

Please be advised that the Tires, Tubes, and Services contract with The Goodyear Tire and Rubber Company has been extended through June 30, 2024. The Goodyear Tire and Rubber Company has also updated their list for authorized dealers for the State of New York.

This updated list can be found on OGS's website, under "Dealers" at:
https://online.ogs.ny.gov/purchase/spg/awards/4062522792Can.htm

All other terms and conditions under this award remain the same.

3060023149p35

Attachment: Signed Extension 3-25-24 (RES-2024-363 : Tires & Tubes Contract - 3-Month Extension - CRS #4727)

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Contract Compliance
Initiated by: **Lynda Juul**
Co-Sponsored by: **Supervisor Brian J. Kulpa**

DOC ID: 28839 **RESOLUTION 2024-364** **ADOPTED**

Award Bid #2024014 Police Vehicles - CRS #4731

WHEREAS, the Contract Compliance and Administration Department received bids on March 21, 2024 for Bid #2024014 Police Vehicles; and

WHEREAS, the bid process resulted in a response from four (4) 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 C. Basil Ford, Inc.; and

BE IT FURTHER RESOLVED, the Town Board authorizes the Police Department to trade in the vehicles listed in the table below:

CAR #	YEAR	VIN	MAKE/MODEL	MILEAGE	C Basil Ford
108	2023	1FM5K8AB1PGA06482	Explorer	72,466	$18,000
109	2023	1FM5K8AB1PGA06269	Explorer	66,587	$19,000
110	2022	1FM5K8AWXNNA00207	Explorer Hybrid	90,933	$15,000
111	2022	1FM5K8AWXNNA00210	Explorer Hybrid	99,762	$15,000
116	2020	1FM5K8AW6LGD01980	Explorer Hybrid	78,348	$12,000
124	2020	1FM5K8AW8LGA18433	Explorer Hybrid	82,897	$13,000
139	2016	1FAHP2MK5GG119336	Taurus	73,490	$4,500
157	2014	1FM5K8AR8EGA55219	Explorer	66,869	$4,000
164	2014	1FAHP2MK0EG124196	Taurus	76,321	$3,500
173	2014	1FM5K8AR7EGB63668	Explorer	88,900	$4,000
188	2020	1FM5K8AW8LGD01981	Explorer Hybrid	65,364	$14,000
181	2014	1FAHP2MK4EG185535	Taurus	97,468	$3,000
182	2015	1FAHP2MK2FG162045	Taurus	97,105	$3,000
185	2020	1FM5K8AWXLGA18434	Explorer Hybrid	102,931	$10,000
		TOTAL			**$138,000**

BE IT FURTHER RESOLVED, the Town Board authorizes the Supervisor to sign the contract with C. Basil Ford, Inc.

4/29/2024
Consent

FINANCIAL IMPACT:

A3120-2200; $366,173.81

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

Bid #2024014 Police Vehicles

Low Bidder		Vendor Name:	Van Bortel Ford		C. Basil Ford		Bob Johnson Ford		Delacy Ford	
Item #	QTY		Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price
1	6	2025 or Newer Ford Police Interceptor Utility AWD (Color LK-Dark Blue	$46,710.00	$280,260.00	$46,421.99	$278,531.94	$48,900.00	$293,400.00	$46,218.00	$277,308.00
2	1	2025 or Newer Ford Police Interceptor Utility AWD (Color LK - Dark Blue)	$46,710.00	$46,710.00	$46,421.99	$46,421.99	$46,800.00	$46,800.00	$46,218.00	$46,218.00
3	4	2025 or Newer Ford Police Interceptor Utility AWD (Non-Hybrid) Detective (Color TBD at time of order)	$45,100.00	$180,400.00	$44,804.97	$179,219.88	$45,200.00	$180,800.00	$44,603.00	$178,412.00
4	14	Total Trade-In Value (Enter individual trade-in values in the table on page 8 and total of all trade-ins here)		-$112,100.00		-$138,000.00		-$70,100.00		-$84,500.00
		Estimated lead time between order and delivery		90-240 Days		4-6 Months		150+ Days		90-180 Days
		Price quoted to be delivered price. No additional freight will be allowed.		$395,270.00		$366,173.81		$450,900.00		$417,438.00

Notes:

Van Bortel - Items 1 & 2 - changed interior from 96 cloth to 9W.

Attachment: Police Vehicles Bid Analysis (RES-2024-364 : Award Bid #2024014 Police Vehicles - CRS

2024 Trades									
						Van Bortel	C. Basil	Bob Johnson	Delacy
CAR #	YEAR	MAKE	MODEL	VIN #	Mileage	Trade in Amount	Trade in Amount	Trade in Amount	Trade in Amount
					2/23/2024				
108	2023	Ford	Explorer	1FM5K8AB1PGA06482	72,466	$16,150.00	$18,000.00	$9,000.00	$9,500.00
109	2023	Ford	Explorer	1FM5K8AB1PGA06269	66,587	$16,150.00	$19,000.00	$9,000.00	$9,500.00
110	2022	Ford	Explorer Hybrid	1FM5K8AWXNNA00207	90,933	$12,150.00	$15,000.00	$8,000.00	$7,000.00
111	2022	Ford	Explorer Hybrid	1FM5K8AWXNNA00210	99,762	$12,150.00	$15,000.00	$7,500.00	$7,000.00
116	2020	Ford	Explorer Hybrid	1FM5K8AW6LGD01980	78,348	$10,550.00	$12,000.00	$6,000.00	$7,000.00
124	2020	Ford	Explorer Hybrid	1FM5K8AW8LGA18433	82,897	$7,550.00	$13,000.00	$6,000.00	$7,000.00
139	2016	Ford	Taurus	1FAHP2MK5GG119336	73,490	$3,550.00	$4,500.00	$2,700.00	$4,000.00
157	2014	Ford	Explorer	1FM5K8AR8EGA55219	66,869	$3,150.00	$4,000.00	$1,700.00	$5,000.00
159	2016	Ford	Explorer Hybrid	1FM5K8AR3GGC91697	105,745	REMOVED	REMOVED	REMOVED	REMOVED
164	2014	Ford	Taurus	1FAHP2MK0EG124196	76,321	$2,550.00	$3,500.00	$2,000.00	$3,500.00
173	2014	Ford	Explorer	1FM5K8AR7EGB63668	88,900	$2,550.00	$4,000.00	$1,700.00	$4,000.00
188	2020	Ford	Explorer Hybrid	1FM5K8AW8LGD01981	65,364	$11,150.00	$14,000.00	$6,200.00	$8,000.00
181	2014	Ford	Taurus	1FAHP2MK4EG185535	97,468	$2,150.00	$3,000.00	$2,000.00	$3,000.00
182	2015	Ford	Taurus	1FAHP2MK2FG162045	97,105	$2,150.00	$3,000.00	$2,300.00	$3,500.00
185	2020	Ford	Explorer Hybrid	1FM5K8AWXLGA18434	102,931	$10,150.00	$10,000.00	$6,000.00	$6,500.00
					TOTAL	$112,100.00	$138,000.00	$70,100.00	$84,500.00

Attachment: Police Vehicles Bid Analysis (RES-2024-364 : Award Bid #2024014 Police Vehicles - CRS

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Contract Compliance
Initiated by: **Lynda Juul**
Co-Sponsored by: **Supervisor Brian J. Kulpa**

DOC ID: 28884 **RESOLUTION 2024-365** **ADOPTED**

Award Mini-Bid #2024016 for (1) 2025 Ford F750 with Dump Body - CRS #4749

WHEREAS, Contract Compliance issued Mini-Bid #2024016 through NYS OGS for one (1) 2025 Ford F750 with Airflo 11' Steel Dump Body; and

WHEREAS, bids were received from three (3) vendors as per the attached Bid Tabulation Form;

NOW, THEREFORE, BE IT RESOLVED, the Town Board authorizes the Mini-Bid be awarded to Ferrario Ford for their low bid of $120,072.40; and

BE IT FURTHER RESOLVED, The Town Board authorizes the Supervisor to sign the contract with Ferrario Ford.

4/29/2024
Consent

FINANCIAL IMPACT:

KP2326-2600; $120,072.40

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

Rank	Total Quantity	Chassis Make & Model	Chassis Mode Code	Body Make & Model	Body Model Code	Mini-Bid #	Contractor	Contract #	NYS Discount (Chassis)	NYS Base Price (Chassis)	NYS Base Price (Body)	Grand Total Price for Mini-Bid	Built to Spec or Inventory	Estimated # of days if built to spec	Notes	Column1
1	1	2025 Ford F750	F7D	Airflo 11ft steel dump	ATF-11-T	2024016	Ferrario Ford dba Ferrario Auto	PC69846	4.00%	$87,472.00	$32,600.00	$120,072.00	built to spec	180		
2	1	2025 Freightliner M2 106	M2	Air Flo	AFT-11-T	2024016	Fleet Maintenance Inc	PC68935	25.00%	$109,419.25	$29,736.00	$139,155.25	built to spec	545		
DQ	1	2023 Chevrolet Silverado 6500HD	CK56403	2024 Beau Roc 11' 6" Dump body	DHS	2024016	DeNooyer Chevrolet, Inc	PC69048	8.97%	$69,114.53	$27,114.00	$96,228.53	combination	60	Chassis on lot, body to be ordered.	Does not meet the minimum load rating, and vehicle is 2023 model.

Late Bids Received for Mini-Bid

Mini-Bid #	Contractor	Contract #	Date/Time Bid Arrived

Attachment: Mini Bid 2024016 Engineering Dump Truck (RES-2024-365 : Award Mini-Bid #2024016 for (1) 2025 Ford F750 with Dump Body -

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Contract Compliance
Initiated by: **Lynda Juul**
Co-Sponsored by: **Supervisor Brian J. Kulpa**

DOC ID: 28885 **RESOLUTION 2024-366** **ADOPTED**

Award Bid #2024017 Commercial Plumbing and HVAC Supplies - CRS #4751

WHEREAS, the Contract Compliance and Administration Department received bids on April 11, 2024 for Bid #2024017 for Commercial Plumbing and HVAC Supplies; and

WHEREAS, the bid process resulted in a response from one (1) vendor, as per the attached bid tabulation form;

NOW, THEREFORE, BE IT RESOLVED, the Town Board authorizes the Contract Compliance and Administration Department to award the bid to Erb Company Inc.; and

BE IT FURTHER RESOLVED, the Town Board authorizes the Supervisor to sign the contract with Erb Company Inc.

4/29/2024
Consent

FINANCIAL IMPACT:

Town Wide; Various Accounts; Amount TBD

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

Bid #2024017 Commercial Plumbing and HVAC Supplies			
Low Bidder		Vendor	Erb Co.
Item No.	U/M		% Makup over vendor costs
1	EA	Galvanized Pipe and associated fittings	24%
2	EA	Schedule 40 & 80 PVC Pipe, PEX Tubing, and associated fittings for each	24%
3	EA	CPVC Pipe and associated fittings	24%
4	EA	Copper, Brass Pipe, Tubing and associated fittings	24%
5	EA	Black Iron Pipe and associated fittings	24%
6	EA	Ductile Iron Pipe and associated fittings	24%
7	EA	Valves	24%
8	EA	HVAC Equipment, supplies, controls, and accessories	24%
9	EA	Bell and Gossett recirculating pumps, motors, valves and repair parts	24%
10	EA	Pressure Relief Valves and Gauges	24%
11	EA	Commercial Plumbing fixtures and accessories	24%
12	EA	Pumps - Sump, Sewage, Grinder, Utility, and Recessed Impeller	24%
13	EA	Residential & Commercial Water Heaters	24%
14	EA	Backflow Preventers and associated items	24%
15	EA	Chemicals	24%
16	EA	GROVLOK Products	24%
17	EA	Commercial Pipe Insulation and Hot Boxes	24%
18	EA	Wall Penetration Seals	24%
19	EA	MERV 8 Filters	24%
20	EA	Items not described above that the awarded vendor can supply (please write them in below).	24%

Attachment: Bid Analysis Commercial Plumbing & HVAC Supplies (RES-2024-366 : Award Bid #2024017 Commercial Plumbing and HVAC

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Contract Compliance
Initiated by: **Lynda Juul**
Co-Sponsored by: **Supervisor Brian J. Kulpa**

DOC ID: 28886 **RESOLUTION 2024-367** **ADOPTED**

Overhead Door Repairs (Erie County Bid #240070-002) - CRS #4754

WHEREAS, the Contract Compliance and Administration Department is requesting approval to use the Erie County Contract for Overhead Door Repairs - Erie County Bid #240070-002 with National Overhead Door, Inc.; and

WHEREAS, the contract term will be through February 28, 2026;

NOW, THEREFORE, BE IT RESOLVED, the Town Board approves and authorizes the Supervisor to sign the contract with National Overhead Door, Inc.

4/29/2024
Consent

FINANCIAL IMPACT:

Town Wide; Various Accounts; Amount TBD

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

TOWN OF AMHERST

Erie County, New York

SUPERVISOR
Brian J. Kulpa
716-631-7032

DEPUTY SUPERVISOR/COUNCILMEMBER
Shawn Lavin

COUNCILMEMBERS
Jacqualine Berger
Angela Marinucci
Michael Szukala

AGREEMENT

Let this document stand as an Agreement between National Overhead Door, Inc. and the Town of Amherst permitting the Town to participate in the Erie County Bid #240070-002, for Overhead Door Repairs through February 28, 2026.

Agreed to and Accepted by:

National Overhead Door, Inc.

By: Sara E Vella
Signature

Sara F. Vella
Printed name

Vice President
Title

Date: 4/17/2024

Agreed to and Accepted by:

TOWN OF AMHERST

By: _____
Brian J. Kulpa, Supervisor

Date: _____

Attachment: National Overhead Door CRS (RES-2024-367 : Overhead Door Repairs (Erie County Bid #240070-002) - CRS #4754)

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: National Overhead Door CRS (RES-2024-367 : Overhead Door Repairs (Erie County Bid #240070-002) - CRS #4754)

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: National Overhead Door CRS (RES-2024-367 : Overhead Door Repairs (Erie County Bid #240070-002) - CRS #4754)

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:

National Overhead Doors, Inc.
Print Name of Company

By: Sara E Vella
Signature

Sara E Vella
Printed name

Date: 4/17/2024

Agreed to and Accepted by:

Town of Amherst

_____
By: Brian J. Kulpa, Supervisor

Date: _____

Attachment: National Overhead Door CRS (RES-2024-367 : Overhead Door Repairs (Erie County Bid #240070-002) - CRS #4754)

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# 2024003892

The schedule can be found at the following link
https://apps.labor.ny.gov/wpp/publicViewProject.do?method=showIt&id=1566356

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: National Overhead Door CRS (RES-2024-367 : Overhead Door Repairs (Erie County Bid #240070-002) - CRS #4754)

COUNTY OF ERIE
DIVISION OF PURCHASE
MEMORANDUM

To: All Using Departments

From: Jamie Kucewicz, Buyer

Date: March 15, 2024

Subject: OVERHEAD DOOR REPAIRS

Bid No.: 240070-002

Effective Dates: March 1, 2024 through February 28, 2026

Vendor #: 105384

Vendor: NATIONAL OVERHEAD DOOR, INC.
5880 New Taylor Road
Orchard Park, NY 14127

Telephone: 716-667-3500

Pricing: Per attached document

Attachment: National Overhead Door CRS (RES-2024-367 : Overhead Door Repairs (Erie County Bid #240070-002) - CRS #4754)

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: 240070-002

OPENING DATE: FEBRUARY 21, 2024 TIME: 11:00AM

FOR: OVERHEAD DOOR REPAIRS

NAME OF BIDDER: National Overhead Door, Inc.

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)
N/A	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
X	EXHIBIT "V"	- Vendor Federal Compliance Certification

(Rev. 1/00)

Attachment: National Overhead Door CRS (RES-2024-367 : Overhead Door Repairs (Erie County Bid #240070-002) - CRS #4754)

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 12 day of February, 20 24

TERMS Bid #240070-002 DELIVERY DATE AT DESTINATION 2/21/2024

FIRM NAME National Overhead Door, Inc.

ADDRESS 5880 New Taylor Rd.

Orchard Park, NY ZIP 14127

AUTHORIZED SIGNATURE Sara E Vella

TYPED NAME OF AUTHORIZED SIGNATURE Sara E. Vella

TITLE Vice President TELEPHONE NO. (716) 667-3500

(Rev.1/2000)

ERIE COUNTY OFFICE BUILDING, 95 FRANKLIN STREET, BUFFALO, NEW YORK 14202 (716) 858-6336

Attachment: National Overhead Door CRS (RES-2024-367 : Overhead Door Repairs (Erie County Bid #240070-002) - CRS #4754)

County of Erie

DIVISION OF PURCHASE
BID SPECIFICATIONS

BID NO: 240070-002

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 Emergency Overhead Door Repairs		
			per the attached specifications.		
			Term of contract March 1, 2024 through February 28, 2026.		
			PRICING		
			LABOR RATE PER HOUR:		
			Regular time: $ 95.00		
			Overtime: $ 124.50		
			MATERIALS:		
			Cost plus 10 %		

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 National Overhead Door, Inc.

Attachment: National Overhead Door CRS (RES-2024-367 : Overhead Door Repairs (Erie County Bid #240070-002) - CRS #4754)

SPECIFICATIONS

Erie County will require the services of a vendor to do emergency repairs to overhead doors during the year for the period March 1, 2024 thru February 28, 2026.

Work will be requested on an **"AS NEEDED"** basis whenever a County Department requires such services.

Vendor must be capable of performing such service at any Erie County Facility location. This includes Highway Department, Parks, Community College Campus, Sewer Districts, Correctional Facility, County Home, Main Library, etc.

Bidder must be a vendor whose principal business is Overhead Door Sales/Service.

Bidder must have been in this business for the last three consecutive years and must submit references of customers of similar size of Erie County for whom such service has been provided.

The successful bidder will be required to submit proof of insurance as per requirements of Erie County Standard Insurance Class "A".

Work will be done on a time and materials basis. Vendor is requested to quote labor rate per hour and indicate charge for materials. For the sole purpose of awarding this contract, the County will calculate the total cost for a repair requiring: Four Hours of Labor at Regular Time, One Hour of Labor at Overtime and $100.00 in materials at cost + vendor's increase.

All work must be done in a timely manner. All requests for service must be acknowledge with a phone call within one business day. All repairs must be done within 30 days of initial service request. If anticipated completion date is longer than 30 days, approval must be obtained from department requesting service before moving forward with job.

Payments will be made in arrears upon submission of detailed invoice.

Vendor must receive approval (from authorized County personnel) before beginning any job.

Vendor invoice must list separately the labor hours and all materials being charged. Material invoices must also be provided at time of billing.

Pricing is to remain firm for the entire contract period.

Attachment: National Overhead Door CRS (RES-2024-367 : Overhead Door Repairs (Erie County Bid #240070-002) - CRS #4754)

NATIOVE-01 SWAHR

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 6/27/2023

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 AssuredPartners 90A John Muir Dr, Suite 100 Amherst, NY 14228	CONTACT NAME: PHONE (A/C, No, Ext): (716) 688-8888 FAX (A/C, No): (716) 688-9001 E-MAIL ADDRESS: info@vannerinsurance.com
INSURED National Overhead Door, Inc. 5880 New Taylor Rd Orchard Park, NY 14127	INSURER(S) AFFORDING COVERAGE — NAIC # INSURER A : Selective Insurance Co of SC — 19259 INSURER B : Selective Ins Co of America — 12572 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 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:	X		S 2400548	6/27/2023	6/27/2024	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ 1,000,0 $ 500,0 $ 15,0 $ 1,000,0 $ 2,000,0 $ 2,000,0
A	AUTOMOBILE LIABILITY X ANY AUTO OWNED AUTOS ONLY SCHEDULED AUTOS HIRED AUTOS ONLY NON-OWNED AUTOS ONLY	X		S 2400548	6/27/2023	6/27/2024	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 2,000,0
A	UMBRELLA LIAB X OCCUR EXCESS LIAB CLAIMS-MADE DED X RETENTION $ 10,000	X		S 2400548	6/27/2023	6/27/2024	EACH OCCURRENCE AGGREGATE	$ 5,000,0 $ 5,000,0
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N If yes, describe under DESCRIPTION OF OPERATIONS below	N/A		WC 9083020	6/27/2023	6/27/2024	PER STATUTE OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ 1,000,0 $ 1,000,0 $ 1,000,0
A	Equipment Floater			S 2400548	6/27/2023	6/27/2024	Limit	30,0

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Town of Amherst is included as an Additional Insured on a primary, non-contributory basis on the General Liability and Additional Insured on the Automobile if required by written contract.
Umbrella follows form for Additional Insured on the underlying.

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: National Overhead Door CRS (RES-2024-367 : Overhead Door Repairs (Erie County Bid #240070-002) - CRS #4754)

STATE OF NEW YORK
WORKERS' COMPENSATION BOARD

CERTIFICATE OF NYS WORKERS' COMPENSATION INSURANCE COVERAGE

1a. Legal Name & Address of Insured (Use street address only) National Overhead Door, Inc. 5880 New Taylor Road Orchard Park, NY 14127 **Work Location of Insured** *(Only required if coverage is specifically limited to certain locations in New York State, i.e., a Wrap-Up Policy)*	**1b. Business Telephone Number of Insured** 716-667-3500 **1c. NYS Unemployment Insurance Employer Registration Number of Insured** 46-391532 **1d. Federal Employer Identification Number of Insured or Social Security Number** 141865641
2. Name and Address of the 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** Selective Ins CO of SC **3b. Policy Number of entity listed in box "1a"** WC9083020 **3c. Policy effective period** 06/27/2023 to 06/27/2024 **3d. The Proprietor, Partners or Executive Officers are** ☑ **included.** **(Only check box if all partners/officers included)** ☐ **all excluded or certain partners/officers excluded.**

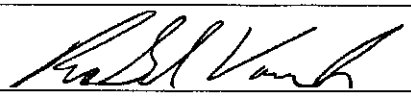
This certifies that the insurance carrier indicated above in box "3" insures the business referenced above in box "1a" for workers' compensation under the New York State Workers' Compensation Law. **(To use this form, New York (NY) must be listed under Item 3A on the INFORMATION PAGE of the workers' 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 will also notify the above certificate holder 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.***

Please Note: Upon the 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: Ralph J. Vanner, Jr., CPCU
(Signature of authorized representative or licensed agent of insurance carrier)

Approved by:  6/28/2023
(Signature) (Date)

Title: Vice-President

Telephone Number of authorized representative or licensed agent of insurance carrier: (716) 688-8888

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.*

Attachment: National Overhead Door CRS (RES-2024-367 : Overhead Door Repairs (Erie County Bid #240070-002) - CRS #4754)

NEW YORK STATE | Workers' Compensation Board

CERTIFICATE OF INSURANCE COVERAGE
DISABILITY AND PAID FAMILY LEAVE BENEFITS LAW

PART 1. To be completed by Disability and Paid Family Leave Benefits Carrier or Licensed Insurance Agent of that Carrier

1a. Legal Name & Address of Insured (use street address only)

NATIONAL OVERHEAD DOOR, INC.
5880 NEW TAYLOR ROAD
ORCHARD PARK, NY 14127

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

716 667 3501

1c. Federal Employer Identification Number of Insured or Social Security Number

141865641

2. Name and Address of Entity Requesting Proof of Coverage (Entity Being Listed as the Certificate Holder)

The Town of Amherst
5583 Main Street
Williamsville, NY 14221

3a. Name of Insurance Carrier

First Unum Life Insurance Company

3b. Policy Number of Entity Listed in Box "1a"

403850

3c. Policy effective period

06/29/2023 to 06/29/2024

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 6/29/2023 By Allison Randall

(Signature of insurance carrier's authorized representative or NYS Licensed Insurance Agent of that insurance carrier)

Telephone Number 1-800-ASK-UNUM Name and Title Allison Randall, DBL Specialist

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 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 4C or 5B of Part 1 has 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 with respect to all of his/her 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 (10-17)

DB-120.1 (10-17)

Attachment: National Overhead Door CRS (RES-2024-367 : Overhead Door Repairs (Erie County Bid #240070-002) - CRS #4754)

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Contract Compliance
Initiated by: **Lynda Juul**
Co-Sponsored by: **Supervisor Brian J. Kulpa**

DOC ID: 28901 **RESOLUTION 2024-368** **ADOPTED**

Extension of Wellness Program Contract - CRS #4760

WHEREAS, CHC Wellbeing, Inc. has agreed to extend the Wellness Program Contract (Original CRS #2988) as per the terms of the original agreement;

NOW, THEREFORE, BE IT RESOLVED, the Town Board approves a two-year extension of the contract with CHC Wellbeing, Inc. for the period of January 1, 2024 through December 31, 2025; and

BE IT FURTHER RESOLVED, the Town Board authorizes the Supervisor to sign the contract extension with CHC Wellbeing, Inc.; and

BE IT FURTHER RESOLVED, that approval is pending successful completion of the Contract Routing System due to the fact that the current contract is expired.

4/29/2024
Consent

FINANCIAL IMPACT:

A9060-0394 Amount TBD

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

TOWN OF AMHERST

Erie County, New York

SUPERVISOR
Brian J. Kulpa
716-631-7032

DEPUTY SUPERVISOR/COUNCILMEMBER
Shawn Lavin

COUNCILMEMBERS
Jacqualine Berger
Angela Marinucci
Michael Szukala

April 17, 2024

CHC Wellbeing, Inc.
5440 N Cumberland Ave., Suite 225
Chicago, ILL 60656

Attn: Brittany Wassarman, Senior Account Manager

Re: CRS 2988 – Town of Amherst Wellness Program Extension

Dear Ms. Wassarman,

The Town of Amherst wishes to extend this agreement for an additional contract period, through December 31, 2025, under the same pricing structure, terms and conditions as the original agreement.

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.**

If you wish to extend, please return three (3) originals to:
Town of Amherst Contract Compliance Department
5583 Main Street
Williamsville, NY 14221

After approval and execution by the Town of Amherst, 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: CHC Wellbeing, Inc.

Representative (Please print): Joan Knauss-Harwell Title: Managing Director

Signature: Joan Knauss-Harwell Date: April 19, 2024

Acceptance by the Town of Amherst:

Brian Kulpa, Supervisor Date

Attachment: CHC Wellbeing Signed Extension Agreement (RES-2024-368 : Extension of Wellness Program Contract - CRS #4760)

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Court
Initiated by: **Kim Kern**
Co-Sponsored by: **Deputy Supervisor Shawn Lavin**

DOC ID: 28935 **RESOLUTION 2024-369** **ADOPTED**

Amherst Court Employees to Attend Drug Court Conference

Amherst Town Justice, Amherst Court Administrator, Drug Court Analyst and Bench Clerk to the Town Justice to attend RISE24 Drug Court Conference in Anaheim, CA from 5/20/24 to 5/25/24 at a cost of $12,156.20.

4/29/2024
Consent

FINANCIAL IMPACT:

Expenses are covered by the NYS OASAS Opioid Settlement Fund.

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

TRAVEL EXPENSE APPROVAL / REIMBURSEMENT FORM

☐ Travel in New York State and under $750 - Department Head Approval

☐ Travel in New York State $750 and over - Department Head Approval and Town Board Approval

☒ Travel out of New York State - Department Head Approval and Town Board Approval

NAME	Employee #	Department	Phone Number
Ann Nichols	9378	Court	689-4230

Destination and Purpose of Trip

Date of Departure	Date of Return	Destination	Purpose/Justification
5/20/2024	5/25/2024	Anaheim CA	RISE24 Drug Court Conference

Expenses	Estimated	Budget A/C #	Actual
Transportation: Car rental	700.00	A1113.4040	
Mileage @ $0.67			
Tolls			
Parking	150.00	A1113.4040	
Local Transportation (bus/taxi)			
Plane/Rail/Bus	470.00	A1113.4040	
Lodging:			
# nights 5 @ $ 220	1,100.00	A1113.4040	
Meals:			
IRS Per Diem Per Day: 74	296.00	A1113.4040	
1st & Last Day of Travel @ 75% 55.50	111.00	A1113.4040	
# Breakfasts @ $			
# Lunches @ $			
# Dinners @ $			
# Incidentals @ $			
Registration/Conference Fee 795	795.00	A1113.4040	
membership fee 60	60.00	A1113.4040	
Other			
Subtotal	3682.00		N/A
Contingency - 10% of subtotal or $200	200.00		N/A
TOTAL	3882.00		

Request Approved By:

Kimberly C Keen

Department Head Signature

4/23/2024

Date

I hereby certify that I have expended the above itemized amounts for business purposes for the Town of Amherst. Required receipts are attached.

Employee Signature Date

Print Employee Name

Reimbursement Approved By:

Department Head Signature Date

Complete Shaded Area
For Expense Reimbursement

Town Board :

Town Board Resolution & Date

Attachment: DOC042424-04242024104544 (RES-2024-369 : Amherst Court Employees to Attend Drug Court Conference)

TRAVEL EXPENSE APPROVAL / REIMBURSEMENT FORM

☐ Travel in New York State and under $750 - Department Head Approval

☐ Travel in New York State $750 and over - Department Head Approval and Town Board Approval

☒ Travel out of New York State - Department Head Approval and Town Board Approval

NAME	Employee #	Department	Phone Number
Kimberly Kern	6972	Court	689-4231

Destination and Purpose of Trip

Date of Departure	Date of Return	Destination	Purpose/Justification
5/20/2024	5/25/2024	Anaheim CA	RISE24 Drug Court Conference

Expenses	Estimated	Budget A/C #	Actual
Transportation:			
Mileage @ $0.67			
Tolls			
Parking			
Local Transportation (bus/taxi)			
Plane/Rail/Bus	470.00	A1113.4040	
Lodging:			
# nights 5 @ $ 220	1,100.00	A1113.4040	
Meals:			
IRS Per Diem Per Day: 74	296.00	A1113.4040	
1st & Last Day of Travel @ 75% 55.50	111.00	A1113.4040	
# Breakfasts @ $			
# Lunches @ $			
# Dinners @ $			
# Incidentals @ $			
Registration/Conference Fee 795	795.00	A1113.4040	
membership fee. 60	60.00	A1113.4040	
Other			
Subtotal	2832.00		
Contingency - 10% of subtotal or $200	200.00		N/A
TOTAL	3032.00		N/A

Request Approved By:

Kimberly Kern
Department Head Signature

4/23/2024
Date

I hereby certify that I have expended the above itemized amounts for business purposes for the Town of Amherst. Required receipts are attached.

Employee Signature — Date

Print Employee Name

Reimbursement Approved By:

Department Head Signature — Date

Town Board :

Town Board Resolution & Date

Complete Shaded Area
For Expense Reimbursement

Attachment: DOC042424-04242024104544 (RES-2024-369 : Amherst Court Employees to Attend Drug Court Conference)

TRAVEL EXPENSE APPROVAL / REIMBURSEMENT FORM

☐ Travel in New York State and under $750 - Department Head Approval

☐ Travel in New York State $750 and over - Department Head Approval and Town Board Approval

☒ Travel out of New York State - Department Head Approval and Town Board Approval

NAME	Employee #	Department	Phone Number
Eileen Logsdon	8062	Court	689-4255

Destination and Purpose of Trip

Date of Departure	Date of Return	Destination	Purpose/Justification
5/20/2024	5/25/2024	Anaheim CA	RISE24 Drug Court Conference

Expenses	Estimated	Budget A/C #	Actual
Transportation:			
Mileage @ $0.67			
Tolls			
Parking			
Local Transportation (bus/taxi)			
Plane/Rail/Bus	695.00	A1113.4040	
Lodging:			
# nights 5 @ $ 236	1,180.00	A1113.4040	
Meals:			
IRS Per Diem Per Day: 74	296.00	A1113.4040	
1st & Last Day of Travel @ 75% 55.50	111.00	A1113.4040	
# Breakfasts @ $			
# Lunches @ $			
# Dinners @ $			
# Incidentals @ $			
Registration/Conference Fee 795	795.00	A1113.4040	
membership fee 60	60.00	A1113.4040	
Other			
Subtotal	3137.00		N/A
Contingency - 10% of subtotal or $200	200.00		N/A
TOTAL	3337.00		

Request Approved By:

Kimberly Keen

Department Head Signature

4/23/2024

Date

I hereby certify that I have expended the above itemized amounts for business purposes for the Town of Amherst. Required receipts are attached.

Employee Signature Date

Print Employee Name

Reimbursement Approved By:

Department Head Signature Date

Complete Shaded Area For Expense Reimbursement

Town Board :

Town Board Resolution & Date

Attachment: DOC042424-04242024104544 (RES-2024-369 : Amherst Court Employees to Attend Drug Court Conference)

Revised 1.2.2024

TRAVEL EXPENSE APPROVAL / REIMBURSEMENT FORM

☐ Travel in New York State and under $750 - Department Head Approval

☐ Travel in New York State $750 and over - Department Head Approval and Town Board Approval

☒ Travel out of New York State - Department Head Approval and Town Board Approval

NAME	Employee #	Department	Phone Number
Michele Presutti	8774	Court	689-4211

Destination and Purpose of Trip

Date of Departure	Date of Return	Destination	Purpose/Justification
5/20/2024	5/25/2024	Anaheim CA	RISE24 Drug Court Conference

Expenses	Estimated	Budget A/C #	Actual
Transportation:			
Mileage @ $0.67			
Tolls			
Parking			
Local Transportation (bus/taxi)			
Plane/Rail/Bus	470.00	A1113.4040	
Lodging:			
# nights @ $			
Meals:			
IRS Per Diem Per Day: 74	296.00	A1113.4040	
1st & Last Day of Travel @ 75% 55.50	111.00	A1113.4040	
# Breakfasts @ $			
# Lunches @ $			
# Dinners @ $			
# Incidentals @ $			
Registration/Conference Fee 795.00	795.00	A1113.4040	
membership fee 60.00	60.00	A1113.4040	
Other			
Subtotal	1732.00		N/A
Contingency - 10% of subtotal or $200	173.20		N/A
TOTAL	1905.20		

Request Approved By:

Kimberly C Keen

Department Head Signature

4/23/2024

Date

I hereby certify that I have expended the above itemized amounts for business purposes for the Town of Amherst. Required receipts are attached.

Employee Signature Date

Print Employee Name

Reimbursement Approved By:

Department Head Signature Date

Complete Shaded Area For Expense Reimbursement

Town Board :

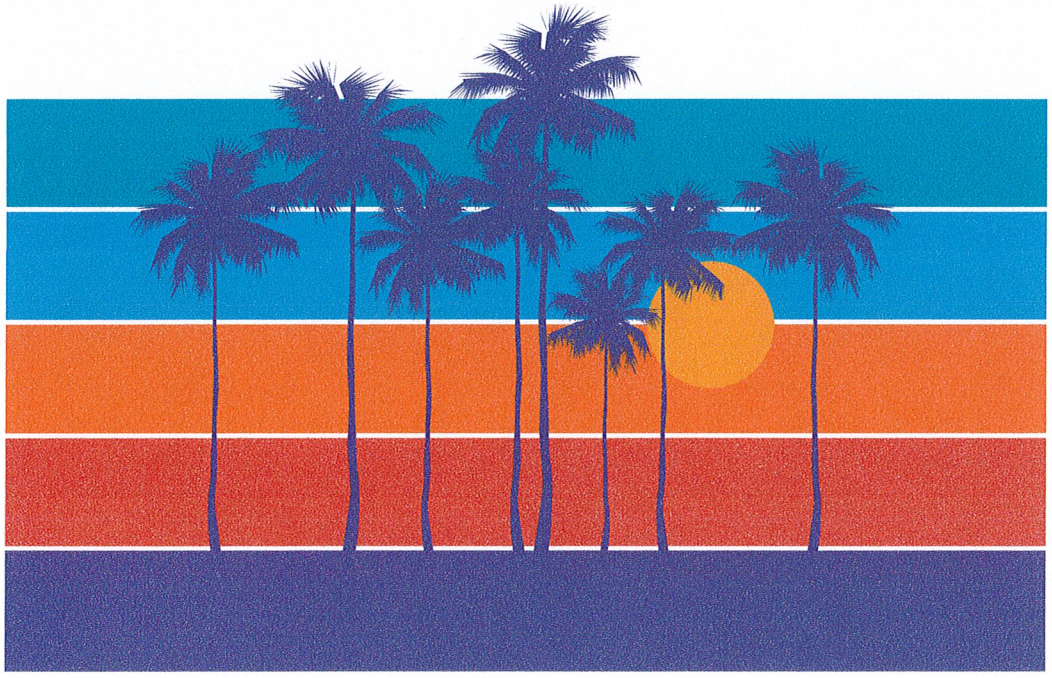
Town Board Resolution & Date

Attachment: DOC042424-04242024104544 (RES-2024-369 : Amherst Court Employees to Attend Drug Court Conference)

ATTRise

RISE 24

May 22–25, 2024 | Anaheim, CA



Attachment: DOC042424-04242024104544 (RES-2024-369 : Amherst Court Employees to Attend Drug Court Conference)

RISE24

May 22–25, 2024 | Anaheim, CA

REGISTRATION

RISE24 Registration is Open

Registration will open on Thursday, January 18 at 1:00 p.m. ET. The link to register will appear on this page.

Join All Rise and save. All Rise members receive a discount on conference registration. To renew your membership or join, click here.

Your membership must be paid before you can receive the discounted registration rate! You also must use that same email address to register to ensure you receive the discount.

RISE24 will be held at the Anaheim Convention Center located at 800 W Katella Ave, Anaheim, CA 92802.

Need help securing funding to attend RISE? Check out our justification toolkit!

Justification Toolkit

General Registration

Veteran Mentor Boot Camp Registration

RISE24 Pricing and Payment Policy

To receive early-bird pricing, the registration invoice must be dated on or before April 29 and payment must be received by May 10. After April 30, registration is $945 regardless of membership status.

Speakers and exhibitors will be provided instructions on how to register.

Attachment: DOC042424-04242024104544 (RES-2024-369 : Amherst Court Employees to Attend Drug Court Conference)

Before April 30 −

Member - $795

Non-Member - $895

Speaker - $495

International - $595

Mentor Boot Camp/Coordinator - $495

Exhibitor - $495

After April 30 +

Registration Payment Deadline: May 10, 2024

If All Rise has not received your registration payment on or before May 10, you will be responsible for providing a credit card onsite for a hold until we receive your check.

All Rise accepts all major credit cards and checks for payment; purchase orders are not accepted. Please call (703) 575-9424 to pay via credit card.

Check payments should be made payable to All Rise for Justice and sent to:

All Rise
PO Box 79289
Baltimore, MD 21279

Please include a copy of your invoice with your payment.

All Rise W9

Registration Cancellation

If you need to cancel your registration, please contact us at registration@allrise.org.

If a refund is due, requests must contain the following information:

- Name(s) of the individual(s) cancelling their registration.
- If you used a credit card to pay for your registration, include the last four digits of the card you used to pay.
- If you used a check to pay for your registration, please provide whom the check should be made out to, and the address where the check should be mailed

Cancellation Costs

Cancellations received between the date registration payment is received and April 4 receive a full refund, minus a $150 administrative fee.

Cancellations received between April 5 and May 3 receive back 50% of their registration cost. After May 3, no refunds are available.

All Rise will refund only registration fees in the incidence of a conference cancellation. Registrants should purchase trip insurance to cover hotel, air, transportation, and any other expenses.

Registration Transfers

Please email your transfer request to registration@allrise.org. Note that transfers are unavailable after May 3 and will not be offered on-site.

All Rise cannot provide one-day rates, student discounts, or scholarships to conference attendees.

Attachment: DOC042424-04242024104544 (RES-2024-369 : Amherst Court Employees to Attend Drug Court Conference)

Registration Questions

Contact All Rise at registration@allrise.org or 703-575-9424.

Explore RISE24



Explore Anaheim



Justification Toolkit



Registration

© 2024 RISE Conference | Powered by Beaver Builder

Attachment: DOC042424-04242024104544 (RES-2024-369 : Amherst Court Employees to Attend Drug Court Conference)

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Economic Development
Initiated by: **Emily Melski**
Co-Sponsored by:

DOC ID: 28940 **RESOLUTION 2024-370** **ADOPTED**

MOU - Council of Heritage and Arts of India, Inc. (CRS #4759)

AGENDA ITEM : APRIL 29TH, 2024

TO: **Town Board**

FROM: **Emily Melski, Deputy Director, Economic Development**

DATE: **April 24, 2024**

RE: **To Authorize the Town Supervisor to Enter into a Memorandum of Understanding (CRS #4759)with the Council of Heritage and Arts of India, Inc. for the Establishment and Management of a Sister City Relationship with the City of Palakkad, India**

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

WHEREAS, the Sister City Program, administered by Sister Cities International, was initiated by the President of the United States of America in 1965 to encourage greater friendship and understanding between the United States and other nations through direct personal contact;

WHEREAS, the Town of Amherst is interested in establishing a mutually beneficial relationship (a "Sister City relationship") with the City of Palakkad in the state of Kerala, India to promote international goodwill, understanding, and cooperation between the two communities and their respective nations by the exchange of people, ideas, and information in a wide variety of potential social, cultural, and economic endeavors;

WHEREAS, the mission of the Council of Heritage and Arts of India, Inc. ("CHAI") is to preserve and promote Indian arts and culture as well as foster continuing relationships between the people of Western New York and the people of India; and

WHEREAS, CHAI is well-positioned to facilitate the establishment and implementation of a Sister City relationship because of its strong relationships with the Town and with Palakkad;

NOW, THEREFORE, BE IT RESOLVED, that subject to the satisfactory completion of the contract routing process, the Town Board of the Town of Amherst authorizes the Supervisor to enter into a Memorandum of Understanding with CHAI to facilitate the establishment and implementation of such a Sister City relationship.

c: Tim Koller, Deputy Town Clerk
(*w/attachment*, **Agenda Item - April 29, 2024**)

4/29/2024
Consent

FINANCIAL IMPACT:

None for the purposes of this resolution.

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

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding entered into this _____ day of _____ 2024, will evidence the mutual understanding and intent, by and between the **TOWN OF AMHERST** (the "Town"), a municipal corporation organized and existing under and by virtue of the laws of the State of New York with offices and principal place of business located at 5583 Main Street, Williamsville, New York 14221, and the COUNCIL OF HERITAGE AND ARTS OF INDIA, INC. ("CHAI"), a not-for-profit corporation with offices and principal place of business located at 113 Bramble Road, Williamsville, New York 14221.

WHEREAS, the parties have expressed an interest in establishing a mutually beneficial relationship to promote cooperation, cultural understanding, and economic benefit (a "Sister City" relationship) between the Town and the city of Palakkad, located in the state of Kerala, India ("Palakkad"); and

WHEREAS, CHAI is well positioned to facilitate the establishment and implementation of such a Sister City relationship because of its own strong relationships with the Town, Palakkad, and members of the Indian business and cultural communities in the United States and India;

NOW, THEREFORE, the Town and CHAI desire to enter into this Memorandum of Understanding (MOU) between them, setting forth the working arrangements that each of them agree are necessary to establish and implement the Sister City relationship.

1) Purpose

The Town and CHAI agree that their shared goals are to

(a) Establish a relationship of friendship and cooperation with Palakkad that promotes international understanding and good will;

(b) Maintain regular contact between the Town and Palakkad;

Attachment: CHAI.MOURevised (RES-2024-370 : MOU - Council of Heritage and Arts of India, Inc. (CHIA) (CRS# 4759))

(c) Exchange expertise and co-operation in the fields of governance, education, arts, culture, sports, infrastructure, environment, public health, science and technology, tourism, heritage management, urban and regional planning, and other related matters; and

(d) Promote exchanges of visitors, officials, prominent citizens, professionals, artists, and other community members of note.

2) Term of Agreement

The term of this MOU will be for a period of three years (3) commencing _____, 2024 and ending _____, 2027. This MOU may be terminated by either party upon thirty (30) days written notice to the other party.

3) Duties of CHAI

(a) CHAI will facilitate communication between the government of Palakkad and the Town to formally establish the Sister City relationship through the signing of a twinning agreement as required by the Government of India's Ministry of Urban Development. CHAI's role will be limited to facilitating communication between parties. CHAI will have no authority to bind the Town.

(b) CHAI may engage with or become a member of organizations such as Sister Cities International that support Sister City partnerships on behalf of the Town.

(c) Once the Sister City relationship has been established, CHAI will design and implement a series of programming and events to accomplish the goals of the partnership. This may include components such as educational events, cultural performances, travel exchanges, webinars, and other related activities.

Attachment: CHAI.MOURevised (RES-2024-370 : MOU - Council of Heritage and Arts of India, Inc. (CHIA) (CRS# 4759))

(d) CHAI will suggest to the Town additional activities that the Town may wish to engage in to promote the Sister City relationship.

(e) CHAI will provide annual reports to the Town Board of the activities undertaken on behalf of the Town.

4) Duties of the Town

The Town will engage with CHAI, the Government of India, and Palakkad in good faith in all aspects of the Sister City relationship. The Town will participate in CHAI-organized activities if requested to the extent that staffing and resources allow.

5) Funding

All activities undertaken by CHAI under this MOU shall be at CHAI's sole expense. The Town will incur no financial costs under this MOU.

TOWN OF AMHERST

By: _____ Date: _____

Brian J. Kulpa, Supervisor

COUNCIL OF HERITAGE AND ARTS OF INDIA, INC.

By: _____ Date: _____

[Sibu Nair]

Attachment: CHAI.MOURevised (RES-2024-370 : MOU - Council of Heritage and Arts of India, Inc. (CHIA) (CRS# 4759))

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Economic Development
Initiated by: **Megan Winnert**
Co-Sponsored by:

DOC ID: 28900 **RESOLUTION 2024-371** **ADOPTED**

First Amendment to Agreement with County of Erie (CRS #4769/Original CRS #3761)

Whereas, the County and the Town have entered into an Intermunicipal Agreement dates on January 18, 2023 whereby the County shall assist the Town with planning, design, and engineering expenses related to the development of Amherst Central Park located at 772 North Forest Road and 391 Maple Road; and

Whereas, the parties desire to amend Section 2.0, "Schedule B" and "Schedule C" of the attached agreement to reflect a revised scope of work, increased contract amount and a revised Town Rate Schedule; and

Whereas, in consideration of the above, and to reflect the current status of the project, the County and the Town agree to the referenced changes to be made to the agreement,

Now therefore be it resolved, that the Town Board authorizes the Supervisor to sign the first amendment to the Intermunicipal agreement between the Town and County for the Amherst Central Park Project.

4/29/2024
Consent

FINANCIAL IMPACT:

N/A

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

Attachment: DOC042324-042302415432 7 (RES-2024-371 : First Amendment to Agreement with County of Erie (CRS #4769/Original CRS #3761))

FIRST AMENDMENT TO AGREEMENT

THE COUNTY OF ERIE
AND
THE TOWN OF AMHERST

THIS FIRST AMENDMENT TO AGREEMENT ("**First Amendment**"), dated as of the latter of the signature dates below, is by and between the **COUNTY OF ERIE**, a municipal corporation of the State of New York, with offices located at 95 Franklin Street, Buffalo, New York 14202 (hereinafter referred to as the "County") and **THE TOWN OF AMHERST,** a municipal corporation of the State of New York, having an office and place of business at 5583 Main Street, Williamsville, New York, 14221 (hereinafter referred to as the "Town").

WHEREAS, the County and the Town have entered into an Intermunicipal Agreement ("Agreement") dated January 18, 2023 whereby the County shall assist the Town with planning, design, and engineering expenses related to the development of certain real property at 772 North Forest Road (SBL#68.01-1-1), 385 Maple Road (SBL#55.18-4-9), and 391 Maple Road (SBL#55.18-4-10) (collectively the "Property") into the Amherst Central Park Project (hereinafter referred to as the "Project"), a destination parkland site for the enjoyment of nature and other recreational activities of benefit to Town and County residents; and

WHEREAS, The Town has completed its environmental review of the Project, and is ready to move into the construction phase; and

WHEREAS, the parties desire to amend Section 2.0, "Schedule B," and "Schedule C" of the Agreement to reflect a revised scope of work, increased contract amount, and revised Town Rate Schedule.

NOW, THEREFORE, in consideration of the above, and to reflect the current status of the Project, and for other good and valuable consideration, the receipt and sufficiency of which are hereby reaffirmed and acknowledged, the County and Town agree that the following changes shall be made:

a. Following the execution of this Amendment, in-kind services provided by the Town shall no longer be a reimbursable expense of this project, all services associated with this Project shall be contracted out to professional contractors or consultants;
b. The amount of the Contract shall be increased from $1,854,682 to $2,400,000 (increase of $545,318); and
c. Construction shall be added to the Project scope of services.

AND IT IS FURTHER AGREED, in consideration of the agreed upon changes, the following sections of the Agreement shall be amended as follows:

1. Sections 1.0 and 2.0 – Any references to the Town's use of in-house staff for professional services being reimbursable under the agreement is no longer applicable. In-house expenses incurred by the Town shall no longer be reimbursable by the County under this agreement.

2. Section 2.0 – The County shall reimburse the Town an amount not exceed two million, four hundred thousand dollars ($2,400,000).

3. Schedule "B" – Planning, Design and Engineering Activities Related to Improvements to the Property is amended to add construction of the proposed Winter Market as an additional task. Amended Schedule B included as attachment.

4. Schedule "C" – Town Rate Schedule for County Payments is amended to include revised rate schedule that clarifies 2023 hourly rates and fringe. Amended Schedule C included as an attachment.

AND IT IS FURTHER AGREED that in the event of any inconsistencies between the Agreement and this First Amendment, the terms of this First Amendment shall control. Except as expressly set forth in this First Amendment, the Agreement otherwise is unmodified and remains in full force and effect. Each reference in the Agreement to itself shall be deemed also to refer to this First Amendment.

IN WITNESS WHEREOF, the Parties have caused this First Amendment to Erie County Agreement to be duly executed by their authorized officers and/or agents as of the day and year first set forth above.

COUNTY OF ERIE

By: _____
Name: Mark C. Poloncarz/Lisa Chimera
Title: County Executive/Deputy County Executive
Date:_____

TOWN OF AMHERST

By: _____
Name:
Title:
Date:_____

APPROVED AS TO CONTENT

_____
By: Daniel R. Castle, AICP
Title: Commissioner of Environment & Planning

Attachment: DOC042324-04232024154327 (RES-2024-371 : First Amendment to Agreement with County of Erie (CRS #4769/Original CRS #3761))

APPROVED AS TO FORM

_____

By: Richard Stanton
Title: Assistant County Attorney
Document No.: _____
Date: _____

Attachment: DOC042324-04232024154327 (RES-2024-371 : First Amendment to Agreement with County of Erie (CRS #4769/Original CRS #3761))

AMENDED SCHEDULE "B"

PLANNING, DESIGN, ENGINEERING, AND CONSTRUCTION ACTIVITIES RELATED TO IMPROVEMENTS TO THE PROPERTY

Attachment: DOC042324-04232024154327 (RES-2024-371 : First Amendment to Agreement with County of Erie (CRS #4769/Original CRS #3761))

Town of Amherst
Amherst Central Park Improvements:

Centrally located in the Town of Amherst and comprised of 170 acres, the former Westwood Country Club site offers an unprecedented opportunity to create a beautiful natural resource that can be enjoyed by people of all ages. The Town of Amherst is creating a world-class park to become Amherst Central Park in the heart of Amherst, the largest Town in Erie County. With RENEW Plan funding, the Town will complete the planning, design and engineering of the park space, including infrastructure needs throughout the property. *The funding will also cover a portion of the cost of construction of the proposed Winter Market area to be completed in the initial stage of the Project at the proposed Amherst Central Park.* With a focus on preservation of green space, the park design will include a public square to support a variety of economic driving activities like local markets, including an annual holiday market, for the Town and region's small businesses.

The Town of Amherst will engage in Planning, Engineering, *and Construction* work at the future Amherst Central Park inclusive of overall Site/Civil Engineering Services, Asbestos Survey, Site Survey and Geotechnical work. Additionally, the Town will pursue Landscape Architecture, Design Services *and construction* of park features including a public square. *The Town will engage construction contractors to facilitate the buildout of the Winter Market area to be completed in the initial stage of the construction of the Project.*

Planning work to create the overall Master Site Plan will show basic above-ground infrastructure including conceptual future building footprints and parking locations and showing existing buildings or structures to remain. It will also show the design of a new public square.

It will map the location of future streets and trails, location of outdoor recreation facilities, restrooms/outbuildings and other topographic features.

Engineering work is to include demolition/removals plans, site/layout plans, staging/phasing plans, grading and erosion control plans, utility plans, storm drainage plans, and all associated details. Utility plans to include storm, sanitary sewer, water, and gas from connections.

Construction work will include the buildout of the proposed Winter Market to be completed in the initial stage of the project.

The Town will complete an environmental review of the project in compliance with the requirements of the State Environmental Quality Review Act (SEQRA).

Attachment: DOC042324-04232024154327 (RES-2024-371 : First Amendment to Agreement with County of Erie (CRS #4769/Original CRS #3761))

AMENDED SCHEDULE "C"

TOWN RATE SCHEDULE FOR COUNTY PAYMENTS

Account Number	Employee Name	Employee Number	Title	Hourly Rate 2022	Hourly Rate 2023	Fringe Benefits	2023 Rat plus Fring
A-8020	Amplement, Kim	8597	Planner	$35.57	$37.01		
A-8020	Howard, Dan	3247	Planning Director	$65.98	$69.15		
A-8020	Rappoccio, Roberta	9191	Associate Planner	$40.74	$43.52		
A-8020	Szatkowski, Jeff	6759	Landscape Architect	$37.22	$39.73		
A-8020	Ulatowski, Dan	9203	Assistant Planning Director	$53.68	$59.70		
A-1440	Armstrong, Brian	4669	Assistant Municipal Engineer	$65.17	$66.48		
A-1440	Barnes, Brian	5950	Senior GIS Analyst	$45.19	$46.83		
A-1440	Bellacose, Marc	7223	Junior Municipal Engineer	$38.38	$39.15		
A-1440	Bourdreu, Jessica	9506	Project Manager	$42.67	$43.52 Jan-June $44.39 July-Dec		
A-1440	Burroughs, Jeffrey	4973	Town Engineer	$75.94	$78.62		
A-1440	Koch, Jason	4855	Principal Clerk Typist	$28.28	$28.85		
A-1440	Pontikos, Asher	8954	GIS Analyst	$33.99	$34.67 Jan-June $35.36 July-Dec		
G-9000	Reberholt, Vaishali	7596	Assistant Municipal Engineer	$50.18	$52.20		
A-1440	Schregel, Christoher	6036	Project Manager	$43.51	$45.01		
A-1620	**Dafchik, Anne**	**9638**	**Architect**	**$62.34**	**$65.49**	**$4.78**	**$70**
A-1620	**Rizzo, Daniel**	**9327**	**Director of Facilities**	**$35.43**	**$67.30**	**$5.14**	**$72**
A-1620	Reilly, Daniel	9520	Construction Project Manager	$53.08	$55.77		
A-1230	**Melski, Emily**	**9345**	**Project Manager & Coordinator of Federal and State Aid Programs**	**$33.98**	**$36.27**	**$2.78**	**$39**

Attachment: DOC042324-04232024154327 (RES-2024-371 : First Amendment to Agreement with County of Erie (CRS #4769/Original CRS #3761))

	Total Cost	Local Shares Required	Amount of Funding Required	Months Estimated to Completion	Completion Date M/Y	
Planning	$ 100,000.00		$ 100,000.00	24	12/24	
Engineering						
In-House	$ 40,706.51		$ 40,706.51	12	12/23	*Only reimbursed in 2023
Consultant	$ 1,713,975.49		$ 1,713,975.49	36	12/25	
Construction	$ 545,318.00		$ 545,318.00	36	12/25	
Total	$ 2,400,000.00		$ 2,400,000.00	36	12/25	

Revised budget 3/28/2024

Attachment: DOC042324-04232024154327 (RES-2024-371 : First Amendment to Agreement with County of Erie (CRS #4769/Original CRS #3761))

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Engineering Services
Initiated by: **Brian J. Armstrong**
Co-Sponsored by:

DOC ID: 28939 **RESOLUTION 2024-372** **ADOPTED**

Change Order No. 1 Scope of Work Change & Extend Completion Date – Master's Edge Inc. ADA Ramp and Sidewalk Installation and Repair Town of Amherst Job # 2016.059 CRS# 4764

We are requesting the Town Board to approve the above referenced Change Order No. 1 which calls for a change in scope of work as well as a contract time extension through December 1, 2024. This scope reallocation will allow for improvements to be made to higher priority locations due to increased levels of pedestrian safety exposure. There is no increase in cost associated with this request.

This request is pending the successful completion of the contract review procedure. Thank you for considering this request.

4/29/2024
Consent

FINANCIAL IMPACT:

There is no increase in cost associated with this request.

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

			AMOUNT
CHANGE ORDER NO:	1	INCREASE/(DECREASE), THIS CHANGE ORDER:	$0.00
		INCREASE/(DECREASE), PREVIOUS CHANGE ORDERS:	$0.00
		INCREASE/(DECREASE), ALL CHANGE ORDERS:	$0.00
TOWN JOB NO:	2016.059	CONTRACT AWARD AMOUNT:	$196,472.00
		AMENDED CONTRACT TOTAL:	$196,472.00

Job Designation: ADA Ramp and Sidewalk Installation and Repair

Contractor: Master's Edge Inc. 3409 Broadway St. Cheektowaga, NY 14227

DESCRIPTION OF WORK:

1. Add Willowridge Park Entrance sidewalk installation
2. Add Willow Wood Park (SW20) sidewalk installation
3. An additional 145.7 Sqft. to Alternate C – Main Line Sidewalk Installation
4. Remove Covent Garden Lane (SW5) sidewalk installation
5. Remove Hopkin Road (SW24) sidewalk installation
6. Remove North Forest Road (SW19) sidewalk installation
7. Extend completion date to December 1, 2024

REASONS FOR THE WORK:

1. Allow for greater pedestrian safety in higher traffic areas.

COST OF THE WORK:	Unit	Unit Cost	Amount	Cost
Willowridge Park Entrance	1	LS	$ 14,100	$14,100
Willow Wood Park (SW20)	1	LS	$ 60,375	$60,375
Mainline Sidewalk (ALT C)	1	LS	$ 812	$812
Covent Garden Lane (SW5)	1	LS	($ 18,360)	($18,360)
Hopkin Road (SW24)	1	LS	($26,812)	($26,812)
North Forest Road (SW19)	1	LS	($30,175)	($30,175)
		TOTAL, CHANGE ORDER NO. 1:		**$ 0.00**

ACCEPTED BY CONTRACTOR, Master's Edge Inc. 3409 Broadway St. Cheektowaga, NY 14227

Giuseppe Surdi DATE: 4/24/24

Signature

Giuseppe Surdi

President

APPROVED BY TOWN OF AMHERST:

_____ DATE: _____

Signature

Brian J. Kulpa - Town Supervisor

Attachment: Change order 1 (RES-2024-372 : Change Order No. 1)

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Engineering Services
Initiated by: **Brian J. Armstrong**
Co-Sponsored by:

DOC ID: 28941 **RESOLUTION 2024-373** **ADOPTED**

Agreement Extension - Street Light Maintenance Services Town of Amherst Job# 2023.034 CRS #4763

On October 30, 2023, the Town of Amherst entered into an agreement with LED Energy Solutions, LLC (LEDES) for streetlight maintenance services for a period of six (6) months to expire on April 30, 2024. In accordance with the agreement, this term can be renewed for an additional six-month period by mutual agreement.

May I please have your approval to extend the current contract with LEDES to terminate on October 29, 2024 and in accordance with the revised rate sheet? New rates reflect a minor labor escalation and will go into effect beginning June 1, 2024. Funding is available from the Street Lighting District Account E9997-4110 and the General Lighting Account A5182-4110.

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

4/29/2024
Consent

FINANCIAL IMPACT:

. Funding is available from the Street Lighting District Account E9997-4110 and the General Lighting Account A5182-4110.

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

Extension

of

Emergency Streetlight Maintenance Services Agreement

LED Energy Solutions, LLC ("**LEDES**") and Town of Amherst ("**Customer**") entered into an Emergency Streetlight Maintenance Services Agreement, dated October 30, 2023 (the "**Agreement**"). Under Section 4 of the Agreement, the Agreement commenced as of the Effective Date and continues for a period of 6 months. The Term of the Agreement can be renewed for an additional six-month period by mutual written agreement of LEDES and Customer.

LEDES and Customer hereby agree to extend the Term of the Agreement for an additional period so that the new expiration date is October 29, 2024.

LEDES and Customer agree that the Term may be renewed for an additional period of six months by mutual written agreement of LEDES and Customer.

LEDES and Customer hereby agree to amend the Agreement by deleting the labor unit rate sheet attached to Exhibit A in its entirety and replacing it with the labor unit rate sheet attached to this extension. These new rates will go into effect beginning June 1, 2024.

IN WITNESS WHEREOF, the parties hereto have caused this Extension to be executed as of April __, 2024 by their respective officers thereunto duly authorized.

LED ENERGY SOLUTIONS, LLC

By _____

Name: Stephen Hotz

Title: Founder & CEO

TOWN OF AMHERST

By _____

Name:

Title:

Attachment: LEDES attachments (RES-2024-373 : Agreement Extension - Street Light Maintenance Services)

EXHIBIT A - Unit Price Proposal			LED Energy Solutions	
Item NO.	DESCRIPTION	UNIT TYPE	Unit Price thru 5/31/2024	Unit Price Effective 6/1/2024
1	Investigation Only of No Current Overhead Wiring (per crew)	Per Hour	$ 426.00	$ 438.78
2	Investigation Only of No Current (per crew)	Per Hour	$ 426.00	$ 438.78
3	Installation of LED Cobra head Fixture, LABOR ONLY	per UNIT	$ 225.00	$ 231.75
4	Installation of LED Post Top / Decorative Fixture, LABOR ONLY	per UNIT	$ 225.00	$ 231.75
5	Replace HID bulbs in Cobra head Fixture, LABOR ONLY	per UNIT	$ 225.00	$ 231.75
6	Replace HID bulbs in Post Top / Decorative Fixture, LABOR ONLY	per UNIT	$ 225.00	$ 231.75
7	Replace HID bulbs in Post Top / Decorative Fixture with Refurbished HID Bulbs, LAB	per UNIT	$ 225.00	$ 231.75
8	Installation of Asset Manangment Node, LABOR ONLY	per UNIT	$ 225.00	$ 231.75
9	Re-setting Asset Manangment Node, LABOR ONLY	per UNIT	$ 225.00	$ 231.75
10	Arm and Fixture transfer to newpole, LABOR ONLY	per UNIT	$ 842.00	$ 867.26
11	Installation of Fiberglass direct bury Pole up to 18' (Mounting Height), LABOR ONLY	per UNIT	$ 1,278.00	$ 1,316.34
12	Installation of 20'-35' Single Mast Arm Pole (To existing base), LABOR ONLY	per UNIT	$ 1,278.00	$ 1,316.34
13	Installation of 20'-35' Single Davit Pole(To exsisting base), LABOR ONLY	per UNIT	$ 1,278.00	$ 1,316.34
14	Installation of 35'-40' Wood Pole, LABOR ONLY	per UNIT	$ 1,664.00	$ 1,713.92
15	Removal of 35'-40' Wood Pole, LABOR ONLY	per UNIT	$ 639.00	$ 658.17
16	Installation of Town ID Number & Lettering on Town Pole (no wood), LABOR ONLY	per UNIT	$ 106.00	$ 109.18
17	Installation of Town ID Number & Lettering on wood pole, LABOR ONLY	per UNIT	$ 106.00	$ 109.18
18	Installation of Fuse Kit, LABOR ONLY	per UNIT	$ 106.00	$ 109.18
19	Installation of Fuse, LABOR ONLY		$ 106.00	$ 109.18
20	Installation of Hand Hole, LABOR ONLY	per UNIT	$ 1,674.00	$ 1,724.22
21	Install transformer breakaway base and reinstall existing pole on existing base, LABOR ONLY	per UNIT	$ 1,278.00	$ 1,316.34
22	Removal of 10'-14' (Mounting Height) fiberglass decorative pole and dispose of, LABOR ONLY	per UNIT	$ 1,278.00	$ 1,316.34
23	Removal of 20'-30' metal Single Mast or Davit and dispose of, LABOR ONLY	per UNIT	$ 1,278.00	$ 1,316.34
24	Removal concrete pole up to 12' and foundation up tp 4' tall and 18" diameter and dispose. Install Town Provided Direct Bury Pole - LABOR ONLY	per UNIT	$ 2,730.00	$ 2,811.90
25	Removal of concrete foundation up to 4' tall 18" wide diameter and dispose of. Install Town Provided Direct Bury Pole. LABOR ONLY	per UNIT	$ 2,940.00	$ 3,028.20
26	Reset a leaning direct burial pole, LABOR ONLY	per UNIT	$ 852.00	$ 877.56
27	Install new concrete foundation for Single Mast or Davit Pole up to 35', LABOR ONLY	per UNIT	$ 2,730.00	$ 2,811.90
28	Installation of Underground #10 Copper Wire M/L	per FOOT	$ 6.50	$ 6.69
29	Installation of Overhead #6 Aluminum Duplex Wire M/L	per FOOT	$ 7.00	$ 7.21
30	Installation of Underground #6 Copper Duplex Wire, No DiggingM/L	per FOOT	$ 7.75	$ 7.98
31	Installation of #4 Triplex Wire M/L	per FOOT	$ 7.75	$ 7.98
32	Installation of 1/0 Aluminum Triplex Wire M/L	per FOOT	$ 8.50	$ 8.75
33	Installation of #4 Dead End Grip	per UNIT	$ 26.00	$ 26.78
34	Installation of 139 Connector H Type	per UNIT	$ 52.00	$ 53.56
35	Minor Tree trimming	per location	$ 203.00	$ 209.09
36	Lawn Restoration	per sq foot	$ 10.00	$ 10.30
37	Supply and install a missing pole hand hole cover for poles	per UNIT	$ 110.00	$ 113.30
38	Lineman Reg. Time	per HOUR	$ 196.00	$ 201.88
39	Groundman Reg. Time	per HOUR	$ 166.00	$ 170.98
40	Flagger Reg. Time	per HOUR	$ 156.00	$ 160.68
41	Bucket truck	per HOUR	$ 65.00	$ 66.95
42	Digger Derrick	per HOUR	$ 67.00	$ 69.01
43	Pole Trailer	per HOUR	$ 20.00	$ 20.60
44	Dump Truck	per HOUR	$ 55.00	$ 56.65
45	Small Cat 50 Excavator + Trailer	per HOUR	$ 76.00	$ 78.28
46	Utility Truck	per HOUR	$ 32.00	$ 32.96
47	Crash Truck/Atennuater truck.	per HOUR	$ 50.00	$ 51.50

ferguson electric
your connection to quality

Construction
Engineering
Line
Service
Systems

March 27, 2024

LED Energy Solutions
63 Park Club Lane Suite 1
Amherst NY 14221

Attn: Grace White, Project Manager

Re: Amherst Streetlight Maintenance
FE000557

Dear Grace,

As of June 1, 2024, Ferguson will have a 3% increase to all units.

All work will be performed on straight time working hours 7:00 am to 3:30 pm, Monday through Friday excluding holidays.

Should you have any questions, please do not hesitate to contact me.

Respectfully Submitted,
FERGUSON ELECTRIC

Jay C. Pinkert
Project Manager

JCP/tmc

Attachment: LEDES attachments (RES-2024-373 : Agreement Extension - Street Light Maintenance Services)

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 09/05/2023

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: Dana Wright-Rambadt
Consolidated Insurance Agents, Inc. Maranto Agency, Inc. 36 Hopkins Road Williamsville NY 14221	PHONE (A/C, No, Ext): (716) 633-1818 FAX (A/C, No): (716) 633-6442 E-MAIL ADDRESS: dwright-rambadt@marantoagency.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Atlantic Casualty Insurance Company	42846
INSURER B : National Union Fire Ins Co Pittsburgh	19445
INSURER C : The Hartford	22357
INSURER D :	
INSURER E :	
INSURER F :	

INSURED
LED Energy Solutions LLC
63 Park Club Lane
Suite #1
Amherst NY 14221

COVERAGES **CERTIFICATE NUMBER:** CL2362154937 **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	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☒ PRO-JECT ☐ LOC ☐ OTHER:	Y	Y	M0680024611	08/13/2023	08/13/2024	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 $ 50,000 $ 5,000 $ 1,000,000 $ 2,000,000 $ 2,000,000
	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY	Y	Y				COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ $ $ $
B	☒ UMBRELLA LIAB ☒ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE ☐ DED ☐ RETENTION $	Y	Y	EBU 031375013	06/10/2023	06/10/2024	EACH OCCURRENCE AGGREGATE	$ 5,000,000 $ 5,000,000
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) ☐ Y/N If yes, describe under DESCRIPTION OF OPERATIONS below	N/A	Y	01WECBA1Y8A	09/15/2023	09/15/2024	☒ 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)

The Certificate Holder is Known as an Additional Insured on the above noted Policies to the capacity required by the written agreement with the above Named Insured.

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: LEDES attachments (RES-2024-373 : Agreement Extension - Street Light Maintenance Services)

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

CONTRACTOR ADDITIONAL INTERESTS

THIS ENDORSEMENT MODIFIES INSURANCE PROVIDED UNDER THE FOLLOWING:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – AUTOMATIC STATUS WHEN REQUIRED IN CONSTRUCTION AGREEMENT WITH YOU

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. **Section II – Who Is An Insured** is amended to include as an insured any person or organization for whom you are performing operations when you and such person or organization have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy. Such person or organization is an additional insured only with respect to liability arising out of your ongoing operations performed for that insured. A person's or organization's status as an insured under this endorsement ends when your operations for that insured are completed.

B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

2. Exclusions

This insurance does not apply to:

a. "Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

(1) The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; and

(2) Supervisory, inspection, architectural or engineering activities.

b. "Bodily injury" or "property damage" occurring after:

(1) All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the site of the covered operations has been completed; or

(2) That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

Attachment: LEDES attachments (RES-2024-373 : Agreement Extension - Street Light Maintenance Services)

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INSURED COPY - - Page 48

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – SCHEDULED PERSON OR ORGANIZATION – PRIMARY AND NON-CONTRIBUTORY

SCHEDULE

Name Of Person Or Organization:
Any person or organization with whom the insured has agreed within a written contract or written agreement; provided such written agreement is executed prior to the loss.

A. Section II – Who Is An Insured is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability caused, in whole or in part, by your ongoing operations performed for that insured.

B. This insurance is Primary and Non-Contributory, but only for the Additional Insured shown in the schedule and only for liability caused by the Insured's negligence for ongoing operations.

C. With respect to the insurance afforded to these additional insureds, the following exclusion is added:

2. Exclusions

This insurance does not apply to " bodily injury" or "property damage" occurring after:

(1) All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the site of the covered operations has been completed; or

(2) That portion of " your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

D. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable Limits of Insurance shown in the Declarations;

whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

Attachment: LEDES attachments (RES-2024-373 : Agreement Extension - Street Light Maintenance Services)

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WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

SCHEDULE

Name Of Person Or Organization: Any person or organization with whom the insured has agreed within a written contract to waive rights of recovery, provided such written agreement is executed prior to the loss.
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The following is added to Paragraph **8. Transfer Of Rights Of Recovery Against Others To Us** of **Section IV – Conditions:**

We waive any right of recovery we may have against the person or organization shown in the Schedule above because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard". This waiver applies only to the person or organization shown in the Schedule above.

CONSTRUCTION PROJECT(S) GENERAL AGGREGATE LIMIT

SCHEDULE

Maximum Per Policy General Aggregate Limit: $5,000,000

A. For all sums which the insured becomes legally obligated to pay as damages caused by "occurrences" under Section **I** – Coverage **A,** and for all medical expenses caused by accidents under Section **I** – Coverage **C,** which can be attributed only to ongoing operations at a single construction project:

1. A separate Construction Project General Aggregate Limit applies to each construction project, and that limit is equal to the amount of the General Aggregate Limit shown in the Declarations.
2. The Construction Project General Aggregate Limit is the most we will pay for the sum of all damages under Coverage **A,** except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard", and for medical expenses under Coverage **C** regardless of the number of:
   a. Insureds;
   b. Claims made or "suits" brought; or
   c. Persons or organizations making claims or bringing "suits".
3. Any payments made under Coverage **A** for damages or under Coverage **C** for medical expenses shall reduce the Construction Project General Aggregate Limit for that construction project. Such payments shall not reduce the General Aggregate Limit shown in the Declarations nor shall they reduce any other Construction Project General Aggregate Limit for any other construction project.
4. The limits shown in the Declarations for Each Occurrence, Damage To Premises Rented To You and Medical Expense continue to apply. However, instead of being subject to the General Aggregate Limit shown in the Declarations, such limits will be subject to the applicable Construction Project General Aggregate Limit.
5. The Maximum Per Policy General Aggregate Limit shown in the Schedule is the most we will pay for the sum of all Construction Project General Aggregate Limits and the General Aggregate Limit shown in the Declarations regardless of the number of:
   a. Insureds;

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Attachment: LEDES attachments (RES-2024-373 : Agreement Extension - Street Light Maintenance Services)

b. Claims made or "suits" brought;

c. Persons or organizations making claims or bringing "suits"; or

d. Construction projects.

B. For all sums which the insured becomes legally obligated to pay as damages caused by "occurrences" under Section **I** – Coverage **A**, and for all medical expenses caused by accidents under Section **I** – Coverage **C**, which cannot be attributed only to ongoing operations at a single construction project:

1. Any payments made under Coverage **A** for damages or under Coverage **C** for medical expenses shall reduce the amount available under the General Aggregate Limit or the Products-completed Operations Aggregate Limit, whichever is applicable; and

2. Such payments shall not reduce any Construction Project General Aggregate Limit.

C. When coverage for liability arising out of the "products-completed operations hazard" is provided, any payments for damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard" will reduce the Products-completed Operations Aggregate Limit, and not reduce the General Aggregate Limit nor the Construction Project General Aggregate Limit.

D. If the applicable construction project has been abandoned, delayed, or abandoned and then restarted, or if the authorized contracting parties deviate from plans, blueprints, designs, specifications or timetables, the project will still be deemed to be the same construction project.

E. The provisions of Section **III** – Limits Of Insurance not otherwise modified by this endorsement shall continue to apply as stipulated.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.

Attachment: LEDES attachments (RES-2024-373 : Agreement Extension - Street Light Maintenance Services)

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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)
STEPHEN R HOTZ DBA LED ENERGY SOLUTIONS
63 PARK CLUB LANE SU ITE 1
BUFFALO, NY 14221

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
716-474-0543

1c. Federal Employer Identification Number of Insured or Social Security Number
821887284

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"
DBL701047

3c. Policy effective period
09/15/2023 to 09/14/2024

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 9/15/2023 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: LEDES attachments (RES-2024-373 : Agreement Extension - Street Light Maintenance Services)

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: LEDES attachments (RES-2024-373 : Agreement Extension - Street Light Maintenance Services)



THE HARTFORD
BUSINESS SERVICE CENTER
3600 WISEMAN BLVD
SAN ANTONIO TX 78251

September 15, 2023

Town of Amherst
5583 MAIN ST
Amherst NY 14221-5488

Account Information:

Policy Holder Details :	**Steve Hotz DBA LED Energy Solutions LLC**

Contact Us

Need Help?
Chat online or call us at
(866) 467-8730.
We're here Monday - Friday.

Enclosed please find a Certificate Of Insurance for the above referenced Policyholder. Please contact us if you have any questions or concerns.

Sincerely,

Your Hartford Service Team

Attachment: LEDES attachments (RES-2024-373 : Agreement Extension - Street Light Maintenance Services)

NEW YORK STATE | Workers' Compensation Board

CERTIFICATE OF NYS WORKERS' COMPENSATION INSURANCE COVERAGE

1a. Legal Name and address of Insured (use street address only) STEVE HOTZ 63 PARK CLUB LN STE 1 BUFFALO NY 14221 Work Location of Insured *(Only required if coverage is specifically limited to certain locations in New York State, i.e. a Wrap-Up Policy)*	1b. Business Telephone Number of Insured (716) 474-0543 1c. NYS Unemployment Insurance Employer Registration Number of Insured 1d. Federal Employer Identification Number of Insured or Social Security Number 82-1887284
2. Name and Address of the Entity Requesting Proof of Coverage (Entity Being Listed as the Certificate Holder) Town of Amherst 5583 MAIN ST Amherst NY 14221-5488	3a. Name of Insurance Carrier Hartford Accident and Indemnity Company 22357 3b. Policy Number of Entity Listed in Box "1a": 01 WEC BA1Y8A 3c. Policy effective period: 09/15/2023 to 09/15/2024 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 Worker's 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: Sara Seier
(print name of authorized representative or licensed agent of insurance carrier)

Approved by: Sara Seier — 09/15/2023
(Signature) (Date)

Title: Operations Manager

Telephone Number of authorized representative or licensed agent of insurance carrier: (716) 633-1818

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.

Attachment: LEDES attachments (RES-2024-373 : Agreement Extension - Street Light Maintenance Services)

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: LEDES attachments (RES-2024-373 : Agreement Extension - Street Light Maintenance Services)

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Engineering Services
Initiated by: **Brian J. Armstrong**
Co-Sponsored by:

DOC ID: 28943 **RESOLUTION 2024-374** **ADOPTED**

Award of Bid – Goodwin Electric Corporation Central Amherst Little League Ball Field Lighting T.O.A. Project No. 840127E

On March 21, 2024, bids were received for the above referenced project. After review of the three (3) bids received (bid tabulation attached), we recommend award of the contract to Goodwin Electric Corp., 201 S. Youngs Rd., Williamsville, NY 14221, in the amount of $115,000.00, which was negotiated down from their low bid amount of $117,500.00. Funding for this contract shall be as per the following:

Account KP2343.4972	$ 56,532.00
Account KP2207.4972	$ 58,468.00
Total:	$115,000.00

4/29/2024
Consent

FINANCIAL IMPACT:

Funding for this contract shall be as per the following:

Account KP2343.4972	$ 56,532.00
Account KP2207.4972	$ 58,468.00
Total:	$115,000.00

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

Central Amherst Little League
Ball Field Lighting

Bid Tabulation / March 21, 2024

T.O.A. Job No. 840127E

Electrical Construction Contract

No.	Bidder	Bid Bond (Y / N)	Base Bid Total	Contact Email
1	Goodwin Electric	Y	$117,500.00	
2	CIR Electric	Y	$119,525.00	
3	Industrial Power and Lighting (IPL)	Y	$157,700.00	
4				
5				

Attachment: Bid Tabulation - CALL Lighiting (RES-2024-374 : Award of Bid – Goodwin Electric Corporation)

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 28845 **RESOLUTION 2024-375** **ADOPTED**

Recreation Attendant - PT/Youth & Recreation (5 Positions)

Recreation Attendant - PT/Youth & Recreation, Effective April 30, 2024, Temporary, $15.00 ph, Step 1 for Wylie Cole, Jacklynn Cole, Anthony Ludwig, Adam Lorey and Eric Cunningham.

4/29/2024
Consent

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

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 28846 **RESOLUTION 2024-376** **ADOPTED**

Recreation Attendant - PT/Youth & Recreation

Recreation Attendant - PT/Youth & Recreation, Effective April 30, 2024, Temporary, $15.50 ph, Step 1 for Corey Fleck.

4/29/2024
Consent

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

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 28887 **RESOLUTION 2024-377** **ADOPTED**

Recreation Attendant - PT/Youth & Recreation

Recreation Attendant - PT/Youth & Recreation, Effective April 30, 2024, Temporary, $15.00 ph, Step 1 for Gouripriya Nadarajan.

4/29/2024
Consent

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

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 28849 **RESOLUTION 2024-378** **ADOPTED**

Extended Sick Leave of Absence Without Pay/Highway Department

Please authorize an Extended Sick Leave of Absence Without Pay to Carl Bennett, Jr. at the Highway Department. Effective April 4, 2024 through October 3, 2024.

4/29/2024
Consent

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

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 28850 **RESOLUTION 2024-379** **ADOPTED**

Extended Sick Leave of Absence Without Pay/Highway Department

Please authorize an Extended Sick Leave of Absence Without Pay to Thomas Trabert, III at the Highway Department. Effective April 20, 2024 through July 19, 2024.

4/29/2024
Consent

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

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 28924 **RESOLUTION 2024-380** **ADOPTED**

Cook/Senior Services

Please appoint a Cook to the Amherst Center for Senior Services, Permanent, pending satisfactory completion of a probationary term as set forth in the Civil Service Rule XIII. Effective April 30, 2024 at an annual salary of $36,295, Grade 5, Step A for Christin Estrada.

4/29/2024
Consent

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

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 28889 **RESOLUTION 2024-381** **ADOPTED**

Senior Wastewater Treatment Plant Operator/Eng.-Plant #16

Please appoint a Senior Wastewater Treatment Plant Operator to the Engineering Department-Plant #16. Permanent, from list, pending satisfactory completion of a probationary term as set forth in the Civil Service Rule XIII. Effective April 30, 2024 at an hourly rate of $35.11, Grade VI, Step 7 for Kyle Bennett.

This is a promotion for an employee currently serving as WWTP Operator.

4/29/2024
Consent

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

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 28903 **RESOLUTION 2024-382** **ADOPTED**

Working Crew Chief/Building Maintenance-Facilities

Please appoint a Working Crew Chief to the Building Maintenance/Facilities Department. Permanent, pending satisfactory completion of a probationary term as set forth in the Civil Service Rule XIII. Effective April 30, 2024 at an hourly rate of $27.91, Grade 8, Step G for Mark Abbarno.

This is a promotion for an employee currently serving as Maintenance Worker.

4/29/2024
Consent

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

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 28915 **RESOLUTION 2024-383** **ADOPTED**

Senior Recreation Supervisor/Youth & Recreation

Please appoint a Senior Recreation Supervisor to the Youth & Recreation Department. Permanent, from list, pending satisfactory completion of a probationary term as set forth in the Civil Service Rule XIII. Effective April 30, 2024 at an annual salary of $64,362, Grade 13, Step G for Bradley Waltz.

This is a Permanent appointment for a current employee who has been serving Provisionally.

4/29/2024
Consent

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

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 28932 **RESOLUTION 2024-384** **ADOPTED**

Project Manager - Construction/Building Maintenance-Facilities Department

Please appoint a Project Manager-Construction to the Building Maintenance-Facilities Department. Provisional, pending satisfactory completion of a Civil Service Examination. Effective April 30, 2024 at an annual salary of $79,416.09, Grade 2, Step A of the Exempt Non-Department Head Salary Schedule for Jeffrey Ailing.

Contingent upon completing all pre-employment requirements.

Please authorize a six (6) month residency waiver.

4/29/2024
Consent

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

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Planning
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

DOC ID: 28925 **RESOLUTION 2024-385** **ADOPTED**

Amendment to Resolution 2021-109 (1695,1701 &1721 Dodge Rd)

WHEREAS, on February 24, 2020 the Amherst Town Board approved a rezoning request for the property identified as 1695, 1701 & 1721 Dodge Road for the development of a 32 lot realty subdivision, AND

WHEREAS, such rezoning decision was made with conditions of approval including a condition that 6.5 acres of the project site which included federally regulated wetland areas remain as a conservation area and that such conservation area be donated to the Town of Amherst, AND

WHEREAS, on January 19, 2021 the Amherst Town Board amended the original rezoning decision of February 24, 2020 by correcting the acreage in condition number 6 and number 7 of the original resolution, AND

WHEREAS, since the adoption of the amended resolution, the developer constructed the required public improvements, and on March 10, 2021 the developer filed a protective covenant (L11376, P1208) to restrict development on 4.49 acres of open space and which placed additional development constraints on the subject properties, consistent with the Town Board rezoning resolution, AND

WHEREAS, the Town has accepted the dedication of the public improvements for the realty subdivision and no longer desires to accept the 6.5 acres of conservation lands as originally requested in its resolution of February 24, 2020 and amended on January 19, 2021, NOW THEREFORE BE IT

RESOLVED, that the Town of Amherst will not accept the 6.5 acres of conservation lands as originally depicted in the Carmina Wood Morris PDC [Drawing C-100- Date 02/13/20] as "Conservation Area", AND BE IT

FURTHER RESOLVED, that Developer is directed to amend his/her offering plan with the Attorney General's Office to include the declined acreage, which shall be maintained by the newly formed Home Owners Association as permanent open space.

4/29/2024
Consent

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

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

Francina J. Spoth
Town Clerk

Meeting: 01/19/21 07:00 PM
Department: Planning
Initiated by: **Dan Howard**
Co-Sponsored by:

DOC ID: 22785 **RESOLUTION 2021-109** **ADOPTED**

Permanent Open Space -1695, 1701 & 1721 Dodge Road

WHEREAS the Town received from Essex Homes of WNY, Inc. an application to rezone property at 1695, 1701 & 1721 Dodge Road for a 32-lot subdivision, and

WHEREAS the applicant designated an area of Permanent Open Space within the subdivision, which would be included in 6.5 acres of "Conservation Area" that is to be donated to the Town, and

WHEREAS on February 24, 2020 the Town Board adopted Resolution 2020-90 which stated that the size of the Permanent Open Space is 3.73 acres, as referenced in Conditions #6 and #7 of the Resolution, and

WHEREAS subsequent to the Town Board's adoption of Resolution 2020-90, an updated survey was prepared which revealed that the size of the Permanent Open Space is 4.49 acres instead of 3.73 acres, now, therefore be it

RESOLVED that the Town Board issues the attached amended Resolution to reflect in Conditions #6 and #7 the correct amount of Permanent Open Space as 4.49 acres, and be it further

RESOLVED that the proposed "Conservation Area" to be donated to the Town referenced in Condition #9 remains 6.5 acres.

1/19/2021
Consent

FINANCIAL IMPACT:

None

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

Attachment: Resolution-2021-109-Adopted Town Board-01-19-21 (RES-2024-385 : Amendment to Resolution 2021-109 -1695,1701 &1721 Dodge

REVISED
DRAFT RESOLUTION
(1/19/21)

Approval of Request to Amend the Zoning Map
(1671, 1701 and 1721 Dodge Road; Z-2019-08)

RESOLVED, that pursuant to 6NYCRR Part 617 (SEQR) and Town Code Section 104, as amended, that the requirements of SEQR have been completed and the Town Board issues the attached Negative Declaration, and be it further

RESOLVED, that pursuant to NYS Town Law Section 272-a, the Town Board concurs with the findings of the Planning Board as stated in their resolution of November 21, 2019 that the proposed Multi-Family Residential – 4A (MFR#4A) zoning is consistent with the adopted Bicentennial Comprehensive Plan, as amended, and be it further

RESOLVED, that to the extent the proposed zoning is not consistent with the adopted Comprehensive Plan, the plan is hereby amended to be consistent with the proposed zoning at this location, and be it further

RESOLVED, that in accordance with Section 203-8-3 of the Town Code (Zoning), the Town Board adopts Local Law (#) to amend the Town Zoning map subject to the following conditions recommended by the Planning Board:

1. That sufficient land be donated to the Town for potential future extension of Youngs Road.

2. That the subdivision design include on the final plat a paved stub to the east property line for a vehicular connection to a future Youngs Road extension.

3. That the use of the portion of the Project Site to be rezoned from SA to MFR-4A shall be limited to detached single-family homes only.

4. That the maximum density of the residential subdivision shall be 31 homes.

5. That maximum allowable height of any home on the project site as measured from finished grade shall be 35 ft.

6. That any future development of homes, roadways, driveways and parking in the ~~3.73~~ **4.49** acres of Permanent Open Space is prohibited. The only proposed development of the portion of the Permanent Open Space located within the portion of the site to be rezoned to MFR-4A is limited to the stormwater management ponds, related necessary stormwater management improvements and utility infrastructure.

7. That removal of vegetation (with the exception of dead or unhealthy trees) is prohibited within the ~~3.73~~ **4.49** acres of Permanent Open Space.

8. That removal of vegetation (with the exception of dead of unhealthy trees) is prohibited within the 3.85 acres of federal wetlands not to be impacted.

Attachment: Revised TB Resolution Perm Open Space Change_1.19.21 (002) (RES-2021-109 : Permanent Open Space)
Attachment: Resolution-2021-109-Adopted Town Board-01-19-21 (RES-2024-385 : Amendment to Resolution 2021-109 -1695,1701 &1721 Dodge

9. That the 6.5 acres of the Project Site labelled as "Conservation Area" on the Concept Plan prepared by Carmina Wood Morris DPC [Drawing C-100 – Date: 02/13/20] shall be donated to the Town of Amherst by the Petitioner. The Town's acquisition of the 6.5 acres of Conservation Area is subject to the review and approval by Town Departments including but not limited to the Town Attorney's Office review and approval of the closing documents to effectuate the donation. The Town shall be responsible for the cost of the updated title search and survey and the recording fee for documents to be recorded at the Erie County Clerk's Office for the purpose of the 6.5 acres of Conservation Area being conveyed from the Petitioner to the Town of Amherst.

10. That Conditions 3 - 8 shall be memorialized via the recording of a Declaration of Restrictions at the Erie County Clerk's Office.

Attachment: Revised TB Resolution Perm Open Space Change_1.19.21 (002) (RES-2021-109 : Permanent Open Space)
Attachment: Resolution-2021-109-Adopted Town Board-01-19-21 (RES-2024-385 : Amendment to Resolution 2021-109 -1695,1701 &1721 Dodge

HSM

RECEIVED
FEB 06 2023
TOWN OF AMHERST
PLANNING DEPT.

February 1, 2023

Maureen A. Brady, Esq., Regional Attorney
New York State Department of Environmental Conservation
700 Delaware Avenue
Buffalo, NY, 14209

David Leput, Biologist/Compliance Officer
Regulatory Branch, Monitoring & Enforcement Section
U.S. Army Corps of Engineers, Buffalo District
1776 Niagara Street
Buffalo, New York 14207-3199

Re: Recorded Copy of Declaration of Restrictive Covenants/Deed Restrictions
DEC Permit No. 9-1422-00612 & LRB 2019-01127
Location: Residential Subdivision at 1695, 1701 and 1721 Dodge Road
Town of Amherst - Applicant: Essex Homes of WNY, Inc.
File No. 10065.6

Dear Maureen and David:

Enclosed is a recorded copy of the Declaration of Restrictive Covenants/Deed Restrictions with attached Exhibits "A" to "E" (the "Declaration") as recorded at the Erie County Clerk's Office at Liber 11413 of Deeds at Page 5608 on Monday, January 30th along with a copy of the recording receipt.

As I mentioned in my previous letter dated January 5th, the 6.51 acres of Protected Area that is subject to the terms and conditions contained in the Declaration will be conveyed to the Town of Amherst as Permanent Open Space pursuant to a condition imposed by the Town of Amherst Town Board in connection with its approval of an amendment of the zoning classification of a portion of the Project Site from SA to MFR-4A.

Please contact me at 716.510-4338 or via e-mail at shopkins@hsmlegal.com if you have any questions.

Sincerely,

HOPKINS SORGI & MCCARTHY PLLC

Sean W. Hopkins, Esq.

Enc.
cc: Harold T. Keppner, United States Army Corps of Engineers [Via e-mail]
Phil Nanula, Essex Homes of WNY, Inc. [Via e-mail]

HOPKINS SORGI & MCCARTHY PLLC
Attorneys at Law
5500 Main Street, Suite 343 • Williamsville, New York 14221
Direct: 716-510-4338 • E-mail: shopkins@hsmlegal.com • www.hsmlegal.com

Attachment: Protective covenant for wetlands (RES-2024-385 : Amendment to Resolution 2021-109 -1695,1701 &1721 Dodge Rd.)

Kevin Curry, Essex Homes of WNY, Inc. [Via e-mail]
Kelly Metz, Essex Homes of WNY, Inc. [Via e-mail]
Scott Livingstone, Earth Dimensions, Inc. [Via e-mail]

Attachment: Protective covenant for wetlands (RES-2024-385 : Amendment to Resolution 2021-109 -1695,1701 &1721 Dodge Rd.)

FILED
JAN 30 2023
ERIE COUNTY

RECEIVED
FEB 06 2023
TOWN OF AMHERST
PLANNING DEPT.

Record and Return To:
Box 460 - Hopkins Sorgi & McCarthy PLLC
Attn: Sean W. Hopkins, Esq.

DECLARATION OF RESTRICTIVE COVENANTS/DEED RESTRICTIONS

THIS DECLARATION OF RESTRICTIVE COVENANTS is made this 20th day of January, 2023, by **DODGE ROAD DEVELOPMENT LLC** (the "***Owner***"), its successors and assigns, having an address at 8940 Main Street, Clarence, New York 14031.

RECITALS

WHEREAS, Owner is the owner of land situated in the Town of Amherst, Erie County, State of New York consisting of a parcels located at 1695, 1701 and 1721 Dodge Road (collectively the "**Project Site**").

WHEREAS, on March 18, 2021, the Town of Amherst Planning Board granted Final Plat Approval for the development of a portion of the Project Site as a residential subdivision consisting of twenty-nine (29) lots for detached single-family homes and related improvements (collectively the "Project"); and

WHEREAS, a Subdivision Map depicting the layout of the approved Project was filed at the Erie County Clerk's Office on April 22, 2021 under Map Cover 3838/1 and a legal description of the Project Site as prepared by Mark Andrews, PLS, of GPI Engineering, Landscape Architecture & Surveying, LLP is attached as **Exhibit "C"** ; and

WHEREAS, the Owner seeks to develop the property in a manner which will result in impacts to waters of the United States and impacts the regulated one hundred foot Adjacent Area of Freshwater Wetlands of the State of New York.

Impacts to waters of the United States are authorized by Department of the Army Permit Number LRB-2019-01127, issued on October 14, 2020 by the United States Army Corps of Engineers, Buffalo District ("***USACE***", to include any successor agency). Permit Number LRB-2019-01127 was issued by the USACE in accordance with Section 404 of the Federal Clean Water Act (33 U.S.C. § 1344) and/or Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. § 401) and implementing regulations. A copy of Department of Army Permit Number LRB-2001-011127 dated October 14, 2020 is attached as **Exhibit "A"**. The Permit issued by the USACE is hereinafter referred to as the "***USACE Permit***".

Impacts to the regulated one hundred foot Adjacent Area of Freshwater Wetland CC-15 are authorized by Permits No. No. 9-1422-00612/00001 and 9-1422-00612/00002 as issued by the New York State Department of Environmental Conservation ("***NYSDEC***", to include any successor agency) on February 8, 2021. The Permits issued by the NYSDEC are hereinafter referred to collectively as the "***NYSDEC Permit***". A copy of NYSDEC Permit dated February 8, 2021 is attached as **Exhibit "B"**.

In order to protect, restore, and maintain the chemical, physical, and biological integrity of waters of the United States and Freshwater Wetlands of the State of New York and their regulated one hundred foot Adjacent Area, and as a condition of being issued the USACE Permit and the NYSDEC Permit, the Owner agrees to restrict use of the property as identified and described by metes and bounds legal description attached as **Exhibit "D"** and as set forth graphically on the

Attachment: Protective covenant for wetlands (RES-2024-385 : Amendment to Resolution 2021-109 -1695,1701 &1721 Dodge Rd.)

Survey prepared by Mark Andrews, PLS, of GPI Engineering, Landscape Architecture & Surveying, LLP dated March 9, 2021 attached hereto as **Exhibit "E"** (the "***Protected Property***").

The Owner agrees that the Protected Property shall be bound by, held, transferred, sold, conveyed, leased, improved, hypothecated, occupied, or otherwise disposed of and used subject to the following restrictive covenants ("***the Restrictions***"), which shall be perpetual and run with the land and be binding on all the Owner's heirs, executors, administrators, assigns, lessees, or other persons, firms, associations, corporations, or governmental or other entities having or hereafter acquiring any right or interest in said Protected Property or any part thereof. The terms and conditions of the Restrictions shall be both explicitly and implicitly included in any subsequent transfer, conveyance, or encumbrance affecting all or part of the Protected Property. Any such transfer, conveyance, or encumbrance shall set forth the terms and conditions of this document by reference to this document and its recorded location.

NOW, THEREFORE, in exchange for good and valuable consideration the sufficiency of which is acknowledged, the Declarant agrees to restrict the future use of the Protected Property in accordance with the terms and conditions contained below as follows:

I. RESTRICTIONS:

These Restrictions on the Protected Property shall run with the Protected Property in perpetuity, and be binding on the Owner and its respective successors, assigns, lessees, and other occupiers and users. These Restrictions are subject to the Owner's Reserved Rights set forth below in **Section II**.

1. **General**. There shall be no future fillings, flooding, excavating, mining, or drilling; no removal of natural materials (soil, sand, gravel, rock, minerals, etc.); no dumping of materials; and no alteration of the topography which would materially affect the Protected Property in any manner, except as authorized in writing by both the USACE and the NYSDEC. Any of these activities in DEC wetlands or adjacent areas will require a permit from DEC.

2. **Waters and Wetlands**. In addition to the general restrictions above, within the Protected Property there shall be no draining, dredging, damming, or impounding; no changing the grade or elevation, impairing the flow or circulation of waters, or reducing the reach of waters; and no other discharges or activity requiring a permit under applicable water pollution control laws and regulations, except as authorized in writing by both the USACE and the NYSDEC. Any of these activities in DEC wetlands or adjacent areas will require a permit from DEC.

3. **Trees/Vegetation**. On the Protected Property there shall be no clearing, burning, cutting, or destroying of trees or vegetation, except as may be necessary to protect public health or safety or as authorized in writing by both the USACE and the NYSDEC; there shall be no planting or introduction of non-native or exotic species of trees or vegetation. Any of these activities in DEC wetlands or adjacent areas will require a permit from DEC.

4. **Uses**. No agricultural, animal husbandry, industrial or residential development, mining, logging, or commercial activity or development shall be undertaken or allowed on the Protected Property. Any of these activities in DEC wetlands or adjacent areas will require a permit from DEC.

Attachment: Protective covenant for wetlands (RES-2024-385 : Amendment to Resolution 2021-109 -1695,1701 &1721 Dodge Rd.)

5. **Structures**. There shall be no construction, erection, or placement of buildings, billboards, or any other structures, to include fences, parking lots, trailers, mobile homes, camping accommodations, or recreational vehicles, or additions to existing structures, on the Protected Property. All construction in DEC wetlands or adjacent areas will require a permit from DEC.

6. **New Roads**. There shall be no construction of new roads, trails, or walkways on the Protected Property without the prior written approval (including approval of the manner of construction) of both the USACE and the NYSDEC. Construction of roads, trails, or walkways would be subject to an environmental review pursuant to the State Environmental Quality Review Act ("SEQRA"), and would require a permit from DEC which would include compensatory mitigation.

7. **Utilities**. There shall be no construction or placement of utilities or related facilities (including telecommunications towers and antennas) on the Protected Property without the prior written approval of both the USACE and the NYSDEC. All construction or placement of utilities in DEC wetlands or adjacent areas will require a permit from DEC.

8. **Vehicular Use**. There shall be no use of any motorized vehicle or motorized equipment, and no use of any non-motorized bicycle anywhere on the Protected Property, except in the case of emergency, for the purpose of enforcement of applicable laws and regulations.

9. **Subdivision**. There shall be no division or subdivision of the Protected Property. The language in this **Section I, Paragraph 9**, shall not preclude the Owner from conveying tile to approximately 6.5 acres of the Protected Property to the Town of Amherst in accordance with a zoning condition imposed by the Town Board of the Town of Amherst on February 24, 2020.

10. **Other Prohibitions**. Any other use of, or activity on, the Protected Property which is or may become inconsistent with the purposes of this Declaration of Restrictions, the preservation of the Protected Property substantially in its natural condition, or the protection of its environmental systems, is prohibited.

II. RESERVED RIGHTS OF OWNER:

Notwithstanding the Restrictions contained above in **Section I**, the Owner reserves for itself, its heirs, executors, administrators, successors, and assigns all rights accruing from its ownership of the Protected Property, including the right to engage in or permit or invite others to engage in all uses of the Protected Property that are not expressly prohibited herein and are not inconsistent with the purposes of the Restrictions. Without limiting the generality of the foregoing, the following rights are expressly reserved:

1. **Right to Convey**. The Owner retains the right to sell, mortgage, bequeath, donate, or otherwise convey the Protected Property. Any conveyance shall remain subject to the terms and conditions of this instrument, and the subsequent interest holder shall be bound by the terms and conditions hereof.

2. **Right to Access**. The Owner shall retain the right of unimpeded access to the Protected Property subject to all NYSDEC laws and regulations.

Attachment: Protective covenant for wetlands (RES-2024-385 : Amendment to Resolution 2021-109 -1695,1701 &1721 Dodge Rd.)

III. GENERAL PROVISIONS:

The following General Provisions shall be binding upon the Owner and its heirs, successors, grantees, transferees, administrators, assigns, lessees, licensees, and agents:

1. **Enforcement**. The USACE shall have the right to enter and go upon the Protected Property, to inspect the Protected Property, and take actions necessary to verify compliance with this Declaration and the terms and conditions of the USACE Permit. The NYSDEC shall have the right to enter and go upon the Protected Property, to inspect the Protected Property, and take actions necessary to verify compliance with this Declaration and the terms and conditions of the NYSDEC Permit. When practicable, such entry by either the USACE or the NYSDEC shall be upon prior reasonable notice to the Owner. The USACE has the discretionary right to request to be represented by the United States Department of Justice in a judicial action against any person(s) or other entitiy(ies) violating or attempting to violate these restrictive covenants: provided, however, that no violation of these restrictive covenants shall result in a forfeiture or reversion of title. In any enforcement action, an enforcing agency shall be entitled to a complete restoration for any violation, as well as any other judicial remedy such as civil penalties. Nothing herein shall limit the right of the USACE to modify, suspend, or revoke the USACE Permit or the right of the NYSDEC to modify, suspend or revoke the NYSDEC Permit. No omission or delay in acting by the USACE or the NYSDEC shall bar subsequent enforcement rights or constitute a waiver of any enforcement right. These enforcement rights are in addition to, and shall not limit, the enforcement rights available under other provisions of law or equity, or under any applicable permit or certification.

2. **Obligations of Ownership**. The Owner is responsible for payment of all real estate taxes, assessments, fees, or charges levied upon the Protected Property. Any liens, mortgages, or other encumbrances affecting the Protected Property shall be subject to the terms of this Declaration of Restrictions. Nothing herein shall relieve the Owner of the obligation to comply with federal, state, or local laws, regulations, and permits that may apply to the exercise of ownership, or rights under this Declaration of Restrictions by the Owner.

3. **Recording**. The Owner shall have this Declaration of Restrictions duly recorded and indexed as such in the Office of the County Clerk of Erie County, New York. Upon the recording of this Declaration of Restrictions, the Owner shall forward a recorded copy of this Declaration of Restrictions to both the USACE and the NYSDEC.

4. **Notification**. Any permit application, or request for certification or modification, which may affect the Protected Property, made to any government entity with authority over wetlands or other waters of the United States, shall expressly reference and include a copy (with the recording stamp) of this instrument. The Owner shall provide the USACE and the NYSDEC with written notice of any legal action affecting this instrument, including but not limited to: foreclosure proceedings, tax sales, bankruptcy proceedings, zoning changes, adverse possession, abandonment, condemnation proceedings, and the exercise of the power of eminent domain. For any action that might result in this instrument becoming voided or modified, such notice shall be provided at least sixty (60) days before such action would be taken.

Attachment: Protective covenant for wetlands (RES-2024-385 : Amendment to Resolution 2021-109 -1695,1701 &1721 Dodge Rd.)

Any notice, request for approval, or other communication required by the terms and conditions of this instrument shall be sent by registered mail, pre-paid postage, to the following address:

Regional Permit Administrator
NYSDEC Region 9 Headquarters
270 Michigan Avenue
Buffalo, New York 14203-2915

U.S. Army Corps of Engineers
Regulatory Branch
1776 Niagara Street
Buffalo, New York 14207

5. **Property Transfers.** The Owner shall include the following notice on all deeds, mortgages, plats, or any other legal instrument used to convey any interest in the Protected Property:

NOTICE: This Property is subject to a Declaration of Restrictions dated _____, recorded in the Erie County Clerk's Office on _____ in Deed Book _____, Page _____ and enforceable by the U.S. Army Corps of Engineers and the New York State Department of Environmental Conservation.

The Owner shall provide the USACE and the NYSDEC with written notice of any transfer sixty (60) days prior to such transfer. The notice shall include the name, address, and telephone number of the prospective transferee, a copy of the proposed deed or other documentation evidencing the conveyance, and a survey map that shows the boundaries of the portion of the Protected Property being transferred. Failure to comply with this paragraph does not impair the validity or enforceability of the Restrictions contained herein.

6. **Successors in Interest.** These Restrictions shall be covenants running with the land and shall constitute a burden on the Protected Property and shall run to the benefit of the parties hereto and their successors in interest. All subsequent owners of the Protected Property shall be bound to all provisions of these Restrictions to the same extent as the current parties. All references to the USACE and the NYSDEC shall include successor governmental agencies, departments, or divisions, or any other successor entities prescribed by law.

7. **Amendment**. After recording, this Declaration of Restrictive Covenants may only be amended by a recorded document signed by the Owner that has been approved by both the USACE and the NYSDEC. Amendment shall be allowed at the discretion of the USACE and the NYSDEC, in consultation with resource agencies as appropriate, and then only in exceptional circumstances. There shall be no obligation to approve an amendment of this Declaration of Restrictions.

8. **Termination.** These Restrictions are intended to be perpetual in nature and run with the land. The Restrictions may be extinguished only by an unexpected change in condition

Attachment: Protective covenant for wetlands (RES-2024-385 : Amendment to Resolution 2021-109 -1695,1701 &1721 Dodge Rd.)

which causes it to be impossible to fulfill the intended conservation purposes of this instrument, or by exercise of eminent domain.

9. **Severability**. Should a court of competent jurisdiction find any separate part of this Declaration of Restrictions void or unenforceable, the remainder shall continue in full force and effect.

10. **Liberal Construction.** These Restrictions shall be liberally construed in favor of maintaining the conservation values of the Protected Property. The section headings and subheadings identified herein are for reference purposes only and shall not be used to interpret the meaning of any provision hereof.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK – SIGNATURE(S) ON FOLLOWING PAGE]

Attachment: Protective covenant for wetlands (RES-2024-385 : Amendment to Resolution 2021-109 -1695,1701 &1721 Dodge Rd.)

IN WITNESS WHEREOF, the individual executing this Declaration of Restrictive Covenants on behalf of the Owner has the full legal authority to enter into and execute this Declaration of Restrictive Covenants.

DODGE ROAD DEVELOPMENT LLC

By: Philip J. Nanula
Name: Philip J. Nanula
Title: Member

STATE OF NEW YORK)
ss.:
COUNTY OF ERIE)

On this 25th day of January, 2023, before me, the undersigned, a notary public in and for said state, personally appeared Philip J. Nanula, personally known to me or proved to me on the basis of satisfactory evidence to the be the individual whose name is subscribed to within this instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

Kelly Metz
Notary Public

KELLY METZ
Notary Public, State of New York
Qualified in Erie County
Commission No. 01ME6117845
My Commission Expires Nov. 1, 2024

Attachment: Protective covenant for wetlands (RES-2024-385 : Amendment to Resolution 2021-109 -1695,1701 &1721 Dodge Rd.)

Exhibit A- Copy of Department of Army Permit Number LRB-2001-011127 dated October 14, 2020

Attachment: Protective covenant for wetlands (RES-2024-385 : Amendment to Resolution 2021-109 -1695,1701 &1721 Dodge Rd.)

DEPARTMENT OF THE ARMY
BUFFALO DISTRICT, CORPS OF ENGINEERS
1776 NIAGARA STREET
BUFFALO, NEW YORK 14207-3199

October 14, 2020

Regulatory Branch

SUBJECT: Transmittal of Department of the Army Permit No. LRB-2019-01127, Nationwide Permit No. 29 as Published in the Federal Register, Volume 82, No. 4, on Friday, January 6, 2017, New York State Department of Environmental Conservation No. 9-1422-00612.

Mr. Robert Savarino
Essex Homes of WNY
8940 Main Street
Clarence, New York 14031

Dear Mr. Savarino:

I am writing to you in regard to your proposal to place permanent fill into 0.27-acre of wetland, place temporary fill into 0.19-acre of wetland, and to pipe 790 linear feet of an unnamed intermittent tributary for the construction of a residential development, located at 1695, 1701 and 1721 Dodge Road, in the Town of Amherst, Erie County, New York.

I have determined that your project satisfies the terms and conditions of the attached Nationwide Permit (NWP) and a waiver for exceeding the linear foot limit of the NWP has been approved.

In accordance with 33CFR 325.2(b)(1)(ii), Section 401 Water Quality Certification has been determined to be waived for this action. Your initiation of work as authorized by the enclosed NWP acknowledges your acceptance of the general and special conditions contained therein. This affirmation is limited to the attached NWP, and does not obviate the need to obtain any other project specific Federal, state, or local authorization. Specifically, you may need to obtain Article 15 (Protection of Water), Article 24 (Freshwater Wetland), and/or Article 34 (Coastal Erosion Management) authorization from the New York State DEC.

Verification of the applicability of this NWP is valid until March 18, 2022 unless the NWP is modified, suspended, revoked, or the activity complies with any subsequent permit modification. Please note in accordance with 33 CFR part 330.6(b), that if you commence or are under contract to commence an activity in reliance of the permit prior to the date this NWP expires, is suspended or revoked, or is modified such that the activity no longer complies with the terms and conditions, you have twelve months from the date of permit modification, expiration, or revocation to complete the activity under the present terms and conditions of the permit, unless the permit has been subject to the provisions of discretionary authority.

Attachment: Protective covenant for wetlands (RES-2024-385 : Amendment to Resolution 2021-109 -1695,1701 &1721 Dodge Rd.)

Regulatory Branch

SUBJECT: Transmittal of Department of the Army Permit No. LRB-2019-01127, Nationwide Permit No. 29 as Published in the Federal Register, Volume 82, No. 4, on Friday, January 6, 2017, New York State Department of Environmental Conservation No. 9-1422-00612.

It is your responsibility to remain informed of changes to the NWP program. A public notice announcing any changes will be issued when they occur and will be available for viewing at our website: http://www.lrb.usace.army.mil/Missions/Regulatory.aspx. Finally, note that if your activity is not undertaken within the defined period or the project specifications have changed, you must immediately notify this office to determine the need for further approval or reverification.

In addition to the general conditions attached to the NWP, your attention is directed to the following Special Conditions which are also appended at the end of the NWP:

1. The permittee must notify the Regulatory Branch, in writing, at least one day prior to the date the activities authorized in Waters of the United States, including wetlands, are scheduled to begin. Notification shall either be by: 1) e-mail sent to david.w.leput2@usace.army.mil AND LRB.Regulatory@usace.army.mil; or 2) mailed to the following address: Mr. David Leput, U.S. Army Corps of Engineers, Buffalo District, 1776 Niagara Street, Buffalo New York 14207-3199.

2. As compensatory mitigation for the permanent and unavoidable loss of 0.27-acre of Federal jurisdictional wetlands, the Permittee must purchase 0.5 wetland credits from the Ducks Unlimited In-Lieu Fee Mitigation Program Niagara River Service Area. Prior to commencing the work authorized by this permit, the Permittee must supply this office with a copy of the signed Credit Sale Letter verifying acceptance of full payment by the Ducks Unlimited In-Lieu Fee Mitigation Program for the appropriate credits. The documentation must be sent to the attention of Mr. Harold Keppner, Chief, Monitoring & Enforcement Section, U.S. Army Corps of Engineers, 1776 Niagara Street, Buffalo, New York 14207-3199.

3. Prior to conducting any work authorized by this permit, the permittee is required to place perpetual deed restrictions on all remaining wetland and stream channels and the designated upland buffers to guarantee their preservation for wetland and wildlife resources, as depicted on Sheet 4 of 4. The deed restriction shall specifically state: (1) the Department of the Army Permit number; 2) the date the project was permitted; 3) the restricted uses as identified in Special Condition 4 of this permit, 4) the contact information for the Buffalo District U.S. Army Corps of Engineers Regulatory Branch, 5) that the wetland and stream and buffer areas are to be preserved and are not to be adversely impacted, 6) that the deed restriction runs with the land and burdens the property in perpetuity; and (7) that the deed restriction shall be transferred to subsequent property owners upon the sale, transfer, or reversion of the property. A map that is drafted by a professional surveyor and a legal description that defines the metes and bounds of the deed restricted area shall be attached to and referenced in the deed restriction. The permittee shall identify the location of federal jurisdictional boundaries on all documents recorded by the Erie County Recorder to include subdivision plats, deeds, and other legal real estate documents.

Attachment: Protective covenant for wetlands (RES-2024-385 : Amendment to Resolution 2021-109 -1695,1701 &1721 Dodge Rd.)

Regulatory Branch

SUBJECT: Transmittal of Department of the Army Permit No. LRB-2019-01127, Nationwide Permit No. 29 as Published in the Federal Register, Volume 82, No. 4, on Friday, January 6, 2017, New York State Department of Environmental Conservation No. 9-1422-00612.

The deed restrictions shall not be removed without written approval with the U.S. Army Corps of Engineers, Buffalo District. A draft copy of the deed restriction language must be submitted to Heather Adams of this office and approved, in writing, prior to recordation. An approved, certified copy of the recorded deed restriction is required to be provided to Mr. Harold T. Keppner, Chief, Monitoring & Enforcement Section, U.S. Army Corps of Engineers, 1776 Niagara Street, Buffalo, New York 14207-3199, prior to conducting work authorized by this permit, or by an extension authorized in writing from this office.

4. The deed restriction area, as depicted on Sheet 4 of 4, must be used solely for the protection of aquatic resources. Any other uses, including but not limited to the placement of buildings, roads, camping accommodations, mobile homes, fences, signs, billboards or other advertising material, dredging, mining or drilling, removal of topsoil, sand, gravel, rock, minerals, or other materials, are prohibited.

Questions pertaining to this matter should be directed to me at 716-879-4308, by writing to the following address: U.S. Army Corps of Engineers, 1776 Niagara Street, Buffalo, New York 14207, or by e-mail at: Heather.L.Adams@usace.army.mil

Sincerely,

Martin Crosson for

Steven V. Metivier
Chief, NY Permit Evaluation Section

Enclosures

Attachment: Protective covenant for wetlands (RES-2024-385 : Amendment to Resolution 2021-109 -1695,1701 &1721 Dodge Rd.)

COMPLETION FORM / COMPLIANCE CERTIFICATION

Each permittee who receives a Nationwide Permit (NWP) verification letter from the Corps must provide a signed certification documenting completion of the authorized activity and any compensatory mitigation.

APPLICANT:	POINT OF CONTACT:	File No.: LRB-2019-01127
Essex Homes of WNY	Earth Dimensions, Inc.	File Closed: 10/14/2020
8940 Main Street	1091 Jamison Road	NWP No.: 29
Clarence, New York 14031	Elma, New York 14059	

Upon completion of the activity authorized by this permit and any required compensatory mitigation sign this certification and return it to the address listed below within 30 days of project completion.

Please note that your permitted activity is subject to a compliance inspection by a U.S. Army Corps of Engineers representative. If you fail to comply with this permit you are subject to permit suspension, modification, revocation, and/or assessment of administrative penalties.

The permittee shall certify the completion of the authorized work and mitigation:

a. The authorized work was done in accordance with the NWP authorization, including any general, regional, or activity specific conditions.

b. The implementation of any required compensatory mitigation was completed in accordance with the permit conditions. If credits from a mitigation bank or in-lieu fee program are used to satisfy the compensatory mitigation requirements, this certification must include the documentation required by 33 CFR 332.3(1)(3) to confirm that the permittee secured the appropriate number and resource type of credits.

_____ _____

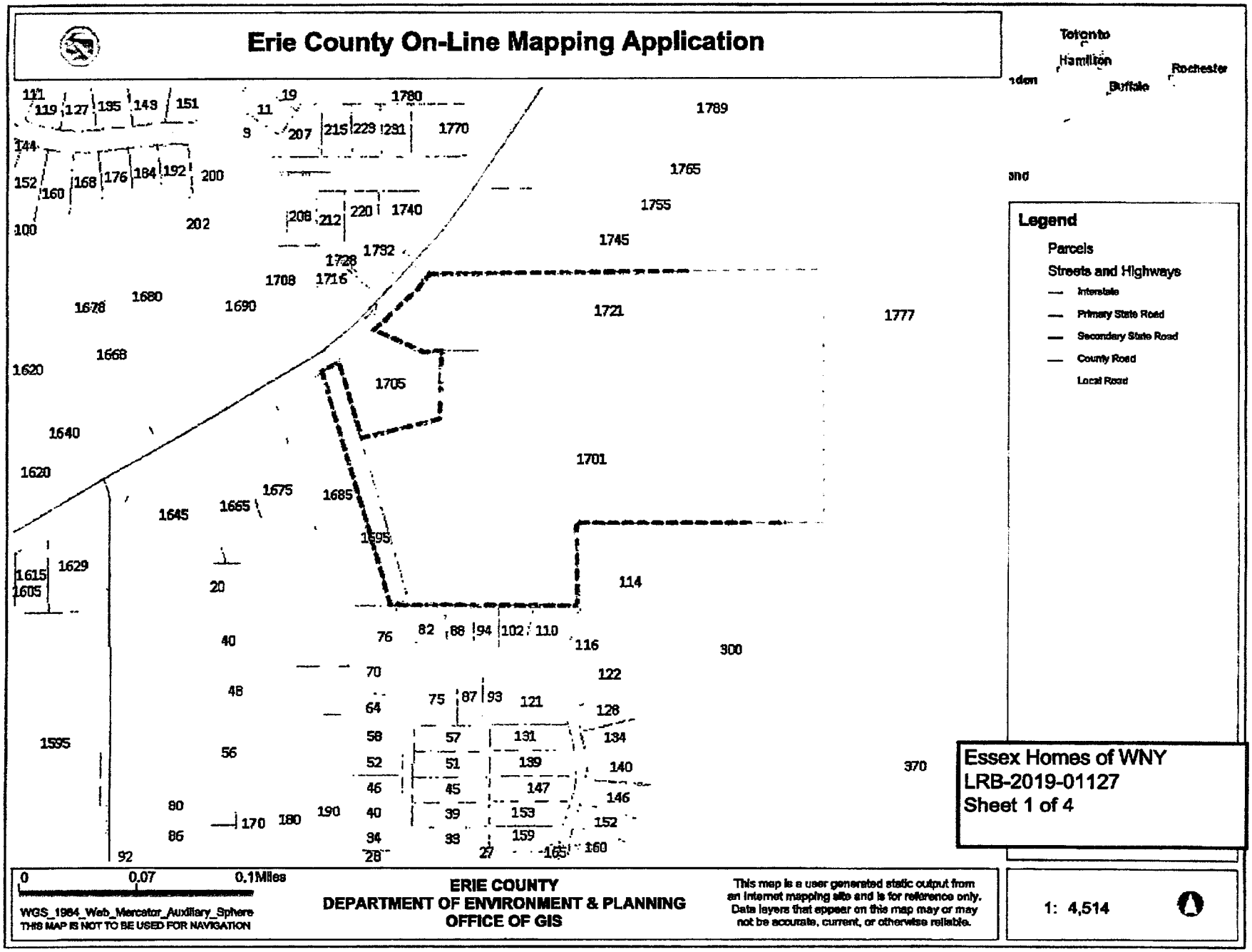
APPLICANTS NAME Date

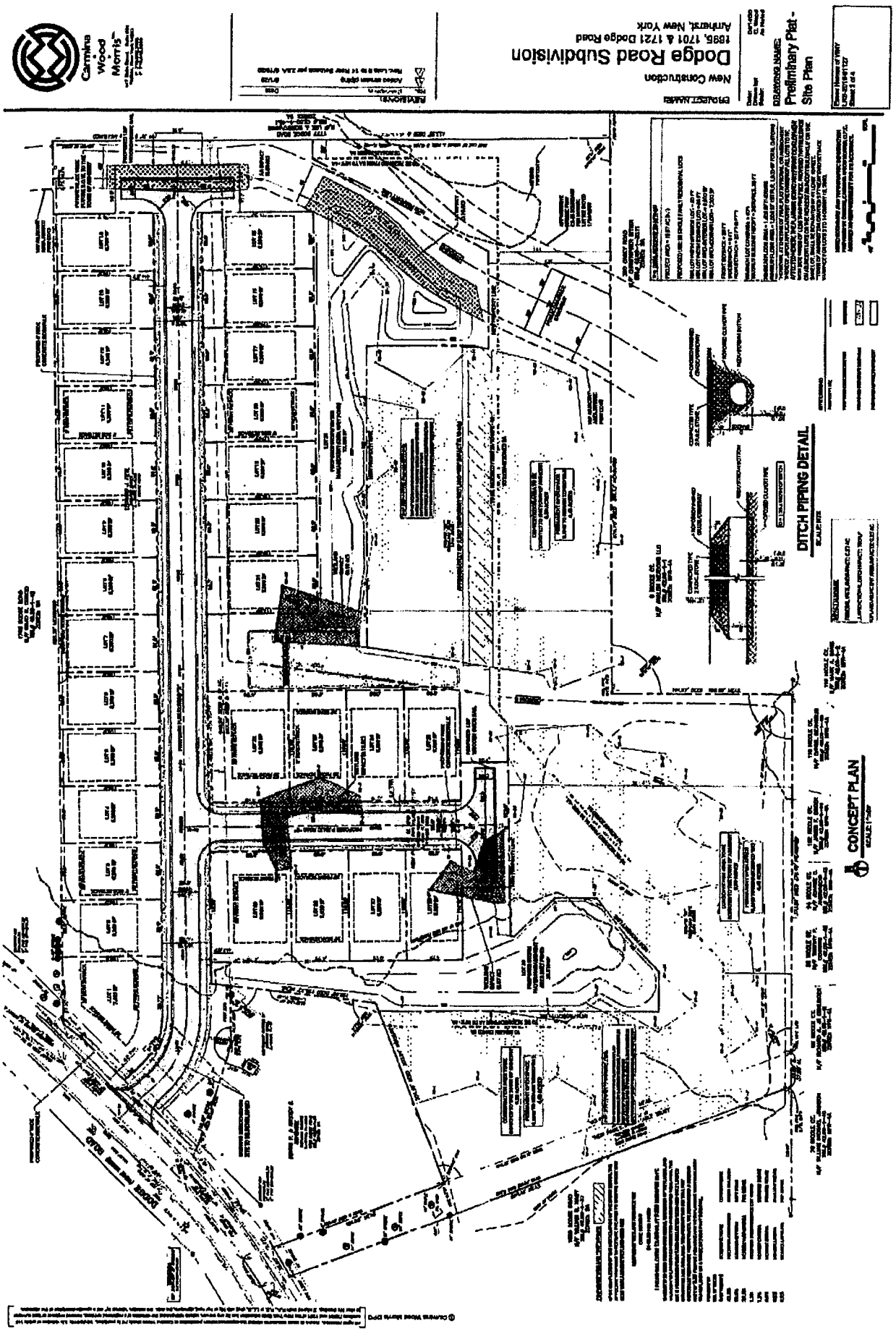
Permittee Telephone Number: _____

NWP authorizes permittee to place permanent fill into 0.27-acre of wetland, place temporary fill into 0.19-acre of wetland, and to pipe 790 linear feet of an unnamed intermittent tributary for the construction of a residential development, located at 1695, 1701 and 1721 Dodge Road, in the Town of Amherst, Erie County, New York.

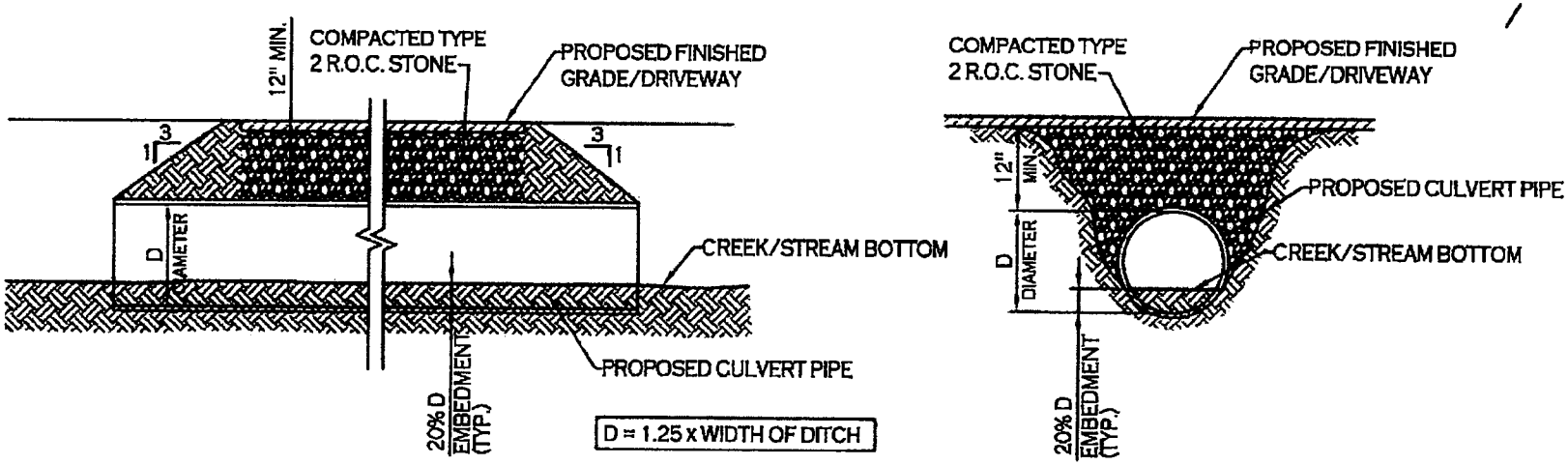
Return completed form to:
Mr. David Leput
Regulatory Branch
U.S. Army Corps of Engineers
1776 Niagara Street
Buffalo, NY 14207

Attachment: Protective covenant for wetlands (RES-2024-385 : Amendment to Resolution 2021-109 -1695,1701 &1721 Dodge Rd.)


Erie County On-Line Mapping Application
Toronto
Hamilton
Rochester
Buffalo
Legend
Parcels
Streets and Highways
Interstate
Primary State Road
Secondary State Road
County Road
Local Road
Essex Homes of WNY
LRB-2019-01127
Sheet 1 of 4
0
0.07
0.1Miles
WGS_1984_Web_Mercator_Auxiliary_Sphere
THIS MAP IS NOT TO BE USED FOR NAVIGATION
ERIE COUNTY
DEPARTMENT OF ENVIRONMENT & PLANNING
OFFICE OF GIS
This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.
1: 4,514

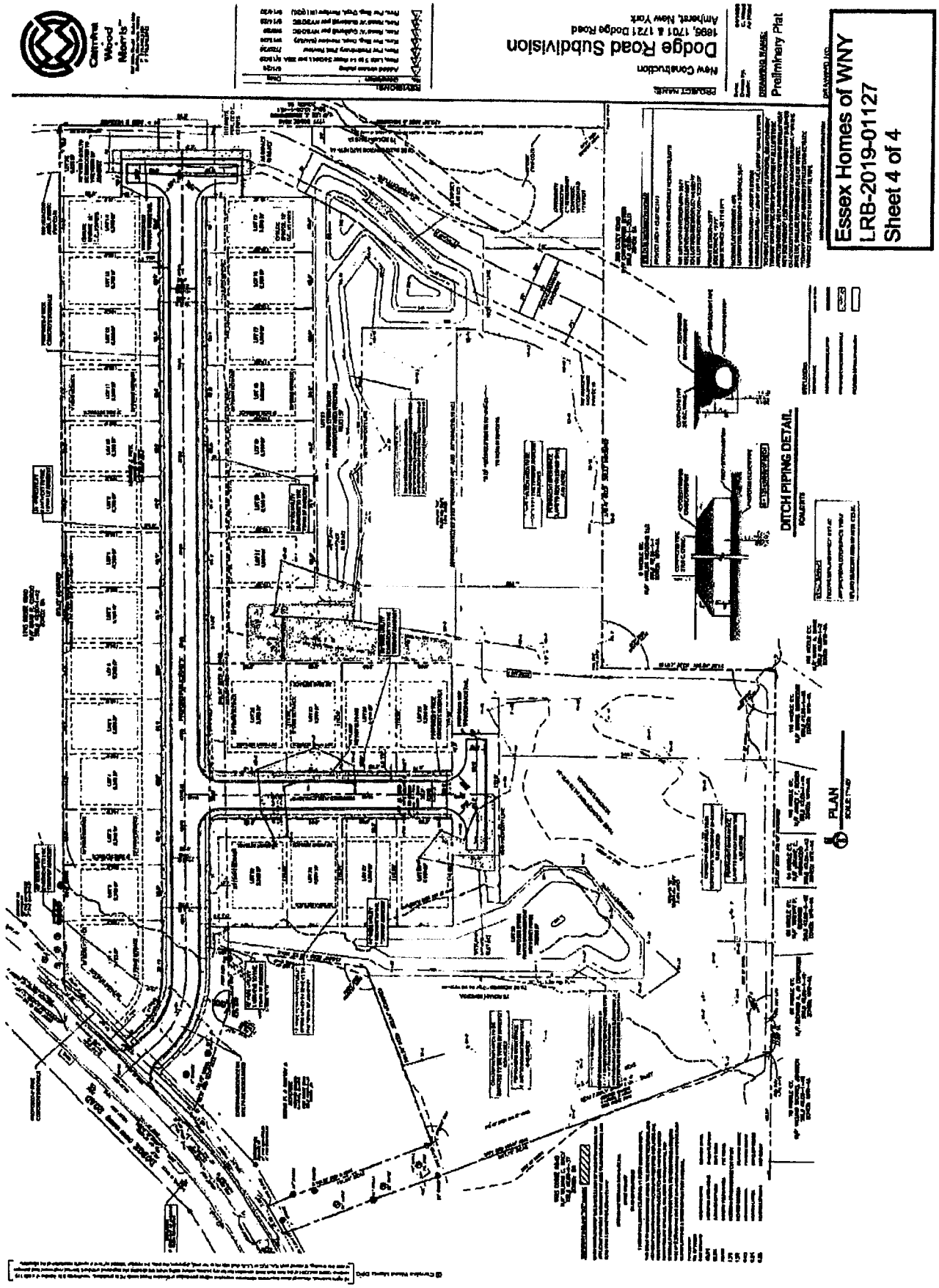


Attachment: Protective covenant for wetlands (RES-2024-385 : Amendment to Resolution 2021-109 -1695,1701 &1721 Dodge Rd.)



DITCH PIPING DETAIL

Essex Homes of WNY
LRB-2019-01127
Sheet 3 of 4



Attachment: Protective covenant for wetlands (RES-2024-385 : Amendment to Resolution 2021-109 -1695,1701 &1721 Dodge Rd.)

Attachment: Protective covenant for wetlands (RES-2024-385 : Amendment to Resolution 2021-109 -1695,1701 &1721 Dodge Rd.)

ACTIVITIES AUTHORIZED BY 2017 NATIONWIDE PERMIT
WITHIN THE STATE OF NEW YORK
Expiration March 18, 2022

B. Nationwide Permits

29. Residential Developments. Discharges of dredged or fill material into non-tidal waters of the United States for the construction or expansion of a single residence, a multiple unit residential development, or a residential subdivision. This NWP authorizes the construction of building foundations and building pads and attendant features that are necessary for the use of the residence or residential development. Attendant features may include but are not limited to roads, parking lots, garages, yards, utility lines, storm water management facilities, septic fields, and recreation facilities such as playgrounds, playing fields, and golf courses (provided the golf course is an integral part of the residential development).

The discharge must not cause the loss of greater than 1/2-acre of non-tidal waters of the United States. The discharge must not cause the loss of more than 300 linear feet of stream bed, unless for intermittent and ephemeral stream beds the district engineer waives the 300 linear foot limit by making a written determination concluding that the discharge will result in no more than minimal adverse environmental effects. This NWP does not authorize discharges into non-tidal wetlands adjacent to tidal waters. The loss of stream bed plus any other losses of jurisdictional wetlands and waters caused by the NWP activity cannot exceed 1/2-acre.

Subdivisions: For residential subdivisions, the aggregate total loss of waters of United States authorized by this NWP cannot exceed 1/2-acre. This includes any loss of waters of the United States associated with development of individual subdivision lots.

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity. (See general condition 32.) (Authorities: Sections 10 and 404)

Permit-specific Regional Conditions (Buffalo and New York Districts):

a. The proposed impacts to waters of the United States shall include those direct impacts associated with construction of the proposed project, as well as any indirect impacts which may occur as a result of the project (e.g., filling waters of the United States to increase size of usable yard space, impacts to existing hydrologic regimes, etc.).

b. This NWP does not authorize the discharge of dredged or fill material into open water areas of lakes or rivers which converts the area to dry land.

c. Whenever a multiple-lot subdivision is submitted to the Corps of Engineers for review, it must be designed, to the maximum extent practicable, such that wetlands are not located on the resulting individual lots. If the applicant cannot design the subdivision in accordance with this requirement, the preconstruction notification (PCN) must include a discussion as to why this requirement cannot be accomplished, along with a detailed description as to how the wetland areas on each individual lot will be adequately protected.

i. All areas within the multiple-lot subdivision that are components of compensatory mitigation, including waters of the United States and associated upland buffers, must be covered by a conservation easement or other legal protective covenant.

ii. For all other waters of the United States, following completion of work authorized by this nationwide permit, a copy of this permit and regional conditions, along with permit drawings showing the locations of waters of the United States, must be provided with the deed to all individual lots that will contain waters of the United States.

Section 401 Water Quality Certification:
The New York State Department of Environmental Conservation (NYSDEC) has granted blanket Section 401 Water Quality Certification in New York State provided that the project complies with **all** the Special Conditions listed below and General Conditions listed in Section H. Where the Special Conditions differ from the General Conditions, the Special Conditions shall prevail. Any party conducting the activities authorized by this NWP that cannot comply with **all** these conditions must apply for and obtain an individual Section 401 Water Quality Certification from the NYSDEC.

NYSDEC WQC NWP #29 Special Condition:

- This certification does not authorize the construction of new residential development projects in riparian wetlands located within a FEMA designated 100 year floodplain.

New York State Department of State Coastal Zone Management Consistency Determination:
Pursuant to 15 CFR Part 930.41 and 930.43, the New York State Department of State (NYSDOS) objects to the USACE' consistency determination and therefore, an individual consistency concurrence determination from NYSDOS is required for this NWP to be valid in the New York coastal area. See Section I below for further information.

C. Nationwide Permit General Conditions

Note: To qualify for NWP authorization, the prospective permittee must comply with the following general conditions, as applicable, in addition to any regional or case-specific conditions imposed by the division engineer or district engineer. Prospective permittees should contact the appropriate Corps district office to determine if regional conditions have been imposed on an NWP. Prospective permittees should also contact the appropriate Corps district office to determine the status of Clean Water Act Section 401 water quality certification and/or Coastal Zone Management Act consistency for an NWP. Every person who may wish to obtain permit authorization under one or more NWPs, or who is currently relying on an existing or prior permit authorization under one or more NWPs, has been and is on notice that all of the provisions of 33 CFR 330.1 through 330.6 apply to every NWP authorization. Note especially 33 CFR 330.5 relating to the modification, suspension, or revocation of any NWP authorization.

1. Navigation. (a) No activity may cause more than a minimal adverse effect on navigation.
(b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States.

(c) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to

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remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

2. Aquatic Life Movements. No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. All permanent and temporary crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species. If a bottomless culvert cannot be used, then the crossing should be designed and constructed to minimize adverse effects to aquatic life movements.

3. Spawning Areas. Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.

4. Migratory Bird Breeding Areas. Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.

5. Shellfish Beds. No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWPs 4 and 48, or is a shellfish seeding or habitat restoration activity authorized by NWP 27.

6. Suitable Material. No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see section 307 of the Clean Water Act).

7. Water Supply Intakes. No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.

8. Adverse Effects From Impoundments. If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.

9. Management of Water Flows. To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization, storm water management activities, and temporary and permanent road crossings, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

10. Fills Within 100-Year Floodplains. The activity must comply with applicable FEMA-approved state or local floodplain management requirements.

11. Equipment. Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.

12. Soil Erosion and Sediment Controls. Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow, or during low tides.

13. Removal of Temporary Fills. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.

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14. Proper Maintenance. Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety and compliance with applicable NWP general conditions, as well as any activity-specific conditions added by the district engineer to an NWP authorization.

15. Single and Complete Project. The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.

16. Wild and Scenic Rivers. (a) No NWP activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status.

(b) If a proposed NWP activity will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, the permittee must submit a pre-construction notification (see general condition 32). The district engineer will coordinate the PCN with the Federal agency with direct management responsibility for that river. The permittee shall not begin the NWP activity until notified by the district engineer that the Federal agency with direct management responsibility for that river has determined in writing that the proposed NWP activity will not adversely affect the Wild and Scenic River designation or study status.

(c) Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency responsible for the designated Wild and Scenic River or study river (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service). Information on these rivers is also available at: http://www.rivers.gov/.

17. Tribal Rights. No NWP activity may cause more than minimal adverse effects on tribal rights (including treaty rights), protected tribal resources, or tribal lands.

18. Endangered Species. (a) No activity is authorized under any NWP which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify the critical habitat of such species. No activity is authorized under any NWP which "may affect" a listed species or critical habitat, unless ESA section 7 consultation addressing the effects of the proposed activity has been completed. Direct effects are the immediate effects on listed species and critical habitat caused by the NWP activity. Indirect effects are those effects on listed species and critical habitat that are caused by the NWP activity and are later in time, but still are reasonably certain to occur.

(b) Federal agencies should follow their own procedures for complying with the requirements of the ESA. If pre-construction notification is required for the proposed activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation has not been submitted, additional ESA section 7 consultation may be necessary for the activity and the respective federal agency would be responsible for fulfilling its obligation under section 7 of the ESA.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species or designated critical habitat, the pre-construction notification must include the name(s) of the endangered or threatened species that might be affected by the proposed activity or that utilize the designated critical habitat that might be affected by the proposed activity. The district engineer will determine whether the proposed activity "may affect" or will have "no effect" to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps' determination within 45 days of receipt of a complete pre-construction notification. In cases where the non-Federal applicant has identified listed species or critical habitat that might be affected or is in the vicinity of the activity, and has so notified the Corps, the applicant

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shall not begin work until the Corps has provided notification that the proposed activity will have "no effect" on listed species or critical habitat, or until ESA section 7 consultation has been completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(d) As a result of formal or informal consultation with the FWS or NMFS the district engineer may add species-specific permit conditions to the NWPs.

(e) Authorization of an activity by an NWP does not authorize the "take" of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the FWS or the NMFS, the Endangered Species Act prohibits any person subject to the jurisdiction of the United States to take a listed species, where "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The word "harm" in the definition of "take" means an act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.

(f) If the non-federal permittee has a valid ESA section 10(a)(1)(B) incidental take permit with an approved Habitat Conservation Plan for a project or a group of projects that includes the proposed NWP activity, the non-federal applicant should provide a copy of that ESA section 10(a)(1)(B) permit with the PCN required by paragraph (c) of this general condition. The district engineer will coordinate with the agency that issued the ESA section 10(a)(1)(B) permit to determine whether the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation conducted for the ESA section 10(a)(1)(B) permit. If that coordination results in concurrence from the agency that the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation for the ESA section 10(a)(1)(B) permit, the district engineer does not need to conduct a separate ESA section 7 consultation for the proposed NWP activity. The district engineer will notify the non-federal applicant within 45 days of receipt of a complete pre-construction notification whether the ESA section 10(a)(1)(B) permit covers the proposed NWP activity or whether additional ESA section 7 consultation is required.

(g) Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the FWS and NMFS or their world wide web pages at http://www.fws.gov/ or http://www.fws.gov/ipac and http://www.nmfs.noaa.gov/pr/species/esa/ respectively.

19. Migratory Birds and Bald and Golden Eagles. The permittee is responsible for ensuring their action complies with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. The permittee is responsible for contacting appropriate local office of the U.S. Fish and Wildlife Service to determine applicable measures to reduce impacts to migratory birds or eagles, including whether "incidental take" permits are necessary and available under the Migratory Bird Treaty Act or Bald and Golden Eagle Protection Act for a particular activity.

20. Historic Properties. (a) In cases where the district engineer determines that the activity may have the potential to cause effects to properties listed, or eligible for listing, in the National Register of Historic Places, the activity is not authorized, until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.

(b) Federal permittees should follow their own procedures for complying with the requirements of section 106 of the National Historic Preservation Act. If pre-construction notification is required for the proposed NWP activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation is not submitted, then additional consultation under section 106 may be necessary. The respective federal agency is responsible for fulfilling its obligation to comply with section 106.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if the NWP activity might have the potential to cause effects to any historic properties listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the pre-construction notification must state which historic properties might have the potential to be affected by the proposed NWP activity or include a vicinity map indicating the

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Perennial stream: A perennial stream has flowing water year-round during a typical year. The water table is located above the stream bed for most of the year. Groundwater is the primary source of water for stream flow. Runoff from rainfall is a supplemental source of water for stream flow.

Practicable: Available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

Pre-construction notification: A request submitted by the project proponent to the Corps for confirmation that a particular activity is authorized by nationwide permit. The request may be a permit application, letter, or similar document that includes information about the proposed work and its anticipated environmental effects. Pre-construction notification may be required by the terms and conditions of a nationwide permit, or by regional conditions. A pre-construction notification may be voluntarily submitted in cases where pre-construction notification is not required and the project proponent wants confirmation that the activity is authorized by nationwide permit.

Preservation: The removal of a threat to, or preventing the decline of, aquatic resources by an action in or near those aquatic resources. This term includes activities commonly associated with the protection and maintenance of aquatic resources through the implementation of appropriate legal and physical mechanisms. Preservation does not result in a gain of aquatic resource area or functions.

Protected tribal resources: Those natural resources and properties of traditional or customary religious or cultural importance, either on or off Indian lands, retained by, or reserved by or for, Indian tribes through treaties, statutes, judicial decisions, or executive orders, including tribal trust resources.

Re-establishment: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former aquatic resource. Re-establishment results in rebuilding a former aquatic resource and results in a gain in aquatic resource area and functions.

Rehabilitation: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural/historic functions to a degraded aquatic resource. Rehabilitation results in a gain in aquatic resource function, but does not result in a gain in aquatic resource area.

Restoration: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former or degraded aquatic resource. For the purpose of tracking net gains in aquatic resource area, restoration is divided into two categories: re-establishment and rehabilitation.

Riffle and pool complex: Riffle and pool complexes are special aquatic sites under the 404(b)(1) Guidelines. Riffle and pool complexes sometimes characterize steep gradient sections of streams. Such stream sections are recognizable by their hydraulic characteristics. The rapid movement of water over a course substrate in riffles results in a rough flow, a turbulent surface, and high dissolved oxygen levels in the water. Pools are deeper areas associated with riffles. A slower stream velocity, a streaming flow, a smooth surface, and a finer substrate characterize pools.

Riparian areas: Riparian areas are lands next to streams, lakes, and estuarine-marine shorelines. Riparian areas are transitional between terrestrial and aquatic ecosystems, through which surface and subsurface hydrology connects riverine, lacustrine, estuarine, and marine waters with their adjacent wetlands, non-wetland waters, or uplands. Riparian areas provide a variety of ecological functions and services and help improve or maintain local water quality. (See general condition 23.)

Shellfish seeding: The placement of shellfish seed and/or suitable substrate to increase shellfish production. Shellfish seed consists of immature individual shellfish or individual shellfish attached to shells or shell fragments (i.e., spat on shell). Suitable substrate may consist of shellfish shells, shell fragments, or other appropriate materials placed into waters for shellfish habitat.

Single and complete linear project: A linear project is a project constructed for the purpose of getting people, goods, or services from a point of origin to a terminal point, which often involves multiple crossings of one

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or more waterbodies at separate and distant locations. The term "single and complete project" is defined as that portion of the total linear project proposed or accomplished by one owner/developer or partnership or other association of owners/developers that includes all crossings of a single water of the United States (i.e., a single waterbody) at a specific location. For linear projects crossing a single or multiple waterbodies several times at separate and distant locations, each crossing is considered a single and complete project for purposes of NWP authorization. However, individual channels in a braided stream or river, or individual arms of a large, irregularly shaped wetland or lake, etc., are not separate waterbodies, and crossings of such features cannot be considered separately.

Single and complete non-linear project: For non-linear projects, the term "single and complete project" is defined at 33 CFR 330.2(i) as the total project proposed or accomplished by one owner/developer or partnership or other association of owners/developers. A single and complete non-linear project must have independent utility (see definition of "independent utility"). Single and complete non-linear projects may not be "piecemealed" to avoid the limits in an NWP authorization.

Stormwater management: Stormwater management is the mechanism for controlling stormwater runoff for the purposes of reducing downstream erosion, water quality degradation, and flooding and mitigating the adverse effects of changes in land use on the aquatic environment.

Stormwater management facilities: Stormwater management facilities are those facilities, including but not limited to, stormwater retention and detention ponds and best management practices, which retain water for a period of time to control runoff and/or improve the quality (i.e., by reducing the concentration of nutrients, sediments, hazardous substances and other pollutants) of stormwater runoff.

Stream bed: The substrate of the stream channel between the ordinary high water marks. The substrate may be bedrock or inorganic particles that range in size from clay to boulders. Wetlands contiguous to the stream bed, but outside of the ordinary high water marks, are not considered part of the stream bed.

Stream channelization: The manipulation of a stream's course, condition, capacity, or location that causes more than minimal interruption of normal stream processes. A channelized stream remains a water of the United States.

Structure: An object that is arranged in a definite pattern of organization. Examples of structures include, without limitation, any pier, boat dock, boat ramp, wharf, dolphin, weir, boom, breakwater, bulkhead, revetment, riprap, jetty, artificial island, artificial reef, permanent mooring structure, power transmission line, permanently moored floating vessel, piling, aid to navigation, or any other manmade obstacle or obstruction.

Tidal wetland: A tidal wetland is a jurisdictional wetland that is inundated by tidal waters. Tidal waters rise and fall in a predictable and measurable rhythm or cycle due to the gravitational pulls of the moon and sun. Tidal waters end where the rise and fall of the water surface can no longer be practically measured in a predictable rhythm due to masking by other waters, wind, or other effects. Tidal wetlands are located channelward of the high tide line.

Tribal lands: Any lands title to which is either: 1) held in trust by the United States for the benefit of any Indian tribe or individual; or 2) held by any Indian tribe or individual subject to restrictions by the United States against alienation.

Tribal rights: Those rights legally accruing to a tribe or tribes by virtue of inherent sovereign authority, unextinguished aboriginal title, treaty, statute, judicial decisions, executive order or agreement, and that give rise to legally enforceable remedies.

Vegetated shallows: Vegetated shallows are special aquatic sites under the 404(b)(1) Guidelines. They are areas that are permanently inundated and under normal circumstances have rooted aquatic vegetation, such as seagrasses in marine and estuarine systems and a variety of vascular rooted plants in freshwater systems.

Waterbody: For purposes of the NWPs, a waterbody is a jurisdictional water of the United States. If a wetland is adjacent to a waterbody determined to be a water of the United States, that waterbody and any adjacent

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wetlands are considered together as a single aquatic unit (see 33 CFR 328.4(c)(2)). Examples of "waterbodies" include streams, rivers, lakes, ponds, and wetlands.

G. Buffalo and New York District General Regional Conditions
These conditions apply to ALL Nationwide Permits.

G-A. Construction Best Management Practices (BMP's): Unless specifically approved otherwise through issuance of a variance by the District Engineer, the following BMP's must be implemented to the maximum degree practicable, to minimize erosion, migration of sediments, and adverse environmental impacts. Note that at a minimum, all erosion and sediment control and stormwater management practices must be designed, installed and maintained throughout the entire construction project in accordance with the latest version of the *"New York Standards and Specifications for Erosion and Sediment Control"* and the *"New York State Stormwater Management Design Manual"*. These documents are available at: http://www.dec.ny.gov/chemical/29066.html and http://www.dec.ny.gov/chemical/29072.html , respectively. Prior to the discharge of any dredged or fill material into waters of the United States, including wetlands, authorized by NWP, the permittee must install and maintain erosion and sedimentation controls in and/or adjacent to wetlands or other waters of the United States.

1. All synthetic erosion control features (e.g., silt fencing, netting, mats), which are intended for temporary use during construction, shall be completely removed and properly disposed of after their initial purpose has been served. Only natural fiber materials, which will degrade over time, may be abandoned in place.

2. Materials resulting from trench excavation for utility line installation or ditch reshaping activities which are temporarily sidecast or stockpiled into waters of the United States must be backfilled or removed to an upland area within 30 days of the date of deposition. Note: upland options shall be utilized prior to temporary placement within waters of the U.S., unless it can be demonstrated that it would not be practicable or if the impacts of complying with this upland option requirement would result in more adverse impacts to the aquatic environment.

3. For trenching activities in wetlands the applicant shall install impermeable trench dams or trench breakers at the wetland boundaries and every 100 feet within wetland areas to prevent inadvertent drainage of wetlands or other waters of the United States.

4. Dry stream crossing methods (e.g., diversion, dam and pump, flume, bore) shall be utilized for culvert or other pipe, or utility installations to reduce downstream impacts from turbidity and sedimentation. This may require piping or pumping the stream flow around the work area and the use of cofferdams.

5. No in-stream work shall occur during periods of high flow, except for work that occurs in dewatered areas behind temporary diversions, cofferdams or causeways.

6. Construction access and staging areas shall be by means that avoid or minimize impacts to aquatic sites (e.g. use of upland areas for access & staging, floating barges, mats, etc.). Discharges of fill material associated with the construction of temporary access roads, staging areas and work pads in wetlands shall be placed on filter fabric. All temporary fills shall be removed upon completion of the work and the disturbed area restored to pre-construction contours, elevations and wetland conditions, including cover type. All vegetation utilized in the restoration activity shall consist of native species.

7. All return flow from dredged material disposal areas shall not result in an increase in turbidity in the receiving water body that will cause a substantial visible contrast to natural conditions. (See NWP #16)

8. For activities involving the placement of concrete into waters of the U.S., the permittee must employ watertight forms. The forms shall be dewatered prior to the placement of the concrete. The use of tremie concrete is allowed, provided that it complies with New York State water quality standards.

9. New stormwater management facilities shall be located outside of waters of the U.S. A variance of this requirement may be requested with the submission of a PCN. The PCN must include justification which demonstrates that avoidance and minimization efforts have been met.

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10. To the maximum extent practicable, the placement of fill in wetlands must be designed to maintain pre-construction surface water flows/conditions between remaining on or off-site waters and to prevent draining of the wetland or permanent hydrologic alteration. This may require the use of culverts and/or other measures. Furthermore, the activity must not restrict or impede the passage of normal or expected high flows (unless the primary purpose of the fill is to impound waters). The activity may alter the pre-construction flows/conditions if it can be shown that it benefits the aquatic environment (i.e. wetland restoration and/or enhancement).

G-B. CULVERTS

1. **ALL NEW OR REPLACEMENT CULVERTS** in streams shall be constructed/installed in accordance with the following, in order to ensure compliance with NWP General Condition #2 – Aquatic Life Movement and #9 Management of Water Flows:

a. Size: Bank-full flows shall be accommodated through maintenance of the existing bank-full channel cross sectional dimensions within one culvert. Bank-full width is generally considered to be the top width at the stage where a stream begins to overtop its banks and spread into the floodplain. Either a bottomless culvert or bridge must be used where practicable. If the stream cannot be spanned, the culvert width shall be minimum of 1.25 times width of the stream channel at the ordinary high water, or a 2 year design storm.

b. Depth: To maintain low flow and aquatic life movement within culverts with a bottom, the culvert invert must be embedded. Specifically, the culvert must be installed with its bottom buried below the grade of the stream bed, as measured at the average low point, to a depth of a minimum of 20 percent of the culvert vertical rise (height) throughout the length of the culvert. (Note: When not practicable to do so due to small culvert size, it is acceptable to allow natural deposition to cover the interior of the culvert bed following placement of the culvert invert to the 20% depth.)

c. The dimension, pattern, and profile of the stream above and below the stream crossing shall not be permanently modified by changing the width or depth of the stream channel.

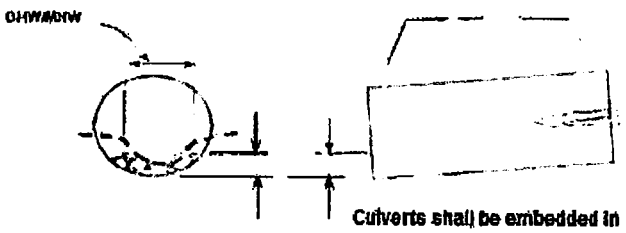
d. The culvert bed slope shall remain consistent with the slope of the adjacent stream channel.

e. Stone aprons and scour protection placed in streams shall not extend higher than the stream bed in order to create a uniform grade and shall be filled with native stream bed material and supplemented with similarly sized material, if needed, to fill interstitial spaces to maintain water flow on the surface of the stream bed.

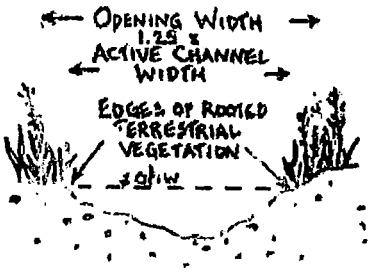
Note 1: Use of the requirements alone will not satisfy the need for proper engineering and design. In particular, appropriate engineering is required to ensure structures are sized and designed to provide adequate capacity (to pass various flood flows) and stability (bed, bed forms, footings and abutments, both upstream and downstream). It is the permittee's responsibility to ensure the structure is appropriately designed.
Note 2: This condition does not apply to temporary culverts used for construction access that are in place for less than one construction season. However, compliance with General Conditions #2 and #9 still applies.

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The diameter of the culvert shall accommodate bankfull flows by sizing the culvert 1.25 times the stream width at ordinary high water/mean high water (OHW/MHW) mark; or a 2-year design storm.



Culverts shall be embedded in the stream bed at least 20% of total culvert height and culverts shall be installed in line with the slope of the natural channel.



Preconstruction Notification (PCN) Requirements:
A PCN is required for projects that do not meet all of the above requirements. In addition to the PCN requirements of General Condition #32, the PCN must include the following information:

i. A statement indicating which of the above requirements will not be met by the proposed project;

ii. Information as to why the use of such structures or measures would not be practicable;

iii. A brief description of the stream discussing:
- Site specific information (i.e. stream bed slope, type and size of stream bed material, stream type, existing natural or manmade barriers, etc.) assessed to determine appropriate culvert design and to ensure management of water flows and aquatic life movement.
- Evaluation of the replacement for its impacts on: downstream flooding, upstream and downstream habitat (in-stream habitat, wetlands), potential for erosion and headcutting, and stream stability.
- Flow/storm event the proposed culvert is designed to pass (2 year, 50 year, etc.)

iv. Cross sections of the stream used to calculate the stream bed low point and ordinary high water width, consisting of:
- Stream channel cross sections shall be taken at proximal locations to the crossing location to determine the average of the lowest points in elevation of the stream bed and the average width at ordinary high water.
  - For new crossing locations, the average values from at least three measurements (project location and straight sections of the stream upstream and downstream) shall be used.
  - For replacement of an existing structure, the average values from at least two cross sections (straight sections of the stream upstream and downstream from the existing structure representative of the natural channel) shall be used.
- This average low point shall be used to ensure low flow is maintained through the culvert and from which all embedment depths are measured.
- If the above cross section method was not practicable to use, an alternative method may be utilized. The PCN shall include justification for the method used including the data used and an explanation as to how it provides an equivalent measure.

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v. An evaluation of the effects the crossing would have on aquatic life movement and/or water flows; and

vi. Mitigation measures that will be employed to minimize these effects. Mitigation measures may include, but are not limited to baffles, weirs, roughened channels, and grade control structures

A variance of the requirement(s) will be issued by the Corps if it can be demonstrated that the proposal would meet General Conditions #2 & #9 and would result in the least environmentally damaging practicable alternative (e.g. compliance with any of the requirement(s) would result in detrimental impacts to the aquatic system).

2. **ALL CULVERT REHABILITATION PROJECTS** in streams, not including culvert replacement projects, shall be constructed in accordance with the following, in order to ensure compliance with NWP General Condition #2 – Aquatic Life Movement and #9 Management of Water Flows:

a. An evaluation of the existing culvert shall be conducted prior to the proposed culvert rehabilitation to determine if the existing culvert is in compliance with NWP GC #2 and #9. Specifically, the culvert shall be evaluated regarding its effect upon aquatic life movements and low/ high water flow. If the above requirements in General Regional Condition B. 1 (a)-(e) are met then the culvert is considered in compliance with NWP General Conditions #2 & # 9. (Potential evaluation methods to consider include: North Atlantic Aquatic Connectivity Collaborative (NAACC), US Forest Service Aquatic Organism Passage FishXing, etc.)

b. A PCN is not required for projects that utilize cured-in-place pipe lining or other repair activities that do not raise the existing invert elevation such that it causes an impediment to the passage of either aquatic life movement or water flow unless there is an existing impediment.

c. A PCN is required for any culvert rehabilitation project that includes a culvert which is not in compliance with GC #2 and/or #9 (i.e. impedes aquatic life movement or water flow) and which will not be corrected by the proposed repair.

d. A PCN is required for culvert rehabilitation projects which will involve pipe slip lining or other activities, including concrete invert paving and concrete lining that raise the existing invert elevation such that it causes an impediment to the passage of low flow or aquatic life movement. Slip lining is defined as the insertion of a smaller diameter pipe into an existing pipe by pulling pushing, or spiral winding.

Preconstruction Notification (PCN) Requirements:
In addition to the PCN requirements of General Condition #32, the PCN must include the following information:

i. A summary of the evaluation required in Item a. above including a discussion of the impediment(s) to aquatic life movement and/or water flow.

ii. Information as to how the proposal will mitigate for the impediment. Mitigation measures may include, but are not limited to baffles, weirs, roughened channels, and grade control structures.

G-C. No regulated activity authorized by a Nationwide Permit can cause the loss of areas classified as a bog or fen in the State of New York, as determined by the Buffalo or the New York District Corps of Engineers, due to the scarcity of this habitat in New York State and the difficulty with in-kind mitigation. The Districts will utilize the following document in the classification:

Reschke, C. 1990. *Ecological Communities of New York State*. New York Natural Heritage Program. New York State Department of Environmental Conservation. Latham, N.Y. 96p. This document is available at the following location: http://www.dec.ny.gov/animals/29389.html

G-D. National Wild and Scenic Rivers (NWSR): The Upper Delaware River has been designated as a National Wild and Scenic River from the confluence of the East and West Branches below Hancock, New York, to the existing railroad bridge immediately downstream of Cherry Island in the vicinity of Sparrow Bush, New York.

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Also, the portion of the Genesee River located within Letchworth Gorge State Park, beginning at the southern boundary of the park and extending downstream to the Mt. Morris Dam, was designated by Congress as a permanent Study River in the Genesee River Protection Act of 1989. In accordance with General Condition #16, no activity may occur within a NWSR, including Study Rivers, unless the National Park Service (NPS) has determined in writing that the
proposed work will not adversely affect the NWSR designation or study status. Therefore, a PCN is required for any NWP which would impact the designated portions of the Genesee River or the Upper Delaware River, unless NPS has previously indicated the project will not adversely affect the waterway. (Note: the applicant may not commence work under any NWP until the NPS determines in writing that the project will not adversely affect the NWSR even if 45-days have passed since receipt of the PCN package.) Information regarding NWSR may be found at: https://www.rivers.gov/new-york.php

G-E. For all proposals requiring a pre-construction notification (PCN), in addition to the requirements in General Condition 32, the applicant shall also include: (Note: the application will not be considered complete until all of the applicable information is received).

1. New York State/USACE Joint Application Form: The application form shall be completed and signed and shall clearly indicate that the submission is a PCN.
(http://www.lrb.usace.army.mil/Missions/Regulatory/Application-Forms/)

2. Drawings: The PCN must include legible, black and white project drawings on 8.5" x 11" paper. Full size drawings may be submitted in addition to the 8.5" x 11" plans to aid in the application review. Three types of illustrations are needed to properly depict the work to be undertaken. These illustrations or drawings are a Vicinity Map (i.e. a location map such as a USGS topographical map), a Plan View and a Cross-Section Map. Each illustration should identify the project, the applicant, and the type of illustration (vicinity map, plan view or cross section). The Vicinity Map shall provide the location of the entire project site. In addition, each illustration should be identified with a figure or attachment number. The location map shall include the Latitude and Longitude or UTM coordinates of the project. For linear projects, the PCN shall include a map of the entire project including a delineation of all waters of the U.S. within the corridor. Aquatic resource information shall be submitted using the Cowardin Classification System mapping conventions (e.g. PFO, PEM, etc.)

3. Color photographs: The photos should be sufficient to accurately portray the project site, keyed to a location map and not taken when snow cover is present.

4. Avoidance and Minimization: The PCN must include a written narrative explaining how avoidance and minimization of temporary impacts and permanent losses of waters of the U.S. were achieved on the project site (i.e. site redesign, reduction in scope, alternate methods, etc.). It should include a description of the proposed construction practices that would be implemented to perform the proposed work and a description of the reasonably foreseeable direct and indirect effects to waters of the U.S. from the proposed construction practices.

5. Mitigation (See General Conditions 23 & 32(b)(6)): The PCN must include at least a conceptual compensatory mitigation plan for all projects resulting in the loss of greater than 1/10th of an acre of waters of the United States; or for which a waiver of the 300 linear foot limit on intermittent and ephemeral streams is being requested. Mitigation conceptual plans submitted with the PCN must include the following information at a minimum: proposed compensation type (bank or in-lieu fee credit, restoration, creation, preservation, etc.), location and brief discussion on factors considered for site selection (i.e. soils, water source, potential for invasive species, etc.), amount proposed per resource type and a discussion of how the proposal will compensate for aquatic resource functions and services lost as a result of the project.

Note 1: All mitigation projects must comply with the Federal Regulations on compensatory mitigation (33 CFR 332) entitled "Compensatory Mitigation for Losses of Aquatic Resources: Final Rule", dated April 10, 2008, which is available at:
http://www.lrb.usace.army.mil/Portals/45/docs/regulatory/MitandMon/FinalMitigaitonRuleApril2008.pdf
and any applicable District Guidelines.

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Note 2: Although a conceptual mitigation plan may be sufficient for the purposes of a PCN submission, a detailed mitigation plan must be approved by the Corps before any jurisdictional work may occur on the project site.

Note 3: If more than 0.10 acres of designated EFH habitat (as discussed in Section G-E.8. below) would be impacted such that habitat would be lost, compensatory mitigation at a minimum ratio of 1:1 is required. A ratio of more than 1:1 may be required depending upon the ecological value of the habitat to be lost or degraded and the form of compensatory mitigation proposed to be provided.

6. Nationwide Rivers Inventory: The PCN shall indicate if a river segment listed within the National Park Service Nationwide Rivers Inventory (NRI) is located within the proposed project area. For project areas containing a listed NRI segment, the PCN shall also include a statement as to how adverse effects to the river have been avoided or mitigated. The list is available at: http://www.nps.gov/ncrc/programs/rtca/nri/states/ny.html.

7. Historic or Cultural Resources: In accordance with General Condition 20, a PCN is required for any non-federal activity which may have the potential to cause effects to any historic properties* listed, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places (NR). Please refer to General Condition 20 for submission requirements. In addition, all PCNs must include:

- A written statement indicating if any such properties may be affected by the proposed project.
- A copy of any completed archaeology or building/structure survey reports. If a survey has not been performed, the statement shall include a list of resources checked in the determination.
- Copies of any available correspondence from the New York State Office of Parks, Recreation, and Historic Preservation State Historic Preservation Officer (SHPO) regarding historic properties.
- Copies of any available correspondence from federally recognized Indian Nations regarding historic properties that may be affected by the project.
- Projects with ground disturbance may have the potential to cause effects to buried historic properties, regardless of occurring outside SHPO designated archaeological sensitive areas. Therefore, the PCN shall indicate if the ground disturbance will occur in any areas of previously undisturbed soil. For areas with prior disturbance, the PCN shall include a brief narrative describing the disturbance and its limit (i.e. type of disturbance, size of area with current undisturbed soil, size of area with existing disturbed soils, when the disturbance occurred, an estimate on how deep the soil disturbance extends, etc.) as well as photos of the existing ground disturbance.
- Above ground buildings/structures that are over 50 years old and potentially affected by the project will need to be assessed to determine if they are eligible for the NR. The PCN shall: identify any structures present in the project area, which have not already been subject to SHPO review, include photos of the structures, and describe how the project would/would not affect them.

* - see NWP definition section for further clarification

NOTE 1: Information regarding historic properties may be found at: https://cris.parks.ny.gov. In addition, assistance regarding the determination of the presence of historic or cultural resources at or near the project site should be directed to SHPO.

NOTE 2: as stated in General Condition 20, if any listed, eligible or potentially eligible properties are present, the applicant shall not begin the activity until notified by the district engineer in writing either that the activity has no potential to cause effects or that consultation under Section 106 of the NHPA has been completed.

8. Endangered Species and Essential Fish Habitat: In accordance with General Condition 18, non-federal applicants must submit a PCN if any listed species or designated critical habitat might be affected or

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is in the vicinity of the activity, or if the activity is located in designated critical habitat. Please refer to General Condition 18 for submission requirements. In addition, all PCNs must include:

- a written statement and documentation concerning any Essential Fish Habitat (EFH) and any federally listed or proposed Threatened, Endangered, or Candidate (TE&C) species or designated and/or proposed critical habitat that might be affected or located in the vicinity of the project.
- a copy of any correspondence from the U.S. Fish and Wildlife Service (USFWS) and/or National Oceanic and Atmospheric Administration Fisheries Service (NOAA-Fisheries), regarding the potential presence of TE&C species on the project site. USFWS TE&C website: http://www.fws.gov/northeast/nyfo/es/section7.htm . Information on NOAA-Fisheries (NMFS) species (both TE&C and EFH) can be found at: https://www.greateratlantic.fisheries.noaa.gov/
- an official TE&C species list printed within 90 days of the PCN submission from the USFWS Website.
- For projects where TE&C species are listed, a discussion of potential TE&C species habitat within the project site (See USFWS T&E website for species habitat information).
- If there is potential habitat for any TE&C species within the project site the following, as applicable, shall be submitted:

  a. The results of any habitat surveys and presence/absence surveys. Note: all surveys should be coordinated with the USFWS and/or NOAA-Fisheries (NMFS) prior to initiation.
  b. A detailed description of the proposed project, including secondary impacts and approximate proposed project construction schedule of project activities (e.g. land clearing, utilities, stormwater management).
  c. A description of the natural characteristics of the property and surrounding area (e.g. forested areas, freshwater wetlands, open waters, and soils) and a description of surrounding land use (residential, agricultural, or commercial).
  d. A description of the area to be impacted by the proposed project, including the species, typical sizes (d.b.h.) and number or acres of trees to be removed.
  e. The location of the above referenced property and extent of any project related activities or discharges clearly indicated on a copy of a USGS 7.5 minute topographic quadrangle (quad) with the name of the quad(s) and latitude/longitude clearly labeled.
  f. A description of conservation measures to avoid, minimize and/or mitigate impacts to listed species.

NOTE 1: There are no known TE&C species or EFH species under the jurisdiction of the NOAA-Fisheries (NMFS) within the Buffalo District. Therefore, all Buffalo District requests for information regarding the presence of TE&C species should be directed to the USFWS. In addition, no EFH review is necessary within the following New York District counties: Clinton, Essex, Franklin, Fulton, Hamilton, Montgomery, Otsego, Schenectady, Schoharie and Warren.

NOTE 2: Please refer to the following website for further guidance and information relating to regulatory permits & TE&C species in New York:
http://www.lrb.usace.army.mil/Missions/Regulatory/Endangered-Species/Endangered-Species-New-York/

NOTE 3: General Condition #18 is emphasized, ..."In cases where the non-Federal applicant has identified listed species or critical habitat that might be affected or is in the vicinity of the project, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification the proposed work will have "no effect" on listed species or critical habitat, or until Section 7 consultation has been completed."

9. 100 Year Floodplain: For permanent fills within waters of the United States within the 100 year floodplain, documentation of compliance with FEMA-approved state or local floodplain management requirements.

10. Submission of Multiple Copies of PCN:

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a) One (1) additional copy of the application drawings shall be provided to USACE for coordination with National Oceanic and Atmospheric Administration (NOAA) for utility lines to be constructed or installed in navigable waters of the U.S. proposed under NWP #12, (See Note 1 of NWP #12)

b) One (1) additional copy of the PCN package shall be provided to USACE for coordination with Department of Defense Siting Clearinghouse (See NWP #12, 39, 51 & 52 Notes) for:
   i. overhead utility lines proposed under NWP #12 and
   ii. any activity that involves the construction of a wind energy generating structure, solar tower, or overhead transmission lines proposed under NWP #39, 51 or 52

c) Two (2) additional copies of the PCN package shall be provided to USACE when the project is located within the New York City Watershed, for coordination with the New York City Department of Environmental Protection.

d) Five (5) additional copies of the PCN package shall be submitted to USACE for agency coordination in accordance with General Condition # 32(d)(2) for:
   i. All NWP activities that result in the loss of greater than 1/2-acre of waters of the United States,
   ii. NWP 21, 29, 39, 40, 42, 43, 44, 50, 51, and 52 activities that will result in the loss of greater than 300 linear feet of intermittent & ephemeral stream bed,
   iii. NWP 13 activities in excess of 500 linear feet, fills greater than one cubic yard per running foot, or involve discharges of dredged or fill material into special aquatic sites;
   iv. NWP 54 activities in excess of 500 linear feet or that extend into the waterbody more than 30 feet from the mean low water line in tidal waters or the ordinary high water mark in the Great Lakes.

G-F. CRITICAL RESOURCE WATERS

In accordance with NWP General Condition (GC) #22, certain activities in Critical Resource Waters cannot be authorized under the NWP program or would require a PCN (see GC #22 for a list of the NWP activities that are either excluded or require a PCN).

Critical Resource Waters in New York State include the following:

1. **East-of-Hudson portion of the New York City Water Supply:** This area includes portions of Dutchess, Putnam and Westchester Counties as delineated on Enclosure 2.

2. **Hudson River National Estuarine Research Reserves (NERR):** The Hudson River NERR consists of four components: Piermont Marsh, Iona Island, Tivoli Bay, and Stockport Flats.

H. NYSDEC General Water Quality Certification (WQC) Conditions applicable to all NWPs for which WQC has been provided are as follows:

1. Non-contamination of Waters
   • All necessary precautions shall be taken to preclude contamination of any wetland or waterway by suspended solids, resins, sediments, fuels, solvents, lubricants, epoxy coatings, paints, concrete, leachate, inadvertent returns of drilling muds (frac-outs) or any other environmentally deleterious materials associated with the project.

2. Installation and Replacement of Culverts
To be covered under this blanket Water Quality Certification, all of the following criteria must be met:
   • Culvert pipes shall be designed to safely pass a 2% annual chance storm event.
   • This certification does not authorize the installation of any culverts that are not embedded beneath the existing grade of the stream channel.
   • Width of the structure must be a minimum of 1.25 times (1.25X) width of the Mean (Ordinary) High Water Channel.

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location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of, or potential for, the presence of historic properties can be sought from the State Historic Preservation Officer, Tribal Historic Preservation Officer, or designated tribal representative, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). When reviewing pre-construction notifications, district engineers will comply with the current procedures for addressing the requirements of section 106 of the National Historic Preservation Act. The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts, which may include background research, consultation, oral history interviews, sample field investigation, and field survey. Based on the information submitted in the PCN and these identification efforts, the district engineer shall determine whether the proposed NWP activity has the potential to cause effects on the historic properties. Section 106 consultation is not required when the district engineer determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR 800.3(a)). Section 106 consultation is required when the district engineer determines that the activity has the potential to cause effects on historic properties. The district engineer will conduct consultation with consulting parties identified under 36 CFR 800.2(c) when he or she makes any of the following effect determinations for the purposes of section 106 of the NHPA: no historic properties affected, no adverse effect, or adverse effect. Where the non-Federal applicant has identified historic properties on which the activity might have the potential to cause effects and so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects to historic properties or that NHPA section 106 consultation has been completed.

(d) For non-federal permittees, the district engineer will notify the prospective permittee within 45 days of receipt of a complete pre-construction notification whether NHPA section 106 consultation is required. If NHPA section 106 consultation is required, the district engineer will notify the non-Federal applicant that he or she cannot begin the activity until section 106 consultation is completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(e) Prospective permittees should be aware that section 110k of the NHPA (54 U.S.C. 306113) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

21. Discovery of Previously Unknown Remains and Artifacts. If you discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity authorized by this permit, you must immediately notify the district engineer of what you have found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The district engineer will initiate the Federal, Tribal, and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

22. Designated Critical Resource Waters. Critical resource waters include, NOAA-managed marine sanctuaries and marine monuments, and National Estuarine Research Reserves. The district engineer may designate, after notice and opportunity for public comment, additional waters officially designated by a state as having particular environmental or ecological significance, such as outstanding national resource waters or state natural heritage sites. The district engineer may also designate additional critical resource waters after notice and opportunity for public comment.

(a) Discharges of dredged or fill material into waters of the United States are not authorized by NWPs 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, 50, 51, and 52 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.

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(b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, 38, and 54, notification is required in accordance with general condition 32, for any activity proposed in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWPs only after it is determined that the impacts to the critical resource waters will be no more than minimal.

23. Mitigation. The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal:

(a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (i.e., on site).

(b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) will be required to the extent necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal.

(c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10-acre and require pre-construction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse environmental effects of the proposed activity are no more than minimal, and provides an activity-specific waiver of this requirement. For wetland losses of 1/10-acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in only minimal adverse environmental effects.

(d) For losses of streams or other open waters that require pre-construction notification, the district engineer may require compensatory mitigation to ensure that the activity results in no more than minimal adverse environmental effects. Compensatory mitigation for losses of streams should be provided, if practicable, through stream rehabilitation, enhancement, or preservation, since streams are difficult-to-replace resources (see 33 CFR 332.3(e)(3)).

(e) Compensatory mitigation plans for NWP activities in or near streams or other open waters will normally include a requirement for the restoration or enhancement, maintenance, and legal protection (e.g., conservation easements) of riparian areas next to open waters. In some cases, the restoration or maintenance/protection of riparian areas may be the only compensatory mitigation required. Restored riparian areas should consist of native species. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. If it is not possible to restore or maintain/protect a riparian area on both sides of a stream, or if the waterbody is a lake or coastal waters, then restoring or maintaining/protecting a riparian area along a single bank or shoreline may be sufficient. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (e.g., riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of minimization or compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.

(f) Compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of 33 CFR part 332.

(1) The prospective permittee is responsible for proposing an appropriate compensatory mitigation option if compensatory mitigation is necessary to ensure that the activity results in no more than minimal adverse environmental effects. For the NWPs, the preferred mechanism for providing compensatory mitigation is mitigation bank credits or in-lieu fee program credits (see 33 CFR 332.3(b)(2) and (3)). However, if an appropriate number and type of mitigation bank or in-lieu credits are not available at the time the PCN is submitted to the district engineer, the district engineer may approve the use of permittee-responsible mitigation.

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(2) The amount of compensatory mitigation required by the district engineer must be sufficient to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects (see 33 CFR 330.1(e)(3)). (See also 33 CFR 332.3(f)).

(3) Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, aquatic resource restoration should be the first compensatory mitigation option considered for permittee-responsible mitigation.

(4) If permittee-responsible mitigation is the proposed option, the prospective permittee is responsible for submitting a mitigation plan. A conceptual or detailed mitigation plan may be used by the district engineer to make the decision on the NWP verification request, but a final mitigation plan that addresses the applicable requirements of 33 CFR 332.4(c)(2) through (14) must be approved by the district engineer before the permittee begins work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation (see 33 CFR 332.3(k)(3)).

(5) If mitigation bank or in-lieu fee program credits are the proposed option, the mitigation plan only needs to address the baseline conditions at the impact site and the number of credits to be provided.

(6) Compensatory mitigation requirements (e.g., resource type and amount to be provided as compensatory mitigation, site protection, ecological performance standards, monitoring requirements) may be addressed through conditions added to the NWP authorization, instead of components of a compensatory mitigation plan (see 33 CFR 332.4(c)(1)(ii)).

(g) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2-acre, it cannot be used to authorize any NWP activity resulting in the loss of greater than 1/2-acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that an NWP activity already meeting the established acreage limits also satisfies the no more than minimal impact requirement for the NWPs.

(h) Permittees may propose the use of mitigation banks, in-lieu fee programs, or permittee-responsible mitigation. When developing a compensatory mitigation proposal, the permittee must consider appropriate and practicable options consistent with the framework at 33 CFR 332.3(b). For activities resulting in the loss of marine or estuarine resources, permittee-responsible mitigation may be environmentally preferable if there are no mitigation banks or in-lieu fee programs in the area that have marine or estuarine credits available for sale or transfer to the permittee. For permittee-responsible mitigation, the special conditions of the NWP verification must clearly indicate the party or parties responsible for the implementation and performance of the compensatory mitigation project, and, if required, its long-term management.

(i) Where certain functions and services of waters of the United States are permanently adversely affected by a regulated activity, such as discharges of dredged or fill material into waters of the United States that will convert a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse environmental effects of the activity to the no more than minimal level.

24. Safety of Impoundment Structures. To ensure that all impoundment structures are safely designed, the district engineer may require non-Federal applicants to demonstrate that the structures comply with established state dam safety criteria or have been designed by qualified persons. The district engineer may also require documentation that the design has been independently reviewed by similarly qualified persons, and appropriate modifications made to ensure safety.

25. Water Quality. Where States and authorized Tribes, or EPA where applicable, have not previously certified compliance of an NWP with CWA section 401, individual 401 Water Quality Certification must be obtained or waived (see 33 CFR 330.4(c)). The district engineer or State or Tribe may require additional water

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quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

26. Coastal Zone Management. In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). The district engineer or a State may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.

27. Regional and Case-By-Case Conditions. The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or U.S. EPA in its section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.

28. Use of Multiple Nationwide Permits. The use of more than one NWP for a single and complete project is prohibited, except when the acreage loss of waters of the United States authorized by the NWPs does not exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1/3-acre.

29. Transfer of Nationwide Permit Verifications. If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature:

"When the structures or work authorized by this nationwide permit are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this nationwide permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below."

_____
(Transferee)

_____
(Date)

30. Compliance Certification. Each permittee who receives an NWP verification letter from the Corps must provide a signed certification documenting completion of the authorized activity and implementation of any required compensatory mitigation. The success of any required permittee-responsible mitigation, including the achievement of ecological performance standards, will be addressed separately by the district engineer. The Corps will provide the permittee the certification document with the NWP verification letter. The certification document will include:

(a) A statement that the authorized activity was done in accordance with the NWP authorization, including any general, regional, or activity-specific conditions;

(b) A statement that the implementation of any required compensatory mitigation was completed in accordance with the permit conditions. If credits from a mitigation bank or in-lieu fee program are used to satisfy the compensatory mitigation requirements, the certification must include the documentation required by 33 CFR 332.3(l)(3) to confirm that the permittee secured the appropriate number and resource type of credits; and

(c) The signature of the permittee certifying the completion of the activity and mitigation.

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The completed certification document must be submitted to the district engineer within 30 days of completion of the authorized activity or the implementation of any required compensatory mitigation, whichever occurs later.

31. Activities Affecting Structures or Works Built by the United States. If an NWP activity also requires permission from the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers (USACE) federally authorized Civil Works project (a "USACE project"), the prospective permittee must submit a pre-construction notification. See paragraph (b)(10) of general condition 32. An activity that requires section 408 permission is not authorized by NWP until the appropriate Corps office issues the section 408 permission to alter, occupy, or use the USACE project, and the district engineer issues a written NWP verification.

32. Pre-Construction Notification. (a) Timing. Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a pre-construction notification (PCN) as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, if the PCN is determined to be incomplete, notify the prospective permittee within that 30 day period to request the additional information necessary to make the PCN complete. The request must specify the information needed to make the PCN complete. As a general rule, district engineers will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective permittee shall not begin the activity until either:

(1) He or she is notified in writing by the district engineer that the activity may proceed under the NWP with any special conditions imposed by the district or division engineer; or

(2) 45 calendar days have passed from the district engineer's receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 18 that listed species or critical habitat might be affected or are in the vicinity of the activity, or to notify the Corps pursuant to general condition 20 that the activity might have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that there is "no effect" on listed species or "no potential to cause effects" on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or section 106 of the National Historic Preservation Act (see 33 CFR 330.4(g)) has been completed. Also, work cannot begin under NWPs 21, 49, or 50 until the permittee has received written approval from the Corps. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee may not begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

(b) Contents of Pre-Construction Notification: The PCN must be in writing and include the following information:

(1) Name, address and telephone numbers of the prospective permittee;

(2) Location of the proposed activity;

(3) Identify the specific NWP or NWP(s) the prospective permittee wants to use to authorize the proposed activity;

(4) A description of the proposed activity; the activity's purpose; direct and indirect adverse environmental effects the activity would cause, including the anticipated amount of loss of wetlands, other special aquatic sites, and other waters expected to result from the NWP activity, in acres, linear feet, or other appropriate unit of measure; a description of any proposed mitigation measures intended to reduce the adverse environmental effects caused by the

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proposed activity; and any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity, including other separate and distant crossings for linear projects that require Department of the Army authorization but do not require pre-construction notification. The description of the proposed activity and any proposed mitigation measures should be sufficiently detailed to allow the district engineer to determine that the adverse environmental effects of the activity will be no more than minimal and to determine the need for compensatory mitigation or other mitigation measures. For single and complete linear projects, the PCN must include the quantity of anticipated losses of wetlands, other special aquatic sites, and other waters for each single and complete crossing of those wetlands, other special aquatic sites, and other waters. Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the activity and when provided results in a quicker decision. Sketches should contain sufficient detail to provide an illustrative description of the proposed activity (e.g., a conceptual plan), but do not need to be detailed engineering plans);

(5) The PCN must include a delineation of wetlands, other special aquatic sites, and other waters, such as lakes and ponds, and perennial, intermittent, and ephemeral streams, on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters on the project site, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many wetlands, other special aquatic sites, and other waters. Furthermore, the 45 day period will not start until the delineation has been submitted to or completed by the Corps, as appropriate;

(6) If the proposed activity will result in the loss of greater than 1/10-acre of wetlands and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied, or explaining why the adverse environmental effects are no more than minimal and why compensatory mitigation should not be required. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.

(7) For non-Federal permittees, if any listed species or designated critical habitat might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat, the PCN must include the name(s) of those endangered or threatened species that might be affected by the proposed activity or utilize the designated critical habitat that might be affected by the proposed activity. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with the Endangered Species Act;

(8) For non-Federal permittees, if the NWP activity might have the potential to cause effects to a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, the PCN must state which historic property might have the potential to be affected by the proposed activity or include a vicinity map indicating the location of the historic property. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with section 106 of the National Historic Preservation Act;

(9) For an activity that will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, the PCN must identify the Wild and Scenic River or the "study river" (see general condition 16); and

(10) For an activity that requires permission from the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers federally authorized civil works project, the pre-construction notification must include a statement confirming that the project proponent has submitted a written request for section 408 permission from the Corps office having jurisdiction over that USACE project.

(c) Form of Pre-Construction Notification: The standard individual permit application form (Form ENG 4345) may be used, but the completed application form must clearly indicate that it is an NWP PCN and must include all of the applicable information required in paragraphs (b)(1) through (10) of this general condition. A letter

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containing the required information may also be used. Applicants may provide electronic files of PCNs and supporting materials if the district engineer has established tools and procedures for electronic submittals.

(d) Agency Coordination: (1) The district engineer will consider any comments from Federal and state agencies concerning the proposed activity's compliance with the terms and conditions of the NWPs and the need for mitigation to reduce the activity's adverse environmental effects so that they are no more than minimal.

(2) Agency coordination is required for: (i) all NWP activities that require pre-construction notification and result in the loss of greater than 1/2-acre of waters of the United States; (ii) NWP 21, 29, 39, 40, 42, 43, 44, 50, 51, and 52 activities that require pre-construction notification and will result in the loss of greater than 300 linear feet of stream bed; (iii) NWP 13 activities in excess of 500 linear feet, fills greater than one cubic yard per running foot, or involve discharges of dredged or fill material into special aquatic sites; and (iv) NWP 54 activities in excess of 500 linear feet, or that extend into the waterbody more than 30 feet from the mean low water line in tidal waters or the ordinary high water mark in the Great Lakes.

(3) When agency coordination is required, the district engineer will immediately provide (e.g., via e-mail, facsimile transmission, overnight mail, or other expeditious manner) a copy of the complete PCN to the appropriate Federal or state offices (FWS, state natural resource or water quality agency, EPA, and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will have 10 calendar days from the date the material is transmitted to notify the district engineer via telephone, facsimile transmission, or e-mail that they intend to provide substantive, site-specific comments. The comments must explain why the agency believes the adverse environmental effects will be more than minimal. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the pre-construction notification. The district engineer will fully consider agency comments received within the specified time frame concerning the proposed activity's compliance with the terms and conditions of the NWPs, including the need for mitigation to ensure the net adverse environmental effects of the proposed activity are no more than minimal. The district engineer will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each pre-construction notification that the resource agencies' concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.

(4) In cases of where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat conservation recommendations, as required by section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act.

(5) Applicants are encouraged to provide the Corps with either electronic files or multiple copies of pre-construction notifications to expedite agency coordination.

D. District Engineer's Decision

1. In reviewing the PCN for the proposed activity, the district engineer will determine whether the activity authorized by the NWP will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. If a project proponent requests authorization by a specific NWP, the district engineer should issue the NWP verification for that activity if it meets the terms and conditions of that NWP, unless he or she determines, after considering mitigation, that the proposed activity will result in more than minimal individual and cumulative adverse effects on the aquatic environment and other aspects of the public interest and exercises discretionary authority to require an individual permit for the proposed activity. For a linear project, this determination will include an evaluation of the individual crossings of waters of the United States to determine whether they individually satisfy the terms and conditions of the NWP(s), as well as the cumulative effects caused by all of the crossings authorized by NWP. If an applicant requests a waiver of the 300 linear foot limit on impacts to streams or of an otherwise applicable limit, as provided for in NWPs 13, 21, 29, 36, 39, 40, 42, 43, 44, 50, 51, 52, or 54, the district engineer will only grant the waiver upon a written determination that the NWP activity will result in only minimal individual and cumulative adverse environmental effects. For those NWPs that have a waivable 300 linear foot limit for losses of intermittent and ephemeral stream bed and a 1/2-acre limit (i.e., NWPs 21, 29, 39,

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40, 42, 43, 44, 50, 51, and 52), the loss of intermittent and ephemeral stream bed, plus any other losses of jurisdictional waters and wetlands, cannot exceed 1/2-acre.

2. When making minimal adverse environmental effects determinations the district engineer will consider the direct and indirect effects caused by the NWP activity. He or she will also consider the cumulative adverse environmental effects caused by activities authorized by NWP and whether those cumulative adverse environmental effects are no more than minimal. The district engineer will also consider site specific factors, such as the environmental setting in the vicinity of the NWP activity, the type of resource that will be affected by the NWP activity, the functions provided by the aquatic resources that will be affected by the NWP activity, the degree or magnitude to which the aquatic resources perform those functions, the extent that aquatic resource functions will be lost as a result of the NWP activity (e.g., partial or complete loss), the duration of the adverse effects (temporary or permanent), the importance of the aquatic resource functions to the region (e.g., watershed or ecoregion), and mitigation required by the district engineer. If an appropriate functional or condition assessment method is available and practicable to use, that assessment method may be used by the district engineer to assist in the minimal adverse environmental effects determination. The district engineer may add case-specific special conditions to the NWP authorization to address site-specific environmental concerns.

3. If the proposed activity requires a PCN and will result in a loss of greater than 1/10-acre of wetlands, the prospective permittee should submit a mitigation proposal with the PCN. Applicants may also propose compensatory mitigation for NWP activities with smaller impacts, or for impacts to other types of waters (e.g., streams). The district engineer will consider any proposed compensatory mitigation or other mitigation measures the applicant has included in the proposal in determining whether the net adverse environmental effects of the proposed activity are no more than minimal. The compensatory mitigation proposal may be either conceptual or detailed. If the district engineer determines that the activity complies with the terms and conditions of the NWP and that the adverse environmental effects are no more than minimal, after considering mitigation, the district engineer will notify the permittee and include any activity-specific conditions in the NWP verification the district engineer deems necessary. Conditions for compensatory mitigation requirements must comply with the appropriate provisions at 33 CFR 332.3(k). The district engineer must approve the final mitigation plan before the permittee commences work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation. If the prospective permittee elects to submit a compensatory mitigation plan with the PCN, the district engineer will expeditiously review the proposed compensatory mitigation plan. The district engineer must review the proposed compensatory mitigation plan within 45 calendar days of receiving a complete PCN and determine whether the proposed mitigation would ensure the NWP activity results in no more than minimal adverse environmental effects. If the net adverse environmental effects of the NWP activity (after consideration of the mitigation proposal) are determined by the district engineer to be no more than minimal, the district engineer will provide a timely written response to the applicant. The response will state that the NWP activity can proceed under the terms and conditions of the NWP, including any activity-specific conditions added to the NWP authorization by the district engineer.

4. If the district engineer determines that the adverse environmental effects of the proposed activity are more than minimal, then the district engineer will notify the applicant either: (a) that the activity does not qualify for authorization under the NWP and instruct the applicant on the procedures to seek authorization under an individual permit; (b) that the activity is authorized under the NWP subject to the applicant's submission of a mitigation plan that would reduce the adverse environmental effects so that they are no more than minimal; or (c) that the activity is authorized under the NWP with specific modifications or conditions. Where the district engineer determines that mitigation is required to ensure no more than minimal adverse environmental effects, the activity will be authorized within the 45-day PCN period (unless additional time is required to comply with general conditions 18, 20, and/or 31, or to evaluate PCNs for activities authorized by NWPs 21, 49, and 50), with activity-specific conditions that state the mitigation requirements. The authorization will include the necessary conceptual or detailed mitigation plan or a requirement that the applicant submit a mitigation plan that would reduce the adverse environmental effects so that they are no more than minimal. When compensatory mitigation is required, no work in waters of the United States may occur until the district engineer has approved a specific mitigation plan or has determined that prior approval of a final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation.

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E. Further Information

1. District Engineers have authority to determine if an activity complies with the terms and conditions of an NWP.

2. NWPs do not obviate the need to obtain other federal, state, or local permits, approvals, or authorizations required by law.

3. NWPs do not grant any property rights or exclusive privileges.

4. NWPs do not authorize any injury to the property or rights of others.

5. NWPs do not authorize interference with any existing or proposed Federal project (see general condition 31).

F. Definitions

Best management practices (BMPs): Policies, practices, procedures, or structures implemented to mitigate the adverse environmental effects on surface water quality resulting from development. BMPs are categorized as structural or non-structural.

Compensatory mitigation: The restoration (re-establishment or rehabilitation), establishment (creation), enhancement, and/or in certain circumstances preservation of aquatic resources for the purposes of offsetting unavoidable adverse impacts which remain after all appropriate and practicable avoidance and minimization has been achieved.

Currently serviceable: Useable as is or with some maintenance, but not so degraded as to essentially require reconstruction.

Direct effects: Effects that are caused by the activity and occur at the same time and place.

Discharge: The term "discharge" means any discharge of dredged or fill material into waters of the United States.

Ecological reference: A model used to plan and design an aquatic habitat and riparian area restoration, enhancement, or establishment activity under NWP 27. An ecological reference may be based on the structure, functions, and dynamics of an aquatic habitat type or a riparian area type that currently exists in the region where the proposed NWP 27 activity is located. Alternatively, an ecological reference may be based on a conceptual model for the aquatic habitat type or riparian area type to be restored, enhanced, or established as a result of the proposed NWP 27 activity. An ecological reference takes into account the range of variation of the aquatic habitat type or riparian area type in the region.

Enhancement: The manipulation of the physical, chemical, or biological characteristics of an aquatic resource to heighten, intensify, or improve a specific aquatic resource function(s). Enhancement results in the gain of selected aquatic resource function(s), but may also lead to a decline in other aquatic resource function(s). Enhancement does not result in a gain in aquatic resource area.

Ephemeral stream: An ephemeral stream has flowing water only during, and for a short duration after, precipitation events in a typical year. Ephemeral stream beds are located above the water table year-round. Groundwater is not a source of water for the stream. Runoff from rainfall is the primary source of water for stream flow.

Establishment (creation): The manipulation of the physical, chemical, or biological characteristics present to develop an aquatic resource that did not previously exist at an upland site. Establishment results in a gain in aquatic resource area.

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High Tide Line: The line of intersection of the land with the water's surface at the maximum height reached by a rising tide. The high tide line may be determined, in the absence of actual data, by a line of oil or scum along shore objects, a more or less continuous deposit of fine shell or debris on the foreshore or berm, other physical markings or characteristics, vegetation lines, tidal gages, or other suitable means that delineate the general height reached by a rising tide. The line encompasses spring high tides and other high tides that occur with periodic frequency but does not include storm surges in which there is a departure from the normal or predicted reach of the tide due to the piling up of water against a coast by strong winds such as those accompanying a hurricane or other intense storm.

Historic Property: Any prehistoric or historic district, site (including archaeological site), building, structure, or other object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the National Register criteria (36 CFR part 60).

Independent utility: A test to determine what constitutes a single and complete non-linear project in the Corps Regulatory Program. A project is considered to have independent utility if it would be constructed absent the construction of other projects in the project area. Portions of a multi-phase project that depend upon other phases of the project do not have independent utility. Phases of a project that would be constructed even if the other phases were not built can be considered as separate single and complete projects with independent utility.

Indirect effects: Effects that are caused by the activity and are later in time or farther removed in distance, but are still reasonably foreseeable.

Intermittent stream: An intermittent stream has flowing water during certain times of the year, when groundwater provides water for stream flow. During dry periods, intermittent streams may not have flowing water. Runoff from rainfall is a supplemental source of water for stream flow.

Loss of waters of the United States: Waters of the United States that are permanently adversely affected by filling, flooding, excavation, or drainage because of the regulated activity. Permanent adverse effects include permanent discharges of dredged or fill material that change an aquatic area to dry land, increase the bottom elevation of a waterbody, or change the use of a waterbody. The acreage of loss of waters of the United States is a threshold measurement of the impact to jurisdictional waters for determining whether a project may qualify for an NWP; it is not a net threshold that is calculated after considering compensatory mitigation that may be used to offset losses of aquatic functions and services. The loss of stream bed includes the acres or linear feet of stream bed that are filled or excavated as a result of the regulated activity. Waters of the United States temporarily filled, flooded, excavated, or drained, but restored to pre-construction contours and elevations after construction, are not included in the measurement of loss of waters of the United States. Impacts resulting from activities that do not require Department of the Army authorization, such as activities eligible for exemptions under section 404(f) of the Clean Water Act, are not considered when calculating the loss of waters of the United States.

Navigable waters: Waters subject to section 10 of the Rivers and Harbors Act of 1899. These waters are defined at 33 CFR part 329.

Non-tidal wetland: A non-tidal wetland is a wetland that is not subject to the ebb and flow of tidal waters. Non-tidal wetlands contiguous to tidal waters are located landward of the high tide line (i.e., spring high tide line).

Open water: For purposes of the NWPs, an open water is any area that in a year with normal patterns of precipitation has water flowing or standing above ground to the extent that an ordinary high water mark can be determined. Aquatic vegetation within the area of flowing or standing water is either non-emergent, sparse, or absent. Vegetated shallows are considered to be open waters. Examples of "open waters" include rivers, streams, lakes, and ponds.

Ordinary High Water Mark: An ordinary high water mark is a line on the shore established by the fluctuations of water and indicated by physical characteristics, or by other appropriate means that consider the characteristics of the surrounding areas.

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Attachment: Protective covenant for wetlands (RES-2024-385 : Amendment to Resolution 2021-109 -1695,1701 &1721 Dodge Rd.)

• The culvert bed slope shall remain consistent with the slope of the adjacent stream channel. For slopes greater than 3%, an open bottom culvert must be used.
• This certification does not authorize work on culverts that provide sole access to "Critical Facilities": An individual WQC must be obtained for work on these culverts.
• This certification does not authorize culvert rehabilitation projects that involve slip lining, or similar treatments.
• This certification does authorize the rehabilitation of culverts utilizing Cure in Place Pipe Lining (CIPP) or concrete spray lining for culverts which currently meet Nationwide Permit General Condition # 2 - Aquatic Life Movements.

3. Discharge and Disturbance Limits of the Blanket WQC
   • For Nationwide Permits # 5, 7, 12, 13, 14, 15, 18, 19, 23, 25, 29, 31, 32, 34, 36, 37, 39, 40, 42, 45, 46, 48, 51, utility line replacement projects under Nationwide Permit #3 and non-maintenance activities under Nationwide Permit #43.
   • The following discharge limits apply:
      a) Temporary or permanent discharges of dredged or fill material into wetlands and other waters of the U.S. must not exceed ¼ acre;
      b) Temporary or permanent impacts (i.e., loss) to stream beds must not exceed 300 linear feet.
      c) The discharge area limit under paragraph (a) plus the equivalent stream impact area limit under paragraph (b) must not exceed ¼ acre total.

   •For Nationwide Permits # 3, 4, 6, 20, 22, 27, 30, 33, 41 and maintenance activities under Nationwide Permit # 43, this certification authorizes discharges and disturbances up to the limit of the respective Nationwide Permit or regional conditions, whichever is most restrictive.

   •If a project requiring coverage under two or more Nationwide Permits results in a temporary or permanent discharge or disturbance, the most restrictive threshold applies to the project.

4. Bulkheads
   • This certification does not authorize the construction of new bulkheads or vertical walls.
   • This certification does not authorize the waterward extension of existing bulkheads.
   • New toe-stone protection may not extend more than 36 inches waterward from the existing bulkhead face.

5. Maintenance of Water Levels
   • This certification does not authorize any activity that results in a permanent water level alteration in waterbodies, such as draining or impounding, with the exception of activities authorized by Nationwide Permit #27.

6. Dewatering
   • Authorized dewatering is limited to immediate work areas that are within coffer dams or otherwise isolated from the larger waterbody or waters of the United States.
   • Dewatering must be localized and must not drain extensive areas of a waterbody or reduce the water level such that fish and other aquatic organisms are killed, or their eggs and nests are exposed to desiccation, freezing or depredation in areas outside of the immediate work site.
   • Cofferdams or diversions shall not be constructed in a manner that causes or exacerbates erosion of the bed or banks of a waterbody.
   • All dewatering structures must be permanently removed and disturbed areas must be graded and stabilized immediately following completion of work. Return flows from the dewatering structure shall be as visibly clear as the receiving waterbody.

7. Endangered or Threatened Species
   • This certification does not authorize projects likely to result in the take or taking of any species listed as endangered or threatened species listed in 6 NYCRR Part 182.5 (a), (b) or projects likely to destroy or adversely modify the habitat of such species. Applicants must either verify that the activity is outside of the occupied habitat of such species or, if located within the habitat of such species, obtain a determination from the NYS Department of Conservation Regional Office that the proposed activity will not be likely to

result in the take or taking of any species listed as endangered or threatened species listed in 6 NYCRR Part 182. Information on New York State endangered or threatened species may be obtained from the NYS Department of Environmental regional offices, the New York Natural Heritage Program in Albany, New York or on the DEC website at http://www.dec.ny.gov/animals/29338.html

If it is determined that the project is likely to result in the take of (or modify the habitat of such species) a New York listed endangered or threatened species, then this blanket water quality certification is not applicable, and the applicant will need an individual water quality certification from the department.

8. Rare Mollusks

• This Certification may not be issued for and does not authorize disturbances or discharges to waters of the state listed as supporting mollusks S-1 or S-2 on the New York State Natural Heritage database. http://www.dec.ny.gov/animals/29338.html

9. Prohibition Period for In-water Work

In-water work is prohibited during the following time period:

• in cold water trout fisheries (waterbodies classified under Article 15 of New York State Environmental Conservation Law with a "t" or "ts" designation), beginning October 1 and ending May 31.

To determine if the prohibition period is in effect for a particular water, contact the Regional Natural Resources Supervisor in the appropriate New York State Department of Environmental Conservation regional office. Water Classification values can be determined on the DEC's Environmental Resource Mapper available on the Departments Website @ http://www.dec.ny.gov/gis/erm/ Work windows may be extended by the Regional Natural Resources Supervisor or their designee.

10. Significant Coastal Fish and Wildlife Habitat

• This certification does not authorize any discharge occurring in a designated Significant Coastal Fish and Wildlife Habitat area pursuant to 19 NYCRR Part 602; Title 19 Chapter 13, Waterfront Revitalization and Coastal Resources. https://www.dos.ny.gov/opd/programs/consistency/scfwhabitats.html

11. Coastal Erosion Hazard Areas

• This certification does not authorize projects in Coastal Erosion Hazard Areas, as identified in New York State Environmental Conservation Law Article 34, and its implementing regulations, 6 NYCRR Part 505. http://www.dec.ny.gov/lands/86541.html

12. State-owned Underwater Lands

Prior to undertaking any Nationwide Permit activity that will involve or occupy state-owned lands now or formerly under the waters of New York State, the party proposing the activity must first obtain all necessary approvals from:

New York State Office of General Services
Division of Real Estate Development
Corning Tower Building, 26th Floor
Empire State Plaza
Albany, NY 12242
Tel. (518) 474-2195

13. Tidal Wetlands

• This certification does not authorize any activities in tidal wetlands as defined in Article 25 of New York State Environmental Conservation Law, with the exception of activities authorized by Nationwide Permits # 4, 20 and 48. http://www.dec.ny.gov/lands/4940.html

14. Wild, Scenic and Recreational Rivers

• This certification does not authorize activities in any Wild, Scenic or Recreational River pursuant to 6 NYCRR Part 666 or state designated Wild, Scenic or Recreational River corridors. http://www.dec.ny.gov/permits/6033.html

Attachment: Protective covenant for wetlands (RES-2024-385 : Amendment to Resolution 2021-109 -1695,1701 &1721 Dodge Rd.)

15. Floodplains
    - Authorized projects subject to this certification must first be in compliance with State and Local Floodplain Regulations prior to commencement of construction.

16. Public Service Commission
    - This certification does not authorize activities regulated pursuant to Article VII or Article 10 of the New York State Public Service Law. For such projects, Section 401 Water Quality Certification is obtained from the New York State Public Service Commission.

17. Utility Projects
    - This certification does not authorize maintenance or other activities associated with hydroelectric power generation projects.
    - This certification does not authorize the construction of substation facilities or permanent access roads in wetlands.
    - Excess materials resulting from trench excavation must be permanently removed from the waters of the United States and contained so that they do not re-enter any waters of the United States.

18. Preventing the Spread of Terrestrial and Aquatic Invasive Species
    - To prevent the unintentional introduction or spread of invasive species, the permittee must ensure that all construction equipment be cleaned of mud, seeds, vegetation and other debris before entering any approved construction areas within waters of the U.S. When using construction equipment projects authorized under this Certification shall take reasonable precautions to prevent the spread of aquatic invasive species as required under the provisions in ECL § 9-1710.

L. New York State Department of State (NYSDOS) Coastal Zone Management Consistency Determination Additional Information (applicable to all NWPs located within or affecting the NYS Coastal Zone):

Where NYSDOS has objected to the USACE consistency determination or where the project will not comply with the NYSDOS NWP specific condition(s), as outlined in the specific NWP listing in Section B above, the applicant must submit a request for an individual consistency determination to NYSDOS. See Section K for NYSDOS contact information.

Further Information:

- Unless NYSDOS issues consistency concurrence or USACE has determined that NYSDOS concurrence is presumed, NWPs are not valid within the Coastal Zone.
- All consistency concurrence determination requests must be submitted directly to NYSDOS with a copy provided to USACE with any required Preconstruction Notification submissions.
- Limits of the coastal zone and details regarding NYSDOS submission requirements, including application forms can be obtained at: https://www.dos.ny.gov/opd/programs/consistency/index.html

J. INFORMATION ON NATIONWIDE PERMIT VERIFICATION

Verification of the applicability of these Nationwide Permits is valid until March 18, 2022 unless the Nationwide Permit is modified, suspended revoked, or the activity complies with any subsequent permit modification.

It is the applicant's responsibility to remain informed of changes to the Nationwide Permit program. A public notice announcing any changes will be issued when they occur and will be available for viewing at our website: http://www.lrb.usace.army.mil/Missions/Regulatory.aspx.

Please note in accordance with 33 CFR part 330.6(b), that if you commence or are under contract to commence an activity in reliance of the permit prior to the date this Nationwide permit expires, is suspended or revoked, or is modified such that the activity no longer complies with the terms and conditions, you have twelve

Attachment: Protective covenant for wetlands (RES-2024-385 : Amendment to Resolution 2021-109 -1695,1701 &1721 Dodge Rd.)

months from the date of permit modification, expiration, or revocation to complete the activity under the present terms and conditions of the permit, unless the permit has been subject to the provisions of discretionary authority.

Possession of this permit does not obviate you of the need to contact all appropriate state and/or local governmental officials to insure that the project complies with their requirements.

Attachment: Protective covenant for wetlands (RES-2024-385 : Amendment to Resolution 2021-109 -1695,1701 &1721 Dodge Rd.)

K. AGENCY CONTACT INFORMATION

NYS Department of Environmental Conservation

www.dec.ny.gov

NYS DEC REGION 1
Regional Permit Administrator
SUNY @ Stony Brook
50 Circle Road
Stony Brook, NY 11790-3409
(631) 444-0365

NYS DEC REGION 2
Regional Permit Administrator
1 Hunter's Point Plaza
47-40 21st Street
Long Island City, NY 11101-5407
(718) 482-4997

NYS DEC REGION 3
Regional Permit Administrator
21 South Putt Corners Road
New Paltz, NY 12561-1620
(845) 256-3054

NYS DEC REGION 4
Regional Permit Administrator
1130 North Westcott Road
Schenectady, NY 12306-2014
(518) 357-2069

NYS DEC REGION 4 Sub-Office
Deputy Regional Permit Administrator
65561 State Hwy 10
Stamford, NY 12167-9503
(607) 652-7741

NYS DEC REGION 5
Regional Permit Administrator
PO Box 296
1115 Route 86
Ray Brook, NY 12977-0296
(518) 897-1234

NYS DEC REGION 5 Sub-Office
Deputy Regional Permit Administrator
PO Box 220
232 Golf Course Rd
Warrensburg, NY 12885-0220
(518) 623-1281

NYS DEC REGION 6
Regional Permit Administrator
317 Washington Street
Watertown, NY 13601-3787
(315) 785-2245

NYS DEC REGION 6 Sub-Office
Deputy Regional Permit Administrator
207 Genesee Street
Utica, NY 13501-2885
(315) 793-2555

NYS DEC REGION 7
Regional Permit Administrator
615 Erie Blvd. West
Syracuse, NY 13204-2400
(315) 426-7438

NYS DEC REGION 7 Sub-Office
Deputy Regional Permit Administrator
1285 Fisher Avenue
Cortland, NY 13045-1090
(607) 753-3095

NYS DEC REGION 8
Regional Permit Administrator
6274 E. Avon - Lima Road
Avon, NY 14414-9519
(585) 226-2466

NYS DEC REGION 9
Regional Permit Administrator
270 Michigan Avenue
Buffalo, NY 14203-2915
(716) 851-7165

NYS DEC REGION 9 Sub-Office
Deputy Regional Permit Administrator
182 East Union Street
Allegany, NY 14706-1328
(716) 372-0645

NYS Department of State

Division of Coastal Resources
Consistency Review Unit
One Commerce Plaza
99 Washington Avenue, Suite 1010
Albany, NY 12231-0001
(518) 474-6000
https://www.dos.ny.gov/opd/programs/consistenc/index.html

US Army Corps of Engineers

http://www.nan.usace.army.mil

(For DEC Regions 1, 2 and 3)
US Army Corps of Engineers NY District
ATTN: Regulatory Branch
26 Federal Plaza, Room 1937
New York, NY 10278-0090
Email: CENAN.PublicNotice@usace.army.mil
For DEC Regions 1, 2, Westchester County
and Rockland County (917) 790-8511
For the other counties of DEC Region 3 -
(917) 790-8411

(For DEC Regions 4, 5)
Department of the Army
ATTN: CENAN-OP-R
NY District, Corps of Engineers
1 Buffington Street
Building 10, 3rd Floor
Watervliet, NY 12189-4000
(518) 266-6350 - Permits team
(518) 266-6360 - Compliance Team

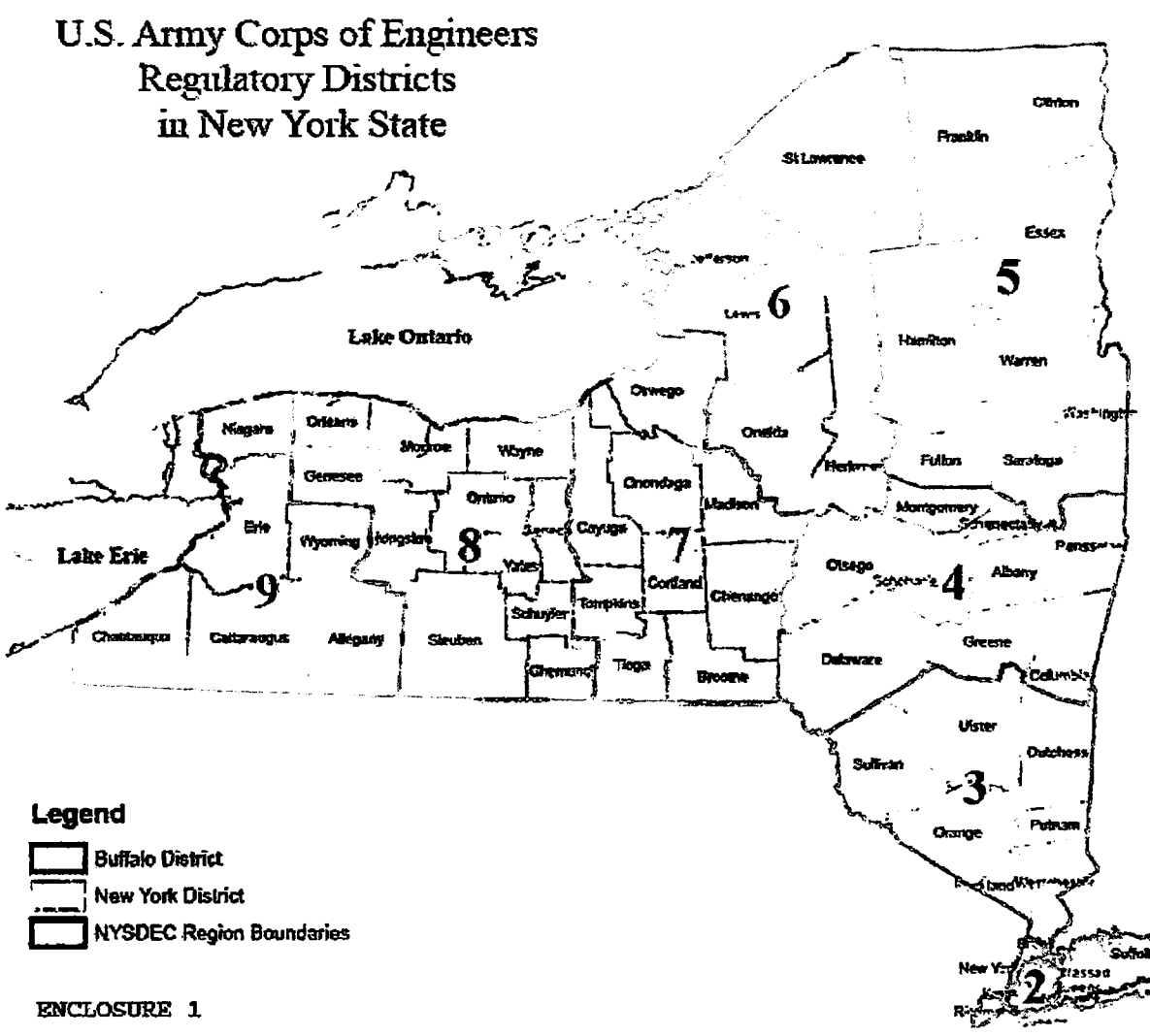
Email: cenan.rfo@usace.army.mil

(For DEC Regions 6, 7, 8, 9)
US Army Corps of Engineers
Buffalo District
ATTN: Regulatory Branch
1776 Niagara Street
Buffalo, NY 14207-3199
(716) 879-4330
Email: LRB.Regulatory@usace.army.mil
www.lrb.usace.army.mil

Attachment: Protective covenant for wetlands (RES-2024-385 : Amendment to Resolution 2021-109 -1695,1701 &1721 Dodge Rd.)

ENCLOSURE 2

U.S. Army Corps of Engineers Regulatory Districts in New York State



Legend

- Buffalo District
- New York District
- NYSDEC Region Boundaries

ENCLOSURE 1

Buffalo District

Regulatory Branch, District Office
1776 Niagara Street
Buffalo, New York 14207
(716) 879-4330

Regulatory Branch, Auburn Field Office
7413 County House Road
Auburn, New York 13021
(315) 255-8090

New York District

Regulatory Branch, District Office
26 Federal Plaza
New York, New York 10278-0090
(917) 790-8411

Regulatory Branch, Upstate Field Office
1 Buffington Street
Watervliet, New York 12189-4000
(518) 266-6350

U.S. Army
Corps of Engineers

Attachment: Protective covenant for wetlands (RES-2024-385 : Amendment to Resolution 2021-109 -1695,1701 &1721 Dodge Rd.)

Exhibit B - Copy of Permits No. 9-1422-00612/00001 and 9-1422-00612/00002 as issued by NYSDEC on February 8, 2021

Attachment: Protective covenant for wetlands (RES-2024-385 : Amendment to Resolution 2021-109 -1695,1701 &1721 Dodge Rd.)

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
Facility DEC ID 9-1422-00612

PERMIT

Under the Environmental Conservation Law (ECL)

Permittee and Facility Information

Permit Issued To:
ESSEX HOMES OF WNY INC
8940 MAIN ST
CLARENCE, NY 14031
(716) 635-0550

Facility:
Essex Homes- Dodge Rd Subdivision
1695 Dodge Rd
Amherst, NY 14051

Facility Location: in AMHERST in ERIE COUNTY
Facility Principal Reference Point: NYTM-E: 196.03717874328 NYTM-N: 4770.60795705788
Latitude: 43°01'38.4" Longitude: 78°43'50.5"

Authorized Activity: This permit authorizes the construction of a 29-lot residential subdivision which will permanently impact 0.27 acres of federally regulated wetland and 0.25 acre of the regulated 100 foot adjacent area to NYSDEC Freshwater Wetland CC-15.

Permit Authorizations

Freshwater Wetlands - Under Article 24
Permit ID 9-1422-00612/00001
New Permit Effective Date: 2/8/2021 Expiration Date: 2/7/2025
Water Quality Certification - Under Section 401 - Clean Water Act
Permit ID 9-1422-00612/00002
New Permit Effective Date: 2/8/2021 Expiration Date: 2/7/2025

NYSDEC Approval

By acceptance of this permit, the permittee agrees that the permit is contingent upon strict compliance with the ECL, all applicable regulations, and all conditions included as part of this permit.

Permit Administrator: LISA M CZECHOWICZ, Deputy Regional Permit Administrator
Address: NYSDEC Region 9 Headquarters
270 Michigan Ave
Buffalo, NY 14203 -2915

Authorized Signature: Lisa M. Czechowicz Date 2 / 8 /2021

Attachment: Protective covenant for wetlands (RES-2024-385 : Amendment to Resolution 2021-109 -1695,1701 &1721 Dodge Rd.)

Permit Components

NATURAL RESOURCE PERMIT CONDITIONS

WATER QUALITY CERTIFICATION SPECIFIC CONDITION

GENERAL CONDITIONS, APPLY TO ALL AUTHORIZED PERMITS

NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS

NATURAL RESOURCE PERMIT CONDITIONS - Apply to the Following Permits: FRESHWATER WETLANDS; WATER QUALITY CERTIFICATION

1. Conformance With Plans All activities authorized by this permit must be in strict conformance with the approved plans submitted by the applicant or applicant's agent as part of the permit application. Such approved plans were prepared by Carmina, Woods, and Morris and received by this office February 10, 2020 with revised plans received September 14, 2020, February 1, 2021, and February 4, 2021.

2. Notice of Intent to Commence Work The Permittee shall notify the Department 3 to 5 days prior to the commencement of work on the project by emailing the Regional Permit Administrator at DEP.R9@dec.ny.gov. The email needs to include the permit number, permittee name and the project start date.

3. Siltation Prevention Measures Siltation prevention measures, such as silt fencing, sediment traps or settling basins, shall be installed and maintained during the project, to prevent movement of silt and turbid waters from the project site into any watercourse, stream, water body or wetland.

4. Invasive Species (Non-native Vegetation) To prevent the unintentional introduction or spread of invasive species, the permittee must ensure that all construction equipment be cleaned of mud, seeds, vegetation and other debris before entering any approved construction areas within the state regulated freshwater wetland or its 100 foot adjacent area.

5. Mark Limits of Protected Area The limits of the protected "riparian area" shall be marked with construction fencing to prevent inadvertent impacts to the protected area.

6. Equipment Storage 100' from Wetland, Water Body All equipment and machinery shall be refueled, stored and safely contained greater than 100 feet landward of the regulated wetland or water body at the end of each work day. This will serve to avoid the inadvertent leakage of deleterious substances into the regulated area.

7. Deed Covenants for Subdivision Lots The permittee shall prepare and file the Declaration of Restrictive Covenants/Deed Restrictions to protect New York State regulated Freshwater Wetland CC-15 and/or its regulated 100 foot adjacent area. The activities in the protected Conservation and Open Space Areas shall be restricted as outlined in this document and the associated project plans.

Attachment: Protective covenant for wetlands (RES-2024-385 : Amendment to Resolution 2021-109 -1695,1701 &1721 Dodge Rd.)

By 60 days after permit issuance, the permittee shall file with the real property records of the County Clerk's Office, the Declaration of Restrictive Covenants/Deed Restrictions for each applicable preservation area. The permittee shall, within two weeks following the filing of the Declaration of Restrictive Covenants/Deed Restrictions, submit proof of filing from the County Office showing the Libel and page number at which the Declaration of Restrictive Covenants/Deed Restrictions was filed and the date of filing to:

Regional Permit Administrator
NYSDEC REGION 9 HEADQUARTERS
270 MICHIGAN AVE
BUFFALO, NY 14203-2915

to document compliance with this condition.

8. **Planting Row of Native Conifers** The permittee shall plant a row of native conifer trees in the location shown on the attached plan. The tree plantings must be a minimum of 6 feet tall, spaced 15 feet apart, and must be planted no later than October 15th following the completion of construction of the subdivision.

9. **Survival Rate for Buffer Plantings** The permittee shall prepare a care, maintenance, inspection, and replacement schedule for the buffer tree plantings described in the project plan to ensure an 85% survival rate for five growing seasons.

10. **Seed, Mulch Disturbed Areas** All areas of soil disturbance resulting from this project shall be seeded with a native seed mix, and mulched with straw immediately upon completion of the project, within two days of final grading, or by the expiration of the permit, whichever is first. Mulch shall be maintained until suitable vegetative cover is established to the department's satisfaction.

11. **Seed, Mulch Disturbed Areas** If seeding is impracticable due to the time of year, a temporary mulch shall be applied within 5 days and final seeding shall be performed at the earliest opportunity when weather conditions favor germination and growth; but not more than six months after project completion and no later than the permit expiration date.

12. **Minimum % Vegetative Cover** A minimum of 90% vegetative cover across all disturbed areas of the regulated Adjacent Area of Wetland CC-15 shall be established by the end of the first complete growing season following construction.

13. **Disposal of Material** Any demolition debris, excess construction materials, and/or excess excavated materials shall be immediately and completely disposed of on an approved upland site more than 100 feet from any regulated waterbody or wetland. These materials shall be suitably stabilized so as not to re-enter any water body, wetland, or wetland adjacent area; and must be disposed of in accordance with all local, state, and federal statutes, regulations, or ordinances.

14. **Precautions Against Contamination of Waters** All necessary precautions shall be taken to preclude contamination of any wetland or waterway by suspended solids, sediments, fuels, solvents, lubricants, epoxy coatings, paints, concrete, leachate or any other environmentally deleterious materials associated with the project.

Attachment: Protective covenant for wetlands (RES-2024-385 : Amendment to Resolution 2021-109 -1695,1701 &1721 Dodge Rd.)

15. **State May Order Removal or Alteration of Work** If future operations by the State of New York require an alteration in the position of the structure or work herein authorized, or if, in the opinion of the Department of Environmental Conservation it shall cause unreasonable obstruction to the free navigation of said waters or flood flows or endanger the health, safety or welfare of the people of the State, or cause loss or destruction of the natural resources of the State, the owner may be ordered by the Department to remove or alter the structural work, obstructions, or hazards caused thereby without expense to the State, and if, upon the expiration or revocation of this permit, the structure, fill, excavation, or other modification of the watercourse hereby authorized shall not be completed, the owners, shall, without expense to the State, and to such extent and in such time and manner as the Department of Environmental Conservation may require, remove all or any portion of the uncompleted structure or fill and restore to its former condition the navigable and flood capacity of the watercourse. No claim shall be made against the State of New York on account of any such removal or alteration.

16. **State May Require Site Restoration** If upon the expiration or revocation of this permit, the project hereby authorized has not been completed, the applicant shall, without expense to the State, and to such extent and in such time and manner as the Department of Environmental Conservation may lawfully require, remove all or any portion of the uncompleted structure or fill and restore the site to its former condition. No claim shall be made against the State of New York on account of any such removal or alteration.

17. **State Not Liable for Damage** The State of New York shall in no case be liable for any damage or injury to the structure or work herein authorized which may be caused by or result from future operations undertaken by the State for the conservation or improvement of navigation, or for other purposes, and no claim or right to compensation shall accrue from any such damage.

WATER QUALITY CERTIFICATION SPECIFIC CONDITIONS

1. **Water Quality Certification** The authorized project, as conditioned pursuant to the Certificate, complies with Section 301, 302, 303, 306, and 307 of the Federal Water Pollution Control Act, as amended and as implemented by the limitations, standards, and criteria of state statutory and regulatory requirements set forth in 6 NYCRR Section 608.9(a). The authorized project, as conditioned, will also comply with applicable New York State water quality standards, including but not limited to effluent limitations, best usages and thermal discharge criteria, as applicable, as set forth in 6 NYCRR Parts 701, 702, 703, and 704.

GENERAL CONDITIONS - Apply to ALL Authorized Permits:

1. **Facility Inspection by The Department** The permitted site or facility, including relevant records, is subject to inspection at reasonable hours and intervals by an authorized representative of the Department of Environmental Conservation (the Department) to determine whether the permittee is complying with this permit and the ECL. Such representative may order the work suspended pursuant to ECL 71- 0301 and SAPA 401(3).

The permittee shall provide a person to accompany the Department's representative during an inspection to the permit area when requested by the Department.

Attachment: Protective covenant for wetlands (RES-2024-385 : Amendment to Resolution 2021-109 -1695,1701 &1721 Dodge Rd.)

A copy of this permit, including all referenced maps, drawings and special conditions, must be available for inspection by the Department at all times at the project site or facility. Failure to produce a copy of the permit upon request by a Department representative is a violation of this permit.

2. **Relationship of this Permit to Other Department Orders and Determinations** Unless expressly provided for by the Department, issuance of this permit does not modify, supersede or rescind any order or determination previously issued by the Department or any of the terms, conditions or requirements contained in such order or determination.

3. **Applications For Permit Renewals, Modifications or Transfers** The permittee must submit a separate written application to the Department for permit renewal, modification or transfer of this permit. Such application must include any forms or supplemental information the Department requires. Any renewal, modification or transfer granted by the Department must be in writing. Submission of applications for permit renewal, modification or transfer are to be submitted to:

Regional Permit Administrator
NYSDEC Region 9 Headquarters
270 Michigan Ave
Buffalo, NY14203 -2915

4. **Submission of Renewal Application** The permittee must submit a renewal application at least 30 days before permit expiration for the following permit authorizations: Freshwater Wetlands, Water Quality Certification.

5. **Permit Modifications, Suspensions and Revocations by the Department** The Department reserves the right to exercise all available authority to modify, suspend or revoke this permit. The grounds for modification, suspension or revocation include:

a. materially false or inaccurate statements in the permit application or supporting papers;

b. failure by the permittee to comply with any terms or conditions of the permit;

c. exceeding the scope of the project as described in the permit application;

d. newly discovered material information or a material change in environmental conditions, relevant technology or applicable law or regulations since the issuance of the existing permit;

e. noncompliance with previously issued permit conditions, orders of the commissioner, any provisions of the Environmental Conservation Law or regulations of the Department related to the permitted activity.

6. **Permit Transfer** Permits are transferrable unless specifically prohibited by statute, regulation or another permit condition. Applications for permit transfer should be submitted prior to actual transfer of ownership.

Attachment: Protective covenant for wetlands (RES-2024-385 : Amendment to Resolution 2021-109 -1695,1701 &1721 Dodge Rd.)

NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS

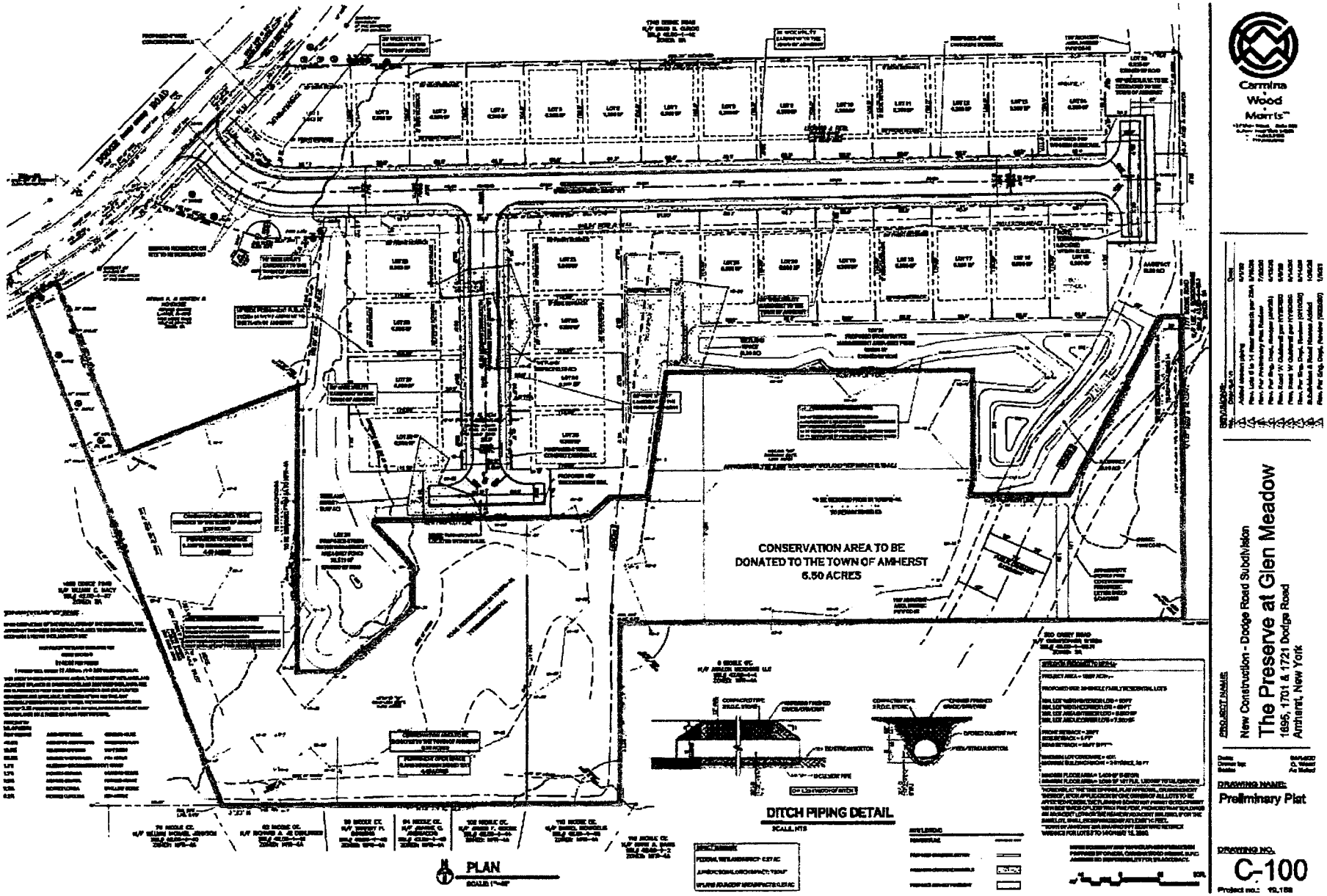
Item A: Permittee Accepts Legal Responsibility and Agrees to Indemnification
The permittee, excepting state or federal agencies, expressly agrees to indemnify and hold harmless the Department of Environmental Conservation of the State of New York, its representatives, employees, and agents ("DEC") for all claims, suits, actions, and damages, to the extent attributable to the permittee's acts or omissions in connection with the permittee's undertaking of activities in connection with, or operation and maintenance of, the facility or facilities authorized by the permit whether in compliance or not in compliance with the terms and conditions of the permit. This indemnification does not extend to any claims, suits, actions, or damages to the extent attributable to DEC's own negligent or intentional acts or omissions, or to any claims, suits, or actions naming the DEC and arising under Article 78 of the New York Civil Practice Laws and Rules or any citizen suit or civil rights provision under federal or state laws.

Item B: Permittee's Contractors to Comply with Permit
The permittee is responsible for informing its independent contractors, employees, agents and assigns of their responsibility to comply with this permit, including all special conditions while acting as the permittee's agent with respect to the permitted activities, and such persons shall be subject to the same sanctions for violations of the Environmental Conservation Law as those prescribed for the permittee.

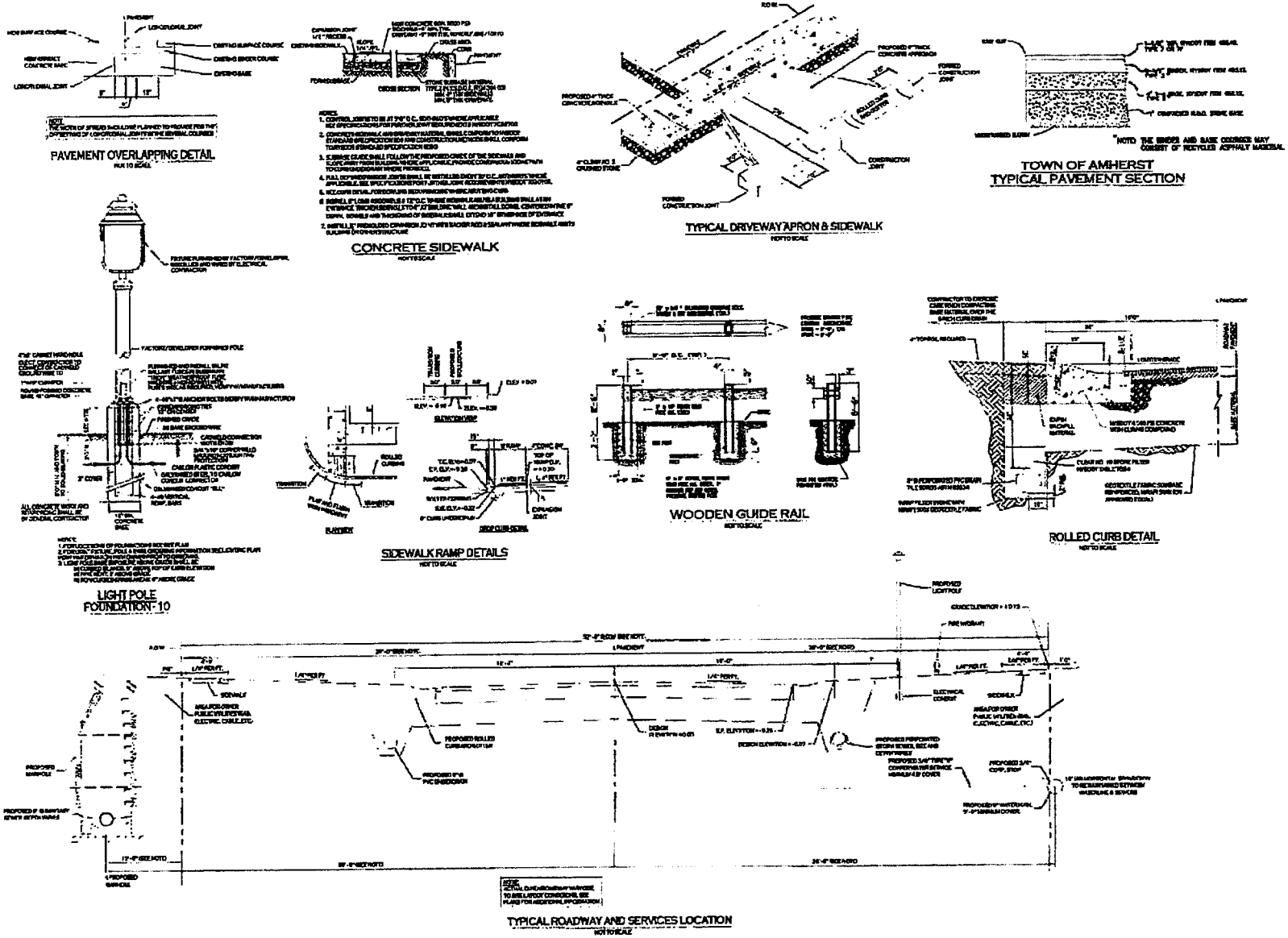
Item C: Permittee Responsible for Obtaining Other Required Permits
The permittee is responsible for obtaining any other permits, approvals, lands, easements and rights-of-way that may be required to carry out the activities that are authorized by this permit.

Item D: No Right to Trespass or Interfere with Riparian Rights
This permit does not convey to the permittee any right to trespass upon the lands or interfere with the riparian rights of others in order to perform the permitted work nor does it authorize the impairment of any rights, title, or interest in real or personal property held or vested in a person not a party to the permit.

Attachment: Protective covenant for wetlands (RES-2024-385 : Amendment to Resolution 2021-109 -1695,1701 &1721 Dodge Rd.)


CONSERVATION AREA TO BE
DONATED TO THE TOWN OF AMHERST
6.50 ACRES
DITCH PIPING DETAIL
PLAN
Carmina Wood Morris
PROJECT NAME:
New Construction - Dodge Road Subdivision
The Preserve at Glen Meadow
1695, 1701 & 1721 Dodge Road
Amherst, New York
DRAWING NAME:
Preliminary Plat
DRAWING NO.
C-100

Attachment: Protective covenant for wetlands (RES-2024-385 : Amendment to Resolution 2021-109 -1695,1701 &1721 Dodge Rd.)



© Cammins Wood Morris DPC

Cammins Wood Morris

REVISIONS:
No. Description Date
1 Add ext Ellicott's Ramp & Light Pole 9/7/2023

PROJECT NAME:
New Construction
Dodge Road Subdivision
1695, 1701 & 1721 Dodge Road
Amherst, New York

Date: 4/7/2023
Drawn by: C. Wood
Scale: As Noted

DRAWING NAME:
Site Details

DRAWING NO.
C-101

Project no.: 18,168

Exhibit C - Legal description of the Project Site as prepared by Mark Andrews, PLS, of GPI Engineering, Landscape Architecture & Surveying, LLP

Attachment: Protective covenant for wetlands (RES-2024-385 : Amendment to Resolution 2021-109 -1695,1701 &1721 Dodge Rd.)

EXHIBIT C

METES AND BOUNDS LEGAL DESCRIPTION OF 1695, 1701 AND 1721 DODGE ROAD

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Amherst, County of Erie, State of New York being part of Lot 52, Township 12, Range 7 of the Holland Land Company's Survey, bounded and described as follows:

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Amherst, County of Erie, State of New York being part of Lot 52, Township 12, Range 7 of the Holland Land Company's Survey, bounded and described as follows:

BEGINNING at the intersection of the centerline of Dodge Road with the north line of lands conveyed to Leonard J. Fiegl by deed recorded in the Erie County Clerk's Office in Liber 11090 of Deeds at Page 9312;

THENCE: Easterly, along the north line of said Leonard J. Fiegl lands, a distance of 967.55 feet to the northeast corner thereof;

THENCE: Southerly, along the east line of said Leonard J. Fiegl lands and the east line of lands conveyed to Heim Family Irrevocable Trust by deed recorded in the Erie County Clerk's Office in Liber 11188 of Deeds at Page 2815, a distance of 423.55 feet to a point;

THENCE: Westerly, along a southerly line of said Heim Family Irrevocable Trust lands having an interior angle of 89°-45'-49", a distance of 581.13 feet to a point;

THENCE: Southerly, along an easterly line of said Heim Family Irrevocable Trust lands having an exterior angle of 90°-11'-15", a distance of 190.09 feet to a point;

THENCE: Westerly, along a southerly line of said Heim Family Irrevocable Trust lands having an interior angle of 89°-58'-00", a distance of 413.43 feet to a point;

THENCE: Northwesterly, along a southwesterly line of lands conveyed to Heim Family Irrevocable Trust by deed recorded in the Erie County Clerk's Office in Liber 11187 of Deeds at Page 6820 having an interior angle of 110°-56'-46", a distance of 600.50 feet to the centerline of Dodge Road;

THENCE: Northeasterly, along the centerline of Dodge Road, a distance of 35.00 feet to a point;

THENCE: Along the westerly, southerly, easterly and northerly bounds of lands conveyed to Dennis P. & Kristen S. Hohensee by deed recorded in the Erie County Clerk's Office in Liber 11101 of Deeds at Page 6215, the following five (5) courses and distances;

1) Southeasterly, and parallel with the southwesterly line of said Heim Family Irrevocable Trust lands, a distance of 225.00 feet to a point;

Attachment: Protective covenant for wetlands (RES-2024-385 : Amendment to Resolution 2021-109 -1695,1701 &1721 Dodge Rd.)

2) Northeasterly at right angles, a distance of 203.94 feet to a point;
3) Northerly, having an exterior angle of 117°-28'-39", a distance of 152.73 feet to a point;
4) Westerly, having an exterior angle of 81°-58'-27", a distance of 62.15 feet to a point;
5) Northwesterly, having an interior angle of 160°-16'-21", a distance of 154.97 feet to the centerline of Dodge Road;

THENCE: Northeasterly, along the centerline of Dodge Road, a distance of 182.21 feet to the POINT OF BEGINNING CONTAINING 15.57 acres more or less exclusive of the area lying within the bounds of Dodge Road.

Attachment: Protective covenant for wetlands (RES-2024-385 : Amendment to Resolution 2021-109 -1695,1701 &1721 Dodge Rd.)

Exhibit D - Legal description of the Protected Property as prepared by Mark Andrews, PLS, of GPI Engineering, Landscape Architecture & Surveying, LLP

Attachment: Protective covenant for wetlands (RES-2024-385 : Amendment to Resolution 2021-109 -1695,1701 &1721 Dodge Rd.)

Record and Return To:
Box 460 - Hopkins Sorgi & McCarthy PLLC
Attn: Sean W. Hopkins, Esq.

EXHIBIT D

METES AND BOUNDS LEGAL DESCRIPTION OF THE PROTECTED PROPERTY

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Amherst, County of Erie, State of New York being part of Lot 52, Township 12, Range 7 of the Holland Land Company's Survey, bounded and described as follows:

COMMENCING at the intersection of the centerline of Dodge Road with the north line of lands conveyed to Leonard J. Fiegl by deed recorded in the Erie County Clerk's Office in Liber 11090 of Deeds at Page 9312:

THENCE: Easterly, along the north line of said Leonard J. Fiegl lands, a distance of 967.55 feet to the northeast corner thereof;

THENCE: Southerly, along the east line of said Leonard J. Fiegl lands and the east line of lands conveyed to Heim Family Irrevocable Trust by deed recorded in the Erie County Clerk's Office in Liber 11188 of Deeds at Page 2815, a distance of 274.50 feet to the POINT OF BEGINNING;

THENCE: Southerly, along the east line of said Leonard J. Fiegl lands and the east line of lands conveyed to Heim Family Irrevocable Trust by deed recorded in the Erie County Clerk's Office in Liber 11188 of Deeds at Page 2815, a distance of 315.36 feet to a point;

THENCE: Westerly, along a southerly line of said Heim Family Irrevocable Trust lands having an interior angle of 89°-45'-49", a distance of 581.13 feet to a point;

THENCE: Southerly, along an easterly line of said Heim Family Irrevocable Trust lands having an exterior angle of 90°-11'-15", a distance of 190.09 feet to a point;

THENCE: Westerly, along a southerly line of said Heim Family Irrevocable Trust lands having an interior angle of 89°-58'-00", a distance of 413.43 feet to a point;

THENCE: Northwesterly, along a southwesterly line of lands conveyed to Heim Family Irrevocable Trust by deed recorded in the Erie County Clerk's Office in Liber 11187 of Deeds at Page 6820 having an interior angle of 110°-56'-46", a distance of 567.10 feet to the south line of Dodge Road;

THENCE: Northeasterly, along the south line of Dodge Road, a distance of 35.00 feet to a point;

THENCE: Along the westerly and southerly bounds of lands conveyed to Dennis P. & Kristen S. Hohensee by deed recorded in the Erie County Clerk's Office in Liber 11101 of Deeds at Page 6215, the following two (2) courses and distances;

Attachment: Protective covenant for wetlands (RES-2024-385 : Amendment to Resolution 2021-109 -1695,1701 &1721 Dodge Rd.)

1) Southeasterly, and parallel with the southwesterly line of said Heim Family Irrevocable Trust lands, a distance of 191.60 feet to a point;

2) Northeasterly at right angles, a distance of 194.68 feet to a point;

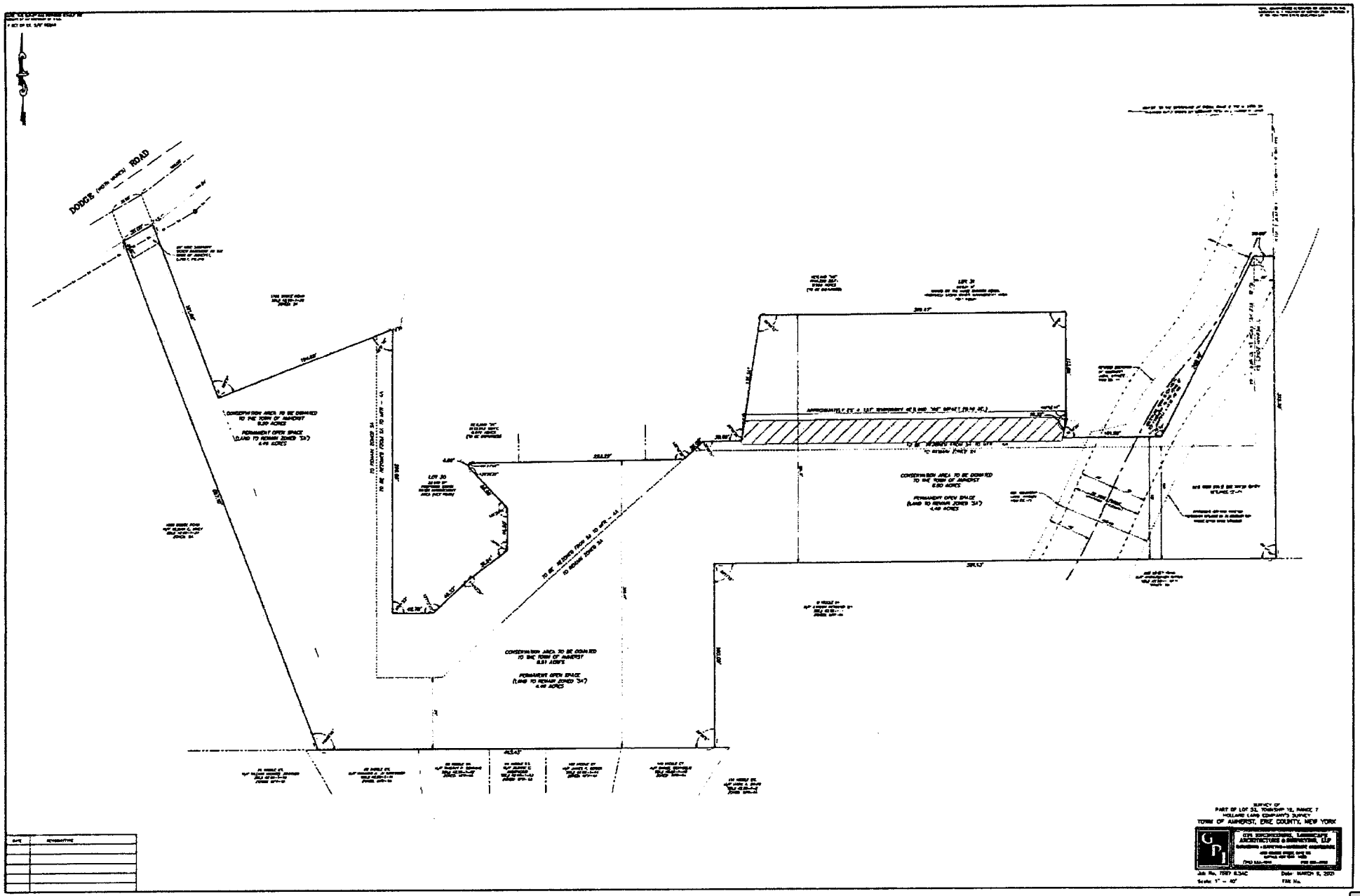
THENCE: Through said Heim Family Irrevocable Trust lands by Liber 11188 of Deeds at Page 2815the following seventeen (17) courses and distances:

1) Southerly, having an interior angle of 69°-01'-40", a distance of 296.58 feet to a point:
2) Easterly, having an exterior angle of 90°-01'-53", a distance of 42.78 feet to a point.
3) Northeasterly, having an exterior angle of 137°-12'-47", a distance of 49.33 feet to a point:
4) Northeasterly, having an interior angle of 174°-43'-30", a distance of 51.24 feet to a point:
5) Northerly, having an exterior angle of 127°-51'-57", a distance of 44.50 feet to a point;
6) Northwesterly, having an exterior angle of 136°-54'-11", a distance of 59.58 feet to a point:
7) Northerly, having an interior angle of 129°-25'-32", a distance of 4.69 feet to a point:
8) Easterly, having an interior angle of 98°-37'-48", a distance of 223.22 feet to a point:
9) Northeasterly, having an exterior angle of 138°-40'-25", a distance of 28.05 feet to a point;
10) Easterly, having an interior angle of 138°-09'-11", a distance of 39.66 feet to a point;
11) Northerly, having an exterior angle of 98°-48'-26", a distance of 131.51 feet to a point;
12) Easterly, having an interior angle of 98°-46'-12", a distance of 316.47 feet to a point;
13) Southerly, at right angles, a distance of 113.86 feet to a point:
14) Southwesterly, having an interior angle of 166°-53'-43", a distance of 16.32 feet to a point;
15) Easterly, having an exterior angle of 76°-51'-28", a distance of 101.82 feet to a point;
16) Northeasterly, having an exterior angle of 117°-26'-43", a distance of 208.79 feet to a point;
17) Easterly, having an interior angle of 117°-37'-27", a distance of 20.00 feet to the POINT OF BEGINNING CONTAINING 6.51 acres more or less.

Attachment: Protective covenant for wetlands (RES-2024-385 : Amendment to Resolution 2021-109 -1695,1701 &1721 Dodge Rd.)

Exhibit E - Survey depicting the Protected Property prepared by Mark Andrews, PLS, of GPI Engineering, Landscape Architecture & Surveying, LLP dated March 9, 2021

Attachment: Protective covenant for wetlands (RES-2024-385 : Amendment to Resolution 2021-109 -1695,1701 &1721 Dodge Rd.)


DODGE (NORTH MAIN) ROAD
CONSERVATION AREA TO BE DEDICATED TO THE TOWN OF AMHERST
PERMANENT OPEN SPACE (LAND TO REMAIN ZONED "AG")
CONSERVATION AREA TO BE DEDICATED TO THE TOWN OF AMHERST
PERMANENT OPEN SPACE (LAND TO REMAIN ZONED "AG")
CONSERVATION AREA TO BE DEDICATED TO THE TOWN OF AMHERST
PERMANENT OPEN SPACE (LAND TO REMAIN ZONED "AG")
SURVEY OF
PART OF LOT 33, TOWNSHIP 12, RANGE 7
HOLLAND LAND COMPANY'S SURVEY
TOWN OF AMHERST, ERIE COUNTY, NEW YORK

MICHAEL P. KEARNS, ERIE COUNTY CLERK
REF:

DATE:1/30/2023
TIME:3:03:33 PM
RECEIPT: 23014230

HOPKINS SORGI & MCCARTHY PLLC- BOX 460
ACCOUNT #: 9074

ITEM - 01 774
RECD: 1/30/2023 3:03:40 PM
FILE: 2023016410 BK/PG D 11413/5608
DODGE ROAD DEVELOPMENT LLC

Recording Fees		370.00
Subtotal	370.00	

TOTAL DUE	$370.00
PAID TOTAL	$370.00
PAID CHECK	$370.00
Check #1426:	370.00

REC BY: Danielle D
COUNTY RECORDER

Attachment: Protective covenant for wetlands (RES-2024-385 : Amendment to Resolution 2021-109 -1695,1701 &1721 Dodge Rd.)

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Police
Initiated by: **Scott Chamberlin**
Co-Sponsored by:

DOC ID: 28853 **RESOLUTION 2024-386** **ADOPTED**

Training & Travel Request Gun Involved Violence Elimination (GIVE) Training

TOWN BOARD AGENDA ITEM : APRIL 29, 2024

TO: **Town Board**

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

RE: **Training & Travel Request**
Gun Involved Violence Elimination (GIVE) Training

Kindly adopt a Resolution authorizing one (1) Officer to attend the above entitled training course. This course was held in Albany, New York from March 24, 2024 through March 26, 2024. The cost for this training and travel is $718.88.

Thank you.

SPC:msl
Attachment
C: Tim Koller, Deputy Town Clerk *(Agenda Item: April 29, 2024)*

4/29/2024
Consent

FINANCIAL IMPACT:

A 3139 .4050: $718.88

GIVE Grant Funds

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

TRAVEL EXPENSE APPROVAL / REIMBURSEMENT FORM

☐ Travel in New York State and under $750 - Department Head Approval

☒ Travel in New York State $750 and over - Department Head Approval and Town Board Approval

☐ Travel out of New York State - Department Head Approval and Town Board Approval

Name	Employee #	Department	Phone Number
[redacted]		Police	716-689-1311

Destination and Purpose of Trip

Date of Departure	Date of Return	Destination	Purpose/Justification
March 24, 2024	March 26, 2024	Albany, NY	GIVE training

Expenses	Estimated	Budget A/C #	Actual
Transportation: use of a Police Car			
Mileage @ $0.67	$100.00 (gas)	A3139.4050	$74.24
Tolls	$30.00	"	$26.12
Parking	$60.00	"	$58.15
Local Transportation (bus/taxi)			
Plane/Rail/Bus			
Lodging:			
2 # nights @ $ 192.85	$385.70	"	$387.87
Meals:			
IRS Per Diem Per Day:			
1st & Last Day of Travel @ 75% $51.75	$103.50	"	$103.50
1 # Breakfasts @ $ 16.00	$16.00	"	$16.00
1 # Lunches @ $ 17.00	$17.00	"	$17.00
1 # Dinners @ $ 31.00	$31.00	"	$31.00
1 # Incidentals @ $ 5.00	$5.00	"	$5.00
Registration/Conference Fee	Ø		
Other			
Subtotal	$743.35		N/A
Contingency - 10% of subtotal or $200	$74.34		N/A
TOTAL	$817.69		$718.88

Request Approved By:

Department Head Signature

4/3/2024

Date

I hereby certify that I have expended the above itemized amounts for business purposes for the Town of Amherst. Required receipts are attached.

Employee Signature — Date

Print Employee Name

Reimbursement Approved By:

Department Head Signature — Date

Complete Shaded Area For Expense Reimbursement

Town Board :

Town Board Resolution & Date

Revised 1.2024

Attachment: RedactedTravelFormGIVEGrantTraining 3.24.2024to3.26.2024 4.29.2024 (RES-2024-386 : Training & Travel Request: GIVE Training)

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Police
Initiated by: **Scott Chamberlin**
Co-Sponsored by:

DOC ID: 28883 **RESOLUTION 2024-387** **ADOPTED**

Training & Travel Request NCFI Basic Network Investigative Training

TOWN BOARD AGENDA ITEM : APRIL 29, 2024

TO: **Town Board**

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

RE: **Training & Travel Request**
NCFI Basic Network Investigative Training

Kindly adopt a Resolution authorizing one (1) Officer to attend the above entitled training course. This course is being held in Hoover, Alabama from June 23, 2024 through June 28, 2024. The cost for the training and travel for this course is paid for by the organization hosting the course.

Thank you.

SPC:msl
Attachment
C: Tim Koller, Deputy Town Clerk *(Agenda Item: April 29, 2024)*

4/29/2024
Consent

FINANCIAL IMPACT:

No Cost

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

TRAVEL EXPENSE APPROVAL / REIMBURSEMENT FORM

☐ Travel in New York State and under $750 - Department Head Approval

☐ Travel in New York State $750 and over - Department Head Approval and Town Board Approval

☒ Travel out of New York State - Department Head Approval and Town Board Approval

Name	Employee #	Department	Phone Number
[redacted]		Police	716-689-1311

Destination and Purpose of Trip

Date of Departure	Date of Return	Destination	Purpose/Justification
June 23, 2024	June 28, 2024	Hoover, AL	NCFI Basic Network Inv. Training (BNIT 24-04)

Expenses	Estimated	Budget A/C #	Actual
Transportation:			
Mileage @ $0.67			
Tolls			
Parking			
Local Transportation (bus/taxi)			
Plane/Rail/Bus			
Lodging:			
# nights @ $			
Meals:			
IRS Per Diem Per Day:			
1st & Last Day of Travel @ 75%			
# Breakfasts @ $			
# Lunches @ $			
# Dinners @ $			
# Incidentals @ $			
Registration/Conference Fee			N/A
Other			N/A
Subtotal			
Contingency - 10% of subtotal or $200			
TOTAL	Ø		Ø

Request Approved By:

Department Head Signature

4/9/2024

Date

Town Board :

Town Board Resolution & Date

I hereby certify that I have expended the above itemized amounts for business purposes for the Town of Amherst. Required receipts are attached.

Employee Signature — Date

Print Employee Name

Reimbursement Approved By:

Department Head Signature — Date

Complete Shaded Area
For Expense Reimbursement

Attachment: RedactedTravelFormNCFIBasicNetworkInvTraining 6.23.24 6.28.24 (RES-2024-387 : Training & Travel Request)

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Police
Initiated by: **Scott Chamberlin**
Co-Sponsored by:

DOC ID: 28919 **RESOLUTION 2024-388** **ADOPTED**

Training & Travel Request NYS Police Officers Memorial Remembrance Ceremony

TOWN BOARD AGENDA ITEM : APRIL 29, 2024

TO: **Town Board**

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

RE: **Training & Travel Request**
NYS Police Officers Memorial Remembrance Ceremony

Kindly adopt a Resolution authorizing four (4) Officers to attend the above entitled ceremony. This event is being held in Albany, New York from May 7, 2024 through May 8, 2024. The cost for this ceremony and travel is approximately $1,187.91.

Thank you.

SPC:msl
Attachment
C: Tim Koller, Deputy Town Clerk (Agenda Item: April 29, 2024)

4/29/2024
Consent

FINANCIAL IMPACT:

A 3121 .4050: $396.00

A 3121 .4120: $683.92

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

TRAVEL EXPENSE APPROVAL / REIMBURSEMENT FORM

☐ Travel in New York State and under $750 - Department Head Approval

☒ Travel in New York State $750 and over - Department Head Approval and Town Board Approval

☐ Travel out of New York State - Department Head Approval and Town Board Approval

NAME	Employee #	Department	Phone Number
[redacted]		Police	716-689-1311

Destination and Purpose of Trip

Date of Departure	Date of Return	Destination	Purpose/Justification
May 7, 2024	May 8, 2024	Albany, NY	NYS Police Officers Memorial Remembrance Ceremony

Expenses	Estimated	Budget A/C #	Actual
Transportation: Use of 2 Police Vehicles			
Mileage @ $0.67	$300.00 (Gas)	A 3121 .4050	
Tolls	$60.00	A 3121 .4050	
Parking	$36.00	A 3121 .4050	
Local Transportation (bus/taxi)			
Plane/Rail/Bus			
Lodging:			
2# nights @ $129.96 (2 Rooms)	$259.92	A 3121 .4120	
Meals:			
IRS Per Diem Per Day:			
1st & Last Day of Travel @ 75%			
0 # Breakfasts @ $ 0.00	ø		
8 # Lunches @ $ 17.00	$136.00	A 3121 .4120	
8 # Dinners @ $ 31.00	$248.00	A 3121 .4120	
8 # Incidentals @ $ 5.00	$40.00	A 3121 .4120	
Registration/Conference Fee	ø		
Other			
Subtotal	$1,079.92 -		N/A
Contingency - 10% of subtotal or $200	$107.99 -		N/A
TOTAL	$1,187.91 -		

Request Approved By:

Department Head Signature

4/23/2024

Date

Town Board :

Town Board Resolution & Date

I hereby certify that I have expended the above itemized amounts for business purposes for the Town of Amherst. Required receipts are attached.

Employee Signature Date

Print Employee Name

Reimbursement Approved By:

Department Head Signature Date

Complete Shaded Area
For Expense Reimbursement

Attachment: RedactedTravelFormNYSPoliceOfcMemorialCeremonyTraining 5.7.2024 4.29.2024 (RES-2024-388 : Training & Travel)

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Police
Initiated by: **Scott Chamberlin**
Co-Sponsored by:

DOC ID: 28904 **RESOLUTION 2024-389** **ADOPTED**

Memorandum of Understanding Use of Amherst Police Department Community Policing and Training Facility: Buffalo Armory Group, LLC (CRS#4734)

TOWN BOARD AGENDA ITEM : APRIL 29, 2024

TO: **Town Board**

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

RE: **Memorandum of Understanding**
Use of Amherst Police Department Community Policing and Training Facility: Buffalo Armory Group, LLC (CRS#4734)

Kindly adopt a resolution authorizing the Supervisor to adopt and execute the attached Memorandum of Understanding between the Town of Amherst (Police) and Buffalo Armory Group, LLC, with regard to the above-entitled matter. This MOU has successfully completed the Contract Routing System.

Thank you.

SPC:msl
Attachment
C: Tim Koller, Deputy Town Clerk *(w/attachment, Agenda Item: April 29, 2024)*

4/29/2024
Consent

FINANCIAL IMPACT:

A 3122 .02410: Revenue TBD

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

TEMPORARY ACCESS AGREEMENT

This Temporary Access Agreement ("Agreement") is entered as of the 01 day of April, 2024 by and between Buffalo Armory Group, LLC, 1050 Military Road, Buffalo, New York 14217 ("Buffalo Armory") and the Town of Amherst, 5583 Main Street, Williamsville, New York and the Town of Amherst Police Department, 500 John James Audubon Parkway, Buffalo, New York 14228 (collectively "Town").

1) To assist Buffalo Armory with on site, in-person demonstrations of their products to Western New York area law enforcement professionals at 4220 Bailey Avenue, Amherst, New York, bearing SBL #67.65-1-6 ("Bailey Range").

2) The TOWN, for valuable consideration the sufficiency and receipt of which is hereby acknowledged, hereby grants Buffalo Armory, the right to enter upon the Bailey Range Property for purposes described.

3) Buffalo Armory assumes all risks of, and agrees to indemnify, protect and save harmless the Town and its successors and assigns from all loss, damage, or injury to persons (including, without limitation, personal injuries resulting in death) or property and from all claims, demands, suits, liabilities, obligations and expenses arising therefrom, including reasonable legal fees and expenses, caused by or in any way connected with the exercise of the rights granted hereunder, except to the extent the same shall be caused by the sole negligent or sole intentional acts or omissions of any employee, officer, agent, invitee or representatives of the TOWN. In the event that any judgment, lien or other encumbrance is placed upon or levied against the Bailey Range Property in any suit or other proceedings due to Buffalo Armory's activities, Buffalo Armory will immediately cause the same to be discharged by the posting of a bond or otherwise.

4) Buffalo Armory shall maintain at all times during the term of this Agreement Commercial General Liability insurance in the amount of $1,000,000 per occurrence for personal injury and advertising injury, $2,000,000 aggregate, and $2,000,000 in excess with the TOWN added as an additional insured on a primary and non-contributory basis to protect the TOWN from against any and all claims, demands and cause of actions, arising by reason of any work performed by Buffalo Armory and said work will not commence under this Agreement until an appropriate certificate of insurance has been provided to the TOWN.

5) To the fullest extent permitted by law, Buffalo Armory will indemnify and hold the Town, its officers, agents, and employees, harmless from any and all liability, demands, claims, expenses (including legal fees and court costs), awards or judgments imposed upon the Town, its officers, agents, and/or employees, arising from the negligence, active or passive, of Buffalo Armory, its officers, agents, subcontractors, and/or employees in carrying out filming or other related activities on the Bailey Range Property.

Attachment: ContractforCRSRouting 4.29.2024 (RES-2024-389 : MOU: Bailey Range Use: Buffalo Armory Group (CRS# 4734))

6) 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 expressly include the same.

7) This Agreement shall be governed by, and interpreted according to the laws of the State of New York. Any and all legal action necessary to enforce the agreement will be held in Erie County, New York.

8) Each and every provision of law and clause required by law to be inserted in this contract 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 contract shall be physically amended forthwith and executed by the parties to make such insertion.

8.) The Town of Amherst Town will approve this Agreement via the adoption of Resolution during its meeting on _____, 2024.

9) This Agreement shall be effective as of the date first set forth above and this Agreement shall terminate on May 31, 2024.

10.) The fees associated with the use of the Bailey Range are as follows:

Firearms Range:	$600 /day (8 hrs.)
$75 / each additional hour scheduled	

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the date set forth above.

TOWN OF AMHERST

By: _____

Name: Brian J. Kulpa

Title: Town Supervisor

BUFFALO ARMORY GROUP, LLC

By: _____

Name: Andrew Levinson

Title: Director of Finance

Attachment: ContractforCRSRouting 4.29.2024 (RES-2024-389 : MOU: Bailey Range Use: Buffalo Armory Group (CRS# 4734))

BUFFAARM

ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 03/27/2024

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	CONTACT NAME: Kimberly Tetreault
USI Insurance Services LLC 12 Gill Street, #5500 Woburn, MA 01801 855 874-0123	PHONE (A/C, No, Ext): 877 396-3800 FAX (A/C, No): 877-775-0110 E-MAIL ADDRESS: Kimberly.Tetreault@usi.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Great Northern Insurance Company	20303
INSURER B : Federal Insurance Company	20281
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

INSURED
Buffalo Armory Group LLC
1050 Military Road
Buffalo, NY 14217

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 / X OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: X POLICY / PRO-JECT / LOC OTHER:			36072839	12/30/2023	12/30/2024	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 $1,000,000 $10,000 $1,000,000 $2,000,000 $2,000,000 $
A	AUTOMOBILE LIABILITY X ANY AUTO OWNED AUTOS ONLY / SCHEDULED AUTOS X HIRED AUTOS ONLY / X NON-OWNED AUTOS ONLY			73632208	12/30/2023	12/30/2024	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident) 	$1,000,000 $ $ $ $
B	X UMBRELLA LIAB / X OCCUR EXCESS LIAB / CLAIMS-MADE DED / X RETENTION $10000			78198484	12/30/2023	12/30/2024	EACH OCCURRENCE AGGREGATE 	$2,000,000 $2,000,000 $
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y / N: N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N / A		71757764	12/30/2023	12/30/2024	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)

Town of Amherst Police Department- 500 John James Audubon Parkway Buffalo New York, 14228

Buffalo Armory shall maintain at all times during the term of this Agreement Commercial General Liability insurance in the amount of $1,000,000 per occurrence for personal injury and advertising injury, $2,000,000 aggregate, and $2,000,000 in excess with the TOWN added as an additional insured on a primary and non-contributory basis to protect the TOWN from against any and all claims, demands and cause of actions, arising by reason of a work performed by Buffalo Armory and said work will not commence under this Agreement until an appropriate certificate of insurance has been provided to the TOWN.

CERTIFICATE HOLDER

Town of Amherst,
5583 Main Street
Williamsville, New York

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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SYAZR

Attachment: ContractforCRSRouting 4.29.2024 (RES-2024-389 : MOU: Bailey Range Use: Buffalo Armory Group (CRS# 4734))

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Police
Initiated by: **Scott Chamberlin**
Co-Sponsored by:

DOC ID: 28934 **RESOLUTION 2024-390** **ADOPTED**

Sweet Home Central School District (CRS #4666) Student Resource Officer Program

TOWN BOARD AGENDA ITEM : APRIL 29, 2024

TO: **Town Board**

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

RE: **Sweet Home Central School District (CRS #4666)**
Student Resource Officer Program

Kindly adopt a resolution authorizing the Supervisor to adopt and execute the attached agreement between the Town of Amherst (Police) and Sweet Home Central School District with regard to the above-entitled matter. This agreement will run from July 1, 2024 through June 30, 2025. This agreement has successfully completed the Contract Routing process.

Thank you.

SPC:msl
Attachment
C: Tim Koller, Deputy Town Clerk (Agenda Item: April 29, 2024)

4/29/2024
Consent

FINANCIAL IMPACT:

A 3121 .02260 : Revenue: $75,000.00

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

AGREEMENT
BY AND BETWEEN
TOWN OF AMHERST, NEW YORK
AND
SWEET HOME CENTRAL SCHOOL DISTRICT
FOR SCHOOL DISTRICT RESOURCE OFFICER PROGRAM

THIS AGREEMENT made _____, 2024, by and between the TOWN OF AMHERST, NEW YORK, a municipal corporation organized and existing under the laws of the State of New York, having its offices located at 5583 Main Street, Williamsville, New York 14221 (hereinafter referred to as the "Town") and the SWEET HOME CENTRAL SCHOOL DISTRICT, an educational corporation organized and existing under the laws of the State of New York, having its principal offices located at 1901 Sweet Home Road, Amherst, New York 14228 (hereinafter referred to as the "School District").

WITNESSETH:

WHEREAS, the School District is desirous of obtaining the services of one (1) full-time School Resource Officer (hereinafter referred to as an "SRO") for the purposes and to provide the services set forth herein; and

WHEREAS, the Town, through its Police Department (hereinafter referred to as the "Police Department") is desirous of providing law enforcement and related services to the School District through providing to the School District an SRO under the terms and conditions set forth herein; and

WHEREAS, the School District and the Town recognize the potential outstanding benefits of providing an SRO to the School District to both the residents of the Town of Amherst, the School District and the students of the School District; and

WHEREAS, it is in the best interests of the School District and the Town to provide for the provision of an SRO by the Town, through its Police Department, to the School District.

NOW, THEREFORE, in consideration of the foregoing and the mutual agreements as set forth hereinbelow, it is hereby agreed between the Town, the Police Department, and the School District as follows:

1. General Purposes, Project Goals, Project Objectives and Performance Indicators.

It is the intent and provision of this Agreement to provide to the School District the services of an SRO from the Police Department to provide those services listed under the job description contained in Exhibit "A" annexed hereto (entitled the "SRO Placement Plan"), with the project goals and project objectives as set forth in Exhibit "A" which can be measured by the performance indicators set forth in Exhibit "A" and evaluated as set forth

Attachment: Contract (RES-2024-390 : SRO Contract: Sweet Home Central School District (CRS#:4666))

in the evaluation plan as set forth in Exhibit "A", all as may also be otherwise set forth in the text of this Agreement.

2. Term of Agreement

The term of this Agreement shall be for the period commencing on July 1, 2024 and culminating on June 30, 2025.

3. Renewal of Agreement

Both parties shall notify the other party of their desire to renew the Agreement by written notice at least thirty (30) calendar days prior to the expiration of the term as set forth in Paragraph 2 above. Upon receipt and written acknowledgment of such notice this Agreement shall renew for successive terms of one (1) year until such time as the Agreement is not renewed by failure to notify in writing of desire to renew as stated above or by notice of termination of this Agreement as set forth in Paragraph 4 and Paragraph 5.b.iiii of this Agreement.

4. Termination of Agreement

This Agreement may be terminated by either party upon thirty (30) calendar days written notice to the other party.

5. Assignment of School Resource Officer

The Chief of Police of the Police Department may assign a regularly employed police officer as the SRO to the School District pursuant to this Agreement as follows:

a. The SRO shall be nominated by the Chief of Police of the Police Department to the School District and, upon the concurrence of the Superintendent of Schools (the "Superintendent") of the School District to that nomination, the SRO shall be assigned as the SRO for the School District.

b. The SRO assigned to the School District must meet the following requirements:

i. The SRO must be a volunteer for the position as SRO.

ii. The person nominated to be SRO must be a full-time certified and sworn police officer with a minimum of three (3) years of law enforcement experience.

iii. The person nominated to be SRO must have had or must acquire specialized training to work with youth at a school site. Such training may consist of university course work for potential SRO candidates, law enforcement course work addressing working with youth at a school site, professional training in such areas, or training and experience in connection with other recognized school/youth law enforcement programs (e.g. D.A.R.E). Sufficiency of such experience shall be based upon the joint

Attachment: Contract (RES-2024-390 : SRO Contract: Sweet Home Central School District (CRS#:4666))

concurrence of the Chief of Police of the Police Department and the Superintendent. The SRO may be re-assigned by the Chief of Police of the Police Department (or his designee) during periods of police emergency, situations which may require augmentation of the police force, or situations which may arise which may require the SRO to act as an officer of the law which may or may not be within the School District. Other times of reassignment may include, but are not limited to, training as required by the Police Department or federal and/or state law, court appearances as required by law, or time off as permitted by the collective bargaining agreement. The SRO will give consideration to the school calendar and use discretion when taking his/her discretionary time off.

iv. In the event the Police Department cannot provide an SRO, or a suitable replacement, for thirty (30) continuous days, the District has the option to terminate this Agreement immediately.

6. Dismissal of School Resource Officer: Replacement

a. In the event the Superintendent determines, in the sole discretion of the Superintendent, that the SRO is not effectively performing his or her duties and responsibilities, the Superintendent shall advise the Chief of Police of the Police Department.

b. The Chief of Police of the Police Department may dismiss or re-assign the SRO based upon Police Department rules, regulations and/or general orders consistent with the collective bargaining agreement. In such an event, a new SRO may be designated in accordance with the procedure outlined as in Paragraph 5 above.

7. Duties of the School Resource Officer

a. The duties of the SRO will include but not be limited to those duties set forth in the SRO Placement Plan annexed hereto as Exhibit "A" as part of the job description or performance indicators.

b. Consistent with the New York State Education Law and the School District's Code of Conduct, school disciplinary functions, including but not limited to all decisions and determinations regarding student discipline, are delegated to School District administrators. SRO(s) shall engage in separate and distinct work functions such as investigatory and security-based tasks, with the primary objective of securing the safety and well being of School District personnel, students, families, and visitors. SRO(s) shall not take part in the determination, issuance, or implementation of student discipline.

8. Duties of the School District

The School District shall provide the following materials and facilities which are deemed necessary for the performance of the SRO's duties:

Attachment: Contract (RES-2024-390 : SRO Contract: Sweet Home Central School District (CRS#:4666))

a. A properly lighted private office which shall contain a telephone and shall be appropriate for private conversations between juveniles and the SRO.

b. A location for files and records which should be properly locked and secured.

c. Access to a computer and/or secretarial assistance, and access to a fax machine.

9. Hours of Duty of SRO

a. The Chief of Police of the Police Department shall arrange for the SRO to work a full day (8.25 hours) on each day when school is in session in the School District, except for the provisions set forth in Section 5.b.iii.

b. Additionally, upon the concurrence of the Superintendent and the Police Department, the SRO may be requested to attend extracurricular events. In the event school is scheduled for only part of a school day, the SRO shall work as SRO for the portion of the work day when school is in session and may otherwise perform such other duties as may be assigned to him within the Police Department.

10. Payment by School District to Town for SRO's Services

a. For the services of the SRO, the School District shall pay the Town the sum of $7,500 per month during the regular school year, September through June.

b. The Town Supervisor, or his/her designee, shall notify the School District in writing by March 1st of the preceding school year of any change in the rate charged by the Town to the School District for the services of the SRO for the following school year.

c. The funds paid by the School District to the Police Department shall remain within the budget of the Police Department to partially cover the cost of the SRO's salary, fringe benefits, overtime and other costs related to the SRO program.

d. Both the School District and the Police Department shall establish procedures to track the hours and/or full days for which the Police Department provides the services of the SRO to the School District.

e. The Town shall invoice the School District every month for the services of the SRO. Upon verification of such invoices, the School District shall pay the same within thirty (30) days receipt of each invoice.

f. The School District may require the SRO to conform to a means of verifying the SRO's hours of work in the capacity of SRO, including sign in/sign out sheet and/or time card or such other means as are deemed appropriate and effective.

11. Employment Status of SRO

The SRO shall remain at all times an employee of the Police Department and shall not be for any purpose an employee of the School District. The School District and the

Attachment: Contract (RES-2024-390 : SRO Contract: Sweet Home Central School District (CRS#:4666))

Town acknowledge that the SRO shall remain responsive to the chain of command within the Police Department.

12. Grant Funding

The School District may receive local, state and/or federal grants to cover all or part of the costs to be paid to the Police Department for the services of the SRO. The parties agree that they will administer the SRO program at all times to be consistent with the requirements of any such grant. In the event of an inconsistency between this Agreement and the requirements of any such grant, the provisions of such grant shall control, provided that nothing in any such grant shall require an adjustment to the rate of pay by the School District to the Police Department for the services of the SRO, or violate any terms of the Police Department chain of command, rules, regulations, general orders consistent with the collective bargaining agreement.

13. Good Faith

The School District, the Town, their agents and employees agree to cooperate in good faith in fulfilling the terms of this Agreement. Unforeseen difficulties or questions will be resolved by discussion between the Superintendent and the Chief of Police of the Police Department or their designees.

14. Notices

Any and all notices or any other communication herein required or permitted shall be deemed to have been given when deposited in the United States Postal Service as regular mail, postage prepaid, or by express courier service and addressed as follows:

If to the School District:
Superintendent of Schools
Sweet Home Central School District
1901 Sweet Home Road
Amherst, New York 14228

If to the Police Department:
Chief of Police
Town of Amherst Police Department
500 John James Audubon Parkway
Amherst, New York 14228

If to the Town:
Town Supervisor
Amherst Town Hall
5583 Main Street
Williamsville, New York 14221

In addition, correspondence will also be sent via email to the particular receiving party as named above.

Attachment: Contract (RES-2024-390 : SRO Contract: Sweet Home Central School District (CRS#:4666))

15. Modification

This Agreement constitutes the full understanding of the parties and not terms, conditions or understandings or agreements purporting to modify or vary the terms of this Agreement shall be binding unless made in writing and signed by the duly authorized representatives of the parties.

16. Non-Assignment

Neither the School District nor the Town or Police Department shall assign, transfer, sublet or otherwise dispose of this Agreement or its right, title or interest in this Agreement or its power to execute the same or to any other person or corporation without the previous consent in writing of the governing bodies of both the School District and the Town. Any assignment of this Agreement not complying with the foregoing shall be null and void and of no force and effect whatsoever.

17. Severability

In the event any provision of this Agreement shall be or become invalid under any provision of federal, state, or local law, such invalidity shall not affect the validity or enforceability of any other provision hereof.

18. Agreement Interest

No officer or employee of the Town, who is authorized in such capacity on behalf of the Town to negotiate, make, accept or approve or to take part in negotiating, making, accepting or approving this Agreement, shall be, directly or indirectly, interested personally in this Agreement, or in any part hereof. No officer or employee of the Town who is authorized in such capacity on behalf of the Town to exercise any supervisory or administrative function in connection with this Agreement, shall become directly or indirectly interested personally in this Agreement or in any part hereof.

19. Hold Harmless

To the fullest extent provided by law, the parties agree to indemnify, hold harmless and defend one another, their agents, employees or any other persons authorized to act for them hereunder against loss or expense, including attorney's fees, by reason a a liability imposed by law upon a party, for damages because of or to persons or to property arising out of or in consequence of the performance of this Agreement resulting from that party's negligence, error, omission, or conduct.

Attachment: Contract (RES-2024-390 : SRO Contract: Sweet Home Central School District (CRS#:4666))

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed by their duly authorized officers the day and year first written above.

TOWN OF AMHERST, NEW YORK

By: _____ _____
Brian J. Kulpa, Supervisor Date

TOWN OF AMHERST, NEW YORK,
POLICE DEPARTMENT

By: _____ 4/23/2024
Scott P. Chamberlin, Chief of Police Date

SWEET HOME CENTRAL SCHOOL DISTRICT

By: _____ 3/12/24
Michael V. Ginestre, Superintendent Date

Attachment: Contract (RES-2024-390 : SRO Contract: Sweet Home Central School District (CRS#:4666))

EXHIBIT "A"

SCHOOL RESOURCE OFFICER PLACEMENT PLAN

Amherst Police Department &
Sweet Home Central School District

Introduction

With more attention being paid to the safety of students while they are at school, many communities are considering strategies which are intended to make schools safer environments. Although statistics on school crime and violence convey that such crime and violence are not necessarily occurring in greater numbers, there is, at a minimum, anecdotal evidence which suggests that the types of incidents which are taking place on school property may be more severe in nature and may be having marked negative impact on the educational processes for which schools are responsible. Additionally, media coverage of tragic school shootings and other violence which occurred during the past decade has motivated many communities to act.

One of the ways communities are taking action is by making decisions that law enforcement officers need to be assigned to provide coverage to schools so that safety, security, and order can be maintained. The underlying rationale which is being employed by communities is that a given school's crime and violence problems are not exclusively that school's problems, but are reflective of community problems. Such a rationale leads to consideration of community approaches. Hence, in many communities the "School Resource Officer" (SRO) approach is being considered.

The U.S. Departments of Education, Health and Human Services, and Justice provide a definition for "School Resource Officer":

> *A career law enforcement officer, with sworn authority, deployed in community oriented policing, and assigned by the employing police department or agency to work in collaboration with schools and community-based organizations to: (a) address crime and disorder problems, gangs, and drug activities affecting or occurring in or around an elementary or secondary school; (b) develop or expand crime prevention efforts for students; (c) education likely school-age victims in crime prevention and safety; (d) develop or expand community justice initiatives for students; (e) train students in conflict resolution, restorative justice, and crime awareness; (f) assist in the identification of physical changes in the environment that may reduce crime in or around the school; and (g) assist in developing school policy that addresses crime and recommend procedural changes (Safe Schools/Healthy Students Initiative).*

Attachment: Contract (RES-2024-390 : SRO Contract: Sweet Home Central School District (CRS#:4666))

The National Association of School Resource Officers (NASRO) defines "School Resource Officer" as:

> *Officers (who) promote a better understanding of our laws, why they were enacted and their benefits. They provide a visible and positive image for law enforcement. They serve as a confidential source of counseling to students concerning the problems they face. They bring expertise into schools that will help young people make more positive choices in their lives. They also work to protect the school environment and to maintain an atmosphere where teachers feel safe to teach and students feel safe enough to learn (NASRO website).*

Regardless of definition, School Resource Officers have three main functions: *law enforcement officer, law-related teacher, and law-related counselor.* First, as a law enforcement officer, the SRO maintains a safe and secure environment on the school campus that will be conducive to an educationally stimulating atmosphere and serve as a means of preventing criminal activities and disturbances. Second, as a teacher, the SRO promotes positive attitudes regarding the police role in society and informs the students of their rights and responsibilities as lawful citizens. Third, as a counselor, the SRO establishes a more complete liaison with school personnel and students in an effort to prevent juvenile delinquency. According to the National Assessment of School Resource Officer Programs (National Institute of Justice, 2005), SRO's spend on average about 60-65 percent of their time on law enforcement, 25-30 percent counseling, and 5-10 percent teaching.

The most effective way an SRO can accomplish these goals is to be a positive role model; students learn from every interaction they have with an SRO. It is essential for an SRO to endorse high moral standards, use good judgment and discretion, be consistent and fair, respect all students, and display a sincere concern for the school community. School Resource Officers must maintain a professional appearance; be visible, accessible and willing to talk to the students; attend and participate in school activities both during the school year and the summer months; interact positively with the students and the community while taking their concerns seriously; maintain a relationship with the students' parents by attending PTA meetings and parent conferences; and maintain a relationship with the faculty and school administrators.

The SRO interacts with the school administrators and faculty, the student body, and the outside community. Although working in the school, the SRO is still an employee of the law enforcement agency and is responsible for identifying and resolving school safety problems. However, the SRO is not the disciplinarian or chaperone for the school –which job remains with the principal and faculty. As a resource for school administrators, the SRO serves as a means of establishing order and safety so learning can take place. The SRO shares information with faculty on gang activity and truants, provides expertise on crime prevention and responds to and investigates criminal activity in the school. The SRO is also a teacher who provides law-related education to students. As a resource for the student body, the SRO's office with the school serves as a resource center and makes available to students information on topics ranging from date rape to drug abuse. The SRO

Attachment: Contract (RES-2024-390 : SRO Contract: Sweet Home Central School District (CRS#:4666))

also assists the school guidance department by counseling students; giving them the opportunity to talk about their problems and helping them find positive solutions. When necessary, the SRO refers students and family members to appropriate social agencies for additional assistance. Additionally, the SRO responds to requests from parents and the community regarding truants, drug activity, domestic problems, burglaries, thefts, and other school safety issues.

The SRO Program works to prevent juvenile delinquency and create a favorable student/police officer relationship. The Town of Amherst, the Amherst Town Court, school administrators, teachers, parents, and students are all beneficiaries of the SRO Program and, as stakeholders in the search for safer schools, must support and work with the SRO to reduce criminal conduct both on and off campus.

Job Description

- Provide law enforcement and police services to the school, school grounds and areas adjacent to the school. Investigate allegations of criminal incidents per police department policies and procedures. Enforce state and local laws and ordinances. Make appropriate referrals to juvenile authorities or other governmental agencies
- Work to prevent juvenile delinquency through close contact and positive relationships with students. In addition the SRO shall develop crime prevention programs and conduct security inspections to deter criminal or delinquent activities. The SRO should monitor crime statistics and work with other police personnel, school administration and faculty, and students to design crime prevention strategies.
- Establish and maintain a close partnership with school administrators in order to provide for a safe school environment. Assist school officials with their efforts to enforce School District policies and procedures, Assist school administration in emergency response planning and building security matters. Provide a course of training for school personnel in handling crisis situations, which may arise at the school.
- Be visible within the school community. Attend and participate in school functions. Build working relationships with the school's staff as well as with student and parent groups.
- Develop, implement and instruct classes in law related topics to support the educational efforts of the faculty. Work closely with teachers in designing and presenting law-related topics and the role of police in our society.
- Work with school counselors and other student support staff to assist students and to provide services to students involved in situations where referral to service agencies are necessary. Assist in conflict resolution efforts.
- Initiate interaction with students in the classroom and general areas of the school building; participate in individual and small group meetings and conferences with students. Promote the profession of police officer and be a positive role model. Increase the accessibility of police to the school community.

Attachment: Contract (RES-2024-390 : SRO Contract: Sweet Home Central School District (CRS#:4666))

Juvenile Crime

Contemporary theories on juvenile delinquency suggest that the proliferation of negative influences in children's lives relate directly to juvenile crime rates. Some of these negative elements are poverty, discrimination, peer pressure, an unstable home life (broken or single parent homes), and unstable school life, psychological instability, changing morals of society, ineffectiveness of the juvenile justice system, direct influences of the mass media, and ignorance to the law and criminal justice system.

Recent statistics indicate that although the overall juvenile violent crime rate within the nation has been on the decline after decades of escalation, juvenile crime rates for other offenses have remained relatively static. Crime in schools has also seen a steady rise during the same periods. According to the National Crime Safety Center, juveniles commit more than 3 million crimes in schools each year. Although part of these changes may be attributable to greater public awareness of crime in schools and increasing pressure on education officials to report school crime incidents, there is no question that violence and crime are on the rise in our schools and affecting our children's ability to learn.

Project Goals

- To maintain a safe and secure environment on the school campus which will be conducive to an educationally stimulating atmosphere and serve as a means of preventing criminal activities and disturbances.
- To promote positive attitudes regarding the police role in society and to inform the students of their rights and responsibilities as lawful citizens.
- To establish a more complete liaison with school personnel and students in a cooperative effort to prevent juvenile delinquency.
- To bridge the gap between police officers and adolescents in order to increase positive attitudes toward law enforcement and to reduce juvenile crime through counseling, teaching about the criminal justice system, and taking a personal interest in the students.

Project Objectives

- Promote student understanding of the law and the criminal justice system.
- Decrease the number of student conduct/criminal violations occurring during the school day and during extracurricular school functions.
- Decrease gang activity and involvement in gangs by students.
- Improve students' attitudes and relationships with law enforcement personnel.
- Increase access of students, parents, and families to community agencies which offer assistance to youths and their families for problems that require professional help.
- Conduct crime prevention programs and improve school officials' response to criminal activity and violence.

Attachment: Contract (RES-2024-390 : SRO Contract: Sweet Home Central School District (CRS#:4666))

Performance Indicators

- Present law-related education to classes during the school year. The SRO will keep a record of all law-related courses that are taught including drug prevention presentations and other programs deemed necessary and appropriate by school administrators and police management.
- The number of student conduct/criminal violations for the school year will be compared to the number from previous school years to determine any increase or decrease.
- The SRO will keep a record of all gang activity on or near campus, attempt to identify the individuals involved, and relate this information to the police department. This information will be compared to records from previous years to determine changes in gang activity. If necessary, the SRO will present gang awareness and prevention training to the student body, faculty, and parent organizations.
- The SRO will assess the students' attitudes toward law enforcement by interacting with them during the school day and during extracurricular activities and through the use of student surveys at the beginning and end of each school year. The relationship between the SRO and the student body will also be assessed through surveys completed by parents, faculty members, and administrators to gauge the effectiveness of the SRO program.
- The SRO will research and document all municipal, county, and state agencies available to provide services to students and their families. A directory of such agencies including points of contact will be developed or maintained. The SRO will hold conferences with students, parents, and school faculty when appropriate and keep a log of this activity. The SRO will also maintain a record of all referral services rendered and follow-up the referrals to determine if they were helpful or if other services are necessary.
- The SRO will maintain a record of all crime prevention lectures or seminars given to the student body or public. The SRO will assist school administrators in surveying school facilities for areas that provide opportunities for commission of a crime and develop a plan to correct the problem. The SRO will also assist school violence prevention teams in developing strategic responses to incidents of violence within the school.
- The commanding officer will be responsible to collect and analyze data, prepare progress reports and write the annual evaluation report.
- Data will be gathered on law enforcement related incidents, law enforcement related course grades, parent and teacher survey results, and outcomes of conferences with students, parents and faculty members, as well as any other information that is explicitly mentioned in the projects' performance indicators.

Attachment: Contract (RES-2024-390 : SRO Contract: Sweet Home Central School District (CRS#:4666))

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Police
Initiated by: **Scott Chamberlin**
Co-Sponsored by:

DOC ID: 28936 **RESOLUTION 2024-391** **ADOPTED**

Williamsville Central School District (CRS #4665) Student Resource Officer Program

TOWN BOARD AGENDA ITEM : APRIL 29, 2024

TO: **Town Board**

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

RE: **Williamsville Central School District (CRS #4665)**
Student Resource Officer Program

Kindly adopt a resolution authorizing the Supervisor to adopt and execute the attached agreement between the Town of Amherst (Police) and Williamsville Central School District with regard to the above-entitled matter. This agreement will run from July 1, 2024 through June 30, 2025. This agreement has successfully completed the Contract Routing process.

Thank you.

SPC:msl
Attachment
C: Tim Koller, Deputy Town Clerk (Agenda Item: April 29, 2024)

4/29/2024
Consent

FINANCIAL IMPACT:

A 3121 .02260 : Revenue: $225,000.00

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

AGREEMENT
BY AND BETWEEN
TOWN OF AMHERST, NEW YORK
AND
WILLIAMSVILLE CENTRAL SCHOOL DISTRICT
FOR SCHOOL DISTRICT RESOURCE OFFICER PROGRAM

THIS AGREEMENT made _____, 2024, by and between the TOWN OF AMHERST, NEW YORK, a municipal corporation organized and existing under the laws of the State of New York, having its offices located at 5583 Main Street, Williamsville, New York 14221 (hereinafter referred to as the "Town") and the WILLIAMSVILLE CENTRAL SCHOOL DISTRICT, an educational corporation organized and existing under the laws of the State of New York, having its principal offices located at 105 Casey Road, East Amherst, New York 14051 (hereinafter referred to as the "School District").

WITNESSETH:

WHEREAS, the School District is desirous of obtaining the services of three (3) full-time School Resource Officers (hereinafter referred to as "SROs") for the purposes and to provide the services set forth herein; and

WHEREAS, the Town, through its Police Department (hereinafter referred to as the "Police Department"), is desirous of providing law enforcement and related services to the School District through providing to the School District three (3) SROs under the terms and conditions set forth herein; and

WHEREAS, the School District and the Town recognize the potential outstanding benefits of providing SROs to the School District to both the residents of the Town of Amherst, the School District and the students of the School District; and

WHEREAS, it is in the best interests of the School District and the Town to provide for the provision of SROs by the Town, through its Police Department, to the School District.

NOW, THEREFORE, in consideration of the foregoing and the mutual agreements as set forth hereinbelow, it is hereby agreed between the Town, the Police Department, and the School District as follows:

1. General Purposes, Project Goals, Project Objectives and Performance Indicators.

It is the intent and provision of this Agreement to provide to the School District the services of three (3) SROs from the Police Department to provide those services listed under the job description contained in Exhibit "A" annexed hereto (entitled the "SRO Placement Plan"), with the project goals and project objectives as set forth in Exhibit "A" which can be measured by the performance indicators set forth in Exhibit "A" and

Attachment: Contract (RES-2024-391 : SRO Contract: Williamsville Central School District (CRS#4665))

evaluated as set forth in the evaluation plan as set forth in Exhibit "A", all as may also be otherwise set forth in the text of this Agreement.

2. Term of Agreement

The term of this Agreement shall be for the period commencing on July 1, 2024 and culminating on June 30, 2025.

3. Renewal of Agreement

Both parties shall notify the other party of their desire to renew the Agreement by written notice at least thirty (30) calendar days prior to the expiration of the term as set forth in Paragraph 2 above. Upon receipt and written acknowledgment of such notice this Agreement shall renew for successive terms of one (1) year until such time as the Agreement is not renewed by failure to notify in writing of desire to renew as stated above or by notice of termination of this Agreement as set forth in Paragraph 4 and Paragraph 5.b.iiii of this Agreement.

4. Termination of Agreement

This Agreement may be terminated by either party upon thirty (30) calendar days written notice to the other party.

5. Assignment of School Resource Officer

The Chief of Police of the Police Department may assign three (3) regularly employed police officers as the SROs to the School District pursuant to this Agreement as follows:

a. The SROs shall be nominated by the Chief of Police of the Police Department to the School District and, upon the concurrence of the Superintendent of Schools (the "Superintendent") of the School District to that nomination, the SROs shall be assigned as the SROs for the School District.

b. Each SRO assigned to the School District must meet the following requirements:

i. The SRO must be a volunteer for the position as SRO.

ii. The person nominated to be SRO must be a full-time certified and sworn police officer with a minimum of three (3) years of law enforcement experience.

iii. The person nominated to be SRO must have had or must acquire specialized training to work with youth at a school site. Such training may consist of university course work for potential SRO candidates, law enforcement course work addressing working with youth at a school site, professional training in such areas, or training and experience in connection with other recognized school/youth law enforcement programs (e.g.

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D.A.R.E). Sufficiency of such experience shall be based upon the joint concurrence of the Chief of Police of the Police Department and the Superintendent. The SRO may be re-assigned by the Chief of Police of the Police Department (or his designee) during periods of police emergency, situations which may require augmentation of the police force, or situations which may arise which may require the SRO to act as an officer of the law which may or may not be within the School District. Other times of reassignment may include, but are not limited to, training as required by the Police Department or federal and/or state law, court appearances as required by law, or time off as permitted by the collective bargaining agreement. The SRO will give consideration to the school calendar and use discretion when taking his/her discretionary time off.

iv. In the event the Police Department cannot provide an SRO, or a suitable replacement, for thirty (30) continuous days, the District has the option to terminate this Agreement immediately.

6. Dismissal of School Resource Officer: Replacement

a. In the event the Superintendent determines, in the sole discretion of the Superintendent, that if an SRO is not effectively performing his or her duties and responsibilities, the Superintendent shall advise the Chief of Police of the Police Department.

b. The Chief of Police of the Police Department may dismiss or re-assign an SRO based upon Police Department rules, regulations and/or general orders consistent with the collective bargaining agreement. In such an event, a new SRO may be designated in accordance with the procedure outlined as in Paragraph 5 above.

7. Duties of the School Resource Officer

a. The duties of the SROs will include but not be limited to those duties set forth in the SRO Placement Plan annexed hereto as Exhibit "A" as part of the job description or performance indicators.

b. Consistent with the New York State Education Law and the School District's Code of Conduct, school disciplinary functions, including but not limited to all decisions and determinations regarding student discipline, are delegated to School District administrators. SROs shall engage in separate and distinct work functions such as investigatory and security-based tasks, with the primary objective of securing the safety and well being of School District personnel, students, families, and visitors. SROs shall not take part in the determination, issuance, or implementation of student discipline.

8. Duties of the School District

The School District shall provide to each of the SROs the following materials and facilities which are deemed necessary for the performance of the SROs' duties:

Attachment: Contract (RES-2024-391 : SRO Contract: Williamsville Central School District (CRS#4665))

a. A properly lighted private office which shall contain a telephone and shall be appropriate for private conversations between juveniles and the SRO.

b. A location for files and records which should be properly locked and secured.

c. Access to a computer and/or secretarial assistance, and access to a fax machine.

9. Hours of Duty of SRO

a. The Chief of Police of the Police Department shall arrange for the SROs to work a full day (8.25 hours) on each day when school is in session in the School District, except for the provisions set forth in Section 5.b.iii.

b. Additionally, upon the concurrence of the Superintendent and the Police Department, the SROs may be requested to attend extracurricular events. In the event school is scheduled for only part of a school day, the SROs shall work as SROs for the portion of the work day when school is in session and may otherwise perform such other duties as may be assigned to him or her within the Police Department.

10. Payment by School District to Town for SROs' Services

a. For the services of the SROs, the School District shall pay the Town the sum of $22,500 per month ($7,500 per Officer) during the regular school year, September through June.

b. The Town Supervisor, or his/her designee, shall notify the School District in writing by March 1st of the preceding school year of any change in the rate charged by the Town to the School District for the services of the SROs for the following school year.

c. The funds paid by the School District to the Police Department shall remain within the budget of the Police Department to partially cover the cost of the SRO's salary, fringe benefits, overtime and other costs related to the SRO program.

d. Both the School District and the Police Department shall establish procedures to track the hours and/or full days for which the Police Department provides the services of the SROs to the School District.

e. The Town shall invoice the School District every month for the services of the SROs. Upon verification of such invoices, the School District shall pay the same within thirty (30) days receipt of each invoice.

f. The School District may require the SROs to conform to a means of verifying the hours of work in the capacity of SROs, including sign in/sign out sheet and/or time card or such other means as are deemed appropriate and effective.

Attachment: Contract (RES-2024-391 : SRO Contract: Williamsville Central School District (CRS#4665))

11. Employment Status of SROs

The SROs shall remain at all times an employee of the Police Department and shall not be for any purpose an employee of the School District. The School District and the Town acknowledge that the SROs shall remain responsive to the chain of command within the Police Department.

12. Grant Funding

The School District may receive local, state and/or federal grants to cover all or part of the costs to be paid to the Police Department for the services of the SROs. The parties agree that they will administer the SRO program at all times to be consistent with the requirements of any such grant. In the event of an inconsistency between this Agreement and the requirements of any such grant, the provisions of such grant shall control, provided that nothing in any such grant shall require an adjustment to the rate of pay by the School District to the Police Department for the services of the SROs, or violate any terms of the Police Department chain of command, rules, regulations, general orders consistent with the collective bargaining agreement.

13. Good Faith

The School District, the Town, their agents and employees agree to cooperate in good faith in fulfilling the terms of this Agreement. Unforeseen difficulties or questions will be resolved by discussion between the Superintendent and the Chief of Police of the Police Department or their designees.

14. Notices

Any and all notices or any other communication herein required or permitted shall be deemed to have been given when deposited in the United States Postal Service as regular mail, postage prepaid, or by express courier service and addressed as follows:

If to the School District:

Superintendent of Schools
Williamsville Central School District
105 Casey Road
East Amherst, New York 14051

If to the Police Department:

Chief of Police
Town of Amherst Police Department
500 John James Audubon Parkway
Amherst, New York 14228

If to the Town:

Town Supervisor
Amherst Town Hall
5583 Main Street
Williamsville, New York 14221

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In addition, correspondence will also be sent via email to the particular receiving party as named above.

15. Modification

This Agreement constitutes the full understanding of the parties and not terms, conditions or understandings or agreements purporting to modify or vary the terms of this Agreement shall be binding unless made in writing and signed by the duly authorized representatives of the parties.

16. Non-Assignment

Neither the School District nor the Town or Police Department shall assign, transfer, sublet or otherwise dispose of this Agreement or its right, title or interest in this Agreement or its power to execute the same or to any other person or corporation without the previous consent in writing of the governing bodies of both the School District and the Town. Any assignment of this Agreement not complying with the foregoing shall be null and void and of no force and effect whatsoever.

17. Severability

In the event any provision of this Agreement shall be or become invalid under any provision of federal, state, or local law, such invalidity shall not affect the validity or enforceability of any other provision hereof.

18. Agreement Interest

No officer or employee of the Town, who is authorized in such capacity on behalf of the Town to negotiate, make, accept or approve or to take part in negotiating, making, accepting or approving this Agreement, shall be, directly or indirectly, interested personally in this Agreement, or in any part hereof. No officer or employee of the Town who is authorized in such capacity on behalf of the Town to exercise any supervisory or administrative function in connection with this Agreement, shall become directly or indirectly interested personally in this Agreement or in any part hereof.

19. Hold Harmless

To the fullest extent provided by law, the parties agree to indemnify, hold harmless and defend one another, their agents, employees or any other persons authorized to act for them hereunder against loss or expense, including attorney's fees, by reason a a liability imposed by law upon a party, for damages because of or to persons or to property arising out of or in consequence of the performance of this Agreement resulting from that party's negligence, error, omission, or conduct.

Attachment: Contract (RES-2024-391 : SRO Contract: Williamsville Central School District (CRS#4665))

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed by their duly authorized officers the day and year first written above.

TOWN OF AMHERST, NEW YORK

By: _____ _____
Brian J. Kulpa, Supervisor Date

TOWN OF AMHERST, NEW YORK,
POLICE DEPARTMENT

By: _____ 3/6/2024
Scott P. Chamberlin, Chief of Police Date

WILLIAMSVILLE CENTRAL SCHOOL DISTRICT

By: _____ 3/5/24
Dr. Darren J. Brown-Hall, Superintendent Date

Attachment: Contract (RES-2024-391 : SRO Contract: Williamsville Central School District (CRS#4665))

EXHIBIT "A"

SCHOOL RESOURCE OFFICER PLACEMENT PLAN

Amherst Police Department &
Williamsville Central School District

Introduction

With more attention being paid to the safety of students while they are at school, many communities are considering strategies which are intended to make schools safer environments. Although statistics on school crime and violence convey that such crime and violence are not necessarily occurring in greater numbers, there is, at a minimum, anecdotal evidence which suggests that the types of incidents which are taking place on school property may be more severe in nature and may be having marked negative impact on the educational processes for which schools are responsible. Additionally, media coverage of tragic school shootings and other violence which occurred during the past decade has motivated many communities to act.

One of the ways communities are taking action is by making decisions that law enforcement officers need to be assigned to provide coverage to schools so that safety, security, and order can be maintained. The underlying rationale which is being employed by communities is that a given school's crime and violence problems are not exclusively that school's problems, but are reflective of community problems. Such a rationale leads to consideration of community approaches. Hence, in many communities the "School Resource Officer" (SRO) approach is being considered.

The U.S. Departments of Education, Health and Human Services, and Justice provide a definition for "School Resource Officer":

> *A career law enforcement officer, with sworn authority, deployed in community oriented policing, and assigned by the employing police department or agency to work in collaboration with schools and community-based organizations to: (a) address crime and disorder problems, gangs, and drug activities affecting or occurring in or around an elementary or secondary school; (b) develop or expand crime prevention efforts for students; (c) education likely school-age victims in crime prevention and safety; (d) develop or expand community justice initiatives for students; (e) train students in conflict resolution, restorative justice, and crime awareness; (f) assist in the identification of physical changes in the environment that may reduce crime in or around the school; and (g) assist in developing school policy that addresses crime and recommend procedural changes (Safe Schools/Healthy Students Initiative).*

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The National Association of School Resource Officers (NASRO) defines "School Resource Officer" as:

> *Officers (who) promote a better understanding of our laws, why they were enacted and their benefits. They provide a visible and positive image for law enforcement. They serve as a confidential source of counseling to students concerning the problems they face. They bring expertise into schools that will help young people make more positive choices in their lives. They also work to protect the school environment and to maintain an atmosphere where teachers feel safe to teach and students feel safe enough to learn (NASRO website).*

Regardless of definition, School Resource Officers have three main functions: *law enforcement officer, law-related teacher, and law-related counselor.* First, as a law enforcement officer, the SRO maintains a safe and secure environment on the school campus that will be conducive to an educationally stimulating atmosphere and serve as a means of preventing criminal activities and disturbances. Second, as a teacher, the SRO promotes positive attitudes regarding the police role in society and informs the students of their rights and responsibilities as lawful citizens. Third, as a counselor, the SRO establishes a more complete liaison with school personnel and students in an effort to prevent juvenile delinquency. According to the National Assessment of School Resource Officer Programs (National Institute of Justice, 2005), SRO's spend on average about 60-65 percent of their time on law enforcement, 25-30 percent counseling, and 5-10 percent teaching.

The most effective way an SRO can accomplish these goals is to be a positive role model; students learn from every interaction they have with an SRO. It is essential for an SRO to endorse high moral standards, use good judgment and discretion, be consistent and fair, respect all students, and display a sincere concern for the school community. School Resource Officers must maintain a professional appearance; be visible, accessible and willing to talk to the students; attend and participate in school activities both during the school year and the summer months; interact positively with the students and the community while taking their concerns seriously; maintain a relationship with the students' parents by attending PTA meetings and parent conferences; and maintain a relationship with the faculty and school administrators.

The SRO interacts with the school administrators and faculty, the student body, and the outside community. Although working in the school, the SRO is still an employee of the law enforcement agency and is responsible for identifying and resolving school safety problems. However, the SRO is not the disciplinarian or chaperone for the school –which job remains with the principal and faculty. As a resource for school administrators, the SRO serves as a means of establishing order and safety so learning can take place. The SRO shares information with faculty on gang activity and truants, provides expertise on crime prevention and responds to and investigates criminal activity in the school. The SRO is also a teacher who provides law-related education to students. As a resource for the student body, the SRO's office with the school serves as a resource center and makes available to students information on topics ranging from date rape to drug abuse. The SRO

Attachment: Contract (RES-2024-391 : SRO Contract: Williamsville Central School District (CRS#4665))

also assists the school guidance department by counseling students; giving them the opportunity to talk about their problems and helping them find positive solutions. When necessary, the SRO refers students and family members to appropriate social agencies for additional assistance. Additionally, the SRO responds to requests from parents and the community regarding truants, drug activity, domestic problems, burglaries, thefts, and other school safety issues.

The SRO Program works to prevent juvenile delinquency and create a favorable student/police officer relationship. The Town of Amherst, the Amherst Town Court, school administrators, teachers, parents, and students are all beneficiaries of the SRO Program and, as stakeholders in the search for safer schools, must support and work with the SRO to reduce criminal conduct both on and off campus.

Job Description

- Provide law enforcement and police services to the school, school grounds and areas adjacent to the school. Investigate allegations of criminal incidents per police department policies and procedures. Enforce state and local laws and ordinances. Make appropriate referrals to juvenile authorities or other governmental agencies
- Work to prevent juvenile delinquency through close contact and positive relationships with students. In addition the SRO shall develop crime prevention programs and conduct security inspections to deter criminal or delinquent activities. The SRO should monitor crime statistics and work with other police personnel, school administration and faculty, and students to design crime prevention strategies.
- Establish and maintain a close partnership with school administrators in order to provide for a safe school environment. Assist school officials with their efforts to enforce School District policies and procedures, Assist school administration in emergency response planning and building security matters. Provide a course of training for school personnel in handling crisis situations, which may arise at the school.
- Be visible within the school community. Attend and participate in school functions. Build working relationships with the school's staff as well as with student and parent groups.
- Develop, implement and instruct classes in law related topics to support the educational efforts of the faculty. Work closely with teachers in designing and presenting law-related topics and the role of police in our society.
- Work with school counselors and other student support staff to assist students and to provide services to students involved in situations where referral to service agencies are necessary. Assist in conflict resolution efforts.
- Initiate interaction with students in the classroom and general areas of the school building; participate in individual and small group meetings and conferences with students. Promote the profession of police officer and be a positive role model. Increase the accessibility of police to the school community.

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Juvenile Crime

Contemporary theories on juvenile delinquency suggest that the proliferation of negative influences in children's lives relate directly to juvenile crime rates. Some of these negative elements are poverty, discrimination, peer pressure, an unstable home life (broken or single parent homes), and unstable school life, psychological instability, changing morals of society, ineffectiveness of the juvenile justice system, direct influences of the mass media, and ignorance to the law and criminal justice system.

Recent statistics indicate that although the overall juvenile violent crime rate within the nation has been on the decline after decades of escalation, juvenile crime rates for other offenses have remained relatively static. Crime in schools has also seen a steady rise during the same periods. According to the National Crime Safety Center, juveniles commit more than 3 million crimes in schools each year. Although part of these changes may be attributable to greater public awareness of crime in schools and increasing pressure on education officials to report school crime incidents, there is no question that violence and crime are on the rise in our schools and affecting our children's ability to learn.

Project Goals

- To maintain a safe and secure environment on the school campus which will be conducive to an educationally stimulating atmosphere and serve as a means of preventing criminal activities and disturbances.
- To promote positive attitudes regarding the police role in society and to inform the students of their rights and responsibilities as lawful citizens.
- To establish a more complete liaison with school personnel and students in a cooperative effort to prevent juvenile delinquency.
- To bridge the gap between police officers and adolescents in order to increase positive attitudes toward law enforcement and to reduce juvenile crime through counseling, teaching about the criminal justice system, and taking a personal interest in the students.

Project Objectives

- Promote student understanding of the law and the criminal justice system.
- Decrease the number of student conduct/criminal violations occurring during the school day and during extracurricular school functions.
- Decrease gang activity and involvement in gangs by students.
- Improve students' attitudes and relationships with law enforcement personnel.
- Increase access of students, parents, and families to community agencies which offer assistance to youths and their families for problems that require professional help.
- Conduct crime prevention programs and improve school officials' response to criminal activity and violence.

Attachment: Contract (RES-2024-391 : SRO Contract: Williamsville Central School District (CRS#4665))

Performance Indicators

- Present law-related education to classes during the school year. The SRO will keep a record of all law-related courses that are taught including drug prevention presentations and other programs deemed necessary and appropriate by school administrators and police management.
- The number of student conduct/criminal violations for the school year will be compared to the number from previous school years to determine any increase or decrease.
- The SRO will keep a record of all gang activity on or near campus, attempt to identify the individuals involved, and relate this information to the police department. This information will be compared to records from previous years to determine changes in gang activity. If necessary, the SRO will present gang awareness and prevention training to the student body, faculty, and parent organizations.
- The SRO will assess the students' attitudes toward law enforcement by interacting with them during the school day and during extracurricular activities and through the use of student surveys at the beginning and end of each school year. The relationship between the SRO and the student body will also be assessed through surveys completed by parents, faculty members, and administrators to gauge the effectiveness of the SRO program.
- The SRO will research and document all municipal, county, and state agencies available to provide services to students and their families. A directory of such agencies including points of contact will be developed or maintained. The SRO will hold conferences with students, parents, and school faculty when appropriate and keep a log of this activity. The SRO will also maintain a record of all referral services rendered and follow-up the referrals to determine if they were helpful or if other services are necessary.
- The SRO will maintain a record of all crime prevention lectures or seminars given to the student body or public. The SRO will assist school administrators in surveying school facilities for areas that provide opportunities for commission of a crime and develop a plan to correct the problem. The SRO will also assist school violence prevention teams in developing strategic responses to incidents of violence within the school.
- The commanding officer will be responsible to collect and analyze data, prepare progress reports and write the annual evaluation report.
- Data will be gathered on law enforcement related incidents, law enforcement related course grades, parent and teacher survey results, and outcomes of conferences with students, parents and faculty members, as well as any other information that is explicitly mentioned in the projects' performance indicators.

Attachment: Contract (RES-2024-391 : SRO Contract: Williamsville Central School District (CRS#4665))

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Police
Initiated by: **Scott Chamberlin**
Co-Sponsored by:

DOC ID: 28937 **RESOLUTION 2024-392** **ADOPTED**

Amherst Central School District (CRS #4667) Student Resource Officer Program

TOWN BOARD AGENDA ITEM : APRIL 29, 2024

TO: **Town Board**

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

RE: **Amherst Central School District (CRS #4667)**
Student Resource Officer Program

Kindly adopt a resolution authorizing the Supervisor to adopt and execute the attached agreement between the Town of Amherst (Police) and Amherst Central School District with regard to the above-entitled matter. This agreement will run from July 1, 2024 through June 30, 2025. Approval of this agreement is pending upon the successful completion of the Contract Routing process.

Thank you.

SPC:msl
Attachment
C: Tim Koller, Deputy Town Clerk (Agenda Item: April 29, 2024)

4/29/2024
Consent

FINANCIAL IMPACT:

A 3121 .02260 : Revenue: $75,000.00

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

AGREEMENT
BY AND BETWEEN
TOWN OF AMHERST, NEW YORK
AND
AMHERST CENTRAL SCHOOL DISTRICT
FOR SCHOOL DISTRICT RESOURCE OFFICER PROGRAM

THIS AGREEMENT made _____, 2024, by and between the TOWN OF AMHERST, NEW YORK, a municipal corporation organized and existing under the laws of the State of New York, having its offices located at 5583 Main Street, Williamsville, New York 14221 (hereinafter referred to as the "Town") and the AMHERST CENTRAL SCHOOL DISTRICT, an educational corporation organized and existing under the laws of the State of New York, having its principal offices located at 55 Kings Highway, Amherst, New York 14226 (hereinafter referred to as the "School District").

WITNESSETH:

WHEREAS, the School District is desirous of obtaining the services of one (1) full-time School Resource Officer (hereinafter referred to as an "SRO") for the purposes and to provide the services set forth herein; and

WHEREAS, the Town, through its Police Department (hereinafter referred to as the "Police Department") is desirous of providing law enforcement and related services to the School District through providing to the School District an SRO under the terms and conditions set forth herein; and

WHEREAS, the School District and the Town recognize the potential outstanding benefits of providing an SRO to the School District to both the residents of the Town of Amherst, the School District and the students of the School District; and

WHEREAS, it is in the best interests of the School District and the Town to provide for the provision of an SRO by the Town, through its Police Department, to the School District.

NOW, THEREFORE, in consideration of the foregoing and the mutual agreements as set forth hereinbelow, it is hereby agreed between the Town, the Police Department, and the School District as follows:

1. General Purposes, Project Goals, Project Objectives and Performance Indicators.

It is the intent and provision of this Agreement to provide to the School District the services of an SRO from the Police Department to provide those services listed under the job description contained in Exhibit "A" annexed hereto (entitled the "SRO Placement Plan"), with the project goals and project objectives as set forth in Exhibit "A" which can be measured by the performance indicators set forth in Exhibit "A" and evaluated as set forth

Attachment: Contract (RES-2024-392 : SRO Contract: Amherst Central School District (CRS#4667))

in the evaluation plan as set forth in Exhibit "A", all as may also be otherwise set forth in the text of this Agreement.

2. Term of Agreement

The term of this Agreement shall be for the period commencing on July 1, 2024 and culminating on June 30, 2025.

3. Renewal of Agreement

Both parties shall notify the other party of their desire to renew the Agreement by written notice at least thirty (30) calendar days prior to the expiration of the term as set forth in Paragraph 2 above. Upon receipt and written acknowledgment of such notice this Agreement shall renew for successive terms of one (1) year until such time as the Agreement is not renewed by failure to notify in writing of desire to renew as stated above or by notice of termination of this Agreement as set forth in Paragraph 4 and Paragraph 5(b)(iv) of this Agreement.

4. Termination of Agreement

This Agreement may be terminated by either party upon thirty (30) calendar days written notice to the other party.

5. Assignment of School Resource Officer

The Chief of Police of the Police Department may assign a regularly employed police officer as the SRO to the School District pursuant to this Agreement as follows:

a. The SRO shall be nominated by the Chief of Police of the Police Department to the School District and, upon the concurrence of the Superintendent of Schools (the "Superintendent") of the School District to that nomination, the SRO shall be assigned as the SRO for the School District.

b. The SRO assigned to the School District must meet the following requirements:

i. The SRO must be a volunteer for the position as SRO.

ii. The person nominated to be SRO must be a full-time certified and sworn police officer with a minimum of three (3) years of law enforcement experience.

iii. The person nominated to be SRO must have had or must acquire specialized training to work with youth at a school site. Such training may consist of university course work for potential SRO candidates, law enforcement course work addressing working with youth at a school site, professional training in such areas, or training and experience in connection with other recognized school/youth law enforcement programs (e.g. D.A.R.E). Sufficiency of such experience shall be based upon the joint

Attachment: Contract (RES-2024-392 : SRO Contract: Amherst Central School District (CRS#4667))

concurrence of the Chief of Police of the Police Department and the Superintendent. The SRO may be re-assigned by the Chief of Police of the Police Department (or his designee) during periods of police emergency, situations which may require augmentation of the police force, or situations which may arise which may require the SRO to act as an officer of the law which may or may not be within the School District. Other times of reassignment may include, but are not limited to, training as required by the Police Department or federal and/or state law, court appearances as required by law, or time off as permitted by the collective bargaining agreement. The SRO will give consideration to the school calendar and use discretion when taking his/her discretionary time off.

iv. In the event the Police Department cannot provide an SRO, or a suitable replacement, for thirty (30) continuous days, the District has the option to terminate this Agreement immediately.

6. Dismissal of School Resource Officer: Replacement

a. In the event the Superintendent determines, in the sole discretion of the Superintendent, that the SRO is not effectively performing his or her duties and responsibilities, the Superintendent shall advise the Chief of Police of the Police Department.

b. The Chief of Police of the Police Department may dismiss or re-assign the SRO based upon Police Department rules, regulations and/or general orders consistent with the collective bargaining agreement. In such an event, a new SRO may be designated in accordance with the procedure outlined as in Paragraph 5 above.

7. Duties of the School Resource Officer

a. The duties of the SRO will include but not be limited to those duties set forth in the SRO Placement Plan annexed hereto as Exhibit "A" as part of the job description or performance indicators.

b. Consistent with the New York State Education Law and the School District's Code of Conduct, school disciplinary functions, including but not limited to all decisions and determinations regarding student discipline, are delegated to School District administrators. SRO(s) shall engage in separate and distinct work functions such as investigatory and security-based tasks, with the primary objective of securing the safety and well being of School District personnel, students, families, and visitors. SRO(s) shall not take part in the determination, issuance, or implementation of student discipline.

8. Duties of the School District

The School District shall provide the following materials and facilities which are deemed necessary for the performance of the SRO's duties:

Attachment: Contract (RES-2024-392 : SRO Contract: Amherst Central School District (CRS#4667))

a. A properly lighted private office which shall contain a telephone and shall be appropriate for private conversations between juveniles and the SRO.

b. A location for files and records which should be properly locked and secured.

c. Access to a computer and/or secretarial assistance, and access to a fax machine.

9. Hours of Duty of SRO

a. The Chief of Police of the Police Department shall arrange for the SRO to work a full day (8.25 hours) on each day when school is in session in the School District, except for the provisions set forth in Section 5.b.iii.

b. Additionally, upon the concurrence of the Superintendent and the Police Department, the SRO may be requested to attend extracurricular events. In the event school is scheduled for only part of a school day, the SRO shall work as SRO for the portion of the work day when school is in session and may otherwise perform such other duties as may be assigned to him within the Police Department.

10. Payment by School District to Town for SRO's Services

a. For the services of the SRO, the School District shall pay the Town the sum of $7,500 per month during the regular school year, September through June.

b. The Town Supervisor, or his/her designee, shall notify the School District in writing by March 1st of the preceding school year of any change in the rate charged by the Town to the School District for the services of the SRO for the following school year.

c. The funds paid by the School District to the Police Department shall remain within the budget of the Police Department to partially cover the cost of the SRO's salary, fringe benefits, overtime and other costs related to the SRO program.

d. Both the School District and the Police Department shall establish procedures to track the hours and/or full days for which the Police Department provides the services of the SRO to the School District.

e. The Town shall invoice the School District every month for the services of the SRO. Upon verification of such invoices, the School District shall pay the same within thirty (30) days receipt of each invoice.

f. The School District may require the SRO to conform to a means of verifying the SRO's hours of work in the capacity of SRO, including sign in/sign out sheet and/or time card or such other means as are deemed appropriate and effective.

11. Employment Status of SRO

The SRO shall remain at all times an employee of the Police Department and shall not be for any purpose an employee of the School District. The School District and the

Attachment: Contract (RES-2024-392 : SRO Contract: Amherst Central School District (CRS#4667))

Town acknowledge that the SRO shall remain responsive to the chain of command within the Police Department.

12. Grant Funding

The School District may receive local, state and/or federal grants to cover all or part of the costs to be paid to the Police Department for the services of the SRO. The parties agree that they will administer the SRO program at all times to be consistent with the requirements of any such grant. In the event of an inconsistency between this Agreement and the requirements of any such grant, the provisions of such grant shall control, provided that nothing in any such grant shall require an adjustment to the rate of pay by the School District to the Police Department for the services of the SRO, or violate any terms of the Police Department chain of command, rules, regulations, general orders consistent with the collective bargaining agreement.

13. Good Faith

The School District, the Town, their agents and employees agree to cooperate in good faith in fulfilling the terms of this Agreement. Unforeseen difficulties or questions will be resolved by discussion between the Superintendent and the Chief of Police of the Police Department or their designees.

14. Notices

Any and all notices or any other communication herein required or permitted shall be deemed to have been given when deposited in the United States Postal Service as regular mail, postage prepaid, or by express courier service and addressed as follows:

If to the School District:
Superintendent of Schools
Amherst Central School District
55 Kings Highway
Amherst, New York 14226

If to the Police Department:
Chief of Police
Town of Amherst Police Department
500 John James Audubon Parkway
Amherst, New York 14228

If to the Town:
Town Supervisor
Amherst Town Hall
5583 Main Street
Williamsville, New York 14221

In addition, correspondence will also be sent via email to the particular receiving party as named above.

Attachment: Contract (RES-2024-392 : SRO Contract: Amherst Central School District (CRS#4667))

15. Modification

This Agreement constitutes the full understanding of the parties and not terms, conditions or understandings or agreements purporting to modify or vary the terms of this Agreement shall be binding unless made in writing and signed by the duly authorized representatives of the parties.

16. Non-Assignment

Neither the School District nor the Town or Police Department shall assign, transfer, sublet or otherwise dispose of this Agreement or its right, title or interest in this Agreement or its power to execute the same or to any other person or corporation without the previous consent in writing of the governing bodies of both the School District and the Town. Any assignment of this Agreement not complying with the foregoing shall be null and void and of no force and effect whatsoever.

17. Severability

In the event any provision of this Agreement shall be or become invalid under any provision of federal, state, or local law, such invalidity shall not affect the validity or enforceability of any other provision hereof.

18. Agreement Interest

No officer or employee of the Town, who is authorized in such capacity on behalf of the Town to negotiate, make, accept or approve or to take part in negotiating, making, accepting or approving this Agreement, shall be, directly or indirectly, interested personally in this Agreement, or in any part hereof. No officer or employee of the Town who is authorized in such capacity on behalf of the Town to exercise any supervisory or administrative function in connection with this Agreement, shall become directly or indirectly interested personally in this Agreement or in any part hereof.

19. Hold Harmless

To the fullest extent provided by law, the parties agree to indemnify, hold harmless and defend one another, their agents, employees or any other persons authorized to act for them hereunder against loss or expense, including attorney's fees, by reason a a liability imposed by law upon a party, for damages because of or to persons or to property arising out of or in consequence of the performance of this Agreement resulting from that party's negligence, error, omission, or conduct.

Attachment: Contract (RES-2024-392 : SRO Contract: Amherst Central School District (CRS#4667))

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed by their duly authorized officers the day and year first written above.

TOWN OF AMHERST, NEW YORK

By: _____ _____
Brian J. Kulpa, Supervisor Date

TOWN OF AMHERST, NEW YORK,
POLICE DEPARTMENT

By: _____ _____
Scott P. Chamberlin, Chief of Police Date

AMHERST CENTRAL SCHOOL DISTRICT

By: Anthony J. Panella 3/8/2014
Anthony Panella, Superintendent Date

Attachment: Contract (RES-2024-392 : SRO Contract: Amherst Central School District (CRS#4667))

EXHIBIT "A"

SCHOOL RESOURCE OFFICER PLACEMENT PLAN

Amherst Police Department &
Amherst Central School District

Introduction

With more attention being paid to the safety of students while they are at school, many communities are considering strategies which are intended to make schools safer environments. Although statistics on school crime and violence convey that such crime and violence are not necessarily occurring in greater numbers, there is, at a minimum, anecdotal evidence which suggests that the types of incidents which are taking place on school property may be more severe in nature and may be having marked negative impact on the educational processes for which schools are responsible. Additionally, media coverage of tragic school shootings and other violence which occurred during the past decade has motivated many communities to act.

One of the ways communities are taking action is by making decisions that law enforcement officers need to be assigned to provide coverage to schools so that safety, security, and order can be maintained. The underlying rationale which is being employed by communities is that a given school's crime and violence problems are not exclusively that school's problems, but are reflective of community problems. Such a rationale leads to consideration of community approaches. Hence, in many communities the "School Resource Officer" (SRO) approach is being considered.

The U.S. Departments of Education, Health and Human Services, and Justice provide a definition for "School Resource Officer":

> *A career law enforcement officer, with sworn authority, deployed in community oriented policing, and assigned by the employing police department or agency to work in collaboration with schools and community-based organizations to: (a) address crime and disorder problems, gangs, and drug activities affecting or occurring in or around an elementary or secondary school; (b) develop or expand crime prevention efforts for students; (c) education likely school-age victims in crime prevention and safety; (d) develop or expand community justice initiatives for students; (e) train students in conflict resolution, restorative justice, and crime awareness; (f) assist in the identification of physical changes in the environment that may reduce crime in or around the school; and (g) assist in developing school policy that addresses crime and recommend procedural changes (Safe Schools/Healthy Students Initiative).*

Attachment: Contract (RES-2024-392 : SRO Contract: Amherst Central School District (CRS#4667))

The National Association of School Resource Officers (NASRO) defines "School Resource Officer" as:

> *Officers (who) promote a better understanding of our laws, why they were enacted and their benefits. They provide a visible and positive image for law enforcement. They serve as a confidential source of counseling to students concerning the problems they face. They bring expertise into schools that will help young people make more positive choices in their lives. They also work to protect the school environment and to maintain an atmosphere where teachers feel safe to teach and students feel safe enough to learn (NASRO website).*

Regardless of definition, School Resource Officers have three main functions: *law enforcement officer, law-related teacher, and law-related counselor.* First, as a law enforcement officer, the SRO maintains a safe and secure environment on the school campus that will be conducive to an educationally stimulating atmosphere and serve as a means of preventing criminal activities and disturbances. Second, as a teacher, the SRO promotes positive attitudes regarding the police role in society and informs the students of their rights and responsibilities as lawful citizens. Third, as a counselor, the SRO establishes a more complete liaison with school personnel and students in an effort to prevent juvenile delinquency. According to the National Assessment of School Resource Officer Programs (National Institute of Justice, 2005), SRO's spend on average about 60-65 percent of their time on law enforcement, 25-30 percent counseling, and 5-10 percent teaching.

The most effective way an SRO can accomplish these goals is to be a positive role model; students learn from every interaction they have with an SRO. It is essential for an SRO to endorse high moral standards, use good judgment and discretion, be consistent and fair, respect all students, and display a sincere concern for the school community. School Resource Officers must maintain a professional appearance; be visible, accessible and willing to talk to the students; attend and participate in school activities both during the school year and the summer months; interact positively with the students and the community while taking their concerns seriously; maintain a relationship with the students' parents by attending PTA meetings and parent conferences; and maintain a relationship with the faculty and school administrators.

The SRO interacts with the school administrators and faculty, the student body, and the outside community. Although working in the school, the SRO is still an employee of the law enforcement agency and is responsible for identifying and resolving school safety problems. However, the SRO is not the disciplinarian or chaperone for the school –which job remains with the principal and faculty. As a resource for school administrators, the SRO serves as a means of establishing order and safety so learning can take place. The SRO shares information with faculty on gang activity and truants, provides expertise on crime prevention and responds to and investigates criminal activity in the school. The SRO is also a teacher who provides law-related education to students. As a resource for the student body, the SRO's office with the school serves as a resource center and makes available to students information on topics ranging from date rape to drug abuse. The SRO

Attachment: Contract (RES-2024-392 : SRO Contract: Amherst Central School District (CRS#4667))

also assists the school guidance department by counseling students; giving them the opportunity to talk about their problems and helping them find positive solutions. When necessary, the SRO refers students and family members to appropriate social agencies for additional assistance. Additionally, the SRO responds to requests from parents and the community regarding truants, drug activity, domestic problems, burglaries, thefts, and other school safety issues.

The SRO Program works to prevent juvenile delinquency and create a favorable student/police officer relationship. The Town of Amherst, the Amherst Town Court, school administrators, teachers, parents, and students are all beneficiaries of the SRO Program and, as stakeholders in the search for safer schools, must support and work with the SRO to reduce criminal conduct both on and off campus.

Job Description

- Provide law enforcement and police services to the school, school grounds and areas adjacent to the school. Investigate allegations of criminal incidents per police department policies and procedures. Enforce state and local laws and ordinances. Make appropriate referrals to juvenile authorities or other governmental agencies
- Work to prevent juvenile delinquency through close contact and positive relationships with students. In addition the SRO shall develop crime prevention programs and conduct security inspections to deter criminal or delinquent activities. The SRO should monitor crime statistics and work with other police personnel, school administration and faculty, and students to design crime prevention strategies.
- Establish and maintain a close partnership with school administrators in order to provide for a safe school environment. Assist school officials with their efforts to enforce School District policies and procedures, Assist school administration in emergency response planning and building security matters. Provide a course of training for school personnel in handling crisis situations, which may arise at the school.
- Be visible within the school community. Attend and participate in school functions. Build working relationships with the school's staff as well as with student and parent groups.
- Develop, implement and instruct classes in law related topics to support the educational efforts of the faculty. Work closely with teachers in designing and presenting law-related topics and the role of police in our society.
- Work with school counselors and other student support staff to assist students and to provide services to students involved in situations where referral to service agencies are necessary. Assist in conflict resolution efforts.
- Initiate interaction with students in the classroom and general areas of the school building; participate in individual and small group meetings and conferences with students. Promote the profession of police officer and be a positive role model. Increase the accessibility of police to the school community.

Attachment: Contract (RES-2024-392 : SRO Contract: Amherst Central School District (CRS#4667))

Juvenile Crime

Contemporary theories on juvenile delinquency suggest that the proliferation of negative influences in children's lives relate directly to juvenile crime rates. Some of these negative elements are poverty, discrimination, peer pressure, an unstable home life (broken or single parent homes), and unstable school life, psychological instability, changing morals of society, ineffectiveness of the juvenile justice system, direct influences of the mass media, and ignorance to the law and criminal justice system.

Recent statistics indicate that although the overall juvenile violent crime rate within the nation has been on the decline after decades of escalation, juvenile crime rates for other offenses have remained relatively static. Crime in schools has also seen a steady rise during the same periods. According to the National Crime Safety Center, juveniles commit more than 3 million crimes in schools each year. Although part of these changes may be attributable to greater public awareness of crime in schools and increasing pressure on education officials to report school crime incidents, there is no question that violence and crime are on the rise in our schools and affecting our children's ability to learn.

Project Goals

- To maintain a safe and secure environment on the school campus which will be conducive to an educationally stimulating atmosphere and serve as a means of preventing criminal activities and disturbances.
- To promote positive attitudes regarding the police role in society and to inform the students of their rights and responsibilities as lawful citizens.
- To establish a more complete liaison with school personnel and students in a cooperative effort to prevent juvenile delinquency.
- To bridge the gap between police officers and adolescents in order to increase positive attitudes toward law enforcement and to reduce juvenile crime through counseling, teaching about the criminal justice system, and taking a personal interest in the students.

Project Objectives

- Promote student understanding of the law and the criminal justice system.
- Decrease the number of student conduct/criminal violations occurring during the school day and during extracurricular school functions.
- Decrease gang activity and involvement in gangs by students.
- Improve students' attitudes and relationships with law enforcement personnel.
- Increase access of students, parents, and families to community agencies which offer assistance to youths and their families for problems that require professional help.
- Conduct crime prevention programs and improve school officials' response to criminal activity and violence.

Attachment: Contract (RES-2024-392 : SRO Contract: Amherst Central School District (CRS#4667))

Performance Indicators

- Present law-related education to classes during the school year. The SRO will keep a record of all law-related courses that are taught including drug prevention presentations and other programs deemed necessary and appropriate by school administrators and police management.
- The number of student conduct/criminal violations for the school year will be compared to the number from previous school years to determine any increase or decrease.
- The SRO will keep a record of all gang activity on or near campus, attempt to identify the individuals involved, and relate this information to the police department. This information will be compared to records from previous years to determine changes in gang activity. If necessary, the SRO will present gang awareness and prevention training to the student body, faculty, and parent organizations.
- The SRO will assess the students' attitudes toward law enforcement by interacting with them during the school day and during extracurricular activities and through the use of student surveys at the beginning and end of each school year. The relationship between the SRO and the student body will also be assessed through surveys completed by parents, faculty members, and administrators to gauge the effectiveness of the SRO program.
- The SRO will research and document all municipal, county, and state agencies available to provide services to students and their families. A directory of such agencies including points of contact will be developed or maintained. The SRO will hold conferences with students, parents, and school faculty when appropriate and keep a log of this activity. The SRO will also maintain a record of all referral services rendered and follow-up the referrals to determine if they were helpful or if other services are necessary.
- The SRO will maintain a record of all crime prevention lectures or seminars given to the student body or public. The SRO will assist school administrators in surveying school facilities for areas that provide opportunities for commission of a crime and develop a plan to correct the problem. The SRO will also assist school violence prevention teams in developing strategic responses to incidents of violence within the school.
- The commanding officer will be responsible to collect and analyze data, prepare progress reports and write the annual evaluation report.
- Data will be gathered on law enforcement related incidents, law enforcement related course grades, parent and teacher survey results, and outcomes of conferences with students, parents and faculty members, as well as any other information that is explicitly mentioned in the projects' performance indicators.

Attachment: Contract (RES-2024-392 : SRO Contract: Amherst Central School District (CRS#4667))

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Senior Services
Initiated by: **Melissa Abel**
Co-Sponsored by:

DOC ID: 28917 **RESOLUTION 2024-393** **ADOPTED**

Travel Authorization for Maplevale Farms Food Show

Please authorize expense reimbursement for travel for Jamie Sullivan for the 2024 Maplevale Farms Food Show in Erie, PA. The total cost was $139.74. Funds are available in the senior services budget.

4/29/2024
Consent

FINANCIAL IMPACT:

$139.74

A6772-4050

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

Brian J. Kulpa
Supervisor, Town of Amherst

Melissa Abel
Executive Director, Senior Center

Town of Amherst Center for Senior Services

Town Board Agenda Item for Monday, April 29, 2024

TO: The Honorable Amherst Town Board
Brian Kulpa, Town Supervisor
Councilmembers:
Shawn Lavin, Deputy Town Supervisor
Jacqualine Berger
Michael Szukala
Angela Marinucci

FROM : Melissa Abel, Director, Amherst Senior Services

SUBJECT : Request to approve Travel Authorization

DATE: April 23, 2024

We respectfully request Town Board permission to authorize the Supervisor to sign the authorization for expense reimbursement for travel for the Maplevale Farms 2024 Food Show for Jamie Sullivan. We received notification for the event less than 48 hours prior and needed to RSVP. The total cost for the travel and tolls is $139.74. Funds are available in the senior center budget A6772-4050.

Please contact me directly should you have any questions or concerns.

Thank you.

Melissa Abel

Attachment: Travel Authorization (RES-2024-393 : Travel Authorization for Maplevale Farms Food Show)

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Sewer/Plant 16
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 28908 **RESOLUTION 2024-394** **ADOPTED**

Toshiba Density Meter Parts Procurement Giangarlo Scientific Company, Inc. CRS – 4728

The Engineering Department-WPCF Division is requesting that the Town Board authorize the Supervisor to sign the attached agreement with Giangarlo Scientific Company, Inc. to purchase Toshiba Density Meter parts. The total cost of this procurement as listed on the attached quote 12573JJE-R, dated March 06, 2024 is $2,740.00 plus freight. We would also request a waiver from insurance as this company would be utilizing a third party delivery service. The term of this agreement will be from date of Town Board approval by the Town of Amherst through June 15, 2024.

Funds will be available in KP2027-4972.

Thank you for considering this request.

4/29/2024
Consent

FINANCIAL IMPACT:

KP2027-4972

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

AGREEMENT

Let this document stand as an Agreement between Giangarlo Scientific Company and the Town of Amherst permitting the Town of Amherst to purchase a Toshiba Density Meter Display Board and Power Supply as listed on Giangarlo Scientific quote 12573JJE-R. The cost of this purchase would be $2,740.00 plus freight. The term of this contract will be from date of TB Approval by the Town of Amherst through June 15, 2024.

Agreed to and Accepted by:

GIANGARLO SCIENTIFIC COMPANY, INC.

By: Vincent A Giangarlo
Signature

VINCENT A GIANGARLO
Printed name

PRESIDENT
Title

Date: 3-26-2024

Agreed to and Accepted by:

TOWN OF AMHERST

By: _____
Brian J. Kulpa
Supervisor

Date: _____

NOTE:

This item subject to availability from Toshiba Corporation at time of order.

Vincent Giangarlo

Attachment: Giangarlo (RES-2024-394 : Toshiba Density Meter Parts Procurement)

cust svc copy

Toshiba

Amherst Density meter

GIANGARLO SCIENTIFIC COMPANY, INC.

ISSUED BY:
Giangarlo Scientific Company, Inc.
1550 Obey Street, Suite 201
Pittsburgh, PA 15205

Phone: (412) 922-8850
FAX: (412) 922-9047
Cell: (412) 445-6823

PRICE QUOTATION
Prices valid 60 days

Project:
Contract No. :
Density Meter: Display Board

TO: Town of Amherst WPCF
455 Tonawanda Creek Road
Amherst, NY 14228

Phone: 716-691-9771 Ext. 8036
Fax:
Cell:
ATTN: Jerome Suszynski
Email: jsuszynski@amherst.ny.us

Please Indicate This Quote Number When Ordering:	12573JJE-R
Date:	March 6, 2024
Your Inquiry:	Email
Proposed Shipping Date:	1 - 2 weeks ARO
Ship Via:	Best Way
Salesperson:	John Eizenhafer
Sales Phone:	412-922-8850
F.O.B.	Houston, TX
PPD. & ADD:	X
PPD:	
Terms:	Net 30 Days Upon Approval

PLEASE ADDRESS YOUR CONFIRMING PURCHASE ORDER AS FOLLOWS:

orders@giangarloscientific.com

GIANGARLO SCIENTIFIC CO., INC.
1550 OBEY STREET, SUITE 201
PITTSBURGH, PA 15205

REF. QUOTE # 12573JJE-R

Attachment: Giangarlo (RES-2024-394 : Toshiba Density Meter Parts Procurement)

Price Quotation

Item	Part #	Name and Desciption	Qty.	Unit Price	Amount
1.	LQ500AVFDBOARD	Toshiba Density Meter LQ 500 VFD Display Board (Replaced LCD Type)	2	$890.00	$1,780.00
Remove with 2.	~~LQ500AVFDPANEL~~	~~Toshiba Density Meter LQ 500 Display Panel Board Cover (For new VFD Board)~~	~~2~~	~~$890.00~~	~~$1,780.00~~
Remove with 3.	~~5P8A1481P001~~	~~LQ500 5Vdc Power Supply (ZWS15-5/J)~~	~~1~~	~~$960.00~~	~~$960.00~~
4.	5P8A1481P002	LQ500 24Vdc Power Supply (ZWS15-24/J)	1	$960.00	$960.00
				Total	~~$5,480.00~~ 2,740.00

Note: S/N 125000513

Note 1: We can provide extra manuals via pdf (free of charge), but if you need hard copies, the price would be $30.00 each.

This item is subject to availability from Toshiba Corporation

Please address your Purchase Order to:

Giangarlo Scientific Company
1550 Obey Street, Suite 201
Pittsburgh, PA 15205

Ref. Quote # 12573JJE-R

Submitted by:
John Eizenhafer

Vince Giangarlo
3-26-2024

John Eizenhafer
Sales/Service Representative

Attachment: Giangarlo (RES-2024-394 : Toshiba Density Meter Parts Procurement)

Addendum to Contract VENDOR NOT ON SITE

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 Vendors 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, Vendor 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 Vendor its officers, agents, sub-Vendors, and/or employees as well as the negligence, active or passive, of the Vendor, its officers, agents, sub-Vendors, and/or employees.

4. No Assignment: In accordance with the provisions of Section 109 of the General Municipal Law, the Vendor 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.

5. 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 Vendor 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.

Attachment: Giangarlo (RES-2024-394 : Toshiba Density Meter Parts Procurement)

6. The Vendor, in accordance with its status as an independent Vendor, 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.

7. 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.

8. 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.

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:

GIANGARLO SCIENTIFIC Co.
Print Name of Company

By: Vincent A Giangarlo
Signature

VINCENT GIANGARLO
Printed name

Date: 3-26-2024

Agreed to and Accepted by:

Town of Amherst

By: _____
Brian J. Kulpa, Supervisor

Date: _____

Revised 12.30.19 SJS

Attachment: Giangarlo (RES-2024-394 : Toshiba Density Meter Parts Procurement)

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: Giangiarlo Scientific Co Inc

Signature: Vincent A Giangiarlo

Print Name: VINCENT A GIANGIARLO

Title: PRESIDENT

Date: 3-26-2024

Sworn To Before Me This

19 Day of March, 2024

Notary Public

Commonwealth of Pennsylvania - Notary Seal
Roberta Jean Lyons, Notary Public
Allegheny County
My commission expires March 17, 2027
Commission number 1432941
Member, Pennsylvania Association of Notaries

Revised 4.2017

Attachment: Giangarlo (RES-2024-394 : Toshiba Density Meter Parts Procurement)

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Sewer/Plant 16
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 28909 **RESOLUTION 2024-395** **ADOPTED**

Moyno™ Stator & Rotor- Procurement Shrier Martin Process Equipment, Inc. CRS – 4733

The Engineering Department-WPCF Division is requesting that the Town Board authorize the Supervisor to sign an agreement with Shrier-Martin Process Equipment. This agreement is for Moyno™ progressive cavity pump parts and Shrier-Martin Process Equipment is the "sole source" supplier of Moyno™ parts for our territory. The total cost of this procurement as listed on the attached Shrier Martin quote 11146 would be $14,726.26 plus freight. The term of this contract will be from date of Town Board approval by the Town of Amherst through August 30, 2024.

Funds will be available in KP2027-4972

Thank you for considering this request.

4/29/2024
Consent

FINANCIAL IMPACT:

KP2027-4972;

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

AGREEMENT

Let this document stand as an Agreement between Shrier-Martin Process Equipment, Inc. and the Town of Amherst permitting the Town of Amherst to procure the Moyno progressive cavity pump parts listed on their attached quote 11146, dated February 29, 2024. The term of this contract will be from date of Town Board approval by the Town of Amherst through August 30, 2024.

Agreed to and Accepted by:

Shrier-Martin Process Equipment, Inc.

By: _____
Signature

Brett R. Siewert
Printed name

Vice-President
Title

Date: 3-18-24

Agreed to and Accepted by:

TOWN OF AMHERST

By: _____
Brian J. Kulpa
Supervisor

Date: _____

Attachment: Shrier Martin Agreement (RES-2024-395 : Moyno™ Stator & Rotor- Procurement)

SHRIER-MARTIN
PROCESS EQUIPMENT

Quote

Date	Quote #
2/29/2024	11146

Name / Address
Town of Amherst WWTP 455 Tonawanda Creek Road Amherst, NY 14228

To:
Tom Dean
Per your request, please see the pricing and availability below. If there are any questions or concerns, please contact us.

Best Regards,
The SMPE Team

Terms	Contact
Net 30 days	BRS

Item	Description	Qty	Cost	Total
4094000402	Moyno Stator 2STG115,RR100-CBST-K	1	4,976.10	4,976.10
4240780015	Moyno Rotor 2H115, 316SS, DBLCHR	1	9,750.16	9,750.16
	If favored with your purchase order, please make it out to: Shrier Martin Process Equipment 1260 Rochester St. Lima, NY 14485 Phone: 585-624-4490 Fax: 585-624-5373 Terms: Net 30 Pricing: 30 Days			

Delivery:8-10 weeks after receipt of order.
Freight:FOB Origin, prepaid and added to invoice.

Total $14,726.26

Attachment: Shrier Martin Agreement (RES-2024-395 : Moyno™ Stator & Rotor- Procurement)

2/6/2024

Subject: Authorized MoynoTM Products Representation

To Whom It May Concern:

The Process and Flow Technologies Division of National Oilwell Varco utilizes authorized representatives and distributors through the United States to bring the MoynoTM Product line to market. Shrier-Martin Process Equipment, Inc. is the authorized Representative and Distributor for the MoynoTM Product Lines in the following counties in New York:

Albany, Allegany, Broome, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Clinton, Columbia, Cortland, Delaware, Duchess, Erie, Essex, Franklin, Fulton, Genesee, Greene, Hamilton, Herkimer, Jefferson, Lewis, Livingston, Madison, Monroe, Montgomery, Niagara, Oneida, Onondaga, Ontario, Orleans, Oswego, Otsego, Rensselaer, Saratoga, Schenectady, Schoharie, Schuyler, Seneca, St. Lawrence, Steuben, Sullivan, Tioga, Tompkins, Ulster, Warren, Washington, Wayne, Wyoming and Yates.

In Pennsylvania, Shrier-Martin is the Representative into industries other than municipal for the counties of:

Bradford, Susquehanna, and Tioga

Please contact me directly should there be a questions relating to the above information.

Respectfully yours,

David Brewer

MoynoTM Products Regional Sales Manager

T 937-454-3200
F 937-454-3379
nov.com

NOV Process and Flow Technologies US, Inc.
MoynoTM
5870 Poe Avenue
Dayton, OH 45414

Attachment: Shrier Martin Agreement (RES-2024-395 : Moyno™ Stator & Rotor- Procurement)

Addendum to Contract VENDOR NOT ON SITE

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 Vendors 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, Vendor 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 Vendor its officers, agents, sub-Vendors, and/or employees as well as the negligence, active or passive, of the Vendor, its officers, agents, sub-Vendors, and/or employees.

4. No Assignment: In accordance with the provisions of Section 109 of the General Municipal Law, the Vendor 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.

5. 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 Vendor 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.

Attachment: Shrier Martin Agreement (RES-2024-395 : Moyno™ Stator & Rotor- Procurement)

6. The Vendor, in accordance with its status as an independent Vendor, 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.

7. 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.

8. 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.

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:

Shrier-Martin Process Equipment
Print Name of Company

By: _____
Signature

Brett R. Siewert
Printed name

Date: 3-18-24

Agreed to and Accepted by:

Town of Amherst

By: _____
Brian J. Kulpa, Supervisor

Date: _____

Revised 12.30.19 SJS

Attachment: Shrier Martin Agreement (RES-2024-395 : Moyno™ Stator & Rotor- Procurement)

EXHIBIT "I"

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: Shrier- Martin

Signature: [signature]

Print Name: Brett R. Siewert

Title: Vice - President

Date: 3-18-24

Revised 8.2023

Attachment: Shrier Martin Agreement (RES-2024-395 : Moyno™ Stator & Rotor- Procurement)

Client#: 39527 SHRIEMAR

ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 1/02/2024

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	CONTACT NAME: Jennifer A. Scally	
Amsure 31 Church Street - 4th Floor PO Box 336 Saratoga Springs, NY 12866	PHONE (A/C, No, Ext): 518-584-5300	FAX (A/C, No): 518-584-7306
	E-MAIL ADDRESS: jscally@amsureins.com	
	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A : Hartford Underwriters Insurance Co.	30104
INSURED Shrier-Martin Process Equipment, Inc. DBA Chemcorr 1260 Rochester Street Lima, NY 14485	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 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			01SBABC5B7E	01/01/2024	01/01/2025	EACH OCCURRENCE	$1,000,000
	CLAIMS-MADE X OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$1,000,000
							MED EXP (Any one person)	$10,000
							PERSONAL & ADV INJURY	$1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$2,000,000
	POLICY PRO-JECT LOC						PRODUCTS - COMP/OP AGG	$2,000,000
	OTHER:							$
A	AUTOMOBILE LIABILITY			01SBABC5B7E	01/01/2024	01/01/2025	COMBINED SINGLE LIMIT (Ea accident)	$1,000,000
	ANY AUTO						BODILY INJURY (Per person)	$
	OWNED AUTOS ONLY / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	X HIRED AUTOS ONLY / X NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
								$
A	UMBRELLA LIAB OCCUR			01SBABC5B7E	01/01/2024	01/01/2025	EACH OCCURRENCE	$2,000,000
	EXCESS LIAB CLAIMS-MADE						AGGREGATE	$2,000,000
	DED X RETENTION $10000							$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y/N						PER STATUTE / OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? N/A						E.L. EACH ACCIDENT	$
	(Mandatory in NH)						E.L. DISEASE - EA EMPLOYEE	$
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - POLICY LIMIT	$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

The Certificate Holder is Additional Insured as respects to General Liability on a primary/non contributory basis and a Waiver of Subrogation applies when required by written contract that is executed and signed by the Named Insured prior to any loss.

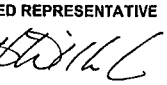
CERTIFICATE HOLDER

Town of Amherst
5583 Main Street
Buffalo, 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



© 1988-2015 ACORD CORPORATION. All rights reserved.

Attachment: Shrier Martin Agreement (RES-2024-395 : Moyno™ Stator & Rotor- Procurement)

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Sewer/Plant 16
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 28910 **RESOLUTION 2024-396** **ADOPTED**

Lift Station Communication Hosting Agreement Extension Colacino Industries, Inc. CRS No. 4758

The Engineering Department, WPCF division is requesting that the Town Board authorize the Supervisor to sign the attached contract extension agreement with Colacino Industries, Inc. The terms and conditions within the current Lift Station hosting Agreement will remain the same. This extension will be from the date of Town Board Approval by the Town of Amherst and be effective from July 10, 2024 through July 09, 2025.

Funds for this request are available in G9916-4110.

This request is pending successful completion of the contract review process.

Thank you for considering this request.

4/29/2024
Consent

FINANCIAL IMPACT:

G9916-4110

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

AGREEMENT

Let this document stand as an agreement between Colacino Industries, Inc. and the Town of Amherst to extend their current Lift Station Communication Hosting Agreement, executed on July10, 2014 with TOA RES 2014-763, for a period of 12 months. It is mutually agreed by both parties to remove the language within paragraph marked by the letter "O" and that the remaining terms and conditions will remain the same, the TOA will be invoiced at $65.00 / Site / Month as stated in the original agreement. This extension will run from July 10, 2024 through July 9, 2025.

Agreed to and Accepted by:

Colacino Industries, Inc.

By: _____
Signature

James Colacino
Printed name

President
Title

Date: 3/27/24

Agreed to and Accepted by:

TOWN OF AMHERST

By: _____
Brian J. Kulpa
Supervisor

Date: _____

Attachment: Colacino Extension (RES-2024-396 : Lift Station Communication Hosting Agreement Extension)

COLAIND-02 ICALDWELL

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 3/27/2024

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 Paris-Kirwan Associates, Inc. PO Box 40420 Rochester, NY 14604	CONTACT NAME: PHONE (A/C, No, Ext): (585) 473-8000 FAX (A/C, No): (585) 340-1714 E-MAIL ADDRESS: reception@paris-kirwan.com
INSURED Colacino Industries, Inc. 126 Harrison Street Newark, NY 14513	INSURER(S) AFFORDING COVERAGE — NAIC # INSURER A : Michigan Millers Mutual Insurance Co — 14508 INSURER B : Central Mutual Insurance Company — 20230 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 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 X Electric Operations GEN'L AGGREGATE LIMIT APPLIES PER: X POLICY X PRO-JECT LOC OTHER:	X	X	C0552646	1/23/2024	1/23/2025	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 $ 300,000 $ 5,000 $ 1,000,000 $ 2,000,000 $ 2,000,000
B	AUTOMOBILE LIABILITY X ANY AUTO OWNED AUTOS ONLY / SCHEDULED AUTOS HIRED AUTOS ONLY / NON-OWNED AUTOS ONLY	X	X	BAP 8964624	1/23/2024	1/23/2025	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 1,000,000 $ $ $
B	UMBRELLA LIAB X OCCUR X EXCESS LIAB CLAIMS-MADE DED X RETENTION $ 0	X	X	CXS 8964626	1/23/2024	1/23/2025	EACH OCCURRENCE AGGREGATE	$ 5,000,000 $ 5,000,000
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y / N 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	$ $ $
A	GL&Prof - Alarm Op's	X		C0552646	1/23/2024	1/23/2025	Per Occ. $1,000,000	2,000,000
A	UMB - Alarm Op's	X		C0552646	1/23/2024	1/23/2025	Retention $10,000	5,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Alarm Op's Deductible: $1,000

Contractor's E&O and Pollution Coverage for Electrical Operations: Underwritten with Columbia Casualty Company NAIC #:31127 - Effective 12/05/2023 - 12/05/2024 - Policy#: CEO591915551 Limits $1,000,000 per claim $1,000,000 Aggregate - Retention $10,000 - Retroactive Date: 12/05/2016.

Town of Amherst is listed as an additional insured and a waiver of subrogation applies per written contract or agreement.

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
Laurence Stanney

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The ACORD name and logo are registered marks of ACORD

Attachment: Colacino Extension (RES-2024-396 : Lift Station Communication Hosting Agreement Extension)

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Sewer/Plant 16
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 28913 **RESOLUTION 2024-397** **ADOPTED**

TabWare Server Migration Aptean, Inc. CRS – 4743

The Engineering Department-WPCF Division is requesting that the Town Board authorize the Supervisor to sign the attached agreement with Aptean, Inc. to complete a server migration for our purchase order and inventory program, TabWare. We require migration of this application to new server hardware due to the age of the existing hardware and server software version. The existing in-place hardware is long out of warranty and the most cost effective option was to migrate our application to newer hardware that was provided by the IT Dept. We will require assistance from the software vendor in the migration due to customizations they performed to the software. The term of this agreement will be from date of Town Board approval by the Town of Amherst through December 31, 2024.

Funds will be available in G9916-2130.

This request is pending successful completion of the contract review process.

Thank you for considering this request.

4/29/2024
Consent

FINANCIAL IMPACT:

G9916-2130

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

AGREEMENT

Let this document stand as an Agreement between Aptean Inc. and the Town of Amherst permitting the Town of Amherst to purchase AssetPoint Post-Implementation Services per the attached quote and statement of work # Q-414752 in the amount of $6,625.00. The term of this agreement will be from date of execution by the Town of Amherst through December 31, 2024.

Agreed to and Accepted by:

APTEAN INC.

By: Neil S. Goldstein
Signature

Neil S. Goldstein
Printed name

Senior Managing Counsel
Title

Date: 4/3/24

Agreed to and Accepted by:

TOWN OF AMHERST

By: _____
Brian J. Kulpa
Supervisor

Date: _____

Attachment: Tabware server (RES-2024-397 : TabWare Server Migration)

Town of Amherst Water Pollution Control

This Order Form, together with the Master TabWare Onsite (TOS) Concurrent User License (CUL) dated April 09, 2015 (the "Agreement") between AssetPoint LLC ("Licensor") and Town of Amherst Water Pollution Control ("Customer") and incorporated herein by reference contains the full agreement of Licensor and Customer as to the purchase/license and provision of the Software and/or services listed below. This Order Form is dated and effective as of the last date entered in the signature block below (the "Effective Date"). In case of any conflict between the Agreement and this Order Form, the terms and conditions on the Order Form shall control.

PROFESSIONAL SERVICES			
Product	**License Metric**	**Qty**	**Price**
AssetPoint Post-Implementation Services (T&M)	hourly	25.00	6,625.00

Professional Services Total USD 6,625.00

Licensor Representative: Brad Smith		Licensor Email: brad.smith@aptean.com	
Customer Representative: Greg Struzik			
Customer Billing Information:		Customer Shipping Information:	
Name:	Town of Amherst Water Pollution Control Crystal Russell	Name:	Town of Amherst Water Pollution Control Gregory Struzik
Address:	455 Tonawanda Creek Road Amherst New York 14228 United States	Address:	455 Tonawanda Creek Road Amherst New York 14228 United States
Phone:		Phone:	
Email:	crussell@amherst.ny.us	Email:	gstruzik@amherst.ny.us
End User:			

A. Invoicing and Payment Terms

1. Do not pay from this Order Form. Licensor will invoice Customer after execution of this Order Form for the fees set forth herein plus applicable taxes. For Software, Licensor will invoice in accordance with the start dates set forth in this Order Form.
2. Customer shall pay Licensor Net 30 from the date of the invoice. In case of late payment, Customer may be subject to a late fee up to 1.5% per month.
3. Fees for Subscription Services or Maintenance Services will be billed Annually.
4. Licensor has a NO REFUND policy.
5. Where Customer requires Licensor's invoice to reference the Customer's purchase order number, Customer agrees to provide its purchase order to Licensor within 5 days of the earlier of (i)

Attachment: Tabware server (RES-2024-397 : TabWare Server Migration)

signature of the corresponding Order Form and (ii) Licensor's written request. All terms, conditions, or provisions which may appear as preprinted language or otherwise be inserted within any purchase order shall be of no force and effect and acceptance of a purchase order will not constitute as a written instrument modifying the Agreement.

B. Additional Terms

1. By signing this Order Form, Customer hereby accepts and agrees to be bound by the terms and conditions applicable to the Products and/or Services as listed above on this Order Form (Professional Services Exhibit) made available at legal.aptean.com/legal-center-na.html which are applicable to all Products and Services previously and subsequently ordered by Customer.
2. Licensor and the Customer agree that the professional service and services deliverables ("Service Deliverables") to be provided by Licensor pursuant to this Order Form are set out in the attached Statement of Work Schedule (the "Schedule"), which is hereby incorporated into this Order Form. In case of any conflict between the terms and conditions of this Order Form and the Schedule, the Schedule shall control.
3. This Order Form, together with the Agreement, constitutes the entire agreement and supersedes all prior agreements (verbal or written) between the parties with respect to the subject matter hereof.
4. If a party executes this Order Form via electronic signature, then such electronic signature shall be deemed to be such party's original signature for all purposes. The exchange of copies of this Order Form and of the signature pages by facsimile or other electronic transmission shall constitute effective execution and delivery of this Order Form as to the parties and may be used in lieu of the original Order Form for all purposes.
5. The terms and conditions stated herein are expressly contingent upon Customer's execution of this Order Form by May 02, 2024.

SIGNATURES TO FOLLOW

Attachment: Tabware server (RES-2024-397 : TabWare Server Migration)

Signatures Required:

Town of Amherst Water Pollution Control		**AssetPoint LLC**	
By:		By:	Neil S. Goldstein
Name:		Name:	Neil S. Goldstein
Title:		Title:	Senior Managing Council
Date:		Date	4/3/24
PO #			
Tax Exempt #			

Attachment: Tabware server (RES-2024-397 : TabWare Server Migration)

aptean

Town of Amherst Water Pollution Control

Schedule
To Statement of Work

TabWare Migration to New Server

27 February 2024 – Version 1
Quote: Q-414752
Opportunity: 800733

Attachment: Tabware server (RES-2024-397 : TabWare Server Migration)

1. Introduction and Objectives

Town of Amherst Water Pollution Control (Customer) requires a migration of its TabWare on-premise application to a new server.

2. Scope of Services

Pursuant to the terms of the Statement of Work (SOW) to which this Schedule is attached, Aptean shall provide to the Customer the Services listed below:

- Migrate TabWare to a new server
- Provide UAT support
- Provide go-live support

Any tasks not listed above are not included in the Services provided pursuant to this Schedule.

2.1 Change Control

Any changes to the scope or agreed functionality of the system, or requests for additional work will be handled through the Aptean standard change management process. A Change Order (see Appendix A) will be raised by Aptean for approval on the project and will be contracted separately.

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3. ESTIMATED SCHEDULE AND DELIVERABLES

The following Schedule and deliverables have been identified within this Schedule.

3.1 Estimated Timeline

The estimated timetable for the Services will be agreed by the parties upon signature of the SOW.

3.2 Deliverables from Aptean

Please refer to Section 2

3.3 Deliverables from the Customer

The Customer will deliver the following items to support the activities for this Schedule:

- A Project Manager who will be the first point of contact for the customer regarding the activities carried out under this Schedule and who will coordinate and manage the customer resources and activities.
- A Business and Technical SME (Subject Matter Expert) with good working knowledge of the Customer's requirements.
- Access to the Customer IT and DBA staff where required to support any IT related activities carried out under the scope of this Schedule.
- Hardware, system software and any 3rd party software required to support any environment (e.g., Development, Acceptance, and Production).
- User Acceptance Test Plan for Aptean to review prior to UAT.
- Appropriate training room with training facilities (including overhead projector, Whiteboard, Flipchart) for delivering any training sessions or workshops that are part of the scope of work.
- Access to the Customer's relevant software applications and computer systems during the installation of the deliverables in the Customer's IT environment.
- The Customer must provide connectivity for remote access to project environments for offsite team members.

3.4 Assumptions

The following assumptions have been made when producing this Schedule:

- Any items and activities outside the scope items defined in section 2 of this document are explicitly out of scope of this project.
- The Customer is responsible to supply and install all prerequisite software.
- Services will be provided remotely, unless otherwise specified.
- All software is to be delivered electronically.
- The Aptean Project Manager will provide a single point of contact between the Customer and Aptean regarding scope, schedule, and resources assigned to accomplish the Aptean services.
- Aptean consultant(s) will work under the direction of the Aptean Project Manager or designee.
- The Customer will provide a VPN connection for Aptean resources for off-site connectivity for activities requiring remote access.
- The Customer will have the appropriate computer hardware and technical environment in place, and will provide all required access, prior to the Aptean consultants commencing work.
- The Customer will provide functional and technical resources as needed throughout the life of the project that will serve as core team members, subject matter experts and project execution resources.

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- Aptean's delivery of the Services is dependent on (i) the Customer's timely and effective completion of the Customer Responsibilities, (ii) the accuracy and completeness of the Assumptions, and (iii) timely decisions and approvals by the Customer's management. Additional fees and charges may be applicable for deficiencies or delays in the Customer Deliverables.
- The Customer is responsible for testing the Software and reporting any deficiencies to Aptean for investigation.
- Aptean is not responsible for procuring or deploying any required non-embedded third-party products and services unless otherwise stated.
- Aptean will be providing English language products, documentation and services unless otherwise stated.

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4. CHARGES

4.1 Fee Summary

All fees presented are expressed in $USD unless stated otherwise.

Task	Estimated Effort	Resources	Hourly Rate	Fee
T&M Tasks	**25**			**$6,625.00**
TabWare Migration	25	Application Consultant	$265.00	$6,625.00
TOTAL	**25**			**$6,625.00**

In relation to the Services being provided under this Schedule, Aptean reserves the right to move time allocated for certain tasks of the Services to other tasks of the Services provided that the total hours do not exceed the total hours stated herein.

4.2 Travel Expenses

Travel expenses for this Schedule are estimated to be $0.

4.3 Payment Terms

All hours on this SOW are Time & Materials (T&M). Aptean will invoice monthly in arrears. The Customer agrees to pay Aptean in accordance with the terms set out in the SOW.

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APPENDIX A - Change Order Form

Requested Completion Date	
Requested By	
Description of Change	
Functionality Required	
Assumptions	
Customer Steps	
Aptean Steps	
Schedule Impacts	
Other Potential Impacts	
General Comments	

Cost Summary	Estimated Cost	
	Rate	
	Effort in days	
	Cost Details	

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Russell, Crystal

From: Willer, David
Sent: Friday, April 5, 2024 3:19 PM
To: Russell, Crystal
Cc: Struzik, Gregory
Subject: RE: TabWare Server Migration

*Please consider using our online help desk or IT support phone number (ext 7099 from work) or (631.7099 from home or remote).
For more information, please consult the IT Help Desk and Phone Support document.

I have no issues. Presumably Greg has vetted this as well.

David J. Willer
Director of Information Technology
Town of Amherst, New York
P: 716.631.7059
C: 716.245.3467

From: Russell, Crystal <crussell@amherst.ny.us>
Sent: Friday, April 5, 2024 1:48 PM
To: Willer, David <dwiller@amherst.ny.us>
Cc: Struzik, Gregory <gstruzik@amherst.ny.us>
Subject: TabWare Server Migration

Hi Dave,

Can you please review the attached proposal from Aptean to complete the server migration for TabWare and let me know if it is ok to submit into CRS?

Thank you,

Crystal Russell
Town of Amherst WPCF, Accounts Payable
455 Tonawanda Creek Road
Amherst, NY 14228
P: 716.691.9771 ext. 8010
F: 716.691.4496
crussell@amherst.ny.us

Attachment: Tabware server (RES-2024-397 : TabWare Server Migration)

Russell, Crystal

From: Brad Smith <Brad.Smith@aptean.com>
Sent: Thursday, April 11, 2024 3:44 PM
To: Russell, Crystal
Cc: Steve Pierce
Subject: RE: [EXTERNAL] FW: Order Form/SOW for TabWare Server Migration Services

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.

Hi Crystal,

The late fee wording cannot be removed for professional services agreements.

Thanks.

BRAD SMITH

Senior Account Manager – TabWare/Aptean EAM, Activplant MES and Catalyst WMS Product Lines

+1 864 979 4071 | brad.smith@aptean.com

www.Aptean.com





From: Russell, Crystal <crussell@amherst.ny.us>
Sent: Thursday, April 11, 2024 11:43 AM
To: Brad Smith <Brad.Smith@aptean.com>
Cc: Steve Pierce <Steve.Pierce@aptean.com>
Subject: RE: [EXTERNAL] FW: Order Form/SOW for TabWare Server Migration Services

Hi Brad,

In getting this reviewed, our Contract Compliance team stated that the late fee wording has been removed in the past with our TabWare renewal, so I was told to ask again to see if it can be removed for this agreement.

Thank you,

Crystal Russell
Town of Amherst WPCF, Accounts Payable
455 Tonawanda Creek Road
Amherst, NY 14228
P: 716.691.9771 ext. 8010
F: 716.691.4496
crussell@amherst.ny.us

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Consultant Major Exposure Addendum to Contract

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 Consultants 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, Consultant 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 Consultant its officers, agents, sub-Consultants, and/or employees as well as the negligence, active or passive, of the Consultant, its officers, agents, sub-Consultants, and/or employees.

4. Consultant 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: Consultant 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: Consultant 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) Consultant shall furnish the above insurances, including sub-Consultants' 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) Consultant shall ensure all its sub-Consultants, if any, have obtained all the above insurances and shall also assure that any policy procured by any sub-

Attachment: Tabware server (RES-2024-397 : TabWare Server Migration)

Consultant or sub-sub Consultant shall name the Town as an additional insured on a primary and non-contributory basis.

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 Consultant 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 Consultant 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 Consultant, in accordance with its status as an independent Consultant, 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.

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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:

AssetPoint, LLC
Print Name of Company

By: Neil S. Goldstein
Signature

Neil S. Goldstein
Printed name

Date: 4/3/24

Agreed to and Accepted by:

Town of Amherst

By: _____
Brian J. Kulpa, Supervisor

Date: _____

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EXHIBIT "I"

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: AssetPoint LLC

Signature: [signature]

Print Name: Neil S. Goldstein

Title: Senior Managing Counsel

Date: 4/3/24

Revised 8.2023

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ACORD®

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 6/20/2023 | 6/23/2022

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	Lockton Insurance Brokers, LLC CA License #OF15767 Three Embarcadero Center, Suite 600 San Francisco CA 94111 (415) 568-4000
CONTACT NAME:	
PHONE (A/C, No, Ext):	FAX (A/C, No):
E-MAIL ADDRESS:	

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : National Fire Insurance Co of Hartford	20478
INSURER B : Allied World Assurance Company (U.S.) Inc.	19489
INSURER C : The Continental Insurance Company	35289
INSURER D : Transportation Insurance Company	20494
INSURER E :	
INSURER F :	

INSURED 1471627
Assetpoint LLC
Aptean, Inc.
4325 Alexander Drive, #100
Alpharetta GA 30022

COVERAGES CDCSO07 **CERTIFICATE NUMBER:** 18227897 **REVISION NUMBER:** XXXXXXX

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 [ ] PRO-JECT [X] LOC OTHER:	Y	Y	6020326922	6/20/2022	6/20/2023	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 $ 1,000,000 $ 15,000 $ 1,000,000 $ 2,000,000 $ 2,000,000
D	AUTOMOBILE LIABILITY ANY AUTO OWNED AUTOS ONLY X HIRED AUTOS ONLY SCHEDULED AUTOS X NON-OWNED AUTOS ONLY X Comp: $100 Ded X Coll: $1,000 Ded	Y	Y	6016869558	6/20/2022	6/20/2023	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 1,000,000 $ XXXXXXX $ XXXXXXX $ XXXXXXX
C	X UMBRELLA LIAB EXCESS LIAB X OCCUR CLAIMS-MADE DED RETENTION $	Y	Y	6016869561	6/20/2022	6/20/2023	EACH OCCURRENCE AGGREGATE	$ 20,000,000 $ 20,000,000
C C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory In NH) Y/N [N] If yes, describe under DESCRIPTION OF OPERATIONS below	N/A	N	6016869530 (AOS) 6016869589 (CA)	6/20/2022 6/20/2022	6/20/2023 6/20/2023	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
B	Professional E&O / Cyber	N	N	0312-9221 (E&O)	6/20/2022	6/20/2023	$5M ea. claim/Agg. $250,000 Retention Retro Date: 09/01/1994	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Town of Amherst are Additional Insureds with respect to liability arising out of the operations of the insured and to the extent provided by the policy language or endorsement issued or approved by the insurance carrier. Waiver of Subrogation applies per attached endorsement(s) or policy language. Insurance provided to Additional Insured(s) is primary and non-contributory as per the attached endorsements or policy language.

CERTIFICATE HOLDER

18227897
Town of Amherst
5583 Main Street
Williamsville NY 14221

CANCELLATION See Attachments

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: Tabware server (RES-2024-397 : TabWare Server Migration)

Attachment Code: D515237 Certificate ID: 18227897

CNA

Business Auto Policy
Policy Endorsement

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US (WAIVER OF SUBROGATION)

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM

BUSINESS AUTO COVERAGE FORM

MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Named Insured: APTEAN, INC.

Endorsement Effective Date: 06/20/2022

SCHEDULE
Name(s) Of Person(s) Or Organization(s):
ANY PERSON OR ORGANIZATION FOR WHOM OR WHICH YOU ARE REQUIRED BY WRITTEN CONTRACT OR AGREEMENT TO OBTAIN THIS WAIVER FROM US. YOU MUST AGREE TO THAT REQUIREMENT PRIOR TO LOSS.
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The **Transfer Of Rights Of Recovery Against Others To Us** condition does not apply to the person(s) or organization(s) shown in the Schedule, but only to the extent that subrogation is waived prior to the **"accident"** or the **"loss"** under a contract with that person or organization.

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Attachment: Tabware server (RES-2024-397 : TabWare Server Migration)

Attachment Code: D515240 Certificate ID: 18227897

CNA

Business Auto Policy
Policy Endorsement

ADDITIONAL INSURED - PRIMARY AND NON-CONTRIBUTORY

It is understood and agreed that this endorsement amends the **BUSINESS AUTO COVERAGE FORM** as follows:

SCHEDULE
Name of Additional Insured Person Or Organization
ANY PERSON OR ORGANIZATION THAT YOU ARE REQUIRED BY WRITTEN CONTRACT OR WRITTEN AGREEMENT TO NAME AS AN ADDITIONAL INSURED.

1. In conformance with paragraph **A.1.c.** of **Who Is An Insured** of Section **II** - LIABILITY COVERAGE, the person or organization scheduled above is an insured under this policy.
2. The insurance afforded to the additional insured under this policy will apply on a primary and non-contributory basis if you have committed it to be so in a written contract or written agreement executed prior to the date of the "**accident**" for which the additional insured seeks coverage under this policy.

All other terms and conditions of the policy remain unchanged

This endorsement, which forms a part of and is for attachment to the policy issued by the designated Insurers, takes effect on the Policy Effective date of said policy at the hour stated in said policy, unless another effective date (the Endorsement Effective Date) is shown below, and expires concurrently with said policy.

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Attachment: Tabware server (RES-2024-397 : TabWare Server Migration)

CNA

Technology General Liability Extension Endorsement

It is understood and agreed that this endorsement amends the **COMMERCIAL GENERAL LIABILITY COVERAGE PART** as follows. If any other endorsement attached to this policy amends any provision also amended by this endorsement, then that other endorsement controls with respect to such provision, and the changes made by this endorsement with respect to such provision do not apply.

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20. Unintentional Failure To Disclose Hazards
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1. **ADDITIONAL INSUREDS**

   a. **WHO IS AN INSURED** is amended to include as an **Insured** any person or organization described in paragraphs **A.** through **K.** below whom a **Named Insured** is required to add as an additional insured on this **Coverage Part** under a written contract or written agreement, provided such contract or agreement:

      (1) is currently in effect or becomes effective during the term of this **Coverage Part**; and

      (2) was executed prior to:

         (a) the **bodily injury** or **property damage**; or

         (b) the offense that caused the **personal and advertising injury**,

         for which such additional insured seeks coverage.

   b. However, subject always to the terms and conditions of this policy, including the limits of insurance, the Insurer will not provide such additional insured with:

      (1) a higher limit of insurance than required by such contract or agreement; or

      (2) coverage broader than required by such contract or agreement, and in no event broader than that described by the applicable paragraph **A.** through **K.** below.

   Any coverage granted by this endorsement shall apply only to the extent permissible by law.

   A. Controlling Interest

   Any person or organization with a controlling interest in a **Named Insured**, but only with respect to such person or organization's liability for **bodily injury**, **property damage** or **personal and advertising injury** arising out of:

   1. such person or organization's financial control of a **Named Insured**; or
   2. premises such person or organization owns, maintains or controls while a **Named Insured** leases or occupies such premises;

   provided that the coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

   B. Co-owner of Insured Premises

   A co-owner of a premises co-owned by a **Named Insured** and covered under this insurance but only with respect to such co-owner's liability for **bodily injury**, **property damage** or **personal and advertising injury** as co-owner of such premises.

   C. Grantor of Franchise

   Any person or organization that has granted a franchise to a **Named Insured**, but only with respect to such person or organization's liability for **bodily injury**, **property damage** or **personal and advertising injury** as grantor of a franchise to the **Named Insured**.

   D. Lessor of Equipment

   Any person or organization from whom a **Named Insured** leases equipment, but only with respect to liability for **bodily injury**, **property damage** or **personal and advertising injury** caused, in whole or in part, by the **Named Insured's** maintenance, operation or use of such equipment, provided that the **occurrence** giving rise to such **bodily injury**, **property damage** or the offense giving rise to such **personal and advertising injury** takes place prior to the termination of such lease.

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E. Lessor of Land

Any person or organization from whom a **Named Insured** leases land but only with respect to liability for **bodily injury**, **property damage** or **personal and advertising injury** arising out of the ownership, maintenance or use of such land, provided that the **occurrence** giving rise to such **bodily injury**, **property damage** or the offense giving rise to such **personal and advertising injury** takes place prior to the termination of such lease. The coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

F. Lessor of Premises

An owner or lessor of premises leased to the **Named Insured**, or such owner or lessor's real estate manager, but only with respect to liability for **bodily injury**, **property damage** or **personal and advertising injury** arising out of the ownership, maintenance or use of such part of the premises leased to the **Named Insured**, and provided that the **occurrence** giving rise to such **bodily injury** or **property damage**, or the offense giving rise to such **personal and advertising injury**, takes place prior to the termination of such lease. The coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

G. Mortgagee, Assignee or Receiver

A mortgagee, assignee or receiver of premises but only with respect to such mortgagee, assignee or receiver's liability for **bodily injury**, **property damage** or **personal and advertising injury** arising out of the **Named Insured's** ownership, maintenance, or use of a premises by a **Named Insured**.

The coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

H. State or Governmental Agency or Subdivision or Political Subdivisions – Permits

A state or governmental agency or subdivision or political subdivision that has issued a permit or authorization but only with respect to such state or governmental agency or subdivision or political subdivision's liability for **bodily injury**, **property damage** or **personal and advertising injury** arising out of:

1. the following hazards in connection with premises a **Named Insured** owns, rents, or controls and to which this insurance applies:
   a. the existence, maintenance, repair, construction, erection, or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoistaway openings, sidewalk vaults, street banners, or decorations and similar exposures; or
   b. the construction, erection, or removal of elevators; or
   c. the ownership, maintenance or use of any elevators covered by this insurance; or
2. the permitted or authorized operations performed by a **Named Insured** or on a **Named Insured's** behalf.

   The coverage granted by this paragraph does not apply to:
   a. **Bodily injury**, **property damage** or **personal and advertising injury** arising out of operations performed for the state or governmental agency or subdivision or political subdivision; or
   b. **Bodily injury** or **property damage** included within the **products-completed operations hazard**.

With respect to this provision's requirement that additional insured status must be requested under a written contract or agreement, the Insurer will treat as a written contract any governmental permit that requires the **Named Insured** to add the governmental entity as an additional insured.

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I. Trade Show Event Lessor

1. With respect to a **Named Insured's** participation in a trade show event as an exhibitor, presenter or displayer, any person or organization whom the **Named Insured** is required to include as an additional insured, but only with respect to such person or organization's liability for **bodily injury**, **property damage** or **personal and advertising injury** caused by:

   a. the **Named Insured's** acts or omissions; or

   b. the acts or omissions of those acting on the **Named Insured's** behalf,

   in the performance of the **Named Insured's** ongoing operations at the trade show event premises during the trade show event.

2. The coverage granted by this paragraph does not apply to **bodily injury** or **property damage** included within the **products-completed operations hazard**.

J. Vendor

Any person or organization but only with respect to such person or organization's liability for **bodily injury** or **property damage** arising out of **your products** which are distributed or sold in the regular course of such person or organization's business, provided that:

1. The coverage granted by this paragraph does not apply to:

   a. **bodily injury** or **property damage** for which such person or organization is obligated to pay **damages** by reason of the assumption of liability in a contract or agreement unless such liability exists in the absence of the contract or agreement;

   b. any express warranty unauthorized by the **Named Insured**;

   c. any physical or chemical change in any product made intentionally by such person or organization;

   d. repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;

   e. any failure to make any inspections, adjustments, tests or servicing that such person or organization has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;

   f. demonstration, installation, servicing or repair operations, except such operations performed at such person or organization's premises in connection with the sale of a product;

   g. products which, after distribution or sale by the **Named Insured**, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for such person or organization; or

   h. **bodily injury** or **property damage** arising out of the sole negligence of such person or organization for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:

      (1) the exceptions contained in Subparagraphs **d.** or **f.** above; or

      (2) such inspections, adjustments, tests or servicing as such person or organization has agreed with the **Named Insured** to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.

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2. This Paragraph **J.** does not apply to any insured person or organization, from whom the **Named Insured** has acquired such products, nor to any ingredient, part or container, entering into, accompanying or containing such products.

3. This Paragraph **J.** also does not apply:

   a. to any vendor specifically scheduled as an additional insured by endorsement to this **Coverage Part**;

   b. to any of **your products** for which coverage is excluded by endorsement to this **Coverage Part**; nor

   c. if **bodily injury** or **property damage** included within the **products-completed operations hazard** is excluded by endorsement to this **Coverage Part**.

K. Other Person Or Organization / Your Work

Any person or organization who is not an additional insured under Paragraphs **A.** through **J.** above. Such additional insured is an **Insured** solely for **bodily injury**, **property damage** or **personal and advertising injury** for which such additional insured is liable because of the **Named Insured's** acts or omissions.

The coverage granted by this paragraph does not apply to any person or organization:

1. who is specifically scheduled as an additional insured on another endorsement to this **Coverage Part**; nor

2. for **bodily injury** or **property damage** included within the **products-completed operations hazard** except to the extent all of the following apply:

   a. this **Coverage Part** provides such coverage;

   b. the written contract or agreement described in the opening paragraph of this **ADDITIONAL INSUREDS** Provision requires the **Named Insured** to provide the additional insured such coverage; and

   c. the **bodily injury** or **property damage** results from **your work** that is the subject of the written contract or agreement, and such work has not been excluded by endorsement to this **Coverage Part**.

2. ADDITIONAL INSURED - PRIMARY AND NON-CONTRIBUTORY TO ADDITIONAL INSURED'S INSURANCE

A. The **Other Insurance** Condition in the **COMMERCIAL GENERAL LIABILITY CONDITIONS** Section is amended to add the following paragraph:

If the **Named Insured** has agreed in writing in a contract or agreement that this insurance is primary and non-contributory relative to an additional insured's own insurance, then this insurance is primary, and the Insurer will not seek contribution from that other insurance. For the purpose of this Provision **2.**, the additional insured's own insurance means insurance on which the additional insured is a named insured.

B. With respect to persons or organizations that qualify as additional insureds pursuant to paragraph **1.K.** of this endorsement, the following sentence is added to the paragraph above:

Otherwise, and notwithstanding anything to the contrary elsewhere in this Condition, the insurance provided to such person or organization is excess of any other insurance available to such person or organization.

3. BODILY INJURY – EXPANDED DEFINITION

Under **DEFINITIONS**, the definition of **bodily injury** is deleted and replaced by the following:

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Bodily injury means physical injury, sickness or disease sustained by a person, including death, humiliation, shock, mental anguish or mental injury sustained by that person at any time which results as a consequence of the physical injury, sickness or disease.

4. BROAD KNOWLEDGE OF OCCURRENCE/ NOTICE OF OCCURRENCE

Under **CONDITIONS**, the condition entitled **Duties in The Event of Occurrence, Offense, Claim or Suit** Condition is amended to add the following provisions:

A. BROAD KNOWLEDGE OF OCCURRENCE

The **Named Insured** must give the Insurer or the Insurer's authorized representative notice of an **occurrence**, offense or **claim** only when the **occurrence**, offense or **claim** is known to a natural person **Named Insured**, to a partner, executive officer, manager or member of a **Named Insured**, or to an **employee** designated by any of the above to give such notice.

B. NOTICE OF OCCURRENCE

The **Named Insured's** rights under this **Coverage Part** will not be prejudiced if the **Named Insured** fails to give the Insurer notice of an **occurrence**, offense or **claim** and that failure is solely due to the **Named Insured's** reasonable belief that the **bodily injury** or **property damage** is not covered under this **Coverage Part**. However, the **Named Insured** shall give written notice of such **occurrence**, offense or **claim** to the Insurer as soon as the **Named Insured** is aware that this insurance may apply to such **occurrence**, offense or **claim**.

5. BROAD NAMED INSURED

WHO IS AN INSURED is amended to delete its Paragraph **3.** in its entirety and replace it with the following:

3. Pursuant to the limitations described in Paragraph **4.** below, any organization in which a **Named Insured** has management control:

a. on the effective date of this **Coverage Part**; or

b. by reason of a **Named Insured** creating or acquiring the organization during the **policy period**,

qualifies as a **Named Insured**, provided that there is no other similar liability insurance, whether primary, contributory, excess, contingent or otherwise, which provides coverage to such organization, or which would have provided coverage but for the exhaustion of its limit, and without regard to whether its coverage is broader or narrower than that provided by this insurance.

But this **BROAD NAMED INSURED** provision does not apply to:

(a) any partnership or joint venture; or

(b) any organization for which coverage is excluded by another endorsement attached to this **Coverage Part**.

For the purpose of this provision, and of this endorsement's **JOINT VENTURES / PARTNERSHIP / LIMITED LIABILITY COMPANIES** provision, management control means:

A. owning interests representing more than 50% of the voting, appointment or designation power for the selection of a majority of the Board of Directors of a corporation, or the members of the management board of a limited liability company; or

B. having the right, pursuant to a written trust agreement, to protect, control the use of, encumber or transfer or sell property held by a trust.

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4. With respect to organizations which qualify as **Named Insureds** by virtue of Paragraph **3.** above, this insurance does not apply to:

   a. **bodily injury** or **property damage** that first occurred prior to the date of management control, or that first occurs after management control ceases; nor

   b. **personal or advertising injury** caused by an offense that first occurred prior to the date of management control or that first occurs after management control ceases.

5. The insurance provided by this **Coverage Part** applies to **Named Insureds** when trading under their own names or under such other trading names or doing-business-as names (dba) as any **Named Insured** should choose to employ.

6. ESTATES, LEGAL REPRESENTATIVES, AND SPOUSES

The estates, heirs, legal representatives and **spouses** of any natural person **Insured** shall also be insured under this policy; provided, however, coverage is afforded to such estates, heirs, legal representatives, and **spouses** only for **claims** arising solely out of their capacity or status as such and, in the case of a **spouse**, where such **claim** seeks **damages** from marital community property, jointly held property or property transferred from such natural person **Insured** to such **spouse**. No coverage is provided for any act, error or omission of an estate, heir, legal representative, or **spouse** outside the scope of such person's capacity or status as such, provided however that the **spouse** of a natural person **Named Insured** and the **spouses** of members or partners of joint venture or partnership **Named Insureds** are **Insureds** with respect to such **spouses'** acts, errors or omissions in the conduct of the **Named Insured's** business.

7. EXPECTED OR INTENDED INJURY – EXCEPTION FOR REASONABLE FORCE

Under **COVERAGES, Coverage A – Bodily Injury And Property Damage Liability,** the paragraph entitled **Exclusions** is amended to delete the exclusion entitled **Expected or Intended Injury** and replace it with the following:

This insurance does not apply to:

Expected or Intended Injury

Bodily injury or **property damage** expected or intended from the standpoint of the **Insured.** This exclusion does not apply to **bodily injury** or **property damage** resulting from the use of reasonable force to protect persons or property.

8. IN REM ACTIONS

A quasi *in rem* action against any vessel owned or operated by or for the **Named Insured**, or chartered by or for the **Named Insured**, will be treated in the same manner as though the action were *in personam* against the **Named Insured**.

9. INCIDENTAL HEALTH CARE MALPRACTICE COVERAGE

Solely with respect to **bodily injury** that arises out of a **health care incident**:

A. Under **COVERAGES, Coverage A – Bodily Injury And Property Damage Liability**, the **Insuring Agreement** is amended to replace Paragraphs **1.b.(1)** and **1.b.(2)** with the following:

   b. This insurance applies to **bodily injury** provided that the professional health care services are incidental to the **Named Insured's** primary business purpose, and only if:

      (1) such **bodily injury** is caused by an **occurrence** that takes place in the **coverage territory**.

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(2) the **bodily injury** first occurs during the **policy period**. All **bodily injury** arising from an **occurrence** will be deemed to have occurred at the time of the first act, error, or omission that is part of the **occurrence**; and

B. Under **COVERAGES, Coverage A – Bodily Injury And Property Damage Liability**, the paragraph entitled **Exclusions** is amended to:

i. add the following to the **Employers Liability** exclusion:

This exclusion applies only if the **bodily injury** arising from a **health care incident** is covered by other liability insurance available to the **Insured** (or which would have been available but for exhaustion of its limits).

ii. delete the exclusion entitled **Contractual Liability** and replace it with the following:

This insurance does not apply to:

Contractual Liability

the **Insured's** actual or alleged liability under any oral or written contract or agreement, including but not limited to express warranties or guarantees.

iii. add the following additional exclusions.

This insurance does not apply to:

Discrimination

any actual or alleged discrimination, humiliation or harassment, that includes but shall not be limited to **claims** based on an individual's race, creed, color, age, gender, national origin, religion, disability, marital status or sexual orientation.

Dishonesty or Crime

Any actual or alleged dishonest, criminal or malicious act, error or omission.

Medicare/Medicaid Fraud

any actual or alleged violation of law with respect to Medicare, Medicaid, Tricare or any similar federal, state or local governmental program.

Services Excluded by Endorsement

Any **health care incident** for which coverage is excluded by endorsement.

C. **DEFINITIONS** is amended to:

i. add the following definitions:

Health care incident means an act, error or omission by the **Named Insured's employees** or **volunteer workers** in the rendering of:

a. **professional health care services** on behalf of the **Named Insured** or

b. Good Samaritan services rendered in an emergency and for which no payment is demanded or received.

Professional health care services means any health care services or the related furnishing of food, beverages, medical supplies or appliances by the following providers in their capacity as such but solely to the extent they are duly licensed as required:

a. Physician;

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b. Nurse;

c. Nurse practitioner;

d. Emergency medical technician;

e. Paramedic;

f. Dentist;

g. Physical therapist;

h. Psychologist;

i. Speech therapist;

j. Other allied health professional; or

Professional health care services does not include any services rendered in connection with human clinical trials or product testing.

ii. delete the definition of **occurrence** and replace it with the following:

Occurrence means a **health care incident**. All acts, errors or omissions that are logically connected by any common fact, circumstance, situation, transaction, event, advice or decision will be considered to constitute a single **occurrence**;

iii. amend the definition of **Insured** to:

a. add the following:

- the **Named Insured's employees** are **Insureds** with respect to:

  (1) bodily injury to a co-**employee** while in the course of the co-**employee's** employment by the **Named Insured** or while performing duties related to the conduct of the **Named Insured's** business; and

  (2) bodily injury to a **volunteer worker** while performing duties related to the conduct of the **Named Insured's** business;

  when such **bodily injury** arises out of a **health care incident**.

- the **Named Insured's volunteer workers** are **Insureds** with respect to:

  (1) bodily injury to a co-**volunteer worker** while performing duties related to the conduct of the **Named Insured's** business; and

  (2) bodily injury to an **employee** while in the course of the **employee's** employment by the **Named Insured** or while performing duties related to the conduct of the **Named Insured's** business;

when such **bodily injury** arises out of a **health care incident**.

b. delete Subparagraphs **(a), (b), (c) and (d)** of Paragraph **2.a.(1)** of **WHO IS AN INSURED**.

c. add the following:

Insured does not include any physician while acting in his or her capacity as such.

D. The **Other Insurance** condition is amended to delete Paragraph **b.(1)** in its entirety and replace it with the following:

Other Insurance

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b. Excess Insurance

(1) To the extent this insurance applies, it is excess over any other insurance, self insurance or risk transfer instrument, whether primary, excess, contingent or on any other basis, except for insurance purchased specifically by the **Named Insured** to be excess of this coverage.

10. JOINT VENTURES / PARTNERSHIP / LIMITED LIABILITY COMPANIES

WHO IS AN INSURED is amended to delete its last paragraph and replace it with the following:

No person or organization is an **Insured** with respect to:

- the conduct of any current or past partnership or joint venture that is not shown as a **Named Insured** in the Declarations; nor
- the conduct of a current or past limited liability company in which a **Named Insured's** interest does/did not rise to the level of management control;

except that if the **Named Insured** was a joint venturer, partner, or member of such a limited liability company, and such joint venture, partnership or limited liability company terminated prior to or during the **policy period**, then such **Named Insured** is an **Insured** with respect to its interest in such joint venture, partnership or limited liability company but only to the extent that:

a. any offense giving rise to **personal and advertising injury** occurred prior to such termination date, and the **personal and advertising injury** arising out of such offense, first occurred after such termination date;

b. the **bodily injury** or **property damage** first occurred after such termination date; and

c. there is no other valid and collectible insurance purchased specifically to insure the partnership, joint venture or limited liability company.

11. LEGAL LIABILITY – DAMAGE TO PREMISES

A. Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete the first paragraph immediately following subparagraph **(6)** of the **Damage to Property** exclusion and replace it with the following:

Paragraphs **(1)**, **(3)** and **(4)** of this exclusion do not apply to **property damage** (other than damage by fire, lightning, explosion, smoke or leakage from automatic fire protective systems) to premises rented to the **Named Insured** or temporarily occupied by the **Named Insured** with the permission of the owner, nor to the contents of premises rented to the **Named Insured** for a period of 7 or fewer consecutive days. A separate limit of insurance applies to Damage To Premises Rented To You as described in **LIMITS OF INSURANCE**.

B. Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete its last paragraph and replace it with the following:

Exclusions **c.** through **n.** do not apply to damage by fire, lightning, explosion, smoke or leakage from automatic fire protective systems to premises while rented to a **Named Insured** or temporarily occupied by a **Named Insured** with permission of the owner, nor to damage to the contents of premises rented to a **Named Insured** for a period of 7 or fewer consecutive days.

A separate limit of insurance applies to this coverage as described in the **LIMITS OF INSURANCE** Section.

C. LIMITS OF INSURANCE is amended to delete Paragraph **6.** (the Damage To Premises Rented To You Limit) and replace it with the following:

6. Subject to Paragraph **5.** above, (the Each Occurrence Limit), the Damage To Premises Rented To You Limit is the most the Insurer will pay under **COVERAGE A** for **damages** because of **property damage** to:

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a. any one premises while rented to a **Named Insured** or temporarily occupied by a **Named Insured** with the permission of the owner; and

b. contents of such premises if the premises is rented to the **Named Insured** for a period of 7 or fewer consecutive days.

The Damage To Premises Rented To You Limit is $500,000. unless a higher Damage to Premises Rented to You Limit is shown in the Declarations.

D. The **Other Insurance** Condition is amended to delete Paragraph **b.(1)(a)(ii)**, and replace it with the following:

(ii) That is property insurance for premises rented to a **Named Insured**, for premises temporarily occupied by the **Named Insured** with the permission of the owner; or for personal property of others in the **Named Insured's** care, custody or control;

E. This Provision **11.** does not apply if liability for damage to premises rented to a **Named Insured** is excluded by another endorsement attached to this **Coverage Part**.

12. MEDICAL PAYMENTS

A. LIMITS OF INSURANCE is amended to delete Paragraph **7.** (the Medical Expense Limit) and replace it with the following:

7. Subject to Paragraph **5.** above (the Each Occurrence Limit), the Medical Expense Limit is the most the Insurer will pay under **Coverage C – Medical Payments** for all medical expenses because of **bodily injury** sustained by any one person. The Medical Expense Limit is the greater of:

(1) $15,000 unless a different amount is shown here: @@@@@@@@@@@@@@ ; or

(2) the amount shown in the Declarations for Medical Expense Limit.

B. Under **COVERAGES**, the **Insuring Agreement** of **Coverage C – Medical Payments** is amended to replace Paragraph **1.a.(3)(b)** with the following:

(b) The expenses are incurred and reported to the Insurer within three years of the date of the accident; and

13. NON-OWNED AIRCRAFT

Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended as follows:

The exclusion entitled **Aircraft, Auto or Watercraft** is amended to add the following:

This exclusion does not apply to an aircraft not owned by any **Named Insured**, provided that:

1. the pilot in command holds a currently effective certificate issued by the duly constituted authority of the United States of America or Canada, designating that person as a commercial or airline transport pilot;

2. the aircraft is rented with a trained, paid crew to the **Named Insured**; and

3. the aircraft is not being used to carry persons or property for a charge.

14. NON-OWNED WATERCRAFT

Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete subparagraph **(2)** of the exclusion entitled **Aircraft, Auto or Watercraft**, and replace it with the following.

This exclusion does not apply to:

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(2) a watercraft that is not owned by any **Named Insured**, provided the watercraft is:

(a) less than 75 feet long; and

(b) not being used to carry persons or property for a charge.

15. PERSONAL AND ADVERTISING INJURY –DISCRIMINATION OR HUMILIATION

A. Under **DEFINITIONS**, the definition of **personal and advertising injury** is amended to add the following tort:

- Discrimination or humiliation that results in injury to the feelings or reputation of a natural person.

B. Under **COVERAGES**, **Coverage B – Personal and Advertising Injury Liability**, the paragraph entitled **Exclusions** is amended to:

1. delete the Exclusion entitled **Knowing Violation Of Rights Of Another** and replace it with the following:

This insurance does not apply to:

Knowing Violation of Rights of Another

Personal and advertising injury caused by or at the direction of the **Insured** with the knowledge that the act would violate the rights of another and would inflict **personal and advertising injury**. This exclusion shall not apply to discrimination or humiliation that results in injury to the feelings or reputation of a natural person, but only if such discrimination or humiliation is not done intentionally by or at the direction of:

(a) the **Named Insured**; or

(b) any **executive officer**, director, stockholder, partner, member or manager (if the **Named Insured** is a limited liability company) of the **Named Insured**.

2. add the following exclusions:

This insurance does not apply to:

Employment Related Discrimination

Discrimination or humiliation directly or indirectly related to the employment, prospective employment, past employment or termination of employment of any person by any **Insured**.

Premises Related Discrimination

discrimination or humiliation arising out of the sale, rental, lease or sub-lease or prospective sale, rental, lease or sub-lease of any room, dwelling or premises by or at the direction of any **Insured**.

Notwithstanding the above, there is no coverage for fines or penalties levied or imposed by a governmental entity because of discrimination.

The coverage provided by this **PERSONAL AND ADVERTISING INJURY –DISCRIMINATION OR HUMILIATION** Provision does not apply to any person or organization whose status as an **Insured** derives solely from

- Provision **1. ADDITIONAL INSURED** of this endorsement; or
- attachment of an additional insured endorsement to this **Coverage Part**.

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Attachment: Tabware server (RES-2024-397 : TabWare Server Migration)

CNA

Technology General Liability Extension Endorsement

16. PERSONAL AND ADVERTISING INJURY - LIMITED CONTRACTUAL LIABILITY

A. Under **COVERAGES, Coverage B –Personal and Advertising Injury Liability**, the paragraph entitled **Exclusions** is amended to delete the exclusion entitled **Contractual Liability** and replace it with the following:

This insurance does not apply to:

Contractual Liability

Personal and advertising injury for which the **Insured** has assumed liability in a contract or agreement.

This exclusion does not apply to liability for **damages**:

(1) that the **Insured** would have in the absence of the contract or agreement; or

(2) assumed in a contract or agreement that is an **insured contract** provided the offense that caused such **personal or advertising injury** first occurred subsequent to the execution of such **insured contract**. Solely for the purpose of liability assumed in an **insured contract**, reasonable attorney fees and necessary litigation expenses incurred by or for a party other than an **Insured** are deemed to be **damages** because of **personal and advertising injury** provided:

(a) liability to such party for, or for the cost of, that party's defense has also been assumed in such **insured contract**; and

(b) such attorney fees and litigation expenses are for defense of such party against a civil or alternative dispute resolution proceeding in which covered **damages** are alleged.

B. Solely for the purpose of the coverage provided by this paragraph, **DEFINITIONS** is amended to delete the definition of **insured contract** in its entirety, and replace it with the following:

Insured contract means that part of a written contract or written agreement pertaining to the **Named Insured's** business under which the **Named Insured** assumes the tort liability of another party to pay for **personal or advertising injury** arising out of the offense of false arrest, detention or imprisonment. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

C. Solely for the purpose of the coverage provided by this paragraph, the following changes are made to the Section entitled **SUPPLEMENTARY PAYMENTS – COVERAGES A AND B:**

1. Paragraph **2.d.** is replaced by the following:

d. The allegations in the **suit** and the information the Insurer knows about the offense alleged in such **suit** are such that no conflict appears to exist between the interests of the **Insured** and the interests of the indemnitee;

2. The first unnumbered paragraph beneath Paragraph **2.f.(2)(b)** is deleted and replaced by the following:

So long as the above conditions are met, attorneys fees incurred by the Insurer in the defense of that indemnitee, necessary litigation expenses incurred by the Insurer, and necessary litigation expenses incurred by the indemnitee at the Insurer's request will be paid as **defense costs**. Notwithstanding the provisions of Paragraph **e.(2)** of the Contractual Liability exclusion (as amended by this Endorsement), such payments will not be deemed to be **damages** for **personal and advertising injury** and will not reduce the limits of insurance.

D. This **PERSONAL AND ADVERTISING INJURY - LIMITED CONTRACTUAL LIABILITY** Provision does not apply if **Coverage B –Personal and Advertising Injury Liability** is excluded by another endorsement attached to this **Coverage Part**.

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Attachment: Tabware server (RES-2024-397 : TabWare Server Migration)

CNA

Technology General Liability Extension Endorsement

17. PROPERTY DAMAGE – ELEVATORS

A. Under **COVERAGES**, **Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended such that the **Damage to Your Product** Exclusion and subparagraphs **(3)**, **(4)** and **(6)** of the **Damage to Property** Exclusion do not apply to **property damage** that results from the use of elevators.

B. Solely for the purpose of the coverage provided by this **PROPERTY DAMAGE – ELEVATORS** Provision, the **Other Insurance** conditions is amended to add the following paragraph:

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis that is Property insurance covering property of others damaged from the use of elevators.

18. SUPPLEMENTARY PAYMENTS

The section entitled **SUPPLEMENTARY PAYMENTS – COVERAGES A AND B** is amended as follows:

A. Paragraph **1.b.** is amended to delete the $250 limit shown for the cost of bail bonds and replace it with a $5,000. limit; and

B. Paragraph **1.d.** is amended to delete the limit of $250 shown for daily loss of earnings and replace it with a $1,000. limit.

19. PROPERTY DAMAGE - PATTERNS MOLDS AND DIES

Under **COVERAGES**, **Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete subparagraphs **(3)** and **(4)** of the Exclusion entitled **Damage to Property**, but only with respect to patterns, molds or dies that are in the care, custody or control of the **Insured**, and only if such patterns, molds or dies are not being used to perform operations at the time of loss. A limit of insurance of $25,000 per **policy period** applies to this **PROPERTY DAMAGE - PATTERNS MOLDS AND DIES** coverage, and this limit:

A. is included within the General Aggregate Limit as described in **LIMITS OF INSURANCE**; and

B. applies excess over any valid and collectible property insurance available to the **Insured**, including any deductible applicable to such insurance; the **Other Insurance** condition is changed accordingly.

20. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS

If the **Named Insured** unintentionally fails to disclose all existing hazards at the inception date of the **Named Insured's Coverage Part**, the Insurer will not deny coverage under this **Coverage Part** because of such failure.

21. WAIVER OF SUBROGATION - BLANKET

Under **CONDITIONS**, the condition entitled **Transfer Of Rights Of Recovery Against Others To Us** is amended to add the following:

The Insurer waives any right of recovery the Insurer may have against any person or organization because of payments the Insurer makes for injury or damage arising out of:

1. the **Named Insured's** ongoing operations; or
2. **your work** included in the **products-completed operations hazard**.

However, this waiver applies only when the **Named Insured** has agreed in writing to waive such rights of recovery in a written contract or written agreement, and only if such contract or agreement:

1. is in effect or becomes effective during the term of this **Coverage Part**; and

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CNA

Technology General Liability Extension Endorsement

2. was executed prior to the **bodily injury**, **property damage** or **personal and advertising injury** giving rise to the **claim**.

All other terms and conditions of the Policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the Policy issued by the designated Insurers, takes effect on the effective date of said Policy at the hour stated in said Policy, unless another effective date is shown below, and expires concurrently with said Policy.

Attachment: Tabware server (RES-2024-397 : TabWare Server Migration)

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Attachment Code: D576826 Certificate ID: 18227897

PARAMOUNT EXCESS AND UMBRELLA LIABILITY POLICY

Various provisions in this Policy restrict coverage. Read the entire Policy carefully to determine rights, duties and what is and is not covered.

The "Insurer" refers to the insurer providing this insurance as set forth on the Declarations of this Policy. Words and phrases that appear in **bold** have special meaning. Refer to the section entitled **DEFINITIONS**.

I. COVERAGES

A. Coverage A - Excess Follow Form Liability

The Insurer will pay on behalf of the **Insured** those **damages** in excess of the applicable **underlying limits**. Coverage hereunder will attach only after the full amount of the applicable **underlying limits** have
been exhausted through payment in legal currency of covered loss under all applicable **underlying insurance** and to which this Coverage A applies.

Coverage A under this Policy will then apply in conformance with the provisions of the applicable **underlying insurance** except for the premium, limits of insurance, deductible, retentions, or any defense obligations and any other terms and conditions specifically set forth in this Policy.

Upon exhaustion of the applicable **underlying limits**, the Insurer shall only pay for **damages** in excess of the applicable **underlying limits**. This Coverage A does not provide coverage for any loss not covered by the applicable **underlying insurance** except and to the extent that such loss is not paid under the applicable **underlying insurance** solely by reason of the exhaustion of the applicable **underlying limits** through payment of loss thereunder.

This Coverage applies:

1. if the applicable **underlying insurance** is on an occurrence basis, then only if that which must take place in the policy period of the **underlying insurance** in order to trigger coverage, takes place during
2. this **policy period**; and

   a. that which must take place in the **underlying insurance** in order to trigger coverage, takes place after the retroactive date and prior to the end of the **policy period**; and

   b. the **claim** is first made during the **policy period**.

B. Coverage B - Umbrella Liability

The Insurer will pay on behalf of the **Insured** those **damages** in excess of the **retained**

1. that an **Insured** becomes legally obligated to pay because of **bodily injury**, **property damage** or **personal and advertising injury**; or
2. because of liability for **bodily injury** or **property damage** assumed under an **insured contract,** provided the **bodily injury** or **property damage** occurs subsequent to the execution of such **insured contract;**

and provided that:

a. the **bodily injury** or **property damage** occurs during the **policy period**;

b. the **bodily injury** or **property damage** is caused by an **occurrence** that takes place in the **coverage**

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Attachment: Tabware server (RES-2024-397 : TabWare Server Migration)

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Sewer/Plant 16
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 28914 **RESOLUTION 2024-398** **ADOPTED**

Travel Request Backflow Testing Certification Course

The Engineering Department is requesting approval to send two (2) employees to attend the Backflow Testing Certification course at the MCC Applied Tech Center in Rochester, NY in June 2024.

The cost for each employee to attend the course is estimated to be $1,298.98, $2,597.96 total, and includes registration and tolls/mileage reimbursement.

Funding for this request will be available in accounts G9916-4040 and G9916-4120.

Thank you for considering this request.

4/29/2024
Consent

FINANCIAL IMPACT:

G9916-4040 and G9916-4120

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

Revised 1.2.2024

TRAVEL EXPENSE APPROVAL / REIMBURSEMENT FORM

☐ Travel in New York State and under $750 - Department Head Approval

☒ Travel in New York State $750 and over - Department Head Approval and Town Board Approval

☐ Travel out of New York State - Department Head Approval and Town Board Approval

NAME	Employee #	Department	Phone Number
[redacted]	[redacted]	Eng. Plant 16	716-691-9771

Destination and Purpose of Trip

Date of Departure	Date of Return	Destination	Purpose/Justification
[redacted]	[redacted]	MCC Applied Tech. Center, Rochester, NY	Backflow Testing Certification

Expenses	Estimated	Budget A/C #	Actual
Transportation:			
Mileage @ $0.67 146.6 miles * 4 days	$392.89	G9916-4040	
Tolls $4.75 to / $4.75 from * 4 days	$38.00	G9916-4040	
Parking			
Local Transportation (bus/taxi)			
Plane/Rail/Bus			
Lodging:			
# nights @ $			
Meals:			
IRS Per Diem Per Day:			
1st & Last Day of Travel @ 75%			
# Breakfasts @ $	Included	G9916-4040	
# Lunches @ $	Included	G9916-4040	
# Dinners @ $			
# Incidentals @ $			
Registration/Conference Fee	$750.00	G9916-4120	
Other			
Subtotal	$1,180.89 -		N/A
Contingency - 10% of subtotal or $200	$118.089 -		N/A
TOTAL	$1,298.98 -		

Request Approved By:

Department Head Signature

3/22/24

Date

Town Board :

Town Board Resolution & Date

I hereby certify that I have expended the above itemized amounts for business purposes for the Town of Amherst. Required receipts are attached.

Employee Signature Date

Print Employee Name

Reimbursement Approved By:

Department Head Signature Date

Complete Shaded Area
For Expense Reimbursement

Attachment: Travel (RES-2024-398 : Travel Request)

Revised 1.2.2024

TRAVEL EXPENSE APPROVAL / REIMBURSEMENT FORM

☐ Travel in New York State and under $750 - Department Head Approval

☒ Travel in New York State $750 and over - Department Head Approval and Town Board Approval

☐ Travel out of New York State - Department Head Approval and Town Board Approval

NAME	Employee #	Department	Phone Number
[redacted]	[redacted]	Eng. Plant 16	716-691-9771

Destination and Purpose of Trip

Date of Departure	Date of Return	Destination	Purpose/Justification
[redacted]	[redacted]	MCC Applied Tech. Center, Rochester, NY	Backflow Testing Certification

Expenses	Estimated	Budget A/C #	Actual
Transportation:			
Mileage @ $0.67 146.6 miles * 4 days	$392.89	G9916-4040	
Tolls $4.75 to / $4.75 from * 4 days	$38.00	G9916-4040	
Parking			
Local Transportation (bus/taxi)			
Plane/Rail/Bus			
Lodging:			
# nights @ $			
Meals:			
IRS Per Diem Per Day:			
1st & Last Day of Travel @ 75%			
# Breakfasts @ $	Included	G9916-4040	
# Lunches @ $	Included	G9916-4040	
# Dinners @ $			
# Incidentals @ $			
Registration/Conference Fee	$750.00	G9916-4120	
Other			
Subtotal	$1,180.89 -		N/A
Contingency - 10% of subtotal or $200	$118.089 -		N/A
TOTAL	$1,298.98 -		

Request Approved By:

Department Head Signature

3/22/24

Date

I hereby certify that I have expended the above itemized amounts for business purposes for the Town of Amherst. Required receipts are attached.

Employee Signature Date

Print Employee Name

Reimbursement Approved By:

Department Head Signature Date

Complete Shaded Area
For Expense Reimbursement

Town Board :

Town Board Resolution & Date

X:\Policies and Procedures\Travel\Travel Expense Reimbursement 2024

Attachment: Travel (RES-2024-398 : Travel Request)

Cross Connection Control Foundation

A Cross Connection Control Course for the Certification of Backflow Prevention Device Testers

Menu

School Info

2024 CCCF Courses for Backflow Testing Certification

When:

Initial Class	Recertification Class
March 4-7 Now Full	March 1 Now Full
	March 8 Now Full
June 10 – 13	June 7 Now Full
	June 14
Sept 9 -12	Sept 6
	Sept 13

Time:

Attachment: Travel (RES-2024-398 : Travel Request)

Promptly at 8 am to 4:30 pm

Oct 21 – 24	Oct 18
	Oct 25
Dec 9 – 12	Dec 6

Where:

MCC Applied Tech. Center



2485 West Henrietta Road, Rochester, NY 14623

Fee:

$750.00 per student for Initial course.

$275.00 per student for one day Recertification Course.

Fee includes all continental breakfast, lunch and beverage breaks for each day plus all necessary course materials.

Dress:

Casual, waterproof footwear

Registration:

Registration must be submitted ONLINE through the "REGISTRATION FORM – SUBMIT ONLINE" page.

Payment Must Accompany the CCCF's Backflow School Application.

Since enrollment will be limited, prompt attention is recommended. **Applications with payment** will be accepted on a first-come, first-served basis. The sponsors reserve the

Attachment: Travel (RES-2024-398 : Travel Request)

right to cancel a course if sufficient preregistration is not achieved. In the event of cancellation by the sponsors, a full refund will be made or you may apply your payment toward a future program.

Note:

STUDENT CANCELLATION OR RESCHEDULING MUST BE MADE (5) BUSINESS DAYS PRIOR TO START OF BACKFLOW PREVENTION/TESTING CLASS OR ENTIRE FEE WILL BE FORFEITED.

CERTIFICATES WILL BE ISSUED 6 – 8 WEEKS AFTER COURSE COMPLETION.

Contact: Steve Poliszuk (585) 216- CCCF (2223)

CCCFNF@HOTMAIL.COM

Search ...

Upcoming Events

Recertification Class
June 7 @ 8:00 am - 4:30 pm

Initial Class
June 10 @ 8:00 am - 4:30 pm

Initial Class
June 11 @ 8:00 am - 4:30 pm

Initial Class
June 12 @ 8:00 am - 4:30 pm

Initial Class
June 13 @ 8:00 am - 4:30 pm

Recertification Class
June 14 @ 8:00 am - 4:30 pm

Attachment: Travel (RES-2024-398 : Travel Request)

The Cross Connection Control Foundation of the Niagara Frontier, Inc.
255 Basket Rd.
Webster, New York 14580

Presented By

The Cross Connection Control Foundation of the Niagara Frontier, Inc.
A not-for-profit organization

255 Basket Rd., Webster, New York 14580

In cooperation with Monroe Community College
STATE UNIVERSITY OF NEW YORK

Board of Directors

Steven Poliszuk
John Ruffner
Russell Stoll
Brian Lackie
Tod Ferguson

The Program

The program is primarily intended for persons who wish to become **Certified Backflow Preventer Device Testers** who will be testing these devices as required by State and Federal laws.

©2024 • Cross Connection Control Foundation

Attachment: Travel (RES-2024-398 : Travel Request)

Attachment: Travel (RES-2024-398 : Travel Request)

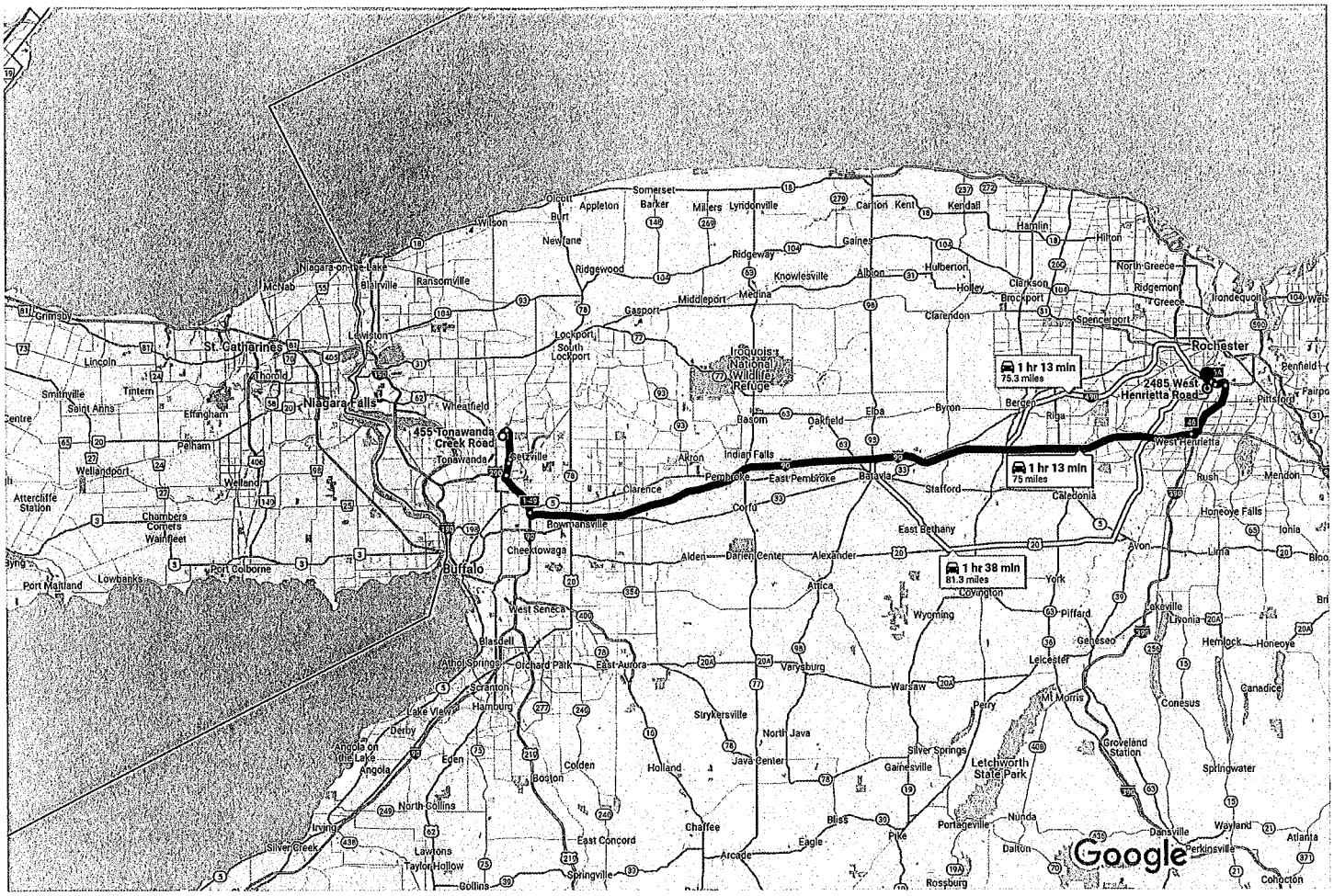
13.S.5.a

Google Maps

455 Tonawanda Creek Rd, Buffalo, NY 14228 to 2485 W Henrietta Rd, Rochester, NY 14623

Drive 75.0 miles, 1 hr 13 min

TO



Map data ©2024 Google 5 mi

⚠ This route has tolls.

⚠ This route has restricted usage or private roads.

455 Tonawanda Creek Rd
Buffalo, NY 14228

Get on I-990 S from Sweet Home Rd

9 min (3.7 mi)

↑ 1. Head east
⚠ Restricted usage road

0.2 mi

↰ 2. Turn left toward Tonawanda Creek Rd
⚠ Restricted usage road

0.1 mi

↱ 3. Turn right onto Tonawanda Creek Rd

0.4 mi

↱ 4. Turn right onto Sweet Home Rd

2.5 mi

Attachment: Travel (RES-2024-398 : Travel Request)

5. Turn right to merge onto I-990 S

0.4 mi

Take I-90 E to NY-15 S/W Henrietta Rd in Brighton. Take exit 16A from I-390 N

1 hr 4 min (70.6 mi)

6. Merge onto I-990 S

1.1 mi

7. Use the left 2 lanes to merge onto I-290 E

4.1 mi

8. Use the left 2 lanes to take exit 1-49 to merge onto I-90 E toward Albany

⚠ Toll road

57.9 mi

9. Take exit 46 to merge onto I-390 N

6.0 mi

10. Keep left to stay on I-390 N, follow signs for Airport/Greece

1.1 mi

11. Take exit 16A for NY-15

0.5 mi

12. Turn left onto NY-15 S/W Henrietta Rd

1 min (0.7 mi)

2485 W Henrietta Rd
Rochester, NY 14623

Attachment: Travel (RES-2024-398 : Travel Request)

13.S.5.a

* TO *

Thruway Authority

Toll and Distance Calculator

Tolls Rates Effective Jan. 1, 2024

Tolls from
Exit 50 - (I-90 - NYS Thruway) - Niagara Falls - I-290
to
Exit 46 - (I-90 - NYS Thruway) - Rochester - Corning - I-390

Additional E-ZPass discount plans are available for commuters, motorcycles, motorhomes And other vehicles.
The table below represents your anticipated tolls.

TOLLS FOR A CLASS 2L VEHICLE

TOLL LOCATIONS	NY E-ZPASS TOLLS *	NON-NY E-ZPASS & TOLLS BY MAIL *
Williamsville Highway Gantry --> Exit 47 (I-90 - NYS Thruway)	$1.96	$3.43
Exit 47 (I-90 - NYS Thruway) --> Exit 46 (I-90 - NYS Thruway)	$0.76	$1.32
Total	**$2.72**	**$4.75**
NY E-ZPASS CUSTOMERS WILL SAVE $2.03. DISCOUNT APPLIES TO E-ZPASSNY ACCOUNTS ONLY		

*** Tolls that post to E-ZPass accounts by license plate will be charged the Tolls by Mail rate.**

Approximate Distance: 57.9 miles

Calculate return tolls for Rochester - Corning - I-390 to Niagara Falls - I-290

ALONG YOUR TRIP, YOU WILL PASS THE FOLLOWING SERVICE AREAS

SERVICE AREA	MILEPOST
Pembroke Service Area	Milepost 397
Scottsville Service Area	Milepost 366

Calculate Another Trip Back

Attachment: Travel (RES-2024-398 : Travel Request)

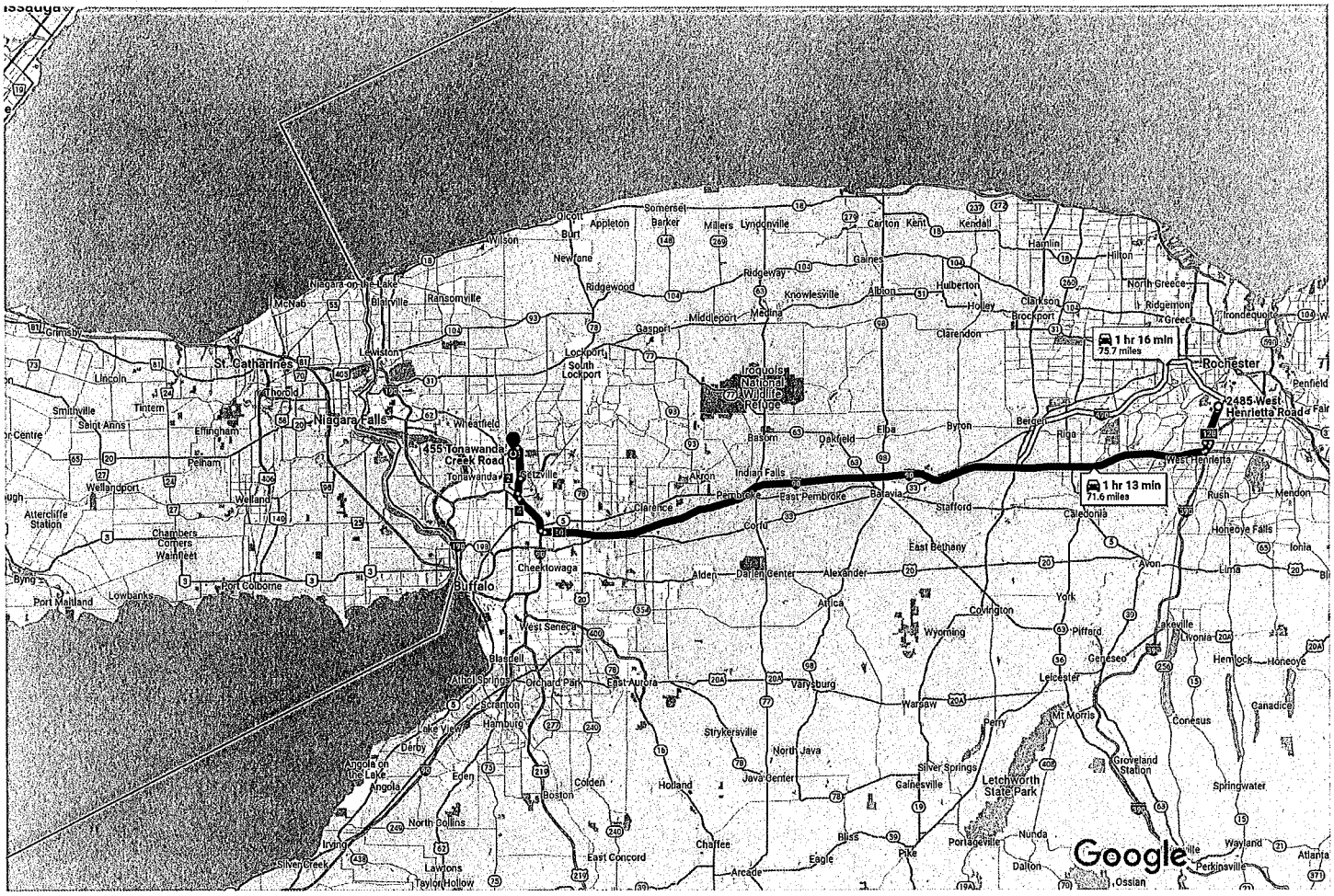
13.S.5.a

Google Maps

2485 W Henrietta Rd, Rochester, NY 14623 to
455 Tonawanda Creek Rd, Buffalo, NY 14228

Drive 71.6 miles, 1 hr 13 min

From



Map data ©2024 Google 5 mi

⚠ This route has tolls.

⚠ This route has restricted usage or private roads.

2485 W Henrietta Rd
Rochester, NY 14623

Get on I-90 W in West Henrietta from NY-15 S/W Henrietta Rd

9 min (4.8 mi)

↑ 1. Head south on NY-15 S/W Henrietta Rd

3.3 mi

↰ 2. Turn left onto NY-253 E

0.5 mi

↟ 3. Turn right onto the I-390 S ramp to New York Thruway

0.3 mi

Attachment: Travel (RES-2024-398 : Travel Request)

4. Use the right lane to take the Interstate 90/New York State Thruway ramp
   ⚠ Toll road

0.5 mi

5. Use the right lane to merge onto I-90 W via the ramp to Buffalo
   ⚠ Toll road

0.2 mi

Follow I-90 W to Sweet Home Rd in Getzville. Take exit 2 from I-990 N

56 min (63.4 mi)

6. Merge onto I-90 W
   ⚠ Toll road

57.3 mi

7. Use the right 2 lanes to take exit 50 toward I-290/Niagara Fls
   ⚠ Toll road

0.4 mi

8. Continue onto I-290 W

3.4 mi

9. Use the right 2 lanes to take exit 4 for I-990 N toward Univ at Buffalo/N Campus/Lockport

0.5 mi

10. Continue onto I-990 N

1.3 mi

11. Take exit 2 for Sweet Home Rd

0.4 mi

Continue on Sweet Home Rd to your destination

8 min (3.4 mi)

12. Turn right onto Sweet Home Rd

2.7 mi

13. Turn left onto Tonawanda Creek Rd

0.4 mi

14. Turn left
    ⚠ Restricted usage road

0.1 mi

15. Turn right
    ⚠ Restricted usage road
    ⓘ Destination will be on the left

0.2 mi

455 Tonawanda Creek Rd

Attachment: Travel (RES-2024-398 : Travel Request)

13.S.5.a

From

Thruway Authority

Toll and Distance Calculator

Tolls Rates Effective Jan. 1, 2024

Tolls from
Exit 46 - (I-90 - NYS Thruway) - Rochester - Corning - I-390
to
Exit 50 - (I-90 - NYS Thruway) - Niagara Falls - I-290

Additional E-ZPass discount plans are available for commuters, motorcycles, motorhomes And other vehicles. The table below represents your anticipated tolls.

TOLLS FOR A CLASS 2L VEHICLE

TOLL LOCATIONS	NY E-ZPASS TOLLS *	NON-NY E-ZPASS & TOLLS BY MAIL *
Exit 46 (I-90 - NYS Thruway) --> Exit 47 (I-90 - NYS Thruway)	$0.76	$1.32
Exit 47 (I-90 - NYS Thruway) --> Williamsville Highway Gantry	$1.96	$3.43
Total	**$2.72**	**$4.75**
NY E-ZPASS CUSTOMERS WILL SAVE $2.03. DISCOUNT APPLIES TO E-ZPASSNY ACCOUNTS ONLY		

*** Tolls that post to E-ZPass accounts by license plate will be charged the Tolls by Mail rate.**

Approximate Distance: 57.9 miles

Calculate return tolls for Niagara Falls - I-290 to Rochester - Corning - I-390

ALONG YOUR TRIP, YOU WILL PASS THE FOLLOWING SERVICE AREAS

SERVICE AREA	MILEPOST
Ontario Service Area	Milepost 376
Clarence Service Area	Milepost 412

Calculate Another Trip Back

Attachment: Travel (RES-2024-398 : Travel Request)

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Sewer/Plant 16
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 28922 **RESOLUTION 2024-399** **ADOPTED**

WPCF Centrifuge #6 Critical Repair Sentrimax Centrifuges (NE) Ltd. CRS – 4740

The Engineering Department-WPCF is currently seeking Town Board approval to authorize the Supervisor to sign the attached proposal from Sentrimax Centrifuges (NE) Ltd. Quote 20240322, dated March 22, 2024. The reason for this request is to bring in a company qualified to repair our Alfa Laval D3-125 Centrifuge, which is currently out of service due to bearing failures. The WPCF did receive two proposals for this work and Sentrimax came in with the lowest cost proposal at $5,800.00. Alfa Laval was originally approved under Res- 2024-205 to complete this repair, but we haven't been able to get the required paperwork from the vendor in over 2 months and the repair is critical.

This request is pending completion of the contract routing process.

Funds for this request are available in KP2136-2150.

Thank you for considering this request.

4/29/2024
Consent

FINANCIAL IMPACT:

KP2136-2150

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

AGREEMENT

Let this document stand as an Agreement between Sentrimax Centrifuges (NE) Ltd. and the Town of Amherst permitting the Town of Amherst to procure the services listed on the attached Sentrimax Centrifuges (NE) Ltd. quote dated March 22, 2024.

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# 2024003497

The schedule can be found at the following link

https://apps.labor.ny.gov/wpp/publicViewProject.do?method=showIt&id=1565739

The term of this contract will be from date of Town Board approval by the Town of Amherst through June 30, 2024.

Agreed to and Accepted by:

Sentrimax Centrifuges (NE) Ltd.

By: _____
Signature

Jessy Beaudoin
Printed name

President N.E.
Title

Date: March 25, 2024

Agreed to and Accepted by:

TOWN OF AMHERST

By: _____
Brian J. Kulpa
Supervisor

Date: _____

Attachment: Centrifuge Repair (RES-2024-399 : WPCF Centrifuge #6 Critical Repair)

2022

SENTRIMAX
CENTRIFUGES

ALFA LAVAL G3-125 ONSITE BEARINGS REPLACEMENT QUOTE

Date: March 22, 2024

To: TOWN OF AMHERST Wastewater treatment plant
Attention: Jerome M Suszynski
Phone No: 716-691-9771 (Ext. 8036)
Email: jsuszynski@amerherst.ny.us

RE: Bearings Replacement
Model: Alfa Laval G3-125
Serial#: N/A
Asset#: N/A
Hours: N/A

Report No: 20240322
Received: N/A

Attachment: Centrifuge Repair (RES-2024-399 : WPCF Centrifuge #6 Critical Repair)

SENTRIMAX CENTRIFUGES

PROJET UNDERSTANDING:

As per the city of Amherst request, Sentrimax is submitting a quote to send a centrifuge technician expert to supervise the removal of the rotating assembly at the wastewater treatment plant.

As the centrifuge has been experiencing high vibration and high heat on the main pillow blocks, this crucial piece of equipment required to separate and dewater the biosolids at the facility can no longer process as the alarm is triggered due to the bearing's failure.

Our technician will be on site assisting the maintenance staff to remove the rotating assembly, removing the faulty bearings, and helping to assess the damage before installing new bearings within the pillow blocks.

All parts necessary to be installed on this rotating assembly are already purchased and in stock at the plant in Amherst.

Attachment: Centrifuge Repair (RES-2024-399 : WPCF Centrifuge #6 Critical Repair)

SENTRIMAX CENTRIFUGES

SENDING A CENTRIFUGE TECHNICIAN TO SITE	
- Traveling to site charged @ $1.00 per mile approximately 250 miles return trip	$250.00
- Day rate technician charged @ 1300.00 (including 8 hours on site and travel from hotel to site)	$3,900.00
- Estimating 3 days to perform complete task	N/A
- Per diem charged $250.00 estimated @ 3 days	$750.00
- Travel day rate charged @ $450.00 each way.	$900.00
- Sentrimax to provide all tools necessary to perform bearings removal and installation	N/A
TOTAL FOR 3 DAYS ON SITE.....	USD $5,800.00

DELIVERY:

- Approximately 1 week from receipt of Purchase Order.
- This work to be booked at least 72 hours prior.

TERMS:

- Applicable taxes not included in estimated price
- Price in US dollars

Thank you very much for the opportunity to provide you with this inspection report and quote. If you have any questions or concerns regarding this report, please feel free to contact me.

Jessy Beaudoin, General Manager NE

2300 Shirley Dr, Kitchener, unit 3, ON, N2B 3Y2
Toll-Free: 877-741-0118 | Phone: 519-741-0118 | Cell: 819-469-7559

Attachment: Centrifuge Repair (RES-2024-399 : WPCF Centrifuge #6 Critical Repair)

GENERAL TERMS AND CONDITIONS OF SALE 2022

1. Name. Sentrimax Centrifuges (NE) Ltd. Is the name of the legal entity providing services; Purchase Orders and Cheques should be made out using this name. Short form: Where a short reference is required in this document, for convenience, we are called simply SC (NE).

2. Exclusive Terms and Conditions. Together with any other terms the parties agree to in writing, these Terms and Conditions of Sales form the exclusive terms ("Agreement") whereby Customer agrees to purchase, and Seller agrees to sell Goods and provide advice, instruction and other services in connection with the sale of those Goods ("Services"). Notwithstanding any provisions communicated in any way by Customer to Seller prior to this Agreement including any terms contained in any request for quotation by Customer, Customer agrees that this Agreement will control the relationship by accepting Goods and Services from Seller, even if Customer sends to Seller other terms and conditions to which Seller may not respond.

3. Taxes. Unless otherwise specified, Price is exclusive of taxes, duties and charges. Customer will pay or reimburse Sentrimax for same.

4. Credit Approval / Overdue Payments. Each transaction is subject to approval of Customer's credit by Sentrimax. If granted, credit terms are Net 30 Days, payable from date of invoice, unless otherwise specified. Overdue payments bear interest at 18% per annum. To secure payment of the Price, Customer grants and Sentrimax retains a security interest in, and in Quebec hypothecates, the Products and the proceeds thereof for the amount of the Price, plus interest thereon at the aforementioned rate. Customer authorizes Sentrimax to prepare and file any documents reasonably necessary to register this security interest and hypothec. In the event of default by the Customer, Sentrimax may repossess and may deal with the Products as it sees fit and Customer shall be responsible for all costs and remain liable for any deficiency.

5. Delivery. Delivery of the Equipment shall be in material compliance with the schedule in Seller's Documentation and may include partial shipments. Delivery dates indicated by Seller are only approximates. Quotations and proposal drawings provided by Seller show only general style, arrangement and approximate dimensions and weight. Unless Seller's Documentation provides otherwise, Delivery terms are ex works (EXW) or FCA Seller's facility. All shipping terms per Incoterms 2000. Unless otherwise provided, packing of the Equipment shall be in accordance with Seller's normal standards. Seller will establish the Delivery Date by providing Customer with thirty (30) days prior written notice thereof. Sentrimax is not liable for losses of any kind incurred by Customer for delays in or failure to deliver all or any part of the Products. If prior to delivery Sentrimax has concern regarding timely payment of the Price because of an adverse change in Customer's circumstances or otherwise, it may require payment of all or additional parts of the Price before shipment. Delivery of Products is deemed complete upon shipment per agreed Incoterms. If Customer is unable or unwilling to accept physical delivery at the time specified, Sentrimax may store Products at Customer's cost and delivery of such Products shall be deemed complete as of the date of storage. Unless otherwise specified in writing, risk of loss or damage to the Products including any repaired or replaced items and the responsibility for the payment of insurance premiums and freight passes to Customer upon delivery by Sentrimax. If Customer does not perform any material obligation, Sentrimax may, in addition to any other remedy, suspend its performance until Customer has performed its outstanding obligations. All times for delivery of Products, but not the schedule for payment, will be extended accordingly. Customer will be responsible for Sentrimax's costs and damages caused by Customer's failure to perform.

6. Permits. Customer must obtain at its expense all licenses, permits and approvals for the purchase, delivery and installation of any Products.

7. Services. Start-up, commissioning, inspections, training etc., are not included unless otherwise specified. The above services by Sentrimax Centrifuges are available at the per diem rate of $1150.00 per day plus expenses. All per diem rates are based on normal 8 hour per day, 5-day work week. An overtime premium is applicable for time worked outside of the normal hours. Travel time is considered as chargeable time unless otherwise specified. Service charges will be billed for all time on site irrespective of delays encountered due to lack of power or water and other circumstances beyond our control.

8. Data. Drawings and O&M Manuals One (1) set in electronic form will be provided unless otherwise specified. Additional approval data, prints, sepias, etc. of drawings and or manuals will be considered as an "extra" and be invoiced accordingly

9. Shipping. If no shipping company is selected at the time of order, Sentrimax Centrifuges will prepay and charge for shipping. The amount will be added to the invoice. Please note that Sentrimax Centrifuges does NOT declare value or include insurance on any of their shipments. If insurance is required, please request this at the time of order, otherwise the shipping companies standard insurance will apply. Should any delays occur, Sentrimax Centrifuges can not be held responsible for any incurred penalties or liquidated damages.

10. Ownership of Materials. All devices, designs (including drawings, plans and specifications), estimates, prices, notes, electronic data and other documents or information prepared or disclosed by Seller, and all related intellectual property rights, shall remain Seller's property. Seller grants Customer a non-exclusive, non-transferable license to use any such material solely for Customer's use of the Equipment. Customer shall not disclose any such material to third parties without Seller's prior written consent.

11. Specification. Sentrimax Centrifuges (NE) Ltd. is furnishing its standard equipment as outlined in the proposal and as will be covered by final approved drawings. The equipment may not be in strict compliance with the Engineer's/Owner's plans, specifications, or addenda as there may be deviations. The equipment will, however, meet the general intention of the mechanical specifications of these documents.

12. Changes. Seller shall not implement any changes in the scope of work described in Seller's Documentation unless Customer and Seller agree in writing to the details of the change and any resulting price, schedule or other contractual modifications. This includes any changes necessitated by a change in applicable law occurring after the effective date of any contract including these terms.

13.. Inspection and Acceptance. Customer will inspect Products immediately at delivery. Sentrimax may, at its option, be present at such inspection. Customer shall immediately notify both the carrier and Sentrimax of any missing, damaged or defective Products, failing which Customer is deemed to have accepted such Products as delivered and shall have no claim for same. Customer 's notification of missing, damaged or defective Products does not constitute conclusive evidence of Products' condition at the time of delivery.

Attachment: Centrifuge Repair (RES-2024-399 : WPCF Centrifuge #6 Critical Repair)

SENTRIMAX CENTRIFUGES

14. Warranty. Subject to the following sentence, Seller warrants to Customer that the Equipment shall materially conform to the description in Seller's Documentation and shall be new and free from defects in material and workmanship. The foregoing warranty shall not apply to any Equipment that is specified or otherwise demanded by Customer and is not manufactured or selected by Seller, as to which (i) Seller hereby assigns to Customer, to the extent assignable, any warranties made to Seller and (ii) Seller shall have no other liability to Customer under warranty, tort or any other legal theory. If Customer gives Seller prompt written notice of breach of this warranty within 12 months from Delivery or one (1) year from acceptance, whichever occurs first (the "Warranty Period"), Seller shall, at its sole option and as Customer's sole remedy, adjust, repair or replace the item or any affected part of the Equipment, or refund the purchase price. Customer specifically agrees that it shall assume all responsibility and expense for removal, reinstallation and freight in connection with the foregoing.
If Seller determines that any claimed breach is not, in fact, covered by this warranty, Customer shall pay Seller its then customary charges for any repair or replacement made by Seller. Seller's warranty is conditioned on Customer's (a) operating and maintaining the equipment in accordance with Seller's instructions, (b) not making any unauthorized repairs or alterations, and (c) not being in default of any payment obligation to Seller. Seller's warranty does not cover damage caused by chemical action or abrasive material, misuse or improper installation (unless installed by Seller). The foregoing warranty and conditions shall extend to replacement parts furnished by the Seller hereunder, except that the warranty on such replacement parts shall be limited in scope and expiration to the warranty on the original Equipment. Unless expressly agreed in a "Performance Warranty Document" signed between the parties on a separate basis, there is no performance warranty on Goods and Services or warranty on process results. For Good not manufactured by Seller, the warranty shall be the manufacturer's transferable warranty only. The warranties set forth in this section are Seller's sole and exclusive warranties and are subject to Section 18. The foregoing warranties are in lieu of and exclude all other warranties, statutory, express or implied, including warranty of merchantability or of fitness for a particular purpose.

15. Mechanical Warranty. For all new and Fully Factory Refurbished equipment sales, Sentrimax warrants to Customer that the Products meet the Technical Specifications in all material respects and are, together with any replacements of defective Products, free from defects in material and workmanship for a period, unless specified in writing, of one (1) year from the date of initial delivery of the Products. For all repairs, parts and services performed on Customer owned equipment, Sentrimax warrants to Customer that the Products meet the Technical Specifications in all material respects and are free from defects in material and workmanship for a period, unless otherwise specified in writing, of one hundred and eighty (180) days from the date of initial delivery of the Products. Sentrimax will, at its option, repair, replace or refund the Price of any Products found to be defective during the warranty period. This is Customer's only remedy for Products which do not meet this warranty. Customer must notify Sentrimax in writing of the claimed defect promptly after the appearance thereof and in no event later than three (3) days after the expiry of the warranty period. Customer will bear risk of loss of, or damage to, defective Products in shipment to Sentrimax. Customer will reimburse Sentrimax at Sentrimax's customary rates for service personnel attending to any warranty claim at Customer's premises. The warranty does not apply to ordinary wear and tear or to erosion or corrosion and shall be null and void if Products are used for unintended purpose, are misused, abused, improperly stored, installed, maintained, operated or repaired, are operated by Customer other than in accordance with Sentrimax's instructions, if any, or under abnormal conditions or are exposed to radioactive materials or repaired or serviced by a facility other than Sentrimax.

16 Other Warranties. Products will conform with applicable federal, provincial and local laws in effect on the date of acceptance of order. Sentrimax may increase Price to reflect increased costs resulting from changes to laws or regulations. Products will not infringe any patent, copyright, trade secrets or other proprietary rights of any third party and, except as provided for under section 4 above shall be free from liens and encumbrances. Sentrimax will use its commercially reasonable best efforts to remedy or resolve at its cost any violation of the warranties in this section 8. If Customer is permanently unable to use any of the Products or their use is unreasonably restricted, Customer's sole remedy is the right to return such Products for a 30% restocking fee.

17. NO OTHER WARRANTIES. CUSTOMER ACCEPTS THE LIMITED WARRANTIES SET OUT IN THESE STANDARD TERMS AND CONDITIONS OF SALE AS THE ONLY WARRANTIES PROVIDED BY SENTRIMAX WITH RESPECT TO THE SALE, DELIVERY, INSTALLATION, PERFORMANCE AND SERVICING OF THE PRODUCTS. THESE WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES, WHETHER WRITTEN, SPOKEN OR IMPLIED BY SENTRIMAX OR ITS AGENTS, PRESCRIBED BY STATUTE OR OTHERWISE IMPLIED BY LAW INCLUDING WITHOUT LIMITATION AS TO FITNESS FOR CUSTOMER'S PURPOSE. NO OTHER MATERIALS, EXCEPT AN EXPRESS PERFORMANCE OR EXTENDED WARRANTY SIGNED BY SENTRIMAX FOR A SPECIFIC SUPPLY, SHALL GIVE RISE TO ANY WARRANTY OF SENTRIMAX.

18. Warranties on Resale. Customer shall make no representation or warranty in any resale of the Products or sale of any product incorporating the Products other than those contained in these terms and conditions. Customer shall indemnify, defend and hold Sentrimax harmless against any and all claims, actions and expenses (including all lawyers' fees) in connection with any unauthorized representations or warranties or in connection with any claim of process patent infringement relating to a process in which the Products are used as a component part.

19. Indemnity. Seller shall indemnify, defend and hold Customer harmless from any claim, cause of action or liability incurred by Customer as a result of third party claims for personal injury, death or damage to tangible property, to the extent caused by Seller's negligence. Seller shall have the sole authority to direct the defense of and settle any indemnified claim. Seller's indemnification is conditioned on Customer (a) promptly, within the Warranty Period, notifying Seller of any claim, and (b) providing reasonable cooperation in the defense of any claim.

20. Force Majeure. Neither Seller nor Customer shall have any liability for any breach (except for breach of payment obligations) caused by extreme weather or other act of God, strike or other labor shortage or disturbance, fire, accident, war or civil disturbance, delay of carriers, failure of normal sources of supply, act of government or any other cause beyond such party's reasonable control. Either party may be excused from the timely performance of its obligations in the sale or other supply of any Products if its performance is impeded or prevented by circumstances beyond its control and it is taking all reasonable steps to mitigate the effect of the delay. The party claiming relief from its obligations must notify the other party promptly upon the occurrence of and upon the termination of the circumstances giving rise to the claim. Either party may terminate the agreement for the supply of the Products affected if such circumstances continue for more than 6 months. Notwithstanding anything in this section 20, the Customer must extend any security for the payment of the Price for a period equal to the delay in Sentrimax's performance and pay Sentrimax for that portion of the Products manufactured or delivered to the date of the initial notice. If by no fault of Sentrimax or its affiliates it is delayed in delivering any Products, it is entitled to increase the Price to reflect any actual costs incurred because of the delay.

21. Cancellation. Subject to section 20 hereof, any agreement for sale or other supply of Products may not be cancelled or suspended by Customer without the express written consent of Sentrimax, such consent to be granted in Sentrimax's sole discretion and upon such terms, including the payment of all costs incurred and profits foregone, as Sentrimax may reasonably require

Attachment: Centrifuge Repair (RES-2024-399 : WPCF Centrifuge #6 Critical Repair)

22. Limitation of Liability. Notwithstanding anything else to the contrary, Seller shall not be liable for any consequential, incidental, special, punitive or other indirect damages, and Seller's total liability arising at any time for the sale or use of the Equipment shall not exceed the purchase price paid for the Equipment. These limitations apply whether the liability is based on contract, tort, strict liability or any other legal theory.

23. Title. Title to the Equipment and risk of loss or damage shall pass to Customer at the designed delivery point, except that a security interest in the Equipment, proceeds and any replacement shall remain with Seller until full payment of the purchase price, and any additional amounts, have been paid to Seller.

24. No Title to Process Materials. At no time will seller be deemed to have taken title to Effluent Water, Influent Water, sewage sludge, Non-standard substances, Hazardous Materials, harvested fibers or any other materials or substances processed at the site or treated by Seller pursuant to this Agreement. Seller does not take responsibility for or provide waste characterization, disposal facility selection, or disposal. The customer is responsible for all wastes and waste disposal from the plant. Wastes may include, but are not limited to water system reject waste, used RO or ultrafiltration membranes, clean-in-place related wastes and wastewaters, spent media, used granulated activated carbon, cartridge filters, equipment and consumables, lubrication/oil contaminated debris/rags, other maintenance related wastes, lab analysis residual, and office waste.

25. Miscellaneous. These terms, together with any quotation, purchase order, contract or acknowledgement issued or signed by the Seller, comprise the complete and exclusive statement of the agreement between the parties (the "Agreement") and supersede any terms contained in Customer's documents, unless separately signed by Seller. No part of the Agreement may be changed or cancelled except by a written document signed by Seller and Customer. No course of dealing or performance, usage of trade or failure to enforce any term shall be used to modify the Agreement. If any of these terms is unenforceable, such term shall be limited only to the extent necessary to make it enforceable, and all other terms shall remain in full force and effect. Customer may not assign or permit any other transfer of the agreement without Seller's prior written consent. The Agreement shall be governed by the laws of the State or Province where it is signed.

26. Escalation. If shipment is, for any reason, deferred by the Purchaser beyond the normal shipment date, or if material price increases (or decreases) are greater than 5% from proposal date to material procurement date, stated prices set forth herein are subject to a shared risk escalation adjustment. Any escalation less than plus or minus 5% shall be absorbed by All escalation (increase or credit) that exceeds 5% shall be passed onto the Purchaser at cost and shall be based upon increases (or decreases) in material costs to Sentrimax Centrifuges (NE) Ltd. that occur in the time period between quotation and material procurement by Sentrimax Centrifuges (NE) Ltd. Purchaser agrees to this potential escalation (or credit) regardless of contradicting terms in the contract, except when an agreed upon escalation adder is included in the price.

27. Duty to Mitigate. Either Party, upon being informed of becoming aware of any actual breach of this Agreement by the other Party, will use all commercially reasonable efforts to avoid or minimize any loss or damage that in the ordinary course of events would naturally and directly flow to it as a result of that breach by the other party.

28. Buyer Creditworthiness: Seller shall not be required to perform or to continue deliveries if Buyer is or has become insolvent or who, at Seller's request, fails within a reasonable period to demonstrate credit worthiness; provided, however, Buyer may continue to receive deliveries if Buyer prepays for such service or furnishes good and sufficient security, as determined by Seller in its reasonable discretion, in an amount equal to the cost of estimated gas deliveries under this Agreement for a two (2) month period. For purposes herein, the insolvency of Buyer shall be evidenced by the filing by Buyer, or any parent entity thereof, of a voluntary petition in bankruptcy or the entry of a decree or order by a court having jurisdiction in the premises adjudging the Buyer bankrupt or insolvent, or approving as properly filed, a petition seeking reorganization, arrangement, adjustment or composition of or in respect of the Buyer under the Federal Bankruptcy Act or any other applicable federal or state law, or appointing a receiver, liquidator, assignee, trustee, or sequestrator (or other similar official) of the Buyer or of any substantial part of its property, or the ordering of the winding-up or liquidation of its affairs, with said order or decree continuing unstayed and in effect for a period of sixty (60) consecutive days.

29. Intellectual Property. All drawings, designs and specifications provided by Sentrimax are the sole property of Sentrimax, and are furnished in order to provide full documentation and on the condition that they shall not be reproduced or copied in any manner whatsoever, in whole or in part, nor shall they be used, in whole or in part, for furnishing information to others or for any purpose not specifically authorized in writing by a corporate officer of Sentrimax Inc.

30. Customers Drawings and Technical Specifications. All drawings and specifications provided by Customer must be submitted in English and conform with Sentrimax's standard drafting procedures. Customer may not make any changes to drawings accepted by Sentrimax without its prior written consent. Changes without Sentrimax's consent may void any warranty adversely affected thereby.

16. Confidential Information. Proprietary or confidential information disclosed for supply of any Products must not be used or disclosed by the recipient other than for the express purpose for which it was disclosed.

31. Assignment. Neither party may assign all or any part of an agreement for sale of Products without the prior consent of the other party, except Sentrimax may assign any portion to an affiliated company without the prior consent of Customer.

32. Waiver. No act or omission shall act as a waiver of an unperformed obligation of the other party or constitute an agreement to allow future breaches of the applicable provision.

33. Entire Agreement. Products are sold only pursuant to a written or verbal order on terms expressly accepted by Sentrimax which, together with any schedules identified therein and these Standard Terms and Conditions contain the entire agreement of the parties with respect to the sale or other supply of the Products and supersedes all other statements, understandings or the like. Sentrimax rejects any differing or supplemental terms which may be printed or otherwise found in any of Customer's purchase order or other documents. Any alteration of an agreement must be in writing and signed by an authorized representative of each party. Descriptive data found in any advertisement, catalogue, brochure, circular or the like are approximate and must not be considered as any warranty or legal obligation as to Technical Specifications unless specifically included in performance criteria expressly warranted in the transaction.

34. Interpretation. If there are contradictions or inconsistencies between statements made in any order confirmation and documents related to a specific sale and supply, all documents shall be read so as to give priority to the specific statement accepted by Sentrimax by the signature of an authorized officer over the general statement, but if the contradiction is with any of these Standard Terms and Conditions of Sale, the Standard Terms and Conditions of Sale shall prevail unless Sentrimax has expressly stated that the term or condition contradictory to the Standard Terms and Conditions of Sale shall prevail.

35. Governing Law. The sale of the Products and all contracts related thereto are governed by the laws of the Province of Ontario and the laws of Canada and where applicable therein.

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SENTRIMAX CENTRIFUGES

SITE TECHNICAL SERVICES – FIELD SERVICE RATE SCHEDULE
EFFECTIVE DATE: January 1, 2020

In accordance with the price, terms, and conditions specified herein, Sentrimax Centrifuges (NE) Ltd. will make available the services of its field service staff for temporary duty in the field to provide equipment start-up, maintenance, troubleshooting, or process optimization/audit. Service requests will be processed only upon receipt of a written agreement.

Sentrimax Centrifuges (NE) Ltd. charges for the services of its personnel as follows:

I. FEES: (Canadian Dollars)	DAILY RATE	PREMIUM & OVERTIME HOURS Rate "A"	Rate "B"
A. Field Service Representative/Technician	$1150/Day	$200/Hr.	$250/Hr.

C. The Daily Rate shall be charged for each calendar day or fraction thereof that Sentrimax Centrifuges personnel is absent from that person's principal office on Purchaser's business, including travel days, workdays and layover days.

D. PREMIUM RATE: Rate "A" will apply for all time exceeding 8 hours per weekday (other than Sunday) and for all time on Saturdays. Rate "B" will apply for time on Sundays and holidays. Travel time and layover time are cumulative with work time for purpose of determining overtime. For safety, the maximum service to be provided per employee is 12 hours/day and 84 hours/week.

E. PREPARATION CHARGES: Time required for assignment and/or report preparation, including special training and examinations, will be invoiced on a straight time basis, at a daily rate of $800.00. Expenses in connection with preparation of Sentrimax Centrifuges personnel for departure (e.g. visa, medical) will be charged at cost plus 10 (ten) percent.

II. TRAVEL EXPENSES: A. Purchaser will pay:

1. Travel expense from point of origin to the site of the field work and return billed at cost plus 10 (ten) percent.
2. All travel will be billed at straight time rates, except as described in item I.D. above.
3. Private or Company car mileage will be billed at prevailing rate per Kilometer plus 10 (ten) percent.
4. Air travel and rental cars or other transportation expenses documented by carrier's receipt at cost plus 10(ten) percent.
5. Air travel within North America will be economy class (if available). All other air travel will be business or club class.
6. Site required courses, as well as any required drug/medical testing, to meet site requirements at cost plus 10 (ten) percent.

III. LIVING EXPENSES:

A. Unless directly provided by Purchaser, a charge of $75 per day will be made to cover meals, laundry, tips and other normal living expenses for each day Sentrimax Centrifuges personnel is away from their home base. If living expenses, including lodging and local transportation, are provided completely and directly by Purchaser, a charge of $25 per day will be made to cover out-of-pocket miscellaneous expenses.

B. Lodging expenses will be billed at cost plus 10 (ten) percent, documented by receipt.

C. For sites outside North America, lodging and local travel are to be arranged by Purchaser at Purchaser's expense.

D. All other costs incurred by Sentrimax Centrifuges representative, due to special requests or requirements at the jobsite, are to be reimbursed by the Purchaser at cost plus ten percent, with such costs documented on the invoice to the Purchaser.

Payments for the services of Sentrimax Centrifuges personnel shall be made in CDN funds. All rates shown on this form are the prevailing rates as of January 1, 2020, and are subject to change without notice. Fees will be billed at rates prevailing at time field services are rendered. Invoices are due and payable within 30 days.

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wsib ONTARIO

Your clearance(s) / Vos certificats de décharge

We confirm that the business(es) listed below are active and in good standing with us.
Nous confirmons que la ou les entreprises énumérées ci-dessous sont actives et que leurs comptes sont en règle.

Contractor legal or trade name / Raison sociale ou appellation commerciale de l'entrepreneur	Contractor address / Adresse de l'entrepreneur	Contractor NAICS Code and Code Description / Code du SCIAN de l'entrepreneur et description	Clearance certificate number / Numéro du certificat de décharge	Validity period (dd-mmm-yyyy) / Période de validité (jj-mmm-aaaa)
SENTRIMAX CENTRIFUGES (NE) LTD.	3-2300 SHIRLEY DR, KITCHENER, ON, N2B3Y2, CA	811310: Commercial and industrial machinery and equipment (except automotive and electronic) repair and maintenance	A0000IYIS4	20-Feb-2024 to 19-Aug-2024

Under Section 141 of the *Workplace Safety and Insurance Act*, the WSIB waives our right to hold the principal (the business that has entered into a contractual agreement with the contractor/subcontractor) liable for any unpaid premiums and other amounts the contractor may owe us for the validity period specified.
Aux termes de l'article 141 de la *Loi sur la sécurité professionnelle et l'assurance contre les accidents du travail*, la WSIB renonce à son droit de tenir l'entrepreneur principal (l'entreprise qui a conclu une entente contractuelle avec l'entrepreneur ou le sous-traitant) responsable de toute prime impayée et autre montant que l'entrepreneur pourrait lui devoir pour la période de validité indiquée.

WSIB Head Office: 200 Front Street West
Toronto, Ontario, Canada M5V 3J1

Siège social : 200, rue Front Ouest
Toronto (Ontario) Canada M5V 3J1

1-800-387-0750 | TTY/ATS 1-800-387-0050
employeraccounts@wsib.on.ca | wsib.ca

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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.

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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: Centrifuge Repair (RES-2024-399 : WPCF Centrifuge #6 Critical Repair)

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:

Sentrimax Centrifuge (NE) LTD
Print Name of Company

By: _____
Signature

Jessy Beaudoin
Printed name

Date: 2024, 03-25

Agreed to and Accepted by:

Town of Amherst

By: _____
Brian J. Kulpa, Supervisor

Date: _____

Attachment: Centrifuge Repair (RES-2024-399 : WPCF Centrifuge #6 Critical Repair)

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: Sentrimax Centrifuges (NE) LTD

Signature: _____

Print Name: Jessy Beaudoin

Title: President N.E

Date: 25th MARCH, 2024

Sworn To Before Me This

25 Day of MARCH, 2024

_____

Notary Public

SURESH KUMAR SHARMA
NOTARY PUBLIC
ONTARIO

Witnessed as to Execution Only. No Advice Sought or given

SURESH KUMAR SHARMA
Notary Public & a Commissioner for Oaths
in and for Ontario Canada. LSO # 81986U
217 - 900 Guelph Street, Kitchener, Ontario
CANADA, N2H 5Z6
Ph: +1 226 667 5705, Fax +1 289 207 9750
sksharma@vmostlaw.com

Revised 4.2017

Attachment: Centrifuge Repair (RES-2024-399 : WPCF Centrifuge #6 Critical Repair)

CSIO CERTIFICATE OF LIABILITY INSURANCE

This certificate is issued as a matter of information only and confers no rights upon the certificate holder and imposes no liability on the insurer. This certificate does not amend, extend or alter the coverage afforded by the policies below.

1. CERTIFICATE HOLDER - NAME AND MAILING ADDRESS			2. INSURED'S FULL NAME AND MAILING ADDRESS		
Town of Amherst WPCF			Sentrimax Centrifuges Inc.		
5583 Main Street			9440 - 60 Avenue NW		
Williamsville	NY	POSTAL CODE 14221	Edmonton	AB	POSTAL CODE T6E 0C1

3. DESCRIPTION OF OPERATIONS/LOCATIONS/AUTOMOBILES/SPECIAL ITEMS TO WHICH THIS CERTIFICATE APPLIES (but only with respect to the operations of the Named Insured)

Primary and Non-Contributory Clause included

4. COVERAGES

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 requirements, terms or conditions 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 terms, exclusions and conditions of such policies.

LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS

TYPE OF INSURANCE	INSURANCE COMPANY AND POLICY NUMBER	EFFECTIVE DATE YYYY/MM/DD	EXPIRY DATE YYYY/MM/DD	LIMITS OF LIABILITY (Canadian dollars unless indicated otherwise)		
				COVERAGE	DED.	AMOUNT OF INSURANCE
COMMERCIAL GENERAL LIABILITY ☐ CLAIMS MADE OR ☒ OCCURRENCE ☒ PRODUCTS AND / OR COMPLETED OPERATIONS ☒ EMPLOYER'S LIABILITY ☒ CROSS LIABILITY ☐ WAIVER OF SUBROGATION ☒ TENANTS LEGAL LIABILITY ☐ POLLUTION LIABILITY EXTENSION ☐ ☐	Travelers Insurance Company of Canada TRV0370431	2024/02/01	2025/02/01	COMMERCIAL GENERAL LIABILITY BODILY INJURY AND PROPERTY DAMAGE LIABILITY - GENERAL AGGREGATE	$5000	$2,000,000
				- EACH OCCURRENCE		$2,000,000
				PRODUCTS AND COMPLETED OPERATIONS AGGREGATE		$2,000,000
				☐ PERSONAL INJURY LIABILITY OR ☒ PERSONAL AND ADVERTISING INJURY LIABILITY		$2,000,000
				MEDICAL PAYMENTS		$25,000
				TENANTS LEGAL LIABILITY	$5,000	$2,000,000
				POLLUTION LIABILITY EXTENSION		
				Primary & Non-Contributory		
☒ NON-OWNED AUTOMOBILES ☒ HIRED AUTOMOBILES	Travelers Insurance Company of Canada TRV0370431	2024/02/01	2025/02/01	NON-OWNED AUTOMOBILES		$2,000,000
				HIRED AUTOMOBILES	$1,000	$75,000
AUTOMOBILE LIABILITY ☐ DESCRIBED AUTOMOBILES ☐ ALL OWNED AUTOMOBILES ☐ LEASED AUTOMOBILES ** ** ALL AUTOMOBILES LEASED IN EXCESS OF 30 DAYS WHERE THE INSURED IS REQUIRED TO PROVIDE INSURANCE				BODILY INJURY AND PROPERTY DAMAGE COMBINED		
				BODILY INJURY (PER PERSON)		
				BODILY INJURY (PER ACCIDENT)		
				PROPERTY DAMAGE		
EXCESS LIABILITY ☒ UMBRELLA FORM ☐	Travelers Insurance Company of Canada TRV0370431	2024/02/01	2025/02/01	EACH OCCURRENCE	$10,000	$3,000,000
				AGGREGATE		$3,000,000
OTHER LIABILITY (SPECIFY) ☐						
☐						

5. CANCELLATION

Should any of the above described policies be cancelled before the expiration date thereof, the issuing company will endeavor to mail 30 days written notice to the certificate holder named above, but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives.

6. BROKERAGE/AGENCY FULL NAME AND MAILING ADDRESS			7. ADDITIONAL INSURED NAME AND MAILING ADDRESS (Commercial General Liability- but only with respect to the operations of the Named Insured)		
Acera Insurance Services Ltd.			Town of Amherst		
Suite 101, 1707 - 91 Street SW			5583 Main Street		
Edmonton	AB	POSTAL CODE T6X 0W8			
BROKER CLIENT ID:			Williamsville	NY	POSTAL CODE 14221

8. CERTIFICATE AUTHORIZATION

ISSUER Acera Insurance Services Ltd.	CONTACT NUMBER(S)			
	TYPE Phone	NO. 587-754-2153	TYPE	NO.
AUTHORIZED REPRESENTATIVE Lisa Berg	TYPE Fax	NO.	TYPE	NO.
SIGNATURE OF AUTHORIZED REPRESENTATIVE Lisa Berg	DATE 2024/03/25		EMAIL ADDRESS lisa.berg@acera.ca	

CSIO - Certificate of Liability Insurance CA4301e 201609

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Attachment: Centrifuge Repair (RES-2024-399 : WPCF Centrifuge #6 Critical Repair)

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Sewer/Plant 16
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 28942 **RESOLUTION 2024-400** **ADOPTED**

Purchase of One 18" Pressure Style Steel Gate

We are requesting Town Board approval to purchase one 18" Fresno Model 4200 W pressure style gate to replace an existing gate that was originally installed in 1996 for Georgian Lane Condominium. The total cost for the purchase will be $3,798.

Funding for this purchase is available from budget code G9000-2600 which requires Town Board approval.

Thank you for considering this request.

4/29/2024
Consent

FINANCIAL IMPACT:

G9000-2600

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

Fresno Valve Quote		
Vendor	Qty	Amount
Siewart Equipment - 18" Fresno Model 4200W Pressure Style Gate - Wall Mounted: with 55" of galvanized steel pipe extension	1	$3,798

Attachment: Purchase of one pressure gate quote (RES-2024-400 : Purchase of One 18" Pressure Style Steel Gate)

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Sewer/Plant 16
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 28944 **RESOLUTION 2024-401** **ADOPTED**

Onondaga County Piggyback – Kenyon Pipeline Inspection LLC Cured-In-Place Pipe Lining – for Pipes Sizes 30-72 Inches CRS No. 4549

The Engineering Department is requesting that the Town Board authorize an agreement to piggyback the Onondaga County bid 0010984 with Kenyon Pipeline Inspection LLC for Cured-In-Place Pipe Lining services for pipes sizes 30-72 inches. The services of this contract will only be utilized in case of emergency need to re-line sections of the Town's sewer system. This contract will be valid through December 31, 2024.

This is a town wide contract, so funding is available for this contract from various accounts in amounts to be determined.

This request is pending the successful completion of the contract review procedure.

Thank you for considering this request.

4/29/2024
Consent

FINANCIAL IMPACT:

n/a

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

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Sewer/Plant 16
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 28945 **RESOLUTION 2024-402** **ADOPTED**

TabWare Software Maintenance & Support Renewal AssetPoint, LLC CRS – 4761

The WPCF utilizes TabWare Software provided by AssetPoint LLC ("Aptean") to control and monitor all assets and equipment for the WPCF. To maintain on-line maintenance, technical support, and software updates, a licensing agreement with the software provider is required. The WPCF is requesting Town Board approval for the attached one-year maintenance & support renewal with AssetPoint LLC ("APTEAN") for the AssetPoint TabWare Software.

This contract shall be valid from May 06, 2024 through May 05, 2025. In addition, the WPCF requests a waiver of the insurance requirements because the vendor will provide this service remotely and will NOT enter Town property.

This request is pending successful completion of the contract review process.

Funds for this request are available in G9916-4110.

Thank you for considering this request.

4/29/2024
Consent

FINANCIAL IMPACT:

G9916-4110

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

Aptean Legal Center - North America

Agreements and Exhibits

Master Solution Agreement

Master Solution Agreement - General Terms and Conditions

Additional Exhibits

SaaS Subscription Exhibit

Software License Terms Exhibit

Professional Services Exhibit

Equipment Exhibit

Renewal Terms Exhibit

Product Specific Terms

GenomeQuest Exhibit

Respond Exhibit

Aptean EDI Terms of Service

Aptean Ship Terms of Service

Aptean Pay Terms of Service

Hosted Services Terms

Third Party Terms

Third Party Terms and Conditions Center

Attachment: tabware renewal (RES-2024-402 : TabWare Software Maintenance & Support Renewal)

Note: Please refer to the Order Form that you received for direction on which terms listed apply to your purchase. If you have any questions or need assistance to determine which terms may apply, please contact your Sales Representative for support.

Legal Center powered by Ironclad Clickwrap

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Attachment: tabware renewal (RES-2024-402 : TabWare Software Maintenance & Support Renewal)

Aptean Legal Center

Attachment: tabware renewal (RES-2024-402 : TabWare Software Maintenance & Support Renewal)

MASTER SOLUTION AGREEMENT

Terms and Conditions

These Master Solution Agreement Terms and Conditions are entered into by and between your company (**"Customer"**) and the applicable Aptean legal entity (**"Licensor,"** and together with Customer, the **"Parties"**), both of whose details are set out in the applicable Order Form. Exhibit A "Privacy Terms" sets forth the terms and conditions under which Licensor will process Personal Data of Customer pursuant to the Agreement. Additional exhibits **("Exhibits")** may be incorporated into this Agreement from time to time through Order Forms signed by the Parties. These Master Solution Agreement Terms and Conditions, together with all amendments thereto, Statements of Work, Order Forms and Exhibits are collectively referred to as the **"Agreement"**.

By signing each Order Form you are agreeing that the Agreement governs the Order Form and the purchase and/or license of the Software, SaaS Subscription, Maintenance and/or Professional Services thereunder, and confirming that you are authorized to sign and agreeing that each Order Form shall incorporate the Agreement, except to the extent (if any) that the Agreement is expressly varied within any Order Form or amendment.

1. Definitions.

a. **"Affiliate"** means any entity directly or indirectly controlling, controlled by or under common control by another entity. For purposes of this definition, "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of another entity, whether through the ownership of voting securities, by contract or otherwise, and the terms "controlling" and "controlled" have meanings correlative to the foregoing.

b. **"Customer Materials"** means any data or materials, provided by Customer, that are used in connection with the Software or Service Deliverables, such as technical information and functional specifications, user data, logos, photographs, compilations of facts, artwork, animations, video or audio files, or source materials for any of the foregoing.

c. **"Documentation"** means any technical manuals, training materials, user documentation or other written materials relating to the operation and functionality of the Software that Licensor may provide to Customer.

d. **"Equipment"** means those items of third-party hardware, equipment, or accessories specified on an applicable Order Form to be purchased by Customer and sold by Licensor. The purchase price for the Equipment shall be as set forth on the applicable Order Form and all Equipment shall be provided and used subject to the terms of the Equipment Exhibit.

e. **"Equipment Exhibit"** means the exhibit which governs Licensor's provision and Customer's use of the Equipment and is applicable to all Equipment previously and subsequently ordered by Customer and is incorporated into this Agreement via an Order Form signed by the Parties.

f. **"Intellectual Property Rights"** means copyrights, trademarks, service marks, patents, trade secrets, database rights, design rights and other related proprietary or statutory rights that have been or subsequently exist pursuant to all applicable statutes, laws, regulations, treaties or common law in any country or jurisdiction in the world, now or hereafter existing, and whether or not perfected, filed or recorded.

g. **"Software License Terms Exhibit"** means the exhibit which governs Licensor's provision and Customer's use of perpetual or subscription on premise Software and is applicable to all perpetual or subscription on premise Software previously and subsequently ordered by Customer and is incorporated into this Agreement via an Order Form signed by the Parties .

h. **"License Configuration"** means the particular components, license metrics, optional modules and languages of the Software licensed hereunder as set forth in the Order Form. License metrics may include, but are not limited to:

i. **"Concurrent User License"** the maximum number of users that may access the Software at any one time.

ii. **"Named User License"** means any individual for whom there is a unique user login account permitting such individual to access and use a component of the Software. Each Named User must be assigned a user login account and may not permit more than one person to use this user login to access or use the Software.

iii. **"Transaction, Server, Device, Database or Application License"** a specified number of transactions, servers, databases, applications, or other metric as set forth in the Order Form that Customer may use with the Software.

Attachment: tabware renewal (RES-2024-402 : TabWare Software Maintenance & Support Renewal)

i. **"Licensor Products and Services"** means Software (including License Configuration), SaaS Subscription, Professional Services, Service Deliverables, Maintenance Services, training services, Documentation, Equipment and any other products and services provided by Licensor under the Agreement.

j. **"Licensor Related Parties"** means, collectively, Licensor, its Affiliates, and their respective members, shareholders, partners, owners, officers, directors, employees, licensors, agents and representatives.

k. **"Order Form"** means Licensor's order form signed by the Parties pursuant to which Licensor agrees to supply certain Software, SaaS Subscription, Maintenance Services, Professional Services, Equipment or other products or services pursuant to the terms and conditions of the Agreement.

l. **"Professional Services"** means services provided to Customer by Licensor in accordance with the Agreement and the applicable Statement of Work or Order Form.

m. **"Professional Services Exhibit"** means the exhibit which governs Licensor's provision and Customer's use of Professional Services and is applicable to all Professional Services previously and subsequently ordered by Customer and is incorporated into this Agreement via an Order Form signed by the Parties .

n. **"SaaS Subscription Exhibit"** means the exhibit which governs Licensor's provision and Customer's use of SaaS Subscription and is applicable to all SaaS Subscription previously and subsequently ordered by Customer and is incorporated into this Agreement via an Order Form signed by the Parties. **"Service Deliverables"** means the output of Professional Services (not including Software) to be delivered to Customer pursuant to an Order Form.

o. **"Software"** means those components of proprietary Licensor software and Third Party Software, if any, in either executable code or object code format, as set forth in an Order Form.

p. **"Statement of Work"** or **"SOW"** means the Professional Services Schedule attached to an Order Form which sets forth the agreed upon scope of the Professional Services, Service Deliverables, estimated hours/work effort, billing rates and other pricing information, project schedule (if applicable) and estimated delivery dates.

q. **"Third Party Servicers"** means third parties hired by Customer to access the Software or the SaaS Subscription in order to provide any services to Customer, as approved in advance by Licensor in writing. Upon Customer hiring a Third-Party Servicer(s), Customer must ensure that the Third Party Servicer(s) has agreed to the following terms: (i) confidentiality terms that are substantially similar to the ones contained herein (ii) language that indicates the Software, SaaS Subscription and Deliverables are owned by Licensor; and (iii) a requirement that the Third-Party Servicer access the Software, SaaS Subscription and Service Deliverables only for providing services to the Customer in accordance with the license granted herein.

r. **"Third Party Software"** means software or data supplied by third parties that Licensor resells, distributes or otherwise provides access to as part of the Software. Customer's use of Third Party Software is governed by (i) the license terms that either come with the Third Party Software, or (ii) are made available to Customer at legal.aptean.com accessed through the following link https://legal.aptean.com/third-party-terms which are incorporated herein by reference or (iii) are published by the applicable Third Party Software owner.

2. **Delivery of Software.** The Software shall be deemed accepted by Customer upon electronic availability. Where Customer purchases Professional Services to configure the Software or the SaaS Subscription and the relevant SOW states that acceptance testing is applicable to those Professional Services, then acceptance of those Service Deliverables shall be in accordance with the terms of the Professional Services Exhibit.

3. **Payment Terms.**

a. Customer agrees to provide Licensor with complete and accurate billing and contact information. This information includes Customer's legal company name, street address, e-mail address, and name and telephone number of an authorized billing contact.

b. Unless otherwise set forth in an Order Form, all payments are due within thirty (30) days of the invoice date. Except as expressly provided, all such payments are non-refundable. Invoices are not subject to offset or reduction by Customer unless approved in writing by Licensor. Customer agrees to pay a finance charge equal to the lesser of one and one-half percent (1.5%) per month or the maximum rate permitted by law on all past due amounts. Payment terms in the Agreement are subject to credit approval in Licensor's reasonable discretion and may be changed based on Customer's financial position or payment history. Customer shall reimburse Licensor for any of Licensor's reasonable costs of collecting past due amounts. All pricing terms are confidential, and Customer agrees not to disclose them to any third party. Failure by the Customer to pay any invoice will entitle the Licensor to: (i) demand the payment of any other invoiced issued (although not expired), (ii) immediately suspend any Licensor Products and Services provided to the Customer; and/or (iv) terminate the Agreement without any need for

Attachment: tabware renewal (RES-2024-402 : TabWare Software Maintenance & Support Renewal)

further request and/or communication, without prejudice for any other remedy which the Licensor may be entitled to pursuant to the Agreement and/or law.

c. All prices and payments in the Agreement are exclusive of all taxes, and Customer agrees to pay all national, state and local sales, use, value-added, withholding and other taxes, customs duties and similar tariffs and fees based on the Software, and other services provided hereunder, other than taxes imposed on Licensor's net income.

4. Ownership and Copyright.

a. Software and Service Deliverables. All right, title and interest (including all Intellectual Property Rights) in and to the Software, SaaS Subscription, Service Deliverables, Documentation provided by Licensor are owned by Licensor or its suppliers, as applicable, and are protected by the applicable intellectual property laws, including copyright, patent, trademark, and/or trade secret laws. The Agreement is not a sale and does not convey to Customer any rights of ownership in or related to the Software, SaaS Subscription, Documentation, Proprietary Technology or the Intellectual Property Rights owned by Licensor and its suppliers. All Service Deliverables developed by Licensor pursuant to a SOW shall be the property of Licensor provided, however, that Customer is hereby granted a non-exclusive and non-transferable license to use the SaaS Subscription Deliverables solely for its internal business purposes, subject to the restrictions set out in the Agreement and the applicable SOW. Any rights not expressly granted herein are reserved to Licensor and its licensors. Professional Services and Service Deliverables provided by Licensor to Customer are not performed on a "work for hire" basis.

b. Customer Materials. Subject to Section 4(a), all right, title and interest (including all Intellectual Property Rights) in and to the Customer Materials are owned by Customer or Customer's suppliers.

5. Warranty.

a. Representations and Warranties. Each Party represents and warrants that it has the legal power and authority to enter into the Agreement. Customer represents and warrants that Customer has neither falsely identified itself nor provided any false information to Licensor and that Customer's billing information is correct.

b. Limited Warranty. For a period of one (1) year following Customer's entry into its production environment (*i.e.*, "Go-Live"), (**"Warranty Period"**), Licensor warrants that the Software (excluding Third Party Software) and/or SaaS Subscription will, in all material respects, conform to and perform in accordance with Licensor's respective published documentation. Customer must report any breach of the foregoing warranty to Licensor pursuant to Section 10(d) within the Warranty Period. Delivery of revisions, enhancements, upgrades, and new versions of the Software to Customer shall not restart or otherwise affect the Warranty Period. Customer's exclusive remedy for a breach of this warranty during the Warranty Period is the correction of any material reproducible nonconformity in the Software so that it conforms to this warranty. Customer's use of the Software and or SaaS Subscription in breach of the Agreement shall immediately void the Software Warranty. Notwithstanding anything in the Agreement to the contrary, Licensor shall be not be liable in relation to, and does not warrant the Third Party Software, but Licensor will use commercially reasonable efforts to pass on to Customer the benefits of any warranties Licensor has received from the Third Party Software vendors. Customer acknowledges and agrees that any warranties for Third Party Software, if any, are made solely by the Third Party Software owner, and Customer shall be entitled to claim such warranty only versus the relevant third party and not Licensor. If the provider of a Third Party Software (excluding Microsoft products and services) ceases to make the Third Party Software available for interoperation with the Software features, Licensor may cease providing those Software features without entitling the Customer to any refund or other compensation, provided that Licensor shall make available a reasonable alternative.

c. Warranty Disclaimer. TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAWS, THE LIMITED WARRANTY EXPRESSLY SET FORTH IN SECTION 5(b) CONSTITUTES THE SOLE AND EXCLUSIVE WARRANTY GIVEN BY LICENSOR WITH RESPECT TO THE LICENSOR PRODUCTS AND SERVICES. LICENSOR HEREBY EXPRESSLY DISCLAIMS FOR ITSELF AND ITS LICENSORS AND THEIR RESPECTIVE SUPPLIERS ALL OTHER WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, THE IMPLIED WARRANTIES AND REPRESENTATIONS OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY AND NON-INFRINGEMENT.

d. Customer acknowledges and agrees that the warranty set forth in Section 5(b) shall not apply to any Software or Service Deliverables delivered to Customer prior to the date of the Agreement, if applicable, by Licensor, its Affiliates or any of its respective predecessors.

Attachment: tabware renewal (RES-2024-402 : TabWare Software Maintenance & Support Renewal)

6. Indemnification.

a. Claims Related to Software or Service Deliverables. Subject to Section 6(b) and Section 6(e), Licensor will, at its expense and under its control (including selection of counsel), defend and/or settle any claim, suit or proceeding brought by a third party (each, a **"Claim"**) against Customer, its Affiliates, or their respective officers, directors, employees and agents alleging that the Software (excluding Third Party Software), SaaS Subscription, Documentation or any Service Deliverable, as provided by Licensor, infringes any U.S., E.U., U.K. or Canadian copyright, trademark, trade secret or patent, as applicable, issued as of the Effective Date of the Order Form. In addition, Licensor will pay any final judgment awarded against Customer for such Claim or any settlement amount agreed to by Licensor.

b. Exclusions. Licensor will have no obligation under Section 6(a) with respect to any Claim arising out of or based upon: (i) Customer's modification of the Software or Service Deliverables; (ii) Customer's combination or use of the Software or Service Deliverable with programs not supplied or explicitly permitted by Licensor in writing; (iii) any use of the Software, SaaS Subscription or Service Deliverables that is not in accordance with the terms of the Agreement; (iv) Customer's use, reproduction or distribution of other than the most recent or a modified version of the Software or Service Deliverables provided by Licensor or available to Customer where such infringement would have been avoided by Customer's use or implementation of the most recent version of the Software or Service Deliverables; (v) Customer Materials used with or incorporated in the Software or a Service Deliverable; (vi) continued use of any infringing Software or Service Deliverable after being provided notice to cease use of such Software or Service Deliverable; (vii) Customer Data or Customer Equipment used with the Service; (viii) continued use of the Subscription Service after being provided notice to cease use of the Service.

c. Enjoinment. If Customer's use of the Software, Subscription Service or Service Deliverables is or, in Licensor's determination, is likely to be enjoined, Licensor may, at its option and expense, without limiting its indemnity obligations hereunder, procure the right for Customer to continue to use the Software or Service Deliverables or modify the Software or Service Deliverables in a manner that has materially equivalent functionality so as to avoid such injunction. If the foregoing options are not available on commercially reasonable terms and conditions, in the case of Software licensed by Customer, Licensor may require the return of any such Software or Service Deliverables and refund to Customer amounts paid for such Software or Service Deliverables less a credit for use based on straight line depreciation applied on a quarterly basis over five (5) years from the date of initial delivery of the Software or a Service Deliverable. Alternatively, in the case of a SaaS Subscription purchased by Customer, Customer shall discontinue all use and receive a refund of all prepaid but unused SaaS Subscription fees.

d. Indemnification by Customer. Subject to Section 6(e), Customer shall, at Customer's expense, defend and/or settle any claim, suit or proceeding brought by a third party against Licensor Related Parties and arising out of or related to: (i) the Customer Materials (either alone or as incorporated into a Service Deliverable); (ii) Customer's unauthorized use of the Software and/or Service Deliverables; (iii) Customer's modification of the Software and/or Service Deliverables without Licensor's explicit written consent; (iv) Third Party Servicer's negligence, acts or omissions in connection with the Software and Service Deliverables; (v) the Customer Data or Customer Equipment; and (vi) Customer's unauthorized use of the SaaS Subscription. In addition, Customer will pay any judgment awarded against Licensor or any settlement amount agreed to by Customer and any authorized expenses incurred by Licensor.

e. Procedure. If a Party (the **"Indemnitee"**) receives any notice of a Claim or other allegation with respect to which the other Party (the **"Indemnitor"**) has an obligation of indemnity hereunder, then the Indemnitee will, in order to qualify for Indemnification under this Section 6, within twenty (20) days of receipt of such notice, give the Indemnitor written notice, of such Claim or allegation setting forth in reasonable detail the facts and circumstances surrounding the claim. The Indemnitee will not make any payment or incur any costs or expenses with respect to such Claim, except as requested by the Indemnitor or as necessary to comply with this procedure. The Indemnitee will not make any admission of liability or take any other action that limits the ability of the Indemnitor to defend the Claim. The Indemnitor shall immediately assume the full control of the defense or settlement of such Claim or allegation, including the selection and employment of counsel, and shall pay all authorized and documented costs and expenses of such defense.

f. Exclusive Remedies. THE INDEMNITY AND OTHER REMEDIES SET FORTH IN THIS SECTION 6 SHALL BE THE EXCLUSIVE REMEDIES OF THE PARTIES WITH RESPECT TO ANY CLAIM FOR WHICH A PARTY HAS AN OBLIGATION OR INDEMNITY PURSUANT TO THIS SECTION 6.

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7. Limitation of Liability.

a. SUBJECT TO 7(d) BELOW, IN NO EVENT SHALL LICENSOR OR LICENSOR RELATED PARTIES BE LIABLE FOR INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, CONSEQUENTIAL OR PUNITIVE DAMAGES, INCLUDING DAMAGES FOR, OR COSTS INCURRED AS A RESULT OF, LOSS OF TIME, LOSS OR INACCURACY OF DATA, LOSS OF PROFITS OR REVENUE, LOSS OF GOOD WILL, BUSINESS INTERRUPTION, OR COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, HOWEVER ARISING, EVEN IF LICENSOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

b. SUBJECT TO 7(d) BELOW, IN NO EVENT SHALL LICENSOR'S OR LICENSOR RELATED PARTIES' AGGREGATE, CUMULATIVE LIABILITY ARISING OUT OF OR RELATED TO THE AGREEMENT, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, EXCEED THE AGGREGATE PAYMENTS MADE BY CUSTOMER DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE FIRST EVENT GIVING RISE TO SUCH CLAIM.

c. WITH THE EXCEPTION OF PAYMENT OBLIGATIONS TO UNDISPUTED INVOICES, IN NO EVENT SHALL CUSTOMER'S AGGREGATE, CUMULATIVE LIABILITY ARISING OUT OF OR RELATED TO THE AGREEMENT, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, EXCEED THE AGGREGATE PAYMENTS MADE BY CUSTOMER DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE FIRST EVENT GIVING RISE TO SUCH CLAIM. THE FOREGOING LIMITATION SHALL NOT APPLY TO ANY LIABILITY ARISING FROM CUSTOMER'S MISUSE OF THE LICENSOR PRODUCTS AND SERVICES.

d. NOTHING IN THIS AGREEMENT SHALL LIMIT OR EXCLUDE THE LIABILITY OF EITHER PARTY IN RELATION TO ANY LIABILITY WHICH CANNOT BE LIMITED OR EXCLUDED PURSUANT TO APPLICABLE LAW.

8. Confidential Information.

a. "**Confidential Information**" means: (i) a Party's proprietary technology or computer software, in all versions and forms of expression, whether or not the same has been patented or the copyright thereto registered, is the subject of a pending patent or registration application, or forms the basis for a patentable invention (collectively the "**Proprietary Technology**"); (ii) manuals, notes, documentation, technical information, drawings, diagrams, specifications, formulas or know-how related to any of the Proprietary Technology; (iii) information regarding current or proposed products, customers, contracts, the Agreement, business methods, financial data or marketing data, financial results and projections, company and market strategy, product and competitive sales analysis and plans, product or marketing plans, pricing plans or structures, personnel and recruiting matters, and future releases; and (iv) offers or proposals which are provided by a Discloser (as defined below), including the fees charged by Discloser and such Confidential Information is in written or other form.

b. A Party receiving Confidential Information ("**Recipient**") of the other Party ("**Discloser**") shall: (i) not disclose the Confidential Information to any third party at any time and Recipient shall limit disclosure of Confidential Information within its own organization to its employees or its legal, financial and accounting advisors having a need to know and who have agreed to be bound by the terms of the Agreement; and (ii) protect the confidentiality of the Confidential Information with at least the same degree of care as Recipient uses to protect its own Confidential Information of a like nature, but no less than a reasonable degree of care. Recipient shall be entitled to disclose Confidential Information solely to the extent necessary to comply with a court order or as otherwise required by law or by a regulatory agency or government body, provided that Recipient shall first give notice to Discloser so as to allow Discloser a reasonable opportunity to obtain a protective order for protecting the confidentiality of such information (unless such notice would violate applicable law). If such protective order is not obtained, Recipient agrees to disclose only that portion of the Confidential Information which it is legally required to disclose. Recipient shall immediately notify Discloser of any actual or suspected unauthorized disclosure of Confidential Information. For the avoidance of doubt, the Customer may disclose the Agreement without notice to Licensor in order to comply with applicable law.

c. The obligations described in Section 8(b) impose no obligation upon Recipient with respect to any Confidential Information that (i) is or becomes a matter of public knowledge through no fault of Recipient; (ii) is rightfully received by Recipient from a third party without a duty of confidentiality to a third party by, or with the authorization of, Discloser; (iii) is disclosed by Discloser without a duty of confidentiality; or (iv) is independently developed by Recipient. The burden of proving any of the above exemptions is on Recipient.

d. Upon the written request of Discloser, Recipient shall immediately destroy or return to Discloser, as requested by Discloser, all Confidential Information of Discloser in its possession, together with all records in any manner pertaining to any of Discloser's Confidential Information and, upon request, provide a certificate from an authorized officer of completion of the foregoing.

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e. The terms set forth in this Section 8 replace any prior non-disclosure or similar confidentiality agreement executed between the Parties.

9. Term and Termination

a. Term. The Agreement shall commence on the Effective Date of the Order Form and remain in force until terminated pursuant to Section 9(b). Conversely, the term for Maintenance Services, SaaS Subscription and any License term shall be limited to the specific period set forth in the relevant Order Form, or other separate agreement between the Parties, subject to any renewals. Upon expiration of any term as set forth in an Order Form the corresponding Maintenance Services, Hosting Services, SaaS Subscription and/or term license shall automatically renew for successive one-year periods, unless Customer provides Licensor with at least ninety (90) days' advance written notice prior to the expiration of the then current term that it desires not to renew. Licensor shall invoice Customer on an annual basis in advance for each annual renewal period. Fees for all annual renewal periods will be due within thirty (30) days of receipt of the corresponding invoice or the day prior to the contract renewal date, whichever is sooner, and all such payments are non-refundable.

b. Termination. If either Party fails to materially comply with any of the terms and conditions of the Agreement and such Party fails to correct such non-compliance within thirty (30) days following written notice thereof ("**Cure Period**") by the other Party (the "**Non-Breaching Party**"), then such Non-Breaching Party may terminate the Agreement with written notice to the other Party. Failure to make timely payments is a material breach of the Agreement. Subject to applicable law, either Party may terminate the Agreement with written notice to the other Party (the "**Affected Party**") if: (i) a receiver is appointed for the Affected Party or Affected Party's property; (ii) Affected Party makes an assignment for the benefit of Affected Party's creditors; (iii) any proceedings are commenced by, for or against the Affected Party under any bankruptcy, insolvency or debtor's relief law; or (iv) the Affected Party commences steps to liquidate, dissolve or wind-up its business. Licensor may, at its sole discretion, temporarily suspend Customer's rights to any Software, service or deliverable prior to exercising its right to terminate the Agreement pursuant to this Section 9(b).

c. Effect upon Termination. Upon termination of the Agreement, all licenses granted herein shall automatically cease and Customer shall discontinue all use of the Software, SaaS Subscription and Service Deliverables, and destroy any copies of Software or Service Deliverables in Customer's possession or control. Upon Licensor's request, Customer shall deliver to Licensor a certificate executed by an authorized officer of the Customer stating that Customer has destroyed all such copies of the Software and Service Deliverables. Any obligation of either Party which accrued prior to termination, including without limitation, any payment due and owing, and Sections 1 (Definitions), 3 (Payment Terms), 4 (Ownership and Copyright), 5 (Warranty), 6 (Indemnification), 7 (Limitation of Liability), 8 (Confidential Information), and 10 (Miscellaneous) shall survive. Termination of the Agreement shall also automatically terminate any active Statements of Work or Maintenance Terms.

10. Miscellaneous.

a. Audit. During the term of the Agreement and upon Licensor's reasonable suspicion that Customer is misusing the Licensor Products and Services, Customer will permit Licensor to perform an audit of Customer's records and computer systems that are relevant to Customer's use of the Software or Equipment in order to confirm Customer's compliance with the Agreement. Licensor will conduct any audit during Customer's normal business hours and upon reasonable advance notice.

b. Information Collection and Use. Notwithstanding anything to the contrary in the Agreement, Licensor may collect and disclose anonymized information about Customer's use of Licensor Products or Services. Customer hereby grants to Licensor a perpetual, non-cancelable, worldwide, royalty-free, non-exclusive right to utilize any anonymized Customer Data that arises from the use of the Licensor Products and Services by Customer whether disclosed on or prior to the Effective Date of the Order Form for any legitimate purpose, including the right to sublicense such data to third parties, subject to all legal restrictions regarding the use and disclosure of such information.

c. Governing Law. The Agreement shall be governed exclusively by the internal laws of the State of Georgia, without regard to its conflicts of laws rules. The state and federal courts located in Atlanta, Georgia shall have exclusive jurisdiction to adjudicate any dispute arising out of or relating to the Agreement. Each Party hereby consents to the exclusive jurisdiction of such courts. The parties agree that the Uniform Commercial Code, the Uniform Computer Information Technology Act and the United National Convention on Contracts for the International Sale of Goods shall not apply to the Agreement.

d. Notices. All notices under the Agreement shall be in writing and shall be deemed to have been given upon: (i) personal delivery; (ii) the next business day after mailing via overnight courier; or (iii) the first business day after

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sending by email, except that notices of termination, breach of the Agreement or an indemnifiable Claim may not be sent by email. All notices to Customer shall be addressed to the primary contact person as designated by Customer or if no contact person is designated, the current address in Licensor's customer relationship system. Notices to Licensor shall be addressed to the attention of its General Counsel at the following address:

4325 Alexander Drive, Suite 100
Alpharetta, GA 30022
Attn: General Counsel
Email: Legal-NorthAmerica@aptean.com

e. Force Majeure. Except for Customer's payment obligations and notwithstanding anything to the contrary in the Agreement, neither Party shall be liable for failure to perform or for delay in performance hereunder due to causes beyond its reasonable control, including acts of God, fires, floods, earthquakes, accidents, non-availability of Microsoft products and services, Internet service interruptions or slowdowns, vandalism or "hacker" attacks, strikes (other than those involving either Party's employees), acts of war, acts of terrorism, riot, embargoes, acts of civil or military authorities, or intervention by governmental authority; provided that such Party gives prompt written notice thereof to the other Party. Any failure occasioned by the foregoing shall be remedied as soon as reasonably possible.

f. Customer Lists and Press. Licensor is permitted to use Customer's name, logo and related marks in i) lists with other customers, ii) investor presentations, iii) internal presentations, iv) required governmental filings including, but not limited to, SEC filings, earnings announcements or financial presentations, and v) listings of other similar relationships.

g. Injunctive Relief. Customer acknowledges that the breach or threatened breach of the Agreement could give rise to irreparable injury to Licensor which would be inadequately compensated in monetary damages. Notwithstanding anything in the Agreement to the contrary, Licensor shall retain the right to seek a restraining order and/or injunctive relief in any court of competent jurisdiction in addition to any other legal remedies which may be available. Customer agrees that Licensor will not be required to post a bond in seeking injunctive relief under the Agreement.

h. Anti-Bribery Compliance; Trade Controls. Customer agrees to comply with all applicable laws, including, without limitation, (i) laws prohibiting bribery and corruption (e.g. the U.S. Foreign Corrupt Practices Act of 1977 and the UK Bribery Act 2010, both as amended); (ii) export, re-export, transfer and re-transfer control laws and regulations (e.g. the Export Administration Regulations maintained by the U.S. Department of Commerce and the International Traffic in Arms Regulations maintained by the Department of State); (iii) trade and economic sanctions maintained by the Treasury Department's Office of Foreign Assets Control, the U.S. Department of State, the European Union, and HM Treasury and (iv) laws relating to modern slavery. Customer hereby indemnifies and holds harmless, subject to Section 6(e), to the fullest extent permitted by law, Licensor Related Parties and its assigns from and against any fines, penalties, judgments, settlements, and reasonable documented costs, including attorneys' fees, that may arise as a result of Customer's and Customer's agents', officers', directors' or employees' breach of this provision.

i. US Government Rights. The Software, applicable Documentation and Service Deliverables are "commercial items", as such term is defined in 48 C.F.R. §2.101. Accordingly, if the Customer is the US Government or any contractor therefor, Customer shall receive only those rights with respect to the Software, applicable Documentation and Service Deliverables as are granted to all other end users under license, in accordance with (a) 48 C.F.R. §227.7201 through 48 C.F.R. §227.7204, with respect to the Department of Defense and their contractors, or (b) 48 C.F.R. §12.212, with respect to all other US Government licensees and their contractors.

j. Assignment. Customer may not assign or transfer the Agreement, Customer's interest herein or the license granted to Customer herein without Licensor's prior written consent and payment to Licensor of a transfer fee based on Licensor's then- current prevailing rates and any purported assignment in violation of this Section shall be void.

k. Relationship of the Parties. The Agreement does not create a partnership, franchise, joint venture, agency, and fiduciary or employment relationship between the Parties.

l. Non-Solicitation of Employees. For the term of the Agreement and a period of one (1) year thereafter, neither Party shall solicit or attempt to entice away any person employed or contracted by the other Party or any of its Affiliates who was assigned to and worked with it in furtherance of the Agreement and/or had access to Confidential Information, without first obtaining the prior, written consent of the other Party. Notwithstanding the forgoing, this provision shall not: i) restrict the right of a Party to solicit or recruit generally in the media; ii) prohibit

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a Party from hiring an employee of the other Party who answers any advertisement or who voluntarily applies for hire without having been initially solicited or recruited; iii) prevent the hiring of a former employee of the other Party whose employment ended at least six (6) months prior to the hire date. In the event a Party breaches this provision, it shall pay the other Party an amount equivalent to fifty percent (50%) of the hired employee's annual salary. In no event shall the hiring of any employee alter or change either Party's confidentiality obligations as set out in Section 8.

m. Entire Agreement, Modifications, Severability, Waivers, Reservation of Rights. These General Terms and Conditions, together with all exhibits, schedules, Order Forms, Statements of Work, addenda and other amendments hereto, collectively, contains the entire agreement with respect to the subject matter hereof and supersedes all previous agreements between the Parties. All such ancillary documents are incorporated into the Agreement by reference. The Parties acknowledge that in entering into the Agreement they have not relied on any representation, warranty or undertaking, whether oral or in writing, except for those expressly incorporated herein. The Agreement may not be modified except by written instrument signed by both Parties. All terms, conditions, or provisions which may appear as preprinted language or otherwise be inserted within any purchase order shall be of no force and effect and acceptance of a purchase order will not constitute as a written instrument modifying the Agreement. If any provision of the Agreement is declared invalid or unenforceable the remaining provisions of the Agreement shall remain in full force and effect. Failure by either Party to enforce any provision of the Agreement will not be deemed a waiver of future enforcement.

n. Headings, Advice of Counsel, and Drafting. Headings used these Terms and Conditions are provided for convenience only and will not in any way affect the meaning or interpretation of each Section. Wherever the term "including" is used, it shall mean "including, but not limited to." All references to "Sections" and "Exhibits" refer to the corresponding Sections and Exhibits of the Agreement. The Parties acknowledge that they have been advised by counsel of their own choosing, played equal parts in negotiating these Terms and Conditions which shall be interpreted without any bias against one Party as drafter.

o. Previous License Agreements. If applicable, the Agreement shall supersede any license agreement previously executed between the Parties and any such previously executed license agreement shall be terminated (the "**Previous License Agreement**"); provided that any claims Licensor may have against Customer under the Previous License Agreement shall survive such termination. Any Software, Service Deliverables, Professional Services, Maintenance Services or other similar products or services previously delivered or provided by Licensor to Customer shall now be governed by the Agreement.

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SAAS SUBSCRIPTION EXHIBIT

This exhibit is applicable to all SaaS Subscription previously and subsequently ordered by Customer and is hereby incorporated into the Agreement. The terms of this exhibit are applicable to any SaaS Subscription purchased by Customer from time to time and governs all use of any SaaS Subscription.

1. **Definitions**

   a. "**Customer Data**" means any data, information or material provided to Licensor or uploaded to the SaaS Subscription by or on behalf of Customer in the course of Customer using the SaaS Subscription, which may or may not include personal data, as applicable.

   b. "**Customer Equipment**" means Customer's computer hardware, software and network infrastructure used to access the SaaS Subscription.

   c. "**Customer Error Incident**" means any SaaS Subscription unavailability related to Customer's applications, Customer Data, Customer's Equipment, or the acts or omissions of any User of the SaaS Subscription that cause a disruption or error in the SaaS Subscription.

   d. "**Internet Disruptions**" means an action or inactions of an Internet service provider that produces situations in which Customer's connections to the Internet may be impaired or disrupted, which may affect Customer's access to the SaaS Subscription or Software.

   e. "**Login**" means the username and password assigned by Customer for each User.

   f. "**SaaS Subscription**" means the hosted, on-demand or web-based services offered by Licensor as set forth in an Order Form.

   g. "**Subscription Term**" means the term during which Customer receives SaaS Subscription.

   h. "**User**" means any individual accessing or using the Software or SaaS Subscription.

2. **SaaS Subscription**

   a. Licensor will provide Customer with use of the SaaS Subscription, which may include a browser interface and encrypted Login (when required) and transmission of, access to and storage of Customer Data. Licensor may, at its sole discretion, enhance the SaaS Subscription from time to time, at no cost or expense to Customer. Licensor will configure the SaaS Subscription and any Service Deliverables used in conjunction with the SaaS Subscription, as applicable. Licensor will begin such configuration following a Statement of Work or Order Form executed by the Parties. Except as stated herein, Customer may not customize the SaaS Subscription without Licensor's prior written consent. Licensor shall provide installation of any Maintenance Releases at its sole discretion, as part of the SaaS Subscription, at no extra charge to Customer.

   b. Each User may be required to have a Login with unique user identification. Licensor reserves the right to require Customer to alter any password if Licensor believes it is no longer secure. Customer shall not permit more than one User to use each Login to access the SaaS Subscription or otherwise share Login accounts, User identifications or passwords. Customer is liable for all access to the SaaS Subscription and activities conducted by individuals accessing the SaaS Subscription using the Logins, including such individual's compliance with the terms herein.

   c. Licensor will maintain the SaaS Subscription at a reputable third party Internet service provider and hosting facility, where it is subject to commercially reasonable security precautions to prevent unauthorized access to the SaaS Subscription. Customer Data and the maintenance of Customer Data and such procedures shall comply with industry standards for the type of information maintained. However, Customer acknowledges that, notwithstanding such security precautions, use of or connection to the Internet provides the opportunity for unauthorized third parties to circumvent such precautions and illegally gain access to the SaaS Subscription, and Licensor will not be responsible for such acts.

3. **Restrictions.** Customer shall use the SaaS Subscription solely for Customer's internal business purposes, in compliance with applicable law, and shall not: (i) make the SaaS Subscription or Software available to any unauthorized third party; (ii) send or store infringing, unlawful, defamatory or libelous material; (iii) send or store any Malicious Code; (iv) access the SaaS Subscription by any means other than the Login or otherwise attempt to gain unauthorized access to, or disrupt the integrity or performance of, the SaaS Subscription or the data contained therein; (v) modify, copy or create derivative works based on the SaaS Subscription; (vi) reverse engineer the SaaS Subscription or Software; (vii) access the SaaS Subscription or Software for the purpose of building, selling, marketing or otherwise, a competitive product or service or copying the

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Software or SaaS Subscription' features or user interface; or (viii) remove the copyright, trademark, or any other proprietary rights or notices included within the SaaS Subscription or Software and on and in any Documentation. Customer shall not make any attempt to overwhelm the server resources of the SaaS Subscription or otherwise induce a denial-of-service attack on the SaaS Subscription through some combination of search requests. If Customer engages in activity that is not a legitimate use of the SaaS Subscription, such as security penetration tests, stress tests, spamming activity, or other activity for which the SaaS Subscription is not intended, such use will be considered a material breach of the Agreement and Licensor may shut down Customer's access to the SaaS Subscription until such activity ceases, with such interruption not being counted against the above Service Availability.

4. **Customer Responsibilities.**

   a. Customer agrees to abide by all applicable local, state, national and foreign laws, treaties and regulations in connection with Customer's use of the SaaS Subscription, including those related to data privacy, international communications and the transmission of technical or personal data. Customer shall: (i) notify Licensor immediately of any unauthorized use of any Login or any other known or suspected breach of security; (ii) report to Licensor immediately and use reasonable efforts to stop immediately any copying or distribution of content that is known or suspected by Customer to be infringing or unlawful; and (iii) not impersonate another Licensor customer or provide false identity information to gain access to or use the SaaS Subscription.

   b. Customer shall be responsible for any costs in connection with establishment and maintenance of Internet connectivity to the SaaS Subscription, including, without limitation, telephone communications, Internet service provider costs, computer hardware, fees charged by third parties, insurance, internet access software, or any other costs incurred by Customer in accessing the SaaS Subscription.

5. **Service Availability.** Licensor shall make reasonable efforts to provide production environment service availability of 99.9% measured on a quarterly basis (**"Service Availability"**) not including (i) Customer Error Incidents, (ii) Force Majeure and (iii) Internet Disruptions. In order to enable Licensor to troubleshoot problems as necessary, Licensor uses an administrator account on each Customer environment and may utilize manual testing to confirm such failure. An interruption in the SaaS Subscription shall not be considered a breach of Licensor's obligations hereunder if: (i) Licensor promptly takes all reasonable steps to restore the SaaS Subscription; or (ii) the interruption in SaaS Subscription results from a Customer Error Incident, a Force Majeure, regularly scheduled or emergency maintenance, or due to an Internet Disruption.

6. **Customer Data.**

   a. Licensor does not own any Customer Data. Customer, not Licensor, shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership or right to use all Customer Data, and Licensor shall not be responsible or liable for: (i) damages resulting from Licensor's reliance on such Customer Data and/or (ii) the deletion, correction, destruction, damage, or loss of any Customer Data that result from Customer's actions. Licensor is not responsible for restoring lost Customer Data or damage to Customer's data that results from Customer's actions. Customer hereby grants to Licensor a non- exclusive, fully-paid and royalty-free license to reproduce, distribute, perform, display and otherwise use the Customer Data solely to provide the SaaS Subscription to Customer. Customer represents and warrants that: (i) Customer owns or otherwise has the right to grant the license set forth in this Section 5(a) for the Customer Data, and (ii) the Customer Data does not violate the privacy rights, publicity rights, copyright rights, or other rights of any person or entity. Licensor has the right (but not the obligation) to review any Customer Data and delete any Customer Data that in the sole judgment of Licensor violates the Agreement, is prohibited content, is illegal, violates the rights, harms, or threatens the safety of any User or any other person, or creates liability for Licensor, its suppliers, or any user. Licensor reserves the right (but has no obligation) to investigate and take action in its sole discretion against Customer if Customer violates this provision or any other provision of the Agreement, including without limitation, removing Customer Data from the SaaS Subscription, terminating the Agreement, reporting Customer to law enforcement authorities, and taking legal action against Customer.

   b. Licensor will maintain the Customer Data on server(s) at Licensor's designated site and provide backups to Customer's Data in accordance with Licensor's then-current data backup policies. Licensor will use commercially reasonable efforts to perform restorations to the SaaS Subscription in the event of a service failure. Licensor reserves the right to withhold Customer Data without notice for any breach, including, without limitation, Customer's non-payment.

7. **Payment.**

   a. In addition to any other rights granted to Licensor herein, Licensor reserves the right to suspend Customer's access to the SaaS Subscription, without prior notice, if Customer's account becomes more than thirty (30) days past due. Customer agrees to pay a finance charge equal to the lesser of one and a half percent (1.5%) per month or the maximum rate permitted by law on all past due amounts. Customer shall reimburse Licensor for any of Licensor's reasonable costs of collecting past due amounts. Customer will continue to be charged for committed Users during any period of

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suspension. If Customer or Licensor initiates termination of the Agreement, Customer will be obligated to pay the balance due on Customer's account computed in accordance with the terms set forth herein.

b. Upon execution of this Agreement, Licensor shall invoice Customer, for the first twelve (12) month period of the term set forth in the Order Form, and then yearly, in advance, for each subsequent twelve (12) month period, unless a different billing frequency is explicitly stated in the applicable Order Form. Customer is responsible for paying all license types that give access to Users, which are ordered for the entire Subscription Term, whether or not such User access is actively used. Customer shall pay for all amounts due and owing for the SaaS Subscription, including committed fees for SaaS Subscription for the Subscription Term or any other fee or charge associated with Customer's use of the SaaS Subscription. Customer may only reduce the number of Users or other license types set forth in the Order Form at the end of the Subscription Term set out in the Order Form.

c. Licensor reserves the right to impose a service reinstatement fee in the event Customer is suspended and thereafter request access to the SaaS Subscription.

d. Licensor shall have the right, but not the obligation, to verify the number of Users under the Agreement at the end of each month.

8. **Termination.** Upon termination or expiration of the Subscription Term, Customer may request Customer Data within thirty (30) days of termination and Licensor will make available to Customer an electronic copy of the Customer Data for an additional fee. Subject to applicable law, Licensor will not provide Customer Data unless all amounts due and owing for the SaaS Subscription, including committed SaaS Subscription Fee for each Subscription Term, fees for the Professional Services or any other fee or charge associated with Customer's use of the SaaS Subscription have been paid by Customer. After such 30-day period, Licensor shall have no obligation to maintain or provide any Customer Data and may thereafter, unless legally prohibited, delete all Customer Data in its systems or otherwise in its possession or under its control.

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SOFTWARE LICENSE TERMS EXHIBIT

This exhibit is applicable to all on premise perpetual and/or subscription Software licenses previously and subsequently ordered by Customer and is hereby incorporated into the Agreement.

1. Definitions

a. **"Maintenance Releases"** means Software updates or version releases, including bug fixes, maintenance, support, modifications, additions and enhancements developed after the Effective Date of the applicable Order Form that Licensor generally makes available to its customers as part of Maintenance Services.

b. **"Maintenance Services"** means the maintenance and support services provided to Customer by Licensor according to Licensor's maintenance and support policy for the applicable Software.

c. **"Maintenance Term"** means the term during which Maintenance Services will be provided as set forth in an Order Form or applicable renewal agreement.

2. Software Licenses

a. License Grant. Licensor hereby grants to Customer, subject to the terms and conditions of the Agreement and for the period of time set forth in the applicable Order Form, a personal, limited, non-exclusive, non-transferable, non-assignable license, without right of sublicense, to: (i) install the Software and Service Deliverables on a certain number of servers owned or leased by Customer and maintained for access solely by the Customer; and (ii) permit the Software to be accessed or used according to the License Configuration, solely for Customer's internal business purposes (the **"License"**). Customer may make one copy of the Software solely for archival and back up purposes, provided executable copies of the Software may be used for development and testing purposes only. Unless otherwise set forth on the applicable Order Form, the License is granted solely to the Customer and not to any of its Affiliates. In the event Customer's account becomes more than thirty (30) days past due, Licensor may suspend, without prior notice, (x) the License; and (y) Maintenance Services.

b. Users. Customer shall ensure all Users, including any third-party service providers, shall abide by these Terms and Conditions and Customer shall be responsible for any violation thereof.

c. Restrictions on Use. Customer may not: (i) use, copy, modify, translate, merge or create derivative works of the Software, Service Deliverables or Documentation except as expressly provided in the Agreement; (ii) disable or circumvent any licensing control feature in the Software or Service Deliverables; (iii) reverse-engineer, disassemble, or decompile the Software or Service Deliverables, or otherwise attempt to access or determine its underlying source code, underlying ideas, underlying user interface techniques or algorithms, or permit any such actions; (iv) sell, distribute, lend, sublicense, rent or lease all or any portion of the Software or Service Deliverables; (v) use the Software or Service Deliverables on a service bureau or time-share basis or as an application service provider; (vi) host, virtualize or otherwise provide access to or enable use of the Software or Service Deliverables by any individual(s) not permitted to use the Software pursuant to the Agreement; (vii) disclose the results of any benchmarking of the Software or Service Deliverables (whether or not obtained with Licensor's assistance) to third parties; (viii) use the Software or Service Deliverables to develop or enhance any product that competes, directly or indirectly, in Licensor's determination, with the Software or Service Deliverables; (ix) remove the copyright, trademark, or any other proprietary rights or notices included within the Software or Service Deliverables or on and in the Documentation; (x) use the Software in any way that would infringe any Intellectual Property Right of third parties; or (xi) use the Software or Service Deliverables in a manner that would violate any law applicable to Customer or Licensor.

3. Maintenance and Other Services.

a. During the Maintenance Term, Licensor will provide Customer with Maintenance Services for the Software. If Customer licenses additional software products during the Term, the Customer hereby agrees to renew the Term for any such additional software products. Upon expiration of the Maintenance Term, the corresponding Maintenance Services shall automatically renew for successive one-year periods, unless Customer provides Licensor with at least ninety (90) days' advance written notice prior to the expiration of the then current term that such party desires not to renew. Licensor shall invoice Customer on an annual basis in advance for each annual renewal period. Fees for all annual renewal periods will be due within thirty (30) days of receipt of the corresponding invoice or the day prior to the contract renewal date, whichever is sooner and all such payments are non-refundable. Customer may not reduce the number of licenses covered by Maintenance Services. In exceptional cases, Licensor may agree to decommission licenses subject to Customer paying a reduction fee.

b. Customer agrees that Maintenance Services shall be provided only by Licensor, its Affiliates or Third Party Servicers.

c. Licensor's obligation to provide Maintenance Services for Third Party Software is limited to using commercially reasonable efforts to obtain Maintenance Releases from its third party suppliers. In the event Customer cancels

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Maintenance Services at any time prior to the end of the Maintenance Term, Customer agrees to immediately pay the outstanding maintenance fees that Licensor would have received for the entire Maintenance Term. The Parties agree that this payment is to be considered liquidated damages, and not a penalty, and the Parties agree that this amount is a fair and reasonable estimation of Licensor's damages in the event Customer breaches Customer's commitment to the Maintenance Term. Customer agrees that Maintenance Services shall be provided only by Licensor, its Affiliates or approved third-party servicers, whose contracts include (i) confidentiality terms that are substantially similar to the ones contained herein (ii) language that indicates the Software and Deliverables are owned by Licensor; and (iii) a requirement that the third-party servicer use the Software and Service Deliverables only for providing services to the Customer in accordance with the license granted herein.

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PROFESSIONAL SERVICES EXHIBIT

This exhibit contains the terms governing the provision of any Professional Services pursuant to the Agreement and is hereby incorporated into the Agreement. The terms of this exhibit are applicable to any Professional Services purchased by Customer from time to time.

1. Performance of Professional Services.

a. Statements of Work. Each Professional Services project Licensor undertakes on behalf of Customer shall be described in a Statement of Work or Order Form setting forth the agreed upon scope of the Professional Services, Service Deliverables, estimated hours/work effort, billing rates and other pricing information, project schedule (if applicable) and estimated delivery dates. Both Parties shall execute each Statement of Work, all of which shall be deemed incorporated into the Agreement. If there is a conflict between the terms set forth in the Agreement and a Statement of Work, the terms set forth in the applicable Statement of Work will control.

b. Tasks and Service Deliverables.

i. Licensor shall perform the Professional Services and provide the Service Deliverables described in the applicable Statement of Work and any Change Order Forms (as defined below) issued pursuant to the applicable SOW. Licensor and the Customer agree to work together in good faith to mitigate any delay in completion or delivery or in the provision of the Professional Services.

ii. Licensor shall perform the Professional Services with reasonable skill and care.

iii. Licensor shall use reasonable endeavors to meet dates specified in a SOW for the delivery of Professional Services and Service Deliverables. Licensor shall use commercially reasonable efforts to schedule resources upon request from the Customer's representative or their designee.

iv. It is understood and agreed that Licensor's Professional Services may include the provision of advice and recommendations, but adoption of any recommendations are the responsibility of the Customer. Licensor shall be responsible for project management of Licensor's resources and commitments however Customer shall be responsible for overall management of the project.

v. Time and schedule estimates are based on Licensor's experience with other similar change or services requests in the past, and the information available at the time of preparing the estimate. Licensor shall use reasonable endeavors to adhere to any estimate provided, however actual effort may vary and Licensor shall keep Customer notified of effort incurred and planned and progress throughout.

vi. Licensor agrees to advise Customer in writing at the earliest possible time when postponing or canceling scheduled activity. In such instances, no liability shall arise, Customer will pay all fees and expenses associated with Professional Services and Service Deliverables provided, and Licensor and Customer shall collaborate with reasonable commercial diligence to resume or reschedule the cancelled activity.

c. Customer Obligation.

i. The Customer shall deploy appropriately skilled and qualified personnel in the performance of its obligations under all SOWs, and shall provide information, decisions and approvals in a timely manner to facilitate the agreed delivery schedule.

ii. The Customer shall make available to Licensor access to all environments as required under a SOW, or as otherwise agreed between the parties.

iii. Licensor and the Customer will work together in good faith to mitigate any delay in completion or delivery or in the provision of the Professional Services resulting, in the reasonable opinion of Licensor, from Customers failure to perform its obligations as described in the applicable SOW.

d. Place of Performance, Expenses and Travel Time.

i. If Licensor's personnel, agents or representatives are required to travel to a location other than one of Licensor's facilities, Customer will pay or reimburse Licensor in accordance with the payment terms set forth in the Statement of Work (or Licensor's standard terms if none are specified in the Statement of Work) for all reasonable and actual travel expenses including airfare, ground transportation, lodging and meals for personnel required to travel. Licensor will adhere to its corporate travel policies and provide a copy, if requested by Customer, unless otherwise agreed in writing prior to undertaking a project. Professional Services to be provided on-site at Customer's facilities will be scheduled in advance by written agreement of both parties. Both parties will use reasonable efforts to accommodate any requestedchange in the scheduled dates for on-site services, subject to the availability of appropriate personnel. At Customer's request, Licensor will provide receipts or other reasonably satisfactory evidence of such expenses.

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ii. If Licensor charges Travel Time the rate and conditions shall be agreed by Licensor and Customer in advance and set out in the applicable Statement of Work. Travel time is defined as follows: (i) consultant's roundtrip travel time from consultant's location to the Customer site; and (ii) consultant's travel time between Customer's sites and/or any other Customer designated locations.

2. **Payment Terms.** Unless otherwise stated in the Statement of Work, Licensor will invoice Customer for the fees on a time and materials basis at the billing rates set forth in the Statements of Work for work performed. Invoices will include a summary of all time expended by Licensor for the work performed. Customer shall pay Licensor the fees within thirty (30) days from the date of invoice.

3. **Acceptance.** Where Service Deliverables are provided as a result of Customization Services then unless otherwise specified in the SOW, the following shall apply:

   a. Following receipt of each Service Deliverable, Customer will have thirty (30) days to perform acceptance testing of that particular Service Deliverable.

   b. If the particular Service Deliverable does not embody the mutually agreed characteristics set forth in the applicable SOW, Customer may reject such Service Deliverable by giving Licensor written notice rejecting the particular Service Deliverable, and the reasons therefore, within the thirty (30) day testing period. If Customer does not give Licensor written notice rejecting the particular Service Deliverable within the thirty (30) day testing period, such Service Deliverable shall conclusively be deemed accepted.

   c. If Customer gives Licensor written notice rejecting the particular Service Deliverable within the thirty (30) day testing period, then within thirty (30) days after receipt of Customer's notice Licensor will make any reasonable corrections or changes and resubmit the Service Deliverable to Customer for further acceptance testing.

   d. Upon Customer's receipt of the revised Service Deliverable, the procedure outlined in subparagraphs 3.a., 3.b. and 3.c., above will be repeated until the Service Deliverable is accepted. The table below defines the severity levels which shall be allocated to any issues raised relating to the Service Deliverable. The severity of the issue will be reviewed and finally determined by Licensor and in some cases the Customer may be asked to provide a brief description of the impact and rationale for 'urgent' and 'critical' severity levels. The severity level may change during the life of an issue. For instance, severity may be reduced with a viable workaround or the inability to recreate the problem. Severity may also be upgraded based on increased frequency of the issue or project deadlines. An acceptance shall occur if there are no open items with a severity level of 'critical' or 'urgent.'

      Severity Definition

      1. Critical: The entire system or functional component is inoperable and cannot be used until the error is resolved.
      2. Urgent: A serious error in a business critical function where no viable workaround is available.
      3. Standard: An error that does not stop the user progressing or a viable workaround is possible.
      4. Low: Errors that cause no loss of functionality, or which may be considered cosmetic or annoying in nature.
      5. Enhancement: Feature is operating to the agreed specification/requirement however its method of operation may be altered in order to deliver more business benefits.

   e. Customer will cooperate with Licensor to isolate, identify and resolve any problems in the Service Deliverables.

   f. Customer understands and agrees that Licensor makes no representations or warranties that the Service Deliverables provided as a result of Customization Services will be compatible with all future releases of the Software. Customer may be required to purchase additional Professional Services hours at an agreed to price to resolve any compatibility issues.

4. **Change Procedure.** Project costs and durations set forth in a Statement of Work are based on the scope, requirements and assumptions as defined in such Statement of Work. Variance in the scope, requirements or assumptions will have an impact on the project's time and cost. Licensor utilizes a formal change control procedure to respond to and manage the changes that may occur throughout the duration of a project. The purpose of this procedure is not to inhibit or prevent change, but rather to facilitate change in an orderly manner. Licensor's change control procedure is summarized below:

   a. Either Customer or Licensor may initiate a change order.

   b. Customer will work with Licensor to document all requested changes in Licensor's standard change request form (**"Change Order Form"**). This documentation will include a description of the change, reason for the change, areas affected, estimated hours, costs and completion date. Licensor will then submit each Change Order Form to

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Customer for review and approval before any work is started on the change. Licensor will, likewise, review and approve the changes before any work is started.

c. In the event that the Parties disagree about the proposed changes, each Party shall, within forty-eight (48) hours from the report of the issue, identify a Senior Management Officer who has decision making authority for each of the respective Parties. The Senior Management Officers will discuss and arrive at a mutually acceptable decision. The results of the meeting will be documented and filed with the project library and any milestone dates and costs will be adjusted accordingly.

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EQUIPMENT EXHIBIT

This exhibit contains the terms governing Customer's purchase of any Equipment pursuant to the Agreement and is hereby incorporated into the Agreement. The terms of this exhibit are applicable to any Equipment purchased by Customer from time to time.

A. Definitions

"**Equipment**" means those items of third-party hardware, equipment, or accessories specified on an applicable Order Form to be purchased by Customer and sold by Licensor. The purchase price for the Equipment shall be as set forth on the applicable Order Form.

"**Equipment Maintenance**" means the equipment maintenance service provided to Customer by Licensor under the Agreement and according to Licensor's maintenance and support policy for the applicable Equipment.

"**Maintained Equipment**" means all those items of hardware and equipment that will be maintained by Licensor in accordance with the Agreement.

B. Provision of Equipment

1. The additional terms and conditions set forth in this Exhibit shall apply to any Equipment and Equipment Maintenance provided to Customer under the Agreement. If there is a conflict between the terms set forth in the Agreement and this Exhibit, the terms set forth in this Exhibit will control. All capitalized terms used herein, and not otherwise defined herein, shall have their respective defined meanings as set forth in the Agreement.
2. Licensor will use commercially reasonable efforts to meet the delivery dates agreed upon but shall not be liable for late or delayed shipment. Late or delayed shipment shall not be a basis for Customer's cancellation of any order. Equipment will be delivered "ex works". If at the time of delivery Licensor wishes to substitute equipment equivalent to the type specified on the Order Form, then Licensor may do so provided that the price will not be increased and that the substitution does not prejudice the Customer.
3. Customer shall test all Equipment within five (5) business days of receipt. Equipment shall be deemed accepted after the five (5) days testing period unless Customer notifies Licensor in writing prior to the expiration of such testing period that such Equipment is not functioning properly.
4. If any of the Equipment is incorrect, nonconforming or damaged, Customer must notify Licensor in writing within ten (10) business days of Customer's receipt of such Equipment.
5. For defects in Equipment notified to Licensor in writing by Customer within ten (10) days of Customer receiving such Equipment, Licensor will handle warranty repairs or returns pursuant to its internal policies and the applicable terms and conditions and policies of the third party supplier. All packaging, user manuals, and accessories must be retained for at least ten (10) days in their original condition should a warranty repair or return, as described herein, be necessary. No maintenance services are provided for Equipment unless expressly stated in an Order Form.
6. All Equipment is provided pursuant to the third party supplier's terms and conditions for such products which accompany the Equipment or are otherwise published by the third party supplier. Customer agrees to use the Equipment in accordance with such applicable third party supplier's terms and conditions and acknowledges and agrees that any warranties applying to the Equipment, if any, are made solely by the third party supplier and are limited to those offered by the applicable third party supplier terms and conditions which governs the use by Customer of the applicable Equipment and accordingly the Licensor is not liable for the Equipment beyond the terms set out in this Exhibit.
7. THIS EXHIBIT STATES CUSTOMER'S SOLE REMEDY AND THE SOLE LIABILITY OF LICENSOR ARISING OUT OF ANY DEFECT IN THE EQUIPMENT SUPPLIED HEREUNDER.
8. Where the title in Equipment is sold to the Customer as indicated in the third party supplier's terms and conditions or in the Order Form, any delivery of Equipment is made under retention of ownership. The retention of ownership shall remain applicable until full payment has been made of the total price with interest, costs and any expenses regarding the delivery. The Customer is not entitled to change, pledge, rent, lend or otherwise dispose of the delivery until the termination of the retention of ownership without the Licensor's prior written consent.
9. Where Equipment is licensed to Customer, Customer is authorized to use such Equipment for the License term set forth in the Order Form, or other agreement between the Parties, subject to any renewals in accordance with the provisions of section 9(a) of the Agreement. At the end of the License term, Customer shall return the Equipment at its own cost in a good condition.

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10. Upon termination of the Agreement, all licenses granted herein shall automatically cease and Customer shall discontinue all use of licensed Equipment, and return any copies of licensed Equipment in Customer's possession or control at its own cost and in a good condition in accordance with the third party supplier terms and conditions or Licensor's instructions. If Customer fails to return the licensed Equipment in good condition within 14 days of Licensor's request, Customer agrees to pay for the cost of replacement or repair of such licensed Equipment upon receipt of invoice. Upon Licensor's request, Customer shall deliver to Licensor a certificate executed by an authorized officer of the Customer stating that Customer has returned all such copies of the licensed Equipment.

B. Equipment Maintenance

1. During the Maintenance Term, Licensor will provide Customer with Equipment Maintenance for the Maintained Equipment. Upon expiration of the Maintenance Term, the corresponding Equipment Maintenance shall automatically renew for successive one-year periods, unless Customer provides Licensor with at least ninety (90) days' advance written notice prior to the expiration of the then current term that such party desires not to renew. Licensor shall invoice Customer on an annual basis in advance for each annual renewal period. Fees for all annual renewal periods will be due within thirty (30) days of receipt of the corresponding invoice or the day prior to the contract renewal date, whichever is sooner and all such payments are non-refundable.

2. In the event Customer cancels Equipment Maintenance at any time prior to the end of the Maintenance Term, Customer agrees to immediately pay the outstanding maintenance fees that Licensor would have received for the entire Maintenance Term. The Parties agree that this payment is to be considered liquidated damages, and not a penalty, and the Parties agree that this amount is a fair and reasonable estimation of Licensor's damages in the event Customer breaches Customer's commitment to the Maintenance Term. Customer agrees that Equipment Maintenance shall be provided only by Licensor, its Affiliates or approved third-party servicers, whose contracts include (i) confidentiality terms that are substantially similar to the ones contained herein and (ii) a requirement that the third-party servicer use the Maintained Equipment only for providing services to the Customer in accordance with the Agreement.

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RENEWAL TERMS EXHIBIT

This exhibit contains renewal terms for Hosting, License, SaaS Subscription and/or Maintenance, as applicable (the "Renewable Products") and is applicable to all Renewable Products previously and subsequently ordered by Customer and is hereby incorporated into the Agreement.

1. Customer commits to the Renewable Products term as listed in the "Long Term Subscription" or "Term Maintenance" box(es) on the applicable Order Form for the entire number of years stated (the "Commitment Period").
2. Customer understands that, if a Software product is not listed in the Order Form, then any such non-listed Software product is neither subject to nor included in the amounts listed in the pricing, and additional fees shall apply for any such non-listed software. Customer may not reduce the number of licenses covered. In exceptional cases, Licensor may agree to decommission subject to Customer paying a reduction fee.
3. If Customer licenses additional Software products during the Commitment Period, the Customer hereby agrees to renew the Renewable Products term for any such additional Software products.
4. The parties agree that the discounted fees specified in the "Long Term Subscription" or "Term Maintenance" box(es) are offered by Licensor solely in reliance upon Customer's commitment to the Renewable Products term for the Commitment Period. In the event Customer cancels the Renewable Products at any time prior to the end of the Commitment Period, Customer agrees to immediately pay the outstanding annual fees that Licensor would have received for the Commitment Period, less any amounts previously paid by the Customer under the applicable Order Form. The parties agree that such payment is to be considered liquidated damages, and not a penalty, and the parties agree that such amount is a fair and reasonable estimation of Licensor's damages in the event Customer breaches Customer's obligation to commit to the Renewable Products until the end of the Commitment Period.
5. Upon expiration of the Commitment Period set forth in the Order Form, the corresponding Renewable Products shall automatically renew for successive one-year renewal periods, unless Customer provides Licensor with at least ninety (90) days' advance written notice prior to the expiration of the Commitment Period or any renewal period that Customer desires not to renew. Licensor shall invoice Customer on an annual basis, in advance, for each annual renewal period. Fees for all annual renewal periods will be due within thirty (30) days of receipt of the corresponding invoice or the day prior to the contract renewal date, whichever is sooner, and all such payments are non-refundable.

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GenomeQuest Exhibit

The additional terms and conditions set forth in this Exhibit shall apply to any GenomeQuest SaaS Subscription by Customer under the Agreement.

1. **Additional Definitions**.
   a. "**Database Content**" means the databases of text, sequence records and related information exported or downloaded from the SaaS Subscription.
   b. "**Exports**" means the result sets, databases, sequence records or related information exported or downloaded from the SaaS Subscription.
   c. "**Formatted Reports**" means tangible or electronic documents, including Word, Excel, Plain Text, or PDF files, in a static format that contain the results of queries made in Database Content during the Subscription Term.
   d. "**IP Nucleotide Databases**" means the GQ-Pat Sapphire Nucleotide, GQ-Pat GoldPlus Nucleotide, GQ-Pat Platinum Nucleotide and Geneseq Nucleotide databases.
   e. "**IP Protein Databases**" means the GQ-Pat Sapphire Protein, GQ-Pat GoldPlus Protein, GQ-Pat Platinum Protein and Geneseq Protein databases.
   f. "**Sequence Search**" shall mean the count of each sequence successfully searched against (i) all or a subset of the IP Nucleotide Databases or (ii) all or a subset of the IP Protein Databases, including redo searches and search alerts.
   g. "**SaaS Subscription**" shall include Database Content.
2. **License Types**.
   a. Customer's access to the SaaS Subscription is limited to the number and type(s) of users, databases, transactions, operations or other license types specified in the Order Form and shall be used in accordance with the applicable terms for each license type set forth in this Section 2.
   b. Commercial Providers – authorizes Customer and Affiliates to access and use the Service for their own internal business operations.
   c. Authorized Services Provider – authorizes Customer to access and use the SaaS Subscription on behalf of specific clients for internal business operations of such specific clients.
3. **Additional Terms; Restrictions**.
   a. The content of Formatted Reports may not be edited or aggregated for searching or analysis, nor may it be stored in formats commonly used for such purposes including, without limitation, XML, EMBL, SQL, and databases produced by Licensor's systems.
   b. For the purpose of clarity, search results containing any Database Content from the SaaS Subscription is *not* considered Customer Data.
   c. All right, title and interest, including all Intellectual Property Rights in and to the Database Content and search results provided under the SaaS Subscription are owned by Licensor or its suppliers, as applicable.
   d. Export and report generation of Database Content records for edit, storage and retrieval in Customer and/or third party applications and/or database systems

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(collectively, the "**Content Exports**") is not allowed unless expressly permitted by the applicable Order Form. If Content Exports are permitted by an Order Form, Customer may distribute those Content Exports provided the Content Exports are only distributed to or made accessible by the Users. Notwithstanding the foregoing, during the Subscription Term, Formatted Reports that contain less than 5,000 records of processed licensed Database Content may, however, be used, and, in this case edited, by employees, contractors, agents and/or collaborators of Customer and/or employees of Affiliates authorized by Customer to use such Formatted Reports who are not Users.

e. Only successful searches are counted; failed or cancelled searches are not counted.

4. **Acknowledgements by Customer**.

Customer acknowledges and agrees that (a) Licensor does not warrant in any way the contents, topicality and accuracy of information, output, timeliness and results obtained by the use of the SaaS Subscription; (b) the SaaS Subscription is inherently complex and Customer possesses the requisite technical expertise to evaluate any information, output and results obtained from the use of the SaaS Subscription and the assumptions underlying the same; (c) Customer shall bear sole responsibility for the selection of the SaaS Subscription and for determining that the SaaS Subscription is appropriate for use in connection with the operation of Customer's business; and (d) the SaaS Subscription is designed to be used solely for research purposes and may not be used in connection with the diagnosis or treatment of diseases or other conditions.

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Respond Exhibit

The additional terms and conditions set forth in this Exhibit shall apply to any Respond Software licensed by Customer under the Agreement. If there is a conflict between the terms set forth in the Agreement and this Exhibit, the terms set forth in this Exhibit will control.

Customer acknowledges and agrees as follows:

1. **Additional Definitions.**

   a. An **"Application Programming Interface"** or **"API"** is a set of commands, functions, protocols, and objects that programmers can use to create software or interact with an external system.

   b. **"API Request"** means, in the context of the Respond software, a request that is sent to an API for the purpose of either (i) sending data originating from the Respond software to an external system ("Server API") or (ii) sending data originating from an external system to the Respond software ("Web Services API").

   c. **"Aptean's Respond SaaS Policies"** means, collectively, the security policies and procedures implemented for Respond SaaS within the Amazon Web Services environment and the Respond SaaS disaster recovery process. as amended from time to time, and published on the following URLs:

      Security page: http://apteanrespond.com/respondsaas/SaaS-Security-057/Respond-SaaS-Security-latest.php

      Disaster Recovery page: http://apteanrespond.com/respondsaas/SaaS-Security-057/Respond-SaaS-DR-latest.php

      Username and Password available on request.

   d. **"Case"** means each case record created by a User in the Respond Software (containing one or more issues) and that is identified by a unique reference number.

   e. A **"Case License" or "Per Case License"** means a license that entitles Customer to use the Respond Software for which the license is granted including Case Agent, Advanced Case Agent, Case Handler, Team Leader/Advanced Case Handler, Super User, Administrator (for both named and concurrent use) without limitation as to the number of Users, but on a per Case basis, and its use for processing Cases is restricted to a defined maximum number of Cases per annum. For clarity, once the licensed maximum number of Cases has been reached in any annual period, Customer shall be obliged to purchase a license for any additional Cases in excess of that maximum. Customer may not carry forward any unused Cases from one annual period to the next. Customer is not entitled to any refund for any unused Cases.

2. **Data Storage Limits for the Service.**

   a. The maximum limit of active data storage for the Service is defined in the Order Form. This storage limit is calculated from storage requirements for active database files or customer stored static content (for example case attachments). Storage limits are not impacted by Licensor's disaster recovery or high availability solutions (such as database backups, file backups or volume snapshots). Data will be retained for 3 months for recovery purposes. Non-standard data retention requests may count towards storage limits.

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b. If the Customer exceeds the storage limit defined in the Order Form, Customer shall purchase additional storage at Licensor's then-current prevailing rates subject to a minimum order of 5GB. As at the date of signing this Agreement the current prevailing rate is GBP 48.00 for EMEA, USD 60.00 for North America per 5GB per year or AUD 86.67 for Australia per 5GB per year.

c. Licensor will maintain the Customer Data on server(s) at Licensor's designated site and provide backups to Customer's Data in accordance with Licensor's SaaS Policies.

3. **Changes to Users/Cases**

4. At any time, Customer may add Cases/Users via an executed amendment between the Parties, subject to the provisions of the Agreement. Added Cases/Users will be subject to the following: added committed Cases/Users will be coterminous with the preexisting Subscription Term (either Initial Subscription Term or renewal term). Any such additional Cases/Users will be charged an additional fee. Customer will pay for any increase in Cases/Users at the time of execution of the amendment setting forth the additional Cases/Users. Customer may only reduce the number of Cases/Users set forth in the Order Form attached to this Agreement, plus any additional Cases/Users purchased via an amendment to this Agreement, as applicable, at the end of each Subscription Term via an executed amendment between the Parties. All pricing terms are confidential, and Customer agrees not to disclose them to any third party. Licensor's fees are exclusive of all taxes, levies, or duties imposed by taxing authorities, and Customer shall be responsible for payment of all such taxes, levies, or duties, excluding only taxes based solely on Licensor's income. At Licensor's request, Customer shall furnish Licensor proof of payment of such taxes. Fees are not subject to set-off or reduction by Customer without Licensor's prior written consent.

5. **Service Reinstatement.**

Licensor reserves the right to impose a service reinstatement fee at its then current rates in force from time to time in the event Customer is suspended and thereafter request access to the Service. As at the Effective Date of this Agreement the service reinstatement fee is GBP 1,500.00 for EMEA, USD 2,000.00 for North America and AUD 2,750.00 for Australia.

6. **Customer Data on Termination.**

Customer may request Customer Data within thirty (30) days of termination and Licensor will make available to Customer an electronic copy of the Customer Data for an additional fee calculated at its then current rates in force from time to time. Licensor's rates at the Effective Date of this Agreement for providing the Customer Data in Licensor's standard format is the greater of (i) GBP 1,250.00 for EMEA, USD 1,750.00 for North America and AUD 2,350.00 for Australia and (ii) GBP 0.01 per Case for EMEA,USD 0.02 per Case for North America and AUD 0.03 per Case for Australia.

7. **IP Restriction.**

IP Restriction is an additional security feature which can be purchased by Customer for limiting access to the Customer's Respond website only to trusted IP address(es). IP Restriction prevents access to the Customer's Respond website from IP address(es) other than those which are designated as trusted. Trusted IP addresses consist of the following: (i) Licensor's own IP addresses, for maintenance purposes (ii) Licensor's trusted technology partner IP addresses, for delivery of the Respond SaaS service; and (iii) any trusted IP address(es) or IP range(s) provided by Customer. Customer acknowledges that it is required to submit to Licensor Customer's trusted

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IP address(es) or IP range(s) in order to activate this security feature and no IP addresses will be restricted unless and until Customer provides Licensor with such trusted IP address(es) or IP range(s).

8. APIs

a. The following terms and conditions govern the extent to which Customer may run API Requests in relation to the Service.

b. Licensor will not limit the number of API Requests unless Licensor deem there to be misuse of the APIs, pursuant to Section 8.c.

c. Customer may not use APIs to (a) modify, copy or create derivative works based on the Subscription Services, (b) access the Subscription Services or Software for the purpose of building, selling, marketing or otherwise, a competitive product or service or copying the Software or Subscription Services' features or user interface, or (c) in any way which would cause a detrimental impact to the SaaS platform

d. If Customer breaches any of the restrictions set out at Section 8.c., such use will be considered a material breach of the Agreement and Licensor may take one of the following actions:

   i. Ask Customer to stop running any further API requests;

   ii. Request that Customer remedy the breach caused by Customer's misuse within a certain timeframe as advised by Licensor in writing, or

   iii. shut down Customer's access to the Subscription Services until such activity ceases, with such interruption not being counted against the above Service Availability.

e. Limitations

   - Server API integrations must be developed and delivered to Customer exclusively by Licensor Professional Services pursuant to a Statement of Work
   - API Requests must be scheduled between 23:00 and 06:00 local to the time zone the Customer is hosted in.

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APTEAN EDI TERMS OF SERVICE

These Aptean EDI Terms of Service (the "**EDI Terms of Service**") apply to Customer's access to and use of the EDI services provided by Licensor (the "**EDI Services**").

1. Definitions

a. "**Raw Data**" means the complete record of Transactions between the Parties.

b. "**EDI**" means Electronic Data Interchange, the electronic transmission of data structured through Transactions.

c. "**Transaction**" means data transmitted electronically between the Parties.

2. The Services – How it Works

The EDI Services provide the ability to transmit Transactions into and from specific software applications between Customer and its trading partners.

a. Setup.

Project setup may include network setup, trading partner setup, forms/surveys completion, general test compliance issues and EDI document mapping for Customer's specific needs.

b. Trading Partners.

Licensor is not a party to any contract between Licensor and its Trading Partner(s) and Customer is solely responsible for any terms of its relationship with any Trading Partner. Licensor will not have any liability for nonpayment by a Trading Partner. Customer is solely responsible for all customer service issues relating to its goods or services, including pricing, order fulfillment, order cancellation by Customer or its Trading Partner, returns, refunds and adjustments, rebates, functionality and warranty, technical support and feedback concerning experiences with Customer personnel, policies or processes. Customer is solely responsible for managing and deleting any Trading Partner data to comply with applicable data protection laws. In performing customer service, Customer shall present itself as a separate entity from Licensor. All Trading Partners must be pre-approved by Licensor.

3. Restrictions

Customer agrees to not duplicate, sell, disable, reverse-engineer, alter, distribute, sublicense, lease, exploit, copy, or reproduce the EDI Services or any software associated with the EDI Services without Licensor's written permission. Customer shall use the EDI Services solely for its internal business purposes in compliance with applicable law, and shall not use the Service to:

impersonate any person or entity or falsely claiming an affiliation with any person or entity;

collect, or attempt to collect, personal information about users or third parties without their consent, or using such information except as necessary to use the EDI Services;

transmit, or distribute content that is false, misleading, unlawful, obscene, indecent, lewd, pornographic, hateful, abusive, inflammatory, or that violates the rights of others (including rights of publicity or privacy);

use the EDI Services to develop or enhance any product that competes, directly or indirectly with the EDI Services; or

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interfere with another user's enjoyment of the EDI Services, by any means, including by uploading or otherwise disseminating viruses, adware, spyware, worms or other malicious code.

If Licensor reasonably suspects Customer is using the EDI Services for an unauthorized, illegal, or criminal purpose, Customer grants Licensor express authorization to share information about Customer, its access to the EDI Services, and any of its transactions or Transactions with law enforcement.

4. Customer's Responsibilities

a. Resources.

Customer shall allocate an individual to act as a contact for anything related to the EDI Services.

b. Updating Contact Information.

It is Customer's responsibility to keep its primary email and street address up to date. Customer understands and agrees that if Licensor sends Customer a communication that is not received because Customer's primary email or street address on file is incorrect, out of date, blocked by Customer's service provider, or Customer is otherwise unable to receive electronic communications, Licensor will be deemed to have provided the Communication to Customer. If Customer uses a spam filter that blocks or re-routes emails from senders not listed in its email address book, Customer must add Licensor to its email address book so that it will be able to receive the communications.

If any email address becomes invalid such that electronic communications sent to Customer by Licensor are returned, Licensor may suspend the EDI Services until its receive a valid, functioning primary email address.

c. Transactions.

i. Customer is responsible for:

ii. any content in its Transactions;

iii. compliance of its Transactions to all applicable laws or regulations;

iv. managing its Transactions to comply with applicable data protection laws; and

v. undertaking all necessary measures to ensure the security, confidentiality and integrity of its Transactions.

If Licensor determines, in its sole discretion, that any content in Customer's Transactions violates any provision of this Agreement, Licensor, at its option, suspend, or terminate this Agreement and the EDI Services.

5. Payment Terms

Customer will be invoices on all EDI Services provided. Unless otherwise specified in the Order Form, fees will be calculated according to the Licensor EDI Pricing found in Schedule 1. All prices are exclusive of taxes. Licensor reserves the right to increase the fees or update the fee structure found in Schedule 1 at any time.

6. Termination

Customer may terminate the EDI Services by providing us 90 days' written notice. Upon termination of the EDI Services, any pending Transactions or transactions will be cancelled.

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7. Our Right to Terminate

Licensor may terminate the EDI Services for any reason or no reason at any time without notice to you. Licensor may also suspend the EDI Services if Customer (a) has violated the terms of this Agreement, (b) provided any false, incomplete, inaccurate, or misleading information or otherwise engage in fraudulent or illegal conduct; or (c) are more than thirty (30) days delinquent in payments.

8. Effect of Termination

Upon termination of the EDI Services, Customer agrees: (a) all licenses granted in Exhibit shall automatically end; (b) it will no longer have access to any Raw Data; (c) to immediately stop using the EDI Services, (d) that Licensor has the right to delete all of Customer's information and Transactions in accordance with its record-keeping policies and applicable law, and (e) that Licensor shall not be liable to Customer or any third party for any of the foregoing actions. Licensor will not be liable to Customer for compensation, reimbursement, or damages in connection with any termination or suspension of EDI Services.

Upon termination of the EDI Services, Customer may request a copy of the Raw Data within thirty (30) days of termination, and Licensor will make available an electronic copy of the Raw Data for an additional fee. Subject to applicable law, Licensor will not provide the Raw Data unless all amounts due and owing for the EDI Services have been paid. After such 30-day period, Licensor will have no obligation to maintain or provide any Raw Data and may, unless legally prohibited, delete all Raw Data in its systems or otherwise in its possession or under its control. This Section 8 will survive termination of this Agreement.

9. Licensor's Intellectual Property Rights

All right, title and interest in and to the EDI Services are owned by Licensor. Licensor grants Customer a personal, limited, non-exclusive, revocable, non-transferable license, without the right to sublicense, to access and use the EDI Services solely for Customer's internal business purposes, subject to any restrictions set forth in this Agreement.

10. Customer's Intellectual Property Rights

Customer retains sole ownership over its Transactions. Customer grants Licensor a personal, limited, non-exclusive, revocable, non-transferable license, without the right to sublicense, to the Transactions solely for us to provide the EDI Services.

11. Privacy

By accepting and these EDI Terms of Service, Customer confirms it have read, understood and accepted Licensor's Privacy Policy: https://www.aptean.com/policy/privacy-policy.

12. Security

Licensor implemented technical and organizational measures designed to secure Customer's personal information and Data from accidental loss and from unauthorized access, use, alteration or disclosure. However, Licensor cannot guarantee that unauthorized third parties will never be able to defeat those measures or use Customer's personal information for improper purposes.

If Customer discovers a security-related issue, including any unauthorized use of its access credentials or Account, it will inform Licensor immediately by contacting the Licensor Security Team at security@aptean.com and snehalkumar.kamble@aptean.com. Customer agrees not to disclose the issue until Licensor has addressed it unless otherwise required by law.

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SCHEDULE 1

Licensor EDI Pricing – USD

Monthly Trading Partner Subscription

Trading Partner	$65 USD per trading partner

Monthly Transaction Fees (All pricing in USD)

Retailer/Supplier/Freight Carrier EDI Transaction Fees

Number of Transactions	1-100	250	500	1000	2000	3000	5000	>5000
Cost per Document	$1.00	$0.75	$0.50	$0.30	$0.15	$0.075	$0.05	$0.04
Cost per Line Item	$0.10	$0.075	$0.05	$0.03	$0.015	$0.01	$0.01	$0.01

Monthly transaction fees are based on the transactions you send and receive from your trading partners within a specific month. The Functional Acknowledgement (997) is not considered a document for billing purposes.

Monthly Service Charges are calculated as follows:

1. Document charges are calculated at each tier level. The first 100 documents transacted through our service will be charged $100 (100*$1.00), for the next 150 documents the charge will be $112.50 (150*$.75) and continue until you reach the total # of documents transacted for the month. For example, if you transacted 500 documents per month the document charge will be $337.50.
2. Line item charges are calculated based on the average lines per document at each tier level. We take the total line items transacted for the month and divide by the total # of documents per month to get the average lines per document, then calculate line item costs at each tier level. For example, in transacting 500 documents you sent 2500 line items thereby averaging 5 lines/doc. The first 100 documents will be charged $50 (100*5 lines/doc*$.10), the next 150 documents will be charged $56.25 (150*5 lines/doc*$.075), and continue until we reach the total # of documents. In this example the line item charge will be $168.75.
    a. High transaction EDI document line charges are calculated at a lower rate. High transaction documents include the 832, 846, 852, 940, 943, 944, and 945. These documents will have the Cost per Line Item calculated at a ratio of 10:1. Meaning, every 10 line items will only count as 1 line item for billing purposes for these specific document types. For example, a 940 document with 100 lines would count as 10 lines for billing purposes. When calculating the average lines per document, 10 lines would be used in the average calculation instead off 100 lines.
3. The total monthly service charge is calculated by combining the document charge and the line item charge. In the example, your bill would reflect an EDI charge of $506.25.

No Additional Fees: No connector fees, no map setup fees, no VAN fees

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Licensor EDI Pricing – CAD

Monthly Trading Partner Subscription

Trading Partner	$90 CAD per trading partner

Monthly Transaction Fees (All pricing in CAD)

Retailer/Supplier/Freight Carrier EDI Transaction Fees

Number of Transactions	1-100	250	500	1000	2000	3000	5000	>5000
Cost per Document	$1.30	$1.00	$0.65	$0.40	$0.20	$0.10	$0.07	$0.05
Cost per Line Item	$0.13	$0.10	$0.07	$0.04	$0.02	$0.01	$0.01	$0.01

Monthly transaction fees are based on the transactions you send and receive from your trading partners within a specific month. The Functional Acknowledgement (997) is not considered a document for billing purposes.

Monthly Service Charges are calculated as follows:

1. Document charges are calculated at each tier level. The first 100 documents transacted through our service will be charged $130 (100*$1.30), for the next 150 documents the charge will be $150 (150*$1.00) and continue until you reach the total # of documents transacted for the month. For example, if you transacted 500 documents per month the document charge will be $442.50.
2. Line item charges are calculated based on the average lines per document at each tier level. We take the total line items transacted for the month and divide by the total # of documents per month to get the average lines per document, then calculate line item costs at each tier level. For example, in transacting 500 documents you sent 2500 line items thereby averaging 5 lines/doc. The first 100 documents will be charged $65 (100*5 lines/doc*$.13), the next 150 documents will be charged $75 (150*5 lines/doc*$.10), and continue until we reach the total # of documents. In this example the line item charge will be $227.5.
    a. High transaction EDI document line charges are calculated at a lower rate. High transaction documents include the 832, 846, 852, 940, 943, 944, and 945. These documents will have the Cost per Line Item calculated at a ratio of 10:1. Meaning, every 10 line items will only count as 1 line item for billing purposes for these specific document types. For example, a 940 document with 100 lines would count as 10 lines for billing purposes. When calculating the average lines per document, 10 lines would be used in the average calculation instead off 100 lines.
3. The total monthly service charge is calculated by combining the document charge and the line item charge. In the example, your bill would reflect an EDI charge of $670.

No Additional Fees: No connector fees, no map setup fees, no VAN fees.

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APTEAN SHIP TERMS OF SERVICE

These Aptean Ship Terms of Service apply to Customer's access to and use of the Aptean Ship Services provided by Licensor pursuant to the Agreement.

1. The Services - How It Works

Licensor, as part of the Service, provides a domestic and international multi-carrier shipping system that features turnkey interfaces to gain efficiencies in shipping, accounts receivable, and customer service for consolidator, parcel, and LTL shipments. The Aptean Ship Services can be accessed once registration for a provider account is complete.

2. Restrictions

Customer may not duplicate, sell, disable, reverse-engineer, alter, distribute, sublicense, lease, exploit, copy, or reproduce the Aptean Ship Services or any software associated therewith without Licensor's written permission. Customer shall use the Aptean Ship Services solely for its internal business purposes in compliance with applicable law, and shall not use the Aptean Ship Service to:

a. impersonate any person or entity or falsely claiming an affiliation with any person or entity;

b. collect, or attempt to collect, personal information about users or third parties without their consent, or using such information except as necessary to use the Aptean Ship Services;

c. transmit, or distribute content that is false, misleading, unlawful, obscene, indecent, lewd, pornographic, hateful, abusive, inflammatory, or that violates the rights of others (including rights of publicity or privacy);

d. use the Aptean Ship Services to develop or enhance any product that competes, directly or indirectly with the Aptean Ship Services; or

e. interfere with another user's enjoyment of the Aptean Ship Services, by any means, including by uploading or otherwise disseminating viruses, adware, spyware, worms or other malicious code.

In addition, if Licensor reasonably suspects that Customer is using the Aptean Ship Services for an unauthorized, illegal, or criminal purpose, Licensor may share information about Customer, its access to the Aptean Ship Services, and any of its transactions with law enforcement.

3. Customer's Responsibilities

a. Resources

Licensor shall allocate an individual to act as a contact for anything related to the Aptean Ship Services.

b. Updating Contact Information

It is Customer's responsibility to keep its primary email and street address up to date. Customer understands and agrees that if Licensor sends Customer a communication that is not received because Customer's primary email or street address on file is incorrect, out of date, blocked by Customer's service provider, or Customer is otherwise unable to receive electronic communications, Licensor will be deemed to have provided the Communication to Customer. If Customer uses a spam filter that blocks or re-routes emails from senders not listed in its email address book, Customer must add Licensor to its email address book so that it will be able to receive the communications.

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If any email address becomes invalid such that electronic communications sent to Customer by Licensor are returned, Licensor may suspend the Aptean Ship Services until its receive a valid, functioning primary email address.

c. Customer's Transactions

Customer is responsible for:

i. any content in its transactions;
ii. compliance of all transactions with all applicable laws or regulations;
iii. managing itsransactions to comply with applicable data protection laws; and
iv. undertaking all necessary measures to ensure the security, confidentiality and integrity of its transactions.

If Licensor determines, in its sole discretion, that any content in Customer's transactions violates any provision of the Agreement, it may, at its option, suspend or terminate the Aptean Ship Services.

4. Payment Terms

Licensor will invoice Customer for all Aptean Ship Services provided. Unless otherwise specified in the Order Form, fees will be calculated according to the monthly Licensor Pricing found in Schedule 1. All prices are exclusive of taxes. Licensor reserves the right to increase the fees or update the fee structure found in Schedule 1 at any time.

5. Intellectual Property Rights

All right, title and interest in and to the Aptean Ship Services are owned by Licensor. Customer is granted a personal, limited, non-exclusive, revocable, non-transferable license, without the right to sublicense, to access and use the Aptean Ship Services solely for its internal business purposes, subject to any restrictions set forth in this Agreement.Customer retains sole ownership its transactions. Licensor is granted a personal, limited, non-exclusive, revocable, non-transferable license, without the right to sublicense, to the transactions solely for use in providing the Services.

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SCHEDULE 1

APTEAN SHIP MONTHLY:

	Essentials	Business	Professional	Enterprise	Enterprise Tier 2	Enterprise Tier 3	Enterprise Tier 4
All Parcel carriers	$268.00	$378.00	$568.00	$848.00	$1,148.00	$1,498.00	$1,898.00
All Parcel and LTL	$368.00	$528.00	$868.00	$1,348.00	$1,748.00	$2,098.00	$2,498.00
Parcel Volume	1,500	7,000	16,000	30,000	60,000	125,000	200,000
Freight Volume	50	250	500	1,500	4,000	8,000	15,000
PLAN FEATURES							
Unlimited Users	x	x	x	x	x	x	x
HazMat	Not Available	Included	Included	Included	Included	Included	Included
Included Locations	5	10	20	40	50	50	50
Rating API	Not Available	Available	Available	Available	Available	Available	Available
PLUG-AND-PLAY CONNECTORS							
bcPacknShip	x	x	x	x	x	x	x
Aptean Distribution ERP (Apprise)	x	x	x	x	x	x	x
Traverse	x	x	x	x	x	x	x
WorkWise	x	x	x	x	x	x	x
ProcessPro	x	x	x	x	x	x	x
Made2Manage	x	x	x	x	x	x	x
Paragon (UK)	x	x	x	x	x	x	x

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Elucid (UK)	x	x	x	x	x	x	x
Aptean eCommerce	x	x	x	x	x	x	x
Full Circle	x	x	x	x	x	x	x

APTEAN SHIP LIMITED MONTHLY:

	Essentials	Business	Professional	Enterprise	Enterprise Tier 2	Enterprise Tier 3	Enterprise Tier 4
UPS, FedEx & USPS	$188	$265	$398	$594	$804	$1,049	$1,329
Parcel Volume	1,500	7,000	16,000	30,000	60,000	125,000	200,000
PLAN FEATURES							
Unlimited Users	x	x	x	x	x	x	x
HazMat	Not Available	Included	Included	Included	Included	Included	Included
Included Locations	5	10	20	40	50	50	50
Rating API	Not Available	Available	Available	Available	Available	Available	Available
PLUG-AND-PLAY CONNECTORS							
Aptean Distribution ERP (Apprise)	x	x	x	x	x	x	x
Traverse	x	x	x	x	x	x	x
WorkWise	x	x	x	x	x	x	x
M2M	x	x	x	x	x	x	x

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APTEAN PAY TERMS OF SERVICE

These Aptean Pay Terms of Service apply to Customer's access to and use of the Aptean Pay payment processing services including but not limited Software, the website, programs, Documentation, applications, tools, internet-based services and component, hosted by or on behalf of Licensor and provided to Customer by Licensor pursuant to the terms set forth in this Exhibit (the "Aptean Pay Services").

In this Exhibit, "we" ,"us" and "our" refer to Licensor and its affiliates, subsidiaries, successors, and assigns, and Customer or "you" refers to the user and licensee of the Aptean Pay Services that accepts and agrees to the terms set forth herein.

Licensor provides the Aptean Pay Services through integration with the WePay, Inc. ("WePay") payment processing services. WePay is a third-party payment processor. In order for you to use WePay's payment processing services, you must register directly with Licensor as a "Merchant". WePay provides payment processing services via Licensor to facilitate receipt by you of payments by card and bank transfer (as applicable). These transactions are solely between you and persons who pay them ("Purchasers"). The WePay Terms of Service explain that process and are available here: https://go.wepay.com/terms-of-service-us and are incorporated herein by reference. The WePay Privacy Policy is available also here: https://go.wepay.com/privacy-policy. By accepting these Aptean Pay Terms of Service, you expressly agree that you have also reviewed and accepted the WePay Terms of Service and WePay Privacy Policy for the country in which you are located.

1. **Account Registration**

   To register for Aptean Pay Services, you shall provide information, including email address and a self-selected password, in order to create an account ("Account").

   A. **Eligibility**

      Licensor allows businesses (including sole proprietorships), to register for Aptean Pay if they are located in one of the 50 United States, the District of Columbia, or Canada except that non-profit and government organizations, residents of Puerto Rico, U.S. territories (such as Guam), and U.S. military bases are not supported. The business must be either a United States or Canadian citizen, a legal permanent resident of the United States or Canada, or a United States or Canadian business having a physical presence in the United States or Canada and authorized to conduct business by the state in which it operates. A user who opens an Account must be eighteen (18) years of age or older. You may open an Account for a business only if it is legitimate and you have the authority to enter into this Agreement on its behalf. Your acceptance of this Agreement constitutes acceptance by the business or nonprofit organization.

      USA PATRIOT ACT: To help prevent the funding of terrorism and money laundering activities, Federal law and internal policies require us to obtain, verify, and record information that identifies each person who opens an account. In order to comply with these requirements, we will ask for your business name, physical address, and government identification number in order to verify your identity.

   B. **Verification of Merchant information**

      Licensor may ask you for additional information to identify each person that opens an Account, such as street address, telephone number, tax identification number (such as

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Social Security Number), date of birth and beneficial ownership information (where applicable). You agree to provide supplemental documentation upon request (including but not limited to: articles of incorporation, passports, driver's license or a business license). You agree that the identity information provided is complete and accurate to the best of your knowledge and authorize Licensor to share identity information with WePay. You further authorize Licensor, directly or through third parties, to make inquiries or verify that this information is accurate (for example, through social media or third party databases). You specifically authorize Licensor to obtain your business credit reports from time to time and use them in connection with establishing and maintaining your Account. You agree to promptly notify Licensor if there are any significant changes to the nature of your business (including changes to any trade name(s)), product lines or services or in the event any person or entity acquires any beneficial ownership interest in you which is twenty-five percent (25%) or more.

2. **How it Works**

Neither Licensor, We Pay, nor Chase Manhattan or its subsidiary or affiliate, is a party to the transactions between you and your Purchasers.

A. For payments by card, WePay initiates the payment process by providing information to Paymentech, LLC, a Delaware limited liability company ("Paymentech"). Paymentech is a subsidiary of Chase which is a member of Visa U.S.A., Inc., Visa International ("Visa"), Mastercard International Incorporated ("MasterCard"), American Express Travel Related Services Company Inc. ("American Express"), or other payment card networks, associations, or companies (collectively, the "Card Networks"). Paymentech in its capacity as an authorized processor of transactions and Chase in its capacity as a member of several Card Networks are referred to collectively as the "Bank". WePay shall pay, or cause the Bank to pay, you under both (a) the provisions of this Agreement, and (b) the by-laws, operating regulations and all other rules, policies and procedures of the Card Networks as in effect from time to time (the "Card Network Rules"), that make WePay responsible for instructing settlement with you as a merchant. For payments by bank transfer, WePay initiates the payment process by providing information to Chase through the National Automated Clearing House ("ACH") in accordance with all applicable laws, regulations and The Electronic Payments Association Operating Rules and Guidelines ("ACH Rules"), each as in effect from time to time.

B. The Aptean Pay Service supports most domestic credit, debit, prepaid or gift cards with a Visa, MasterCard, American Express ("Card Networks"). Licensor may add or remove support for certain payment cards at any time without prior notice. Licensor may elect only to process cards that receive an authorization from the applicable issuer. You agree to accept all of the cards issued by Card Networks that the Aptean Pay Service supports in accordance with the terms of this Agreement. The Aptean Pay Service also supports payments via ACH but only from U.S.-based Purchasers with a U.S. bank account to U.S.-based merchants, if supported by Licensor. The Aptean Pay Service supports payments via Chase Pay to merchants in the U.S., if supported by Licensor. The Chase Pay through Platform Provider Merchant Terms & Conditions apply, and Merchant agrees to be bound by them

C. To enable payment, you must provide accurate and complete information to WePay via Licensor. Specifically, when you register, you must demonstrate that you can receive email at the email address you provide. If you do not confirm your email address, then (a) fourteen (14) days after you accept your first payment, or $100,000 USD, whichever comes first, you will not be able to accept additional payments, and (b) thirty (30) days

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after you accept your first payment, the Bank will refund to your Purchasers all of the payments you have accepted. In addition, in order to settle the payments you have accepted to your bank account or other payment instrument, you must provide to Licensor identity and settlement information (such as your bank account details). If you do not provide identity and settlement information, then (a) thirty (30) days after you accept your first payment, you will not be able to accept additional payments, and (b) unless you provide identity and settlement information promptly, the Bank will refund to your Purchasers all of the payments you have accepted. Finally, if at any time Licensor is unable to verify that the identity information you provided is correct and up-to-date then, unless you provide verifiable information promptly, (a) WePay will disable your Account so that you cannot accept additional payments, and (b) the Bank will refund to your Purchasers all of the payments that you have accepted but not settled. Neither the Bank, WePay nor Licensor have any liability to you for your inability to accept payments or for refunds pursuant to this paragraph.

D. Neither WePay nor Licensor is a party to any contract between you and a Purchaser and you are solely responsible for choosing Purchasers and negotiating the terms of your relationship with any Purchaser. Neither WePay nor Licensor will have any liability for nonpayment by a Purchaser. Either Licensor or WePay may decline to process transactions that are too large in dollar amount or exceed other risk parameters.

3. **Aptean Pay's Merchant Fees**

The fees that Licensor charges merchants are set forth in the Fee Disclosure found in your Account Information page on the Merchant Portal. The Fee Disclosure is incorporated into this Agreement by this reference.

4. **Electronic Signature Disclosure and Consent**

Electronic Delivery

By accepting this Agreement, you agree and consent to receive electronically all communications, agreements, documents, notices and disclosures (collectively, "Communications") that Licensor provides in connection with your Account and your use of the Aptean Pay Service. Communications include but are not limited to:

- agreements and policies, such as this Agreement and our Privacy Policy, including updates thereto;
- annual disclosures;
- transaction receipts or confirmations;
- communication in relation to delinquent accounts (which may also be by phone, and may be made by Licensor or by anyone on its behalf, including a third party collection agent);
- Account statements and history; and
- federal and state tax statements (we may, but are not obligated to, send tax-related information electronically).

Licensor will provide these Communications to you by emailing them to you at the primary email address listed in your Account registration, by texting them to you at the primary telephone number listed in your Account registration, by emailing or texting you a link or instructions how to access them on a website, or (if permitted by law) by posting them on the WePay website (www.wepay.com) and our website. Licensor or WePay may also provide certain Communications (such as federal and state tax statements) by U.S. mail to the street address listed in your Account registration. Communications are considered received by you within 24 hours of the time they are emailed to you, posted to the website, or mailed to you.

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You further agree that your electronic signature has the same effect as your manual, physical signature. If you withdraw your consent to receive Communications electronically, Licensor may deny your registration for an Account, restrict or close your Account, or charge you additional fees for paper copies.

If, after you consent to receive Communications electronically, you would like a paper copy of a Communication previously sent to you, you may request a copy within 180 days of the date the Communication was provided to you by contacting Customer Support as described above. You understand and agree that Licensor may charge you an exceptions fee for each paper copy of a Communication.

5. **Hardware and Software Requirements**

In order to access and retain electronic Communications, you will need the following computer hardware and software:

- a computer or mobile device with an Internet or mobile connection;
- for desktop website-based Communications, a modern web browser that includes 256-bit encryption, such as the current version of Chrome (www.google.com/chrome), Internet Explorer (www.microsoft.com/edge), Mozilla Firefox (www.mozilla.com), or Apple Safari (www.apple.com/safari);
- access to your primary email address registered with Licensor; and
- sufficient storage space to save past Communications or an installed printer to print them.

By giving your consent, you are confirming that you have access to the necessary equipment and are able to receive, open, and print or download a copy of any Communications for your records. It is important for you to retain copies of Communications because they may not be accessible in your Account at a later date.

6. **Updating Your Contact Information**

It is your responsibility to keep your primary email and street address up to date. You understand and agree that if Licensor sends you a Communication but you do not receive it because your primary email or street address on file is incorrect, out of date, blocked by your service provider, or you are otherwise unable to receive electronic Communications, Licensor will be deemed to have provided the Communication to you. Please note that if you use a spam filter that blocks or re-routes emails from senders not listed in your email address book, you must add Licensor to your email address book so that you will be able to receive the Communications Licensor sends to you.

If your email address becomes invalid such that electronic Communications sent to you by Licensor are returned, then Licensor may close your Account, and you will not be able to transact any activity using your Account until we receive a valid, functioning primary email address from you.

7. **Prohibited Activities**

You may not use the Aptean Pay Service for:

Impersonating any person or entity or falsely claiming an affiliation with any person or entity;

Collecting, or attempting to collect, personal information about users or third parties without their consent, or using such information except as necessary to use the Aptean Pay Service;

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Defaming, harassing, abusing, threatening, or defrauding others;

Posting, transmitting, or distributing content that is false, misleading, unlawful, obscene, indecent, lewd, pornographic, hateful, abusive, inflammatory, or that violates the rights of others (including rights of publicity or privacy);

Damaging, disabling, overburdening, or impairing Licensor, including without limitation, using the Aptean Pay Service in an automated manner;

Interfering with another user's enjoyment of the Aptean Pay Service, by any means, including by uploading or otherwise disseminating viruses, adware, spyware, worms or other malicious code;

Creating an Account that is linked to another Account that has engaged in any of the foregoing activities. Licensor may use evidence other than your Account information to determine whether you control an Account in someone else's name, including but not limited to Internet Protocol addresses, common business names, phone numbers, and mailing addresses.

Any restrictions set forth in the WePay Terms of Service.

If Licensor determines that you have received funds resulting from fraud or a prohibited activity, those funds may be frozen, returned to the Purchaser, or seized.

In addition, if Licensor reasonably suspects that your Account has been used for an unauthorized, illegal, or criminal purpose, you give us express authorization to share information about you, your Account, your access to the Aptean Pay Service, and any of your transactions with law enforcement.

8. **Your ACH Payment Authorization**

If you Merchant or a Purchaser are paying by bank transfer, you authorize Licensor and the Bank to initiate electronic ACH debit, if applicable, and credit entries to each bank account that you set up on the Website and to initiate adjustments for any transactions credited or debited in error. You agree to be bound by the ACH Rules and you agree that all ACH transactions that you initiate will comply with all applicable laws and this Agreement. Your authorization will remain in full force and effect until you notify us that you revoke it by contacting Customer Support or by closing your Account. You understand that Licensor requires a reasonable time to act on your revocation, not to exceed five (5) business days.

9. **Reserve**

At any time and from time to time, Licensor or WePay may instruct the Bank to temporarily suspend or delay payments to you and/or require a "Reserve" (defined following) to protect Licensor, WePay and the Bank against the risks from you using the Aptena Pay Service, including chargebacks, refunds, and Payment Network Liabilities. A "Reserve" is funds the Bank may withhold from you or require you to pay or obtain from any bank account or other funding source associated with any Account you hold with Licensor and which the Bank maintains to protect Licensor and the Bank against a risk that we or the Bank reasonably anticipate. Licensor or WePay will notify you of the amount of any required Reserve, which we, WePay and the Bank will determine in good faith. The Bank will hold and control any required Reserve. The Reserve will not bear interest, and the Bank can commingle the Reserve with other funds. You have no interest in any Reserve other than a contingent right to receive any unused funds. Licensor may periodically instruct the Bank to increase your required Reserve, or return Reserve funds no longer needed to manage your risk. When we and the Bank decide a Reserve is no longer needed, the Bank will return all unused Reserve

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funds to you. The right to require a Reserve will survive termination of this Agreement. This means that this Section 13 will remain in force even if you or we terminate the Agreement.

10. **Support, Maintenance, Availability, and Training**

A. We may need to carry out routine or urgent maintenance for the Aptean Pay Services from time to time. We will use commercially reasonable efforts to inform you of any downtime that we anticipate will affect the Aptean Pay Services and to restore the Aptean Pay Services as soon as reasonably practicable; provided, however, that we will not be liable if any or all of the Aptean Pay Services is unavailable at any time or for a period of time for any reason.

B. Licensor will send out an email with the details of the successful transaction with a payment reference number to the Purchaser and the successful payment status will be confirmed and displayed in our Merchant portal

C. You acknowledge and agrees that Licensor: (a) is not a financial institution and does not provide banking or payment processing services; (b) is not a party to the payment transactions performed by you and Purchasers using the Aptean Pay Service; (c) does not hold or transmit any funds belonging to you or Purchasers; (d) is not liable for delays in delivery of Purchasers' payments for any reason, including, but not limited to, as a result of the actions or inactions any banks, processors, card networks, or other third parties; (e) is not liable for any Purchasers' payments that are not completed because: (i) a Purchaser's payment account does not contain sufficient funds to complete the transaction or the transaction would exceed the credit limit or overdraft protection of Purchaser's payment account; (ii) a Purchaser has not provided us with correct or updated payment account information; or (iii) a Purchaser's payment account has expired.

D. The amount of a payment may be charged back to you if (a) it is disputed by a Purchaser, (b) it is reversed for any reason, (c) it was not authorized or we have any reason to believe that the transaction was not authorized, or (d) it is unlawful, suspicious, or in violation of the terms of this Agreement. You are responsible for all chargebacks, whether or not the chargeback complies with the Card Network Rules. You are also responsible if a Purchaser reverses a payment by bank transfer, whether or not the reversal complies with the ACH Rules. We will use commercially reasonable efforts to assist Merchant in disputing and resolving any chargebacks or reversals of Purchasers' payments.

11. **Cardholder Data Security**

"Cardholder Data" is information associated with a payment card, such as account number, expiration date, and CVV2. Licensor will require WePay to comply with the Payment Card Industry Data Security Standards ("PCI DSS") to the extent WePay possesses or otherwise stores, processes, or transmits Cardholder Data on your behalf.

If you handle, transmit, or store any Cardholder Data in connection with your use of the Aptean Pay Service or the Aptean Pay API, you agree to comply at all times with PCI DSS. Further, you agree to certify such compliance and provide documentation in accordance with Card Network Rules, or when asked by Licensor to do so. You also agree that you will use only PCI DSS compliant service providers in connection with the storage, processing, or transmission of Cardholder Data.

You are fully responsible for the security of data (including but not limited to Cardholder Data) on your website, in your invoice or otherwise in your possession or control and Licensor and WePay will not be liable for the security of any such data including information contained within your invoices. You will need to provide adequate security such as password protecting

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any invoice that may have sensitive information. You agree to comply with all applicable laws, Card Network Rules and ACH Rules in connection with your collection, security and dissemination of any personal, financial, or transaction information.

12. **Taxes**

    You are responsible for determining any and all taxes assessed, incurred, or required to be collected, paid, or withheld, in connection with your use of the Aptean Pay Service. You are solely responsible for collecting, withholding, reporting and remitting any taxes to the appropriate tax authority. Licensor is not obligated to, and will not, determine whether taxes apply, or calculate, collect, report or remit any taxes to any tax authority arising from your use of the Aptean Pay Service.

13. **Customer Service Provided by Merchants**

    You are solely responsible for all customer service issues relating to your goods or services, including pricing, order fulfillment, order cancellation by you or the Purchaser, returns, refunds and adjustments, rebates, functionality and warranty, technical support and feedback concerning experiences with your personnel, policies or processes. In performing customer service, you will always present yourself as a separate entity from Licensor.

14. **Refunds and Returns**

    You agree to process returns of, and provide refunds and adjustments for goods or services through your Account in accordance with this Agreement, the Card Network Rules and the ACH Rules. The Card Network Rules require that you will (a) maintain a fair return, cancellation or adjustment policy, (b) disclose your return or cancellation policy to Purchasers at the time of purchase, (c) not give cash refunds to a Purchaser in connection with a payment card sale, unless required by law, and (d) not accept cash or any other item of value for preparing a payment card sale refund. Your refund policies must be the same for all payment methods. If your Purchaser is dissatisfied with your refund policy, the Purchaser may chargeback the payment.

15. **How Licensor Handle Chargebacks**

    You agree to assist us when requested, at your expense, to investigate any of your transactions processed through the Aptean Pay Service. To that end, you permit us to share information about a chargeback or reversal with the Purchaser, the Purchaser's financial institution, and your financial institution in order to investigate and/or mediate a chargeback or reversal. We will request necessary information from you to contest the chargeback or reversal.

    You acknowledge that your failure to assist us and the Platform in a timely manner when investigating a transaction, including providing necessary documentation within seven (7) days of a request, may result in an irreversible chargeback or reversal. We reserve the right, upon notice to you, to charge a fee for mediating and/or investigating chargeback and reversal disputes.

16. **Statements and Errors**

    Licensor will provide a report of activities, including transactions and fees, relating to the Aptean Pay Service ("Statement"), which is available for you to download from on our online Merchant Portal. Licensor is responsible for you relying on balance, transaction or related information that is updated or corrected, or the accuracy or timeliness of information supplied by any third party. You agree that the Statements are sufficient for you to inspect and review activity and to identify errors and unauthorized or altered transactions. You will promptly examine your entire Statement once it is available. You will promptly, and no later than 60

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calendar days after the Statement date, reconcile your Statement with your bank statements and other receipts from the same period, and notify Licensor or the Platform of any: (a) unauthorized transactions, including any claims of such activity or requested adjustments, (b) alterations, errors, discrepancies and irregularities, or (c) discrepancies you identify when reconciling with your bank statements and other receipts. If you do not act in the timeframes above, you agree that you cannot: (i) assert you exercised reasonable care and promptness in reviewing your Statement and identifying errors, (ii) be reimbursed for a "Claim" (as defined in Section 26 below) refused as a result, and (iii) make a Claim or otherwise act against us for a subsequent loss that was preventable or caused by the same wrongdoer's repeated act. You should make archival copies of your Statement data regularly. Except as required by law, you are solely responsible for (a) compiling and retaining permanent records of all transactions and other data, and (b) reconciling all transaction information that is associated with your Account.

The Aptean Pay Service is not a real-time system. You acknowledge that there may be a lag in the information presented depending on when the data was last refreshed and/or the connection status. We make no commitment that the Aptean Pay Service, or the access thereof, will be uninterrupted, available at all times, or error-free.

18. **Purchaser Data**

You acknowledge and agree that in the course of providing the Aptean Pay Services, Licensor will capture certain transaction and user information (collectively, the "Purchaser Data"). We do not own Purchaser Data. You have the sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership or right to use all the Purchaser Data, and We shall not be responsible or liable for: (i) damages resulting from our reliance on such Purchaser Data and/or (ii) the deletion, correction, destruction, damage, or loss of any data that result from Merchant's actions. We are not responsible for restoring lost data or damage to Purchaser's data that results from Merchant's actions. You represent and warrant that you have provided notice to, and obtained consent from, any third party individuals whose personal data you supply to us as part of the Aptean Pay Services with regard to (i) the purpose for which such third party's personal data has been collected (ii) the intended recipients or categories of recipient of the third party's personal data and (iii) the Purchaser Data does not violate the privacy rights, publicity rights, copyright rights, or other rights of any person or entity. We have the right (but not the obligation) to review any Purchaser Data and delete any Purchaser Data that in the sole judgment of us violates this Agreement, is prohibited content, is illegal, violates the rights, harms, or threatens the safety of any user or any other person, or creates liability for us, our suppliers, or any user on five (5) days' written notice to Purchaser specifying the alleged default or violation. We reserves the right (but has no obligation) to investigate and take action in its sole discretion against Purchaser if Purchaser violates this provision or any other provision of this Agreement, including without limitation, removing Purchaser Data from the Aptean Pay Service, terminating the Agreement, reporting Purchaser to law enforcement authorities, and taking legal action against Purchaser .

19. **Security**

We have implemented technical and organizational measures designed to secure your personal information from accidental loss and from unauthorized access, use, alteration or disclosure. However, we cannot guarantee that unauthorized third parties will never be able to defeat those measures or use your personal information for improper purposes.

If you discover a security-related issue, including any unauthorized use of your access credentials or Account, you will inform us of the issue immediately by contacting the Aptean

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Security Team at security @aptean.com and snehalkumar.kamble@aptean.com. You also agree not to disclose the issue until WePay and Licensor have addressed it unless otherwise required by law.

20. **Your Right to Terminate**

You may terminate this Agreement by closing your Account at any time. When you close your Account, any pending transactions will be cancelled.

21. **Our Right to Terminate**

Licensor may terminate this Agreement and close your Account for any reason or no reason at any time upon notice to you. Licensor may also suspend the Aptean Pay Service and instruct the Bank to suspend access to your Account (including the funds in your Account) if you (a) have violated the terms of Aptean Pay's policies, Licensor's policies, or this Agreement, (b) pose an unacceptable credit or fraud risk, or (c) provide any false, incomplete, inaccurate, or misleading information or otherwise engage in fraudulent or illegal conduct.

22. **Effect of Termination**

If your Account is terminated for any reason or no reason, you agree: (a) to continue to be bound by this Agreement, (b) to immediately stop using the Aptean Pay Service, (c) that the license provided under this Agreement shall end, (d) that WePay and Licensor have the right to delete all of your information and Account data in accordance with our record-keeping policies and applicable law, and (e) that neither WePay nor Licensor shall be liable to you or any third party for any of the foregoing actions. Neither WePay nor Licensor will be liable to you for compensation, reimbursement, or damages in connection with any termination or suspension of Aptean Pay Service. Any termination of this Agreement does not relieve you of any obligations to pay any fees or costs accrued prior to the termination and any other amounts owed by you to us or the Platform as provided in this Agreement. After termination of this Agreement, you continue to be liable for all chargebacks, refunds, fees, Payment Network Liabilities, and adjustment resulting from or relating to transactions processed pursuant to this Agreement. If you submit transactions to us after the date of termination, we may, but are not required to, process such transactions. All transactions we process will be in accordance with and subject to all the terms of this Agreement. This Section 28 will survive termination of this Agreement.

23. **Our Intellectual Property Rights**

We grant you a personal, limited, non-exclusive, revocable, non-transferable license, without the right to sublicense, to electronically access and use the Aptean Pay Service solely to accept and receive payments and to manage the funds you so receive.

Except as stated herein, Merchant shall use the Aptean Pay Service solely for Merchant's internal business purposes, in compliance with applicable law, and shall not: (i) sublicense, lease, or otherwise make the Aptean Pay Service or Software available to any unauthorized third party; (ii) send or store infringing, unlawful, defamatory or libelous material; (iii) send or store any Malicious Code; (iv) access the Aptean Pay Service by any means other than the Login or otherwise attempt to gain unauthorized access to, or disrupt the integrity or performance of, the Aptean Pay Service or the data contained therein; (v) modify, copy or create derivative works based on the Aptean Pay Service; (vi) reverse engineer the Aptean Pay Service or Software; (vii) access the Aptean Pay Service or Software for the purpose of building, selling, marketing or otherwise, a competitive product or service or copying the Software or Aptean Pay Service's features or user interface; or (viii) remove the copyright, trademark, or any other proprietary rights or notices included within the Aptean Pay Service

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or Software and on and in any documentation or training materials. You shall not make any attempt to overwhelm the server resources of the Aptean Pay Service or otherwise induce a denial-of-service attack on the Aptean Pay Service through some combination of search requests.

24. **Your Representations and Warranties**

You represent and warrant to us that: (a) you are eligible to register and use the Aptean Pay Service and have the right, power, and ability to enter into and perform this Agreement; (b) the name identified by you when you registered is your name or business name under which you sell goods and services; (c) any sales transaction submitted by you will represent a bona fide sale by you; (d) any sales transactions submitted by you will accurately describe the goods and/or services sold and delivered to a Purchaser; (e) you will fulfill all of your obligations to each Purchaser for which you submit a transaction and will resolve any consumer dispute or complaint directly with the Purchaser; (f) you and all transactions initiated by you will comply with all federal, state, and local laws, rules, and regulations applicable to your business, including any applicable tax laws and regulations; (g) except in the ordinary course of business, no transaction submitted by you through the Aptean Pay Service will represent a sale to any principal, partner, proprietor, or owner of your entity; (h) you will not use the Aptean Pay Service, directly or indirectly, for any fraudulent undertaking or in any manner so as to interfere with the use of the Aptean Pay Service; (i) you shall comply with all applicable privacy and data protection laws in effect from time to time to the extent of applicable to this Agreement and the access and use of the Aptean Pay Service.

25. **Waiving Special Damages**

A. Licensor shall not be liable for any "Special Damages," defined following, regardless of the form of action and even if advised of a possibility of Special Damages. "Special Damages" means indirect, special, incident, speculative, remote, exemplary, punitive or consequential damages, lost profits, loss of business or goodwill, tax or late payment penalties and damages, including any related to system or equipment issues, access to any online service, service providers, and problems or delays using the Aptean Pay Services.

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HOSTED SERVICES TERMS

These Hosting Services Terms and Conditions shall apply to Customer's purchase of hosting services from Licensor.

1. Hosted Services.

   a. Licensor will provide Customer with access to a hosted version of the Software, which may include a browser interface and encrypted login (when required), transmission, access to and storage of Customer Data (the "Hosted Service"). Licensor may, in its sole discretion, enhance the Hosted Services from time to time, at no cost to Customer. Licensor may grant Customer access to the Hosted Services via a dedicated website, VPN access or otherwise. Licensor will begin such configuration following an executed statement of work or Order Form by the Parties. Except as stated herein, Customer may not customize the Hosted Services without Licensor's prior written consent or other than as part of integration services provided by Licensor.

   b. Customer shall not have the right to transfer or assign rights to access or use the Hosted Services. All rights not expressly granted to Customer herein are expressly reserved by Licensor.

   c. Licensor hereby grants Customer a non-exclusive, non-transferable, non-assignable right to access and use the Hosted Services, subject to these Hosted Services Terms. Customer may only (i) access the Software as stated in the Order Form; and (ii) permit such access by Users.

   d. Each User may be required to have a Login with unique user identification. Licensor reserves the right to require Customer to alter any password if Licensor believes it is no longer secure. Customer shall not permit more than one person to use each Login to access the Hosted Services or otherwise share login accounts, user identifications or passwords. Customer shall not deactivate a named individual's access to the Hosted Services and assign such access to another named individual without Licensor's prior written consent. Customer is liable for all access to the Hosted Services and activities conducted by individuals accessing the Hosted Services using the logins, including such individual's compliance with the terms herein.

   e. Except as stated herein, Licensor will maintain the Hosted Services at a reputable Internet service provider and hosting facility, where it is subject to commercially reasonable security precautions to prevent unauthorized access to the Hosted Services. Customer Data and the maintenance of Customer Data and such procedures shall comply with industry standards for the type of information maintained. However, Customer acknowledges that, notwithstanding such security precautions, use of or connection to the Internet provides the opportunity for unauthorized third parties to circumvent such precautions and illegally gain access to the Hosted Services, and Licensor will not be responsible for such acts.

2. Restrictions.

   Except as stated herein, Customer shall use the Hosted Services solely for Customer's internal business purposes, in compliance with applicable law, and shall not: (i) sublicense, lease, or otherwise make the Hosted Services available to any unauthorized third party; (ii) upload, post, email, send, store or otherwise transmit, distribute publish or disseminate any material that is unlawful, defamatory, tortuous, vulgar, obscene libelous, infringing on any patent, trademark, trade secret, copyright, or other proprietary rights of any party or otherwise violates the legal rights of others; (iii) upload, post, email, send, store or otherwise transmit, distribute publish or disseminate any Malicious Code; (iv) access the Hosted Services by any means other than the login or otherwise attempt to gain unauthorized access to, or disrupt the integrity or performance of, the Hosted Services or the data contained therein; or (v) access the Hosted Services for the purpose of building, selling, marketing or otherwise, a competitive product or service or copying the Hosted Services features or user interface.

3. Customer's Responsibilities.

   a. Customer agrees to abide by all applicable local, state, national and foreign laws, treaties and regulations in connection with Customer's use of the Hosted Services, including those related to data privacy, international communications and the transmission of technical or personal data. Customer shall: (i) notify Licensor immediately of any unauthorized use of any login or any other known or suspected breach of security; (ii) report to Licensor immediately and use reasonable efforts to stop immediately any copying or distribution of content that is known or suspected by Customer to be infringing or unlawful; and (iii) not impersonate another Licensor customer or provide false identity information to gain access to or use the Hosted Services.

   b. Customer shall be responsible for any costs in connection with establishment and maintenance of Internet connectivity to the Hosted Services, including (without limitation) telephone, communications, internet service provider costs, computer hardware, modem, fees charged by third parties, insurance, internet access software, or any other costs incurred by Customer in accessing the Hosted Services.

4. Hosted Services Availability.

   a. Licensor does not control the flow of data to or from Customer's internet hosts and other portions of the internet. Such flow depends in large part on the performance of internet services provided or controlled by

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third parties. At times, actions or inactions caused by these third parties can produce situations in which Customer's connections to the internet (or portions thereof) may be impaired or disrupted ("Internet Disruptions"). Customer hereby agrees that Licensor shall not be liable for any Hosted Services delays arising from any Internet Disruptions. Licensor shall make reasonable efforts to provide production environment service availability of ninety-eight (98%) measured on a quarterly basis ("Service Availability") not including: (i) Customer Error Incidents; (ii) Force Majeure (as defined in the Agreement); and (iii) Internet Disruptions. In order to enable Licensor to troubleshoot problems as necessary, Licensor uses an administrator account on each Customer environment and may utilize manual testing to confirm such failure. An interruption in the Hosted Services shall not be considered a breach of Licensor's obligations hereunder if: (i) Licensor promptly takes all reasonable steps to restore the Hosted Services; or (ii) the interruption in Hosted Services results from a Customer Error Incident, Force Majeure or an Internet Disruption.

b. If Customer engages in activity that is not a legitimate use of the Hosted Services, such as security penetration tests, stress tests, spamming activity, or other activity for which the Hosted Services is not intended and it affects other Licensor customers, such use will be considered a material breach of these Terms and Conditions and Licensor may shut down Customer's Hosted Services until such activity ceases, with such service interruption not being counted against the above availability measure.

5. Customer Data.

a. Licensor does not own any Customer Data. Customer, not Licensor, shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership or right to use of all Customer Data, and Licensor shall not be responsible or liable for: (i) damages resulting from Licensor's reliance on such Customer Data; and/or (ii) the deletion, correction, destruction, damage, or loss of any data that result from Customer's actions. Licensor is not responsible for restoring lost data or damage to Customer's data that results from Customer's actions. Customer hereby grants to Licensor a non-exclusive, fully-paid and royalty-free license to reproduce, distribute, perform, display and otherwise use the Customer Data solely to provide the Hosted Services to Customer. Customer represents and warrants that: (i) Customer owns or otherwise has the right to grant the license set forth in this section for the Customer Data; and (ii) the Customer Data does not violate the privacy rights, publicity rights, copyright rights, or other rights of any person or entity. Licensor has the right (but not the obligation) to review any Customer Data and delete any Customer Data that in the sole judgment of Licensor violates these Terms and Conditions, is prohibited content, is illegal, violates the rights, harms, or threatens the safety of any User or any other person, or creates liability for Licensor, its suppliers, or any user on five (5) days' written notice specifying the alleged default or violation if the default or violation is not remedied within the notice period. Licensor reserves the right (but has no obligation) to investigate and take action in its sole discretion against Customer if Customer violates this provision or any other provision of these Terms and Conditions, including, without limitation, removing Customer Data from the Hosted Services, terminating these Terms and Conditions, reporting Customer to law enforcement authorities, and/or taking legal action against Customer.

b. Licensor reserves the right to access and disclose Customer Data as necessary to comply with applicable laws and government requests, to operate or maintain the Hosted Services, to protect itself or its customers (including virus scanning), and to evaluate and improve the performance and implementation of the Hosted Services. Licensor reserves the right to perform statistical analyses of user behavior and characteristics and to provide aggregated or statistical analyses of data derived from the Hosted Services to third parties, provided that the information is presented in a manner which does not disclose the identity of the Customer. Except as (i) specifically stated in this provision; (ii) set forth in any supplemental terms; or (iii) upon instruction from Customer, Licensor will not disclose to third parties any Customer identifiable data in the course of providing the Hosted Services under these Terms and Conditions. Licensor will not sell or otherwise transfer Customer identifiable data to third parties without Customer's prior written approval.

c. Licensor will maintain the Customer Data on server(s) at Licensor's designated site and provide backups to Customer's Data as follows in accordance with Licensor's then-current data backup policies. Licensor will use commercially reasonable efforts to perform restorations to the Hosted Services in the event of a service failure. Licensor reserves the right to withhold Customer Data without notice for any breach, including, without limitation, Customer's non-payment.

d. Licensor hereby grants Customer a limited, non-sub-licensable license to reproduce and display the Customer Data (excluding any software code) solely for Customer's personal use in connection with using the Hosted Services. These Terms and Conditions do not constitute a sale and do not convey to Customer any rights of ownership in or related to the Hosted Services or the intellectual property rights owned by Licensor and its suppliers.

6. Users.

a. Customer may add Users at any time via an Order Form executed by the Parties. Access to the Hosted Services for any such added Users shall be coterminous with the then-current Hosted Services term and

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Users added in the middle of a billing month will be charged in full for that billing month. Customer will pay for any increase in Users upon execution of the Order Form setting forth the additional Users. Customer may only reduce the number of Users set forth in the applicable Order Form at the end of each term.

b. Licensor shall have the right to verify the number of Users under these Terms and Conditions at the end of each month at any time of the day.

7. Case Agent Roles.

In the event Customer licenses Licensor's Respond software, this Section 7 shall be incorporated into these Terms and Conditions and shall apply to the Hosted Services.

"Case Agent Roles" means user licenses (either Named User or Concurrent User) that exclusively access the "Case Agent" application provided under Licensor's Respond software only.

Customer acknowledges and agrees as follows

a. If the Hosted Services Term is for one (1) year, Customer will receive Case Agent Roles equal to no more than fifty percent (50%) of the total number of Named User or Concurrent User licenses granted under the Agreement during each year.

b. If the Hosted Services Term is for two (2) or more years, Customer will receive Case Agent Roles equal to no more than sixty percent (60%) of the total number of Named User or Concurrent User licenses granted under the Agreement during each year.

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Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Sewer/Plant 16
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 28946 **RESOLUTION 2024-403** **ADOPTED**

Purchase of 1-Year Identifix Government Subscription Vehicle Maintenance and Repair Program CRS# 4765

We respectfully request the Town Board to authorize the expenditure of $1,428.00 for a 1-Year Subscription for Identifix ($119.00 per month). The subscription provides a database of updated, experience-based information for vehicle maintenance and repairs, including genuine OEM service and repair information for unedited factory data.

We are also requesting an insurance waiver as this is an online-only subscription and Identifix representatives will not be on site. The total amount for the 1-year subscription is $1,428.00 and funding will be available from the Sewer Maintenance account G 9000 - 4240.

This request is pending the successful completion of the contract review procedure. Thank you for considering this request.

4/29/2024
Consent

FINANCIAL IMPACT:

G9000 - 4240

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

SOLERA Vehicle Repair | Identifix

INVOICE

Identifix
PO BOX 856618
Minneapolis, MN 55485-6618
Phone: 1-866-789-4285

INVOICE #	DATE
419233-24	1/30/2024

BILL TO

Town of Amherst Engineering Dept.
Attention: Jason Koch
1100 N Forest Rd
Williamsville, New York 14221
(716) 631-7154

CUSTOMER ID	Account Manager
419233	Cesar Alvarez

PO #	TERMS
N/A	Due Upon Receipt

Term Agreement: 4/29/2024 through 4/29/2025

DESCRIPTION	MOS.	Month Price	AMOUNT
Identifix Government Subscription - 1 Site License	12	119.00	1,428.00
2 Free hotline calls per month (does not carry over)			-
Training and all updates are included			-
			-
			-
			-
			-
			-
			-
			-
			-
			-
			-
			-

Thank you for your business!

SUBTOTAL		1,428.00
TAX RATE		0.000%
TAX		-
TOTAL	**$**	**1,428.00**

Please make all checks payable to Identifix at the above remittance address

Please send a copy of your purchase order to:

Fax number is: 1-888-721-5024 or email to Gov.Renewals@identifix.com

If you have any questions about this invoice, please call: 1-866-789-4285

Attachment: Identifix Invoice (2) (RES-2024-403 : Purchase of 1-Year Identifix Government Subscription)

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Youth & Recreation
Initiated by: **Mary Diana Pouli**
Co-Sponsored by:

DOC ID: 28865 **RESOLUTION 2024-404** **ADOPTED**

Sheltering Agreement - CRS #4722

Authorize the Supervisor to sign a contract between the Town of Amherst (Youth & Recreation Department) and SOSF Ventures d/b/a Fredonia Place of Williamsville to use the Williamsville Youth & Family Center as an emergency shelter.

4/29/2024
Consent

FINANCIAL IMPACT:

None

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

FREDONIA PLACE OF WILLIAMSVILLE

SHELTERING AGREEMENT FOR THE WILLIAMSVILLE YOUTH & FAMILY CENTER

This agreement is made on the on the _____ day of _____, 2024 by and between FREDONIA PLACE OF WILLIAMSVILLE, with principal offices for the conducting of its business as an senior living community in the Town of Amherst, New York at 201 Reist Street, Williamsville, New York ("*FREDONIA PLACE*") and TOWN OF AMHERST with a principal office for the conducting of its activities and affairs located at 5583 Main St Amherst, NY 14221 (hereinafter referred to as the *"TOWN OF AMHERST"*), is as follows:

WHEREAS, *FREDONIA PLACE* may have a need from time to time because of unforeseen circumstances to obtain the use of off-site facilities as a temporary shelter of its residents and have outside facilities available to it on an emergency as-needed basis; and

WHEREAS, the *TOWN OF AMHERST* has various facilities under its possession and control, particularly including the gym, main hall, coffeehouse, and restrooms located in the *WILLIAMSVILLE YOUTH & FAMILY CENTER in WILLIAMSVILLE, NY* and

WHEREAS, the *TOWN OF AMHERST* is willing to make its aforesaid facilities available to *FREDONIA PLACE* on as as-needed and as-requested basis so long as such facilities are available at the time of *FREDONIA PLACE* request for the use of the same; and

NOW, THEREFORE, upon the above and foregoing premises and the other terms, covenants and agreements hereinafter set forth in this Agreement, the parties hereto by and through their respective authorized agents and representatives, hereby agree as follows:

1. The *TOWN OF AMHERST* agrees to permit the use by *FREDONIA PLACE* of its gym, main hall, coffeehouse, and restroom facilities located at the *WILLIAMSVILLE YOUTH & FAMILY CENTER in WILLIAMSVILLE, NY* on such emergency occasions as the same may be requested by *FREDONIA PLACE* from *February 27, 2024* through and including *December 31, 2029* provided said facilities are otherwise not in the use or being prepared for any previously scheduled use by the Town or any of its own activities.

2. In the event *FREDONIA PLACE* makes a request for the use of the *WILLIAMSVILLE YOUTH & FAMILY CENTER*, *FREDONIA PLACE* will give such notice of its intention to use the *TOWN OF AMHERST's* facilities as is reasonably practicable, but the parties acknowledge that no particular amount of advance notice shall be required, and *FREDONIA PLACE*'s use of said facilities shall be subject only to the facilities availability at the time a request is made for the use thereof.

3. *FREDONIA PLACE* will be solely responsible for the transportation of all residents to and from the facilities and for their supervision while there.

Attachment: Fredonia Place of Williamsville 2024-2029 contract (RES-2024-404 : Sheltering Agreement - CRS #4722)

4. *FREDONIA PLACE* shall at all times maintain general liability insurance with at least $1,000,000 per occurrence/$2,000,000 aggregate, with contractual indemnification coverage for the premises and the *TOWN OF AMHERST* and shall cause the *TOWN OF AMHERST* to be named as an additional named insured on a primary and non-contributory basis and as certificate holder under each such policy, none of which shall be cancelled, reduced in amount of coverage, surrendered or allowed to expire without thirty (30) days prior written notice to the *TOWN OF AMHERST*. *FREDONIA PLACE* shall also carry statutory Workers' Compensation coverage or produce satisfactory proof that such coverage is not required.

5. That neither this Agreement nor any part of provision thereof shall create or be constructed as creating any type of partnership or other principal and agent or any other type business relationship between the parties hereto.

IN WITNESS WHEREOF, the parties hereto, acting by and through their respective authorized agents, representatives and/or employees, have duly executed this Agreement on the day set forth above.

FREDONIA PLACE OF WILLIAMSVILLE

By:_____ _____

Printed Name/Title Date

_____

Signature

TOWN OF AMHERST

By:_____ _____

BRIAN J. KULPA, Supervisor Date

Attachment: Fredonia Place of Williamsville 2024-2029 contract (RES-2024-404 : Sheltering Agreement - CRS #4722)

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Youth & Recreation
Initiated by: **Mary Diana Pouli**
Co-Sponsored by:

DOC ID: 28866 **RESOLUTION 2024-405** **ADOPTED**

Polling Location Lease Agreement (HRCC) - CRS #4723

Authorize the Supervisor to sign a contract between the Town of Amherst (Youth & Recreation Department) and the Erie County Board of Elections for a polling site at the Harlem Road Community Center for 2024.

4/29/2024
Consent

FINANCIAL IMPACT:

A1620.02770; -$400.00 (revenue)

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

POLLING LOCATION LEASE AGREEMENT

CITY/TOWN & DISTRICTS

This agreement made on the _____ (date), by and between the **HARLEM ROAD COMMUNITY CENTER,** hereinafter known and referred to as the **OWNER,** and the Board of Elections for the County of Erie, hereinafter referred to as the **TENANT.**

Witnesseth that said OWNER has agreed to let, and by these presents, does hereby grant, demise and let unto the said TENANT the following described premises:

CITY/TOWN DISTRICT(S): **AMHS 008, 009, 011.**
LOCATION: **HARLEM ROAD COMMUNITY CENTER**
ADDRESS: **4255 Harlem Road, Amherst NY 14226**

The area to be leased is a room or location that has been pre-approved by the Board of Elections within the building suitable for registration and voting and which is as close as possible to a convenient entrance to such building that provides access, by ramp or otherwise, to physically disabled voters.

PRIMARY CONTACT: Mary-Diana Pouli

PHONE NUMBER: 631-7132 x7532

EMAIL: mpouli@amherst.ny.us

DELIVERY CONTACT: Gregg Bennett

PHONE NUMBER: 631-7202/435-0043

EMAIL: gbennett@amherst.ny.us

BUILDING OPENER: Rob Klumpp, Maintenance

CELL PHONE NUMBER: 716-870-4779

EMAIL: rklumpp@amherst.ny.us

As a place to hold official voter registrations and conduct elections in accordance with the provisions of the New York State Election Law on the dates listed below:

PRESIDENTIAL PRIMARY ELECTION: TUESDAY, APRIL 2, 2024
26th CONGRESSIONAL DISTRICT SPECIAL ELECTION: TUESDAY, APRIL 30, 2024
PRIMARY ELECTION: TUESDAY, JUNE 25, 2024
GENERAL ELECTION: TUESDAY, NOVEMBER 5, 2024

The TENANT agrees to pay the OWNER **$100** for each election listed above for the use of the **4255 Harlem Road, Amherst NY 14226.**

The TENANT is to have uninterrupted use and possession of the leased area on each said date from 5:30 am, being one-half hour prior to the opening of the polls until 9:30 pm, being one-half hour after the closing of the polls or until the inspectors have completed their work, whichever shall be later.

In the event an election is delayed or continues as a result of a common disaster to another date, the OWNER agrees to make available the leased area to the TENANT on said subsequent date.

The OWNER hereby agrees to open the building for delivery and pick up of the voting machine(s) on a date mutually agreed to by the parties, between the third and sixth day prior to the election and between the first and fourth day following the election.

Attachment: ECBOE Polling Location Lease - HRCC (RES-2024-405 : Polling Location Lease Agreement (HRCC) - CRS #4723)

The OWNER hereby promises, covenants and acknowledges as follows:

A. To furnish necessary light, heat, and if available, cooling, to the leased area;
B. To provide twelve chairs and four tables no less than 48" in length for each machine delivered to the leased area;
C. To ensure that the leased area is accessible to the public during the times heretofore specified and that the doors are opened;
D. That there is a functional restroom facility available for use by employees of the TENANT during said day; and
E. That political contributions by the OWNERS of a polling place are prohibited and that it is a misdemeanor for such OWNER to make, offer or promise any such political contribution as an inducement for the leasing of these premises.

The TENANT hereby promises, covenants and acknowledges as follows:

A. Not to use said premises, or any part thereof, for any purpose other than the official voter registration and election functions;
B. Not to let or sign over said premises, or any part thereof, to another without the prior written consent of the OWNER;
C. To punctually pay said rent as the same accrues; and
D. To take special care that no damage happens to the building, or any improvements or fixtures therein.

A breach of any promise or covenant made by the TENANT shall be reported by the OWNER to the commissioners of the Erie County Board of Elections as soon as practicable. If any damage shall occur to the leased premises as a result of the negligence by the TENANT or any of its agents or employees, the TENANT hereby agrees to cooperate with the OWNER in filing a claim for damages with the County of Erie. The County does not assume liability for the OWNER's obligation to maintain and operate the property, building, premises and ingress/egress thereto in a safe condition. Any reported incident related to election operations will be investigated and evaluated by Erie County in cooperation with the lessor.

The commissioners of the Board of Elections, no later than four weeks following the receipt of the fully executed lease agreement and the conclusion of the election, shall transmit to the Erie County Comptroller a voucher, in the form required by said comptroller, requesting prompt payment of the rental due to the OWNER in the amount stated above.

In the event that following the execution of this lease agreement, the premises shall become damaged, restricted, or placed under repair to such an extent that the leased area is no longer suitable for the conduct of voter registration and election, the TENANT shall have the right to terminate this lease agreement.

IN WITNESS WHEREOF, the parties hereto have affixed their hands and seals the day and year first above mentioned.

ERIE COUNTY BOARD OF ELECTIONS:

_____
Ralph M. Mohr, Commissioner of Elections

_____
Jeremy J. Zellner, Commissioner of Elections

OWNER: _____

BY: _____

PRINT NAME: _____

Attachment: ECBOE Polling Location Lease - HRCC (RES-2024-405 : Polling Location Lease Agreement (HRCC) - CRS #4723)

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Youth & Recreation
Initiated by: **Mary Diana Pouli**
Co-Sponsored by:

DOC ID: 28867 **RESOLUTION 2024-406** **ADOPTED**

Polling Location Lease Agreement (CCC) - CRS #4724

Authorize the Supervisor to sign a contract between the Town of Amherst (Youth & Recreation Department) and the Erie County Board of Elections for a polling site at the Clearfield Community Center for 2024.

4/29/2024
Consent

FINANCIAL IMPACT:

A7141.02770; -$400.00 (revenue)

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

POLLING LOCATION LEASE AGREEMENT

CITY/TOWN & DISTRICTS

This agreement made on the _____ (date), by and between the **CLEARFIELD COMMUNITY CENTER,** hereinafter known and referred to as the **OWNER,** and the Board of Elections for the County of Erie, hereinafter referred to as the **TENANT.**

Witnesseth that said OWNER has agreed to let, and by these presents, does hereby grant, demise and let unto the said TENANT the following described premises:

CITY/TOWN DISTRICT(S): **AMHS 042, 043, 049, 052, 054.**
LOCATION: **CLEARFIELD COMMUNITY CENTER**
ADDRESS: **730 Hopkins Road, Williamsville, NY 14221**

The area to be leased is a room or location that has been pre-approved by the Board of Elections within the building suitable for registration and voting and which is as close as possible to a convenient entrance to such building that provides access, by ramp or otherwise, to physically disabled voters.

PRIMARY CONTACT: Mary Diana Pouli
PHONE NUMBER: 631-7132 x7532
EMAIL: mpouli@amherst.ny.us

DELIVERY CONTACT: Eric Guzdek
PHONE NUMBER: 716-207-2227 cell
EMAIL: eguzdek@amherst.ny.us

BUILDING OPENER: Tony Vega
CELL PHONE NUMBER: 716-207-2226
EMAIL: vegat@amherst.ny.us

As a place to hold official voter registrations and conduct elections in accordance with the provisions of the New York State Election Law on the dates listed below:

PRESIDENTIAL PRIMARY ELECTION: TUESDAY, APRIL 2, 2024
26th CONGRESSIONAL DISTRICT SPECIAL ELECTION: TUESDAY, APRIL 30, 2024
PRIMARY ELECTION: TUESDAY, JUNE 25, 2024
GENERAL ELECTION: TUESDAY, NOVEMBER 5, 2024

The TENANT agrees to pay the OWNER **$100** for each election listed above for the use of the **730 Hopkins Road, Williamsville, New York 14221.**

The TENANT is to have uninterrupted use and possession of the leased area on each said date from 5:30 am, being one-half hour prior to the opening of the polls until 9:30 pm, being one-half hour after the closing of the polls or until the inspectors have completed their work, whichever shall be later.

In the event an election is delayed or continues as a result of a common disaster to another date, the OWNER agrees to make available the leased area to the TENANT on said subsequent date.

The OWNER hereby agrees to open the building for delivery and pick up of the voting machine(s) on a date mutually agreed to by the parties, between the third and sixth day prior to the election and between the first and fourth day following the election.

Attachment: ECBOE Polling Location Lease - CYC (RES-2024-406 : Polling Location Lease Agreement (CCC) - CRS #4724)

The OWNER hereby promises, covenants and acknowledges as follows:

A. To furnish necessary light, heat, and if available, cooling, to the leased area;
B. To provide and set up twelve chairs and four tables no less than 48" in length for each machine delivered to the leased area;
C. To ensure that the leased area is accessible to the public during the times heretofore specified and that the doors are opened;
D. That there is a functional restroom facility available for use by employees of the TENANT during said day; and
E. That political contributions by the OWNERS of a polling place are prohibited and that it is a misdemeanor for such OWNER to make, offer or promise any such political contribution as an inducement for the leasing of these premises.

The TENANT hereby promises, covenants and acknowledges as follows:

A. Not to use said premises, or any part thereof, for any purpose other than the official voter registration and election functions;
B. Not to let or sign over said premises, or any part thereof, to another without the prior written consent of the OWNER;
C. To punctually pay said rent as the same accrues; and
D. To take special care that no damage happens to the building, or any improvements or fixtures therein.

A breach of any promise or covenant made by the TENANT shall be reported by the OWNER to the commissioners of the Erie County Board of Elections as soon as practicable. If any damage shall occur to the leased premises as a result of the negligence by the TENANT or any of its agents or employees, the TENANT hereby agrees to cooperate with the OWNER in filing a claim for damages with the County of Erie. The County does not assume liability for the OWNER's obligation to maintain and operate the property, building, premises and ingress/egress thereto in a safe condition. Any reported incident related to election operations will be investigated and evaluated by Erie County in cooperation with the lessor.

The commissioners of the Board of Elections, no later than four weeks following the receipt of the fully executed lease agreement and the conclusion of the election, shall transmit to the Erie County Comptroller a voucher, in the form required by said comptroller, requesting prompt payment of the rental due to the OWNER in the amount stated above.

In the event that following the execution of this lease agreement, the premises shall become damaged, restricted, or placed under repair to such an extent that the leased area is no longer suitable for the conduct of voter registration and election, the TENANT shall have the right to terminate this lease agreement.

IN WITNESS WHEREOF, the parties hereto have affixed their hands and seals the day and year first above mentioned.

ERIE COUNTY BOARD OF ELECTIONS:

_____
Ralph M. Mohr, Commissioner of Elections

_____
Jeremy J. Zellner, Commissioner of Elections

OWNER: _____

BY: _____

PRINT NAME: _____

Attachment: ECBOE Polling Location Lease - CYC (RES-2024-406 : Polling Location Lease Agreement (CCC) - CRS #4724)

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Youth & Recreation
Initiated by: **Mary Diana Pouli**
Co-Sponsored by:

DOC ID: 28870 **RESOLUTION 2024-407** **ADOPTED**

Evaluation Services - CRS #4652

Authorize the Supervisor to sign a contract between the Town of Amherst (Youth & Recreation Department) and Catalyst Research, LLC for evaluation services required by the Town's Drug Free Communities grant.

4/29/2024
Consent

FINANCIAL IMPACT:

A7256.4110; up to $10,000.00

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

THIS AGREEMENT is entered into as of 1/1/2024 by and between Catalyst Research, LLC (the "Consultant") and Amherst Youth and Community Coalition (the "Organization").

IN CONSIDERATION of the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. **Term.** Subject to the provisions for termination hereinafter provided, the term of this Agreement shall begin on 1/1/2024 and shall terminate on 9/30/2024, or on completion of the stated work set forth in "Exhibit A," attached. The Organization may cancel the Agreement upon total payment of the compensation then due to the Consultant hereunder.

2. **Duties.** Consultant agrees to hold self available and to render at the request of the Organization from time to time Consultant's services to the Organization. Consultant shall render such services conscientiously and shall devote its reasonable efforts and abilities thereto during the Term in such manner as the Organization and the Consultant shall mutually agree. It being acknowledged that Consultant's services shall be on a non-exclusive basis and performed at such times as are convenient to Consultant and the Organization.

3. **Compensation.** Consultant shall receive as compensation for the performance of all services hereunder the maximum annual sum of ten thousand dollars ($10,000), billable at $150/hr. The Organization shall pay Consultant within thirty (30) days of receipt of Consultant's invoices for services. The Organization shall pay such compensation without deduction, including no deduction for federal income, social security or state income taxes.

4. **Independent Contractor.** It is expressly agreed that Consultant is acting as an independent contractor in performing its services hereunder. The Organization shall carry no workers' compensation insurance or any health or accident insurance to cover Consultant or any of its employees. The Organization shall not pay any contribution to social security, unemployment insurance, federal or state withholding taxes, nor provide any other contributions or benefits that might be expected in an employer/employee relationship. Consultant agrees to report and pay any contributions for taxes, unemployment insurance, social security and other benefits for itself and its employees.

5. **Assignment.** This Assignment is personal between the Organization and Consultant, and neither the Organization nor the Consultant may sell, assign, transfer or hypothecate any rights or interests created under this Assignment or delegate any of their duties without the prior written consent of the other, provided the Organization may assign this Agreement to an affiliated organization. Any such assignment or delegation by either party hereunder without written consent shall be void.

6. **Entire Agreement**. This Agreement contains the entire agreement of the parties. It may not be changed orally, but only in writing signed by the party against whom enforcement of any waiver, charge, modification, extension or discharge is sought.

7. **Governing Law.** The validity of this Agreement and the interpretation and performance of all its terms shall be governed by the substantive laws of the State of New York.

8. **Notices.** Any notices required or permitted to be given under the Agreement shall be sufficient if in writing and if sent by personal delivery or by certified mail, return receipt requested, to the party to whom notice should be given at the address set forth below:

Attachment: Catalyst Research (RES-2024-407 : Evaluation Services - CRS #4652)

Organization:
Town of Amherst
5583 Main Street
Williamsville, NY 14221

Consultant:
Meghan Guinnee
Managing Partner
Catalyst Research, LLC
1714 Amherst St.
Buffalo, NY 14214

Notice shall be deemed effective upon receipt, if made by personal delivery, or upon deposit in the United States Mail.

ORGANIZATION: _____

Date: _____

Name: _____

Title: _____

Signature: _____

CONSULTANT: Catalyst Research, LLC

Date: 2/14/24

Name: Meghan Guinnee

Title: Managing Partner

Signature: _____

Attachment: Catalyst Research (RES-2024-407 : Evaluation Services - CRS #4652)

Exhibit A - Consulting Agreement Summary

A. NAME OF PROJECT:
DFC Program - External Evaluation

B. ORGANIZATION:
Amherst Youth and Community Coalition

C. CONSULTANT:
Catalyst Research, LLC

D. PROJECT SUMMARY:
Catalyst Research will perform external evaluation services as described below.

E. SCOPE OF WORK TO BE PERFORMED:
****IMPORTANT NOTE** - The maximum annual budget for this contract is ten thousand dollars, billable at one hundred and fifty dollars per hour ($150/hr.). The 67 hours covered by this contract will be used to address the following items. When 67 hours of work have been completed by consultant, this contract will be complete.**

Primary Tasks

- Co-chair Evaluation Committee
- Complete analysis and contribute to dissemination of youth community survey results
- Assist in engaging the Amherst Town Board and Amherst Police Department in the evaluation of the use of the existing Social Host Ordinance and offer support to help facilitate implementation
- Work with the Media Committee to develop and implement instruments and approaches to measure media campaign reach and effectiveness
- Analysis, reporting, and dissemination of results of the Search Institute survey
- Other or substitute evaluation and reporting tasks, as agreed upon by the project director and Catalyst Research

F. COMPENSATION AND PAYMENT SCHEDULE:
The compensation for this project is a maximum of ten thousand dollars ($10,000), billable at $150/hr. An invoice for the previous month's work will be sent on the first of each month.

G. TERM OF CONTRACT:
Beginning 1/1/2024 and ending no later than 9/30/2024.

H. **ADDITIONAL NOTES:**

Attachment: Catalyst Research (RES-2024-407 : Evaluation Services - CRS #4652)

Consultant Minor Exposure Addendum to Contract

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 Consultants 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, Consultant 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 Consultant its officers, agents, sub-Consultants, and/or employees as well as the negligence, active or passive, of the Consultant, its officers, agents, sub-Consultants, and/or employees.

4. Consultant 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: Consultant 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: Consultant 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) Consultant shall furnish the above insurances, including sub-Consultants' 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) Consultant shall ensure all its sub-Consultants, if any, have obtained all the above insurances and shall also assure that any policy procured by any sub-Consultant or sub-sub Consultant shall name the Town as an additional insured on a primary and non-contributory basis.

Attachment: Catalyst Research (RES-2024-407 : Evaluation Services - CRS #4652)

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 Consultant 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 Consultant 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 Consultant, in accordance with its status as an independent Consultant, 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.

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

Attachment: Catalyst Research (RES-2024-407 : Evaluation Services - CRS #4652)

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:

Catalyst Research, LLC
Print Name of Company

By: _____
Signature

Meghan Guinnee, Managing Partner
Printed name

Date: 2/14/24

Agreed to and Accepted by:

Town of Amherst

By: _____
Brian J. Kulpa, Supervisor

Date: _____

Revised 12.30.19 SJS

Attachment: Catalyst Research (RES-2024-407 : Evaluation Services - CRS #4652)

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: CATALYST RESEARCH

Signature: D. Dan

Print Name: Dan Webb

Title: Co-owner

Date: 2/26/24

Sworn To Before Me This

26th Day of February, 2024

Notary Public

DALTON FURMAN
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 01FU0014821
Qualified in Erie County
Commision Expires October 24, 2027

Revised 4.2017

Attachment: Catalyst Research (RES-2024-407 : Evaluation Services - CRS #4652)

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 02/16/2024

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 be endorsed. If SUBROGATIONIS 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 LAWLEY LLC 01212530 PO BOX 355 BUFFALO NY 14201	CONTACT NAME:	
	PHONE (A/C, No, Ext): (585) 454-1600	FAX (A/C, No):
	E-MAIL ADDRESS:	
	INSURER(S) AFFORDING COVERAGE	NAIC#
	INSURER A : Sentinel Insurance Company Ltd.	11000
INSURED CATALYST RESEARCH LLC 25 BLOOMFIELD AVE DEPEW NY 14043-3634	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 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	COMMERCIAL GENERAL LIABILITY CLAIMS-MADE [X] OCCUR [X] General Liability GEN'L AGGREGATE LIMIT APPLIES PER: [ ] POLICY [ ] PRO-JECT [X] LOC [ ] OTHER:	X	X	01 SBA RH6730	11/21/2023	11/21/2024	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 $1,000,000 $10,000 $1,000,000 $2,000,000 $2,000,000
A	AUTOMOBILE LIABILITY [ ] ANY AUTO [ ] ALL OWNED AUTOS [X] HIRED AUTOS [ ] SCHEDULED AUTOS [X] NON-OWNED AUTOS			01 SBA RH6730	11/21/2023	11/21/2024	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$1,000,000
	[ ] UMBRELLA LIAB [ ] OCCUR [ ] EXCESS LIAB [ ] CLAIMS-MADE [ ] DED [ ] RETENTION $						EACH OCCURRENCE AGGREGATE	
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y/N [ ] (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	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Those usual to the Insured's Operations.

CERTIFICATE HOLDER

Town of Amherst
5583 MAIN ST
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

Susan L. Castaneda

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Attachment: Catalyst Research (RES-2024-407 : Evaluation Services - CRS #4652)

AGENCY CUSTOMER ID: _____

LOC# : _____

ADDITIONAL REMARKS SCHEDULE

AGENCY	NAMED INSURED
LAWLEY LLC	CATALYST RESEARCH LLC 25 BLOOMFIELD AVE DEPEW NY 14043-3634
POLICY NUMBER SEE ACORD 25	
CARRIER SEE ACORD 25 / NAIC CODE	EFFECTIVE DATE: SEE ACORD 25

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM

FORM NUMBER: ACORD 25 FORM TITLE: CERTIFICATE OF LIABILITY INSURANCE

Certificate holder is an additional insured per the Business Liability Coverage Form SS0008 attached to this policy. Waiver of Subrogation applies in favor of the Certificate Holder per the Business Liability Coverage Form SS0008, attached to this policy. Coverage is primary and noncontributory per the Business Liability Coverage Form SS0008, attached to this policy.

Attachment: Catalyst Research (RES-2024-407 : Evaluation Services - CRS #4652)

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NEW YORK STATE | Workers' Compensation Board

Certificate of Attestation of Exemption
from New York State Workers' Compensation and/or Disability and Paid Family Leave Benefits Insurance Coverage

This form cannot be used to waive the workers' compensation rights or obligations of any party.

The applicant may use this Certificate of Attestation of Exemption **ONLY** to show a government entity that New York State specific workers' compensation and/or disability and paid family leave benefits insurance is not required. The applicant may **NOT** use this form to show another business or that business's insurance carrier that such insurance is not required.

Please provide this form to the government entity from which you are requesting a permit, license or contract. This Certificate will not be accepted by government officials one year after the date printed on the form.

In the Application of (Legal Entity Name and Address):	Business Applying For:
CATALYST RESEARCH, LLC 1714 AMHERST BUFFALO, NY 14214 PHONE: 716-816-5582 FEIN: XXXXX4221	OTHER: WORKERS COMPENSATION From: TOWN OF AMHERST

Workers' Compensation Exemption Statement:

The above named business is certifying that it is **NOT REQUIRED TO OBTAIN NEW YORK STATE SPECIFIC WORKERS' COMPENSATION INSURANCE COVERAGE** for the following reason:

The business is a LLC, LLP, PLLP or a RLLP; OR is a partnership under the laws of New York State and is not a corporation. Other than the partners or members, there are no employees, day labor, leased employees, borrowed employees, part-time employees, unpaid volunteers (including family members) or subcontractors.

Partners / Members: DAN WEBB

Disability and Paid Family Leave Benefits Exemption Statement:

The above named business is certifying that it is **NOT REQUIRED TO OBTAIN NEW YORK STATE STATUTORY DISABILITY AND PAID FAMILY LEAVE BENEFITS INSURANCE COVERAGE** for the following reason:

The business MUST be either: 1) owned by one individual; OR 2) is a partnership (including LLC, LLP, PLLP, RLLP, or LP) under the laws of New York State and is not a corporation; OR 3) is a one or two person owned corporation, with those individuals owning all of the stock and holding all offices of the corporation (in a two person owned corporation each individual must be an officer and own at least one share of stock); OR 4) is a business with no NYS location. In addition, the business does not require disability and paid family leave benefits coverage at this time since it has not employed one or more individuals on at least 30 days in any calendar year in New York State. (Independent contractors are not considered to be employees under the Disability and Paid Family Leave Benefits Law.)

I, DAN WEBB, am the Partner with the above-named legal entity. I affirm that due to my position with the above-named business I have the knowledge, information and authority to make this Certificate of Attestation of Exemption. I hereby affirm that the statements made herein are true, that I have not made any materially false statements and I make this Certificate of Attestation of Exemption under the penalties of perjury. I further affirm that I understand that any false statement, representation or concealment will subject me to felony criminal prosecution, including jail and civil liability in accordance with the Workers' Compensation Law and all other New York State laws. By submitting this Certificate of Attestation of Exemption to the government entity listed above I also hereby affirm that if circumstances change so that workers' compensation insurance and/or disability and paid family leave benefits coverage is required, the above-named legal entity will immediately acquire appropriate New York State specific workers' compensation insurance and/or disability and paid family leave benefits coverage and also immediately furnish proof of that coverage on forms approved by the Chair of the Workers' Compensation Board to the government entity listed above.

SIGN HERE	Signature:	Date:

Exemption Certificate Number

2024-026095

Received

April 9, 2024

NYS Workers' Compensation Board

CE-200 01/2018

Attachment: Catalyst Research (RES-2024-407 : Evaluation Services - CRS #4652)

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Youth & Recreation
Initiated by: **Mary Diana Pouli**
Co-Sponsored by:

DOC ID: 28871 **RESOLUTION 2024-408** **ADOPTED**

Rental Agreement WNYRHL - CRS #4737

Authorize the Supervisor to sign a contract between the Town of Amherst (Youth & Recreation Department) the WNY Roller Hockey League for rental of the Feature Rink.

4/29/2024
Consent

FINANCIAL IMPACT:

A7253.02004; up to -$58,000.00 (revenue)

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

northtown center
at amherst

Revised 3/18/24

== LETTER OF UNDERSTANDING ==
WNY Roller Hockey League

Facility

Agreement Period

- *Tuesday, April 16, 2024 – Sunday, September 8, 2024*

Locker Rooms & Office Space

- Locker Rooms 1, 3, 7 and 9 will be made available to WNY Roller Hockey League, herein after WNYRHL, exclusively when the Northtown Center at Amherst, herein after NCAA, Rink 1 is used. The WNYRHL will handle the distribution of the locker room keys to their groups as needed.
- The Referee's Locker room and Coaches Locker room on the north (Rink 1) end of the building will also be available to be signed out at Guest Services on a daily basis and should be returned when finished with them.
- The TOA will conduct locker room inspections on a daily basis to determine damages and charge appropriately as needed.
- The WNYRHL will be responsible for these rooms and their contents during the duration of this agreement. The WNYRHL further understands that the WNYRHL will be responsible for the safe keeping of the keys themselves. The WNYRHL understands that in the event that a key is lost or stolen, the WNYRHL will be responsible for reimbursing the Town of Amherst, herein after TOA, for the cost of "re-keying" the door(s).

Cleaning

- The TOA will assume responsibility for the cleaning of all locker rooms pertaining to Rink 1 as well as the rink itself including the seating areas and all player benches and boxes. The WNYRHL is also responsible for periodic inspections of these areas to ensure that no damages have occurred. Any damages will be billed accordingly.
- The WNYRHL will be responsible to clean and maintain the floor surface. The WNYRHL may make advance arrangements for the use of the TOA 'floor machine' through the facility Building Maintenance Department.

Attachment: WNY Roller Hockey League (RES-2024-408 : Rental Agreement WNYRHL - CRS #4737)

Floor

- The TOA with the help of the WNYRHL will install the roller hockey floor on Rink 1.
- Daily inspections of the floor surface will be conducted by WNYRHL. The WNYRHL will be responsible for sizing the floor as necessary to prevent hazardous conditions. TOA will provide replacement tiles and ban-saw equipment.

Sound System

- The WNYRHL will be issued the use of one sound system unit, including microphone for the duration of this season. The WNYRHL will provide for the security and safe keeping of the system and will return the system at the end of the season in the same condition in which it was originally received or be subject to reasonable repairs and/or replacement charges.
- No vulgar or offensive music shall be played at any time. Failure to comply may result in loss of sound system use.

League Operations

Scheduling

- The WNYRHL will have the right to operate roller hockey programs for their organization at the NCAA during this agreement period. WNYRHL will provide all referees, statisticians and officials.
- The WNYRHL will provide a draft schedule which will be finalized upon registration completion, a copy of which will be provided to the TOA Building Management Department one week in advance of all events. **All events including tournaments, additional practices / games must be approved by the TOA - NCAA Programming Department prior to release of said schedule.**

Auxiliary Services

- Food service concessions at the NCAA should be coordinated with the TOA's designated food and beverage contractor (Keith Radice 860-7429).

Exclusions

- The TOA will have exclusive rights to rink usage on the following days:
  - *Monday, May 27, 2024 – Building Closed for Holiday*
  - *Thursday, July 4, 2024 – Building Closed for Holiday*
  - *Monday, September 2, 2024 – Building Closed for Holiday*
  - *Any other exclusions to be mutually agreed upon*
- Floor surface will be cleaned by TOA staff upon completion of the various events.
- The WNYRHL understands that a protective surface is not placed over top of the roller hockey surface.

Ingress & Egress

- The WNYRHL will enter and exit the building at the normal points of entry/exit and in no way use the emergency exits unless an emergency exists.

Attachment: WNY Roller Hockey League (RES-2024-408 : Rental Agreement WNYRHL - CRS #4737)

Additional Considerations

- The WNYRHL will operate independent of the TOA Recreation Department Roller Hockey program (this includes camps and clinics).

Additional Opportunities

NARCh Tournament & TCS Roller Hockey Finals

- A WNYRHL/NCAA strategic partnership will be formed to generate greater number of teams for tournaments, including the NARCh Regional, TCS Roller Hockey Finals and any other Tournaments.
- Rink surface fees received during the **NARCh** Tournament will be solely that of the WNYRHL. The WNYRHL will be responsible for the payment of rink fees to the TOA.
- Rink surface fees received during the **TCS Roller Hockey Finals** will be solely that of the WNYRHL. The WNYRHL will be responsible for the payment of rink fees to the TOA.

Advertising & Marketing

- The WNYRHL will be permitted to promote and host spectator-orientated roller hockey offerings, including professional, junior and related elite teams and games.
- The WNYRHL will be permitted to hang banners from primary sponsors in Rink 1. **TOA reserves the right for approval of advertisers and should not conflict with existing advertising relationships engaged by TOA.**
- WNYRHL will be permitted to market within and around NCAA upon execution of the agreement with banners, posters and fliers, and in-person (information desk staffed by WNYRHL personnel handing out informational fliers). **Prior approval is required by the TOA including banner placement within the facility. No banners or advertisements may be hung from the rink netting, rink doors or drywall.**

Communication

- The WNYRHL will provide the TOA with an educational Fact-sheet which scripts answers to frequently asked questions in order that TOA operational employees may cross sell the WNYRHL programs and offerings to the public.
- WNYRHL will be added to NCAA automated phone-greeting system.

Fitting

- WNY Roller Hockey elite team equipment fittings may be held at the NCAA during periods of stay. No collection of money is permitted on premise.
- **The WNYRHL is not permitted to sell any hockey equipment within the NCAA.**

Attachment: WNY Roller Hockey League (RES-2024-408 : Rental Agreement WNYRHL - CRS #4737)

Standard Operating Hours

- The WNYRHL will have use of Rink 1 (with the exception of those dates under the Exclusions heading) until 12 AM EST (Midnight) daily, during the entire period of this agreement. Any use later than this must be approved by NCAA staff.
- **TOA Building Management must be given advance notification to Tournament schedules.**

Fees

- The WNYRHL will pay **$2,800.00** per week for the use of Rink 1 payable to the Town of Amherst on a monthly basis, payable on the first day of the month, ***in advance*** of the month. Any partial weeks will be billed on a pro-rated basis. The TOA reserves the right to levy finance charges on balances over thirty days and reserves.

Indemnification

To the fullest extent permitted by law, Tenant 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, including but not limited to claims for personal injury and/or death to all persons arising out of the use of the premises by the Tenant or its officers, agents, and/or employees as well as the negligence, active or passive, of the Tenant its officers, agents and/or employees.

Tenant 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 Tenant's 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 or excess coverage shall be in an amount of at least $5,000,000.00.

Tenant shall furnish adequate proof of the existence of the above 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 and name the Town as a certificate holder and further assure that the policies shall be cancelled, reduced in the amount of coverage, surrendered or allowed to expire without the Landlord being provided with thirty (30) days prior written notice.

A failure by Tenant to procure the General Liability and/or Property Damage policies referenced above, or the failure to have the Town of Amherst as an additional insured on a primary, non-contributory basis on said policies, shall be considered a material breach of the underlying Agreement and subject the Tenant to pay liquidated damages to the Town of no less than $2,000,00.00 or the Town's actual expenses, whichever is higher, including, but not limited to all attorney fees and expenses related to the prosecution of a breach of the insurance procurement requirements suit and/or of the indemnification provisions regardless of whether the Town is successful in said suit.

Attachment: WNY Roller Hockey League (RES-2024-408 : Rental Agreement WNYRHL - CRS #4737)

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.

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.

The Tenant 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.

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.

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.

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.

Proof of all player registration and USA Inline Insurance will be held by the WNYRHL.

Attachment: WNY Roller Hockey League (RES-2024-408 : Rental Agreement WNYRHL - CRS #4737)

Approval

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.

Town of Amherst

_____

Brian J. Kulpa, Supervisor
Supervisor, Town of Amherst

_____

Date

WNY Roller Hockey League

_____

Eric Haak, Co-Owner, President & CEO
WNY Roller Hockey League

3-22-24

Date

Attachment: WNY Roller Hockey League (RES-2024-408 : Rental Agreement WNYRHL - CRS #4737)

Addendum to Contract

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 Vendors 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, Vendor 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 Vendor its officers, agents, sub-Vendors, and/or employees as well as the negligence, active or passive, of the Vendor, its officers, agents, sub-Vendors, and/or employees.

4. Vendor 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: Vendor 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: Vendor 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) Vendor shall furnish the above insurances, including sub-Vendors' 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) Vendor shall ensure all its sub-Vendors, if any, have obtained all the above insurances and shall also assure that any policy procured by any sub-Vendor or sub-sub-Vendor shall name the Town as an additional insured on a primary and non-contributory basis.

Attachment: WNY Roller Hockey League (RES-2024-408 : Rental Agreement WNYRHL - CRS #4737)

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 Vendor 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 Vendor 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 Vendor, in accordance with its status as an independent Vendor, 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.

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,

Attachment: WNY Roller Hockey League (RES-2024-408 : Rental Agreement WNYRHL - CRS #4737)

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.

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:

WNY Roller Hockey

Print Name of Company

By: _____

Signature

Eric Hart

Printed name

Date: 3-22-24

Agreed to and Accepted by:

Town of Amherst

By: _____

Brian J. Kulpa, Supervisor

Date: _____

Attachment: WNY Roller Hockey League (RES-2024-408 : Rental Agreement WNYRHL - CRS #4737)

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: WNY Roller Hockey

Signature: [signature]

Print Name: Eric Ihrman

Title: GM

Date: 3-22-24

Sworn To Before Me This

22 Day of March, 2024

Patrice K Fischer

Notary Public

PATRICE K. FISCHER
No. 01SM6164366
Notary Public, State of New York
Qualified in Erie County
My Commission Expires 04/16/2027

Revised 4.2017

Attachment: WNY Roller Hockey League (RES-2024-408 : Rental Agreement WNYRHL - CRS #4737)

ACORD

WNYROLL-01

MRE

DATE (MM/DD/YYYY)
1/29/2024

CERTIFICATE OF LIABILITY INSURANCE

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 License # 100290819 Hub International Midwest West 251 Progress Way Suite 300 Waunakee, WI 53597	CONTACT NAME: Monica Renner PHONE (A/C, No, Ext): (563) 823-6706 FAX (A/C, No): E-MAIL ADDRESS: monica.renner@hubinternational.com
	INSURER(S) AFFORDING COVERAGE — NAIC #
	INSURER A : Philadelphia Indemnity Insurance Company — 18058
INSURED WNY Roller Hockey League, Inc. 3843 Union Rd. Ste 15 Cheektowaga, NY 14225	INSURER B : Amtrust Group — 384
	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 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						EACH OCCURRENCE	$ 1,000,000
	CLAIMS-MADE X OCCUR	X		PHPK2634829	1/15/2024	1/15/2025	DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 100,000
							MED EXP (Any one person)	$ 0
							PERSONAL & ADV INJURY	$ 1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$ 3,000,000
	X POLICY PRO-JECT LOC						PRODUCTS - COMP/OP AGG	$ 3,000,000
	OTHER:							$
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	$
	ANY AUTO						BODILY INJURY (Per person)	$
	OWNED AUTOS ONLY / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	HIRED AUTOS ONLY / NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
								$
A	X UMBRELLA LIAB X OCCUR			PHUB893106	1/15/2024	1/15/2025	EACH OCCURRENCE	$ 5,000,000
	EXCESS LIAB CLAIMS-MADE						AGGREGATE	$ 5,000,000
	DED X RETENTION $ 10,000							$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			WWC3646104	5/30/2023	5/30/2024	X PER STATUTE OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N	N/A					E.L. EACH ACCIDENT	$ 500,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$ 500,000
							E.L. DISEASE - POLICY LIMIT	$ 500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Town of Amherst is listed as additional insured on the general liability when required by written contract on a primary and noncontributory basis.

CERTIFICATE HOLDER

Town of Amherst
5583 Main Street
Amherst, 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
Jennifer Billings

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Attachment: WNY Roller Hockey League (RES-2024-408 : Rental Agreement WNYRHL - CRS #4737)

NEW YORK STATE | Workers' Compensation Board

CERTIFICATE OF NYS WORKERS' COMPENSATION INSURANCE COVERAGE

Insured Detail

1a. Legal Name and address of Insured (Use street address only) WNY Roller Hockey Inc 3843 Union Rd Suite # 15 Cheektowaga, NY 14225 Work Location of Insured *(Only required if coverage is specifically limited to certain location in New York State, i.e. a Wrap-Up Policy)*	**1b. Business Telephone Number of Insured** 716-903-2658 **1c. NYS Unemployment Insurance Employer Registration Number of Insured** **1d. Federal Employer Identification Number of Insured or Social Security Number** 461142027
2. Name and Address of the Entity Requesting Proof of Coverage (Entity Being Listed as the Certificate Holder) Town of Amherst 5583 Main St Amherst , NY 14221	**3a.Name of Insurance Carrier** Wesco Insurance Company **3b. Policy Number of entity listed in box "1a":** WWC3646104 **3c. Policy effective period:** 5/30/2023 to 5/30/2024 **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: Matt Zender
(Print name of authorized representative or licensed agent of insurance carrier)

Approved By: _____ 3/26/2024
(Signature) (Date)

Title: Senior Vice President

Attachment: WNY Roller Hockey League (RES-2024-408 : Rental Agreement WNYRHL - CRS #4737)

Telephone Number of authorized representative or licensed agent of insurance carrier: 877-528-7878

Please Note: Only insurance carriers and their licensed agents are authorized to issue the C-105.2 form . Insurance brokers are NOT authorized to issue it.

C-105.2 (9-17) www.wcb.ny.gov

Workers' Compensation Law

Section 57. Restriction on issue of permits and the entering 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.

C-105.2 (9-17) REVERSE

Attachment: WNY Roller Hockey League (RES-2024-408 : Rental Agreement WNYRHL - CRS #4737)

STATE OF NEW YORK
WORKERS' COMPENSATION BOARD

Notice of Election of a Corporation which is Required to have Disability and Paid Family Leave Benefits Coverage for its Employees under the Disability and Paid Family Leave Benefits Law to Exclude the Sole Shareholder-Officer or One of Two Shareholder-Officers or Shareholder-Officers of the Corporation from Such Coverage

TO (print name and address of insurance carrier here): Wesco Insurance Company

TAKE NOTICE that under the provisions of Section 212, subdivision 4 of the Disability and Paid Family Leave Benefits Law as amended, the corporation named below elects to exclude the executive officer(s) named below from coverage under the New York State Workers' Compensation Law with respect to all the policies issued to the corporation by the insurer named above.

Corporation Name: WNY Roller Hockey Inc

Mailing Address: 3843 Union Road Ste 15

Incorporated Under the Laws of the State of New York

Type (check one): ☐ One-person corporation

☒ Two-person corporation (A two-person corporation may elect to exclude one or both executive officers, provided that between them they own all the stock in the corporation, and that each officer owns at least one share of stock.)

Executive Officer(s) to be excluded from policy:

Name: Eric Haak Title: General Manager

Name: Jason Flowers Title: League Manager

CERTIFICATION

USE FOR ONE-PERSON CORPORATION

I, _____, certify that I am the sole executive officer of the above-named corporation; that I have been since _____ the sole owner of all issued and outstanding stock of the corporation and hold all the offices pursuant to paragraph (e) of Section 715 of the Business Corporation Law.

Signature of Officer	Date	Telephone Number

USE FOR TWO-PERSON CORPORATION

We, Eric Haak (Name), General Manager (Title), and Jason Flowers (Name), LeagueDirector (Title), certify that we are the two executive officers of the above-named corporation, having been duly appointed by corporate resolution; that we have been since 2012 the sole owners of all issued and outstanding stock and that each of us owns at least one share of stock of the corporation, and that we hold all of the offices pursuant to paragraph (e) of Section 715 of the Business Corporation Law.

Signature of Officer	Date	Telephone Number
	3/29/24	7169032658
Signature of Officer	Date	Telephone Number
	3/29/24	7164442667

THIS ELECTION IS FINAL AND BINDING UPON THE OFFICER(S) NAMED UNTIL REVOKED BY THE CORPORATION.

Affix corporate seal below, if you have one. If the corporation does not have a seal, check here: ☐

See reverse for Section 212, Subd. 4 (WCL) and Sec. 715, Paragraph (3) of the Business Corporation Law.

DB-212.3 (10-17)

DB-212.3 10-17

Attachment: WNY Roller Hockey League (RES-2024-408 : Rental Agreement WNYRHL - CRS #4737)

Section 212, Subdivision 4 of the New York Disability and Paid Family Leave Benefits Law

(a) An executive officer of a corporation who at all times during the period involved owns all of the issued and outstanding stock of the corporation and holds all of the offices pursuant to paragraph (e) of section 715 of the business corporation law or two executive officers of a corporation who at all times during the period involved between them own all of the issued and outstanding stock of such corporation and holds all such offices provided, however, that each officer must own at least own share of stock and who is the executive officer or who are the executive officers of a corporation having other persons who are employees required to be covered under this article, shall be deemed to be included in the corporation's disability and family leave benefits insurance contract or covered by a certificate of self-insurance or a plan under Section 211 of this article. Such election shall be made by any such corporation filing with the insurance carrier, or the chair of the workers' compensation board in the case of self-insurance, upon a form prescribed by the chair, a notice that the corporation elects to exclude the executive officer or officers of such corporation named in the notice from the coverage of this article. Such election shall be effective with respect to all policies issued to such corporation by such insurance carrier as long as it shall continuously insure the corporation. Such election shall be final and binding upon the executive officer or officers named in the notice until revoked by the corporation.

(b) Notwithstanding the definition of "employer" in Section 211 of this article, a sole proprietor, member of a limited liability company or limited liability partnership, or other self-employed person may become a covered employer under this article by complying with the provisions of Subdivision 1 of this Section.

Section 715, Paragraph (3) of the Business Corporation Law

Any two or more offices may be held by the same person, except the offices of president and secretary. When all of the issued and outstanding stock of the corporation is owned by one person, such person may hold all of any combination of offices.

Attachment: WNY Roller Hockey League (RES-2024-408 : Rental Agreement WNYRHL - CRS #4737)

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Youth & Recreation
Initiated by: **Mary Diana Pouli**
Co-Sponsored by:

DOC ID: 28864 **RESOLUTION 2024-409** **ADOPTED**

Software Upgrade - CRS #4660

Authorize the Supervisor to sign a contract between the Town of Amherst (Youth & Recreation Department) and DaySmart Recreation for software transition from RecPro to DaySmart.

4/29/2024
Consent

FINANCIAL IMPACT:

A7145.4110; up to $5,940.00

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



Software Upgrade

From RecPro Software
To DaySmart Recreation

Attachment: DaySmart (RES-2024-409 : Software Upgrade - CRS #4660)

RecPro Software Contract

DaySmart acquired R.C. Systems, Inc. on March 13, 2023. DaySmart assumes the responsibilities of all contracts under management, including the contract with the Town of Amherst, NY. First and foremost, the current agreement between the Town and R.C. Systems, Inc. "RecPro Software" remains in place. We will continue to provide the same excellent level of maintenance and support that the Town is accustomed to. At this time, there is no additional contract to be signed as migrating to DaySmart Recreation is viewed as an upgrade to the Town's existing RecPro Software system.

The Town of Amherst and RecPro Software had a year-to-year agreement that began in 2011 and has been extended annually for a period of 12 months with payment of the renewal invoice for support/maintenance. DaySmart fully intends to honor any agreement that is currently in place. Any changes to this arrangement will be addressed annually at the time of renewal. This statement does not preclude us from exploring additional options with DaySmart's suite of products.

DaySmart Recreation Required Fees

Below is a 3 year forecast of the fees the Town will incur to use DaySmart Recreation. Even though this is a 3 year forecast, our agreement will still be year-to-year. The Annual Subscription Fee includes support, maintenance, hosting and updates. Credit Card & ACH Processing Fees are separate and are ***not*** included in the fees listed in the grid below. The Annual Subscription is subject to an annual inflationary increase (4.0%) as illustrated in the grid below (which is similar to how RecPro was priced). **Please Note:** The fees listed below reflect the usage of the Parks & Recreation Department and not the Northtown Center. We will provide a proposal for the Northtown Center separately once their current software contract expires.

Year	Annual Subscription Fee	Monthly Subscription Fee
Year 1	$5,940	$495
Year 2	$6,180	$515
Year 3	$6,420	$535

Currently the Town renews RecPro Support & Maintenance every June 1st. It is the intent of the Town to go live with DaySmart Rec around March 1, 2024 with training starting around December/January. This will shift the renewal date to be March 1st instead of June 1st moving forward.

The Town currently has 2 unpaid RecPro invoices for support/maintenance & SSL/Domain. These should get paid in full ASAP. When the Town does go live with DaySmart Rec (~ March 1st), we will issue a credit (@ $327/mo) for any unused RecPro support and then apply it to the first year subscription invoice for DaySmart Rec. March 1st is an approximate start date and we'll be flexible and calculate the credit based on the actual start date.

Attachment: DaySmart (RES-2024-409 : Software Upgrade - CRS #4660)

DaySmart Recreation Upgrade / Onboarding Fees

Because the Parks & Recreation department is a current RecPro customer, all upgrade and onboarding fees are being waived. Virtual Setup & Training (typically $2,400) and Data Migration** (typically $4,500) will be FREE as long as the Town completes the setup & training process and uses DaySmart Recreation for a minimum of 12 months. If the Town does not complete setup & training and does not use DaySmart Recreation for the minimum of 12 months, then DaySmart reserves the right to recoup the training and data migration fees totaling a maximum of $6,900.

** Please note that Data Migration is ***optional*** and includes active Customer Accounts, active G/L Accounts, active Memberships, active Recurring Billing Contracts, future Calendar Events. No history or transactional data will be converted.

DaySmart Recreation Payment Terms

Annual Billings – (The Town is currently setup for Annual Billings)

- First year would be trued up based on a credit for any unused RecPro support (as explained above).
- Renewals shall be invoiced on the Renewal Date of relevant calendar years beginning with the second year of service (ex: March 1st)
- Payment Terms are ***Net 60 Days*** on all invoices
- Acceptable Payment Methods for Annual Billings are as follows
    - Check
    - ACH (initiated by DaySmart Recreation)
    - Credit Card (+ 3% service fee)

Monthly Billings – (Only in the event the Town would like to move toward Monthly billings)

- Monthly billings shall be invoiced on the Effective Date of relevant calendar months beginning with the first month of service (ex: March 1st)
- Payment Terms are ***Upon Receipt***
- Acceptable Payment Methods for Monthly Billings are
    - ACH (initiated by DaySmart Recreation)
    - Credit Card (+ 3% service fee)
    - **NOTE:** Check payments are not accepted for Monthly Billings

Delinquency

In the event of any delinquency in payment, we may, at our discretion: (i) add an additional 1.5% (or the highest amount allowed by law, whichever is lower) per month to the deliquent fees or (ii) suspend the Town's access to the use of DaySmart Recreation Services. Charges do not include any applicable sales, use or other taxes, which are the responsibility of the Town. The Town would be liable for any fees incurred by DaySmart Recreation in connection with the collection of unpaid fees.

Attachment: DaySmart (RES-2024-409 : Software Upgrade - CRS #4660)

DaySmart Recreation Optional Services (with Fees)

Below is a list of ***optional*** services with fees if the Town elects to use these third party services. Some of these services (Twilio & Constant Contact) will require the Town to create and manage their own account with the third party. These services are not required to operate DaySmart Recreation. They are in place to enhance the use of the software.

Text Messaging

- 3rd Party — Twilio (https://twilio.com)
- Fee — TBD – Town must create/manage their own account
- Note — DaySmart Rec offers FREE text messaging within the app. However, the FREE service requires staff to manage mobile phone carriers for all customers. Twilio allows texting without needing the customer's phone carrier which is a more efficient way to manage text messaging.

Enhanced Emailing

- 3rd Party — Constant Contact (https://constantcontact.com)
- Fee — TBD – Town must create/manage their own account
- Note — DaySmart Rec offers FREE emailing within the app. However, if the Town wants to send out enhanced emails along with tracking the activity of those emails (ex: open rates, click rates, etc.) we would recommend using our integration with Constant Contact.

Electronic Signature (Rental Contracts)

- 3rd Party — HelloSign (https://hellosign.com)
- Fee — $0.99 per signature
- Note — If the Town wants to upload the rental contracts into HelloSign to allow customers to electronically agree and sign, the cost is $0.99 per signature/document.

TV Display (Event List)

- 3rd Party — Reach Media (https://reachmedianetwork.com)
- Fee — $49.00 per month
- Note — If the Town wants to display daily event schedules on a TV display in the lobby of any facility, we would utilize the integration with Reach Media which will then cost the Town $49.00 per month to use this service.

DaySmart Recreation Credit Card Processing Options

DaySmart Recreation offers 2 credit card processing options in CardConnect https://cardconnect.com and Stripe https://stripe.com. In order to use DaySmart Rec, the Town will need to agree to utilize one of these 2 processors. DaySmart has their own Payments team and we will directly assist the Town with setting up and supporting the new processing account with one of these 2 providers.

Attachment: DaySmart (RES-2024-409 : Software Upgrade - CRS #4660)

DaySmart Recreation Software

DaySmart Recreation is a standardized, web-based Recreation Management Software Solution that is both mobile friendly and user friendly (for department staff and residents/customers). The platform is all inclusive meaning your department will have access to ***all*** of the core functions with an ***unlimited*** number of user accounts.

Core Features / Modules Included

- **Registration**
  - Classes (Recreation, Enrichment, Drop-Ins)
  - Camps / Care (Daily, Weekly, Monthly)
  - Sports Leagues (Team or Individual)
- **Reservation**
  - Book Classes, Camps & Leagues or Public Rentals
  - Single Date or Recurring Dates
  - Drag & Drop Calendar for moving/changing reservations
- **League Management & Scheduling**
  - Teams or Individuals (Free Agents)
  - Game Schedules, Scores, Standings & Stats
  - Drafting Tools for Youth Leagues
- **Membership / Pass**
  - Ongoing Memberships (Monthly Recurring)
  - Seasonal Passes
  - Punch Passes
- **Inventory Control / POS**
  - Front Desk Merchandise Sales
  - Concession Stand/Snack Bar
  - Retail/Pro Shop
- **Online Portal**
  - Online Account Management
  - Online Registration
  - Online Reservation
  - Online League Management
  - Online Membership / Pass Sales
- **Financial**
  - Fees for Resident / Non-Resident
  - Discounts & Sales Tax (if applicable)
  - End of Day Reporting by Payment Type & by G/L Code
  - G/L Export for any Finance Software (**ex:** BS&A, Munis, Quickbooks + more)

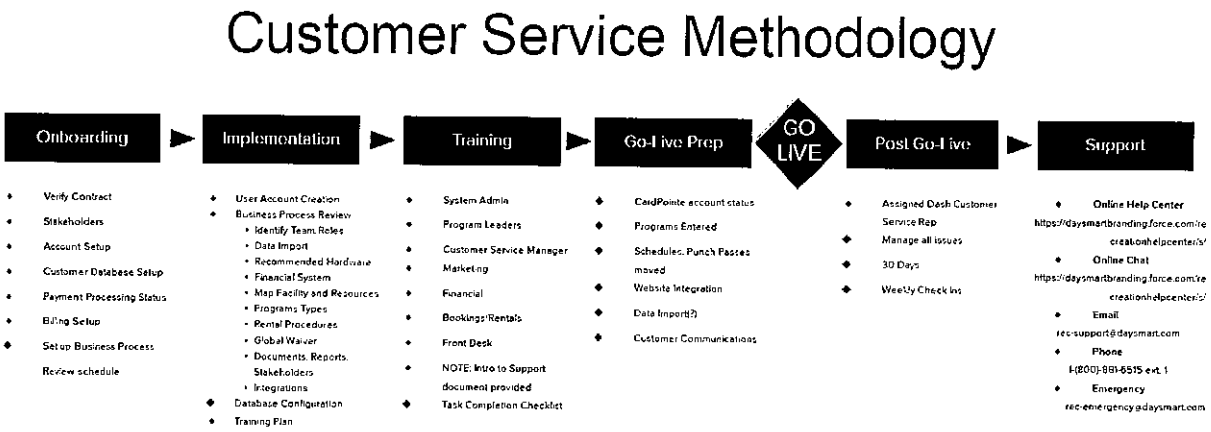
Attachment: DaySmart (RES-2024-409 : Software Upgrade - CRS #4660)

Other Standard Features Included

- GIS Integration (for resident status)
- Payment Plans / Auto Pay (with saved Credit Card on file)
- Mass Communications
    - Standard Emailing (thru DaySmart)
    - Enhanced Emailing (via Constant Contact)
    - Mobile Texting (via Twilio)
- Event Reminders (when Class is Starting)
- Event Tickets (for general admission events)
- Electronic Mobile Check-In for Members or Camp Participants
- Priority Registration for Previous Season Participants
- Digital Membership Cards (Mobile Phone)
- Scholarship Management
- Divorced Family Management
- Donation Management
- Gift Card Sales & Redemption
- FREE Mobile App for your customers
- Online Calendar Sync to Google or Apple (for your customers)
- So much more.....

Implementation / Customer Service Methodology

Onboarding/Training will include a combination of virtual training with an assigned trainer along with self training through our E-Learning system. The Town will be required to identify at least one staff member that will become a product expert and take ownership over the system and database. This staff member should be available to attend all training sessions and be a willing participant in the E-Learning courses.



Attachment: DaySmart (RES-2024-409 : Software Upgrade - CRS #4660)

DaySmart Recreation

Software Upgrade Agreement

Acceptance

We, the undersigned, agreeing to the conditions specified in this Software Upgrade Agreement, understand and authorize the provision of services and fees in this Agreement.

Town of Amherst, NY		DaySmart Recreation	
By:	_____	By:	Dale R Geiger
Name:	_____	Name:	Dale Geiger
Title:	_____	Title:	Vice President of Sales
Date:	_____	Date:	12/08/2023

Attachment: DaySmart (RES-2024-409 : Software Upgrade - CRS #4660)

Addendum to Contract VENDOR ON SITE Major

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 Vendors 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, Vendor 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 Vendor its officers, agents, sub-Vendors, and/or employees as well as the negligence, active or passive, of the Vendor, its officers, agents, sub-Vendors, and/or employees.

4. Vendor 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: Vendor 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: Vendor 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) Vendor shall furnish the above insurances, including sub-Vendors' 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) Vendor shall ensure all its sub-Vendors, if any, have obtained all the above insurances and shall also assure that any policy procured by any sub-Vendor or sub-sub-Vendor shall name the Town as an additional insured on a primary and non-contributory basis.

Attachment: DaySmart (RES-2024-409 : Software Upgrade - CRS #4660)

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 Vendor 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 Vendor 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 Vendor, in accordance with its status as an independent Vendor, 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.

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,

Attachment: DaySmart (RES-2024-409 : Software Upgrade - CRS #4660)

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:

DaySmart Software, LLC
Print Name of Company

By: _____
Signature

Duke R. Geiger
Printed name

Date: 2-16-2024

Agreed to and Accepted by:

Town of Amherst

By: _____
Brian J. Kulpa, Supervisor

Date: _____

Attachment: DaySmart (RES-2024-409 : Software Upgrade - CRS #4660)

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 9/16/2024 1/31/2024

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 Lockton Companies 1185 Avenue of the Americas, Suite 2010 New York NY 10036 646-572-7300	CONTACT NAME: PHONE (A/C, No, Ext): FAX (A/C, No): E-MAIL ADDRESS:
INSURED 1514866 DaySmart Software, LLC 7000 E Shea Blvd, Suite E-140 Scottsdale AZ 85254	INSURER(S) AFFORDING COVERAGE — NAIC # INSURER A: Hartford Fire Insurance Company — 19682 INSURER B: Trumbull Insurance Company — 27120 INSURER C: Hartford Casualty Insurance Company — 29424 INSURER D: Sentinel Insurance Company, Ltd. — 11000 INSURER E: Endurance Assurance Corporation — 11551 INSURER F: The Hanover Atlantic Insurance Company Ltd — 91316

COVERAGES **CERTIFICATE NUMBER:** 20257361 **REVISION NUMBER:** XXXXXXX

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: [X] POLICY [ ] PRO-JECT [ ] LOC OTHER:	Y	Y	42 UUN AW7Z7M	9/16/2023	9/16/2024	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 $ 1,000,000 $ 10,000 $ 1,000,000 $ 2,000,000 $ 2,000,000
B	AUTOMOBILE LIABILITY [ ] ANY AUTO [ ] OWNED AUTOS ONLY [ ] SCHEDULED AUTOS [X] HIRED AUTOS ONLY [X] NON-OWNED AUTOS ONLY	Y	Y	42 UEN AF3531	9/16/2023	9/16/2024	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 1,000,000 $ XXXXXXX $ XXXXXXX $ XXXXXXX
C	[X] UMBRELLA LIAB [X] OCCUR [ ] EXCESS LIAB [ ] CLAIMS-MADE [ ] DED [X] RETENTION $ 10,000	Y	N	42 XHU AY0W6W	9/16/2023	9/16/2024	EACH OCCURRENCE AGGREGATE	$ 12,000,000 $ 12,000,000
D	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N [N] If yes, describe under DESCRIPTION OF OPERATIONS below	N/A	N	42 WE AU0FJP	9/16/2023	9/16/2024	[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
E F	Cyber & Technology E&O Crime	N	N	PRO30024742801 BDR-D697376-02	9/16/2023 9/16/2023	9/16/2024 9/16/2024	Ret $25K Agg/Occ. $5M Ret $10K Agg. $1M	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Town of Amherst is included as Additional Insured on the General Liability, Automobile Liability and Umbrella Liability as required by written contract. The General Liability and Automobile Liability are Primary and Non-Contributory. Waiver of Subrogation applies in favor of Additional Insured under the General Liability and Automobile Liability as required by written contract.

CERTIFICATE HOLDER

20257361
Town of Amherst
5583 Main Street
Williamsville, NY 14221

CANCELLATION See Attachment

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: DaySmart (RES-2024-409 : Software Upgrade - CRS #4660)

NAMED INSUREDS:

Daysmart Holdings, LLC.
Daysmart Software, LLC.
Vetter Software Inc.
Dash Platform, LLC.
DaySmart Blocker, Inc.
Oak Intermediary II, LLC.
Oak Intermediary, LLC.
Oak Purchaser, Inc.
See Jane Run, Inc.
Stormsource, LLC. dba Appointments Plus
TeamUp Sports, Inc.
R.C. Systems Inc.

Attachment: DaySmart (RES-2024-409 : Software Upgrade - CRS #4660)

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: DaySmart Software, LLC

Signature: Dale R. Geiger

Print Name: Dale Geiger

Title: Vice President

Date: 2-16-2024

Sworn To Before Me This

16th Day of February, 2024

Notary Public

Lacie Amy Geiger

Revised 4.2017

Attachment: DaySmart (RES-2024-409 : Software Upgrade - CRS #4660)

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Youth & Recreation
Initiated by: **Mary Diana Pouli**
Co-Sponsored by:

DOC ID: 28926 **RESOLUTION 2024-410** **ADOPTED**

Summer 2024 Ice Rates

Approve a $5.00 increase in hourly ice rates for weekday ice and a $10.00 increase in hourly ice rates for weekend ice for the period May 1, 2024 through August 31, 2024. These proposed increases were discussed with the user groups and approved by the Amherst Recreation Commission.

4/29/2024
Consent

FINANCIAL IMPACT:

Potential increase in revenue to A 7253 of up to $14,400.00

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

Northtown Center at Amherst

Summer 2023 Ice Rates

May 1 - August 31, 2023		
Monday through Friday		
6:00 AM - 11:00 PM	Prime	$170.00
11:00 PM - 1:00 AM	Non-Prime	$135.00
Saturday & Sunday		
6:00 AM - 11:00 PM	Non-Prime	$150.00
11:00 PM - 1:00 AM	Non-Prime	$135.00

Proposed Summer 2024 Ice Rates

May 1 - August 31, 2024		
Monday through Friday		
6:00 AM - 10:30 PM	Prime	$175.00
10:30 PM - 1:00 AM	Non-Prime	$140.00
Saturday & Sunday		
6:00 AM - 10:30 PM	Non-Prime	$160.00
10:30 PM - 1:00 AM	Non-Prime	$140.00

Approximate Effect of Rate Increase

1220	x	$5 =	$6,100.00
830	x	$10 =	$8,300.00

Total = $14,400.00

Attachment: Summer 2024 Ice Increase (RES-2024-410 : Summer 2024 Ice Rates)

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Youth & Recreation
Initiated by: **Mary Diana Pouli**
Co-Sponsored by:

DOC ID: 28927 **RESOLUTION 2024-411** **ADOPTED**

Emergency Purchase Authorization R 22

Authorize the emergency purchase of R 22 for the Northtown Center at Amherst due to a refrigerant leak on the north end of the building during the NYSAHA state hockey tournaments.

4/29/2024
Consent

FINANCIAL IMPACT:

A 7253.4220: $25,219.80

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

Attachment G
TOWN OF AMHERST-EMERGENCY PURCHASE(S) DOCUMENTATION FORM

This form is to be completed for all emergency purchases made that contravene the Town's Purchasing Policy. You must contact the Supervisor (or Deputy Supervisor in the Supervisors absence) to obtain his/her approval prior to making the purchase. This form must be completed and submitted to the Town Board at the first work session following the Emergency purchase. A copy should also be submitted to the Town Attorney and Contract Compliance & Administration Department.

An exception to the competitive bidding requirements exists for emergency situations (GML, §103[4]). There are three basic statutory criteria to be met in order to fall within this exception. These are that (1) the situation arises out of an accident or other unforeseen occurrence or condition; (2) the circumstances affect public buildings, public property or life, health, safety or property of the political subdivision's residents; and (3) the situation requires immediate action which cannot await competitive bidding.

Generally, there must be a present, immediate and existing condition which is creating an imminent threat or danger and which requires such immediate action that a further delay to comply with competitive bidding requirements is so detrimental to the public interest that it overcomes the strong public policy in favor of bidding. Further, because the emergency must arise out of an accident or unforeseen occurrence, it is doubtful a local government may invoke the emergency exception in a situation which the result of inaction or dilatory behavior on the part of local officials and which, therefore, could have been foreseen in time to advertise for bids.

Even when a governing board passes a resolution that a public emergency exists, the public interest dictates that purchases are made at the lowest possible costs, seeking competition by informal solicitation of quotes or otherwise, to the extent practical under the circumstances.

1. Date of Emergency Purchase: 3/15/24
2. Date of Town Board work session where Board is notified: 4/29/24
3. Date you received approval from the Supervisor: 3/15/24
4. Amount of Emergency Purchase. Please provide a detailed listing of items purchased and the cost of each (Attach additional detail if necessary): R22: $25,219.80
5. Is there adequate funding in your current operating budget to cover this purchase? Yes.
   Identify budget Org/Object: A 7253.4220
6. Please describe the circumstances that resulted in the need to make an emergency purchase without following the Town's Purchasing Policy:
   Low charge at the north end of the ice center in the middle of state championships.
7. Please describe what steps were taken to ensure the lowest cost for the Emergency Purchase. If none, please explain why your department was prevented from doing so.
   The following companies were contacted, but none of them had enough in stock to meet our immediate need: Danforth, Mollenberg-Betz, United Refrigeration, Meyer Supply. Trane was the only company that had enough same-day stock.

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8. Department Head Signature: *Mary-Diana Pouli* Date: 3/15/24

CC: Town Board
Town Attorney
Contract Compliance & Administration

For Contract Compliance & Administration Use Only	
Date of Town Board Resolution:	Emergency Purchase Tracking/Res #:

Attachment: Emergency Purchase Authorization R 22_3-15-24 (RES-2024-411 : Emergency Purchase Authorization R 22)

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Youth & Recreation
Initiated by: **Mary Diana Pouli**
Co-Sponsored by:

DOC ID: 28931 **RESOLUTION 2024-412** **ADOPTED**

Piggyback Agreement (Musco) - CRS #4745

Authorize the Supervisor to sign an agreement between Musco Sports Lighting, LLC and the Town of Amherst under Sourcewell Cooperative Purchasing Contract #041123-MSL.

4/29/2024
Consent

FINANCIAL IMPACT:

Townwide, TBD

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

AGREEMENT

Let this document stand as an agreement between Musco Sports Lighting, LLC. and the Town of Amherst, permitting the Town of Amherst to participate in the purchase of sports lighting with related supplies and services under Sourcewell cooperative purchasing contract #041123-MSL. The term of this contract will be from the date of execution by the Town of Amherst through June 16, 2027.

During the term of this agreement, Musco Sports Lighting, LLC agrees to invoice the Town of Amherst for all parts, materials and labor at the rates specified in the Sourcewell contract or at further discounted rates when such rates are part of a special being offered on certain parts or a special service package offered to Musco Sports Lighting, LLC customers. It further being agreed that the prices set forth on Musco Sports Lighting, LLC invoices shall be the price charged and that no further attempts will be made to change or seek payment at a different price.

Agreed to and Accepted by:

MUSCO SPORTS LIGHTING, LLC

By: _____
Signature

James M. Hansen
Printed Name

Secretary
Title

Date: April 5, 2024

Agreed to and Accepted by:

TOWN OF AMHERST

By: _____
Brian J. Kulpa, Supervisor

Date: _____

Attachment: Musco Sports Lighting LLC (RES-2024-412 : Piggyback Agreement (Musco) - CRS #4745)

Addendum to Contract 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: Musco Sports Lighting LLC (RES-2024-412 : Piggyback Agreement (Musco) - CRS #4745)

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: Musco Sports Lighting LLC (RES-2024-412 : Piggyback Agreement (Musco) - CRS #4745)

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:

Musco Sports Lighting, LLC
Print Name of Company

By: _____
Signature

James M. Hansen
Printed name

Date: April 5, 2024

Agreed to and Accepted by:

Town of Amherst

By: _____
Brian J. Kulpa, Supervisor

Date: _____

Attachment: Musco Sports Lighting LLC (RES-2024-412 : Piggyback Agreement (Musco) - CRS #4745)

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: Musco Sports Lighting, LLC

Signature:

Print Name: James M. Hansen

Title: Secretary

Date: April 5, 2024

NOTARIAL SEAL IOWA
ELIZABETH JOHANNES
Commission Number 812509
My Commission Expires
September 6, 2024

Sworn To Before Me This

5 Day of April, 2024

Elizabeth Johannes
Notary Public

Revised 4.2017

Attachment: Musco Sports Lighting LLC (RES-2024-412 : Piggyback Agreement (Musco) - CRS #4745)

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 4/8/2024

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
Arthur J. Gallagher Risk Management Services, LLC
4201 Westown Parkway, Suite 120
West Des Moines IA 50266

CONTACT NAME: Francisco Honzura
PHONE (A/C, No, Ext): 515-309-6220 | FAX (A/C, No): 515-457-8849
E-MAIL ADDRESS: Francisco_Honzura@ajg.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Sentry Insurance Company	24988
INSURER B : Travelers Property Casualty Co of America	25674
INSURER C : Sentry Casualty Company	28460
INSURER D : Continental Casualty Company	20443
INSURER E :	
INSURER F :	

INSURED
Musco Sports Lighting, LLC
100 1st Ave W
Oskaloosa, IA 52577
MUSCLIG-01

COVERAGES **CERTIFICATE NUMBER:** 1279139288 **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 [ ] OCCUR [X] GEN'L AGGREGATE LIMIT APPLIES PER: X POLICY X PRO-JECT LOC OTHER:	Y	Y	9016877004	7/1/2023	7/1/2024	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 $ 1,000,000 $ 10,000 $ 1,000,000 $ 10,000,000 $ 2,000,000 $
A	AUTOMOBILE LIABILITY X ANY AUTO OWNED AUTOS ONLY HIRED AUTOS ONLY SCHEDULED AUTOS NON-OWNED AUTOS ONLY	Y		9016877003	7/1/2023	7/1/2024	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident) $	$ 1,000,000 $ $ $ $
B	X UMBRELLA LIAB X OCCUR EXCESS LIAB CLAIMS-MADE DED X RETENTION $ 10,000			CUP3S63336023NF	7/1/2023	7/1/2024	EACH OCCURRENCE AGGREGATE $	$ 10,000,000 $ 10,000,000 $
C C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N [N] N/A If yes, describe under DESCRIPTION OF OPERATIONS below			9016877001 - AOS 9016877002 - AZ, WI	7/1/2023 7/1/2023	7/1/2024 7/1/2024	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
D	Architects & Engineers Professional Liability & Pollution Liability			C6014214903	7/1/2023	7/1/2024	Each Claim Aggregate Retention	5,000,000 5,000,000 250,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
RE: Musco Project 182102 – Central Amherst Little League Majors Field

Town of Amherst is shown as Additional Insured solely with respect to General Liability coverage as evidenced herein on a Primary/Non-Contributory basis and Auto Liability coverage as required by written contract with respect to work performed by the Named Insured. A Waiver of Subrogation in favor of Additional Insured is included under the General Liability coverage as evidenced herein as required by written contract. 30 Days Notice of Cancellation applies in favor of Certificate Holder as required by written contract.

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
Scott Schmidt

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Attachment: Musco Sports Lighting LLC (RES-2024-412 : Piggyback Agreement (Musco) - CRS #4745)

Policy: 9016877003

COMMERCIAL AUTO
CA 80 07 06 18

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED - AUTOMATIC STATUS WHEN REQUIRED BY CONTRACT OR AGREEMENT WITH YOU

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by this endorsement.

A. The **Who Is An Insured** provision of **Covered Autos Liability Coverage** is amended to include as an additional insured any person or organization for whom you are performing operations when you and such person or organization have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy.

The status of an additional insured under this endorsement ends when your operations for that additional insured are completed.

B. The most we will pay on behalf of the additional insured is the lesser of the amount payable under the **Limit of Insurance** for **Covered Autos Liability Coverage** or the amount of insurance required by the contract or agreement.

C. Notwithstanding any requirement, term or condition of any contract or agreement with respect to which this endorsement may pertain, the insurance afforded to the additional insured is subject to all the terms, exclusions and conditions of the COMMERCIAL AUTO COVERAGE FORM to which this endorsement is attached.

Attachment: Musco Sports Lighting LLC (RES-2024-412 : Piggyback Agreement (Musco) - CRS #4745)

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POLICY NUMBER: 9016877003

COMMERCIAL AUTO
CA 76 01 06 15

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

DESIGNATED INSURED - PRIMARY AND NONCONTRIBUTORY - COVERED AUTOS LIABILITY COVERAGE

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM
AUTO DEALERS COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by this endorsement.

This endorsement identifies person(s) or organization(s) who are "insureds" for Covered Autos Liability Coverage under the Who Is An Insured provision of the Coverage Form.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated.

Named Insured:
Endorsement Effective Date:

SCHEDULE

Name Of Person(s) Or Organization(s):
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

A. Each person or organization shown in the Schedule is an "insured" for **Covered Autos Liability Coverage**, but only to the extent that person or organization qualifies as an "insured" under the **Who Is An Insured** provision contained in:

(1) Paragraph **A.1.** of **Section II - Covered Autos Liability Coverage** in the Business Auto and Motor Carrier Coverage Forms; or

(2) Paragraph **D.2.** of **Section I - Covered Autos Coverages** of the Auto Dealers Coverage Form.

B. Primary And Noncontributory Insurance

This insurance is primary to and will not seek contribution from any other auto insurance issued to the person or organization in the schedule under your policy provided that:

(1) The person or organization is a Named Insured under such other insurance; and

(2) Prior to the "accident" you have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to the person or organization.

Attachment: Musco Sports Lighting LLC (RES-2024-412 : Piggyback Agreement (Musco) - CRS #4745)

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POLICY NUMBER: 9016877003

COMMERCIAL AUTO
CA 76 16 06 18

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BLANKET WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US (WAIVER OF SUBROGATION)

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Named Insured: Musco Corporation

Endorsement Effective Date: 07/01/2023

The **Transfer Of Rights Of Recovery Against Others To Us** condition does not apply to a person(s) or organization(s), but only to the extent that subrogation is waived prior to the "accident" or the "loss" under a written contract with that person or organization.

Attachment: Musco Sports Lighting LLC (RES-2024-412 : Piggyback Agreement (Musco) - CRS #4745)

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Policy: 9016877003

IL 70 58 02 14

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NOTICE OF CANCELLATION - CERTIFICATE HOLDERS

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM
COMMERCIAL AUTOMOBILE COVERAGE PARTS
COMMERCIAL PROPERTY COVERAGE PART
CRIME AND FIDELITY COVERAGE PART
COMMERCIAL INLAND MARINE COVERAGE PART
COMMERCIAL GENERAL LIABILITY COVERAGE PARTS
COMMERCIAL EXCESS/UMBRELLA LIABILITY COVERAGE FORM
EMPLOYMENT RELATED PRACTICES LIABILITY
POLLUTION LIABILITY COVERAGE
ERRORS AND OMISSIONS COVERAGE FORM

In the event we cancel this policy, we shall endeavor to also mail to the person(s) or organization(s) listed in the Schedule for this endorsement advance written notice of cancellation.

This notification of cancellation of the policy is intended as a courtesy only. Our failure to provide such notification to the person(s) or organization(s) shown in the Schedule will not extend any policy cancellation date nor impact or negate any cancellation of the policy. This endorsement does not entitle the person(s) or organization(s) listed or described in the Schedule below to any benefit, rights or protection under this policy.

Failure by us to provide this notice of cancellation to the person(s) or organization(s) listed or described in the Schedule below will not impose liability of any kind upon us.

Any of these provisions that conflict with a law that controls the notice of cancellation of the insurance in this endorsement is changed by this statement to comply with the law.

Schedule

Person(s) or Organization(s) including mailing address:

Per the listing of certificate holders provided by the Broker upon our request. 30 day notice of cancellation applies.

All other terms and conditions of this policy remain unchanged.

Attachment: Musco Sports Lighting LLC (RES-2024-412 : Piggyback Agreement (Musco) - CRS #4745)

POLICY NUMBER: 9016877004

COMMERCIAL GENERAL LIABILITY
CG 20 10 10 01

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED - OWNERS, LESSEES OR CONTRACTORS - SCHEDULED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name of Person or Organization:
As required by written contract

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

A. Section II - Who Is An Insured is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of your ongoing operations performed for that insured.

B. With respect to the insurance afforded to these additional insureds, the following exclusion is added:

2. Exclusions

This insurance does not apply to "bodily injury" or "property damage" occurring after:

(1) All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the site of the covered operations has been completed; or

(2) That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

Attachment: Musco Sports Lighting LLC (RES-2024-412 : Piggyback Agreement (Musco) - CRS #4745)

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POLICY NUMBER: 9016877004

COMMERCIAL GENERAL LIABILITY
CG 20 37 10 01

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED - OWNERS, LESSEES OR CONTRACTORS - COMPLETED OPERATIONS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name of Person or Organization: As required by written contract
Location And Description of Completed Operations:
Additional Premium:

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

Section II - Who Is An Insured is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of "your work" at the location designated and described in the schedule of this endorsement performed for that insured and included in the "products-completed operations hazard".

Attachment: Musco Sports Lighting LLC (RES-2024-412 : Piggyback Agreement (Musco) - CRS #4745)

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Policy: 9016877004

COMMERCIAL GENERAL LIABILITY
CG 71 24 06 22

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BLANKET ADDITIONAL INSUREDS, PRIMARY & NONCONTRIBUTORY, WAIVER OF SUBROGATION

This endorsement modifies the coverage provided under the following Coverage Form(s):

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Coverage enhancements are listed below. For details of each coverage, please read the corresponding policy provisions in the body of this endorsement.

1. **Additional Insureds - Automatic Status for 12 Additional Insured Types**
   - **A.** Automatic Status When Required In Written Contract Or Agreement (for Acts or Omissions In The Performance of Your Operations)
   - **B.** Lessor of Leased Equipment
   - **C.** Owners or Other Interests From Whom Land Has Been Leased
   - **D.** Manager or Lessor of Premise
   - **E.** Mortgagee, Assignee, or Receiver
   - **F.** Controlling Interest
   - **G.** Co-owner Of Insured Premises
   - **H.** Executors, Administrators, Trustees Or Beneficiaries
   - **I.** State Or Governmental Agency Or Subdivision Or Political Subdivision - Permits Or Authorizations Relating To Premises
   - **J.** Any Person Or Organization You Are Performing Work For
   - **K.** Vendors
   - **L.** Grantor of Franchise
2. **Primary and Noncontributory - Other Insurance Condition**
3. **Waiver Of Transfer Of Rights Of Recovery Against Others To Us (Waiver Of Subrogation) - Automatic**

With respect to the coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

1. Additional Insureds - Automatic Status for 12 Additional Insured Types

Section II - Who Is An Insured is amended to include the following as additional insureds when you have agreed to add that person or organization as an Additional Insured on your policy in a written contract or written agreement with that person or organization, or because of a permit issued by a state or political subdivision; provided the injury or damage occurs subsequent to the execution of the contract or agreement or issuance of the permit and while the contract, agreement or permit remains in effect.

A. Automatic Status When Required In Written Contract Or Agreement (for Acts or Omissions In The Performance of Your Operations)

1) A person or organization with respect to liability for:

a. "Bodily injury" or "property damage" not included in the "products-completed operations hazard"; or

b. "Personal and advertising injury";

caused by, in whole or in part, your acts or omissions or the acts or omissions of those acting on your behalf in the performance of your operations.

Attachment: Musco Sports Lighting LLC (RES-2024-412 : Piggyback Agreement (Musco) - CRS #4745)

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2) With respect to insurance afforded to these additional insureds, the following additional exclusion applies:

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" due to rendering of or failure to render any professional service. This includes but is not limited to:

a. Legal, accounting or advertising services;

b. Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings or specifications;

c. Inspection, supervision, quality control, architectural or engineering activities done by or for you on a project on which you serve as construction manager;

d. Engineering services, including related supervisory or inspection services;

e. Medical, surgical, dental, X-ray or nursing services treatment, advice or instruction;

f. Any health or therapeutic service treatment, advice or instruction;

g. Any service, treatment, advice or instruction for the purpose of appearance or skin enhancement, hair removal or replacement, or personal grooming or therapy;

h. Any service, treatment, advice or instruction relating to physical fitness, including service, treatment, advice or instruction in connection with diet, cardiovascular fitness, bodybuilding or physical training programs;

i. Optometry or optical or hearing aid services including the prescribing, preparation, fitting, demonstration or distribution of ophthalmic lenses and similar products or hearing aid devices;

j. Body piercing services;

k. Services in the practice of pharmacy;

l. Law enforcement or firefighting services; and

m. Handling, embalming, disposal, burial, cremation or disinterment of dead bodies.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering of or failure to render any professional service.

B. Lessor of Leased Equipment

1) Any person(s) or organization(s) with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person(s) or organization(s).

2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to any "occurrence" which takes place after the equipment lease expires.

C. Owners or Other Interests From Whom Land Has Been Leased

1) Any person(s) or organization(s) with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by you or those acting on your behalf in connection with the ownership, maintenance or use of that part of the land leased to you by the additional insured person(s) or organization(s).

2) With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to:

a. Any "occurrence" which takes place after you cease to lease that land;

b. Structural alterations, new construction or demolition operations performed by or on behalf of the additional insured person(s) or organization(s).

Attachment: Musco Sports Lighting LLC (RES-2024-412 : Piggyback Agreement (Musco) - CRS #4745)

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D. Manager or Lessor of Premise

Any person(s) or organization(s) with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by you or those acting on your behalf in connection with the ownership, maintenance or use of that part of the premises leased to you by the additional insured person(s) or organization(s), subject to the following additional exclusions:

This insurance does not apply to:

1) Any "occurrence" which takes place after you cease to be a tenant in that premises.
2) Structural alterations, new construction or demolition operations performed by or on behalf of the person(s) or organization(s) shown in the Schedule.

E. Mortgagee, Assignee, or Receiver

Any person(s) or organization(s) with respect to their liability as mortgagee, assignee or receiver and arising out of the ownership, maintenance or use of a premises by you.

This insurance does not apply to structural alterations, new construction and demolition operations performed by or for such additional insured person(s) or organization(s).

F. Controlling Interest

1) Any person(s) or organization(s) with respect to their liability arising out of:
   a. Their financial control of you; or
   b. Premises they own, maintain or control while you lease or occupy these premises.
2) This insurance does not apply to structural alterations, new construction and demolition operations performed by or for that person or organization.

G. Co-owner Of Insured Premises

Any person(s) or organization(s) with respect to their liability as co-owner of a premises coowned by you and covered under this insurance.

H. Executors, Administrators, Trustees Or Beneficiaries

Any executor, administrator, trustee or beneficiary of your estate or living trust while acting within the scope of their duties as such.

I. State Or Governmental Agency Or Subdivision Or Political Subdivision - Permits Or Authorizations Relating To Premises

Any state or governmental agency or subdivision or political subdivision, subject to the following additional provision:

This insurance applies only with respect to the following hazards for which the state or governmental agency or subdivision or political subdivision has issued a permit or authorization in connection with premises you own, rent or control and to which this insurance applies:

1) The existence, maintenance, repair, construction, erection or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoist away openings, sidewalk vaults, street banners or decorations and similar exposures; or
2) The construction, erection or removal of elevators; or
3) The ownership, maintenance or use of any elevators covered by this insurance.

J. Any Person Or Organization You Are Performing Work For

Any person(s) or organization(s) with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

1) In the performance of your ongoing operations; or
2) In connection with your premises owned by or rented to you.

K. Vendors

1) Any person(s) or organization(s) (referred to throughout this endorsement as vendor), but only with respect to liability for "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business.

   However:

   a. The insurance afforded to such vendor only applies to the extent permitted by law; and

Attachment: Musco Sports Lighting LLC (RES-2024-412 : Piggyback Agreement (Musco) - CRS #4745)

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b. If coverage provided to the vendor is required by a contract or agreement, the insurance afforded to such vendor will not be broader than that which you are required by the contract or agreement to provide for such vendor.

2) With respect to the insurance afforded to these vendors, the following additional exclusions apply:

a. The insurance afforded the vendor does not apply to:

1) "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;

2) Any express warranty unauthorized by you;

3) Any physical or chemical change in the product made intentionally by the vendor;

4) Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;

5) Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;

6) Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;

7) Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or

8) "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:

(1) The exceptions contained in Subparagraphs **d.** or **f.**; or

(2) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.

b. This insurance does not apply to any insured person or organization, from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.

L. Grantor of Franchise

Any person(s) or organization(s) with respect to their liability as grantor of a franchise to you.

However:

1. The insurance afforded to such additional insureds only applies to the extent permitted by law; and

2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

With respect to the insurance afforded to these additional insureds, the following is added to **Section III - Limits Of Insurance**:

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or

2. Available under the applicable limits of insurance;

whichever is less.

This endorsement shall not increase the applicable limits of insurance.

If there is any difference in coverage afforded to an additional insured in this endorsement and

Attachment: Musco Sports Lighting LLC (RES-2024-412 : Piggyback Agreement (Musco) - CRS #4745)

Includes copyrighted material of Insurance Services Office, Inc., with its permission.

that provided under another additional insured endorsement attached to this policy, the broader coverage will apply to that additional insured.

2. **Primary And Noncontributory Insurance**

   The following is added to the Other Insurance Condition and supersedes any provision to the contrary:

   This insurance is primary to and will not seek contribution from any other insurance available to an additional insured under your policy provided that:

   (1) The additional insured is a Named Insured under such other insurance; and

   (2) You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured.

3. **Waiver Of Transfer Of Rights Of Recovery Against Others To Us (Waiver Of Subrogation) - Automatic**

   The following is added to Paragraph **8. Transfer Of Rights Of Recovery Against Others To Us** of **Section IV - Conditions:**

   We waive any right of recovery against any person or organization, because of any payment we make under this Coverage Part, to whom the insured has waived its right of recovery in a written contract or agreement. Such waiver by us applies only to the extent that the insured has waived its right of recovery against such person or organization prior to loss.

Attachment: Musco Sports Lighting LLC (RES-2024-412 : Piggyback Agreement (Musco) - CRS #4745)

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Policy: 9016877004

IL 70 58 02 14

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NOTICE OF CANCELLATION - CERTIFICATE HOLDERS

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM
COMMERCIAL AUTOMOBILE COVERAGE PARTS
COMMERCIAL PROPERTY COVERAGE PART
CRIME AND FIDELITY COVERAGE PART
COMMERCIAL INLAND MARINE COVERAGE PART
COMMERCIAL GENERAL LIABILITY COVERAGE PARTS
COMMERCIAL EXCESS/UMBRELLA LIABILITY COVERAGE FORM
EMPLOYMENT RELATED PRACTICES LIABILITY
POLLUTION LIABILITY COVERAGE
ERRORS AND OMISSIONS COVERAGE FORM

In the event we cancel this policy, we shall endeavor to also mail to the person(s) or organization(s) listed in the Schedule for this endorsement advance written notice of cancellation.

This notification of cancellation of the policy is intended as a courtesy only. Our failure to provide such notification to the person(s) or organization(s) shown in the Schedule will not extend any policy cancellation date nor impact or negate any cancellation of the policy. This endorsement does not entitle the person(s) or organization(s) listed or described in the Schedule below to any benefit, rights or protection under this policy.

Failure by us to provide this notice of cancellation to the person(s) or organization(s) listed or described in the Schedule below will not impose liability of any kind upon us.

Any of these provisions that conflict with a law that controls the notice of cancellation of the insurance in this endorsement is changed by this statement to comply with the law.

Schedule

Person(s) or Organization(s) including mailing address:

Per the listing of certificate holders provided by the Broker upon our request. 30 day notice of cancellation applies.

All other terms and conditions of this policy remain unchanged.

Attachment: Musco Sports Lighting LLC (RES-2024-412 : Piggyback Agreement (Musco) - CRS #4745)

NEW YORK STATE | Workers' Compensation Board

CERTIFICATE OF NYS WORKERS' COMPENSATION INSURANCE COVERAGE

1a. Legal Name & Address of Insured (use street address only) Musco Sports Lighting LLC 100 1st Ave W PO Box 808 Oskaloosa, IA 52577-0808 Work Location of Insured *(Only required if coverage is specifically limited to certain locations in New York State, i.e., a Wrap-Up Policy)*	1b. Business Telephone Number of Insured 1c. NYS Unemployment Insurance Employer Registration Number of Insured 1d. Federal Employer Identification Number of Insured or Social Security Number 42-1511754
2. Name and Address of Entity Requesting Proof of Coverage (Entity Being Listed as the Certificate Holder) Town of Amherst 5583 Main St Williamsville, NY 14221-5488	3a. Name of Insurance Carrier Sentry Casualty Company 3b. Policy Number of Entity Listed in Box "1a" 9016877001 3c. Policy effective period 07/01/2023 to 07/01/2024 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: Scott Miller
(Print name of authorized representative or licensed agent of insurance carrier)

Approved by: Scott Miller 11/27/2023
(Signature) (Date)

Title: President, National Accounts, Regional Insurance, & Transportation

Telephone Number of authorized representative or licensed agent of insurance carrier: 1-800-473-6879

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.

Attachment: Musco Sports Lighting LLC (RES-2024-412 : Piggyback Agreement (Musco) - CRS #4745)

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: Musco Sports Lighting LLC (RES-2024-412 : Piggyback Agreement (Musco) - CRS #4745)

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)
Musco Corporation
100 1st Ave W
Oskaloosa, IA 52577

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

1c. Federal Employer Identification Number of Insured or Social Security Number
42-1107452

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
New York Life Group Insurance Company of NY

3b. Policy Number of Entity Listed in Box "1a"
NYD068413

3c. Policy effective period
01/01/2024 to 01/01/2025

4. Policy provides the following benefits:
- ☒ A. Both disability and Paid Family Leave benefits.
- ☐ B. Disability benefits only
- ☐ C. Paid Family Leave benefits only.

5. Policy covers:
- ☒ 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.

Marcelline E. Reilly

Date Signed April 9, 2024 By _____
(Signature of insurance carrier's authorized representative or NYS Licensed Insurance Agent of that insurance carrier)

Telephone Number 1-866-761-4236 Name and Title Underwriting Director

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 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)

Attachment: Musco Sports Lighting LLC (RES-2024-412 : Piggyback Agreement (Musco) - CRS #4745)

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: Musco Sports Lighting LLC (RES-2024-412 : Piggyback Agreement (Musco) - CRS #4745)

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Youth & Recreation
Initiated by: **Mary Diana Pouli**
Co-Sponsored by:

DOC ID: 28933 **RESOLUTION 2024-413** **ADOPTED**

Field Lighting Agreement - Amendment to CRS #4745

Authorize the Supervisor to sign an agreement between the Town of Amherst and Musco Sports Lighting, LLC for the installation of lights at the Amherst Central Little League complex, pending successful completion of the contract routing process.

4/29/2024
Consent

FINANCIAL IMPACT:

KP 2343.4972: $175,000.00

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

Quote

Date: January 12, 2024 (revised 4.3.24)
Project: Central Amherst Little League, Buffalo, NY
Ref: Musco Project No. 182102
To: Mr. Brian Armstrong, Director of Engineering Service, Town of Amherst

Sourcewell
Master Project: 199030, Contract Number: 041123-MSL, Expiration: 06/16/2027
Category: Sports lighting with related supplies and services

January 2024 Quote – Musco System Delivered to Job Site with Installation [1]

Musco TLC for LED™ Solution for Phase I, Majors Field (no installation):	$132,425
• Cost to add GC turnkey pole-in-the-air (PIA) installation[1, 2] by Musco building partner/subcontractor:	$51,025
• Additional negotiated discount:	$8,450
January 2024 Project Total for Installed Musco 50fc/30fc System for Majors Field (revised 4.3.24):	**$175,000**
Musco TLC for LED™ Solution for Phase II, AAA Field (no installation):	$98,181
• Cost to add GC turnkey pole-in-the-air (PIA) installation[1, 2] by Musco building partner/subcontractor:	$39,689
January 2024 Project Total for Installed Musco 50fc/30fc System for AAA Field:	**$137,870**

Additional options currently **NOT** included with existing plan/quote or required for Co-Op Procurement of Musco System:

• Cost to add payment/performance bond based on current value of Phase I project ($183,450):	$1,129
• Cost to add MuscoVision™ automated broadcasting system for Majors Field:	$12,000
• Approximate cost for 3rd party survey to layout and stakeout pole location:	$3,850
• Approximate cost for 3rd party private utility locating services:	$3,850
• Cost to add OCP policy (approx. $1,100 for $1M/$2M, approx. $5,500 for $2M/$4M)	
• Cost for site/underground electrical system needed to power Musco system[3]	

Light-Structure System with Total Light Control - TLC for LED™ technology

Guaranteed Lighting Performance

- Guaranteed light levels and uniformities per Musco Lighting Design 182102A (23-Oct-2023)
  - Phase I - Majors Field: 60'/185'/196'/190' lit to 50fc infield, 30fc outfield
  - Phase II - AAA Field: 60'/182'/194'/180' lit to 50fc infield, 30fc outfield

System Description

- Pre-cast concrete bases with integrated lightning grounding
- Galvanized steel poles (60', 60', 60', 60', 60', 70', 70', 60')
- Factory wired and tested remote electrical component enclosures
- Pole length, factory assembled wire harness
- Factory wired poletop luminaire assemblies
  - Includes one (1) SCR luminaire assembly B1 (cellular structure)
- Factory aimed and assembled luminaires, including Musco BallTracker™ system
- UL Listed as a system

Environmental Light Control

- Off-site spill – maximum horizontal spill shall not exceed 0.1fc (0.01fc avg) at any point along I-290/I-90
- Off-site spill – maximum vertical spill shall not exceed 0.1fc (0.02fc avg) at any point along I-290/I-90
- Off-site glare – maximum candela viewed from any one fixture shall not exceed 2,000cd at any point along I-290/I-90

--- Continued on Page 2 ---

Attachment: CALL_SourcewellMuscoCoOpQuote.R3_Apr2024 (RES-2024-413 : Field Lighting Agreement - Amendment to CRS #4745)

Control Systems and Services

- Control-Link® system with contactors for remote on/off control and performance monitoring with 24/7 customer support
- Two (2) zones (Majors and AAA) with on/off/auto switches for each zone
- Multi-level dimming for each zone with high - medium - low initial presets via powerline communication

Operation and Warranty Services

- Reduction of energy and maintenance costs by 50% to 85% over typical 1500W metal halide equipment
- Product assurance and warranty program that covers materials and onsite labor, eliminating 100% of your maintenance costs for twenty-five (25) years
- Support from Musco's Lighting Services Team – over 170 Team members dedicated to operating and maintaining your lighting system – plus a network of 1800+ contractors
- Includes NY stamped foundation design based on 2020 Bldg Code of NY State (ASCE 7-16, IBC 2018), 110 MPH, Exp C, RC II

Entertainment, Automated Broadcasting, Architectural/Colored Light

- Quote includes option for MuscoVision™ automated broadcasting system
- Quote does NOT include option for enhanced control systems to provide light shows, enhanced dimming options, etc.
- Quote does NOT include option for pole accent system for colored (architectural) lighting of poles or colored light for fields

Supplemental Lighting

- Current plan does not include site/parking lighting poles with fixtures, bollards, or building mounting fixtures

Pole-in-Air (PIA) Installation and Retrofit Services by Musco Subcontractor [1, 2]

- [1] Pole-in-the-air services include unloading system and equipment, labor, and materials to install foundations, assemble/build poles, and install poles by Musco subcontractor
- [2] Retrofit services include equipment, labor, and materials to install Musco SCR retrofit system on B1 (cellular tower)
  - Phase I includes five (5) foundations, five (5) poles, and one (1) SCR system for B1 (cellular tower)
  - Based on drilled pier foundation design C1 (10-Nov-2023) for eight (8) Musco Light-Structures
  - Assumes reasonable access to pole locations and current plan does not include private utility locating nor private survey/layout/stakeout (included with other packages/trades)
- Includes Musco Project Management Services (project administration, insurance certificates[4], PRC administration, etc.)

Site and Underground Electrical Installation Services Provided by Musco Subcontractor [3]

- Not included (included with other packages/trades)

Restoration Services

- Current plan does NOT include cost for restoration (included with other packages/trades)

Notes

Quote is based on:

- Existing conditions/layout, CALL Field Light Plans (Zip received 29-Sep-23), and Preliminary Drawing Set received Dec 2023
- Musco Lighting Design 182102A (23-Oct-2023) and Control Summary 182102 (23-Oct-2023)
- Musco Foundation Design C1 (10-Nov-2023) based on Geotechnical Report by Terracon (7-Dec-2020)
- Direct purchase via Sourcewell Cooperative Purchasing Agreement (KPN and Equalis Group are viable alternatives)
  - PA, PO, and or AIA Contracts must note the following: *Sourcewell purchase – contract number: 041123-MSL*
- [1] Assumes two (2) shipments to site, two (2) mobilizations, and does not include taxes
- [4] Standard certificates include General Liability, Auto, Umbrella/Excess, Worker's Comp, Professional Liability, Installation Floater (if required), and Musco is certificate holder for Subcontractor's current portfolio of certificates/policies
- Project cost based on January 2024 pricing and assumes installation for Phase I in 2024, installation for Phase II in 2025

Thank you for considering Musco for your sports-lighting needs. Please contact me with any questions.

Nathan Lindsay, Upstate NY Senior Field Sales Representative
Musco Sports Lighting, LLC
Phone: 315-418-5072
Email: nathan.lindsay@musco.com

Attachment: CALL_SourcewellMuscoCoOpQuote.R3_Apr2024 (RES-2024-413 : Field Lighting Agreement - Amendment to CRS #4745)

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Town Clerk
DOC ID: 28838

COMMUNICATION 2024-24 **APPROVED**

Request for Public Hearing - 6000-6040 North Bailey Avenue Rezoning

Request from James Boglioli, Esq. for a public hearing with respect to the rezoning of 6000-6040 North Bailey Avenue from RD to GI.

This hearing has been scheduled for May 28th.

4/29/2024
Consent

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

BENDERSON DEVELOPMENT
570 DELAWARE AVENUE
BUFFALO, NY 14202
716.886.0211.P 716.886.2269.F

February 27, 2024

VIA E-Mail and REGULAR E-MAIL
Francina J. Spoth, Town Clerk & Receiver of Taxes
Amherst Municipal Building
5583 Main Street
Williamsville, NY 14221

Re: Request to Rezone 0.82 +/- Acres of Land from RD to GI
6000 – 6040 North Bailey Ave, Amherst, New York (BDC: 1723)
Z-2023-09

Dear Ms. Spoth:

In connection with the above-referenced application, February 26, 2024, the Planning Board considered the request to rezone the subject property from RD to GI recommended that it be approved by the Town Board. We respectfully request that this matter be placed on a public hearing before the Town Board. If there are any questions regarding this letter, please feel free to contact me at (716) 878-9626 or jamesboglioli@benderson.com.

Thank you,
BENDERSON DEVELOPMENT COMPANY, LLC

James A. Boglioli

James A. Boglioli, Esq.
Director, Right to Build – Northeast US

Attachment: DOC032824-03282024093349 (COM-2024-24 : Request for Public Hearing - 6000-6040 North Bailey Avenue Rezoning)

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Town Clerk
DOC ID: 28911

COMMUNICATION 2024-25 **APPROVED**

Request for Public Hearing - 2280 Wehrle Drive Rezoning

Request from Jeff Palumbo, Esq. for a public hearing with respect to the rezoning of 2280 Wehrle Drive from R-3 to MFR-4A.

This hearing has been scheduled for May 28th.

4/29/2024
Consent

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

Koller, Timothy

From: Jeff Palumbo
Sent: Monday, April 22, 2024 11:03 AM
To: Spoth, Francina; michael keller
Cc: Koller, Timothy
Subject: Z-2024-01 Rezoning of 2280 Wehrle Drive

Follow Up Flag: Follow up
Flag Status: Flagged

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.

This office represents Mike Keller the Petitioner in the above referenced matter. The planning board on April 18 2024 voted unanimously in favor of the rezoning. Accordingly if you could put this matter on the Town Board agenda for the scheduling of a public hearing I would greatly appreciate it. Should you require any additional information please advise. Thanks you.

jeff

ALBANY OFFICE: 43 British American Blvd., Latham, NY 12110 Phone (518) 313-7111; Fax: (518) 313-7115
BATAVIA OFFICE: 39 Jackson Street, Batavia, NY 14020, Phone: (585) 310-7442; Fax: (585) 310-7599
BUFFALO: One Niagara Square, Buffalo, NY 14202, Phone (716) 854-4080; Fax: (716) 854-0059
CLARENCE OFFICE: 9276 Main St Ste 3, Clarence 14031, Phone: (716)854-4080; Fax: (716) 854-0059
GREECE OFFICE:550 Latona Road, Building C, Suite 301, Rochester, NY 14626 Phone: (585) 310-7442; Fax (585) 310-7599
LIVONIA OFFICE: 31 Main Street, Livonia, NY 14437, Phone: (585) 310-7442; Fax (585) 310-7599
NEWARK OFFICE: 506 W. Union Street, Newark, NY 14513, Phone: (585) 310-7442; Fax (585) 310-7599
NYC OFFICE: 150 West 30th Street, Suite 705, New York, NY 10001; Phone: (332) 910-5440
ROCHESTER OFFICE:1173 Pittsford-Victor Road, Suite 220, Pittsford, NY 14534, Phone: (585)310-7442; Fax: (585)310-7599
SARATOGA OFFICE: 550 Maple Avenue, Saratoga Springs, NY 12866 Phone (518) 313-7111; Fax: (518) 313-7115
SYRACUSE OFFICE: 6739 Myers Road, East Syracuse, NY 13057, Phone: (315) 457-1000; Fax: (315) 457-1001
WILLIAMSVILLE OFFICE: 5900 Main Street, Williamsville, NY 14221-5714 Phone (716) 633-1444 Fax: (716) 633-1446 FLORIDA OFFICE: 824 W. Indiantown Rd., Jupiter, FL 33458, Phone: (561) 768-0304, Fax: (561) 768-0366

Attachment: palumbo request (COM-2024-25 : Request for Public Hearing - 2280 Wehrle Drive Rezoning)

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Town Clerk
DOC ID: 28928

COMMUNICATION 2024-26 **REFERRED**

Correspondence from Joe Rubino

Letter from Joe Rubino regarding the SA zoning report and the proposed rezoning of 1789 Dodge Road.

4/29/2024
Referred to Town Attorney & Planning

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

Joe Rubino
5462 Sheridan Drive, Suite 2
Williamsville, NY 14221

April 23, 2024

Brian J. Kulpa, Town Supervisor
Town of Amherst Town Hall
5583 Main Street
Williamsville, NY 14221

Re: Request to Amend Zoning Classification of 1789 Dodge Road [Z-2020-15]
Proposed Residential Subdivision

Dear Supervisor Kulpa and Councilmembers:

During its meeting on February 28, 2022, the Town Board adopted Resolution 2022-195 for the purpose of adjourning its issuance of a decision in connection with the requested rezoning of 1789 Dodge Road from SA to R-3.

The Town Board held public hearings on requested rezoning on November 22, 2021 and January 18, 2022 and closed the public hearing during the meeting held on January 18, 2022. During its meeting on February 22, 2022, the Town Board did not issue a decision so that an evaluation could be completed of the continued suitability of parcels zoned SA within the Town.

I am respectfully requesting that the Town Board issue the final version of the SA zoning report since the pending requested rezoning of 1789 Dodge Road has been on hold for more than two years.

Please feel free to contact me at 983-1155 or via e-mail at josephrubino@howardhanna.com and thank for you for taking the time to review this letter

Sincerely,

Joe Rubino

cc: Town Board
Town of Amherst Town Clerk's Office
Daniel Howard, Town of Amherst Planning Department
Sean Hopkins, Esq.
Chistopher Wood, P.E.

Attachment: Town Board-Ltr-04-23-24 (COM-2024-26 : Correspondence from Joe Rubino)

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Town Clerk
DOC ID: 28821

COMMUNICATION 2024-27 **REFERRED**

Notice of Claim: Stephen Ostrye Vs. Town of Amherst

4/29/2024
Referred to Town Attorney

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

111 Rosemont Drive
Amherst, NY 14226

March 18,2024

Amherst Town Clerk
Amherst Municipal Building
5583 Main Street
Williamsville, NY 14221

Dear Amherst Town Clerk:

A large town maple tree in front of my house was taken down on March 12th and 13th. In the process of removing the tree part of it fell and broke the lamp post top I had in the front yard. One of the workers contacted me about the broken lamp post and said a supervisor would contact me. I did not hear from anyone on the 13th or 14 of March. Because it is dark in my yard, I ordered a replacement lamp post light from Amazon to replace the one that was broken at the end of the day on March 14. I placed a call to the Forest Service on Friday and left a message about the broken lamp with Don. I did not receive a call back on Friday. The replacement lamp arrived on Saturday, and I installed it that day. I called the Forestry Department again on March 18, and received a call back from Don. He told me to pick a lamp post light from Home Depot and they would install it. I told Don that I already had one and installed it. I didn't want to have a dark yard all weekend.

Don spoke to a town attorney, and he said to create this letter of allegation that the town broke my lamppost light along with the receipt and that they would investigate reimbursement for me. This apparently is not normally done, but since no one contacted me for more than three days, I took the action to replace the lamp.

Enclosed is the receipt for $54.35. This is almost identical to the broken lamp, The one there is no longer in production.

If you have any questions, you can call me at or contact me via email at

Sincerely,

Stephen Ostrye

Stephen Ostrye
111 Rosemont Drive
Amherst, NY 14226

MAR 20 2024 PM2:51

Attachment: DOC032124-03212024103208 (COM-2024-27 : Notice of Claim: Stephen Ostrye Vs. Town of Amherst)

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Town Clerk
DOC ID: 28837

COMMUNICATION 2024-28 **REFERRED**

Notice of Claim: Antwan Green Vs. Town of Amherst Et Al.

4/29/2024
Referred to Town Attorney

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

STATE OF NEW YORK
COUNTY OF ERIE

In the Matter of the Claim of

ANTWAN GREEN,

Claimant

-against-

TOWN OF AMHERST,
TOWN OF AMHERST POLICE DEPARTMENT,
OFFICER GUZDEK,
OFFICER CRUZ,
LIEUTENANT MILLER,
AMHERST POLICE OFFICERS JOHN DOES,

Respondents.

NOTICE OF CLAIM

Please take Notice that Claimant, ANTWAN GREEN, does hereby make claim against the Town of Amherst ("Town"), Town of Amherst Police Department ("Amherst PD"), Officer Guzdek, Officer Cruz, Lieutenant Miller, and Amherst Police Officers John Does (collectively, "Respondents"), and in support of such claim, states the following:

1. Claimant, Antwan Green, has a post office address of

2. Claimant's attorney is Vincent T. Parlato, who has an office and post-office address at 69 Delaware Avenue, Suite 1008, Buffalo, New York 14202.

MAR 28 2024 AM8:48

Attachment: DOC032824-03282024085423 (COM-2024-28 : Notice of Claim: Antwan Green Vs. Town of Amherst Et Al.)

3. Upon information and belief, the Town of Amherst is a municipal corporation and governmental subdivision organized and existing under the laws of the State of New York.

4. The Amherst Police Department is an administrative arm of the Town of Amherst and is responsible law enforcement within the boundaries of the Town of Amherst.

5. Upon information and belief, Officer Guzdek is a Town of Amherst Police Officer, and was at all times mentioned herein, a police officer acting within the scope of his employment with the Town of Amherst and/or the Amherst Police Department.

6. Upon information and belief, Officer Cruz is a Town of Amherst Police Officer, and was at all times mentioned herein, a police officer acting within the scope of his employment with the Town of Amherst and/or the Amherst Police Department.

7. Upon information and belief, Lieutenant Miller is a Town of Amherst Police Lieutenant, and was at all times mentioned herein, a Lieutenant acting within the scope of his employment with the Town of Amherst and/or the Amherst Police Department.

8. Upon information and belief, Police Officer John Does are Town of Amherst Police officers/lieutenants/and other possible ranking officers and were at all times mentioned herein acting within the scope of their employment with the Town of Amherst and/or the Amherst Police Department.

9. The nature of the claim concerns the Respondents' individual and collective violations of state constitutional, common law and civil rights, as well as

Attachment: DOC032824-03282024085423 (COM-2024-28 : Notice of Claim: Antwan Green Vs. Town of Amherst Et Al.)

Claimants' federal constitutional fourth and fourteenth amendment rights to be free from unlawful and unreasonable searches and seizures. The nature of the claim further involves substantial negligent, reckless, deliberate, knowing, intentional, and malicious destruction of Claimant's personal property, and negligently, recklessly, and intentionally inflicting upon Claimant emotional distress and personal injury.

10. The time, place, and manner in which the claim arose is as follows: on December 29, 2023, in the evening, multiple Amherst Police officers responded to Claimant's residence at 477 Meyer Road in the Town of Amherst.

11. Claimant initially called the Amherst Police Department to request assistance with a domestic violence incident at Claimant's residence. However, after dispatch but long before the Amherst Police arrived at Claimant's residence, Claimant called the Amherst Police back multiple times to state no further police assistance was required. Claimant repeatedly advised dispatch and the responding officers who arrived at Claimant's residence that Claimant did not then wish for any police assistance, and that there was no further need for police assistance.

12. Upon information and belief, Respondents determined to gain entry into Claimant's residence from without, despite Claimant's door being locked and without Claimant's consent to enter the premises.

13. Importantly, Claimant did not consent to a search of Claimant's residence.

14. Claimant did not consent to a seizure of Claimant's person by being denied entry or reentry into Claimant's residence.

Attachment: DOC032824-03282024085423 (COM-2024-28 : Notice of Claim: Antwan Green Vs. Town of Amherst Et Al.)

15. Upon information and belief, following Claimant's initial call to the Amherst Police to report a domestic incident involving Adell Zeigler, Claimant's partner, at 477 Meyer Road, Amherst, New York, the Amherst Police decided to attempt to arrest and take Adell Zeigler into custody stemming from an alleged violation of Adell Zeigler's conditions of parole.

16. Upon information and belief, at all times relevant during the Amherst Police encounter on December 29, 2023, Adell Zeigler was located and situated inside of Claimant's residence.

17. Upon the Amherst Police/Respondents' arrival, including with officers Guzdek, Cruz, Lieutenant Miller, John Does and others, Claimant did not consent to the search of Claimant's residence.

18. Upon information and belief, Amherst Police officers, including but not limited to Officers Guzdek, Cruz, Lieutenant Miller, and others, kicked open Claimant's front door, fired smokebombs and teargas into Claimant's residence, shattering the windows in doing so, and caused massive personal property damage to Claimant's personal property during the course of the excessive and unlawful search of Claimant's residence.

19. Respondents caused more than $8,000 of personal property damage to Claimant, in a total amount that is presently being ascertained.

20. Moreover, as a consequence of Respondents' unlawful actions, Claimant suffered injuries to Claimant's skin due to the exposure to the teargas/smokebombs

Attachment: DOC032824-03282024085423 (COM-2024-28 : Notice of Claim: Antwan Green Vs. Town of Amherst Et Al.)

fired into and left in Claimant's residence following the unlawful search of Claimant's residence. These injuries resulted in and required medical treatment.

21. Additionally, while being prevented from reentry into Claimant's residence, Claimant was forced to remain outside for approximately six to nine hours in cold weather while Respondents searched Claimant's residence.

22. Moreover, upon information and belief, at no time did Respondents obtain a search warrant to search Claimant's residence, even though a Lieutenant represented to Claimant over the phone that they had obtained a search warrant, only for Claimant to later discover that the search was warrantless.

23. Upon information and belief, Claimant will continue to incur significant expense as a result of Respondents' unlawful conduct alleged herein.

24. The items of damage to Claimant additionally include that Claimant sustained great pain and suffering and shock to Claimant's nervous system, was caused to and did seek medical care and treatment, suffered severe emotional distress, and will continue to suffer emotional distress on account of the incident involving Respondents' actions and Claimant's damages and injuries are ongoing and continuing.

25. For these reasons, Claimant demands Respondents adjust and pay this Claim forthwith.

Dated: March 22, 2024

VINCENT T. PARLATO, ESQ.

Attorney for Claimant

By: Vincent Parlato

Attachment: DOC032824-03282024085423 (COM-2024-28 : Notice of Claim: Antwan Green Vs. Town of Amherst Et Al.)

Vincent T. Parlato, Esq.
403 Main Street, Suite 727
Buffalo, New York 14203
(716) 430-8858
vincent.parlato@buffalonylegal.com

Attachment: DOC032824-03282024085423 (COM-2024-28 : Notice of Claim: Antwan Green Vs. Town of Amherst Et Al.)

VERIFICATION

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Town Clerk
DOC ID: 28843

COMMUNICATION 2024-29 **REFERRED**

Notice of Claim: Kelton Enterprise/Tim Hortons Vs. Town of Amherst

4/29/2024
Referred to Town Attorney

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

KELTON
ENTERPRISES, LLC
Tim Hortons
FRANCHISEE

Amherst Town Clerk
5583 Main St.
Amherst, NY 14221

March 28, 2024

To Whom It May Concern:

This letter serves as a notice of claim for property damage at the Tim Hortons location at 2290 Millersport Hwy. Getzville, NY 14068. On January 20, 2024, at 3:24 pm, an Amherst Police patrol car hit a stone wall along the edge of the Drive Thru lane. As a result, the stone wall needed to be rebuilt.

Enclosed are photos of the damage, as well as the proposed cost to repair. Please feel free to contact me if additional information is needed.

Thank you,

Robin Davis-Frey
Vice President of Operations
Kelton Enterprises, LLC

AMY NICOLE KRON
Notary Public, State of New York
Reg. No. 01KR6423815
Qualified in Erie County
Commission Expires 10/18/2025

Attachment: notice of claim (COM-2024-29 : Notice of Claim: Kelton Enterprise/Tim Hortons Vs. Town of Amherst)

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Town Clerk
DOC ID: 28860

COMMUNICATION 2024-30 **REFERRED**

Notice of Claim: Verizon Vs. Town of Amherst

4/29/2024
Referred to Town Attorney

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

verizon

CMR Claims Department
P.O. Box 60770
Oklahoma City, OK 73146-0770
1.800.321.4158

*****NOTICE OF CLAIM*****

Date: 04-02-2024

CERTIFIED MAIL, RETURN RECEIPT REQUESTED

To: TOWN OF AMHERST
TOWN CLERK
5583 MAIN ST
WILLIAMSVILLE, NY 14221

CERTIFIED MAIL# 9214890106615400019460574 2

RE: Damage to VERIZON Property

VERIZON Claim Num:	**1988797**
Damage/Discovery Date:	**03-26-2024**
Damage Location:	**303 SIEGRIED DR, WILLIAMSVILLE, NY**
Damage County:	
Damage Amount:	**UNDETERMINED**

Dear Sir/Madam:

Please be advised that **VERIZON** Facilities sustained damage as a result of the negligent acts or omissions by employees or agents of TOWN OF AMHERST .

Investigation has revealed that on or about 03-26-2024 employees or agents of TOWN OF AMHERST , A TOWN OF AMHERST VEHICLE HIT AERIAL CABLES CAUSING DAMAGE TO VERIZON FACILITIES in the area of 303 SIEGRIED DR, WILLIAMSVILLE, NY.

This letter is the written presentment of VERIZON's claim pursuant to General Municipal Law section 50-e .

REQUEST FOR GOVERNMENTAL NOTICE FORM

If your Governmental Entity requires the completion of its own form to complete proper notice, please forward a copy to the address listed above. Every good faith effort has been made to identify the proper office and address to perfect our notice. Please forward to your attorney, if misdirected, to contact us. Matters herein stated are alleged on information and belief this pleader believes to be true. If there is insurance to cover this matter, kindly advise as to the name of the insurance company, its address and the claim number assigned. If you have any questions, or need additional information, please contact CMR at 1-800-321-4158.

Sincerely,
Chelsea Dongelewic
Chelsea Dongelewic

CMR Claims DEPT

NOTARY L. Harris

Commission Expires 03/06/27

L. HARRIS NOTARY # 23003191 EXP. 03/06/27 PUBLIC STATE OF OKLAHOMA

APR 9 2024 AM9:43

Attachment: DOC040924-04092024101735 (COM-2024-30 : Notice of Claim: Verizon Vs. Town of Amherst)

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Town Clerk
DOC ID: 28836

COMMUNICATION 2024-31 **REFERRED**

Summons and Complaint: KeyBank National Association Vs. Town of Amherst Et Al.

4/29/2024
Referred to Town Attorney

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

15.8.a

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE

KeyBank National Association, Plaintiff, vs. Kelly M. Barnes; The Town of Amherst, a municipal corporation organized under the laws of the State of New York, acting on behalf of the Amherst-Cheektowaga-Tonawanda Home Consortium; Sustainable Neighborhoods, LLC; People of the State of New York; Mariner Finance, LLC; John Doe #1 through #6, and Jane Doe #1 through #6, the last twelve names being fictitious, it being the intention of Plaintiff to designate any and all occupants, tenants, persons or corporations, if any, having or claiming an interest in or lien upon the premises being foreclosed herein, Defendants.	**SUMMONS** INDEX NO.: MORTGAGED PREMISES: 165 Kennedy Road Cheektowaga, NY 14227 Section: 113.47 Block: 3 Lot: 17

THE ABOVE NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer the Complaint in the above captioned action and to serve a copy of your Answer on the Plaintiff's attorney within twenty (20) days after the service of this Summons, exclusive of the day of service, or within thirty (30) days after completion of service where service is made in any other manner than by personal delivery within the State. The United States of America, if designated as a Defendant in this action, may answer or appear within sixty (60) days of service hereof. In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Complaint.

Erie County is designated as the place of trial. The basis of venue is the location of the mortgaged premises foreclosed herein.

Date: 03/05/2024 By: Ammar Jaber

Ammar Jaber, Esq.
McCalla Raymer Leibert Pierce, LLC
420 Lexington Avenue, Suite 840
New York, New York 10170
Phone: 347-286-7409
Fax: 347-286-7414
Attorneys for Plaintiff,
KeyBank National Association
File No. 23-16555NY

23-16555NY

Attachment: DOC032724-032720240948 31 (COM-2024-31 : Summons and Complaint: KeyBank National Association Vs. Town of Amherst Et Al.)

Special Summons Requirement Pursuant to RPAPL §1320

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 (MORTGAGE COMPANY) AND FILING THE ANSWER WITH THE COURT.

23-16555NY

Attachment: DOC032724-032720240948 31 (COM-2024-31 : Summons and Complaint: KeyBank National Association Vs. Town of Amherst Et Al.)

15.8.a

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE

KeyBank National Association, Plaintiff, vs. Kelly M. Barnes; The Town of Amherst, a municipal corporation organized under the laws of the State of New York, acting on behalf of the Amherst-Cheektowaga-Tonawanda Home Consortium; Sustainable Neighborhoods, LLC; People of the State of New York; Mariner Finance, LLC; John Doe #1 through #6, and Jane Doe #1 through #6, the last twelve names being fictitious, it being the intention of Plaintiff to designate any and all occupants, tenants, persons or corporations, if any, having or claiming an interest in or lien upon the premises being foreclosed herein, Defendants.	**COMPLAINT FOR MORTGAGE FORECLOSURE** INDEX NO.: MORTGAGED PREMISES: 165 Kennedy Road Cheektowaga, NY 14227 Section: 113.47 Block: 3 Lot: 17

Plaintiff, KeyBank National Association ("Plaintiff"), by its Counsel, McCalla Raymer Leibert Pierce, LLC, and for its Complaint against the above named Defendants, alleges as follows:

1. Plaintiff, a National Bank, having an address at 4910 Tiedeman Road Suite C, Brooklyn, OH 44144, is the owner and holder of the note and mortgage to be foreclosed in this action, or has been delegated the authority to institute a mortgage foreclosure action by the owner and holder of the subject note and mortgage. Plaintiff is duly licensed and/or organized under the laws of the United States of America or a state therein.

2. On or about November 30, 2006, Defendant Kelly M. Barnes executed and delivered to HSBC Mortgage Corporation (USA) a certain note (the "Note") whereby she bound herself in the amount of $70,300.00, together with accrued interest on the unpaid principal balance and such other amounts until paid, pursuant to the terms of the Note. The Note bears an initial interest rate of 6.250%.

23-16555NY

Attachment: DOC032724-032720240948 31 (COM-2024-31 : Summons and Complaint: KeyBank National Association Vs. Town of Amherst Et Al.)

A copy of the Note is attached hereto as Exhibit "A".

3. To secure payment of the Note, Defendant Kelly M. Barnes granted a mortgage (the "Mortgage") against the property owned by her located at 165 Kennedy Road, Cheektowaga, NY 14227 (the "Mortgaged Premises") to Mortgage Electronic Registration Systems, Inc., as nominee for HSBC Mortgage Corporation (USA), its successors and assigns, in the amount of $70,300.00 on November 30, 2006. The Mortgage was recorded in the Erie County Clerk's Office on November 30, 2006, in Book 13325, Page 1328 at which time the mortgage recording tax was duly paid. A copy of the Mortgage is attached hereto as Exhibit "B".

4. The Mortgage has been assigned as follows:

a From Mortgage Electronic Registration Systems, Inc., as nominee for HSBC Mortgage Corporation (USA), its successors and assigns, to HSBC Mortgage Corporation (USA) by Assignment of Mortgage dated October 29, 2009 and recorded in the Erie County Clerk's Office on November 5, 2009, in Book 13471, Page 3898. A copy of the Assignment of Mortgage is attached hereto as Exhibit "B".

b From HSBC Mortgage Corporation (USA) to KeyBank National Association by Assignment of Mortgage dated July 16, 2012 and recorded in the Erie County Clerk's Office on August 13, 2012, in Book 13594, Page 5610. A copy of the Assignment of Mortgage is attached hereto as Exhibit "B".

5. The terms of the Note and/or Mortgage have been modified as set forth in the Loan Modification Agreement attached hereto and incorporated herein as Exhibit B.

6. The tax map designation of the Mortgaged Premises is known as or part of Section: 113.47 Block: 3 Lot: 17. The full legal description of the Mortgaged Premises is attached hereto as Exhibit "C".

7. The Defendant(s) referenced in paragraphs 2 and 3 above have failed to comply with the

Attachment: DOC032724-032720240948 31 (COM-2024-31 : Summons and Complaint: KeyBank National Association Vs. Town of Amherst Et Al.)

15.8.a

terms of the Note, Mortgage and/or Modification Agreement by failing to pay the monthly payment amount due on May 1, 2023 and each subsequent payment that has come due thereafter, together with any other amounts for taxes, assessments, water rates, escrow, insurance premiums and/or any other charges that have come due and are payable under the terms of the Note, Mortgage and/or Modification Agreement since the date of default set forth above.

8. The requisite contractual notice, if applicable, was sent by Plaintiff's servicer in accordance with the terms of the Mortgage notifying the borrower(s) of the default, advising of the actions necessary to cure said default, the date by which to cure being at least thirty (30) days from the date of said notice, and advising of the borrower(s)' right to present a defense to the lawsuit. Despite the written demands, the default has not been cured. As a result, Plaintiff hereby elects and demands that the entire principal sum due on the Note, along with all unpaid interest, advances, fees and costs are accelerated and are now due and payable.

9. As of the date of default, the principal balance due and owing pursuant to the terms of the Note, Mortgage and/or Modification Agreement is $82,620.26, together with accrued interest, taxes, assessments, water rates, maintenance, late fees, insurance premiums, escrow advances, reasonable attorneys' fees, and any other charges that are validly due and owing pursuant to the terms of the Note, Mortgage and/or Modification Agreement, to be calculated and established at the time Plaintiff applies for Judgment of Foreclosure or Sale.

10. In order to protect its security, Plaintiff (directly and/or through its servicer or agent) has made advances, or may be obligated during the pendency of this action to make advances, for the payment of taxes, insurance premiums and other necessary charges affecting the Mortgaged Premises. Any such sums advanced under the terms of the Note, together with interest (to the extent allowed), are to be added to the sum otherwise due on and be deemed secured by the Mortgage.

11. All Defendants herein may have, or claim to have, some interest in, or lien upon the

Attachment: DOC032724-032720240948 31 (COM-2024-31 : Summons and Complaint: KeyBank National Association Vs. Town of Amherst Et Al.)

Mortgaged Premises or some part thereof, which interest or lien, if any, has accrued subsequent and/or subject to the lien of Plaintiff's Mortgage.

12. The Defendants identified more fully in Exhibit "D" are made parties solely for the reasons set forth in said Exhibit.

13. The Defendants identified more fully in Exhibit "E" are governmental entities made parties solely by reason of the facts set forth in said Exhibit.

14. Defendants, John Doe #1 through 6 and Jane Doe #1 through 6, are unknown occupants, if any exist, of the Mortgaged Premises being foreclosed or may be any persons or entities of any kind otherwise claiming a lien or interest in or against the Mortgaged Premises.

15. Plaintiff has complied with the applicable provisions of RPAPL §1304 and the Banking Law, specifically §§595-a, 6-l and/or 6-m if applicable, in that the requisite notice was sent by its servicer, in at least fourteen point type, and containing a current list of at least five housing counseling agencies serving the county where the property is located from the most recent listing available from department of financial services to the borrowers by registered or certified mail and also by first class mail to the last known address of the borrowers and to the residence that is the subject of the Mortgage. Further, Plaintiff has complied with the applicable provisions of RPAPL §1306 in that the notice required by RPAPL §1304, if necessary, was filed with the superintendent of banks within three business days of mailing. If applicable, copies of the registration(s) are attached hereto as Exhibit "F".

16. Plaintiff has complied with the provisions of the Banking Law § 9-x, if applicable.

17. In the event this action proceeds to a judgment in foreclosure and sale of the Mortgaged Premises, Plaintiff requests that the Mortgaged Premises be sold subject to any statement of facts an inspection of the Mortgaged Premises would disclose or an accurate survey would show; covenants, restrictions, easements and public utility agreements of record, if any; building and zoning ordinances and possible violations of same; any rights of tenants or persons in possession of the Mortgaged

Attachment: DOC032724-032702409483 1 (COM-2024-31 : Summons and Complaint: KeyBank National Association Vs. Town of Amherst Et Al.)

Premises; any equity/right of redemption of the United States of America within 120 days of the sale; and, any prior mortgages and liens.

18. If the Mortgage secures more than one property, Plaintiff requests the judgment in foreclosure provide for the sale of the properties in a particular order to the extent necessary to satisfy the amounts due as determined by this Court.

19. Pursuant to the terms of the Mortgage, Plaintiff is entitled to recover attorneys' fees and costs incurred in connection with this action.

20. All Exhibits attached hereto are expressly incorporated and made part of the Complaint with the same force and effect as if they were set forth herein.

21. There are no other pending proceedings to enforce the referenced Note and Mortgage. To the extent there are any prior proceedings, it is the intention of the Plaintiff that any such action be discontinued and the instant action be the only pending action.

WHEREFORE, Plaintiff, KeyBank National Association, demands judgment:

1. Adjudging and decreeing that any advances Plaintiff or its servicer or agent made or will make pursuant to the terms of the Note, Mortgage and/or Modification Agreement for the payment of taxes, insurance premiums and other necessary charges affecting the Mortgaged Premises, together with interest (to the extent allowed), are valid liens against the Mortgaged Premises.

2. Fixing the amounts due the Plaintiff for all amounts due under the Note, Mortgage and/or Modification Agreement, including, but not limited to principal, interest, costs, late charges, expenses of sale, allowances and disbursements, reasonable attorney's fees (to the extent allowed under the Note, Mortgage and/or Modification Agreement) and all other monies advanced and paid which are secured by the Mortgage;

3. That the Defendants and all parties claiming by, through or under them and every other person or entity whose right, title, conveyance or encumbrance is subsequent to or subsequently recorded, or

Attachment: DOC032724-032720240948 31 (COM-2024-31 : Summons and Complaint: KeyBank National Association Vs. Town of Amherst Et Al.)

whose lien is being challenged by being a Defendant in this action, be barred and foreclosed of and from all right, claim, lien, interest or equity of redemption in and to said Mortgaged Premises;

4. That said Mortgaged Premises, or such part thereof as may be necessary to raise the amounts due herein, be decreed to be sold according to law subject to any statement of facts an inspection of the Mortgaged Premises would disclose or an accurate survey of the Mortgaged Premises would show; as further discussed in the Complaint above;

5. That out of the monies arising from the sale of the Mortgaged Premises, the Plaintiff may be paid the amounts due on the Note, Mortgage and/or Modification Agreement, plus all other amounts provided for and allowed under the judgment, including attorneys' fees and costs to be incurred in connection with this action, together with any sums expended as aforesaid, with interest as allowed by law upon any advances from the dates of the respective advance payments, to the extent allowed;

6. That any Defendants referenced in paragraph 2 of this Complaint (and any original or subsequent obligors so named in this action) may be adjudged to pay any deficiency that may remain after applying all of said monies so applicable thereto, unless the debt has been listed and discharged in a bankruptcy proceeding with respect to said Defendant;

7. That either or any of the parties to this action may become a purchaser upon such sale;

8. That this Court, if requested, forthwith appoint a receiver of rents and profits of said Mortgaged Premises with the usual powers and duties;

9. In the event Plaintiff possesses any other liens against the Mortgaged Premises, they shall not be merged with the same/instant matter. Plaintiff specifically reserves its right to share in any surplus monies arising from the sale of the Mortgaged Premises by virtue of its position as a judgment or other lien creditor, excluding the mortgage being foreclosed herein.

23-16555NY

Attachment: DOC032724-032720240948 31 (COM-2024-31 : Summons and Complaint: KeyBank National Association Vs. Town of Amherst Et Al.)

10. That the plaintiff be granted such other and further relief as may be just, equitable and proper.

Date: 03/05/2024 By: _____

Ammar Jaber, Esq.
McCalla Raymer Leibert Pierce, LLC
420 Lexington Avenue, Suite 840
New York, New York 10170
Phone: 347-286-7409
Fax: 347-286-7414
Attorneys for Plaintiff,
KeyBank National Association
File No. 23-16555NY

Attachment: DOC032724-032720240948 31 (COM-2024-31 : Summons and Complaint: KeyBank National Association Vs. Town of Amherst Et Al.)

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Town Clerk
DOC ID: 28841

COMMUNICATION 2024-32 **REFERRED**

Summons and Complaint: Pamela A. Kubek & Brian J. Kubek Vs. Town of Amherst Et Al.

4/29/2024
Referred to Town Attorney

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

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

PAMELA A. KUBEK
BRIAN J. KUBEK

Plaintiffs

-vs-

MARK A. HEARD

MARY M. HEARD

TOWN OF AMHERST
5583 Main Street
Amherst, New York 14221,

Defendants

SUMMONS

Index Number: 804462/2024
Date Filed: 03/26/2024

TO THE ABOVE-NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED and required to serve upon the Plaintiffs' attorneys, at their address stated below, an Answer to the attached Complaint.

If this Summons was personally served upon you in the State of New York, the Answer must be served within twenty (20) days after such service of the Summons, excluding the date of service. If the Summons was not personally delivered to you within the State of New York, the Answer must be served within thirty (30) days after service of the Summons is complete as provided by law.

APR 1 2024 PM2:4

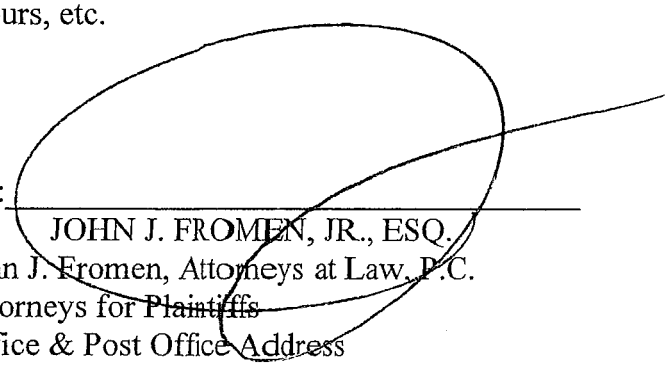
Attachment: DOC040224-040202409502 (COM-2024-32 : Summons and Complaint: Pamela A. Kubek & Brian J. Kubek Vs. Town of Amherst Et

If you do not serve an Answer to the attached Complaint within the applicable time limitation stated above, a judgment will be entered against you, by default, for the relief demanded in the Complaint, without further notice to you.

The Plaintiffs designate Erie County as the place of trial. The basis of venue is the residence address of the Plaintiffs which is

DATED: Buffalo, New York
March 26, 2024

Yours, etc.



By: _____
JOHN J. FROMEN, JR., ESQ.
John J. Fromen, Attorneys at Law, P.C.
Attorneys for Plaintiffs
Office & Post Office Address
4367 Harlem Road
Snyder, New York 14226
(716) 855-1222

Attachment: DOC040224-04022024095502 (COM-2024-32 : Summons and Complaint: Pamela A. Kubek & Brian J. Kubek Vs. Town of Amherst Et

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

PAMELA A. KUBEK
BRIAN J. KUBEK
Plaintiffs

-vs-

MARK A. HEARD
MARY M. HEARD
TOWN OF AMHERST

Defendants

COMPLAINT

Index Number: 804462/2024
Date Filed: 03/26/2024

The Plaintiffs, complaining of the Defendants, by JOHN J. FROMEN, ATTORNEYS AT LAW, P.C., their attorneys, allege:

FIRST: That at all times hereinafter mentioned the Plaintiffs, PAMELA A. KUBEK (hereinafter referred to as "P KUBEK") and BRIAN K. KUBEK (hereinafter referred to as "B KUBEK), were and still are residents of the County and State of

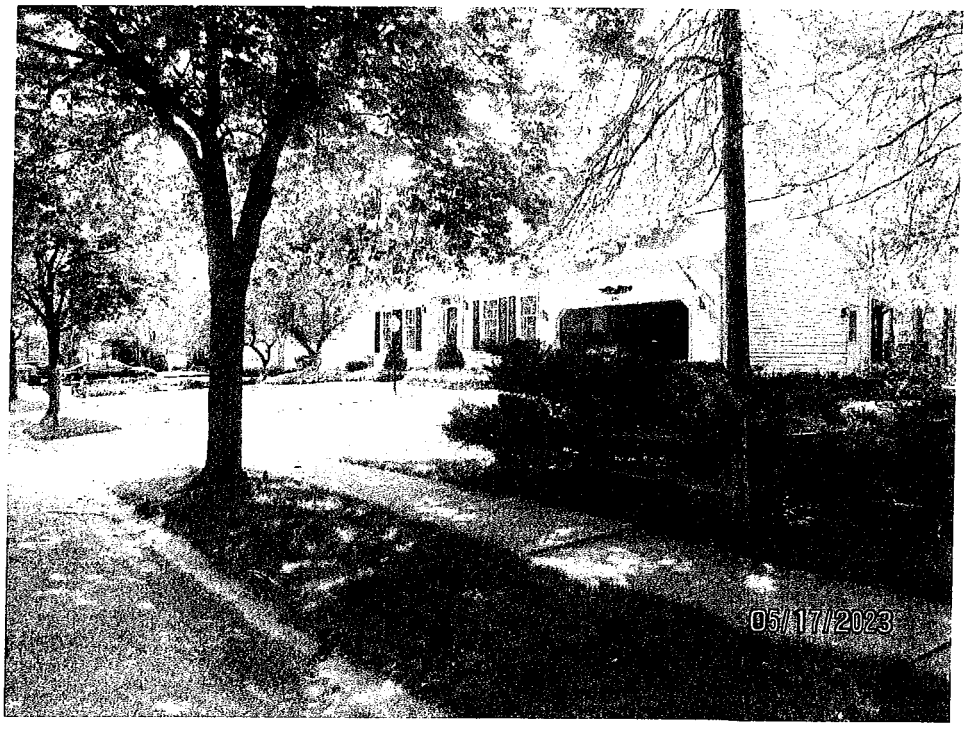
SECOND: That upon information and belief, and at all times hereinafter mentioned, the Defendant, MARK A. HEARD, was a resident of the County (

THIRD: That upon information and belief, and at all times hereinafter mentioned, the Defendant, MARY M. HEARD, was a resident of the County (

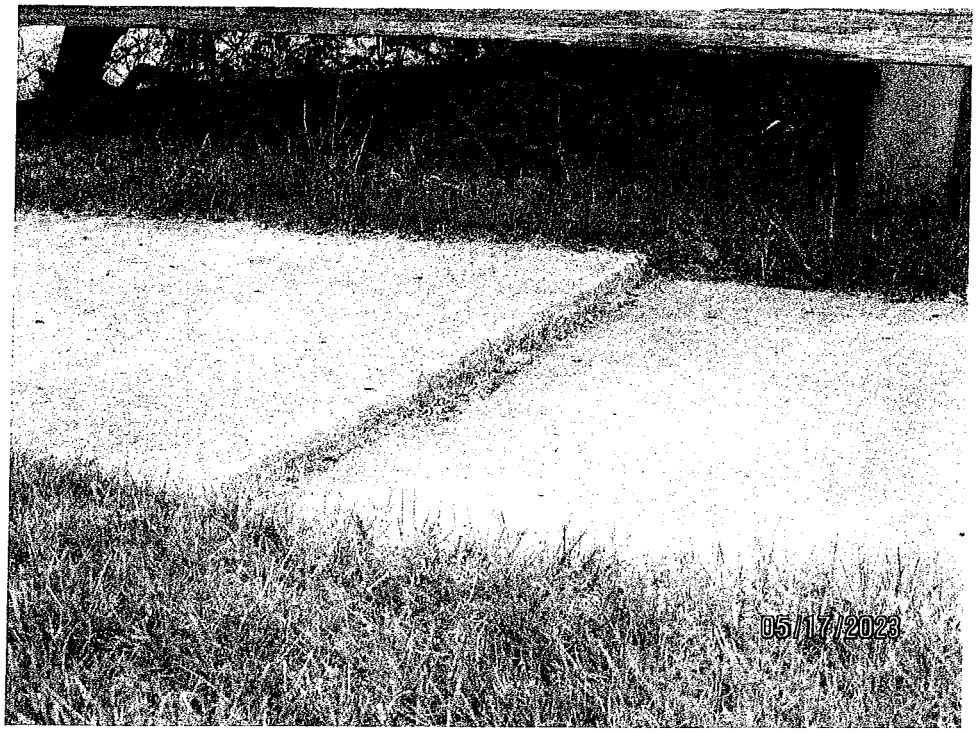
Attachment: DOC040224-04022024095502 (COM-2024-32 : Summons and Complaint: Pamela A. Kubek & Brian J. Kubek Vs. Town of Amherst Et

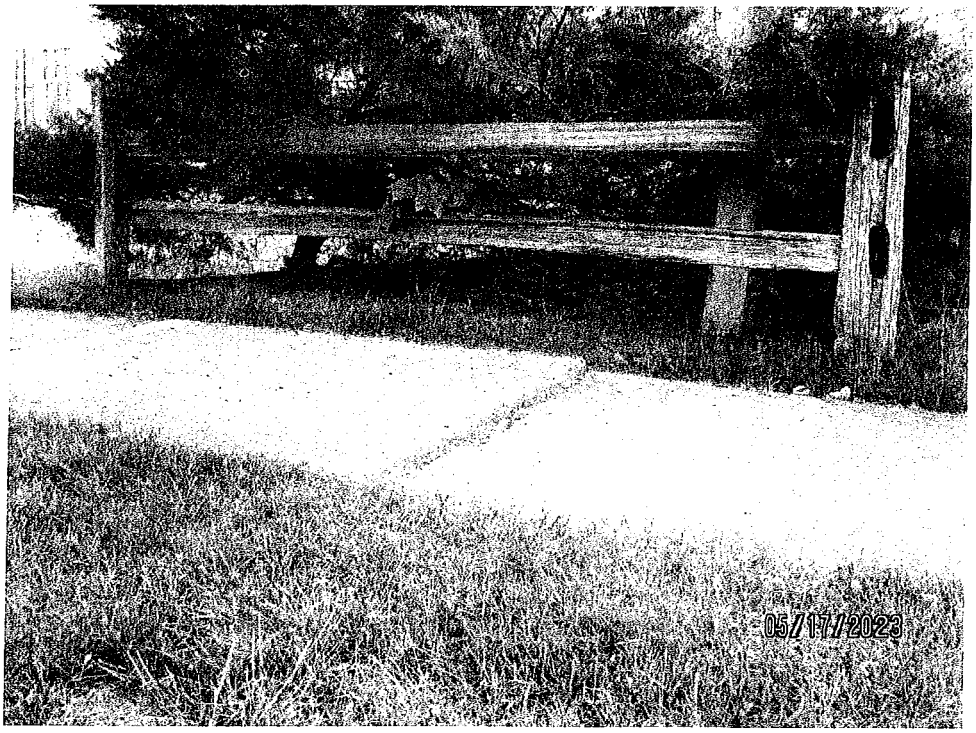
FOURTH: That upon information and belief, and at all times hereinafter mentioned, the Defendant, TOWN OF AMHERST (hereinafter referred to as "AMHERST"), was and still is a municipal corporation organized under and by virtue of the laws of the State of New York with offices for the transaction of business located at 5583 Main Street in the Town of Amherst, County of Erie, and State of New York.

FIFTH: That upon information and belief, and at all times hereinafter mentioned, the Defendants, MARK A. HEARD and MARY M. HEARD, were the owners and record holders of title of the real property more commonly known as 411 Tiburon Lane in the Town of Amherst, County of Erie and State of New York, including the sidewalks and appurtenances adjacent thereto and connected therewith, and as more specifically depicted in the following photographs:

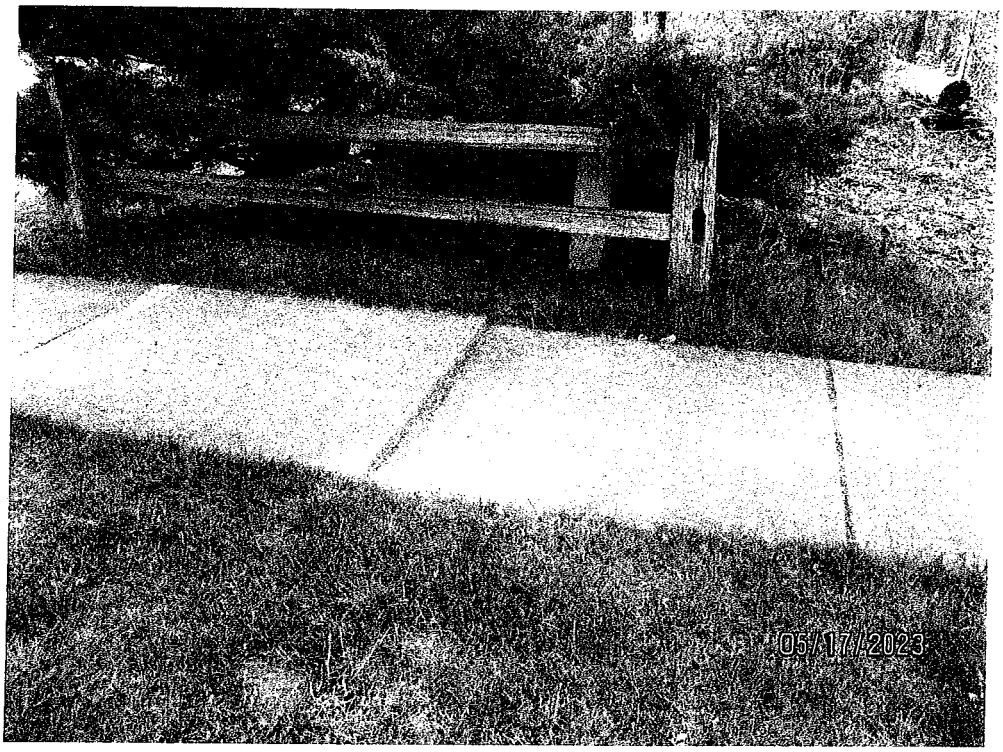


Attachment: DOC040224-040202024095502 (COM-2024-32 : Summons and Complaint: Pamela A. Kubek & Brian J. Kubek Vs. Town of Amherst Et





Attachment: DOC040224-040220240955O2 (COM-2024-32 : Summons and Complaint: Pamela A. Kubek & Brian J. Kubek Vs. Town of Amherst Et



SIXTH: That in the event that the Defendants, MARK A. HEARD and MARY M. HEARD, were not the owners and record holders of title of the subject sidewalk area as depicted in the aforementioned photographs, then in the alternative, and upon information and belief, the Defendant, AMHERST, was the owner and record holder of title of the subject sidewalk area and appurtenances adjacent thereto.

SEVENTH: That upon information and belief, and at all times hereinafter mentioned, the Defendants, MARK A. HEARD and MARY M. HEARD, and/or the Defendant, AMHERST, their agents, servants, employees, appointees, designees, consulting project engineers, subcontractors and/or independent contractors, were jointly and severally responsible for the operation, management, and control of the subject sidewalk area.

Attachment: DOC040224-040202024095502 (COM-2024-32 : Summons and Complaint: Pamela A. Kubek & Brian J. Kubek Vs. Town of Amherst Et

EIGHTH: That upon information and belief, and at all times hereinafter mentioned, the Defendant, MARK A. HEARD and MARY M. HEARD, and/or the Defendant, AMHERST, their agents, servants, employees, appointees, designees, consulting project engineers, subcontractors and/or independent contractors, were jointly and severally responsible for, and had the non-delegable duty for the design, construction, improvement, modification, maintenance, repair, inspection, security, and upkeep of the subject sidewalk area.

NINTH: That on or about the 8th day of May, 2023, at approximately 10:00 pm, the Plaintiff, P KUBEK, was lawfully and properly walking upon the subject sidewalk area.

TENTH: That at the time and place aforementioned, and while walking on, over and upon the subject sidewalk area as stated aforesaid, the Plaintiff, P KUBEK, was caused to trip and fall due to a defective, unsafe, obstructive, hazardous and inherently dangerous condition and latent deceptive trap that existed in, on or about the subject sidewalk area located on the aforesaid premises as more specifically depicted in the aforementioned photographs contained herein, which resulted in serious injuries to said Plaintiff as hereinafter described.

ELEVENTH: That said occurrence and the injuries sustained by the Plaintiff, P KUBEK, were caused by reason of the negligence, carelessness and recklessness of the Defendants, their agents, servants, employees, appointees, designees, consulting project engineers, subcontractors and/or independent contractors, in the ownership, operation,

Attachment: DOC040224-040202409502 (COM-2024-32 : Summons and Complaint: Pamela A. Kubek & Brian J. Kubek Vs. Town of Amherst Et

management, control, supervision, design, construction, improvement, repair, replacement, inspection, modification, alteration, building and upkeep of the aforesaid sidewalk area and the appurtenances adjacent thereto and connected therewith, thereby affirmatively creating and permitting a defective, unsafe, obstructive, hazardous and inherently dangerous condition and latent deceptive trap to exist in, on or about said sidewalk area; in permitting a defective, unsafe, obstructive, hazardous and inherently dangerous condition and latent deceptive trap to exist on the subject premises with knowledge that pedestrians would be traveling upon, over and about said premises, including without limiting thereto, the aforesaid sidewalk area; in affirmatively creating and permitting a tripping hazard and an inherently dangerous condition and latent deceptive trap to exist in, on or about said sidewalk area; in failing to exercise reasonable care in the performance of its repair and maintenance responsibilities, obligations and duties; in launching a force and/or instrument of harm upon the Plaintiff, P KUBEK, by affirmatively creating the aforementioned hazardous and inherently dangerous condition which caused the Plaintiff, P KUBEK, to trip and fall due to the negligent manner in which said Defendants designed, constructed, maintained and/or repaired the subject sidewalk area; in affirmatively creating and/or exacerbating a dangerous condition and latent, deceptive trap which caused the Plaintiff, P KUBEK, to trip and fall; in failing to take suitable and proper precautions to insure the safety of said Plaintiff, P KUBEK, and those similarly situate; in failing to adequately warn said Plaintiff, P KUBEK, and those similarly situate of the aforesaid conditions, and were otherwise negligent, reckless and careless in said accident and the resulting injuries to the Plaintiff.

Attachment: DOC040224-040202024095502 (COM-2024-32 : Summons and Complaint: Pamela A. Kubek & Brian J. Kubek Vs. Town of Amherst Et

TWELFTH: That upon information and belief, and at all times hereinafter mentioned, the Defendants, MARK A. HEARD and MARY M. HEARD, and/or the Defendant, AMHERST, their agents, servants, employees, appointees, designees, consulting project engineers, subcontractors and/or independent contractors, in addition to affirmatively creating the aforesaid defective, unsafe, hazardous, obstructive and inherently dangerous condition and latent deceptive trap, had actual and/or constructive notice of said defective, unsafe, hazardous, obstructive and inherently dangerous condition and latent deceptive trap which existed for a period of time prior to the happening of this accident.

THIRTEENTH: That upon information and belief, and at all times hereinafter mentioned, the Defendant, AMHERST, its agents, servants, employees, appointees, designees, consulting project engineers, subcontractors and/or independent contractors, had actual written notice of the defective, unsafe, hazardous, obstructive and inherently dangerous condition of the subject sidewalk area, and that after receipt thereof, failed or neglected to cause said condition to be remedied or to make the subject sidewalk area reasonably safe within a reasonable time after receipt of said notice, and in addition to affirmatively creating said defective, unsafe, hazardous, obstructive and inherently dangerous condition, said Defendant had actual and/or constructive notice of said defective, unsafe, hazardous, obstructive and inherently dangerous condition and latent deceptive trap which existed for a period of time prior to the happening of this accident.

Attachment: DOC040224-040202024095502 (COM-2024-32 : Summons and Complaint: Pamela A. Kubek & Brian J. Kubek Vs. Town of Amherst Et

FOURTEENTH: That as a result of the negligence, carelessness and recklessness of the Defendants, their agents, servants, employees, appointees, designees, consulting project engineers, subcontractors and/or independent contractors, the Plaintiff, P KUBEK, was injured internally, externally and permanently in and about the head, body, limbs and nervous system so that she became and will continue to the disabled and will continue to suffer pain, discomfort, disfigurement and distress. That by reason of said injuries the Plaintiff, P KUBEK, required the services of physicians, surgeons, nurses, hospitals, therapy and medicines and will continue to incur such expenses in the future; that as a result of the aforesaid injuries and resulting permanent disabilities, said Plaintiff was incapacitated from her profession, employment and/or schooling and will continue to be incapacitated from her profession, employment and/or schooling in the future; and as a result of the aforesaid injuries and permanent disabilities, the future earning capacity, profession, livelihood and social and personal endeavors, hobbies and activities of said Plaintiff will be partially and/or permanently impaired; and as a result of the foregoing said Plaintiff has otherwise been damaged in a sum which exceeds the jurisdictional limits of all lower Courts which would otherwise have jurisdiction and as may be awarded by the trier of fact herein.

FIFTEENTH: That a Notice of Claim has been duly made and served upon the Defendant, AMHERST, pursuant to § 50-e of the General Municipal Law of the State of New York; that at least thirty days have elapsed since the service of such Notice and that adjustment or payment thereof has been neglected or refused by said Defendant; and that

Attachment: DOC040224-040202024095502 (COM-2024-32 : Summons and Complaint: Pamela A. Kubek & Brian J. Kubek Vs. Town of Amherst Et

the within action was commenced within one year and ninety days after the happening of the event upon which the within claims are based pursuant to §50-i of the General Municipal Law of the State of New York.

SIXTEENTH: That the limitations on joint and several liability established under Article 16 of the Civil Practice Laws and Rules of the State of New York do not apply herein on the grounds that the exceptions enumerated under CPLR Section 1602 are applicable to the Plaintiff's claims in the within action.

AS AND FOR A SECOND, SEPARATE AND DISTINCT CAUSE OF ACTION AGAINST THE DEFENDANTS HEREIN, THE PLAINTIFFS ALLEGE:

SEVENTEENTH: Repeat and reallege each and every allegation contained in paragraphs numbered "FIRST" through "SIXTEENTH" inclusive, of the Plaintiffs' Complaint herein as though set forth at length herein.

EIGHTEENTH: That prior to and at all times hereinafter mentioned, the Plaintiff, P KUBEK, was and still is the wife of the Plaintiff, B KUBEK, and they have at all times herein lived and cohabited together as man and wife.

NINETEENTH: That solely in consequence of the negligent, careless and reckless conduct of the Defendants as aforementioned and the resulting injuries sustained by the Plaintiff, P KUBEK, as hereinbefore described, the Plaintiff, B KUBEK, was deprived of the services of his said wife and the comfort and happiness of his wife's society and companionship, and will continue to be deprived thereof, and was and still

Attachment: DOC040224-040202409502 (COM-2024-32 : Summons and Complaint: Pamela A. Kubek & Brian J. Kubek Vs. Town of Amherst Et

will be compelled to employ health care related services and domestic help to perform the services theretofore performed by his said wife, and will continue to incur such or similar expenses in the future, and as a result of the foregoing, said Plaintiff has otherwise been damaged in a sum which exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction and as may be awarded by the trier of facts herein.

WHEREFORE, Plaintiffs demand judgment against the Defendants herein for a sum which exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction and as may be awarded by the trier of fact herein on the First Cause of Action; for a sum which exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction and as may be awarded by the trier of fact herein on the Second Cause of Action, together with the costs and disbursements of this action and for such other and further relief as to this Court may seem just and proper.

DATED: Buffalo, New York
March 26, 2024

By: _____
JOHN J. FROMEN, JR., ESQ.
John J. Fromen, Attorneys at Law, P.C.
Attorneys for Plaintiffs
Office & Post Office Address
4367 Harlem Road
Snyder, New York 14226
(716) 855-1222

Attachment: DOC040224-040202409502 (COM-2024-32 : Summons and Complaint: Pamela A. Kubek & Brian J. Kubek Vs. Town of Amherst Et

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

Francina J. Spoth
Town Clerk

Meeting: 04/29/24 07:00 PM
Department: Town Clerk
DOC ID: 28888

COMMUNICATION 2024-33 **REFERRED**

Summons and Verified Complaint: Wilmington Savings Fund Society, FSB Vs. Town of Amherst Et Al

4/29/2024
Referred to Town Attorney

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

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE

----------X

WILMINGTON SAVINGS FUND SOCIETY, FSB, AS OWNER TRUSTEE OF THE RESIDENTIAL CREDIT OPPORTUNITIES TRUST VI-A,

Plaintiff

-against-

DOROTHY THOMAS; TOWN OF AMHERST; "JOHN DOE" and "JANE DOE" said names being fictitious, it being the intention of Plaintiff to designate any and all occupants of premises being foreclosed herein,

Defendants

----------X

Index No. 804674/2024

RECEIVED NYSCEF: 03/29/2024

SUMMONS

Mortgaged Premises:
346 Beach Road
Cheektowaga, NY 14225

Section: 91.15
Block: 6
Lot: 6

Mortgaged Premises: 346 Beach Road, Cheektowaga, NY 14225

To The Above Named Defendant(s):

YOU ARE HEREBY SUMMONED to answer the Complaint in the above entitled action and to serve a copy of your Answer on the Plaintiff's attorney within twenty (20) days of the service of this Summons, exclusive of the day of service, or within thirty (30) days after service of the same is complete where service is made in any manner other than by personal delivery within the State. The United States of America, if designated as a Defendant in this action, may answer or appear within sixty (60) days of service. If you fail to appear or to answer within the aforementioned time frame, judgment will be taken against you by default for the relief demanded in the Complaint.

NOTICE OF NATURE OF ACTION AND RELIEF SOUGHT

THE OBJECTIVE of the above captioned action is to foreclose on a Mortgage to secure $68,800.00 and interest, recorded in the Erie County Clerk's Office on October 19, 2007 in Book 13376, Page 2876, Control Number 2007223096, covering the premises known as 346 Beach Road, Cheektowaga, NY 14225.

The relief sought herein is a final judgment directing sale of the premises described above to satisfy the debt secured by the mortgage described above.

Plaintiff designates Erie County as the place of trial. Venue is based upon the County in which the mortgaged premises is located.

APR 17 2024 PM3:3

Firm Case No. 220422-3

Attachment: DOC041824-041820240919125 (COM-2024-33 : Summons and Verified Complaint: Wilmington Savings Fund Society, FSB Vs. Town

15.10.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 (MORTGAGE COMPANY) AND FILING THE ANSWER WITH THE COURT.

Dated: March 29, 2024
Garden City, NY

Anthony J. Ortiz, Esq.
FRIEDMAN VARTOLO LLP
Attorneys for Plaintiff
1325 Franklin Avenue, Suite 160
Garden City, NY 11530
T: (212) 471-5100

Attachment: DOC041824-04182024091925 (COM-2024-33 : Summons and Verified Complaint: Wilmington Savings Fund Society, FSB Vs. Town

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE

----------X

WILMINGTON SAVINGS FUND SOCIETY, FSB, AS OWNER TRUSTEE OF THE RESIDENTIAL CREDIT OPPORTUNITIES TRUST VI-A,

Plaintiff

-against-

DOROTHY THOMAS; TOWN OF AMHERST; "JOHN DOE" and "JANE DOE" said names being fictitious, it being the intention of Plaintiff to designate any and all occupants of premises being foreclosed herein,

Defendants

----------X

Index No. 804674/2024

RECEIVED NYSCEF: 03/29/2024

VERIFIED COMPLAINT

Mortgaged Premises:
346 Beach Road
Cheektowaga, NY 14225

Section: 91.15
Block: 6
Lot: 6

The Plaintiff herein, by its attorneys FRIEDMAN VARTOLO LLP complains of the defendants above named herein and, upon information and belief, alleges as follows:

1. Plaintiff, Wilmington Savings Fund Society, FSB, as Owner Trustee of the Residential Credit Opportunities Trust VI-A (hereinafter "Plaintiff"), at all times hereinafter mentioned was and still is a duly organized corporation or association with offices at c/o American Mortgage Investment Partners Management, LLC, 3020 Old Ranch Parkway, Suite 180, Seal Beach, CA 90740.

2. The object of the instant action is to foreclose a Mortgage securing the premises known as 346 Beach Road, Cheektowaga, NY 14225 (hereinafter "Mortgaged Premises"). The Mortgaged Premises is more fully described in Schedule "A" annexed hereto.

3. On October 19, 2007, Dorothy Thomas (hereinafter "Borrower" and "Mortgagor") being indebted to HSBC Mortgage Corporation (USA), in the sum of $68,800.00, executed a note to secure that sum with an initial interest rate of 7.250% per annum, payable in successive monthly installments of $469.34 on the same day of each month commencing December 1, 2007 and the final payment to be made November 1, 2037 (hereinafter "Note"). A true and correct copy of the Note is attached hereto as **Exhibit A**.

Attachment: DOC041824-041820240919 25 (COM-2024-33 : Summons and Verified Complaint: Wilmington Savings Fund Society, FSB Vs. Town

4. To secure payment of the obligation described in paragraph three (3), Mortgagor executed to Mortgage Electronic Registration Systems, Inc., as nominee for HSBC Mortgage Corporation (USA) a mortgage of even date with said Note, and thereby mortgaged the Mortgaged Premises as collateral security for the Note. Said mortgage was recorded in the County Clerk's Office of Erie on October 19, 2007 in Book 13376, on Page 2876, Control Number 2007223096 (hereinafter "Mortgage"). A true and correct copy of the Mortgage is attached hereto as **Exhibit B**.

5. Thereafter, the Mortgage was assigned as provided for below:

ASSIGNMENT OF MORTGAGE:
Assignor: Mortgage Electronic Registration Systems, Inc., as nominee for HSBC Mortgage Corporation (USA)
Assignee: HSBC Bank USA, N.A.
Dated: October 14, 2008
Recorded: October 15, 2008
Book: 13423, **Page:** 2316
Control No.: 2008209562

CORRECTIVE ASSIGNMENT OF MORTGAGE:
Assignor: Mortgage Electronic Registration Systems, Inc. as nominee for HSBC Mortgage Corporation (USA)
Assignee: HSBC Bank USA N.A.
Dated: March 28, 2013
Recorded: April 12, 2013
Book: 13630, **Page:** 7322
Control No.: 2013085895

ASSIGNMENT OF MORTGAGE:
Assignor: HSBC Bank USA, N.A.
Assignee: Federal National Mortgage Association
Dated: November 23, 2015
Recorded: November 24, 2015
Book: 13746, **Page:** 5920
Control No.: 2015242551

Copies of the aforementioned assignments of Mortgage are attached hereto as **Exhibit C**.

6. On or about April 22, 2017, Mortgagor and Seterus, Inc., as servicer for Federal National Mortgage Association, amended and supplemented the Mortgage by execution of a loan modification agreement, which capitalized all arrears to form a total unpaid principal balance of $134,290.53 (hereinafter "First Loan Modification Agreement"). The First Loan Modification Agreement amended

Attachment: DOC041824-041820240919 25 (COM-2024-33 : Summons and Verified Complaint: Wilmington Savings Fund Society, FSB Vs. Town

the interest rate of the Mortgage such that interest would accrue at a step rate initially set at 2.125% from April 1, 2017 until the modified maturity date, May 1, 2055. Said First Loan Modification Agreement was recorded in the Erie County Clerk's Office on October 24, 2017 in Book 11320, on Page 5658, Control Number 2017214965. A true and correct copy of the First Loan Modification Agreement is attached hereto as **Exhibit D**.

7. Thereafter, the Mortgage was assigned as provided for below:

ASSIGNMENT OF MORTGAGE:
Assignor: Federal National Mortgage Association
Assignee: Nationstar Mortgage LLC d/b/a Mr. Cooper
Dated: April 12, 2019
Recorded: April 18, 2019
Book: 13893, **Page:** 3861
Control No.: 2019075128

ASSIGNMENT OF MORTGAGE:
Assignor: Nationstar Mortgage LLC d/b/a Mr. Cooper
Assignee: MTGLQ Investors, LP
Dated: July 1, 2020
Recorded: July 2, 2020
Book: 13945, **Page:** 5929
Control No.: 2020106872

ASSIGNMENT OF MORTGAGE:
Assignor: MTGLQ Investors, L.P.
Assignee: Wilmington Savings Fund Society, FSB, as Owner Trustee of the Residential Credit Opportunities Trust VI-A
Dated: March 24, 2022
Recorded: August 24, 2023
Book: 14101, **Page:** 6079
Control No.: 2023146868

Copies of the aforementioned assignments of Mortgage are attached hereto as **Exhibit E**.

8. On or about May 6, 2022, Mortgagor and American Mortgage Investment Partners Management, LLC, as attorney in fact for Wilmington Savings Fund Society, FSB, as Owner Trustee of the Residential Credit Opportunities Trust VI-A, amended and supplemented the Mortgage by execution of a loan modification agreement, which capitalized all arrears to form a total unpaid principal balance of $168,417,18 (hereinafter "Second Loan Modification Agreement"). The Second Loan Modification Agreement amended the interest rate of the Mortgage such that interest would accrue at 4.000% per

Attachment: DOC041824-041820240919925 (COM-2024-33 : Summons and Verified Complaint: Wilmington Savings Fund Society, FSB Vs. Town

15.10.a

annum from April 1, 2022 until the modified maturity date, April 1, 2062. Said Second Loan Modification Agreement was recorded in the Erie County Clerk's Office on March 2, 2023 in Book 11414, on Page 6131, Control Number 2023037119. A true and correct copy of the Second Loan Modification Agreement is attached hereto as **Exhibit F**.

9. Plaintiff or its custodian/agent is in possession of the original Note with a proper endorsement and/or allonge firmly affixed to the original Note and is therefore, the holder of both the Note and Mortgage, which passes incident to the Note.

10. Plaintiff has complied with all of the applicable provisions of RPAPL §1304, if required, and, if applicable, New York Banking Law 9-X, Banking Law §§ 595-a and 6-1 and 6-m.

11. Notices were sent to the Borrower specifically pursuant to RPAPL §1304 on December 18, 2023 (hereinafter "90-Day Notices"). Said 90-Day Notices have not expired and were sent to the Borrower at least 90-days prior to the commencement of the instant action. The 90-Day Notices were in 14-point type, contained the statutorily dictated language of RPAPL §1304 and the address and phone numbers of at least five US Department of Housing and Urban Development approved housing counseling agencies in the region where the Borrower resides and was mailed by registered or certified mail and first-class mail to the Mortgaged Premises and last known address of the Borrower, if different. True and correct copies of the 90-Day Notices are attached hereto as **Exhibit G**.

12. That the Plaintiff has complied fully with the RPAPL §1306 filing requirement, if required, by filing with the superintendent of banks within three (3) business days of date the 90-Day Notices were mailed. A true and correct copy of the proof of filing is attached hereto as **Exhibit H.**

13. That the Mortgage provides that in the case of default in the payment of any principal or interest or any other terms, covenants or conditions of the Mortgage, the holder of the Mortgage could declare the entire indebtedness secured by the Mortgage immediately due and payable, and that the holder of the Mortgage is empowered to sell the Mortgaged Premises.

Packet Pg. 742

Attachment: DOC041824-041820240919925 (COM-2024-33 : Summons and Verified Complaint: Wilmington Savings Fund Society, FSB Vs. Town

14. That the Mortgagor defaulted on the Mortgage on September 1, 2023 and since that date has failed to comply with the conditions of the Mortgage by failing to pay portions of principal, interest or taxes, assessments, water rates, insurance premiums, escrow and/or other charges.

15. That pursuant to paragraph 22 of the Mortgage, in the case of default in the payment of any principal or interest or any other terms, covenants or conditions of the Mortgage, the holder of the Mortgage could declare the entire indebtedness secured by the Mortgage immediately due and payable, and that the holder of the Mortgage is empowered to sell the Mortgaged Premises according to law. As Mortgagor has failed to pay monthly installments prior to or on the due date, Plaintiff elects herein to accelerate the Mortgage and call due the entire amount secured by said Mortgage.

16. That in order to protect its security, the Plaintiff has paid, or may be compelled to pay during the pendency of this action, local taxes, assessments, water rates, insurance premiums and other charges assessed to the Mortgaged Premises.

17. That, pursuant to the Mortgage, the Mortgagor promised to pay, in addition to principal and interest, all the additional charges mentioned in the preceding paragraph, and Plaintiff hereby requests that any sums paid by Plaintiff for such purposes, with interest thereon, be added to the sum otherwise due and be deemed secured by the Mortgage and be adjudged to be a valid lien on the Mortgaged Premises.

18. That there is now due and owing to the Plaintiff under said Note and Mortgage the principal sum of $166,079.35, with interest thereon from August 1, 2023, plus late charges and advances made by the Plaintiff on behalf of the Mortgagor and other named defendants and any other charges due and owing pursuant to the terms of the Note and Mortgage.

19. Pursuant to paragraph 6A of the Note, in the event any installment shall become overdue for a period in excess of 15 days, a late charge on the overdue sum may be charged for the purpose of defraying the expense in handling such delinquent payment.

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15.10.a

20. Plaintiff has complied with all conditions precedent, required by the Mortgage, prior to the commencement of this action.

21. Pursuant to the terms of the Mortgage, a notice of default was mailed to the Mortgagor on December 18, 2023 via certified mail and first class mail to the Mortgaged Premises and the last known address of the Mortgagor, which was the 149 Wilkes Ave, Buffalo, NY 14215 (hereinafter "Notice of Default"). True and correct copies of the Notice of Default are attached hereto as **Exhibit I**.

22. That defendant, Dorothy Thomas, is a named party Defendant to this action because she is the record owner of the Mortgaged Premises and original obligor under the Note secured by the Mortgage, which was assigned as provided for hereinabove.

23. That defendant, Town of Amherst, is a named party defendant to this action because it is a subordinate mortgagee by virtue of: (1) a mortgage recorded on October 19, 2007 in Book 13376, Page 2895, Control No. 2007223097; and (2) a mortgage recorded on October 19, 2007 in Book 13376, Page 2903, Control No. 2007223098.

24. That defendants "John Doe" and "Jane Doe", are named party defendants, said names being fictitious, it being the intention of Plaintiff to designate any and all occupants, tenants, persons or corporations, if any, having or claiming an interest in or lien upon the Mortgaged Premises being foreclosed herein.

25. That each of the above named defendants have or claim to have some interest in, or lien upon, the Mortgaged Premises or some part thereof, which interest or lien, if any, accrued subsequent to the lien of the Plaintiff's Mortgage and is subject and subordinate thereto, unless otherwise outlined in an additional cause of action herein.

26. That the Plaintiff is now the sole, true and lawful holder of the record of the said Note and is the mortgagee of record or has been delegated the authority to institute a mortgage foreclosure action by the owner and holder of the subject Note and Mortgage.

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27. No proceedings are currently pending, at law or otherwise, to collect or enforce the aforementioned default under the Note or Mortgage.

28. The Plaintiff shall not be deemed to have waived, altered, released or changed its election herein by reason of any payment after the commencement of this action of any or all of the defaults mentioned herein and such election shall continue to be effective.

29. That the Mortgage provides that, in the case of foreclosure, the Mortgaged Premises may be sold in one parcel and that if the Mortgaged Premises consist of more than one parcel, Plaintiff respectfully requests that the Judgment of Foreclosure and Sale provide for the parcels to be sold as one parcel.

30. The sale of the Mortgaged Premises under foreclosure herein is subject to any state of facts that an inspection of the Mortgaged Premises would disclose, any state of facts an accurate survey would show, and to covenants, restrictions and easements, if any, of record affecting said Mortgaged Premises and any violation thereof, any equity of redemption of the United States to redeem the Mortgaged Premises within 120 days from the date of sale, prior mortgages and liens of record, if any, any rights of tenants or persons in possession of the subject Mortgaged Premises, and to zoning regulations and ordinances of the city, town, or village in which said Mortgaged Premises lies and any violations thereof.

31. In the event that the Plaintiff possess any other lien(s) against the Mortgaged Premises either by way of judgment, junior mortgage or otherwise, Plaintiff requests that such other lien(s) not be merged in Plaintiff's cause(s) of action set forth herein, but that Plaintiff shall be permitted to enforce said other lien(s) and/or seek determination of priority thereof in any independent action(s) or proceeding(s), including, without limitation, any surplus money proceedings.

WHEREFORE, Plaintiff demands judgment:

(a) adjudging and decreeing the amounts due the Plaintiff for principal, interest, costs, advancements and reasonable attorney's fees, if fees were provided for in the said Mortgage;

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(b) that the defendants and all persons claiming by, through and under them, or either or any of them, subsequent to the commencement of this action and every other person or corporation whose right, title conveyance or encumbrance is subsequent to or subsequently recorded, may be barred and forever foreclosed of all right, claim, lien or interest, or equity of redemption in and to said Mortgaged Premises;

(c) that the said Mortgaged Premises, or such part thereof as may be necessary to raise the amounts then due for principal, interest, costs, reasonable attorney's fees, allowances and disbursements, together with any monies advanced and paid, may be decreed to be sold according to law;

(d) that out of the monies arising from the sale thereof, the Plaintiff may be paid the amounts then due on said Note and Mortgage as herein set forth, with interest upon said amounts from the dates of the respective payments and advances thereof, the costs and expenses of this action, additional allowance, if any, and reasonable attorney's fees, if and as provided for in the Mortgage, rider or other agreement, so far as the amount of such money is properly applicable thereto will pay the same;

(e) that any of the parties to this action may become a purchaser upon such sale;

(f) that should the Mortgaged Premises be sold by foreclosure sale and the proceeds of said sale be insufficient to pay the total debt due Plaintiff, the Borrower named hereinabove, unless discharged in bankruptcy, may be adjudged to pay the amount of the deficiency;

(g) that the United States of America shall have the right of redemption, if applicable;

(h) that the Plaintiff may have such other or further relief, or both, in the Mortgaged Premises as may be just and equitable.

Dated: March 29, 2024
Garden City, NY

Anthony J. Ortiz, Esq.
FRIEDMAN VARTOLO LLP
Attorneys for Plaintiff
1325 Franklin Avenue, Suite 160
Garden City, NY 11530
T: (212) 471-5100

Firm Case No. 220422-3

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VERIFICATION

Anthony J. Ortiz, Esq., an attorney admitted to practice in the courts of New York State, hereby affirms under penalty of perjury that:

I am an associate of the firm of **FRIEDMAN VARTOLO LLP** the attorneys of record for the Plaintiff in the within action.

I have read the foregoing complaint and know the contents thereof; the same is true to my own knowledge except as to the matters therein stated to be alleged on information and belief, and as to those matters I believe it to be true.

The grounds of my beliefs as to all matters not stated on my own knowledge are books and records in my possession, conversations with officers or employees of Plaintiff or its agents, and the public record.

Dated: March 29, 2024
Garden City, NY

Anthony J. Ortiz, Esq.
FRIEDMAN VARTOLO LLP
Attorneys for Plaintiff
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Garden City, NY 11530
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