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, December 2, 2024 | **7:00 PM** | **Amherst Municipal Building**

I. IN MEMORY

II. INVOCATION

III. PLEDGE OF ALLEGIANCE

IV. ROLL CALL:

7:00 PM Meeting called to order on December 2, 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	Present	
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	
Lynda Juul	Town of Amherst	Director of Finance	Present	
Samuel A. Alba	Town of Amherst	Interim Town Attorney	Present	
Daniel J. Ulatowski	Town of Amherst	Assistant Planning Director/ZEO	Present	

V. MINUTES APPROVAL

1. Tuesday, November 12, 2024

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

VI. PROCLAMATIONS AND ANNOUNCEMENTS

VII. PUBLIC HEARINGS

Speakers will be limited to 3 minutes.

1. Resolution 2024-774

Local Law Amending Chapter 204 - Subdivision Regulations

Public hearing with respect to a Local Law Amending Chapter 204 - Subdivision Regulations.

10/1/2024
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 7:37 PM.

Dan Ulatowski, Assistant Planning Director, presented.

The following speakers addressed the Town Board:
Don Smith, 201 N Long St
Sean Hopkins, Esq.

There were no further speakers from the public, therefore Supervisor Kulpa moved to adjourn and keep the hearing open until the November 12th Town Board meeting, seconded by Councilmember Berger and unanimously approved 4-0. The public hearing was adjourned at 7:59 PM.

11/12/2024
A motion to open the public hearing was made by Supervisor Kulpa, seconded by Councilmember Berger and unanimously approved 3-0. The public hearing was opened at 8:32 PM.

Dan Ulatowski, Assistant Planning Director, presented.

The following speaker addressed the Town Board:
Don Smith, 201 N Long St

There were no further speakers from the public, therefore Supervisor Kulpa moved to adjourn the hearing and set a decision date for December 2nd Town Board meeting, seconded by Councilmember Berger and unanimously approved 3-0. The public hearing was adjourned at 8:41 PM.

12/2/2024
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

7:03 PM.

There were no speakers from the public, therefore Supervisor Kulpa moved to close the public hearing, seconded by Councilmember Berger and unanimously approved 5-0. The public hearing was closed at 7:04 PM.

RESULT:	**HEARING CLOSED**

2. Resolution 2024-900

Special Use Permit for Tier III Solar Energy System at 1050 New Road

Public hearing regarding the construction of a Tier III Solar Energy System at 1050 New Road.

11/12/2024
A motion to open the public hearing was made by Supervisor Kulpa, seconded by Councilmember Berger and unanimously approved 3-0. The public hearing was opened at 7:55 PM.

Attorney Matt Dubois presented.

The following residents spoke:
Richard Steen, 3271 Hopkins Rd
Mary Phillians, 1065 New Rd
Vincent Phillians, 1065 New Rd
Rebecca York, 1105 New Rd
Don Smith, 201 N Long St
Matt Plunkett, 299 Northill Dr

There were no further speakers from the public, therefore Supervisor Kulpa moved to adjourn the hearing until the December 2nd Town Board meeting, seconded by Councilmember Berger and unanimously approved 3-0. The public hearing was adjourned at 8:31 PM.

12/2/2024
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 7:05 PM.

Attorney Jeff Palumbo presented.

The following residents spoke:
Sara Schultz, 126 N. Cayuga Rd
Janet Lenichek, 6 Millrace Rd
Matt Plunkett, 299 Northill Dr
Jonathan Rich, 210 Smith Rd

There were no further speakers from the public, therefore Supervisor Kulpa moved to close the hearing and set a decision date for the December 16th Town Board meeting, seconded by Councilmember Szukala and unanimously approved 5-0. The public hearing was closed at 7:25 PM

RESULT:	**DECISION DATE [UNANIMOUS]**	**Next: 12/16/2024 7:00 PM**
MOVER:	Brian J. Kulpa, Supervisor	
SECONDER:	Michael Szukala, Councilmember	
AYES:	Kulpa, Lavin, Berger, Szukala, Marinucci	

VIII. DEVELOPMENT REVIEW ACTIONS

1. Resolution 2024-937

SEQR Determination Chapter 204 of the Amherst Town Code Amendments to the Subdivision Regulations

RESOLVED, that pursuant to 6NYCRR Part 617 of the State Environmental Quality Review Act (SEQRA) and Town Code Chapter 104, as amended, the Town Board is deemed the Lead Agency for those actions which it has sole discretionary power, including but not limited to rezoning decisions and adoptions of local laws, and be it further

RESOLVED, that this Town Board as SEQR Lead Agency has reviewed proposed amendments to its existing Subdivision Regulations (Chapter 204 of the Amherst Town Code) and has identified the areas of environmental concern, thoroughly analyzed them for significant adverse impact, including any concerns and/or recommendations from other agencies, and be it further

RESOLVED, that the requirements of SEQR are now complete therefore this Town Board issues the attached Negative Declaration as its determination of environmental significance, for the subject action.

12/2/2024
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Lavin and unanimously approved 5-0.

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

2. Resolution 2024-938

Adoption of Local Law to Amend Chapter 204 of the Town Code (Subdivision Regulations, ZTA-2024-01)

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

RESOLVED, that pursuant to NYS Town Law 271 and 276 the Town Board concurs with the findings of the Planning Board as stated in their resolution of August 27, 2024 that the proposed amendments to Chapter 204 (Subdivision Regulations) of the Amherst Town Code are consistent with the adopted Bicentennial Comprehensive Plan, as amended, and be it further

RESOLVED, that in accordance with Section 204-4-8 of the Town Code (Subdivision Regulations), the Town Board adopts Local Law (#_____) to amend the Chapter 204 of the Town Code

12/2/2024
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Lavin and unanimously approved 5-0.

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

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 (2)

6. **Amherst Industrial Development Agency**

   Membership is full.

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

8. **Arts & Culture in Public Places Board (2)**

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**

    Membership is full.

18. **Glen Park Joint Board**

19. **Historic Preservation Commission**

    Membership is full.

20. **Information Technology Advisory Committee (2)**

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

Membership is full.

29. Youth Board

Adult vacancies (6), Youth vacancies (0)

30. Zoning Board of Appeals

Membership is full.

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 5-0. Public Expression was opened at 7:38 PM.

The following speakers addressed the Town Board:
John Trabert, 234 Mt Vernon Rd - LED project & Town's spending
Joe Voytovich, 35 Bucyrus Dr - Resolution 2024-944
Chris Drongosky, Youngs Rd - Resolution 2024-944
Matt Plunkett, 299 Northill Dr - Resolution 2024-944
Dennis Hoban, 216 California Dr - Resolution 2024-944 & migrants
Michael Jeffers, 89 MacArthur Dr - Amherst Girl's Softball
Kathy Aquilina, 215 Maple Rd - Resolution 2024-944
Don Smith, 201 N Long St - Resolution 2024-944
Bob Drdul, 92 Chateau Ter – Resolution 2024-944
Shelly Schratz, 1952 Kensington Ave - Resolution 2024-944
Janice Herman - Resolution 2024-944
Julie Styn, 49 Heritage Rd E - Amherst Girl's Softball
Dave Howard, 194 Roycroft Blvd - Resolution 2024-944
Jonathan Rich, 210 Smith Rd - Resolution 2024-774

There were no further speakers from the public, therefore Supervisor Kulpa moved to close Public Expression, seconded by Councilmember Berger and unanimously approved 5-0. Public Expression was closed at 8:24 PM.

XI. CONSENT AGENDA

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

XII. COUNCILMEMBER RESOLUTIONS

A. SUPERVISOR KULPA:

1. Resolution 2024-939

Authorize Amendment to 2024-2029 CIP

RESOLVED, that the 2024-2029 Capital Improvement Program (CIP) is hereby amended to increase 2024 in the amount of $5,900,000 to add project YR-14A Acquisition of 218 & 330 Maple Rd.

12/2/2024
Consent

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

2. Resolution 2024-940

Extension - RFP #202207 - State & Federal Government Relations Services - CRS #3747/Ext. CRS #5189

WHEREAS, Masiello Martucci & Associates wishes to extend the RFP #202207 State and Federal Government Relations Services agreement for an additional contract period through January 2, 2026; and

WHEREAS, Masiello Martucci & Associates agrees to the same prices, terms and conditions as the original agreement;

NOW, THEREFORE, BE IT RESOLVED, the Town Board authorizes the Contract Compliance and Administration Department to award the second extension to Masiello Martucci & Associates; and

BE IT FURTHER RESOLVED, the Town Board authorizes the Supervisor to sign the contract extension (CRS #5189) with Masiello Martucci & Associates pending successful contract routing and approval.

12/2/2024
Consent

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

B. DEPUTY SUPERVISOR LAVIN:

1. Resolution 2024-941

Tree Board Appointment

WHEREAS, as on August 13, 2024, a special tree board meeting was called to order to accept the resignation of the Chairperson, Ellen Banks; and

WHEREAS, the Amherst Tree Board members voted to accept the resignation of Ellen Banks and to move to vote to elect a new Chairperson; and

WHEREAS, the former Chairperson, Ellen Banks, opened a motion to accept nominations from the floor to elect a new chairperson; and

WHEREAS, member Kyle Townsend nominated member Wendy Wilson for the position of Tree Board Chairperson; and

WHEREAS, the nomination was discussed, accepted and approved by majority vote of all present voting members;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board authorizes the Tree Board recommendations for the nomination and election of Wendy Wilson as the Tree Board Chairperson for the remainder of the unfinished term of the previous Chairperson, Ellen Banks.

12/2/2024
Consent

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Shawn Lavin, Deputy Supervisor
SECONDER:	Jacqualine Berger, Councilmember
AYES:	Kulpa, Lavin, Berger, Szukala, Marinucci

C. COUNCILMEMBER BERGER:

1. Resolution 2024-942

Art on Signal Cabinets – Yr. 2025

WHEREAS, in 2019 the Town of Amherst Arts and Culture in Public Places Board spearheaded an initiative that converted six (6) traffic signal cabinets in the Town of Amherst into public artworks; and

WHEREAS, an additional twenty (28) traffic signal cabinets were painted in subsequent years for a total of twenty-six (34) painted to date; and

WHEREAS, the Decorative Treatment for Traffic Signal Cabinets Initiative has been a success and there is desire to continue with the project; and

WHEREAS, signal cabinet artwork beautifies public spaces, builds community, and offers a more attractive and interesting streetscape environment; and

WHEREAS, an additional eight (8) traffic signal boxes have been selected by the Arts and Culture in Public Places Board to be painted by qualified and trusted artists; and

WHEREAS, one (1) of the eight (8) traffic signal boxes is located at Town of Amherst owned traffic signal at Wehrle Drive and Lamarck Drive; and

WHEREAS, the other seven (7) signals require a NYSDOT permit at the following locations:

Sheridan Drive & Millersport Highway,
Sheridan Drive & Bailey Avenue,
Sweet Home Road & Maple Road,
Sweet Home Road & Skinnersville Road,
Niagara Falls Blvd. & Tonawanda Creek Road,
Campbell Blvd. & Dodge Road,
Millersport Hwy. & Crosspoint Pkwy.

WHEREAS, the NYSDOT allows for Decorative Treatment for Traffic Signals by TSMI 16-04 where a PERM-33 Highway Work Permit is required to paint or wrap a traffic signal cabinet; and

THEREFORE BE IT RESOLVED, the Town Board supports the initiative to paint artwork on signal cabinets by the Arts and Culture in Public Places Board in the selected locations; and

THEREFORE BE IT FURTHER RESOLVED, the Supervisor of the Town of Amherst is hereby authorized to sign all NYSDOT permits and applications in connection with the Signal Cabinet Artwork; and

THEREFORE BE IT FURTHER RESOLVED, that the NYSDOT work permit and necessary applications be reviewed by the Town Attorney prior to execution; and

THEREFORE BE IT FURTHER RESOLVED, that a certified copy of this Resolution be provided to the New York State Department of Transportation as part of the PERM-33 Highway Work Permit.

12/2/2024
Consent

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

D. COUNCILMEMBER SZUKALA:

E. COUNCILMEMBER MARINUCCI:

XIII. DEPARTMENT HEAD RESOLUTIONS AND REPORTS

A. TOWN ATTORNEY:

1. Resolution 2024-943

Acquisition of Real Property @ 218 and 330 Maple Road (Purchase Agreement - CRS #5229)

AGENDA ITEM : DECEMBER 2ND, 2024

TO: **Town Board**

FROM: **Samuel A. Alba, Esq., Interim Town Attorney**

DATE: **November 26, 2024**

RE: **Resolution Authorizing the Acquisition of Real Property Commonly Known as 330 Maple Road (SBL No. 55.03-1-10) and 218 Maple Road (SBL No. 55.03-1-9) and Approving a Purchase Agreement (CRS #5229) and Authorizing the Town Supervisor to Execute the Same**

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

WHEREAS, the Town Board of the Town of Amherst, New York (the "Town Board") is authorized and empowered to acquire real property for any public purpose; and

WHEREAS, the owner of real property known as 330 Maple Road (SBL No. 55.03-1-10) and 218 Maple Road (SBL No. 55.03-1-9) (the "Property") has indicated a willingness to sell the Property; and

WHEREAS, pursuant to a leasehold interest in the Property, the Town of Amherst has invested funds in the construction and operation of softball fields on a portion of the

Property; and

WHEREAS, the Town Board determines it to be in the public interest to acquire the Property upon which the Town softball fields are currently located and constructed; and

WHEREAS, the Owner has only offered the entirety of the Property for sale, inclusive of the portion where the Town softball fields are located; and

WHEREAS, the acquisition of the Property is an unlisted action pursuant to the New York State Environmental Quality Review Act ("SEQRA") and a part 1 of the short Environmental Assessment Form ("EAF") was prepared and reviewed by the Town Board; and

WHEREAS, the Town Board has evaluated the criteria for determining significance under SEQRA and has determined to issue a Negative Declaration under SEQRA for the acquisition of the Property; and

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

1. Based upon a thorough review and examination of the known facts relating to the acquisition of the Property and its careful review of all potentially adverse environmental impacts, and the entire record and proceedings relating thereto, and completion of parts 2 and 3 of the EAF, the Town Board finds that the acquisition of the Property will not have a significant adverse impact on the environment and that a draft environmental impact statement will not be prepared.

2. The attached Purchase Agreement (CRS #5229) is hereby approved and the Town Supervisor is authorized and directed to execute the same on behalf of the Town of Amherst pending successful completion of the Contract Routing System (CRS).

3. This resolution is effective immediately.

PASSED AND ADOPTED by the Town Board of the Town of Amherst the _____ day of December, 2024.

SAA:nmb
Attachment
c: Tim Koller, Deputy Town Clerk
(*w/attachment,* **Agenda Item: December 2, 2024**)

12/2/2024
A motion to approve was made by Supervisor Kulpa, seconded by Councilmember Berger and unanimously approved 5-0.

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

2. Resolution 2024-944

Acquisition of Real Property @ 218 and 330 Maple Road (Bond Resolution - $5,900,000)

AGENDA ITEM : DECEMBER 2ND, 2024

TO: **Town Board**

FROM: **Samuel A. Alba, Esq., Interim Town Attorney**

DATE: **November 26, 2024**

RE: **Land Acquisition - Parcels Located At 218 and 330 Maple Road**
Bond Resolution - $5,900,000

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

(1) Adopt the attached bond resolution authorizing the issuance of $5,900,000.00 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.

Thank you.

SAA:nmb
Attachment
c: Tim Koller, Deputy Town Clerk (**Agenda Item: December 2, 2024**)

12/2/2024
A motion to approve was made by Supervisor Kulpa, seconded by Councilmember Berger and unanimously approved via Roll Call vote 5-0.

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

3. Resolution 2024-945

669 Youngs Road - Formation of Sewage Works Corporation

AGENDA ITEM : DECEMBER 2ND, 2024

TO: **Town Board**

FROM: Samuel A. Alba, Esq., Interim Town Attorney

DATE: November 25, 2024

RE: Youngs Road Sewage Works Corporation
669 Youngs Road

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

WHEREAS, Jonathan D. Schechter, Esq., 465 Main Street, Buffalo, New York is forming a sewage works corporation to be named Youngs Sewage Works Corporation, under Article 10-115 of New York State Transportation Corporations Law; and

WHEREAS, the purpose of this corporation is to engage in any lawful act or activity relating to sanitary sewer service for a residential and mixed-use project at 669 Youngs Road, for which a sewage works corporation may be organized under New York State Transportation Corporations Law; and

WHEREAS, as a condition for the formation of the corporation, the controlling municipality needs to give its consent; and

WHEREAS, the Town Board of the Town of Amherst deems it is in the best interest of the Town to approve the formation of the Youngs Road Sewage Works Corporation;

NOW, THEREFORE BE IT RESOLVED, that the Supervisor is hereby authorized to execute the Consent to Formation Letter, approving the formation of a sewage works corporation, to be known as the Youngs Road Sewage Works Corporation, to engage in lawful acts or activities relating to sanitary sewer service for a residential and mixed-use project to be located at 669 Youngs Road located in the Town of Amherst, New York, **Section-Block-Lot Number 81.03-5-20, 81.03-5-21, 81.03-5-22, 81.03-5-23**, which are allowed under Article 10-115 of NY Transportation.

SAA:nmb
c: Tim Koller, Deputy Town Clerk (**Agenda Item : December 2, 2024)**
Dan Howard, Director of Planning
Jeffrey S. Burroughs, PE, Town Engineer
Vaishali Reberholt, PE, Assistant Town Engineer
Jonathan D. Schechter, Esq.
(*Via E-Mail : JSchecter@gross-shuman.com*)

12/2/2024
Consent

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

4. Resolution 2024-946

License Agreement - 354 S. Cayuga Road (Anderson) (CRS #5196)

AGENDA ITEM : DECEMBER 2nd, 2024

TO: **Town Board**

FROM: **Nicole M. Burroughs, Senior Paralegal**

DATE: **November 26, 2024**

RE: **Request for License Agreement**
Installation and Placement of Moveable Generator
Property Located At:
354 S. Cayuga Road, Amherst, New York

Kindly adopt a resolution authorizing the Supervisor to execute the above License Agreement pending successful completion of the Contract Routing System (CRS).

The owners of the above-referenced property are seeking permission to install and place a moveable generator that would encroach into a Town-owned easement, the details and stipulations of which are more fully described in the License Agreement.

This request was reviewed and approved by the Highway Department.

Thank you for your consideration.

NMB:hs
c: Timothy Koller, Deputy Town Clerk (**Agenda Item: December 2, 2024**)
Steve Floss, Highway Superintendent
Kurt Stanley, Deputy Highway Superintendent

12/2/2024
Consent

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

5. Resolution 2024-947

Henry Schein Settlement - Subdivision Participation and Release Form (Opioid Litigation) (CRS #5210)

AGENDA ITEM : DECEMBER 2nd, 2024

TO: **Town Board**

FROM: **Samuel A. Alba, Esq., Interim Town Attorney**

DATE: **November 25, 2024**

RE: **Henry Schein Settlement**
Subdivision Participation and Release Form (CRS #5210)
(Opioid Litigation)

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

RESOLVED, that the Town Board authorizes the Town Supervisor to sign the attached Subdivision and Release Form as part of the Henry Schein Settlement pending successful completion of the Contract Routing System (CRS).

Thank you.

SAA:nmb
Attachment
c: Timothy Koller, Deputy Town Clerk
(*w/attachment,* **Agenda Item - December 2, 2024**)

12/2/2024
Consent

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

6. Resolution 2024-948

Target Settlement - Subdivision Participation and Release Form (Opioid Litigation) (CRS #5211)

AGENDA ITEM : DECEMBER 2nd, 2024

TO: **Town Board**

FROM: **Samuel A. Alba, Esq., Interim Town Attorney**

DATE: **November 25, 2024**

RE: Target Master Settlement Agreement
Settling Subdivision Participation and Release Form
(CRS #5211)
(Opioid Litigation)

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

RESOLVED, that the Town Board authorizes the Town Supervisor to sign the attached Settling Subdivision and Release Form as part of the Target Master Settlement Agreement pending successful completion of the Contract Routing System (CRS).

Thank you.

SAA:nmb
Attachment
c: Timothy Koller, Deputy Town Clerk
(*w/attachment,* **Agenda Item - December 2, 2024**)

12/2/2024
Consent

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

7. Resolution 2024-949

New York Regional Pharmacy Settlements (Opioid Litigation) (CRS #5213-5225)

AGENDA ITEM : DECEMBER 2nd, 2024

TO: Town Board

FROM: Samuel A. Alba, Esq., Interim Town Attorney

DATE: November 25, 2024

RE: New York Regional Pharmacy Defendant Settlements and Releases

Subdivision Participation and Release Forms:

- **Angelo Friello Inc. d/b/a Palmer Pharmacy - CRS# 5213**
- **Arlington Pharmacy Inc. - CRS #5214**
- **Bartles - CRS #5215**

- **Crystal City Apothecary, LLC - CRS #5216**
- **Dedricks Pharmacy Inc. - CRS #5217**
- **Gifford & West Pharmacy Inc. - CRS #5218**
- **Mahakali Corporation - CRS #5219**
- **Middletown Chemists, Inc. - CRS #5220**
- **Nacsip Inc. - CRS #5221**
- **Pill Mill Inc. - CRS #5222**
- **SDJA Corp. - CRS #5223**
- **Sullivan Pharmacy Inc. - CRS #5224**
- **Wayne Drug of Pulaski Inc. - CRS #5225**

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

RESOLVED, that the Town Board authorizes the Town Supervisor to sign the attached Subdivision Participation and Release Forms pending successful completion of the Contract Routing System (CRS).

Thank you.

SAA:nmb
Attachments
c: Timothy Koller, Deputy Town Clerk
(*w/attachment,* **Agenda Item - December 2, 2024**)

12/2/2024
Consent

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

8. Resolution 2024-950

Settlement Agreement - Golub Corporation (Opioid Litigation) (CRS #5212)

AGENDA ITEM : DECEMBER 2nd, 2024

TO: **Town Board**

FROM: **Samuel A. Alba, Esq., Interim Town Attorney**

DATE: **November 25, 2024**

RE: **Settlement Agreement - Golub Corporation (CRS #5212)**

(Opioid Litigation)

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

RESOLVED, that the Town Board authorizes the Town Supervisor to sign the attached Settlement Agreement pending successful completion of the Contract Routing System (CRS).

Thank you.

SAA:nmb
Attachment
c: Timothy Koller, Deputy Town Clerk
(*w/attachment,* **Agenda Item - December 2, 2024**)

12/2/2024
Consent

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

9. Resolution 2024-951

Settlement of Article 7 Matter - Amherst Senior Apartments, LP V. Town of Amherst

AGENDA ITEM : DECEMBER 2, 2024

TO: **Town Board**

FROM: **Samuel A. Alba, Esq., Interim Town Attorney**

DATE: **November 25, 2024**

RE: **Settlement of Article 7 Matter**
Amherst Senior Apartments, LP v. Town of Amherst

Kindly adopt a resolution authorizing the following:

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

(2) Authorizing Interim Town Attorney Samuel A. Alba, Esq. to sign the attached Stipulation and Order of Settlement as the Attorney for the Respondent, Town of Amherst.

Thank you.

SAA:rms
Attachment
c: Tim Koller, Deputy Town Clerk
(*w/attachment,* **Agenda Item : December 2, 2024**)
Emily Murphy, Town Assessor

12/2/2024
Consent

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

10. Resolution 2024-952

Settlement of Article 7 Matter - Amherst Industries, Inc. C/O Pep Boys #193 V. Town of Amherst

AGENDA ITEM : DECEMBER 2, 2024

TO: **Town Board**

FROM: **Samuel A. Alba, Esq., Interim Town Attorney**

DATE: **November 25, 2024**

RE: **Settlement of Article 7 Matter**
Amherst Industries, Inc. c/o Pep Boys #193 v. Town of Amherst

Kindly adopt a resolution authorizing the following:

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

(2) Authorizing Interim Town Attorney Samuel A. Alba, Esq. to sign the attached Amended 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 : December 2, 2024**)
Emily Murphy, Town Assessor

12/2/2024
Consent

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

B. TOWN CLERK:

1. Resolution 2024-953

Authorization for Pre-Payment to RDT Mail Corp.

We are requesting approval for and directive to the Comptroller for pre-payment to RDT Mail Corp. for the mailing of the 2025 Town and County Tax Bills ($16,794.00) and for the 2025 Town and County Tax Receipts (11,818.00).

12/2/2024
Consent

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

2. Resolution 2024-954

Permission for Insert in Tax Bill Mailing CRS #5178

We are requesting that the Town Board authorizes the use of mail inserts as an informational tool, to make taxpayers aware of the various contactless payment methods available. This permission is for the 2025 Town and County Tax Collection. Pending successful completion of the Contract Routing System.

12/2/2024
Consent

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

3. Resolution 2024-955

Subject Matter List

WHEREAS the NYS Archives Office has launched a new Record Retention and Disposition Schedule for Local Government Records (LGS-1) effective August 1, 2020; AND

WHEREAS the NYS Archives Office has revised the Record Retention Schedule in 2022, AND NOW THEREFORE BE IT

RESOLVED pursuant to Article 57-A of the Arts and Cultural Affairs Law, and containing legal minimum retention periods for local government records, is hereby officially adopted by the Town for use by all officers in legally disposing of valueless records listed therein:

(a) only those records will be disposed of that are described in Retention and Disposition Schedule for New York Local Government Records (LGS-1, revised 2022), after they have met the minimum retention periods described therein;

(b) only those records will be disposed of that do not have sufficient administrative, fiscal, legal, or historical value to merit retention beyond established legal minimum periods, AND BE IT FURTHER

RESOLVED, that the adopted NYS Archives Retention Schedule LGS-1, revised 2022 is the Towns reasonably detailed current list by subject matter as required by Public Officers Law Article 6 §87(3)c.

12/2/2024
Consent

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

4. Resolution 2024-956

New Firefighter for East Amherst Fire Department

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

Wayne Woroniecki
67 Ashbury Ct
East Amherst, NY 14051

12/2/2024
Consent

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

C. ASSESSOR:

D. BUILDING/BUILDING MAINTENANCE:

1. Resolution 2024-957

Senior Center Waste Line Replacement Change Order 1

We are requesting the Town Board consider approval of this resolution authorizing the Supervisor to sign the above referenced Change Order, which **decreases** the overall contract by $14,000.00.

During construction, it was found that the replacement of underground branch piping associated with Alternate 1 scope of work was no longer necessary. The scope of work has been removed from the project and the Contractor is returning the full value of bid Alternate 1.

As per the above, the project above shall **decrease** funding required from the project associated with account N20-66.

Please note that the above request is contingent pending successful completion of the contract review procedure.

12/2/2024
Consent

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

2. Resolution 2024-958

30 S Cayuga Roof Access Ladder

WHEREAS, the Building Maintenance / Facilities Department received bids on November 14, 2024 for Roof Access Ladder Installation; and

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

NOW, THEREFORE, BE IT RESOLVED, the Town Board authorizes the Building Maintenance / Facilities Department to award the construction contract to Jameson Roofing Company; and

BE IT FURTHER RESOLVED, The Town Board authorizes the Supervisor to sign the contract with Jameson Roofing Company; and

BE IT FURTHER RESOLVED, that approval is contingent on successful completion of the Contract Routing System.

12/2/2024
Consent

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

E. CENTRAL ALARM:

F. COMPTROLLER:

1. Resolution 2024-959

Budget Transfers and Amendments

For December 2, 2024 Town Board Agenda

To: Town Board
From: Office of Town Comptroller
Date: 11/26/2024
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:***

A1990.4000 Contingency $15,000 A7140.4220 Rec. - Bldgs & Grounds $15,000
To transfer funds from contingency to Recreation Buildings & Grounds.

G9916.4929 Plant 16 - Repair/Replace Lift Station $5,500 G9916.2600 Other $5,500
Requested per department.

A1620.4200 Buildings- Asbestos Control $12,000 A6772.4220 Senior Ctr.- Bldgs & Grounds $12,000
Requested per department.

BUDGET AMENDMENTS - 2024

INCREASE: ***INCREASE:***

D5130.02617 Highway- Auction Revenue $7,510.00 D5130.4240 Trucks, Tractors, Equip $7,510.00
To recognize auction revenue and increase repair line for trucks, tractors, and equipment.

N2423.02785 CDBG & VG- PI $170.00 N2423.4000 Contractual $170.00
To recognize Community Development program income from 169 Hillcrest, Amherst.

N2440.02785 AMH HOME- PI $7,198.99 N2440.4000 Contractual $7,198.99
N2454.02785 HOME ADMIN - PI $799.89 N2454.4003 10% Admin $799.89
To recognize Community Development program income from 75 Spruce, Amherst.

N2423.02785 CDBG & VG- PI $8,882.80 N2423.4000 Contractual $8,882.80
N2430.02785 CDBG P/R- PI $2,220.70 N2430.1000 Personal Svcs $2,062.89
N2430.8030 FICA $157.81
To recognize Community Development program income from 75 Spruce, Amherst.

KP2316.03089 NYS DEC Grant- State Aid $2,000,000.00 KP2316.4972 Construction Exp $2,000,000.00
To recognize the NYS DEC Climate Smart Communities Grant, CRS# 5164.

N2441.02785 AMH 1st Time Homebuyers- PI $4,500.00 N2441.4000 Contractual $4,500.00
N2454.02785 HOME Admin- PI $500.00 N2454.4003 10% Admin $500.00
To recognize Community Development program income from 231 Windermere, Amherst.

A3120.02720 Police Office- Donations, Reimb $175.00 A3120.4430 Miscellaneous $175.00
A3120.02770 Police Office- Other Rev $2,085.37 A3120.4430 Miscellaneous $2,085.37
A3122.02410 Bailey Ave- Rentals $10,000.00 A3122.4220 Bldgs & Grounds $10,000.00
To recognize revenue collected from Police and increase expenditures.

A6772.02410 Senior Center - Rentals $1,700.00 A6772.4090 Professional Services $6,400.00
A6772.02725 Senior Center - Advertising Income $4,700.00
To recognize revenue and increase professional services for programs.

A6773.01990 Nutrition - Food Sales $3,955.17 A6773.4000 Contractual $10,000.00
A6773.02775 Nutrition - Client Contributions $6,044.83
To recognize revenue and increase contractual for additional food costs.

12/2/2024
Consent

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

2. Resolution 2024-960

Year End Budget Transfers

To facilitate the closing of year end 2024, I am requesting approval from the Town Board to move budgeted funds from accounts within the same department with department head approval without coming back to the Town Board for approval.

Additionally, I am requesting to include accounts such as health insurance, utilities, payroll, contingency, etc., within the current operating budgets of the Town within each fund. This will allow us to prepare for the year end audit.

This does not include budget amendments.

12/2/2024
Consent

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

G. CONTRACT COMPLIANCE:

1. Resolution 2024-961

Award Bid #2024045 Ferric Chloride Solution - CRS #5177

WHEREAS, the Contract Compliance and Administration Department received bids on October 31, 2024 for Ferric Chloride Solution; and

WHEREAS, the bid process resulted in responses from four (4) vendors, with two (2) as "no bids", as per the attached bid tabulation form;

NOW, THEREFORE, BE IT RESOLVED, the Town Board authorizes the Contract Compliance and Administration Department to award a twelve-month contract, effective January 3, 2025 to PVS Chemical Solutions, Inc.; and

BE IT FURTHER RESOLVED, The Town Board authorizes the Supervisor to sign the contract with PVS Chemical Solutions, Inc.

12/2/2024
Consent

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

H. COURT:

I. ECONOMIC DEVELOPMENT:

J. EMERGENCY SERVICES:

K. ENGINEERING SERVICES:

1. Resolution 2024-962

Change Order No. 1 & Final Quantity Adjustment Robin Hill Dr. & Swanson Terrace Waterline Replacement Project 2021.042 CRS #5091

We are requesting the Town Board consider approval of this resolution authorizing the Supervisor to sign the above referenced Change Order, which decreases the overall contract by $137,814.47. This change will reduce the overall project costs to reflect actual quantities utilized during construction.

This request is contingent on successful completion of the contract review process.

The required funding for this project shall be reduced from the accounts as noted below.

Funding reduced from account KP2120.4972 in the amount of $7,217.99
Funding reduced from account KP2309.4972 in the amount of $130,596.48

Thank you for considering this request.

12/2/2024
Consent

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

2. Resolution 2024-963

Change Order No. 2 & Final Highway Department Fuel System Repair Project Project 2022.007 CRS #5184

We are requesting that the Town Board consider approval of the above referenced Change Order, which increases the overall contract amount by $9,375.96. Upon completion of the necessary repair work to the underground storage tank system at the Highway Department, it was determined that the existing fire suppression system was not operational. This change order is required to repair the electrical components of the fire suppression system and allow the system to be put back online.

This request is contingent on successful completion of the contract review process. Funding is available for this change order from the project bond account KP2133.4972.

Thank you for considering this request.

12/2/2024
Consent

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

L. FINANCE:

M. HIGHWAY

1. Resolution 2024-964

Authorize Supervisor to Sign Contract to Piggyback-Northern Supply Co and Erie County - CRS #5147

NOW THEREFORE BE IT RESOLVED, that the Town of Amherst is approved to piggyback on the County of Erie - Plow Parts and Winter Highway Materials contract with Northern Supply Company Inc for the plow replacement parts and winter highway materials.

The Erie County and Northern Supply Company is BID Reference #240245-004, for plow replacement parts and winter Highway materials. Contract term is 9/1/24 through 8/31/25.

NOW THEREFORE BE IT FURTHER RESOLVED, that the Town Board authorizes the Supervisor to sign this contract. This contract is subject to the Contract Routing System (CRS #5147) and the Town Attorney's approval.

12/2/2024
Consent

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

2. Resolution 2024-965

Authorize Supervisor to Sign NOCO ENERGY CORP - DIESEL FUEL CONTRACT - CRS #5203

The Highway Department requests that the Town Board grant the Town Supervisor permission to sign a contract with NOCO ENERGY CORPORATION, 2440 Sheridan Drive, Tonawanda, NY 14150 and the Town of Amherst.

Purchases are for diesel fuel, ultra-low sulfur and biodiesel based on NYS-OGS Group #05602, Award #23343, Contract PC #70537 dated 11/21/24 through 8/20/26.

This contract is subject to the Contract Routing System (CRS #5203) and the approval of the Town Attorney.

12/2/2024
Consent

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

3. Resolution 2024-966

Authorize Supervisor to Sign GOETZ ENERGY CORP FUEL CONTRACT EXTENSION -CRS #5226

WHEREAS, GOETZ ENERGY CORPORATION CONTRACT for fuel-gas purchases under NYS-OGS Group 05600, Award number 23237, Contract number PC#69517 at 1319 Military Road, Buffalo, NY 14217 and

NOW, therefore be it resolved, the Town Board authorizes the Supervisor to sign the contract with Goetz Energy Corp for the Town of Amherst piggyback on the NYS-OGS

contract from 12/17/2021 through 12/14/2024 with an extension through 01/13/2025. This contract is subject to the Contract Routing System (CRS #5226) and the approval of the Town Attorney.

Thank you!

12/2/2024
Consent

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

N. HUMAN RESOURCES:

1. Resolution 2024-967

Laborer/Youth & Recreation

Please appoint a Laborer to the Youth & Recreation Department. Permanent, pending satisfactory completion of a probationary term as set forth in the Civil Service Rule XIII. Effective December 3, 2024, at an hourly rate of $17.75, Step A for Ryan Klepadlo.

Contingent upon completing all pre-employment requirements.

Please authorize a six (6) month residency waiver.

12/2/2024
Consent

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

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2. Resolution 2024-968

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

Please appoint a Wastewater Treatment Plant Operator-Trainee to the Engineering Department/Plant #16. Provisional, pending satisfactory completion of a Civil Service

Examination. Effective December 3, 2024 at an hourly rate of $24.26, Grade IV, Step 1 for Ryan Vaillancourt.

Contingent upon completing all pre-employment requirements.

Please authorize a six (6) month residency waiver.

Due to an employee retiring.

12/2/2024
Consent

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

3. Resolution 2024-969

Director of Volunteers/Senior Services

Please appoint a Director of Volunteers to the Senior Services Department. Provisional, pending satisfactory completion of a Civil Service Examination. Effective December 3, 2024 at an annual salary of $51,554, Grade 8, Step F for Sidney Michael Murphy.

Contingent upon completing all pre-employment requirements.

Please authorize a six (6) month residency waiver.

Replacing an employee who is retiring.

12/2/2024
Consent

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

O. INFORMATION TECHNOLOGY:

1. Resolution 2024-970

Update Computer and Mobile Devise Usage Policy - 2024 V2

WHEREAS, a Computer Usage Policy was originally adopted by the Amherst Town Board on May 16, 2005; and

WHEREAS, a Computer Usage and Mobile Device Usage Policy was revised and adopted by the Amherst Town Board as recently as June 2024; and

WHEREAS, employee compliance with this policy facilitates the official work of the Town and will contribute to the Town's mission of providing secure, responsive and cost-effective services to its residents; and

WHEREAS, this revised policy (including an additional section regarding Cyber Security Awareness Training) was reviewed by the Amherst Information Technology Advisory Committee;

NOW THEREFORE BE IT RESOLVED that the Amherst Town Board does hereby approve an updated Computer and Mobile Device Usage Policy;

BE IT FURTHER RESOLVED that Department Heads inform their staff of this updated Computer and Mobile Device Usage Policy; and

BE IT FURTHER RESOLVED that the Information Technology Department provide this policy on the Town's Intranet for distribution, printed or electronic, to all Town of Amherst computer or mobile device users and teleworkers.

12/2/2024
Consent

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

2. Resolution 2024-971

Purchase of Duo MFA Software - Pending Completion of CRS ID 5227

Please authorize the Supervisor, pending completion of the contract routing process, to sign a purchase agreement with Communications Consulting Inc for the purchase of (182) Duo MFA user licenses. Duo MFA Software provides integrated multi-factor authentication for the Town of Amherst remote workforce using VPN connectivity and other secure network

connections.

12/2/2024
Consent

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

P. PLANNING:

1. Resolution 2024-972

To Authorize the Adoption of Revisions to the Administrative Plan Governing the Housing Choice Voucher (HCV) Program of the Erie County PHA Consortium

WHEREAS, the Town of Amherst acts as the lead Public Housing Authority (PHA) for the Erie County PHA Consortium; and

WHEREAS, the Town contracts with Belmont Housing Resources for WNY, Inc. (Belmont) to carry out the day-to-day management of the HCV program; and

WHEREAS, 24 CFR 982.54 requires that the PHA adopt a written Administrative Plan that establishes local policies for the administration of the program in accordance with HUD requirements; and

WHEREAS, Belmont is requesting approval of the updated PHA Erie County Consortium Administrative Plan to comply with the Housing Opportunity Through Modernization Act (HOTMA). The changes will go into effect starting January 1, 2025; and

WHEREAS, Belmont is seeking approval of the updated PHA Erie County Consortium Administrative Plan which identifies any HOTMA 102/104 policies that have been put on hold. These regulations will not be implemented until HUD establishes a new implementation date for them; and

WHEREAS, Belmont is requesting approval of the updated PHA Erie County Consortium Administrative Plan which includes an updated section for Mainstream Vouchers, in compliance with federal notice PIH 2024-30, to establish a separate waitlist for Mainstream Vouchers; and

WHEREAS, Belmont Housing Resources is asking for approval of the updated PHA Erie County Consortium Administrative Plan, which includes a chapter covering policies and regulations for Project-Based Vouchers under RAD Conversion projects;

NOW, THEREFORE BE IT RESOLVED, that the Town Board of the Town of Amherst adopts the recommended revisions to the HCV Administrative Plan for the Erie County PHA Consortium.

12/2/2024
Consent

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

Q. POLICE:

1. Resolution 2024-973

Intermunicipal Agreement: Town of Clarence (CRS #5172) Crossing Guards at Transit Middle School

TOWN BOARD AGENDA ITEM : DECEMBER 2, 2024

TO: **Town Board**

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

RE: **Intermunicipal Agreement: Town of Clarence (CRS #5172) Crossing Guards at Transit Middle School**

Kindly adopt a resolution authorizing the Supervisor to execute the attached Intermunicipal Agreement with the Town of Clarence with regard to the above matter. This agreement has successfully completed the Contract Routing Process.

Thank you.

MSL:hs
Attachment
c: Tim Koller, Deputy Town Clerk (w/attachment, Agenda Item: December 2, 2024)

12/2/2024
Consent

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

2. Resolution 2024-974

Master Services Agreement: Installation of LPR Flock Group, Inc. (CRS #5071)

TOWN BOARD AGENDA : DECEMBER 2, 2024

TO: **Town Board**

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

RE: **Master Services Agreement: Installation of LPR Flock Group, Inc. (CRS #5071)**

Kindly adopt a resolution authorizing the Supervisor to adopt and execute an agreement between the Town of Amherst (Police) and Flock Group, Inc. (CRS #5071) with regard to the above-entitled matter and also to establish this vendor as a Sole Source vendor for this product. This agreement has successfully completed the Contract Routing Process.

Thank you.

SPC: msl
Attachment
C: Tim Koller, Deputy Town Clerk (Agenda Item: December 2, 2024)

12/2/2024
Consent

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

3. Resolution 2024-975

Metals Recycling Contract: Bailey Ave. Training Facility Range Action Target, Inc. (CRS #5170)

TOWN BOARD AGENDA : DECEMBER 2, 2024

TO: **Town Board**

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

RE: **Metals Recycling Contract: Bailey Ave. Training Facility Range Action Target, Inc. (CRS #5170)**

Kindly adopt a resolution authorizing the Supervisor to adopt and execute an agreement between the Town of Amherst (Police) and Action Target, Inc. (CRS #5170) with regard to the above-entitled matter. This contract has successfully completed the Contract Routing Process.

Thank you.

SPC: msl
Attachment
C: Tim Koller, Deputy Town Clerk **(Agenda Item: December 2, 2024)**

12/2/2024
Consent

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

4. Resolution 2024-976

Delta-Sonic Carwash Systems, Inc. (CRS #5171) Townwide Car Wash Contract

TOWN BOARD AGENDA ITEM: DECEMBER 2, 2024

TO: **Town Board**

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

RE: **Delta-Sonic Carwash Systems, Inc. (CRS #5171) Townwide Car Wash Contract**

Kindly adopt a resolution authorizing the Supervisor to adopt and execute the attached contract between the Town of Amherst (Police) and Delta-Sonic Carwash Systems, Inc., with regard to the above-entitled matter. Approval of this contract is contingent upon the successful completion of the Contract Routing System.

Thank you.

SPC:msl
Attachment
C: Tim Koller, Deputy Town Clerk **(Agenda Item: December 2, 2024)**

12/2/2024
Consent

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

5. Resolution 2024-977

APD HQ Flooring Removal GP Flooring Solutions (CRS #5193)

TOWN BOARD AGENDA : DECEMBER 2, 2024

TO: **Town Board**

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

RE: **APD HQ Flooring Removal**
GP Flooring Solutions (CRS #5193)

Kindly adopt a resolution authorizing the Supervisor to adopt and execute an agreement between the Town of Amherst (Police) and GP Flooring Solutions (CRS #5193) with regard to the above-entitled matter. Approval of this agreement is contingent upon the successful completion of the Contract Routing Process.

Thank you.

SPC:msl
Attachment
C: Tim Koller, Deputy Town Clerk **(Agenda Item: December 2, 2024)**

12/2/2024
Consent

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

R. SENIOR SERVICES:

1. Resolution 2024-978

Amherst Senior Center Age Requirement

WHEREAS, The Town of Amherst Senior Centers current age requirement to join is 55, and

WHEREAS, The Town of Amherst Senior Center has not changed this age requirement to join in over 25 years and

WHEREAS, the Senior Center recognizes the national growing trend in senior programming geared towards age 50 + and

WHEREAS, the Senior Centers mission is to identify, understand, and create opportunities for improved quality of life for adults as the age, and

WHEREAS, in the last 5 years, we have seen the membership increase in the age group of 55-65 and requests to join have increased for those 50-55, Census numbers show the increase in the 50+ population, and we are increasing our Health and Wellness, pre-retirement planning, and support group planning, etc. to reflect the national trends and to coincide with AARP and

WHEREAS we are partnering with Amherst Youth and Recreation on family events , community events, and programming at various Town facilities including the Clearfield Recreation Center and the Northwest Amherst Community Center, and

WHERAS, the Senior Services Advisory Board has discussed this issue at length and agreed that the age requirement to join the Amherst Senior Center should be lowered from 55 to 50 and

RESOLVED, the age requirement to join the Amherst Senior Center will be lowered from age 55 to age 50 and this will go into effect January 1, 2025.

12/2/2024
Consent

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

2. Resolution 2024-979

Permanent Suspension of New Non-Amherst Resident Memberships

WHEREAS, on October 24, 2011, the Town of Amherst approved non-Amherst resident memberships be made permanent and

WHEREAS, non-Amherst resident members would pay an annual fee of $30 single rate, $50 Household or Lifetime rate of $100 single or $150 Household and

WHEREAS, allowing non-residents to join would provide a benefit and not burden Town resources or compromise services to Amherst residents and

WHEREAS, Amherst residents would receive preference for class participation and

WHEREAS, in 2023 there had been reports from Amherst residents and staff of the senior center of negative impact due to increased registration of non-Amherst residents in classes and Amherst residents complained at Senior Center Representatives Council Meetings and to the Senior Center Director that they were not getting into classes when most reach capacity quickly and many have lengthy wait lists and

WHEREAS, December 18, 2023 Town Board Resolution 2023-1051 was adopted to suspend any new non-resident memberships for the year 2023 with a review in 1 year and

WHEREAS, the Senior Services Advisory Board discussed this issue at length at their October 9, 2024 meeting. There were minimal concerns brought to the Director during 2024 by non-Amherst residents. The Advisory Board agreed that it benefits Amherst residents by making the suspension permanent and a motion was approved to continue to not accept new non-Amherst memberships, and

THEREFORE, be it RESOLVED, that we will suspend any new non-Amherst residents permanently from joining the Amherst Senior Center.

12/2/2024
Consent

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

3. Resolution 2024-980

Software for Senior Services CRS #5144

We respectfully request the Town Boards permission to authorize the Supervisor to sign the agreement between the Town of Amherst and Xavus Solutions, LLC DBA My Senior Center.

12/2/2024
Consent

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

4. Resolution 2024-981

Computer/Touchscreen for Senior Services CRS #5145

We respectfully request Town Board and the Supervisors permission to purchase a Computer/Touchscreen for the senior center from Xavus Solutions LLC DBA My Senior Center.

12/2/2024
Consent

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

S. SEWER/PLANT 16:

1. Resolution 2024-982

Reject All Bids WPCF: HVAC Facility Improvements – Phase 4 (Mechanical Contract) Town Project No. 2017.002D

On October 24th, 2024 bids were received for the above referenced project. The bid tabulation is attached. After review of the bids, it is recommended that all bids be rejected due to insufficient funding. The bid documents will be revised, and the project will be rebid.

Thank you for your consideration of this request.

12/2/2024
Consent

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

2. Resolution 2024-983

Reject All Bids WPCF: HVAC Facility Improvements – Phase 4 (Electrical Contract) Town Project No. 2017.002D

On October 24th, 2024 bids were received for the above referenced project. The bid tabulation is attached. After review of the bids, it is recommended that all bids be rejected due to insufficient funding. The bid documents will be revised, and the project will be rebid.

Thank you for your consideration of this request.

12/2/2024
Consent

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

3. Resolution 2024-984

Rockwell Automation TechConnect Support Agreement Renewal Rexel, Inc. CRS #5190

The Engineering Department - Water Pollution Control Facility is currently seeking Town Board approval to authorize the Supervisor to sign the attached tech support and product update contract renewal agreement with Rexel, Inc. The contract will be for a term of three years at the cost of $6,098.40. The contract period would be from January 17, 2025 through January 16, 2028.

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

Funds for this request are available in G9916-4960.

Thank you for considering this request.

12/2/2024
Consent

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

4. Resolution 2024-985

Travel Request Required Operator Training Courses

The Engineering Department is requesting approval to send one (1) employee to attend the Basic Laboratory Procedures course at SUNY Buffalo State University in Buffalo, NY in January 2025. The total estimated cost for the employee to attend the course is estimated to be $781.00, and includes registration and per diem.

The Engineering Department is also requesting approval to send two (2) employees to attend the Activated Sludge Treatment Process course at SUNY Buffalo State University in Buffalo, NY in February 2025. The total estimated cost for each employee to attend the course is estimated to be $721.60, and includes registration and per diem.

Lastly, the Engineering Department is requesting approval to send two (2) employees to attend the Grade 3 Supervision and Technical Operations course at SUNY Buffalo State University in Buffalo, NY in March 2025. The total estimated cost for each employee to attend the course is estimated to be $856.90, and includes registration and per diem.

Funding for this request will be available in accounts G9916-4850 and G9916-4040.

Thank you for considering this request.

12/2/2024
Consent

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

5. Resolution 2024-986

Travel Request - Morrisville Required Operator Training Courses

The Engineering Department is requesting approval to send one (1) employee to attend the Basic Laboratory Procedures course at the Environmental Training Center at SUNY Morrisville, in Morrisville, NY in January 2025. The total estimated cost for the employee to attend the course is estimated to be $2,279.63, and includes registration, tolls/mileage reimbursement, lodging and per diem.

The Engineering Department is also requesting approval to send one (1) employee to attend the Activated Sludge Wastewater Treatment Process course at the Environmental Training Center at SUNY Morrisville, in Morrisville, NY in January 2025. The total estimated cost for the employee to attend the course is estimated to be $2,003.53, and includes registration, tolls/mileage reimbursement, lodging and per diem.

Lastly, the Engineering Department is requesting approval to send two (2) employees to attend the Grade 3 Supervision and Technical Operations course at the Environmental Training Center at SUNY Morrisville, in Morrisville, NY in April 2025. The total estimated cost for each employee to attend the course is estimated to be $2,520.53, and includes registration, tolls/mileage reimbursement, lodging and per diem.

Funding for this request will be available in accounts G9916-4850 and G9916-4040.

Thank you for considering this request.

12/2/2024
Consent

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

6. Resolution 2024-987

Flow Metering Contract Extension TecSmith, Inc. CRS No. 5183

The Engineering Department is requesting the Town Board authorize the attached contract extension with TecSmith, Inc. for flow meter monitoring, reporting, installs, rentals, and repairs. This contract shall be valid from February 1, 2025, through January 31, 2027.

Funding is available within the Engineering Department - Sewer Maintenance operating budget G9000-4090.

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

Thank you for considering this request.

12/2/2024
Consent

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

7. Resolution 2024-988

Payment Authorization Regional Truck & Trailer

The Engineering Department - Sewer Maintenance Division is requesting the Town Board authorize payment to Regional Truck & Trailer in the amount of $3788.34, using account G9000-2600 which requires Town Board approval.

Thank you for considering this request.

12/2/2024
Consent

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

T. YOUTH AND RECREATION:

1. Resolution 2024-989

Travel Authorization

Authorize Eric Guzdek to travel to the US Ice Rinks Board of Directors meeting in Chicago, IL from December 9-11, 2024 at no additional cost to the Town of Amherst.

12/2/2024
Consent

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

2. Resolution 2024-990

Rink Refrigeration Updates - CRS #5164

Authorize the Supervisor to sign a grant contract between the Town of Amherst and the New York State DEC for rink refrigeration updates at the Northtown Center at Amherst.

12/2/2024
Consent

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

3. Resolution 2024-991

2025 Golf Fees

Authorize the adoption of 2025 fees at the Audubon and Par 3 golf courses. These fees have been reviewed and recommended by the Amherst Recreation Commission.

12/2/2024
Consent

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

4. Resolution 2024-992

2024-2025 Youth Development Program Agreement - CRS #5149

Authorize the Supervisor to sign a contract between the Town of Amherst (Youth & Recreation Department) and Erie County (Department of Social Services) for the 2024-2025 program year.

12/2/2024

Consent

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

5. Resolution 2024-993

Authorization to Pay Vendor

WHEREAS, on June 3, 2024 the liner at the Clearfield pool sprung an unexpected leak, and

WHEREAS, the situation needed to be addressed immediately to prevent the loss of water and further damage to the pool, and

WHEREAS, a new employee took it upon themselves to call a company that the Youth & Recreation Department had used in the past but for which it did not have a current contract, and

WHEREAS, a supervisor was not notified until after the leak was repaired, and

WHEREAS, the employee was counseled on the appropriate chain of command for purchasing, and

WHEREAS, the leak was successfully repaired and certified payroll was submitted,

NOW THEREFORE, BE IT RESOLVED that the Amherst Town Board authorizes the payment of $550.00 to Numarco, Inc for invoice 2024-004-01.

12/2/2024
Consent

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

XIV. UNFINISHED BUSINESS

XV. COMMUNICATIONS

1. Communication 2024-94

Request for Public Hearing - 1790, 1860 and 1920 North French Road & Portion of 999 Campbell Boulevard

Request from Sean Hopkins, Esq. for a public hearing to Amend the Comprehensive Plan for 1790, 1860 and 1920 North French Road & portion of 999 Campbell Boulevard.

This public hearing has been scheduled for the second Town Board meeting in January.

12/2/2024
Consent

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

2. Communication 2024-95

Notice of Claim: Tonja Milanez Vs. Town of Amherst

12/2/2024
Referred to Attorney

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

3. Communication 2024-96

Notice of Claim: New York Central Mutual Fire Insurance Company A/S/O Nicholas J. Pezzimenti & Kourtney A. Keller Vs. Town of Amherst

12/2/2024
Referred to Attorney

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

4. Communication 2024-97

Notice of Motion: Chad Sleiman Vs. Town of Amherst Et Al.

12/2/2024
Referred to Attorney

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

5. Communication 2024-98

Amended Notice of Motion: Chad Sleiman Vs. Town of Amherst Et Al.

12/2/2024
Referred to Attorney

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

6. Communication 2024-99

Summons and Complaint: Anthony Goldsmith Vs. Town of Amherst

12/2/2024
Referred to Attorney

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

7. Communication 2024-100

Summons and Complaint: Nationstar Mortgage LLC Vs. Town of Amherst

12/2/2024
Referred to Attorney

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

8. Communication 2024-101

Verified Petition & Notice of Petition: Marc Digiore Vs. Town of Amherst Zoning Board of Appeals

12/2/2024
Referred to Attorney

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

XVI. PUBLIC IMPROVEMENT PERMITS

XVII. PUBLIC EXPRESSION #2

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

A motion to open Public Expression was made by Supervisor Kulpa, seconded by Deputy Supervisor Lavin and unanimously approved 5-0. Public Expression was opened at 8:33 PM.

The following speakers addressed the Town Board:
John Trabert, 234 Mt Vernon Rd - highway employee
Chris Drongosky, Youngs Rd - Resolution 2024-991
Matt Plunkett, 299 Northill Dr - softball fields
Joe Voytovich, 35 Bucyrus Dr - Resolution 2024-944 & grant from ESD
Don Smith, 201 N Long St - Board responsibility to residents
Bob Drdul, 92 Chateau Ter - 22 Chateau Ter
Dennis Hoban, 216 California Dr - Resolution 2024-944 & Town's infrastructure

There were no further speakers from the public, therefore Supervisor Kulpa moved to close Public Expression, seconded by Councilmember Berger and unanimously approved 5-0. Public Expression was closed at 8:54 PM.

XVIII. ADJOURNMENT

There being no further business to come before the Town Board, Supervisor Kulpa moved to adjourn, seconded by Deputy Supervisor Lavin and unanimously approved 5-0. The Town Board meeting of December 2, 2024 was adjourned at 8:54 PM.

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

Francina J. Spoth
Town Clerk

Meeting: 12/02/24 07:00 PM
Department: Town Clerk
Initiated by: **Timothy Koller**
Co-Sponsored by:

DOC ID: 29481 **RESOLUTION 2024-774** **HEARING CLOSED**

Local Law Amending Chapter 204 - Subdivision Regulations

Public hearing with respect to a Local Law Amending Chapter 204 - Subdivision Regulations.

10/1/2024
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 7:37 PM.

Dan Ulatowski, Assistant Planning Director, presented.

The following speakers addressed the Town Board:
Don Smith, 201 N Long St
Sean Hopkins, Esq.

There were no further speakers from the public, therefore Supervisor Kulpa moved to adjourn and keep the hearing open until the November 12th Town Board meeting, seconded by Councilmember Berger and unanimously approved 4-0. The public hearing was adjourned at 7:59 PM.

11/12/2024
A motion to open the public hearing was made by Supervisor Kulpa, seconded by Councilmember Berger and unanimously approved 3-0. The public hearing was opened at 8:32 PM.

Dan Ulatowski, Assistant Planning Director, presented.

The following speaker addressed the Town Board:
Don Smith, 201 N Long St

There were no further speakers from the public, therefore Supervisor Kulpa moved to adjourn the hearing and set a decision date for December 2nd Town Board meeting, seconded by Councilmember Berger and unanimously approved 3-0. The public hearing was adjourned at 8:41 PM.

12/2/2024
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 7:03 PM.

There were no speakers from the public, therefore Supervisor Kulpa moved to close the public hearing, seconded by Councilmember Berger and unanimously approved 5-0. The public hearing was closed at 7:04 PM.

RESULT:	**HEARING CLOSED**

Amherst

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

Brian J. Kulpa
Supervisor

Daniel C. Howard, A
Planning Directo

Daniel J. Ulatowski, A
Assistant Planning Di

Attachment: ZTA-2024-01 TB letter packet 100124 (RES-2024-774 : Local Law Amending Chapter 204 - Subdivision Regulations)

Town Board Agenda of October 1, 2024

September 24, 2024

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

Subject: Proposed Subdivision Regulations Text Amendment: Local Law to Amend Chapter 204 of Town Code (Subdivision Regulations), ZTA-2024-01.

Honorable Members:

The Planning Department, in conjunction with other departments have reviewed the Town's Subdivision Regulations in response to changes in development standards and practice. Attached are the proposed text amendments that bring necessary changes to the subdivision regulations that were first adopted by the Town Board in 1976. Revisions include modifications of the road cross sections to contemporary graphics, increases the minimum road right of width for local streets, increases the minimum sidewalk width from 4 feet to 5 feet, establishes uniformity in the type of curbing permitted, and consistency with engineering design standards as adopted by the American Association of State Highway Transportation Officials (AASHTO), prohibits the use of hammerhead turn-arounds for permanent dead end streets, requiring the use of cul-de-sac dead ends; and introduces a new section that requires developers to obtain a "resolution of commitment" for proposed public street designation.

This proposed amendment includes a provision that seeks Town Board acceptance of future public roadways or infrastructure prior to filing a preliminary plat subdivision application with the Planning Board. A new **Section 4-6 2H (1) & (2)** found on page 54 introduces a change to the subdivision review process that requires the Town Board to confirm its acceptance of a public roadway or other public infrastructure before the Planning Board considers approving a subdivision with future public roadways. Currently, the Town Board considers public improvement permit requests routinely as an agenda item through an Engineering Department resolution, and after the Town Planning Board has authorized the filing of a subdivision map cover. The new process provides on opportunity for the Town Board to consider if a proposed roadway will provide a public benefit and accept a perpetual maintenance obligation. If the developer desires to propose a private roadway, then he /she must provide draft certificates of incorporation for sewer works and water works corporations pursuant to NYS Transportation Law when a preliminary plat subdivision application is filed with the Planning Board.

The following draft Local Law identifies the proposed changes:

Attachment: ZTA-2024-01 TB letter packet 100124 (RES-2024-774 : Local Law Amending Chapter 204 - Subdivision Regulations)

LOCAL LAW NO. ____-2024

TOWN OF AMHERST
COUNTY OF ERIE, STATE OF NEW YORK

A Local Law Making Amendments To Chapter 204 Of The Code Of The Town Of Amherst, Also Known As Subdivision Regulations.

Be it enacted by the Town Board of the Town of Amherst as follows:

~~Strikethrough~~ = Deleted; Underline = Added

PART 1
GENERAL PROVISIONS

§ 1-1. Title

The official name of this Local Law and this document shall be "Town of Amherst Subdivision Regulations" hereinafter referred to as the "Subdivision Regulations" or "these Regulations."

§ 1-2. Purpose and Intent

The purpose of these Subdivision Regulations and the intent of the use of legislative authority is to provide for the future growth and development of the town and the affording of adequate facilities for the housing, transportation, distribution, comfort, convenience, safety, health and welfare of its population by regulating the development of residential subdivision pursuant to the authority set forth in Town Law § 271 and § 276. The Town Board finds and determines that these subdivision regulations are necessary to protect and safeguard the Town of Amherst and its residents with respect to subdivision developments in the town which, once accepted, become a permanent unit in the basic physical structure of the community which the future community will of necessity be forced to adhere. It is the purpose of this law that all subdivision and platting of land shall be designed to achieve, among others, the following objectives:

1-2-1. To ensure orderly development and redevelopment of land to obtain harmonious and stable residential and nonresidential areas.

1-2-2. To ensure the design and installation of high-quality improvements and infrastructure in compliance with the specifications and standards established by the Town of Amherst, and the correct and complete recording of improvements.

1-2-3. To minimize ongoing costs of operating and replacing the Town's infrastructure.

1-2-4. To provide coordination of land development activities in accordance with the objectives of the Zoning Ordinance and the Comprehensive Plan.

1-2-5. To coordinate local subdivision actions with the requirements of county, state and federal statutes.

1-2-6. To provide safe and convenient vehicular and pedestrian circulation.

1-2-7. To require reservation of space for school, recreation, and other public use.

1-2-8. To ensure accurate preparation and recording of plats.

1-2-9. To ensure subdivision design mindful of avoiding, minimizing, or mitigating natural hazards and protecting natural resources.

§ 1-3. Authority, Local Supercession

This Local Law is enacted under the authority of subparagraphs (a)(12) and (d)(3) of the Municipal Home Rule Law § 10(1)(iii) and Municipal Home Rule Law § 22. It is the intent of this legislation to supersede the provisions of New York State Town Law dealing with subdivisions and the Highway Law in the following circumstances:

(a) Highway Law § 171(c) — Minimum right-of-way width of three rods.

(b) Town Law § 276(11) — Filing of final plat; expiration of approval.

(c) Town Law § 277(9)(a) — Furnishing performance bond.

(d) Town Law § 277(9)(b) — Security where plat is approved in sections.

§ 1-4. Interpretation

1-4-1. The provisions of these Regulations shall be construed to be the minimum requirements necessary for the preservation of public health, safety, and welfare within the Town.

1-4-2. These regulations are not intended to repeal, abrogate, or supersede any existing regulation of the Town, nor to conflict with any statutes, laws, or regulations of the State of New York, or Erie County, except that these Regulations shall prevail in cases where they impose a lawful restriction or requirement more severe than existing statutes, laws, or regulations. The Town shall not enforce private deed or plat restrictions.

1-4-3. The Zoning Enforcement Officer shall be responsible for the interpretation of this Local Law. **[Amended 3-4-2019 by L.L. No. 7-2019]**

§ 1-5. Delegation of Authority

By the authority of Article 16, § 276 of the Town Law of the State of New York and resolution of the Town Board of the Town of Amherst, Erie County, New York, dated ~~[insert effective date],~~ January 19, 1976 the Planning Board of the Town of Amherst is authorized and empowered to approve plats showing lots, blocks or sites, with or without streets or highways, and to approve preliminary plats, within that part of the Town of Amherst outside the limits of the Village of Williamsville.

§ 1-6. Jurisdiction

These Regulations shall govern all subdivision and re-subdivision of land lying within the Town limits of the Town of Amherst outside the limits of the Village of Williamsville.

§ 1-7. Application

1-7-1. In accordance with Article 16, § 278 of the Town Law of the State of New York, no plat of any subdivision shall be recorded in the Erie County Clerk's Office or have any validity until it shall have been approved in the manner prescribed in these Regulations and is in full compliance with them.

1-7-2. No building permit or certificate of occupancy shall be issued for any parcel or plot of land which was created by subdivision after the effective date of, and not in conformity with, the provisions of these subdivision regulations and no excavation of land or construction of any public or private improvements shall

Attachment: ZTA-2024-01 TB letter packet 100124 (RES-2024-774 : Local Law Amending Chapter 204 - Subdivision Regulations)

take place or be commenced except in conformity with these Regulations.

§ 1-8. Validity

Should any section or provision of these Subdivision Regulations be declared invalid such decision shall not affect the validity of these Regulations as a whole, or any part thereof, other than the section or provision so declared to be invalid, nor shall the decision affect its application to different facts or circumstances.

§ 1-9. Duration of Planning Board Approval

1-9-1. Approval of the following procedures shall expire in accordance with the following table.

Application	Duration of Approval
Sketch Plan	2 years
Preliminary Plat	6 months
Final Plat	1 year

1. So in original.

PART 2
DEFINITIONS

§ 2-1. Definition of Terms

2-1-1. Words in this Local Law are normally used in their ordinary English usage. Certain terms shall have the meanings that follow, except where the context clearly indicates a different meaning.

2-1-2. The word "shall" is mandatory; the word "may" is permissive; "should" is to be interpreted as expressing that which is desired and not specifically required.

2-1-3. All words used in the singular include the plural, and all words used in the present tense include the future tense.

§ 2-2. Abbreviations

FEMA Federal Emergency Management Agency United States Department of Homeland Security

PE Professional Engineer

ROW Right of Way

SEQR State Environmental Quality Review Act

§ 2-3. General Terms

BUILDING DEPARTMENT The Building Department of the Town of Amherst, New York.

COMMISSIONER OF BUILDING Commissioner of Building of the Town of Amherst, New York.

COUNTY Erie County, New York.

Attachment: ZTA-2024-01 TB letter packet 100124 (RES-2024-774 : Local Law Amending Chapter 204 - Subdivision Regulations)

HIGHWAY SUPERINTENDENT Highway Superintendent of the Town of Amherst, New York.

LAW Law, ordinance, rule or regulation of the federal, state, county or town governments, as appropriate.

PERSON Includes a firm, association, organization, partnership, company or corporation as well as an individual.

PETITIONER Any person who (1) having an interest in land, causes it, directly or indirectly, to be divided into a subdivision or who (2) directly or indirectly, sells, leases or develops or offers to sell, lease or develop, or advertises for sale, lease or development, any interest, lot, parcel site, unit or plot in a subdivision, or who (3) constructs or contracts to construct improvements on subdivided land or who (4) is directly or indirectly controlled by, or under direct or indirect common control with any of the foregoing.

PLANNING BOARD Planning Board of the Town of Amherst, New York.

PLANNING DIRECTOR Planning Director of the Town of Amherst, New York.

TOWN Town of Amherst, Erie County, New York, outside the Village of Williamsville, New York.

TOWN BOARD Elected legislative body, Town of Amherst, New York.

TOWN ENGINEER Town Engineer of the Town of Amherst, New York.

ZONING ENFORCEMENT OFFICER Zoning Enforcement Officer of the Town of Amherst, New York.**[Added 3-4-2019 by L.L. No. 7-2019]**

ZONING ORDINANCE The officially adopted Zoning Ordinance and Zoning Map of the Town of Amherst, together with any and all amendments and conditions adopted by the Town Board thereto.

§ 2-4. Specific Terms

ACCESS MANAGEMENT The process of locating and designing vehicular access connections to preserve the flow of traffic in terms of safety, capacity and speed.

ARCHITECT A New York State licensed professional authorized to practice architecture as defined by New York State laws.

BUILDABLE LAND Buildable land shall be defined as the net resulting acreage of a parcel or combination of parcels proposed for a realty subdivision when the following is subtracted from the gross parcel or combination of parcels:

a) Wetlands, including New York State designated wetlands (including any required adjacent area), those lands regulated by the US Army Corp of Engineers, and those identified on the National Wetland Inventory and subsequently field confirmed with a wetland delineation;

b) Areas within the Federal Emergency Management Agency designated floodway;

c) Streams, drainageways and open bodies of water as identified on storm sewers and open drainage system maps maintained by the Highway Superintendent.

BUILDING LINE (OR FRONT SETBACK) A line parallel to the street right-of-way line, or edge of pavement for a private road, between which line and the street right-of-way no structure may be built.

COMPREHENSIVE PLAN Materials, written and graphic, including maps, charts, studies, resolutions, reports and other descriptive material that identify the goals, objectives, principles, guidelines, policies,

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standards, devices and instruments for the immediate and long-range protection, enhancement, growth and development which have been adopted and may be amended by the Amherst Town Board in accordance with NYS Town Law § 272-a.

CONSTRUCTION DETAILS PLAN See Public and Private Improvement Permit.

CURB CUT A curb break, or a place or way provided for the purpose of gaining vehicular access between a street and abutting property.

DEVELOPMENT The act of building structures or installing site improvements.

EASEMENT An authorization by a property owner for the use by another, and for a specified purpose, of any designated part of the property.

ENGINEER A New York State licensed professional engineer (P.E.) authorized to practice engineering as defined by New York State laws.

EXCEPTION. ~~See Reserve.~~ A parcel or portion of a parcel that is not included or being considered as part of a proposed subdivision (See Reserve).

GRADES

1. STREET GRADE. 1) The elevation of the street as measured at its crown; or 2) the slope of the street as measured between two points.

2. NATURAL GRADE. The elevation above North American Vertical Datum of 1988, of the surface of the ground prior to any development. Within special flood hazard areas, the National Geodetic Vertical Datum of 1929 shall also be used.

3. FINISHED GRADE. The elevation of the finished surface of the ground adjoining the building after final grading and normal settlement.

HOMEOWNERS ASSOCIATION An incorporated non-profit organization operating under recorded land agreements through which each lot owner of a developed area is a member and each lot is subject to charges for a proportionate share of the expenses for the organization's activities such as maintaining common property.

IMPROVEMENTS (PRIVATE) Any facility or service together with its associated site necessary to provide street pavements, curbs, gutters, sidewalks, crosswalks, water mains, sanitary and storm sewers, street trees, utilities, and other appropriate items provided in the development installed privately, and to be owned, maintained or operated by a private entity, such as an individual, corporation or homeowners association.

IMPROVEMENTS (PUBLIC) Any public facility or service together with its associated public site or right-of-way necessary to provide street pavements, curbs, gutters, sidewalks, crosswalks, water mains, sanitary and

storm sewers, street trees, utilities, and other appropriate items as installed or provided in the development and to be owned, maintained, and operated by the municipality or special district.

IMPROVEMENTS (PUBLIC) Any public facility or service together with its associated public site or right-of-way necessary to provide street pavements, curbs, gutters, sidewalks, crosswalks, water mains, sanitary and storm sewers, street trees, utilities, and other appropriate items as installed or provided in the development and to be owned, maintained, and operated by the municipality or special district.

LAND SURVEYOR A New York State licensed professional authorized to practice land surveying as defined by New York State Laws.

LOT A parcel of land for a structure, use and the accessory structures or uses customarily incident to it,

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including such yards as are required by ordinance and such yards as are arranged and designed to be used in connection with such structure.

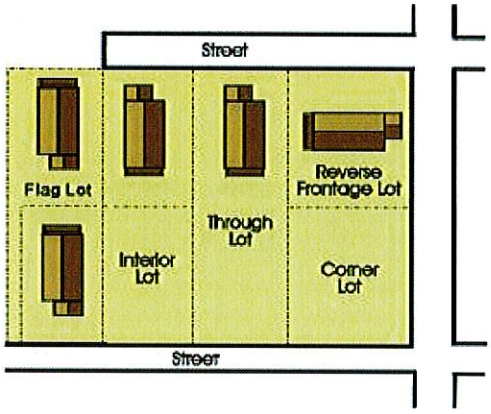
LOT LINE Any boundary line of a lot.

LOT MEASUREMENTS

1. DEPTH. The mean horizontal distance between the front and rear lot lines.
2. WIDTH. The horizontal distance of a lot measured along the building line at right angles to the mean lot depth line.

LOT TYPES

1. CORNER LOT. A parcel of land having lot lines at the junction of two or more streets or having lot lines on the same street forming an interior angle of intersection not more than 135 degrees.
2. FLAG LOT. A lot so shaped that the main building site area is set back from the street on which it fronts and includes only a long narrow access strip connecting the main building site with the frontage street.
3. INTERIOR LOT. A lot other than a corner lot.
4. THROUGH LOT. An interior lot which has frontage on more than one street.
5. REVERSE FRONTAGE LOT. A lot on which the frontage is at right angles or approximately right angles to the general pattern in the area. A reverse frontage lot may also be a corner lot, an interior lot or a through lot.



LOT OF RECORD Land designated as a separate parcel on a plat map or deed filed or recorded in the office of the Clerk of Erie County, New York.

MARGINAL ACCESS STREET A local street or alley that provides access to abutting properties parallel and adjacent to an arterial street.

OPEN SPACE An area unobstructed by buildings from the ground upward, except for walks, paths, landscaping or other site features in public, common or other private ownership. Yards of individual lots occupied by dwellings shall not constitute open space.

OPEN SPACE-COMMON A parcel or parcels of land or an area of water, or a combination of land and water within the site, privately owned and designed and intended for the use and enjoyment of two or more households residing in the site or in specified portions thereof, or other users if permitted by the owners of the common open space. Common open space may contain such structures and improvements as are necessary and appropriate for the benefit and enjoyment of persons served by such common open space.

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OWNER Shall include, in addition to its usual meaning, tenant, lessee, occupant, or other user.

PEDESTRIAN WALK A public or private right-of-way intended solely for pedestrian circulation which may be located within a street right-of-way.

PERFORMANCE BOND An agreement by and between a petitioner and a bonding company or personal fidelity or property bond in favor of the Town for the amount of the estimated construction cost, and guaranteeing the completion of physical improvements according to approved plans and specifications within the time prescribed by the petitioner's agreement.

PLAT A drawing showing the proposed plan of the subdivision and supplementary information which is submitted for approval to the Planning Board.

PLAT, PRELIMINARY A map and related material submitted to the Planning Board in order to obtain approval for a proposed subdivision of land. If approved by the Planning Board, it provides the basis for proceeding with the preparation of the final plat of a subdivision.

PLAT, FINAL A survey record of the subdivision, or part thereof, showing location of lots, street right-of-way, easements, and other pertinent data as required in these Regulations.

PUBLIC AND PRIVATE IMPROVEMENT PERMIT Permit to build a public or private improvement approved by the Town Board and issued by the Town Engineer.

PRIVATE UTILITY A utility whose ownership is not fixed in a public body as electrical, gas and phone lines and supporting apparatus, structures or markers.

RESERVE A parcel of land within a subdivision that is intended for future use, or interim continued existing use.

RESERVE STRIP A strip of land not dedicated to public use located between a private parcel and a public right-of-way that prevents access to the public right-of-way.

RESUBDIVISION A change in a map of an approved or recorded subdivision plat if such change affects any street layout shown on such map, or area reserved thereon for public use, or any lot line, or if it affects any map or plan legally recorded prior to the adoption of any regulations controlling subdivision. This process is also referred to as re-platting.

RIGHT-OF-WAY (ROW) The width, between property lines, of a street, alley, or easement (measured at right angles to the center line of a street).

RURAL SUBDIVISION Residential subdivisions in the AG, Agricultural, or R-R, Rural Residential Districts, or on land which is outside the utility service area for wastewater services and for which the provision of these services will be accommodated through the use of individual, privately owned systems.

SALE OR LEASE Any immediate or future transfer of ownership, including contract of sale or transfer, or an interest in a subdivision or part thereof.

SKETCH PLAN A simple sketch of the proposed layout of streets, lots, and other features of a proposed subdivision in relation to existing conditions, including topography, prepared by the petitioner and submitted to the Planning Board for the purpose of obtaining the advice and assistance of the Planning Department Staff and approval of the Planning Board before preparation of the preliminary plat.

SPECIAL FLOOD HAZARD AREA As defined by § 7-7-4 of the Zoning Code of the Town of Amherst.

STREET A public or private way which permits conducting of vehicular travel and/or affords a primary means of access by vehicles and pedestrians to abutting properties including the entire area within the right-of-way. The term includes those ways as shown on plats filed in the Office of the Erie County Clerk, whether improved or not.

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STREET CLASSIFICATIONS

1. EXPRESSWAY. A divided arterial highway for through traffic to which access from the abutting properties is prohibited and all street crossings are made by grade-separated intersections.

2. MAJOR ARTERIAL. A high volume roadway that carries the major portion of daily trips to centers of activity in the metropolitan area. Major arterials (also called principal arterials) place a greater emphasis on mobility rather than access to land and include fully and partially controlled access facilities in three categories: Interstates, Expressways, and Streets. A major arterial serves major through movements between important centers of activities in a metropolitan area, and a substantial portion of trips entering and leaving the area. It also connects freeways with major traffic generators.

3. MINOR ARTERIAL. A street that connects and augments the major arterial system. Although its main function is still traffic mobility, a minor arterial performs this function at a somewhat lower level and places more emphasis on land access than does a major arterial. A system of minor arterials serves trips of moderate length and distributes travel to geographical areas smaller than those served by a major arterial.

4. COLLECTOR. Street that distributes trips from and channels trips to arterials. Additionally, these roadways provide access and circulation within residential neighborhoods. Collector streets provide for both access and circulation within residential, commercial, and industrial areas. Their access function is more important than that of arterials, and unlike arterials, their operation is not always dominated by traffic signals.

5. LOCAL COLLECTOR. A street that distributes lower volumes of traffic from predominantly residential developments to collector streets and arterials. Local collectors carry through traffic, but at lower volumes than collectors.

6. LOCAL STREETS. A street that provides for local traffic and the lowest level of mobility. Through traffic movement is discouraged on local streets.

7. NARROW RESIDENTIAL STREET. A private roadway built to Town specifications.

8. ALLEY. A narrow passageway between or behind buildings; a public or private rear access or service

STREET GRADE — The slope of the street as measured between two adjacent points located on the street centerline (See Grades).

STREET LINE — The right-of-way line associated with: 1) a public street; or 2) edge of pavement abutting a private street.

STREET PAVEMENT — The wearing or exposed surface of the roadway used by vehicular traffic excluding gutters, shoulders, and curbing.

SUBDIVISION — The division of any parcel of land into five or more lots, blocks or sites in any three year period, with or without streets or highways, for sale or for rent for residential lots or residential building plots.

Such division shall include resubdivision of parcels of land for which an approved plat has already been filed in the office of the County Clerk and which is entirely or partially undeveloped.

SUBDIVISION, RURAL CLUSTER — A residential development in accordance with § 278 of NYS Town Law in the R-R District that helps retain viable agriculture and open space; minimizes land use conflicts; provides for recreational and habitat corridors through linked open space networks; achieves flexibility, efficiency and cost reduction in the provision of services and infrastructure; and does not rely on central sewer facilities.

SUBDIVISION, MAJOR — See § 4-3-2.

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SUBDIVISION, MINOR— See § 4-3-1.

SUBMISSION DATE — Date upon which the sketch plan, preliminary plat, or final subdivision plat, complete and accompanied by a fee, if required, and all supporting data required, has been received by the Planning Department.

SUPERELEVATION — The banking of a roadway along a horizontal curve so that motorists can safely and comfortably maneuver the curve at reasonable speeds.

THOROUGHFARE PLAN — The plan and recommendations adopted by the Planning Board or Town Board indicating existing and proposed freeways and streets.

TRAFFIC CALMING — The combination of mainly physical measures that reduce the negative effects of motor vehicle use, alter driver behavior, and improve conditions for non-motorized street users. Examples of traffic calming devices include speed tables, speed humps, diverters, neck-downs, chicanes, bump-outs, and roundabouts.

UTILITIES — All lines and facilities related to the provision, distribution, collection, transmission or disposal of water, sanitary and storm sewage, oil, gas, power, information, telecommunication and telephone cable.

WETLAND — Areas regulated by the New York State Department of Environmental Conservation or applicable Federal agencies as Fresh Water Wetlands as prescribed by law.

PART 3
DESIGN STANDARDS

§ 3-1. General

3-1-1. **Intent.** These design standards are intended as a guide to sound land planning and are for typical development conditions. Should there be unusual topographic or physical development conditions, these standards may be waived in accordance with § 4-7.

3-1-2. **Conformity to Comprehensive Plan.** Subdivisions shall be designed to be in agreement with objectives of the Comprehensive Plan and in general compliance with the plan for the area.

3-1-3. **Conformity with Thoroughfare and Utilities Specifications.** The arrangement, character, extent, size, grade and location of all streets and public utilities shall be consistent with the Thoroughfare and Public Utilities Plans and shall be considered in their relation to existing and planned streets and utilities. Proposed subdivisions shall be designed in such a way as to avoid casting an undue burden on the street system, drainage system, or other public facilities planned for the area. Subdivisions shall be designed in conformance with the Town of Amherst Standard Details and Specifications and are available at the Town of Amherst Engineering Department.

3-1-4. **Conformity to the Zoning Ordinance.** Subdivisions shall conform to the Zoning Ordinance regulations and Zoning Map for the area involved.

3-1-5. **Suitability of Land and Relation to Natural Features.** Land deemed by the Planning Board to be unsuitable for human habitation because of health, safety, public welfare, or sanitary problems shall not be platted for residential use, nor for such other uses as may involve danger to health, life, or property. Such land within a plat shall be set aside for uses appropriate to existing conditions. In subdividing any land, due regard shall be shown for all natural features, such as tree growth, water courses, historic locations, or similar conditions.

§ 3-2. Streets

3-2-1. Hierarchy.

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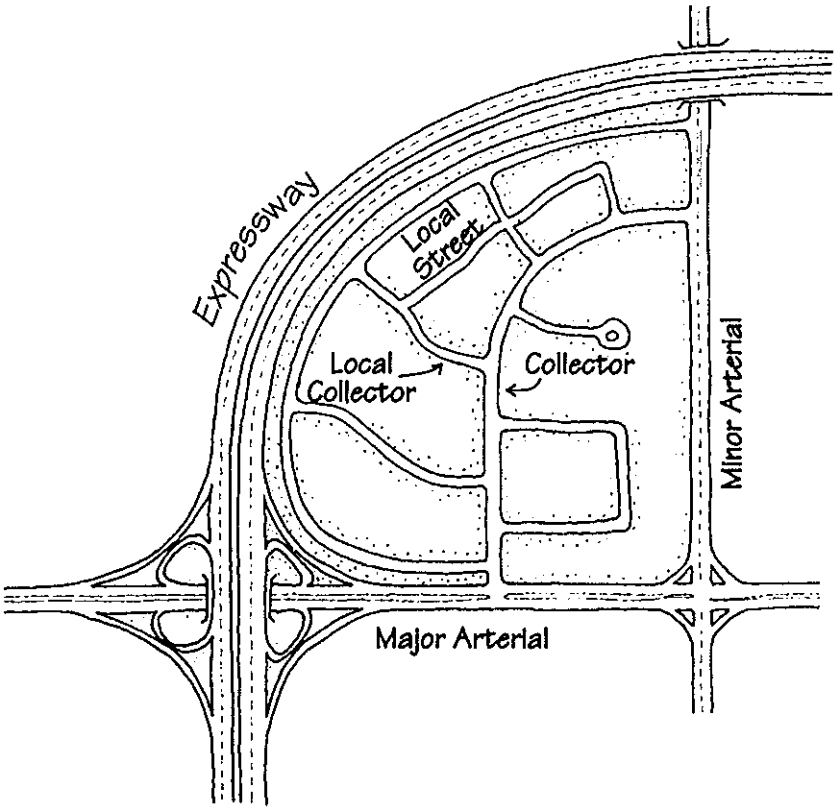
A. A street is a public way for purposes of vehicular travel and includes the entire area within the right-of-way. The street also serves pedestrian traffic and often accommodates public utility facilities within the right-of-way or on easements adjacent thereto. The improvement or development of streets is based on a functional street classification system which is part of the Comprehensive Plan.

B. A typical hierarchy of streets is shown below



3-2-2. General Design Guidelines. The following are general design guidelines for all public streets.

A. Street and pedestrian circulation patterns shall be compatible with objectives established by the Future Thoroughfare System in the Comprehensive Plan.

B. Planned layouts shall minimize overall length of local streets.

C. Driveway entrances shall be prohibited on arterial streets and shall be avoided wherever possible on collector streets.

D. Streets shall provide safe and convenient access to housing.

E. All dwellings shall be accessible by emergency and service vehicles.

F. Roadway networks shall improve efficiency and connectivity while preserving neighborhood character.

G. Traffic calming and access management measures shall be used in conjunction with a connected roadway network where needed.

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H. Provide for looping of utilities, where appropriate and desirable.

I. Necessary lighting along streets and walkways shall be provided.

J. Use of signs shall be minimized and signposts shall be unobtrusive.

K. Informational signs shall not compete with traffic control signs for driver attention.

L. Use of break-away street furniture shall be considered wherever possible and shall be grouped for aesthetic as well as safety values.

M. Sight distances shall be consistent with probable traffic speed, terrain, alignments, and climatic extremes.

N. Pedestrian, bicycle, and vehicular traffic shall be separated to the extent feasible.

O. Parks, play areas, and interior block open spaces, shall be visible from the street.

P. Horizontal and vertical street alignments shall relate to the natural contours of the site insofar as is practical and shall be consistent with other design objectives.

Q. Horizontal and vertical alignment of streets shall be selected to minimize grading quantities.

R. Wherever possible, street layouts shall be planned to avoid excessive runoff concentration.

S. Streets crossing drainageways inevitably will function as dams, and shall be designed to minimize adverse backwater effects, scour, and erosion.

3-2-3. General Construction Principles.

A. Pavement designs should be appropriate for the specific traffic load, subgrade soil, surface drainage, ground water, and climatic conditions existing at the pavement's location.

B. The thickness of a pavement should be a function of both the assured load supporting value of the earth subgrade beneath the pavement and the wheel load distribution characteristics of the pavement materials.

C. Pavement edge treatments other than curb and gutter may be used where conditions permit adequate drainage and the roadway base will not be adversely affected, subject to approval by the Highway Superintendent.

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3-2-4. Specific Design Standards.

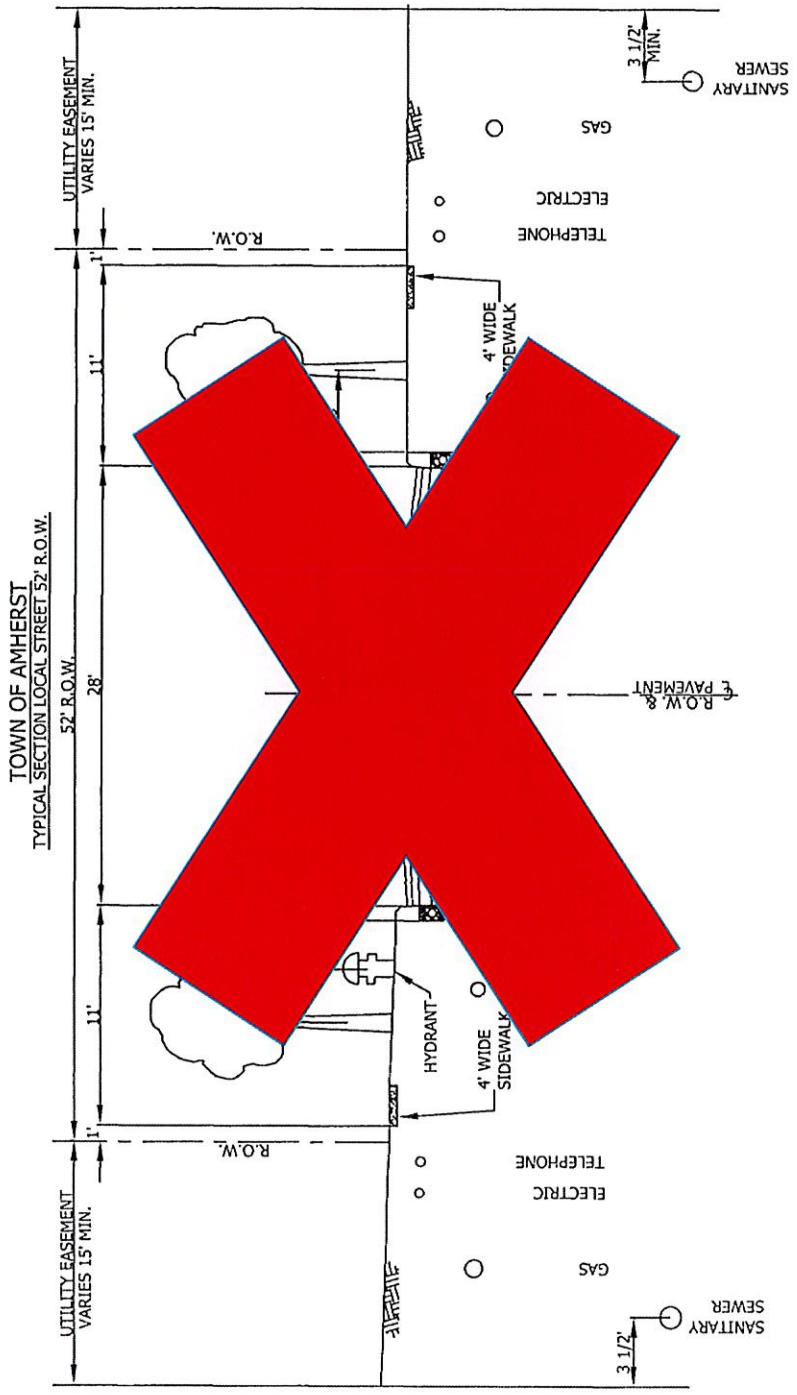
A. Geometric and Pavement Standards.

(1) Local Streets.

(a) The following standards shall apply to all local streets.

Overall Design Parameters	
Local streets are to be designed to provide the minimum stopping sight distance, maximum grade, minimum curve radii, and minimum design speed in accordance with American Association of State Highway Transportation Officials (AASHTO) Design Standards.	
~~Minimum stopping sight distance~~	~~1-15'~~
~~Maximum grade~~	~~8%~~
~~Minimum curve radius~~	~~72'~~
~~Design speed~~	~~20—30 mph~~
Roadway Requirements	
Minimum pavement width	28'
Minimum right-of-way width	~~52~~60'
Geometric Parameters	
Travel lane width and number	Two lanes 14' wide
Median width	None required; additional width required for development requesting medians
Parking lane width	Two lanes, 7' wide
Sidewalk width	~~4'~~ 5'
Bike lane width	None required; share street
Planting strip/snow storage area	11' ~~additional width optional~~ minimum

(b) The following figure illustrates the location and relationships between the parameters and requirements listed in the table.



Attachment: ZTA-2024-01 TB letter packet 100124 (RES-2024-774 : Local Law Amending Chapter 204 - Subdivision Regulations)

NEW SECTION REPLACES OLD SECTION DRAWING

Typical Section - Local Street

Attachment: ZTA-2024-01 TB letter packet 100124 (RES-2024-774 : Local Law Amending Chapter 204 - Subdivision Regulations)

(2) Local Collectors.

(a) The following standards shall apply to all local collectors.

Overall Design Parameters	
Local collectors are to be designed to provide the minimum stopping sight distance, maximum grade, minimum curve radii, and speed in accordance with AASHTO Design Standards.	
~~Minimum stopping sight distance~~	~~2 35'~~
~~Maximum grade~~	~~7%~~
~~Minimum curve radius~~	~~200'~~
~~Design speed~~	~~20 30 mph~~
Roadway Requirements	
Minimum pavement width	28'
Minimum right-of-way width	~~52'~~60'
Geometric Parameters	
Travel lane width and number	Two lanes 14' wide
Median width	None required; except where necessary to control access and/or to provide pedestrian refuge. Additional roadway and ROW width will be required.
Parking lane width	7 — 8' if required
Sidewalk width	~~4'~~ 5'
Bike lane width	None required; share street
Planting strip/snow storage area	15'; additional width optional.

(b) The following figure illustrates the location and relationships between the parameters and requirements listed in the table.

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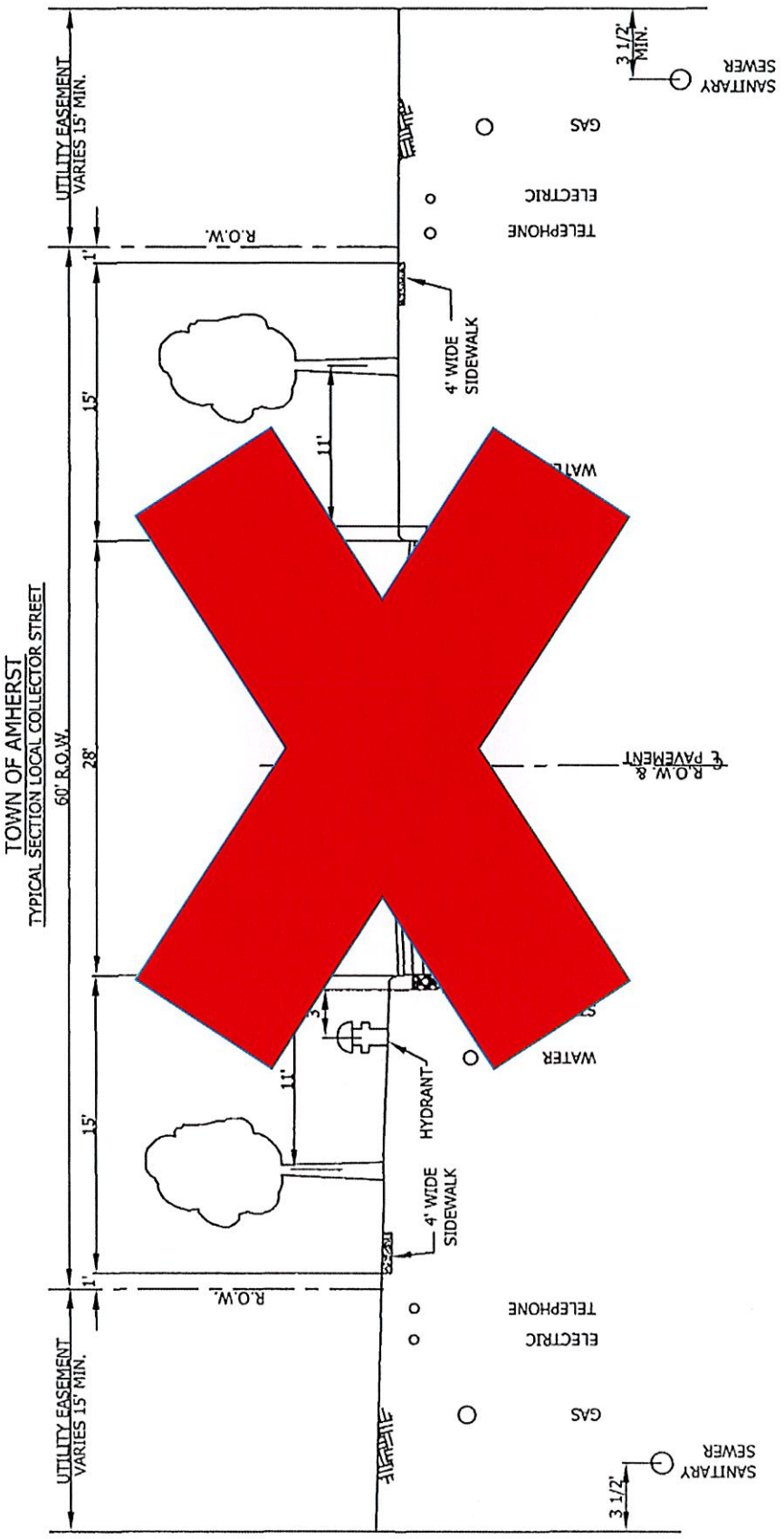

Attachment: ZTA-2024-01 TB letter packet 100124 (RES-2024-774 : Local Law Amending Chapter 204 - Subdivision Regulations)

NEW SECTION REPLACES OLD SECTION DRAWING

Typical Section - Local Collector

NOTE: Location of utilities to be determined by the applicable approving agency

Attachment: ZTA-2024-01 TB letter packet 100124 (RES-2024-774 : Local Law Amending Chapter 204 - Subdivision Regulations)

(3) Collectors.

(a) The following standards shall apply to collectors.

Overall Design Parameters	
Collectors are to be designed to provide the minimum stopping sight distance, maximum grade, minimum curve radii, and speed in accordance with AASHTO Design Standards.	
~~Minimum stopping site distance~~	~~2 75'~~
~~Maximum grade~~	~~7%~~
~~Minimum curve radius~~	~~285'~~
~~Design speed~~	~~30-60 mph~~
Roadway Requirements	
Minimum pavement width	32'
Minimum right-of-way width	70'
Geometric Parameters	
Travel lane width and number	Two 12' wide lanes
Median width	None required, except where necessary to control access and/or to provide pedestrian refuge. Additional roadway and ROW width will be required.
Parking lane width	Min. one 8' wide parking lane required.
Sidewalk width	5'
Bike lane width	Optional; where provided, two one-way 5' wide lanes located on the outside of the travel lanes.
Planting strip/snow storage area	19'; additional width optional.

(b) The following figure illustrates the location and relationships between the parameters and requirements listed in the table.

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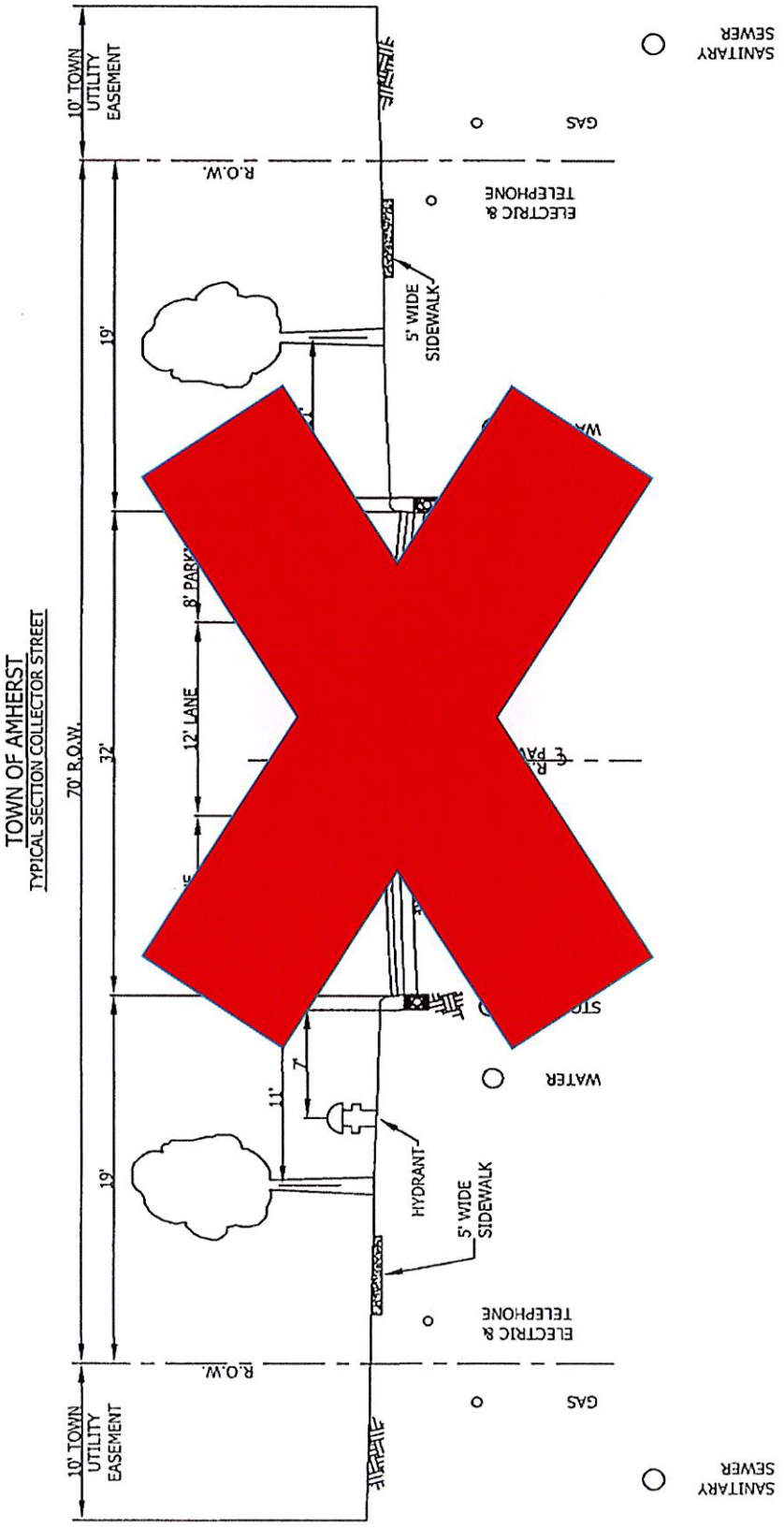


Attachment: ZTA-2024-01 TB letter packet 100124 (RES-2024-774 : Local Law Amending Chapter 204 - Subdivision Regulations)

NEW SECTION REPLACES OLD SECTION DRAWING

Typical Section - Collector

NOTE: Location of utilities to be determined by the applicable approving agency

Attachment: ZTA-2024-01 TB letter packet 100124 (RES-2024-774 : Local Law Amending Chapter 204 - Subdivision Regulations)

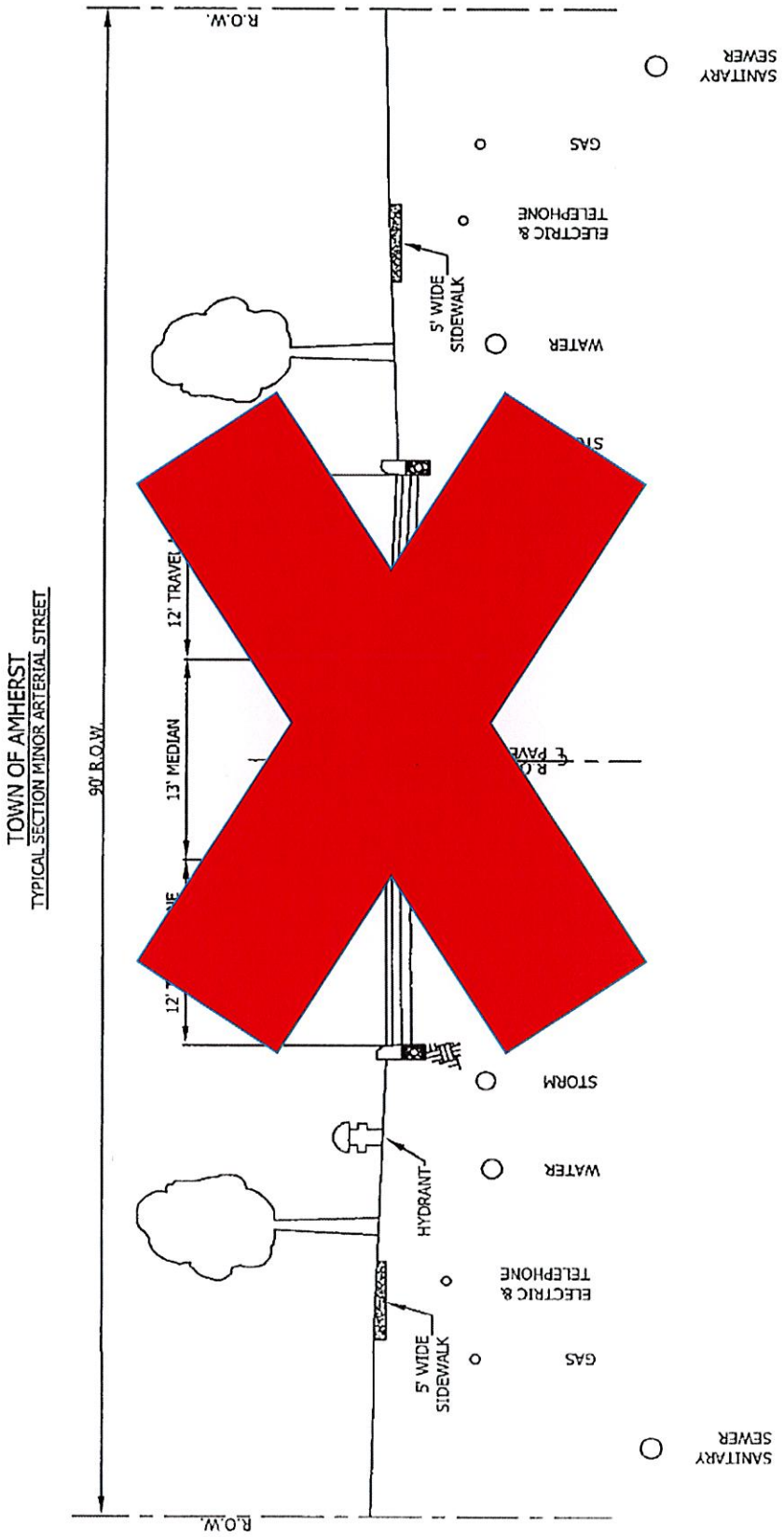
(4) Minor Arterials.

(a) The following standards shall apply to all minor arterials.

Overall Design Parameters	
Minor Arterials are to be designed to provide the minimum stopping sight distance, maximum grade, minimum curve radii, and speed in accordance with AASHTO Design Standards.	
~~Minimum stopping sight distance~~	~~2 75'~~
~~Maximum grade~~	~~7%~~
~~Minimum curve radius~~	4 ~~43'~~
~~Design speed~~	~~30 60~~ mph
Roadway Requirements	
Minimum pavement width	24'
Minimum right-of-way width	90'
Geometric Parameters	
Travel lane width and number	Two 12' wide lanes
Median/center turn lane width	13' where required
Parking lane width	8' where required
Sidewalk width	5'
Bike lane width	Optional; where provided, two one-way 5' wide lanes located on the outside of the travel lanes.
Planting strip/snow storage area	Distance from centerline to curb or outside of plowed area in feet x 0.6; additional width optional.

(b) The following figure illustrates the location and relationships between the parameters and requirements listed in the table.

Attachment: ZTA-2024-01 TB letter packet 100124 (RES-2024-774 : Local Law Amending Chapter 204 - Subdivision Regulations)



Attachment: ZTA-2024-01 TB letter packet 100124 (RES-2024-774 : Local Law Amending Chapter 204 - Subdivision Regulations)

NEW SECTION REPLACES OLD SECTION DRAWING

Typical Section - Minor Arterial

NOTE: Location of utilities to be determined by the applicable approving agency

Attachment: ZTA-2024-01 TB letter packet 100124 (RES-2024-774 : Local Law Amending Chapter 204 - Subdivision Regulations)

(5) Narrow Residential Streets.

(a) The following standards shall apply to all narrow residential streets. Narrow residential streets shall be used in conjunction with a private alley.

Overall Design Parameters	
Narrow Residential streets are to be designed to provide the minimum stopping sight distance, maximum grade, minimum curve radii, and speed in accordance with AASHTO Design Standards.	
~~Minimum stopping sight distance~~	1 ~~15~~'
~~Maximum grade~~	8%
~~Minimum curve radius~~	7 ~~2~~'
~~Design speed~~	2 ~~0~~ mph
Roadway Requirements	
Minimum pavement width	24'
Minimum right-of-way width	~~45~~' 49.5'
Geometric Parameters	
Travel lane width and number	One 17' lane
Median width	None required
Parking lane width	One 7' lane
Sidewalk width	4'
Bike lane width	None required
Planting strip/snow storage area	10.5'; additional width optional.

(b) The following figure illustrates the location and relationships between the parameters and requirements listed in the table.

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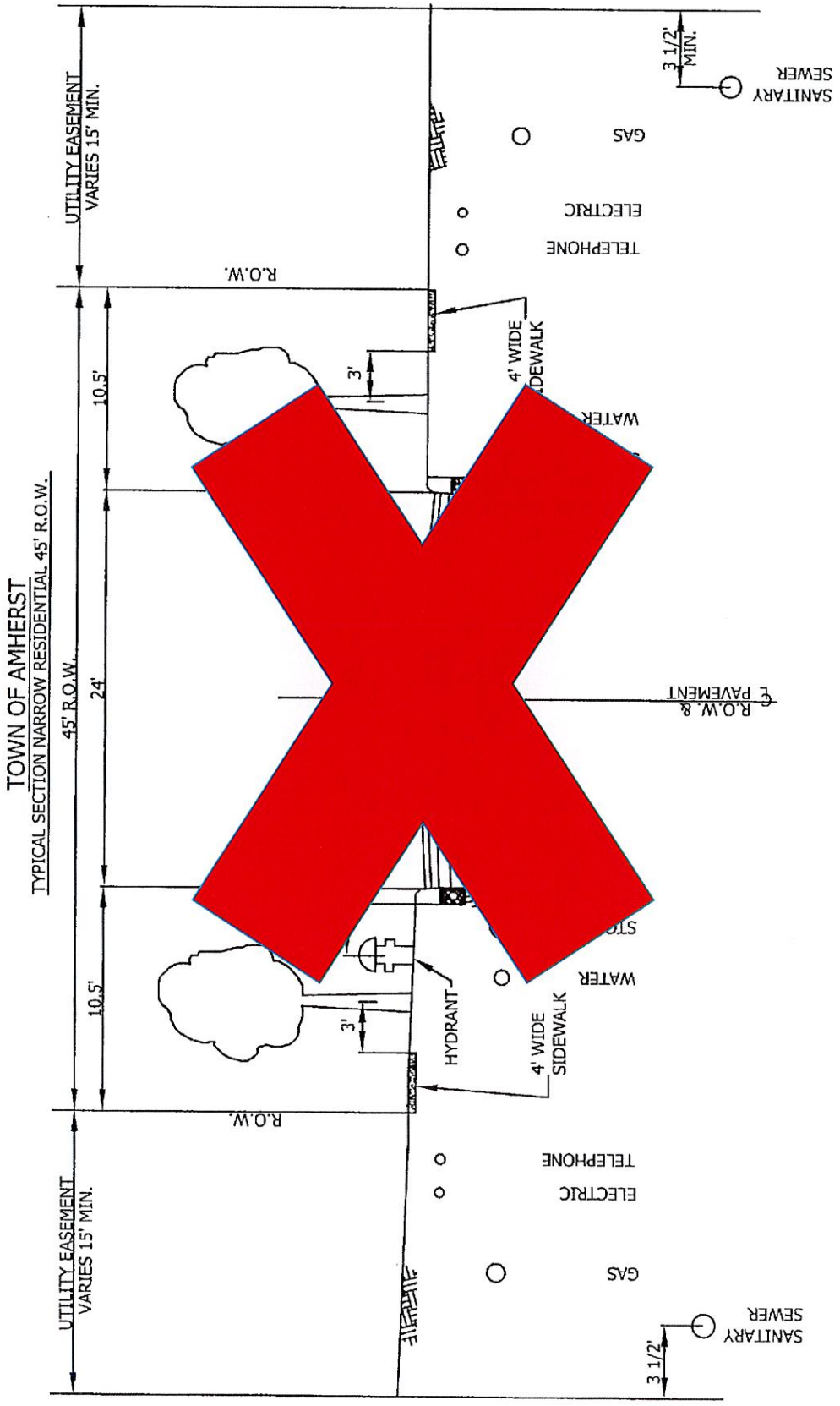


Attachment: ZTA-2024-01 TB letter packet 100124 (RES-2024-774 : Local Law Amending Chapter 204 - Subdivision Regulations)

NEW SECTION REPLACES OLD SECTION DRAWING

Typical Section - Narrow Residential

**Private Streets*

NOTE: Location of utilities to be determined by the applicable approving agency

Attachment: ZTA-2024-01 TB letter packet 100124 (RES-2024-774 : Local Law Amending Chapter 204 - Subdivision Regulations)

(6) Alleys. A narrow passageway between or behind buildings; a public or private rear access or service roadway.

(a) The following standards shall apply to all alleys.

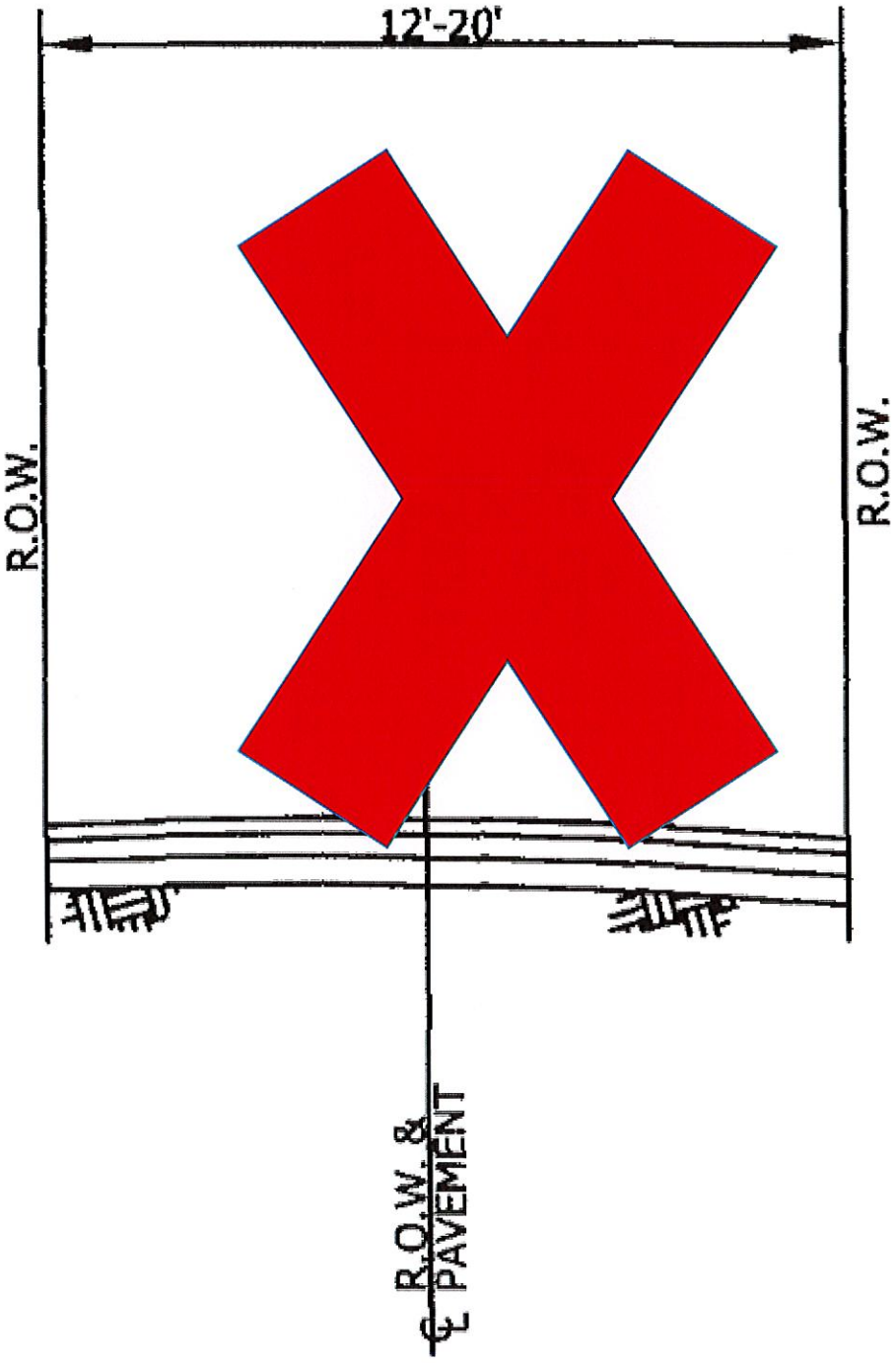
Overall Design Parameters	
Alleys are to be designed to provide the minimum stopping sight distance, maximum grade, minimum curve radii, and speed in accordance with AASHTO Design Standards.	
~~Minimum stopping sight distance~~	5 ~~0~~'
~~Maximum grade~~	8%
~~Minimum curve radius~~	7 ~~2~~'
~~Design speed~~	2 ~~0~~ mph
Roadway Requirements	
Minimum pavement width	
Minimum right-of-way	
Geometric Parameters	
Travel lane width and number	One 12-20' lane
Median width	None required
Parking lane width	None required
Sidewalk width	None required
Bike lane width	None required
Planting strip/snow storage area	One 12-20' lane

(b) The following figure illustrates the location and relationships between the parameters and requirements listed in the table.

Attachment: ZTA-2024-01 TB letter packet 100124 (RES-2024-774 : Local Law Amending Chapter 204 - Subdivision Regulations)

TOWN OF AMHERST

TYPICAL SECTION ALLEY 12'-20' R.O.W.



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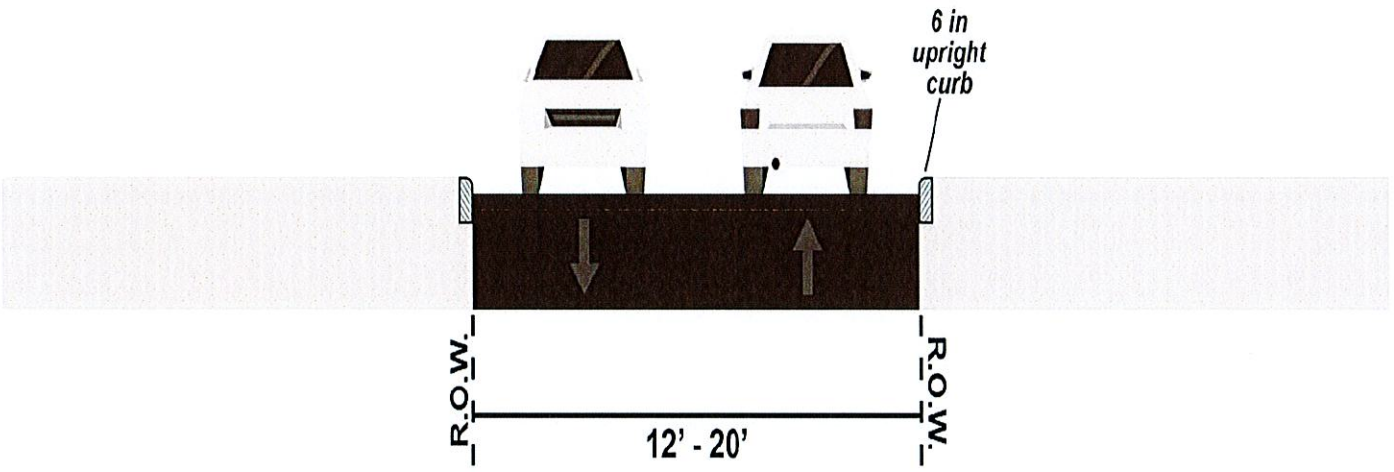
NEW SECTION REPLACES OLD SECTION DRAWING

Typical Section - Alley



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(7) Standards Applying to all Streets.

(a) In order to provide for proper drainage, the minimum grade shall be 0.4 percent for streets with outer curbs. A grade of 0.35 percent may be used where there is a high type pavement, accurately crowned and supported on firm subgrade.

(b) An easement, when required, shall be a minimum of 15 feet for local streets and local collectors.

(c) Private streets shall be designed in accordance with the applicable standards in the tables above; and lot (parcel) lines are to be carried to the center of the roadway (not right-of-way).

B. Layout. The arrangement, character, extent, width and location of all streets shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and in appropriate relation to the proposed uses of the land to be served by such streets. Where such streets are not shown on the Comprehensive Plan, the arrangement of streets in a subdivision shall either:

(1) Provide for the continuation or appropriate projection of existing streets ~~in~~ to surrounding areas; or

(2) Conform to a plan for the neighborhood approved or adopted by the Planning Board.

C. Alignment.

(1) Streets shall be laid out so as to intersect as nearly as possible at right angles and no streets shall intersect any other street at less than 80 degrees.

(2) The edge of pavement at street intersections shall be rounded with a radius of 20 feet, or of a greater radius where the Planning Board, Highway Superintendent, or Traffic and Safety Board deem it necessary.

(3) In the case of dead-end streets, where needed, the Board may require the reservation of a 50-foot wide easement or dedication, to provide for continuation of pedestrian traffic and utilities to the next street.

(4) Local streets shall connect with surrounding streets ~~where necessary~~ to permit the convenient movement of traffic, or to facilitate access to neighborhoods by emergency service vehicles, or for other sufficient reasons. ~~but connections shall be designed to avoid the use of such streets by substantial through traffic.~~

(5) ~~Whenever~~ Connections to anticipated or proposed surrounding streets are required. The right-of-way shall be extended to the property line, ~~and~~ the street shall be developed to the property line of the subdivided property (or to the edge of the remaining undeveloped portion of a single tract) at the point where the connection to the anticipated or proposed street is expected. No lot shall take access from the terminal end of such streets. The Planning Board may also require temporary turn-arounds to be constructed at the end of such streets pending their extension when such turn-arounds appear necessary to facilitate the flow of traffic or accommodate emergency or service vehicles.

(6) Street jogs with centerline offsets of less than 150 feet shall not be permitted.

Attachment: ZTA-2024-01 TB letter packet 100124 (RES-2024-774 : Local Law Amending Chapter 204 - Subdivision Regulations)

(7) A tangent at least 100 feet long shall be introduced between reverse curves on major arterial and collector streets.

(8) An intersection of more than two streets shall be avoided unless specific conditions of design indicate otherwise.

(9) In general, street lines within a block, deflecting from each other at any one point by more than 10 degrees, shall be connected with a curve, the radius of which for the centerline of street shall not be less than 400 feet on major streets and collector streets and 200 feet on local streets.

(10) Minor or secondary street openings into collector or major arterial roads shall, in general, be at least 500 feet apart.

(11) Where a tract is subdivided into lots substantially larger than the minimum size required in the zoning district in which a subdivision is located, the Board may require that streets and lots be laid out so as to permit future re-subdivision in accordance with the requirements contained in these Regulations.

(12) Alignment in residential areas shall fit closely with the existing topography so as to minimize the need for cuts or fills. There is advantage in residential areas in purposely making the alignment of such nature as to discourage high speed through traffic. Caution shall be taken in the design of the alignment that the safety of the facility is not reduced.

(13) Where curves are superelevated lower values apply, but the radius shall never be less than 115 feet for local streets and 275 feet for collector streets.

D. Intersections.

(1) **Design Principles.**

(a) Paved areas within intersections shall be minimized.

(b) Oblique intersections and large corner radii shall be avoided.

(c) Wherever possible, intersections on curves should be avoided.

(2) **Intersection Design.**

(a) Intersections, including median openings, shall be designed with adequate corner sight distance and the area kept free of obstacles.

(i) The corner sight distance for collector streets shall be a minimum of 300 feet.

(ii) For local streets the corner sight distance shall be a minimum of 200 feet.

(b) Intersecting streets shall meet at approximately a 90 degree angle.

(c) The minimum off-set for "T" intersections shall be 125 feet centerline to centerline.

(d) Intersections and stacking areas shall be designed with a flat grade; the maximum grade on the approach leg shall be less than five percent.

(e) At street intersections in residential areas and elsewhere where there are heavy pedestrian movements, the minimum radius of curb return where curbs are used or the outside edge of pavement where curbs are not used, shall be a minimum radius of 30 feet.

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E. Street Connectivity Requirements. An interconnected street system is necessary in order to promote orderly and safe development by ensuring that streets function in an interdependent manner, provide adequate access for emergency and service vehicles, enhance access by ensuring connected transportation routes, and provide continuous and comprehensible traffic routes.

(1) **Connectivity Defined.**

(a) Connectivity is defined by the ratio of links to nodes in any subdivision.

(b) Connectivity is defined by the ratio of links to nodes in any subdivision.

(c) Connectivity ratio is the number of street links divided by the number of nodes or end links, including cul-de-sac heads.

(d) A link is any portion of a public or private street meeting Town specifications and is legally accessible defined by a node at each end or at one end. Stubs to adjacent property shall be considered links. Alleys shall not be considered links.

(e) A node is the terminus of a street or the intersection of two or more streets.

(f) Any location where a street name changes shall be considered a node.

(g) Any curve or bend of a street that exceeds 75 degrees shall receive credit as a node. Any curve or bend of a street that does not exceed 75 degrees shall not be considered a node.

(2) **Required Ratio.**

(a) The street network for a subdivision of ~~30~~ 6 acres or more ~~lots~~ with internal roads or access to any public road shall achieve a connectivity ratio of not less than 1.40, measured within the subdivision.

(b) Street links and nodes along a local collector, collector or arterial street providing access to a proposed subdivision shall not be considered in computing the connectivity ratio.

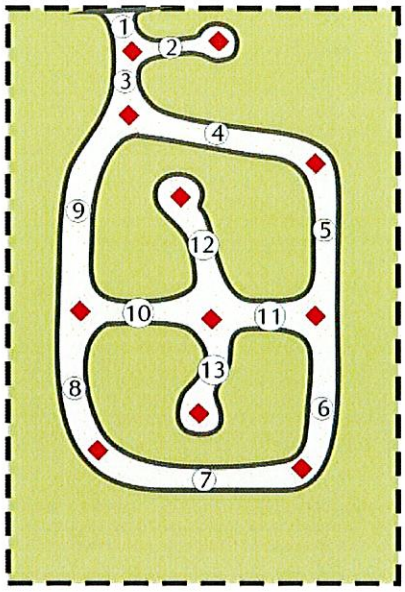
(c) A higher connectivity ratio in a surrounding area shall not provide justification to reduce the required connectivity of a proposed subdivision.

(d) The Planning Board may permit a lower connectivity ratio based upon site constraints.

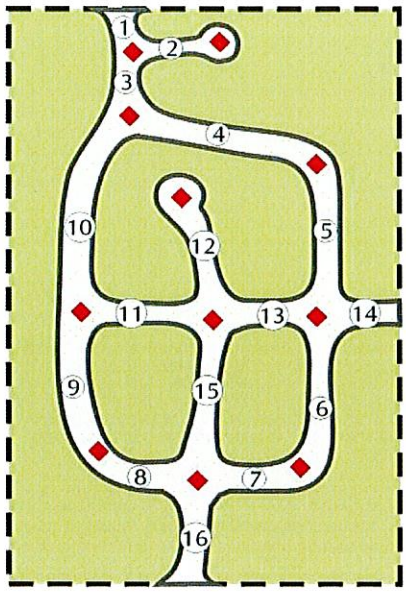
(3) **Sample Calculation.** The following sample calculation and figures show how the street connectivity ratio for a subdivision shall be calculated.

Attachment: ZTA-2024-01 TB letter packet 100124 (RES-2024-774 : Local Law Amending Chapter 204 - Subdivision Regulations)

EXAMPLE 1: Does not meet ratio



EXAMPLE 2: Modified to meet ratio



Number = Link ♦ = Node

(4) **External Access Required.**

(a) All subdivisions shall provide the appropriate number of fire apparatus access roads, as described in § 7-6-7(c) of the Zoning Ordinance, Fire Apparatus Access Road Requirements.

F. Cul-de-sac Streets.

(1) ~~A curbed permanent turnaround shall be provided at the end of any permanent dead end street. This turnaround may be T or circular shaped. The commonly used circular form shall have the following dimensions. A curbed permanent turnaround shall be provided at the end of any permanent dead end street. This turnaround may be T or circular shaped. The commonly used circular form shall have the following dimensions.~~ Cul-de-sac street designs are discouraged in favor of future road connections and may only be used where there is no opportunity for a roadway extension and approved by the Town of Amherst Planning Board. This roadway terminus shall be circular-shaped. The circular form shall have the following dimensions, and illustrated below.

Standard	Without Island	With Island
Minimum Cul-de-Sac Radii (including ROW)	62 ft	66 ft
Minimum Cul-de-Sac Radii (to inside of curb)	52 ft	56 ft
Minimum pavement width	28 ft	36 ft
Right-of-way width, minimum	50 ft	50 ft
Utility Easement Width	15 ft	15 ft*
Maximum island radii	—	20 ft
* May be modified by the Planning Board or Director.		

Attachment: ZTA-2024-01 TB letter packet 100124 (RES-2024-774 : Local Law Amending Chapter 204 - Subdivision Regulations)

(a) Approval by the Planning Board;

(b) Cul-de-sacs are only to be used when no opportunity for roadway extensions exist.

(2) An unpaved island may be provided at the center of the turnaround in accordance with the standards in the table above and provided that:

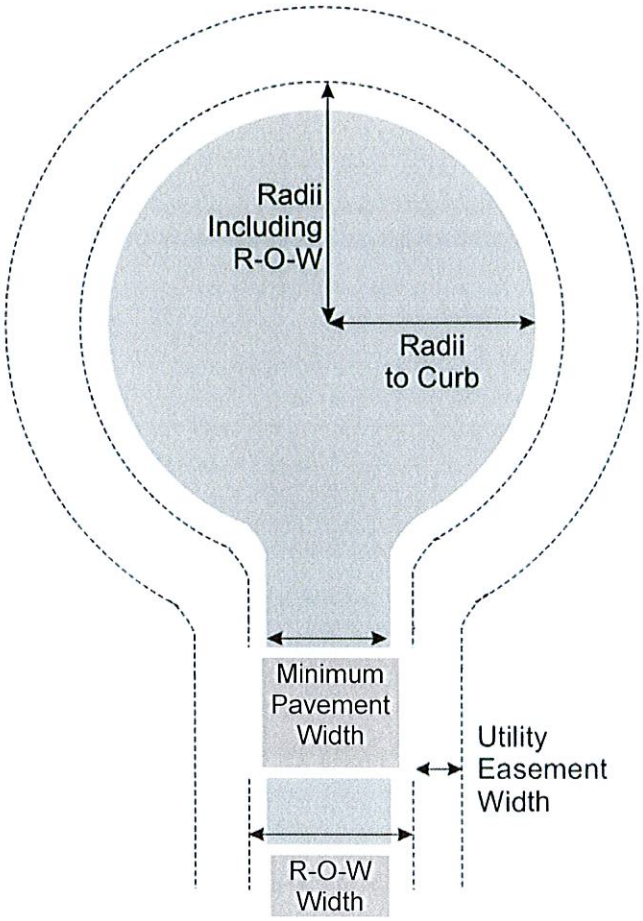
(a) The island shall be surrounded by ~~an island curb~~ a mountable curb.

(b) The surface of the island shall be ~~landscaped~~ delineated with vegetative landscape material.

(c) Landscaping or other elements located in the island shall not interfere with the sight distance standards in § 3-2-4D(2).

(d) The island shall have a minimum diameter of 20 feet measured to the back of the curb.

(e) The petitioner shall provide for perpetual maintenance of the unpaved island through a homeowners association or other acceptable organization.



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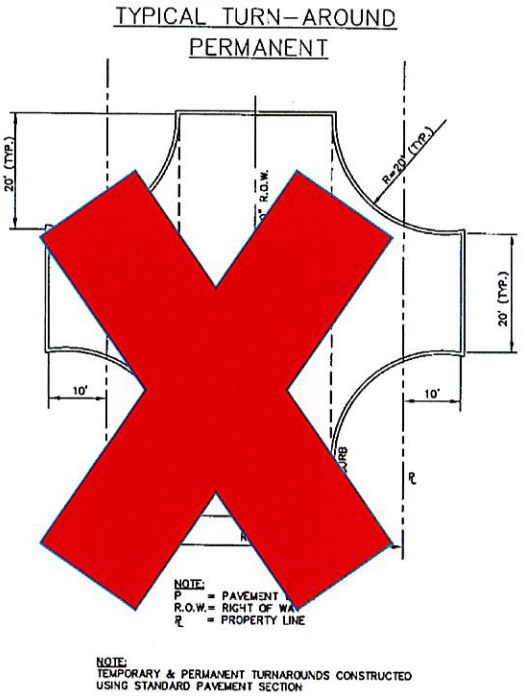
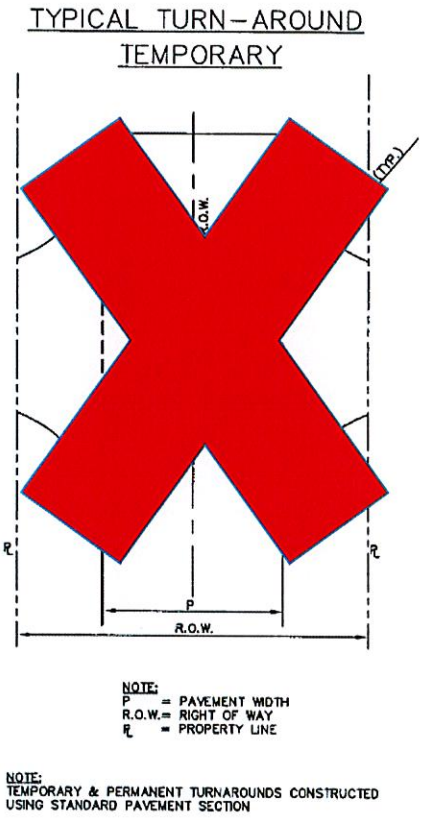
(3) The T-shaped turnaround shall have the dimensions required in the figures below.

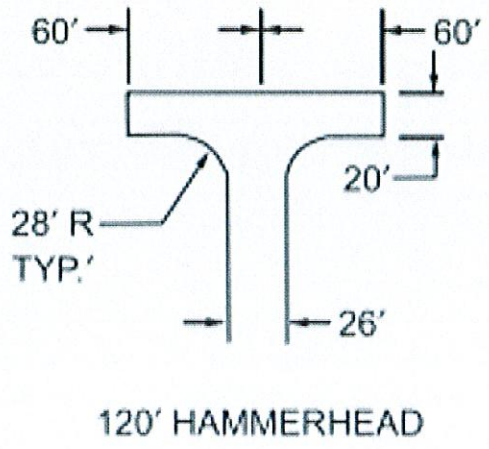
(a) No lot shall take access to a temporary turnaround ~~unless permission is granted at the discretion of the Highway Superintendent.~~. All temporary turnarounds must meet Appendix D of NYS Fire Code.



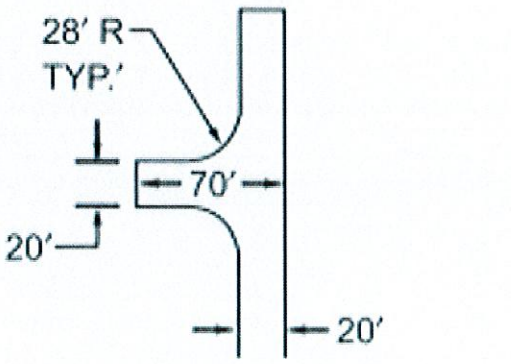


(4) All turnarounds shall contain adequate space for snow storage and for the maneuvering of emergency vehicles.

NEW IMAGES TO REPLACE EXISTING ONES



120' HAMMERHEAD

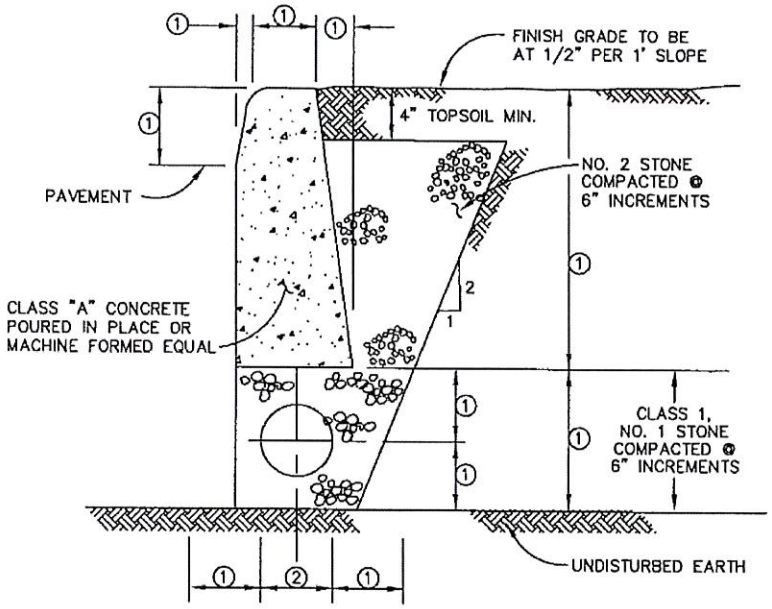


ACCEPTABLE ALTERNATIVE TO 120' HAMMERHEAD

Attachment: ZTA-2024-01 TB letter packet 100124 (RES-2024-774 : Local Law Amending Chapter 204 - Subdivision Regulations)

G. Curbs. Minimum curb specifications and the measurement at pavement width are shown in the figure below. ~~There are three types of curbing which shall be permitted. However,~~ ~~i~~It is the policy of the Town of Amherst that Type "A" curbing shall be used for new public streets. ~~Wherever possible. The final selection of curbing shall be dependent on the site conditions, design character of the proposed subdivision and the anticipated traffic.~~

Type "A" Curbing



NOTE:
① DIMENSIONS ARE FOUND ON THE CURRENT STANDARD DETAILS ON FILE AT THE TOWN ENGINEERING DEPARTMENT
② P.V.C. UNDERDRAIN TO BE SDR-35, ASTM 27-29 OR EQUAL

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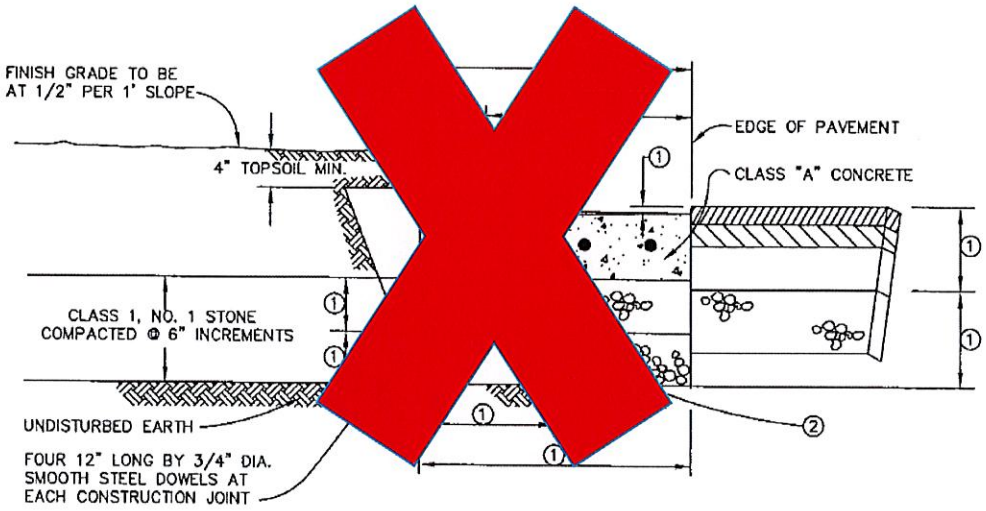
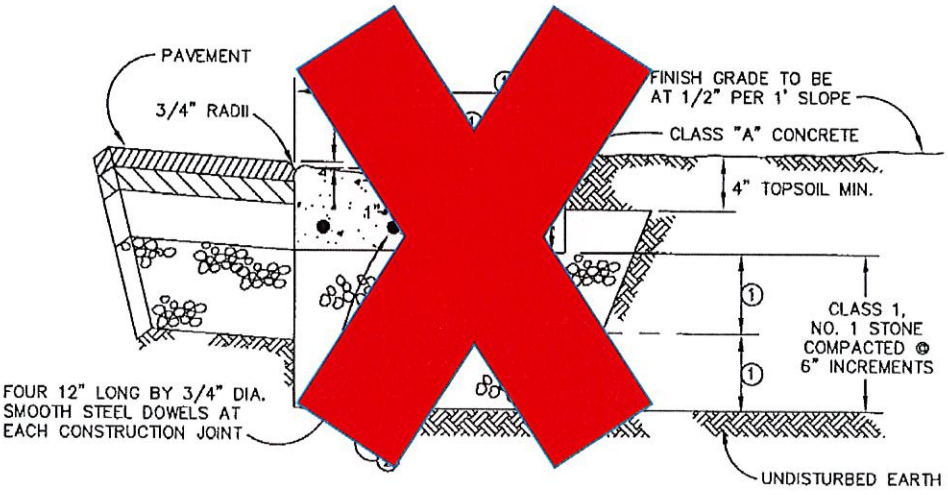
Type "B" Curbing
Poured in Place



NOTE:
① DIMENSIONS ARE FOUND ON THE CURRENT STANDARD DETAILS ON FILE AT THE TOWN ENGINEERING DEPARTMENT
② P.V.C. UNDERDRAIN TO BE SDR-35

Type "C" Curbing
Poured in Place



NOTE:
① DIMENSIONS ARE FOUND ON THE CURRENT STANDARD DETAILS ON FILE AT THE TOWN ENGINEERING DEPARTMENT
② P.V.C. UNDERDRAIN TO BE SDR-35

Attachment: ZTA-2024-01 TB letter packet 100124 (RES-2024-774 : Local Law Amending Chapter 204 - Subdivision Regulations)

H. Sidewalks and Pedestrian Circulation. A plan for safe and convenient pedestrian circulation within the subdivision and between the subdivision and surrounding areas shall be provided. Such plan ~~may~~ shall provide for walks along ~~the~~ proposed and existing streets, along rear property lines or in some other location acceptable to the Planning Board. The pedestrian circulation plan as approved by the Planning Board shall be based on expected use and function consistent with the following standards. A list of roads and their functional classifications is available from the Town of Amherst Planning Department.

(1) Pedestrians shall have convenient access to schools, shopping, and existing or possible public transportation load points.

(2) Pedestrian and bicycle-way alignments shall have a reasonable relationship to foreseeable movement, parking, and community facilities, and shall be safe, secure, and attractive.

(3) Potential pedestrian, bicycle, and vehicular conflicts shall be minimized.

(4) Pedestrian and bicycle travel routes shall be selected to have minimum practical change in grade (elevation) throughout their lengths.

(5) Sidewalks shall be installed on existing and proposed streets unless waived by the Planning Board as a part of an approved ~~site plan~~ subdivision or by the Town Board~~. In which event they shall be constructed in accordance with Chapter 83, Building Construction Administration, of the Town Code and located in accordance with §3-2-4A.~~

(6) Sidewalks shall be installed on all collector streets and arterials on all road frontages, as applicable, and shall be located in accordance with § 3-2-4A.

(7) Sidewalks shall be of a width as required in the specifications for sidewalk construction available from the Town of Amherst Engineering Department, Town of Amherst Standard Details and Specifications and Chapter 83, Building Construction Administration, of the Town Code.

(8) All required ramps and curb cuts shall be constructed to be in compliance with the requirements of the Americans with Disabilities Act and be included and constructed with the P.I.P. for the roadway.

(9) The Planning Board may require that sidewalks on existing or proposed streets be included and constructed with the P.I.P. for the roadway.

I. Roadway Width for Bridges and Culverts. The minimum clear width for all new bridges and culverts shall accommodate sidewalks or an area for pedestrians on both sides. The width of the sidewalk or areas shall depend on the road classification. ~~On streets with curbed approaches shall be the same as the curb to curb width of the approaches. For streets with shoulders and no curbs, the bridge width shall be the same as the approach roadway including shoulders. Sidewalks on the approaches shall be carried across all new structures and shall be considered an additional width to the bridge. There shall be at least one sidewalk on all sidewalk bridges.~~ There shall be sidewalks installed on both sides of all bridges/culverts. ~~and the Right-f-Way must include reserve for future sidewalk installation on the other side.~~

J. Pavement.

(1) The design of the pavement and subbase shall be consistent with the specifications in the Town of Amherst Standard Details and Specifications, available at the Town of Amherst Engineering Department.

Attachment: ZTA-2024-01 TB letter packet 100124 (RES-2024-774 : Local Law Amending Chapter 204 - Subdivision Regulations)

(2) Due to the variables inherent in any design there can be no minimal standard. Each design shall be reviewed ~~on its own merits~~ and approved by the Town of Amherst Engineering Department on its own merits.

~~(3) Pavement cross-slope shall be adequate to provide proper drainage. The recommended standard is 0.020 feet per foot.~~

K. **Superelevation.**

(1) Superelevation is advantageous for street traffic operation, but in built up areas the combination of wide pavement areas, proximity of adjacent development, control of cross slope and profile for drainage, the frequency of cross streets and other urban features combine to make its use impractical or undesirable. Usually superelevation is not provided on local streets in residential and commercial areas; it should be considered on those in industrial areas. Superelevation shall be provided on collector streets wherever operating speeds will not be low.

(2) Where superelevation is used, street curves shall be designed for a maximum superelevation rate of 0.04 to 0.06 feet per foot.

L. **Paved Shoulders.** Paved shoulders, exclusive of on-street parking, are permitted on arterial or collector roads. Such shoulders shall be a minimum of six feet in width and shall be designed as an integral part of the road, accommodate other modes of mobility, and shall be constructed according to the Town's minimum specifications as detailed in the Town of Amherst Standard Details and Specifications, available at the Town of Amherst Engineering Department.

M. **Railroad-Street Grade Crossings.** Railroad-street grade crossings are to be designed in accordance with AASHTO Standards and the appropriate grade crossing protection devices shall be installed at all railroad-street grade crossings.

~~Appropriate grade crossing protection devices shall be installed at all railroad street grade crossings.~~

~~The minimum stopping sight distance for any street that intersects a railroad track shall be 200 feet.~~

N. **Clearance to Above-Grade Obstructions.** A minimum clearance of two feet shall be provided between the face of curb or edge of shoulder and above-grade obstructions, such as utility poles, lighting poles, and fire hydrants. On all streets these obstructions shall be located at or near the right-of-way line and outside of sidewalks.

O. **Roadway Lighting. [Amended 10-17-2022 by L.L. No. 20-2022]**

(1) Roadway lighting is required at all intersections and continuous lighting shall be provided on all proposed or existing roadways within a subdivision. If applicable the Town's lighting district shall be expanded to incorporate the proposed subdivision.

(2) The Planning Board as part of subdivision approval may waive the requirement for street lighting taking into consideration pedestrian and vehicle safety. The Planning Board may request independent reports or refer such a request to other agencies for recommendation.

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P. **Traffic Control Devices.**

(1) It is important that there be consistent and uniform application of traffic control devices. Details of the standard devices and warrants for many conditions are found in the "Manual on Uniform Traffic Control Devices" prepared by the Federal Highway Administration and supplemented by the New York State D.O.T.

(2) Geometric design of streets should include full consideration of the types of traffic control to be used, especially at intersections where multiphase or actuated traffic signals are likely to be needed.

Q. **Landscaping, Erosion Control, and Street Trees.**

(1) **Landscaping and Erosion Control.**

(a) The Planning Board shall carefully consider and can require all landscaping elements within the right-of-way. ~~especially in cul-de-sacs, islands, and other areas where public ownership and maintenance will be required.~~ A detailed planting plan shall be submitted for the planting/snow storage area, and all other such areas as required and approved by the Planning Board, after receiving a recommendation from the Town's Planning Director, as a part of the preliminary platting process.

(b) A Landscape Plan for the area within ten feet ~~form~~ from the edge of pavement along private streets shall be submitted with the preliminary plat. The owner shall be responsible for all planting, maintenance, and necessary replacement.

(2) **Street Trees.**

(a) **Tree Removal Permit.** No trees shall be removed from an area in anticipation of development unless a Tree Removal Permit has been obtained under the Tree Local Law, Town Code Chapter 179.

(b) **Trees Required.**

(i) The issuance of each building permit for buildings adjacent to a public street shall be subject to planting one tree per forty feet of street frontage~~,~~ as per Local Tree Law, Town Code Chapter 179, Trees.

(ii) At the time of filing the building permit, the Town Clerk shall collect the cost of planting the required trees which cost shall be determined by the Town Board from time to time.

(c) **Specifications for Planting.**

(i) All trees shall be consistent with the requirements of Chapter 179 (Trees) of the Town Code ~~guaranteed for one year from the date of planting and shall be handled and transported in a manner conducive to good nursery practices at all times. All trees shall be pruned and planted and refilled with soil acceptable to the Highway Superintendent in a tree pit two times the ball diameter and one and one half times the ball depth, or twelve inches greater than the spread of the bare root stock and six inches greater in depth. Each planting shall~~

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~~be well watered at the time of planting. Stakes shall be hard wood, eight-foot minimum height, and will be placed at time of planting outside the tree placement cavity with a minimum of two stakes per tree.~~

~~(ii) The top four inches to six inches of each stake shall be painted a color as specified by the Superintendent of Highways. In addition, all trees will be wrapped with tree wrap-up to the first branch. Fertilizer should be one half pound per inch of caliper, worked into the trees' pit soil.~~

~~(iii) All trees shall be local or northern grown and will be subject to inspection at time of planning. All trees shall be supplied with well developed root systems. All trees are to have straight trunks with well developed heads. The caliper of trees shall be measured at a point six inches above ground level with a minimum caliper of one and three-quarter inches.~~

~~(iv) All trees shall be planted in accordance with § 179 of the Local Tree Law, Planting distance requirements,~~

R. **Yard Drainage — General.**

(1) Yards and areas shall be properly drained and connected to a storm sewer or other approved outfall.

(2) See the Town of Amherst Standard Details and Specifications, available at the Town of Amherst Chapter 83, Building Construction Administration, of the Town Code for details, including rear yard drainage and Sump Pump and Downspout Pipe Discharge.

S. **Rural Residential Subdivision Streets.** Each lot in a rural residential subdivision shall be provided with access to a durable and maintainable public or private street with adequate capacity, while retaining rural aesthetics and cost effectiveness, and without compromise to the Thoroughfare Plan.

(1) **Exceptions to Street Standards for Rural Residential Subdivisions.** The subdivision may contain roadside ditches in lieu of curb and gutter.

3-2-5. Grading and Topography. The street plan of a proposed subdivision shall bear a logical relationship to the topography of the property, and all streets shall be arranged so as to obtain as many building sites as possible at or above the grade of the streets. Grades of streets shall conform as closely as possible to the original topography and shall be in accordance with the Town Specifications for Public Improvements.

3-2-6. Marginal Access Streets.

A. Where a subdivision abuts or contains an existing or proposed arterial street as specified in the Comprehensive Plan, the Planning Board may require the following:

(1) Marginal access streets, and controlled access points;

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(2) Reverse frontage with screen planting contained in a non-access reservation along the rear property line;

(3) Deep lots with rear service access; or

(4) Such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

B. Where a subdivision borders on or contains a railroad right-of-way or limited access thoroughfare right-of-way, the Planning Board may require a street approximately parallel to and on each side of the right-of-way at a distance suitable for the appropriate use of the intervening land as for the following purposes:

(1) Parks;

(2) Deep residential lots backing to railroad or arterial street with planting screen in a no-access area at rear property lines of lots; or

(3) Motor vehicle parking, business or industry in appropriate districts.

C. Such distances shall be determined with due regard for the requirements of approach grades and future grade separations.

3-2-7. Other Street Improvements. Design standards for other required improvements such as fire hydrants, water main, and the location of sanitary and storm sewers are also available within the Town of Amherst Standard Details and Specifications on file at the Town's Engineering Department. Street lighting, traffic control signs, and street signs are found within Town Specifications for Public Improvements. Public and Private Improvement Permits are issued on the basis of compliance with these specifications.

3-2-8. Reserve Strips. Reserve strips controlling access to streets shall be prohibited except where their control is definitely placed with the Town under conditions approved by the Planning Board, Town Engineer, and Town Attorney.

3-2-9. Street Designation. Street names for a proposed subdivision shall be proposed by the owner which shall not duplicate or be confused with the names of existing streets in Erie County irrespective of modifying terms such as street, avenue, boulevard, etc. Streets that are or will eventually be continuations of existing or platted streets shall be of the same name. Street names shall be subject to the policies established by the Town Board and the approval of the Planning Director.

§ 3-3. Utilities

3-3-1. Underground Utilities. Utilities, to the extent practicable, are to be placed underground throughout a subdivision area and in conformance with Town Specifications for Public and Private Improvements, and consistent with 16 NYCRR, Part 100, Section 100.1.

3-3-2. Utility Easements. Suitable easements shall be provided for any utility service, including storm water drainage, as determined by the Town Engineer. They shall be established at sanitary sewers and applicable lot lines so as to provide continuity of alignment from block to block.

3-3-3. Storm Drainage Easements. Where a subdivision is traversed by an existing or proposed watercourse, storm sewer, drainage way, channel or stream, there shall be provided a permanent public or private drainage easement conforming substantially with the limits of such watercourse,

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which may include additional area adjoining such watercourse as determined by the Town Engineer and/or Highway Superintendent.

3-3-4. Pipes for Ditches. Street side ditch piping for stormwater along an existing street shall be the responsibility of the lot owner (or petitioner) and construction, removal, or replacement shall be in accordance with Town Specifications. Maintenance of a public facility shall be the responsibility of the Town.

3-3-5. Sewers.

A. Any building that has sanitary facilities, or is used by human occupants for living or sleeping, must be connected to a sanitary sewer system approved by the Erie County Health Department, if such sewer is available.

B. All sanitary sewers and laterals must be installed before a street is improved and construction shall be in accordance with Town Specifications for Public Improvements. Sanitary sewers for conveyance to the Town, shall be accepted only as part of a public highway. Sanitary sewers constructed as part of a private roadway shall be under the ownership of a Sewer Works Corporation approved by NYSDOS.

C. The Town reserves the rights to require the installation of improvements necessary for non-rural subdivisions when the site is within a sewer district but public wastewater utility services are not currently available.

3-3-6. Water Distribution and Fire Hydrants.

A. Waterline types and installation shall be in accordance with Town of Amherst Engineering Department specifications.

B. Waterline size shall be a minimum of eight inches and on a grid system or interconnected wherever possible, based on generally accepted engineering practices for required fire flow. Waterlines for conveyance to the Town, shall be accepted only as part of a public highway. Waterlines constructed as part of a private roadway shall be under the ownership of a Water Works Corporation approved by NYSDOS.

C. Fire hydrant type and installation shall be in accordance with Town of Amherst Engineering Department specifications.

D. Fire hydrants shall be located a maximum of 500 feet apart.

3-3-7. Roadway Illumination. [Added 10-17-2022 by L.L. No. 20-2022]

A. Roadway illumination, associated fixtures and installation shall be in accordance with Town of Amherst Engineering Department specifications.

B. All light fixtures, conduit and associated electrical equipment shall be installed before a street is fully improved and construction shall be in accordance with Town Specifications for Public Improvements.

C. All conduit to the extent practicable shall be placed underground throughout a subdivision and shall be in accordance with Town Specifications for Public Improvements.

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D. Light poles generally are to be spaced at 150 foot staggered intervals along a roadway, unless the roadway alignment(s) would require otherwise as determined by the Town of Amherst Engineering Department.

E. Roadway Illumination for conveyance to the Town shall be accepted only as part of a public highway, and after a lighting district extension has been created by the Town Board.

§ 3-4. Blocks

3-4-1. Shape. No specific rule concerning the shape of blocks is made, but blocks shall fit readily into the overall plan of the subdivision, and their design ~~shall evidence consideration of~~ indicate topographical conditions, lot planning, traffic flow, pedestrian circulation and public open space areas.

3-4-2. Block Dimensions.

A. The maximum lengths of blocks containing a majority of lots measuring seventy-five feet in width and over ~~in width~~ shall be 1,800 feet, and the maximum length of blocks containing a majority of lots less than seventy-five feet in width shall be 1,200 feet.

B. Blocks over 900 feet long may, at the discretion of the Planning Board, require pedestrian ways at their approximate centers. The provision of additional access ways to schools, parks or other destinations may be required by the Planning Board.

C. Blocks shall have sufficient width to accommodate two tiers of lots including any additional allowance for natural features in between such as an existing watercourse. This standard shall not apply where single tier lots are required to separate residential development from arterial traffic, to separate lots from an incompatible use, to accommodate a requirement for single loaded streets, to allow for unusual topographical conditions or when adjacent to the outer perimeter of the subdivision, or when the Town wants to limit the length of dead end-cul-de sac streets which have no opportunities for future connection.

§ 3-5. Lots

3-5-1. Buildable. All lots shall meet the minimum area and lot dimensions required by the Town of Amherst Zoning Ordinance for the zoning district in which the lot is located.

3-5-2. Shape.

A. Generally, side lines of lots shall be at right angles to straight street lines and radial to curved street lines.

B. The average depth of a lot shall not generally exceed three and one-half times its average width unless approved by the Town of Amherst Planning Board.

C. Flag lots shall be discouraged ~~in non-rural subdivisions~~, except where environmental, design or other ~~constraints render subdividing otherwise unreasonable.~~ considerations favor such lot shapes.

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3-5-3. Access.

A. All lots shall have adequate access to the public thoroughfare system, and lots shall abut a public dedicated street or private drive or have access to such street or drive via a public alley. See NYS Town Law § 280-a(4) for streets not having frontage on a public street.

B. No lot shall take access from the turnaround areas described in § 3-2-4F.

C. In an effort to minimize the number of curb cuts and maximize green space, the Planning Board may require the sharing of curb cuts by adjacent lots.

3-5-4. Corner Lots. All ~~C~~corner lots shall ~~be increased in width over the width of typical interior lots, in accordance with the Zoning Ordinance~~ .meet the minimum area and lot dimensions required by the Town of Amherst Zoning Ordinance for the zoning district in which the lot is located.

3-5-5. Through Lots. Through lots shall not be permitted except under the following circumstances:

A. Where lots back upon an arterial, local collector or collector street. In such instances, vehicular access between the lots and the arterial or collector street is prohibited.

B. Where topographic or other conditions render subdividing otherwise unreasonable. Such through lots shall have an additional depth, as determined by the Planning Board, in order to allow for a protective screen planting on one frontage.

3-5-6. Lots Abutting a Watercourse.

A. **Riparian Buffer.**

(1) Riparian buffers shall be clearly indicated on all sketch plans, preliminary plats and final plats. Where maps show a difference in stream type for a particular reach of stream, the map that shows the greater level of stream protection shall apply.

(2) A riparian easement is required as part of the application and is to be shown on the subdivision plot and plan.

B. Buffer Width. Riparian buffers shall apply on each side of the watercourse and shall begin at the most landward limit of the top of the bank perpendicular to the direction of stream flow. Riparian buffers shall be a minimum of 50 feet in total width and require an easement.

C. Buffer Limitations.

(1) Buildings and other features that require grading and construction shall be set back a minimum of 10 feet from the edge of the buffer.

(2) Crossings by streets, driveways, bridges, utilities, culverts, recreational features or other facilities shall be allowed provided that they are designed to minimize intrusion into the riparian buffer. Such facilities may run generally within and parallel to the buffer only where no other access to the property is practical and when their design minimizes intrusion into the buffer.

(3) Riparian buffers may be used for passive recreational activities, provided that service facilities for such activities, including but not limited to parking, picnicking and sanitary facilities, shall be located outside of the riparian buffer.

3-5-7. Lots in a Floodway or Flood Plain District. All structures and uses in the Special Flood Hazard Areas are subject to the Flood Damage Prevention provisions of § 7-7 of the Zoning Ordinance.

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§ 3-6. Monuments and Lot Corner Markers

3-6-1. Permanent concrete monuments shall be made of concrete four inches by six inches by 24 inches, or six-inch diameter by 24 inches, or an approved equal, with 1/2-inch or larger iron pipe or iron rod cast in the center.

3-6-2. At least one permanent concrete monument shall be in each subdivision in accordance with Local Law No. 6, Chapter 119 and the Rules and Regulations 119-5.A, Town of Amherst Geodetic Survey Maintenance Network. The monument's location shall be approved by the Town Engineer.

3-6-3. Pipe monuments 3/4-inch in diameter, or steel rods 1/2-inch in diameter by 18 inches in length, shall be placed at the corners of each lot, block, at each intersection, of street center lines at angle points and at the ends and at suitable intervals along curbs. A suitable nail may be used should any of these locations fall within the street pavement.

3-6-4. All U.S., State, County, Town or other official benchmarks, monuments or triangulation stations in or adjacent to the property shall be preserved in precise position and identified on the final plat.

§ 3-7. Commercial and Industrial Areas

3-7-1. Vehicular Movement. The location for vehicular movements between commercial and industrial areas and adjacent streets shall be indicated, and restrictions shall be recorded upon the plat which shall restrict such vehicular movements to the location shown on the plat.

3-7-2. Easements. Easements may be required providing for vehicular movements through parking areas and to and from service areas, as well as easements which can be improved as buffer areas wherever the area adjoins property zoned for residential use. The installation of planting, walls, fences or other improvements that assure a satisfactory buffer or protective screen within said easement may be required by the Planning Board

3-7-2. Easements. Easements may be required providing for vehicular movements through parking areas and to and from service areas, as well as easements which can be improved as buffer areas wherever the area adjoins property zoned for residential use. The installation of planting, walls, fences or other improvements that assure a satisfactory buffer or protective screen within said easement may be required by the Planning Board

§ 3.8. Open Space Dedication

A. General. Dedication of open space shall be in accordance with Chapter 155, Recreation and Open Space, of the Town Code. A conservation easement limiting the use of the open space in perpetuity is required and is to be shown on the subdivision plot and plan. The easement shall provide for third party enforcement of the limits placed on the open space area.

B. ~~Cluster~~ Conservation/Cluster Subdivision.

(1) Ownership of open space created as part of a ~~cluster~~ conservation subdivision shall be retained by or transferred to any of the following third-party organizations, including any combination of such organizations;

(a) The owner of the property to be developed;

(b) A homeowners association;

(c) An established land trust, created as a not-for-profit agency in accordance with § 501(c)(3) of the Internal Revenue Code;

(d) A non-profit conservation organization created in accordance with § 501(c)(3) of the Internal Revenue Code;

(e) The Town of Amherst; or

(f) Another public agency responsible for natural resource preservation.

§3-9. Acceptance of Dedications

A. Streets

(1) ~~Streets shall be dedicated according to all applicable State and local laws.~~See section 4-6-3I and 4-6-3J

B. Parkland Sites

(1) Acceptance of dedications for parkland shall be by resolution of the Amherst Town Board.

PART 4
REVIEW PROCEDURES AND ENFORCEMENT

§ 4-1. Applicability

Whenever any subdivision of land of five or more lots is proposed and before any permit for the erection of a structure or facilities in or for such proposed subdivision shall be granted, the petitioner or authorized agent shall apply for and secure approval of such proposed subdivision in accordance with the procedures set forth in this Part.

§ 4-2. Pre-Application Conference

The petitioner for subdivision approval shall schedule a pre-application conference with the Planning Director or his or her designee to discuss the requirements for the following, but not limited to: the general layout of streets and lots, the reservation of land, street improvements, drainage, soil conditions, special flood hazard areas, wetlands, sewerage, water, fire protection, other community services and facilities, and the availability of existing services.

§ 4-3. Subdivision Classification

The Planning Director shall classify the subdivision as requiring a major or minor-subdivision on the basis of the pre-application conference and in accordance with the criteria in this Section.

4-3-1. **Minor Subdivision.**

A. The Planning Director shall only classify a subdivision as a minor subdivision where the proposal meets
all of the following criteria:

(1) The subdivision contains a minimum of five lots, but not more than nine lots fronting on an existing street;

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(2) The subdivision does not require the construction of new streets or roads, the extension of municipal facilities or the dedication of land;

(3) The subdivision does not adversely affect the development of the remainder of the parcel or adjoining property;

(4) The subdivision is not in conflict with any provision or portion of the Comprehensive Plan or Zoning Ordinance; and

(5) The subdivision does not require a waiver from these Regulations.

4-3-2. **Major Subdivision.** Any subdivision that contains more than nine lots shall be considered a major subdivision.

§ 4-4. Application Requirements

The following requirements shall apply to all applications for development review.

4-4-1. **Who May Submit Applications.**

A. All applications shall be reviewed by the Planning Director for his or her signature prior to filing with the Town Clerk. The Town Clerk shall receive payment of the required fees.

B. Applications shall only be accepted from persons having the legal authority to submit such applications. In general, applications shall be made by the owners or lessees of property, or persons who have contracted to purchase property contingent upon their ability to acquire the necessary approval under these Regulations.

C. The Planning Director may require a petitioner to present additional evidence of authority to submit the application.

4-4-2. **Forms.**

A. Applications required under these Regulations shall be submitted on forms and in such numbers as required by the Town.

B. All application forms are available from the Planning Department. The content of such application forms shall be determined by the Planning Director and may be amended from time to time.

4-4-3. **Fees.**

A. No application shall be accepted by the Town Clerk until all applicable fees, charges and expenses have been paid in full.

B. Filing fees shall be established from time to time by resolution of the Town Board to defray the actual cost of processing the application.

C. All required fees shall be made payable to "The Town of Amherst."

D. A petitioner who has paid an appropriate fee pursuant to the submission of an application, but who chooses to withdraw such application within 24 hours of application shall be entitled to a full refund upon written request to the Town. After this 24-hour period, the petitioner may petition the Town Board for a partial refund. The Town Board may request a recommendation on any request for a refund considered under this Section.

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4-4-4. **Applications to be Complete.**

A. An application and fee will be accepted for review when it contains all information necessary to initiate review as determined by the Planning Director or his or her designee. In addition, an application shall not be considered complete until a SEQR determination of significance under Town Code, Chapter 104, Environmental Quality Review, can be made.

B. The presumption is that all of the information required in the Town's application forms is necessary to satisfy the requirements of this Section. However, it is recognized that each application is unique, and therefore more or less information may be required according to the needs of the particular case. The petitioner may rely on the recommendations of the Planning Director as to whether more or less information should be submitted with the application.

C. An application not considered complete within six months after the initial date of submittal shall be considered null and void, except where such application is part of an ongoing SEQR review.

4-4-5. **Staff Consultation After Application Submitted.**

A. Upon determination of a complete application, the Planning Director shall review the application and confer with the petitioner to ensure that the petitioner understands the requirements of these Regulations; has submitted all of the information that the petitioner is required to submit; and that the application represents precisely and completely what the petitioner proposes to do.

B. Once the petitioner indicates that the application is as complete as the petitioner intends to make it, the application shall be distributed to the appropriate departments, officials and boards. However, if the Planning Director finds that the application remains incomplete, a recommendation to deny the application on that basis shall be provided to the Planning Board.

4-4-6. **Notice and Public Hearings.**

A. **Required Hearing.**

(1) Preliminary Plat. Within 62 days after the receipt of a preliminary plat by the Planning Board, the Planning Board shall hold a public hearing. The hearing shall be advertised at least once in a newspaper of general circulation in the Town at least five days before such hearing.

(2) Final Plat.

(a) No public hearing shall be required for review of a minor subdivision, or review of a final plat of a major subdivision provided that such plat is in substantial agreement with the approved preliminary plat.

(b) In the event that the Planning Director determines that the final plat of a major subdivision is not in substantial agreement with the approved preliminary plat, the Planning Board shall hold a public hearing within 62 days from the time of submission of the subdivision for final plat approval. The hearing shall be advertised in a newspaper of general circulation in the Town at least five days before such hearing.

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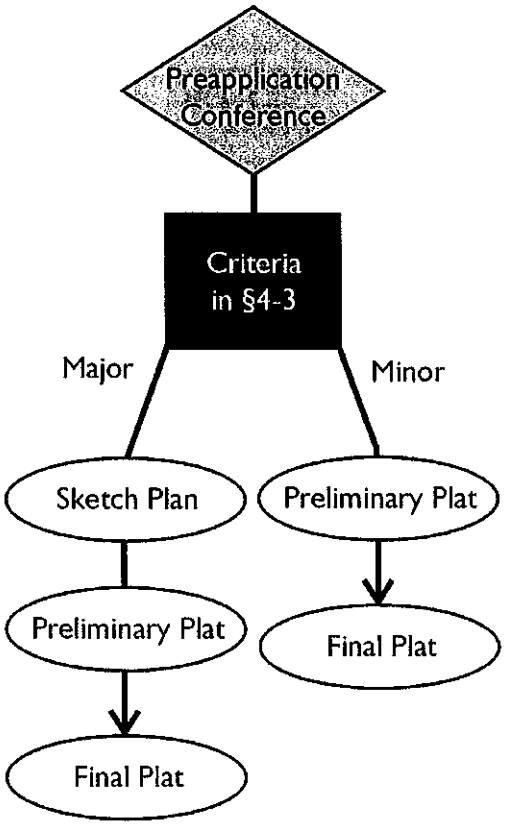
4-4-7. **Summary of Review and Approval Authority.** The following table summarizes review and approval authority under these Regulations.

Review Procedure	Planning Director	Planning Board
Minor Subdivision		
Sketch Plan	Not Required	Not Required
Preliminary	Recommendation	Decision*
Final	Recommendation	Decision
Major Subdivision		
Sketch Plan†	Recommendation	Decision*
Preliminary	Recommendation	Decision*
Final	Recommendation	Decision
* = Public hearing required † = The Planning Director may waive the requirement for a sketch plan for a major subdivision of five to nine lots.		

§ 4-5. Minor Subdivision Submission Requirements

A minor plat shall be submitted and reviewed consistent with the requirements for a preliminary plat.



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§ 4-6. Major Subdivision Submission Requirements

4-6-1. Sketch Plan Review.

A. **Intent.** The sketch plan is not intended to be recorded. Its purpose is to show graphically all facts needed to enable the Planning Board and other Town departments to determine whether the proposed layout of land in question is satisfactory from the standpoint of public interest.

B. **Staff Review.**

(1) Copies of the sketch plan shall be referred to the Building, Highway and Engineering Departments, the Traffic and Safety Committee, the Assessor, the Youth and Recreation ~~Commission~~ Department, and any other agencies the Planning Director deems appropriate and the application is deemed complete.

(2) Within 30 days of determination of completeness, each agency shall review the application and notify the Planning Board in writing of its comments or recommendations.

C. **Planning Board Final Action.**

(1) Within 62 days from the date that the sketch plan is deemed complete, or such extension as mutually agreed upon, the Planning Board shall meet and approve, approve with conditions or disapprove the sketch plan taking into account the criteria in § 4-6-1D.

(2) If the Planning Board disapproves, it shall advise the petitioner in writing of the reasons for disapproval and the specific changes, if any, it shall require in the layout, and the character and extent of required improvements and land reservations as a prerequisite to the approval of the sketch plan.

(3) In approving the subdivision sketch plan, the Planning Board may impose such conditions as it deems necessary and consistent with the Zoning Ordinance, Comprehensive Plan, and other laws.

D. **Sketch Plan Review Criteria.**

(1) The Planning Board shall review the sketch, considering the requirements of these Regulations, the Zoning Ordinance, Comprehensive Plan, comments of the reviewing agencies and the best design use of the land being subdivided.

(2) In evaluating any sketch plan, the Planning Board shall consider the following:

(a) The arrangement, location and width of streets and their relation to the topography of the land;

(b) Vegetation, wetlands, special flood hazard area/base flood elevation;

(c) Sewage disposal, drainage requirements, water needs;

(d) Lot sizes and arrangement;

(e) Soil conditions;

(f) Recreation facilities and open spaces;

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(g) Such other concerns as may be appropriate including new streets or street extensions, and dimensions from new street to existing streets (off-sets); and

(h) Policies and recommendations of the comprehensive Plan.

4-6-2. **Preliminary Plat Review.**

A. **Submittal of Preliminary Plat and Improvement Plans.** Following approval of the sketch plan, the petitioner shall prepare a preliminary plat of a subdivision, together with improvement plans and other supplementary material as specified in these Regulations and as required by the Planning Board sketch plan approval. This plat shall cover the entire tract of land concerned, or portion thereof, unless the Planning Board has authorized a lesser area.

B. **Staff Review of Preliminary Plat.**

(1) Upon receipt of a complete application in accordance with § 4-4-4, copies of the preliminary plat and other supplementary material shall be referred to the Building, Highway and Engineering Departments, the Traffic and Safety Committee, and any other agencies the Planning Director deems appropriate.

(2) Within 30 days of determination of completeness, each agency shall review the application and notify the Planning Board in writing of its comments or recommendations.

C. **Planning Board Final Action.** Within 62 days or two consecutive Planning Board meetings after determination of completeness, the Planning Board shall approve, approve with conditions or disapprove the preliminary plat, taking into account the same criteria in § 4-6-1D(2).

D. **Preliminary Plat Review ~~Criteria.~~** In reviewing the preliminary plat, the Planning Board may impose conditions consistent with the intent and purpose of these Regulations, the Zoning Ordinance, Comprehensive Plan, sketch plan and other applicable laws. If the Planning Board recommends disapproval, it shall state its reasons in writing.

E. **Limits of Approval.** Approval of a preliminary plat shall not constitute final approval of the plat, but rather shall be deemed the approval of the design submitted on the preliminary plat as a basis to the preparation of the final plat, which shall be submitted for approval by the Planning Board and for recording in the Erie County Clerk's office upon fulfillment of the requirements of these Regulations
and the conditions of the approval, if any.

F. **Failure to Take Action.** Unless an extension is mutually agreed upon, in the event the Planning Board fails to take action on a preliminary plat within the time prescribed herein, such plat shall be deemed granted preliminary approval. A certificate of the Town Clerk as to the date of submission and the failure to take action within such prescribed time shall be issued on demand and shall be sufficient in lieu of written endorsement or other evidence of approval required in these Regulations.

G. **Zoning Ordinance.** All town regulations, including the Town Code, in effect at the time of preliminary plat approval shall apply to the preparation and approval of the final plat.

H. **~~Public~~ Improvement Plans.** Engineering drawings or plans for all proposed improvements, including but not necessarily limited to streets, pedestrian pathways, sidewalks, sanitary

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sewers, storm drainage sewers and systems, water system, etc., shall be furnished to the Planning Board along with the preliminary plat.

New section 4-6-2H(1) and 4-6-2H(2)

(1) If the petitioner desires to dedicate public improvements, including but not limited to sanitary sewers, water lines, storm sewers, roadways and street lighting he/she shall first obtain a "resolution of commitment" from the Amherst Town Board agreeing to accept a future public improvement before he/she makes application for preliminary plat approval.

(a) After sketch plan approval, the petitioner shall make a written request to the Amherst Town Board seeking a future commitment to accept planned public improvements, once constructed, consistent with the provisions of section 4-6-3I(2). An application for preliminary plat approval with proposed public improvements shall not be accepted by the Planning Board without a Town Board resolution of commitment. In instances where a site plan is being considered, an application for site plan approval with proposed public improvements shall not be accepted by the Planning Board without a Town Board resolution of commitment. Preliminary plat submissions without public improvements shall file draft certificates of incorporation for water and sewer works as specified in the following section.

(b) A written request to the Town Board seeking a resolution of commitment shall include the approved sketch plan or (draft site plan), an affirmation from the petitioner of his/her intention to seek condominium status pursuant to section 339-Y of the NYS Real Property Law, an itemization of the future maintenance costs of the public improvements after their project life, and the public benefit to the Town of Amherst if it should accept the proposed public improvements

(2) If the petitioner desires to build private utilities; at the time of preliminary plat submission, the petitioner shall provide draft sewer works and water works Certificates of Incorporation pursuant to Section 3 of the Transportation Corporations Law of the State of New York along with a draft copy of the bylaws for each corporation guaranteeing the perpetual maintenance of private sanitary sewers and private waterlines (see section 4-6-3I & 4-6-3J).

I. **Phasing Plan.** If phasing of the subdivision is anticipated, a conceptual phasing plan shall be submitted for review with the preliminary plat application and used as a guide for submittal of the final plat.

4-6-3. **Final Plat Review.**

A. **Submittal of Final Plat.** After issuance of an approved preliminary plat by the Planning Director, and w~~W~~ithin six months after approval by the Planning Board of a preliminary plat, the petitioner shall submit the final plat. The plat shall conform to the layout shown on the preliminary plat and shall contain any conditions imposed by the Planning Board during preliminary plat review.

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B. **Staff Review and Final Action.**

(1) Taking into account the criteria in § 4-6-3C ~~T~~the Planning Board shall approve, approve with conditions or disapprove the final plat ~~taking into account the criteria in § 4-6-3C~~ within 62 days of receiving the petition or two consecutive Planning Board meetings after determination of completeness.

(2) If the Planning Board disapproves the final plat, it shall state in writing the reasons for disapproval.

(3) The petitioner shall have 180 days to satisfy the requirements upon which the approval has been conditioned and obtain the certification from the Planning Board. This period may be extended by the Planning Director, if in its opinion the circumstances warrant such extension.

(4) If the petitioner does not meet the conditions of approval within 180 days or within the extension period provided by the Planning ~~Board~~Director, then the application shall be deemed disapproved.

C. **Final Plat Review Criteria.** In evaluating any final plat, the Planning Board shall consider the following:

(1) The application is complete and the information contained within the application is correct and sufficient enough to allow adequate review and final action.

(2) The final plat is determined to be consistent with an approved preliminary plat. The petitioner must certify in writing that the final plat is consistent with the preliminary plat. Any changes to the final plat that are not consistent with the preliminary plat must be identified in writing upon submittal of the final plat application. Failure to disclose changes pursuant to this section may result in the Planning Board declaring the final plat null and void after giving the petitioner notice and an opportunity to be heard on the matter.

(3) The final plat is consistent with any Town-approved construction plans for any required or agreed improvements.

D. **Failure to Take Action.** In the event the Planning Board fails to take action on a complete final subdivision plat application within the time prescribed in New York State Town Law, such plat shall be deemed approved, unless an extension has been mutually agreed upon. A certificate of the Town Clerk as to the date of submission and the failure to take action within such prescribed time shall be issued on demand and shall be sufficient in lieu of written endorsement or other evidence of approval required in these Regulations.

E. **Phasing.** Prior to granting approval of a final plat, the Planning Board may permit the plat to be phased into two or more sections. The Planning Board may stipulate such requirements as it deems necessary to insure the orderly development of the plat be completed. Conditional or final approval of the phases of a final plat shall be granted concurrently with conditional or final approval of the plat. Each phase shall comply with all applicable provisions of § 3-2, Streets.

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F. **Filing of Plat.**

(1) The issuance of the following shall constitute final approval of a final plat:

(a) The signature of the Chairman of the Planning Board on the final plat; or

(b) The certificate of the Amherst Town Clerk as to the date of the submission of the final plat and the failure of the Planning Board to take action thereon within the time prescribed.

(2) The plat shall expire 62 days from the date of the Chair's signature constituting such approval of the final plat, or from the date such certificate is issued, unless within such 62-day period such plat or a section thereof shall have been duly filed or recorded by the owner in the office of the County Clerk.

(3) The filing of a final plat shall be consistent with the phasing plan approved in conjunction with the final plat.

G. **Period of Exemption for Subdivision Plats.** If a final plat or the first phase thereof has been duly filed in the office of the County Clerk, provisions of a change or amendment to the Town of Amherst Zoning Ordinance which establish or increase side, rear or front yard or setback requirements in excess of those applicable to building plots under the provisions of the Zoning Ordinance in effect at the time of the filing of the said subdivision plat or first section thereof, shall not, for a period of three years after the filing of the subdivision plat or first section thereof, be applicable to or in any way affect any of the lots shown and delineated on such subdivision plat.

H. **Modifications to Plat.**

(1) No changes, erasures, modifications, or revisions shall be made in any final plat after approval has been given by the Planning Board and endorsed in writing on the plat, unless the plat is resubmitted to the Planning Director and the Director deems such modifications to be minor in accordance with (2) below.

(2) Provided the number of lots remains the same, the moving of lot lines and the rearrangement of easements shall be considered a minor modification, subject to the approval of the Planning Director, provided that the resulting lots meet the minimum requirements of the Zoning Ordinance and all other applicable regulations for the subject parcel. All other modifications shall be deemed major modifications and shall require resubmission of a preliminary plat.

(3) In the event that any such plat is recorded without complying with this requirement, the same shall be considered null and void, and the Director shall institute proceedings to have the plat stricken from the records of the County Clerk.

I. **Approval Not Acceptance.**

(1) If any plat contains public streets, thoroughfares or easements which are to be dedicated as such, the approval of the plat shall not constitute an acceptance by the Town of Amherst of the improvements constructed or installed in the subdivision, irrespective of any acts by an officer, agent or employee of the Town with respect to such improvements.

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(2) The acceptance of such improvements shall be made only by the adoption of a resolution by the Town Board after a certificate ~~there~~ has been filed by the Town Engineer with the Town Clerk and the Town Attorney's Office. ~~a certificate~~ ~~by~~ ~~The Engineer~~, ~~c~~Certifying that all improvements required to be constructed or installed in or upon such street, thoroughfares and easements in connection with the approval of the plat or subdivision by the Planning Board have been fully completed and the construction or installation thereof has been approved by the Town Engineer. Prior to issuance of any PIP for the subdivision by the Town Engineer, all accepted easements shall be filed with the plat and copies sent to the Planning, Engineering, ~~and~~ Highway Departments and Town Attorney's Office.

J. **Status of Streets on a Subdivision Plat.** Every street shown on a plat filed or recorded in the office of the County Clerk shall be deemed to be a private street until such time as it has been formally offered to the Town and formally dedicated as a public street, or alternatively until it has been accepted by the Town for use as a public street.

K. **Protective Covenants.** All protective covenants and deed restrictions required by the Planning Board as a condition of approval in form for recording shall be approved, by the Town Attorney prior to filing of the final plat with the County Clerk.

§ 4-7. Waivers

A. Where the Planning Board finds that extraordinary hardships may result from strict compliance with these Regulations, it may waive these Regulations so that substantial justice may be done and the public interest secured, provided that any such adjustment shall not have the effect of nullifying the intent and purpose of these Regulations.

B. In granting any adjustment, the Planning Board shall attach such conditions as are, in its judgment, necessary to secure substantially the objectives of the standards or requirements so adjusted.

C. Applications for waivers shall be made upon the filing of the sketch plan or preliminary plat as applicable to these regulations.

~~D. Any waivers, if known, should be included during sketch plan review.~~

§ 4-8. Text Amendments

This Local Law may, from time to time, be revised, modified, or amended.

§ 4-9. Appeal

4-9-1. Appeal of decisions made under these Subdivision Regulations by the Town Board, Planning Board, Planning Director, Commissioner of Building, the Zoning Enforcement Officer, or Town Engineer shall be heard in accordance with Article 78 of the New York Civil Practice and Law Rules.

4-10. Enforcement

4-10-1. **Penalties for Violation.** Any person who violates any provision of this Local Law or any regulation adopted hereunder is guilty of an offense punishable by a fine not exceeding $250, or imprisonment for a period not to exceed six months, or both. Each week's continued violation shall constitute a separate violation.

Attachment: ZTA-2024-01 TB letter packet 100124 (RES-2024-774 : Local Law Amending Chapter 204 - Subdivision Regulations)

4-10-2. **Administrative Procedures for Enforcement. [Amended 3-4-2019 by L.L. No. 7-2019]**

A. **General Provisions.** This local law shall be interpreted by the Zoning Enforcement Officer with the assistance of the Town Engineer, Commissioner of Building, Planning Director, the Town Clerk and other agencies as the Town Board shall direct and shall be enforced by the Town Engineer and Commissioner of Building. Those departments and agencies shall be provided with the assistance of
such persons as the Town Board may direct.

B. **Records and Reports.** The Zoning Enforcement Officer shall keep, or cause to be kept, a record in his or her Department suitably indexed in regard to any decision or determination reached by him or her in connection with the interpretation or enforcement of these Regulations.

PART 5
PROVISION OF REQUIRED IMPROVEMENTS

§ 5-1. Installation of Improvements

The petitioner, at his or her own expense, shall provide (design, construct, install) the improvements required by these Regulations. All improvements shall meet Town standards and specifications as found in the Town Specifications for Public and Private Improvements.

§ 5-2. Performance Bond

5-2-1. There may be cases when, due to weather conditions or other factors beyond the control of the petitioner (exclusive of financial hardship) it would be unreasonable to require the petitioner to comply with all of the requirements of these Regulations prior to commencing the intended use of the property or occupying any buildings. In these cases, the Commissioner of Building may authorize commencement of the intended use or occupancy of buildings if the permit recipient provides a performance bond or other security of up to 125 percent of the cost of the remaining improvement to ensure that all subdivision regulations will be fulfilled within not more than three years.

5-2-2. In the event that any required improvements have not been installed in accordance with these Regulations within the term of the performance bond, the Town Board may declare the bond to be in default and collect the sum remaining payable. Upon the receipt of the proceeds of the bond, the Town shall install such improvements as are covered by the bond and as commensurate with the extent of building development that has taken place in the subdivision but not exceeding in cost the amount of such proceeds.

§ 5-3. Approval of Plans

5-3-1. **Public and Private Improvement Permit.** No improvement shall be constructed or installed without the prior approval of plans by the Town Board and the Town Engineer, who shall issue Public and Private Improvement Permits, as appropriate, following approval of the final plat or posting of a performance bond in accordance with § 5-2.

5-3-2. **Construction Contracts.** Prior to the start of construction of any required improvements, the petitioner shall furnish to the Town Engineer a copy of the specifications included in any contract entered into by the petitioner for such construction.

Attachment: ZTA-2024-01 TB letter packet 100124 (RES-2024-774 : Local Law Amending Chapter 204 - Subdivision Regulations)

5-3-3. **Modification of Design of Improvements.** If at any time before or during the construction of the required public improvements it is demonstrated to the satisfaction of the Town Engineer that unforeseen conditions make it necessary or preferable to modify the location or design of such required improvements, the Town Engineer, in consultation with the Highway Superintendent and Planning Director, may authorize such modifications upon written request of the petitioner, provided such modifications are within the spirit and intent of the approved final plat approval and do not amount to the waiver or substantial alteration of the function of any improvement required by the Town. The Town Engineer shall issue any authorization under this Section in writing and shall transmit a copy of such authorization to the Planning Director.

§ 5-4. Inspection of Improvements

5-4-1. **Supervision of Construction.** The construction of all required improvements shall be supervised by a registered professional engineer employed by the Town of Amherst at the expense of the petitioner. After completion of construction, the supervising engineer shall certify to the Town Engineer that all required improvements have been constructed as required and approved by the Board or as such requirements have been modified by the Town Engineer. In addition, after completion of construction, the supervising engineer shall submit a certified plan showing all improvements as constructed, in the same detail as required for the Public and Private Improvement Permit drawings.

5-4-2. **Inspection by the Town.** The Town Engineer or designee shall inspect required improvements during construction to assure their satisfactory completion.

5-4-3. **Notification.** The petitioner shall notify the Town at least five days prior to the start of construction or installation of any improvement and at least 24 hours prior to the completion of such improvements.

5-4-4. **Fees.** All costs of inspection shall be charged to the petitioner at the issuance of a Public and Private Improvement Permit.

5-4-5. **Petitioner Responsible.**

A. If the Town Engineer finds, upon inspection, that any of the required improvements have not been constructed in accordance with the approved plans and specifications filed by the petitioner, he or she shall so report to the Town Board, Commissioner of Building, Zoning Enforcement Officer and Planning ~~Board~~Director. The Town Board shall then notify the petitioner and instruct the petitioner to correct any discrepancies. **[Amended 3-4-2019 by L.L. No. 7-2019]**

B. Failure to reject improvements shall not, in any way, prevent later rejection when such defects are discovered, or obligate the governing body to final acceptance.

§ 5-5. Maintenance Bond

The required improvements shall not be considered to be completed until the installation of the improvements has been approved and certified by the Town Engineer and a final as-built map has been submitted indicating the location of monuments marking all underground utilities as actually installed. In addition, a two-year maintenance bond for all required improvements shall be submitted prior to acceptance of all the improvements by the Town Engineer and issuance of a Public and Private Improvement Permit. A maintenance bond shall be in the amount of 25 percent of the construction cost for each utility.

Attachment: ZTA-2024-01 TB letter packet 100124 (RES-2024-774 : Local Law Amending Chapter 204 - Subdivision Regulations)

Section 6. Effective Date

This Local Law shall take effect immediately and be filed in the Office of the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law and published pursuant to Section 130 of the Town Law and Chapter 28 of the Code of the Town of Amherst.

Francina J. Spoth
Town Clerk
Town of Amherst
County of Erie, New York

Attachment: ZTA-2024-01 TB letter packet 100124 (RES-2024-774 : Local Law Amending Chapter 204 - Subdivision Regulations)

The Planning Board offers the following findings consistent with Section 4-8 of the Subdivision Regulations.

INTENT AND OBJECTIVES OF THE COMPREHENSIVE PLAN

The proposed changes are consistent with the goals established in chapter 3.2 of the Town of Amherst Bicentennial Comprehensive Plan which seeks to improve the predictability and consistency of the development review and decision-making process .

INTENT AND OBJECTIVES OF THE SUBDIVISION REGULATIONS

The request is consistent with the purpose and intent of the subdivision regulations which seek to regulate the future growth and development of the Town and to afford adequate facilities for the housing, transportation, distribution, comfort, convenience, safety, health and welfare of its population by regulating the development of residential subdivision pursuant to the authority set forth in Town Law §271 and §276.

RECOMMENDATION

The Planning Board recommends that your Honorable Body concur with their findings to approve the proposed amendments.

The Planning Department requests that if the Town Board desires to act on the amendments to the to the subdivision regulations, that a decision date be established after the public hearing so that the Planning Department can prepare a SEQR Determination of Environmental Significance and a resolution for the Town Board's consideration.

Very truly yours,

Daniel C. Howard, AICP
Planning Director

DH/SM/ac
Att.
X:\Current_Planning\Files\Text Amendments\ZTA-2024\ZTA-2024-01_(Chapter_204_Subdivision_Regulations)\ZTA-2024-01_Town_Board_Letter_10_01_2024.docx
cc: Samuel Alba, Town Attorney

Planning Board Approval August 27, 2024
Ayes: 4, Noes: 0, Absent:3 (Davis, Giuliani, Penberthy)

Attachment: ZTA-2024-01 TB letter packet 100124 (RES-2024-774 : Local Law Amending Chapter 204 - Subdivision Regulations)

TOWN OF AMHERST
PLANNING BOARD
ZONING TEXT AMENDMENTS
ZTA-2024-01

PETITIONER
Town of Amherst
5583 Main Street
Williamsville, NY 14221

AUG 29 2024 PM2

WHEREAS the Town of Amherst Planning Board on Tuesday August 27, 2024 held a public hearing on the proposed amendments to Chapter 204 of the Town Code (Subdivision Regulations), and

WHEREAS the Planning Board has reviewed materials regarding the text amendment proposal, and

WHEREAS the materials have been referred to the Town's various review agencies, and

WHEREAS per Section 204-4-8 of the Town Code, the Planning Board finds that:

1. The proposed text amendments are consistent with the remainder of Chapter 204.
2. The proposed text amendments do not present a new idea not considered in the existing Ordinance, or a revision necessitated by changing circumstances over time.
3. The proposed text amendments do not correct an error in the Ordinance.
4. The proposed text amendments do not revise the Ordinance to comply with state or federal statutes or case law.
5. The proposed text amendments advance the public health, safety or welfare of the community.
6. The proposed text amendment is generally consistent with the policies of the Comprehensive Plan.

NOW THEREFORE BE IT RESOLVED that the Planning Board recommends to the Town Board in accordance with Chapter 204, Section 4-8 of the Subdivision Regulations, that the request be approved.

The foregoing resolution was adopted by the Town of Amherst Planning Board, August 27, 2024; moved by Gill; seconded by Kahn; ayes 4; noes 0; absent 3 (Davis, Giuliani, Penberthy).

Michael J. Chmiel, Planning Board Chair

8/29/24
Date

DU/ac
X:\Current_Planning\Files\Text Amendments\ZTA-2024\ZTA-2024-01_(Chapter_204_Subdivision_Regulations)\ZTA-2024-01_resolution_082724.docx
cc: Traffic/Safety Coordinator
Commissioner of Building
Highway Superintendent
Town Engineer

Attachment: ZTA-2024-01 TB letter packet 100124 (RES-2024-774 : Local Law Amending Chapter 204 - Subdivision Regulations)

TOWN OF AMHERST PLANNING DEPARTMENT

Zoning & Subdivision Text Amendment Application

File # ZTA-2024-01

1. Zoning Ordinance Text Amendment ☐
2. Subdivision Regulations Text Amendment ☒

PETITIONER:

- ☐ Town Board
- ☐ Planning Board
- ☐ Zoning Board of Appeals
- ☐ Commissioner of Building
- ☐ Planning Director
- ☒ Zoning Enforcement Officer

Sections Proposed to be Amended: (Attach sheets as necessary.)

Chapter 204: Subdivision Regulations Parts 1 – 5

Description of Amendments: (Attached sheets as necessary.)

Revisions to Part 2 Definitions,
Part 3 Design Standards, and
Part 4 Subdivision Classification

Materials Received by Planning Department

RECEIVED BY 5/28/2024 DATE

Materials Filed with Town Clerk

ACCEPTED BY DATE

X:\Current_Planning\Application Forms 2019\Zoning or Subdivision Text Amend App 2022.doc

Attachment: ZTA-2024-01 TB letter packet 100124 (RES-2024-774 : Local Law Amending Chapter 204 - Subdivision Regulations)

Full Environmental Assessment Form
Part 1 - Project and Setting

Instructions for Completing Part 1

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

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

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

A. Project and Applicant/Sponsor Information.

Name of Action or Project: Town of Amherst Chapter 204 Subdivision Regulation Amendments		
Project Location (describe, and attach a general location map): Town-wide		
Brief Description of Proposed Action (include purpose or need): Proposed amendments to Chapter 204 (Subdivision Regulations) of the Code of the Town of Amherst		
Name of Applicant/Sponsor: Town of Amherst, New York	Telephone: 716-631-7051 E-Mail:	
Address: 5583 Main Street		
City/PO: Williamsville	State: NY	Zip Code: 14221
Project Contact (if not same as sponsor; give name and title/role): Daniel J. Ulatowski, AICP, Assistant Planning Director/ZEO	Telephone: 716-631-7051 E-Mail: dulatowski@amherst.ny.us	
Address: 5583 Main Street		
City/PO: Williamsville	State: NY	Zip Code: 14221
Property Owner (if not same as sponsor):	Telephone: E-Mail:	
Address:		
City/PO:	State:	Zip Code:

Attachment: ZTA-2024-01 TB letter packet 100124 (RES-2024-774 : Local Law Amending Chapter 204 - Subdivision Regulations)

B. Government Approvals

B. Government Approvals, Funding, or Sponsorship. ("Funding" includes grants, loans, tax relief, and any other forms of financial assistance.)		
Government Entity	**If Yes: Identify Agency and Approval(s) Required**	**Application Date (Actual or projected)**
a. City Counsel, Town Board, or Village Board of Trustees ☑Yes ☐No	Town Board Approval	July 8, 2024
b. City, Town or Village Planning Board or Commission ☑Yes ☐No	Planning Board Recommendation	June 24, 2024
c. City, Town or Village Zoning Board of Appeals ☐Yes ☐No		
d. Other local agencies ☐Yes ☐No		
e. County agencies ☑Yes ☐No	239M GML	May 28, 2024
f. Regional agencies ☐Yes ☑No		
g. State agencies ☑Yes ☐No	NYSDEC	May 28, 2024
h. Federal agencies ☐Yes ☑No		

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

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

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

C. Planning and Zoning

C.1. Planning and zoning actions.

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

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

C.2. Adopted land use plans.

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

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

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

If Yes, identify the plan(s):

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

If Yes, identify the plan(s):

the subdivision regulations apply to the entire community.

Attachment: ZTA-2024-01 TB letter packet 100124 (RES-2024-774 : Local Law Amending Chapter 204 - Subdivision Regulations)

C.3. Zoning

a. Is the site of the proposed action located in a municipality with an adopted zoning law or ordinance. ☑ Yes ☐ No
If Yes, what is the zoning classification(s) including any applicable overlay district?
the subdivision regulations affect the entire community and is applicable in every zoning district.

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

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

C.4. Existing community services. N/A - The subdivision regulations affect the entire community.

a. In what school district is the project site located? _____

b. What police or other public protection forces serve the project site?

c. Which fire protection and emergency medical services serve the project site?

d. What parks serve the project site?

D. Project Details

D.1. Proposed and Potential Development

a. What is the general nature of the proposed action (e.g., residential, industrial, commercial, recreational; if mixed, include all components)?

b. 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

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

d. Is the proposed action a subdivision, or does it include a subdivision? ☐ Yes ☐ No
If Yes,
i. Purpose or type of subdivision? (e.g., residential, industrial, commercial; if mixed, specify types)

ii. Is a cluster/conservation layout proposed? ☐ Yes ☐ No
iii. Number of lots proposed? _____
iv. Minimum and maximum proposed lot sizes? Minimum _____ Maximum _____

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

Attachment: ZTA-2024-01 TB letter packet 100124 (RES-2024-774 : Local Law Amending Chapter 204 - Subdivision Regulations)

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

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

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

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

D.2. Project Operations

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

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

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

Attachment: ZTA-2024-01 TB letter packet 100124 (RES-2024-774 : Local Law Amending Chapter 204 - Subdivision Regulations)

ii. Describe how the proposed action would affect that waterbody or wetland, e.g. excavation, fill, placement of structures, or alteration of channels, banks and shorelines. Indicate extent of activities, alterations and additions in square feet or acres:

_____

_____

_____

_____

iii. Will the proposed action cause or result in disturbance to bottom sediments? ☐Yes ☐No

If Yes, describe: _____

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

If Yes:

- acres of aquatic vegetation proposed to be removed: _____
- expected acreage of aquatic vegetation remaining after project completion: _____
- purpose of proposed removal (e.g. beach clearing, invasive species control, boat access): _____

_____

- proposed method of plant removal: _____
- if chemical/herbicide treatment will be used, specify product(s): _____

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

_____

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

If Yes:

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

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

If Yes:

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

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

If Yes:

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

_____

- Source(s) of supply for the district: _____

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

If, Yes:

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

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

_____

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

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

If Yes:

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

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

_____

_____

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

If Yes:

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

Attachment: ZTA-2024-01 TB letter packet 100124 (RES-2024-774 : Local Law Amending Chapter 204 - Subdivision Regulations)

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

If Yes:

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

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

If Yes:

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

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

_____

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

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

If Yes:

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

_____ Square feet or _____ acres (impervious surface)

_____ Square feet or _____ acres (parcel size)

ii. Describe types of new point sources. _____

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

_____

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

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

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

If Yes, identify:

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

_____

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

_____

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

_____

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

If Yes:

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

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

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

Attachment: ZTA-2024-01 TB letter packet 100124 (RES-2024-774 : Local Law Amending Chapter 204 - Subdivision Regulations)

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

If Yes:

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

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

_____

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

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

_____

_____

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

If Yes:

i. When is the peak traffic expected (Check all that apply): ☐Morning ☐Evening ☐Weekend

☐Randomly between hours of _____ to _____.

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

_____

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

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

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

_____

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

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

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

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

If Yes:

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

_____

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

_____

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

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

i. During Construction:

- Monday - Friday: _____
- Saturday: _____
- Sunday: _____
- Holidays: _____

ii. During Operations:

- Monday - Friday: _____
- Saturday: _____
- Sunday: _____
- Holidays: _____

Attachment: ZTA-2024-01 TB letter packet 100124 (RES-2024-774 : Local Law Amending Chapter 204 - Subdivision Regulations)

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

If yes:

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

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

Describe:

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

If yes:

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

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

Describe:

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

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

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

If Yes:

i. Product(s) to be stored

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

iii. Generally, describe the proposed storage facilities:

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

If Yes:

i. Describe proposed treatment(s):

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

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

If Yes:

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

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

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

- Construction:
- Operation:

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

- Construction:
- Operation:

Attachment: ZTA-2024-01 TB letter packet 100124 (RES-2024-774 : Local Law Amending Chapter 204 - Subdivision Regulations)

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

If Yes:

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

ii. Anticipated rate of disposal/processing:

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

iii. If landfill, anticipated site life: _____ years

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

If Yes:

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

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

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

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

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

If Yes: provide name and location of facility: _____

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

E. Site and Setting of Proposed Action

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

a. Existing land uses.

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

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

ii. If mix of uses, generally describe:

b. Land uses and covertypes on the project site.

Land use or Covertype	Current Acreage	Acreage After Project Completion	Change (Acres +/-)
• Roads, buildings, and other paved or impervious surfaces			
• Forested			
• Meadows, grasslands or brushlands (non-agricultural, including abandoned agricultural)			
• Agricultural (includes active orchards, field, greenhouse etc.)			
• Surface water features (lakes, ponds, streams, rivers, etc.)			
• Wetlands (freshwater or tidal)			
• Non-vegetated (bare rock, earth or fill)			
• Other Describe: _____			

Attachment: ZTA-2024-01 TB letter packet 100124 (RES-2024-774 : Local Law Amending Chapter 204 - Subdivision Regulations)

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

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

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

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

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

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

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

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

h. Potential contamination history. Has there been a reported spill at the proposed project site, or have any remedial actions been conducted at or adjacent to the proposed site? ☐Yes☐ No
If Yes:
i. Is any portion of the site listed on the NYSDEC Spills Incidents database or Environmental Site Remediation database? Check all that apply: ☐Yes☐No
☐ Yes – Spills Incidents database — Provide DEC ID number(s): _____
☐ Yes – Environmental Site Remediation database — Provide DEC ID number(s): _____
☐ Neither database

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

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

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

Attachment: ZTA-2024-01 TB letter packet 100124 (RES-2024-774 : Local Law Amending Chapter 204 - Subdivision Regulations)

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

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

E.2. Natural Resources On or Near Project Site

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

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

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

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

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

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

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

h. Surface water features.

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

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

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

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

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

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

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

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

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

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

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

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

i. Name of aquifer: _____

Attachment: ZTA-2024-01 TB letter packet 100124 (RES-2024-774 : Local Law Amending Chapter 204 - Subdivision Regulations)

m. Identify the predominant wildlife species that occupy or use the project site: _____

n. Does the project site contain a designated significant natural community? ☐Yes ☐No

If Yes:

i. Describe the habitat/community (composition, function, and basis for designation): _____

ii. Source(s) of description or evaluation: _____

iii. Extent of community/habitat:

- Currently: _____ acres
- Following completion of project as proposed: _____ acres
- Gain or loss (indicate + or -): _____ acres

o. Does project site contain any species of plant or animal that is listed by the federal government or NYS as endangered or threatened, or does it contain any areas identified as habitat for an endangered or threatened species? ☐Yes ☐No

If Yes:

i. Species and listing (endangered or threatened): _____

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

If Yes:

i. Species and listing: _____

q. Is the project site or adjoining area currently used for hunting, trapping, fishing or shell fishing? ☐Yes ☐No

If yes, give a brief description of how the proposed action may affect that use: _____

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

a. Is the project site, or any portion of it, located in a designated agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304? ☐Yes ☐No

If Yes, provide county plus district name/number: _____

b. Are agricultural lands consisting of highly productive soils present? ☐Yes ☐No

i. If Yes: acreage(s) on project site? _____

ii. Source(s) of soil rating(s): _____

c. Does the project site contain all or part of, or is it substantially contiguous to, a registered National Natural Landmark? ☐Yes ☐No

If Yes:

i. Nature of the natural landmark: ☐ Biological Community ☐ Geological Feature

ii. Provide brief description of landmark, including values behind designation and approximate size/extent: _____

d. Is the project site located in or does it adjoin a state listed Critical Environmental Area? ☐Yes ☐No

If Yes:

i. CEA name: _____

ii. Basis for designation: _____

iii. Designating agency and date: _____

Attachment: ZTA-2024-01 TB letter packet 100124 (RES-2024-774 : Local Law Amending Chapter 204 - Subdivision Regulations)

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

If Yes:

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

ii. Name: _____

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

_____

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

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

If Yes:

i. Describe possible resource(s): _____

ii. Basis for identification: _____

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

If Yes:

i. Identify resource: _____

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

iii. Distance between project and resource: _____ miles.

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

If Yes:

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

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

F. Additional Information

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

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

G. Verification

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

Applicant/Sponsor Name Daniel J. Ulatowski, AICP Date 05/24/2024

Signature _____ Title Assistant Planning Director/ZEO

PRINT FORM

Attachment: ZTA-2024-01 TB letter packet 100124 (RES-2024-774 : Local Law Amending Chapter 204 - Subdivision Regulations)

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

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

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

RECEIVED
JUN 12 2024
TOWN OF AMHERST
PLANNING DEPT.

DATE: June 10, 2024

TO: Planning Department

FROM: Doug Gesel Supervising Code Enforcement Officer

RE: Amend §204 of Town Code, Subdivision of Land, ZTA 2024-01

☐: ☐ Subdivision is: ☐ ODA is: ☐ CSP is:

☐ Approved as Submitted

☒ Approved with the following conditions or changes:

3-2-4 Specific design Guidelines:

(5) Narrow Residential Streets (a) Minimum ROW 449.5' (this is incorrect I believe.)

☐ Denied for the following reasons:

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

☐ Not applicable to this department at this time.

NOTE:

☐ Floodplain Development Permit required.

☐ Wetlands on property.

☐

*This review was for site compliance by the Building Department only.
* Final approval will come from the Planning Department
*Approval does not grant permission to start construction.

Douglas Gesel

Supervising Code Enforcement Officer
Town of Amherst Building Department

Attachment: ZTA-2024-01 TB letter packet 100124 (RES-2024-774 : Local Law Amending Chapter 204 - Subdivision Regulations)

SITE PLAN OR ZONING REFERRAL TO COUNTY OF ERIE, NY AND REPLY TO MUNICIPALITY

Note: Please complete and send one copy with attachments to Erie County Division of Planning, Room 1053, 95 Franklin Street, Buffalo, N.Y. 14202. Retain a copy for your files.

DO NOT WRITE IN THIS SPACE

Case No.: M617-24-367

Received: 5/30/2024

The proposed action described herein is referred in accordance with the provisions of the General Municipal Law, which provides that if no reply is received in 30 days after receipt of full information including a SEQR EAF if applicable, the municipal agency may take final action without considering such reply. If, however, reply is received at any time prior to municipal action, such reply must be considered.

Description of Proposed Action

1. Name of Municipality: Town of Amherst

2. Hearing Schedule: **Date** 06/25/2024 **Time** 6:30PM **Location** 5583 Main Street

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

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

☐ Site Plan ☐ Variance ☐ Special Use Permit ☐ Other

5. Location of Property: ☒ Entire Municipality ☐ Specific as follows:

6. Referral required as Site is within 500'of: ☐ State or County Property/Institution ☒ Municipal Boundary ☐ Farm Operation located in an Agricultural District

☐ Expressway ☐ County Road ☐ State Highway ☐ Proposed State or County Road, Property, Building/ Institution, Drainageway

7. Proposed change or use: Proposed amendments to Chapter 204 (Subdivision Regulations) of the Amherst Town Code.

8. Other remarks: (ID#, SBL#, etc.)

9. Submitted by: Daniel J. Ulatowski, AICP, Asst. Planning Director **Date:** 05/28/2024

Mailing Address: 5583 Main Street, Williamsville, New York 14221

Reply to Municipality by Erie County Division of Planning

Receipt of the above-described proposed action is acknowledged on 5/30/2024. **The Division herewith submits its review and reply under the provisions of applicable state and local law, based on the information submitted with this referral.**

1. ☐ **The proposed action is not subject to review under the law.**
2. ☐ **Form ZR-3, Comment on Proposed Action is attached hereto.**
3. ☐ **The proposed action is subject to review; the Division makes the recommendation shown on Form ZR-4, Recommendation on Proposed Action, which is attached hereto.**
4. ☒ **No recommendation; proposed action has been reviewed and determined to be of local concern**

By the Division of Planning: Dan M. Hall **Date:** 7/5/2024

Attachment: ZTA-2024-01 TB letter packet 100124 (RES-2024-774 : Local Law Amending Chapter 204 - Subdivision Regulations)

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

Francina J. Spoth
Town Clerk

Meeting: 12/02/24 07:00 PM
Department: Town Clerk
Initiated by: **Timothy Koller**
Co-Sponsored by:

DOC ID: 29636 **RESOLUTION 2024-900** **DECISION DATE**

Special Use Permit for Tier III Solar Energy System at 1050 New Road

Public hearing regarding the construction of a Tier III Solar Energy System at 1050 New Road.

11/12/2024
A motion to open the public hearing was made by Supervisor Kulpa, seconded by Councilmember Berger and unanimously approved 3-0. The public hearing was opened at 7:55 PM.

Attorney Matt Dubois presented.

The following residents spoke:
Richard Steen, 3271 Hopkins Rd
Mary Phillians, 1065 New Rd
Vincent Phillians, 1065 New Rd
Rebecca York, 1105 New Rd
Don Smith, 201 N Long St
Matt Plunkett, 299 Northill Dr

There were no further speakers from the public, therefore Supervisor Kulpa moved to adjourn the hearing until the December 2nd Town Board meeting, seconded by Councilmember Berger and unanimously approved 3-0. The public hearing was adjourned at 8:31 PM.

12/2/2024
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 7:05 PM.

Attorney Jeff Palumbo presented.

The following residents spoke:
Sara Schultz, 126 N. Cayuga Rd
Janet Lenichek, 6 Millrace Rd
Matt Plunkett, 299 Northill Dr
Jonathan Rich, 210 Smith Rd

There were no further speakers from the public, therefore Supervisor Kulpa moved to close the hearing and set a decision date for the December 16th Town Board meeting, seconded by Councilmember Szukala and unanimously approved 5-0. The public hearing was closed at 7:25 PM

RESULT:	**DECISION DATE [UNANIMOUS]**	**Next: 12/16/2024 7:00 PM**
MOVER:	Brian J. Kulpa, Supervisor	
SECONDER:	Michael Szukala, Councilmember	
AYES:	Kulpa, Lavin, Berger, Szukala, Marinucci	

Amherst

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

Brian J. Kulpa
Supervisor

Daniel C. Howard, A
Planning Direct

Daniel J. Ulatowski, A
Assistant Planning Di

Town Board Agenda of November 12, 2024

November 6, 2024

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

Subject: Request for a Special Use Permit for a Tier III Solar Energy System; property located at 1050 New Road, NED-New Energy Solar 8, LLC, Petitioner. (SP-2023-09).

Honorable Members:

The project consists of the construction of a Tier III Solar Energy System (4.38 Mw of power) that includes an access road, the solar array equipment and associated pads that are interior to the site. The array will be located on 21.9 ± acres of the total 42.8 ± acre parcel of land. A fence will surround the entire project site and vegetative screening will be used along all property lines to conceal the array.

The subject property has 730.85± feet of frontage, is a 42.8 ± acre rectangular parcel located on the west side of New Road approximately 2,797 ± feet north of its intersection with Millersport Highway. The subject site is vacant and has been previously used for agricultural activities and has scattered trees around the periphery of the site. The site includes a Federal Jurisdictional Wetland area and is located within the 100-Year Floodplain. New Road is an Erie County roadway, classified as a collector roadway in Figure 9 of the Bicentennial Comprehensive Plan.

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

HISTORY OF PREVIOUS REZONING REQUESTS / SITE PLAN ACTIONS:

Rezoning:

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

Site Plans:

None.

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

Attachment: SP-2023-09 SUP TB letter packet 111224 (RES-2024-900 : Special Use Permit for Tier III Solar Energy System at 1050 New Road)

Honorable Town Board

Request for a Special Use Permit;
Property located at 1050 New Road
Agenda of November 12, 2024

INTENT AND OBJECTIVES OF THE COMPREHENSIVE PLAN

Section 3.3.8 of the Bicentennial Comprehensive Plan states:

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

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

The applicant still must commit to a form of co-agricultural use he/she will be practicing on site, and should be a condition of the special use permit approval. Additionally, a performance bond to guarantee the future decommissioning must be provided and should also be included as a condition.

Section 4-7 of the Bicentennial Comprehensive Plan states:

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

Preserve natural vegetation and institute clearing limits for new construction.

The subject parcel contains 26.01± acres of federal jurisdictional wetlands. The project will impact 0.047± acres of these wetlands which is covered under a U.S. Army Corps of Engineers (USACOE) Nationwide Permit as its impacts will be under 0.1 acres. The applicant must notify the USACOE if he/she intends to disturb greater than 0.1 acres.

INTENT AND OBJECTIVES OF THE ZONING ORDINANCE

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

CONSISTENCY/COMPATIBILITY WITH SURROUNDING DEVELOPMENT/ZONING

The project is located in the Suburban Agriculture (SA) zoning district; neighboring uses are single family residential on the east, north, and south zoned SA. Land to the west is zoned SA and being used for agricultural purposes. The project is consistent with surrounding land use and zoning designations.

ADEQUATE SERVICES AND UTILITIES

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

Attachment: SP-2023-09 SUP TB letter packet 111224 (RES-2024-900 : Special Use Permit for Tier III Solar Energy System at 1050 New Road)

Honorable Town Board

Request for a Special Use Permit;
Property located at 1050 New Road
Agenda of November 12, 2024

As required in §203-6-10-7 B 3 (d) (5) the applicant has provided confirmation from National Grid for establishment of interconnection to the grid. The applicant has also submitted an Operations and Maintenance Plan that outlines the responsibilities of the applicant or their contractor for maintaining each component of the system in working condition on a regular basis including inspections on an annual or semi-annual schedule. The Operations and Maintenance Plan also outlines applicable safety requirements for the maintenance of the system.

RECOMMENDATION

The Planning Board at their meeting of June 25, 2024 held a public hearing and approved a site plan for the subject request, and pursuant to Local Law #3-82, as amended, made a determination that the requirements of SEQR have been completed and issued a Negative Declaration for the subject site plan.

Tier III Solar Energy Systems are a permitted use subject to the issuance of a Special Use Permit by the Town Board pursuant to §203-8-6-1D of Town Code. The petitioner has met with the Amherst IDA to discuss terms of a P.I.L.O.T. Agreement and a Community Benefit Agreement, which is scheduled to be heard by their board on November 8, 2024.

The Planning Department requests that if the Town Board desires to act on the Special Use Permit request, that a decision date be established after the public hearing so that the Planning Department can prepare a determination of environmental significance pursuant to SEQR, and prepare a resolution for the Town Board's consideration.

Very truly yours,

Daniel C. Howard, AICP
Planning Director

DH/SM/ac
Att.
X:\Current_Planning\Files\Site Plans\2023\SP-2023-09_(1050_New_Rd)_2023\Special Use Permit\SP-2023-09_SUP_TB_Letter.docx
cc: Sam Alba, Town Attorney
Jeffrey D. Palumbo, Block, Longo, LaMarca & Brezinski, PC, 9276 Main St., Ste. 3, Clarence, NY 14031
Chris Wood, Carmina Wood Design, 80 Silo City Row, Buffalo, NY 14203

Planning Board Approval June 25, 2024
Ayes 4; Noes 0; Absent 3 (Chmiel, Penberthy, Raffaele)

Attachment: SP-2023-09 SUP TB letter packet 111224 (RES-2024-900 : Special Use Permit for Tier III Solar Energy System at 1050 New Road)

TOWN OF AMHERST
PLANNING BOARD
SITE PLAN RESOLUTION
SP-2023-09

PETITIONER

NED – New Energy Solar 8 LLC
166 Taylor Drive
Depew, NY 14043

PROPERTY LOCATION

1050 New Road

JUN 28 2024 AM11:

WHEREAS, the Town of Amherst Planning Board on Tuesday, June 25, 2024 held a public hearing on a Site Plan for a 21.9± acre solar panel farm and 3 single family residential lots, and

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

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

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

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

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

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

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

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

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

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

NOW THEREFORE BE IT FURTHER RESOLOVED that the Planning Board, in accordance with Part II, Chapter 83, Part IX, Section 1-2 of Town Law waives sidewalks required along the New Road frontage of the parcel until required at some future time by the Town Board, and

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

Attachment: SP-2023-09 SUP TB letter packet 111224 (RES-2024-900 : Special Use Permit for Tier III Solar Energy System at 1050 New Road)

TOWN OF AMHERST
PLANNING BOARD
SITE PLAN RESOLUTION
SP-2023-09

PETITIONER

NED – New Energy Solar 8 LLC

PROPERTY LOCATION

1050 New Road

JUN 28 2024 AM11:

1. That the consideration of signs is specifically excluded from this approval as they require a separate review and approval by the Town.
2. That all dumpsters/trash containers and all mechanical equipment, utility structures, multiple meter boards, generators, and similar appurtenances, including those which are mounted on any part of a primary structure shall be appropriately screened with a fence, wall, and/or landscaping. Provide gate on dumpster enclosure that shall be closed whenever dumpster is not being serviced, enclosure shall be high enough to screen the dumpster(s) within.
3. That as-built record drawings, including location of utilities, be provided to the Engineering Department prior to issuance of a Certificate of Occupancy by the Building Department.
4. That the requirements of the Zoning Enforcement Officer, Planning Department and the Towns Landscape Architect in the Planning Department letter dated June 10, 2024 are addressed to the satisfaction of the department.
5. That the requirements in the Amherst Fire Chief's' Association letter dated May 15, 2024 are addressed to the satisfaction of the Association.
6. That the requirements of the Engineering Services Division letter dated May 7, 2024 are addressed to the satisfaction of the department.
7. That the requirements of the Traffic Safety Board letter dated May 7, 2024 are addressed to the satisfaction of that Board.
8. A special use permit be obtained.

The foregoing resolution was adopted by the Town of Amherst Planning Board, June 25, 2024; moved by Davis; seconded by Kahn; ayes 4; noes 0; absent 3 (Chmiel, Penberthy, Raffaele).

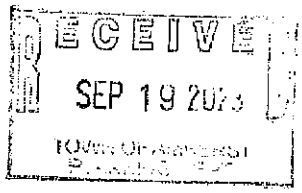
Caroline L Gill
for Michael J. Chmiel, Planning Board Chair

June 28, 2024
Date

JQ/ac
X:\Current_Planning\Files\Site Plans\2023\SP-2023-09_(1050_New_Rd)_2023\SP-2023-09_resolution_062524 .doc
cc: Commissioner of Building
Town Engineer
Fire Chiefs
Traffic/Safety
Highway Superintendent
Amherst IDA
ECDEP
NYSDOT
NYSDEC
Jeff Palumbo, Block Longo LaMarca & Brzezinski, 9276 Main Street, Clarence, NY 14031

Approved Plan: Carmina Wood Design
Received: June 21, 2024

Attachment: SP-2023-09 SUP TB letter packet 111224 (RES-2024-900 : Special Use Permit for Tier III Solar Energy System at 1050 New Road)



TOWN OF AMHERST PLANNING DEPARTMENT

Application for Major Site Plan Review

For Official Use

File #: SP-2023-09 **Acreage** 42.8± **Fee $** 29,565

Address Verified by Assessor's Office _____ VERIFIED BY _____ DATE

Materials Received by Planning Department TV RECEIVED BY 9/18/23 DATE

Fee Paid to Town Clerk _____ RECEIVED BY _____ DATE

Site Plan Review		**Fill In Applicable Fees**
1 acre or less	$1,250.00	✓
Each additional acre or fraction thereof	$ 650.00/acre	√42
Amendments to Site Plans	$1,200.00	
Request for Relief of / Change to Conditions of Site Plan Approval	$1,200.00	
Request for Extension of Site Plan Approval	$ 450.00	
Stormwater Pollution Prevention Plan		
1 - 4.99 Acres	$ 500.00	
5 - 10 Acres	$ 750.00	
>10 Acres	$1,000.00	✓
Affidavit Fee for Public Hearing	$ 15.00	✓
	TOTAL FEE:	$ 29,565

To Be Completed By Applicant

Petitioner:

Name: NED-NEW ENERGY SOLAR 8 LLC

Address: 166 Taylor Drive

Depew (city) NY (state) 14043 (zip code)

Phone: 716.683.2505 Fax: 716.427.6501

E Mail: pv@nedrenewables.com

Attachment: SP-2023-09 SUP TB letter packet 111224 (RES-2024-900 : Special Use Permit for Tier III Solar Energy System at 1050 New Road)

MAJOR SITE PLAN APPLICATION (con't)

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

Name: Peter J. Sorgi, Esq., Hopkins Sorgi & McCarthy PLLC (Project Attorney)

Address: 726 Main Street, Suite B

East Aurora (city) NY (state) 14052 (zip code)

Phone: 716.908.3289 Fax: 716.427.6501

E Mail: psorgi@hsmlegal.com

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

Address: 1050 New Road

Amherst, NY

SBL No(s): 16.00-2-10

Project Name: NED-NEW ENERGY SOLAR 8 LLC Tier III Solar Energy Project and 3-lot residential subdivision.

Project Description: This Project consists of: 1) a proposed Tier III Solar Energy Project on the rear approximately 39.6 acres of an approximately 42.8 acres site (actual solar project located to the rear 21.9 acres with 9.7 acres to remain vacant in middle of parcel) with a private driveway on New Road for access with the Solar Energy System size being 4.384 MW; and 2) a three-lot residential subdivision fronting upon New Road with lot sizes of 1.09 acres, 1.09 acres and 1.02 acres.

Attachment: SP-2023-09 SUP TB letter packet 111224 (RES-2024-900 : Special Use Permit for Tier III Solar Energy System at 1050 New Road)

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

Not Applicable

Gross Floor Area (non-residential):	0 existing	0 proposed	0 total
Gross Floor Area Residential:	0 existing	TBD proposed	TBD total
Number of Residential Units:	0 existing	3 proposed	0 total
Number of Parking Spaces:	0 existing	0 proposed	0 total

Acreage of Parcel: 1050 New Road: 42.8 acres

(list each parcel separately)

Frontage on Public Roads: 1050 New Road: 711 Feet

(list each road separately)

Existing Zoning District(s) Suburban Agriculture (SA)

Town of Amherst Planning Department, 5583 Main Street, Williamsville, NY 14221
(716) 631-7051; Fax: (716) 631-7153; Web: www.amherst.ny.us

Attachment: SP-2023-09 SUP TB letter packet 111224 (RES-2024-900 : Special Use Permit for Tier III Solar Energy System at 1050 New Road)

Special Use / Temporary Use / Administrative Appeal

Town of Amherst – Planning Department

Type of Request

- [x] Special Use Permit (SUP)
- [ ] Temporary Use Permit
- [ ] Appeal under Section 280-a(3) of NYS Town Law
- [ ] Telecommunications Facility (SUP)
- [ ] Type 2 Home Occupation (SUP)
- [ ] Dormitory, fraternity or sorority house (SUP)
- [ ] Auxiliary Housing Unit (SUP)
- [ ] Raising Chickens (SUP) Section 6-8-9
- [ ] Restricted Parking Lots (SUP) Section 7-1-9B(2)(b)
- [ ] Bed & Breakfast (SUP)
- [ ] Public Utility Service Structure or Facility (SUP)
- [ ] Administrative Appeal

Applicant Information

Property Owner Name(s): WCF Properties LLC

Phone Number: 716.432.7694 Email: maryandbillcroker@gmail.com

Address: 295 Hopkins Road City: Getzville State: NY Zip: 14068

Applicant Name(s): NED-NEW ENERGY SOLAR 8 LLC

Phone Number: 716.908.3289 Email: psorgi@hsmlegal.com

Address: 166 Taylor Drive City: Depew State: NY Zip: 14043

Property Information

Assessed Address: 1050 New Road

SBL No.: 16.00-2-10 Zoning District: Suburban Agriculture (SA)

- [x] I have the following conflicts pursuant to section 809 of the General Municipal Law as follows (see conflict disclosure on back of instruction page)

none

Office Use Only

The applicant is appealing the decision of the Zoning Enforcement Officer to not approve a

Not Applicable

TOWN CLERK USE
DATE:
TIME:
REC'D BY:

Appl. No.

Date Filed: Mtg. Date Accepted By:

Attachment: SP-2023-09 SUP TB letter packet 111224 (RES-2024-900 : Special Use Permit for Tier III Solar Energy System at 1050 New Road)

Special Use / Temporary Use / Administrative Appeal

Town of Amherst – Planning Department

Special Use /Appeal Request

A. **Justification for Special Use/Temporary Use.** Provide justification for why the special or temporary use is appropriate at the subject property (will be compatible with the existing uses adjacent and near the property; will not tend to depreciate the value of adjacent property; will not create a hazard to health, safety or the general welfare and why the use will not alter the essential character of the neighborhood) (attach additional sheets as necessary):

A special use permit is required for all Tier III Solar Energy Systems. The surrounging neighborhood consists of open space, agricultural uses and residences near the street. A Tier III Solar Energy Systems was recently approved by the Town at 800 & 850 New Road. This Project will located be to the rear of an approximately 42.8 acre parcel with screening to be determined during site plan process. There will be no depreciation of nearby property values and no hazard to the health, safety and general welfare will be created and essential charcter will not be altered.

B. **Justification for Appeal.** Describe in detail why you believe that any order, requirement, decision, interpretation or determination made by the Town's administrative official should be overturned (attach additional sheets is necessary):

Not Applicable.

Disclosure Affidavit

I maintain that the information provided in this application is true and accurate to the best of my knowledge:

Property owner or applicant name (print): NED-NEW ENERGY SOLAR 8 LLC

Property owner or applicant signature: _____

Date: 9.18.2023

■ If the applicant is not the property owner, has a letter of permission allowing the applicant to file this application been provided.

STATE OF NEW YORK COUNTY OF ERIE
On the day of in the year before me,
The above individual personally appeared, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she/they executed the same for the purposes therein stated.

WITNESS my hand and official seal:

Signature of NotaryPublic

Print Name

Office Use Only

☐ **SEQR is not required.** ☐ **239M is applicable** _____

☐ **The applicant is also seeking a** _____ **which is attached.**

Attachment: SP-2023-09 SUP TB letter packet 111224 (RES-2024-900 : Special Use Permit for Tier III Solar Energy System at 1050 New Road)

Full Environmental Assessment Form
Part 1 - Project and Setting

Instructions for Completing Part 1

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

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

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

A. Project and Applicant/Sponsor Information.

Name of Action or Project: Solar Energy Development and 3 Lot Residential Subdivision		
Project Location (describe, and attach a general location map): 1050 New Road, Amherst, NY 14228		
Brief Description of Proposed Action (include purpose or need): This Project consists of: 1) a proposed Tier III Solar Energy Project on the rear approximately 39.6 acres of an approximately 42.8 acres site (actual solar project located to rear 21.9 acres with 9.7 acres to remain vacant in middle of parcel) with a private driveway on New Road for access with the Solar Energy System size being 4.384 MW; and 2) a three-lot residential subdivision fronting upon New Road with lot sizes of 1.09 acres, 1.09 acres and 1.02 acres. Project is a Type 1 Action per SEQR because it constitutes the physical alteration of 10 or more acres.		
Name of Applicant/Sponsor: NED-NEW ENERGY SOLAR 8 LLC	Telephone: 716.683.2505 E-Mail: paul@NSTsolar.com	
Address: 166 Taylor Drive		
City/PO: Buffalo	State: NY	Zip Code: 14043
Project Contact (if not same as sponsor; give name and title/role): Peter J. Sorgi, Esq., Project Attorney	Telephone: 716.908.3289 E-Mail: psorgi@hsmlegal.com	
Address: 726 Main Street, Suite B		
City/PO: East Aurora	State: NY	Zip Code: 14052
Property Owner (if not same as sponsor): WCF Properties LLC	Telephone: 716.432.7694 E-Mail: maryandbillcroker@gmail.com	
Address: 295 Hopkins Road		
City/PO: Getzville	State: NY	Zip Code: 14068

Attachment: SP-2023-09 SUP TB letter packet 111224 (RES-2024-900 : Special Use Permit for Tier III Solar Energy System at 1050 New Road)

B. Government Approvals

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

Government Entity	If Yes: Identify Agency and Approval(s) Required	Application Date (Actual or projected)
a. City Counsel, Town Board, or Village Board of Trustees ☑Yes☐No	Amherst Town Board -- Special Use Permit	9/2023
b. City, Town or Village Planning Board or Commission ☐Yes☑No	Amherst Planning Board -- Site Plan	9/2023
c. City, Town or Village Zoning Board of Appeals ☐Yes☑No		
d. Other local agencies ☐Yes☑No	Amherst Planning Dept – subdivision Amherst Building Dept – building permit	9/2023 9/2023
e. County agencies ☐Yes☑No	Erie County -- Highway Work Permit Erie County -- Ag Data Statement	9/2023 9/2023
f. Regional agencies ☐Yes☑No		
g. State agencies ☑Yes☐No	NYSDEC – SPDES; NYSOPRHP – archeological	9/2023 9/2023
h. Federal agencies ☐Yes☑No	US Army Corps of Engineers -- wetlands	9/2023

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

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

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

C. Planning and Zoning

C.1. Planning and zoning actions.

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

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

C.2. Adopted land use plans.

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

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

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

If Yes, identify the plan(s):
NYS Heritage Areas:West Erie Canal Corridor

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

If Yes, identify the plan(s):

Attachment: SP-2023-09 SUP TB letter packet 111224 (RES-2024-900 : Special Use Permit for Tier III Solar Energy System at 1050 New Road)

C.3. Zoning

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

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

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

C.4. Existing community services.

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

b. What police or other public protection forces serve the project site?
Town of Amherst; Erie County Sheriff; NYS Police

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

d. What parks serve the project site?
Amherst Town Parks

D. Project Details

D.1. Proposed and Potential Development

a. What is the general nature of the proposed action (e.g., residential, industrial, commercial, recreational; if mixed, include all components)? Solar, residential

b. a. Total acreage of the site of the proposed action? 21.9 acres
b. Total acreage to be physically disturbed? 1.0 acres
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? 42.8 acres

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

d. Is the proposed action a subdivision, or does it include a subdivision? ☑ Yes ☐ No
If Yes,
i. Purpose or type of subdivision? (e.g., residential, industrial, commercial; if mixed, specify types)
Solar Tier 3 Array, residential
ii. Is a cluster/conservation layout proposed? ☐ Yes ☑ No
iii. Number of lots proposed? 4
iv. Minimum and maximum proposed lot sizes? Minimum 1.02 Ac Maximum 39.6 Ac

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

Attachment: SP-2023-09 SUP TB letter packet 111224 (RES-2024-900 : Special Use Permit for Tier III Solar Energy System at 1050 New Road)

f. Does the project include new residential uses? ☑ Yes ☐ No

If Yes, show numbers of units proposed.

	One Family	Two Family	Three Family	Multiple Family (four or more)
Initial Phase	3			
At completion of all phases	3			

g. Does the proposed action include new non-residential construction (including expansions)? ☑ Yes ☐ No

If Yes,

i. Total number of structures 0

ii. Dimensions (in feet) of largest proposed structure: _____ height; _____ width; and _____ length

iii. Approximate extent of building space to be heated or cooled: _____ square feet

h. Does the proposed action include construction or other activities that will result in the impoundment of any liquids, such as creation of a water supply, reservoir, pond, lake, waste lagoon or other storage? ☐ Yes ☑ No

If Yes,

i. Purpose of the impoundment: _____

ii. If a water impoundment, the principal source of the water: ☐ Ground water ☐ Surface water streams ☐ Other specify: _____

iii. If other than water, identify the type of impounded/contained liquids and their source.

_____

iv. Approximate size of the proposed impoundment. Volume: _____ million gallons; surface area: _____ acres

v. Dimensions of the proposed dam or impounding structure: _____ height; _____ length

vi. Construction method/materials for the proposed dam or impounding structure (e.g., earth fill, rock, wood, concrete):

_____

D.2. Project Operations

a. Does the proposed action include any excavation, mining, or dredging, during construction, operations, or both? (Not including general site preparation, grading or installation of utilities or foundations where all excavated materials will remain onsite) ☐ Yes ☑ No

If Yes:

i. What is the purpose of the excavation or dredging? _____

ii. How much material (including rock, earth, sediments, etc.) is proposed to be removed from the site?

- Volume (specify tons or cubic yards): _____
- Over what duration of time? _____

iii. Describe nature and characteristics of materials to be excavated or dredged, and plans to use, manage or dispose of them.

_____

_____

iv. Will there be onsite dewatering or processing of excavated materials? ☐ Yes ☐ No

If yes, describe. _____

_____

v. What is the total area to be dredged or excavated? _____ acres

vi. What is the maximum area to be worked at any one time? _____ acres

vii. What would be the maximum depth of excavation or dredging? _____ feet

viii. Will the excavation require blasting? ☐ Yes ☐ No

ix. Summarize site reclamation goals and plan: _____

_____

_____

b. Would the proposed action cause or result in alteration of, increase or decrease in size of, or encroachment into any existing wetland, waterbody, shoreline, beach or adjacent area? ☐ Yes ☑ No

If Yes:

i. Identify the wetland or waterbody which would be affected (by name, water index number, wetland map number or geographic description): _____

_____

Attachment: SP-2023-09 SUP TB letter packet 111224 (RES-2024-900 : Special Use Permit for Tier III Solar Energy System at 1050 New Road)

ii. Describe how the proposed action would affect that waterbody or wetland, e.g. excavation, fill, placement of structures, or alteration of channels, banks and shorelines. Indicate extent of activities, alterations and additions in square feet or acres:

_____

_____

_____

_____

iii. Will the proposed action cause or result in disturbance to bottom sediments? ☐Yes ☐No

If Yes, describe: _____

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

If Yes:

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

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

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

If Yes:

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

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

If Yes:

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

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

If Yes:

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

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

If, Yes:

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

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

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

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

If Yes:

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

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

_____

_____

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

If Yes:

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

Attachment: SP-2023-09 SUP TB letter packet 111224 (RES-2024-900 : Special Use Permit for Tier III Solar Energy System at 1050 New Road)

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

If Yes:

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

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

If Yes:

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

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

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

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

If Yes:

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

_____ Square feet or _____ acres (impervious surface)

_____ Square feet or _____ acres (parcel size)

ii. Describe types of new point sources. _____

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

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

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

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

If Yes, identify:

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

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

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

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

If Yes:

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

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

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

Attachment: SP-2023-09 SUP TB letter packet 111224 (RES-2024-900 : Special Use Permit for Tier III Solar Energy System at 1050 New Road)

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

If Yes:

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

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

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

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

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

If Yes:

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

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

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

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

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

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

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

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

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

If Yes:

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

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

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

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

i. During Construction:

- Monday - Friday: 7 AM - 7 PM
- Saturday: 7 AM - 7 PM
- Sunday: None
- Holidays: None

ii. During Operations:

- Monday - Friday: N/A
- Saturday: N/A
- Sunday: N/A
- Holidays: N/A

Attachment: SP-2023-09 SUP TB letter packet 111224 (RES-2024-900 : Special Use Permit for Tier III Solar Energy System at 1050 New Road)

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

If yes:

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

Typical construction noise during the hours listed in the previous item.

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

Describe: _____

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

If yes:

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

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

Describe: _____

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

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

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

If Yes:

i. Product(s) to be stored _____

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

iii. Generally, describe the proposed storage facilities: _____

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

If Yes:

i. Describe proposed treatment(s):

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

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

If Yes:

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

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

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

- Construction: _____
- Operation: _____

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

- Construction: _____
- Operation: _____

Attachment: SP-2023-09 SUP TB letter packet 111224 (RES-2024-900 : Special Use Permit for Tier III Solar Energy System at 1050 New Road)

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

If Yes:

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

ii. Anticipated rate of disposal/processing:

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

iii. If landfill, anticipated site life: _____ years

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

If Yes:

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

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

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

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

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

If Yes: provide name and location of facility: _____

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

E. Site and Setting of Proposed Action

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

a. Existing land uses.

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

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

ii. If mix of uses, generally describe:

b. Land uses and covertypes on the project site.

Land use or Covertype	Current Acreage	Acreage After Project Completion	Change (Acres +/-)
• Roads, buildings, and other paved or impervious surfaces	0	1.0	+1.0
• Forested			
• Meadows, grasslands or brushlands (non-agricultural, including abandoned agricultural)	0	37.8	+37.8
• Agricultural (includes active orchards, field, greenhouse etc.)	42.8	0	-42.8
• Surface water features (lakes, ponds, streams, rivers, etc.)			
• Wetlands (freshwater or tidal)			
• Non-vegetated (bare rock, earth or fill)			
• Other Describe: Residential Lots	0	3.2	+3.2

Attachment: SP-2023-09 SUP TB letter packet 111224 (RES-2024-900 : Special Use Permit for Tier III Solar Energy System at 1050 New Road)

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

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

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

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

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

ii. Describe the location of the project site relative to the boundaries of the solid waste management facility:
iii. Describe any development constraints due to the prior solid waste activities: _____

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

h. Potential contamination history. Has there been a reported spill at the proposed project site, or have any remedial actions been conducted at or adjacent to the proposed site? ☐ Yes ☑ No
If Yes:
i. Is any portion of the site listed on the NYSDEC Spills Incidents database or Environmental Site Remediation database? Check all that apply: ☐ Yes ☐ No
☐ Yes – Spills Incidents database — Provide DEC ID number(s): _____
☐ Yes – Environmental Site Remediation database — Provide DEC ID number(s): _____
☐ Neither database

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

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

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

Attachment: SP-2023-09 SUP TB letter packet 111224 (RES-2024-900 : Special Use Permit for Tier III Solar Energy System at 1050 New Road)

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

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

E.2. Natural Resources On or Near Project Site

a. What is the average depth to bedrock on the project site? > 5 feet

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

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

Chenango gravelly loam	20.2 %
Gelen very fine sandy loam	24.6 %
Williamson silt loam	20.8 %

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

e. Drainage status of project site soils:

☑ Well Drained:	80 % of site
☐ Moderately Well Drained:	% of site
☑ Poorly Drained	20 % of site

f. Approximate proportion of proposed action site with slopes:

☑ 0-10%:	100 % of site
☐ 10-15%:	% of site
☐ 15% or greater:	% of site

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

h. Surface water features.

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

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

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

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

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

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

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

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

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

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

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

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

i. Name of aquifer: _____

Attachment: SP-2023-09 SUP TB letter packet 111224 (RES-2024-900 : Special Use Permit for Tier III Solar Energy System at 1050 New Road)

m. Identify the predominant wildlife species that occupy or use the project site:

eastern gray squirrel | white-tailed deer | red fox
eastern cottontail | groundhog | other wildlife typically found in this area

n. Does the project site contain a designated significant natural community? ☐Yes ☑No

If Yes:

i. Describe the habitat/community (composition, function, and basis for designation): _____

ii. Source(s) of description or evaluation: _____

iii. Extent of community/habitat:

- Currently: _____ acres
- Following completion of project as proposed: _____ acres
- Gain or loss (indicate + or -): _____ acres

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

If Yes:

i. Species and listing (endangered or threatened): _____

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

If Yes:

i. Species and listing: _____

q. Is the project site or adjoining area currently used for hunting, trapping, fishing or shell fishing? ☐Yes ☑No

If yes, give a brief description of how the proposed action may affect that use: _____

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

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

If Yes, provide county plus district name/number: ERIE017

b. Are agricultural lands consisting of highly productive soils present? ☐Yes ☑No

i. If Yes: acreage(s) on project site? _____

ii. Source(s) of soil rating(s): _____

c. Does the project site contain all or part of, or is it substantially contiguous to, a registered National Natural Landmark? ☐Yes ☑No

If Yes:

i. Nature of the natural landmark: ☐ Biological Community ☐ Geological Feature

ii. Provide brief description of landmark, including values behind designation and approximate size/extent: _____

d. Is the project site located in or does it adjoin a state listed Critical Environmental Area? ☐Yes ☑No

If Yes:

i. CEA name: _____

ii. Basis for designation: _____

iii. Designating agency and date: _____

Attachment: SP-2023-09 SUP TB letter packet 111224 (RES-2024-900 : Special Use Permit for Tier III Solar Energy System at 1050 New Road)

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

If Yes:

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

ii. Name: _____

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

_____

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

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

If Yes:

i. Describe possible resource(s): _____

ii. Basis for identification: _____

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

If Yes:

i. Identify resource: _____

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

iii. Distance between project and resource: _____ miles.

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

If Yes:

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

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

F. Additional Information

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

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

G. Verification

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

Applicant/Sponsor Name NED-NEW ENERGY SOLAR 8 LLC Date 9.18.2023

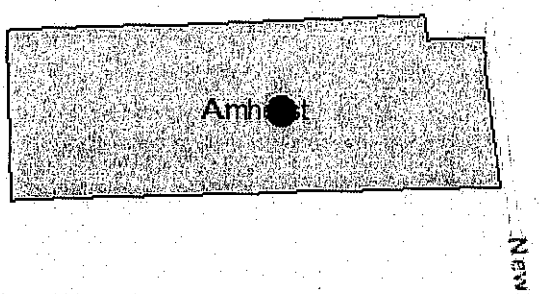
Signature P. Sj Peter J. Sorgi, Esq. Title Project Attorney

PRINT FORM

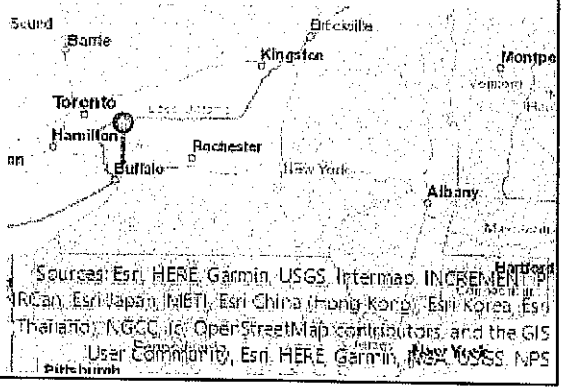
Attachment: SP-2023-09 SUP TB letter packet 111224 (RES-2024-900 : Special Use Permit for Tier III Solar Energy System at 1050 New Road)

EAF Mapper Summary Report

Tuesday, August 29, 2023 12:44 PM



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

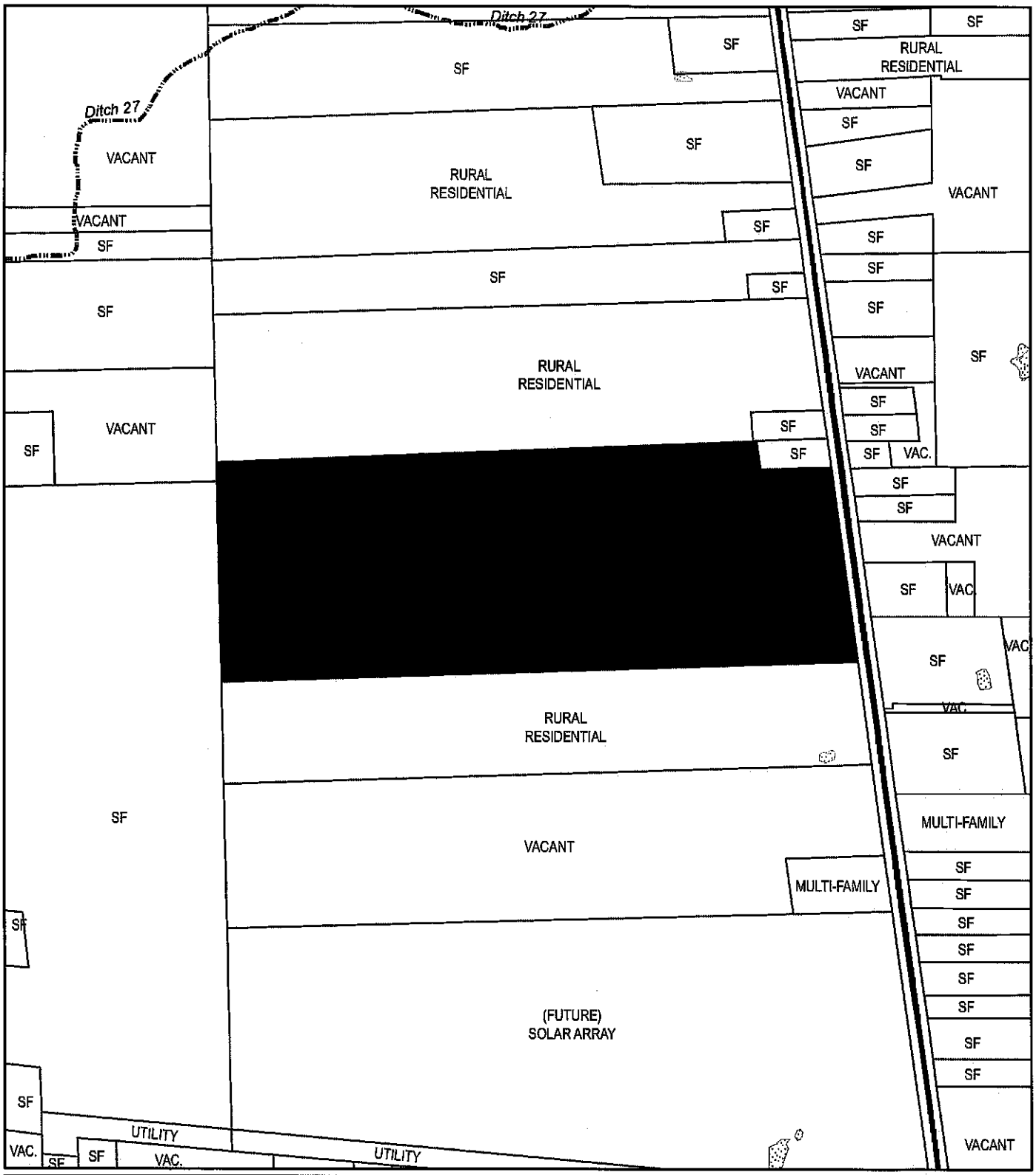


B.i.i [Coastal or Waterfront Area]	No
B.i.ii [Local Waterfront Revitalization Area]	No
C.2.b. [Special Planning District]	Yes - Digital mapping data are not available for all Special Planning Districts. Refer to EAF Workbook.
C.2.b. [Special Planning District - Name]	NYS Heritage Areas:West Erie Canal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

Attachment: SP-2023-09 SUP TB letter packet 111224 (RES-2024-900 : Special Use Permit for Tier III Solar Energy System at 1050 New Road)

E.2.o. [Endangered or Threatened Species]	No
E.2.p. [Rare Plants or Animals]	No
E.3.a. [Agricultural District]	Yes
E.3.a. [Agricultural District]	ERIE017
E.3.c. [National Natural Landmark]	No
E.3.d [Critical Environmental Area]	No
E.3.e. [National or State Register of Historic Places or State Eligible Sites]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.3.f. [Archeological Sites]	Yes
E.3.i. [Designated River Corridor]	No

Attachment: SP-2023-09 SUP TB letter packet 111224 (RES-2024-900 : Special Use Permit for Tier III Solar Energy System at 1050 New Road)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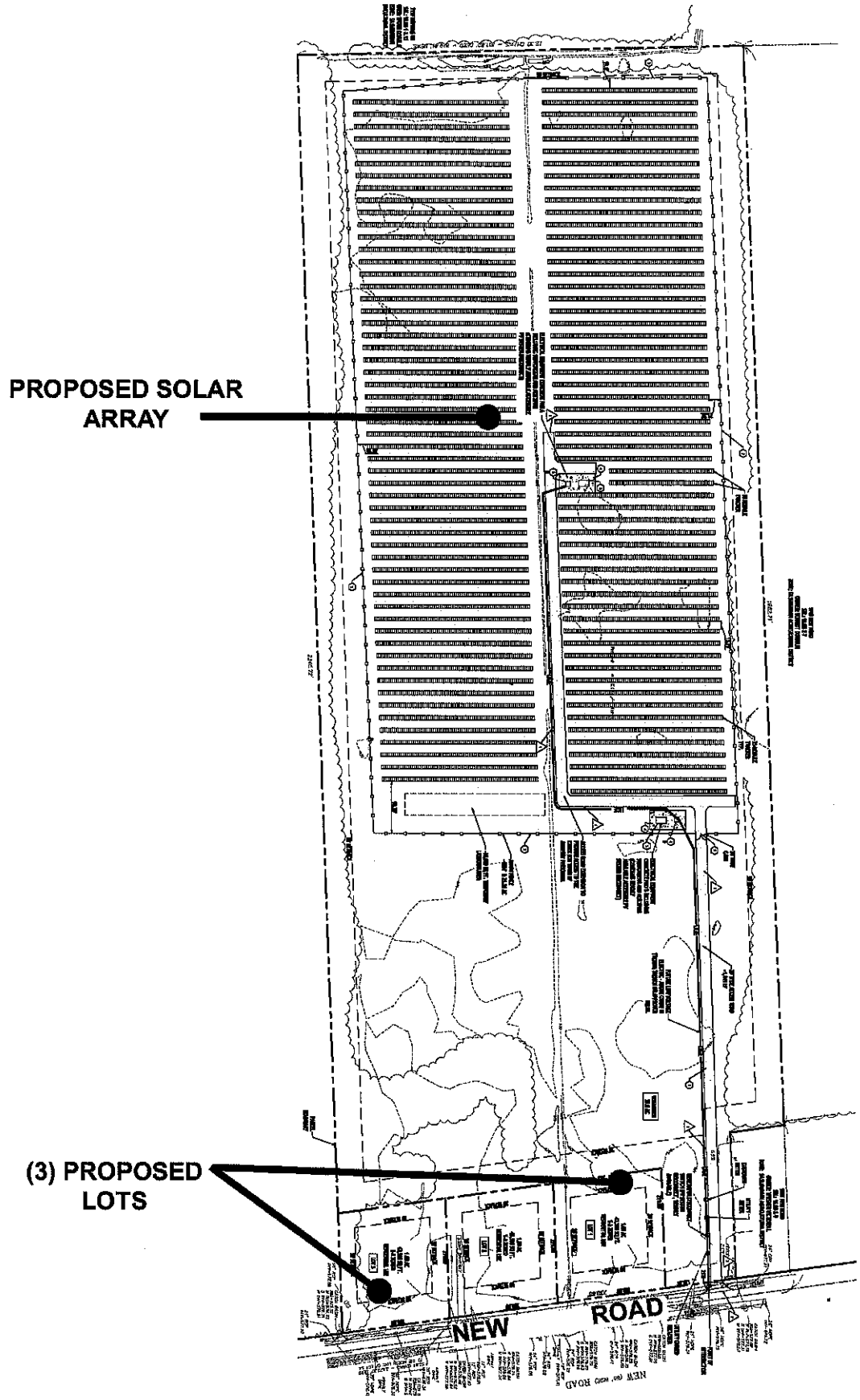
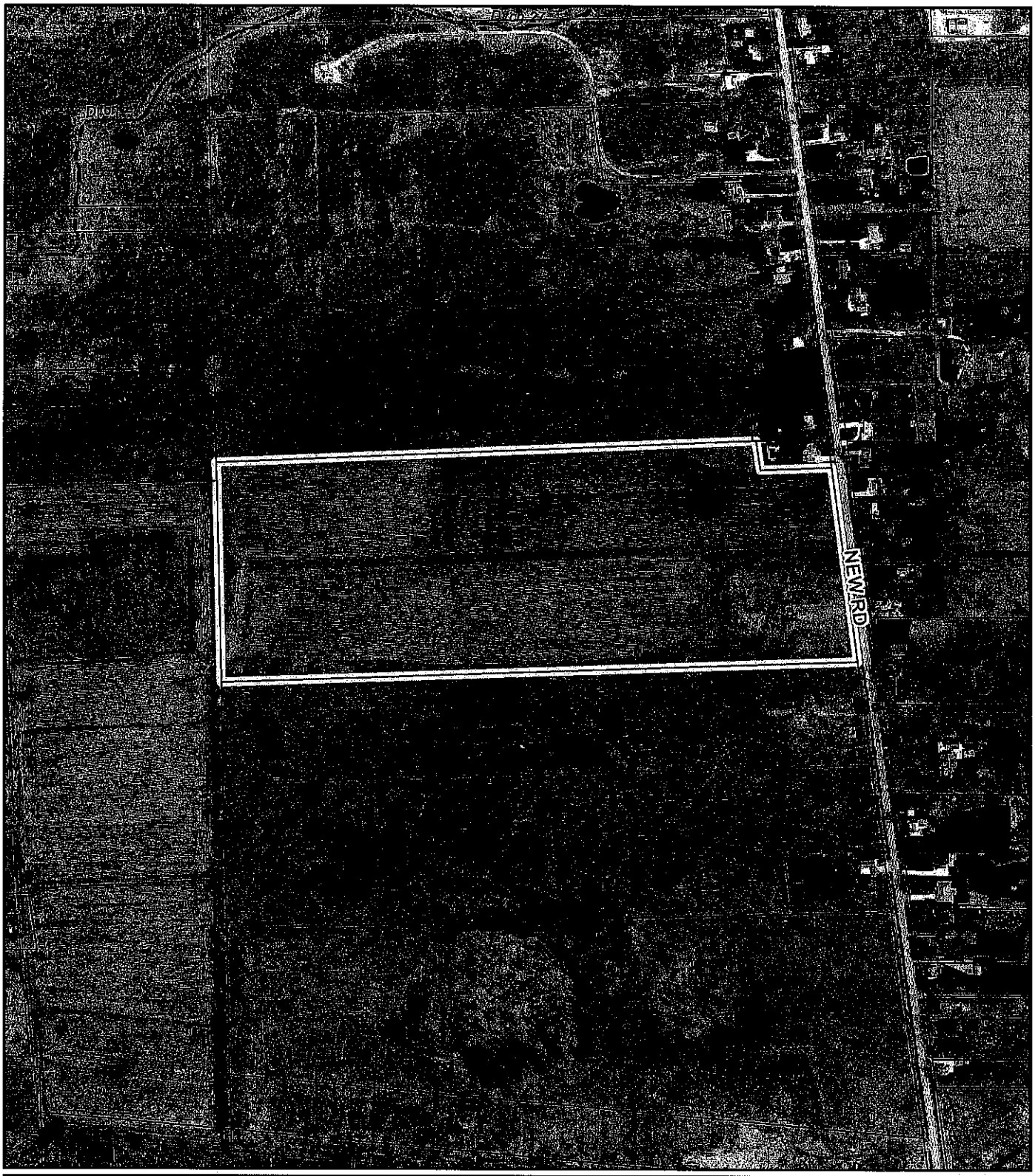


SITE PLAN

SP-2023-09
1050 New Road
10/31/2023

Attachment: SP-2023-09 SUP TB letter packet 111224 (RES-2024-900 : Special Use Permit for Tier III Solar Energy System at 1050 New Road)



SP-2023-09

Proposed Tier III Solar Energy System & 3-Lot Subdivision
Property Located at 1050 New Road

NED - New Energy 8LLC, Petitioner

June 25, 2024

1050 New Road

Prepared by the Town of Amherst Planning Department

Attachment: SP-2023-09 SUP TB letter packet 111224 (RES-2024-900 : Special Use Permit for Tier III Solar Energy System at 1050 New Road)

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

June 10, 2024

NED-New Energy Solar 8, LLC
166 Taylor Drive
Depew, New York 14043

SUBJECT:	Site Plan Review	**SP-2023-09**
	Proposed:	Tier III Solar Energy System & 3-Lot Subdivision
	Property located at:	**1050 New Road**
	Revised plans received:	May 20, 2024
	Architect/Engineer:	Carmina Wood Design

Dear Mr. Sir/Madam,

Please consider the following comments:

ZONING ENFORCEMENT OFFICER REVIEW:
Not Approvable for the following reasons;

1. The proposed parcel that includes the proposed solar array does not meet the minimum lot width requirements listed in §203-3-3-2B of Town Code. The minimum lot width (measured at the required front setback line) must be a minimum of 200 feet.

2. Provide documentation in accordance with §203-6-10-7 B (3) (d) (6) of Town Code that the North Amherst Fire Company has been contacted and has the appropriate equipment and training required to provide emergency services to this site.

3. The decommissioning plan cost estimated must be prepared by a licensed contractor or a professional engineer to meet the requirements of §203-6-10-7 B (3) (d) (9) of Town Code.

4. The access drive for the solar array is required to be paved as required by §203-6-10-7 B (3) (f) (7) of Town Code. If an alternative material is to be proposed in accordance with §203-6-10-7 B (3) (f) (7) of Town Code, submit such a request to this department in writing.

5. Show the location of the signage required by §203-6-10-7 B (3) (f) (6) of Town Code on the site plan and provide the associated sign detail and verbiage. The signage will require future review and approval for the issuance of a sign permit.

6. Provide a vegetation management plan as required by §203-6-10-7 B (3) (f) (8) of Town Code, and identify the method of preserving prime farmland soils and what agricultural component will be part of the management plan (grazing and/or agriculture).

7. The landscape plan must be prepared by a licensed Landscape Architect as required by §203-7-2-2 B of Town Code and the Town.

8. Provide the screening adjacent to the proposed single family lots and along the north, south and east property lines required by §203-7-2-4 B (1) of Town Code. The existing vegetation along the north, south and east property lines of the solar array parcel may be sufficient to meet this requirement and any site plan approval will be subject to the provisions of §203-7-2-4 B (1) (a) of Town Code.

Attachment: SP-2023-09 SUP TB letter packet 111224 (RES-2024-900 : Special Use Permit for Tier III Solar Energy System at 1050 New Road)

PLANNING DEPARTMENT STAFF REVIEW:

1. Potential jurisdictional Federal Water have been identified on the project site and a preliminary Jurisdictional determination has been made. A USACOE wetland permit or letter of non-jurisdiction will be required prior to issuance of a final approved site plan by this department.

2. Please provide an 8½ " x 11" reduction of the site plan **and an electronic version of any revised plans, amended or additional materials** submitted for review.

LANDSCAPE ARCHITECT REVIEW:

1. Provide the existing tree line or individual tree symbol as per Zoning Ordinance 7-2-3 (B) and 6-10-7 (B) (3) (f) (3). The limit of work and the amount of vegetation removed should be clearly shown on the plan with a root protection zone 7-2-3 (B) (3) and limit of disturbance clearly marked. Identify the existing trees to remain on L100. Existing trees along the property may count towards the screening as per Zoning Ordinance 7-2-3 (B) (4). A chart showing the quantity and size of existing trees should be provided on the landscape plan.

2. The Town reserves the right to add supplemental plantings to the buffer and screening during post construction inspections (on the south, west and north property lines as per Zoning Ordinance 7-2-4 (A) (5) may be required in addition to the existing vegetation as determined by the Planning Board or Planning Director in order to improve the screening properties of the buffer.

3. Substitute the Colorado Blue Spruce to a Fir, Pine, Hemlock or other conifer species on L101.

4. Use a conifer shrub at 4' in height at the time of planting (all around the perimeter) to screen the above ground utility pad as per zoning ordinance 7-2-4 (C) (1).

5. Petitioner and petitioner's contractor shall take all reasonable measures to protect existing trees which are to be preserved from all possible types of root, trunk, and limb damage; including but not limited to, retaining walls which prevent filling on top of roots or excavating tree roots as per Zoning Ordinance 7-2-3 (B) (3).

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

Very truly yours,

Daniel C. Howard, AICP
Planning Director

SM/JQ/bf
X:\Current_Planning\Files\Site Plans\2023\SP-2023-09_(1050_New_Rd)_2023\SP-2023-09_Pln_Dpt_Rvw_06042024.doc

cc: Daniel Ulatowski, Zoning Enforcement Officer
Mark S. Berke, Commissioner of Building
Jeffrey Burroughs, Town Engineer
Jeffrey Szatkowski, Landscape Architect
NED-New Enegy Solar 8 LLC, 166 Taylor Dr., Depew, NY 14043
Jeff Palumbo, 9276 Main Street, Clarence, NY 14031
Chris Wood, Carmina Wood Design, 487 Main Street #500, Buffalo, NY 14203
Doug Feyes, Carmina Wood Design, 487 Main Street #500, Buffalo, NY 14203

Attachment: SP-2023-09 SUP TB letter packet 111224 (RES-2024-900 : Special Use Permit for Tier III Solar Energy System at 1050 New Road)

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

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

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

Date: September 26, 2023

To: Daniel Ulatowski, AICP- Asst. Planning Director

From: Alan D. Herberger, Sr. Plumbing Inspector

Re: SP-2023-09; Proposed Tier III Solar Energy System & 3- Lot Subdivision; 1050 New Rd,; NED- New Energy Solar & LLC, Petitioner

The Proposed Major Site Plan is Approved as Submitted. – Plumbing Dept.

cc: Engineering Dept.
Building Dept.
Peter Sorgi, Hopkins, Sorgi & McCarthy

Attachment: SP-2023-09 SUP TB letter packet 111224 (RES-2024-900 : Special Use Permit for Tier III Solar Energy System at 1050 New Road)

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

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

Mark Berke, P.E.
Commissioner of Building

DATE: September 26, 2023

TO: Scott Marshall, Principle Planner

FROM: Douglas S. Boris, Sr. Code Enforcement Officer

RE: Major Site Plan Review **SP-2023-09,** Proposed Tier III Solar Energy System & 3 Lot Subdivision; Property located at 1050 New Rd., New Energy Solar 8 LLC, Petitioner.

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

☒ Approved as submitted.

☒ Other Comments:

1. Building and Electrical permits required.
2. Flood Plain Development Permit required.

Approval does not grant permission to start construction.

This review was for Building Code compliance associated with site layout. Review for compliance with the Building Code will occur when working plans are submitted for a building permit.

Douglas S. Boris
SR. Code Enforcement Officer

DSB/db

X:\DOCS\DSB\Site Plan Reviews DSB\SP-2023-09.docx 9/26/2023

Attachment: SP-2023-09 SUP TB letter packet 111224 (RES-2024-900 : Special Use Permit for Tier III Solar Energy System at 1050 New Road)

AMHERST HIGHWAY DEPARTMENT

1042 North Forest Road Williamsville, New York 14221

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

PHONE (716) 631-7117

FAX (716) 631-7265

www.amherst.ny.us

September 28, 2023

To: Scott Marshall, Principal Planner

From: Patrick Lucey, Superintendent of Highways PL

Re: MAJOR SITE PLAN REVIEW, **SP-2023-09;** PROPOSED TIER III SOLAR ENERGY SYSTEM & 3 LOT SUBDIVISION; PROPERTY LOCATED AT **1050 NEW ROAD;** NED-NEW ENERGY SOLAR 8, LLC, PETITIONER

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

Daniel J. Ulatowski, AICP, Assistant Planning Director
Douglas Gesel, Supervising Code Enforcement Officer
Brian Armstrong, Directo of Engineering Services
Chris Schregel, Traffic/Safety Coordinator (Eng)
Vaishali Reberholt, PE, Stormwater Management Officer, (Eng)
Emily Murphy, Town Assessor
Nora Robshaw, ROW Agent
Alan Herberger, Senior Plumbing Inspector (Bldg)
Krista Halt, Senior Fire Inspector (Bldg)
Jeffrey Szatkowski, Landscape Architect
Brian Barnes, Senior GIS Analyst
ECDEP
ECDPW
NYSDEC
Jeff Burroughs, Town Engineer
Peter Sorgi, Hopkins, Sorgi & McCarthy, 726 Main St Suite B
East Aurora, NY 14052
Sean Hopkins, Hopkins, Sorgi & McCarthy, 5500 Main St Suite 343
Williamsville, NY 14221
Chris Wood & Doug Feyes, Carmina Wood Design, 487 Main St, Suite 500
Buffalo, NY 14203

Attachment: SP-2023-09 SUP TB letter packet 111224 (RES-2024-900 : Special Use Permit for Tier III Solar Energy System at 1050 New Road)

TOWN OF AMHERST

RECEIVED
OCT 06 2023
TOWN OF AMHERST
PLANNING DEPT.

TRAFFIC SAFETY BOARD

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

MICHAEL SZUKALA
Councilmember & Liaison Officer

ERIC FRAAS
Chairman

GREGORY DIONNE
Vice Chairman

CHRISTOPHER P. SCHREGEL
Traffic Safety Coordinator

MEMBERS

DANIEL J. RIDER, P.E.
KENNETH A. SMITH
J. MICHNIEWICZ, P.E., P.T.O.E.
MARK STORCH
MAXWELL KAHN
KEVIN CANTWELL
KRISTIN GOSS
PATRICK WANAMAKER, P.E.

DEPT. LIAISONS

THOMAS VOIGT
Planning

CAPT. KEVIN BROWN
Police

WILLIAM PRENEVAU
Building

AL SPOTH
Highway

October 5, 2023

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

FROM: Christopher P. Schregel – Traffic Safety Coordinator

SUBJECT: Major Site Plan Review, **SP-2023-09**
Proposed Tier III Solar Energy System & 3- Lot Subdivisio
TOA Job # 2023.027

ADDRESS: 1050 New Road

PETITIONER: Ned – New Energy Solar 8 LLC

X **MAJOR SITE PLAN IS**

X **APPROVED WITH CONDITIONS**

1) Private driveway must be paved.

CPS/ch
Cc: Jeff Burroughs, Town Engineer
Sean Hopkins, 5500 Main Street, Suite 343, Williamsville, NY 14221
Peter Sorgi, Hopkins Sorgi & McCarthy, 5500 Main Street, Suite 343, Williamsville, NY 14221
Chris Wood, Carmina Wood Design, 487 Main Street, Suite 500, Buffalo, NY 14203
Doug Feyes, Carmina Wood Design, 487 Main Street, Suite 500, Buffalo, NY 14203

Attachment: SP-2023-09 SUP TB letter packet 111224 (RES-2024-900 : Special Use Permit for Tier III Solar Energy System at 1050 New Road)

TOWN OF AMHERST

ASSESSOR'S OFFICE

5583 MAIN STREET
WILLIAMSVILLE, NEW YORK 14221
PHONE: 716-631-7038

Emily A. Murphy
Assessor
emurphy@amherst.ny.us

MEMORANDUM

TO: Daniel Ulatowski, AICP, Associate Planning Director
Douglas Gesel, Supervising Code Enforcement Officer
Jeff Burroughs, Town Engineer
Scott Marshall, Principle Planner

FROM: Bonnie B. Arnold, Real Property Appraiser

DATE: September 29, 2023

SUBJECT: Major Site Plan Review: **SP-2023-09**
Proposed: Tier III Solar Energy System & 3-Lot Subdivision
Property Location: **1050 New Road**
Petitioner: NED-New Energy Solar 8 LLC

Site plan approved as submitted

cc: Peter Sorgi, Hopkins Sorgi & McCarthy, 726 Main St. Ste B, East Aurora, NY 14052
Sean Hopkins, Hopkins Sorgi & McCarthy, 5500 Main St., Ste 343, Williamsville, NY 14221
Chris Wood, Carmina Wood Design, 487 Main St., #500. Buffalo, NY 14203
Doug Feyes, Carmina Wood Design, 487 Main St., #500, Buffalo, NY 14203

Attachment: SP-2023-09 SUP TB letter packet 111224 (RES-2024-900 : Special Use Permit for Tier III Solar Energy System at 1050 New Road)

TOWN OF AMHERST

ERIE COUNTY, NEW YORK

5583 MAIN STREET
WILLIAMSVILLE, NEW YORK 14221
(716) 631-7030
FAX (716) 631-7101
www.amherst.ny.us

RECEIVED
OCT 11 2023
TOWN OF AMHERST
PLANNING DEPT.

Martin A. Polowy
Town Attorney

Elizabeth A. Burakowski
Director of Special Projects

Nicole M. Burroughs
Senior Paralegal

Samuel A. Alba
Sr. Deputy Town Attorney

Nora B. Robshaw
Sr. Deputy Town Attorney

Brittanylee Fenberthy
Town Prosecutor

TO: **Scott Marshall, Planning Department**

FROM: **Nora B. Robshaw, Senior Deputy Town Attorney** NBR/Amj
Right-of-Way Review

DATE: **October 11, 2023**

RE: **Proposed Major Site Plan Review**
SP-2023-09
Proposed Tier III Energy System & 3-Lot Subdivision
1050 New Road
NED - NEW Energy Solar 8 LLC, Petitioner

This office has reviewed the materials submitted by your correspondence dated September 21, 2023 and has no comments.

We are returning copies of the materials for your file.

NBR:hs

c: Douglas Gesel, Senior Code Enforcement Officer, *(w/o attachment)*
Brian J. Armstrong, EIT, Director of Engineering Services, *(w/o attachment)*
Jeffrey Burroughs, PE, Town Engineer, *(w/o attachment)*
Peter Sorgi, Hopkins Sorgi & McCarthy, *(w/o attachment)*
Sean Hopkins, Esq., Hopkins Sorgi & McCarthy, *(w/o attachment)*
Chris Wood, Carmina Wood Design, *(w/o attachment)*
Doug Feyes, Carmina Wood Design, *(w/o attachment)*

Attachment: SP-2023-09 SUP TB letter packet 111224 (RES-2024-900 : Special Use Permit for Tier III Solar Energy System at 1050 New Road)

TOWN OF AMHERST ENGINEERING DEPARTMENT

ENGINEERING SERVICES DIVISION

BRIAN J. ARMSTRONG – DIRECTOR OF ENGINEERING SERVICES

October 12, 2023

TO: Scott Marshall – Principal Planner
Daniel J. Ulatowski, AICP – Assistant Planning Director
Doug Gesel – Senior Code Enforcement Officer

FROM: Jessica Boudreau. P.E. – Project Manager JB

SUBJECT: Major Site Plan Review; SP-2023-09
Proposed Tier III Solar Energy System & 3 Lot Subdivision
Town of Amherst Job No. 2023.027

ADDRESS: 1050 New Road

PETITIONER: NED- New Energy 8 LLC

ENGINEERING SERVICES DIVISION:

MAJOR SITE PLAN IS APPROVED WITH THE FOLLOWING CONDITIONS:

1. Erie County Highway Work permit shall be obtained.
2. Review and approval from the Sanitary Maintenance Division is required.

cc: Peter Sorgi, Hopkins Sorgi & McCarthy, 726 Main St., Suite B, East Aurora, NY 14052
Sean Hopkiuns, Hopkins Sorgi & McCarthy, 5500 Main Street, Suite 343, Williamsville, NY 14221
Chris Wood, Carmina Wood Morris, 487 Main Street, Suite 500, Buffalo, NY 14203
Doug Feyes, Carmina Wood Morris, 487 Main Street, Suite 500, Buffalo, NY 14203
Vaishali Reberholt, P.E. – Assistant Municipal Engineer

Attachment: SP-2023-09 SUP TB letter packet 111224 (RES-2024-900 : Special Use Permit for Tier III Solar Energy System at 1050 New Road)

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Permits, Region 9
700 Delaware Avenue, Buffalo, NY 14209
P: (716) 851-7165 | F: (716) 851-7168
www.dec.ny.gov

SENT VIA EMAIL

October 19, 2023

Daniel Ulatowski
Town of Amherst Planning Department
5583 Main Street
Williamsville, New York 14221

Dear Daniel Ulatowski:

SEQR Lead Agency Designation
New Road Solar & Subdivision
Town of Amherst, Erie County

This is to acknowledge receipt of your notice, dated September 21, 2023, which requested State Environmental Quality Review Act (SEQR) Lead Agency status for the above-noted project. The New York State Department of Environmental Conservation (NYSDEC) concurs that the Town of Amherst should act as SEQR Lead Agency. However please be aware of the following:

1. The State Environmental Quality Review (SEQR) Regulation, 6 NYCRR Part 617.7(c)(2) states "the lead agency must consider any long-range plan of which the action under consideration is a part" for the purposes of determining whether a proposed action may have a significant effect on the environment. It appears that the applicant did not address all the proposed subdivision's potential impacts in the full Environmental Assessment Form (EAF), specifically, in section D.2. items c. – f. The NYSDEC recommends that the Town, acting as Lead Agency, consider these potential impacts when determining significance.

2. The National Wetlands Inventory map indicate the potential for federally-regulated wetlands within the proposed project site. The project sponsor should consult with the U.S. Army Corps of Engineers to determine if that agency has regulatory jurisdiction or requires approval from that agency. If federal wetlands are involved, the Corps may require the project sponsor to obtain 401 Water Quality Certification (WQC) from NYSDEC. Please note that a request for a WQC now requires submission of a pre-filing meeting request form 30 days prior to submitting an application for WQC. More information related to this requirement and a pre-filing meeting request form can be found on NYSDEC's website at https://www.dec.ny.gov/permits/6042.html#Water_Quality_Certification.

Attachment: SP-2023-09 SUP TB letter packet 111224 (RES-2024-900 : Special Use Permit for Tier III Solar Energy System at 1050 New Road)

3. Since project activities will involve land disturbance of 1 acre or more, the project sponsor, owner or operator is required to obtain a State Pollutant Discharge Elimination System General Permit for Stormwater Discharges from Construction Activity (GP-0-20-001). This General Permit requires the project sponsor, owner or operator to control stormwater runoff according to a Stormwater Pollution Prevention Plan (SWPPP), which is to be prepared prior to filing a Notice of Intent (NOI) and prior to commencement of the project. More information on General Permit GP-0-20-001, as well as information on how to electronically submit the eNOI form, is available on the NYSDEC's website at www.dec.ny.gov/chemical/43133.html. Information on permitting requirements and preparation of a necessary Stormwater Pollution Prevention Plan (SWPPP) is available on the NYSDEC's website at www.dec.ny.gov/chemical/8468.html.

   The Town of Amherst is designated as an MS4 community. The project sponsor, owner or operator of a construction activity that is subject to the requirements of regulated, traditional land use control MS4 shall have their SWPPP reviewed and accepted by the MS4 community. The "MS4 SWPPP Acceptance" form must be signed by the principal executive officer or ranking elected official from the MS4 community, or by a duly authorized representative of that person, and submitted along with the eNOI to receive NYSDEC approval before construction commences.

4. It was noted on the Federal Emergency Management Agency's (FEMA) FIRM Map No. 36029C0078H that the site is located within the designated 100-year floodplain. The proposed project should be designed in accordance with all applicable local municipal laws for flood damage reduction.

   Please note that utility projects that include the construction of substation facilities or permanent access roads within federal wetlands and/or the Federal Emergency Management Agency mapped 100-year floodplain are not authorized by the NYSDEC'S 2021 Section 401 Blanket Water Quality Certification and would require an individual WQC from the NYSDEC.

5. The project site is located within Erie County Agricultural District #17. Impacts to the agricultural district should be considered during the review of this action.

6. To minimize the impact to wildlife movement resulting from this project, the NYSDEC strongly encourages the project sponsor to include a 1-foot gap at the bottom of the fencing that will surround the project site.

If you have any questions, please feel free to contact Kris Carlson at 716/851-7165 or kristine.carlson@dec.ny.gov .

Sincerely,

David S. Denk

David S. Denk
Regional Permit Administrator

Ecc: Thomas Voigt, Town of Amherst Planning Department
Peter J. Sorgi, Esq., Hopkins Sorgi & McCarthy PLLC

Attachment: SP-2023-09 SUP TB letter packet 111224 (RES-2024-900 : Special Use Permit for Tier III Solar Energy System at 1050 New Road)

AMHERST FIRE CHIEFS' ASSOCIATION INC.

To: Dan Howard, Planning Director Date: 11/29/23

From: Krista Halt, Liaison to Amherst Fire Safety Committee

RE: Site Plan Review: SP-2023-09 PROPOSED TIER II SOLAR ENERGY SYSTEM & 3-LOT SUBDIVISION

Address: 1050 NEW RD.

Petitioner: NED- NEW ENERGY SOLAR 8 LLC

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

☐ Approved as Submitted

☒ Denied due to the following:

☐ Not reviewable at this time due to the following:

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

- ☐ A. Section 503 Firelanes (fire apparatus access roads) be provided in accordance with the FCNYS 2020
- ☐ B. 503.1.1 – provide for the fire apparatus access road to within 150 feet of all portions of the building or within 300 feet if the building is sprinkled.
- ☐ C. 503.1.2 – provide an additional fire apparatus access road
- ☐ D. 503.2 – specifications – fire apparatus access roads shall be installed and arranged in accordance with section 503.2.1 through 503.2.7
  - ☐ 1. 503.2.1 – fire apparatus access road must be an unobstructed width of not less than 20 feet and a vertical clearance of 13 feet 6 inches.
  - ☐ 2. 503.2.2 – increase width of fire apparatus access road to ____ feet to be adequate for fire or rescue operations.
  - ☐ 3. 503.2.4 – the turning radius for fire apparatus access roads is 22 inside and 45 outside.
  - ☐ 4. 503.2.5 – dead end fire apparatus access roads in excess of 150 feet, shall be provided with an approved area for turning around fire apparatus.
  - ☐ 5. 503.3 – fire apparatus access roads must be marked as firelanes per the signage specification established by Appendix D FCNYS 2020
  - ☐ 6. Appendix D – Access Roads: Width, Distance from bldgs. Remoteness requiring 2 separate access roads.
  - ☐ 7. Appendix D 103.2 Grade: Fire apparatus access rds. Shall not exceed 10 percent in grade.

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

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

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

COMMENTS: 1- DUE TO THE DISTANCE FROM NEW RD. AND EXISTING HYDRANTS THE FIRE DEPT WOULD LIKE A HYDRANT INSTALLED AT SOUTH SIDE ENTRANCE GATE. 2-

Attachment: SP-2023-09 SUP TB letter packet 111224 (RES-2024-900 : Special Use Permit for Tier III Solar Energy System at 1050 New Road)

PROVIDE A KNOX BOX TO HOUSE GATE KEY AND ACCESS TO TRANSFER SWITCHES. 3- MAINTAIN 10-FT CLEARANCE OF BRUSH AROUND AND BETWEEN ARRAYS. 4- EMERGENCY CONTACT INFORMATION AND SHUTDOWN PROCEDURES SHALL BE PROVIDED TO THE FIRE DEPARTMENT.

Attachment: SP-2023-09 SUP TB letter packet 111224 (RES-2024-900 : Special Use Permit for Tier III Solar Energy System at 1050 New Road)

TOWN OF AMHERST

ENGINEERING DEPARTMENT

ERIE COUNTY – NEW YORK

JEFFREY S. BURROUGHS, P.E., TOWN ENGINEER

January 18, 2024

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

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

SUBJECT: Site Plan Review: SP-2023-09
Proposed Tier III Solar Energy System & 3-Lot Subdivision
Town Job #2023.027

ADDRESS: 1050 New Road

PETITIONER: NED – New Energy Solar 8 LLC

SITE PLAN SWPPP APPROVED WITH CONDITIONS

- Please include a concrete wash-out & detail.
- Provide a grading plan.
- The Engineer's Report in Section 1 says there are no wetlands onsite but the wetland determination indicates there are – please correct.
- In the NOI, question #15, it has been marked no to the site runoff going into a separate storm system. The site runoff flows into Erie County's roadside ditch system, this should be marked yes.
- The east/west drainage needs to be protected/remain functional during construction of the solar panels to the south – please provide an appropriate crossing.
- The existing east/west drainage swale needs to remain functional after the development of the residential lots along New Road. A private drainage easement may want to be considered. The drainage of the solar panel section of this parcel is reliant on that drainage.
- Under the NOT verbiage, a final inspection will be required, not may be required.
- Please include 25-year storm calculations for a complete review.

VR/SKB

Cc: Peter Sorgi, Hopkins Sorgi & McCarthy, 726 Main St., Suite B, East Aurora, NY 14052
Sean Hopkins, Hopkins Sorgi & McCarthy, 5500 Main St., Suite 343, Williamsville, NY 14221
Chris Wood, Carmina Wood Design, 487 Main St., Suite 500, Buffalo, NY 14203
Doug Feyes, Carmina Wood Design, 487 Main St., Suite 500, Buffalo, NY 14203

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

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

Attachment: SP-2023-09 SUP TB letter packet 111224 (RES-2024-900 : Special Use Permit for Tier III Solar Energy System at 1050 New Road)

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

Francina J. Spoth
Town Clerk

Meeting: 12/02/24 07:00 PM
Department: Planning
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

DOC ID: 29724 **RESOLUTION 2024-937** **ADOPTED**

SEQR Determination Chapter 204 of the Amherst Town Code Amendments to the Subdivision Regulations

RESOLVED, that pursuant to 6NYCRR Part 617 of the State Environmental Quality Review Act (SEQRA) and Town Code Chapter 104, as amended, the Town Board is deemed the Lead Agency for those actions which it has sole discretionary power, including but not limited to rezoning decisions and adoptions of local laws, and be it further

RESOLVED, that this Town Board as SEQR Lead Agency has reviewed proposed amendments to its existing Subdivision Regulations (Chapter 204 of the Amherst Town Code) and has identified the areas of environmental concern, thoroughly analyzed them for significant adverse impact, including any concerns and/or recommendations from other agencies, and be it further

RESOLVED, that the requirements of SEQR are now complete therefore this Town Board issues the attached Negative Declaration as its determination of environmental significance, for the subject action.

12/2/2024
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Lavin and unanimously approved 5-0.

FINANCIAL IMPACT:

no finacial impact anticipated

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

Attachment: draft determination of Environmental Significance (RES-2024-937 : SEQR Determination - Chapter 204, Subdivision Regulations)

D R A F T
SEQR

NEGATIVE DECLARATION

NOTICE OF DETERMINATION OF NON-SIGNIFICANCE

Lead Agency: Town of Amherst
Town Board

Project: ZTA-2024-01

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: Amendments to Chapter 204 of Town Code – Subdivision Regulations

SEQR Status: Type I action.

Description of Action: Proposed text amendments in response to changes in development standards and practice. Revisions include modifications of the road cross sections to contemporary graphics, increases in the minimum road right of width for local streets, increases in sidewalk widths and other technical amendments and a new procedure for accepting public improvements.

Location: Town of Amherst, Erie County, New York

Petitioner: Town of Amherst

Reasons Supporting This Determination

Based on information submitted by the applicant, including a Full Environmental Assessment Form (EAF) - Part 1, and a complete text amendment application, a preliminary staff analysis was undertaken. Based on the results of the EAF Part 2 and compared to the criteria listed in Section 617.7, all indications are that the proposed text amendments to the Town's Subdivision Regulations will not have a significant impact on the environment, as follows:

1. The action 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.

2. The action 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 action is not expected to create any material conflict with the Town Comprehensive Plan. The proposed text amendments provide a public benefit by enlarging the minimum right of way width for local roads and allows the legislative body to determine early in the subdivision review design if it will accept proposed public improvements.

4. The action will not impair the character or quality of important historical, archeological, architectural or aesthetic resources or existing community or neighborhood character.

5. The action will not cause a major change in the use of either the quantity or type of energy.

6. The action will not create any hazard to human health.

7. The action will not cause a substantial change in the use, or intensity of use, of land including agricultural, open space or recreational resources, or in its capacity to support existing uses.

8. The action will not encourage or attract a large number of people to a place or places.

9. Significant negative traffic impacts are not expected to result from the proposed text amendments.

Attachment: draft determination of Environmental Significance (RES-2024-937 : SEQR Determination - Chapter 204, Subdivision Regulations)

10. The action will not create a material demand for other actions.

11. 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 be causing significant negative environmental impacts.

_____ _____
Daniel J. Ulatowski, AICP date
Assistant Planning Director/ZEO

_____ _____
Brian J. Kulpa, Supervisor date

DU/du
X:\Current_Planning\Files\Text Amendments\ZTA-2024\ZTA-2024-01_(Chapter_204_Subdivision_Regulations)\ZTA-2024-01_SEQR Neg Dec.docx

Amherst Town Clerk
Amherst Building Department
ECDEP
NYSDEC (type 1's)

Attachment: draft determination of Environmental Significance (RES-2024-937 : SEQR Determination - Chapter 204, Subdivision Regulations)

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

Francina J. Spoth
Town Clerk

Meeting: 12/02/24 07:00 PM
Department: Planning
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

DOC ID: 29723 **RESOLUTION 2024-938** **ADOPTED**

Adoption of Local Law to Amend Chapter 204 of the Town Code (Subdivision Regulations, ZTA-2024-01)

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

RESOLVED, that pursuant to NYS Town Law 271 and 276 the Town Board concurs with the findings of the Planning Board as stated in their resolution of August 27, 2024 that the proposed amendments to Chapter 204 (Subdivision Regulations) of the Amherst Town Code are consistent with the adopted Bicentennial Comprehensive Plan, as amended, and be it further

RESOLVED, that in accordance with Section 204-4-8 of the Town Code (Subdivision Regulations), the Town Board adopts Local Law (#_____) to amend the Chapter 204 of the Town Code

12/2/2024
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Lavin and unanimously approved 5-0.

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

Attachment: LL ZTA-2024-01 (RES-2024-938 : Adoption of Local Law to Amend Chapter 204 of the Town Code (Subdivision Regulations, ZTA-

LOCAL LAW NO. ____-2024

TOWN OF AMHERST
COUNTY OF ERIE, STATE OF NEW YORK

A Local Law Making Amendments To Chapter 204 Of The Code Of The Town Of Amherst, Also Known As Subdivision Regulations.

Be it enacted by the Town Board of the Town of Amherst as follows:

~~Strikethrough~~ = Deleted; Underline = Added

PART 1
GENERAL PROVISIONS

§ 1-1. Title

The official name of this Local Law and this document shall be "Town of Amherst Subdivision Regulations" hereinafter referred to as the "Subdivision Regulations" or "these Regulations."

§ 1-2. Purpose and Intent

The purpose of these Subdivision Regulations and the intent of the use of legislative authority is to provide for the future growth and development of the town and the affording of adequate facilities for the housing, transportation, distribution, comfort, convenience, safety, health and welfare of its population by regulating the development of residential subdivision pursuant to the authority set forth in Town Law § 271 and § 276. The Town Board finds and determines that these subdivision regulations are necessary to protect and safeguard the Town of Amherst and its residents with respect to subdivision developments in the town which, once accepted, become a permanent unit in the basic physical structure of the community which the future community will of necessity be forced to adhere. It is the purpose of this law that all subdivision and platting of land shall be designed to achieve, among others, the following objectives:

1-2-1. To ensure orderly development and redevelopment of land to obtain harmonious and stable residential and nonresidential areas.

1-2-2. To ensure the design and installation of high-quality improvements and infrastructure in compliance with the specifications and standards established by the Town of Amherst, and the correct and complete recording of improvements.

1-2-3. To minimize ongoing costs of operating and replacing the Town's infrastructure.

1-2-4. To provide coordination of land development activities in accordance with the objectives of the Zoning Ordinance and the Comprehensive Plan.

1-2-5. To coordinate local subdivision actions with the requirements of county, state and federal statutes.

1-2-6. To provide safe and convenient vehicular and pedestrian circulation.

1-2-7. To require reservation of space for school, recreation, and other public use.

1-2-8. To ensure accurate preparation and recording of plats.

1-2-9. To ensure subdivision design mindful of avoiding, minimizing, or mitigating natural hazards and protecting natural resources.

§ 1-3. Authority, Local Supercession

This Local Law is enacted under the authority of subparagraphs (a)(12) and (d)(3) of the Municipal Home Rule Law § 10(1)(iii) and Municipal Home Rule Law § 22. It is the intent of this legislation to supersede the provisions of New York State Town Law dealing with subdivisions and the Highway Law in the following circumstances:

(a) Highway Law § 171(c) — Minimum right-of-way width of three rods.

(b) Town Law § 276(11) — Filing of final plat; expiration of approval.

(c) Town Law § 277(9)(a) — Furnishing performance bond.

(d) Town Law § 277(9)(b) — Security where plat is approved in sections.

§ 1-4. Interpretation

1-4-1. The provisions of these Regulations shall be construed to be the minimum requirements necessary for the preservation of public health, safety, and welfare within the Town.

1-4-2. These regulations are not intended to repeal, abrogate, or supersede any existing regulation of the Town, nor to conflict with any statutes, laws, or regulations of the State of New York, or Erie County, except that these Regulations shall prevail in cases where they impose a lawful restriction or requirement more severe than existing statutes, laws, or regulations. The Town shall not enforce private deed or plat restrictions.

1-4-3. The Zoning Enforcement Officer shall be responsible for the interpretation of this Local Law. **[Amended 3-4-2019 by L.L. No. 7-2019]**

§ 1-5. Delegation of Authority

By the authority of Article 16, § 276 of the Town Law of the State of New York and resolution of the Town Board of the Town of Amherst, Erie County, New York, dated ~~[insert effective date],~~ January 19, 1976 the Planning Board of the Town of Amherst is authorized and empowered to approve plats showing lots, blocks or sites, with or without streets or highways, and to approve preliminary plats, within that part of the Town of Amherst outside the limits of the Village of Williamsville.

§ 1-6. Jurisdiction

These Regulations shall govern all subdivision and re-subdivision of land lying within the Town limits of the Town of Amherst outside the limits of the Village of Williamsville.

§ 1-7. Application

1-7-1. In accordance with Article 16, § 278 of the Town Law of the State of New York, no plat of any subdivision shall be recorded in the Erie County Clerk's Office or have any validity until it shall have been approved in the manner prescribed in these Regulations and is in full compliance with them.

1-7-2. No building permit or certificate of occupancy shall be issued for any parcel or plot of land which was created by subdivision after the effective date of, and not in conformity with, the provisions of these subdivision regulations and no excavation of land or construction of any public or private improvements shall take place or be commenced except in conformity with these Regulations.

§ 1-8. Validity

Should any section or provision of these Subdivision Regulations be declared invalid such decision shall not affect the validity of these Regulations as a whole, or any part thereof, other than the section or provision so declared to be invalid, nor shall the decision affect its application to different facts or circumstances.

Attachment: LL ZTA-2024-01 (RES-2024-938 : Adoption of Local Law to Amend Chapter 204 of the Town Code (Subdivision Regulations, ZTA-

§ 1-9. Duration of Planning Board Approval

1-9-1. Approval of the following procedures shall expire in accordance with the following table.

Application	Duration of Approval
Sketch Plan	2 years
Preliminary Plat	~~6~~ **12** months
Final Plat	1 year

1. So in original.

PART 2
DEFINITIONS

§ 2-1. Definition of Terms

2-1-1. Words in this Local Law are normally used in their ordinary English usage. Certain terms shall have the meanings that follow, except where the context clearly indicates a different meaning.

2-1-2. The word "shall" is mandatory; the word "may" is permissive; "should" is to be interpreted as expressing that which is desired and not specifically required.

2-1-3. All words used in the singular include the plural, and all words used in the present tense include the future tense.

§ 2-2. Abbreviations

FEMA Federal Emergency Management Agency United States Department of Homeland Security

PE Professional Engineer

ROW Right of Way

SEQR State Environmental Quality Review Act

§ 2-3. General Terms

BUILDING DEPARTMENT The Building Department of the Town of Amherst, New York.

COMMISSIONER OF BUILDING Commissioner of Building of the Town of Amherst, New York.

COUNTY Erie County, New York.

HIGHWAY SUPERINTENDENT Highway Superintendent of the Town of Amherst, New York.

LAW Law, ordinance, rule or regulation of the federal, state, county or town governments, as appropriate.

PERSON Includes a firm, association, organization, partnership, company or corporation as well as an individual.

PETITIONER Any person who (1) having an interest in land, causes it, directly or indirectly, to be divided into a subdivision or who (2) directly or indirectly, sells, leases or develops or offers to sell, lease or develop, or advertises for sale, lease or development, any interest, lot, parcel site, unit or plot in a subdivision, or who (3) constructs or contracts to construct improvements on subdivided land or who (4) is directly or indirectly controlled by, or under direct or indirect common control with any of the foregoing.

PLANNING BOARD Planning Board of the Town of Amherst, New York.

Attachment: LL ZTA-2024-01 (RES-2024-938 : Adoption of Local Law to Amend Chapter 204 of the Town Code (Subdivision Regulations, ZTA-

PLANNING DIRECTOR Planning Director of the Town of Amherst, New York.

TOWN Town of Amherst, Erie County, New York, outside the Village of Williamsville, New York.

TOWN BOARD Elected legislative body, Town of Amherst, New York.

TOWN ENGINEER Town Engineer of the Town of Amherst, New York.

ZONING ENFORCEMENT OFFICER Zoning Enforcement Officer of the Town of Amherst, New York.**[Added 3-4-2019 by L.L. No. 7-2019]**

ZONING ORDINANCE The officially adopted Zoning Ordinance and Zoning Map of the Town of Amherst, together with any and all amendments and conditions adopted by the Town Board thereto.

§ 2-4. Specific Terms

ACCESS MANAGEMENT The process of locating and designing vehicular access connections to preserve the flow of traffic in terms of safety, capacity and speed.

ARCHITECT A New York State licensed professional authorized to practice architecture as defined by New York State laws.

BUILDABLE LAND Buildable land shall be defined as the net resulting acreage of a parcel or combination of parcels proposed for a realty subdivision when the following is subtracted from the gross parcel or combination of parcels:

a) Wetlands, including New York State designated wetlands (including any required adjacent area), those lands regulated by the US Army Corp of Engineers, and those identified on the National Wetland Inventory and subsequently field confirmed with a wetland delineation;

b) Areas within the Federal Emergency Management Agency designated floodway;

c) Streams, drainageways and open bodies of water as identified on storm sewers and open drainage system maps maintained by the Highway Superintendent.

BUILDING LINE (OR FRONT SETBACK) A line parallel to the street right-of-way line, or edge of pavement for a private road, between which line and the street right-of-way no structure may be built.

COMPREHENSIVE PLAN Materials, written and graphic, including maps, charts, studies, resolutions, reports and other descriptive material that identify the goals, objectives, principles, guidelines, policies, standards, devices and instruments for the immediate and long-range protection, enhancement, growth and development which have been adopted and may be amended by the Amherst Town Board in accordance with NYS Town Law § 272-a.

CONSTRUCTION DETAILS PLAN See Public and Private Improvement Permit.

CURB CUT A curb break, or a place or way provided for the purpose of gaining vehicular access between a street and abutting property.

DEVELOPMENT The act of building structures or installing site improvements.

EASEMENT An authorization by a property owner for the use by another, and for a specified purpose, of any designated part of the property.

ENGINEER A New York State licensed professional engineer (P.E.) authorized to practice engineering as defined by New York State laws.

EXCEPTION. ~~See Reserve.~~ A parcel or portion of a parcel that is not included or being considered as part of a proposed subdivision (See Reserve).

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GRADES

1. STREET GRADE. 1) The elevation of the street as measured at its crown; or 2) the slope of the street as measured between two points.

2. NATURAL GRADE. The elevation above North American Vertical Datum of 1988, of the surface of the ground prior to any development. Within special flood hazard areas, the National Geodetic Vertical Datum of 1929 shall also be used.

3. FINISHED GRADE. The elevation of the finished surface of the ground adjoining the building after final grading and normal settlement.

HOMEOWNERS ASSOCIATION An incorporated non-profit organization operating under recorded land agreements through which each lot owner of a developed area is a member and each lot is subject to charges for a proportionate share of the expenses for the organization's activities such as maintaining common property.

IMPROVEMENTS (PRIVATE) Any facility or service together with its associated site necessary to provide street pavements, curbs, gutters, sidewalks, crosswalks, water mains, sanitary and storm sewers, street trees, utilities, and other appropriate items provided in the development installed privately, and to be owned, maintained or operated by a private entity, such as an individual, corporation or homeowners association.

IMPROVEMENTS (PUBLIC) Any public facility or service together with its associated public site or right-of-way necessary to provide street pavements, curbs, gutters, sidewalks, crosswalks, water mains, sanitary and

storm sewers, street trees, utilities, and other appropriate items as installed or provided in the development and to be owned, maintained, and operated by the municipality or special district.

IMPROVEMENTS (PUBLIC) Any public facility or service together with its associated public site or right-of-way necessary to provide street pavements, curbs, gutters, sidewalks, crosswalks, water mains, sanitary and storm sewers, street trees, utilities, and other appropriate items as installed or provided in the development and to be owned, maintained, and operated by the municipality or special district.

LAND SURVEYOR A New York State licensed professional authorized to practice land surveying as defined by New York State Laws.

LOT A parcel of land for a structure, use and the accessory structures or uses customarily incident to it, including such yards as are required by ordinance and such yards as are arranged and designed to be used in connection with such structure.

LOT LINE Any boundary line of a lot.

LOT MEASUREMENTS

1. DEPTH. The mean horizontal distance between the front and rear lot lines.

2. WIDTH. The horizontal distance of a lot measured along the building line at right angles to the mean lot depth line.

LOT TYPES

1. CORNER LOT. A parcel of land having lot lines at the junction of two or more streets or having lot lines on the same street forming an interior angle of intersection not more than 135 degrees.

2. FLAG LOT. A lot so shaped that the main building site area is set back from the street on which it fronts and includes only a long narrow access strip connecting the main building site with the frontage street.

3. INTERIOR LOT. A lot other than a corner lot.

4. THROUGH LOT. An interior lot which has frontage on more than one street.

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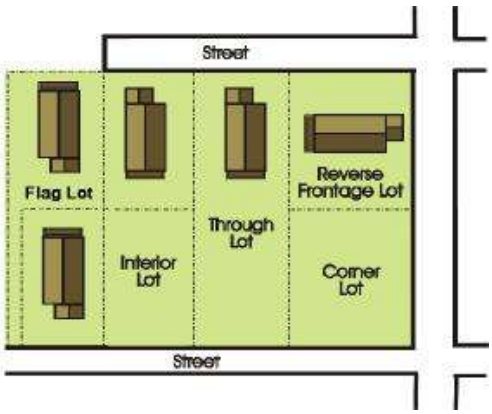
5. REVERSE FRONTAGE LOT. A lot on which the frontage is at right angles or approximately right angles to the general pattern in the area. A reverse frontage lot may also be a corner lot, an interior lot or a through lot.



LOT OF RECORD Land designated as a separate parcel on a plat map or deed filed or recorded in the office of the Clerk of Erie County, New York.

MARGINAL ACCESS STREET A local street or alley that provides access to abutting properties parallel and adjacent to an arterial street.

OPEN SPACE An area unobstructed by buildings from the ground upward, except for walks, paths, landscaping or other site features in public, common or other private ownership. Yards of individual lots occupied by dwellings shall not constitute open space.

OPEN SPACE-COMMON A parcel or parcels of land or an area of water, or a combination of land and water within the site, privately owned and designed and intended for the use and enjoyment of two or more households residing in the site or in specified portions thereof, or other users if permitted by the owners of the common open space. Common open space may contain such structures and improvements as are necessary and appropriate for the benefit and enjoyment of persons served by such common open space.

OWNER Shall include, in addition to its usual meaning, tenant, lessee, occupant, or other user.

PEDESTRIAN WALK A public or private right-of-way intended solely for pedestrian circulation which may be located within a street right-of-way.

PERFORMANCE BOND An agreement by and between a petitioner and a bonding company or personal fidelity or property bond in favor of the Town for the amount of the estimated construction cost, and guaranteeing the completion of physical improvements according to approved plans and specifications within the time prescribed by the petitioner's agreement.

PLAT A drawing showing the proposed plan of the subdivision and supplementary information which is submitted for approval to the Planning Board.

PLAT, PRELIMINARY A map and related material submitted to the Planning Board in order to obtain approval for a proposed subdivision of land. If approved by the Planning Board, it provides the basis for proceeding with the preparation of the final plat of a subdivision.

PLAT, FINAL A survey record of the subdivision, or part thereof, showing location of lots, street right-of-way, easements, and other pertinent data as required in these Regulations.

PUBLIC AND PRIVATE IMPROVEMENT PERMIT Permit to build a public or private improvement approved by the Town Board and issued by the Town Engineer.

PRIVATE UTILITY A utility whose ownership is not fixed in a public body as electrical, gas and phone lines and supporting apparatus, structures or markers.

RESERVE A parcel of land within a subdivision that is intended for future use, or interim continued existing use.

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RESERVE STRIP A strip of land not dedicated to public use located between a private parcel and a public right-of-way that prevents access to the public right-of-way.

RESUBDIVISION A change in a map of an approved or recorded subdivision plat if such change affects any street layout shown on such map, or area reserved thereon for public use, or any lot line, or if it affects any map or plan legally recorded prior to the adoption of any regulations controlling subdivision. This process is also referred to as re-platting.

RIGHT-OF-WAY (ROW) The width, between property lines, of a street, alley, or easement (measured at right angles to the center line of a street).

RURAL SUBDIVISION Residential subdivisions in the AG, Agricultural, or R-R, Rural Residential Districts, or on land which is outside the utility service area for wastewater services and for which the provision of these services will be accommodated through the use of individual, privately owned systems.

SALE OR LEASE Any immediate or future transfer of ownership, including contract of sale or transfer, or an interest in a subdivision or part thereof.

SKETCH PLAN A simple sketch of the proposed layout of streets, lots, and other features of a proposed subdivision in relation to existing conditions, including topography, prepared by the petitioner and submitted to the Planning Board for the purpose of obtaining the advice and assistance of the Planning Department Staff and approval of the Planning Board before preparation of the preliminary plat.

SPECIAL FLOOD HAZARD AREA As defined by § 7-7-4 of the Zoning Code of the Town of Amherst.

STREET A public or private way which permits conducting of vehicular travel and/or affords a primary means of access by vehicles and pedestrians to abutting properties including the entire area within the right-of-way. The term includes those ways as shown on plats filed in the Office of the Erie County Clerk, whether improved or not.

STREET CLASSIFICATIONS

1. EXPRESSWAY. A divided arterial highway for through traffic to which access from the abutting properties is prohibited and all street crossings are made by grade-separated intersections.

2. MAJOR ARTERIAL. A high volume roadway that carries the major portion of daily trips to centers of activity in the metropolitan area. Major arterials (also called principal arterials) place a greater emphasis on mobility rather than access to land and include fully and partially controlled access facilities in three categories: Interstates, Expressways, and Streets. A major arterial serves major through movements between important centers of activities in a metropolitan area, and a substantial portion of trips entering and leaving the area. It also connects freeways with major traffic generators.

3. MINOR ARTERIAL. A street that connects and augments the major arterial system. Although its main function is still traffic mobility, a minor arterial performs this function at a somewhat lower level and places more emphasis on land access than does a major arterial. A system of minor arterials serves trips of moderate length and distributes travel to geographical areas smaller than those served by a major arterial.

4. COLLECTOR. Street that distributes trips from and channels trips to arterials. Additionally, these roadways provide access and circulation within residential neighborhoods. Collector streets provide for both access and circulation within residential, commercial, and industrial areas. Their access function is more important than that of arterials, and unlike arterials, their operation is not always dominated by traffic signals.

5. LOCAL COLLECTOR. A street that distributes lower volumes of traffic from predominantly residential developments to collector streets and arterials. Local collectors carry through traffic, but at lower volumes than collectors.

6. LOCAL STREETS. A street that provides for local traffic and the lowest level of mobility. Through traffic movement is discouraged on local streets.

7. NARROW RESIDENTIAL STREET. A private roadway built to Town specifications.

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8. ALLEY. A narrow passageway between or behind buildings; a public or private rear access or service

STREET GRADE — The slope of the street as measured between two adjacent points located on the street centerline (See Grades).

STREET LINE — The right-of-way line associated with: 1) a public street; or 2) edge of pavement abutting a private street.

STREET PAVEMENT — The wearing or exposed surface of the roadway used by vehicular traffic excluding gutters, shoulders, and curbing.

SUBDIVISION — The division of any parcel of land into five or more lots, blocks or sites in any three year period, with or without streets or highways, for sale or for rent for residential lots or residential building plots.

Such division shall include resubdivision of parcels of land for which an approved plat has already been filed in the office of the County Clerk and which is entirely or partially undeveloped.

SUBDIVISION, RURAL CLUSTER — A residential development in accordance with § 278 of NYS Town Law in the R-R District that helps retain viable agriculture and open space; minimizes land use conflicts; provides for recreational and habitat corridors through linked open space networks; achieves flexibility, efficiency and cost reduction in the provision of services and infrastructure; and does not rely on central sewer facilities.

SUBDIVISION, MAJOR — See § 4-3-2.

SUBDIVISION, MINOR— See § 4-3-1.

SUBMISSION DATE — Date upon which the sketch plan, preliminary plat, or final subdivision plat, complete and accompanied by a fee, if required, and all supporting data required, has been received by the Planning Department.

SUPERELEVATION — The banking of a roadway along a horizontal curve so that motorists can safely and comfortably maneuver the curve at reasonable speeds.

THOROUGHFARE PLAN — The plan and recommendations adopted by the Planning Board or Town Board indicating existing and proposed freeways and streets.

TRAFFIC CALMING — The combination of mainly physical measures that reduce the negative effects of motor vehicle use, alter driver behavior, and improve conditions for non-motorized street users. Examples of traffic calming devices include speed tables, speed humps, diverters, neck-downs, chicanes, bump-outs, and roundabouts.

UTILITIES — All lines and facilities related to the provision, distribution, collection, transmission or disposal of water, sanitary and storm sewage, oil, gas, power, information, telecommunication and telephone cable.

WETLAND — Areas regulated by the New York State Department of Environmental Conservation or applicable Federal agencies as Fresh Water Wetlands as prescribed by law.

PART 3
DESIGN STANDARDS

§ 3-1. General

3-1-1. **Intent.** These design standards are intended as a guide to sound land planning and are for typical development conditions. Should there be unusual topographic or physical development conditions, these standards may be waived in accordance with § 4-7.

3-1-2. **Conformity to Comprehensive Plan.** Subdivisions shall be designed to be in agreement with objectives of the Comprehensive Plan and in general compliance with the plan for the area.

3-1-3. **Conformity with Thoroughfare and Utilities Specifications.** The arrangement, character, extent, size, grade and location of all streets and public utilities shall be consistent with the Thoroughfare and Public Utilities

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Plans and shall be considered in their relation to existing and planned streets and utilities. Proposed subdivisions shall be designed in such a way as to avoid casting an undue burden on the street system, drainage system, or other public facilities planned for the area. Subdivisions shall be designed in conformance with the Town of Amherst Standard Details and Specifications and are available at the Town of Amherst Engineering Department.

3-1-4. **Conformity to the Zoning Ordinance.** Subdivisions shall conform to the Zoning Ordinance regulations and Zoning Map for the area involved.

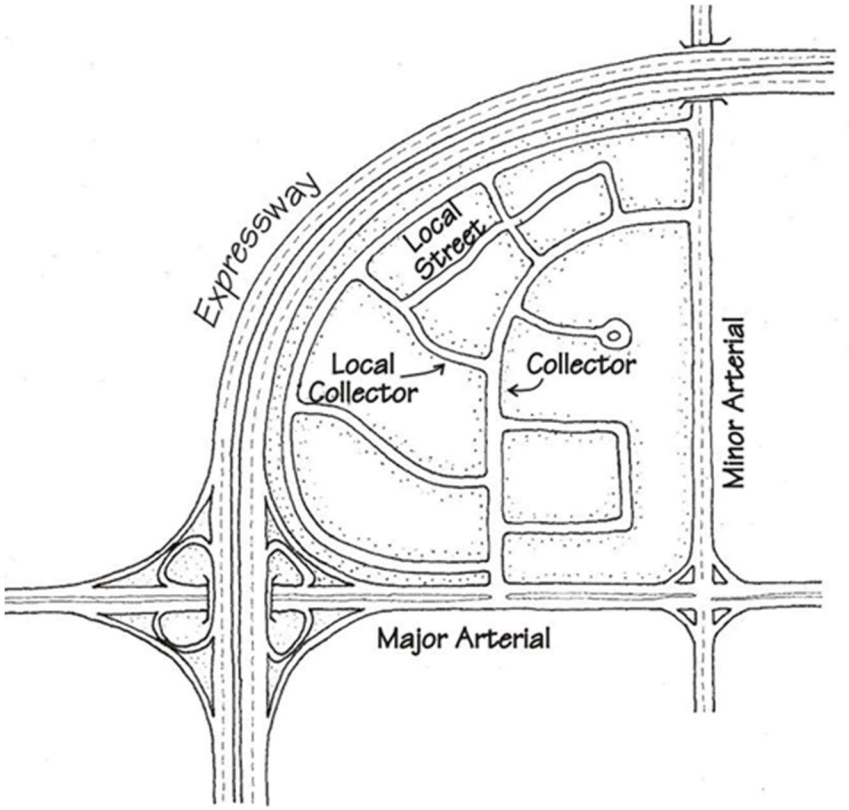
3-1-5. **Suitability of Land and Relation to Natural Features.** Land deemed by the Planning Board to be unsuitable for human habitation because of health, safety, public welfare, or sanitary problems shall not be platted for residential use, nor for such other uses as may involve danger to health, life, or property. Such land within a plat shall be set aside for uses appropriate to existing conditions. In subdividing any land, due regard shall be shown for all natural features, such as tree growth, water courses, historic locations, or similar conditions.

§ 3-2. Streets

3-2-1. Hierarchy.

A. A street is a public way for purposes of vehicular travel and includes the entire area within the right-of-way. The street also serves pedestrian traffic and often accommodates public utility facilities within the right-of-way or on easements adjacent thereto. The improvement or development of streets is based on a functional street classification system which is part of the Comprehensive Plan.

B. A typical hierarchy of streets is shown below



3-2-2. General Design Guidelines. The following are general design guidelines for all public streets.

A. Street and pedestrian circulation patterns shall be compatible with objectives established by the Future Thoroughfare System in the Comprehensive Plan.

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B. Planned layouts shall minimize overall length of local streets.

C. Driveway entrances shall be prohibited on arterial streets and shall be avoided wherever possible on collector streets.

D. Streets shall provide safe and convenient access to housing.

E. All dwellings shall be accessible by emergency and service vehicles.

F. Roadway networks shall improve efficiency and connectivity while preserving neighborhood character.

G. Traffic calming and access management measures shall be used in conjunction with a connected roadway network where needed.

H. Provide for looping of utilities, where appropriate and desirable.

I. Necessary lighting along streets and walkways shall be provided.

J. Use of signs shall be minimized and signposts shall be unobtrusive.

K. Informational signs shall not compete with traffic control signs for driver attention.

L. Use of break-away street furniture shall be considered wherever possible and shall be grouped for aesthetic as well as safety values.

M. Sight distances shall be consistent with probable traffic speed, terrain, alignments, and climatic extremes.

N. Pedestrian, bicycle, and vehicular traffic shall be separated to the extent feasible.

O. Parks, play areas, and interior block open spaces, shall be visible from the street.

P. Horizontal and vertical street alignments shall relate to the natural contours of the site insofar as is practical and shall be consistent with other design objectives.

Q. Horizontal and vertical alignment of streets shall be selected to minimize grading quantities.

R. Wherever possible, street layouts shall be planned to avoid excessive runoff concentration.

S. Streets crossing drainageways inevitably will function as dams, and shall be designed to minimize adverse backwater effects, scour, and erosion.

3-2-3. General Construction Principles.

A. Pavement designs should be appropriate for the specific traffic load, subgrade soil, surface drainage, ground water, and climatic conditions existing at the pavement's location.

B. The thickness of a pavement should be a function of both the assured load supporting value of the earth subgrade beneath the pavement and the wheel load distribution characteristics of the pavement materials.

C. Pavement edge treatments other than curb and gutter may be used where conditions permit adequate drainage and the roadway base will not be adversely affected, subject to approval by the Highway Superintendent.

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3-2-4. Specific Design Standards.

A. Geometric and Pavement Standards.

(1) Local Streets.

(a) The following standards shall apply to all local streets.

Overall Design Parameters	
Local streets are to be designed to provide the minimum stopping sight distance, maximum grade, minimum curve radii, and minimum design speed in accordance with American Association of State Highway Transportation Officials (AASHTO) Design Standards.	
~~Minimum stopping sight distance~~	~~1 15'~~
~~Maximum grade~~	~~8%~~
~~Minimum curve radius~~	~~72'~~
~~Design speed~~	~~20 – 30 mph~~
Roadway Requirements	
Minimum pavement width	28'
Minimum right-of-way width	~~52~~60'
Geometric Parameters	
Travel lane width and number	Two lanes 14' wide
Median width	None required; additional width required for development requesting medians
Parking lane width	Two lanes, 7' wide
Sidewalk width	~~4'~~ 5'
Bike lane width	None required; share street
Planting strip/snow storage area	11' ~~additional width optional~~ minimum

(b) The following figure illustrates the location and relationships between the parameters and requirements listed in the table.

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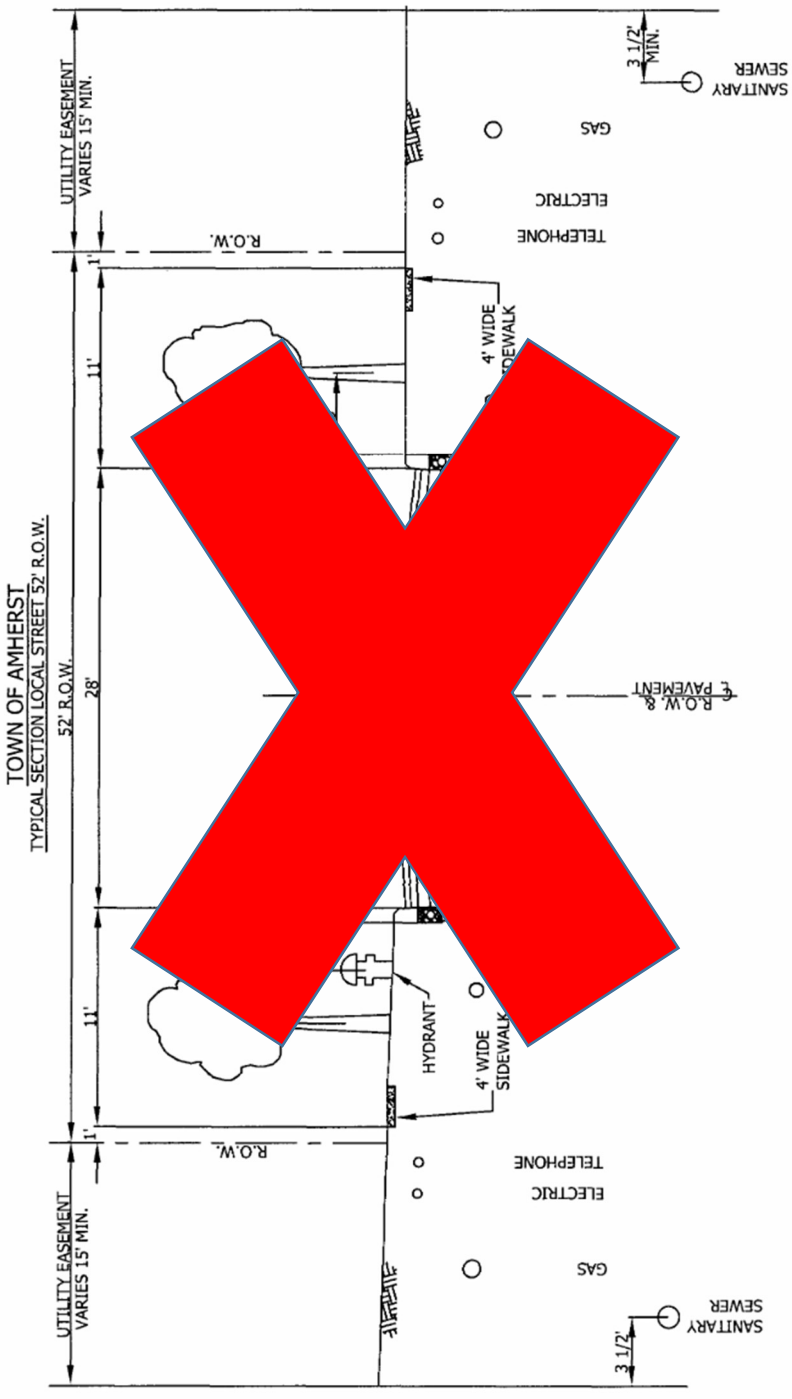

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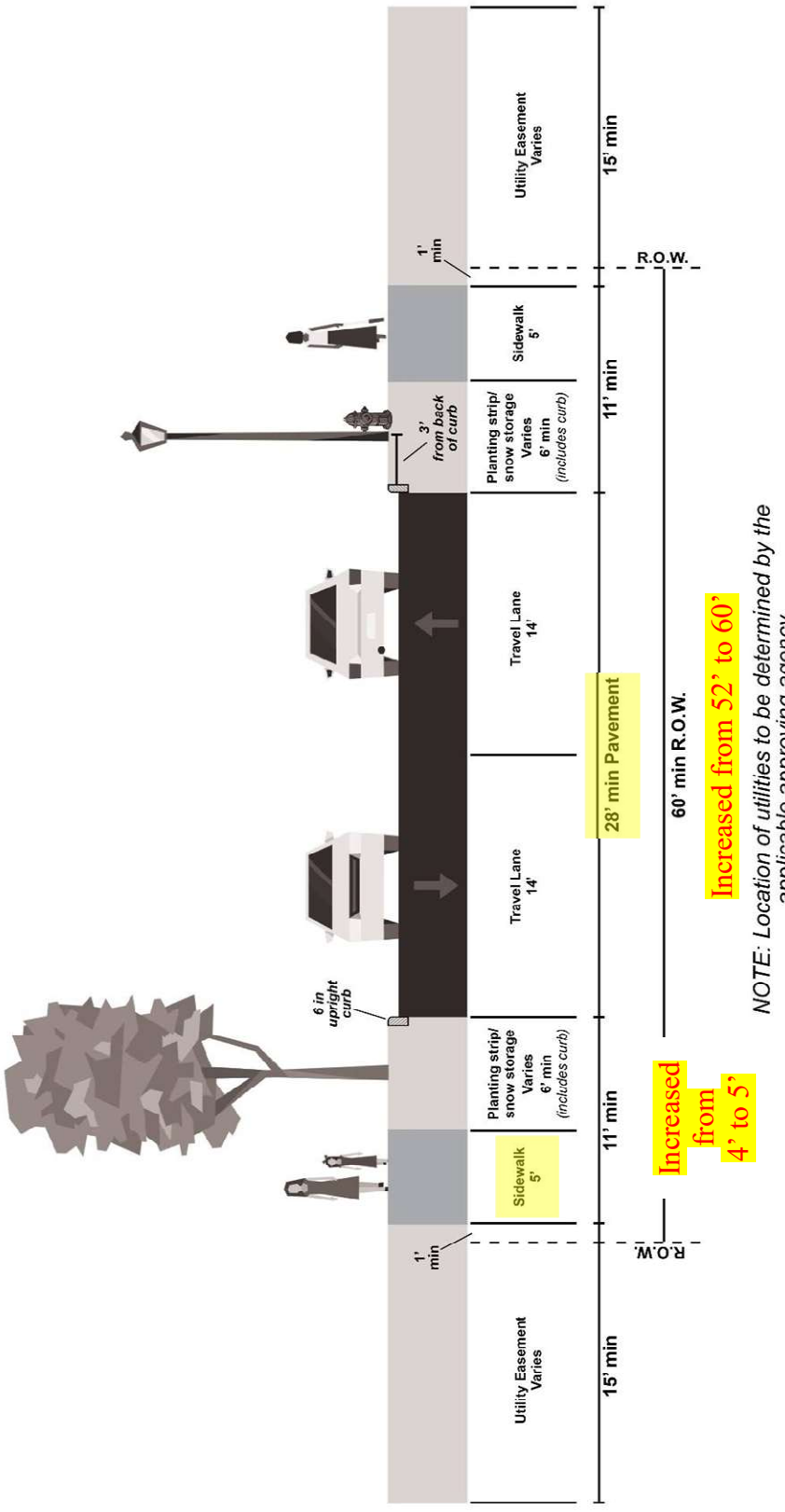
NEW SECTION REPLACES OLD SECTION DRAWING



(2) Local Collectors.

(a) The following standards shall apply to all local collectors.

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Overall Design Parameters	
Local collectors are to be designed to provide the minimum stopping sight distance, maximum grade, minimum curve radii, and speed in accordance with AASHTO Design Standards.	
~~Minimum stopping sight distance~~	~~2 35'~~
~~Maximum grade~~	~~7%~~
~~Minimum curve radius~~	~~200'~~
~~Design speed~~	~~20 — 30 mph~~
Roadway Requirements	
Minimum pavement width	28'
Minimum right-of-way width	~~52'~~60'
Geometric Parameters	
Travel lane width and number	Two lanes 14' wide
Median width	None required; except where necessary to control access and/or to provide pedestrian refuge. Additional roadway and ROW width will be required.
Parking lane width	7 — 8' if required
Sidewalk width	~~4'~~ 5'
Bike lane width	None required; share street
Planting strip/snow storage area	15'; additional width optional.

(b) The following figure illustrates the location and relationships between the parameters and requirements listed in the table.

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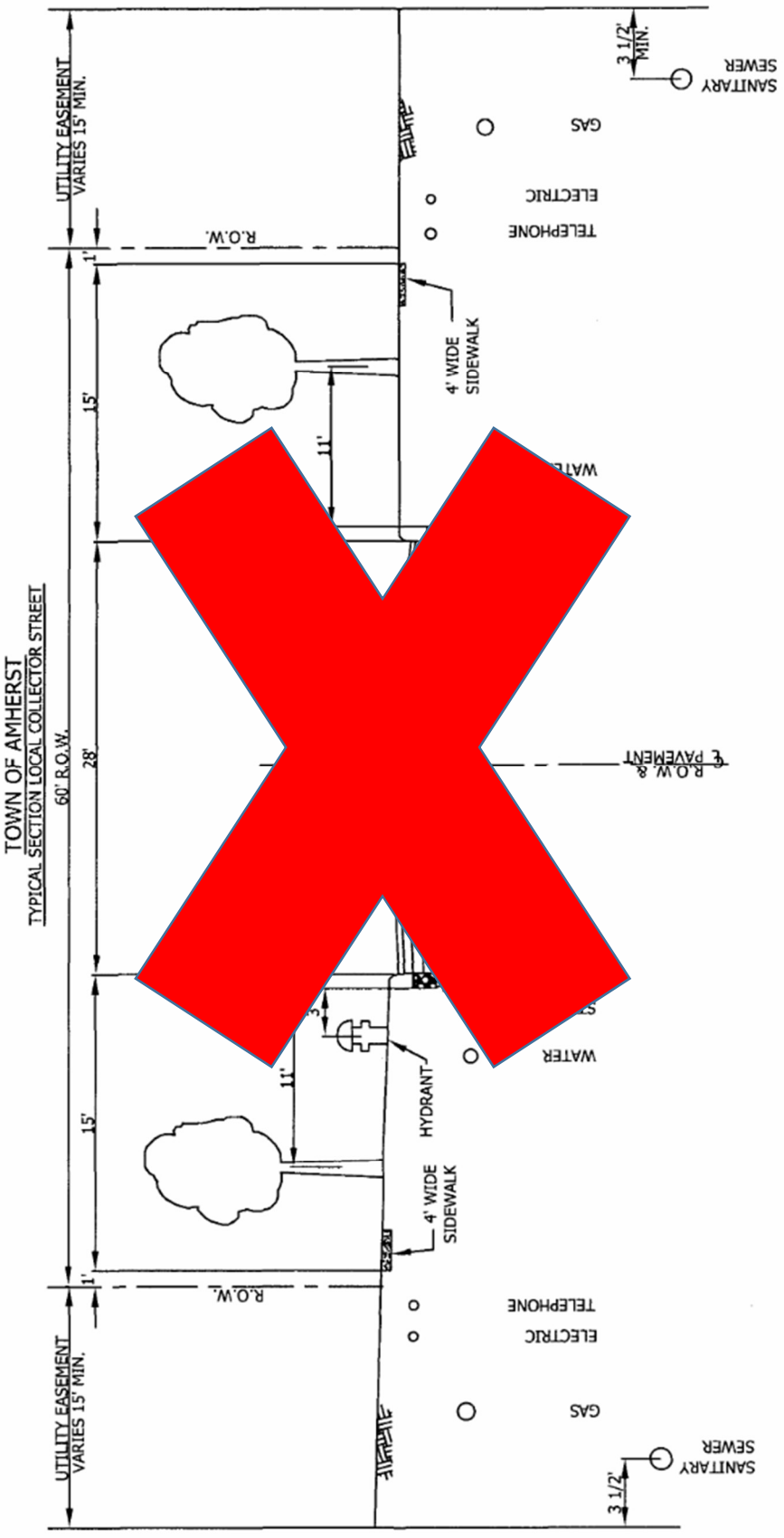
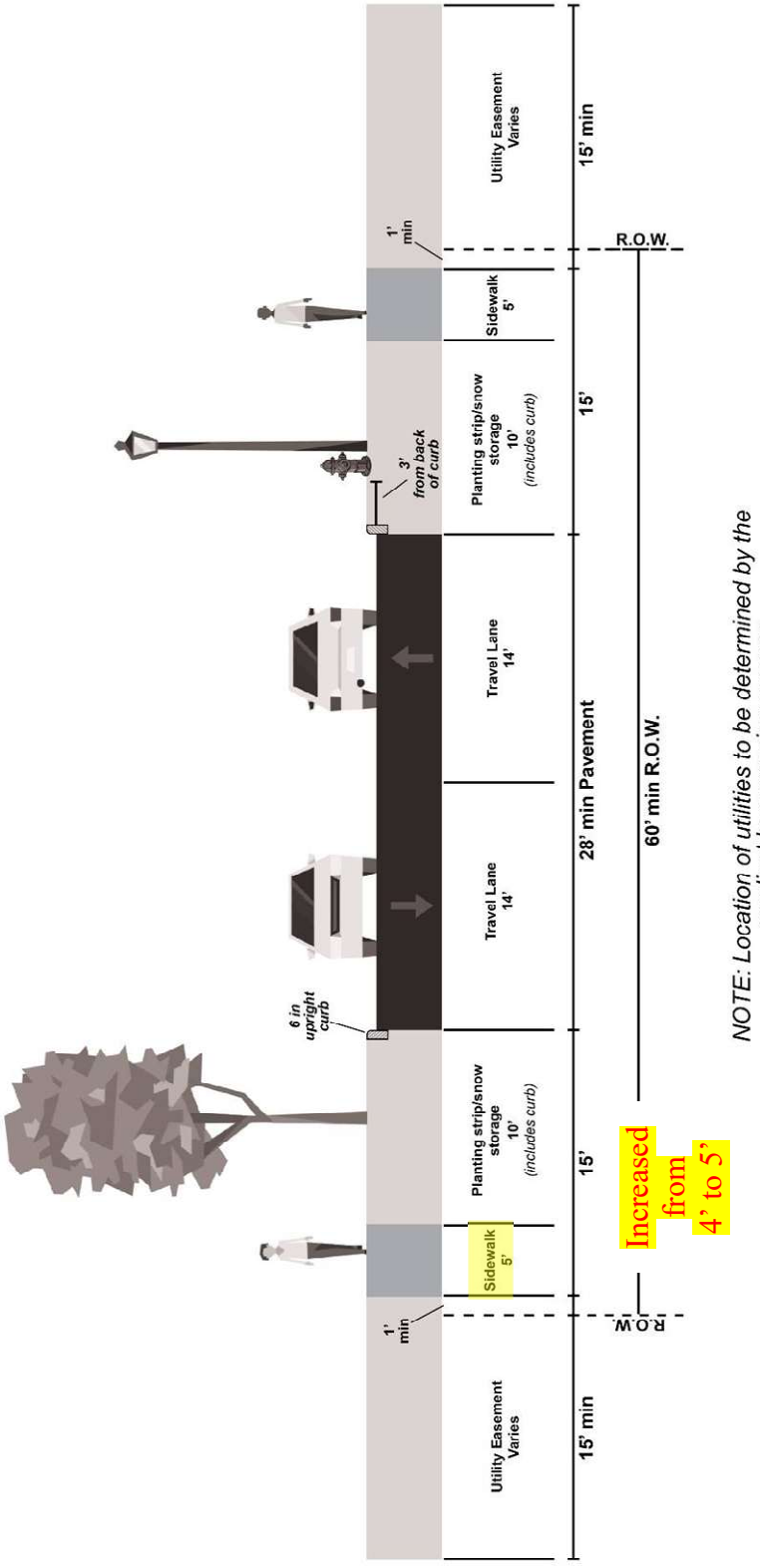


Attachment: LL ZTA-2024-01 (RES-2024-938 : Adoption of Local Law to Amend Chapter 204 of the Town Code (Subdivision Regulations, ZTA-

NEW SECTION REPLACES OLD SECTION DRAWING



(3) Collectors.

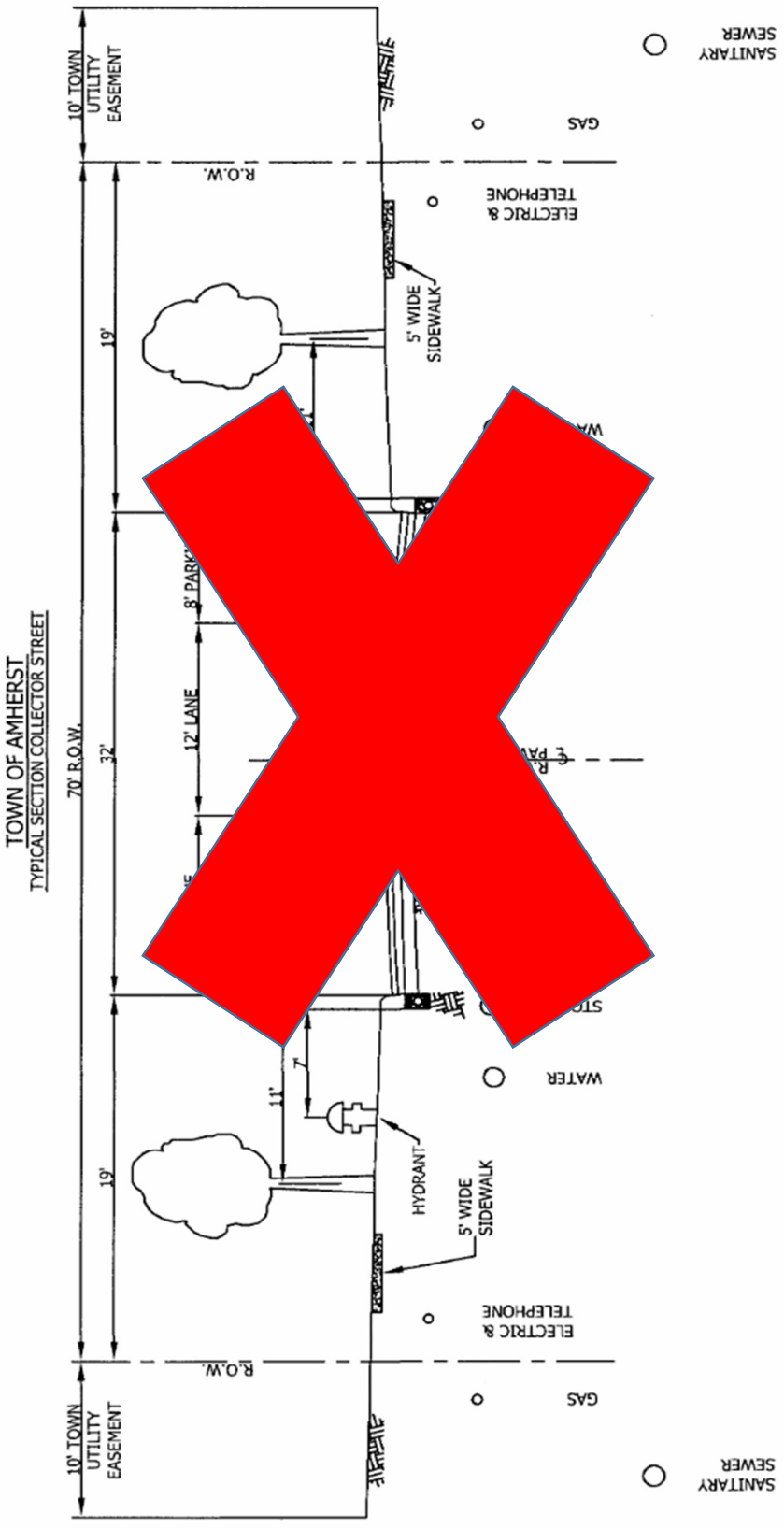
(a) The following standards shall apply to collectors.

Attachment: LL ZTA-2024-01 (RES-2024-938 : Adoption of Local Law to Amend Chapter 204 of the Town Code (Subdivision Regulations, ZTA-

Overall Design Parameters	
Collectors are to be designed to provide the minimum stopping sight distance, maximum grade, minimum curve radii, and speed in accordance with AASHTO Design Standards.	
~~Minimum stopping site distance~~	~~2 75'~~
~~Maximum grade~~	~~7%~~
~~Minimum curve radius~~	~~285'~~
~~Design speed~~	~~30 60 mph~~
Roadway Requirements	
Minimum pavement width	32'
Minimum right-of-way width	70'
Geometric Parameters	
Travel lane width and number	Two 12' wide lanes
Median width	None required, except where necessary to control access and/or to provide pedestrian refuge. Additional roadway and ROW width will be required.
Parking lane width	Min. one 8' wide parking lane required.
Sidewalk width	5'
Bike lane width	Optional; where provided, two one-way 5' wide lanes located on the outside of the travel lanes.
Planting strip/snow storage area	19'; additional width optional.

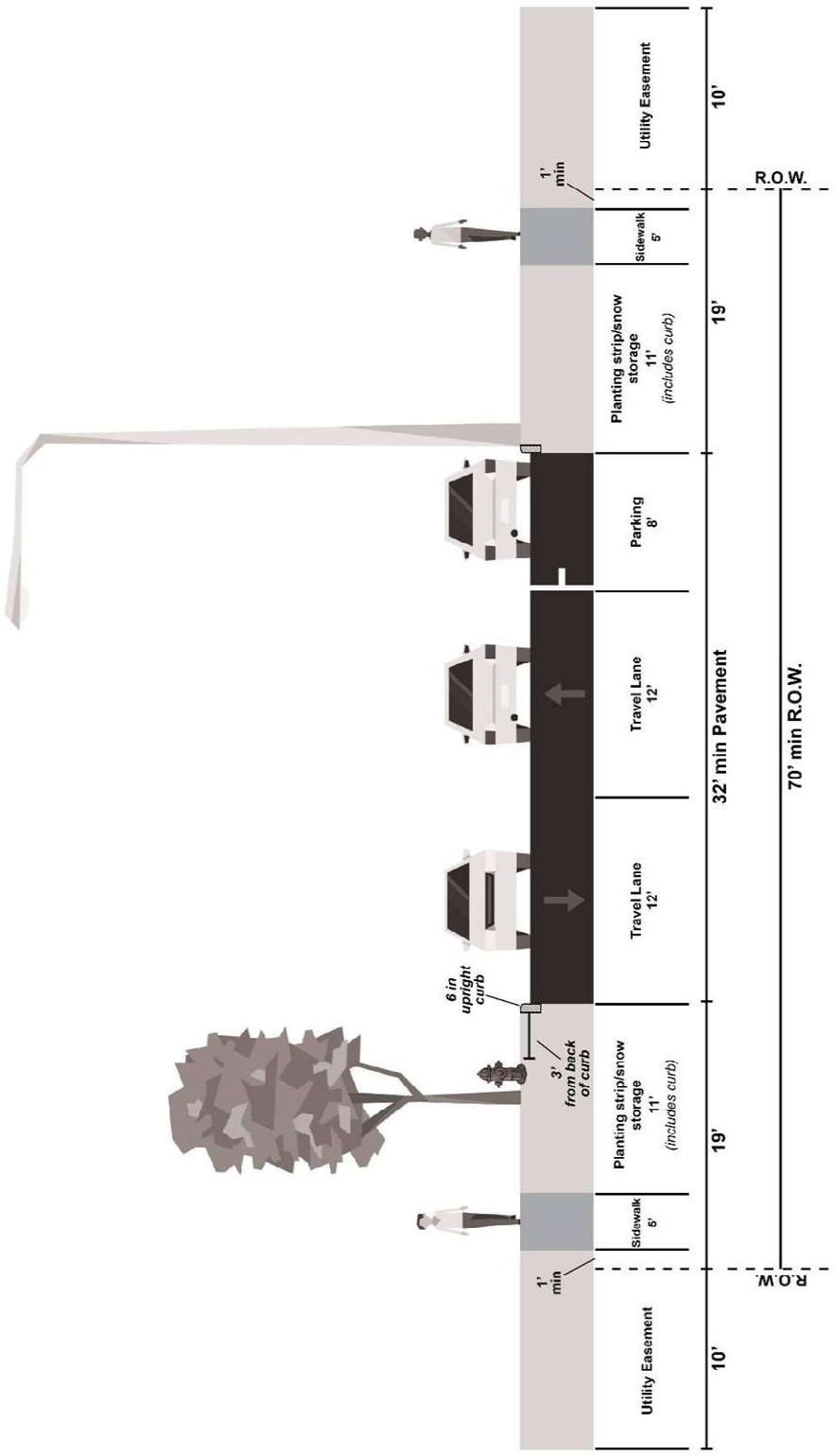
(b) The following figure illustrates the location and relationships between the parameters and requirements listed in the table.

Attachment: LL ZTA-2024-01 (RES-2024-938 : Adoption of Local Law to Amend Chapter 204 of the Town Code (Subdivision Regulations, ZTA-



Attachment: LL ZTA-2024-01 (RES-2024-938 : Adoption of Local Law to Amend Chapter 204 of the Town Code (Subdivision Regulations, ZTA-

NEW SECTION REPLACES OLD SECTION DRAWING



(4) Minor Arterials.

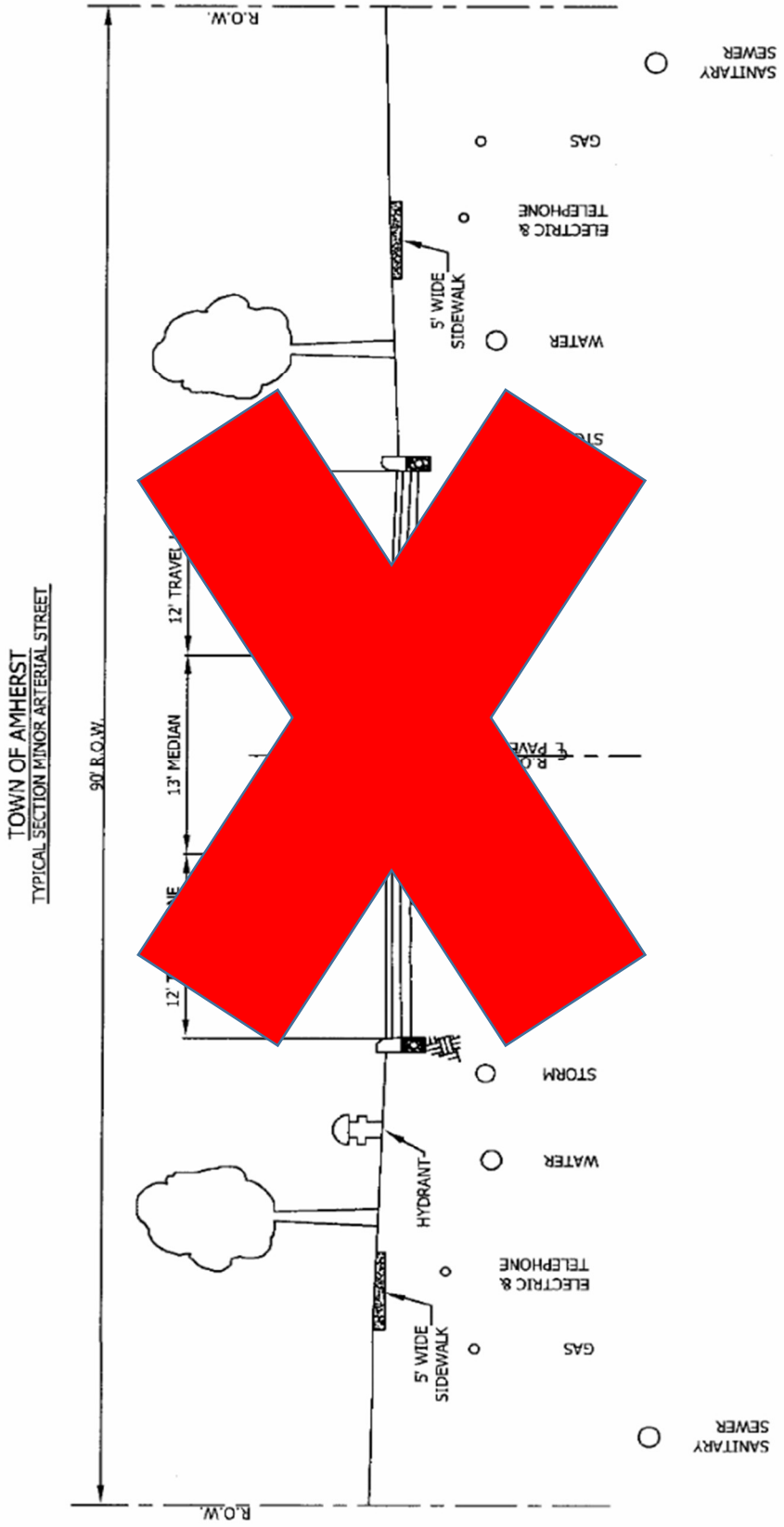
(a) The following standards shall apply to all minor arterials.

Attachment: LL ZTA-2024-01 (RES-2024-938 : Adoption of Local Law to Amend Chapter 204 of the Town Code (Subdivision Regulations, ZTA-

Overall Design Parameters	
Minor Arterials are to be designed to provide the minimum stopping sight distance, maximum grade, minimum curve radii, and speed in accordance with AASHTO Design Standards.	
~~Minimum stopping sight distance~~	~~2 75'~~
~~Maximum grade~~	~~7%~~
~~Minimum curve radius~~	4 ~~43'~~
~~Design speed~~	~~30 60~~ mph
Roadway Requirements	
Minimum pavement width	24'
Minimum right-of-way width	90'
Geometric Parameters	
Travel lane width and number	Two 12' wide lanes
Median/center turn lane width	13' where required
Parking lane width	8' where required
Sidewalk width	5'
Bike lane width	Optional; where provided, two one-way 5' wide lanes located on the outside of the travel lanes.
Planting strip/snow storage area	Distance from centerline to curb or outside of plowed area in feet x 0.6; additional width optional.

(b) The following figure illustrates the location and relationships between the parameters and requirements listed in the table.

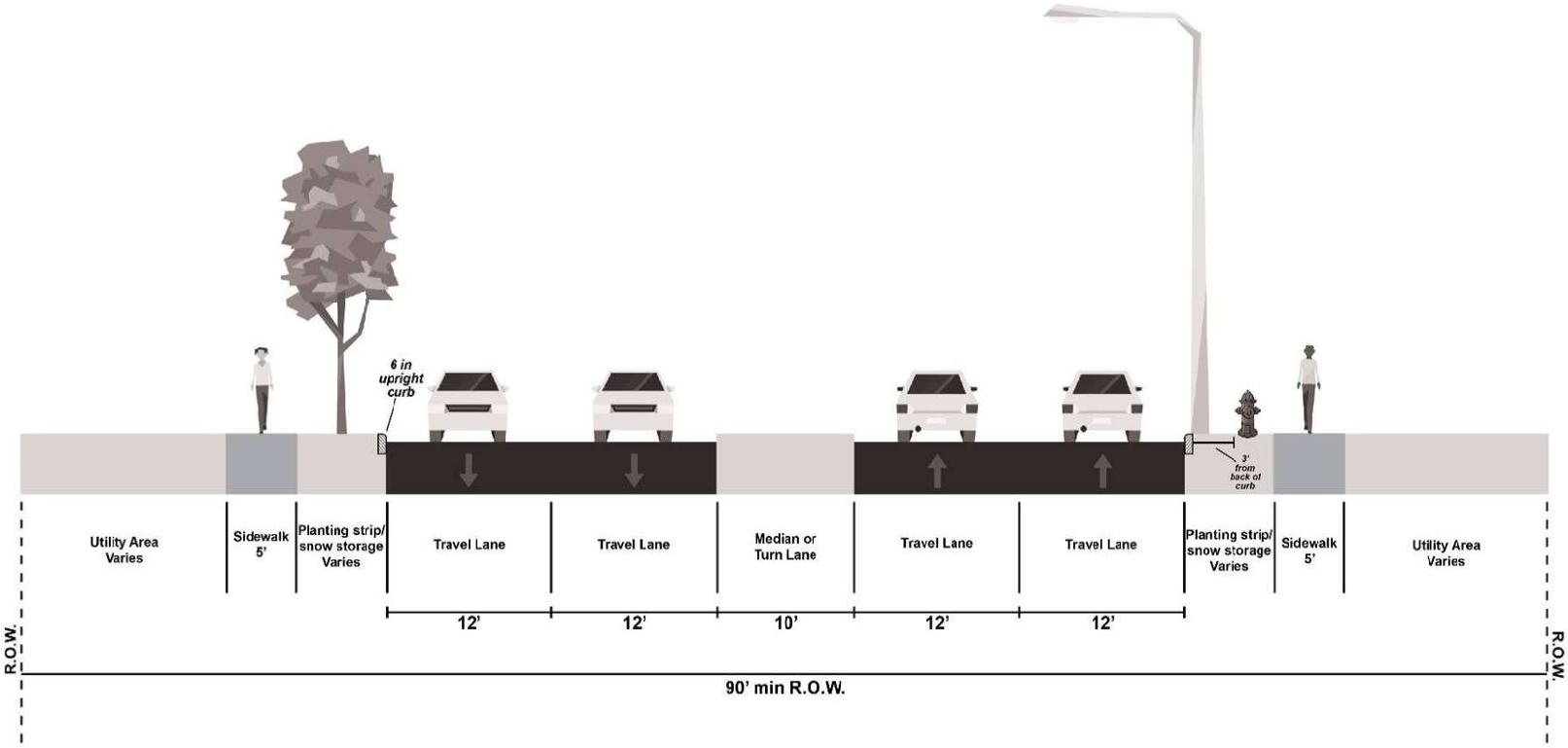
Attachment: LL ZTA-2024-01 (RES-2024-938 : Adoption of Local Law to Amend Chapter 204 of the Town Code (Subdivision Regulations, ZTA-



Attachment: LL ZTA-2024-01 (RES-2024-938 : Adoption of Local Law to Amend Chapter 204 of the Town Code (Subdivision Regulations, ZTA-

NEW SECTION REPLACES OLD SECTION DRAWING

Typical Section - Minor Arterial



NOTE: Location of utilities to be determined by the applicable approving agency

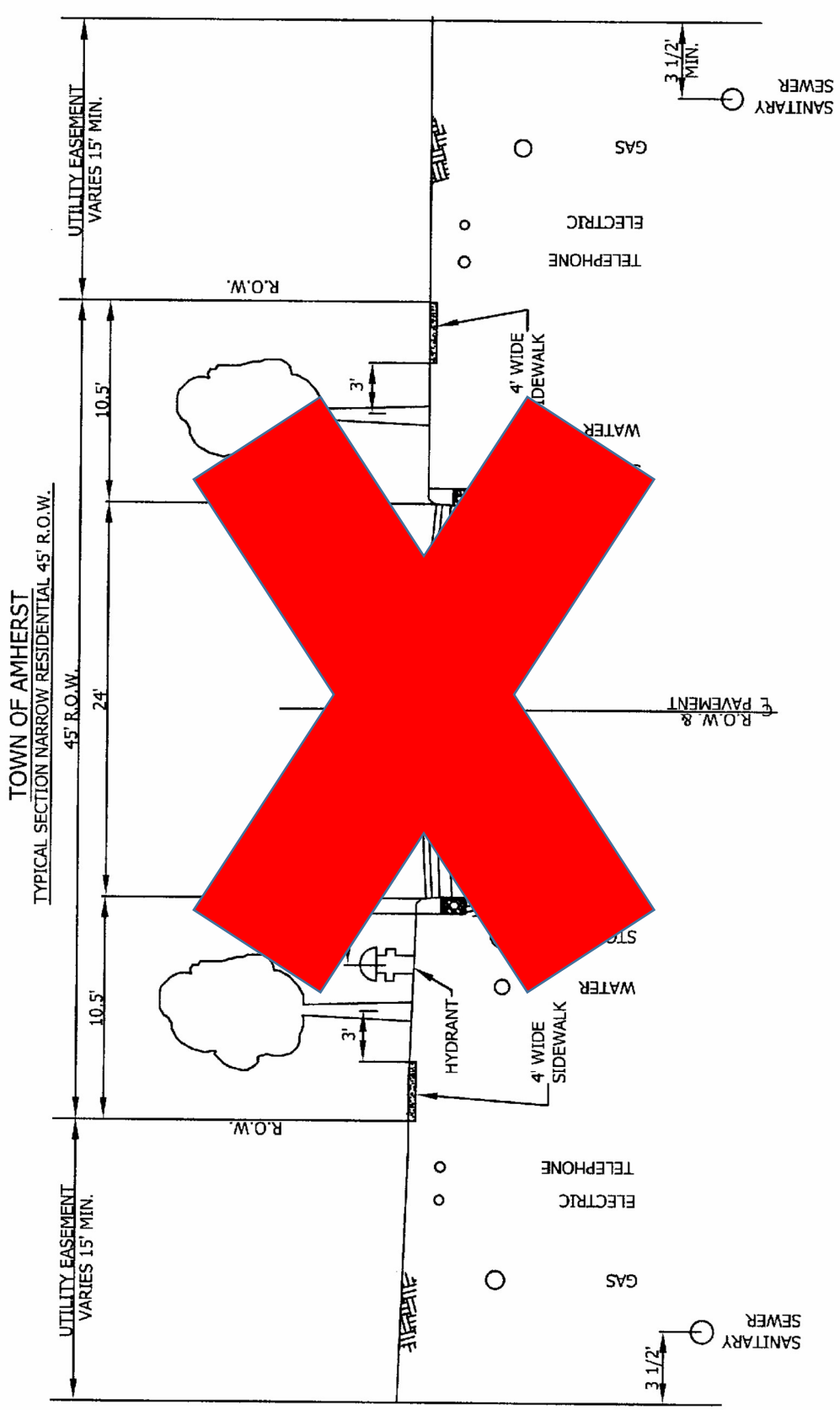
(5) Narrow Residential Streets.

(a) The following standards shall apply to all narrow residential streets. Narrow residential streets shall be used in conjunction with a private alley.

Overall Design Parameters	
Narrow Residential streets are to be designed to provide the minimum stopping sight distance, maximum grade, minimum curve radii, and speed in accordance with AASHTO Design Standards.	
~~Minimum stopping sight distance~~	1 ~~15~~'
~~Maximum grade~~	8~~%~~
~~Minimum curve radius~~	7 ~~2~~'
~~Design speed~~	2 ~~0~~ mph
Roadway Requirements	
Minimum pavement width	24'
Minimum right-of-way width	~~45~~' 49.5'
Geometric Parameters	
Travel lane width and number	One 17' lane
Median width	None required
Parking lane width	One 7' lane
Sidewalk width	4'
Bike lane width	None required
Planting strip/snow storage area	10.5'; additional width optional.

(b) The following figure illustrates the location and relationships between the parameters and requirements listed in the table.

Attachment: LL ZTA-2024-01 (RES-2024-938 : Adoption of Local Law to Amend Chapter 204 of the Town Code (Subdivision Regulations, ZTA-

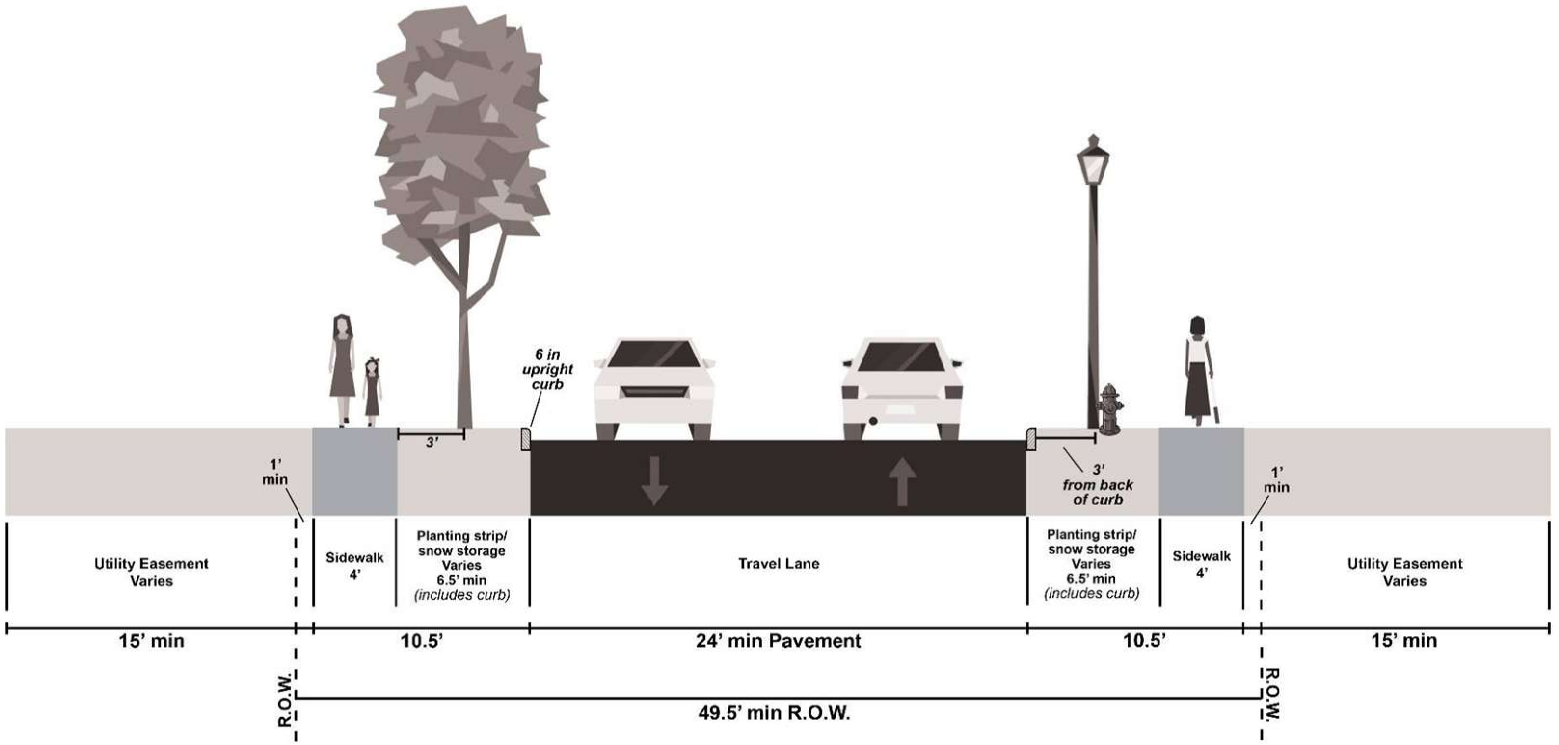


Attachment: LL ZTA-2024-01 (RES-2024-938 : Adoption of Local Law to Amend Chapter 204 of the Town Code (Subdivision Regulations, ZTA-

NEW SECTION REPLACES OLD SECTION DRAWING

Typical Section - Narrow Residential

**Private Streets*



NOTE: Location of utilities to be determined by the applicable approving agency

(6) Alleys. A narrow passageway between or behind buildings; a public or private rear access or service roadway.

(a) The following standards shall apply to all alleys.

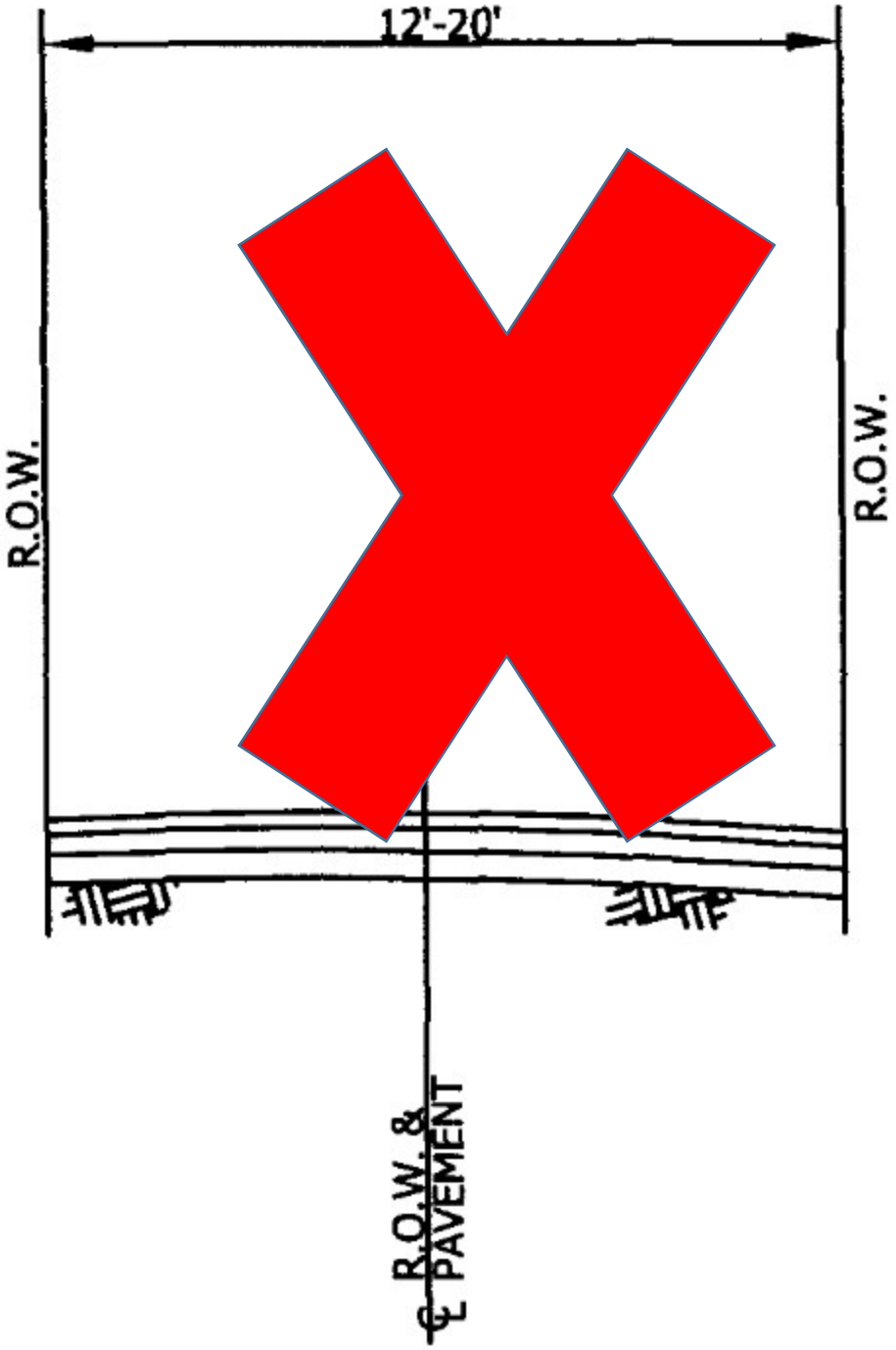
Overall Design Parameters	
Alleys are to be designed to provide the minimum stopping sight distance, maximum grade, minimum curve radii, and speed in accordance with AASHTO Design Standards.	
~~Minimum stopping sight distance~~	5 ~~0~~'
~~Maximum grade~~	8%
~~Minimum curve radius~~	7 ~~2~~'
~~Design speed~~	2 ~~0~~ mph
Roadway Requirements	
Minimum pavement width	
Minimum right-of-way	
Geometric Parameters	
Travel lane width and number	One 12-20' lane
Median width	None required
Parking lane width	None required
Sidewalk width	None required
Bike lane width	None required
Planting strip/snow storage area	One 12-20' lane

(b) The following figure illustrates the location and relationships between the parameters and requirements listed in the table.

Attachment: LL ZTA-2024-01 (RES-2024-938 : Adoption of Local Law to Amend Chapter 204 of the Town Code (Subdivision Regulations, ZTA-

TOWN OF AMHERST

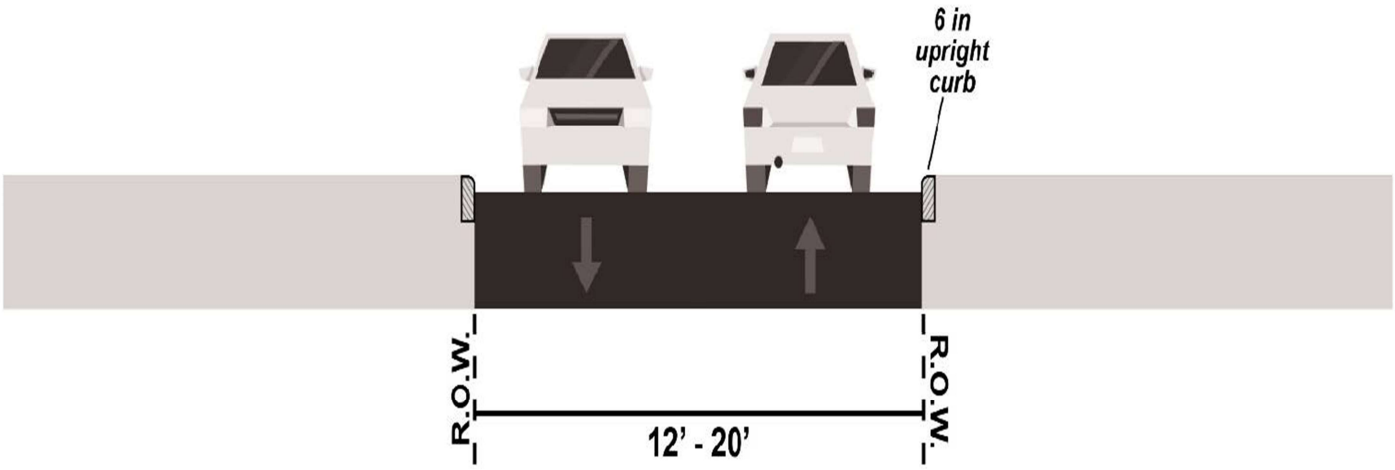
TYPICAL SECTION ALLEY 12'-20' R.O.W.



Attachment: LL ZTA-2024-01 (RES-2024-938 : Adoption of Local Law to Amend Chapter 204 of the Town Code (Subdivision Regulations, ZTA-

NEW SECTION REPLACES OLD SECTION DRAWING

Typical Section - Alley



Attachment: LL ZTA-2024-01 (RES-2024-938 : Adoption of Local Law to Amend Chapter 204 of the Town Code (Subdivision Regulations, ZTA-

(7) Standards Applying to all Streets.

(a) In order to provide for proper drainage, the minimum grade shall be 0.4 percent for streets with outer curbs. A grade of 0.35 percent may be used where there is a high type pavement, accurately crowned and supported on firm subgrade.

(b) An easement, when required, shall be a minimum of 15 feet for local streets and local collectors.

(c) Private streets shall be designed in accordance with the applicable standards in the tables above; and lot (parcel) lines are to be carried to the center of the roadway (not right-of-way).

B. Layout. The arrangement, character, extent, width and location of all streets shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and in appropriate relation to the proposed uses of the land to be served by such streets. Where such streets are not shown on the Comprehensive Plan, the arrangement of streets in a subdivision shall either:

(1) Provide for the continuation or appropriate projection of existing streets ~~in~~ to surrounding areas; or

(2) Conform to a plan for the neighborhood approved or adopted by the Planning Board.

C. Alignment.

(1) Streets shall be laid out so as to intersect as nearly as possible at right angles and no streets shall intersect any other street at less than 80 degrees.

(2) The edge of pavement at street intersections shall be rounded with a radius of 20 feet, or of a greater radius where the Planning Board, Highway Superintendent, or Traffic and Safety Board deem it necessary.

(3) In the case of dead-end streets, where needed, the Board may require the reservation of a 50-foot wide easement or dedication, to provide for continuation of pedestrian traffic and utilities to the next street.

(4) Local streets shall connect with surrounding streets ~~where necessary~~ to permit the convenient movement of traffic, or to facilitate access to neighborhoods by emergency service vehicles, or for other sufficient reasons. ~~but connections shall be designed to avoid the use of such streets by substantial through traffic.~~

(5) ~~Whenever~~ Connections to anticipated or proposed surrounding streets are required. The right-of-way shall be extended to the property line, ~~and~~ the street shall be developed to the property line of the subdivided property (or to the edge of the remaining undeveloped portion of a single tract) at the point where the connection to the anticipated or proposed street is expected. No lot shall take access from the terminal end of such streets. The Planning Board may also require temporary turn-arounds to be constructed at the end of such streets pending their extension when such turn-arounds appear necessary to facilitate the flow of traffic or accommodate emergency or service vehicles.

(6) Street jogs with centerline offsets of less than 150 feet shall not be permitted.

(7) A tangent at least 100 feet long shall be introduced between reverse curves on major arterial and collector streets.

Attachment: LL ZTA-2024-01 (RES-2024-938 : Adoption of Local Law to Amend Chapter 204 of the Town Code (Subdivision Regulations, ZTA-

(8) An intersection of more than two streets shall be avoided unless specific conditions of design indicate otherwise.

(9) In general, street lines within a block, deflecting from each other at any one point by more than 10 degrees, shall be connected with a curve, the radius of which for the centerline of street shall not be less than 400 feet on major streets and collector streets and 200 feet on local streets.

(10) Minor or secondary street openings into collector or major arterial roads shall, in general, be at least 500 feet apart.

(11) Where a tract is subdivided into lots substantially larger than the minimum size required in the zoning district in which a subdivision is located, the Board may require that streets and lots be laid out so as to permit future re-subdivision in accordance with the requirements contained in these Regulations.

(12) Alignment in residential areas shall fit closely with the existing topography so as to minimize the need for cuts or fills. There is advantage in residential areas in purposely making the alignment of such nature as to discourage high speed through traffic. Caution shall be taken in the design of the alignment that the safety of the facility is not reduced.

(13) Where curves are superelevated lower values apply, but the radius shall never be less than 115 feet for local streets and 275 feet for collector streets.

D. Intersections.

(1) **Design Principles.**

(a) Paved areas within intersections shall be minimized.

(b) Oblique intersections and large corner radii shall be avoided.

(c) Wherever possible, intersections on curves should be avoided.

(2) **Intersection Design.**

(a) Intersections, including median openings, shall be designed with adequate corner sight distance and the area kept free of obstacles.

(i) The corner sight distance for collector streets shall be a minimum of 300 feet.

(ii) For local streets the corner sight distance shall be a minimum of 200 feet.

(b) Intersecting streets shall meet at approximately a 90 degree angle.

(c) The minimum off-set for "T" intersections shall be 125 feet centerline to centerline.

(d) Intersections and stacking areas shall be designed with a flat grade; the maximum grade on the approach leg shall be less than five percent.

(e) At street intersections in residential areas and elsewhere where there are heavy pedestrian movements, the minimum radius of curb return where curbs are used or the outside edge of pavement where curbs are not used, shall be a minimum radius of 30 feet.

E. Street Connectivity Requirements. An interconnected street system is necessary in order to promote orderly and safe development by ensuring that streets function in an interdependent manner, provide adequate access for emergency and service vehicles, enhance access by ensuring connected transportation routes, and provide continuous and comprehensible traffic routes.

Attachment: LL ZTA-2024-01 (RES-2024-938 : Adoption of Local Law to Amend Chapter 204 of the Town Code (Subdivision Regulations, ZTA-

(1) **Connectivity Defined.**

(a) Connectivity is defined by the ratio of links to nodes in any subdivision.

(b) Connectivity is defined by the ratio of links to nodes in any subdivision.

(c) Connectivity ratio is the number of street links divided by the number of nodes or end links, including cul-de-sac heads.

(d) A link is any portion of a public or private street meeting Town specifications and is legally accessible defined by a node at each end or at one end. Stubs to adjacent property shall be considered links. Alleys shall not be considered links.

(e) A node is the terminus of a street or the intersection of two or more streets.

(f) Any location where a street name changes shall be considered a node.

(g) Any curve or bend of a street that exceeds 75 degrees shall receive credit as a node. Any curve or bend of a street that does not exceed 75 degrees shall not be considered a node.

(2) **Required Ratio.**

(a) The street network for a subdivision of ~~30~~ 6 acres or more ~~lots~~ with internal roads or access to any public road shall achieve a connectivity ratio of not less than 1.40, measured within the subdivision.

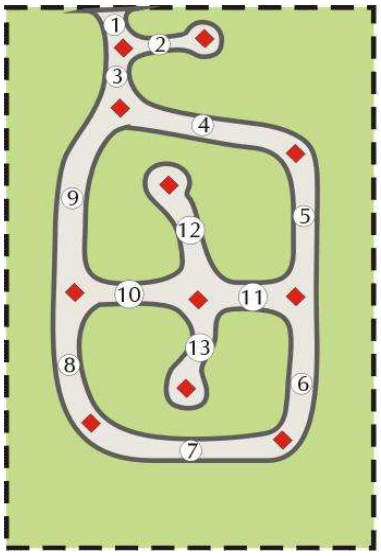
(b) Street links and nodes along a local collector, collector or arterial street providing access to a proposed subdivision shall not be considered in computing the connectivity ratio.

(c) A higher connectivity ratio in a surrounding area shall not provide justification to reduce the required connectivity of a proposed subdivision.

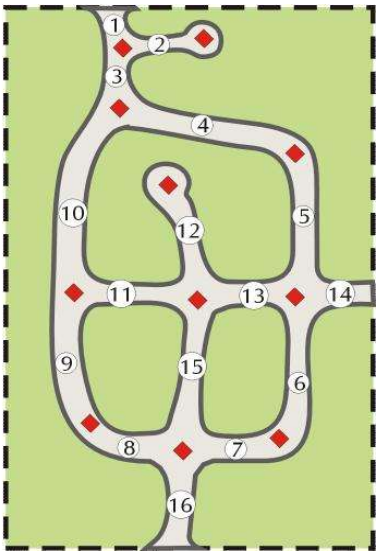
(d) The Planning Board may permit a lower connectivity ratio based upon site constraints.

(3) **Sample Calculation.** The following sample calculation and figures show how the street connectivity ratio for a subdivision shall be calculated.

EXAMPLE 1: Does not meet ratio



EXAMPLE 2: Modified to meet ratio



Number = Link ♦ = Node

Attachment: LL ZTA-2024-01 (RES-2024-938 : Adoption of Local Law to Amend Chapter 204 of the Town Code (Subdivision Regulations, ZTA-

External Access Required.

(a) All subdivisions shall provide the appropriate number of fire apparatus access roads, as described in § 7-6-7(c) of the Zoning Ordinance, Fire Apparatus Access Road Requirements.

F. Cul-de-sac Streets.

(1) ~~A curbed permanent turnaround shall be provided at the end of any permanent dead end street. This turnaround may be T or circular shaped. The commonly used circular form shall have the following dimensions. A curbed permanent turnaround shall be provided at the end of any permanent dead end street. This turnaround may be T or circular shaped. The commonly used circular form shall have the following dimensions.~~ Cul-de-sac street designs are discouraged in favor of future road connections and may only be used where there is no opportunity for a roadway extension and approved by the Town of Amherst Planning Board. This roadway terminus shall be circular-shaped. The circular form shall have the following dimensions, and illustrated below.

Standard	Without Island	With Island
Minimum Cul-de-Sac Radii (including ROW)	62 ft	66 ft
Minimum Cul-de-Sac Radii (to inside of curb)	52 ft	56 ft
Minimum pavement width	28 ft	36 ft
Right-of-way width, minimum	50 ft	50 ft
Utility Easement Width	15 ft	15 ft*
Maximum island radii	—	20 ft
* May be modified by the Planning Board or Director.		

(a) Approval by the Planning Board;

(b) Cul-de-sacs are only to be used when no opportunity for roadway extensions exist.

(2) An unpaved island may be provided at the center of the turnaround in accordance with the standards in the table above and provided that:

(a) The island shall be surrounded by ~~an island curb~~ a mountable curb.

(b) The surface of the island shall be ~~landscaped~~ delineated with vegetative landscape material.

(c) Landscaping or other elements located in the island shall not interfere with the sight distance standards in § 3-2-4D(2).

(d) The island shall have a minimum diameter of 20 feet measured to the back of the curb.

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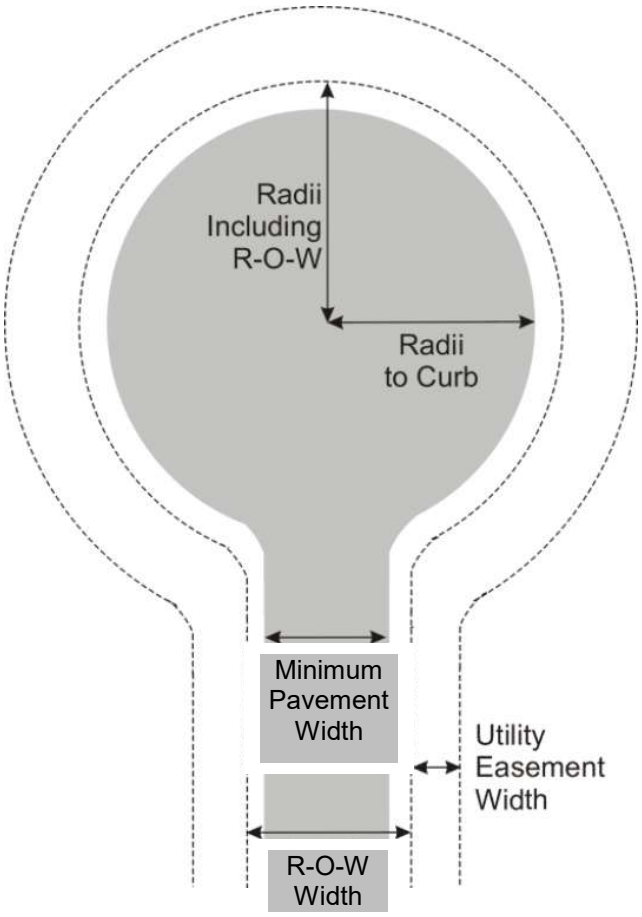
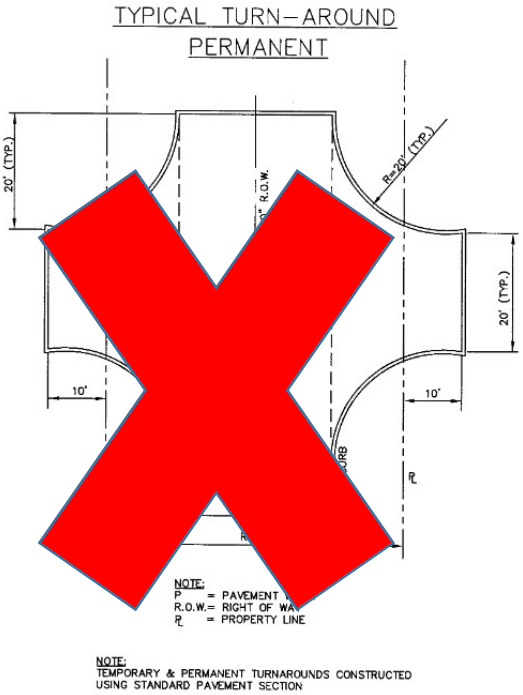
(e) The petitioner shall provide for perpetual maintenance of the unpaved island through a homeowners association or other acceptable organization.

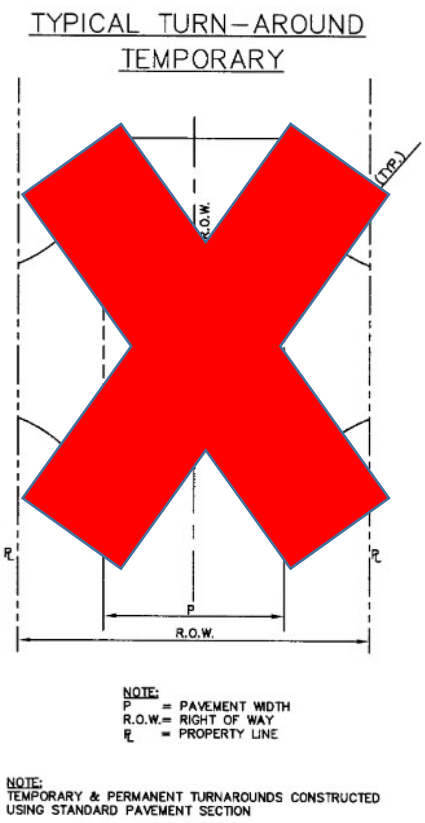


(3) The T-shaped turnaround shall have the dimensions required in the figures below.

(a) No lot shall take access to a temporary turnaround ~~unless permission is granted at the discretion of the Highway Superintendent.~~. All temporary turnarounds must meet Appendix D of NYS Fire Code.

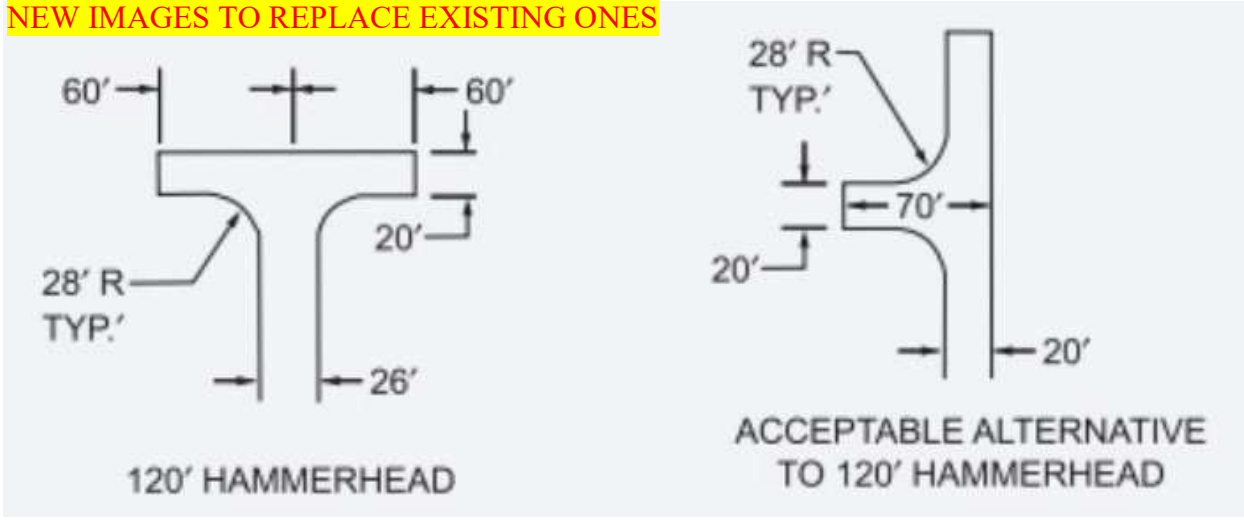
Attachment: LL ZTA-2024-01 (RES-2024-938 : Adoption of Local Law to Amend Chapter 204 of the Town Code (Subdivision Regulations, ZTA-





(4) All turnarounds shall contain adequate space for snow storage and for the maneuvering of emergency vehicles.

NEW IMAGES TO REPLACE EXISTING ONES



G. Curbs. Minimum curb specifications and the measurement at pavement width are shown in the figure below. ~~There are three types of curbing which shall be permitted. However, i~~It is the policy of the Town of Amherst that Type "A" curbing shall be used for new public streets. ~~Wherever possible. The final selection of curbing shall be dependent on the site conditions, design character of the proposed subdivision and the anticipated traffic.~~

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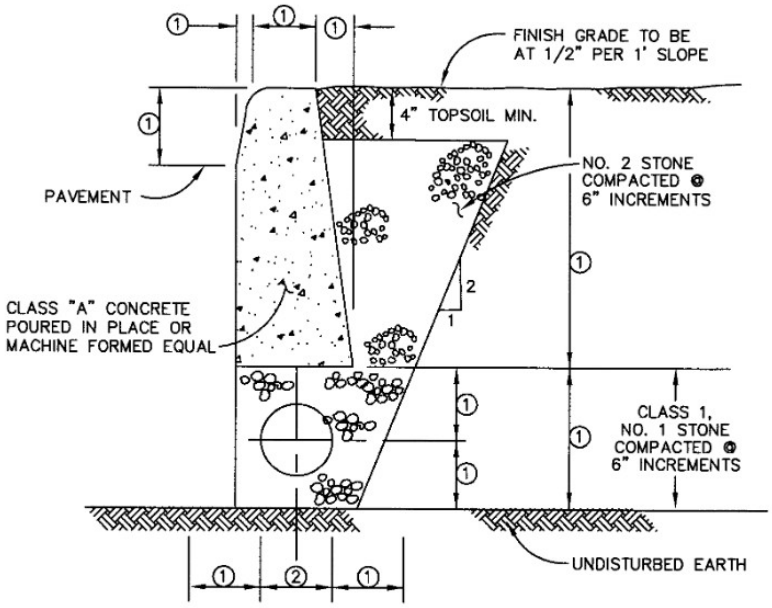
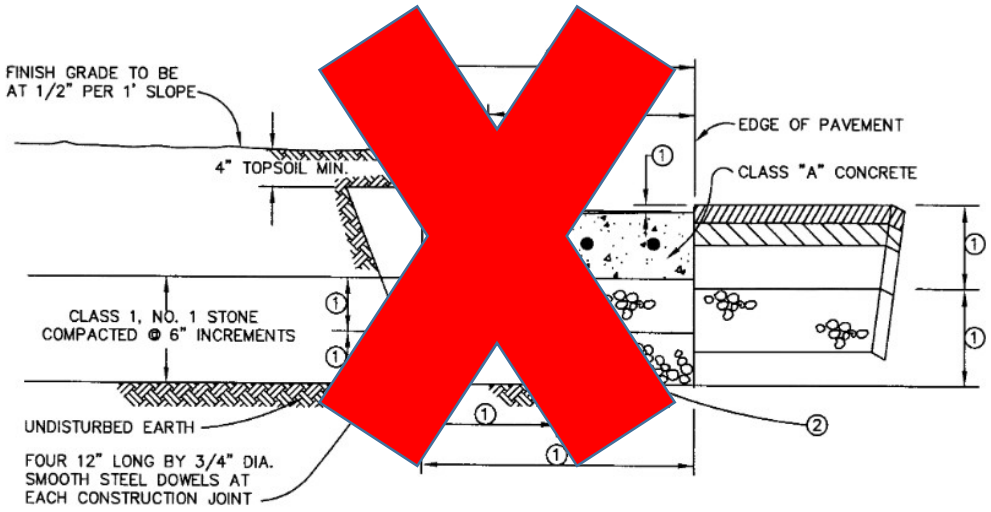
Type "A" Curbing

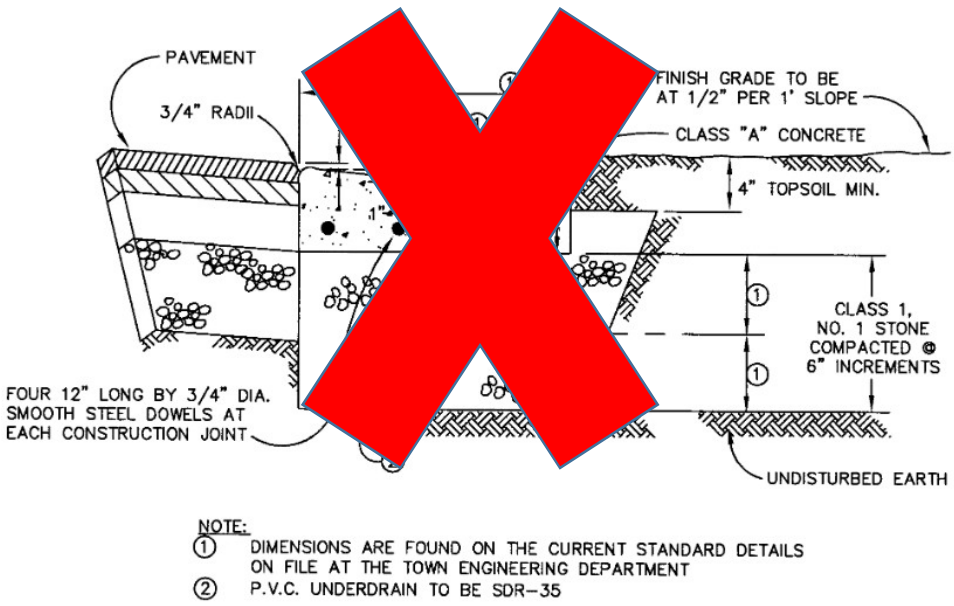


NOTE:
① DIMENSIONS ARE FOUND ON THE CURRENT STANDARD DETAILS ON FILE AT THE TOWN ENGINEERING DEPARTMENT
② P.V.C. UNDERDRAIN TO BE SDR-35, ASTM 27-29 OR EQUAL

Type "B" Curbing
Poured in Place



Type "C" Curbing
Poured in Place



Attachment: LL ZTA-2024-01 (RES-2024-938 : Adoption of Local Law to Amend Chapter 204 of the Town Code (Subdivision Regulations, ZTA-

H. Sidewalks and Pedestrian Circulation. A plan for safe and convenient pedestrian circulation within the subdivision and between the subdivision and surrounding areas shall be provided. Such plan ~~may~~ shall provide for walks along ~~the~~ proposed and existing streets, along rear property lines or in some other location acceptable to the Planning Board. The pedestrian circulation plan as approved by the Planning Board shall be based on expected use and function consistent with the following standards. A list of roads and their functional classifications is available from the Town of Amherst Planning Department.

(1) Pedestrians shall have convenient access to schools, shopping, and existing or possible public transportation load points.

(2) Pedestrian and bicycle-way alignments shall have a reasonable relationship to foreseeable movement, parking, and community facilities, and shall be safe, secure, and attractive.

(3) Potential pedestrian, bicycle, and vehicular conflicts shall be minimized.

(4) Pedestrian and bicycle travel routes shall be selected to have minimum practical change in grade (elevation) throughout their lengths.

(5) Sidewalks shall be installed on existing and proposed streets unless waived by the Planning Board as a part of an approved ~~site plan~~ subdivision or by the Town Board~~. In which event they shall be constructed in accordance with Chapter 83, Building Construction Administration, of the Town Code and located in accordance with §3-2-4A.~~

(6) Sidewalks shall be installed on all collector streets and arterials on all road frontages, as applicable, and shall be located in accordance with § 3-2-4A.

(7) Sidewalks shall be of a width as required in the specifications for sidewalk construction available from the Town of Amherst Engineering Department, Town of Amherst Standard Details and Specifications and Chapter 83, Building Construction Administration, of the Town Code.

(8) All required ramps and curb cuts shall be constructed to be in compliance with the requirements of the Americans with Disabilities Act and be included and constructed with the P.I.P. for the roadway.

(9) The Planning Board may require that sidewalks on existing or proposed streets be included and constructed with the P.I.P. for the roadway.

I. Roadway Width for Bridges and Culverts. The minimum clear width for all new bridges and culverts shall accommodate sidewalks or an area for pedestrians on both sides. The width of the sidewalk or areas shall depend on the road classification. ~~On streets with curbed approaches shall be the same as the curb to curb width of the approaches. For streets with shoulders and no curbs, the bridge width shall be the same as the approach roadway including shoulders. Sidewalks on the approaches shall be carried across all new structures and shall be considered an additional width to the bridge. There shall be at least one sidewalk on all sidewalk bridges.~~ There shall be sidewalks installed on both sides of all bridges/culverts. ~~and the Right-f-Way must include reserve for future sidewalk installation on the other side.~~

J. Pavement.

(1) The design of the pavement and subbase shall be consistent with the specifications in the Town of Amherst Standard Details and Specifications, available at the Town of Amherst Engineering Department.

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(2) Due to the variables inherent in any design there can be no minimal standard. Each design shall be reviewed ~~on its own merits~~ and approved by the Town of Amherst Engineering Department on its own merits.

~~(3) Pavement cross slope shall be adequate to provide proper drainage. The recommended standard is 0.020 feet per foot.~~

K. **Superelevation.**

(1) Superelevation is advantageous for street traffic operation, but in built up areas the combination of wide pavement areas, proximity of adjacent development, control of cross slope and profile for drainage, the frequency of cross streets and other urban features combine to make its use impractical or undesirable. Usually superelevation is not provided on local streets in residential and commercial areas; it should be considered on those in industrial areas. Superelevation shall be provided on collector streets wherever operating speeds will not be low.

(2) Where superelevation is used, street curves shall be designed for a maximum superelevation rate of 0.04 to 0.06 feet per foot.

L. **Paved Shoulders.** Paved shoulders, exclusive of on-street parking, are permitted on arterial or collector roads. Such shoulders shall be a minimum of six feet in width and shall be designed as an integral part of the road, accommodate other modes of mobility, and shall be constructed according to the Town's minimum specifications as detailed in the Town of Amherst Standard Details and Specifications, available at the Town of Amherst Engineering Department.

M. **Railroad-Street Grade Crossings.** Railroad-street grade crossings are to be designed in accordance with AASHTO Standards and the appropriate grade crossing protection devices shall be installed at all railroad-street grade crossings.

~~Appropriate grade crossing protection devices shall be installed at all railroad street grade crossings.~~

~~The minimum stopping sight distance for any street that intersects a railroad track shall be 200 feet.~~

N. **Clearance to Above-Grade Obstructions.** A minimum clearance of two feet shall be provided between the face of curb or edge of shoulder and above-grade obstructions, such as utility poles, lighting poles, and fire hydrants. On all streets these obstructions shall be located at or near the right-of-way line and outside of sidewalks.

O. **Roadway Lighting. [Amended 10-17-2022 by L.L. No. 20-2022]**

(1) Roadway lighting is required at all intersections and continuous lighting shall be provided on all proposed or existing roadways within a subdivision. If applicable the Town's lighting district shall be expanded to incorporate the proposed subdivision.

(2) The Planning Board as part of subdivision approval may waive the requirement for street lighting taking into consideration pedestrian and vehicle safety. The Planning Board may request independent reports or refer such a request to other agencies for recommendation.

P. **Traffic Control Devices.**

(1) It is important that there be consistent and uniform application of traffic control devices. Details of the standard devices and warrants for many conditions are found in the "Manual on

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Uniform Traffic Control Devices" prepared by the Federal Highway Administration and supplemented by the New York State D.O.T.

(2) Geometric design of streets should include full consideration of the types of traffic control to be used, especially at intersections where multiphase or actuated traffic signals are likely to be needed.

Q. **Landscaping, Erosion Control, and Street Trees.**

(1) **Landscaping and Erosion Control.**

(a) The Planning Board shall carefully consider and can require all landscaping elements within the right-of-way. ~~especially in cul-de-sacs, islands, and other areas where public ownership and maintenance will be required.~~ A detailed planting plan shall be submitted for the planting/snow storage area, and all other such areas as required and approved by the Planning Board, after receiving a recommendation from the Town's Planning Director, as a part of the preliminary platting process.

(b) A Landscape Plan for the area within ten feet ~~form~~ from the edge of pavement along private streets shall be submitted with the preliminary plat. The owner shall be responsible for all planting, maintenance, and necessary replacement.

(2) **Street Trees.**

(a) **Tree Removal Permit.** No trees shall be removed from an area in anticipation of development unless a Tree Removal Permit has been obtained under the Tree Local Law, Town Code Chapter 179.

(b) **Trees Required.**

(i) The issuance of each building permit for buildings adjacent to a public street shall be subject to planting one tree per forty feet of street frontage~~.~~ as per Local Tree Law, Town Code Chapter 179, Trees.

(ii) At the time of filing the building permit, the Town Clerk shall collect the cost of planting the required trees which cost shall be determined by the Town Board from time to time.

(c) **Specifications for Planting.**

(i) All trees shall be consistent with the requirements of Chapter 179 (Trees) of the Town Code ~~guaranteed for one year from the date of planting and shall be handled and transported in a manner conducive to good nursery practices at all times. All trees shall be pruned and planted and refilled with soil acceptable to the Highway Superintendent in a tree pit two times the ball diameter and one and one half times the ball depth, or twelve inches greater than the spread of the bare root stock and six inches greater in depth. Each planting shall be well watered at the time of planting. Stakes shall be hard wood, eight foot minimum height, and will be placed at time of planting outside the tree placement cavity with a minimum of two stakes per tree.~~

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~~(ii) The top four inches to six inches of each stake shall be painted a color as specified by the Superintendent of Highways. In addition, all trees will be wrapped with tree wrap-up to the first branch. Fertilizer should be one half pound per inch of caliper, worked into the trees' pit soil.~~

~~(iii) All trees shall be local or northern grown and will be subject to inspection at time of planning. All trees shall be supplied with well developed root systems. All trees are to have straight trunks with well developed heads. The caliper of trees shall be measured at a point six inches above ground level with a minimum caliper of one and three-quarter inches.~~

~~(iv) All trees shall be planted in accordance with § 179 of the Local Tree Law, Planting distance requirements,~~

R. **Yard Drainage — General.**

(1) Yards and areas shall be properly drained and connected to a storm sewer or other approved outfall.

(2) See the Town of Amherst Standard Details and Specifications, available at the Town of Amherst Chapter 83, Building Construction Administration, of the Town Code for details, including rear yard drainage and Sump Pump and Downspout Pipe Discharge.

S. **Rural Residential Subdivision Streets.** Each lot in a rural residential subdivision shall be provided with access to a durable and maintainable public or private street with adequate capacity, while retaining rural aesthetics and cost effectiveness, and without compromise to the Thoroughfare Plan.

(1) **Exceptions to Street Standards for Rural Residential Subdivisions.** The subdivision may contain roadside ditches in lieu of curb and gutter.

3-2-5. Grading and Topography. The street plan of a proposed subdivision shall bear a logical relationship to the topography of the property, and all streets shall be arranged so as to obtain as many building sites as possible at or above the grade of the streets. Grades of streets shall conform as closely as possible to the original topography and shall be in accordance with the Town Specifications for Public Improvements.

3-2-6. Marginal Access Streets.

A. Where a subdivision abuts or contains an existing or proposed arterial street as specified in the Comprehensive Plan, the Planning Board may require the following:

(1) Marginal access streets, and controlled access points;

(2) Reverse frontage with screen planting contained in a non-access reservation along the rear property line;

(3) Deep lots with rear service access; or

(4) Such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

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B. Where a subdivision borders on or contains a railroad right-of-way or limited access thoroughfare right-of-way, the Planning Board may require a street approximately parallel to and on each side of the right-of-way at a distance suitable for the appropriate use of the intervening land as for the following purposes:

(1) Parks;

(2) Deep residential lots backing to railroad or arterial street with planting screen in a no-access area at rear property lines of lots; or

(3) Motor vehicle parking, business or industry in appropriate districts.

C. Such distances shall be determined with due regard for the requirements of approach grades and future grade separations.

3-2-7. Other Street Improvements. Design standards for other required improvements such as fire hydrants, water main, and the location of sanitary and storm sewers are also available within the Town of Amherst Standard Details and Specifications on file at the Town's Engineering Department. Street lighting, traffic control signs, and street signs are found within Town Specifications for Public Improvements. Public and Private Improvement Permits are issued on the basis of compliance with these specifications.

3-2-8. Reserve Strips. Reserve strips controlling access to streets shall be prohibited except where their control is definitely placed with the Town under conditions approved by the Planning Board, Town Engineer, and Town Attorney.

3-2-9. Street Designation. Street names for a proposed subdivision shall be proposed by the owner which shall not duplicate or be confused with the names of existing streets in Erie County irrespective of modifying terms such as street, avenue, boulevard, etc. Streets that are or will eventually be continuations of existing or platted streets shall be of the same name. Street names shall be subject to the policies established by the Town Board and the approval of the Planning Director.

§ 3-3. Utilities

3-3-1. Underground Utilities. Utilities, to the extent practicable, are to be placed underground throughout a subdivision area and in conformance with Town Specifications for Public and Private Improvements, and consistent with 16 NYCRR, Part 100, Section 100.1.

3-3-2. Utility Easements. Suitable easements shall be provided for any utility service, including storm water drainage, as determined by the Town Engineer. They shall be established at sanitary sewers and applicable lot lines so as to provide continuity of alignment from block to block.

3-3-3. Storm Drainage Easements. Where a subdivision is traversed by an existing or proposed watercourse, storm sewer, drainage way, channel or stream, there shall be provided a permanent public or private drainage easement conforming substantially with the limits of such watercourse, which may include additional area adjoining such watercourse as determined by the Town Engineer and/or Highway Superintendent.

3-3-4. Pipes for Ditches. Street side ditch piping for stormwater along an existing street shall be the responsibility of the lot owner (or petitioner) and construction, removal, or replacement shall be in accordance with Town Specifications. Maintenance of a public facility shall be the responsibility of the Town.

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3-3-5. Sewers.

A. Any building that has sanitary facilities, or is used by human occupants for living or sleeping, must be connected to a sanitary sewer system approved by the Erie County Health Department, if such sewer is available.

B. All sanitary sewers and laterals must be installed before a street is improved and construction shall be in accordance with Town Specifications for Public Improvements. Sanitary sewers for conveyance to the Town, shall be accepted only as part of a public highway. Sanitary sewers constructed as part of a private roadway shall be under the ownership of a Sewer Works Corporation approved by NYSDOS.

C. The Town reserves the rights to require the installation of improvements necessary for non-rural subdivisions when the site is within a sewer district but public wastewater utility services are not currently available.

3-3-6. Water Distribution and Fire Hydrants.

A. Waterline types and installation shall be in accordance with Town of Amherst Engineering Department specifications.

B. Waterline size shall be a minimum of eight inches and on a grid system or interconnected wherever possible, based on generally accepted engineering practices for required fire flow. Waterlines for conveyance to the Town, shall be accepted only as part of a public highway. Waterlines constructed as part of a private roadway shall be under the ownership of a Water Works Corporation approved by NYSDOS.

C. Fire hydrant type and installation shall be in accordance with Town of Amherst Engineering Department specifications.

D. Fire hydrants shall be located a maximum of 500 feet apart.

3-3-7. Roadway Illumination. [Added 10-17-2022 by L.L. No. 20-2022]

A. Roadway illumination, associated fixtures and installation shall be in accordance with Town of Amherst Engineering Department specifications.

B. All light fixtures, conduit and associated electrical equipment shall be installed before a street is fully improved and construction shall be in accordance with Town Specifications for Public Improvements.

C. All conduit to the extent practicable shall be placed underground throughout a subdivision and shall be in accordance with Town Specifications for Public Improvements.

D. Light poles generally are to be spaced at 150 foot staggered intervals along a roadway, unless the roadway alignment(s) would require otherwise as determined by the Town of Amherst Engineering Department.

E. Roadway Illumination for conveyance to the Town shall be accepted only as part of a public highway, and after a lighting district extension has been created by the Town Board.

§ 3-4. Blocks

3-4-1. Shape. No specific rule concerning the shape of blocks is made, but blocks shall fit readily into the overall plan of the subdivision, and their design ~~shall evidence consideration of~~ indicate topographical conditions, lot planning, traffic flow, pedestrian circulation and public open space areas.

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3-4-2. Block Dimensions.

A. The maximum lengths of blocks containing a majority of lots measuring seventy-five feet in width and over ~~in width~~ shall be 1,800 feet, and the maximum length of blocks containing a majority of lots less than seventy-five feet in width shall be 1,200 feet.

B. Blocks over 900 feet long may, at the discretion of the Planning Board, require pedestrian ways at their approximate centers. The provision of additional access ways to schools, parks or other destinations may be required by the Planning Board.

C. Blocks shall have sufficient width to accommodate two tiers of lots including any additional allowance for natural features in between such as an existing watercourse. This standard shall not apply where single tier lots are required to separate residential development from arterial traffic, to separate lots from an incompatible use, to accommodate a requirement for single loaded streets, to allow for unusual topographical conditions or when adjacent to the outer perimeter of the subdivision, or when the Town wants to limit the length of dead end-cul-de sac streets which have no opportunities for future connection.

§ 3-5. Lots

3-5-1. Buildable. All lots shall meet the minimum area and lot dimensions required by the Town of Amherst Zoning Ordinance for the zoning district in which the lot is located.

3-5-2. Shape.

A. Generally, side lines of lots shall be at right angles to straight street lines and radial to curved street lines.

B. The average depth of a lot shall not generally exceed three and one-half times its average width unless approved by the Town of Amherst Planning Board.

C. Flag lots shall be discouraged ~~in non-rural subdivisions~~, except where environmental, design or other ~~constraints render subdividing otherwise unreasonable.~~ considerations favor such lot shapes.

3-5-3. Access.

A. All lots shall have adequate access to the public thoroughfare system, and lots shall abut a public dedicated street or private drive or have access to such street or drive via a public alley. See NYS Town Law § 280-a(4) for streets not having frontage on a public street.

B. No lot shall take access from the turnaround areas described in § 3-2-4F.

C. In an effort to minimize the number of curb cuts and maximize green space, the Planning Board may require the sharing of curb cuts by adjacent lots.

3-5-4. Corner Lots. All ~~C~~corner lots shall ~~be increased in width over the width of typical interior lots, in accordance with the Zoning Ordinance~~ .meet the minimum area and lot dimensions required by the Town of Amherst Zoning Ordinance for the zoning district in which the lot is located.

3-5-5. Through Lots. Through lots shall not be permitted except under the following circumstances:

A. Where lots back upon an arterial, local collector or collector street. In such instances, vehicular access between the lots and the arterial or collector street is prohibited.

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B. Where topographic or other conditions render subdividing otherwise unreasonable. Such through lots shall have an additional depth, as determined by the Planning Board, in order to allow for a protective screen planting on one frontage.

3-5-6. Lots Abutting a Watercourse.

A. **Riparian Buffer.**

(1) Riparian buffers shall be clearly indicated on all sketch plans, preliminary plats and final plats. Where maps show a difference in stream type for a particular reach of stream, the map that shows the greater level of stream protection shall apply.

(2) A riparian easement is required as part of the application and is to be shown on the subdivision plot and plan.

B. Buffer Width. Riparian buffers shall apply on each side of the watercourse and shall begin at the most landward limit of the top of the bank perpendicular to the direction of stream flow. Riparian buffers shall be a minimum of 50 feet in total width and require an easement.

C. Buffer Limitations.

(1) Buildings and other features that require grading and construction shall be set back a minimum of 10 feet from the edge of the buffer.

(2) Crossings by streets, driveways, bridges, utilities, culverts, recreational features or other facilities shall be allowed provided that they are designed to minimize intrusion into the riparian buffer. Such facilities may run generally within and parallel to the buffer only where no other access to the property is practical and when their design minimizes intrusion into the buffer.

(3) Riparian buffers may be used for passive recreational activities, provided that service facilities for such activities, including but not limited to parking, picnicking and sanitary facilities, shall be located outside of the riparian buffer.

3-5-7. Lots in a Floodway or Flood Plain District. All structures and uses in the Special Flood Hazard Areas are subject to the Flood Damage Prevention provisions of § 7-7 of the Zoning Ordinance.

§ 3-6. Monuments and Lot Corner Markers

3-6-1. Permanent concrete monuments shall be made of concrete four inches by six inches by 24 inches, or six-inch diameter by 24 inches, or an approved equal, with 1/2-inch or larger iron pipe or iron rod cast in the center.

3-6-2. At least one permanent concrete monument shall be in each subdivision in accordance with Local Law No. 6, Chapter 119 and the Rules and Regulations 119-5.A, Town of Amherst Geodetic Survey Maintenance Network. The monument's location shall be approved by the Town Engineer.

3-6-3. Pipe monuments 3/4-inch in diameter, or steel rods 1/2-inch in diameter by 18 inches in length, shall be placed at the corners of each lot, block, at each intersection, of street center lines at angle points and at the ends and at suitable intervals along curbs. A suitable nail may be used should any of these locations fall within the street pavement.

3-6-4. All U.S., State, County, Town or other official benchmarks, monuments or triangulation stations in or adjacent to the property shall be preserved in precise position and identified on the final plat.

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§ 3-7. Commercial and Industrial Areas

3-7-1. Vehicular Movement. The location for vehicular movements between commercial and industrial areas and adjacent streets shall be indicated, and restrictions shall be recorded upon the plat which shall restrict such vehicular movements to the location shown on the plat.

3-7-2. Easements. Easements may be required providing for vehicular movements through parking areas and to and from service areas, as well as easements which can be improved as buffer areas wherever the area adjoins property zoned for residential use. The installation of planting, walls, fences or other improvements that assure a satisfactory buffer or protective screen within said easement may be required by the Planning Board

3-7-2. Easements. Easements may be required providing for vehicular movements through parking areas and to and from service areas, as well as easements which can be improved as buffer areas wherever the area adjoins property zoned for residential use. The installation of planting, walls, fences or other improvements that assure a satisfactory buffer or protective screen within said easement may be required by the Planning Board

§ 3.8. Open Space Dedication

A. General. Dedication of open space shall be in accordance with Chapter 155, Recreation and Open Space, of the Town Code. A conservation easement limiting the use of the open space in perpetuity is required and is to be shown on the subdivision plot and plan. The easement shall provide for third party enforcement of the limits placed on the open space area.

B. ~~Cluster~~ Conservation/Cluster Subdivision.

(1) Ownership of open space created as part of a ~~cluster~~ conservation subdivision shall be retained by or transferred to any of the following third-party organizations, including any combination of such organizations;

(a) The owner of the property to be developed;

(b) A homeowners association;

(c) An established land trust, created as a not-for-profit agency in accordance with § 501(c)(3) of the Internal Revenue Code;

(d) A non-profit conservation organization created in accordance with § 501(c)(3) of the Internal Revenue Code;

(e) The Town of Amherst; or

(f) Another public agency responsible for natural resource preservation.

§3-9. Acceptance of Dedications

A. Streets

(1) ~~Streets shall be dedicated according to all applicable State and local laws.~~See section 4-6-3I and 4-6-3J

B. Parkland Sites

(1) Acceptance of dedications for parkland shall be by resolution of the Amherst Town Board.

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PART 4
REVIEW PROCEDURES AND ENFORCEMENT

§ 4-1. Applicability

Whenever any subdivision of land of five or more lots is proposed and before any permit for the erection of a structure or facilities in or for such proposed subdivision shall be granted, the petitioner or authorized agent shall apply for and secure approval of such proposed subdivision in accordance with the procedures set forth in this Part.

§ 4-2. Pre-Application Conference

The petitioner for subdivision approval shall schedule a pre-application conference with the Planning Director or his or her designee to discuss the requirements for the following, but not limited to: the general layout of streets and lots, the reservation of land, street improvements, drainage, soil conditions, special flood hazard areas, wetlands, sewerage, water, fire protection, other community services and facilities, and the availability of existing services.

§ 4-3. Subdivision Classification

The Planning Director shall classify the subdivision as requiring a major or minor-subdivision on the basis of the pre-application conference and in accordance with the criteria in this Section.

4-3-1. **Minor Subdivision.**

A. The Planning Director shall only classify a subdivision as a minor subdivision where the proposal meets all of the following criteria:

(1) The subdivision contains a minimum of five lots, but not more than nine lots fronting on an existing street;

(2) The subdivision does not require the construction of new streets or roads, the extension of municipal facilities or the dedication of land;

(3) The subdivision does not adversely affect the development of the remainder of the parcel or adjoining property;

(4) The subdivision is not in conflict with any provision or portion of the Comprehensive Plan or Zoning Ordinance; and

(5) The subdivision does not require a waiver from these Regulations.

4-3-2. **Major Subdivision.** Any subdivision that contains more than nine lots shall be considered a major subdivision.

§ 4-4. Application Requirements

The following requirements shall apply to all applications for development review.

4-4-1. **Who May Submit Applications.**

A. All applications shall be reviewed by the Planning Director for his or her signature prior to filing with the Town Clerk. The Town Clerk shall receive payment of the required fees.

B. Applications shall only be accepted from persons having the legal authority to submit such applications. In general, applications shall be made by the owners or lessees of property, or

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persons who have contracted to purchase property contingent upon their ability to acquire the necessary approval under these Regulations.

C. The Planning Director may require a petitioner to present additional evidence of authority to submit the application.

4-4-2. **Forms.**

A. Applications required under these Regulations shall be submitted on forms and in such numbers as required by the Town.

B. All application forms are available from the Planning Department. The content of such application forms shall be determined by the Planning Director and may be amended from time to time.

4-4-3. **Fees.**

A. No application shall be accepted by the Town Clerk until all applicable fees, charges and expenses have been paid in full.

B. Filing fees shall be established from time to time by resolution of the Town Board to defray the actual cost of processing the application.

C. All required fees shall be made payable to "The Town of Amherst."

D. A petitioner who has paid an appropriate fee pursuant to the submission of an application, but who chooses to withdraw such application within 24 hours of application shall be entitled to a full refund upon written request to the Town. After this 24-hour period, the petitioner may petition the Town Board for a partial refund. The Town Board may request a recommendation on any request for a refund considered under this Section.

4-4-4. **Applications to be Complete.**

A. An application and fee will be accepted for review when it contains all information necessary to initiate review as determined by the Planning Director or his or her designee. In addition, an application shall not be considered complete until a SEQR determination of significance under Town Code, Chapter 104, Environmental Quality Review, can be made.

B. The presumption is that all of the information required in the Town's application forms is necessary to satisfy the requirements of this Section. However, it is recognized that each application is unique, and therefore more or less information may be required according to the needs of the particular case. The petitioner may rely on the recommendations of the Planning Director as to whether more or less information should be submitted with the application.

C. An application not considered complete within six months after the initial date of submittal shall be considered null and void, except where such application is part of an ongoing SEQR review.

4-4-5. **Staff Consultation After Application Submitted.**

A. Upon determination of a complete application, the Planning Director shall review the application and confer with the petitioner to ensure that the petitioner understands the requirements of these Regulations; has submitted all of the information that the petitioner is required to submit; and that the application represents precisely and completely what the petitioner proposes to do.

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B. Once the petitioner indicates that the application is as complete as the petitioner intends to make it, the application shall be distributed to the appropriate departments, officials and boards. However, if the Planning Director finds that the application remains incomplete, a recommendation to deny the application on that basis shall be provided to the Planning Board.

4-4-6. **Notice and Public Hearings.**

A. **Required Hearing.**

(1) Preliminary Plat. Within 62 days after the receipt of a preliminary plat by the Planning Board, the Planning Board shall hold a public hearing. The hearing shall be advertised at least once in a newspaper of general circulation in the Town at least five days before such hearing.

(2) Final Plat.

(a) No public hearing shall be required for review of a minor subdivision, or review of a final plat of a major subdivision provided that such plat is in substantial agreement with the approved preliminary plat.

(b) In the event that the Planning Director determines that the final plat of a major subdivision is not in substantial agreement with the approved preliminary plat, the Planning Board shall hold a public hearing within 62 days from the time of submission of the subdivision for final plat approval. The hearing shall be advertised in a newspaper of general circulation in the Town at least five days before such hearing.

4-4-7. **Summary of Review and Approval Authority.** The following table summarizes review and approval authority under these Regulations.

Review Procedure	**Planning Director**	**Planning Board**
Minor Subdivision		
Sketch Plan	Not Required	Not Required
Preliminary	Recommendation	Decision*
Final	Recommendation	Decision
Major Subdivision		
Sketch Plan†	Recommendation	Decision*
Preliminary	Recommendation	Decision*
Final	Recommendation	Decision
* = Public hearing required † = The Planning Director may waive the requirement for a sketch plan for a major subdivision of five to nine lots.		

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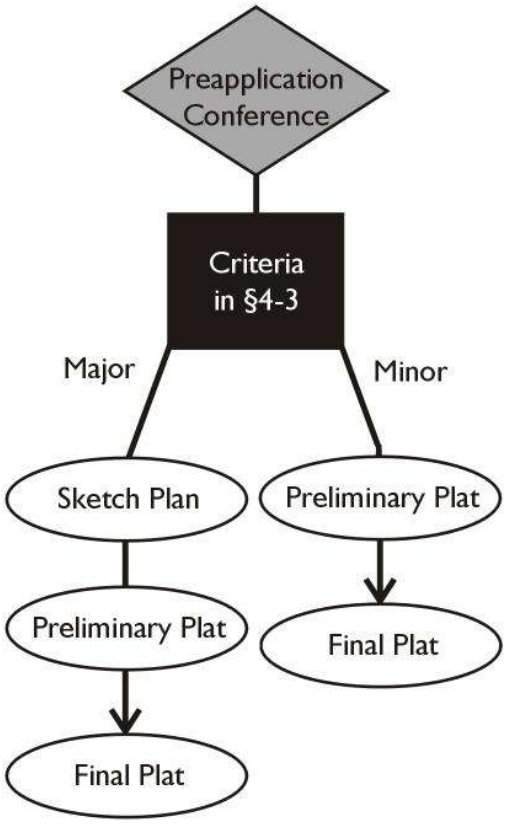
§ 4-5. Minor Subdivision Submission Requirements

A minor plat shall be submitted and reviewed consistent with the requirements for a preliminary plat.



§ 4-6. Major Subdivision Submission Requirements

4-6-1. **Sketch Plan Review.**

A. **Intent.** The sketch plan is not intended to be recorded. Its purpose is to show graphically all facts needed to enable the Planning Board and other Town departments to determine whether the proposed layout of land in question is satisfactory from the standpoint of public interest.

B. **Staff Review.**

(1) Copies of the sketch plan shall be referred to the Building, Highway and Engineering Departments, the Traffic and Safety Committee, the Assessor, the Youth and Recreation ~~Commission~~ Department, and any other agencies the Planning Director deems appropriate and the application is deemed complete.

(2) Within 30 days of determination of completeness, each agency shall review the application and notify the Planning Board in writing of its comments or recommendations.

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C. **Planning Board Final Action.**

(1) Within 62 days from the date that the sketch plan is deemed complete, or such extension as mutually agreed upon, the Planning Board shall meet and approve, approve with conditions or disapprove the sketch plan taking into account the criteria in § 4-6-1D.

(2) If the Planning Board disapproves, it shall advise the petitioner in writing of the reasons for disapproval and the specific changes, if any, it shall require in the layout, and the character and extent of required improvements and land reservations as a prerequisite to the approval of the sketch plan.

(3) In approving the subdivision sketch plan, the Planning Board may impose such conditions as it deems necessary and consistent with the Zoning Ordinance, Comprehensive Plan, and other laws.

D. **Sketch Plan Review Criteria.**

(1) The Planning Board shall review the sketch, considering the requirements of these Regulations, the Zoning Ordinance, Comprehensive Plan, comments of the reviewing agencies and the best design use of the land being subdivided.

(2) In evaluating any sketch plan, the Planning Board shall consider the following:

(a) The arrangement, location and width of streets and their relation to the topography of the land;

(b) Vegetation, wetlands, special flood hazard area/base flood elevation;

(c) Sewage disposal, drainage requirements, water needs;

(d) Lot sizes and arrangement;

(e) Soil conditions;

(f) Recreation facilities and open spaces;

(g) Such other concerns as may be appropriate including new streets or street extensions, and dimensions from new street to existing streets (off-sets); and

(h) Policies and recommendations of the comprehensive Plan.

4-6-2. **Preliminary Plat Review.**

A. **Submittal of Preliminary Plat and Improvement Plans.** Following approval of the sketch plan, the petitioner shall prepare a preliminary plat of a subdivision, together with improvement plans and other supplementary material as specified in these Regulations and as required by the Planning Board sketch plan approval. This plat shall cover the entire tract of land concerned, or portion thereof, unless the Planning Board has authorized a lesser area.

B. **Staff Review of Preliminary Plat.**

(1) Upon receipt of a complete application in accordance with § 4-4-4, copies of the preliminary plat and other supplementary material shall be referred to the Building, Highway and Engineering Departments, the Traffic and Safety Committee, and any other agencies the Planning Director deems appropriate.

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(2) Within 30 days of determination of completeness, each agency shall review the application and notify the Planning Board in writing of its comments or recommendations.

C. **Planning Board Final Action.** Within 62 days or two consecutive Planning Board meetings after determination of completeness, the Planning Board shall approve, approve with conditions or disapprove the preliminary plat, taking into account the same criteria in § 4-6-1D(2).

D. **Preliminary Plat Review ~~Criteria.~~** In reviewing the preliminary plat, the Planning Board may impose conditions consistent with the intent and purpose of these Regulations, the Zoning Ordinance, Comprehensive Plan, sketch plan and other applicable laws. If the Planning Board recommends disapproval, it shall state its reasons in writing.

E. **Limits of Approval.** Approval of a preliminary plat shall not constitute final approval of the plat, but rather shall be deemed the approval of the design submitted on the preliminary plat as a basis to the preparation of the final plat, which shall be submitted for approval by the Planning Board and for recording in the Erie County Clerk's office upon fulfillment of the requirements of these Regulations
and the conditions of the approval, if any.

F. **Failure to Take Action.** Unless an extension is mutually agreed upon, in the event the Planning Board fails to take action on a preliminary plat within the time prescribed herein, such plat shall be deemed granted preliminary approval. A certificate of the Town Clerk as to the date of submission and the failure to take action within such prescribed time shall be issued on demand and shall be sufficient in lieu of written endorsement or other evidence of approval required in these Regulations.

G. **Zoning Ordinance.** All town regulations, including the Town Code, in effect at the time of preliminary plat approval shall apply to the preparation and approval of the final plat.

H. ~~**Public**~~ **Improvement Plans.** Engineering drawings or plans for all proposed improvements, including but not necessarily limited to streets, pedestrian pathways, sidewalks, sanitary sewers, storm drainage sewers and systems, water system, etc., shall be furnished to the Planning Board along with the preliminary plat.

New section 4-6-2H(1) and 4-6-2H(2)

(1) If the petitioner desires to dedicate public improvements, including but not limited to sanitary sewers, water lines, storm sewers, roadways and street lighting he/she shall first obtain a "resolution of commitment" from the Amherst Town Board agreeing to accept a future public improvement before he/she makes application for preliminary plat approval.

(a) After sketch plan approval, the petitioner shall make a written request to the Amherst Town Board seeking a future commitment to accept planned public improvements, once constructed, consistent with the provisions of section 4-6-3I(2). An application for preliminary plat approval with proposed public improvements shall not be accepted by the Planning Board without a Town Board resolution of commitment. In instances where a site plan is being considered, an application for site plan approval with proposed public improvements shall not be accepted by the Planning Board without a Town Board resolution of commitment. Preliminary plat submissions without public

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improvements shall file draft certificates of incorporation for water and sewer works as specified in the following section.

(b) A written request to the Town Board seeking a resolution of commitment shall include the approved sketch plan or (draft site plan), an affirmation from the petitioner of his/her intention to seek condominium status pursuant to section 339-Y of the NYS Real Property Law, an itemization of the ~~future~~ **replacement** ~~maintenance~~ costs of the public improvements ~~after their project life,~~ and the public benefit to the Town of Amherst if it should accept the proposed public improvements

(2) If the petitioner desires to build private utilities; at the time of preliminary plat submission, the petitioner shall provide draft sewer works and water works Certificates of Incorporation pursuant to Section 3 of the Transportation Corporations Law of the State of New York along with a draft copy of the bylaws for each corporation guaranteeing the perpetual maintenance of private sanitary sewers and private waterlines (see section 4-6-3I & 4-6-3J).

I. **Phasing Plan.** If phasing of the subdivision is anticipated, a conceptual phasing plan shall be submitted for review with the preliminary plat application and used as a guide for submittal of the final plat.

4-6-3. **Final Plat Review.**

A. **Submittal of Final Plat.** After issuance of an approved preliminary plat by the Planning Director, and w~~W~~ithin ~~six~~ **twelve** months after approval by the Planning Board of a preliminary plat, the petitioner shall submit the final plat. The plat shall conform to the layout shown on the preliminary plat and shall contain any conditions imposed by the Planning Board during preliminary plat review.

B. **Staff Review and Final Action.**

(1) Taking into account the criteria in § 4-6-3C ~~T~~the Planning Board shall approve, approve with conditions or disapprove the final plat ~~taking into account the criteria in § 4-6-3C~~ within 62 days of receiving the petition or two consecutive Planning Board meetings after determination of completeness.

(2) If the Planning Board disapproves the final plat, it shall state in writing the reasons for disapproval.

(3) The petitioner shall have 180 days to satisfy the requirements upon which the approval has been conditioned and obtain the certification from the Planning Board. This period may be extended by the Planning Director, if in its opinion the circumstances warrant such extension.

(4) If the petitioner does not meet the conditions of approval within 180 days or within the extension period provided by the Planning ~~Board~~Director, then the application shall be deemed disapproved.

C. **Final Plat Review Criteria.** In evaluating any final plat, the Planning Board shall consider the following:

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(1) The application is complete and the information contained within the application is correct and sufficient enough to allow adequate review and final action.

(2) The final plat is determined to be consistent with an approved preliminary plat. The petitioner must certify in writing that the final plat is consistent with the preliminary plat. Any changes to the final plat that are not consistent with the preliminary plat must be identified in writing upon submittal of the final plat application. Failure to disclose changes pursuant to this section may result in the Planning Board declaring the final plat null and void after giving the petitioner notice and an opportunity to be heard on the matter.

(3) The final plat is consistent with any Town-approved construction plans for any required or agreed improvements.

D. **Failure to Take Action.** In the event the Planning Board fails to take action on a complete final subdivision plat application within the time prescribed in New York State Town Law, such plat shall be deemed approved, unless an extension has been mutually agreed upon. A certificate of the Town Clerk as to the date of submission and the failure to take action within such prescribed time shall be issued on demand and shall be sufficient in lieu of written endorsement or other evidence of approval required in these Regulations.

E. **Phasing.** Prior to granting approval of a final plat, the Planning Board may permit the plat to be phased into two or more sections. The Planning Board may stipulate such requirements as it deems necessary to insure the orderly development of the plat be completed. Conditional or final approval of the phases of a final plat shall be granted concurrently with conditional or final approval of the plat. Each phase shall comply with all applicable provisions of § 3-2, Streets.

F. **Filing of Plat.**

(1) The issuance of the following shall constitute final approval of a final plat:

(a) The signature of the Chairman of the Planning Board on the final plat; or

(b) The certificate of the Amherst Town Clerk as to the date of the submission of the final plat and the failure of the Planning Board to take action thereon within the time prescribed.

(2) The plat shall expire 62 days from the date of the Chair's signature constituting such approval of the final plat, or from the date such certificate is issued, unless within such 62-day period such plat or a section thereof shall have been duly filed or recorded by the owner in the office of the County Clerk.

(3) The filing of a final plat shall be consistent with the phasing plan approved in conjunction with the final plat.

G. **Period of Exemption for Subdivision Plats.** If a final plat or the first phase thereof has been duly filed in the office of the County Clerk, provisions of a change or amendment to the Town of Amherst Zoning Ordinance which establish or increase side, rear or front yard or setback requirements in excess of those applicable to building plots under the provisions of the Zoning Ordinance in effect at the time of the filing of the said subdivision plat or first section thereof, shall not, for a period of three years after the filing of the subdivision plat or first section thereof, be applicable to or in any way affect any of the lots shown and delineated on such subdivision plat.

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H. **Modifications to Plat.**

(1) No changes, erasures, modifications, or revisions shall be made in any final plat after approval has been given by the Planning Board and endorsed in writing on the plat, unless the plat is resubmitted to the Planning Director and the Director deems such modifications to be minor in accordance with (2) below.

(2) Provided the number of lots remains the same, the moving of lot lines and the rearrangement of easements shall be considered a minor modification, subject to the approval of the Planning Director, provided that the resulting lots meet the minimum requirements of the Zoning Ordinance and all other applicable regulations for the subject parcel. All other modifications shall be deemed major modifications and shall require resubmission of a preliminary plat.

(3) In the event that any such plat is recorded without complying with this requirement, the same shall be considered null and void, and the Director shall institute proceedings to have the plat stricken from the records of the County Clerk.

I. **Approval Not Acceptance.**

(1) If any plat contains public streets, thoroughfares or easements which are to be dedicated as such, the approval of the plat shall not constitute an acceptance by the Town of Amherst of the improvements constructed or installed in the subdivision, irrespective of any acts by an officer, agent or employee of the Town with respect to such improvements.

(2) The acceptance of such improvements shall be made only by the adoption of a resolution by the Town Board after a certificate ~~there~~ has been filed by the Town Engineer with the Town Clerk and the Town Attorney's Office. ~~a certificate by The Engineer~~, ~~c~~Certifying that all improvements required to be constructed or installed in or upon such street, thoroughfares and easements in connection with the approval of the plat or subdivision by the Planning Board have been fully completed and the construction or installation thereof has been approved by the Town Engineer. Prior to issuance of any PIP for the subdivision by the Town Engineer, all accepted easements shall be filed with the plat and copies sent to the Planning, Engineering, ~~and~~ Highway Departments and Town Attorney's Office.

J. **Status of Streets on a Subdivision Plat.** Every street shown on a plat filed or recorded in the office of the County Clerk shall be deemed to be a private street until such time as it has been formally offered to the Town and formally dedicated as a public street, or alternatively until it has been accepted by the Town for use as a public street.

K. **Protective Covenants.** All protective covenants and deed restrictions required by the Planning Board as a condition of approval in form for recording shall be approved, by the Town Attorney prior to filing of the final plat with the County Clerk.

§ 4-7. Waivers

A. Where the Planning Board finds that extraordinary hardships may result from strict compliance with these Regulations, it may waive these Regulations so that substantial justice may be done and the public interest secured, provided that any such adjustment shall not have the effect of nullifying the intent and purpose of these Regulations.

B. In granting any adjustment, the Planning Board shall attach such conditions as are, in its judgment, necessary to secure substantially the objectives of the standards or requirements so adjusted.

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C. Applications for waivers shall be made upon the filing of the sketch plan or preliminary plat as applicable to these regulations.

~~D. Any waivers, if known, should be included during sketch plan review.~~

§ 4-8. Text Amendments

This Local Law may, from time to time, be revised, modified, or amended.

§ 4-9. Appeal

4-9-1. Appeal of decisions made under these Subdivision Regulations by the Town Board, Planning Board, Planning Director, Commissioner of Building, the Zoning Enforcement Officer, or Town Engineer shall be heard in accordance with Article 78 of the New York Civil Practice and Law Rules.

4-10. Enforcement

4-10-1. **Penalties for Violation.** Any person who violates any provision of this Local Law or any regulation adopted hereunder is guilty of an offense punishable by a fine not exceeding $250, or imprisonment for a period not to exceed six months, or both. Each week's continued violation shall constitute a separate violation.

4-10-2. **Administrative Procedures for Enforcement. [Amended 3-4-2019 by L.L. No. 7-2019]**

A. **General Provisions.** This local law shall be interpreted by the Zoning Enforcement Officer with the assistance of the Town Engineer, Commissioner of Building, Planning Director, the Town Clerk and other agencies as the Town Board shall direct and shall be enforced by the Town Engineer and Commissioner of Building. Those departments and agencies shall be provided with the assistance of
such persons as the Town Board may direct.

B. **Records and Reports.** The Zoning Enforcement Officer shall keep, or cause to be kept, a record in his or her Department suitably indexed in regard to any decision or determination reached by him or her in connection with the interpretation or enforcement of these Regulations.

PART 5
PROVISION OF REQUIRED IMPROVEMENTS

§ 5-1. Installation of Improvements

The petitioner, at his or her own expense, shall provide (design, construct, install) the improvements required by these Regulations. All improvements shall meet Town standards and specifications as found in the Town Specifications for Public and Private Improvements.

§ 5-2. Performance Bond

5-2-1. There may be cases when, due to weather conditions or other factors beyond the control of the petitioner (exclusive of financial hardship) it would be unreasonable to require the petitioner to comply with all of the requirements of these Regulations prior to commencing the intended use of the property or occupying any buildings. In these cases, the Commissioner of Building may authorize commencement of the intended use or occupancy of buildings if the permit recipient provides a performance bond or other security of up to 125 percent of the cost of the remaining improvement to ensure that all subdivision regulations will be fulfilled within not more than three years.

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5-2-2. In the event that any required improvements have not been installed in accordance with these Regulations within the term of the performance bond, the Town Board may declare the bond to be in default and collect the sum remaining payable. Upon the receipt of the proceeds of the bond, the Town shall install such improvements as are covered by the bond and as commensurate with the extent of building development that has taken place in the subdivision but not exceeding in cost the amount of such proceeds.

§ 5-3. Approval of Plans

5-3-1. **Public and Private Improvement Permit.** No improvement shall be constructed or installed without the prior approval of plans by the Town Board and the Town Engineer, who shall issue Public and Private Improvement Permits, as appropriate, following approval of the final plat or posting of a performance bond in accordance with § 5-2.

5-3-2. **Construction Contracts.** Prior to the start of construction of any required improvements, the petitioner shall furnish to the Town Engineer a copy of the specifications included in any contract entered into by the petitioner for such construction.

5-3-3. **Modification of Design of Improvements.** If at any time before or during the construction of the required public improvements it is demonstrated to the satisfaction of the Town Engineer that unforeseen conditions make it necessary or preferable to modify the location or design of such required improvements, the Town Engineer, in consultation with the Highway Superintendent and Planning Director, may authorize such modifications upon written request of the petitioner, provided such modifications are within the spirit and intent of the approved final plat approval and do not amount to the waiver or substantial alteration of the function of any improvement required by the Town. The Town Engineer shall issue any authorization under this Section in writing and shall transmit a copy of such authorization to the Planning Director.

§ 5-4. Inspection of Improvements

5-4-1. **Supervision of Construction.** The construction of all required improvements shall be supervised by a registered professional engineer employed by the Town of Amherst at the expense of the petitioner. After completion of construction, the supervising engineer shall certify to the Town Engineer that all required improvements have been constructed as required and approved by the Board or as such requirements have been modified by the Town Engineer. In addition, after completion of construction, the supervising engineer shall submit a certified plan showing all improvements as constructed, in the same detail as required for the Public and Private Improvement Permit drawings.

5-4-2. **Inspection by the Town.** The Town Engineer or designee shall inspect required improvements during construction to assure their satisfactory completion.

5-4-3. **Notification.** The petitioner shall notify the Town at least five days prior to the start of construction or installation of any improvement and at least 24 hours prior to the completion of such improvements.

5-4-4. **Fees.** All costs of inspection shall be charged to the petitioner at the issuance of a Public and Private Improvement Permit.

5-4-5. **Petitioner Responsible.**

A. If the Town Engineer finds, upon inspection, that any of the required improvements have not been constructed in accordance with the approved plans and specifications filed by the petitioner, he or she shall so report to the Town Board, Commissioner of Building, Zoning Enforcement Officer and Planning ~~Board~~Director. The Town Board shall then notify the

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petitioner and instruct the petitioner to correct any discrepancies. **[Amended 3-4-2019 by L.L. No. 7-2019]**

B. Failure to reject improvements shall not, in any way, prevent later rejection when such defects are discovered, or obligate the governing body to final acceptance.

§ 5-5. Maintenance Bond

The required improvements shall not be considered to be completed until the installation of the improvements has been approved and certified by the Town Engineer and a final as-built map has been submitted indicating the location of monuments marking all underground utilities as actually installed. In addition, a two-year maintenance bond for all required improvements shall be submitted prior to acceptance of all the improvements by the Town Engineer and issuance of a Public and Private Improvement Permit. A maintenance bond shall be in the amount of 25 percent of the construction cost for each utility.

Section 6. Effective Date

This Local Law shall take effect immediately and be filed in the Office of the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law and published pursuant to Section 130 of the Town Law and Chapter 28 of the Code of the Town of Amherst.

Francina J. Spoth
Town Clerk
Town of Amherst
County of Erie, New York

Attachment: LL ZTA-2024-01 (RES-2024-938 : Adoption of Local Law to Amend Chapter 204 of the Town Code (Subdivision Regulations, ZTA-

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

Francina J. Spoth
Town Clerk

Meeting: 12/02/24 07:00 PM
Department: Supervisor
Initiated by: **Brian J. Kulpa**
Co-Sponsored by: **Supervisor Brian J. Kulpa**

DOC ID: 29726 **RESOLUTION 2024-939** **ADOPTED**

Authorize Amendment to 2024-2029 CIP

RESOLVED, that the 2024-2029 Capital Improvement Program (CIP) is hereby amended to increase 2024 in the amount of $5,900,000 to add project YR-14A Acquisition of 218 & 330 Maple Rd.

12/2/2024
Consent

FINANCIAL IMPACT:

$5.9M increase to 2024 CIP

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

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

Francina J. Spoth
Town Clerk

Meeting: 12/02/24 07:00 PM
Department: Supervisor
Initiated by: **Brian J. Kulpa**
Co-Sponsored by:

DOC ID: 29673 **RESOLUTION 2024-940** **ADOPTED**

Extension - RFP #202207 - State & Federal Government Relations Services - CRS #3747/Ext. CRS #5189

WHEREAS, Masiello Martucci & Associates wishes to extend the RFP #202207 State and Federal Government Relations Services agreement for an additional contract period through January 2, 2026; and

WHEREAS, Masiello Martucci & Associates agrees to the same prices, terms and conditions as the original agreement;

NOW, THEREFORE, BE IT RESOLVED, the Town Board authorizes the Contract Compliance and Administration Department to award the second extension to Masiello Martucci & Associates; and

BE IT FURTHER RESOLVED, the Town Board authorizes the Supervisor to sign the contract extension (CRS #5189) with Masiello Martucci & Associates pending successful contract routing and approval.

12/2/2024
Consent

FINANCIAL IMPACT:

A1210-4110 $60,000

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

TOWN OF AMHERST

Erie County, New York

SUPERVISOR
Brian J. Kulpa
716-631-7032

DEPUTY SUPERVISOR/ COUNCILMEMBER
Shawn A. Lavin

COUNCILMEMBERS
Jacqualine Berger
Angela Marinucci
Michael Szukala

November 18, 2024

Masiello, Martucci & Associates
438 Main Street, Suite 500
Buffalo, NY 14202
Attn: Victor Martucci, Managing Partner

Re: RFP #202207 – State & Federal Government Relations Services

Dear Mr. Martucci:

The Town of Amherst wishes to extend this agreement for an additional contract period, through January 2, 2026, under the same prices, terms and conditions as the original agreement.

Extension is provided for per Page 6 of 18 in the RFP document. This offer is for your immediate consideration and acceptance. Please indicate below whether you agree to extend or do not wish to extend. Please respond **within seven days upon receipt of this request.**

After approval and execution by the 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: Government Action Professionals, Inc. Dba Masiello, Martucci & Associates

Representative (Please print): Victor A. Martucci Title: Managing Partner

Signature: _____ Date: 11/14/2024

Attachment: Extension Letter & Agreement w V Martucci signature (RES-2024-940 : Extension - RFP #202207 - State & Federal Government

TOWN OF AMHERST

Erie County, New York

SUPERVISOR
Brian J. Kulpa
716-631-7032

DEPUTY SUPERVISOR/ COUNCILMEMBER
Shawn A. Lavin

COUNCILMEMBERS
Jacqualine Berger
Angela Marinucci
Michael Szukala

EXTENSION AGREEMENT

Masiello Martucci & Associates agrees to hold prices and extend the current contract with the Town of Amherst for RFP #202207 State & Federal Government Relations Services (Original CRS ID #3747).

This contract will be extended for a one-year period from January 3, 2025 through January 2, 2026.

SIGNED:

Victor Martucci, Managing Partner
Masiello, Martucci & Associates

DATED: 11/14/2024

Brian J. Kulpa, Supervisor
Town of Amherst

DATED: _____

Attachment: Extension Letter & Agreement w V Martucci signature (RES-2024-940 : Extension - RFP #202207 - State & Federal Government

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

Francina J. Spoth
Town Clerk

Meeting: 12/02/24 07:00 PM
Department: Councilmembers
Initiated by: **Shawn Lavin**
Co-Sponsored by:

DOC ID: 29663 **RESOLUTION 2024-941** **ADOPTED**

Tree Board Appointment

WHEREAS, as on August 13, 2024, a special tree board meeting was called to order to accept the resignation of the Chairperson, Ellen Banks; and

WHEREAS, the Amherst Tree Board members voted to accept the resignation of Ellen Banks and to move to vote to elect a new Chairperson; and

WHEREAS, the former Chairperson, Ellen Banks, opened a motion to accept nominations from the floor to elect a new chairperson; and

WHEREAS, member Kyle Townsend nominated member Wendy Wilson for the position of Tree Board Chairperson; and

WHEREAS, the nomination was discussed, accepted and approved by majority vote of all present voting members;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board authorizes the Tree Board recommendations for the nomination and election of Wendy Wilson as the Tree Board Chairperson for the remainder of the unfinished term of the previous Chairperson, Ellen Banks.

12/2/2024
Consent

FINANCIAL IMPACT:

none

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Shawn Lavin, Deputy Supervisor
SECONDER:	Jacqualine Berger, Councilmember
AYES:	Kulpa, Lavin, Berger, Szukala, Marinucci

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

Francina J. Spoth
Town Clerk

Meeting: 12/02/24 07:00 PM
Department: Councilmembers
Initiated by: **Jacqualine Berger**
Co-Sponsored by:

DOC ID: 29662 **RESOLUTION 2024-942** **ADOPTED**

Art on Signal Cabinets – Yr. 2025

WHEREAS, in 2019 the Town of Amherst Arts and Culture in Public Places Board spearheaded an initiative that converted six (6) traffic signal cabinets in the Town of Amherst into public artworks; and

WHEREAS, an additional twenty (28) traffic signal cabinets were painted in subsequent years for a total of twenty-six (34) painted to date; and

WHEREAS, the Decorative Treatment for Traffic Signal Cabinets Initiative has been a success and there is desire to continue with the project; and

WHEREAS, signal cabinet artwork beautifies public spaces, builds community, and offers a more attractive and interesting streetscape environment; and

WHEREAS, an additional eight (8) traffic signal boxes have been selected by the Arts and Culture in Public Places Board to be painted by qualified and trusted artists; and

WHEREAS, one (1) of the eight (8) traffic signal boxes is located at Town of Amherst owned traffic signal at Wehrle Drive and Lamarck Drive; and

WHEREAS, the other seven (7) signals require a NYSDOT permit at the following locations:

Sheridan Drive & Millersport Highway,
Sheridan Drive & Bailey Avenue,
Sweet Home Road & Maple Road,
Sweet Home Road & Skinnersville Road,
Niagara Falls Blvd. & Tonawanda Creek Road,
Campbell Blvd. & Dodge Road,
Millersport Hwy. & Crosspoint Pkwy.

WHEREAS, the NYSDOT allows for Decorative Treatment for Traffic Signals by TSMI 16-04 where a PERM-33 Highway Work Permit is required to paint or wrap a traffic signal cabinet; and

THEREFORE BE IT RESOLVED, the Town Board supports the initiative to paint artwork on signal cabinets by the Arts and Culture in Public Places Board in the selected locations; and

THEREFORE BE IT FURTHER RESOLVED, the Supervisor of the Town of Amherst is hereby authorized to sign all NYSDOT permits and applications in connection with the Signal Cabinet Artwork; and

THEREFORE BE IT FURTHER RESOLVED, that the NYSDOT work permit and necessary applications be reviewed by the Town Attorney prior to execution; and

THEREFORE BE IT FURTHER RESOLVED, that a certified copy of this Resolution be provided to the New York State Department of Transportation as part of the PERM-33 Highway Work Permit.

12/2/2024
Consent

FINANCIAL IMPACT:

$1,600 total ($200 per box)

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

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

Francina J. Spoth
Town Clerk

Meeting: 12/02/24 07:00 PM
Department: Town Attorney
Initiated by: **Samuel A. Alba**
Co-Sponsored by:

DOC ID: 29728 **RESOLUTION 2024-943** **ADOPTED**

Acquisition of Real Property @ 218 and 330 Maple Road (Purchase Agreement - CRS #5229)

AGENDA ITEM : DECEMBER 2ND, 2024

TO: **Town Board**

FROM: **Samuel A. Alba, Esq., Interim Town Attorney**

DATE: **November 26, 2024**

RE: **Resolution Authorizing the Acquisition of Real Property Commonly Known as 330 Maple Road (SBL No. 55.03-1-10) and 218 Maple Road (SBL No. 55.03-1-9) and Approving a Purchase Agreement (CRS #5229) and Authorizing the Town Supervisor to Execute the Same**

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

WHEREAS, the Town Board of the Town of Amherst, New York (the "Town Board") is authorized and empowered to acquire real property for any public purpose; and

WHEREAS, the owner of real property known as 330 Maple Road (SBL No. 55.03-1-10) and 218 Maple Road (SBL No. 55.03-1-9) (the "Property") has indicated a willingness to sell the Property; and

WHEREAS, pursuant to a leasehold interest in the Property, the Town of Amherst has invested funds in the construction and operation of softball fields on a portion of the Property; and

WHEREAS, the Town Board determines it to be in the public interest to acquire the Property upon which the Town softball fields are currently located and constructed; and

WHEREAS, the Owner has only offered the entirety of the Property for sale, inclusive of the portion where the Town softball fields are located; and

WHEREAS, the acquisition of the Property is an unlisted action pursuant to the New York State Environmental Quality Review Act ("SEQRA") and a part 1 of the short Environmental Assessment Form ("EAF") was prepared and reviewed by the Town Board; and

WHEREAS, the Town Board has evaluated the criteria for determining significance under SEQRA and has determined to issue a Negative Declaration under SEQRA for the acquisition of the Property; and

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

1. Based upon a thorough review and examination of the known facts relating to the acquisition of the Property and its careful review of all potentially adverse environmental impacts, and the entire record and proceedings relating thereto, and completion of parts 2 and 3 of the EAF, the Town Board finds that the acquisition of the Property will not have a significant adverse impact on the environment and that a draft environmental impact statement will not be prepared.

2. The attached Purchase Agreement (CRS #5229) is hereby approved and the Town Supervisor is authorized and directed to execute the same on behalf of the Town of Amherst pending successful completion of the Contract Routing System (CRS).

3. This resolution is effective immediately.

PASSED AND ADOPTED by the Town Board of the Town of Amherst the _____ day of December, 2024.

SAA:nmb
Attachment
c: Tim Koller, Deputy Town Clerk
(*w/attachment,* **Agenda Item: December 2, 2024**)

12/2/2024
A motion to approve was made by Supervisor Kulpa, seconded by Councilmember Berger and unanimously approved 5-0.

FINANCIAL IMPACT:

$5.725M

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

Attachment: Purchase Agreement - ACC - 330 Maple Road(66031090.4) (RES-2024-943 : Acquisition of Real Property @ 218 and 330 Maple Road

PURCHASE AGREEMENT

(330 Maple Road, Amherst, New York)

THIS PURCHASE AGREEMENT (this "**Agreement**") is made and entered into as of November ___, 2024 (the "**Effective Date**"), by and between ACC OP (MAPLE ROAD) LLC, a Delaware limited liability company ("**Seller**"), and TOWN OF AMHERST, a New York municipal corporation ("**Buyer**").

R E C I T A L S

Seller desires to sell, and Buyer desires to buy, the "Property" (as hereinafter defined) on the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual undertakings of the parties hereto, it is hereby agreed as follows:

1. Certain Defined Terms. As used herein:

1.1 Intentionally Omitted

1.2 "**Adjustment Point**" shall have the meaning assigned thereto in Section 5.4.1.

1.3 "**Affiliate**" shall mean any "Person" (as defined below) that directly or indirectly through one or more intermediaries, controls, is controlled by or is under common control with another Person. The term "**control**" (or "controlled" or "controlling" or similar variant of "control") shall mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise, and shall in any event include the ownership or power to vote fifty percent (50%) or more of the outstanding equity or voting interests, respectively, of such other Person.

1.4 "**Appurtenances**" shall mean, as to the "Land" (as defined below) or the "Improvements" (as defined below), all easements or licenses solely benefitting the Land or the Improvements; all streets, alleys and rights of way, open or proposed, in front of or adjoining or servicing all or any part of the Land or the Improvements; all strips and gores in front of or adjoining all or any part of the Land or the Improvements; all development rights, air rights, wind rights, water, water rights, riparian rights, and water stock solely relating to the Land or the Improvements; and all other rights, benefits, licenses, interests, privileges, easements, tenements and hereditaments appurtenant to the Land or the Improvements or used in connection with the beneficial use and enjoyment of the Land or the Improvements.

1.5 "**Business Day**" shall mean any day other than a Saturday, Sunday, federal holiday, or state holiday in New York or the state in which the Property is located.

1.6 "**Closing Date**" shall mean the date on which the "Closing" (as defined below) occurs hereunder, which date shall be on or before December 31, 2024, unless the Closing Date is extended as expressly provided in this Agreement or as otherwise agreed in writing by the parties.

1.7 "**Closing Document**" shall mean any certificate, instrument or other document executed by a party or an Affiliate of a party and delivered pursuant to this Agreement.

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1.8 "**Deposit**" shall mean Two Hundred Eighty-Six Thousand and No/100th's Dollars ($286,000.00), together with all interest thereon.

1.9 "**Due Diligence Materials**" shall mean all documents, title searches, surveys, investigations, materials, data, analyses, reports, studies and other information pertaining to or concerning Seller, the Property or Buyer's proposed purchase of the Property, to the extent in Seller's possession, including (a) all documents, materials, data, analyses, reports, studies and other information made available to Buyer or any of its Affiliates or their respective agents, employees, consultants, attorneys, contractors or representatives electronically or through an online data website, and (b) all information disclosed in the real estate records of the applicable jurisdiction in which the Property is located, but in all cases excluding the "Excluded Materials" (as defined below) except to the extent any Excluded Materials are actually delivered or made available to Buyer or any of its Affiliates or their respective agents, employees, consultants, attorneys, contractors or representatives.

1.10 "**Governmental Entity**" shall mean any United States federal, state, provincial, municipal, or local government or other political subdivision, governmental, quasi-governmental, regulatory or administrative authority, agency, instrumentality, or commission or any court, tribunal, or judicial body.

1.11 "**Government List**" shall mean any of (i) the Denied Persons List and the Entities List maintained by the United States Department of Commerce, (ii) the Specially Designated Nationals and Blocked Persons List, the Sectoral Sanctions Identifications List, and the Foreign Sanctions Evaders List maintained by OFAC, and (iii) the Foreign Terrorist Organizations List and Debarred Parties List maintained by the United States Department of State.

1.12 Intentionally Omitted.

1.13 "**Hazardous Material**" shall mean (a) those substances included within the definitions of any one or more of the terms "hazardous substances," "toxic pollutants," "hazardous materials," "toxic substances," and "hazardous waste" in the Comprehensive Environmental Response, Compensation And Liability Act, 42 U.S.C. § 9601 et seq. (as amended), the Hazardous Materials Transportation Act, as amended, 49 U.S.C. sections 1801 et seq., the Resource Conservation And Recovery Act of 1976 as amended, 42 U.S.C. section 6901 et seq., Section 311 of the Clean Water Act, 15 U.S.C. § 2601 et seq., 33 U.S.C. § 1251 et seq., 42 U.S.C. 7401 et seq., and the regulations and publications issued under any such laws, and (b) petroleum, radon gas, lead-based paint, asbestos or asbestos-containing material, and polychlorinated biphenyls.

1.14 "**Improvements**" shall mean the improvements, structures and fixtures located upon the Land, if any.

1.15 Intentionally Omitted.

1.16 "**Intangible Property**" shall mean, as to the Land and the Improvements, and, to the extent the following items are owned by Seller and assignable without cost to Seller or third party consent and relate solely to the Land or Improvements, all governmental permits, entitlements, licenses and approvals (but excluding any trademarks and tradenames, including, without limitation, "Blackstone", "BRE", "Revantage", or "American Campus Communities", and any derivations thereof, and any other Reserved Company Assets (as defined below)).

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1.17 "**Internal Revenue Code**" shall mean the Internal Revenue Code of 1986, as amended from time to time, and any corresponding provisions of succeeding Laws and any regulations, rulings and guidance issued by the Internal Revenue Service.

1.18 "**Land**" shall mean the land described in **Exhibit A** attached hereto and incorporated herein by this reference and commonly known as 330 Maple Road (SBL No. 55.03-1-10) and 218 Maple Road (SBL No. 55.03-1-9), Amherst, New York.

1.19 "**Laws**" shall mean any binding domestic or foreign laws, statutes, ordinances, rules, resolutions, regulations, codes or executive orders enacted, issued, adopted, promulgated, applied, or hereinafter imposed by any Governmental Entity, including building, zoning and environmental protection, as to the use, occupancy, rental, management, ownership, subdivision, development, conversion or redevelopment of the Property.

1.20 "**Lease**" shall mean that certain Lease Agreement dated October 25, 2021, by and between Seller, as lessor, and Buyer, as lessee.

1.21 "**Liens**" shall mean any liens, mortgages, deeds of trust, pledges, financing statements, security interests or other encumbrances securing any debt or obligation.

1.22 "**National Service Contracts**" shall mean contracts to which Seller or its Affiliates are a party that provides for services to the Property and to other assets and properties of Seller or its Affiliates.

1.23 "**OFAC**" shall mean the Office of Foreign Assets Control of U.S. Department of Treasury.

1.24 "**Person**" shall mean a natural person, partnership, limited partnership, limited liability company, corporation, trust, estate, association, unincorporated association or other entity.

1.25 Intentionally Omitted.

1.26 "**Property**" shall mean, collectively, all of Seller's right, title and interest in and to (a) the Land, (b) the Appurtenances, (c) the Improvements and (d) the Intangible Property.

1.27 "**Property Information**" shall mean all leases, license agreements, and service contracts, if any, sewer/water conditions, utilities service information, zoning information, access information, assessments and city fees, developmental conditions and approvals, operating expenses and legal, physical, environmental and compliance matters and conditions respecting the Property.

1.28 "**Pursuit Costs Cap**" shall mean Fifty Thousand and No/100th's Dollars ($50,000.00).

1.29 "**Real Property**" shall mean, collectively, all of Seller's right, title and interest in and to the Land and the Improvements.

1.30 Intentionally Omitted.

1.31 "**Reserved Company Assets**" shall mean the following assets of Seller as of the Closing Date: all cash, cash equivalents (including certificates of deposit), deposits held by third parties (e.g., utility companies), accounts receivable and any right or claim to a refund, reimbursement or other

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payment relating to a period or occurrence prior to the Closing, including any real estate tax refund (subject to the prorations hereinafter set forth) and any claims under a warranty or guaranty arising from acts and occurrences prior to the Closing, bank accounts, claims or other rights against any present or prior partner, member, employee, agent, manager, officer or director of Seller or its direct or indirect partners, members, shareholders or Affiliates, any refund in connection with termination of Seller's existing insurance policies, all contracts between Seller and any law firm, accounting firm, property manager, leasing agent, broker, environmental consultants and other consultants and appraisers entered into prior to the Closing, any proprietary, privileged or confidential materials (including any materials relating to the background or financial condition of a present or prior direct or indirect partner or member of Seller), the internal books and records of Seller, any software, the names "Blackstone", "BRE", "Revantage", and "American Campus Communities", and any derivations thereof, and any trademarks, trade names, brand marks, brand names, trade dress or logos relating thereto, any development bonds, letters of credit or other collateral held by or posted with any Governmental Entity or other third party with respect to any improvement, subdivision or development obligations concerning the Property or any other real property, the Excluded Materials, and any other intangible property that is not used exclusively in connection with the Property.

1.32 "**Survey**" shall mean a survey of the Real Property obtained by Buyer, at Seller's expense.

1.33 "**Title Company**" shall mean Stewart Title Insurance Company.

1.34 "**Title Review Period**" shall mean the period beginning on the Effective Date and ending at 5:00 p.m. Eastern time on the date that is five (5) Business Days after receipt of both the Title Commitment and the Survey.

1.35 "**Title/Survey Change**" means any material adverse change after the Effective Date in the matters disclosed to Buyer in the Title Commitment and the Survey (including any new material adverse matter disclosed in an updated version of any of the foregoing obtained after the Effective Date).

1.36 "**Title Search**" means a fully guaranteed tax and title search or searches covering the Real Property, the first set-out of which shall be a Warranty Deed recorded in the Erie County Clerk's Office at least sixty (60) years prior to the Effective Date of this Agreement, the last continuation of which shall be dated subsequent to the Effective Date and where not covered by the search, a local tax certificate.

2. Purchase and Sale. Upon the terms and conditions hereinafter set forth, Seller shall sell to Buyer, and Buyer shall purchase from Seller, the Property. Notwithstanding anything to the contrary contained in this Agreement, Buyer shall have no right or option to acquire less than all of the Property. Buyer and Seller acknowledge that Buyer is currently leasing a portion of the Real Property pursuant to the Lease. In connection with the Closing, the Lease will terminate pursuant to the terms and conditions of the Lease Termination Agreement (as hereinafter defined).

3. Purchase Price. The purchase price (the "**Purchase Price**") for the Property shall be Five Million Seven Hundred Twenty-Five Thousand and No/100th's Dollars ($5,725,000.00). The Purchase Price shall be paid to Seller by Buyer as follows:

3.1 Deposit. Within three (3) Business Days following the Effective Date, Buyer shall deliver the Deposit to Stewart Title Insurance Company (the "**Escrow Agent**"), at its offices at 295 Main St., Suite 214, Buffalo, New York 14203, Attention: _____ (Telephone: _____; E-mail: _____). Upon delivery of the Deposit to Escrow Agent, the Deposit shall become nonrefundable to Buyer except as otherwise expressly provided in this Agreement. Buyer shall deliver the Deposit to the Escrow Agent by wire transfer of immediately available federal funds. At all times during

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which the Deposit shall be held by the Escrow Agent, the same shall be held by the Escrow Agent as a deposit against the Purchase Price in accordance with the terms and provisions of this Agreement. While the Deposit is being held by the Escrow Agent, the same shall be invested by the Escrow Agent in the following investments ("**Approved Investments**"): (i) money market funds, or (ii) such other short-term investment option offered by the Escrow Agent as may be reasonably agreed to by Seller and Buyer. All interest earned on the Deposit shall be deemed part of the Deposit for all purposes under this Agreement. At the Closing, the entire Deposit shall be applied to the Purchase Price.

3.2 Closing Payment. The Purchase Price, as adjusted by the application of the Deposit and by the prorations and credits specified herein, shall be paid by wire transfer of immediately available federal funds (through the escrow described in Section 5) as and when provided in Section 5.2.2 and escrow provisions in Section 10.23. No adjustment shall be made to the Purchase Price except as explicitly set forth in this Agreement. Seller and Buyer hereby agree that any adjustments to the Purchase Price pursuant to this Agreement shall be treated as an adjustment to the Purchase Price for tax purposes, unless otherwise required by applicable Laws. The amount to be paid under this Section 3.2 is referred to herein as the "**Closing Payment**".

3.3 Independent Consideration. At any time Buyer is entitled to a return of the Deposit hereunder, the entire Deposit shall be returned to Buyer, except for $100.00 thereof (the "**Independent Consideration**"), which shall be paid to Seller as independent consideration to support Seller's obligations under this Agreement.

3.4 Disposition of Deposit Upon Title Termination. Notwithstanding anything to the contrary herein, if Buyer terminates this Agreement at any time pursuant to Section 4.5.1 or Section 4.5.2, then Buyer shall receive a return of the Deposit less and except the Independent Consideration which shall be immediately delivered by Escrow Agent to Seller and Seller shall be entitled to retain the same.

4. Conditions Precedent. The obligation of Buyer to acquire the Property as contemplated by this Agreement is subject to satisfaction (or waiver by Buyer) of all of the conditions precedent for the benefit of Buyer set forth in Sections 4.1, 4.2 and 4.5.4 below, any of which may be waived prior to the Closing only in writing by Buyer. Buyer shall have no financing contingency in connection with the purchase of the Property. The obligation of Seller to transfer the Property as contemplated by this Agreement is subject to satisfaction (or waiver by Seller) of all of the conditions precedent for the benefit of Seller set forth in Sections 4.3 and 4.4 below, any of which may be waived prior to the Closing only in writing by Seller. However, the Closing shall constitute a waiver of all conditions precedent and termination rights set forth in this Section 4.

4.1 Performance by Seller for Benefit of Buyer. That no "**Seller Default**" (as defined in Section 9.2 below) shall have occurred and be continuing on the Closing Date shall be a condition precedent to Buyer's obligation to purchase the Property (provided that Buyer is not in default hereunder). If the foregoing condition is not fulfilled (or waived in writing) pursuant to the terms of this Agreement, then Buyer may terminate this Agreement by written notice delivered to Seller and, in connection with any such termination, Seller and Buyer shall be released from further obligations or liability hereunder (except for those obligations and liabilities that expressly survive such termination), and the Deposit (less the Independent Consideration, which shall be paid to Seller) shall be disposed of in accordance with Section 9.2 of this Agreement.

4.2 Seller's Representations and Warranties.

4.2.1 The obligation of Buyer to close the transactions contemplated by this Agreement is subject to the truth, in all material respects, of the representations and warranties of Seller set

forth in this Agreement, as of the Closing Date, as though made on and as of the Closing Date (except for representations and warranties made as of a specified date, the accuracy of which shall be determined as of that specified date), excluding, however, any matter or change that (1) is expressly permitted or contemplated by the terms of this Agreement, (2) is disclosed in the Due Diligence Materials, or (3) is actually known to Buyer prior to Closing (any such matter or change shall be referred to herein as an "**Excluded Change**"). Without limitation on the foregoing, in the event that the closing certificate (the "**Seller Closing Certificate**") in the form attached hereto as **Exhibit H** to be delivered by Seller at Closing shall disclose any material adverse changes in the representations and warranties of Seller under this Agreement other than Excluded Changes, then Buyer shall have the right to terminate this Agreement by written notice delivered to Seller prior to the Closing and Seller and Buyer shall be released from further obligation or liability hereunder (except for those obligations and liabilities which expressly survive such termination) and the Deposit (less the Independent Consideration, which shall be paid to Seller) shall be disposed of in accordance with Section 9.1 of this Agreement.

4.2.2 Notwithstanding the foregoing or anything else in this Agreement to the contrary, in the event that a material breach of a representation or warranty by Seller has occurred and such breach is curable, then Seller shall have the option (but not the obligation) to cure such breach prior to Closing, including without limitation by providing a credit to Buyer at the Closing in an amount reasonably required to cure such breach if such breach is curable by the payment of monetary funds.

4.3 Performance by Buyer for Benefit of Seller. The performance and observance, in all material respects, by Buyer of all covenants and agreements of this Agreement to be performed or observed by it prior to or on the Closing Date shall be a condition precedent to Seller's obligation to sell the Property, (provided that no Seller Default has occurred). If the foregoing condition is not fulfilled (or waived in writing) pursuant to the terms of this Agreement, then Seller may terminate this Agreement by written notice delivered to Buyer and, in connection with any such termination, Seller and Buyer shall be released from further obligations or liability hereunder (except for those obligations and liabilities that expressly survive such termination), and the Deposit (less the Independent Consideration, which shall be paid to Seller) shall be disposed of in accordance with Section 9.1 of this Agreement.

4.4 Buyer's Representations and Warranties.

4.4.1 The obligation of Seller to close the transaction contemplated by this Agreement is subject to the truth, in all material respects, of the representations and warranties of Buyer set forth in this Agreement, as of the Closing Date, as though made on and as of the Closing Date (except for representations and warranties made as of a specified date, the accuracy of which shall be determined as of that specified date). Without limitation of the foregoing, in the event that Buyer's closing certificate (the "**Buyer Closing Certificate**") in the form attached hereto as **Exhibit I** to be delivered by Buyer at Closing discloses any material adverse changes in the representations and warranties of Buyer under this Agreement, then Seller shall have the right to terminate this Agreement by written notice to Buyer and, in connection with any such termination, Buyer shall be released from further obligations or liability hereunder (except for those obligations and liabilities that expressly survive such termination) and the Deposit (less the Independent Consideration, which shall be paid to Seller) shall be disposed of in accordance with Section 9.1 of this Agreement.

4.4.2 Notwithstanding the foregoing or anything else in this Agreement to the contrary, in the event that a material breach of a representation or warranty by Buyer has occurred and such breach is curable, then Buyer shall have the option (but not the obligation) to cure such breach prior to Closing.

4.5 Title Matters.

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4.5.1 Title Report; Survey. On or before the Effective Date, Buyer shall order the Title Search and the Survey. Upon Buyer's receipt of the Title Search, Buyer's attorney shall promptly prepare a commitment for title insurance from Title Company (the "**Title Commitment**") covering the Land and the Improvements. Buyer shall notify Seller in writing (the "**Title Notice**") prior to expiration of the Title Review Period as to which matters affecting the Real Property, if any, within the Title Commitment and the Survey affecting the Real Property are not acceptable to Buyer (individually, a "**Disapproved Title Matter**"). Any matter within the Title Commitment and the Survey that Buyer fails to so disapprove in a Title Notice delivered prior to the expiration of the Title Review Period shall be conclusively deemed to have been approved by Buyer. If Buyer timely delivers a Title Notice indicating a Disapproved Title Matter, then Seller shall have three (3) Business Days after receipt of such Title Notice to elect to notify Buyer in writing (a "**Title Response Notice**") that Seller either (a) will in good faith attempt to remove such Disapproved Title Matter from title to the Property on or before the Closing, or (b) elects not to cause such Disapproved Title Matter to be removed from title to the Property. If Seller fails to deliver a Title Response Notice as to a particular Disapproved Title Matter within such three (3) Business Day period, then Seller shall be deemed to have made the election in clause (b) above as to such Disapproved Title Matter. The procurement by Seller, at its option, of a written commitment from the Title Company to issue the "**Owner's Policy**" (defined below) or an endorsement thereto reasonably satisfactory to Buyer as of the Closing and insuring Buyer against any Disapproved Title Matter (or any "**Additional Title Matter**" as defined below) shall be deemed a removal thereof from title to the Property. If Seller makes (or is deemed to have made) the election in clause (b) above as to any Disapproved Title Matter, then Buyer shall have three (3) Business Days from the earlier of (i) the date it receives the Title Response Notice making such election, or (ii) the date that Seller is deemed to have made such election as to such Disapproved Title Matter (but in all cases not later than the Closing Date), within which to notify Seller in writing that Buyer elects to either (x) nevertheless proceed with the purchase and take title to the Property subject to such Disapproved Title Matter, or (y) terminate this Agreement. If Buyer makes the election set forth in clause (y) above, then this Agreement shall immediately terminate, and the Deposit shall be disposed of in accordance with Section 3.4 above and Seller and Buyer shall have no further rights or obligations hereunder, except for the provisions hereof that expressly survive termination of this Agreement. If Buyer fails to notify Seller in writing of its election within said three (3) Business Days period, then Buyer shall be deemed to have made the election set forth in clause (x) above.

4.5.2 Additional Title Matters. If any additional title exceptions, defects, encumbrances or other title matters are first disclosed in writing after the end of the Title Review Period (other than by a new or updated survey) and are materially adverse in Buyer's commercially reasonable discretion and constitute a Title/Survey Change ("**Additional Title Matters**"), Buyer may give written notice ("**Title Disapproval Notice**") that it disapproves any such Additional Title Matters, stating the Additional Title Matters so disapproved, before the sooner to occur of the Closing or three (3) Business Days after receipt of written notice of such Additional Title Matters. If, with respect to any Additional Title Matter, Buyer fails to give a Title Disapproval Notice within such three (3) Business Day period, Buyer shall be deemed to have approved such Additional Title Matter. Seller shall have until the Closing within which to remove the disapproved Additional Title Matters set forth therein from title (Seller having the right but not the obligation to do so). In the event Seller determines at any time that it is unable or unwilling to remove any one or more of such disapproved Additional Title Matters, Seller shall give written notice to Buyer to such effect; in such event, Buyer may, at its option, terminate this Agreement upon written notice to Seller but only if given prior to the sooner to occur of the Closing or three (3) Business Days after Buyer receives Seller's notice, in which case this Agreement shall immediately terminate, and Seller and Buyer shall have no further rights or obligations hereunder, except for the provisions hereof that expressly survive termination of this Agreement. If this Agreement is terminated as set above, and the Deposit shall be disposed of in accordance with Section 3.4 above and Seller and Buyer shall have no further rights or obligations hereunder, except for the provisions hereof that expressly survive termination of this

Agreement. If Buyer fails to give such termination notice by such date, Buyer shall be deemed to have waived its objection to, and to have approved, the matters set forth in Seller's notice.

4.5.3 Seller Liens. Notwithstanding the foregoing provisions of this Section 4.5, Seller shall be obligated to take (and hereby covenants to take) such actions as may be reasonably required by a national title insurance company so that a national title insurance company is willing to issue title insurance to Buyer without exception for any of the following ("**Seller Liens**"): (i) any Liens securing any existing mortgage or deed of trust financing obtained or assumed by Seller or its Affiliate that encumbers all or any portion of the Property as of the Effective Date (an "**Existing Loan**"), (ii) any Liens securing any other mortgage or deed of trust financing voluntarily obtained by Seller after the Effective Date and prior to the Closing, (iii) any mechanics' liens or materialmens' liens arising from any work or improvements at the Property ordered or authorized by Seller that encumber the Property on the Closing Date, and (iv) any judgment liens against Seller affecting the Land or any portion thereof, (other than (w) liens or claims arising from Buyer's use and/or occupancy of the Real Property pursuant to the Lease, (x) mechanics' or materialmens' liens that are considered Permitted Exceptions pursuant to the provisions of Section 4.5.4 herein, (y) liens or claims arising from Buyer's due diligence reviews or inspections hereunder or (z) liens or claims for which Buyer receives a credit at Closing pursuant to this Agreement or the Closing Documents); provided that, notwithstanding anything to the contrary in this Agreement, Seller shall have the right to extend the Closing Date up to thirty (30) days in order to cause a national title insurance company to issue the Owner's Policy to Buyer without exception for any of the items in (i), (ii), (iii) or (iv) above.

4.5.4 Permitted Exceptions to Title. Buyer's obligation to purchase the Property is subject to the condition precedent that, at the Closing, a national title insurance company shall have irrevocably committed at the Closing to issue an Owner's Policy for the Property promptly following the Closing. Buyer shall be obligated to accept title to the Property, subject to the following exceptions to title (the "**Permitted Exceptions**"):

(a) Real estate taxes and assessments not yet delinquent;

(b) The standard exceptions, if any, which appear in a standard form ALTA Owner's Policy of Title Insurance issued by the Title Company in the state in which the Property is located;

(c) Any laws, rules, regulations, statutes, ordinances, orders or other legal requirements currently affecting the Property or hereafter imposed by any Governmental Entity, including, without limitation, all zoning, land use, building and environmental laws, rules, regulations, statutes, ordinances, orders or other legal requirements, including landmark designations and all zoning variance and special exceptions, if any;

(d) The Declaration (as hereinafter defined);

(e) Any lien or encumbrance arising out of services, labor or materials furnished to the Property and contracted for by Seller for which Buyer is entitled to a credit at Closing pursuant to Section 5.4 (including without limitation mechanics' liens and notices of commencement as a result of work contracted for by Seller that is ongoing, the cost of which is adjusted for as set forth in Section 5.4, or for which (i) Buyer is expressly responsible for payment pursuant to Section 5 or (ii) Buyer is responsible for pursuant to the Lease);

(f) Such other exceptions to title or survey exceptions as may be approved or deemed approved by Buyer pursuant to the above provisions of this Section 4.5, or as otherwise

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expressly permitted under this Agreement, or any exceptions resulting from the acts of Buyer or its consultants, contractors, employees, agents or representatives;

(g) Such other exceptions as the Title Company shall commit to omit or insure over, whether such insurance is made available in consideration of payment, bonding, any indemnity that Seller may be willing (but shall not be obligated) to provide, or otherwise (subject to the terms of this Agreement); and

(h) Charges for sewer and water services that are not yet delinquent.

Conclusive evidence of the availability of such title shall be the irrevocable commitment of a national title insurance company to issue to Buyer on the Closing Date a standard coverage form Owner's Policy of Title Insurance for the Property issued by a national title insurance company in the state where the Property is located (the "**Owner's Policy**") in the face amount equal to the Purchase Price, which Owner's Policy shall show (i) title to the Real Property to be vested of record in Buyer, and (ii) the Permitted Exceptions to be the only exceptions to title. Notwithstanding any provision to the contrary contained in this Agreement or any of the Closing Documents, any or all of the Permitted Exceptions may be omitted by Seller in the Deed (as defined below) without giving rise to any liability of Seller, irrespective of any covenant or warranty of Seller that may be contained or implied in the Deed (and the provisions of this sentence shall survive the Closing and delivery of the Deed and shall not be merged therein).

4.5.5 Endorsements to Owner's Policy. It is understood that Buyer may request any number of endorsements to the Owner's Policy. The issuance of such endorsements shall not be a condition to Closing or give rise to any termination right hereunder. Seller shall not be obligated to incur any expense or undertake any potential liability in connection with the issuance of any such endorsements.

4.6 Access Rights. Prior to the Effective Date, Buyer has made a thorough inspection and investigation of the Property employing its own experts for such purpose. Prior to the Effective Date, Buyer has made, or has caused to be made by experts of its own choice, a thorough review and analysis of the Property and the Property Information. Buyer represents and warrants as of the Closing that Buyer has conducted a thorough inspection of the Property and is not relying on any representation or warranty of Seller other than those expressly set forth in Section 7.1 herein. Buyer understands and agrees that Seller makes no warranties regarding, and shall have no liability whatsoever with respect to, the accuracy, correctness, or suitability of the Property Information, except as may be expressly set forth in Section 7.1. Buyer shall have the right, at Buyer's sole cost, risk, and expense, through the earlier of (i) the termination of this Agreement in accordance with the terms hereof or (ii) the Closing Date, within which to perform and complete during normal business hours on a Business Day any additional examinations, reviews, and inspections of all matters pertaining to the purchase of the Property, including the performance of a Phase I environmental report (provided that Buyer and its agents are prohibited from performing any intrusive or destructive testing (including, without limitation, Phase II environmental testing) without Seller's prior written consent, which consent may be given or withheld in Seller's sole and absolute discretion). Subject to Section 4.6.1 and provided this Agreement has not been terminated, Seller shall provide Buyer and its representatives, attorneys, accountants, consultants, surveyors, title companies, agents, employees, contractors, appraisers, architects and engineers with reasonable access to the Property upon reasonable advance written notice from Buyer (which shall be in any event at least one (1) Business Day in advance). Within three (3) Business Days of the Effective Date, Seller shall make available to Buyer (either electronically, through an on-line data website or otherwise) for review copies of all Due Diligence Materials. In no event, however, shall Seller be obligated to make available (or cause to be made available) any e-mails or any proprietary or confidential documents including reports or studies that have been superseded by subsequent reports or studies, and any of the following confidential or proprietary materials

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(collectively, the "**Excluded Materials**"): (1) information contained in financial analyses or projections (including Seller's budgets, valuations, cost-basis information, and capital account information); (2) any proposals, letters of intent, draft contracts, or similar materials prepared by or for other prospective purchasers of the Property or any part thereof; (3) material that is subject to attorney-client privilege or that is attorney work product; (4) appraisal reports or letters; (5) organizational, financial, and other documents relating to or prepared for Seller or Seller's Affiliates, or its or their boards, committees, partners, or investors (other than any evidence of due authorization and organization required under this Agreement); (6) material that Seller is legally required not to disclose other than by reason of legal requirements voluntarily assumed by Seller after the Effective Date; (7) preliminary or draft reports or studies, or reports or studies that have been superseded by final reports or studies; (8) letters of intent, purchase agreements, loan documents or other documents, instruments or agreements evidencing or relating to Seller's acquisition of the Property or any prior financing or attempted sale of the Property or any portion thereof; or (9) the Excluded Contracts. As used herein, "**Excluded Contracts**" shall mean contracts to which Seller or Seller's Affiliate is a party and relating to the Property (a) for insurance; (b) for existing property management, asset management or similar services; (c) for the engagement of attorneys, accountants, brokers, surveyors, title companies, environmental consultants, engineers, architects, or appraisers; (d) for the National Service Contracts; or (e) that are entered into after the Effective Date, but that Seller causes to be terminated at or prior to the Closing. The Excluded Contracts are not being assigned to or assumed by Buyer hereunder. In no event shall any right of Buyer to access or inspect the Property or to conduct further reviews and analyses as set forth herein, give rise to any due diligence approval or termination right in favor of Buyer under this Agreement.

4.6.1 Review Standards. Buyer shall at all times conduct its reviews, inspections and examinations (and shall cause its consultants' and other third parties' reviews, inspections and examinations performed for or at the request of Buyer to be conducted) in a manner so as to not cause liability, damage, lien, loss, cost or expense (other than normal and customary costs or expenses incurred by Seller in facilitating Buyer's due diligence investigations in accordance with the terms of this Agreement) to Seller or the Property and so as to not unreasonably interfere with or disturb any tenant or Seller's operation of the Property, and Buyer will indemnify, defend, and hold Seller, its members, partners, employees, managers, agents, officers, directors, shareholders, fiduciaries, attorneys, licensees, contractors, brokers, invitees, tenants and the Property harmless from and against any such liability, damage, lien, loss, cost or expense (except to the extent (x) arising from the mere discovery of existing conditions that are not exacerbated by Buyer or its agents or (y) due to the negligence or intentional misconduct of Seller or Seller's agents or representatives). Prior to entry upon the Property, Buyer shall provide Seller with copies of certificates of insurance evidencing commercial general liability insurance policies (naming Seller, Seller's lender and such other affiliated parties as Seller may reasonably designate as additional insureds) that shall be maintained by Buyer and by any consultants or other third parties engaged by Buyer in connection with Buyer's and such consultants' and third parties' investigations upon the Property, with limits, coverages and insurers under such policies reasonably satisfactory to Seller and Seller's lender, and in all cases, but without limiting the foregoing, (a) naming Seller as an additional insured thereunder, (b) with limits of not less than $1,000,000 per occurrence / $2,000,000 in the aggregate for property damage, bodily or personal injury or death, and (c) including excess (umbrella) liability insurance with limits of not less than $3,000,000 per occurrence, employer's liability insurance with a limit of $1,000,000 per occurrence, and worker's compensation insurance in compliance with applicable statutory requirements, and comprehensive automobile liability insurance with a $1,000,000 combined single limit. Without limitation of the foregoing, in no event shall Buyer: (a) conduct any intrusive, destructive or invasive physical testing (including, without limitation, any Phase II environmental testing), structural, or otherwise) at the Property (such as soil borings, water samplings, or the like) or take physical samples from the Property without Seller's express written consent, which consent, as to such intrusive or destructive physical testing or sampling, may be given or withheld in Seller's sole and absolute discretion (and Buyer shall in all events promptly return the Property to its prior condition and repair thereafter at Buyer's sole cost and expense);

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(b) contact or engage any consultant or other professional engaged by Seller with respect to the Property, or contact any leasing agent of the Property (or their representatives) or any other interest holder in the Property, in each case without Seller's express written consent (which shall not be unreasonably withheld); (c) contact any Governmental Entity concerning the Property without Seller's express written consent, other than to request public records; (d) contact the manager or employees of the manager, or (e) contact any member or partner of Seller or any lender or servicer with respect to any Existing Loan, in each case, without the prior written approval of Seller in its sole and absolute discretion. Consents under clause (b), (c), (d) or (e) above may be given by e-mail by Daniel Crownover (Telephone: (512) 732-1000; E-mail: dcrownover@americancampus.com), or by such other individuals designated in a written notice or e-mail notice given by Seller to Buyer. Seller shall have the right, at its option, to cause a representative of Seller to be present at all inspections, reviews, and examinations conducted hereunder (including any meeting or conversations with any Governmental Entity having jurisdiction over the Property). Prior to entry onto the Property (by Buyer or its designee), Buyer shall provide Seller with advance written notice of such entry (at least one (1) Business Day in advance of such entry), which notice may be given by email to Dan Crownover at dcrownover@americancampus.com. If this Agreement is terminated for any reason, then (i) Buyer shall promptly return all documents and other materials furnished by Seller hereunder (including Due Diligence Materials provided to Buyer), and all copies and other reproductions of the Due Diligence Materials made by Buyer and/or any of its agents, and shall certify to Seller in writing that Buyer has returned all such materials, and (ii) unless such termination was by reason of Seller's default, Buyer, upon Seller's written request, shall promptly deliver to Seller true, accurate, and complete copies of any written reports relating to the Property prepared for or on behalf of Buyer by any third party in connection with Buyer's inspection of the Property. In connection with any permitted testing, sampling, or other work performed hereunder, Buyer shall promptly dispose of (or cause to be disposed of), at its sole cost in accordance with all applicable Laws, any waste, samples, or other materials generated or removed by Buyer or by its agents or contractors arising from or in connection with the investigations, samplings, or testing hereunder. This Section 4.6.1 shall survive the Closing or any termination of this Agreement.

5. Closing Procedure.

5.1 Closing. The closing (the "**Closing**") of the sale and purchase herein provided shall occur not later than 11:00 a.m. Eastern time on the Closing Date. There shall be no requirement that Seller and Buyer physically attend the Closing, and all funds and documents to be delivered at the Closing shall be delivered to the Escrow Agent unless the parties hereto mutually agree otherwise. Buyer and Seller hereby authorize their respective attorneys to execute and deliver to the Escrow Agent any additional or supplementary instructions as may be necessary or convenient to implement the terms of this Agreement and facilitate the closing of the transactions contemplated hereby, provided, however, that such instructions are consistent with and merely supplement this Agreement and shall not in any way modify, amend or supersede this Agreement.

5.2 Closing Deliveries. The parties shall deliver to the Escrow Agent the following:

5.2.1 Seller Deliveries. On or before the Closing Date, Seller shall deliver (or cause to be delivered) to the Escrow Agent the following:

(a) A duly executed and acknowledged original deed (the "**Deed**") in the form of **Exhibit C**;

(b) Two (2) counterparts of a duly executed original bill of sale, assignment and assumption agreement (the "**Bill of Sale, Assignment and Assumption**") in the form of **Exhibit D**;

(c) An original federal certificate of "non-foreign" status in the form required by Section 1445 of the Internal Revenue Code duly executed by Seller (or its Affiliate, if applicable);

(d) Two (2) counterparts of a duly executed original lease agreement termination agreement (the "**Lease Termination Agreement**") in the form of **Exhibit E**;

(e) The Seller Closing Certificate duly executed by Seller in the form of **Exhibit H**;

(f) A title certificate ("**Seller Title Certificate**") in the form of **Exhibit F** to facilitate the issuance of any title insurance sought by Buyer in connection with the transaction contemplated hereby, but in no event shall Seller be obligated to provide any additional certificate, affidavit or indemnity in connection with such title insurance;

(g) A duly executed and acknowledged original of the declaration of restrictive covenants (the "**Declaration**") in the form of **Exhibit G**, restricting the future use of the Real Property in connection with the uses set forth therein; and

(h) Such additional documents as may be reasonably required by the Escrow Agent in order to consummate the transaction contemplated hereunder (provided the same do not increase the costs to, or liability or obligations of, Seller in a manner not otherwise provided for herein).

5.2.2 Buyer Deliveries. At least one (1) Business Day prior to the Closing Date (except as to the Closing Payment, which shall be delivered no later than 10:00 a.m. Eastern time on the Closing Date), Buyer shall deliver to the Escrow Agent the following:

(a) The Closing Payment by wire transfer of immediately available federal funds;

(b) Two (2) counterparts of the duly executed original Bill of Sale, Assignment, and Assumption;

(c) Two (2) counterparts of the duly executed original Lease Termination Agreement;

(d) The Buyer Closing Certificate duly executed by Buyer;

(e) Evidence reasonably satisfactory to the Escrow Agent respecting the due organization of Buyer and the due authorization and execution by Buyer of this Agreement and the documents required to be delivered hereunder;

(f) A duly executed and acknowledged original of the Declaration, executed by Buyer; and

(g) Such additional documents as may be reasonably required by the Escrow Agent, Seller or the Title Company in order to consummate the transaction contemplated hereunder (provided the same do not increase in any material respect the costs to, or liability or obligations of, Buyer in a manner not otherwise provided for herein).

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5.2.3 Mutual Deliveries. Buyer and Seller shall mutually execute and deliver (or cause to be executed and delivered) to the Escrow Agent the following no later than the Closing Date:

(a) A closing statement (the "**Closing Statement**") reflecting the Purchase Price, the adjustments and prorations required hereunder, and the allocation of income and expenses required hereby, the parties hereby agreeing that they shall use commercially reasonable efforts to finalize, execute and deliver the Closing Statement one (1) Business Day preceding the Closing Date; and

(b) Such transfer tax and/or disclosure forms, if any, as are required by state and local authorities, including, but not limited to, forms TP 584 and RP 5217 required in connection with the Deed or any of the other documents to be delivered under Section 5.2.1 and/or Section 5.2.2.

5.2.4 Closing Authorizations. If all conditions precedent to Buyer's obligation to purchase the Property hereunder have been satisfied (or waived by Buyer), then Buyer shall deliver to Escrow Agent a written authorization (which may be given via e-mail) to proceed with the Closing no later than 10:00 a.m. Eastern time on the Closing Date. If all conditions precedent to Seller's obligation to sell the Property hereunder have been satisfied (or waived by Seller), then Seller shall deliver to Escrow Agent a written authorization (which may be given via e-mail) to proceed with the Closing no later than 10:00 a.m. Eastern time on the Closing Date (or as soon thereafter as is reasonably practicable).

5.3 Closing Costs. At Closing, Seller shall pay or cause to be paid (i) any costs in connection with discharging any encumbrances that Seller specifically agrees to or is obligated to pay pursuant to the terms of this Agreement, (ii) any state or county transfer taxes related to the Deed, (iii) one-half (1/2) of all escrow charges, and (iv) all costs to obtain the Title Search and Survey. At Closing, Buyer shall pay (i) all costs for the Title Search and Owner's Policy including premiums for any extended coverage or any lender title policy, endorsements, search costs, update charges and other title charges (other than the costs in connection with discharging any encumbrances which are the obligation of Seller hereunder), (ii) one-half (1/2) of all escrow charges, (iii) any recording fees with respect to the Deed, and (iv) all fees, costs or expenses in connection with Buyer's due diligence reviews and analyses hereunder. Any other closing costs shall be allocated in accordance with local custom. Seller and Buyer shall pay their respective shares of prorations as hereinafter provided. Except as otherwise expressly provided in this Agreement, each party shall pay the fees of its own attorneys, accountants and other professionals. Each party to this Agreement shall indemnify the other party and its successors and assigns from and against any and all loss, damage, cost, charge, liability or expense (including court costs and reasonable attorneys' fees) which such other party may sustain or incur as a result of the failure of the indemnifying party to timely pay any of the aforementioned fees or other charges for which it has assumed responsibility under this Section 5.3. The provisions of this Section 5.3 shall survive the Closing or the termination of this Agreement.

5.4 Prorations.

5.4.1 Items to be Prorated. Unless otherwise provided below, the following are to be adjusted and prorated between Seller and Buyer as of 11:59:59 p.m. Eastern time on the day preceding the Closing Date (the "**Adjustment Point**"), based upon a 365-day year or 366-day year (as applicable), with Buyer being deemed to be the owner of the Property during the entire day of the Closing Date and being entitled to receive all operating income of the Property, and being obligated to pay all operating expenses of the Property, with respect to the Closing Date and the net amount thereof under this Section 5.4 shall be added to (if such net amount is in Seller's favor) or deducted from (if such net amount is in Buyer's favor) the Purchase Price payable at Closing. Seller shall prepare the prorations and

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adjustments required by this Agreement for the Closing Statement and submit the same to Buyer and Escrow Agent for Buyer's review and approval prior to the Closing Date.

(a) All real estate and property taxes and business improvement district charges with respect to the Property for the current year shall be prorated between Seller and Buyer as of the Closing Date (on the basis of the actual number of days elapsed over the applicable period). Seller shall be responsible for the payment of any such real estate and property taxes that are delinquent before Closing (subject to Buyer's obligation under the Lease to pay a portion of such real estate and property taxes with respect to the portion of the Property covered by such Lease pursuant to the terms and conditions of Section 20 of the Lease). In no event shall Seller be charged with or be responsible for any increase in the taxes on the Property resulting from the sale of the Property contemplated by this Agreement, any change in use of the Property on or after the Closing Date, or from any improvements made or leases entered into on or after the Closing Date. If the Property shall be, or has been, affected by any assessments or special assessments payable in a lump sum or which are, or may become, payable in installments, of which the first installment is then a charge or lien, or has already been paid, then at the Closing such amounts shall be paid or apportioned, as the case may be, in the following manner: (i) any such assessments or installments, or portion thereof, payable on or after the Closing Date shall be the responsibility of Buyer; and (ii) any such assessments or installments, or portion thereof, payable prior to the Closing Date shall be the responsibility of Seller (subject to Buyer's obligation under the Lease to pay a portion of such assessments or installments with respect to the portion of the Property covered by such Lease pursuant to the terms and conditions of Section 20 of the Lease). In the event that the tax bill for the current fiscal year of the applicable taxing authority in which the Closing Date occurs is not available at Closing, then such proration at Closing shall be made on the basis of the most recent ascertainable tax bill, however, adjustment will be made when the actual tax amount is determined.

(b) Any utilities serving the portion of the Property covered by the Lease are in the name of Buyer as the "Lessee" under the Lease and paid by Buyer as the "Lessee" under the Lease in accordance with the Lease. Seller shall have no responsibility or liability for any utilities serving such portion of the Property prior to Closing and Buyer shall be responsible for all costs related to the utilities serving such portion of the Property, whether arising prior to or after the Closing Date.

(c) Intentionally Deleted

(d) Intentionally Deleted

(e) Intentionally Deleted

(f) Intentionally Deleted

(g) Intentionally Deleted

(h) If applicable, the Purchase Price shall be adjusted at Closing to reflect the adjustment of any other item which, under the explicit terms of this Agreement, is to be apportioned at Closing. Any other items of operating income or operating expense that are customarily apportioned between the parties in real estate closings of comparable raw land properties in the metropolitan area where the Property is located shall be prorated as applicable; however, there will be no prorations for debt service or insurance premiums (because Buyer is not acquiring or assuming Seller's financing or insurance).

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5.4.2 General Provisions.

(a) In the event any prorations or apportionments made under this Section 5.4 shall prove to be incorrect for any reason, then any party shall be entitled to an adjustment to correct the same. Any item that cannot be finally prorated because of the unavailability of information shall be tentatively prorated on the basis of the best data then available and reprorated when the information is available.

(b) Notwithstanding anything to the contrary set forth herein, all reprorations and adjustments contemplated by this Agreement shall be completed within three (3) months after Closing (subject to extension solely as necessary due to the unavailability of final information but in no event to exceed four (4) months after Closing).

(c) Seller and Buyer acknowledge that pursuant to the Lease, Buyer, as the "Lessee" under the Lease, is responsible for the prorations identified in this Section 5.4 arising prior to the Adjustment Date with respect to the portion of the Property covered by the Lease (the "**Pre-Closing Expenses**") and that nothing in this Section 5.4 shall eliminate Buyer's obligations as the "Lessee" under the Lease with respect to the Pre-Closing Expenses and Seller shall have no liability with respect to such Pre-Closing Expenses.

(d) The obligations of Seller and Buyer under this Section 5.4 shall survive the Closing for four (4) months.

6. Condemnation of Property. If, after the Effective Date but prior to the Closing Date, any portion of the Property is taken pursuant to eminent domain proceedings, Seller shall be required to give Buyer prompt written notice of the same after Seller's actual discovery of the same (a "**Condemnation Notice**"), but shall have no obligation to cause any direct or indirect member, partner or owner of Seller to contribute capital to Seller or any other entity, or to repair or replace (or cause to be repaired or replaced) any such taken property. Seller shall, at Closing, provide Buyer with a credit against the Purchase Price in the amount of any condemnation proceeds actually received by Seller on account of such condemnation (except to the extent required to reimburse Seller's collection costs or applied to repairs by Seller prior to the Closing Date). If as of the Closing Date, Seller has not received any such condemnation proceeds, then Seller shall, upon the Closing, assign to Buyer all rights of Seller, if any, to the condemnation proceeds (except to the extent required to reimburse Seller's collection costs or applied to repairs by Seller prior to the Closing Date), without any credit or reduction in the Purchase Price. In the event (A) the condemnation award shall in Seller's reasonable judgment exceed fifteen percent (15%) of the Purchase Price or (B) the condemnation to the Property in Seller's reasonable judgment (i) materially and adversely affects access to the Property, or (ii) results in the Property violating any Laws or failing to comply with zoning or any recorded covenants, conditions or restrictions affecting the Property, in any material respect, then Buyer may, at its option, terminate this Agreement by notice to Seller, given on or before the earlier of (x) the Closing Date or (y) ten (10) Business Days after Buyer's receipt of the Condemnation Notice, whereupon Buyer shall receive a refund of the Deposit (less the Independent Consideration, which shall be paid to Seller) and no party hereto shall have any further obligation in connection herewith except under those provisions that expressly survive a termination of this Agreement.

7. Representations, Warranties and Covenants.

7.1 Representations and Warranties of Seller. Seller hereby represents and warrants to Buyer that:

7.1.1 Environmental Matters. Except as disclosed in the Due Diligence Materials, including, without limitation, any environmental reports provided to Buyer by or on behalf of Seller and/or as otherwise disclosed in any environmental reports obtained by or on behalf of Buyer, to Seller's knowledge, Seller has not received any written notice from any Governmental Entity having jurisdiction over the Property to the effect that the Property violates any applicable Laws governing the presence, release or disposition of Hazardous Materials.

7.1.2 Litigation. Other than litigation disclosed in **Schedule 1** hereto, to Seller's knowledge, there is no pending and served (nor has Seller received any written notice of any threatened) action, litigation, condemnation, or other legal proceeding against the Property or against Seller with respect to the Property that, if determined adversely to Seller or against the Property, would materially and adversely affect the Property or the ability of Seller to perform its obligations hereunder (except with respect to any litigation arising against Buyer pursuant to Buyer's right to occupy and operate at the Property pursuant to the Lease and any claims).

7.1.3 Compliance. Except as disclosed in **Schedule 1** hereto, to Seller's knowledge, it has not received any written notice from any Governmental Entity having jurisdiction over the Property to the effect that the Property is not in compliance with applicable Laws, other than notices of non-compliance that have been remedied or dismissed.

7.1.4 Service Contracts. Seller has not entered into any service or equipment leasing contracts relating to the Property as of the Effective Date that will be binding on Buyer or the Property after the Closing.

7.1.5 Due Authority. This Agreement and all agreements, instruments and documents herein provided to be executed or to be caused to be executed by Seller are and on the Closing Date will be duly authorized, executed and delivered by and are binding upon Seller. Seller is a Delaware limited liability company, duly organized and validly existing and in good standing under the Laws of such state, and is duly authorized and qualified to do all things required of it under this Agreement. Seller has due authority to enter into this Agreement and consummate the transaction herein provided without the consent or joinder of any other party (except as otherwise may be set forth in this Agreement).

7.1.6 No Conflict. To Seller's knowledge, except as otherwise set forth in this Agreement, neither this Agreement nor any agreement, document, or instrument executed or to be executed in connection with the same, nor anything provided in or contemplated by this Agreement or any such other agreement, document, or instrument, does now or shall hereafter materially breach, violate, invalidate, cancel, make inoperative, or interfere with, or result in the acceleration or maturity of, any agreement, document, instrument, right, or interest, or applicable law affecting or relating to Seller or the Property except, in each case, for any conflict or violation which will not materially adversely affect Seller's ability to consummate the transaction contemplated by this Agreement.

7.1.7 Insolvency. Seller has not (i) made a general assignment for the benefit of creditors, (ii) filed any voluntary petition in bankruptcy or suffered the filing of any involuntary petition by Seller's creditors, (iii) suffered the appointment of a receiver to take possession of all, or substantially all, of Seller's assets, (iv) suffered the attachment or other judicial seizure of all, or substantially all, of Seller's assets, or (v) made an offer of settlement, extension or composition to its creditors generally.

7.1.8 Employees. Seller does not have any employees.

7.1.9 Anti-Terrorism Laws.

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(a) Neither Seller nor, to Seller's knowledge, any of its subsidiaries, officers, directors, employees or agents, is in violation of any applicable laws relating to anti-corruption, anti-bribery, terrorism, money laundering or the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Action of 2001, Public Law 107-56, as amended, and Executive Order No. 13224 (Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism) (the "**Executive Order**") (collectively, the "**Anti-Bribery, Anti-Money Laundering and Anti-Terrorism Laws**").

(b) Neither Seller nor, to Seller's knowledge, any of its subsidiaries, officers, directors, employees or agents, is acting, directly or indirectly, on behalf of terrorists, terrorist organizations or narcotics traffickers, including those persons or entities that appear on the Annex to the Executive Order, or are included on any Government Lists.

(c) Neither Seller, nor any person controlling or controlled by Seller, is a country, territory, individual or entity named on a Government List.

7.1.10 Foreign Person. Seller is not a "Foreign Person" pursuant to Internal Revenue Code § 1445.

7.1.11 Leases, Tenants and Rights of Use or Occupancy. Except for the Lease or as disclosed in the Permitted Encumbrances, there are no leases, subleases, tenancies or other rights of use or occupancy with respect to the Property which have not been disclosed in writing by Seller to Buyer that will be binding on Buyer or the Property after Closing.

7.2 Representations and Warranties of Buyer. Buyer hereby represents and warrants to Seller that:

7.2.1 Due Authority. This Agreement and all agreements, instruments and documents herein provided to be executed or to be caused to be executed by Buyer are and on the Closing Date will be duly authorized, executed and delivered by and are binding upon Buyer; Buyer is a municipal corporation, duly organized and validly existing and in good standing under the Laws of the State of New York, and is duly authorized and qualified to do all things required of it under this Agreement; and Buyer has the capacity and authority to enter into this Agreement and consummate the transaction herein provided without the consent or joinder of any other party (except as otherwise may be set forth in this Agreement).

7.2.2 No Conflict. To Buyer's knowledge, neither this Agreement nor any agreement, document or instrument executed or to be executed in connection with the same, nor anything provided in or contemplated by this Agreement or any such other agreement, document or instrument, does now or shall hereafter breach, violate, invalidate, cancel, make inoperative or interfere with, or result in the acceleration or maturity of, any agreement, document, instrument, right or interest, or applicable Laws affecting or relating to Buyer.

7.2.3 Insolvency. Buyer is not a debtor under any bankruptcy proceedings, voluntary or involuntary, and has not made an assignment for the benefit of its creditors.

7.2.4 Litigation. To Buyer's knowledge, there is no pending and served (nor has Buyer received any written notice of any threatened) action, litigation, arbitration or other legal proceeding against Buyer that, if determined adversely to Buyer, would adversely affect the ability of Buyer to perform its obligations hereunder.

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7.2.5 Anti-Terrorism. Neither Buyer nor, to Buyer's knowledge, its Affiliates, officers, directors, partners or members, is in violation of, has been charged with or is under indictment for the violation of, or has pled guilty to or been found guilty of the violation of, the Executive Order and/or any Anti-Bribery, Anti-Money Laundering and Anti-Terrorism Laws.

7.2.6 OFAC. None of Buyer or, to Buyer's knowledge, its Affiliates, is acting, directly or indirectly, on behalf of terrorists, terrorist organizations or narcotics traffickers, including those persons or entities that appear on the Annex to the Executive Order, or are included on any relevant lists maintained by OFAC, U.S. Department of State, or other U.S. government agencies, all as may be amended from time to time.

7.2.7 Government Lists. Neither Buyer, nor any person controlling or controlled by Buyer, is a country, territory, individual or entity named on a Government List, and the monies used in connection with this Agreement and amounts committed with respect thereto, were not and are not derived from any activities that contravene any of the Anti-Bribery, Anti-Money Laundering and Anti-Terrorism Laws or any other applicable anti-money laundering or anti-bribery Laws and regulations (including funds being derived from any person, entity, country or territory on a Government List or engaged in any unlawful activity defined under Title 18 of the United States Code, Section 1956(c)(7)).

7.2.8 Money Laundering and Drug Trafficking. Buyer is not engaging in the transactions contemplated hereunder, directly or indirectly, in violation of any Laws relating to drug trafficking, money laundering or predicate crimes to money laundering or drug trafficking. None of the funds of Buyer have been or will be derived from any unlawful activity with the result that the investment of direct or indirect equity owners in Buyer is prohibited by Laws or that the transactions contemplated hereunder or this Agreement is or will be in violation of Laws.

7.2.9 AML-KYC. No natural person owns a 25% or greater interest in Buyer, directly or indirectly that has not been disclosed to Seller in writing (including such parties full name, state and country of residence).

7.3 Survival. The representations, warranties and covenants and all other obligations, provisions and liabilities of Seller under this Agreement or any of the Closing Documents (including any cause of action by reason of a breach thereof) shall survive until the date that is three (3) months after the Closing Date (the period beginning on the Effective Date and ending on such date being herein called the "**Survival Period**") after which time all representations and warranties, covenants, obligations, provisions and liabilities (and any cause of action resulting from a breach thereof not then in litigation) shall terminate; provided, however, that, (i) all of Section 8 and Section 10 shall survive indefinitely, and (ii) any other Section of this Agreement that is expressly stated to survive the Closing for a different period of time, or without limitation or indefinitely (and only such Sections that expressly set forth such additional survival) shall survive the Closing for such different period of time expressly set forth herein. Each party shall have the right to bring an action against the other for the breach of the representations and warranties, covenants, obligations, provisions and liabilities hereunder, but only on the following conditions: the party bringing the action for breach (1) gives a reasonably detailed written notice of such breach to the other party prior to the expiration of the Survival Period (or, if the action relates to a provision that is subject to a different period of survival pursuant to the terms hereof, then prior to the expiration of the applicable period of survival expressly provided herein with respect to such provision), and (2) files an action for such breach within sixty (60) days after expiration of the Survival Period defined above, after which time all representations and warranties, covenants, obligations, provisions and liabilities (and any cause of action resulting from a breach thereof not then in litigation) shall terminate. Notwithstanding anything to the contrary in this Agreement, Seller shall have no liability, and Buyer shall make no claim against Seller, for (and Buyer shall be deemed to have waived any failure of a condition hereunder by reason of) a failure of

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any condition or a breach of any representation or warranty, covenant or other obligation of Seller under this Agreement or any Closing Document executed by Seller (including for this purpose any matter that would have constituted a breach of Seller's representations and warranties had they been made on the Closing Date) if (a) the failure or breach in question constitutes or results from a condition, state of facts or other matter that was known to Buyer prior to Closing and Buyer proceeds with the Closing or (b) the failure or breach in question is the obligation or responsibility of Buyer pursuant to the Lease or the result of the acts or omissions of Buyer or Buyer's consultants, contractors, employees, agents or representatives.

7.4 Knowledge.

(1) Definition. When a statement is made under this Agreement to the "**knowledge**" or "**actual knowledge**" of a party (or other similar phrase), or when a party to this Agreement is deemed to have "**actually known**" or "**known**" or to have "**knowledge**" or "**actual knowledge**" (or other similar phrase) of a fact, condition or other matter, it shall mean that none of the Designated Representatives of such party has any actual (but not imputed or constructive) knowledge (without further investigation) of any facts indicating that such statement is not true. Each Designated Representative shall be deemed to have actual knowledge of any matter received by such Designated Representative in writing. Notwithstanding anything else herein to the contrary, Buyer shall be deemed to have actual knowledge and/or actually know of any matter disclosed in the Due Diligence Materials and in any of the Property Information, or known by or readily available to the public. None of the Designated Representatives shall have any personal liability under this Agreement.

(2) Designated Representatives. The "**Designated Representatives**" are limited to the following individuals:

(a) for Seller: Daniel Crownover; and

(b) for Buyer: Brian Kulpa.

7.5 Interim Covenants of Seller. From the Effective Date until the Closing Date or the sooner termination of this Agreement, Seller hereby agrees as follows (to the extent Seller has the right and power to do so):

7.5.1 Maintenance/Operation. Seller shall use commercially-reasonable efforts to maintain the Property in substantially the same manner as prior hereto pursuant to its normal course of business (such maintenance obligations not including capital expenditures or expenditures not incurred in such normal course of business), subject to reasonable wear and tear and further subject to destruction by casualty, condemnation, or other events beyond the reasonable control of Seller. Without limitation of the foregoing, Seller shall maintain its current insurance until Closing.

7.5.2 Service Contracts. Seller shall not, without the prior consent of Buyer, enter into any additional service contracts or other similar agreements relating to the Property that will be binding on the Property or Buyer after the Closing.

7.5.3 Encumbrances. After the Effective Date, Seller shall be permitted to encumber the Property with any mortgages, deeds of trust or other monetary encumbrances in its sole discretion provided that Seller shall cause any such encumbrances to be released on or prior to the Closing Date. After the Effective Date, Seller shall not enter into any easement or other encumbrance running with the land with respect to the Property without the prior written consent of Buyer (which consent may not be unreasonably withheld, conditioned or delayed), provided, however, the Declaration shall be recorded at Closing. If Buyer fails to notify Seller in writing of Buyer's objections as to such an encumbrance within

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three (3) Business Days of Buyer's receipt of the proposed encumbrance documentation (and a request for Buyer's approval), then Buyer shall be deemed to have approved the same.

8. DISCLAIMER; RELEASE; WAIVER. AS AN ESSENTIAL INDUCEMENT TO SELLER TO ENTER INTO THIS AGREEMENT, AND AS PART OF THE DETERMINATION OF THE PURCHASE PRICE, BUYER ACKNOWLEDGES AND AGREES, THAT, EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS AGREEMENT AND THE DOCUMENTS EXECUTED BY SELLER IN CONNECTION HEREWITH:

8.1 **DISCLAIMER.**

8.1.1 **AS-IS; WHERE-IS. THE SALE OF THE PROPERTY HEREUNDER IS AND WILL BE MADE ON AN "AS IS, WHERE IS" BASIS. SELLER HAS NOT MADE, DOES NOT MAKE AND SPECIFICALLY NEGATES AND DISCLAIMS ANY REPRESENTATIONS, WARRANTIES OR GUARANTIES OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT OR FUTURE OF, AS TO, CONCERNING OR WITH RESPECT TO THE PROPERTY OR ANY OTHER MATTER WHATSOEVER.**

8.1.2 **SOPHISTICATION OF BUYER. BUYER IS A SOPHISTICATED BUYER WHO IS FAMILIAR WITH THE OWNERSHIP AND OPERATION OF REAL ESTATE PROJECTS SIMILAR TO THE PROPERTY, AND BUYER ACKNOWLEDGES THAT PRIOR TO THE EFFECTIVE DATE IT HAS HAD ADEQUATE OPPORTUNITY TO COMPLETE ALL PHYSICAL AND FINANCIAL EXAMINATIONS RELATING TO THE ACQUISITION OF THE PROPERTY HEREUNDER IT DEEMS NECESSARY. BUYER ALSO ACKNOWLEDGES THAT IT IS ACQUIRING THE PROPERTY SOLELY ON THE BASIS OF AND IN RELIANCE UPON SUCH EXAMINATIONS AND THE TITLE INSURANCE PROTECTION AFFORDED BY BUYER'S TITLE INSURANCE POLICY AND NOT ON ANY INFORMATION PROVIDED OR TO BE PROVIDED BY SELLER.**

8.1.3 **DUE DILIGENCE MATERIALS. ANY INFORMATION PROVIDED OR TO BE PROVIDED WITH RESPECT TO THE PROPERTY IS SOLELY FOR BUYER'S CONVENIENCE AND WAS OR WILL BE OBTAINED FROM A VARIETY OF SOURCES. SELLER HAS NOT MADE ANY INDEPENDENT INVESTIGATION OR VERIFICATION OF SUCH INFORMATION AND MAKES NO (AND EXPRESSLY DISCLAIMS ALL) REPRESENTATIONS AS TO THE ACCURACY OR COMPLETENESS OF SUCH INFORMATION. SELLER SHALL NOT BE LIABLE FOR ANY MISTAKES, OMISSIONS, OR MISREPRESENTATIONS, OR FOR ANY FAILURE OF BUYER TO INVESTIGATE THE PROPERTY, NOR SHALL SELLER BE BOUND IN ANY MANNER BY ANY VERBAL OR WRITTEN STATEMENTS, REPRESENTATIONS, APPRAISALS, ENVIRONMENTAL ASSESSMENT REPORTS, OR OTHER INFORMATION PERTAINING TO THE PROPERTY OR THE OPERATION THEREOF, FURNISHED BY SELLER OR BY ANY MANAGER, MEMBER, OR PARTNER OF SELLER, OR BY ANY REAL ESTATE BROKERS, MEMBERS, PARTNERS, AGENTS, REPRESENTATIVES, TRUSTEES, AFFILIATES, DIRECTORS, OFFICERS, SHAREHOLDERS, EMPLOYEES, SERVANTS, OR AGENTS OF ANY OF THE FOREGOING, OR OTHER PERSONS OR ENTITIES ACTING ON BEHALF OF SELLER OR AT SELLER'S REQUEST OR OTHERWISE AFFILIATED WITH SELLER (COLLECTIVELY, "SELLER-RELATED PARTIES").**

8.2 **RELEASE; WAIVER**.

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8.2.1 EFFECTIVE AS OF THE CLOSING, BUYER HEREBY RELEASES SELLER AND ALL SELLER-RELATED PARTIES FROM ALL CLAIMS THAT BUYER OR ANY PARTY CLAIMING BY, THROUGH, OR UNDER BUYER (A "**BUYER-RELATED PARTY**") HAS OR MAY HAVE AS OF CLOSING ARISING FROM OR RELATED TO ANY MATTER OR THING RELATED TO OR IN CONNECTION WITH THE PROPERTY, INCLUDING THE DUE DILIGENCE MATERIALS, THE PROPERTY INFORMATION, ANY CONSTRUCTION DEFECTS, ERRORS, OR OMISSIONS IN THE DESIGN OR CONSTRUCTION, AND ANY ENVIRONMENTAL CONDITIONS (INCLUDING ANY ENVIRONMENTAL CONDITIONS AT, ON, UNDER OR MIGRATING FROM THE PROPERTY (INCLUDING THE PRESENCE OF ANY HAZARDOUS MATERIALS, ANY AND ALL ZONING, LAND USE AND OTHER REGULATORY LAWS, STATUTES, CODES, ORDINANCES, RULES OR REGULATIONS, AND ANY OTHER DEFECTS OR OTHER MATTERS CONCERNING THE PROPERTY, WHETHER OR NOT DISCOVERED BY BUYER), AND BUYER WAIVES AND RELEASES ALL COST RECOVERY AND CONTRIBUTION AND OTHER CLAIMS AGAINST SELLER RELATING TO THE PROPERTY ARISING UNDER THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT 42 U.S.C. 9601 ET SEQ. AND OTHER LAWS AND COMMON LAW RELATING TO PROTECTION OF THE ENVIRONMENT OR HEALTH AND SAFETY OR TO POLLUTION), AND BUYER SHALL NOT LOOK TO ANY SELLER-RELATED PARTIES IN CONNECTION WITH THE FOREGOING FOR ANY REDRESS OR RELIEF. THIS RELEASE SHALL BE GIVEN FULL FORCE AND EFFECT ACCORDING TO EACH OF ITS EXPRESS TERMS AND PROVISIONS, INCLUDING THOSE RELATING TO UNKNOWN AND UNSUSPECTED CLAIMS, DAMAGES, AND CAUSES OF ACTION AND, IN THAT REGARD, BUYER HEREBY EXPRESSLY WAIVES ALL RIGHTS AND BENEFITS IT MAY NOW HAVE OR HEREAFTER ACQUIRE UNDER ANY APPLICABLE LAWS. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, BY PROCEEDING TO CLOSING, BUYER SHALL BE DEEMED TO HAVE RELEASED SELLER AND ALL SELLER-RELATED PARTIES FROM ALL RESPONSIBILITY AND LIABILITY TO BUYER REGARDING THE CONDITION (INCLUDING ITS PHYSICAL CONDITION AND ITS COMPLIANCE WITH LAWS, AND THE PRESENCE IN THE SOIL, AIR, STRUCTURES AND SURFACE AND SUBSURFACE WATERS, OF HAZARDOUS MATERIALS (OR SUBSTANCES THAT HAVE BEEN, OR MAY IN THE FUTURE BE DETERMINED TO BE, HAZARDOUS MATERIALS OR SUBJECT TO REGULATION BY LAWS AND/OR THAT MAY NEED TO BE SPECIALLY TREATED, HANDLED, AND/OR REMOVED FROM THE PROPERTY UNDER CURRENT OR FUTURE LAWS)), VALUATION, SALABILITY, OR UTILITY OF THE PROPERTY, OR ITS SUITABILITY FOR ANY PURPOSE WHATSOEVER.

8.2.2 BY PROCEEDING TO CLOSING, BUYER SHALL BE DEEMED TO HAVE ACKNOWLEDGED THAT IT HAS INSPECTED THE PROPERTY, OBSERVED ITS PHYSICAL CHARACTERISTICS AND EXISTING CONDITIONS AND HAS HAD THE OPPORTUNITY TO CONDUCT SUCH INVESTIGATIONS AND STUDIES ON AND OF THE PROPERTY AND ADJACENT AREAS AS IT DEEMED NECESSARY, AND BUYER SHALL BE DEEMED TO HAVE WAIVED ANY AND ALL OBJECTIONS TO OR COMPLAINTS (INCLUDING BUT NOT LIMITED TO ACTIONS BASED ON FEDERAL OR STATE STATUTES OR COMMON LAW AND ANY PRIVATE RIGHT OF ACTION UNDER ANY LAWS ((INCLUDING THOSE PERTAINING TO ENVIRONMENTAL PROTECTION) TO WHICH THE PROPERTY IS OR MAY BE SUBJECT) REGARDING PHYSICAL CHARACTERISTICS AND EXISTING CONDITIONS, INCLUDING WITHOUT LIMITATION STRUCTURAL AND GEOLOGIC CONDITIONS, SUBSURFACE SOIL AND WATER CONDITIONS AND SOLID AND HAZARDOUS MATERIALS ON, UNDER, ADJACENT TO OR OTHERWISE AFFECTING THE PROPERTY. BUYER FURTHER HEREBY ASSUMES THE RISK OR CHANGES IN APPLICABLE LAWS RELATING TO PAST, PRESENT AND FUTURE ENVIRONMENTAL CONDITIONS ON THE PROPERTY, AND THE RISK THAT ADVERSE PHYSICAL CHARACTERISTICS AND CONDITIONS, INCLUDING WITHOUT

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LIMITATION THE PRESENCE OF HAZARDOUS MATERIALS, MAY NOT BE REVEALED BY ITS INVESTIGATION.

In this connection, Buyer hereby agrees and acknowledges that factual matters now unknown to it may have given or may hereafter give rise to causes of action, claims, demands, debts, controversies, damages, costs, losses and expenses and other claims and liabilities which are presently unknown, unanticipated and unsuspected, and Buyer further agrees, represents and warrants that the waivers and releases herein have been negotiated and agreed upon in light of that realization and that Buyer nevertheless hereby intends to release, discharge and acquit Seller from any such unknown causes of action, claims, demands, debts, controversies, damages, costs, losses and expenses and other claims and liabilities.

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BUYER'S INITIALS

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8.3 **SURVIVAL. THIS SECTION 8 SHALL SURVIVE ANY TERMINATION OF THIS AGREEMENT OR THE CLOSING, WHICHEVER IS APPLICABLE.**

8.4 Scope of Release. Notwithstanding any provision hereof to the contrary, the provisions of this Section 8 shall not release Seller from liability for any damages, claims, liabilities, or obligations arising out of or in connection with a breach of (or failure to comply with) any covenant, representation, or warranty of Seller expressly set forth in this Agreement to the extent the same survive the Closing hereunder or any of the Closing Documents executed by Seller pursuant to this Agreement (but subject to the limitations provided in Sections 7.3, 7.4 and 10.2 of this Agreement).

8.5 Waiver of Lead-Based Paint Inspection. Buyer acknowledges that it has had or will have the opportunity to undertake studies, inspections or investigations of the Property as Buyer deemed or deems necessary to evaluate the presence of lead-based paint and/or lead-based paint hazards on the Property. To the extent that Buyer has waived or otherwise declined the opportunity to undertake such inspections and investigations as a condition to the completion of the transaction under the terms of the Agreement, Buyer has knowingly and voluntarily done so. Buyer understands and acknowledges that the Improvements or portions thereof may have been built prior to 1978 and lead-based paint and/or lead-based paint hazards may be present on the Property. Seller shall have no responsibility or liability with respect to any such occurrence of lead-based paint. It is understood by the parties that Seller does not make any representation or warranty, express or implied, as to the accuracy or completeness of any information contained in Seller's files or in the documents produced by Seller or its agents, including, without limitation, any environmental audit or report. Buyer acknowledges that Seller and Seller's Affiliates shall have no responsibility for the contents and accuracy of such disclosures, and Buyer agrees that the obligations of Seller in connection with the purchase of the Property shall be governed by the Agreement irrespective of the contents of any such disclosures or the timing or delivery thereof.

8.6 Lease. Buyer acknowledges that Buyer has possession and control of a portion of the Property pursuant to the Lease. Accordingly, notwithstanding anything in this Agreement or the Closing Documents to the contrary, in no event shall Seller have any liability to Buyer to the extent (a) such liability arises from the acts or omissions of Buyer or Buyer's consultants, contractors, employees, agents or representatives related to the premises under the Lease or (b) such liability is the responsibility of Buyer pursuant to the Lease.

9. Disposition of Deposit; Defaults.

9.1 Disposition of Deposit for Certain Failures of Conditions. Unless due to a Seller Default, if the Closing shall not occur by reason of the failure of satisfaction of the conditions benefiting Buyer under Sections 4.1, 4.2, or 4.5.4 and such failure is not waived by Buyer, then Buyer may terminate this Agreement by written notice to Seller in which case the Deposit (less the Independent Consideration, which shall be paid to Seller) shall be returned to Buyer, and neither party shall have any further obligations or liability to the other (other than those obligations that expressly survive a termination of this Agreement). If the Closing shall not occur by reason of the failure of satisfaction of the conditions benefiting Seller under Sections 4.3 or 4.4 and such failure is not waived by Seller, then Seller may terminate this Agreement by written notice to Buyer, in which case the Deposit shall be paid to Seller and neither party shall have any further obligations or liability to the other (other than those obligations that expressly survive a termination of this Agreement).

9.2 Default by Seller. If the Closing shall not occur by reason of Seller's failure to perform and observe, in all material respects, all covenants and agreements of this Agreement to be performed or observed by it prior to or on the Closing Date which is not remedied within ten (10) days after written notice thereof from Buyer (a "**Seller Default**"), then, provided Buyer is not in default of any of its

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obligations under this Agreement and Buyer has demonstrated that it is ready, willing, and able to perform its obligations under this Agreement (including having obtained funds at least equal to the Closing Payment), Buyer shall be entitled as its sole and exclusive remedy to either (1) seek to specifically enforce this Agreement, but an action for specific performance must be commenced within thirty (30) days after the scheduled Closing Date (and thereafter must be diligently pursued) or be forever barred, or (2) terminate this Agreement by written notice to Seller, in which case Buyer shall be entitled to obtain a return of the Deposit (less the Independent Consideration, which shall be paid to Seller) together with any fees or charges due to Escrow Agent for holding the Deposit as well as reimbursement for all of Buyer's out-of-pocket costs and expenses in connection with and related to Buyer's review and negotiation of this Agreement and other documents related to the transaction contemplated herein in an amount not to exceed the Pursuit Costs Cap, but no other action, for damages or otherwise, shall be permitted.

9.3 **Default by Buyer. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT, IF THERE IS A DEFAULT BY BUYER HEREUNDER WHICH IS NOT REMEDIED WITHIN TEN (10) DAYS AFTER WRITTEN NOTICE THEREOF FROM SELLER (OTHER THAN A FAILURE OF BUYER TO FULFILL ITS OBLIGATIONS UNDER SECTIONS 5.2.2, 5.2.3 AND 5.2.4 WHICH SHALL NOT REQUIRE ANY NOTICE OR CURE PERIOD), THEN SELLER, AS SELLER'S SOLE AND EXCLUSIVE REMEDY, BUT SUBJECT TO THE PROVISIONS OF THIS AGREEMENT THAT EXPRESSLY SURVIVE A TERMINATION OF THIS AGREEMENT, MAY TERMINATE THIS AGREEMENT AND THE DEPOSIT SHALL BE DELIVERED TO AND RETAINED BY SELLER AS FULL COMPENSATION AND LIQUIDATED DAMAGES AND NOT AS A PENALTY UNDER THIS AGREEMENT FOR SUCH FAILURE TO CLOSE. IN CONNECTION WITH THE FOREGOING, THE PARTIES RECOGNIZE THAT SELLER WILL INCUR EXPENSES IN CONNECTION WITH THE TRANSACTION CONTEMPLATED BY THIS AGREEMENT AND THAT THE PROPERTY MAY BE REMOVED FROM THE MARKET; FURTHER, THAT IT IS EXTREMELY DIFFICULT AND IMPRACTICABLE TO ASCERTAIN THE EXTENT OF DETRIMENT TO SELLER CAUSED BY THE BREACH BY BUYER UNDER THIS AGREEMENT AND THE FAILURE OF THE CONSUMMATION OF THE TRANSACTION CONTEMPLATED BY THIS AGREEMENT OR THE AMOUNT OF COMPENSATION SELLER SHOULD RECEIVE AS A RESULT OF BUYER'S DEFAULT, AND THAT THE DEPOSIT REPRESENTS THE PARTIES' BEST CURRENT ESTIMATE OF SUCH DETRIMENT. THIS SECTION 9.3 SHALL SURVIVE ANY TERMINATION OF THIS AGREEMENT. NOTHING CONTAINED IN THIS SECTION 9.3 SHALL LIMIT OR IMPAIR ANY OF SELLER'S RIGHTS AND REMEDIES AGAINST BUYER FOR ANY OTHER PRE-CLOSING DEFAULT BY BUYER UNDER THIS AGREEMENT (INCLUDING BUYER'S DUE DILIGENCE INDEMNITY UNDER SECTION 4.6.1 OR BREACH OF CONFIDENTIALITY UNDER SECTION 10.19 BELOW). BY PLACING THEIR INITIALS BELOW, EACH PARTY SPECIFICALLY CONFIRMS THE ACCURACY OF THE STATEMENTS MADE ABOVE AND THE FACT THAT SUCH PARTY WAS REPRESENTED BY COUNSEL WHO EXPLAINED, AT THE TIME THIS AGREEMENT WAS MADE.**

_____ _____

BUYER'S INITIALS **SELLER'S INITIALS**

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9.4 Escrow Cancellation Fees. If the Closing does not occur by reason of Buyer's or Seller's default under this Agreement, then all escrow and title charges (including cancellation fees) shall be borne by the party in default.

10. Miscellaneous.

10.1 Brokers.

10.1.1 Seller represents and warrants to Buyer, and Buyer represents and warrants to Seller, that no broker or finder has been engaged by it, respectively, in connection with the sale contemplated by this Agreement. In the event of a claim for broker's or finder's fee or commissions in connection with the sale contemplated by this Agreement, then Seller shall indemnify, defend and hold harmless Buyer from the same if it shall be based upon any statement or agreement alleged to have been made by Seller, and Buyer shall indemnify, defend and hold harmless Seller from the same if it shall be based upon any statement or agreement alleged to have been made by Buyer.

10.1.2 The provisions of this Section 10.1 shall survive the Closing or any termination of this Agreement.

10.2 Limitation of Liability.

10.2.1 Notwithstanding anything to the contrary contained herein, the direct and indirect shareholders, partners, members, trustees, officers, directors, employees, agents and security holders of the parties are not assuming any, and shall have no, personal liability for any obligations of the parties hereto under this Agreement. In no event shall any party be liable under this Agreement for any consequential, exemplary, special or punitive damages.

10.2.2 Notwithstanding anything to the contrary contained herein (but subject to the provisions of Section 10.2.1), if the Closing of the transaction hereunder shall have occurred, Seller shall have no liability to Buyer (and Buyer shall make no claim against Seller) for a breach of any representation or warranty or any other covenant, agreement, or obligation of Seller that survives Closing, or for indemnification, under this Agreement or any Closing Document executed by Seller in connection with this Agreement, unless (a) the valid claims for all such breaches and indemnifications collectively aggregate to more than $10,000.00 (the "**Basket Limitation**"), in which case Buyer shall be entitled to recover the amounts that exceed the Basket Limitation, (b) written notice containing a description of the specific nature of such breach shall have been given by Buyer to Seller after the Closing Date and prior to the expiration of the Survival Period and (c) Buyer commences an action for such breach within sixty (60) days after the expiration of the Survival Period, after which time all representations and warranties, covenants, obligations, provisions and liabilities (and any cause of action resulting from a breach thereof not then in litigation) shall terminate. Notwithstanding the preceding sentence, the liability of Seller under this Agreement and such documents shall not exceed, in the aggregate, an amount equal to one percent (1%) of the Purchase Price (the "**Cap Limitation**"). In no event shall Seller be liable for any consequential or punitive damages. In connection with any action alleging a breach of any warranty of title in the Deed, Buyer agrees that it shall in good faith pursue the Title Company under its title policy(ies) with respect to any claim relating to the warranty of title under the Deed prior to bringing an action against Seller.

10.2.3 The limitations of liability contained in this Section 10.2 are in addition to, and not in limitation of, any limitation on liability provided elsewhere in this Agreement or by Laws or by any other contract, agreement or instrument. The provisions of this Section 10.2 shall survive the Closing or any termination of this Agreement.

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10.3 Schedules and Exhibits; Entire Agreement; Modification. All schedules and exhibits attached and referred to in this Agreement are hereby incorporated herein as if fully set forth in (and shall be deemed to be a part of) this Agreement. This Agreement contains the entire agreement between the parties respecting the matters herein set forth and supersedes all prior agreements between the parties hereto respecting such matters. This Agreement may not be modified or amended except by written agreement signed by both parties.

10.4 Time of the Essence. Time is of the essence of this Agreement. However, whenever action must be taken (including the giving of notice or the delivery of documents) under this Agreement during a certain period of time (or by a particular date) that ends (or occurs) on a non-Business Day, then such period (or date) shall be extended until the immediately following Business Day. Unless expressly indicated otherwise, (a) all references to time in this Agreement shall be deemed to refer to Eastern time, and (b) all time periods provided for under this Agreement shall expire at 5:00 p.m. Eastern time.

10.5 Interpretation. Section headings shall not be used in construing this Agreement. Each party acknowledges that such party and its counsel, after negotiation and consultation, have reviewed and revised this Agreement. As such, the terms of this Agreement shall be fairly construed and the usual rule of construction, to the effect that any ambiguities herein should be resolved against the drafting party, shall not be employed in the interpretation of this Agreement or any amendments, modifications or exhibits hereto or thereto. The words "herein", "hereof", "hereunder", "hereby", "this Agreement" and other similar references shall be construed to mean and include this Agreement and all amendments and supplements hereto unless the context shall clearly indicate or require otherwise. Whenever the words "including", "include" or "includes" are used in this Agreement, they shall be interpreted in a non-exclusive manner. Except as otherwise indicated, all Schedule, Exhibit and Section references in this Agreement shall be deemed to refer to the Schedules, Exhibits and Sections in this Agreement. Except as otherwise expressly provided herein, any approval or consent provided to be given by a party hereunder must be in writing to be effective and may be given or withheld in the sole and absolute discretion of such party.

10.6 Governing Law. This Agreement shall be construed and enforced in accordance with the Laws of the state in which the Property is located.

10.7 Successors and Assigns. Buyer may not assign or transfer any of its rights or obligations under this Agreement either directly or indirectly (whether by outright transfer, transfer of ownership interests, or otherwise) without the prior written consent of Seller in its sole and absolute discretion; provided, however, Buyer may assign all of its interest in this Agreement one time on or before the Closing Date to an entity (a "**Buyer Assignee**") in which Buyer, directly or indirectly, through one or more subsidiaries, has control and has more than a 50% ownership interest so long as (i) Buyer gives Seller seven (7) Business Days' advance written notice thereof (including the name, vesting and signature block(s) of the transferee(s) and the name and country of residence of any individual owning directly or indirectly twenty-five (25%) or more of the Buyer Assignee), and (ii) Buyer and Buyer Assignee execute and deliver an assignment and assumption agreement in form reasonably satisfactory to Seller which assignment shall include an acknowledgment that the Deposit shall be deemed to be the property of the Buyer Assignee. In the event of a transfer to a Buyer Assignee, such Buyer Assignee shall assume in writing all of the transferor's obligations and liabilities hereunder (whenever arising, whether before or after such assumption), but such transferor shall not be released from its obligations hereunder. No consent given by Seller to any transfer or assignment of Buyer's rights or obligations hereunder shall be construed as a consent to any other transfer or assignment of Buyer's rights or obligations hereunder. No transfer or assignment in violation of the provisions hereof shall be valid or enforceable. Subject to the foregoing, this Agreement and the terms and provisions hereof shall inure to the benefit of and be binding upon the successors and assigns of the parties. Seller may assign or transfer its rights or obligations under this

Agreement and title to the Property, without Buyer's consent, provided that in no event shall Seller originally named in this Agreement be released from any liability or obligation under this Agreement as a result of any such assignment or transfer. Notwithstanding the foregoing, Seller may assign or transfer its rights or obligations under this Agreement and title to the Property, without Buyer's consent, to a Delaware limited partnership in which Seller is (directly or indirectly) a 99% (or more) limited partner and an Affiliate of Seller is the sole general partner of such limited partnership. In no event shall Seller originally named in this Agreement be released from any liability or obligation under this Agreement as a result of any such assignment or transfer.

10.8 Notices. All notices, demands and communications permitted or required to be given hereunder shall be in writing, and shall be delivered (a) personally, (b) by United States registered or certified mail, postage prepaid, (c) by FedEx or other reputable courier service regularly providing evidence of delivery (with charges paid by the party sending the notice), or (d) by a PDF or similar attachment to an e-mail, provided that such e-mail attachment shall be followed within one (1) Business Day by delivery of such notice pursuant to clause (a), (b) or (c) above. Any such notice to a party shall be addressed at the address set forth below (subject to the right of a party to designate a different address for itself by notice similarly given):

To Seller:	c/o American Campus Communities 12700 Hill Country Blvd., Suite T-200 Austin, TX 78738 Attention: Alison Ando Telephone: (917) 597-7925 E-mail: aando@americancampus.com
With copy to:	Jackson Walker LLP 100 Congress Avenue, Suite 1100 Austin, TX 78701 Attention: Andee Hartig Telephone: (512) 236-2059 E-mail: ahartig@jw.com
To Buyer:	Town of Amherst 5583 Main Street Williamsville, New York 14221 Attention: Brian Kulpa E-mail: bkulpa@amherst.ny.us
With copy to:	Hodgson Russ LLP 140 Pearl Street Buffalo, NY 14202 Attention: Rafael Pignataro, Esq. E-mail: rpignataro@hodgsonruss.com
To Title Company or Escrow Agent:	Stewart Title Insurance Company 295 Main St., Suite 214 Buffalo, New York 14203 Attention: _____ Telephone: _____ E-mail: _____

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Attachment: Purchase Agreement - ACC - 330 Maple Road(66031090.4) (RES-2024-943 : Acquisition of Real Property @ 218 and 330 Maple Road

Service of any such notice or other communications so made shall be deemed effective on the day of actual delivery (whether accepted or refused), provided that if any notice or other communication to be delivered by e-mail attachment as provided above cannot be transmitted because of a problem affecting the receiving party's computer, the deadline for receiving such notice or other communication shall be extended through the next Business Day, as shown by the addressee's return receipt if by certified mail, and as confirmed by the courier service if by courier; provided, however, that if such actual delivery occurs after 5:00 p.m. local time where received or on a non-Business Day, then such notice or communication so made shall be deemed effective on the first Business Day after the day of actual delivery. Except as expressly provided above with respect to certain e-mail attachments, or as expressly provided in Section 4.6.1, in Section 5.2.4, in the Section captioned "Counterparts; Delivery" below, or as otherwise expressly provided in this Agreement, no communications via electronic mail shall be effective to give any notice, request, direction, demand, consent, waiver, approval or other communications hereunder. The attorneys for any party hereto shall be entitled to provide any notice that a party desires to provide or is required to provide hereunder.

10.9 Third Parties. Except as provided in Section 8.2, nothing in this Agreement, whether expressed or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any person other than the parties hereto and their respective successors and assigns, and nothing in this Agreement is intended to relieve or discharge the obligations or liability of any third persons to any party to this Agreement, and no provision shall give any third parties any right of subrogation or action over or against any party to this Agreement.

10.10 Legal Costs. Each party hereto agrees that it shall pay directly any and all legal costs which it has incurred or shall incur on its own behalf in the preparation of this Agreement, the Deed, and other agreements pertaining to this transaction and that such legal costs shall not be part of the closing costs. In addition, if either Buyer or Seller brings any suit or other proceeding, including an arbitration proceeding, with respect to the subject matter or the enforcement of this Agreement, the prevailing party (as determined by the court, agency, arbitrator, or other authority before which such suit or proceeding is commenced), in addition to such other relief as may be awarded, shall be entitled to recover reasonable attorneys' fees, expenses and costs of investigation actually incurred. The foregoing includes attorneys' fees, expenses and costs of investigation (including those incurred in appellate proceedings), costs incurred in establishing the right to indemnification, or in any action or participation in, or in connection with, any case or proceeding under Chapter 7, 11, or 13 of the Bankruptcy Code (11 United States Code Sections 101 et seq.), or any successor statutes. The provisions of this Section 10.10 shall survive the Closing or any termination of this Agreement.

10.11 Further Assurances. Each party shall, whenever and as often as it shall be requested so to do by the other, cause to be executed, acknowledged or delivered any and all such further instruments and documents as may be necessary or proper, in the reasonable opinion of the requesting party, in order to carry out the intent and purpose of this Agreement (provided the same do not increase in any respect the costs to, or liabilities or obligations of, such party in a manner not otherwise provided for herein). The terms of this Section shall survive the Closing or any termination of this Agreement.

10.12 Severability. If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each such term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by Law.

10.13 Press Releases. Except as otherwise expressly permitted under Section 10.19 below or otherwise required pursuant to the New York Freedom of Information Law, no press release or

Attachment: Purchase Agreement - ACC - 330 Maple Road(66031090.4) (RES-2024-943 : Acquisition of Real Property @ 218 and 330 Maple Road

other public disclosure regarding the terms of this Agreement or the transaction contemplated hereby shall be made without the prior written consent of Buyer and Seller and in no event shall any such press release issued by Buyer disclose the identity of the Seller's direct or indirect beneficial owners or Affiliates by name or the consideration paid to Seller for the Property. Except as otherwise expressly permitted under Section 10.19 below, without limitation on the foregoing, Buyer and Seller shall use diligent efforts not to make any public disclosure of the Purchase Price (except as required by Law in connection with the delivery or recording of the Deed). However, either party shall have the right to make public disclosures required by (1) Law (but only if such party gives the other party reasonable notice and an opportunity to obtain a restraining order or take other similar protective actions) or (2) the rules and regulations of a securities exchange. This Section 10.13 shall survive the Closing or any termination of this Agreement.

10.14 Anti-Terrorism Laws. Each party shall take any actions that may be required to comply with the terms of the Anti-Bribery, Anti-Money Laundering and Anti-Terrorism Laws, as amended, any regulations promulgated under the foregoing Laws, any sanctions program administered by the U.S. Department of Treasury's Office of Foreign Asset Control or Financial Crimes Enforcement Network, or any other Laws, regulations or executive orders designed to combat corruption, bribery, terrorism, drug-trafficking or money laundering, if applicable, to this Agreement.

10.15 Tax Appeal Proceedings.

10.15.1 Prosecution and Settlement of Proceedings. If any tax reduction proceedings in respect of the Property, relating to any tax years ending prior to the tax year in which the Closing occurs, are pending at the time of the Closing, Seller reserves and shall have the right to continue to prosecute and/or settle the same. If any tax reduction proceedings in respect of the Property, relating to the tax year in which the Closing occurs, are pending at the time of Closing, then Seller reserves and shall have the right to continue to prosecute and settle the same; provided, however, that Seller shall not settle any such proceeding without Buyer's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed. Buyer shall reasonably cooperate with Seller in connection with the prosecution of any such tax reduction proceedings.

10.15.2 Application of Refunds or Savings. Any refunds or savings in the payment of taxes resulting from such tax reduction proceedings that are applicable to taxes allocable to the period prior to the date of the Closing shall belong to and be the property of Seller, and any refunds or savings in the payment of taxes that are applicable to taxes allocable to the period from and after the date of the Closing shall belong to and be the property of Buyer. Buyer shall indemnify, defend, and hold Seller and the other Seller-Related Parties harmless from and against any losses, costs, claims, damages, and liabilities, including, without limitation, reasonable attorneys' fees and expenses incurred in connection therewith, arising out of or resulting from Buyer's failure to remit any amounts actually received from Seller to tenants in accordance with the provisions hereof. All attorneys' fees and other expenses incurred in obtaining such refunds or savings shall be apportioned between Seller and Buyer in proportion to the gross amount of such refunds or savings payable to Seller and Buyer, respectively; provided, however, that neither Seller nor Buyer shall have any liability for any such fees or expenses in excess of the refund or savings paid to such party unless such party initiated such proceeding.

10.15.3 Survival. The provisions of this Section 10.15 shall survive the Closing.

10.16 Consummation of the Closing. Consummation of the Closing by Buyer shall be deemed full compliance by Seller of all of Seller's obligations under this Agreement except for those obligations of Seller that are specifically stated to survive the Closing hereunder.

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10.17 Submission to Jurisdiction. To the fullest extent permissible by applicable Laws, Buyer and Seller each irrevocably submits to the jurisdiction of (a) the courts located in Erie County, New York and (b) the United States District Court with jurisdiction in the county in which the Property is located for the purposes of any suit, action or other proceeding arising out of this Agreement or any transaction contemplated hereby. Buyer and Seller each further agrees that service of any process, summons, notice or document by U.S. registered mail to such party's respective address set forth above shall be effective service of process for any action, suit or proceeding in Erie County, New York with respect to any matters to which it has submitted to jurisdiction as set forth above in the immediately preceding sentence. Buyer and Seller each irrevocably and unconditionally waives trial by jury and irrevocably and, to the fullest extent permissible by applicable Laws, unconditionally waives any objection to the laying of venue of any action, suit or proceeding arising out of this Agreement or the transactions contemplated hereby in (x) the courts located in Erie County, New York, and (y) the United States District Court with jurisdiction in the county in which the Property is located, and hereby further irrevocably and unconditionally waives and agrees not to plead or claim in any such court that any such action, suit or proceeding brought in any such court has been brought in an inconvenient forum.

10.18 Signage Removal. Promptly after the Closing, Buyer will "banner" or otherwise temporarily mask the portion of all signage containing the "American Campus Communities" or "Blackstone" name or logo, failing which upon five (5) days prior written notice, Seller may do so at Buyer's expense. Within sixty (60) days after the Closing, Buyer shall cause the portion of all signage containing the "American Campus Communities" or "Blackstone" name or logo to be removed, failing which Seller may remove such portion of the signage at Buyer's expense upon fifteen (15) days prior written notice. The provisions of this Section shall survive the Closing without limitation.

10.19 Confidentiality. The terms of the transaction contemplated in this Agreement, including, without limitation, the Purchase Price and all other financial terms, shall remain confidential and shall not be disclosed by any party hereto without the written consent of the other except (a) to such party's directors, officers, partners, members, employees, legal counsel, accountants, lenders, engineers, architects, brokers, financial advisors and similar professionals and consultants, to the extent such party deems it necessary or appropriate in connection with the transaction contemplated hereunder (and such party shall inform each of the foregoing parties of such party's obligations under this Section and shall secure the agreement of such parties to be bound by the terms hereof), or (b) as otherwise required by Law or regulation (including the rules and regulations of a securities exchange). Unless and until the transaction contemplated by this Agreement shall close, Buyer shall also keep confidential all documents, reports and information concerning the Property obtained from Seller or through the due diligence investigation of the Property by Buyer or its agents, except to the extent permitted by clauses (a) or (b) above. The provisions of this Section 10.19 shall survive any termination of this Agreement or the Closing (as applicable).

10.20 Counterparts; Delivery. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same document. The delivery of an executed counterpart of this Agreement by facsimile or as a PDF or similar attachment to an e-mail shall constitute effective delivery of such counterpart for all purposes with the same force and effect as the delivery of an original, executed counterpart.

10.21 Effectiveness. In no event shall any draft of this Agreement create any obligations or liability, it being understood that this Agreement shall be effective and binding only when a counterpart hereof has been executed and delivered by each party hereto.

10.22 Recordation. Neither this Agreement nor any memorandum or notice of this Agreement may be recorded by any party hereto without the prior written consent of the other party hereto. In furtherance of the foregoing, Buyer hereby indemnifies Seller from and against any and all losses, costs,

claims, damages, and liabilities, including, without limitation, reasonable attorneys' fees and expenses, arising out of or resulting from Buyer's breach of this Section. The provisions of this Section shall survive the Closing or any termination of this Agreement.

10.23 Escrow Provisions.

10.23.1 The parties acknowledge that the Escrow Agent is acting solely as a stakeholder at their request and for their convenience, that the Escrow Agent shall not be deemed to be the agent of any of the parties, and the Escrow Agent shall not be liable to any of the parties for any act or omission on its part, other than for its breach of this Agreement or its gross negligence or willful misconduct. Seller and Buyer shall jointly and severally indemnify and hold the Escrow Agent harmless from and against all costs, claims and expenses, including attorneys' fees and disbursements, incurred in connection with the performance of the Escrow Agent's duties hereunder (except to the extent resulting from its breach of this Agreement or its gross negligence or willful misconduct).

10.23.2 If at any time after the Effective Date this Agreement shall be amended by Buyer and Seller in writing, it shall not be necessary for Escrow Agent to join in or execute such amendment, provided that no such amendment may specifically modify Escrow Agent's express obligations set forth in this Agreement. It is understood and agreed that an amendment to any time period or deadline set forth in this Agreement shall not be deemed an amendment to Escrow Agent's express obligations of this Agreement requiring Escrow Agent's acknowledgment. Copies of any amendment to this Agreement may be delivered by either party to Escrow Agent. Upon receipt of any such amendment, Escrow Agent shall observe and comply with the terms of any such amendment made in accordance herewith.

10.23.3 The Escrow Agent has acknowledged its agreement to these provisions by signing this Agreement in the place indicated following the signatures of Seller and Buyer.

10.23.4 The Escrow Agent shall hold the Deposit in escrow in an interest-bearing bank account reasonably approved by Seller and Buyer (the "**Deposit Escrow Account**") provided Seller or Buyer provides to Escrow Agent a completed current W-9 form. Escrow Agent shall not be liable for any failure, refusal, insolvency, or inability of the depository into which the Deposit is deposited to pay the Deposit at Escrow Agent's direction, or for levies by taxing authorities based upon the taxpayer identification number used to establish this interest bearing account.

10.23.5 The Escrow Agent shall hold the Deposit in escrow in the Deposit Escrow Account until the Closing or sooner termination of this Agreement and shall hold or apply such proceeds in accordance with the terms of this Agreement. At the Closing, the Deposit shall be paid by the Escrow Agent to, or at the direction of, Seller and credited against the Purchase Price. If for any reason the Closing does not occur and either party makes a written demand upon the Escrow Agent for payment of such amount, the Escrow Agent shall, within 24 hours give written notice to the other party of such demand. If the Escrow Agent does not receive a written objection from such other party within five (5) Business Days after the giving of such notice, the Escrow Agent is hereby authorized to make such payment. If the Escrow Agent does receive such written objection within such five (5) Business Day period or if for any other reason the Escrow Agent in good faith shall elect not to make such payment, the Escrow Agent shall continue to hold such amount until otherwise directed by joint written instructions from the parties to this Agreement or a final judgment of a court of competent jurisdiction. However, Escrow Agent shall have the right at any time to deposit the Deposit with the clerk of the court of Erie County, New York. The Escrow Agent shall give written notice of such deposit to Seller and Buyer. Upon such deposit the Escrow Agent shall be relieved and discharged of all further obligations and responsibilities hereunder.

Attachment: Purchase Agreement - ACC - 330 Maple Road(66031090.4) (RES-2024-943 : Acquisition of Real Property @ 218 and 330 Maple Road

10.23.6 For the purpose of complying with any information reporting requirements or other rules and regulations of the IRS that are or may become applicable as a result of or in connection with the transaction contemplated by this Agreement, including, but not limited to, any requirements set forth in proposed Income Tax Regulation Section 1.6045-4 and any final or successor version thereof (collectively, the "**IRS Reporting Requirements**"), Seller and Buyer hereby designate and appoint the Escrow Agent to act as the "Reporting Person" (as that term is defined in the IRS Reporting Requirements) to be responsible for complying with any IRS Reporting Requirements. The Escrow Agent hereby acknowledges and accepts such designation and appointment and agrees to fully comply with any IRS Reporting Requirements that are or may become applicable as a result of or in connection with the transaction contemplated by this Agreement. Without limiting the responsibility and obligations of the Escrow Agent as the Reporting Person, Seller and Buyer hereby agree to comply with any provisions of the IRS Reporting Requirements that are not identified therein as the responsibility of the Reporting Person, including, but not limited to, the requirement that Seller and Buyer each retain an original counterpart of this Agreement for at least four years following the calendar year of the Closing.

10.24 Tax Deferred Exchange. Buyer and Seller agree to cooperate with each other in effecting for the benefit of either party a tax deferred exchange pursuant to Section 1031 of the Internal Revenue Code (an "**Exchange**") with respect to the Property, provided that: (a) neither party shall be obligated to delay the Closing, (b) neither party shall be obligated to execute any note, contract, deed or other document, except a reasonable and customary acknowledgment of the other party's assignment of its rights under this Agreement to a qualified intermediary, nor shall either party be obligated to take title to any property other than the Property as otherwise contemplated in this Agreement or incur additional expense for the benefit of the other party, (c) such assignment shall not release the assigning party from its obligations and liabilities under this Agreement, (d) all documents executed by non-assigning party shall recognize that the non-assigning party is acting solely as an accommodating party to such Exchange, the non-assigning party shall have no liability with respect thereto, and is making no representation or warranty that the transactions qualify as a tax-free exchange under Section 1031 of the Internal Revenue Code or any applicable state or local Laws and the non-assigning party shall have no liability whatsoever if any such transactions fail to so qualify; (e) the assigning party shall indemnify, defend and hold the non-assigning party harmless against any such additional claims, causes of action, costs and liabilities; (f) the non-assigning party shall be reasonably satisfied that the Exchange will not result in any increased risks or any adverse tax consequences to the non-assigning party; and (g) in no event shall the assigning party's consummation of such Exchange constitute a condition precedent to the assigning party's obligations under this Agreement, and the assigning party's failure or inability to consummate such Exchange for any reason or for no reason shall not be deemed to excuse or release the assigning party from its obligations under this Agreement. The terms of this Section 10.24 shall survive the Closing and the transfer of title.

[Signatures appear on following pages.]

Attachment: Purchase Agreement - ACC - 330 Maple Road(66031090.4) (RES-2024-943 : Acquisition of Real Property @ 218 and 330 Maple Road

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

SELLER:

ACC OP (MAPLE ROAD) LLC,
a Delaware limited liability company

By: _____
Name: _____
Title: _____

[Buyer's signature on following page.]

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BUYER:

TOWN OF AMHERST,
a New York municipal corporation

By: _____
Name: Brian Kulpa
Title: Supervisor

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JOINDER BY ESCROW AGENT

Stewart Title Insurance Company referred to in this Agreement as the "Escrow Agent," hereby acknowledges that it received this Agreement executed by Seller and Buyer as of _____, 2024, and accepts the obligations of the Escrow Agent as set forth herein.

STEWART TITLE INSURANCE COMPANY

By: _____
Name: _____
Title: _____

LIST OF EXHIBITS AND SCHEDULE

SCHEDULE

1 - Litigation and Non-Compliance

EXHIBITS

A - Legal Description of Land

B - Intentionally Omitted

C - Form of Deed

D - Form of Bill of Sale, Assignment and Assumption

E - Form of Lease Agreement Termination Agreement

F - Form of Title Affidavit

G - Form of Declaration of Restrictive Covenants

H - Form of Seller Closing Certificate

I - Form of Buyer Closing Certificate

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SCHEDULE 1

LITIGATION AND NON-COMPLIANCE

NONE

EXHIBIT A

LEGAL DESCRIPTION

PARCEL "1A"
All that tract or parcel of land, situate in the Town of Amherst, County of Erie and State of New York, being part of Lot Number 67, Township 12, Range 7 of the Holland Land Company's Survey, bounded and described as follows:

Beginning at a point in a line drawn parallel with the southerly line of said Lot Number 67 and distant 288.85 feet northerly therefrom, as measured along the westerly line of said Lot Number 67, said point of beginning being 969.43 feet distant easterly from the westerly line of said Lot Number 67; running thence easterly along said line so drawn parallel with the southerly line of Lot Number 67, a distance of 2000 feet; running thence northerly at right angles, 633.27 feet to a point in a line drawn parallel with the southerly line of said Lot Number 67; running thence westerly along said parallel line, 2000 feet; running thence southerly in a straight line, 633.27 feet more or less to the place of beginning.

PARCEL "1B"
All that tract or parcel of land, situate in the Town of Amherst, County of Erie and State of New York, being part of Lot Number 67, Township 12, Range 7 of the Holland Land Company's Survey, bounded and described as follows:
Beginning at a point in the north line of Maple Road, 969.43 feet distant easterly from the westerly line of said Lot Number 67; thence east along the north line of Maple Road, 2,000.00 feet to a point; thence north and parallel to the east line of Lot Number 67, a distance of 54.84 feet to the southerly line of lands conveyed to Henry Knapp by Deed recorded in the Erie County Clerk's Office in Liber 1477 of Deeds at page 98; thence westerly parallel with the south line of Lot Number 67 and along the southerly line of lands so conveyed to Henry Knapp, 2,000.00 feet; thence southerly parallel to the east line of Lot Number 67, 54.75± feet to the place of beginning.

Parcel "2"
ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Amherst, County of Erie and State of New York, being part of Lot No. 67, Township 12, Range 7 of the Holland Land Company's Survey, bounded and described as follows:

BEGINNING at a point in the north line of Maple Road distance 860.88 feet east from its intersection with the west line of Lot No. 67; thence proceeding east along the north line of Maple Road 110 feet; thence proceeding northerly 688 feet at an angle of 90° with the north line of Maple Road; thence westerly 110 feet and parallel with the northerly line of Maple Road; thence southerly 688 feet to the northerly line of Maple Road, being the point or place of beginning.

Attachment: Purchase Agreement - ACC - 330 Maple Road(66031090.4) (RES-2024-943 : Acquisition of Real Property @ 218 and 330 Maple Road

EXHIBIT B

INTENTIONALLY OMITTED

Attachment: Purchase Agreement - ACC - 330 Maple Road(66031090.4) (RES-2024-943 : Acquisition of Real Property @ 218 and 330 Maple Road

Attachment: Purchase Agreement - ACC - 330 Maple Road(66031090.4) (RES-2024-943 : Acquisition of Real Property @ 218 and 330 Maple Road

EXHIBIT C

BARGAIN AND SALE DEED

WITH COVENANT AGAINST GRANTOR'S ACTS

THIS INDENTURE, made the _____ day of _____, 2024,

BETWEEN

ACC OP (MAPLE ROAD) LLC, a Delaware limited liability company, with an address of 12700 Hill Country Blvd., Suite T-200, Austin, TX 78738

– Grantor

AND

TOWN OF AMHERST, a New York municipal corporation with an address at 5583 Main Street, Williamsville, New York 14221

– Grantee

WITNESSETH, that the Grantor, in consideration of one dollar ($1.00), and other good and valuable consideration paid by the Grantee, hereby grants and releases unto the Grantee, the heirs or successors and assigns of the Grantee forever,

ALL THAT TRACT OR PARCEL OF LAND, situated in the Town of Amherst, County of Erie and State of New York, more particularly described in **Schedule A** attached hereto and made a part hereof.

Property Address: 218 and 330 Maple Road, Amherst, New York 14221

Tax Account Number: 55.03-1-9 and 55.03-1-10

Tax Mailing Address: 5583 Main Street, Williamsville, New York 14221

Subject to all covenants, easements and restrictions of record affecting said premises, if any.

Being and intending to convey the same premises described in the Deeds to the Grantor recorded in the Erie County Clerk's Office on May 22, 2012 in Liber 11223 of Deeds, at Page 4853 and Liber 11223, Page 4849.

TOGETHER with all of the right, title, and interest, if any, of the Grantor in and to any and all strips and gores of land adjacent to or adjoining said premises, and any other land lying in the bed of any street, road, avenue, lot, lane, alley, or right of way, as they now exist or formerly existed, included in, in front of, or abutting the above described premises herein conveyed.

TOGETHER with the appurtenances, hereditaments, and all the estate and rights of the Grantor in and to said premises.

TO HAVE AND TO HOLD the premises herein granted unto the Grantee, the heirs or successors and assigns of the Grantee forever.

This deed is subject to the trust provisions of Section 13 of the Lien Law.

AND the said Grantor covenants that it has not done or suffered anything whereby the said premises have been encumbered in any way whatever.

The words "Grantor" and "Grantee" shall be construed to read in the plural whenever the sense of this deed so requires.

[*Signature Page Follows]*

Attachment: Purchase Agreement - ACC - 330 Maple Road(66031090.4) (RES-2024-943 : Acquisition of Real Property @ 218 and 330 Maple Road

IN WITNESS WHEREOF, the Grantor has executed this deed the day and year first above written.

GRANTOR:

ACC OP (MAPLE ROAD) LLC,
a Delaware limited liability company

By:_____
Name:_____
Title:_____

STATE OF _____)
) ss:
COUNTY OF _____)

On the ____ day of _____, in the year 2024, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

_____
Notary Public

This instrument was prepared by and should be returned to:

Jackson Walker LLP
Attn: Andee Hartig
100 Congress Avenue, Suite 1100
Austin, Texas 78701

Attachment: Purchase Agreement - ACC - 330 Maple Road(66031090.4) (RES-2024-943 : Acquisition of Real Property @ 218 and 330 Maple Road

SCHEDULE A

LEGAL DESCRIPTION

Attachment: Purchase Agreement - ACC - 330 Maple Road(66031090.4) (RES-2024-943 : Acquisition of Real Property @ 218 and 330 Maple Road

Attachment: Purchase Agreement - ACC - 330 Maple Road(66031090.4) (RES-2024-943 : Acquisition of Real Property @ 218 and 330 Maple Road

EXHIBIT D

[FORM OF]

BILL OF SALE, ASSIGNMENT AND ASSUMPTION

330 Maple Road

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, the undersigned, **ACC OP (MAPLE ROAD) LLC**, a Delaware limited liability company ("**Seller**"), hereby sells, transfers, assigns and conveys to **TOWN OF AMHERST**, a New York municipal corporation ("**Buyer**"), with respect to the "Property" (as hereinafter defined), all right, title and interest of Seller, to the extent assignable, in and to any other "Intangible Property" (as hereinafter defined).

This Bill of Sale, Assignment and Assumption is given pursuant to that certain Purchase Agreement (the "**Purchase Agreement**") dated as of _____, 20__, between Seller and Buyer, providing for the sale of the Property. The covenants, agreements, and limitations (including, but not limited to, the limitations provided in Sections 7.3, 7.4, 8 and 10.2 of the Purchase Agreement) provided in the Purchase Agreement with respect to the property conveyed hereunder are hereby incorporated herein by this reference as if herein set out in full. Buyer hereby accepts the foregoing assignment and agrees to assume and discharge, in accordance with the terms thereof, the obligation to pay all unpaid payments that are credited to Buyer under the proration provisions of the Purchase Agreement. This Bill of Sale, Assignment and Assumption shall inure to the benefit of and shall be binding upon Seller and Buyer, and their respective successors and assigns. Such property is conveyed "as is" without warranty or representation. As used herein, the "Closing Date", "Intangible Property" and "Property" shall have the respective meanings set forth for the same in the Purchase Agreement.

This Bill of Sale, Assignment and Assumption may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same document.

DATED: As of _____, 20__

SELLER:

ACC OP (MAPLE ROAD) LLC,
a Delaware limited liability company

By: _____
Name: _____
Title: _____

BUYER:

TOWN OF AMHERST,
a New York municipal corporation

By: _____
Name: Brian Kulpa
Title: Supervisor

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Attachment: Purchase Agreement - ACC - 330 Maple Road(66031090.4) (RES-2024-943 : Acquisition of Real Property @ 218 and 330 Maple Road

EXHIBIT E

[FORM OF]

LEASE AGREEMENT TERMINATION AGREEMENT

THIS LEASE AGREEMENT TERMINATION AGREEMENT (this "**Agreement**") dated as of December ___, 2024 (the "**Termination Date**"), by and between ACC OP (MAPLE ROAD) LLC, a Delaware limited liability company with a principal place of business at 12700 Hill Country Boulevard, Suite T-200, Austin, Texas 78738 ("**Lessor**") and TOWN OF AMHERST, a New York municipal corporation located at 5583 Main Street, Williamsville, New York 14221 ("**Lessee**").

WITNESSETH:

WHEREAS, Lessor and Lessee entered into a certain Lease Agreement dated as of October [25][[1]], 2021 (the "**Lease**") pursuant to which the Lessee was granted a leasehold interest in approximately 10.14 acres of real property located at 330 Maple Road, Williamsville, New York (SBL No. 55.03-1-10) as more particularly described therein (the "**Premises**");

WHEREAS, Lessee is purchasing the Premises from Lessor pursuant to that certain Purchase Agreement dated _____, by and between Lessor and Lessee (the "**Contract**");

WHEREAS, in connection with a Closing (as defined in the Contract), Lessor and Lessee desire to terminate the Lease on the Closing Date (as defined in the Contract) on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the sum of Ten Dollars ($10.00) and other good and valuable consideration, receipt and sufficiency of which are acknowledged, it is hereby agreed that:

1. The Lease is terminated as of the Termination Date subject to the terms and conditions set forth in this Agreement. After the Termination Date, neither Lessor nor Lessee shall have any further liability or obligation to the other with respect to the Lease, except as expressly set forth in this Agreement.

2. Lessor and Lessee acknowledge that the Premises is being acquired by Lessee and in connection with such acquisition Lessee will continue to operate at the Premises after the Termination Date in the same manner as currently operated by Lessee from the Premises. Therefore, Lessee will not be required to surrender the Premises to Lessor on the Termination Date as contemplated by Section 7 and Section 12 of the Lease and Lessor agrees that all such Lessee improvements and portable equipment may remain on the Premises.

3. Effective on the Termination Date, Lessee, on behalf of itself and its partners, officers, directors, agents, employees, successors in interest and assigns, releases and discharges Lessor, its affiliates, subsidiaries and designated property management, construction and marketing firms, and their respective partners, members, officers, directors, agents, employees, contractors, successors in interest and assigns, from and against any and all claims, demands, causes of action, liabilities and obligations, known and unknown, foreseen and unforeseen, direct and indirect, in any way arising out of or relating to the Lease

[1] NTD: Rafael to provide copy of the Lease Agreement dated October 25th.

and/or Lessee's use and occupancy of the Premises; it being the express intention of the parties that the foregoing shall be deemed to be a full and general release.

4. Effective on the Termination Date, Lessor, on behalf of itself and its affiliated companies, partners, officers, directors, agents, employees, successors in interest and assigns, releases and discharges Lessee and Lessee's partners, officers, directors, agents, employees, successors in interest and assigns from and against any and all claims, demands, causes of action, liabilities and obligations, known and unknown, foreseen and unforeseen, direct and indirect, in any way arising out of or relating to the Lease and/or Lessee's use and occupancy of the Premises; it being the express intention of the parties that the foregoing shall be deemed to be a full and general release, except for the items set forth in Paragraph 5 below, which shall not be subject to the foregoing release and shall survive the termination of the Lease.

5. The following matters shall survive the termination of the Lease: (i) Lessee's obligations under the Lease which accrue prior to the Termination Date; (ii) any provisions which expressly survive the termination of the Lease, including, without limitation, Lessee's obligations under the Lease which pertain to insurance and indemnification; and (iii) the provisions of this Agreement.

6. This Agreement shall be binding upon and inure to the benefit of Lessor and Lessee and their respective successors and permitted assigns. Lessee shall not assign its rights under this Agreement without the prior consent of Lessor.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.]

Attachment: Purchase Agreement - ACC - 330 Maple Road(66031090.4) (RES-2024-943 : Acquisition of Real Property @ 218 and 330 Maple Road

IN WITNESS WHEREOF, Lessor and Lessee, for the purposes above set forth, have caused this Agreement to be executed and delivered by their duly authorized officers, all as of the Termination Date.

LESSOR:

ACC OP (MAPLE ROAD) LLC,
a Delaware limited liability company

By:
Name:
Title:

LESSEE:

TOWN OF AMHERST,
a New York municipal corporation

By: _____
Name: Brian Kulpa
Title: Supervisor

Attachment: Purchase Agreement - ACC - 330 Maple Road(66031090.4) (RES-2024-943 : Acquisition of Real Property @ 218 and 330 Maple Road

Attachment: Purchase Agreement - ACC - 330 Maple Road(66031090.4) (RES-2024-943 : Acquisition of Real Property @ 218 and 330 Maple Road

EXHIBIT F

TITLE-AFFIDAVIT

dated as of ____/____/____

Owner: See annexed SIGNATURE PAGE TO TITLE-AFFIDAVIT

Title Insurer:

Commitment No.:

Premises, as legally described in the Commitment and with a street address of:

Certifications:

In connection with the above, the Owner certifies the following to Title Insurer as to the Premises but only as to the period between ___/___/___ (date of acquisition), and the date hereof (subject to any exceptions expressly noted below):

Mechanics Liens:

A. All labor, services or materials rendered or furnished within the last 90 days with regard to the Premises or the construction or repair of any building or improvements on the Premises contracted for or requested by the Owner have been completed and paid for in full, except [(a) as set forth on the annexed SCHEDULE OF WORK, or (b)] routine repairs and/or maintenance; and as to (a) and (b), any and all charges have been or will be duly paid in the ordinary course of business. [IF NO OWNER/LANDLORD WORK, AMEND OR STATE NONE IN CLAUSE (a) AND DELETE SCHEDULE PLACEHOLDER ATTACHED] and

B. To the actual knowledge of the Owner, all other labor, services or materials that have been rendered or furnished within the last 90 days with regard to the Premises or with the construction or repair of any building or improvements on the Premises have been completed and paid for in full, except (a) as set forth on the annexed SCHEDULE OF WORK or (b) routine repairs and/or maintenance; and as to (a) and (b), any and all charges have been or will be duly paid for in the ordinary course of business. [IF NO TENANT WORK, AMEND OR STATE NONE IN CLAUSE (a)]

Tenants/Parties in Possession:

Except as shown in the Commitment (with respect to tenancies of record), including matters disclosed in the underlying exception documents of record referenced therein, there are no tenants or other parties who are in possession or have the right to be in possession of said Premises, other than those tenants identified on the annexed RENT-ROLL and/or Lease Chart (and any subtenants hereunder), which tenants have rights as tenants only and do not have options to purchase all or part of the Premises ("OTPs"), rights of first refusal to acquire all or part of the Premises ("ROFRs") or rights of first offer to acquire all or part of the Premises ("ROFOs") that would be triggered by the current transaction.

Unrecorded OTPs, ROFRs and ROFOs:

The Owner has not entered into (and has no actual knowledge of) any unrecorded OTPs, ROFRs or ROFOs which are presently in effect and would be triggered by the transfer of the Premises in connection with the instant transaction, except as set forth in the Commitment.

Attachment: Purchase Agreement - ACC - 330 Maple Road(66031090.4) (RES-2024-943 : Acquisition of Real Property @ 218 and 330 Maple Road

Covenants & Restrictions:
To the actual knowledge of the Owner, (a) the Owner has received no written notice of past or present violations of any effective covenants, conditions or restrictions set forth in the Commitment (the "CC&Rs") which remain uncured, and (b) any charge or assessment provided for in any of the CC&Rs has been or will be duly paid in the ordinary course.

Bankruptcy:
No proceedings in bankruptcy or receivership have been instituted by or against the Owner (or its constituent entities) which are now pending, nor has the Owner (or its constituent entities) made any assignment for the benefit of creditors which is in effect as to said Premises.

Manager/Broker:
Fees which may be due and payable to (a) a real estate broker engaged by the Owner relating to the purchase, sale or lease of the Premises, or (b) a management firm engaged by the Owner relating to the management or operation of the Premises, have been or will be duly paid in the ordinary course of business.

Exceptions to the foregoing Certifications, if any, are listed hereinafter:
_____

Gap Indemnification:
Between the date hereof and the date of recording of the insured conveyance but in no event later than 5 business days from the date hereof (hereinafter, the "Gap Period"), Owner has not taken or allowed and will not voluntarily take or allow any action to encumber the Premises in the Gap Period.

Further Assurances:
The Owner hereby undertakes and agrees to fully cooperate with Title Insurer in correcting any errors in the execution and acknowledgment of the insured conveyance.

Counterparts:
This document may be executed in counterparts.

Inducement and Indemnification:
The Owner provides this document to induce Title Insurer to insure title to said Premises well knowing that it will do so only in complete reliance upon the matters asserted hereinabove and further, will indemnify, defend and hold Title Insurer harmless against any loss or damage sustained as a result of any inaccuracy in the matters asserted hereinabove.

Knowledge/Survival:
Any statement "to the actual knowledge of the Owner" (or similar phrase) shall mean that the "Designated Representative" (as hereinafter defined) of the Owner has no knowledge that such statement is untrue (and, for this purpose, the Owner's knowledge shall mean the present actual knowledge (excluding constructive or imputed knowledge) of the Designated Representative, but such Designated Representative shall not have any liability in connection herewith). Notwithstanding anything to the contrary herein, (1) any cause of action for a breach of this document shall survive until 6 months after the date hereof], at which time the provisions hereof (and any potential cause of action resulting from any breach for which Title Insurer has not given Owner written notice) shall terminate; and (2) to the extent Title Insurer shall have knowledge as of the date hereof that any of the statements contained herein is false or inaccurate, then the Owner shall have no liability with respect to the same. The "Designated Representative" for the Owner is _____. The Designated Representative of the Owner is an individual affiliated with, or employed by, the Owner or its affiliates who has been directly involved in the asset management, investment management or property management of the Premises and is in a position to confirm the truth and accuracy of Owner's knowledge certifications herein concerning the Premises.

SEE ANNEXED SIGNATURE PAGE TO TITLE-AFFIDAVIT

SIGNATURE PAGE TO TITLE-AFFIDAVIT

OWNER:

ACC OP (MAPLE ROAD) LLC,
a Delaware limited liability company

By: _____
Name: _____
Title: _____

Subscribed and sworn to on _____/_____/_____

_____
Notary Public

Attachment: Purchase Agreement - ACC - 330 Maple Road(66031090.4) (RES-2024-943 : Acquisition of Real Property @ 218 and 330 Maple Road

RENT-ROLL/LEASE CHART

NONE

Attachment: Purchase Agreement - ACC - 330 Maple Road(66031090.4) (RES-2024-943 : Acquisition of Real Property @ 218 and 330 Maple Road

Attachment: Purchase Agreement - ACC - 330 Maple Road(66031090.4) (RES-2024-943 : Acquisition of Real Property @ 218 and 330 Maple Road

EXHIBIT G

[FORM OF]

DECLARATION OF RESTRICTIVE COVENANTS

THIS DECLARATION OF RESTRICTIVE COVENANTS (this "**Declaration**"), dated to be effective as of [●], is made by ACC OP (MAPLE ROAD) LLC, a Delaware limited liability company ("**Declarant**"), with an address of 12700 Hill Country Blvd, Suite T-200, Austin, Texas 78738, and TOWN OF AMHERST, a New York municipal corporation ("**Purchaser**"), with an address of 5583 Main Street, Williamsville, New York 14221.

A. **Background**. Declarant owns the land described on Exhibit A to this Declaration (the "**Property**"). Simultaneously with or after executing this Declaration, Declarant will be selling the Property to Purchaser. Declarant and Purchaser have agreed to impose certain restrictions on the Property. But for creation of such restrictions, Declarant would not convey the Property to Purchaser.

B. **Use Restrictions**. Purchaser for itself and any subsequent owner of all or any portion of the Property (hereinafter referred to as the "**Owner**"), hereby covenants and agrees not to use the Property or any portion thereof for any of the following uses (collectively, the "**Use Restrictions**", and the occurrence of a violation of any one or more of the Use Restrictions shall constitute a "**Triggering Event**" for purposes of this Declaration):

1. Student housing project

2. Multi family project, but excluding condominium developments and senior housing, which two uses are specifically allowable.

C. **Purchaser's Default and Declarant's Remedies**. If at any time and from time to time a Triggering Event occurs, Declarant, Declarant's Affiliates and/or Declarant's Agents will be damaged, whether directly or indirectly, by such Triggering Event, and Purchaser and any subsequent Owner shall be liable to Declarant, Declarant's Affiliates and/or Declarant's Agents for such damages. In addition, Declarant will have the right to immediately apply to a court of competent jurisdiction for a restraining order, injunction or order of specific performance to prevent the Triggering Event or any actions by Purchaser (or any other Owner) thereafter in violation of any one or more of the Use Restrictions.

D. **Indemnification**. In the event a Triggering Event occurs, whether by Purchaser or any subsequent owner of the Property, then (a) the then Owner of the Property (whether Purchaser or a subsequent Owner), and (b) the party causing (whether in whole or in part) such Triggering Event (if other than the current Owner of the Property), and (c) all subsequent Owners of all or any portion of the Property (each, an "**Indemnitor**") agree (jointly and severally) to indemnify, defend and hold Declarant, Declarant's Affiliates and Declarant's Agents harmless from and against any and all liabilities, losses, damages, penalties, fines, costs and expenses (including, but not limited to attorneys' fees, court costs and litigation expenses), whether direct or indirect, in connection with the violation of the Use Restrictions, including, without limitation, any and all Claims arising out of or related to, directly or indirectly, the violation of any one or more of the

Use Restrictions. Each Indemnitor, at its sole cost and expense, shall at the direction of Declarant or any of Declarant's Affiliates and/or Declarant's Agents, promptly dispose of all such Claims, defend all Claims filed or asserted against Declarant, any of Declarant's Affiliates and/or Declarant's Agents with counsel of Declarant's choice, pay all judgments rendered against Declarant or any of Declarant's Affiliates and/or Declarant's Agents related to such Claims and reimburse Declarant and any of Declarant's Affiliates and/or Declarant's Agents upon demand for their reasonable attorneys' fees and costs incurred in defense of any Claims.

E. **Subsequent Transfers**. Purchaser and any other transferee of all or any portion of the Property shall be deemed to have agreed to accept title to the Property or any portion thereof subject to this Declaration and will be deemed to have agreed to be bound by the terms hereof as if such party was the original Purchaser defined herein. This instrument shall not be construed to impose any limitation on any Owner's right or authority to sell or otherwise transfer the Property subject to the limitations provided in this Declaration.

F. **Assignment**. Declarant may assign any and all of its right, title and interest (including any related Claims against any Indemnitor) under this Declaration to any Declarant's Affiliate without Owner's or any Indemnitor's prior consent.

G. **Covenant Running With the Land**. This Declaration shall be a covenant that runs with the land and shall survive the conveyance of the Property or any portion thereof by Purchaser or any subsequent Owner to any new Owner.

H. **Definitions**. For purposes of this Declaration, and unless otherwise defined in this Declaration, any capitalized term used herein shall have the following meaning:

1. "**Affiliate(s)**" means, (a) with respect to any person, any other person controlled by, controlling or under common control with the such person, and (b) any person which is a direct or indirect owner, partner, manager, member, or shareholder to one or more tenant-in-common entities that owns or controls, whether directly or indirectly, any right, title or interest in or to all or any portion of the Property. The term "person" as used throughout this document will be interpreted broadly to include, without limitation, any individual, trust, corporation, company, partnership, limited liability company, professional association, governmental or quasi-governmental authority or any political subdivision thereof or any other type of entity. The term "control" (including all inflected forms thereof) as used throughout this document means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of any person, whether through ownership of voting securities or otherwise.

2. "**Claim(s)**" shall mean any and all claims, costs (including reasonable attorneys' fees and court costs), damages, debts, demands, expenses, liabilities, losses, actual or derivative obligations, agreements, express or implied warranties, sums of money, fines, penalties, accounts, bills, covenants, contracts, claims of indemnity, claims of contribution, promises, representations, trespasses, damages, harm, injuries, judgments, executions, controversies, suits, proceedings, actions or causes of action of any kind or character whatsoever, whether at law, in equity, by statute or otherwise, whether known, unknown, suspected or unsuspected.

Attachment: Purchase Agreement - ACC - 330 Maple Road(66031090.4) (RES-2024-943 : Acquisition of Real Property @ 218 and 330 Maple Road

3. "**Declarant's Affiliates**" (each a "**Declarant's Affiliate**") shall mean Affiliates of Declarant, including, without limitation, American Campus Communities, Inc., and any other person (as defined herein) controlling, controlled by or under common control with Declarant.

4. "**Declarant's Agents**" shall mean any of Declarant's Affiliates, or any partners, members, managers, parents, shareholders, directors, officers, employees, agents, affiliates, representatives, attorneys, architects, engineers, contractors, subcontractors, brokers or other consultants of Declarant or Declarant's Affiliates.

I. **Other Provisions**.

1. Any violation of the provisions herein contained will be deemed to be a continuing violation and no delay in the delivery of any notice of any violation hereof or in the enforcement of any rights or the seeking of any remedies provided hereunder will constitute, or be deemed to constitute, a waiver of the right to give such notice, enforce such right or seek such remedy at any time after the occurrence of such violation. Notwithstanding any provision herein to the contrary, Declarant, in its sole discretion, may elect to waive or terminate this Declaration, provided, however, that, no such waiver or termination shall be effective unless the same is set forth in a writing executed by the Declarant and such writing is filed in the public records in the County where the Property is located.

2. This Declaration may only be amended, supplemented or modified by a written agreement signed by Declarant (notwithstanding the subsequent transfer of the Property or any portion thereof) and the then Owner(s) of the Property and properly filed of public record in the County where the Property is located.

3. Upon the occurrence of a Triggering Event or if actions of the Owner cause Declarant or Declarant's Affiliates to reasonably believe that there is potential for a Triggering Event to reasonably occur in the future, any attorney engaged by Declarant, Declarant's Affiliates and/or Declarant's Agents to enforce or defend any provision of this Declaration, with or without the filing of any legal action or proceeding, each Indemnitor shall immediately pay to Declarant, Declarant's Affiliates and/or Declarant's Agents (as applicable), upon demand, the amount of all reasonable attorneys' and consultants' fees and expenses and all costs incurred by Declarant, Declarant's Affiliates and/or Declarant's Agents (as applicable) in connection therewith, together with interest thereon from the date of such demand until paid at the highest lawful rate of interest.

4. Each Indemnitor shall, at the request of Declarant, execute and deliver such documents as may be reasonably necessary to ratify and confirm the terms of this Declaration and its respective duties, obligations and liability hereunder.

[Remainder of page intentionally left blank.]

Attachment: Purchase Agreement - ACC - 330 Maple Road(66031090.4) (RES-2024-943 : Acquisition of Real Property @ 218 and 330 Maple Road

IN WITNESS WHEREOF, this instrument has been executed by Declarant to be effective as of the date set forth above.

DECLARANT:

ACC OP (MAPLE ROAD) LLC,
a Delaware limited liability company

By: _____
Name:
Title:

STATE OF _____ §
§
COUNTY OF _____ §

This instrument was acknowledged before me on the _____ day of _____, _____, by _____, the _____ of ACC OP (MAPLE ROAD) LLC, a Delaware limited liability company, on behalf of such limited liability company.

_____
Notary Public in and for the State of _____

[*Purchaser's Signature on Following Page*]

Attachment: Purchase Agreement - ACC - 330 Maple Road(66031090.4) (RES-2024-943 : Acquisition of Real Property @ 218 and 330 Maple Road

IN WITNESS WHEREOF, this instrument has been executed by Purchaser to be effective as of the date set forth above.

PURCHASER:

TOWN OF AMHERST,
a New York municipal corporation

By:_____
Name: Brian Kulpa
Title: Supervisor

STATE OF _____ §
§
COUNTY OF _____ §

This instrument was acknowledged before me on the _____ day of _____, _____, by Brian Kulpa, the supervisor of the Town of Amherst, a New York municipal corporation, on behalf of such municipal corporation.

_____
Notary Public in and for the State of _____

DRAFTED BY AND AFTER RECORDING
RETURN TO:

JACKSON WALKER LLP
100 Congress Avenue, Suite 1100
Austin, Texas 78701
Attention: Andee Hartig

Attachment: Purchase Agreement - ACC - 330 Maple Road(66031090.4) (RES-2024-943 : Acquisition of Real Property @ 218 and 330 Maple Road

Attachment: Purchase Agreement - ACC - 330 Maple Road(66031090.4) (RES-2024-943 : Acquisition of Real Property @ 218 and 330 Maple Road

EXHIBIT A TO DECLARATION OF RESTRICTIVE COVENANTS

Legal Description

Attachment: Purchase Agreement - ACC - 330 Maple Road(66031090.4) (RES-2024-943 : Acquisition of Real Property @ 218 and 330 Maple Road

EXHIBIT H

[FORM OF]

SELLER CLOSING CERTIFICATE

THIS SELLER CLOSING CERTIFICATE (this "**Closing Certificate**") is made as of the [●] day of [●], by **ACC OP (MAPLE ROAD) LLC**, a Delaware limited liability company ("**Seller**"), to **TOWN OF AMHERST**, a New York municipal corporation ("**Buyer**").

R E C I T A L S :

A. Pursuant to that certain Purchase Agreement dated as of [●], between Seller and Buyer (together with all amendments and addenda thereto, the "**Agreement**"), Seller has agreed to sell to Buyer that certain property located at 330 Maple Road, Amherst, New York.

B. The Agreement requires the delivery of this Closing Certificate.

NOW THEREFORE, pursuant to the Agreement, Seller does hereby represent and warrant to Buyer that:

1. Except as specifically set forth below, each and all of the representations and warranties of Seller contained in Section 7.1 of the Agreement are correct, in all material respects, as of the date hereof as if made on and as of the date hereof.

Exceptions: See **Exhibit A** attached and made a part hereof.

2. This Certificate is subject to the terms and conditions of the Agreement (including all limitations set forth in Sections 7.3, 7.4, 8 and 10.2).

IN WITNESS WHEREOF, the undersigned has executed this Closing Certificate as of the day and year first above written.

SELLER:

ACC OP (MAPLE ROAD) LLC,
a Delaware limited liability company

By: _____
Name: _____
Title: _____

Attachment: Purchase Agreement - ACC - 330 Maple Road(66031090.4) (RES-2024-943 : Acquisition of Real Property @ 218 and 330 Maple Road

EXHIBIT A

EXCEPTIONS TO SELLER'S REPRESENTATIONS AND WARRANTIES

[Add exceptions at Closing, including substitution of updated Exhibits and Schedules, as needed.]

Attachment: Purchase Agreement - ACC - 330 Maple Road(66031090.4) (RES-2024-943 : Acquisition of Real Property @ 218 and 330 Maple Road

Attachment: Purchase Agreement - ACC - 330 Maple Road(66031090.4) (RES-2024-943 : Acquisition of Real Property @ 218 and 330 Maple Road

EXHIBIT I

[FORM OF]

BUYER CLOSING CERTIFICATE

THIS BUYER CLOSING CERTIFICATE (this "**Closing Certificate**") is made as of the [●] day of [●], by **TOWN OF AMHERST**, a New York municipal corporation ("**Buyer**"), to **ACC OP (MAPLE ROAD) LLC**, a Delaware limited liability company ("**Seller**").

R E C I T A L S :

C. Pursuant to that certain Purchase Agreement dated as of [●], between Seller and Buyer (together with all amendments and addenda thereto, the "**Agreement**"), Buyer has agreed to purchase from Seller that certain property located at 330 Maple Road, Amherst, New York.

D. The Agreement requires the delivery of this Closing Certificate.

NOW THEREFORE, pursuant to the Agreement, Buyer does hereby represent and warrant to Seller that:

1. Except as specifically set forth below, each and all of the representations and warranties of Buyer contained in Section 7.2 of the Agreement are correct, in all material respects, as of the date hereof as if made on and as of the date hereof.

Exceptions: See **Exhibit A** attached and made a part hereof.

2. This Certificate is subject to the terms and conditions of the Agreement (including all applicable limitations set forth in Sections 7.3, 7.4, and 10.2).

IN WITNESS WHEREOF, the undersigned has executed this Closing Certificate as of the day and year first above written.

BUYER:

TOWN OF AMHERST,
a New York municipal corporation

By: _____
Name: Brian Kulpa
Title: Supervisor

Attachment: Purchase Agreement - ACC - 330 Maple Road(66031090.4) (RES-2024-943 : Acquisition of Real Property @ 218 and 330 Maple Road

EXHIBIT A

EXCEPTIONS TO BUYER'S REPRESENTATIONS AND WARRANTIES

[Add exceptions at Closing, if any]

Attachment: Purchase Agreement - ACC - 330 Maple Road(66031090.4) (RES-2024-943 : Acquisition of Real Property @ 218 and 330 Maple Road

Short Environmental Assessment Form
Part 1 - Project Information

Attachment: Amherst Property Purchase EAF (RES-2024-943 : Acquisition of Real Property @ 218 and 330 Maple Road (Purchase Agreement -

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:
Purchase of 218 and 330 Maple Road

Project Location (describe, and attach a location map):
218 Maple Road (55.03-1-9) and 330 Maple Road (55.03-1-10) (the "Property"); see attached map.

Brief Description of Proposed Action:
The Town Board proposes to acquire the Property; Town softball fields have been constructed on a portion of the Property pursuant to a leasehold interest.

Name of Applicant or Sponsor:	Telephone: 716-631-7000
Town of Amherst	E-Mail: toainfo@amherst.ny.us

Address:
5583 Main Street

City/PO:	State:	Zip Code:
Williamsville	NY	14221

	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: Town of Amherst Town Board	☐	☑

3. a. Total acreage of the site of the proposed action? 33.3 acres
   b. Total acreage to be physically disturbed? 0 acres
   c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? 10.14 acres

4. Check all land uses that occur on, are adjoining or near the proposed action:

5. ☐ Urban ☐ Rural (non-agriculture) ☐ Industrial ☑ Commercial ☑ Residential (suburban)
   ☐ Forest ☐ Agriculture ☐ Aquatic ☐ Other(Specify):
   ☑ Parkland

	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?	☐	☑
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area?	NO	YES
If Yes, identify: _____	☑	☐
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	NO	YES
	☑	☐
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?	☐	☑
9. Does the proposed action meet or exceed the state energy code requirements?	NO	YES
If the proposed action will exceed requirements, describe design features and technologies:		
No development or construction is proposed. _____	☐	☑
_____		
10. Will the proposed action connect to an existing public/private water supply?	NO	YES
If No, describe method for providing potable water: _____	☐	☑
_____		
11. Will the proposed action connect to existing wastewater utilities?	NO	YES
If No, describe method for providing wastewater treatment: _____	☐	☑
_____		
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?	NO	YES
	☑	☐
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?	☐	☑
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?	NO	YES
	☐	☑
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: Amherst Property Purchase EAF (RES-2024-943 : Acquisition of Real Property @ 218 and 330 Maple Road (Purchase Agreement -

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: _____		
Site Code: C915207; Brownfield Cleanup Program. Certificate of Completion signed by the NYSDEC on May 7, 2012. Remedial activities performed at the site have removed all contamination to a level consistent with residential use.		

I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE

Applicant/sponsor/name: Charles Malcomb Date: 11/26/24

Signature: _____ Title: Special Counsel

PRINT FORM

Attachment: Amherst Property Purchase EAF (RES-2024-943 : Acquisition of Real Property @ 218 and 330 Maple Road (Purchase Agreement -

EAF Mapper Summary Report

Monday, November 25, 2024 5:32 PM

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

Part 1 / Question 7 [Critical Environmental Area]	No
Part 1 / Question 12a [National or State Register of Historic Places or State Eligible Sites]	No
Part 1 / Question 12b [Archeological Sites]	Yes
Part 1 / Question 13a [Wetlands or Other Regulated Waterbodies]	Yes - Digital mapping information on local and federal wetlands and waterbodies is known to be incomplete. Refer to EAF Workbook.
Part 1 / Question 15 [Threatened or Endangered Animal]	No
Part 1 / Question 16 [100 Year Flood Plain]	No
Part 1 / Question 20 [Remediation Site]	Yes

Attachment: Amherst Property Purchase EAF (RES-2024-943 : Acquisition of Real Property @ 218 and 330 Maple Road (Purchase Agreement -

Agency Use Only [If ap

Project:

Date:

Short Environmental Assessment Form
Part 2 - Impact Assessment

Part 2 is to be completed by the Lead Agency.
Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	☑	☐
2. Will the proposed action result in a change in the use or intensity of use of land?	☑	☐
3. Will the proposed action impair the character or quality of the existing community?	☑	☐
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	☑	☐
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	☑	☐
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	☑	☐
7. Will the proposed action impact existing: a. public / private water supplies?	☑	☐
b. public / private wastewater treatment utilities?	☑	☐
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	☑	☐
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	☑	☐
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	☑	☐
11. Will the proposed action create a hazard to environmental resources or human health?	☑	☐

PRINT FORM

Attachment: Amherst Property Purchase EAF (RES-2024-943 : Acquisition of Real Property @ 218 and 330 Maple Road (Purchase Agreement -

Short Environmental Assessment Form
Part 3 Determination of Significance

For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

The Town Board has identified the relevant areas of environmental concern and has taken a hard look at each of the identified areas as required by the State Environmental Quality Review Act ("SEQRA"). The Town Board compared the Action with the criteria for determining significance identified in 6 NYCRR § 617.7(c)(1) and in accordance with 6 NYCRR § 617.7(c)(2) and (3). As indicated below, following a review of each criterion specified in 6 NYCRR § 617.7(c)(1) as assisted by completion of Part 2 of the Environmental Assessment Form ("EAF"), the Action will not have a significant adverse impact on the environment.

The Board has reviewed Part 1 of the EAF and the criteria contained in 6 NYCRR §617.7, as well as the Purchase Agreement, and has determined that the Action will not have a significant impact on the environment for the following reasons:

The Action before the Board is the purchase of the Property and does not contemplate any change of current use or construction of any kind. There are currently operating Town softball fields on a portion of the Property pursuant to the Town's leasehold interest. No changes to that use are contemplated and no expansion of that use is contemplated. Accordingly, there will be no increase in traffic, noise, air quality, wetland, groundwater, surface water, drainage, solid waste, or other impacts as the result of the purchase. Nor will there be any impacts on habitat or wildlife or existing vegetation. The purchase is in accordance with the community's plans and goals. There will be no impairment to historic, archaeological, or aesthetic resources. Nor will there be any negative change to community character or a major change in energy use. There will be no negative impacts to human health. Simply put, the ownership transfer will keep the status quo and will not result in any use expansion or change. Accordingly, there will not be any significant adverse environmental impact resulting from the Action.

☐ Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.

☑ Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.

Town of Amherst Town Board	December 3, 2024
Name of Lead Agency	Date
Brian Kulpa	Town Supervisor
Print or Type Name of Responsible Officer in Lead Agency	Title of Responsible Officer
Signature of Responsible Officer in Lead Agency	Signature of Preparer (if different from Responsible Officer)

PRINT FORM

Attachment: Amherst Property Purchase EAF (RES-2024-943 : Acquisition of Real Property @ 218 and 330 Maple Road (Purchase Agreement -

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

Francina J. Spoth
Town Clerk

Meeting: 12/02/24 07:00 PM
Department: Town Attorney
Initiated by: **Samuel A. Alba**
Co-Sponsored by:

DOC ID: 29729 **RESOLUTION 2024-944** **ROLL CALL VOTE (ADOPTED)**

Acquisition of Real Property @ 218 and 330 Maple Road (Bond Resolution - $5,900,000)

AGENDA ITEM : DECEMBER 2ND, 2024

TO: **Town Board**

FROM: **Samuel A. Alba, Esq., Interim Town Attorney**

DATE: **November 26, 2024**

RE: **Land Acquisition - Parcels Located At 218 and 330 Maple Road**
Bond Resolution - $5,900,000

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

(1) Adopt the attached bond resolution authorizing the issuance of $5,900,000.00 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.

Thank you.

SAA:nmb
Attachment
c: Tim Koller, Deputy Town Clerk (**Agenda Item: December 2, 2024**)

12/2/2024
A motion to approve was made by Supervisor Kulpa, seconded by Councilmember Berger and unanimously approved via Roll Call vote 5-0.

FINANCIAL IMPACT:

Bond Resolution - $5,900,000

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

EXTRACT OF MINUTES

Meeting of the Town Board of the

Town of Amherst, in the

County of Erie, New York

December 2, 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 December 2, 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-2024-944 : Acquisition of Real Property @ 218 and 330 Maple Road (Bond Resolution - $5,900,000))

BOND RESOLUTION OF THE TOWN OF AMHERST, NEW YORK, ADOPTED DECEMBER 2, 2024, AUTHORIZING THE ACQUISITION OF PARCELS OF LAND LOCATED AT 330 MAPLE ROAD (SBL NO. 55.03-1-10) AND 218 MAPLE ROAD (SBL NO. 55.03-1-9), STATING THE ESTIMATED TOTAL MAXIMUM COST THEREOF IS $5,900,000, APPROPRIATING SAID AMOUNT FOR SUCH PURPOSE, AND AUTHORIZING THE ISSUANCE OF BONDS IN THE PRINCIPAL AMOUNT OF $5,900,000 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 the acquisition of parcels of land located at 330 Maple Road (SBL No. 55.03-1-10) and 218 Maple Road (SBL No. 55.03-1-9). The estimated total maximum cost thereof, including preliminary costs and costs incidental thereto and the financing thereof, is $5,900,000 and said amount is hereby appropriated for such purpose. The plan of financing includes the issuance of bonds in the amount of $5,900,000 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 $5,900,000 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.

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

Attachment: CertBondReso (RES-2024-944 : Acquisition of Real Property @ 218 and 330 Maple Road (Bond Resolution - $5,900,000))

(a) The period of probable usefulness applicable to the specific object or purpose for which said $5,900,000 bonds are authorized to be issued, within the limitations of Section 11.00 a. 21(a) of the Law, is thirty (30) years, however, it is hereby determined that the maximum term of such bonds will not exceed five (5) years from the first date of borrowing pursuant to this resolution.

(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 not 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-2024-944 : Acquisition of Real Property @ 218 and 330 Maple Road (Bond Resolution - $5,900,000))

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.

Section 7. This bond resolution shall take effect immediately, and the Town Clerk is hereby authorized and directed to publish the foregoing resolution, in summary, together with a Notice attached in substantially the form prescribed by Section 81.00 of the Law in the

Attachment: CertBondReso (RES-2024-944 : Acquisition of Real Property @ 218 and 330 Maple Road (Bond Resolution - $5,900,000))

"Amherst Bee," a newspaper having a general circulation within said Town and hereby designated as the official newspaper of the Town for such publication.

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-2024-944 : Acquisition of Real Property @ 218 and 330 Maple Road (Bond Resolution - $5,900,000))

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 December 2, 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 December, 2024.

(SEAL)

_____
Town Clerk

Attachment: CertBondReso (RES-2024-944 : Acquisition of Real Property @ 218 and 330 Maple Road (Bond Resolution - $5,900,000))

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

Francina J. Spoth
Town Clerk

Meeting: 12/02/24 07:00 PM
Department: Town Attorney
Initiated by: **Samuel A. Alba**
Co-Sponsored by:

DOC ID: 29700 **RESOLUTION 2024-945** **ADOPTED**

669 Youngs Road - Formation of Sewage Works Corporation

AGENDA ITEM : DECEMBER 2ND, 2024

TO: **Town Board**

FROM: **Samuel A. Alba, Esq., Interim Town Attorney**

DATE: **November 25, 2024**

RE: **Youngs Road Sewage Works Corporation**
669 Youngs Road

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

WHEREAS, Jonathan D. Schechter, Esq., 465 Main Street, Buffalo, New York is forming a sewage works corporation to be named Youngs Sewage Works Corporation, under Article 10-115 of New York State Transportation Corporations Law; and

WHEREAS, the purpose of this corporation is to engage in any lawful act or activity relating to sanitary sewer service for a residential and mixed-use project at 669 Youngs Road, for which a sewage works corporation may be organized under New York State Transportation Corporations Law; and

WHEREAS, as a condition for the formation of the corporation, the controlling municipality needs to give its consent; and

WHEREAS, the Town Board of the Town of Amherst deems it is in the best interest of the Town to approve the formation of the Youngs Road Sewage Works Corporation;

NOW, THEREFORE BE IT RESOLVED, that the Supervisor is hereby authorized to execute the Consent to Formation Letter, approving the formation of a sewage works corporation, to be known as the Youngs Road Sewage Works Corporation, to engage in lawful acts or activities relating to sanitary sewer service for a residential and mixed-use project to be located at 669 Youngs Road located in the Town of Amherst, New York, **Section-Block-Lot Number 81.03-5-20, 81.03-5-21, 81.03-5-22, 81.03-5-23**, which are allowed under Article 10-115 of NY Transportation.

SAA:nmb
c: Tim Koller, Deputy Town Clerk (**Agenda Item : December 2, 2024)**
Dan Howard, Director of Planning
Jeffrey S. Burroughs, PE, Town Engineer
Vaishali Reberholt, PE, Assistant Town Engineer

Jonathan D. Schechter, Esq.
(*Via E-Mail : JSchecter@gross-shuman.com*)

12/2/2024
Consent

FINANCIAL IMPACT:

None for the purposes of this resolution.

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

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

Francina J. Spoth
Town Clerk

Meeting: 12/02/24 07:00 PM
Department: Town Attorney
Initiated by: **Nicole M. Burroughs**
Co-Sponsored by:

DOC ID: 29712 **RESOLUTION 2024-946** **ADOPTED**

License Agreement - 354 S. Cayuga Road (Anderson) (CRS #5196)

AGENDA ITEM : DECEMBER 2nd, 2024

TO: **Town Board**

FROM: **Nicole M. Burroughs, Senior Paralegal**

DATE: **November 26, 2024**

RE: **Request for License Agreement**
Installation and Placement of Moveable Generator
Property Located At:
354 S. Cayuga Road, Amherst, New York

Kindly adopt a resolution authorizing the Supervisor to execute the above License Agreement pending successful completion of the Contract Routing System (CRS).

The owners of the above-referenced property are seeking permission to install and place a moveable generator that would encroach into a Town-owned easement, the details and stipulations of which are more fully described in the License Agreement.

This request was reviewed and approved by the Highway Department.

Thank you for your consideration.

NMB:hs
c: Timothy Koller, Deputy Town Clerk (**Agenda Item: December 2, 2024**)
Steve Floss, Highway Superintendent
Kurt Stanley, Deputy Highway Superintendent

12/2/2024
Consent

FINANCIAL IMPACT:

$150.00 - Fee For License Agreement

$80.00 - ECCO Filing Fee

Both fees paid to the Town in one check by homeowners - $230.00

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

Return to: Town of Amherst Town Attorney's Office
5583 Main Street
Williamsville, New York 14221

TOWN OF AMHERST
LICENSE AGREEMENT

THIS AGREEMENT, made as of this 2nd day of December, 2024, between the Town of Amherst, a municipal corporation existing under and by virtue of the laws of the State of New York, having its principal office at 5583 Main Street, Williamsville, New York 14221, Party of the First Part, hereinafter referred to as the "Town" and

Timothy F. Anderson and Carol A. Anderson
354 S. Cayuga Road
Amherst, New York 14221
SBL: 81.09-5-7.11/26

Parties of the Second Part hereinafter referred to as the "Owners."

WITNESSETH:

WHEREAS, the Owners are presently the owners of following described premises:

All that certain piece of parcel of real property, with the improvements therein contained, situated and being part of a Condominium in the Town of Amherst, County of Erie and State of New York, being part of Lot No. 20, Township 11, Range 7 of the Holland Land Company's Survey known and designated as the following unit (the "Unit" and undivided interest in the common elements of the Condominium hereinafter described as the same is defined in the Declaration of Condominium (the "Declaration") herein referred to as:

Residential Unit No. 354 Sub Lot 26 together with a 3.75% undivided interest in the common elements.

It is more commonly known as:

354 S. Cayuga Road
Amherst, New York 14221
SBL: 81.09-5-7.11/26

WHEREAS, the Town became the holder of a Public Drainage Easement as shown on the Subdivision Map filed in the Erie County Clerk's Office under Cover No. 3470. Said public drainage easement is shown on the survey attached hereto as Exhibit "A;"

TBA : 12.2.2024
Address : 354 S. Cayuga
Owner Name : Anderson

Attachment: 354SCayuga.LicAgr-1122024124941 (RES-2024-946 : License Agreement - 354 S. Cayuga Road (Anderson) (CRS #5196))

WHEREAS, the Owners desire to utilize a portion of the aforementioned easement area:

To place a movable generator

as detailed and as shown on a survey labeled Exhibit "A" attached hereto and made part hereof. Said fence is to be installed in accordance with the stipulations set forth in this agreement.

WHEREAS, the intended use as hereinafter provided does not interfere with the municipal purpose of which said Public Drainage Easement was acquired.

NOW, THEREFORE, in consideration of the premises and the sum of One Dollar ($1.00) paid to the Town, the receipt whereof is hereby acknowledged, and the covenants and promises hereinafter set forth the parties agree as follows:

The Town does hereby grant to the Owners, their successors, distributees and assigns a license and/or privilege to install, maintain, and use a portion of the Public Drainage Easement area as shown on Exhibit "A" subject to the following conditions:

a. No devices, equipment or structures shall be installed or placed within the said easement area without prior approval of the Town apart from the authority granted to the Owners through this agreement;

b. The use of this License Agreement in the Public Drainage Easement area shall not interfere or restrict the operation, maintenance, repair and/or reconstruction of the Public Drainage Facilities;

c. If it becomes necessary to remove said encroachment for the purpose of repair and/or reconstruction of the Public Drainage facility, the cost of the removal and reinstallation of said improvements shall be at the expense of the Owners, their successors, distributees and assigns.

d. If at any time the Public Drainage facilities are exposed, unearthed or damaged, the Town shall be promptly notified and allowed inspection of the easement areas.

The Owners shall defend, indemnify and hold harmless the Town from any and all claims or causes of action arising out of the use and exercise of this agreement.

This Agreement shall commence on the 2nd day of December, 2024 and shall automatically extend for one (1) year periods unless the same is cancelled as herein provided below:

TBA : 12.2.2024
Address : 354 S. Cayuga
Owner Name : Anderson

Attachment: 354SCayuga.LicAgr-1122024124941 (RES-2024-946 : License Agreement - 354 S. Cayuga Road (Anderson) (CRS #5196))

Either party may cancel this Agreement by giving sixty (60) days written notice to the other of such cancellation prior to the date of the automatic extension, said date being referenced in the first paragraph of this agreement, and within said sixty (60) day period, the Owners shall remove said fence and any other structures or personal property within the easement area and shall restore said easement area to the condition that existed prior to placement of the movable generator.

This Agreement shall ensure to the benefit of the parties, hereto, their successors, distributees, and assigns.

IN WITNESS WHEREOF, the parties to this Agreement have executed the same before a licensed Notary Public, on the date referenced below.

TOWN OF AMHERST

_____
Brian J. Kulpa
Supervisor

PROPERTY OWNERS

Timothy F. Anderson

Carol A. Anderson

STATE OF NEW YORK }
ERIE COUNTY }SS:

On the _____day of _____ in the year 2024 before me, the undersigned, personally appeared, **Brian J. Kulpa,** personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to within the instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

_____
Notary Public

TBA : 12.2.2024
Address : 354 S. Cayuga
Owner Name : Anderson

Attachment: 354SCayuga.LicAgr-1122024124941 (RES-2024-946 : License Agreement - 354 S. Cayuga Road (Anderson) (CRS #5196))

STATE OF NEW YORK }
ERIE COUNTY }SS:

On the 21st day of November in the year 2024 before me, the undersigned, personally appeared, **Timothy F. Anderson**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to within the 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.

NICOLE MARIA BURROUGHS
Notary Public, State of New York
No. 01BU6040745
Qualified in Erie County
Commission Expires 4-24-20 26

Notary Public

STATE OF NEW YORK }
ERIE COUNTY }SS:

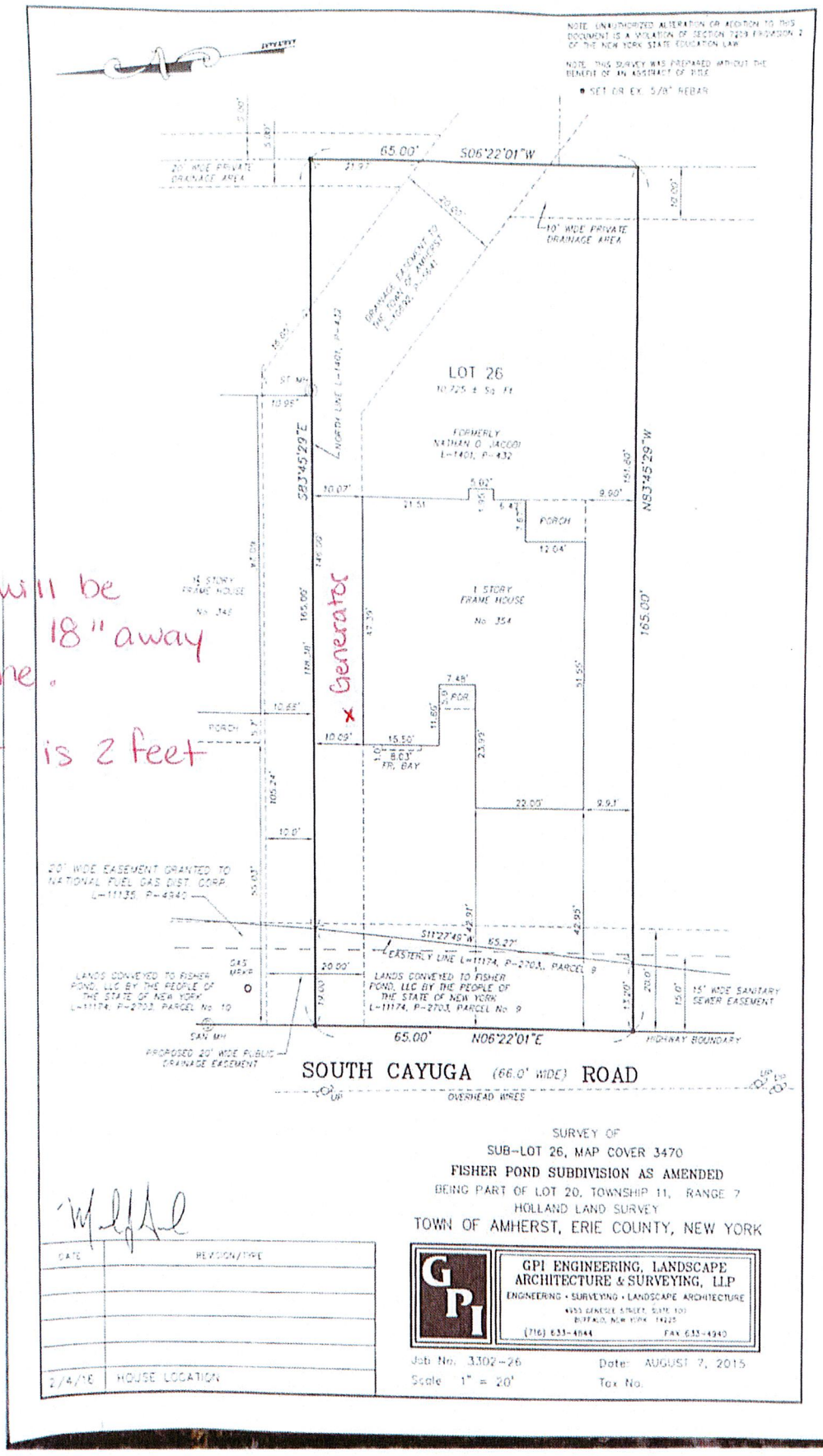
On the 21st day of November in the year 2024 before me, the undersigned, personally appeared, **Carol A. Anderson**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to within the instrument and acknowledged to me that he/she executed 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.

NICOLE MARIA BURROUGHS
Notary Public, State of New York
No. 01BU6040745
Qualified in Erie County
Commission Expires 4-24-20 26

Notary Public

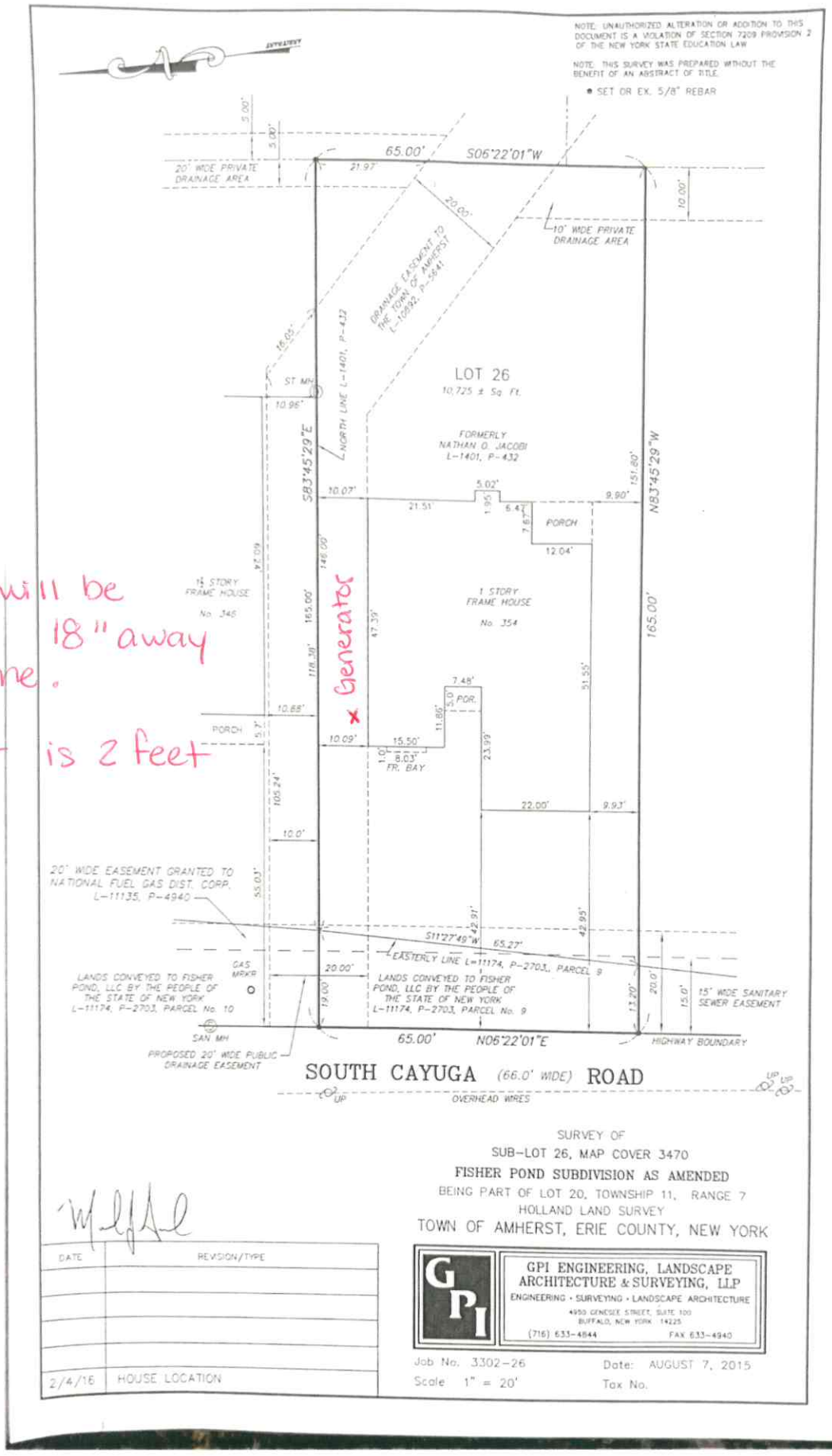
TBA : 12.2.2024
Address : 354 S. Cayuga
Owner Name : Anderson

Attachment: 354SCayuga.LicAgr-1122024124941 (RES-2024-946 : License Agreement - 354 S. Cayuga Road (Anderson) (CRS #5196))



- Generator will be installed 18" away from home.
- Generator is 2 feet wide.

Attachment: 354SCayuga.LicAgr-11222024124941 (RES-2024-946 : License Agreement - 354 S. Cayuga Road (Anderson) (CRS #5196))



- Generator will be installed 18" away from home.
- Generator is 2 feet wide.

Attachment: 354 SCayuga.ExA (RES-2024-946 : License Agreement - 354 S. Cayuga Road (Anderson) (CRS #5196))

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

Francina J. Spoth
Town Clerk

Meeting: 12/02/24 07:00 PM
Department: Town Attorney
Initiated by: **Samuel A. Alba**
Co-Sponsored by:

DOC ID: 29702 **RESOLUTION 2024-947** **ADOPTED**

Henry Schein Settlement - Subdivision Participation and Release Form (Opioid Litigation) (CRS #5210)

AGENDA ITEM : DECEMBER 2nd, 2024

TO: **Town Board**

FROM: **Samuel A. Alba, Esq., Interim Town Attorney**

DATE: **November 25, 2024**

RE: **Henry Schein Settlement**
Subdivision Participation and Release Form (CRS #5210)
(Opioid Litigation)

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

RESOLVED, that the Town Board authorizes the Town Supervisor to sign the attached Subdivision and Release Form as part of the Henry Schein Settlement pending successful completion of the Contract Routing System (CRS).

Thank you.

SAA:nmb
Attachment
c: Timothy Koller, Deputy Town Clerk
(*w/attachment,* **Agenda Item - December 2, 2024**)

12/2/2024
Consent

FINANCIAL IMPACT:

$900,000.00 distributed in a one-time payment among the various participating political subdivisions according to a formula based on the allocation percentages used in previous national opioids settlements

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

Exhibit B

Henry Schein Inc. and Henry Schein Medical Systems, Inc.
Subdivision Participation and Release Form

Governmental Entity:	Town of Amherst	State: New York
Authorized Official:	Brian J. Kulpa	
Address 1:	5583 Main Street	
Address 2:		
City, State, Zip:	Williamsville, NY 14221	
Phone:	716-631-7000	
Email:	BKulpa@amherst.ny.us	

The governmental entity identified above ("*Governmental Entity*"), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to the Settlement Agreement, and acting through the undersigned authorized official, hereby elects to participate in the Settlement Agreement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the Settlement Agreement, understands that all terms in this Participation and Release Form have the meanings defined therein, and agrees that by executing this Participation and Release Form, the Governmental Entity elects to participate in the Settlement Agreement and become a Releasor as provided therein.

2. The Governmental Entity through its counsel shall promptly move to dismiss with prejudice any Released Claims that it has filed.

3. The Governmental Entity agrees to the terms of the Settlement Agreement pertaining to Releasors as defined therein.

4. By agreeing to the terms of the Settlement Agreement and becoming a Releasor, the Governmental Entity is entitled to monetary payments.

5. The Governmental Entity hereby becomes a Releasor for all purposes in the Settlement Agreement, along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever. The releases provided for in the Settlement Agreement are intended by the Parties to be broad and shall be interpreted so as to give the Released

Attachment: Ex.B Schein-1122024132349 (RES-2024-947 : Henry Schein Settlement - Subdivision Participation and Release Form (Opioid

Entities the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the Governmental Entity to release claims. The Settlement Agreement shall be a complete bar to any Released Claim.

6. Nothing herein is intended to modify in any way the terms of the Settlement Agreement, to which Governmental Entity hereby agrees. To the extent this Participation and Release Form is interpreted differently from the Settlement Agreement in any respect, the Settlement Agreement controls.

I have all necessary power and authorization to execute this Participation and Release Form on behalf of the Governmental Entity.

Signature: _____

Name: Brian J. Kulpa

Title: Town Supervisor

Date: _____

Attachment: Ex.B Schein-1122024132349 (RES-2024-947 : Henry Schein Settlement - Subdivision Participation and Release Form (Opioid

Subject to Federal Rule of Evidence 408 and State Equivalents

SETTLEMENT AGREEMENT

PREAMBLE

This SETTLEMENT AGREEMENT ("Settlement Agreement") is entered into by and among the Plaintiffs identified in Exhibit A, (collectively, the "Plaintiffs"), and Defendants Henry Schein, Inc. and Henry Schein Medical Systems, Inc. ("Defendants"). Collectively, the above will be referred to as the "Parties."

WHEREAS, Plaintiffs have asserted or could have asserted cases and/or claims against Defendants involving, arising from, related to, or in connection with damages, costs, monies, abatement and/or any other remedies or relief relating to or arising from past, present, continuing and/or future opioid-related injuries, damages, costs, nuisances and/or harms allegedly caused by Defendants;

WHEREAS, Defendants have denied and continue to deny any liability for the claims asserted by Plaintiffs;

WHEREAS, without any admission of wrongdoing, fault, culpability or liability of any kind, and without any concession as to the strength or weakness of any actual or potential claim(s) or defense(s), the Parties desire to (a) avoid the delay, uncertainty, inconvenience, and expense of protracted litigation, and (b) fully and finally resolve, settle and release all Claims (as defined below) that have been, could have been, or could in the future be asserted against any of the Released Entities (as defined below) relating to the Released Claims (as defined below);

NOW, THEREFORE, in consideration of the above recitals and the promises and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

TERMS AND CONDITIONS

1. **Defined Terms.** In this Settlement Agreement, the following terms shall have the following respective meanings:

"Actions" means the following lawsuits filed by Plaintiffs against Defendants, together with any applicable appeals or transfer cause numbers:

- *County of Kaua'i, a political subdivision of the State of Hawai'i for themselves individually, and on behalf of all similarly situated persons, and on behalf of the general public, as a class v Purdue Pharma L.P., et al., 19-op-45862*
- *Hamilton County, NY v Purdue Pharma L.P., et al., 75015/2022*
- *The City of Ogdensburg v Purdue Pharma L.P., et al., 19-op-45852*
- *Town of Tonawanda, NY v Purdue Pharma L.P., et al., 75059/2022*

Attachment: Settlement Agreement.Schein-1122024132317 (RES-2024-947 : Henry Schein Settlement - Subdivision Participation and Release

- *Schuyler County, NY v Purdue Pharma L.P., et al., 75024/2022*
- *City of Amsterdam v Purdue Pharma L.P., et al., 19-op-46162*
- *City of Kingston, NY v Purdue Pharma L.P., et al., 75056/2022*
- *Yates County, NY v Purdue Pharma L.P., et al., 75050/2022*
- *City of Auburn, v Purdue Pharma L.P., et al., 19-op-45843*
- *The City of Saratoga Springs v Purdue Pharma L.P., et al., 19-op-45857*
- *Schoharie County, NY v Purdue Pharma L.P., et al., 75008/2022*
- *The City of Poughkeepsie v Purdue Pharma L.P., et al., 19-op-46163*
- *City of Ithaca, NY v Purdue Pharma L.P., et al., 75012/2022*
- *Essex County, NY v Purdue Pharma L.P., et al., 75044/2022*
- *Orleans County, NY v Purdue Pharma L.P., et al., 75053/2022*
- *Town of Lancaster, NY v Purdue Pharma L.P., et al., 75060/2022*
- *Cortland County, NY v Purdue Pharma L.P., et al., 75028/2022*
- *Chenango County, NY v Purdue Pharma L.P., et al., 75046/2022*
- *Franklin County, NY v Purdue Pharma L.P., et al., 75022/2022*
- *Allegany County v Purdue Pharma L.P., et al., 19-op-46151*
- *Tioga County, NY v Purdue Pharma L.P., et al., 75047/2022*
- *Genesee County, NY v Purdue Pharma L.P., et al., 75021/2022*
- *Otsego County, NY v Purdue Pharma L.P., et al., 75048/2022*
- *Livingston County, NY v Purdue Pharma L.P., et al., 75040/2022*
- *Warren County, NY v Purdue Pharma L.P., et al., 75054/2022*
- *Madison County, NY v Purdue Pharma L.P., et al., 75052/2022*
- *City of Mount Vernon, NY v Purdue Pharma L.P., et al., 75043/2022*
- *Cayuga County, NY v Purdue Pharma L.P., et al., 75041/2022*

Attachment: Settlement Agreement.Schein-1122024132317 (RES-2024-947 : Henry Schein Settlement - Subdivision Participation and Release

- *Cattaraugus County, NY v Purdue Pharma L.P., et al., 75051/2022*
- *Clinton County, NY v Purdue Pharma L.P., et al., 75013/2022*
- *Chemung County, NY v Purdue Pharma L.P., et al., 75049/2022*
- *Town of Cheektowaga, NY v Purdue Pharma L.P., et al., 75058/2022*
- *Steuben County, NY v Purdue Pharma L.P., et al., 75014/2022*
- *Putnam County, NY v Purdue Pharma L.P., et al., 75042/2022*
- *Tompkins County, NY v Purdue Pharma L.P., et al., 75011/2022*
- *Chautauqua County, NY v Purdue Pharma L.P., et al., 75062/2022*
- *Town of Amherst, NY v Purdue Pharma L.P., et al., 75057/2022*
- *Rensselaer County, NY v Purdue Pharma L.P., et al., 75009/2022*
- *City of Rochester v Purdue Pharma L.P., et al., 19-op-45853*
- *Niagara County, NY v Purdue Pharma L.P., et al., 75010/2022*
- *Saratoga County, NY v Purdue Pharma L.P., et al., 75019/2022*
- *Westchester County, NY v Purdue Pharma L.P., et al., 75020/2022*[1]
- *Nassau County, NY v Purdue Pharma L.P., et al., 400008/2017*[2]
- *County of Cuyahoga et al v Mylan Pharmaceuticals Inc. et al., 23-op-45003*
- *Ashtabula County et al v Mylan Pharmaceuticals Inc. et al., 23-op-45003*
- *City of Broadview Heights et al v Mylan Pharmaceuticals Inc. et al., 23-op-45003*
- *City of Dayton et al v Mylan Pharmaceuticals Inc. et al., 23-op-45003*
- *City of Euclid et al v Mylan Pharmaceuticals Inc. et al., 23-op-45003*
- *City of Findlay et al v Mylan Pharmaceuticals Inc. et al., 23-op-45003*

[1] Every case listed with a NY state cause number other than the *Nassau County* case was filed in NY state court then removed to The Southern District of New York. The district court entered an order granting remand, which is the subject of an appeal to the United States Court of Appeals for the Second Circuit.

[2] This proceeding was removed to Eastern District of New York as Case No. 2:23-cv-05382. The District Court entered an order granting remand, which is the subject of an appeal to the United States Court of Appeals for the Second Circuit.

Attachment: Settlement Agreement.Schein-1122024132317 (RES-2024-947 : Henry Schein Settlement - Subdivision Participation and Release

- *City of Garfield Heights et al v Mylan Pharmaceuticals Inc. et al., 23-op-45003*
- *City of Lorain et al v Mylan Pharmaceuticals Inc. et al., 23-op-45003*
- *City of North Olmsted et al v Mylan Pharmaceuticals Inc. et al., 23-op-45003*
- *City of North Ridgeville et al v Mylan Pharmaceuticals Inc. et al., 23-op-45003*
- *City of Olmsted Falls et al v Mylan Pharmaceuticals Inc. et al., 23-op-45003*
- *City of Parma Heights et al v Mylan Pharmaceuticals Inc. et al., 23-op-45003*
- *City of Parma et al v Mylan Pharmaceuticals Inc. et al., 23-op-45003*
- *City of Seven Hills et al v Mylan Pharmaceuticals Inc. et al., 23-op-45003*
- *City of Strongsville et al v Mylan Pharmaceuticals Inc. et al., 23-op-45003*
- *City of Toledo et al v Mylan Pharmaceuticals Inc. et al., 23-op-45003*
- *City of Warren et al v Mylan Pharmaceuticals Inc. et al., 23-op-45003*
- *City of Warrensville Heights et al v Mylan Pharmaceuticals Inc. et al., 23-op-45003*
- *Jefferson County et al v Mylan Pharmaceuticals Inc. et al., 23-op-45003*
- *Lorain County et al v Mylan Pharmaceuticals Inc. et al., 23-op-45003*
- *Painesville Township et al v Mylan Pharmaceuticals Inc. et al., 23-op-45003*
- *Harrison County OH et al v Mylan Pharmaceuticals Inc. et al., 23-op-45003*
- *Sandusky County et al v Mylan Pharmaceuticals Inc. et al., 23-op-45003*

"Claim" means any past, present or future cause of action, claim for relief, theory of liability, demand, request, assessment, charge, covenant, damage, debt, lien, loss, judgment, right, obligation, dispute, suit, contract, controversy, agreement, promise, performance, warranty, omission, or grievance of any nature whatsoever, whether filed or unfiled, known or unknown, accrued or unaccrued, foreseen or unforeseen, discovered or undiscovered, suspected or unsuspected, fixed or contingent, existing or hereafter arising, including but not limited to any request for declaratory, injunctive, or equitable relief; compensatory, punitive, or statutory damages; absolute liability, strict liability, restitution,

Attachment: Settlement Agreement.Schein-1122024132317 (RES-2024-947 : Henry Schein Settlement - Subdivision Participation and Release

subrogation, contribution, indemnity (by the Plaintiffs against Defendants), apportionment, attorney fees, expert fees, consultant fees, expenses, or any other legal, equitable, civil, criminal, administrative, or regulatory remedy whatsoever.

"Covered Conduct" shall mean any act, failure to act, statement, error, omission, violation of any law, statute, regulation, breach of duty, negligence, misstatement, misleading statement, conduct, event, transaction, or other activity of any kind whatsoever from the beginning of time through the Effective Date (and any past, present, or future consequence of any Claim or any such act, failure to act, statement, error, omission, violation, breach of duty, negligence, misstatement, misleading statement, conduct, event, transaction, or activity) relating in any way to (i) the dispensing, promotion, advertising, recall, withdrawal, distribution, delivery, monitoring, reporting, supply, sale, prescribing, use or abuse of any Opioid Product, or any system, plan or policy relating thereto, (ii) the characteristics, properties, efficacy, risks, or benefits of any Opioid Product, (iii) the reporting, disclosure, non-reporting or non-disclosure to federal, state or other regulators or governmental entities of orders placed with any Released Entity, or (iv) diversion control programs or suspicious order monitoring.

"Dismissal Order" means the order that shall be filed in the Actions upon execution of the Settlement Agreement by Plaintiffs dismissing the filed actions as to Defendants with prejudice.

"Effective Date" means the date on which the funds are received, via wire, by Plaintiffs' counsel, Napoli Shkolnik pursuant to Paragraph 2.

"Execution Date" means the date on which this Settlement Agreement is executed by the last Party to do so.

"Notice Designees" has the meaning set forth in Paragraph 19.

"Opioid Product" means any chemical substance, whether natural, synthetic, or semi-synthetic, that binds or otherwise interacts with opioid receptors in the body or brain, as well as any product containing any such substance; this definition shall include but is not limited to any substance consisting of or containing buprenorphine, suboxone, naloxone, codeine, fentanyl, hydrocodone, hydromorphone, meperidine, methadone, morphine, naloxone, naltrexone, oxycodone, oxymorphone, tapentadol, tramadol, opium, heroin, carfentanil, or any similar substance, whether used for medicinal or non-medicinal purposes.

"Parties" has the meaning set forth in the Preamble.

"Party" means one of the Parties.

"Plaintiffs" has the meaning set forth in the Preamble.

"Released Claims" means any Claim by any Releasor against any Released Entity in any way arising from, growing out of or in any manner relating to, or based on the

Attachment: Settlement Agreement.Schein-1122024132317 (RES-2024-947 : Henry Schein Settlement - Subdivision Participation and Release

Covered Conduct or any Claim or potential Claim arising from or relating to the allegations that have been made or could have been made in the Actions. For the avoidance of doubt, the term "Released Claims" includes, but is not limited to: (a) Claims for alleged violations of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. § 1961 et seq.; (b) Claims for alleged violations of state corrupt practices acts; (c) Claims for alleged violations of any federal, state, or local law, regulation, or ordinance concerning controlled substances; (d) Claims alleging any statutory or common law public nuisance; (e) Claims alleging any statutory or common law fraud, negligence, injury through criminal acts, conspiracy, or unjust enrichment; (f) Claims seeking the abatement of any nuisance or other condition within the Plaintiffs' jurisdictions; and (g) Claims seeking relief for any sort of harm to the public or public interest.

"Released Entities" means (a) Defendants; and (b) each of their current and former parent companies, direct and indirect subsidiaries, corporate owners, divisions, affiliates, predecessors, successors and assigns; and the past, present and future directors (in their capacity as acting directors for Defendants), managers, officers, employees, shareholders, attorneys, servants and agents, representatives, and insurers of any of the foregoing, and any current or former related companies.

"Releasors" means (a) Plaintiffs and (b) all of their past, present, and future agencies, authorities, boards, commissions, councils, departments, districts, divisions, offices, predecessors, successors, assigns, officials (elected or unelected), employees, attorneys, agents, representatives, and any other persons or entities within control of any of the foregoing or through which any of the foregoing may take action or on whose behalf they have the right to give the releases set forth in this Settlement Agreement.

"Settlement Agreement" has the meaning set forth in the Preamble.

"Settlement Amount" means the sum of $900,000.00 to be paid by Defendants to Plaintiffs in accordance with Paragraph 2. Plaintiffs agree and consent to Defendants holding back from the Settlement Amount the Multi District Litigation ("MDL") assessment as required pursuant to the May 9, 2022 Ongoing Common Benefit Order and July 6, 2023 Order Regarding 7.5% Common Benefit Assessments entered in *In Re: National Prescription Opiate Litigation*, Case No. 1:17-md-2804, which said amount ($67,500.00) (7.5% of the Settlement Amount) shall be paid by Defendants directly to the Court Common Benefit Fund within ten (10) business days after the Execution Date of this Settlement Agreement.

"Third Party" means any person or entity other than the Parties.

2. **Payment of Settlement Amount.** In full and final satisfaction of all Released Claims, the Settlement Amount shall be paid to Plaintiffs as follows:

(a) Defendants shall pay the Settlement Amount of $832,500.00 in U.S. dollars ($)to be paid by wire transfer to Plaintiffs' counsel, Napoli Shkolnik PLLC, pursuant to

Attachment: Settlement Agreement.Schein-1122024132317 (RES-2024-947 : Henry Schein Settlement - Subdivision Participation and Release

wire instructions to be provided; Defendants shall make such payment within ten (10) business days after the Execution Date of this Settlement Agreement.

(b) Releases.

(i) Upon the Effective Date, Releasors shall be deemed to have fully, finally, and forever released the Released Entities from all Released Claims with prejudice. For the avoidance of doubt, Releasors hereby absolutely, unconditionally, and irrevocably covenant not to bring, file, or claim, or to cause, assist, or permit to be brought, filed, or claimed, any Released Claims of any type in any forum whatsoever arising from Covered Conduct against the Released Entities. This Settlement Agreement shall constitute and may be pleaded as a complete bar to any Released Claim.

(ii) It is the intention of the Parties in executing this Settlement Agreement to effect a good-faith settlement by certain alleged joint tortfeasors. The Releasors intend to release Released Entities from any and all potential Released Claims for contribution or equitable or implied indemnity that may exist under any state or federal statutory or common law.

(iii) The releases set forth in this Settlement Agreement shall become effective immediately upon the Effective Date.

3. **Dismissal and Acknowledgement.** The Plaintiffs shall promptly, and in any event no later than 10 business days after the Effective Date, dismiss with prejudice any Released Claims that it has filed. If the venue indicated on the dismissal form templates changes, the parties will work diligently to modify such dismissal forms to comply with the new venue. *See* Exhibit C Dismissal Draft Forms.

4. **Settlement Allocation**. The Settlement Amount will be apportioned among Plaintiffs using allocation percentages used in previous National Opioid Settlements and used by Plaintiffs at the sole discretion of Plaintiffs.

5. **No Third-Party Beneficiaries.** Nothing in this Settlement Agreement is intended to or shall confer upon any Third Party any legal or equitable right, benefit, or remedy of any nature whatsoever.

6. **No Admission of Liability**. Defendants are entering into this Settlement Agreement solely for the purpose of settlement, and nothing contained herein may be taken as or construed to be an admission or concession of any violation of law, rule, or regulation, or of any other matter of fact or law, or of any liability or wrongdoing, all of which Defendants expressly deny. Defendants do not admit that they caused or contributed to any public nuisance or harm, and Defendants do not admit any wrongdoing that was or could have been alleged by Plaintiffs. No part of this Settlement Agreement, including its statements and commitments, shall constitute evidence of any liability, fault, or wrongdoing by Defendants. The execution of this Settlement Agreement shall not constitute nor ever be

Attachment: Settlement Agreement.Schein-1122024132317 (RES-2024-947 : Henry Schein Settlement - Subdivision Participation and Release

offered by any Party as an admission of any fact or allegation asserted in any lawsuit, arbitration or legal proceeding.

7. **No Assignment**. The Plaintiffs have not assigned, sold, subrogated, or otherwise conveyed to any Third Party any actual or potential Claim they have, or could have, against Defendants arising from the Actions or related in any way to the conduct alleged (or that could have been alleged) therein, and that in the event Defendants are subjected to further demands or Claims by any person or persons pursuant to any such assignment, right of substitution, or subrogation made by the Plaintiffs to any Third Party, the Plaintiffs shall indemnify and hold Defendants harmless therefrom at the Plaintiffs' sole cost and expense.

8. **Entire Agreement**. This Settlement Agreement represents the full and complete terms of the settlement entered into by the Parties hereto. In any action undertaken by the Parties, no prior versions of this Settlement Agreement and no prior versions of any of its terms that were not entered by the Court in this Settlement Agreement, may be introduced for any purpose whatsoever.

9. **Modification**. This Settlement Agreement may be modified only in writing signed by all Parties.

10. **Arm's Length Negotiations**. The Parties agree and stipulate that this Settlement Agreement was negotiated on an arm's-length basis between parties of equal bargaining power. The Settlement Agreement has been drafted jointly by counsel for each Party.

11. **Counterparts**. This Settlement Agreement may be executed in counterparts, and a facsimile or .pdf signature shall be deemed to be, and shall have the same force and effect as, an original signature.

12. **Governing Law**. The terms of this Settlement Agreement shall be governed by the laws of the State of New York.

13. **Legislature Approval**. This Settlement Agreement is subject to acceptance by the Plaintiffs' Legislatures or Counsel for final approval, if necessary, or if a resolution is passed obviating the need for legislative or counsel approval.

14. **No Publicity**. The Parties agree they will not issue any press release regarding this settlement or Settlement Agreement. They future agree that if asked, they will provide "no comment" regarding this settlement or Settlement Agreement.

15. **Future Discovery**. The Plaintiffs may hereafter discover facts other than or different from those which they know, believe, or assume to be true with respect to the Released Claims, but the Plaintiffs hereby expressly waive and fully, finally, and forever settle, release and discharge, upon the Effective Date, any and all Claims that may exist as of such date but which the Plaintiffs do not know or suspect to exist which, if known, would materially affect the Plaintiffs' decision to enter into this Settlement Agreement.

Attachment: Settlement Agreement.Schein-1122024132317 (RES-2024-947 : Henry Schein Settlement - Subdivision Participation and Release

16. **Venue**. Any suits, actions or proceedings arising out of this Settlement Agreement shall be brought in State Court in the County of Suffolk, New York.

17. **Amendment**. This Settlement Agreement shall not be varied or modified in any respect, except by a subsequent written agreement executed by all Parties through their authorized representatives.

18. **Severability**. If, after the date hereof, any provision of this Agreement is held to be illegal, invalid, or unenforceable under the present or future laws effective during the term of this Agreement, such provision shall be fully severable. In lieu thereof, there shall be added a provision as similar in terms to such illegal, invalid, or unenforceable provision as may be effective, legal, valid, and enforceable.

19. **Notice**. All Notices under this Settlement Agreement shall be provided to the following Notice Designees via email and Overnight Mail:

For Plaintiffs:

Paul J. Napoli
1302 Avenida Ponce de Leon
Santurce, Puerto Rico 00907
pnapoli@nsprlaw.com

For Defendants:

Henry Schein, Inc.
c/o: General Counsel's Office
135 Duryea Rd
Melville, NY 11747-3834
GeneralCounselOffice@henryschein.com
Melville-Legal@henryschein.com

-AND-

Locke Lord LLP
c/o: Lauren Fincher
300 Colorado St., Suite 2100
Austin, Texas 78701
lfincher@lockelord.com

Attachment: Settlement Agreement.Schein-1122024132317 (RES-2024-947 : Henry Schein Settlement - Subdivision Participation and Release

IN WITNESS WHEREOF, this Settlement Agreement has been read and signed by the duly authorized representatives of each of the Parties.

Henry Schein, Inc.

Date: August 21, 2024

By: _____

Name: Michael S. Ettinger

Title: Executive Vice President and Chief Operating Officer

Henry Schein Medical Systems, Inc.

Date: August 21, 2024

By: _____

Name: Michael S. Ettinger

Title: Executive Vice President

See Exhibit B for Form Signed by Plaintiffs for Settlement.

Attachment: Settlement Agreement.Schein-1122024132317 (RES-2024-947 : Henry Schein Settlement - Subdivision Participation and Release

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

Francina J. Spoth
Town Clerk

Meeting: 12/02/24 07:00 PM
Department: Town Attorney
Initiated by: **Samuel A. Alba**
Co-Sponsored by:

DOC ID: 29703 **RESOLUTION 2024-948** **ADOPTED**

Target Settlement - Subdivision Participation and Release Form (Opioid Litigation) (CRS #5211)

AGENDA ITEM : DECEMBER 2nd, 2024

TO: **Town Board**

FROM: **Samuel A. Alba, Esq., Interim Town Attorney**

DATE: **November 25, 2024**

RE: **Target Master Settlement Agreement**
Settling Subdivision Participation and Release Form
(CRS #5211)
(Opioid Litigation)

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

RESOLVED, that the Town Board authorizes the Town Supervisor to sign the attached Settling Subdivision and Release Form as part of the Target Master Settlement Agreement pending successful completion of the Contract Routing System (CRS).

Thank you.

SAA:nmb
Attachment
c: Timothy Koller, Deputy Town Clerk
(*w/attachment,* **Agenda Item - December 2, 2024**)

12/2/2024
Consent

FINANCIAL IMPACT:

$14,000,000.00 distributed in a one-time payment among the various participating political subdivisions according to a formula based on the allocation percentages used in previous national opioids settlements

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

TARGET MASTER SETTLEMENT AGREEMENT

EXHIBIT B

SETTLING SUBDIVISION PARTICIPATION AND RELEASE FORM

Local Political Subdivision / Governmental Entity:	Town of Amherst
State:	New York
Authorized Official:	Brian J. Kulpa
Address 1:	5583 Main Street
Address 2:	
City, State, Zip:	Williamsville, NY 14221
Phone:	716-631-7000
Email:	BKulpa@amherst.ny.us

The local political subdivision / governmental entity identified above ("*Settling Subdivision*"), in order to obtain and in consideration for the benefits provided to the Settling Subdivision pursuant to the Settlement Agreement, and acting through the undersigned authorized official, hereby elects to participate in the Settlement Agreement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Settling Subdivision is aware of and has reviewed the Settlement Agreement, understands that all terms in this Participation and Release Form have the meanings defined therein, and agrees that by executing this Participation and Release Form, the Settling Subdivision elects to participate in the Settlement Agreement and become a Releasor as provided therein.

2. The Settling Subdivision through its counsel shall promptly move to dismiss with prejudice any Released Claims that it has filed.

3. The Settling Subdivision agrees to the terms of the Settlement Agreement pertaining to Releasors as defined therein, and specifically the Settling Subdivision acknowledges and agrees that it is the intent of the Parties that the Settlement Amount be for Opioid Remediation, as defined in the Settlement Agreement, and that in no event may less than eighty-five percent (85%) of the Settlement Amount (less any amounts used to pay attorneys' fees, investigation costs, or litigation costs) be spent on Opioid Remediation. Settling Subdivision agrees to either maintain the Settlement Amount in an account designated for Opioid Remediation, or at its discretion, shall cooperate with any reasonable request by Target for a report accounting for the disbursement of the settlement funds.

4. By agreeing to the terms of the Settlement Agreement and becoming a Releasor, the Settling Subdivision is entitled to monetary payments.

Attachment: Ex.B. Target-1122024132504 (RES-2024-948 : Target Settlement - Subdivision Participation and Release Form (Opioid Litigation)

5. The Settling Subdivision hereby becomes a Releasor for all purposes in the Settlement Agreement, along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Settling Subdivision hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever. The releases provided for in the Settlement Agreement are intended by the Parties to be broad and shall be interpreted so as to give the Released Entities the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the Settling Subdivision to release claims. The Settlement Agreement shall be a complete bar to any Released Claim.

6. Nothing herein is intended to modify in any way the terms of the Settlement Agreement, to which Settling Subdivision hereby agrees. To the extent this Participation and Release Form is interpreted differently from the Settlement Agreement in any respect, the Settlement Agreement controls.

I have all necessary power and authorization to execute this Participation and Release Form on behalf of the Settling Subdivision.

Signature: _____

Name: Brian J. Kulpa

Title: Town Supervisor

Date: _____

Attachment: Ex.B. Target-1122024132504 (RES-2024-948 : Target Settlement - Subdivision Participation and Release Form (Opioid Litigation)

MASTER SETTLEMENT AGREEMENT

PREAMBLE

This Master Settlement Agreement ("MSA" or "Agreement") is entered into by and among the Settling Local Political Subdivisions identified in Exhibit A, (the "Settling Subdivisions"), and Target Corporation ("Target"). Collectively, the above will be referred to as the "Parties."

WHEREAS, the Settling Subdivisions have or will assert cases and/or claims against Target involving, arising from, related to, or in connection with damages, costs, monies, abatement and/or any other remedies or relief relating to or arising from past and/or continuing opioid-related injuries, damages, costs, nuisances and/or harms allegedly caused by Target;

WHEREAS, Target has denied and continues to deny any liability for the claims asserted by the Settling Subdivisions;

WHEREAS, without any admission of wrongdoing, fault, culpability or liability of any kind, and without any concession as to the strength or weakness of any actual or potential claim(s) or defense(s), the Parties desire to (a) avoid the delay, uncertainty, inconvenience, and expense of protracted litigation by the Settling Subdivisions, and (b) fully and finally resolve, settle and release all Claims (as defined below) that have been, could have been, or could in the future be asserted against any of the Target Released Entities (as defined below) relating to the Released Claims (as defined below);

NOW, THEREFORE, in consideration of the above recitals and the promises and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

TERMS AND CONDITIONS

1. **Defined Terms.** In this Settlement Agreement, the following terms shall have the following respective meanings:

A. "Action(s)" means all proceedings brought by the Settling Subdivisions against Target related to the Covered Conduct and/or the Products, in any state or federal court, including the cases identified in Exhibit A.

B. "Aggregate Settlement Amount" means the sum of $14,000,000 U.S. dollars to be paid by Target to the Settling Subdivisions in accordance with Paragraph 2.

C. "Alleged Harms" means the alleged past, present, and future financial and societal harms and related expenditures arising out of the alleged misuse and abuse of Products, including those expenditures that have allegedly arisen as a result of the physical and bodily injuries sustained by individuals suffering from opioid-related addiction, abuse, death, and other related diseases and disorders.

D. "Claim(s)" means any cause of action, claim for relief, cross-claim or counterclaim, theory of liability, demand, derivative or indemnity claim, request,

Attachment: Settlment Agreement.Target-1122024132429 (RES-2024-948 : Target Settlement - Subdivision Participation and Release Form

assessment, charge, covenant, damage, debt, lien, loss, fine, penalty, restitution, reimbursement, disgorgement, expenses, judgement, right, obligation, dispute, action, suit, controversy, parens patriae claim, attorneys' fees and costs, claim for payment of unpaid fees, and/or any grievance of any nature whatsoever, whether legal, equitable, statutory, regulatory, or administrative, whether arising under federal, state, or local common law, statute regulation, guidance, ordinance, or principles of equity, whether filed or unfiled, whether asserted or unasserted, whether known or unknown, whether accrued or unaccrued, whether foreseen, unforeseen, or unforeseeable, whether discovered or undiscovered, whether suspected or unsuspected, whether fixed or contingent, and whether existing or hereafter arising, in any forum, including but not limited to any request for declaratory, injunctive, or equitable relief, compensatory, punitive, or statutory damages, absolute liability, strict liability, restitution, subrogation, contribution, indemnity, apportionment, disgorgement, reimbursement, abatement, attorneys' fees, expert fees, consultant fees, fines, penalties, expenses, costs, or any other legal, equitable, civil, administrative, or regulatory remedy whatsoever.

E. "Claim-Over" means a Claim asserted by a Non-Released Party against Target Released Entity on the basis of contribution, indemnity, or any claim-over theory relating to Claims arising out of or related to Covered Conduct (or conduct that would be Covered Conduct if engaged in by Target) asserted by a Releasor against the Target Released Entities.

F. "Covered Conduct" means any and all actual or alleged act, failure to act, negligence, statement, error, omission, breach of any duty, conduct, event, transaction, agreement, service, work, misstatement, misleading statement, or other activity or inactivity of any kind whatsoever from the beginning of time (and any past, present, or future consequence of any such act, failure to act, negligence, statement, error, omission, breach of duty, conduct, event, transaction, agreement, service, work, misstatement, misleading statement, or other activity or inactivity of any kind whatsoever) relating in any way to: (1) any alleged opioid-related overdoses, abuses, crises, epidemics, injuries, or costs; (2) the discovery, research, development, manufacture, packaging, repackaging, marketing, promotion, advertising, labeling, relabeling, recall, withdrawal, distribution, delivery, monitoring, reporting, supply, sale, prescribing, ordering, auditing, analyzing, dispensing, training, physical security, warehousing, use or abuse of, training or education relating to, or operating policies or procedures relating to, any Products, or any system, plan, policy, procedure, program, data, campaign, or advocacy relating to any Product; (3) the characteristics, properties, risks, or benefits of any Product and/or any Product used in combination with any other Product; (4) the monitoring, auditing, reporting, disclosure, non-monitoring, non-reporting, or non-disclosure to federal, state, or other governmental officials or regulators of any acts, omissions, failures to act, conduct, events, transactions, or occurrences relating to any controlled substances, including Products; and/or (5) any acts, omissions, failures to act, conduct, events, transactions, or occurrences that were or could have been alleged in the Action, including but not limited to in the Petition. The Parties intend that "Covered Conduct" be interpreted broadly.

Attachment: Settlment Agreement.Target-1122024132429 (RES-2024-948 : Target Settlement - Subdivision Participation and Release Form

G. "Dismissal Order(s)" means the order that shall be filed in the Actions upon execution of this Agreement by the Settling Subdivisions dismissing the filed actions as to Target with prejudice.

H. "Effective Date" means the last date on which all of the following have occurred, and all of the following are conditions precedent to making this a final and binding Agreement:

(i) the Agreement is fully executed;

(ii) Target has paid the Aggregate Settlement Amount to the Settling Subdivisions in accordance with Paragraph 2;

(iii) all Settling Subdivisions have executed and provided to Target a Settling Subdivision Release; and

(iv) the Settling Subdivisions have filed dismissals with prejudice of all of their claims asserted against Target in the Actions identified in Exhibit A.

I. "Execution Date" means the date on which this Settlement Agreement is executed by the last Party to do so.

J. "Escrow Account" means an escrow account established by or on behalf of the Settling Subdivisions, for the wire transfer of the Aggregate Settlement Amount contemplated by Paragraph 2(a).

K. "Non-Released Parties" means any person or entity other than the Target Released Entities.

L. "Notice Designees" has the meaning set forth in Paragraph 19.

M. "Opioid Remediation" means care, treatment, and other programs and expenditures (including reimbursement for past such programs or expenditures) designed to remediate Alleged Harms, including to (1) address the misuse and abuse of opioid products, (2) treat or mitigate opioid use or related disorders, or (3) mitigate other alleged effects of, including on those injured as a result of, the opioid epidemic. Qualifying expenditures may include reasonable related administrative expenses.

N. "Parties" has the meaning set forth in the Preamble.

O. "Product(s)" means: (1) all medications approved by the U.S. Food & Drug Administration composed of or containing natural, synthetic, or semisynthetic chemicals that bind to opioid receptors in the brain or body, including but not limited to prescription medications containing fentanyl, hydrocodone, hydromorphone, methadone, morphine, oxycodone, tapentadol, tramadol, buprenorphine, butorphanol, codeine, propoxyphene, and diphenoxylate, whether generic or branded, in whatever form, including but not limited to tablet, capsule, pill, patch, spray, and film, and whether or not listed by the U.S. Drug Enforcement Administration ("DEA") as Schedule II, III, or IV drugs pursuant to the

Attachment: Settlment Agreement.Target-1122024132429 (RES-2024-948 : Target Settlement - Subdivision Participation and Release Form

federal Controlled Substances Act; (2) chemicals that bind opioid receptors in the brain or body referred to in the Petition or otherwise related to the Covered Conduct and/or the Action; (3) any other controlled substances alleged to have contributed to, caused, or impacted the opioid crisis or alleged to have contributed to, caused, or impacted the opioid crisis or alleged to be abused in combination with Products, including but not limited to benzodiazepines, muscle relaxants, anesthetics, and sedatives; and (4) opiate antagonists, including but not limited to naloxone and naltrex.

P. "Released Claims" means any Claim by any Releasor against any Released Entity in any way arising from, growing out of or in any manner relating to, or based on the Covered Conduct or any Claim or potential Claim arising from or relating to the allegations that have been made or could have been made in the Actions. For the avoidance of doubt, the term "Released Claims" includes, but is not limited to: (a) Claims for alleged violations of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. § 1961 et seq.; (b) Claims for alleged violations of state corrupt practices acts; (c) Claims for alleged violations of any federal, state, or local law, regulation, or ordinance concerning controlled substances; (d) Claims alleging any statutory or common law public nuisance; (e) Claims alleging any statutory or common law fraud, negligence, injury through criminal acts, conspiracy, or unjust enrichment; (f) Claims seeking the abatement of any nuisance or other condition the Settling Subdivisions' jurisdictions; and (g) Claims seeking relief for any sort of harm to the public or public interest. For the avoidance of doubt, this Settlement Agreement does not purport to release any claims that have been brought by the Non-Settling Entities, who are not parties or privies to this Settlement Agreement.

Q. "Releasors" means (a) the Settling Subdivisions and (b) all of their past, present, and future agencies, authorities, boards, commissions, councils, departments, districts, divisions, offices, predecessors, successors, assigns, officials (elected or unelected), employees, attorneys, agents, representatives, and any other persons or entities within control of any of the foregoing or through which any of the foregoing may take action or on whose behalf they have the right to give the releases set forth in this Settlement Agreement.

R. "Settlement Agreement" is this Master Settlement Agreement as defined in the Preamble.

S. "Settling Subdivision Release" shall mean the Settling Subdivision Participation and Release Form attached as Exhibit B.

T. "Settling Subdivisions" are the local political subdivisions identified in Exhibit A, as defined in the Preamble.

U. "Target Released Entities" means Target Corporation, and all and each of its past, present, and future parents, related organizations, subsidiaries, divisions, departments, controlled entities, unincorporated business units, holding companies, affiliates, successors, or predecessors, and any of the past, present, and future officers, directors, stockholders, administrators, partners, members, associates, agents, attorneys, advisors, servants, subrogees, employees, representatives, beneficiaries, administrators,

Attachment: Settlment Agreement.Target-1122024132429 (RES-2024-948 : Target Settlement - Subdivision Participation and Release Form

assigns, heirs, consultants, principals, and trustees, and their respective insurers and reinsurers in their capacity as such, of any of the foregoing entities. The Parties intend that "Target Released Entities" be interpreted broadly.

2. **Payment of Aggregate Settlement Amount.** In full and final satisfaction of all Released Claims, the Aggregate Settlement Amount shall be paid to the Settling Subdivisions as follows:

(a) Within 30 (thirty) days of the later of (a) the Execution Date or (b) the date that Target receives a completed W-9 and wire instructions from the Settling Subdivisions' counsel, Napoli Shkolnik PLLC, Target shall make a total payment of $14,000,000 as the Aggregate Settlement Amount into the Escrow Account, for the benefit of the Settling Subdivisions.

(b) The Aggregate Settlement Amount will be apportioned among the Settling Subdivisions using allocation percentages used in previous National Opioid Settlements and used by the Settling Subdivisions at the sole discretion of the Settling Subdivisions and their counsel. Target shall not participate in the apportionment and shall not be responsible for the methodology or cost of the apportionment. The sufficiency of the Aggregate Settlement Amount is acknowledged by the Parties and is inclusive of all attorneys' fees and costs and any and all other charges, fees, liens and./or costs associated with completing the terms of this Settlement Agreement, including, but not limited to, any and all assessments for any common benefit and/or court mandated assessment funds, any payments that may be required to satisfy liens or subrogation interests, and any fees and costs associated with the setup and the administration of apportionment of the Aggregate Settlement Amount.

(c) Within 45 (forty-five) days of payment of the Aggregate Settlement Amount, all Settling Subdivisions identified in Exhibit A shall provide executed Settling Subdivision Releases to Target. Upon Target's receipt of all Settling Subdivision Releases, the funds in the Escrow Account shall immediately and by the terms of the Escrow Account be released to the Settling Subdivisions.

(d) Releases.

(i) Upon the Effective Date, Releasors shall be deemed to have fully, finally, and forever released the Released Entity from all Released Claims with prejudice. For the avoidance of doubt, Releasors hereby absolutely, unconditionally, and irrevocably covenant not to bring, file, or claim, or to cause, assist, or permit to be brought, filed, or claimed, any Released Claims of any type in any forum whatsoever arising from Covered Conduct against the Target Released Entities. This Settlement Agreement shall constitute and may be pleaded as a complete bar to any Released Claim.

(ii) It is the intention of the Parties in executing this Settlement Agreement to effect a good-faith settlement by certain alleged joint tortfeasors. The

Attachment: Settlment Agreement.Target-1122024132429 (RES-2024-948 : Target Settlement - Subdivision Participation and Release Form

Releasors intend to release Target Released Entities from any and all potential Released Claims for contribution or equitable or implied indemnity that may exist under any state or federal statutory or common law.

(iii) The releases set forth in this Settlement Agreement shall become effective immediately upon the Effective Date.

3. Dismissals. Within three (3) business days after the Execution Date, the Settling Subdivisions shall file a Notice of Voluntary Dismissal with Prejudice in the Actions, voluntarily dismissing with prejudice all of the Settling Subdivisions' claims against Target with prejudice and without costs.

4. Confidentiality.

a. The Settling Subdivisions and their counsel agree that they will not disclose, publish, publicize, disseminate, or otherwise communicate to any individual or entity any term, condition, or provision of this Agreement, including the Aggregate Settlement Amount or allocated settlement amount, except as is required by law, including under the any sunshine, open records or open meeting acts.

b. The confidentiality provisions in this Agreement do not prohibit or restrict the Settling Subdivisions from making such disclosures as are required by law, including under applicable open records or open meeting acts, nor does this Section prohibit disclosures or communications to governmental agencies or entities, courts, tax advisors, attorneys, insurers, reinsurers, or accountants who require such information.

c. In the event that, pursuant to a valid subpoena, court order, or other valid legal process in any litigation, the Local Government's attendance, testimony, or production of documents is commanded or required which would require disclosure of the Agreement and/or any of its terms, conditions, or monetary consideration, unless prohibited or restricted by applicable law or court order, the Settling Subdivisions will promptly provide Target with written notice for the purpose of determining whether to intervene in order to maintain the confidentiality of the information, and shall exercise reasonable efforts to attempt to maintain the confidentiality of this Agreement.

d. The Settling Subdivisions and their employees, attorneys, agents, and any other representatives covenant and agree that, except as is required by law, including under applicable open records or open meeting acts, they will not disclose or reveal to any person, corporation, newspaper, radio station, television station, or any other entity whatsoever, nor will they directly or indirectly, cause to be disclosed, revealed, published, publicized, disseminated, or communicated, to any person, corporation, media outlet or entity, any information whatsoever

Attachment: Settlment Agreement.Target-1122024132429 (RES-2024-948 : Target Settlement - Subdivision Participation and Release Form

concerning the terms, methodologies, computations, or conditions of this Agreement, including the settlement amount.

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5. Non-Disparagement.

The Settling Subdivisions agree not to make any statement related to Target, written or verbal, including but not limited through their commissioners, directors and officers, employees, agents, attorneys, representatives, departments, and divisions, to any person or entity that is critical, denigrating, or otherwise reasonably likely to be harmful to Target, or to be injurious to the goodwill, reputation, or business standing of Target. Notwithstanding the foregoing, this non-disparagement clause shall not preclude the Settling Subdivisions from any good faith response to any inquiries under oath or in response to governmental inquiries, or to statements made in the course of legal proceedings, to the extent any such statements are allowed under, and subject to the notice requirement of, the final clause in Paragraph 4 of this Agreement.

6. Contribution, Indemnification, Non-Party Settlement and Claim-Over.

(a) Statement of Intent. The Parties agree that they have entered into this Agreement in good faith based upon numerous factors, including the Target Released Entities' role in the pharmacy market, and that payment made under this Agreement shall be the sole payment made by the Target Released Entities to the Settling Subdivisions involving, arising out of, or related to the Covered Conduct, the Products, the Action, and/or allegations encompassed by the Petition. It is the further intent of the Parties that the Target Released Entities should not seek contribution or indemnification (other than pursuant to any insurance contract) from other parties for their payment obligation under this Agreement; that Claims by the Settling Subdivisions against Non-Released Parties should not result in additional payments by the Target Released Entities, whether through contribution, indemnification, or any other means; and that this Agreement meets the requirements of applicable law or doctrine that reduces or discharges a released party's liability to any other parties.

(b) Non-Party Settlement. To the extent that, on or after the Effective Date, any Settling Subdivision settles any Claims it may have against any Non-Released Party arising out of or related to Covered Conduct (or conduct that would be Covered Conduct if engaged in by a Target Released Entity), the Products, and/or the Action, including in any bankruptcy case or through any plan of reorganization (whether individually or as a class of creditors), the Settling Subdivision will include in the Non-Released Party settlement (or in the case of a Non-Released Party settlement made in connection with a bankruptcy case, will cause the debtor to include), unless prohibited from doing so under applicable law, a prohibition on contribution or

Attachment: Settlment Agreement.Target-1122024132429 (RES-2024-948 : Target Settlement - Subdivision Participation and Release Form

indemnity of any kind or a release from such Non-Released Party in favor of the Target Released Entities or any Claim-Over.

(c) Claim-Over. In the event that any Settling Subdivision obtains a settlement or judgement with respect to the Covered Conduct, the Products, and/or the Action against a Non-Released Party that does not contain a prohibition on contribution or indemnity of any kind or a release from such Non-Released Party in favor of the Target Release Entities, or any Settling Subdivision files or has filed a Claim arising out of or related to Covered Conduct, the Products, and/or the Action against a Non-Released Party in bankruptcy, and such Non-Released Party asserts a Claim arising out of or related to Covered Conduct, the Products, and/or the Action against a Target Released entity (a "Claim-Over"), then the Settling Subdivision and Target Released Entities shall take the following actions to ensure that the Target Released Entities do not pay more with respect to the Covered Conduct, the Products, and/or the Action to the Settling Subdivision or to the Non-Released Party than the amount owed under this Agreement by Target:

(i) Target shall notify the Settling Subdivision of the Claim-Over within sixty (60) days of the assertion of the Claim-Over or sixty (60) days of the Effective Date of this Agreement, whichever is later; and

(ii) The Settling Subdivision and Target shall meet and confer and take steps sufficient and permissible under the law to hold the Target Released Entities harmless from the Claim-Over and ensure that the Target Released Entities are not required to pay more with respect to the Covered Conduct, the Products, and/or the Action than the amount owed by Target under this Agreement. Such steps may include, where permissible: filing of motions to dismiss or such other appropriate motion by Target or the Target Released Entities, and supported by the Settling Subdivision, in response to any Claim filed in litigation or arbitration; reduction of that Settling Subdivision's Claim and any judgement it has obtained or may obtain against such Non-Released Party by whatever amount or percentage is necessary to extinguish such Claim-Over under applicable law, up to the amount that the Settling Subdivision has obtained, may obtain, or has authority to control from such Non-Released Party; and such other actions as the Settling Subdivision and Target may devise to hold the Target Released Entities harmless from the Claim-Over.

7. Automatic Termination.

The accomplishment of an Effective Date within 45 (forty-five) days of Target's payment of the Aggregate Settlement Amount to the Settling Subdivisions in accordance with Paragraph 2 is an important term of this Agreement. If the Effective Date does not occur within 45 (forty-five) days of Target's Aggregate Settlement Amount payment, then this Agreement is automatically terminated and becomes null, void, and of no effect whatsoever. In that event, the parties automatically will revert to their respective positions immediately prior to the "as of" execution date of this Agreement, and the Parties will

Attachment: Settlment Agreement.Target-1122024132429 (RES-2024-948 : Target Settlement - Subdivision Participation and Release Form

proceed in the Action as if no Agreement had ever been made; provided, however, that the Settlement Amount will be returned to Target within 60 (sixty) days of Target's Aggregate Settlement Amount payment. The time period under this paragraph may be extended upon written agreement by the parties.

8. **Settlement Allocation**. The Settlement Amount will be apportioned among the Settling Subdivisions using allocation percentages used in previous National Opioid Settlements and used by the Settling Subdivisions at the sole discretion of the Settling Subdivisions.

9. **Use of Settlement Payments.** It is the intent of the Parties that the Settlement Amount be for Opioid Remediation. In no event may less than eighty-five percent (85%) of the Settlement Amount (less any amounts used to pay attorneys' fees, investigation costs, or litigation costs) be spent on Opioid Remediation.

10. **No Third-Party Beneficiaries.** Nothing in this Settlement Agreement is intended to or shall confer upon any third party any legal or equitable right, benefit, or remedy of any nature whatsoever.

11. **No Admission of Liability**. Target is entering into this Agreement solely for the purpose of settlement, and nothing contained herein may be taken as or construed to be an admission or concession of any violation of law, rule, or regulation, or of any other matter of fact or law, or of any liability or wrongdoing, all of which Target expressly denies. Target does not admit that it caused or contributed to any public nuisance or harm, and Target does not admit any wrongdoing that was or could have been alleged by the Settling Subdivisions. No part of this Agreement, including its statements and commitments, shall constitute evidence of any liability, fault, or wrongdoing by Target.

12. **Entire Agreement**. This Agreement represents the full and complete terms of the settlement entered into by the Parties hereto. In any action undertaken by the Parties, no prior versions of this Agreement and no prior versions of any of its terms that were not entered by the Court in this Agreement, may be introduced for any purpose whatsoever.

13. **Waiver, Modification, or Amendment**. This Settlement Agreement shall not be subject to waiver, modification, or amendment, unless by written instrument duly executed by all. Waiver of a right under this agreement shall not be deemed a waiver of any other right. Forbearance, temporary waiver, or other failure to enforce any right under this Agreement shall not constitute a permanent waiver. This Agreement is agreed upon without trial or adjudication of any issue of fact or law or finding of liability of any kind and shall not be construed or used as a waiver or limitation of any defense otherwise available (including, but not limited to, jurisdictional defenses) to Target or any other Target Released Entity in any action (including, but not limited to, the Action) or any other proceeding.

14. **Arm's Length Negotiations**. The Parties agree and stipulate that this Agreement was negotiated on an arm's-length basis between parties of equal bargaining power. The Agreement has been drafted jointly by counsel for each Party.

Attachment: Settlment Agreement.Target-1122024132429 (RES-2024-948 : Target Settlement - Subdivision Participation and Release Form

15. **Counterparts**. This Agreement may be executed in counterparts, and a facsimile or .pdf signature shall be deemed to be, and shall have the same force and effect as, an original signature.

16. **Governing Law**. The terms of this Agreement shall be governed by the laws of the State of Minnesota.

17. **Most Favored Nation**. If, within six (6) months after execution of this Agreement, Target enters into a global settlement, which resolves opioid-related claims with at least ninety percent (90%) of the municipalities or subdivisions where Target operated a pharmacy that dispensed opioids ("Target Global Settlement"), and if a Settling Subdivision to this Agreement would otherwise qualify for the Target Global Settlement but for its release under this Agreement, the Settling Subdivision will not be prohibited from pursuing from the Target Global Settlement fund the difference between its Individual Settlement Amount and any settlement allocations it would receive on or before December 31, 2025, under the Target Global Settlement, provided that this paragraph does not create any additional obligations on Target and provided that Target is not required to pay an additional monetary amount to either the Settling Subdivision or the Target Global Settlement because of the Settling Subdivision's participation in either this Agreement or the Target Global Settlement. A Settling Subdivision must pursue this amount prior to December 31, 2025.

18. **Venue**. Any suits, actions or proceedings arising out of this Agreement shall be brought in in the United States District Court for the District of Minnesota. If subject matter jurisdiction (including diversity jurisdiction) does not exist in the United States District Court for the District of Minnesota for any such claim, then the exclusive forum and venue for any such action shall be the courts of the State of Minnesota located in Hennepin County.

19. **Notice**. All Notices under this Settlement Agreement shall be provided to the following Notice Designees via email and Overnight Mail:

FOR TARGET

Target Corporation
Attn: Target Law Department
1000 Nicollet Mall
Minneapolis, MN 55403
GL.Legal@Target.com

James Stephen Bennett
Faegre Drinker Biddle & Reath LLP
110 W. Berry Street, Suite 2400
Fort Wayne, Indiana 46802
stephen.bennett@faegredrinker.com

Attachment: Settlment Agreement.Target-1122024132429 (RES-2024-948 : Target Settlement - Subdivision Participation and Release Form

IN WITNESS WHEREOF, this Settlement Agreement has been read and signed by the duly authorized representatives of each of the Parties.

Date: _____

By: _____

Name: _____

Title: _____

Date: 9/3/2024

By: s/Jacob Vandelist

Name: Jacob Vandelist

Title: Director Counsel, Target Corporation

Attachment: Settlment Agreement.Target-11222024132429 (RES-2024-948 : Target Settlement - Subdivision Participation and Release Form

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

Francina J. Spoth
Town Clerk

Meeting: 12/02/24 07:00 PM
Department: Town Attorney
Initiated by: **Samuel A. Alba**
Co-Sponsored by:

DOC ID: 29730 **RESOLUTION 2024-949** **ADOPTED**

New York Regional Pharmacy Settlements (Opioid Litigation) (CRS #5213-5225)

AGENDA ITEM : DECEMBER 2nd, 2024

TO: **Town Board**

FROM: **Samuel A. Alba, Esq., Interim Town Attorney**

DATE: **November 25, 2024**

RE: **New York Regional Pharmacy Defendant Settlements and Releases**

Subdivision Participation and Release Forms:

- **Angelo Friello Inc. d/b/a Palmer Pharmacy - CRS# 5213**
- **Arlington Pharmacy Inc. - CRS #5214**
- **Bartles - CRS #5215**
- **Crystal City Apothecary, LLC - CRS #5216**
- **Dedricks Pharmacy Inc. - CRS #5217**
- **Gifford & West Pharmacy Inc. - CRS #5218**
- **Mahakali Corporation - CRS #5219**
- **Middletown Chemists, Inc. - CRS #5220**
- **Nacsip Inc. - CRS #5221**
- **Pill Mill Inc. - CRS #5222**
- **SDJA Corp. - CRS #5223**
- **Sullivan Pharmacy Inc. - CRS #5224**
- **Wayne Drug of Pulaski Inc. - CRS #5225**

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

RESOLVED, that the Town Board authorizes the Town Supervisor to sign the attached Subdivision Participation and Release Forms pending successful completion of the Contract Routing System (CRS).

Thank you.

SAA:nmb
Attachments
c: Timothy Koller, Deputy Town Clerk

(*w/attachment,* **Agenda Item - December 2, 2024**)

12/2/2024
Consent

FINANCIAL IMPACT:

$282,500.00 distributed in a one-time payment among the various participating political subdivisions according to a formula based on the allocation percentages used in previous national opioids settlements

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

Exhibit B

Angelo Friello
Subdivision Participation and Release Form

Governmental Entity:	Town of Amherst	State: New York
Authorized Official:	Brian J. Kulpa	
Address 1:	5583 Main Street	
Address 2:		
City, State, Zip:	Williamsville, NY 14221	
Phone:	716-631-7000	
Email:	BKulpa@amherst.ny.us	

The governmental entity identified above ("*Governmental Entity*"), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to the Settlement Agreement dated _____, 2024 ("*Angelo Friello Settlement*"), and acting through the undersigned authorized official, hereby elects to participate in the Angelo Friello Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the Angelo Friello Settlement, understands that all terms in this Participation and Release Form have the meanings defined therein, and agrees that by executing this Participation and Release Form, the Governmental Entity elects to participate in the Angelo Friello Settlement and become a Participating Subdivision as provided therein.

2. The Governmental Entity through its counsel shall promptly move to dismiss with prejudice any Released Claims that it has filed.

3. The Governmental Entity agrees to the terms of the Angelo Friello Settlement pertaining to Participating Subdivisions as defined therein.

4. By agreeing to the terms of the Angelo Friello Settlement and becoming a Releasor, the Governmental Entity is entitled to monetary payments.

5. The Governmental Entity, as a Participating Subdivision, hereby becomes a Releasor for all purposes in the Angelo Friello Settlement, along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever. The releases provided for in the Angelo Friello Settlement are intended by the Parties to be broad and

Attachment: Ex.B Friello-1122024131507 (RES-2024-949 : New York Regional Pharmacy Settlements (Opioid Litigation) (CRS# 5213-5225))

shall be interpreted so as to give the Released Entities the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the Governmental Entity to release claims. The Angelo Friello Settlement shall be a complete bar to any Released Claim.

6. Nothing herein is intended to modify in any way the terms of the Angelo Friello Settlement, to which Governmental Entity hereby agrees. To the extent this Participation and Release Form is interpreted differently from the Angelo Friello Settlement in any respect, the Angelo Friello Settlement controls.

I have all necessary power and authorization to execute this Participation and Release Form on behalf of the Governmental Entity.

Signature: _____

Name: Brian J. Kulpa

Title: Town Supervisor

Date: _____

Attachment: Ex.B Friello-1122024131507 (RES-2024-949 : New York Regional Pharmacy Settlements (Opioid Litigation) (CRS# 5213-5225))

Exhibit B

Arlington Pharmacy, Inc
Subdivision Participation and Release Form

Governmental Entity:	Town of Amherst	State: New York
Authorized Official:	Brian J. Kulpa	
Address 1:	5583 Main Street	
Address 2:		
City, State, Zip:	Williamsville, NY 14221	
Phone:	716-631-7000	
Email:	BKulpa@amherst.ny.us	

The governmental entity identified above ("*Governmental Entity*"), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to the Settlement Agreement dated _____, 2024 ("*Arlington Pharmacy Settlement*"), and acting through the undersigned authorized official, hereby elects to participate in the Arlington Pharmacy Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the Arlington Pharmacy Settlement, understands that all terms in this Participation and Release Form have the meanings defined therein, and agrees that by executing this Participation and Release Form, the Governmental Entity elects to participate in the Arlington Pharmacy Settlement and become a Participating Subdivision as provided therein.

2. The Governmental Entity through its counsel shall promptly move to dismiss with prejudice any Released Claims that it has filed.

3. The Governmental Entity agrees to the terms of the Arlington Pharmacy Settlement pertaining to Participating Subdivisions as defined therein.

4. By agreeing to the terms of the Arlington Pharmacy Settlement and becoming a Releasor, the Governmental Entity is entitled to monetary payments.

5. The Governmental Entity, as a Participating Subdivision, hereby becomes a Releasor for all purposes in the Arlington Pharmacy Settlement, along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever. The releases provided for in the Arlington Pharmacy Settlement are intended by the Parties to be broad

Attachment: Ex.B Arlington-1122024131543 (RES-2024-949 : New York Regional Pharmacy Settlements (Opioid Litigation) (CRS# 5213-5225))

and shall be interpreted so as to give the Released Entities the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the Governmental Entity to release claims. The Arlington Pharmacy Settlement shall be a complete bar to any Released Claim.

6. Nothing herein is intended to modify in any way the terms of the Arlington Pharmacy Settlement, to which Governmental Entity hereby agrees. To the extent this Participation and Release Form is interpreted differently from the Arlington Pharmacy Settlement in any respect, the Arlington Pharmacy Settlement controls.

I have all necessary power and authorization to execute this Participation and Release Form on behalf of the Governmental Entity.

Signature: _____

Name: Brian J. Kulpa

Title: Town Supervisor

Date: _____

Attachment: Ex.B Arlington-1122024131543 (RES-2024-949 : New York Regional Pharmacy Settlements (Opioid Litigation) (CRS# 5213-5225))

Attachment: Ex.B Bartles-1122024131619 (RES-2024-949 : New York Regional Pharmacy Settlements (Opioid Litigation) (CRS# 5213-5225))

Exhibit B

Bartles Pharmacy
Subdivision Participation and Release Form

Governmental Entity:	Town of Amherst	State:	New York
Authorized Official:	Brian J. Kulpa		
Address 1:	5583 Main Street		
Address 2:			
City, State, Zip:	Williamsville, NY 14221		
Phone:	716-631-7000		
Email:	BKulpa@amherst.ny.us		

The governmental entity identified above ("*Governmental Entity*"), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to the Settlement Agreement dated _____, 2024 ("*Bartles Pharmacy Settlement*"), and acting through the undersigned authorized official, hereby elects to participate in the Bartles Pharmacy Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the Bartles Pharmacy Settlement, understands that all terms in this Participation and Release Form have the meanings defined therein, and agrees that by executing this Participation and Release Form, the Governmental Entity elects to participate in the Bartles Pharmacy Settlement and become a Participating Subdivision as provided therein.

2. The Governmental Entity through its counsel shall promptly move to dismiss with prejudice any Released Claims that it has filed.

3. The Governmental Entity agrees to the terms of the Bartles Pharmacy Settlement pertaining to Participating Subdivisions as defined therein.

4. By agreeing to the terms of the Bartles Pharmacy Settlement and becoming a Releasor, the Governmental Entity is entitled to monetary payments.

5. The Governmental Entity, as a Participating Subdivision, hereby becomes a Releasor for all purposes in the Bartles Pharmacy Settlement, along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever. The releases provided for in the Bartles Pharmacy Settlement are intended by the Parties to be broad

and shall be interpreted so as to give the Released Entities the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the Governmental Entity to release claims. The Bartles Pharmacy Settlement shall be a complete bar to any Released Claim.

6. Nothing herein is intended to modify in any way the terms of the Bartles Pharmacy Settlement, to which Governmental Entity hereby agrees. To the extent this Participation and Release Form is interpreted differently from the Bartles Pharmacy Settlement in any respect, the Bartles Pharmacy Settlement controls.

I have all necessary power and authorization to execute this Participation and Release Form on behalf of the Governmental Entity.

Signature: _____

Name: Brian J. Kulpa

Title: Town Supervisor

Date: _____

Attachment: Ex.B Bartles-1122024131619 (RES-2024-949 : New York Regional Pharmacy Settlements (Opioid Litigation) (CRS# 5213-5225))

Exhibit B

Crystal City Apothecary LLC
Subdivision Participation and Release Form

Governmental Entity:	Town of Amherst	State: New York
Authorized Official:	Brian J. Kulpa	
Address 1:	5583 Main Street	
Address 2:		
City, State, Zip:	Williamsville, NY 14221	
Phone:	716-631-7000	
Email:	BKulpa@amherst.ny.us	

The governmental entity identified above ("*Governmental Entity*"), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to the Settlement Agreement and Release dated _____, 2024 ("*Crystal City Apothecary Settlement*"), and acting through the undersigned authorized official, hereby elects to participate in the Crystal City Apothecary Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the Crystal City Apothecary Settlement, understands that all terms in this Participation and Release Form have the meanings defined therein, and agrees that by executing this Participation and Release Form, the Governmental Entity elects to participate in the Crystal City Apothecary Settlement and become a Participating Subdivision as provided therein.

2. The Governmental Entity through its counsel shall promptly dismiss with prejudice any Released Claims that it has filed.

3. The Governmental Entity agrees to the terms of the Crystal City Apothecary Settlement pertaining to Participating Subdivisions as defined therein.

4. By agreeing to the terms of the Crystal City Apothecary Settlement and becoming a Releasor, the Governmental Entity is entitled to monetary payments.

5. The Governmental Entity, as a Participating Subdivision, hereby becomes a Releasor for all purposes in the Crystal City Apothecary Settlement, along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever.

Attachment: Ex.B Crystal City-1122024131653 (RES-2024-949 : New York Regional Pharmacy Settlements (Opioid Litigation) (CRS# 5213-

The releases provided for in the Crystal City Apothecary Settlement are intended by the Parties to be broad and shall be interpreted so as to give the Released Entities the broadest possible bar against any liability relating in any way to the Action and Released Claims and extend to the full extent of the power of the Governmental Entity to release claims. The Crystal City Apothecary Settlement shall be a complete bar to any Released Claims.

6. Nothing herein is intended to modify in any way the terms of the Crystal City Apothecary Settlement, to which Governmental Entity hereby agrees. To the extent this Participation and Release Form is interpreted differently from the Crystal City Apothecary Settlement in any respect, the Crystal City Apothecary Settlement controls.

I have all necessary power and authorization to execute this Participation and Release Form on behalf of the Governmental Entity.

Signature: _____

Name: Brian J. Kulpa

Title: Town Supervisor

Date: _____

Attachment: Ex.B Crystal City-1122024131653 (RES-2024-949 : New York Regional Pharmacy Settlements (Opioid Litigation) (CRS# 5213-

Exhibit B

Dedrick's Pharmacy Inc
Subdivision Participation and Release Form

Governmental Entity:	Town of Amherst	State: New York
Authorized Official:	Brian J. Kulpa	
Address 1:	5583 Main Street	
Address 2:		
City, State, Zip:	Williamsville, NY 14221	
Phone:	716-631-7000	
Email:	BKulpa@amherst.ny.us	

The governmental entity identified above ("*Governmental Entity*"), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to the Settlement Agreement dated _____, 2024 ("*Dedrick's Pharmacy Settlement*"), and acting through the undersigned authorized official, hereby elects to participate in the Dedrick's Pharmacy Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the Dedrick's Pharmacy Settlement, understands that all terms in this Participation and Release Form have the meanings defined therein, and agrees that by executing this Participation and Release Form, the Governmental Entity elects to participate in the Dedrick's Pharmacy Settlement and become a Participating Subdivision as provided therein.

2. The Governmental Entity through its counsel shall promptly move to dismiss with prejudice any Released Claims that it has filed.

3. The Governmental Entity agrees to the terms of the Dedrick's Pharmacy Settlement pertaining to Participating Subdivisions as defined therein.

4. By agreeing to the terms of the Dedrick's Pharmacy Settlement and becoming a Releasor, the Governmental Entity is entitled to monetary payments.

5. The Governmental Entity, as a Participating Subdivision, hereby becomes a Releasor for all purposes in the Dedrick's Pharmacy Settlement, along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever. The releases provided for in the Dedrick's Pharmacy Settlement are intended by the Parties to be broad

Attachment: Ex.B Dedricks-1122024131728 (RES-2024-949 : New York Regional Pharmacy Settlements (Opioid Litigation) (CRS# 5213-5225))

and shall be interpreted so as to give the Released Entities the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the Governmental Entity to release claims. The Dedrick's Pharmacy Settlement shall be a complete bar to any Released Claim.

6. Nothing herein is intended to modify in any way the terms of the Dedrick's Pharmacy Settlement, to which Governmental Entity hereby agrees. To the extent this Participation and Release Form is interpreted differently from the Dedrick's Pharmacy Settlement in any respect, the Dedrick's Pharmacy Settlement controls.

I have all necessary power and authorization to execute this Participation and Release Form on behalf of the Governmental Entity.

Signature: _____

Name: Brian J. Kulpa

Title: Town Supervisor

Date: _____

Attachment: Ex.B Dedricks-1122024131728 (RES-2024-949 : New York Regional Pharmacy Settlements (Opioid Litigation) (CRS# 5213-5225))

Subject to Federal Rule of Evidence 408 and State Equivalents

Exhibit B

Gifford & West Pharmacy, Inc
Subdivision Participation and Release Form

Governmental Entity:	Town of Amherst	State: New York
Authorized Official:	Brian J. Kulpa	
Address 1:	5583 Main Street	
Address 2:		
City, State, Zip:	Williamsville, NY 14221	
Phone:	716-631-7000	
Email:	BKulpa@amherst.ny.us	

The governmental entity identified above ("*Governmental Entity*"), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to the Settlement Agreement dated _____, 2024 ("*Gifford & West Pharmacy Settlement*"), and acting through the undersigned authorized official, hereby elects to participate in the Gifford & West Pharmacy Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the Gifford & West Pharmacy Settlement, understands that all terms in this Participation and Release Form have the meanings defined therein, and agrees that by executing this Participation and Release Form, the Governmental Entity elects to participate in the Gifford & West Pharmacy Settlement and become a Participating Subdivision as provided therein.

2. The Governmental Entity through its counsel shall promptly move to dismiss with prejudice any Released Claims that it has filed.

3. The Governmental Entity agrees to the terms of the Gifford & West Pharmacy Settlement pertaining to Participating Subdivisions as defined therein.

4. By agreeing to the terms of the Gifford & West Pharmacy Settlement and becoming a Releasor, the Governmental Entity is entitled to monetary payments.

5. The Governmental Entity, as a Participating Subdivision, hereby becomes a Releasor for all purposes in the Gifford & West Pharmacy Settlement, along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever.

Attachment: Ex.B Gifford.West-1122024131800 (RES-2024-949 : New York Regional Pharmacy Settlements (Opioid Litigation) (CRS# 5213-

shall be interpreted so as to give the Released Entities the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the Governmental Entity to release claims. The NACSIP INC Settlement shall be a complete bar to any Released Claim.

6. Nothing herein is intended to modify in any way the terms of the NACSIP INC Settlement, to which Governmental Entity hereby agrees. To the extent this Participation and Release Form is interpreted differently from the NACSIP INC Settlement in any respect, the NACSIP INC Settlement controls.

I have all necessary power and authorization to execute this Participation and Release Form on behalf of the Governmental Entity.

Signature: _____

Name: Brian J. Kulpa

Title: Town Supervisor

Date: _____

Attachment: Ex.B Gifford.West-1122024131800 (RES-2024-949 : New York Regional Pharmacy Settlements (Opioid Litigation) (CRS# 5213-

Exhibit B

Mahakali Corporation
Subdivision Participation and Release Form

Governmental Entity:	Town of Amherst	State: New York
Authorized Official:	Brian J. Kulpa	
Address 1:	5583 Main Street	
Address 2:		
City, State, Zip:	Williamsville, NY 14221	
Phone:	716-631-7000	
Email:	BKulpa@amherst.ny.us	

The governmental entity identified above ("*Governmental Entity*"), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to the Settlement Agreement dated _____, 2024 ("*Mahakali Corporation Settlement*"), and acting through the undersigned authorized official, hereby elects to participate in the Mahakali Corporation Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the Mahakali Corporation Settlement, understands that all terms in this Participation and Release Form have the meanings defined therein, and agrees that by executing this Participation and Release Form, the Governmental Entity elects to participate in the Mahakali Corporation Settlement and become a Participating Subdivision as provided therein.

2. The Governmental Entity through its counsel shall promptly move to dismiss with prejudice any Released Claims that it has filed.

3. The Governmental Entity agrees to the terms of the Mahakali Corporation Settlement pertaining to Participating Subdivisions as defined therein.

4. By agreeing to the terms of the Mahakali Corporation Settlement and becoming a Releasor, the Governmental Entity is entitled to monetary payments.

5. The Governmental Entity, as a Participating Subdivision, hereby becomes a Releasor for all purposes in the Mahakali Corporation Settlement, along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever. The releases

Attachment: Ex.B.Mahakali-1122024131850 (RES-2024-949 : New York Regional Pharmacy Settlements (Opioid Litigation) (CRS# 5213-5225))

provided for in the Mahakali Corporation Settlement are intended by the Parties to be broad and shall be interpreted so as to give the Released Entities the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the Governmental Entity to release claims. The Mahakali Corporation Settlement shall be a complete bar to any Released Claim.

6. Nothing herein is intended to modify in any way the terms of the Mahakali Corporation Settlement, to which Governmental Entity hereby agrees. To the extent this Participation and Release Form is interpreted differently from the Mahakali Corporation Settlement in any respect, the Mahakali Corporation Settlement controls.

I have all necessary power and authorization to execute this Participation and Release Form on behalf of the Governmental Entity.

Signature: _____

Name: Brian J. Kulpa

Title: Town Supervisor

Date: _____

Attachment: Ex.B.Mahakali-1122024131850 (RES-2024-949 : New York Regional Pharmacy Settlements (Opioid Litigation) (CRS# 5213-5225))

Exhibit B

Middletown Chemists
Subdivision Participation and Release Form

Governmental Entity:	Town of Amherst	State: New York
Authorized Official:	Brian J. Kulpa	
Address 1:	5583 Main Street	
Address 2:		
City, State, Zip:	Williamsville, NY 14221	
Phone:	716-631-7000	
Email:	BKulpa@amherst.ny.us	

The governmental entity identified above ("*Governmental Entity*"), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to the Settlement Agreement dated _____, 2024 ("*Middletown Chemists Settlement*"), and acting through the undersigned authorized official, hereby elects to participate in the Middletown Chemists Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the Middletown Chemists Settlement, understands that all terms in this Participation and Release Form have the meanings defined therein, and agrees that by executing this Participation and Release Form, the Governmental Entity elects to participate in the Middletown Chemists Settlement and become a Participating Subdivision as provided therein.

2. The Governmental Entity through its counsel shall promptly move to dismiss with prejudice any Released Claims that it has filed.

3. The Governmental Entity agrees to the terms of the Middletown Chemists Settlement pertaining to Participating Subdivisions as defined therein.

4. By agreeing to the terms of the Middletown Chemists Settlement and becoming a Releasor, the Governmental Entity is entitled to monetary payments.

5. The Governmental Entity, as a Participating Subdivision, hereby becomes a Releasor for all purposes in the Middletown Chemists Settlement, along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to

Attachment: Ex.B.Middletown Chemists-1122024131922 (RES-2024-949 : New York Regional Pharmacy Settlements (Opioid Litigation) (CRS#

establish liability for any Released Claims against any Released Entity in any forum whatsoever. The releases provided for in the Middletown Chemists Settlement are intended by the Parties to be broad and shall be interpreted so as to give the Released Entities the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the Governmental Entity to release claims. The Middletown Chemists Settlement shall be a complete bar to any Released Claim.

6. Nothing herein is intended to modify in any way the terms of the Middletown Chemists Settlement, to which Governmental Entity hereby agrees. To the extent this Participation and Release Form is interpreted differently from the Middletown Chemists Settlement in any respect, the Middletown Chemists Settlement controls.

I have all necessary power and authorization to execute this Participation and Release Form on behalf of the Governmental Entity.

Signature: _____

Name: Brian J. Kulpa

Title: Town Supervisor

Date: _____

Attachment: Ex.B.Middletown Chemists-1122024131922 (RES-2024-949 : New York Regional Pharmacy Settlements (Opioid Litigation) (CRS#

Exhibit B

NACSIP INC
Subdivision Participation and Release Form

Governmental Entity:	Town of Amherst	State: New York
Authorized Official:	Brian J. Kulpa	
Address 1:	5583 Main Street	
Address 2:		
City, State, Zip:	Williamsville, NY 14221	
Phone:	716-631-7000	
Email:	BKulpa@amherst.ny.us	

The governmental entity identified above ("*Governmental Entity*"), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to the Settlement Agreement dated _____, 2024 ("*NACSIP INC Settlement*"), and acting through the undersigned authorized official, hereby elects to participate in the NACSIP INC Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the NACSIP INC Settlement, understands that all terms in this Participation and Release Form have the meanings defined therein, and agrees that by executing this Participation and Release Form, the Governmental Entity elects to participate in the NACSIP INC Settlement and become a Participating Subdivision as provided therein.

2. The Governmental Entity through its counsel shall promptly move to dismiss with prejudice any Released Claims that it has filed.

3. The Governmental Entity agrees to the terms of the NACSIP INC Settlement pertaining to Participating Subdivisions as defined therein.

4. By agreeing to the terms of the NACSIP INC Settlement and becoming a Releasor, the Governmental Entity is entitled to monetary payments.

5. The Governmental Entity, as a Participating Subdivision, hereby becomes a Releasor for all purposes in the NACSIP INC Settlement, along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever. The releases provided for in the NACSIP INC Settlement are intended by the Parties to be broad and

Attachment: Ex.B Nacsip-1122024131958 (RES-2024-949 : New York Regional Pharmacy Settlements (Opioid Litigation) (CRS# 5213-5225))

shall be interpreted so as to give the Released Entities the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the Governmental Entity to release claims. The NACSIP INC Settlement shall be a complete bar to any Released Claim.

6. Nothing herein is intended to modify in any way the terms of the NACSIP INC Settlement, to which Governmental Entity hereby agrees. To the extent this Participation and Release Form is interpreted differently from the NACSIP INC Settlement in any respect, the NACSIP INC Settlement controls.

I have all necessary power and authorization to execute this Participation and Release Form on behalf of the Governmental Entity.

Signature: _____

Name: Brian J. Kulpa

Title: Town Supervisor

Date: _____

Attachment: Ex.B Nacsip-1122024131958 (RES-2024-949 : New York Regional Pharmacy Settlements (Opioid Litigation) (CRS# 5213-5225))

Exhibit B

Pill Mill, Inc.
Subdivision Participation and Release Form

Governmental Entity:	Town of Amherst	State: New York
Authorized Official:	Brian J. Kulpa	
Address 1:	5583 Main Street	
Address 2:		
City, State, Zip:	Williamsville, NY 14221	
Phone:	716-631-7000	
Email:	BKulpa@amherst.ny.us	

The governmental entity identified above ("*Governmental Entity*"), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to the Settlement Agreement dated _____, 2024 ("*Pill Mill Settlement*"), and acting through the undersigned authorized official, hereby elects to participate in the Pill Mill Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the Pill Mill Settlement, understands that all terms in this Participation and Release Form have the meanings defined therein, and agrees that by executing this Participation and Release Form, the Governmental Entity elects to participate in the Pill Mill Settlement and become a Participating Subdivision as provided therein.

2. The Governmental Entity through its counsel shall promptly move to dismiss with prejudice any Released Claims that it has filed.

3. The Governmental Entity agrees to the terms of the Pill Mill Settlement pertaining to Participating Subdivisions as defined therein.

4. By agreeing to the terms of the Pill Mill Settlement and becoming a Releasor, the Governmental Entity is entitled to monetary payments.

5. The Governmental Entity, as a Participating Subdivision, hereby becomes a Releasor for all purposes in the Pill Mill Settlement, along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever. The releases provided for in the Pill Mill Settlement are intended by the Parties to be broad and shall be interpreted so as to give the

Attachment: Ex.B Pill Mill-1122024132027 (RES-2024-949 : New York Regional Pharmacy Settlements (Opioid Litigation) (CRS# 5213-5225))

Released Entities the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the Governmental Entity to release claims. The Pill Mill Settlement shall be a complete bar to any Released Claim.

6. Nothing herein is intended to modify in any way the terms of the Pill Mill Settlement, to which Governmental Entity hereby agrees. To the extent this Participation and Release Form is interpreted differently from the Pill Mill Settlement in any respect, the Pill Mill Settlement controls.

I have all necessary power and authorization to execute this Participation and Release Form on behalf of the Governmental Entity.

Signature: _____

Name: Brian J. Kulpa

Title: Town Supervisor

Date: _____

Attachment: Ex.B Pill Mill-1122024132027 (RES-2024-949 : New York Regional Pharmacy Settlements (Opioid Litigation) (CRS# 5213-5225))

Exhibit B

SDJA Corp.
Subdivision Participation and Release Form

Governmental Entity:	Town of Amherst	State: New York
Authorized Official:	Brian J Kulpa	
Address 1:	5583 Main Street	
Address 2:		
City, State, Zip:	Williamsville, NY 14221	
Phone:	716-631-7000	
Email:	BKulpa@amherst.ny.us	

The governmental entity identified above ("*Governmental Entity*"), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to the Settlement Agreement and Release dated _____, 2024 ("*SDJA Corp. Settlement*"), and acting through the undersigned authorized official, hereby elects to participate in the SDJA Corp. Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the SDJA Corp. Settlement, understands that all terms in this Participation and Release Form have the meanings defined therein, and agrees that by executing this Participation and Release Form, the Governmental Entity elects to participate in the SDJA Corp. Settlement and become a Participating Subdivision as provided therein.

2. The Governmental Entity through its counsel shall promptly dismiss with prejudice any Released Claims that it has filed.

3. The Governmental Entity agrees to the terms of the SDJA Corp. Settlement pertaining to Participating Subdivisions as defined therein.

4. By agreeing to the terms of the SDJA Corp. Settlement and becoming a Releasor, the Governmental Entity is entitled to monetary payments.

5. The Governmental Entity, as a Participating Subdivision, hereby becomes a Releasor for all purposes in the SDJA Corp. Settlement, along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever. The releases provided for in the SDJA Corp. Settlement are intended by the Parties to be broad and shall be interpreted so as to give the

Attachment: Ex.B SDJA-1122024132103 (RES-2024-949 : New York Regional Pharmacy Settlements (Opioid Litigation) (CRS# 5213-5225))

Released Entities the broadest possible bar against any liability relating in any way to the Action and Released Claims and extend to the full extent of the power of the Governmental Entity to release claims. The SDJA Corp. Settlement shall be a complete bar to any Released Claims.

6. Nothing herein is intended to modify in any way the terms of the SDJA Corp. Settlement, to which Governmental Entity hereby agrees. To the extent this Participation and Release Form is interpreted differently from the SDJA Corp. Settlement in any respect, the SDJA Corp. Settlement controls.

I have all necessary power and authorization to execute this Participation and Release Form on behalf of the Governmental Entity.

Signature: _____

Name: Brian J. Kulpa

Title: Town Supervisor

Date: _____

Attachment: Ex.B SDJA-1122024132103 (RES-2024-949 : New York Regional Pharmacy Settlements (Opioid Litigation) (CRS# 5213-5225))

Exhibit B

Sullivan Pharmacy Inc.
Subdivision Participation and Release Form

Governmental Entity:	Town of Amherst	State: New York
Authorized Official:	Brian J. Kulpa	
Address 1:	5583 Main Street	
Address 2:		
City, State, Zip:	Williamsville, NY 14221	
Phone:	716-631-7000	
Email:	BKulpa@amherst.ny.us	

The governmental entity identified above ("*Governmental Entity*"), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to the Settlement Agreement dated _____, 2024 ("*Sullivan Pharmacy Inc. Settlement*"), and acting through the undersigned authorized official, hereby elects to participate in the Sullivan Pharmacy Inc. Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the Sullivan Pharmacy Inc. Settlement, understands that all terms in this Participation and Release Form have the meanings defined therein, and agrees that by executing this Participation and Release Form, the Governmental Entity elects to participate in the Sullivan Pharmacy Inc. Settlement and become a Participating Subdivision as provided therein.

2. The Governmental Entity through its counsel shall promptly move to dismiss with prejudice any Released Claims that it has filed.

3. The Governmental Entity agrees to the terms of the Sullivan Pharmacy Inc. Settlement pertaining to Participating Subdivisions as defined therein.

4. By agreeing to the terms of the Sullivan Pharmacy Inc. Settlement and becoming a Releasor, the Governmental Entity is entitled to monetary payments.

5. The Governmental Entity, as a Participating Subdivision, hereby becomes a Releasor for all purposes in the Sullivan Pharmacy Inc. Settlement, along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever. The releases provided for in the Sullivan Pharmacy Inc. Settlement are intended by the Parties to be broad and shall be interpreted so as to give the Released Entities the broadest

Attachment: Ex.B Sullivan-11222024132133 (RES-2024-949 : New York Regional Pharmacy Settlements (Opioid Litigation) (CRS# 5213-5225))

possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the Governmental Entity to release claims. The Sullivan Pharmacy Inc. Settlement shall be a complete bar to any Released Claim.

6. Nothing herein is intended to modify in any way the terms of the Sullivan Pharmacy Inc. Settlement, to which Governmental Entity hereby agrees. To the extent this Participation and Release Form is interpreted differently from the Sullivan Pharmacy Inc. Settlement in any respect, the Sullivan Pharmacy Inc. Settlement controls.

I have all necessary power and authorization to execute this Participation and Release Form on behalf of the Governmental Entity.

Signature: _____

Name: Brian J. Kulpa

Title: Town Supervisor

Date: _____

Attachment: Ex.B Sullivan-11222024132133 (RES-2024-949 : New York Regional Pharmacy Settlements (Opioid Litigation) (CRS# 5213-5225))

Exhibit B

Wayne Drug of Pulaski Inc.
Subdivision Participation and Release Form

Governmental Entity:	Town of Amherst	State: New York
Authorized Official:	Brian J. Kulpa	
Address 1:	5583 Main Street	
Address 2:		
City, State, Zip:	Williamsville, NY 14221	
Phone:	716-631-7000	
Email:	BKulpa@amherst.ny.us	

The governmental entity identified above ("*Governmental Entity*"), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to the Settlement Agreement dated _____, 2024 ("*Wayne Drug of Pulaski Inc. Settlement*"), and acting through the undersigned authorized official, hereby elects to participate in the Wayne Drug of Pulaski Inc. Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the Wayne Drug of Pulaski Inc. Settlement, understands that all terms in this Participation and Release Form have the meanings defined therein, and agrees that by executing this Participation and Release Form, the Governmental Entity elects to participate in the Wayne Drug of Pulaski Inc. Settlement and become a Participating Subdivision as provided therein.

2. The Governmental Entity through its counsel shall promptly move to dismiss with prejudice any Released Claims that it has filed.

3. The Governmental Entity agrees to the terms of the Wayne Drug of Pulaski Inc. Settlement pertaining to Participating Subdivisions as defined therein.

4. By agreeing to the terms of the Wayne Drug of Pulaski Inc. Settlement and becoming a Releasor, the Governmental Entity is entitled to monetary payments.

5. The Governmental Entity, as a Participating Subdivision, hereby becomes a Releasor for all purposes in the Wayne Drug of Pulaski Inc. Settlement, along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever.

Attachment: Ex.B Wayne-1125024102719 (RES-2024-949 : New York Regional Pharmacy Settlements (Opioid Litigation) (CRS# 5213-5225))

The releases provided for in the Wayne Drug of Pulaski Inc. Settlement are intended by the Parties to be broad and shall be interpreted so as to give the Released Entities the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the Governmental Entity to release claims. The Wayne Drug of Pulaski Inc. Settlement shall be a complete bar to any Released Claim.

6. Nothing herein is intended to modify in any way the terms of the Wayne Drug of Pulaski Inc. Settlement, to which Governmental Entity hereby agrees. To the extent this Participation and Release Form is interpreted differently from the Wayne Drug of Pulaski Inc. Settlement in any respect, the Wayne Drug of Pulaski Inc. Settlement controls.

I have all necessary power and authorization to execute this Participation and Release Form on behalf of the Governmental Entity.

Signature: _____

Name: Brian J. Kulpa

Title: Town Supervisor

Date: _____

Attachment: Ex.B Wayne-1125202410719 (RES-2024-949 : New York Regional Pharmacy Settlements (Opioid Litigation) (CRS# 5213-5225))

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

Francina J. Spoth
Town Clerk

Meeting: 12/02/24 07:00 PM
Department: Town Attorney
Initiated by: **Samuel A. Alba**
Co-Sponsored by:

DOC ID: 29706 **RESOLUTION 2024-950** **ADOPTED**

Settlement Agreement - Golub Corporation (Opioid Litigation) (CRS #5212)

AGENDA ITEM : DECEMBER 2nd, 2024

TO: **Town Board**

FROM: **Samuel A. Alba, Esq., Interim Town Attorney**

DATE: **November 25, 2024**

RE: **Settlement Agreement - Golub Corporation (CRS #5212) (Opioid Litigation)**

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

RESOLVED, that the Town Board authorizes the Town Supervisor to sign the attached Settlement Agreement pending successful completion of the Contract Routing System (CRS).

Thank you.

SAA:nmb
Attachment
c: Timothy Koller, Deputy Town Clerk
(*w/attachment,* **Agenda Item - December 2, 2024**)

12/2/2024
Consent

FINANCIAL IMPACT:

Total : $282,500 To Be Paid To Plaintiff's Counsel, Napoli Shkolnik PLLC

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

Attachment: Settlement.NY Regional Pharmacy.Golub-1122024131423 (RES-2024-950 : Settlement Agreement - Golub Corporation (Opioid

SETTLEMENT AGREEMENT

PREAMBLE

This SETTLEMENT AGREEMENT ("Settlement Agreement") is made and entered into by and among the Plaintiffs identified in Exhibit A, (collectively, the "Plaintiffs"), and Defendant The Golub Corporation ("Defendant"). Collectively, the above will be referred to as the "Parties."

WHEREAS, Plaintiffs have asserted or could have asserted cases and/or claims against Defendant involving, arising from, related to, or in connection with damages, costs, monies, abatement, and/or any other remedies or relief relating to or arising from past, present, continuing, and/or future opioid-related injuries, damages, costs, nuisances, and/or harms allegedly caused by Defendant;

WHEREAS, Defendant has denied and continues to deny any liability for the claims asserted by Plaintiffs;

WHEREAS, without any admission of wrongdoing, fault, culpability, or liability of any kind, and without any concession as to the strength or weakness of any actual or potential claim(s) or defense(s), the Parties desire to (a) avoid the delay, uncertainty, inconvenience, and expense of protracted litigation, and (b) fully and finally resolve, settle, and release all Claims (as defined below) that have been, could have been, or could in the future be asserted against any of the Released Entities (as defined below) relating to the Released Claims (as defined below);

NOW, THEREFORE, in consideration of the above recitals and the promises and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

TERMS AND CONDITIONS

1. **Defined Terms.** In this Settlement Agreement, the following terms shall have the following respective meanings:

"Action" means the following lawsuit filed by Plaintiffs against Defendant, together with any applicable appeals or transfer cause numbers:

- *Yates County, et al. v. The Golub Corporation, et al.*, 75061/2022

"Claim" means any past, present, or future cause of action, claim for relief, theory of liability, demand, request, assessment, charge, covenant, damage, debt, lien, loss, judgment, right, obligation, dispute, suit, contract, controversy, agreement, promise, performance, warranty, omission, or grievance of any nature whatsoever, whether filed or unfiled, known or unknown, accrued or unaccrued, foreseen or unforeseen, discovered or undiscovered, suspected or unsuspected, fixed or contingent, existing or hereafter arising, including but not limited to any request for declaratory, injunctive, or equitable relief; compensatory, punitive, or statutory damages; absolute liability, strict liability, restitution, subrogation, contribution, indemnity (by the Plaintiffs against Defendant), apportionment,

attorneys' fees, expert fees, consultant fees, expenses, or any other legal, equitable, civil, criminal, administrative, or regulatory remedy whatsoever.

"Covered Conduct" shall mean any act, failure to act, statement, error, omission, violation of any law, statute, regulation, breach of duty, negligence, misstatement, misleading statement, conduct, event, transaction, or other activity of any kind whatsoever from the beginning of time through the Effective Date (and any past, present, or future consequence of any Claim or any such act, failure to act, statement, error, omission, violation, breach of duty, negligence, misstatement, misleading statement, conduct, event, transaction, or activity) relating in any way to (i) the dispensing, promotion, advertising, recall, withdrawal, distribution, delivery, monitoring, reporting, supply, sale, prescribing, use, or abuse of any Opioid Product, or any system, plan, or policy relating thereto, (ii) the characteristics, properties, efficacy, risks, or benefits of any Opioid Product, (iii) the reporting, disclosure, non-reporting, or non-disclosure to federal, state, or other regulators or governmental entities of orders placed with any Released Entity, or (iv) diversion control programs or suspicious order monitoring.

"Dismissal Order" means the order that shall be filed in the Action upon execution of the Settlement Agreement by Plaintiffs dismissing with prejudice the Action as to Defendant.

"Effective Date" means the date on which the funds are received, via wire transfer, by Plaintiffs' counsel, Napoli Shkolnik, pursuant to Paragraph 2.

"Execution Date" means the date on which this Settlement Agreement is executed by the last Party to do so.

"Notice Designees" has the meaning set forth in Paragraph 18.

"Opioid Product" means any chemical substance, whether natural, synthetic, or semi-synthetic, that binds or otherwise interacts with opioid receptors in the body or brain, as well as any product containing any such substance; this definition shall include but is not limited to any substance consisting of or containing buprenorphine, suboxone, naloxone, codeine, fentanyl, hydrocodone, hydromorphone, meperidine, methadone, morphine, naloxone, naltrexone, oxycodone, oxymorphone, tapentadol, tramadol, opium, heroin, carfentanil, or any similar substance, whether used for medicinal or non-medicinal purposes.

"Parties" has the meaning set forth in the Preamble.

"Party" means one of the Parties.

"Plaintiffs" has the meaning set forth in the Preamble.

"Released Claims" means any Claim by any Releasor against any Released Entity in any way arising from, growing out of, or in any manner relating to, or based on, the

Attachment: Settlement.NY Regional Pharmacy.Golub-1122024131423 (RES-2024-950 : Settlement Agreement - Golub Corporation (Opioid

Covered Conduct or any Claim or potential Claim arising from or relating to the allegations that have been made or could have been made in the Action. For the avoidance of doubt, the term "Released Claims" includes, but is not limited to: (a) Claims for alleged violations of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. § 1961 et seq.; (b) Claims for alleged violations of state corrupt practices acts; (c) Claims for alleged violations of any federal, state, or local law, regulation, or ordinance concerning controlled substances; (d) Claims alleging any statutory or common law public nuisance; (e) Claims alleging any statutory or common law fraud, negligence, injury through criminal acts, conspiracy, or unjust enrichment, or any other claim asserted under the common law; (f) Claims seeking the abatement of any nuisance or other condition within the Plaintiffs' jurisdictions; and (g) Claims seeking relief for any sort of harm to the public or public interest.

"Released Entities" means Defendant and its past, present, and future direct and indirect parents, subsidiaries, affiliates, businesses, divisions, members, predecessors, successors, insurers, attorneys, assigns, officers, directors, shareholders, owners, managers, contractors, subcontractors, agents, employees, partners, trustees, and any other entity or person claiming an interest through Defendant.

"Releasors" means (a) Plaintiffs and (b) all of their past, present, and future agencies, authorities, boards, commissions, councils, departments, districts, divisions, offices, predecessors, successors, assigns, officials (elected or unelected), employees, attorneys, agents, representatives, and any other persons or entities within control of any of the foregoing or through which any of the foregoing may take action or on whose behalf they have the right to give the releases set forth in this Settlement Agreement.

"Settlement Agreement" has the meaning set forth in the Preamble.

"Settlement Amount" means the sum of two hundred eighty-two thousand five hundred dollars ($282,500.00), in total, to be paid by Defendant to Plaintiffs in accordance with Paragraph 2 within thirty (30) business days after the Execution Date of this Settlement Agreement.

"Third Party" means any person or entity other than the Parties.

2. **Payment of Settlement Amount.** In full and final satisfaction of all Released Claims, the Settlement Amount shall be paid to Plaintiffs as follows:

(a) Defendant shall pay the Settlement Amount of two hundred eighty-two thousand five hundred dollars ($282,500.00) in U.S. dollars ($) to be paid by wire transfer to Plaintiffs' counsel, Napoli Shkolnik PLLC, pursuant to wire instructions to be

Attachment: Settlement.NY Regional Pharmacy.Golub-1122024131423 (RES-2024-950 : Settlement Agreement - Golub Corporation (Opioid

provided; Defendant shall make such payment within thirty (30) business days after the Execution Date of this Settlement Agreement.

In agreeing to the Settlement Amount, Plaintiff relies on Defendant's compliance with the Order entered by Judge Koba on March 21, 2024 [Index No. 75000/2022; Dkt. No. 73], as that Order applies to Defendant.

(b) Releases.

(i) Upon the Effective Date, Releasors shall be deemed to have fully, finally, and forever released the Released Entities from all Released Claims with prejudice. For the avoidance of doubt, Releasors hereby absolutely, unconditionally, and irrevocably covenant not to bring, file, commence, or claim, or to cause, assist, or permit to be brought, filed, commenced, or claimed, any Released Claims of any type in any forum whatsoever arising from Covered Conduct against the Released Entities. This Settlement Agreement shall constitute and may be pleaded as a complete bar to any Released Claim.

(ii) The releases set forth in this Settlement Agreement shall become effective immediately upon the Effective Date.

3. **Dismissal and Acknowledgement.** The Plaintiffs shall promptly, and in any event no later than 10 business days after the Effective Date, dismiss with prejudice all Released Claims that it has filed, including any and all Claims brought against Defendant in the Action.

4. **Defendant's Dismissal of Appeals.** The Defendant shall promptly, and in any event no later than 10 business days after the Execution Date, dismiss with prejudice any and all Appeals relating to the Claims.

5. **Settlement Allocation**. The Settlement Amount will be apportioned among Plaintiffs using allocation percentages used by Plaintiffs at the sole discretion of Plaintiffs. In any event, Plaintiffs' apportionment of the Settlement Amount will not in any way affect their obligations under this Settlement Agreement, and Defendant shall have no liability whatsoever in relation to any such apportionment.

6. **No Third-Party Beneficiaries.** Nothing in this Settlement Agreement is intended to or shall confer upon any Third Party any legal or equitable right, benefit, or remedy of any nature whatsoever.

7. **No Admission of Liability**. Defendant is entering into this Settlement Agreement solely for the purpose of settlement, and nothing contained herein may be taken as or construed to be an admission or concession of any violation of law, rule, or regulation, or of any other matter of fact or law, or of any liability or wrongdoing, all of which Defendant expressly denies. Defendant does not admit that it caused or contributed to any public nuisance or harm, and Defendant does not admit any wrongdoing that was or could have been alleged

Attachment: Settlement.NY Regional Pharmacy.Golub-1122024131423 (RES-2024-950 : Settlement Agreement - Golub Corporation (Opioid

by Plaintiffs. No part of this Settlement Agreement, including its statements and commitments, shall constitute evidence of any liability, fault, or wrongdoing by Defendant. The execution of this Settlement Agreement shall not constitute nor ever be offered by any Party as an admission of any fact or allegation asserted in any lawsuit, arbitration, or legal proceeding.

8. **Entire Agreement**. This Settlement Agreement represents the full and complete terms of the settlement entered into by the Parties hereto. In any action undertaken by the Parties, no prior versions of this Settlement Agreement and no prior versions of any of its terms that were not entered by the Court in this Settlement Agreement, may be introduced for any purpose whatsoever.

9. **Modification**. This Settlement Agreement may be modified only in writing signed by all Parties.

10. **Arm's Length Negotiations**. The Parties agree and stipulate that this Settlement Agreement was negotiated on an arm's-length basis between parties of equal bargaining power. The Settlement Agreement has been drafted jointly by counsel for each Party.

11. **Counterparts**. This Settlement Agreement may be executed in counterparts, and a facsimile or .pdf signature shall be deemed to be, and shall have the same force and effect as, an original signature.

12. **Governing Law**. The terms of this Settlement Agreement shall be governed by the laws of the State of New York.

13. **Legislature Approval**. This Settlement Agreement is subject to acceptance by the Plaintiffs' Legislatures or Counsel for final approval, if necessary, or a resolution passed obviating the need for legislative or counsel approval. In the event that all Plaintiffs have not executed this Settlement Agreement within ninety (90) days from the date that Defendant executes this Settlement Agreement, the Defendant, after meeting and conferring with Plaintiffs' counsel, may choose to declare this Settlement Agreement void and without any effect.

14. **No Publicity**. The Parties agree they will not issue any press release regarding this settlement or Settlement Agreement. If asked, they will provide "no comment" regarding this settlement or Settlement Agreement.

15. **Venue**. Any suits, actions or proceedings arising out of this Settlement Agreement shall be brought in State Court in the County of Suffolk, New York.

16. **Amendment**. This Settlement Agreement shall not be varied or modified in any respect, except by a subsequent written agreement executed by all Parties through their authorized representatives.

Attachment: Settlement.NY Regional Pharmacy.Golub-1122024131423 (RES-2024-950 : Settlement Agreement - Golub Corporation (Opioid

17. **Severability**. If, after the date hereof, any provision of this Agreement is held to be illegal, invalid, or unenforceable under the present or future laws effective during the term of this Agreement, such provision shall be fully severable. In lieu thereof, there shall be added a provision as similar in terms to such illegal, invalid, or unenforceable provision as may be effective, legal, valid, and enforceable.

18. **Notice**. All Notices under this Settlement Agreement shall be provided to the following Notice Designees via email and Overnight Mail:

For Plaintiffs:

Salvatore C. Badala
Shayna E. Sacks
NAPOLI SHKOLNIK PLLC
400 Broadhollow Road, Suite 305
Melville, New York 11747

For Defendant:

The Golub Corporation
Michael-Anthony Jaoude
Harter Secrest & Emery LLP
mjaoude@hselaw.com

IN WITNESS WHEREOF, this Settlement Agreement has been read and signed by the duly authorized representatives of each of the Parties.

Date:

September 5, 2024

The Golub Corporation
By:

Name:

Carrie Terraferma

Title:

Vice President of Legal and Corporate Secretary

Attachment: Settlement.NY Regional Pharmacy.Golub-1122024131423 (RES-2024-950 : Settlement Agreement - Golub Corporation (Opioid

Plaintiffs [Insert All Individual Names and Signatures Below]

Date:

By: _____

_____

Name: Brian J. Kulpa

Title: Town Supervisor

Attachment: Settlement.NY Regional Pharmacy.Golub-1122024131423 (RES-2024-950 : Settlement Agreement - Golub Corporation (Opioid

Exhibit A

1) Yates County, NY
2) Allegany County, NY
3) Town Of Amherst, NY
4) City Of Amsterdam, NY
5) City Of Auburn, NY
6) City Of Buffalo, NY
7) Cattaraugus County, NY
8) Cayuga County, NY
9) Cheektowaga, NY
10) Chemung County, NY
11) Chenango County, NY
12) Clinton County, NY
13) Cortland County, NY
14) Essex County, NY
15) Franklin County, NY
16) Genesee County, NY
17) Hamilton County, NY
18) City Of Ithaca, NY
19) City Of Kingston, NY
20) Town Of Lancaster, NY
21) Madison County, NY
22) Mount Vernon, NY
23) Niagara County, NY

Attachment: Settlement.NY Regional Pharmacy.Golub-11222024131423 (RES-2024-950 : Settlement Agreement - Golub Corporation (Opioid

24) Ogdensburg, NY

25) Otsego County, NY

26) City Of Poughkeepsie, NY

27) Town Of Poughkeepsie, NY

28) Putnam County, NY

29) Rensselaer County, NY

30) Rochester, NY

31) Saratoga County, NY

32) City Of Saratoga Springs, NY

33) Schoharie County, NY

34) Schuyler County, NY

35) Steuben County, NY

36) Tioga County, NY

37) Tompkins County, NY

38) Town Of Tonawanda, NY

Attachment: Settlement.NY Regional Pharmacy.Golub-11222024131423 (RES-2024-950 : Settlement Agreement - Golub Corporation (Opioid

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

Francina J. Spoth
Town Clerk

Meeting: 12/02/24 07:00 PM
Department: Town Attorney
Initiated by: **Samuel A. Alba**
Co-Sponsored by:

DOC ID: 29674 **RESOLUTION 2024-951** **ADOPTED**

Settlement of Article 7 Matter - Amherst Senior Apartments, LP V. Town of Amherst

AGENDA ITEM : DECEMBER 2, 2024

TO: **Town Board**

FROM: **Samuel A. Alba, Esq., Interim Town Attorney**

DATE: **November 25, 2024**

RE: **Settlement of Article 7 Matter**
Amherst Senior Apartments, LP v. Town of Amherst

Kindly adopt a resolution authorizing the following:

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

(2) Authorizing Interim Town Attorney Samuel A. Alba, Esq. to sign the attached Stipulation and Order of Settlement as the Attorney for the Respondent, Town of Amherst.

Thank you.

SAA:rms
Attachment
c: Tim Koller, Deputy Town Clerk
(*w/attachment,* **Agenda Item : December 2, 2024**)
Emily Murphy, Town Assessor

12/2/2024
Consent

FINANCIAL IMPACT:

Assessment

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

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

In the Matter of the Application of AMHERST SENIOR APARTMENTS LP,

Petitioner,

vs.

THE TOWN OF AMHERST, NEW YORK AND ITS ASSESSOR AND BOARD OF ASSESSMENT REVIEW,

Respondents.

STIPULATION AND ORDER OF SETTLEMENT

Index No. 811008-2024

WHEREAS, Petitioner Amherst Senior Apartments LP ("Petitioner" or "the Company"), by and through its attorneys, Barclay Damon, LLP, Mark R. McNamara, Esq., of counsel, commenced the above-captioned tax assessment proceeding ("Proceeding") under Real Property Tax Law ("RPTL") Article 7 against the Respondents Town of Amherst ("Town"), the Town Assessor ("Assessor") and the Town Board of Assessment Review ("BAR") (collectively the "Town"), which by and through their attorneys, Town of Amherst Law Department, Samuel A. Alba, Esq., of counsel, duly appeared in the Proceeding; and

WHEREAS, the Williamsville Central School District ("District"), by and through their attorneys, Hodgson Russ LLP, Michael B. Risman, Esq., of counsel, intervened in the Proceeding; and

WHEREAS, the County of Erie ("County"), by and through its attorneys, Lippes Mathias LLP, Margaret A. Hurley, Esq., of counsel intervened in the Proceeding; and

WHEREAS, Petitioner, Town, District and County are collectively referred to as the "Parties"; and

WHEREAS, the Town, District and County are collectively referred to as the "Taxing Jurisdictions"; and

WHEREAS, the real property at issue in this Proceeding is situated in the Town and for purposes of this Stipulation and Order is defined to include all land, existing improvements including, but not limited to,

BARCLAY DAMON, LLP

Attachment: Housing Preservation_ Stipulation and Order of Settlement (RES-2024-951 : Settlement of Article 7 Matter - Amherst Senior

all property covered by the tax parcel listed below associated with the Amherst Senior Apartments LP, described and assessed on the Town's 2024 assessment roll for the tax years 2024-25 as follows:

Property Location	**SBL No.**	**2024-25 Assessment**
465-475 John James Audubon Parkway	41.03-1-47.11/A	$10,627,500

(the "Property"); and

WHEREAS, the Petitioner entered into a Payment in Lieu of Tax Agreement for an Affordable Senior Housing Project at the Property with the Town, District, and County dated May 7, 2024 with respect to the Property making the Property exempt from real property taxes ("PILOT"); and

WHEREAS, the PILOT provides Petitioner will make payments in lieu of property taxes pursuant to the PILOT Schedule A and that the Property is not exempt from special assessments, special ad valorem levies, improvement district charges or similar tax equivalents (collectively "Special District Charges"); and

WHEREAS, the Petitioner challenged the 2024 assessment of the Property as permitted by the PILOT and timely commenced the Proceeding; and

WHEREAS, the Parties have engaged in settlement discussions and have agreed to fully resolve their differences without further litigation upon the terms of this Stipulation and Order of Settlement ("Stipulation and Order"); and

WHEREAS, the Parties have fully reviewed and determined this Stipulation and Order are in the best interests of all Parties; and

WHEREAS, the Parties have authorized their respective attorneys to enter into this Stipulation and Order;

NOW, upon reading and filing of the Stipulation and Order, it is hereby

BARCLAY DAMON, LLP

Attachment: Housing Preservation_ Stipulation and Order of Settlement (RES-2024-951 : Settlement of Article 7 Matter - Amherst Senior

STIPULATED AND ORDERED, that the 2024 assessment of the Property shall be reduced to $2,000,000.

STIPULATED AND ORDERED that pursuant to RPTL §727 the assessment of the Property will be set at $2,000,000 on the 2025, 2026, and 2027 assessment rolls; and it is further

STIPULATED AND ORDERED, that in the event the 2025 Special District Charges are not billed at the $2,000,000 assessment as provided by this Stipulation and Order the Town and County will provide for corrected tax bills or refunds; and it is further

STIPULATED AND ORDERED, that nothing herein shall represent or constitute an admission by any Party of any fact or matter, nor shall any provision of this Stipulation and Order be admissible in any court of law or administrative body in any jurisdiction for any purpose, other than in an action in this Court to obtain approval of this Stipulation and Order or to enforce its express terms; and it is further

STIPULATED AND ORDERED, that this proceeding shall be discontinued, with prejudice, upon full compliance with the terms of this Stipulation and Order. In the event that the 2024-25 through 2027-28 assessed valuations are not set as provided in this Stipulation and Order, this proceeding shall be immediately restored to the trial calendar; and it is further

STIPULATED AND ORDERED, that this Stipulation and Order may not be modified except by a subsequent writing signed by the authorized representatives of all the Parties to this Stipulation and Order and approved by the Court; and it is further

STIPULATED AND ORDERED, that this Court will retain jurisdiction for any disputes arising out of this Stipulation and Order and any instruments executed by the Parties in furtherance thereof; and it is further

STIPULATED AND ORDERED, that an executed copy of the Stipulation and Order, with Notice of Entry, shall be entered and docketed in the Erie County Clerk's Office and be filed among the Assessor's

BARCLAY DAMON, LLP

Attachment: Housing Preservation_ Stipulation and Order of Settlement (RES-2024-951 : Settlement of Article 7 Matter - Amherst Senior

permanent records; and it is further

STIPULATED AND ORDERED, that the parties hereto represent that the individuals executing this Stipulation and Order have been fully authorized by their respective clients to enter into this Stipulation and Order with the intent of binding the parties and all taxing jurisdictions to the terms of this Stipulation and Order; and it is further

STIPULATED AND ORDERED, this Stipulation and Order may be signed in one or more counterparts, each of which shall be deemed to be an original and all of which when taken together shall constitute the same Stipulation and Order. Any signed copy of this Stipulation and Order made by photocopy or facsimile shall be considered an original.

BARCLAY DAMON, LLP

DATED: November _____, 2024

BARCLAY DAMON, LLP

By: _____
Mark R. McNamara, Esq.

Attorneys for Petitioner
Amherst Senior Apartment L.P.
200 Delaware Avenue, Suite 1200
Buffalo, New York 14202

DATED: November _____, 2024

TOWN OF AMHERST LAW DEPARTMENT

By: _____
Samuel A. Alba, Esq.

Attorneys for Respondents
5583 Main Street
Amherst, New York 14221

Attachment: Housing Preservation_ Stipulation and Order of Settlement (RES-2024-951 : Settlement of Article 7 Matter - Amherst Senior

DATED: November _____, 2024

LIPPES MATHIAS LLP

By: _____
Margaret A. Hurley, Esq.

Attorneys for Intervenor
County of Erie
50 Fountain Plaza, Suite 1700
Buffalo, New York 14202

DATED: November _____, 2024

HODGSON RUSS LLP

By: _____
Michael B. Risman Esq.

Attorneys for Intervenor
Williamsville Central School District
140 Pearl Street, Suite 100
Buffalo, New York 14202

SO ORDERED:

ENTER:

_____
Hon. Gerald J. Greenan, J.S.C.

BARCLAY DAMON, LLP

Attachment: Housing Preservation_ Stipulation and Order of Settlement (RES-2024-951 : Settlement of Article 7 Matter - Amherst Senior

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

Francina J. Spoth
Town Clerk

Meeting: 12/02/24 07:00 PM
Department: Town Attorney
Initiated by: **Samuel A. Alba**
Co-Sponsored by:

DOC ID: 29688 **RESOLUTION 2024-952** **ADOPTED**

Settlement of Article 7 Matter - Amherst Industries, Inc. C/O Pep Boys #193 V. Town of Amherst

AGENDA ITEM : DECEMBER 2, 2024

TO: **Town Board**

FROM: **Samuel A. Alba, Esq., Interim Town Attorney**

DATE: **November 25, 2024**

RE: **Settlement of Article 7 Matter**
Amherst Industries, Inc. c/o Pep Boys #193 v. Town of Amherst

Kindly adopt a resolution authorizing the following:

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

(2) Authorizing Interim Town Attorney Samuel A. Alba, Esq. to sign the attached Amended 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 : December 2, 2024**)
Emily Murphy, Town Assessor

12/2/2024
Consent

FINANCIAL IMPACT:

Assessment

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

At a Special Condemnation and Tax Certiorari Term of the Supreme Court of the State of New York, held in and for the County of Erie, Buffalo, New York on the _____ day of _____, 2024

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE

In the Matter of the Application of
Amherst Industries Inc. c/o Pep Boys #193

Petitioner,

v.

BOARD OF ASSESSMENT REVIEW and/or ASSESSOR OF THE TOWN OF AMHERST, AND THE TOWN OF AMHERST, ERIE COUNTY, NEW YORK,

Respondents.

Index Number
810396/2024

Presiding Judge:
Honorable Gerald J. Greenan III, J.S.C.

S/B/L: 67.06-1-28.1

AMENDED CONSENT ORDER AND JUDGMENT

Petitioner having heretofore served and filed the Notices of Petition and Petitions to review assessments made by the Town of Amherst for the 2024 assessment year upon certain property located in the Town of Amherst and designated as Tax Grid No. 67.06-1-28.1 on the tax maps and assessment rolls of the Town of Amherst; and

The issues of these proceedings having duly come before an IAS Term of this Court, and the Petitioner having appeared by James T. Ryan III, Esq. of Stavitsky & Associates, LLC and the Respondents having appeared by Samuel A. Alba, Esq. he parties having agreed to a settlement of these proceedings, it is

ORDERED, ADJUDGED and DETERMINED that the assessments on the property on the official tax map and assessment rolls of the Town of Amherst, Erie County for the assessment years are hereby reduced, corrected and fixed for the assessment rolls as follows:

Attachment: Pep Boys Amherst CJ (RES-2024-952 : Settlement of Article 7 Matter - Amherst Industries, Inc. C/O Pep Boys #193 V. Town of

SBL: 67.06-1-28.1

Assessment Roll	Assessment	Reduced Assessment	Amount of Reduction
2024	$2,427,923	$2,345,000	$82,923

and it is further

ORDERED, ADJUDGED AND DECREED, that the terms of R.P.T.L. §727 shall apply to the judgment for 2024 in all respects whereby the 2025, 2026 and 2027 assessments shall be $2,345,000; and it is further

ORDERED, ADJUDGED and DECREED, 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; and it is further

ORDERED, ADJUDGED and DETERMINED that all refunds otherwise owed Petitioner are hereby waived; however, any tax bills issued, but not yet due shall be re-issued in furtherance of the above settlement; and it is further

Attachment: Pep Boys Amherst CJ (RES-2024-952 : Settlement of Article 7 Matter - Amherst Industries, Inc. C/O Pep Boys #193 V. Town of

ORDERED, ADJUDGED and DETERMINED that this Order and Judgment hereby constitutes and represents full settlement of the tax review proceedings herein, and that there are no costs or disbursements awarded to, by, or against any party and that upon compliance with the terms of this Order and Judgment, the above proceedings shall be, and the same hereby are, settled and discontinued with prejudice.

ENTER

_____
HON. GERALD J. GREENAN, J.S.C.

Signing and Entry of the within Order
is hereby Consented to:

STAVITSKY & ASSOCIATES, LLC
Attorneys for Petitioner

By: _____
JAMES T. RYAN III, ESQ.
350 Passaic Ave
Fairfield, NJ 07004

TOWN OF AMHERST
Attorneys for Respondent

By: _____
SAMUEL A. ALBA, ESQ.
5583 Main Street
Williamsville, NY 14221

Attachment: Pep Boys Amherst CJ (RES-2024-952 : Settlement of Article 7 Matter - Amherst Industries, Inc. C/O Pep Boys #193 V. Town of

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

Francina J. Spoth
Town Clerk

Meeting: 12/02/24 07:00 PM
Department: Town Clerk
Initiated by: **Francina J. Spoth**
Co-Sponsored by:

DOC ID: 29694 **RESOLUTION 2024-953** **ADOPTED**

Authorization for Pre-Payment to RDT Mail Corp.

We are requesting approval for and directive to the Comptroller for pre-payment to RDT Mail Corp. for the mailing of the 2025 Town and County Tax Bills ($16,794.00) and for the 2025 Town and County Tax Receipts (11,818.00).

12/2/2024
Consent

FINANCIAL IMPACT:

$16,794.00 Postage for the mailing of the 2025 Town and County Tax Bills from A 1410 4020

$11,818.00 Postage for the mailing of the 2025 Town and County Tax Receipts from A 1410 4020

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

RDT Mail Corp
4444 Broadway
Depew, NY 14043 US
accounting@rdtmail.com

INVOICE

BILL TO
Town of Amherst - Tax Bills Only
5583 Main St
Williamsville, NY 14221

SHIP TO
Town of Amherst - Tax Bills Only
5583 Main St
Williamsville, NY 14221

INVOICE	37354
DATE	11/13/2024
TERMS	Due on receipt
DUE DATE	11/13/2024

COST CENTER
Town Tax Bills

DATE	ACTIVITY	DESCRIPTION	QTY	RATE	AMOUNT
	Prepaid Postage	Prepaid Postage - Town Tax Bills	27,000	0.622	16,794.00

Please send all ACH remittances and invoice questions to accounting@rdtmail.com.

SUBTOTAL	16,794.00
TAX	0.00
TOTAL	16,794.00
BALANCE DUE	**$16,794.00**

Attachment: RDT TC 2025 Bills (RES-2024-953 : Authorization for Pre-Payment to RDT Mail Corp.)

RDT Mail Corp
4444 Broadway
Depew, NY 14043 US
accounting@rdtmail.com

INVOICE

BILL TO
Town of Amherst - Tax Bills Only
5583 Main St
Williamsville, NY 14221

SHIP TO
Town of Amherst - Tax Bills Only
5583 Main St
Williamsville, NY 14221

INVOICE	37355
DATE	11/13/2024
TERMS	Due on receipt
DUE DATE	11/13/2024

COST CENTER
Town Tax Receipts

DATE	ACTIVITY	DESCRIPTION	QTY	RATE	AMOUNT
	Prepaid Postage	Prepaid Postage - Town Tax Receipts	19,000	0.622	11,818.00

Please send all ACH remittances and invoice questions to accounting@rdtmail.com.

SUBTOTAL	11,818.00
TAX	0.00
TOTAL	11,818.00
BALANCE DUE	**$11,818.00**

Attachment: RDT TC 2025 Receipts (RES-2024-953 : Authorization for Pre-Payment to RDT Mail Corp.)

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

Francina J. Spoth
Town Clerk

Meeting: 12/02/24 07:00 PM
Department: Town Clerk
Initiated by: **Francina J. Spoth**
Co-Sponsored by:

DOC ID: 29661 **RESOLUTION 2024-954** **ADOPTED**

Permission for Insert in Tax Bill Mailing CRS #5178

We are requesting that the Town Board authorizes the use of mail inserts as an informational tool, to make taxpayers aware of the various contactless payment methods available. This permission is for the 2025 Town and County Tax Collection. Pending successful completion of the Contract Routing System.

12/2/2024
Consent

FINANCIAL IMPACT:

A 1410 4020 $1,270.00 (approx, based on 27,000 qty)

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

RDT Mail Corp

November 12, 2024

Amendment to Bid #1234567-Tax Bill Processing

Town of Amherst Town Tax Bills 2025

Added Component(s): Buck Slip Printing and Inserting

27,000 qty

Services:

RDT Mail Corp will print, per client specifications, and insert into tax bill mailing a client-mandated Buck Slip.

Buck Slip Insert Fee:	$ 0.010 per unit cost - $270.00 total cost
Buck Slip Print Fee:	$ 0.037 per unit cost - $1,000.00 total cost

TOTAL AMENDMENT COST (2) COMPONENTS: $1270.00

Submitted by:

Chris Stappenbeck
RDT Mail Corp
716-685-4395

Signature

X Chris Stappenbeck

Chris Stappenbeck

Agreed to and accepted by:

Town of Amherst

By: _____
Brian J. Kulpa, Supervisor

Date: _____

Attachment: RDT-Buck Slip Quote (RES-2024-954 : Permission for Insert in Tax Bill Mailing CRS #5178)

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

Francina J. Spoth
Town Clerk

Meeting: 12/02/24 07:00 PM
Department: Town Clerk
Initiated by: **Joanne A. Schultz**
Co-Sponsored by:

DOC ID: 29731 **RESOLUTION 2024-955** **ADOPTED**

Subject Matter List

WHEREAS the NYS Archives Office has launched a new Record Retention and Disposition Schedule for Local Government Records (LGS-1) effective August 1, 2020; AND

WHEREAS the NYS Archives Office has revised the Record Retention Schedule in 2022, AND NOW THEREFORE BE IT

RESOLVED pursuant to Article 57-A of the Arts and Cultural Affairs Law, and containing legal minimum retention periods for local government records, is hereby officially adopted by the Town for use by all officers in legally disposing of valueless records listed therein:

(a) only those records will be disposed of that are described in Retention and Disposition Schedule for New York Local Government Records (LGS-1, revised 2022), after they have met the minimum retention periods described therein;

(b) only those records will be disposed of that do not have sufficient administrative, fiscal, legal, or historical value to merit retention beyond established legal minimum periods, AND BE IT FURTHER

RESOLVED, that the adopted NYS Archives Retention Schedule LGS-1, revised 2022 is the Towns reasonably detailed current list by subject matter as required by Public Officers Law Article 6 §87(3)c.

12/2/2024
Consent

FINANCIAL IMPACT:

n/a

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

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

Francina J. Spoth
Town Clerk

Meeting: 12/02/24 07:00 PM
Department: Town Clerk
Initiated by: **Timothy Koller**
Co-Sponsored by:

DOC ID: 29669 **RESOLUTION 2024-956** **ADOPTED**

New Firefighter for East Amherst Fire Department

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

Wayne Woroniecki
67 Ashbury Ct
East Amherst, NY 14051

12/2/2024
Consent

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

TOWN OF AMHERST
VOLUNTEER FIRE DEPARTMENT MEMBERSHIP
RESIDENCY VERIFICATION FORM

Applicant Name: Wayne Woroniecki

Applicant Home Address: 67 Ashbury Court, Amherst, NY ~~14086~~ 14051

Under penalty of perjury I, Wayne Woroniecki 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.

- [x] 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: Wayne W. Woroniecki

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: Kenneth Rusin
Kenneth Rusin

Title: President

Date: 11/19/2024

Submit this completed form to:
Amherst Town Clerk
5583 Main Street
Williamsville, NY 14221

Attachment: Residency Verification - Woroniecki (RES-2024-956 : New Firefighter for East Amherst Fire Department)

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

Francina J. Spoth
Town Clerk

Meeting: 12/02/24 07:00 PM
Department: Building/Building Maintenance
Initiated by: **Daniel Rizzo**
Co-Sponsored by:

DOC ID: 29713 **RESOLUTION 2024-957** **ADOPTED**

Senior Center Waste Line Replacement Change Order 1

We are requesting the Town Board consider approval of this resolution authorizing the Supervisor to sign the above referenced Change Order, which **decreases** the overall contract by $14,000.00.

During construction, it was found that the replacement of underground branch piping associated with Alternate 1 scope of work was no longer necessary. The scope of work has been removed from the project and the Contractor is returning the full value of bid Alternate 1.

As per the above, the project above shall **decrease** funding required from the project associated with account N20-66.

Please note that the above request is contingent pending successful completion of the contract review procedure.

12/2/2024
Consent

FINANCIAL IMPACT:

N20-66 credit of $14,000.00

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

TOWN OF AMHERST

BUILDING DEPARTMENT – MAINTENANCE DIVISION

ERIE COUNTY, NEW YORK

5583 MAIN STREET
WILLIAMSVILLE, NEW YORK 14221

PHONE: (716) 631-7227
FAX: (716) 631-2958

Daniel Rizzo
Director of Facilities

November 20, 2024
AGENDA – December 2, 2024

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

RE: Change Order No. 1;
M.K.S. Plumbing Corp.
Senior Center – Waste Line Replacement
TOA Project No. 2024-F-0.01B
CDBG Account: N20-66

Dear Councilmembers:

We are requesting the Town Board consider approval of this resolution authorizing the Supervisor to sign the above referenced Change Order, which **decreases** the overall contract by $14,000.00.

During construction, it was found that the replacement of underground branch piping associated with Alternate 1 scope of work was no longer necessary. The scope of work has been removed from the project and the Contractor is returning the full value of bid Alternate 1.

As per the above, the project above shall **decrease** funding required from the project associated with account N20-66.

Please note that the above request is contingent pending successful completion of the contract review procedure.

Thank you for considering this request.

Very truly yours,

Anne Dafchik, AIA
Architect | Building Maintenance and Facilities

X:\Administrative\- Buildings\Senior Center\4. Capital Projects\2024-F-0.01B Waste Line Replace at Kitchen\CA\7. Change Orders\Change Order 1 - Resolution Language.docx

Attachment: Change Order 1 - Credit (RES-2024-957 : Senior Center Waste Line Replacement Change Order 1)

INFORMATION BULLETIN

PROJECT: Town of Amherst, Project No. 2024-F-0.01B
Senior Center - Waste Line Replacement

INFORMATION BULLETIN NO.: IB-001

DATE: 11/5/2024

OWNER: Town of Amherst

ARCHITECT'S PROJECT NO.: M/E Engineering 241088

CONTRACTOR: M.K.S. Plumbing Corp.

CONTRACT NO.:

CONTRACT DATE: 10/28/2024

DESCRIPTION:

Provide Change Order to offer back a credit to Owner for unused Alternate No. 1. During construction it was determined that the work of Alternate 1 (to replace a branch waste line) was unnecessary.

If accepted, contract documents to change as follows:
- Refer to drawing **P101 (as revised by Addendum 1 on 10/11/24)**, and where occurring, remove General Note J, Demolition Note 3, and Drawing Notes 5 and 7. Within Office E19, remove Construction Notes 9 and 10.
- As-built record drawings updated accordingly.

ATTACHMENT(S):

ACTION

☒ 1. *PROPOSAL REQUEST:* Submit an itemized quotation for changes in the Contract Sum and/or time required to implement the above proposed modifications to the Contract Documents. This is not authorization to proceed with the work.

☐ 2. *SUPPLEMENTAL INSTRUCTIONS:* Implement the above instructions without change to the Contract Sum and/or Time. Prior to proceeding, indicate acceptance below and return one copy to the Architect.

☐ 3. *CONSTRUCTION CHANGE DIRECTIVE:* Proceed with the above described changes to the Contract Documents immediately. Submit final costs and/or change in Contract Time for inclusion in a subsequent Change Order.

Methods: ☒ Lump Sum ☐ Unit Price ☐ Time & Material Not-to-Exceed

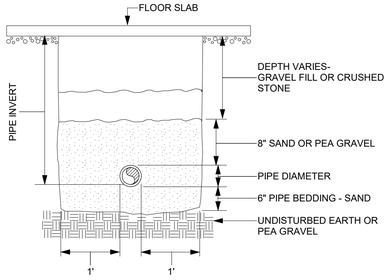
Change in Contract Sum of **CREDIT $ 14,000.00**

Change in Contract Time of **unchanged** days

ISSUED:	ACCEPTED:	AUTHORIZED:
BY: **A. Dafchik / Owner Rep**	BY: Daniel Rizzo	BY:
Architect Date	Owner Date	Contractor Date 11/7/24
Required for Actions 1,2,3	Required for Action 3	Required for Actions 2,3

☒ Owner ☐ Architect ☐ Structural ☐ Civil
☒ Contractor ☐ Field ☐ Mechanical/Electrical ☐ Other (Roofing)

Attachment: Change Order 1 - Credit (RES-2024-957 : Senior Center Waste Line Replacement Change Order 1)



DETAIL NOTES:

A. IN ALL AREAS, TRENCH BACKFILL SHALL BE AS REQUIRED BY THE LOCAL AUTHORITIES.

B. REFER TO SPECIFICATIONS FOR EXCAVATION AND BACKFILL MATERIALS AND REQUIREMENTS.

3 TRENCH DETAIL (FLOOR SLAB)

NOT TO SCALE

PLUMBING SYMBOL LIST

SYMBOL	DESCRIPTION
– – – – – –	WORK TO BE REMOVED
	POINT OF CONNECTION
	POINT OF DISCONNECTION
NTS	NOT TO SCALE
(E)	EXISTING
(ETR)	EXISTING TO REMAIN
AFF	ABOVE FINISHED FLOOR
BFF	BELOW FINISHED FLOOR
GC	GENERAL CONTRACTOR
PC	PLUMBING CONTRACTOR
——(E)——	EXISTING PIPING
——— ———	NEW PIPING LOCATED BELOW FLOOR/SLAB
——SAN——	SANITARY SEWER PIPING
——GW——	GREASE WASTE PIPING (GW)
——V——	VENT PIPING (V)
	ELBOW DOWN
	ELBOW UP
	TOP TEE CONNECTION
	"P" TRAP
	PIPE CONTINUATION
	CAP OR PLUG
	DECK PLATE CLEANOUT (DPCO)
	FLOOR DRAIN (FD) / FLOOR SINK (FS)
X	DRAWING KEYNOTE
X	DEMOLITION/REMOVAL KEYNOTE

GENERAL NOTES:

A. THESE NOTES ARE APPLICABLE TO THE FULL SET OF CONTRACT DOCUMENTS.

B. RUN ALL NEW HORIZONTAL PIPING AS HIGH AS POSSIBLE BELOW FLOOR.

C. DIVISION 22 SHALL CONTAIN ALL WATER FROM CORE DRILLING. WATER WILL NOT BE ALLOWED TO RUN OFF AND FLOOD OTHER AREAS.

D. DISPOSE OF ALL WASTE MATERIALS CAUSED BY WORK OF THIS CONTRACTOR. LEGALLY DISPOSE OF ALL MATERIALS TO A LOCATIONS OFF SITE.

E. COORDINATE AND SCHEDULE WORK AND SHUTDOWNS WITH THE OWNER PRIOR TO CONSTRUCTION.

F. SLEEVE AND SEAL ALL WALL AND FLOOR PENETRATIONS. PROVIDE FIRESTOPPING FOR ALL PENETRATIONS.

G. PITCH 4" AND LARGER SANITARY AND WASTE PIPING AT 1/8" PER FOOT UNLESS OTHERWISE NOTED. FOR SANITARY AND WASTE PIPING 3" AND SMALLER PITCH AT 1/4" PER FOOT UNLESS OTHERWISE NOTED.

H. MINIMUM SIZE OF WASTE PIPING BELOW SLAB SHALL BE 3". MINIMUM SIZE OF VENT PIPING BELOW SLAB SHALL BE 2".

I. ALL BRANCH PIPE CONNECTIONS TO MAIN HORIZONTAL COMBINATION DRAIN AND VENT PIPING SHALL BE MADE INTO THE SIDE OF THE MAIN PIPING TO MINIMIZE PRESSURE FLUCTUATIONS IN THE SYSTEM. ALL VENT PIPING SHALL CONNECT TO THE TOP OF THE MAIN DRAIN PIPING.

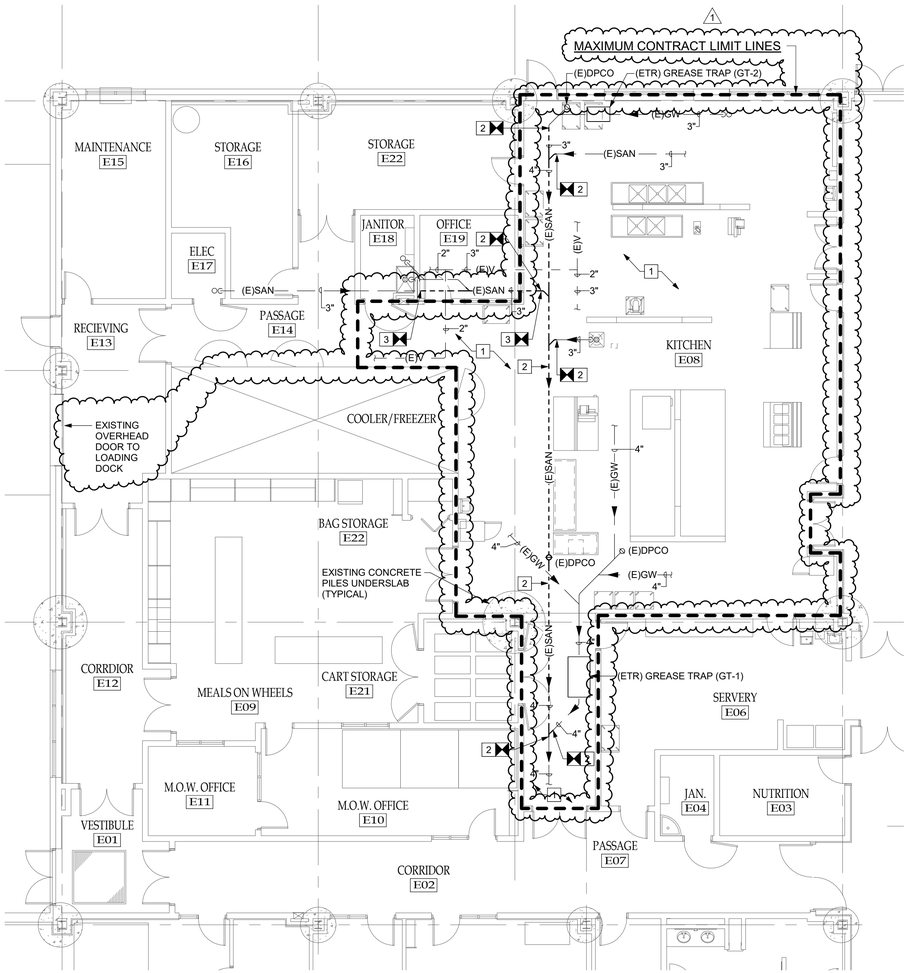
J. ALTERNATE #1: REPLACE PORTION OF SANITARY SEWER BRANCH WITHIN OFFICE E19.

X DEMOLITION NOTES:

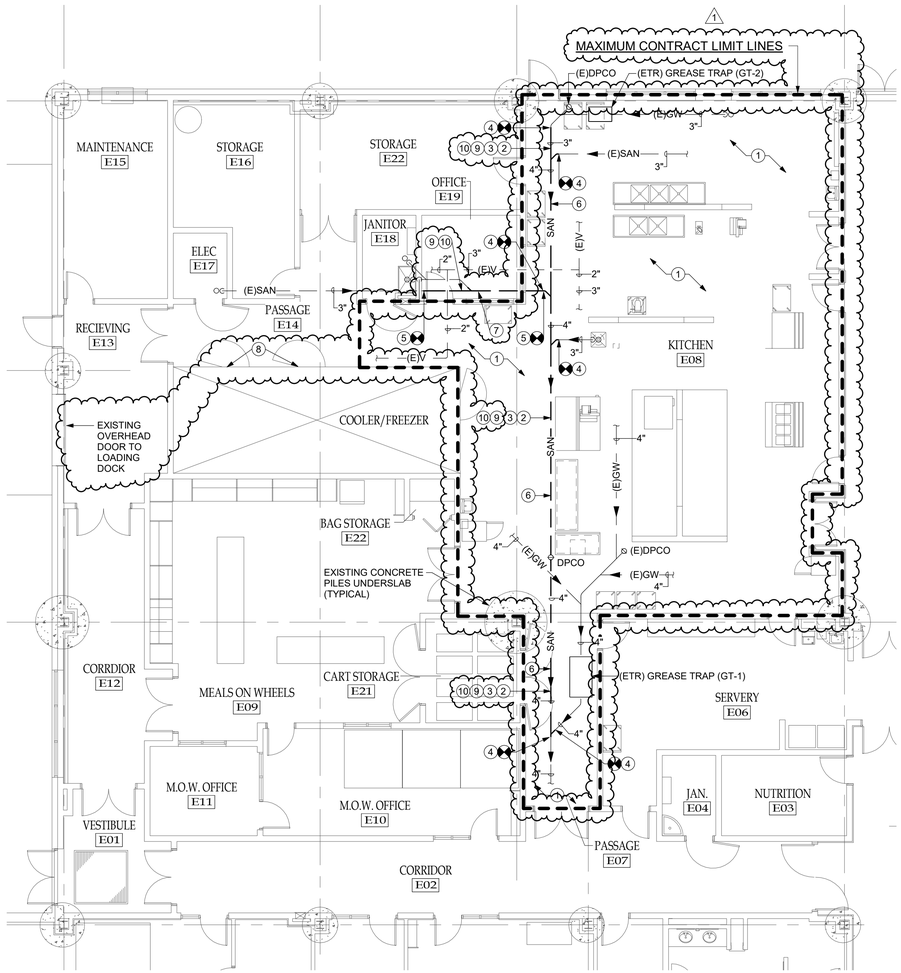
1 EXISTING UNDERSLAB SANITARY SEWER/GREASE WASTE MAIN PIPING TO REMAIN.
2 DISCONNECT AND REMOVE EXISTING UNDERSLAB SANITARY SEWER PIPING AT POINTS OF DISCONNECTION. PREPARE REMAINING PIPING FOR RECONNECTION. PROVIDE ALL REQUIRED CUTTING AND PATCHING.
3 ALTERNATE #1: PROVIDE PRICING TO DISCONNECT AND REMOVE SECTION OF UNDERSLAB SANITARY SEWER PIPING BETWEEN POINTS OF DISCONNECTION. PREPARE REMAINING PIPING FOR RECONNECTION. PROVIDE ALL REQUIRED CUTTING AND PATCHING.

X DRAWING NOTES:

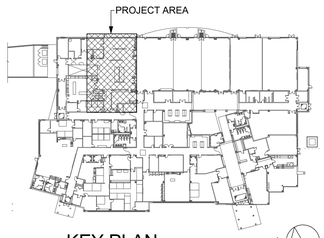
1 EXISTING UNDERSLAB SANITARY SEWER/GREASE WASTE MAIN PIPING TO REMAIN.
2 PROVIDE NEW SANITARY SEWER PIPING.
3 CUT AND PATCH EXISTING CONCRETE SLAB OVER PIPE TRENCH. PROVIDE HORIZONTAL REBAR DOWELS INTO THE EXISTING CONCRETE SLAB 1'-0" ON CENTER. REPLACE THE EXISTING QUARRY TILE FLOOR TO MATCH EXISTING.
4 CONNECT TO EXISTING SANITARY PIPING.
5 ALTERNATE #1: PROVIDE PRICING TO REPLACE A SECTION OF NEW SANITARY SEWER PIPING BETWEEN POINTS OF CONNECTION.
6 DIVISION 22 SHALL REPLACE ALL QUARRY TILE THAT IS REMOVED AS PART OF THE SANITARY SEWER REPLACEMENT PROJECT. FURNISH AND INSTALL NEW QUARRY TILE TO MATCH EXISTING QUARRY TILE. PROVIDE PLYWOOD TO COVER THE AREA WHERE THE QUARRY TILE IS REMOVED ONCE THE FLOOR SLAB HAS BEEN BACKFILLED AND POURED UNTIL THE NEW TILE CAN BE SET SO THE KITCHEN CAN BE USED.
1 7 THE EXISTING STAFF OFFICE E19 FLOOR IS 12X12 VCT TILE. DIVISION 22 SHALL REPLACE THE ENTIRE 12X12 VCT FLOOR WITHIN THE ROOM AS PART OF ALTERNATE #1.
8 OWNER TO ACCESS EXISTING COOLER/FREEZER DURING CONSTRUCTION; FROM RECEIVING E13.
9 THE EXISTING CONCRETE FLOOR SLAB THICKNESS IS 5 INCHES; WITH THICKEN SLAB TO 8 INCHES AT CONTROL JOINTS.
10 THE PIPE TRENCH CONCRETE PATCHING SHALL BE PINNED. PROVIDE 12" LONG, 1/2" REBAR DOWELS; 12" ON CENTER (OC); 5/8" HOLES, 6" DEEP INTO EXISTING FLOOR SLAB; EPOXY DOWELS INTO EXISTING FLOOR SLAB.



1 FIRST FLOOR DEMOLITION PLAN - PLUMBING
1/8" = 1'-0"



2 FIRST FLOOR PLAN - PLUMBING
1/8" = 1'-0"



4 KEY PLAN
NTS

ENGINEERING
Mechanical/Electrical Engineering Consultar
Buffalo | Rochester | Syracuse | Capital District
60 LAKEFRONT BLVD., SUITE 320
BUFFALO, NY 14202
716.845.5092
www.meengineering.com

TOWN OF AMHERST
SENIOR CENTER SEWER REPLACEMENT

370 JOHN JAMES AUDUBON PARKWAY
AMHERST, NEW YORK 14228

Attachment: Change Order 1 - Credit (RES-2024-957 : Senior Center Waste Line Replacement Change Order 1)

THESE DOCUMENTS AND ALL THE IDEAS, ARRANGEMENTS, DESIGNS AND PLANS INDICATED THEREON OR REPRESENTED THEREBY ARE OWNED BY AND REMAIN THE PROPERTY OF M/E ENGINEERING AND NO PART THEREOF SHALL BE UTILIZED BY ANY PERSON, FIRM OR CORPORATION FOR ANY PURPOSE WHATSOEVER EXCEPT W/ THE SPECIFIC WRITTEN PERMISSION
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REVISIONS

No.	Date	By	Description
1	10/11/2024	M/E	ADDENDUM No. 1

DRAWING TITLE

PARTIAL FLOOR PLANS, DETAIL, GENERAL NOTES AND SYMBOL LIST - PLUMBING

DRAWING NO. **P101**

Drawn By: TAC
Checked By: PWC
Project Mgr: DMS
Project No: 24108

ISSUE DATE **09/25/2024**
CONSTRUCTION DO

Town of Amherst
Change Order

PROJECT:
Senior Center - Waste Line Replacement

2024-F-0.01B

CONTRACT INFORMATION:
Contract For: Senior Center - Waste Line Replacement
Date: 10/28/2024

CHANGE ORDER INFORMATION:
Change Order Number: 001

OWNER:
Town of Amherst
5583 Main St.
Williamsville, NY 14221

ENGINEER:
M/E Engineering
60 Lakefront Blvd, Suite 320
Buffalo, NY 14202

CONTRACTOR:
M.K.S. Plumbing Corp.
19 Ransier Drive
West Seneca, NY 14224

The Contract is changed as follows:

During construction and once underground piping was visible, it was determined that scope of work associated with Alternate 1 was unnecessary. This scope of work will be removed from the project. Informational Bulletin IB-001 is attached with supporting information.

The original Contract Sum was	$ 48,825.0
The net change by previously authorized Change Orders	$ 0.0
The Contract Sum prior to this Change Order was	$ 48,825.0
The Contract Sum will be **decreased** by this Change Order in the amount of	($ 14,000.0
The new Contract Sum, including this Change Order, will be	$ 34,825.0
The Contract Time will be changed by	(0) days.
The new date of Substantial Completion shall now be:	N/A

NOTE: This Change Order does not include adjustments to the Contract Sum or Guaranteed Maximum Price, or the Contract Time, that have been authorized by Construction Change Directive until the cost and time have been agreed upon by both the Owner and Contractor, in which case a Change Order is executed to supersede the Construction Change Directive.

NOT VALID UNTIL SIGNED BY THE ARCHITECT, CONTRACTOR AND OWNER.

M/E Engineering	M.K.S. Plumbing Corp.	Town of Amherst
ARCHITECT/ENGINEER	CONTRACTOR	OWNER
SIGNATURE	SIGNATURE	SIGNATURE
David M. Schlant, PE	Joseph A. Marchitto, Pres.	
PRINTED NAME AND TITLE	PRINTED NAME AND TITLE	PRINTED NAME AND TITLE
November 5, 2024	11/7/24	
DATE	DATE	DATE

Attachment: Change Order 1 - Credit (RES-2024-957 : Senior Center Waste Line Replacement Change Order 1)

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

Francina J. Spoth
Town Clerk

Meeting: 12/02/24 07:00 PM
Department: Building/Building Maintenance
Initiated by: **Daniel Rizzo**
Co-Sponsored by:

DOC ID: 29714 **RESOLUTION 2024-958** **ADOPTED**

30 S Cayuga Roof Access Ladder

WHEREAS, the Building Maintenance / Facilities Department received bids on November 14, 2024 for Roof Access Ladder Installation; and

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

NOW, THEREFORE, BE IT RESOLVED, the Town Board authorizes the Building Maintenance / Facilities Department to award the construction contract to Jameson Roofing Company; and

BE IT FURTHER RESOLVED, The Town Board authorizes the Supervisor to sign the contract with Jameson Roofing Company; and

BE IT FURTHER RESOLVED, that approval is contingent on successful completion of the Contract Routing System.

12/2/2024
Consent

FINANCIAL IMPACT:

KP2302-4972 $14,179.00

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

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

Francina J. Spoth
Town Clerk

Meeting: 12/02/24 07:00 PM
Department: Comptroller
Initiated by: **Daryl Bramer**
Co-Sponsored by:

DOC ID: 29715 **RESOLUTION 2024-959** **ADOPTED**

Budget Transfers and Amendments

For December 2, 2024 Town Board Agenda

To: Town Board
From: Office of Town Comptroller
Date: 11/26/2024
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:***
A1990.4000 Contingency $15,000	A7140.4220 Rec. - Bldgs & Grounds $15,000
To transfer funds from contingency to Recreation Buildings & Grounds.	
G9916.4929 Plant 16 - Repair/Replace Lift Station $5,500	G9916.2600 Other $5,500
Requested per department.	
A1620.4200 Buildings- Asbestos Control $12,000	A6772.4220 Senior Ctr.- Bldgs & Grounds $12,000
Requested per department.	

BUDGET AMENDMENTS - 2024

INCREASE:	***INCREASE:***
D5130.02617 Highway- Auction Revenue $7,510.00	D5130.4240 Trucks, Tractors, Equip $7,510.00
To recognize auction revenue and increase repair line for trucks, tractors, and equipment.	
N2423.02785 CDBG & VG- PI $170.00	N2423.4000 Contractual $170.00
To recognize Community Development program income from 169 Hillcrest, Amherst.	
N2440.02785 AMH HOME- PI $7,198.99	N2440.4000 Contractual $7,198.99
N2454.02785 HOME ADMIN - PI $799.89	N2454.4003 10% Admin $799.89
To recognize Community Development program income from 75 Spruce, Amherst.	
N2423.02785 CDBG & VG- PI $8,882.80	N2423.4000 Contractual $8,882.80
N2430.02785 CDBG P/R- PI $2,220.70	N2430.1000 Personal Svcs $2,062.89
	N2430.8030 FICA $157.81
To recognize Community Development program income from 75 Spruce, Amherst.	
KP2316.03089 NYS DEC Grant- State Aid $2,000,000.00	KP2316.4972 Construction Exp $2,000,000.00
To recognize the NYS DEC Climate Smart Communities Grant, CRS# 5164.	
N2441.02785 AMH 1st Time Homebuyers- PI $4,500.00	N2441.4000 Contractual $4,500.00
N2454.02785 HOME Admin- PI $500.00	N2454.4003 10% Admin $500.00
To recognize Community Development program income from 231 Windermere, Amherst.	
A3120.02720 Police Office- Donations, Reimb $175.00	A3120.4430 Miscellaneous $175.00
A3120.02770 Police Office- Other Rev $2,085.37	A3120.4430 Miscellaneous $2,085.37

A3122.02410 Bailey Ave- Rentals $10,000.00 A3122.4220 Bldgs & Grounds $10,000.00
To recognize revenue collected from Police and increase expenditures.

A6772.02410 Senior Center - Rentals $1,700.00 A6772.4090 Professional Services $6,400.00
A6772.02725 Senior Center - Advertising Income $4,700.00
To recognize revenue and increase professional services for programs.

A6773.01990 Nutrition - Food Sales $3,955.17 A6773.4000 Contractual $10,000.00
A6773.02775 Nutrition - Client Contributions $6,044.83
To recognize revenue and increase contractual for additional food costs.

12/2/2024
Consent

FINANCIAL IMPACT:

See Descriptions.

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

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

Francina J. Spoth
Town Clerk

Meeting: 12/02/24 07:00 PM
Department: Comptroller
Initiated by: **Daryl Bramer**
Co-Sponsored by:

DOC ID: 29720 **RESOLUTION 2024-960** **ADOPTED**

Year End Budget Transfers

To facilitate the closing of year end 2024, I am requesting approval from the Town Board to move budgeted funds from accounts within the same department with department head approval without coming back to the Town Board for approval.

Additionally, I am requesting to include accounts such as health insurance, utilities, payroll, contingency, etc., within the current operating budgets of the Town within each fund. This will allow us to prepare for the year end audit.

This does not include budget amendments.

12/2/2024
Consent

FINANCIAL IMPACT:

N/A

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

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

Francina J. Spoth
Town Clerk

Meeting: 12/02/24 07:00 PM
Department: Contract Compliance
Initiated by: **Lynda Juul**
Co-Sponsored by:

DOC ID: 29660 **RESOLUTION 2024-961** **ADOPTED**

Award Bid #2024045 Ferric Chloride Solution - CRS #5177

WHEREAS, the Contract Compliance and Administration Department received bids on October 31, 2024 for Ferric Chloride Solution; and

WHEREAS, the bid process resulted in responses from four (4) vendors, with two (2) as "no bids", as per the attached bid tabulation form;

NOW, THEREFORE, BE IT RESOLVED, the Town Board authorizes the Contract Compliance and Administration Department to award a twelve-month contract, effective January 3, 2025 to PVS Chemical Solutions, Inc.; and

BE IT FURTHER RESOLVED, The Town Board authorizes the Supervisor to sign the contract with PVS Chemical Solutions, Inc.

12/2/2024
Consent

FINANCIAL IMPACT:

G9916-4800; Amount TBD

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

Bid #2024045 Ferric Chloride Solution											
Low Bidder			Vendor Name:	Kemira Water Solutions		PVS Technologies		Pencco		Slack Chemical	
Item #	QTY	U/M		Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price
1	282,959	Dry Lb.	Ferric Chloride Solution (per specification)	$1.92	$543,281.28	$1.75	$495,178.25	NO BID	NO BID	NO BID	NO BID
			Name of product being offered.		Kemira P14-111		PVS Solutions, Inc. - Ferric Chloride Solution				
NOTES:											
PVS Technologies confirmed they offer their own solution.											

Attachment: Bid Analysis 2024045 Ferric Chloride Solution (RES-2024-961 : Award Bid #2024045 Ferric

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

Francina J. Spoth
Town Clerk

Meeting: 12/02/24 07:00 PM
Department: Engineering Services
Initiated by: **Brian J. Armstrong**
Co-Sponsored by:

DOC ID: 29719 **RESOLUTION 2024-962** **ADOPTED**

Change Order No. 1 & Final Quantity Adjustment Robin Hill Dr. & Swanson Terrace Waterline Replacement Project 2021.042 CRS #5091

We are requesting the Town Board consider approval of this resolution authorizing the Supervisor to sign the above referenced Change Order, which decreases the overall contract by $137,814.47. This change will reduce the overall project costs to reflect actual quantities utilized during construction.

This request is contingent on successful completion of the contract review process.

The required funding for this project shall be reduced from the accounts as noted below.

Funding reduced from account KP2120.4972 in the amount of $7,217.99
Funding reduced from account KP2309.4972 in the amount of $130,596.48

Thank you for considering this request.

12/2/2024
Consent

FINANCIAL IMPACT:

Funding reduced from account KP2120.4972 in the amount of $7,217.99

Funding reduced from account KP2309.4972 in the amount of $130,596.48

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

AIA Document G701™ – 2017

Change Order

PROJECT:	CONTRACT INFORMATION:	CHANGE ORDER INFORMATION:
Robin Hill/Swanson Waterline Replacement *Project #2021.042*	*Contract For: Waterline Construction* *Date: August 5, 2024*	Change Order Number: 1 & Final
OWNER:	**ENGINEER:**	**CONTRACTOR:**
Town of Amherst 5583 Main St. Williamsville, NY 14221	Fisher Associates PE, LS, LA, DPC 55 Chicago Street, Suite 200 Buffalo, NY 14204	Fairway Contracting PO Box 352 Orchard Park, NY 14127

The Contract is changed as follows:

Construction is complete and Original Contract Sum is being reduced to reflect actual quantities and their associated costs used during construction.

The original Contract Sum was	$ 872,722.25
The net change by previously authorized Change Orders	$ 0.00
The Contract Sum prior to this Change Order was	$ 872,722.25
The Contract Sum will be increased by this Change Order in the amount of	$ -(137,814.47)
The new Contract Sum, including this Change Order, will be	$ 734,907.78
The Contract Time will be changed by	(0) days.
The new date of Substantial Completion shall now be:	N/A

NOTE: This Change Order does not include adjustments to the Contract Sum or Guaranteed Maximum Price, or the Contract Time, that have been authorized by Construction Change Directive until the cost and time have been agreed upon by both the Owner and Contractor, in which case a Change Order is executed to supersede the Construction Change Directive.

NOT VALID UNTIL SIGNED BY THE ARCHITECT, CONTRACTOR AND OWNER.

Fisher Associates, PE, LS, LA, DPC	Fairway Contracting	Town of Amherst
ARCHITECT/ENGINEER	CONTRACTOR	OWNER
SIGNATURE	SIGNATURE	SIGNATURE
John S. Boddecker VP	Matthew J. Hanton Sr Partner	
PRINTED NAME AND TITLE	PRINTED NAME AND TITLE	PRINTED NAME AND TITLE
Sept 11, 2024	8/21/24	
DATE	DATE	DATE

CAUTION: You should sign an original AIA Contract Document, on which this text appears in RED. An original assures that changes will not be obscured.

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Attachment: 2024-11-18_Robin Hill Swanson Waterline Change Order 1 (RES-2024-962 : Change Order No. 1 & Final Quantity Adjustment)

Contractor's Application For Payment No. #Final

	Application Period 5-30-24	Application Date:7-15-24
To (Owner): Town of Amherst Main St Williamsville, NY 14221	From (Contractor): FAIRWAY CONTRACTING P.O. Box 352 Orchard Park , NY 14127	Via (Engineer) Fisher Associates
Project: Robinhill & Swanson Waterline Replacements	Contract: Matthew J Hartung	
Owner's Contract No.: 2021.042	Contractor's Project No.:	Engineer's Project No.:

APPLICATION FOR PAYMENT

Change Order Summary

Approved Change Orders and Field Adjustments

Number	Additions	Deductions
NET CHANGE BY CHANGE ORDERS		

1. ORIGINAL CONTRACT PRICE	$	$ 872,722.25
2. Net change by Change Orders and Adjustments	$	$ (-137,814.47)
3. CURRENT CONTRACT PRICE (Line 1 ± 2)	$	$ 734,907.78
4. TOTAL COMPLETED AND STORED TO DATE (Column F on Progress Estimate)	$	$ 734,907.78
5. RETAINAGE:		
a. __5_ % x 0 Work Completed	$	0.00
b. ____0_ % x $0.00 Stored Material	$	0.00
c. Total Retainage (Line 5a + Line 5b)	$	$ 0.00
6. AMOUNT ELIGIBLE TO DATE (Line 4 - Line 5c)	$	$ 734,907.78
7. LESS PREVIOUS PAYMENTS (Line 6 from prior Application)	$	$ 688,366.66
8. AMOUNT DUE THIS APPLICATION	$	$ 46,541.12
9. BALANCE TO FINISH, PLUS RETAINAGE (Column G on Progress Estimate + Line 5 above)	$	$ 0.00

CONTRACTOR'S CERTIFICATION

The undersigned Contractor certifies that: (1) all previous progress payments received from Owner on account of Work done under the Contract have been applied on account to discharge Contractor's legitimate obligations incurred in connection with Work covered by prior Applications for Payment; (2) title of all Work, materials and equipment incorporated in said Work or otherwise listed in or covered by this Application for Payment will pass to Owner at time of payment free and clear of all Liens, security interests and encumbrances (except such as are covered by a Bond acceptable to Owner indemnifying Owner against any such Liens, security interest or encumbrances); and (3) all Work covered by this Application for Payment is in accordance with the Contract Documents and is not defective.

By:	Date: 8/21/24

Payment of: $ $46,541.12
(Line 8 or other - attach explanation of other amount)

is recommended by: _____ 9/11/24
(Engineer) (Date)

Payment of: $ $46,541.12
(Line 8 or other - attach explanation of other amount)

is approved by: _____ 9/16/2024
(Owner) (Date)

Approved by: _____
Funding Agency (if applicable) (Date)

Work Completed

Contractor: Fairway Contracting
Contract For: Town of Amherst
Engineer: Fisher Associates

Project: Robinhill & Swanson Waterline Replacement
Date: 7-15-24 Req.
Sheet #: 1 of : 2

A				B	C	D	E	F		
Item No	Item Description	Bid Quanity	Unit Price	Bid Valve	Estimated Installed Quanitity	Value	Other Estimates (not in C)	Total Completed and Stored to Date (D+E)		
1A	8" PVC Watermain	2900	$97.00	$281,300.00	0	$0.00	2623	$254,431.00		
1B	6" PVC Watermain	80	$42.00	$3,360.00	0	$0.00	54	$2,268.00		
2	Ductile Iron Fittings	1059	$5.00	$5,295.00	0	$0.00	1081	$5,405.00		
3A	8" Gate Valves	5	$4,452.00	$22,260.00	0	$0.00	5	$22,260.00		
3B	6" Gate Valves	4	$3,102.00	$12,408.00	0	$0.00	4	$12,408.00		
4A	Hrdrants	4	$7,357.00	$29,428.00	0	$0.00	4	$29,428.00		
4B	Hydrant Removal	4	$300.00	$1,200.00	0	$0.00	4	$1,200.00		
5	Overdepth Excavation	10	$20.00	$200.00	0	$0.00	0	$0.00		
6	Select Fill	1400	$46.80	$65,520.00	0	$0.00	1391.83	$65,137.64		
7A	Interconnection #1	1	$7,464.00	$7,464.00	0	$0.00	1	$7,464.00		
7B	Interconnection #2	1	$18,222.00	$18,222.00	0	$0.00	1	$18,222.00		
7C	Interconnection #3	1	$13,337.00	$13,337.00	0	$0.00	1	$13,337.00		
7D	Interconnection #4	1	$7,464.00	$7,464.00	0	$0.00	1	$7,464.00		
7E	Interconnection #5	1	$7,464.00	$7,464.00	0	$0.00	1	$7,464.00		
7F	Abandonment #1	1	$2,850.00	$2,850.00	0	$0.00	1	$2,850.00		
7G	Abandonment #2	1	$2,850.00	$2,850.00	0	$0.00	1	$2,850.00		
7H	Abandonment #3	1	$2,850.00	$2,850.00	0	$0.00	1	$2,850.00		
7I	Abandonment #4	1	$2,850.00	$2,850.00	0	$0.00	1	$2,850.00		
7J	Abandonment #5	1	$2,850.00	$2,850.00	0	$0.00	1	$2,850.00		
8A	Near Side Replacements	36	$2,098.00	$75,528.00	0	$0.00	36	$75,528.00		
8C	Far Side Reconnects	32	$1,620.00	$51,840.00	0	$0.00	32	$51,840.00		
9	Test Pits	5	$250.00	$1,250.00	0	$0.00	3	$750.00		
10	Maintenance & Protection of Traffic	1	$20,500.00	$20,500.00	0	$0.00	1	$20,500.00		
11A1	Concrete Sidewalk	290	$12.00	$3,480.00	0	$0.00	8.89	$106.68		
11A2	Concrete Curb / Gutter	660	$45.00	$29,700.00	0	$0.00	0	$0.00		
11B1	Concrete Driveway	50	$15.00	$750.00	0	$0.00	5.44	$81.60		
11B2	Asphalt Top	2030	$15.00	$30,450.00	0	$0.00	1186.22	$17,793.30		
11B3	Asphalt Binder	2030	$27.58	$55,987.40	0	$0.00	1186.22	$32,715.95		
11B4	Asphalt Base	2030	$43.16	$87,614.80	0	$0.00	1186.22	$51,197.26		
11C	Landscape Restoration	1140	$10.00	$11,400.00	1031.13	$10,311.30	0	$10,311.30		
11D	Testing & Disinfection	3010	$5.00	$15,050.00	0	$0.00	2669	$13,345.00		
14A	Rock Removal	5	$0.01	$0.05	0	$0.00	5	$0.05		
				$0.00		$0.00		$0.00		
	Adjusted Totals			**$872,722.25**		**$10,311.30**		$734,907.78		

Attachment: 2024-11-18_Robin Hill Swanson Waterline Change Order 1 (RES-2024-962 : Change Order No.

Accepted:

Contractor: Fairway Contracting		
By:	By:	By:
Date: 7/26/24	Date:	Date:

Attachment: 2024-11-18_Robin Hill Swanson Waterline Change Order 1 (RES-2024-962 : Change Order No.

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

Francina J. Spoth
Town Clerk

Meeting: 12/02/24 07:00 PM
Department: Engineering Services
Initiated by: **Brian J. Armstrong**
Co-Sponsored by:

DOC ID: 29721 **RESOLUTION 2024-963** **ADOPTED**

Change Order No. 2 & Final Highway Department Fuel System Repair Project Project 2022.007 CRS #5184

We are requesting that the Town Board consider approval of the above referenced Change Order, which increases the overall contract amount by $9,375.96. Upon completion of the necessary repair work to the underground storage tank system at the Highway Department, it was determined that the existing fire suppression system was not operational. This change order is required to repair the electrical components of the fire suppression system and allow the system to be put back online.

This request is contingent on successful completion of the contract review process. Funding is available for this change order from the project bond account KP2133.4972.

Thank you for considering this request.

12/2/2024
Consent

FINANCIAL IMPACT:

account KP2133.4972 increases the overall contract amount by $9,375.96.

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

Change Order

PROJECT: *(Name, address and Project File No.)*
Highway Department Fuel System Repair
Town of Amherst Job No. 2022.024

CHANGE ORDER NUMBER: 2
DATE: 11/15/2024

TO CONTRACTOR: *(Name and address)*
Paragon Environmental Construction, Inc.
5664 Mud Mill Road
Brewerton, NY 13029

The Contract is changed as follows:
(*Include, where applicable, any undisputed amount attributable to previously executed construction Change Directives*)

The original (Contract Sum) ~~(Guaranteed Maximum Price)~~ was	$	$ 529,400.00
The net change by previously authorized Change Orders	$	$ 15,502.08
The (Contract Sum) ~~(Guaranteed Maximum Price)~~ prior to this Change Order was	$	$ 544,902.08
The (Contract Sum) ~~(Guaranteed Maximum Price)~~ will be increased ~~(decreased)~~ ~~(unchanged)~~ by this Change Order in the amount of	$	$ 9,375.96
The new (Contract Sum) ~~(Guaranteed Maximum Price)~~ including this Change Order will be	$	$ 554,278.04

The Contract Time will be ~~(increased) (decreased)~~ unchanged.

(Note: This change Order does not include changes in the Contract Sum, Contract Time or Guaranteed Maximum Price which have been authorized by Construction Change Directive until the cost and time have been agreed upon by both the Owner and Contractor, in which case a Change Order is executed to supersede the Construction Change Directive).

NOT VALID UNTIL SIGNED BY THE ENGINEER, CONTRACTOR AND OWNER.

ENGINEER (*Firm name*)	CONTRACTOR (*Firm name*)	OWNER
N/A	5664 Mud Mill Road	5583 Main St.
ADDRESS	Brewerton, NY 13029 ADDRESS	Williamsville, NY 14221 ADDRESS
N/A BY (*Signature*)	BY (*Signature*)	BY (*Signature*)
(*Typed name*)	Peter Paragon (*Typed name*)	Brian J. Kulpa (*Typed name*)
DATE	DATE	DATE

Attachment: 2024-11-18_Highway Fuel System Repair_Change Order 2 (RES-2024-963 : Change Order No. 2 & Final CRS #5184)

Paragon Environmental Construction, Inc.
"Full Service Environmental/Construction Company"

10/01/31

Town of Amherst
Engineering Dept.
1100 North Forest Rd.
Williamsville, NY 14221

CO #6

At: Ms. Jessica Boudreau, PE
Email: jboudreau@amherst.ny.us
Ph: 716-631-7154

RE: CO #6 -Restart Fire Suppression & Restart System – Town Delay - Town of Amherst #2022.007

Dear Ms. Boudreau:

Paragon Environmental Construction Inc. (PEC) is pleased to submit **Change Order #6** for the above referenced site.

Description	Total Price
Brady Electric	
Work on Re-Wiring Fire Suppression	
Labor, Materials & Equipment	$ 5,496.00
PEC 5% Markup	$ 274.00
S&W Services	
Restart System Backup after Town's Delay	
Changed out Leaking Nozzle (which we had nothing to do with).	$ 1,743.81
PEC 5% Markup	$ 87.15
PEC On Site	
Technician (7) Hrs. @ $ 125.00/Hr.	$ 875.00
Coordination with all Trades Multiple times, over several weeks 6 Hrs @125/hr	$ 750.00
Vehicle (1)	$ 150.00
TOTAL CHG ORDER #6	**$ 9,375.96**

Attachment: 2024-11-18_Highway Fuel System Repair_Change Order 2 (RES-2024-963 : Change Order No. 2 & Final CRS #5184)

Paragon Environmental Construction, Inc.
"Full Service Environmental/Construction Company"

Terms: Per Original Contract

Should you have any questions regarding this information, please contact me at 315-699-0840 (Ext. 206).

Sincerely,

Peter Paragon
President

CO#6 Acceptance: _____ **Date:** _____
Signature

Attachment: 2024-11-18_Highway Fuel System Repair_Change Order 2 (RES-2024-963 : Change Order No. 2 & Final CRS #5184)

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

Francina J. Spoth
Town Clerk

Meeting: 12/02/24 07:00 PM
Department: Highway
Initiated by: **Stephen Bryan**
Co-Sponsored by:

DOC ID: 29601 A **RESOLUTION 2024-964** **ADOPTED**

Authorize Supervisor to Sign Contract to Piggyback-Northern Supply Co and Erie County - CRS #5147

NOW THEREFORE BE IT RESOLVED, that the Town of Amherst is approved to piggyback on the County of Erie - Plow Parts and Winter Highway Materials contract with Northern Supply Company Inc for the plow replacement parts and winter highway materials.

The Erie County and Northern Supply Company is BID Reference #240245-004, for plow replacement parts and winter Highway materials. Contract term is 9/1/24 through 8/31/25.

NOW THEREFORE BE IT FURTHER RESOLVED, that the Town Board authorizes the Supervisor to sign this contract. This contract is subject to the Contract Routing System (CRS #5147) and the Town Attorney's approval.

12/2/2024
Consent

FINANCIAL IMPACT:

TOWN WIDE

VARIOUS

TBD

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

AGREEMENT

Let this document stand as an Agreement between NORTHERN SUPPLY COMPANY, INC., PO Box 69, 2959 ASHMAN ROAD, BLOOMFIELD 14469 and the Town of Amherst permitting the Town of Amherst to participate in the purchase of :

COUNTY OF ERIE-PLOW PARTS AND WINTER HIGHWAY MATERIALS
BID REFERENCE # 240245-004
9/1/2024 through 8/31/2025
PLOW REPLACEMENT PARTS.

from Northern Supply Company, Inc. under Erie County Winter Highway Materials Specifications of BID REFERENCE #240245-004 for the period from 9/1/2024 TO 8/31/2025.

Agreed to and Accepted by:

NORTHERN SUPPLY COMPANY, INC.

By: _____
Signature

ROBERT CONDELLO
Print Name

VP
Title

Date: 10-24-24

Agreed to and Accepted by:

TOWN OF AMHERST

By: _____
Brian Kulpa
Supervisor

Date: _____

Attachment: NORTHERN (RES-2024-964 : Authorize Supervisor to Sign Contract to Piggyback-Northern Supply Co and Erie County - CRS

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. A failure by Contractor to assure that any policy procured by any subcontractor or sub-subcontractor name the Town as an additional insured on a primary and non-contributory basis, shall be considered a material breach of the

Attachment: NORTHERN (RES-2024-964 : Authorize Supervisor to Sign Contract to Piggyback-Northern Supply Co and Erie County - CRS

underlying contact and subject the Contactor to forfeiture of its performance bond, if any, and 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 regardless of whether the Town is successful in said suit.

(e) A failure by Contractor to procure the General Liability, Professional 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 contact and subject the Contactor to forfeiture of its performance bond, if any, and 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.

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

Attachment: NORTHERN (RES-2024-964 : Authorize Supervisor to Sign Contract to Piggyback-Northern Supply Co and Erie County - CRS

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.

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:

NORTHERN SUPPLY INC
Print Name of Company

By: _____
Signature

ROBERT CONDELLO
Printed name

Date: 10-24-24

Agreed to and Accepted by:

Town of Amherst

By: _____
Brian J. Kulpa, Supervisor

Date: _____

Attachment: NORTHERN (RES-2024-964 : Authorize Supervisor to Sign Contract to Piggyback-Northern Supply Co and Erie County - CRS

IRAN DIVESTMENT ACT CERTIFICATION

As a result of the Iran Divestment Act of 2012 (Act), Chapter 1 of the 2012 Laws of New Yo provision was added to the State Finance Law (SFL), Section 165-a, effective April 12, 2012. Unde Act, the Commissioner of the Office of General Services (OGS) will develop a list (prohibited entities of "persons" who are engaged in "investment activities in Iran" (both are defined terms in the law). list is posted on the OGS website.

By submitting a response to this solicitation, or by assuming the responsibility unde Contract/Lease awarded hereunder, Bidder/Contractor/Vendor (or any assignee) certifies that it will 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 seel to renew or extend a Contract/Lease (or assume responsibility of a Contract/Lease awarded must cer at the time the Contract/Lease is renewed, extended or assigned that it is not included on the prohib entities list.

During the term of the Contract/Lease, should the Town of Amherst (Town) receive informat that a person is in violation of the above-referenced certification, the Town will offer the person opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in investment which is in violation of the Act within 90 days after the determination of such violation, tl the Town shall take such action as appropriate including, but not limited to, imposing sanctions, seek 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 ent that appears on the prohibited entities list prior to the award of a Contract/Lease, and to pursue responsibility review with respect to any entity that is awarded a Contract/Lease and appears on t prohibited entities list after Contract/Lease award.

Company Name: NORTHERN SUPPLY INC.

Signature: [signature]

Print Name: ROBERT CONDELLO

Title: VP

Date: 10-24-24

TIFFANY ANN HOLMES
NOTARY PUBLIC STATE OF NEW YORK
QUALIFIED IN ONTARIO COUNTY
LIC. #01HO6446685
COMM. EXP. JAN. 23, 2027

Sworn To Before Me This

24 Day of October, 2024

[signature]
Notary Public

Attachment: NORTHERN (RES-2024-964 : Authorize Supervisor to Sign Contract to Piggyback-Northern Supply Co and Erie County - CRS

ACORD®

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
10/22/2024

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	CONTACT NAME: Aimee Nuara
Quinton Insurance 2700 Elmwood Ave Rochester NY 14618	PHONE (A/C, No, Ext): (800) 454-1970 FAX (A/C, No): (585) 388-9 E-MAIL ADDRESS: service@quintoninsurance.com
INSURED	**INSURER(S) AFFORDING COVERAGE** / NA
Northern Supply Inc & Northern Supply Properties P.O. BOX 69 BLOOMFIELD NY 14469-0069	INSURER A : ERIE INSURANCE CO 26 INSURER B : ERIE INS CO OF NY 16 INSURER C : SHELTER POINT 81 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 Primary & Non-Contributory GEN'L AGGREGATE LIMIT APPLIES PER: POLICY X PRO-JECT LOC OTHER:	Y		Q97-1737815	01/01/2024	01/01/2025	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 $ 1,000,000 $ 5,000 $ 1,000,000 $ 2,000,000 $ 2,000,000
A	AUTOMOBILE LIABILITY ANY AUTO OWNED AUTOS ONLY X HIRED AUTOS ONLY X SCHEDULED AUTOS X NON-OWNED AUTOS ONLY			Q01-5230062	01/02/2024	01/02/2025	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 1,000,000 $ $ $
A	X UMBRELLA LIAB X OCCUR EXCESS LIAB CLAIMS-MADE DED X RETENTION $ 10,000			Q25-5270003	01/02/2024	01/02/2025	EACH OCCURRENCE AGGREGATE	$ 5,000,000 $ 5,000,000
B	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		Q85-5200076	01/02/2024	01/02/2025	X PER STATUTE OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ $ 100,000 $ 100,000 $ 500,000
C	Group Short Term Disability & Paid Family Leave			D422076	01/01/2024	01/01/2025	Statutory Limtis	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Bid Reference# 230217-004
County of Erie - Plow Parts and Winter Highway Materials
9/01/2023 - 8/31/2024
Plow Replacement Parts
Town of Amherst is included as additional insured with respects to the General Liability Policy

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

M. Ware

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Attachment: NORTHERN (RES-2024-964 : Authorize Supervisor to Sign Contract to Piggyback-Northern Supply Co and Erie County - CRS

NEW YORK STATE | Workers' Compensation Board

CERTIFICATE OF NYS WORKERS' COMPENSATION INSURANCE COVERAGE

1a. Legal Name & Address of Insured (use street address only) Northern Supply Inc & Northern Supply Properties P.O. BOX 69 BLOOMFIELD NY 14469-0069 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) 657-6700 1c. NYS Unemployment Insurance Employer Registration Number of Insured 1d. Federal Employer Identification Number of Insured or Social Securi Number 16-1202117
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 ERIE INS CO OF NY 3b. Policy Number of Entity Listed in Box "1a" Q85-5200076 3c. Policy effective period 01/02/2024 to 01/02/2025 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 on the INFORMATION PAGE of the workers' compensation insurance policy).** The Insurance Carrier or its licensed agent will sen 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 cancel 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: Gordon Quinton
(Print name of authorized representative or licensed agent of insurance carrier)

Approved by: Gordon Quinton AS AGENT FOR K.O.R. INC 10/22/2024
(Signature) (Date)

Title: President

Telephone Number of authorized representative or licensed agent of insurance carrier: (585) 244-9004

Please Note: Only insurance carriers and their licensed agents are authorized to issue Form C-105.2. Insurance brokers are NOT authorized to issue it.

C-105.2 (9-17)

Attachment: NORTHERN (RES-2024-964 : Authorize Supervisor to Sign Contract to Piggyback-Northern Supply Co and Erie County - CRS

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)
NORTHERN SUPPLY, INC.
ATTN: LISA AQUINO
P.O. BOX 69
BLOOMFIELD, NY 14469

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
585-657-6700

1c. Federal Employer Identification Number of Insured or Social Security Number
161202117

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"
DBL422076

3c. Policy effective period
01/01/2023 to 12/31/2024

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 10/23/2023 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: NORTHERN (RES-2024-964 : Authorize Supervisor to Sign Contract to Piggyback-Northern Supply Co and Erie County - CRS

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 permit for or in connection with any work involving the employment of employees in a hazardous employment de by this chapter, and notwithstanding any general or special statute requiring or authorizing the issue of such per shall not issue such permit unless proof duly subscribed by an insurance carrier is produced in a form satisfacto the chair, that compensation for all employees has been secured as provided by this chapter. Nothing he however, shall be construed as creating any liability on the part of such state or municipal department, bc 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 any contract for or in connection with any work involving the employment of employees in a hazardous employn defined by this chapter, notwithstanding any general or special statute requiring or authorizing any such contract, s not enter into any such contract unless proof duly subscribed by an insurance carrier is produced in a form satisfac to the chair, that compensation for all employees has been secured as provided by this chapter.

Attachment: NORTHERN (RES-2024-964 : Authorize Supervisor to Sign Contract to Piggyback-Northern Supply Co and Erie County - CRS

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: NORTHERN (RES-2024-964 : Authorize Supervisor to Sign Contract to Piggyback-Northern Supply Co and Erie County - CRS

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

Francina J. Spoth
Town Clerk

Meeting: 12/02/24 07:00 PM
Department: Highway
Initiated by: **Stephen Bryan**
Co-Sponsored by:

DOC ID: 29697 **RESOLUTION 2024-965** **ADOPTED**

Authorize Supervisor to Sign NOCO ENERGY CORP - DIESEL FUEL CONTRACT - CRS #5203

The Highway Department requests that the Town Board grant the Town Supervisor permission to sign a contract with NOCO ENERGY CORPORATION, 2440 Sheridan Drive, Tonawanda, NY 14150 and the Town of Amherst.

Purchases are for diesel fuel, ultra-low sulfur and biodiesel based on NYS-OGS Group #05602, Award #23343, Contract PC #70537 dated 11/21/24 through 8/20/26.

This contract is subject to the Contract Routing System (CRS #5203) and the approval of the Town Attorney.

12/2/2024
Consent

FINANCIAL IMPACT:

TOWN WIDE

VARIOUS

TBD

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

AGREEMENT

Let this document stand as an Agreement between NOCO ENERGY CORP.
and the
Town of Amherst permitting the Town of Amherst to participate in the purchase of diesel fuel from:

NOCO ENERGY Corporation under the New York State OGS Contact Group 05602; Award number 23343; PC # 70537; dated 11/21/2024 through 08/20/2026
for diesel fuel, ultra-low sulfur and biodiesel.

Agreed to and Accepted by:

NOCO ENERGY CORPORATION

By: _____
Signature

Joseph Gross
Print Name

SVP
Title

Date: 11/25/24

Agreed to and Accepted by:

TOWN OF AMHERST

By: _____
Brian Kulpa
Supervisor

Date: _____

Attachment: NOCO (RES-2024-965 : Authorize Supervisor to Sign NOCO ENERGY CORP - DIESEL FUEL CONTRACT - CRS #5203)

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. A failure by Contractor to assure that any policy procured by any subcontractor or sub-subcontractor name the Town as an additional insured on a primary and non-contributory basis, shall be considered a material breach of the

Attachment: NOCO (RES-2024-965 : Authorize Supervisor to Sign NOCO ENERGY CORP - DIESEL FUEL CONTRACT - CRS #5203)

underlying contact and subject the Contactor to forfeiture of its performance bond, if any, and 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 regardless of whether the Town is successful in said suit.

(e) A failure by Contractor to procure the General Liability, Professional 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 contact and subject the Contactor to forfeiture of its performance bond, if any, and 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.

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

Attachment: NOCO (RES-2024-965 : Authorize Supervisor to Sign NOCO ENERGY CORP - DIESEL FUEL CONTRACT - CRS #5203)

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.

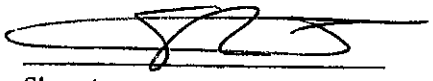
9. This Agreement shall be governed by, and interpreted according to the laws of the State of New York. If the contract between the parties refers to the laws, statutes, rules, regulations or ordinances for any state other than New York State, to the laws, statutes, rules, regulations or ordinances for 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:

NOCO Energy
Print Name of Company

By: 
Signature

Joseph Gross
Printed name

Date: 11/25/24

Agreed to and Accepted by:

Town of Amherst

By: _____
Brian J. Kulpa, Supervisor

Date: _____

Attachment: NOCO (RES-2024-965 : Authorize Supervisor to Sign NOCO ENERGY CORP - DIESEL FUEL CONTRACT - CRS #5203)

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: NOCO Energy

Signature:

Print Name: Joseph Gross

Title: SVP

Date: 11/25/24

Sworn To Before Me This
25th Day of November 2024

Karen A Adams
Notary Public

KAREN A. ADAMS
Notary Public - State of New York
No. 01AD6273865
Qualified in Erie County
My Commission Expires Dec. 24, 2028

Revised 4.2017

Attachment: NOCO (RES-2024-965 : Authorize Supervisor to Sign NOCO ENERGY CORP - DIESEL FUEL CONTRACT - CRS #5203)

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 Graham Company, a Marsh & McLennan Agency, LLC company One Penn Square West Philadelphia PA 19102	**CONTACT NAME:** Joe Holden **PHONE (A/C, No, Ext):** 215-567-6300 **FAX (A/C, No):** 215-933-398 **E-MAIL ADDRESS:** HOLDEN_UNIT@grahamco.com
INSURED NOCOENE-01 NOCO LLC 2440 Sheridan Drive, Suite 301 Tonawanda, NY 14150	**INSURER(S) AFFORDING COVERAGE** / **N** INSURER A : Zurich-American Insurance Company 1 INSURER B : Ironshore Specialty Insurance Co 2 INSURER C : Liberty Surplus Insurance Corporation 1 INSURER D : Lloyd Syndicate 1084 INSURER E : INSURER F :

COVERAGES **CERTIFICATE NUMBER:** 565375108 **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 [X] LOC OTHER:	Y		GLO 3697584-16	5/1/2024	5/1/2025	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 $ 1,000,000 $ 50,000 $ 1,000,000 $ 2,000,000 $ 2,000,000 $
A	AUTOMOBILE LIABILITY X ANY AUTO OWNED AUTOS ONLY HIRED AUTOS ONLY SCHEDULED AUTOS NON-OWNED AUTOS ONLY			BAP 3697583-16	5/1/2024	5/1/2025	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident) PHYS DAMAGE DEDUCT	$ 2,000,000 $ $ $ $ SEE BELOW
D	UMBRELLA LIAB X OCCUR X EXCESS LIAB CLAIMS-MADE DED RETENTION $			24*13773U24-302186*06	5/1/2024	5/1/2025	EACH OCCURRENCE AGGREGATE $	$ 5,000,000 $ 5,000,000 $
A	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		WC 3697582-16	5/1/2024	5/1/2025	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
B C	Pollution Storage Tank Pollution			ISPILLSB941D001 IRONTX15180200	5/31/2021 5/1/2023	5/31/2024 5/31/2024	$10,000,000/Occ. $1,000,000 Ea.Incidnt	$10,000,000/A $2,000,000 Ag

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Auto Deductibles: $250 - Collision & Comprehensive (Private Passenger Vehicles); $500 - Collision & Comprehensive (Commercial Vehicles)
Garage Keeper's Liability Limit $1,000,000

Town of Amherst is added as an additional insured on a Primary/Non-Contributory basis on the above General Liability policy if required by written contrac

CERTIFICATE HOLDER

Town of Amherst
5583 Main Street
Williamsville NY 14221

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEF THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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Attachment: NOCO (RES-2024-965 : Authorize Supervisor to Sign NOCO ENERGY CORP - DIESEL FUEL CONTRACT - CRS #5203)

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
NOCO LLC 2440 Sheridan Drive, Suite 301 Tonawanda, NY 14150	716-833-6206
Work Location of Insured *(Only required if coverage is specifically limited to certain locations in New York State, i.e., a Wrap-Up Policy)*	1c. NYS Unemployment Insurance Employer Registration Number o Insured 1d. Federal Employer Identification Number of Insured or Social Sec Number 16-0727383
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 Attn: Building Dept.	3a. Name of Insurance Carrier Zurich American Insurance Company 3b. Policy Number of Entity Listed in Box "1a" WC 3697582-16 3c. Policy effective period 05/01/2024 to 05/01/2025 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 Ite on the INFORMATION PAGE of the workers' compensation insurance policy).** The Insurance Carrier or its licensed agent will se 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 can 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 ame extend or alter the coverage afforded by the policy listed, nor does it confer any rights or responsibilities beyond those contained in th referenced policy.

This certificate may be used as evidence of a Workers' Compensation contract of insurance only while the underlying policy is in effec

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: Susan B. Kendziora
(Print name of authorized representative or licensed agent of insurance carrier)

Approved by: Susan B. Kendziora 05/03/2024
(Signature) (Date)

Title: Vice President-Enterprise Support Operations

Telephone Number of authorized representative or licensed agent of insurance carrier: 800-382-2150

Please Note: Only insurance carriers and their licensed agents are authorized to issue Form C-105.2. Insurance brokers are N authorized to issue it.

C-105.2 (9-17)

www.wcb.n

Attachment: NOCO (RES-2024-965 : Authorize Supervisor to Sign NOCO ENERGY CORP - DIESEL FUEL CONTRACT - CRS #5203)

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 ca

1a. Legal Name & Address of Insured (use street address only)	1b. Business Telephone Number of Insured
NOCO Energy Corp. 2440 Sheridan Dr. Tonawanda, NY 14150 Work Location of Insured *(Only required if coverage is specifically limited to certain locations in New York State, i.e., Wrap-Up Policy)*	716-614-1318 1c. Federal Employer Identification Number of Insured or Social Security Number 16-0727383
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	3a. Name of Insurance Carrier Equitable Financial Life Insurance Company 3b. Policy Number of Entity Listed in Box 1a 002035 3c. Policy Effective Period 1/1/2024 to 12/31/2024

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 name insured has NYS disability and/or Paid Family Leave benefits insurance coverage as described above.

Date Signed 1/10/2024 By *Stephanie Shields*

(Signature of insurance carrier's authorized representative or NYS licensed insurance agent of that insurance carrie

Telephone Number (800) 999-3309 Name and Title Stephanie Shields, Head of EB Operations

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)

Attachment: NOCO (RES-2024-965 : Authorize Supervisor to Sign NOCO ENERGY CORP - DIESEL FUEL CONTRACT - CRS #5203)

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

Francina J. Spoth
Town Clerk

Meeting: 12/02/24 07:00 PM
Department: Highway
Initiated by: **Stephen Bryan**
Co-Sponsored by:

DOC ID: 29722 **RESOLUTION 2024-966** **ADOPTED**

Authorize Supervisor to Sign GOETZ ENERGY CORP FUEL CONTRACT EXTENSION -CRS #5226

WHEREAS, GOETZ ENERGY CORPORATION CONTRACT for fuel-gas purchases under NYS-OGS Group 05600, Award number 23237, Contract number PC#69517 at 1319 Military Road, Buffalo, NY 14217 and

NOW, therefore be it resolved, the Town Board authorizes the Supervisor to sign the contract with Goetz Energy Corp for the Town of Amherst piggyback on the NYS-OGS contract from 12/17/2021 through 12/14/2024 with an extension through 01/13/2025. This contract is subject to the Contract Routing System (CRS #5226) and the approval of the Town Attorney.

Thank you!

12/2/2024
Consent

FINANCIAL IMPACT:

TOWN WIDE

VARIOUS

TBD

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

AGREEMENT EXTENSION - ONE MONTH

Let this document stand as an Agreement between GOETZ ENERGY CORPORATION dba Kurk Fuel Company and the
Town of Amherst permitting the Town of Amherst to participate in the purchase of GASOLINE from:

GOETZ ENERGY Corporation under the New York State OGS Contract Group 05600; Award number 23237; PC # 69517; dated DECEMBER 17, 2021 through DECEMBER 13, 2024 extended to 01/13/2025 for Gasoline fuel.

Agreed to and Accepted by:

GOETZ ENERGY CORPORATION
dba KURK FUEL COMPANY

By: Mary Burke
Signature

MARY BURKE
Print Name

Fuels Account Manager
Title

Date: 11/26/24

Agreed to and Accepted by:

TOWN OF AMHERST

By: _____
Brian Kulpa
Supervisor

Date: _____

Attachment: DOC112624-11262024101043 (RES-2024-966 : Authorize Supervisor to Sign GOETZ ENERGY CORP FUEL CONTRACT EXTENSION

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 4/16/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. TH CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIE BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZE 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 endorse If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement c this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Caputo Insurance Agency, Inc. PO Box 350 Beaver Falls PA 15010	CONTACT NAME: Caputo Insurance Agency, Inc. PHONE (A/C, No, Ext): 724-843-3020 FAX (A/C, No): 724-843-9475 E-MAIL ADDRESS:
INSURED GOETENE-01 GOETZ ENERGY Corp; Kurk Fuel Co. P O Box A Buffalo NY 14217	INSURER(S) AFFORDING COVERAGE — NAIC # INSURER A : GuideOne Insurance Company — 15032 INSURER B : Lloyds of London INSURER C : INSURER D : INSURER E : INSURER F :

COVERAGES **CERTIFICATE NUMBER:** 500517442 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIO INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THI 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:			62P100086-05	4/18/2024	4/18/2025	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 $ 100,000 $ 5,000 $ 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 X MCS90			62P100086-05	4/18/2024	4/18/2025	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			24*13773U24-302154*04	4/18/2024	4/18/2025	EACH OCCURRENCE AGGREGATE FOLLOWS	$ 4,000,000 $ 4,000,000 $ FORM
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y/N ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N/A					PER STATUTE OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ $ $
A	TRANSPORTATION/CARGO			62P100086-05	4/18/2024	4/18/2025	LIMIT	$50,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

sbryan@amherst.ny.us

Fax: 716-691-4496 Town of Amherst is included as an additional insured. Coverage applies on a Primary and Non-Contributory basis when required by writte contract for all ongoing and completed operations.

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

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Attachment: DOC112624-112620241010 43 (RES-2024-966 : Authorize Supervisor to Sign GOETZ ENERGY CORP FUEL CONTRACT EXTENSION

NYSIF
New York State Insurance Fund

PO Box 66699, Albany, NY 122
| nysif.co

CERTIFICATE OF WORKERS' COMPENSATION INSURANCE

^^^^^^ 160450990
KEEVILY,SPERO-WHITELAW INC.
500 MAMARONECK AVENUE
HARRISON NY 10528

SCAN TO VALIDATE
AND SUBSCRIBE

POLICYHOLDER	CERTIFICATE HOLDER
GOETZ ENERGY CORP PO BOX A BUFFALO NY 14217	TOWN OF AMHERST 5583 MAIN STREET WILLIAMSVILLE NY 14221

POLICY NUMBER	CERTIFICATE NUMBER	POLICY PERIOD	DATE
G1180 980-3	814660	05/01/2024 TO 05/01/2025	5/22/2024

THIS IS TO CERTIFY THAT THE POLICYHOLDER NAMED ABOVE IS INSURED WITH THE NEW YORK STATE INSURANCE FUND UNDER POLICY NO. 1180 980-3, 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.

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.

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.

NEW YORK STATE INSURANCE FU

DIRECTOR,INSURANCE FUND UNDERWRITING

VALIDATION NUMBER: 926694943

U-26.3

Attachment: DOC112624-1126202410104 3 (RES-2024-966 : Authorize Supervisor to Sign GOETZ ENERGY CORP FUEL CONTRACT EXTENSION

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 carri

1a. Legal Name & Address of Insured (use street address only) GOETZ ENERGY CORP. T/A T F KURK A/T/A KURK FUEL COMPANY P O BOX A BUFFALO, NY 14217 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 716-876-4324 1c. Federal Employer Identification Number of Insured or Social Security Number 16-0450990
2. Name and Address of Entity Requesting Proof of Coverage (Entity Being Listed as the Certificate Holder) THE TOWN OF AMHURST 1042 NORTH FOREST WILLIAMSVILLE NY 14221	3a. Name of Insurance Carrier **The Guardian Life Insurance Company of America** 3b. Policy Number of Entity Listed in Box 1a 00958190-0001 3c. Policy Effective Period 12/01/2023 to 12/01/2024

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 name insured has NYS disability and/or Paid Family Leave benefits insurance coverage as described above.

Date Signed 12/07/2023 By _____
(Signature of insurance carrier's authorized representative or NYS licensed insurance agent of that insurance carrier)

Telephone Number 1-888-278-4542 Name and Title Michael Prestileo, Head of Group Benefits Strategy, Product & Underwriting

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: DOC112624-11262024101043 (RES-2024-966 : Authorize Supervisor to Sign GOETZ ENERGY CORP FUEL CONTRACT EXTENSION

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

Francina J. Spoth
Town Clerk

Meeting: 12/02/24 07:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 29675 **RESOLUTION 2024-967** **ADOPTED**

Laborer/Youth & Recreation

Please appoint a Laborer to the Youth & Recreation Department. Permanent, pending satisfactory completion of a probationary term as set forth in the Civil Service Rule XIII. Effective December 3, 2024, at an hourly rate of $17.75, Step A for Ryan Klepadlo.

Contingent upon completing all pre-employment requirements.

Please authorize a six (6) month residency waiver.

12/2/2024
Consent

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

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

Francina J. Spoth
Town Clerk

Meeting: 12/02/24 07:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 29676 **RESOLUTION 2024-968** **ADOPTED**

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

Please appoint a Wastewater Treatment Plant Operator-Trainee to the Engineering Department/Plant #16. Provisional, pending satisfactory completion of a Civil Service Examination. Effective December 3, 2024 at an hourly rate of $24.26, Grade IV, Step 1 for Ryan Vaillancourt.

Contingent upon completing all pre-employment requirements.

Please authorize a six (6) month residency waiver.

Due to an employee retiring.

12/2/2024
Consent

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

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

Francina J. Spoth
Town Clerk

Meeting: 12/02/24 07:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 29677 **RESOLUTION 2024-969** **ADOPTED**

Director of Volunteers/Senior Services

Please appoint a Director of Volunteers to the Senior Services Department. Provisional, pending satisfactory completion of a Civil Service Examination. Effective December 3, 2024 at an annual salary of $51,554, Grade 8, Step F for Sidney Michael Murphy.

Contingent upon completing all pre-employment requirements.

Please authorize a six (6) month residency waiver.

Replacing an employee who is retiring.

12/2/2024
Consent

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

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

Francina J. Spoth
Town Clerk

Meeting: 12/02/24 07:00 PM
Department: Information Technology
Initiated by: **David J. Willer**
Co-Sponsored by: **Deputy Supervisor Shawn Lavin**

DOC ID: 29718 **RESOLUTION 2024-970** **ADOPTED**

Update Computer and Mobile Devise Usage Policy - 2024 V2

WHEREAS, a Computer Usage Policy was originally adopted by the Amherst Town Board on May 16, 2005; and

WHEREAS, a Computer Usage and Mobile Device Usage Policy was revised and adopted by the Amherst Town Board as recently as June 2024; and

WHEREAS, employee compliance with this policy facilitates the official work of the Town and will contribute to the Town's mission of providing secure, responsive and cost-effective services to its residents; and

WHEREAS, this revised policy (including an additional section regarding Cyber Security Awareness Training) was reviewed by the Amherst Information Technology Advisory Committee;

NOW THEREFORE BE IT RESOLVED that the Amherst Town Board does hereby approve an updated Computer and Mobile Device Usage Policy;

BE IT FURTHER RESOLVED that Department Heads inform their staff of this updated Computer and Mobile Device Usage Policy; and

BE IT FURTHER RESOLVED that the Information Technology Department provide this policy on the Town's Intranet for distribution, printed or electronic, to all Town of Amherst computer or mobile device users and teleworkers.

12/2/2024
Consent

FINANCIAL IMPACT:

n/a

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

Town of Amherst
Computer and Mobile Device Usage Policy

Revised December, 2024

Contents

I. Introduction

II. Principles of Acceptable Use

III. Unacceptable Use

IV. Exceptions

V. Agency Rights

VI. Network Passwords

VII. Multi-Factor Authentication

VIII. Remote Work

IX. Mobile Devices

X. Cybersecurity Awareness Training

XI. Enforcement and Violations

Attachment: REDACTED - computer and mobile device usage policy (241107) (RES-2024-970 : Update Computer and Mobile Devise Usage

I. Introduction

This document is intended to serve as an update to the existing Town of Amherst Computer Usage Policy. This policy covers the Town's Business Network only and does not include the Amherst Police Department.

The Town of Amherst provides elected officials, department heads, departments and staff with a variety of information technology (IT) resources. Traditional IT resources include, but are not limited to, personal computers, printers, multi-function copiers, fax machines, scanners, etc. During the course of the last several years, mobile devices have been added to this list of resources. For the purposes of this document, mobile technologies are defined to include Laptop computers, tablets, smartphones, and wireless access points or MiFi devices.

Both traditional and mobile IT devices access valuable Town (enterprise) resources such as file servers, databases, applications, email and the Internet. It is imperative that hardware or equipment resources, as well as information assets, be protected and safeguarded.

The Town's wide area network, formal connection to the Internet and email services are provided to system users to conduct official Town business. Upgrades to these facilities contribute to the Town's mission of providing responsive and cost-effective services to its residents. The use of these facilities by any employee or other person authorized by the Town must be consistent with this policy.

Attachment: REDACTED - computer and mobile device usage policy (241107) (RES-2024-970 : Update Computer and Mobile Devise Usage

II. Principles of Acceptable Use

Town of Amherst computer and mobile device users are required to:

i. Respect the privacy of other users. For example, users shall not intentionally seek information, obtain copies of, or modify files or data, belonging to other users, unless explicit permission to do so has been obtained.

ii. Respect the legal protection provided to programs and data by Copyright and license.

iii. Protect data from unauthorized use or disclosure as required by state and federal laws and regulations.

iv. Respect the integrity of computing systems. For example, users shall not use or develop programs that harass other users or infiltrate a computer or computing system and/or damage or alter the software components of an application, computer or network resource.

v. Safeguard their accounts and passwords. Accounts and passwords are normally assigned to single users and are not to be shared with any other person without authorization. Users must try to protect their logon sessions by locking their PC or mobile device when not in use for more than a few minutes. Users are expected to report any observations of attempted failed logins or other security violations.

vi. Utilize Town provided IT resources to conduct Town business only. Incidental personal use, although not specifically authorized, is expected within reasonable limits. It is the duty of department heads and the IT Department to monitor all systems for personal use and report any significant violations of this policy to the Human Resources Department.

vii. Access email and Internet resources with great care. The proliferation of cyber threats via email, Internet websites as well as malicious software of mobile apps requires users to be diligent and report any suspicious email, website content or software threats to the IT Department.

Attachment: REDACTED - computer and mobile device usage policy (241107) (RES-2024-970 : Update Computer and Mobile Devise Usage

III. Unacceptable Use

The following present unacceptable use of Town of Amherst enterprise computer or mobile devices.

i. For any illegal purpose or activity.

ii. For any activity unrelated to an employee's official assignment, job responsibilities or the mission of the Town, except for non-political Union announcements.

iii. To receive, view or transmit threatening, pornographic, degrading, obscene or harassing materials or correspondence.

iv. For unauthorized distribution of Town of Amherst data and information.

v. To access data, files or directories which the user does not have adequate permission.

vi. To download, install or use unlicensed or pirated software.

vii. To connect any personal, storage or network device without the expressed permission of the IT Department.

viii. To access personal email.

ix. To interfere with or disrupt network users, services or equipment.

x. For private purposes such as marketing or business transactions.

xi. For solicitation for religious, political or other causes.

xii. For unauthorized not-for-profit business activities.

xiii. For private advertising of products or services.

xiv. For any other activity to foster personal gain.

Attachment: REDACTED - computer and mobile device usage policy (241107) (RES-2024-970 : Update Computer and Mobile Devise Usage

IV. Exceptions

Incidental use of computer services relating to retirement, deferred compensation or medical coverage shall not be considered a violation of this policy. Employees are expected to follow individual department policies or request permission for these activities from their department head.

Attachment: REDACTED - computer and mobile device usage policy (241107) (RES-2024-970 : Update Computer and Mobile Devise Usage

V. Agency Rights

Pursuant to the Electronic Communications Privacy Act of 1986 (18 USC 251 et seq.), notice is hereby given that there are no facilities provided by this system for sending or receiving private or confidential electronic communications. System administrators can monitor all network activity, e-mail and Internet access requests, and will monitor messages as necessary to assure efficient performance and appropriate use. Any email messages, Internet use or other network logs relating to or in support of illegal activities will be reported to the appropriate authorities.

The Town's Network Security Logon Message is presented to each network user at logon. The current network security logon message is found below.

> *Network Security Logon Message*
>
> *You are logging onto the Town of Amherst's internal network. This secure network is for the use of authorized users only. All users must comply with the Computer and Mobile Device Usage Policy approved by the Amherst Town Board. If you are unfamiliar with this policy, please contact your supervisor, department head, or the Information Technology Department. Individuals using the computer system or network resources without authority, or in excess of their authority, are subject to having their activities on this system monitored, recorded and/or revoked by system administrators. In the course of monitoring individuals improperly using this system, or in the course of system maintenance, the activities of authorized users may also be monitored. Anyone using this system expressly consents to such monitoring and is advised that if such monitoring reveals possible criminal activity, system administrators will provide the evidence of such monitoring to law enforcement officials. By clicking the OK button below, you are agreeing to the conditions stated in this message. If you do not agree, do not click OK and contact your supervisor, department head or the Information Technology Department.*

The Town reserves the right to suspend or remove a user account from the Town's computer network.

The Town will not be responsible for any damages. This includes the loss of data resulting from delays, non-deliveries, or service interruptions caused by negligence, errors or omissions. Use of any information obtained is at the user's risk.

Attachment: REDACTED - computer and mobile device usage policy (241107) (RES-2024-970 : Update Computer and Mobile Devise Usage

Any computer or mobile device connected to the Town's computer network must have anti-virus software installed by the IT Office. System users are not permitted to tamper with or disable any anti-virus or network configuration that might allow malicious content access to the device.

The Town reserves the right to change its policies and rules at any time. The Town makes no warranties (expressed or implied) with respect to Internet service, and it specifically assumes no responsibilities for:

i. The content of any advice or information received by a user outside the Town of Amherst or any costs or charges incurred as a result of seeking or accepting such advice;

ii. Any costs, liabilities or damages caused by the way the user chooses to use his/her Town issued computer, mobile device or Internet access;

iii. Any consequences of services interruptions or changes even if these disruptions arise from circumstances under the control of the Town. The Town's computer network and Internet services are provided on an as is, as available basis.

Attachment: REDACTED - computer and mobile device usage policy (241107) (RES-2024-970 : Update Computer and Mobile Devise Usage

VI. Network Passwords

Network passwords are an essential component of overall network security. One of the most important aspects of passwords is secrecy. Town of Amherst network users are mandated to protect the confidentiality of their individual passwords. The following password practices are required. Network users should

a. never write down passwords and place them in plain sight in their computer work area.

b. never place notes with their username or password on their computer monitor, keyboard, desk calendar, desk area, etc.

c. keep any written passwords in a secure area such as a wallet, purse of other locked space.

Any violations of this policy will be reported to the Department Head and the Human Resources Director. The Town reserves the right to suspend or disable a user account at any time.

A new Town of Amherst network user password policy is in effect. This new policy, in combination with a self-service password reset module, is intended to both improve network security while allowing users a -redacted- password expiration cycle. In addition, network users will be notified of their impending password expiration at the following intervals: -redacted- prior to password expiration and account lock out.

Password must meet the following minimum complexity requirements.

a. A minimum of -redacted- in length

b. Contain -redacted-

c. Contain -redacted-

d. Contain -redacted-

Complexity requirements are enforced when passwords are created or changed.

Attachment: REDACTED - computer and mobile device usage policy (241107) (RES-2024-970 : Update Computer and Mobile Devise Usage

VII. Multi-Factor Authentication

The Town of Amherst has implemented multi-factor user authentication (MFA) -redacted-:

i. -redacted-

ii. -redacted-

iii. -redacted-

It is the intent of the Town of Amherst to continue to expand the multi-factor authentication requirement -redacted-.

In order to maintain our MFA licensing levels, users will be asked to successfully log into one of the service areas described above -redacted-. By regularly utilizing the town's MFA service, users will keep their account active and refresh themselves on proper usage.

Attachment: REDACTED - computer and mobile device usage policy (241107) (RES-2024-970 : Update Computer and Mobile Devise Usage

VIII. Remote Work

Prior to March, 2020, the Town of Amherst had a limited telework program in place. This section establishes guidelines for remote work in a hybrid environment to ensure productivity, security and effective communication within the organization. The policies below apply to all employees of the organization who have been authorized to work remotely and outline the expectations and requirements for remote work to help ensure it is conducted effectively and securely.

The Town of Amherst supports a hybrid work model allowing employees to work remotely while still maintaining a required in-office presence. Eligibility for remote work is determined by department heads based on job function, performance, and operational needs. Not all town positions are suitable for remote work due to the nature of job duties.

Schedule

a. Remote workdays must be approved in advance by the employee's supervisor. Exceptions to this policy include illness or other unforeseen circumstances. If remote work is not feasible, staff must use available employee accruals.

b. Employees, identified as regular remote workers, are required to login and/or work from home (remotely) -redacted- as determined by their supervisor. This will ensure that their remote connectivity is active and functioning correctly.

c. Employees must be available during core hours on remote workdays. Core hours are to be set by the employee's supervisor or department head.

Work Environment and Equipment

a. Employees are encouraged to have a designated workspace that is safe, secure, and free from distractions.

b. The remote workspace should have reliable internet connectivity to support video conferencing, access to organizational systems, and other communication tools.

Attachment: REDACTED - computer and mobile device usage policy (241107) (RES-2024-970 : Update Computer and Mobile Devise Usage

c. The town will provide equipment such as laptops, -redacted- access, and other software required for remote work. All -redacted- shall be authorized, managed and monitored by the IT Department. All -redacted- will require -redacted-. Remote workers are required to disconnect -redacted- when not in use.

d. Employees working remotely on a regular or semi-regular schedule will be issued a laptop and docking station to reduce duplicate equipment needed in the workplace and remotely. The docking station will be installed in the workplace to allow for easy connect / disconnect.

e. Employees are responsible for maintaining the security of organizational equipment and data, including adhering to computer, mobile device and cybersecurity policies.

Other Guidelines

a. Employees must be reachable via phone, email, or other communication platform during working hours. Regular check-ins, team meetings, and one-on-one meetings with supervisors should be conducted as scheduled. Employees are expected to respond to messages and emails within a reasonable timeframe (e.g., within one hour during core hours).

b. Employees must follow all data security policies, including the use of -redacted-, -redacted-, and secure -redacted- practices. Confidential and sensitive information must not be stored on personal devices. Any data breaches or security incidents shall be immediately reported to the IT department.

c. Supervisors will provide clear goals and expectations for remote work. Remote work performance will be evaluated based on output, meeting deadlines, and maintaining communication with department staff and department heads. Employees must track their work hours and submit daily summary reports to their supervisor or department head.

Failure to comply with this policy may result in revocation of remote work privileges and/or disciplinary action. Employees must adhere to all organizational policies, including those related to conduct, confidentiality, and use of organizational resources.

Attachment: REDACTED - computer and mobile device usage policy (241107) (RES-2024-970 : Update Computer and Mobile Devise Usage

IX. Mobile Devices

Town issued mobile devices include, but are not limited to, smartphones and tablets. For all Town issued mobile devices with access to Town of Amherst network resources, only those applications which are approved by the IT Department may be installed and or run on the mobile devices. Any requested applications that are not included on an approved applications list require approval by the Department Head and IT Department. Wherever possible, applications must be digitally signed to ensure that only applications from trusted entities are installed on the device and that code has not been modified. In cases where third-party applications are provided outside Apple or Android stores, the IT Department will work with specific vendors to ensure proper and secure configuration is attained.

Town issued mobile devices shall be enrolled in -redacted- software managed by the IT Department to ensure these devices are in compliance with the following: required passwords or passcodes, application deployment, location services required for lost or stolen equipment, remote locking and/or wiping of the device, Town email configuration and support, centralized reporting on device activity.

Town supplied mobile devices should be secured with -redacted-. Where possible, mobile devices should be rendered inaccessible after a predetermined number of failed authentication attempts. Mobile devices should automatically be locked after being idle for no more than five minutes.

Any Town issued mobile device connecting to the Town's computer network or resources shall use an authorized -redacted-. All -redacted- shall be authorized, managed and monitored by the IT Department.

Town issued mobile devices may not access the Town's computer network or resources unless their operating system environment has been verified. Rooted or jailbroken devices are not permitted access to the Town's computer network or resources.

Users of Town issued mobile devices shall report lost or stolen equipment immediately. Any suspected security, software or information systems problems must also be reported immediately.

In addition to Town provided mobile devices, personal mobile devices (smartphones and tablets) that are configured with direct access to Town provided email shall be -redacted-. These mobile devices

Attachment: REDACTED - computer and mobile device usage policy (241107) (RES-2024-970 : Update Computer and Mobile Devise Usage

will be required to -redacted-. This enrollment will allow for device location services, locking or wiping of the device and disabling of Town provided email services. Users of personal mobile devices that are enrolled in -redacted- shall report lost or stolen equipment immediately. Once reported, the IT Department will disable Town email access on that device. The owner of that device will then have the option for additional steps to be taken (i.e., locking or wiping the device). Enrollment in -redacted- does not provide access to -redacted- stored on personal mobile devices. Additionally, there shall be no restrictions on application installation on personal mobile devices. Town employees may decline participation in -redacted-. In these cases, those devices may access Town email services -redacted-.

Attachment: REDACTED - computer and mobile device usage policy (241107) (RES-2024-970 : Update Computer and Mobile Devise Usage

X. Cybersecurity Awareness Training

The Town of Amherst shall require all computer users, with the exception of employees of the Amherst Police Department, to complete cybersecurity awareness training on an annual basis. The training period shall span from January 1 to December 31 of each calendar year.

Failure to complete the required training within the designated timeframe will result in notification to the affected department heads by the Town's Information Technology (IT) Department, detailing which staff members have not fulfilled the training requirement.

Should an employee fail to complete the training by the end of the calendar year, a grace period of ten (10) calendar days will be granted. If the training is still not completed within the grace period, the IT Department reserves the right to suspend the employee's access to the Town's network until such time as the required training is successfully completed.

Exceptions to the aforementioned training deadlines may be granted on a case-by-case basis for new employees or employees who are unable to complete the training due to extenuating circumstances. In such instances, the employee or their department head must contact the IT Department, and extensions may be granted in a reasonable manner to ensure the training is completed within an appropriate timeframe.

Attachment: REDACTED - computer and mobile device usage policy (241107) (RES-2024-970 : Update Computer and Mobile Devise Usage

XI. Enforcement and Violations

This document is intended to provide a definition of acceptable and unacceptable computer and mobile device usage for Town of Amherst provided equipment and resources. This document is not intended to be exhaustive or all-inclusive. Due to the rapid changes in information technology, this document presents general guidelines and principles for acceptable use.

All Town computer or mobile device users are expected to understand this policy and the general concepts contained herein. If, for any reason, a computer or mobile device user is unclear about acceptable use of Town issued equipment or resources, they are directed to contact their department head and/or the IT Department for clarification.

This IT Department will review alleged violations of the Computer and Mobile Device Usage Policy. Upon discovery of any violation of this policy or best practices, the Town's Department of Information technology will log those violations in a central database. Depending upon the severity of the violation additional measures may be taken. These measures would include, but not be limited to, contacting the staff person's Department Head, contacting the staff directly, requiring additional cyber security or computer training or taking another appropriate action.

In the event the violating activity is considered egregious, excessively frequent or is suspected to constitute a crime, the offender may be subject to discipline up to and including termination, pursuant to applicable collective bargaining agreements and/or Civil Service Laws.

Attachment: REDACTED - computer and mobile device usage policy (241107) (RES-2024-970 : Update Computer and Mobile Devise Usage

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

Francina J. Spoth
Town Clerk

Meeting: 12/02/24 07:00 PM
Department: Information Technology
Initiated by: **David J. Willer**
Co-Sponsored by: **Deputy Supervisor Shawn Lavin**

DOC ID: 29725 **RESOLUTION 2024-971** **ADOPTED**

Purchase of Duo MFA Software - Pending Completion of CRS ID 5227

Please authorize the Supervisor, pending completion of the contract routing process, to sign a purchase agreement with Communications Consulting Inc for the purchase of (182) Duo MFA user licenses. Duo MFA Software provides integrated multi-factor authentication for the Town of Amherst remote workforce using VPN connectivity and other secure network connections.

12/2/2024
Consent

FINANCIAL IMPACT:

$5,824.00 from A1681-4110

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

Communications Consulting, Inc.
120 Mt. Pleasant Road
Warrendale, PA 15086 US
+14126973356
sales@cci-pgh.com
www.cci-pgh.com

Estimate 8761

ADDRESS
Town of Amherst
5583 Main Street
Williamsville, NY 14221

SHIP TO
Town of Amherst
5583 Main Street
Williamsville, NY 14221

TOTAL
$5,824.00

ACTIVITY	QTY	RATE	AMOUNT
Item Duo MFA Edition per user *1 year* December 2024 - December 2025	182	32.00	5,824.00T

SUBTOTAL	5,824.00
TAX	0.00
TOTAL	$5,824.00

THANK YOU.

Accepted By

Accepted Date

Items are non-returnable unless otherwise stated and agreed upon. Late fees are automatically assessed for payments made past the due date.

Attachment: CCI (RES-2024-971 : Purchase of Duo MFA Software - Pending Completion of CRS ID 5227)

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

Francina J. Spoth
Town Clerk

Meeting: 12/02/24 07:00 PM
Department: Planning
Initiated by: **Dan Howard**
Co-Sponsored by:

DOC ID: 29668 **RESOLUTION 2024-972** **ADOPTED**

To Authorize the Adoption of Revisions to the Administrative Plan Governing the Housing Choice Voucher (HCV) Program of the Erie County PHA Consortium

WHEREAS, the Town of Amherst acts as the lead Public Housing Authority (PHA) for the Erie County PHA Consortium; and

WHEREAS, the Town contracts with Belmont Housing Resources for WNY, Inc. (Belmont) to carry out the day-to-day management of the HCV program; and

WHEREAS, 24 CFR 982.54 requires that the PHA adopt a written Administrative Plan that establishes local policies for the administration of the program in accordance with HUD requirements; and

WHEREAS, Belmont is requesting approval of the updated PHA Erie County Consortium Administrative Plan to comply with the Housing Opportunity Through Modernization Act (HOTMA). The changes will go into effect starting January 1, 2025; and

WHEREAS, Belmont is seeking approval of the updated PHA Erie County Consortium Administrative Plan which identifies any HOTMA 102/104 policies that have been put on hold. These regulations will not be implemented until HUD establishes a new implementation date for them; and

WHEREAS, Belmont is requesting approval of the updated PHA Erie County Consortium Administrative Plan which includes an updated section for Mainstream Vouchers, in compliance with federal notice PIH 2024-30, to establish a separate waitlist for Mainstream Vouchers; and

WHEREAS, Belmont Housing Resources is asking for approval of the updated PHA Erie County Consortium Administrative Plan, which includes a chapter covering policies and regulations for Project-Based Vouchers under RAD Conversion projects;

NOW, THEREFORE BE IT RESOLVED, that the Town Board of the Town of Amherst adopts the recommended revisions to the HCV Administrative Plan for the Erie County PHA Consortium.

12/2/2024
Consent

FINANCIAL IMPACT:

Adoption of the proposed resolution involves no monetary consideration and will have no impact on the Town Budget or tax rate.

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

Amherst
Town of Amherst Planning Department
Erie County, New York

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

November 19, 2024

Agenda of December 2, 2024

Honorable Town Board
Town of Amherst
5583 Main Street
Williamsville, New York 14221

Subject: Erie County PHA Consortium
Adoption of Revision to Housing Choice Voucher (HCV) Administrative Plan

Dear Board Members:

The Town of Amherst acts as the lead agengy for the Erie County PHA Consortium and contracts with Belmont Housing Resources for WNY, Inc. (Belmont) to adminster the HCV Program.

Belmont is proposing updates to the HCV Administrative Plan. The revisions, particularly in response to the Housing Opportunity Through Modernization Act (HOTMA), will ensure continued compliance with federal regulations and improve the administration of the HCV Program. If approved, the changes would go in effect on January 1, 2025. The proposed updates include:

- The establishment of a separate waitlist for Mainstream Vouchers, in compliance with federal notice, PIH 2024-30.
- The inclusion of policies for Project-Based Vouchers under RAD Conversion projects.
- The temporary hold on HOTMA 102/104 policies until HUD issues new implementation guidelines, ensuring a careful and compliant rollout.

Attached for your consideration is a draft resolution for the Town Board meeting of December 2, 2024 to adopt these revisions to the Administrative Plan. The complete Administrative Plan is available for review in the Planning Department.

Thank you for your consideration.

Very truly yours,

Daniel C. Howard, AICP
Planning Director

X:\Community Development\New Structure\PHA\2024\TB letter 12.2.24-admin. changes.docx

Attachment: pha-1119202411 3019 (RES-2024-972 : Adopt Revisions to the HCV Administrative Plan)

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

Francina J. Spoth
Town Clerk

Meeting: 12/02/24 07:00 PM
Department: Police
Initiated by: **Scott Chamberlin**
Co-Sponsored by:

DOC ID: 29682 **RESOLUTION 2024-973** **ADOPTED**

Intermunicipal Agreement: Town of Clarence (CRS #5172) Crossing Guards at Transit Middle School

TOWN BOARD AGENDA ITEM : DECEMBER 2, 2024

TO: **Town Board**

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

RE: **Intermunicipal Agreement: Town of Clarence (CRS #5172) Crossing Guards at Transit Middle School**

Kindly adopt a resolution authorizing the Supervisor to execute the attached Intermunicipal Agreement with the Town of Clarence with regard to the above matter. This agreement has successfully completed the Contract Routing Process.

Thank you.

MSL:hs
Attachment
c: Tim Koller, Deputy Town Clerk (w/attachment, Agenda Item: December 2, 2024)

12/2/2024
Consent

FINANCIAL IMPACT:

Revenue: A3119 .02701

Amount: TBD

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

INTERMUNICIPAL AGREEMENT

INTERMUNICIPAL AGREEMENT (hereinafter the "Agreement") between and among the TOWN OF AMHERST and the TOWN OF CLARENCE (hereinafter the "Municipalities") for the purpose of providing school crossing guards on Transit Road.

WHEREAS, the Municipalities share a common border along Transit Road in Erie County, New York; and

WHEREAS, the Williamsville Central School District (hereinafter the "School District") encompasses portions of both Municipalities crossing said Transit Road; and

WHEREAS, the School District has requested that school crossing guards be provided for those school district children who are pedestrians crossing Transit Road from the Town of Clarence in order to attend classes at Transit Middle School which is located on the Town of Amherst side of Transit Road; and

NOW THEREFORE, the Municipalities agree as follows:

1. The Town of Amherst shall assign two (2) school crossing guards to the Transit Middle School location, during the normal school day.

2. The Town of Clarence shall pay the Town of Amherst fifty percent (50%) of the total cost of providing the school crossing guards, which shall be billed annually. The total cost for the crossing guards shall include, but is not limited to, social security, pension (if applicable), unemployment insurance and workers' compensation.

3. The terms of this Intermunicipal Agreement shall cover the period from January 1, 2025 through December 31, 2025.

4. An estimate of the costs expected to be incurred are attached hereto as Exhibit "A."

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the date and year below written.

TOWN OF AMHERST

_____

BY: Brian J. Kulpa
Town Supervisor

DATE: _____

TOWN OF CLARENCE

_____

BY: Patrick Casilio
Town Supervisor

DATE: _____

Attachment: IntermunicipalAgreement2025 (RES-2024-973 : Agreement: Transit Middle Crossing Guards (CRS#5172))

STATE OF NEW YORK }
COUNTY OF ERIE }SS:
VILLAGE OF WILLIAMSVILLE }

On the _____ day of _____ in the year 2024, before me, the undersigned, a Notary Public in and for the State, personally appeared Brian J. Kulpa, Supervisor of the Town of Amherst, New York, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same in his capacity, for and on behalf of the Town of Amherst.

_____
NOTARY PUBLIC

STATE OF NEW YORK }
COUNTY OF ERIE }SS:

On the _____ day of _____ in the year 2024, before me, the undersigned, a Notary Public in and for the State, personally appeared Patrick Casilio, Supervisor of the Town of Clarence, New York, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same in his capacity, for and on behalf of the Town of Clarence.

_____
NOTARY PUBLIC

Attachment: IntermunicipalAgreement2025 (RES-2024-973 : Agreement: Transit Middle Crossing Guards (CRS#5172))

EXHIBIT "A"

SCHOOL CROSSING GUARDS

Rate of Pay

Hourly rates may increase based upon New York State Minimum Wage Act and/or the Town of Amherst Town Board making increases to its part time employee salary schedule.

Cost	Step 1	Step 2*	Step 3**	Step 4	Step 5	Step 6
Hourly	$15.50/hr	$15.80/hr	$16.10 /hr	$16.40/hr	$16.70/hr	$17.00/hr
Annual	$11,206.50	$11,423.40	$11,640.30	$11,857.20	$12,074.10	$12,291.00

*First increment due nine (9) months from starting date
**Second increment due one (1) year from first increment date

Additional Costs

Retirement/Pension, FICA & Medicare: Costs based on current year estimate

Cost Analysis

School Crossing Guards typically work four (4) hours per school day from September through June. New York State requirements call for 180 instructional days in a full school year. The State also mandates that each guard receive three (3) hours of annual training every year. The annual costs indicated above assume a crossing guard worked every school day for the maximum four (4) hours per day, for a total of 723 hours (with training), and includes Retirement/Pension and FICA & Medicare costs.

Unemployment

Unemployment costs, if any, would be in the range of approximately $1500-$1600 per year.

Attachment: IntermunicipalAgreement2025 (RES-2024-973 : Agreement: Transit Middle Crossing Guards (CRS#5172))

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

Francina J. Spoth
Town Clerk

Meeting: 12/02/24 07:00 PM
Department: Police
Initiated by: **Scott Chamberlin**
Co-Sponsored by:

DOC ID: 29684 **RESOLUTION 2024-974** **ADOPTED**

Master Services Agreement: Installation of LPR Flock Group, Inc. (CRS #5071)

TOWN BOARD AGENDA : DECEMBER 2, 2024

TO: **Town Board**

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

RE: **Master Services Agreement: Installation of LPR Flock Group, Inc. (CRS #5071)**

Kindly adopt a resolution authorizing the Supervisor to adopt and execute an agreement between the Town of Amherst (Police) and Flock Group, Inc. (CRS #5071) with regard to the above-entitled matter and also to establish this vendor as a Sole Source vendor for this product. This agreement has successfully completed the Contract Routing Process.

Thank you.

SPC: msl
Attachment
C: Tim Koller, Deputy Town Clerk (Agenda Item: December 2, 2024)

12/2/2024
Consent

FINANCIAL IMPACT:

A 3124 .2600: Amount not to exceed $60,000.00

GIVE Grant Funding

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

Attachment: QuoteMSASoleSourceTBAgenda 12.2.2024 (RES-2024-974 : Flock Group MSA: Installation of LPR (CRS# 5071))

Flock Safety + NY - Amherst Town PD

Flock Group Inc.
1170 Howell Mill Rd, Suite 210
Atlanta, GA 30318

MAIN CONTACT:
Brad Cochrane
brad.cochrane@flocksafety.com
7167994357

flock safety

flock safety

EXHIBIT A
ORDER FORM

Customer:	NY - Amherst Town PD	Initial Term:	12 Months
Legal Entity Name:	NY - Amherst Town PD	Renewal Term:	24 Months
Accounts Payable Email:	rphillips@apdny.org	Payment Terms:	Net 30
Address:	500 John James Audubon Pkwy Amherst, New York 14228	Billing Frequency:	Annual Plan - Invoiced at Last Camera Validation.
		Retention Period:	30 Days

Hardware and Software Products

Annual recurring amounts over subscription term

Item	Cost	Quantity	Total
Flock Safety Platform			**$60,000.00**
Flock Safety LPR Products			
Flock Safety Falcon ® -	Included	20	Included

Professional Services and One Time Purchases

Item	Cost	Quantity	Total
One Time Fees			
Flock Safety Professional Services			
Professional Services - Existing Infrastructure Implementation Fee -	$150.00	20	$3,000.00

Subtotal Year 1:	$63,000.00
Subtotal Year 1 with Discount	$60,000.00
Annual Recurring Subtotal:	$60,000.00
Discounts:	$3,000.00
Estimated Tax:	$0.00
Contract Total:	$60,000.00

The Term for Flock Hardware shall commence upon first installation and validation, except that the Term for any Flock Hardware that requires self-installation shall commence upon execution of the Agreement. In the event a Customer purchases more than one type of Flock Hardware, the earliest Term start date shall control. In the event a Customer purchases software only, the Term shall commence upon execution of the Agreement.

*Taxes shown above are provided as an estimate. Actual taxes are the responsibility of the Customer. This Agreement will automatically renew for successive renewal terms of the greater of one year or the length set forth on the Order Form (each, a "**Renewal Term**") unless either Party gives the other Party notice of non-renewal at least thirty (30) days prior to the end of the then-current term.*

Title Transfer on Hardware- Upon installation, the Customer will receive title to the Flock Hardware. Upon expiration of the Term and any renewal Terms, Customer agrees to sell back each Flock Hardware to Flock for a $1 USD credit and be monetarily responsible for required replacement of or any damage to the Flock Hardware during the Term, except for normal wear and tear. The Flock Hardware will become the personal property of Flock and will

Attachment: QuoteMSASoleSourceTBAgenda 12.2.2024 (RES-2024-974 : Flock Group MSA: Installation of LPR (CRS# 5071))

be removed upon the termination or expiration of this Agreement. Customer agrees to perform all acts which may be necessary to assure the transfer of title of the Flock Hardware by Flock. Upon issuing the credit (on a final invoice or as a refund to the Customer) and prior to Flock's receipt back of each unit of Flock Hardware, Customer grants Flock a perfected security interest in the Flock Hardware for which Flock may file this Agreement or a UCC form as proof thereof. Flock and Customer will arrange to remove Flock Hardware at a mutually convenient time.

Attachment: QuoteMSASoleSourceTBAgenda 12.2.2024 (RES-2024-974 : Flock Group MSA: Installation of LPR (CRS# 5071))

Billing Schedule

Billing Schedule	Amount (USD)
Year 1	
At Last Device Installed	$60,000.00
Annual Recurring after Year 1	$60,000.00
Contract Total	$60,000.00

*Tax not included

Discounts

Discounts Applied	Amount (USD)
Flock Safety Platform	$0.00
Flock Safety Add-ons	$0.00
Flock Safety Professional Services	$3,000.00

Attachment: QuoteMSASoleSourceTBAgenda 12.2.2024 (RES-2024-974 : Flock Group MSA: Installation of LPR (CRS# 5071))

Product and Services Description

Flock Safety Platform Items	Product Description
Professional Services - Existing Infrastructure Implementation Fee -	One-time Professional Services engagement. Includes site and safety assessment of existing vertical infrastructure location, camera setup and testing, and shipping and handling in accordance with the Flock Safety Standard Implementation Service Brief.
Flock Safety Falcon ® -	Law enforcement grade infrastructure-free (solar power + LTE) license plate recognition camera with Vehicle Fingerprint ™ technology (proprietary machine learning software) and real-time alerts for unlimited users.

FlockOS Features & Description

FlockOS Features	Description

Attachment: QuoteMSASoleSourceTBAgenda 12.2.2024 (RES-2024-974 : Flock Group MSA: Installation of LPR (CRS# 5071))

By executing this Order Form, Customer represents and warrants that it has read and agrees to all of the terms and conditions contained in the Master Services Agreement attached.

The Parties have executed this Agreement as of the dates set forth below.

FLOCK GROUP, INC.	**Customer: NY - Amherst Town PD**
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____
	PO Number: _____

Attachment: QuoteMSASoleSourceTBAgenda 12.2.2024 (RES-2024-974 : Flock Group MSA: Installation of LPR (CRS# 5071))

Master Services Agreement

This Master Services Agreement (this "***Agreement***") is entered into by and between Flock Group, Inc. with a place of business at 1170 Howell Mill Road NW Suite 210, Atlanta, GA 30318 ("***Flock***") and the entity identified in the signature block ("***Customer***") (each a "***Party***," and together, the "***Parties***") on this the 16th day of October 2024. This Agreement is effective on the date of mutual execution ("***Effective Date***"). Parties will sign an Order Form ("***Order Form***") which will describe the Flock Services to be performed and the period for performance, attached hereto as **Exhibit A**. The Parties agree as follows:

RECITALS

WHEREAS, Flock offers a software and hardware situational awareness solution through Flock's technology platform that upon detection is capable of capturing audio, video, image, and recording data and provide notifications to Customer ("***Notifications***");

WHEREAS, Customer desires access to the Flock Services (defined below) on existing devices, provided by Customer, or Flock provided Flock Hardware (as defined below) in order to create, view, search and archive Footage and receive Notifications, via the Flock Services;

WHEREAS, Customer shall have access to the Footage in Flock Services. Pursuant to Flock's standard Retention Period (defined below) Flock deletes all Footage on a rolling thirty (30) day basis, except as otherwise stated on the ***Order Form***. Customer shall be responsible for extracting, downloading and archiving Footage from the Flock Services on its own storage devices; and

WHEREAS, Flock desires to provide Customer the Flock Services and any access thereto, subject to the terms and conditions of this Agreement, solely for the awareness, prevention, and prosecution of crime, bona fide investigations and evidence gathering for law enforcement purposes, ("***Permitted Purpose***").

AGREEMENT

Attachment: QuoteMSASoleSourceTBAgenda 12.2.2024 (RES-2024-974 : Flock Group MSA: Installation of LPR (CRS# 5071))

NOW, THEREFORE, Flock and Customer agree that this Agreement, and any Order Form, purchase orders, statements of work, product addenda, or the like, attached hereto as exhibits and incorporated by reference, constitute the complete and exclusive statement of the Agreement of the Parties with respect to the subject matter of this Agreement, and replace and supersede all prior agreements, term sheets, purchase orders, correspondence, oral or written communications and negotiations by and between the Parties.

1. DEFINITIONS

Certain capitalized terms, not otherwise defined herein, have the meanings set forth or cross-referenced in this Section 1.

1.1 "***Anonymized Data***" means Customer Data permanently stripped of identifying details and any potential personally identifiable information, by commercially available standards which irreversibly alters data in such a way that a data subject (i.e., individual person or entity) can no longer be identified directly or indirectly.

1.2 "***Authorized End User(s)***" means any individual employees, agents, or contractors of Customer accessing or using the Services, under the rights granted to Customer pursuant to this Agreement.

1.3 "***Customer Data***" means the data, media and content provided by Customer through the Services. For the avoidance of doubt, the Customer Data will include the Footage.

1.4. "***Customer Hardware***" means the third-party camera owned or provided by Customer and any other physical elements that interact with the Embedded Software and the Web Interface to provide the Services.

1.5 "***Embedded Software***" means the Flock proprietary software and/or firmware integrated with or installed on the Flock Hardware or Customer Hardware.

1.6 "***Flock Hardware***" means the Flock device(s), which may include the pole, clamps, solar panel, installation components, and any other physical elements that interact with the Embedded Software and the Web Interface, to provide the Flock Services as specifically set forth in the applicable product addenda.

Attachment: QuoteMSASoleSourceTBAgenda 12.2.2024 (RES-2024-974 : Flock Group MSA: Installation of LPR (CRS# 5071))

1.7 "***Flock IP***" means the Services, the Embedded Software, and any intellectual property or proprietary information therein or otherwise provided to Customer and/or its Authorized End Users. Flock IP does not include Footage (as defined below).

1.8 "***Flock Network End User(s)***" means any user of the Flock Services that Customer authorizes access to or receives data from, pursuant to the licenses granted herein.

1.9 "***Flock Services***" means the provision of Flock's software and hardware situational awareness solution, via the Web Interface, for automatic license plate detection, alerts, audio detection, searching image records, video and sharing Footage.

1.10 "***Footage***" means still images, video, audio and other data captured by the Flock Hardware or Customer Hardware in the course of and provided via the Flock Services.

1.11 *"**Hotlist(s)***" means a digital file containing alphanumeric license plate related information pertaining to vehicles of interest, which may include stolen vehicles, stolen vehicle license plates, vehicles owned or associated with wanted or missing person(s), vehicles suspected of being involved with criminal or terrorist activities, and other legitimate law enforcement purposes. Hotlist also includes, but is not limited to, national data (i.e., NCIC) for similar categories, license plates associated with AMBER Alerts or Missing Persons/Vulnerable Adult Alerts, and includes manually entered license plate information associated with crimes that have occurred in any local jurisdiction.

1.12 "***Installation Services***" means the services provided by Flock for installation of Flock Services.

1.13 "***Retention Period***" means the time period that the Customer Data is stored within the cloud storage, as specified in the product addenda.

1.14 "***Vehicle Fingerprint™***" means the unique vehicular attributes captured through Services such as: type, make, color, state registration, missing/covered plates, bumper stickers, decals, roof racks, and bike racks.

1.15 "***Web Interface***" means the website(s) or application(s) through which Customer and its Authorized End Users can access the Services.

Attachment: QuoteMSASoleSourceTBAgenda 12.2.2024 (RES-2024-974 : Flock Group MSA: Installation of LPR (CRS# 5071))

2. SERVICES AND SUPPORT

2.1 **Provision of Access.** Flock hereby grants to Customer a non-exclusive, non-transferable right to access the features and functions of the Flock Services via the Web Interface during the Term, solely for the Authorized End Users. The Footage will be available for Authorized End Users to access and download via the Web Interface for the data retention time defined on the Order Form ("***Retention Period***"). Authorized End Users will be required to sign up for an account and select a password and username ("***User ID***"). Customer shall be responsible for all acts and omissions of Authorized End Users, and any act or omission by an Authorized End User which, including any acts or omissions of authorized End user which would constitute a breach of this agreement if undertaken by customer. Customer shall undertake reasonable efforts to make all Authorized End Users aware of all applicable provisions of this Agreement and shall cause Authorized End Users to comply with such provisions. Flock may use the services of one or more third parties to deliver any part of the Flock Services, (such as using a third party to host the Web Interface for cloud storage or a cell phone provider for wireless cellular coverage).

2.2 **Embedded Software License.** Flock grants Customer a limited, non-exclusive, non-transferable, non-sublicensable (except to the Authorized End Users), revocable right to use the Embedded Software as it pertains to Flock Services, solely as necessary for Customer to use the Flock Services.

2.3 **Support Services.** Flock shall monitor the Flock Services, and any applicable device health, in order to improve performance and functionality. Flock will use commercially reasonable efforts to respond to requests for support within seventy-two (72) hours. Flock will provide Customer with reasonable technical and on-site support and maintenance services in-person, via phone or by email at support@flocksafety.com (such services collectively referred to as ***"Support Services"***).

2.4 **Upgrades to Platform.** Flock may make any upgrades to system or platform that it deems necessary or useful to (i) maintain or enhance the quality or delivery of Flock's products or services to its agencies, the competitive strength of, or market for, Flock's products or services, such platform or system's cost efficiency or performance, or (ii) to comply with applicable law. Parties understand that such upgrades are necessary from time to time and will not diminish the quality of the services or materially change any terms or conditions within this Agreement.

Attachment: QuoteMSASoleSourceTBAgenda 12.2.2024 (RES-2024-974 : Flock Group MSA: Installation of LPR (CRS# 5071))

2.5 **Service Interruption.** Services may be interrupted in the event that: (a) Flock's provision of the Services to Customer or any Authorized End User is prohibited by applicable law; (b) any third-party services required for Services are interrupted; (c) if Flock reasonably believe Services are being used for malicious, unlawful, or otherwise unauthorized use; (d) there is a threat or attack on any of the Flock IP by a third party; or (e) scheduled or emergency maintenance ("***Service Interruption***"). Flock will make commercially reasonable efforts to provide written notice of any Service Interruption to Customer, to provide updates, and to resume providing access to Flock Services as soon as reasonably possible after the event giving rise to the Service Interruption is cured. Flock will have no liability for any damage, liabilities, losses (including any loss of data or profits), or any other consequences that Customer or any Authorized End User may incur as a result of a Service Interruption. To the extent that the Service Interruption is not caused by Customer's direct actions or by the actions of parties associated with the Customer, the time will be tolled by the duration of the Service Interruption (for any continuous suspension lasting at least one full day). For example, in the event of a Service Interruption lasting five (5) continuous days, Customer will receive a credit for five (5) free days at the end of the Term.

2.6 **Service Suspension.** Flock may temporarily suspend Customer's and any Authorized End User's access to any portion or all of the Flock IP or Flock Service if (a) there is a threat or attack on any of the Flock IP by Customer; (b) Customer's or any Authorized End User's use of the Flock IP disrupts or poses a security risk to the Flock IP or any other customer or vendor of Flock; (c) Customer or any Authorized End User is/are using the Flock IP for fraudulent or illegal activities; (d) Customer has violated any term of this provision, including, but not limited to, utilizing Flock Services for anything other than the Permitted Purpose; or (e) any unauthorized access to Flock Services through Customer's account ("***Service Suspension***"). Customer shall not be entitled to any remedy for the Service Suspension period, including any reimbursement, tolling, or credit. If the Service Suspension was not caused by Customer, the Term will be tolled by the duration of the Service Suspension.

2.7 **Hazardous Conditions.** Flock Services do not contemplate hazardous materials, or other hazardous conditions, including, without limit, asbestos, lead, toxic or flammable substances. In the event any such hazardous materials are discovered in the designated locations in which Flock

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is to perform services under this Agreement, Flock shall have the right to cease work immediately.

3. CUSTOMER OBLIGATIONS

3.1 **Customer Obligations.** Flock will assist Customer Authorized End Users in the creation of a User ID. Authorized End Users agree to provide Flock with accurate, complete, and updated registration information. Authorized End Users may not select as their User ID, a name that they do not have the right to use, or any other name with the intent of impersonation. Customer and Authorized End Users may not transfer their account to anyone else without prior written permission of Flock. Authorized End Users shall not share their account username or password information and must protect the security of the username and password. Unless otherwise stated and defined in this Agreement, Customer shall not designate Authorized End Users for persons who are not officers, employees, or agents of Customer. Authorized End Users shall only use Customer-issued email addresses for the creation of their User ID. Customer is responsible for any Authorized End User activity associated with its account. Customer shall ensure that Customer provides Flock with up to date contact information at all times during the Term of this agreement. Customer shall be responsible for obtaining and maintaining any equipment and ancillary services needed to connect to, access or otherwise use the Flock Services. Customer shall (at its own expense) provide Flock with reasonable access and use of Customer facilities and Customer personnel in order to enable Flock to perform Services (such obligations of Customer are collectively defined as ***"Customer Obligations"***).

3.2 **Customer Representations and Warranties.** Customer represents, covenants, and warrants that Customer shall use Flock Services only in compliance with this Agreement and all applicable laws and regulations, including but not limited to any laws relating to the recording or sharing of data, video, photo, or audio content.

4. DATA USE AND LICENSING

4.1 **Customer Data.** As between Flock and Customer, all right, title and interest in the Customer Data, belong to and are retained solely by Customer. Customer hereby grants to Flock a limited, non-exclusive, royalty-free, irrevocable, worldwide license to use the Customer Data and perform all acts as may be necessary for Flock to provide the Flock Services to Customer. Flock does not own and shall not sell Customer Data.

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4.2 **Customer Generated Data.** Flock may provide Customer with the opportunity to post, upload, display, publish, distribute, transmit, broadcast, or otherwise make available, messages, text, illustrations, files, images, graphics, photos, comments, sounds, music, videos, information, content, ratings, reviews, data, questions, suggestions, or other information or materials produced by Customer (**"*Customer Generated Data*"**). Customer shall retain whatever legally cognizable right, title, and interest in Customer Generated Data. Customer understands and acknowledges that Flock has no obligation to monitor or enforce Customer's intellectual property rights of Customer Generated Data. Customer grants Flock a non-exclusive, irrevocable, worldwide, royalty-free, license to use the Customer Generated Data for the purpose of providing Flock Services. Flock does not own and shall not sell Customer Generated Data.

4.3 **Anonymized Data.** Flock shall have the right to collect, analyze, and anonymize Customer Data and Customer Generated Data to the extent such anonymization renders the data non-identifiable to create Anonymized Data to use and perform the Services and related systems and technologies, including the training of machine learning algorithms. Customer hereby grants Flock a non-exclusive, worldwide, perpetual, royalty-free right to use and distribute such Anonymized Data to improve and enhance the Services and for other development, diagnostic and corrective purposes, and other Flock offerings. Parties understand that the aforementioned license is required for continuity of Services. Flock does not own and shall not sell Anonymized Data.

5. CONFIDENTIALITY; DISCLOSURES

5.1 **Confidentiality.** To the extent required by any applicable public records requests, each Party (the "***Receiving Party***") understands that the other Party (the "***Disclosing Party***") has disclosed or may disclose business, technical or financial information relating to the Disclosing Party's business (hereinafter referred to as "***Proprietary Information***" of the Disclosing Party). Proprietary Information of Flock includes non-public information regarding features, functionality and performance of the Services. Proprietary Information of Customer includes non-public data provided by Customer to Flock or collected by Flock via Flock Services, which includes but is not limited to geolocation information and environmental data collected by sensors. The Receiving Party agrees: (i) to take the same security precautions to protect against disclosure or unauthorized use of such Proprietary Information that the Party takes with its own

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proprietary information, but in no event less than commercially reasonable precautions, and (ii) not to use (except in performance of the Services or as otherwise permitted herein) or divulge to any third person any such Proprietary Information. The Disclosing Party agrees that the foregoing shall not apply with respect to any information that the Receiving Party can document (a) is or becomes generally available to the public; or (b) was in its possession or known by it prior to receipt from the Disclosing Party; or (c) was rightfully disclosed to it without restriction by a third party; or (d) was independently developed without use of any Proprietary Information of the Disclosing Party. Nothing in this Agreement will prevent the Receiving Party from disclosing the Proprietary Information pursuant to any judicial or governmental order, provided that the Receiving Party gives the Disclosing Party reasonable prior notice of such disclosure to contest such order. At the termination of this Agreement, all Proprietary Information will be returned to the Disclosing Party, destroyed or erased (if recorded on an erasable storage medium), together with any copies thereof, when no longer needed for the purposes above, or upon request from the Disclosing Party, and in any case upon termination of the Agreement. Notwithstanding any termination, all confidentiality obligations of Proprietary Information that is trade secret shall continue in perpetuity or until such information is no longer trade secret.

5.2 **Usage Restrictions on Flock IP.** Flock and its licensors retain all right, title and interest in and to the Flock IP and its components, and Customer acknowledges that it neither owns nor acquires any additional rights in and to the foregoing not expressly granted by this Agreement. Customer further acknowledges that Flock retains the right to use the foregoing for any purpose in Flock's sole discretion. Customer and Authorized End Users shall not: (i) copy or duplicate any of the Flock IP; (ii) decompile, disassemble, reverse engineer, or otherwise attempt to obtain or perceive the source code from which any software component of any of the Flock IP is compiled or interpreted, or apply any other process or procedure to derive the source code of any software included in the Flock IP; (iii) attempt to modify, alter, tamper with or repair any of the Flock IP, or attempt to create any derivative product from any of the foregoing; (iv) interfere or attempt to interfere in any manner with the functionality or proper working of any of the Flock IP; (v) remove, obscure, or alter any notice of any intellectual property or proprietary right appearing on or contained within the Flock Services or Flock IP; (vi) use the Flock Services for anything other than the Permitted Purpose; or (vii) assign, sublicense, sell, resell, lease, rent, or

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otherwise transfer, convey, pledge as security, or otherwise encumber, Customer's rights. There are no implied rights.

5.3 **Disclosure of Footage.** Subject to and during the Retention Period, Flock may access, use, preserve and/or disclose the Footage to law enforcement authorities, government officials, and/or third parties, if legally required to do so or if Flock has a good faith belief that such access, use, preservation or disclosure is reasonably necessary to comply with a legal process, enforce this Agreement, or detect, prevent or otherwise address security, privacy, fraud or technical issues, or emergency situations.

6. PAYMENT OF FEES

6.1 **Billing and Payment of Fees**. Customer shall pay the fees set forth in the applicable Order Form based on the billing structure and payment terms as indicated in the Order Form. If Customer believes that Flock has billed Customer incorrectly, Customer must contact Flock no later than thirty (30) days after the closing date on the first invoice in which the error or problem appeared to receive an adjustment or credit. Customer acknowledges and agrees that a failure to contact Flock within this period will serve as a waiver of any claim. If any undisputed fee is more than thirty (30) days overdue, Flock may, without limiting its other rights and remedies, suspend delivery of its service until such undisputed invoice is paid in full. Flock shall provide at least thirty (30) days' prior written notice to Customer of the payment delinquency before exercising any suspension right.

6.2 **Notice of Changes to Fees.** Flock reserves the right to change the fees for subsequent Renewal Terms by providing sixty (60) days' notice (which may be sent by email) prior to the end of the Initial Term or Renewal Term (as applicable).

6.3 **Late Fees.** INTENTIONALLY OMITTED.

6.4 **Taxes.** Customer is responsible for all taxes, levies, or duties, excluding only taxes based on Flock's net income, imposed by taxing authorities associated with the order. If Flock has the legal obligation to pay or collect taxes, including amount subsequently assessed by a taxing authority, for which Customer is responsible, the appropriate amount shall be invoice to and paid by Customer unless Customer provides Flock a legally sufficient tax exemption certificate and Flock shall not charge customer any taxes from which it is exempt. If any deduction or withholding is required by law, Customer shall notify Flock and shall pay Flock any additional

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amounts necessary to ensure that the net amount that Flock receives, after any deduction and withholding, equals the amount Flock would have received if no deduction or withholding had been required.

7. TERM AND TERMINATION

7.1 **Term.** The initial term of this Agreement shall be for the period of time set forth on the Order Form (the "***Term***"). Following the Term, this Agreement may automatically renew for successive renewal terms of the greater of one year or the length set forth on the Order Form ("***Renewal Term***") upon written notice of renewal by Customer to Flock prior to the end of the then-current term.

7.2 **Termination.** Upon termination or expiration of this Agreement, Flock will remove any applicable Flock Hardware at a commercially reasonable time period. In the event of any material breach of this Agreement, the non-breaching Party may terminate this Agreement prior to the end of the Term by giving thirty (30) days prior written notice to the breaching Party; provided, however, that this Agreement will not terminate if the breaching Party has cured the breach prior to the expiration of such thirty (30) day period ("***Cure Period***"). Either Party may terminate this Agreement (i) upon the institution by or against the other Party of insolvency, receivership or bankruptcy proceedings, (ii) upon the other Party's making an assignment for the benefit of creditors, or (iii) upon the other Party's dissolution or ceasing to do business. In the event of a material breach by Flock, and Flock is unable to cure within the ***Cure Period***, Flock will refund Customer a pro-rata portion of the pre-paid fees for Services not received due to such termination.

7.3 **Survival**. The following Sections will survive termination: 1, 3, 5, 6, 7, 8.3, 8.4, 9, 11.1 and 11.6.

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8. REMEDY FOR DEFECT; WARRANTY AND DISCLAIMER

8.1 **Manufacturer Defect.** Upon a malfunction or failure of Flock Hardware or Embedded Software (a "***Defect***"), Customer must notify Flock's technical support team. In the event of a Defect, Flock shall make a commercially reasonable attempt to repair or replace the defective Flock Hardware at no additional cost to the Customer. Flock reserves the right, in its sole discretion, to repair or replace such Defect, provided that Flock shall conduct inspection or testing within a commercially reasonable time, but no longer than seven (7) business days after Customer gives notice to Flock.

8.2 **Replacements.** In the event that Flock Hardware is lost, stolen, or damaged, Customer may request a replacement of Flock Hardware at a fee according to the reinstall fee schedule (https://www.flocksafety.com/reinstall-fee-schedule). In the event that Customer chooses not to replace lost, damaged, or stolen Flock Hardware, Customer understands and agrees that (1) Flock Services will be materially affected, and (2) that Flock shall have no liability to Customer regarding such affected Flock Services, nor shall Customer receive a refund for the lost, damaged, or stolen Flock Hardware.

8.3 **Warranty.** Flock shall use reasonable efforts consistent with prevailing industry standards to maintain the Services in a manner which minimizes errors and interruptions in the Services and shall perform the Installation Services in a professional and workmanlike manner. Services may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance, either by Flock or by third-party providers, or because of other causes beyond Flock's reasonable control, but Flock shall use reasonable efforts to provide advance notice in writing or by e-mail of any scheduled service disruption.

8.4 **Disclaimer.** THE REMEDY DESCRIBED IN SECTION 8.1 ABOVE IS CUSTOMER'S SOLE REMEDY, AND FLOCK'S SOLE LIABILITY, WITH RESPECT TO DEFECTS. FLOCK DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SERVICES. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, THE SERVICES ARE PROVIDED "AS IS" AND FLOCK DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A

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PARTICULAR PURPOSE AND NON-INFRINGEMENT. THIS DISCLAIMER ONLY APPLIES TO THE EXTENT ALLOWED BY THE GOVERNING LAW OF THE STATE MENTIONED IN SECTION 11.6.

8.5 **Insurance.** Flock will maintain commercial general liability policies as stated in Exhibit B.

8.6 **Force Majeure.** Parties are not responsible or liable for any delays or failures in performance from any cause beyond their control, including, but not limited to acts of God, changes to law or regulations, embargoes, war, terrorist acts, pandemics (including the spread of variants), issues of national security, acts or omissions of third-party technology providers, riots, fires, earthquakes, floods, power blackouts, strikes, supply chain shortages of equipment or supplies, financial institution crisis, weather conditions or acts of hackers, internet service providers or any other third party acts or omissions.

9. LIMITATION OF LIABILITY; INDEMNITY

9.1 **Limitation of Liability.** NOTWITHSTANDING ANYTHING TO THE CONTRARY, FLOCK, ITS OFFICERS, AFFILIATES, REPRESENTATIVES, CONTRACTORS AND EMPLOYEES SHALL NOT BE RESPONSIBLE OR LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT OR TERMS AND CONDITIONS RELATED THERETO UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY, PRODUCT LIABILITY, OR OTHER THEORY: (A) FOR LOSS OF REVENUE, BUSINESS OR BUSINESS INTERRUPTION; (B) INCOMPLETE, CORRUPT, OR INACCURATE DATA; (C) COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY; (D) FOR ANY INDIRECT, EXEMPLARY, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES; (E) FOR ANY MATTER BEYOND FLOCK'S ACTUAL KNOWLEDGE OR REASONABLE CONTROL INCLUDING REPEAT CRIMINAL ACTIVITY OR INABILITY TO CAPTURE FOOTAGE; OR (F) FOR ANY AMOUNTS THAT, TOGETHER WITH AMOUNTS ASSOCIATED WITH ALL OTHER CLAIMS, EXCEED THE FEES PAID AND/OR PAYABLE BY CUSTOMER TO FLOCK FOR THE SERVICES UNDER THIS AGREEMENT IN THE TWELVE (12) MONTHS PRIOR TO THE ACT OR OMISSION THAT GAVE RISE TO THE LIABILITY, IN EACH CASE, WHETHER OR NOT FLOCK HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS LIMITATION OF LIABILITY OF SECTION ONLY APPLIES TO THE EXTENT

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ALLOWED BY THE GOVERNING LAW OF THE STATE REFERENCED IN SECTION 10.6. NOTWITHSTANDING ANYTHING TO THE CONTRARY, THE FOREGOING LIMITATIONS OF LIABILITY SHALL NOT APPLY (I) IN THE EVENT OF GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, OR (II) INDEMNIFICATION OBLIGATIONS.

9.2 **Responsibility.** Each Party to this Agreement shall assume the responsibility and liability for the acts and omissions of its own employees, officers, or agents, in connection with the performance of their official duties under this Agreement. Each Party to this Agreement shall be liable for the torts of its own officers, agents, or employees.

9.3 **Flock Indemnity.** Flock shall indemnify and hold harmless Customer, its agents and employees, from liability of any kind, including claims, costs (including defense) and expenses, on account of: (i) any copyrighted material, patented or unpatented invention, articles, device or appliance manufactured or used in the performance of this Agreement; or (ii) any damage or injury to property or person directly caused by Flock's installation of Flock Hardware, except for where such damage or injury was caused solely by the negligence of the Customer or its agents, officers or employees. Except for damage or injury to property or person, Flock's performance of this indemnity obligation shall not exceed the fees paid and/or payable for the services rendered under this Agreement in the preceding twelve (12) months.

10. INSTALLATION SERVICES AND OBLIGATIONS

10.1 **Ownership of Hardware**. Flock Hardware is owned and shall remain the exclusive property of Flock. Title to any Flock Hardware shall not pass to Customer upon execution of this Agreement, except as otherwise specifically set forth in this Agreement. Except as otherwise expressly stated in this Agreement, Customer is not permitted to remove, reposition, re-install, tamper with, alter, adjust or otherwise take possession or control of Flock Hardware. Customer agrees and understands that in the event Customer is found to engage in any of the foregoing restricted actions, all warranties herein shall be null and void, and this Agreement shall be subject to immediate termination for material breach by Customer. Customer shall not perform any acts which would interfere with the retention of title of the Flock Hardware by Flock. Should Customer default on any payment of the Flock Services, Flock may remove Flock Hardware at Flock's discretion. Such removal, if made by Flock, shall not be deemed a waiver of Flock's

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rights to any damages Flock may sustain as a result of Customer's default and Flock shall have the right to enforce any other legal remedy or right.

10.2 **Deployment Plan**. Flock shall advise Customer on the location and positioning of the Flock Hardware for optimal product functionality, as conditions and locations allow. Flock will collaborate with Customer to design the strategic geographic mapping of the location(s) and implementation of Flock Hardware to create a deployment plan ("***Deployment Plan***"). In the event that Flock determines that Flock Hardware will not achieve optimal functionality at a designated location, Flock shall have final discretion to veto a specific location, and will provide alternative options to Customer.

10.3 **Changes to Deployment Plan.** After installation of Flock Hardware, any subsequent requested changes to the Deployment Plan, including, but not limited to, relocating, re-positioning, adjusting of the mounting, removing foliage, replacement, changes to heights of poles will incur a fee according to the reinstall fee schedule located at (https://www.flocksafety.com/reinstall-fee-schedule). Customer will receive prior notice and confirm approval of any such fees.

10.4 **Customer Installation Obligations**. Customer is responsible for any applicable supplementary cost as described in the Customer Implementation Guide, attached hereto as Exhibit C ("***Customer Obligations***"). Customer represents and warrants that it has, or shall lawfully obtain, all necessary right title and authority and hereby authorizes Flock to install the Flock Hardware at the designated locations and to make any necessary inspections or maintenance in connection with such installation.

10.5 **Flock's Obligations**. Installation of any Flock Hardware shall be installed in a professional manner within a commercially reasonable time from the Effective Date of this Agreement. Upon removal of Flock Hardware, Flock shall restore the location to its original condition, ordinary wear and tear excepted. Flock will continue to monitor the performance of Flock Hardware for the length of the Term. Flock may use a subcontractor or third party to perform certain obligations under this agreement, provided that Flock's use of such subcontractor or third party shall not release Flock from any duty or liability to fulfill Flock's obligations under this Agreement.

11. MISCELLANEOUS

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11.1 **Compliance With Laws.** Parties shall comply with all applicable local, state and federal laws, regulations, policies and ordinances and their associated record retention schedules, including responding to any subpoena request(s).

11.2 **Severability.** If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect.

11.3 **Assignment.** This Agreement is not assignable, transferable or sublicensable by either Party, without prior consent.

11.4 **Entire Agreement.** This Agreement, together with the Order Form(s), the reinstall fee schedule (https://www.flocksafety.com/reinstall-fee-schedule), and any attached exhibits are the complete and exclusive statement of the mutual understanding of the Parties and supersedes and cancels all previous or contemporaneous negotiations, discussions or agreements, whether written and oral , communications and other understandings relating to the subject matter of this Agreement, and that all waivers and modifications must be in a writing signed by both Parties, except as otherwise provided herein. None of Customer's purchase orders, authorizations or similar documents will alter the terms of this Agreement, and any such conflicting terms are expressly rejected. Any mutually agreed upon future purchase order is subject to these legal terms and does not alter the rights and obligations under this Agreement, except that future purchase orders may outline additional products, services, quantities and billing terms to be mutually accepted by Parties. In the event of any conflict of terms found in this Agreement or any other terms and conditions, the terms of this Agreement shall prevail. Customer agrees that Customer's purchase is neither contingent upon the delivery of any future functionality or features nor dependent upon any oral or written comments made by Flock with respect to future functionality or feature.

11.5 **Relationship.** No agency, partnership, joint venture, or employment is created as a result of this Agreement and Parties do not have any authority of any kind to bind each other in any respect whatsoever. Flock shall at all times be and act as an independent contractor to Customer.

11.6 **Governing Law; Venue.** This Agreement shall be governed by the laws of the state in which the Customer is located. The Parties hereto agree that venue would be proper in the chosen courts of the State of which the Customer is located. The Parties agree that the United

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Nations Convention for the International Sale of Goods is excluded in its entirety from this Agreement.

11.7 **Special Terms.** Flock may offer certain special terms which are indicated in the proposal and will become part of this Agreement, upon Customer's prior written consent and the mutual execution by authorized representatives ("***Special Terms***"). To the extent that any terms of this Agreement are inconsistent or conflict with the Special Terms, the Special Terms shall control.

11.8 **Publicity.** Upon prior written consent of Customer, Flock has the right to reference and use Customer's name and disclose the nature of the Services in business and development and marketing efforts.

11.9 **Feedback.** If Customer or Authorized End User provides any suggestions, ideas, enhancement requests, feedback, recommendations or other information relating to the subject matter hereunder, Agency or Authorized End User hereby assigns to Flock all right, title and interest (including intellectual property rights) with respect to or resulting from any of the foregoing.

11.10 **Export.** Customer may not remove or export from the United States or allow the export or re-export of the Flock IP or anything related thereto, or any direct product thereof in violation of any restrictions, laws or regulations of the United States Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control, or any other United States or foreign Customer or authority. As defined in Federal Acquisition Regulation ("FAR"), section 2.101, the Services, the Flock Hardware and Documentation are "commercial items" and according to the Department of Defense Federal Acquisition Regulation ("DFAR") section 252.2277014(a)(1) and are deemed to be "commercial computer software" and "commercial computer software documentation." Flock is compliant with FAR Section 889 and does not contract or do business with, use any equipment, system, or service that uses the enumerated banned Chinese telecommunication companies, equipment or services as a substantial or essential component of any system, or as critical technology as part of any Flock system. Consistent with DFAR section 227.7202 and FAR section 12.212, any use, modification, reproduction, release, performance, display, or disclosure of such commercial software or commercial software documentation by the U.S. Government will be governed solely by the terms of this Agreement and will be prohibited except to the extent expressly permitted by the terms of this Agreement.

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11.11 **Headings.** The headings are merely for organization and should not be construed as adding meaning to the Agreement or interpreting the associated sections.

11.12 **Authority.** Each of the below signers of this Agreement represent that they understand this Agreement and have the authority to sign on behalf of and bind the Parties they are representing.

11.13 **Conflict.** In the event there is a conflict between this Agreement and any applicable statement of work, or Customer purchase order, this Agreement controls unless explicitly stated otherwise.

11.14 **Morality.** In the event Customer or its agents become the subject of an indictment, contempt, scandal, crime of moral turpitude or similar event that would negatively impact or tarnish Flock's reputation, Flock shall have the option to terminate this Agreement upon prior written notice to Customer.

11.15 **Notices.** All notices under this Agreement will be in writing and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by email; the day after it is sent, if sent for next day delivery by recognized overnight delivery service; and upon receipt to the address listed on the Order Form (or, if different, below), if sent by certified or registered mail, return receipt requested.

11.16 **Non-Appropriation.** Notwithstanding any other provision of this Agreement, all obligations of the Customer under this Agreement which require the expenditure of funds are conditioned on the availability of funds appropriated for that purpose. Customer shall have the right to terminate this Agreement for non appropriation with thirty (30) days written notice without penalty or other cost.

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FLOCK NOTICES ADDRESS:

1170 HOWELL MILL ROAD, NW SUITE 210

ATLANTA, GA 30318

ATTN: LEGAL DEPARTMENT

EMAIL: legal@flocksafety.com

Customer NOTICES ADDRESS:

ADDRESS: _____

ATTN: _____

EMAIL: _____

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EXHIBIT B

INSURANCE

Required Coverage. Flock shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the services under this Agreement and the results of that work by Flock or its agents, representatives, employees or subcontractors. Insurance shall be placed with insurers with a current A. M. Best rating of no less than "A" and "VII". Flock shall obtain and, during the term of this Agreement, shall maintain policies of professional liability (errors and omissions), automobile liability, and general liability insurance for insurable amounts of not less than the limits listed herein. The insurance policies shall provide that the policies shall remain in full force during the life of the Agreement. Flock shall procure and shall maintain during the life of this Agreement Worker's Compensation insurance as required by applicable State law for all Flock employees.

Types and Amounts Required. Flock shall maintain, at minimum, the following insurance coverage for the duration of this Agreement:

(i) **Commercial General Liability** insurance written on an occurrence basis with minimum limits of One Million Dollars ($1,000,000) per occurrence and Two Million Dollars ($2,000,000) in the aggregate for bodily injury, death, and property damage, including personal injury, contractual liability, independent contractors, broad-form property damage, and product and completed operations coverage;

(ii) **Umbrella or Excess Liability** insurance written on an occurrence basis with minimum limits of Ten Million Dollars ($10,000,000) per occurrence and Ten Million Dollars ($10,000,000) in the aggregate;

(iii) **Professional Liability/Errors and Omissions** insurance with minimum limits of Five Million Dollars ($5,000,000) per occurrence and Five Million Dollars ($5,000,000) in the aggregate;

(iv) **Commercial Automobile Liability** insurance with a minimum combined single limit of One Million Dollars ($1,000,000) per occurrence for bodily injury, death, and property coverage, including owned and non-owned and hired automobile coverage; and

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(v) **Cyber Liability** insurance written on an occurrence basis with minimum limits of Five Million Dollars ($5,000,000).

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Terms and Conditions

TERMS AND CONDITIONS

1. DEFINITIONS

Certain capitalized terms, not otherwise defined herein, have the meanings set forth or cross-referenced in this Section 1.

1.1 "***Agreement***" means the order form (to be provided as Exhibit A, "**Order Form**"), these terms and conditions, and any document therein incorporated by reference in section 11.4.

1.2 "***Anonymized Data***" means Customer Data permanently stripped of identifying details and any potential personally identifiable information, by commercially available standards which irreversibly alters data in such a way that a data subject (i.e., individual person or entity) can no longer be identified directly or indirectly.

1.3 "***Authorized End User(s)***" means any individual employees, agents, or contractors of Customer accessing or using the Services, under the rights granted to Customer pursuant to this Agreement.

1.4 "***Customer Data***" means the data, media, and content provided by Customer through the Services. For the avoidance of doubt, the Customer Data will include the Footage.

1.5. "***Customer Hardware***" means the third-party camera owned or provided by Customer and any other physical elements that interact with the Embedded Software and the Web Interface to provide the Services.

1.6 "***Effective Date***" means the date this Agreement is mutually executed (valid and enforceable) by both Parties.

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installation components, and any other physical elements that interact with the Embedded Software and the Web Interface, to provide the Flock Services as specifically set forth in the applicable Order Form.

1.9 "***Flock IP***" means the Services, the Embedded Software, and any intellectual property or proprietary information therein or otherwise provided to Customer and/or its Authorized End Users. Flock IP does not include Footage (as defined below).

1.10 "***Flock Services***" means the provision of Flock's software and hardware situational awareness solution, via the Web Interface, for automatic license plate detection, alerts, audio detection, searching image records, video and sharing Footage.

1.11 "***Footage***" means still images, video, audio, and other data captured by the Flock Hardware or Customer Hardware in the course of and provided via the Flock Services.

1.12 "***Installation Services***" means the services provided by Flock for installation of Flock Services.

1.13 "***Permitted Purpose***" means legitimate public safety and/or business purpose, including but not limited to the awareness, prevention, and prosecution of crime; investigations; and prevention of commercial harm, to the extent permitted by law.

1.14 "***Retention Period***" means the time period that the Customer Data is stored within the cloud storage, as specified in the applicable Order Form .

1.15 "***Term***" means the date, unless otherwise stated in the Order Form, upon which the cameras are validated by both Parties as operational.

1.16 "***Web Interface***" means the website(s) or application(s) through which Customer and its Authorized End Users can access the Services.

2. SERVICES AND SUPPORT

2.1 **Provision of Access.** Flock hereby grants to Customer a non-exclusive, non-transferable right to access the features and functions of the Flock Services via the Web Interface during the Term, solely for the Authorized End Users. The Footage will be available for Authorized End Users to access and download via the Web Interface for the Retention Period. Authorized End Users will be required to sign up for an account and select a password and username ("***User ID***"). Customer shall be responsible for all acts and omissions of Authorized End Users. Customer shall undertake reasonable efforts to make all Authorized End Users aware of all applicable provisions of this Agreement and shall cause Authorized End Users to comply with such provisions. Flock may use the services of one or more third parties to deliver any part of the Flock Services, (such as using a third party to host the Web Interface for cloud storage or a cell phone provider for wireless cellular coverage).

2.2 **Embedded Software License.** Flock grants Customer a limited, non-exclusive, non-transferable, non-sublicensable (except to the Authorized End Users), revocable right to use the Embedded

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respond to requests for support within seventy-two (72) hours. Flock will provide Customer with reasonable technical and on-site support and maintenance services in-person, via phone or by email at **support@flocksafety.com** (such services collectively referred to as ***"Support Services"***).

2.4 **Updates to Platform.** Flock may make any updates to system or platform that it deems necessary or useful to (i) maintain or enhance the quality or delivery of Flock's products or services to its agencies, the competitive strength of, or market for, Flock's products or services such platform or system's cost efficiency or performance, or (ii) to comply with applicable law. Parties understand that such updates are necessary from time to time and will not diminish the quality of the services or materially change any terms or conditions within this Agreement.

2.5 **Service Interruption.** Services may be interrupted in the event that: (a) Flock's provision of the Services to Customer or any Authorized End User is prohibited by applicable law; (b) any third-party services required for Services are interrupted; (c) if Services are being used for malicious, unlawful, or otherwise unauthorized use; (d) there is a threat or attack on any of the Flock IP by a third party; or (e) scheduled or emergency maintenance ("***Service Interruption***"). Flock will make commercially reasonable efforts to provide written notice of any Service Interruption to Customer, to provide updates, and to resume providing access to Flock Services as soon as reasonably possible after the event giving rise to the Service Interruption is cured. Flock will have no liability for any damage, liabilities, losses (including any loss of data or profits), or any other consequences that Customer or any Authorized End User may incur as a result of a Service Interruption. To the extent that the Service Interruption is not caused by Customer's direct actions or by the actions of parties associated with the Customer, the time will be tolled by the duration of the Service Interruption (for any continuous suspension lasting at least one full day). For example, in the event of a Service Interruption lasting five (5) continuous days, Customer will receive a credit for five (5) free days at the end of the Term.

2.6 **Service Suspension.** Flock may temporarily suspend Customer's and any Authorized End User's access to any portion or all of the Flock IP or Flock Service if (a) there is a threat or attack on any of the Flock IP by Customer; (b) Customer's or any Authorized End User's use of the Flock IP disrupts or poses a security risk to the Flock IP or any other customer or vendor of Flock; (c) Customer or any Authorized End User is/are using the Flock IP for fraudulent or illegal activities; (d) Customer has violated any term of this provision, including, but not limited to, utilizing Flock Services for anything other than the Permitted Purpose; or (e) any unauthorized access to Flock Services through Customer's account ("***Service Suspension***"). Customer shall not be entitled to any remedy for the Service Suspension period, including any reimbursement, tolling, or credit. If the Service Suspension was not caused by Customer, the Term will be tolled by the duration of the Service Suspension.

2.7 **Hazardous Conditions.** Flock Services do not contemplate hazardous materials, or other hazardous conditions, including, without limit, asbestos, lead, or toxic or flammable substances. In the event any such hazardous materials are discovered in the designated locations in which Flock is to perform services under this Agreement, Flock shall have the right to cease work immediately.

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3.1 **Customer Obligations.** Flock will assist Customer Authorized End Users in the creation of a User ID. Authorized End Users agree to provide Flock with accurate, complete, and updated registration information. Authorized End Users may not select as their User ID, a name that they do not have the right to use, or any other name with the intent of impersonation. Customer and Authorized End Users may not transfer their account to anyone else without prior written permission of Flock. Authorized End Users shall not share their account username or password information and must protect the security of the username and password. Unless otherwise stated and defined in this Agreement, Customer shall not designate Authorized End Users for persons who are not officers, employees, or agents of Customer. Authorized End Users shall only use Customer-issued email addresses for the creation of their User ID. Customer is responsible for any Authorized End User activity associated with its account. Customer shall ensure that Customer provides Flock with up to date contact information at all times during the Term of this Agreement. Customer shall be responsible for obtaining and maintaining any equipment and ancillary services needed to connect to, access or otherwise use the Flock Services (e.g., laptops, internet connection, mobile devices, etc.). Customer shall (at its own expense) provide Flock with reasonable access and use of Customer facilities and Customer personnel in order to enable Flock to perform Services (such obligations of Customer are collectively defined as ***"Customer Obligations"***).

3.2 **Customer Representations and Warranties.** Customer represents, covenants, and warrants that Customer shall use Flock Services only in compliance with this Agreement and all applicable laws and regulations, including but not limited to any laws relating to the recording or sharing of data, video, photo, or audio content.

4. DATA USE AND LICENSING

4.1 **Customer Data.** As between Flock and Customer, all right, title and interest in the Customer Data, belong to and are retained solely by Customer. Customer hereby grants to Flock a limited, non-exclusive, royalty-free, irrevocable, worldwide license to use the Customer Data and perform all acts as may be necessary for Flock to provide the Flock Services to Customer. Flock does not own and shall not sell Customer Data.

4.2 **Customer Generated Data.** Flock may provide Customer with the opportunity to post, upload, display, publish, distribute, transmit, broadcast, or otherwise make available, messages, text, illustrations, files, images, graphics, photos, comments, sounds, music, videos, information, content, ratings, reviews, data, questions, suggestions, or other information or materials produced by Customer (***"Customer Generated Data"***). Customer shall retain whatever legally cognizable right, title, and interest in Customer Generated Data. Customer understands and acknowledges that Flock has no obligation to monitor or enforce Customer's intellectual property rights of Customer Generated Data. Customer grants Flock a non-exclusive, irrevocable, worldwide, royalty-free, license to use the

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and Customer Generated Data to the extent such anonymization renders the data non-identifiable to create Anonymized Data to use and perform the Services and related systems and technologies, including the training of machine learning algorithms. Customer hereby grants Flock a non-exclusive, worldwide, perpetual, royalty-free right to use and distribute such Anonymized Data to improve and enhance the Services and for other development, diagnostic and corrective purposes, and other Flock offerings. Parties understand that the aforementioned license is required for continuity of Services. Flock does not own and shall not sell Anonymized Data.

5. CONFIDENTIALITY; DISCLOSURES

5.1 **Confidentiality.** To the extent required by any applicable public records requests, each Party (the "***Receiving Party***") understands that the other Party (the "***Disclosing Party***") has disclosed or may disclose business, technical or financial information relating to the Disclosing Party's business (hereinafter referred to as "***Proprietary Information***" of the Disclosing Party). Proprietary Information includes non-public information provided by the Disclosing Party to the Receiving Party regarding features, functionality, and performance of this Agreement. The Receiving Party agrees: (i) to take the same security precautions to protect against disclosure or unauthorized use of such Proprietary Information that the Party takes with its own proprietary information, but in no event less than commercially reasonable precautions, and (ii) not to use (except in performance of the Services or as otherwise permitted herein) or divulge to any third person any such Proprietary Information. The Disclosing Party agrees that the foregoing shall not apply with respect to any information that the Receiving Party can document (a) is or becomes generally available to the public; or (b) was in its possession or known by it prior to receipt from the Disclosing Party; or (c) was rightfully disclosed to it without restriction by a third party; or (d) was independently developed without use of any Proprietary Information of the Disclosing Party. Nothing in this Agreement will prevent the Receiving Party from disclosing the Proprietary Information pursuant to any judicial or governmental order, provided that the Receiving Party gives the Disclosing Party reasonable prior notice of such disclosure to contest such order. At the termination of this Agreement, all Proprietary Information will be returned to the Disclosing Party, destroyed or erased (if recorded on an erasable storage medium), together with any copies thereof, when no longer needed for the purposes above, or upon request from the Disclosing Party, and in any case upon termination of the Agreement. Notwithstanding any termination, all confidentiality obligations of Proprietary Information that is trade secret shall continue in perpetuity or until such information is no longer trade secret.

5.2 **Usage Restrictions on Flock IP.** Flock and its licensors retain all right, title and interest in and to the Flock IP and its components, and Customer acknowledges that it neither owns nor acquires any additional rights in and to the foregoing not expressly granted by this Agreement. Customer further acknowledges that Flock retains the right to use the foregoing for any purpose in Flock's sole discretion. Customer and Authorized End Users shall not (i) directly or indirectly, reverse engineer, decompile, disassemble or otherwise attempt to discover or recreate the source code, object code or underlying structure, ideas or algorithms of the Flock Services or any software provided hereunder;

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with the functionality or proper working of any of the Flock IP; (iv) remove, obscure, or alter any notice of any intellectual property or proprietary right appearing on or contained within the Flock Services or Flock IP; (v) use the Flock Services for anything other than the Permitted Purpose; or (vii) assign, sublicense, sell, resell, lease, rent, or otherwise transfer, convey, pledge as security, or otherwise encumber, Customer's rights. There are no implied rights.

5.3 **Disclosure of Footage.** Subject to and during the Retention Period, Flock may access, use, preserve and/or disclose the Footage to law enforcement authorities, government officials, and/or third parties, if legally required to do so or if Flock has a good faith belief that such access, use, preservation or disclosure is reasonably necessary to comply with a legal process, enforce this Agreement, or detect, prevent or otherwise address security, privacy, fraud or technical issues, or emergency situations.

6. PAYMENT OF FEES

6.1 **Billing and Payment of Fees**. Customer shall pay the fees set forth in the applicable Order Form based on the billing structure and payment terms as indicated in the Order Form. To the extent the Order Form is silent, Customer shall pay all invoices net thirty (30) days from the date of receipt. If Customer believes that Flock has billed Customer incorrectly, Customer must contact Flock no later than thirty (30) days after the closing date on the first invoice in which the error or problem appeared to receive an adjustment or credit. Customer acknowledges and agrees that a failure to contact Flock within this period will serve as a waiver of any claim. If any undisputed fee is more than thirty (30) days overdue, Flock may, without limiting its other rights and remedies, suspend delivery of its service until such undisputed invoice is paid in full. Flock shall provide at least thirty (30) days' prior written notice to Customer of the payment delinquency before exercising any suspension right.

6.2 **Notice of Changes to Fees.** In the event of any changes to fees, Flock shall provide Customer with sixty (60) days notice (email sufficient) prior to the end of the Initial Term or Renewal Term (as applicable). Any such changes to fees shall only impact subsequent Renewal Terms.

6.3 **Taxes.** To the extent Customer is not a tax exempt entity, Customer is responsible for all taxes, levies, or duties, excluding only taxes based on Flock's net income, imposed by taxing authorities associated with the order. If Flock has the legal obligation to pay or collect taxes, including amount subsequently assessed by a taxing authority, for which Customer is responsible, the appropriate amount shall be invoice to and paid by Customer unless Customer provides Flock a legally sufficient tax exemption certificate and Flock shall not charge Customer any taxes from which it is exempt. If any deduction or withholding is required by law, Customer shall notify Flock and shall pay Flock any additional amounts necessary to ensure that the net amount that Flock receives, after any deduction and withholding, equals the amount Flock would have received if no deduction or withholding had been required.

7. TERM AND TERMINATION

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Order Form, this Agreement will automatically renew for successive renewal terms of the greater of one year or the length set forth on the Order Form (each, a "***Renewal Term***") unless either Party gives the other Party notice of non-renewal at least thirty (30) days prior to the end of the then-current term.

7.2 **Termination.** Upon termination or expiration of this Agreement, Flock will remove any applicable Flock Hardware at a commercially reasonable time period. In the event of any material breach of this Agreement, the non-breaching Party may terminate this Agreement prior to the end of the Term by giving thirty (30) days prior written notice to the breaching Party; provided, however, that this Agreement will not terminate if the breaching Party has cured the breach prior to the expiration of such thirty (30) day period ("Cure Period"). Either Party may terminate this Agreement (i) upon the institution by or against the other Party of insolvency, receivership or bankruptcy proceedings, (ii) upon the other Party's making an assignment for the benefit of creditors, or (iii) upon the other Party's dissolution or ceasing to do business. In the event of a material breach by Flock, and Flock is unable to cure within the Cure Period, Flock will refund Customer a pro-rata portion of the pre-paid fees for Services not received due to such termination.

7.3 Survival. The following Sections will survive termination: 1, 3, 5, 6, 7, 8.3, 8.4, 9, 10.1 and 11.6.

8. REMEDY FOR DEFECT; WARRANTY AND DISCLAIMER

8.1 **Manufacturer Defect.** Upon a malfunction or failure of Flock Hardware or Embedded Software (a "***Defect***"), Customer must notify Flock's technical support team. In the event of a Defect, Flock shall make a commercially reasonable attempt to repair or replace the defective Flock Hardware at no additional cost to the Customer. Flock reserves the right, in its sole discretion, to repair or replace such Defect, provided that Flock shall conduct inspection or testing within a commercially reasonable time, but no longer than seven (7) business days after Customer gives notice to Flock.

8.2 **Replacements.** In the event that Flock Hardware is lost, stolen, or damaged, Customer may request a replacement of Flock Hardware at a fee according to the reinstall fee schedule (https://www.flocksafety.com/reinstall-fee-schedule). In the event that Customer chooses not to replace lost, damaged, or stolen Flock Hardware, Customer understands and agrees that Flock is not liable for any resulting impact to Flock Service, nor shall Customer receive a refund for the lost, damaged, or stolen Flock Hardware.

8.3 **Warranty.** Flock shall use reasonable efforts consistent with prevailing industry standards to maintain the Services in a manner which minimizes errors and interruptions in the Services and shall perform the Installation Services in a professional and workmanlike manner. Services may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance, either by Flock or by third-party providers, or because of other causes beyond Flock's reasonable control, but Flock shall use reasonable efforts to provide advance notice in writing or by e-mail of any scheduled service disruption.

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AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SERVICES. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, THE SERVICES ARE PROVIDED "AS IS" AND FLOCK DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. THIS DISCLAIMER ONLY APPLIES TO THE EXTENT ALLOWED BY THE GOVERNING LAW OF THE STATE MENTIONED IN SECTION 11.6.

8.5 **Insurance.** Flock will maintain commercial general liability policies to be provided as Exhibit B.

8.6 **Force Majeure.** Parties are not responsible or liable for any delays or failures in performance from any cause beyond their control, including, but not limited to acts of God, changes to law or regulations, embargoes, war, terrorist acts, pandemics (including the spread of variants), issues of national security, acts or omissions of third-party technology providers, riots, fires, earthquakes, floods, power blackouts, strikes, supply chain shortages of equipment or supplies, financial institution crisis, weather conditions or acts of hackers, internet service providers or any other third party acts or omissions.

9. LIMITATION OF LIABILITY; INDEMNITY

9.1 **Limitation of Liability.** NOTWITHSTANDING ANYTHING TO THE CONTRARY, FLOCK, ITS OFFICERS, AFFILIATES, REPRESENTATIVES, CONTRACTORS AND EMPLOYEES SHALL NOT BE RESPONSIBLE OR LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT OR TERMS AND CONDITIONS RELATED THERETO UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY, PRODUCT LIABILITY, OR OTHER THEORY: (A) FOR LOSS OF REVENUE, BUSINESS OR BUSINESS INTERRUPTION; (B) INCOMPLETE, CORRUPT, OR INACCURATE DATA; (C) COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY; (D) FOR ANY INDIRECT, EXEMPLARY, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES; (E) FOR ANY MATTER BEYOND FLOCK'S ACTUAL KNOWLEDGE OR REASONABLE CONTROL INCLUDING REPEAT CRIMINAL ACTIVITY OR INABILITY TO CAPTURE FOOTAGE; OR (F) FOR ANY AMOUNTS THAT, TOGETHER WITH AMOUNTS ASSOCIATED WITH ALL OTHER CLAIMS, EXCEED THE FEES PAID AND/OR PAYABLE BY CUSTOMER TO FLOCK FOR THE SERVICES UNDER THIS AGREEMENT IN THE TWELVE (12) MONTHS PRIOR TO THE ACT OR OMISSION THAT GAVE RISE TO THE LIABILITY, IN EACH CASE, WHETHER OR NOT FLOCK HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS LIMITATION OF LIABILITY OF SECTION ONLY APPLIES TO THE EXTENT ALLOWED BY THE GOVERNING LAW OF THE STATE REFERENCED IN SECTION 11.6. NOTWITHSTANDING ANYTHING TO THE CONTRARY, THE FOREGOING LIMITATIONS OF LIABILITY SHALL NOT APPLY (I) IN THE EVENT OF GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, OR (II) INDEMNIFICATION OBLIGATIONS.

9.2 **Responsibility.** Each Party to this Agreement shall assume the responsibility and liability for the acts and omissions of its own employees, officers, or agents, in connection with the performance of

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from liability of any kind, including claims, costs (including defense) and expenses, on account of: (i) any copyrighted material, patented or unpatented invention, articles, device or appliance manufactured or used in the performance of this Agreement; or (ii) any damage or injury to property or person directly caused by Flock's installation of Flock Hardware, except for where such damage or injury was caused solely by the negligence of the Customer or its agents, officers or employees. Flock's performance of this indemnity obligation shall not exceed the fees paid and/or payable for the services rendered under this Agreement in the preceding twelve (12) months.

10. INSTALLATION SERVICES AND OBLIGATIONS

10.1 **Ownership of Hardware**. Flock Hardware is owned and shall remain the exclusive property of Flock. Title to any Flock Hardware shall not pass to Customer upon execution of this Agreement, except as otherwise specifically set forth in this Agreement. Except as otherwise expressly stated in this Agreement, Customer is not permitted to remove, reposition, re-install, tamper with, alter, adjust or otherwise take possession or control of Flock Hardware. Customer agrees and understands that in the event Customer is found to engage in any of the foregoing restricted actions, all warranties herein shall be null and void, and this Agreement shall be subject to immediate termination for material breach by Customer. Customer shall not perform any acts which would interfere with the retention of title of the Flock Hardware by Flock. Should Customer default on any payment of the Flock Services, Flock may remove Flock Hardware at Flock's discretion. Such removal, if made by Flock, shall not be deemed a waiver of Flock's rights to any damages Flock may sustain as a result of Customer's default and Flock shall have the right to enforce any other legal remedy or right.

10.2 **Deployment Plan**. Flock shall advise Customer on the location and positioning of the Flock Hardware for optimal product functionality, as conditions and locations allow. Flock will collaborate with Customer to design the strategic geographic mapping of the location(s) and implementation of Flock Hardware to create a deployment plan ("***Deployment Plan***"). In the event that Flock determines that Flock Hardware will not achieve optimal functionality at a designated location, Flock shall have final discretion to veto a specific location and will provide alternative options to Customer.

10.3 **Changes to Deployment Plan.** After installation of Flock Hardware, any subsequent requested changes to the Deployment Plan, including, but not limited to, relocating, re-positioning, adjusting of the mounting, removing foliage, replacement, changes to heights of poles will incur a fee according to the reinstall fee schedule located at (**https://www.flocksafety.com/reinstall-fee-schedule**). Customer will receive prior notice and confirm approval of any such fees.

10.4 **Customer Installation Obligations**. Customer is responsible for any applicable supplementary cost as described in the Customer Implementation Guide. Customer represents and warrants that it has, or shall lawfully obtain, all necessary right title and authority and hereby authorizes Flock to install the Flock Hardware at the designated locations and to make any necessary inspections or maintenance in connection with such installation.

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tear excepted. Flock will continue to monitor the performance of Flock Hardware for the length of the Term. Flock may use a subcontractor or third party to perform certain obligations under this Agreement, provided that Flock's use of such subcontractor or third party shall not release Flock from any duty or liability to fulfill Flock's obligations under this Agreement.

11. MISCELLANEOUS

11.1 **Compliance with Laws.** Parties shall comply with all applicable local, state and federal laws, regulations, policies and ordinances and their associated record retention schedules, including responding to any subpoena request(s).

11.2 **Severability.** If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect.

11.3 **Assignment.** This Agreement is not assignable, transferable or sublicensable by either Party, without prior consent. Notwithstanding the foregoing, either Party may assign this Agreement, without the other Party's consent, (i) to any parent, subsidiary, or affiliate entity, or (ii) to any purchaser of all or substantially all of such Party's assets or to any successor by way of merger, consolidation or similar transaction.

11.4 **Entire Agreement.** This Agreement, together with the Order Form(s), the reinstall fee schedule (https://www.flocksafety.com/reinstall-fee-schedule), and any attached exhibits are the complete and exclusive statement of the mutual understanding of the Parties and supersedes and cancels all previous or contemporaneous negotiations, discussions or agreements, whether written and oral, communications and other understandings relating to the subject matter of this Agreement. All waivers and modifications must be in a writing signed by both Parties, except as otherwise provided herein. None of Customer's purchase orders, authorizations or similar documents will alter the terms of this Agreement, and any such conflicting terms are expressly rejected. Any mutually agreed upon purchase order is subject to these terms. In the event of any conflict of terms found in this Agreement or any other terms and conditions, the terms of this Agreement shall prevail. Customer agrees that Customer's purchase is neither contingent upon the delivery of any future functionality or features nor dependent upon any oral or written comments made by Flock with respect to future functionality or feature.

11.5 **Relationship.** No agency, partnership, joint venture, or employment is created as a result of this Agreement and Parties do not have any authority of any kind to bind each other in any respect whatsoever. Flock shall at all times be and act as an independent contractor to Customer.

11.6 **Governing Law; Venue.** This Agreement shall be governed by the laws of the state in which the Customer is located. The Parties hereto agree that venue would be proper in the chosen courts of the State of which the Customer is located. The Parties agree that the United Nations Convention for the International Sale of Goods is excluded in its entirety from this Agreement.

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inconsistent or conflict with the Special Terms, the Special Terms shall control.

11.8 **Publicity.** Upon prior written consent, Flock has the right to reference and use Customer's name and disclose the nature of the Services in business and development and marketing efforts. Nothing contained in this Agreement shall be construed as conferring on any Party, any right to use the other Party's name as an endorsement of product/service.

11.9 **Feedback.** If Customer or Authorized End User provides any suggestions, ideas, enhancement requests, feedback, recommendations or other information relating to the subject matter hereunder, Customer or Authorized End User hereby assigns to Flock all right, title and interest (including intellectual property rights) with respect to or resulting from any of the foregoing.

11.10 **Export.** Customer may not remove or export from the United States or allow the export or re-export of the Flock IP or anything related thereto, or any direct product thereof in violation of any restrictions, laws or regulations of the United States Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control, or any other United States or foreign Customer or authority. As defined in Federal Acquisition Regulation ("FAR"), section 2.101, the Services, the Flock Hardware and Documentation are "commercial items" and according to the Department of Defense Federal Acquisition Regulation ("DFAR") section 252.2277014(a)(1) and are deemed to be "commercial computer software" and "commercial computer software documentation." Flock is compliant with FAR Section 889 and does not contract or do business with, use any equipment, system, or service that uses the enumerated banned Chinese telecommunication companies, equipment or services as a substantial or essential component of any system, or as critical technology as part of any Flock system. Consistent with DFAR section 227.7202 and FAR section 12.212, any use, modification, reproduction, release, performance, display, or disclosure of such commercial software or commercial software documentation by the U.S. Government will be governed solely by the terms of this Agreement and will be prohibited except to the extent expressly permitted by the terms of this Agreement.

11.11 **Headings.** The headings are merely for organization and should not be construed as adding meaning to the Agreement or interpreting the associated sections.

11.12 **Authority.** Each of the below signers of this Agreement represent that they understand this Agreement and have the authority to sign on behalf of and bind the Parties they are representing upon the Effective Date.

11.13 **Conflict.** In the event there is a conflict between this Agreement and any applicable statement of work, or Customer purchase order, this Agreement controls unless explicitly stated otherwise.

11.14 **Notices.** All notices under this Agreement will be in writing and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by email; the day after it is sent, if sent for next day delivery by recognized overnight

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Customer under this Agreement which require the expenditure of public funds are conditioned on the availability of said funds appropriated for that purpose. To the extent applicable, Customer shall have the right to terminate this Agreement for non appropriation with thirty (30) days written notice without penalty or other cost.

These Terms and Conditions are subject to change.

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17800 N 85TH STREET
SCOTTSDALE, ARIZONA 85255

AXON.COM

November 30, 2021

To: Irving Police Department

Re: Sole source letter for Axon Evidence digital evidence management services and Flock automated license plate recognition technology

A sole source justification exists because Axon Enterprise, Inc. ("Axon") is the only digital evidence management system with the express right to integrate Flock's automated license plate recognition technology with Axon Evidence services.

Axon's relevant SKUs for this justification include the following:

1. **74300** Flock Safety ALPR Camera System
2. **74302** Flock Safety ALPR Camera System Installation

Sincerely,

Josh Isner
Chief Revenue Officer
Axon Enterprise, Inc.

Flock is a trademark of Flock Group, Inc., dba Flock Safety.

The Axon + Delta Logo Axon, and Axon Enterprise are trademarks of Axon Enterprise, Inc., some of which are registered in the US and other countries. For more information visit www.axon.com/legal. All rights reserved. © 2021 Axon Enterprise, Inc.

Attachment: QuoteMSASoleSourceTBAgenda 12.2.2024 (RES-2024-974 : Flock Group MSA: Installation of LPR (CRS# 5071))

flock safety

Sole Source Letter for Flock Safety® ALPR Cameras and Solution

Flock Safety® is the sole manufacturer, developer, and distributor of the Flock Safety® ALPR Camera. Flock Safety® is also the sole provider of the comprehensive monitoring, processing, and machine vision services which integrate with the Flock Safety® ALPR Camera.

The Flock Safety® ALPR camera and devices are the only Law Enforcement Grade ALPR System to offer the following combination of proprietary features:

1. Vehicle Fingerprint Technology®:
    - Patented proprietary machine vision to analyze vehicle license plate, state recognition, and vehicle attributes such as color, type, make and objects (roof rack, bumper stickers, etc.) based on image analytics (not car registration data)
    - Machine vision to capture and identify characteristics of vehicles with a paper license plate and vehicles with the absence of a license plate
    - Ability to 'Save Search' based on description of vehicles using our patented Vehicle Fingerprint Technology without the need for a license plate, and set up alerts based on vehicle description
    - Only LPR provider with "Visual Search" which can transform digital images from any source into an investigative lead by finding matching vehicles based on the vehicle attributes in the uploaded photo
    - Flock Safety Falcon Flex™: an infrastructure-free, location-flexible license plate reader camera that is easy to self install. Flock Safety Falcon Flex™ ties seamlessly into the Flock Safety® ecosystem with a small and lightweight camera with the ability to read up to 30,000 license plates and vehicle attributes on a single battery charge

2. Integrated Cloud-Software & Hardware Platform:
    - Ability to capture two (2+) lanes of traffic simultaneously with a single camera from a vertical mass
    - Best in class ability to capture and process up to 30,000 vehicles per day with a single camera powered exclusively by solar power
    - Wireless deployment of solar powered license plate reading cameras with integrated cellular communication weighing less than 5lbs and able to be powered solely by a solar panel of 60W or less
    - Web based footage retrieval tool with filtering capabilities such as vehicle color, vehicle type, vehicle manufacturer, partial or full license plate, state of license plate, and object detection

Attachment: QuoteMSASoleSourceTBAgenda 12.2.2024 (RES-2024-974 : Flock Group MSA: Installation of LPR (CRS# 5071))

flock safety

- Utilizes motion capture to start and stop recording without the need for a reflective plate
- Motion detection allows for unique cases such as bicycle capture, ATV, motorcycle, etc.
- On device machine processing to limit LTE bandwidth consumption
- Cloud storage of footage
- Covert industrial design for minimizing visual pollution

3. Transparency & Ethical Product Design:
   - One-of-a-kind “Transparency Portal” public-facing dashboard that details the policies in place by the purchaser, as well as automatically updated metrics from the Flock Safety® system
   - Built-in integration with NCMEC to receive AMBER Alerts to find missing children
   - Privacy controls to enable certain vehicles to “opt-out” of being captured

4. Integrated Audio & Gunshot Detection:
   - Natively integrated audio detection capabilities utilizing machine learning to recognize audio signatures typical of crimes in progress (e.g., gunshots)

5. Live Video Integration:
   - Ability to apply computer vision to third-party cameras using Flock Safety Wing® LPR, transforming them to evidence capture devices using the same Vehicle Fingerprint technology offered on the Flock Safety Falcon® ALPR cameras
   - Flock Safety Wing® Livestream integrates live stream traffic cameras, publicly or privately owned livestream security cameras into one cloud-based situational awareness dashboard to increase response time in mission-critical incidents
   - Manage various government intelligence including ALPR, livestream cameras, CAD, automatic vehicle location (AVL) on Flock Safety Wing® Suite
   - Ability to access live and recorded video using Flock Safety Condor™, a subscription video solution which allows officers to remotely view instant replay of downloadable live on-scene video with PTZ controls and 25X optical zoom without the need for additional camera network set-up, installation, or up-keep.

6. Partnerships:
   - Flock Safety® is the only LPR provider to officially partner with AXON to be natively and directly integrated into Evidence.com

Attachment: QuoteMSASoleSourceTBAgenda 12.2.2024 (RES-2024-974 : Flock Group MSA: Installation of LPR (CRS# 5071))

flock safety

- Flock Safety® is the only LPR provider to be fully integrated into a dynamic network of AXON''s Fleet 3 mobile ALPR cameras for patrol cars and Flock Safety Falcon® cameras
- Access to additional cameras purchased by our HOA and private business partners, means an ever-increasing amount of cameras and data at no additional cost

7. Warranty & Service:
   - Lifetime maintenance and support included in subscription price
   - Flock Safety® is the only fully integrated ALPR one-stop solution from production of the camera to delivery and installation
   - Performance monitoring software to predict potential failures, obstructions, tilts, and other critical or minor issues

Thank you,

Garrett Langley CEO, Flock Safety®

Attachment: QuoteMSASoleSourceTBAgenda 12.2.2024 (RES-2024-974 : Flock Group MSA: Installation of LPR (CRS# 5071))

NEW YORK STATE | Division of Criminal Justice Services

OPDF Sole Source or Single Source Exemption Request Form

1. Applicant/Grantee Name: Town of Amherst

2. Applicant/Grantee Address: 500 John James Audubon Pw. Amherst, NY 14228

3. Subcontractor/Supplier/Vendor Name: Flock Group, Inc.

4. Date of Request: 2/13/24 **5: Contract Number:** N/A **6. Project ID Number:** Flock Safety + N

7. Contract Amount: $100,000.00 **8. Contract Period:** 12 Months **9. Exemption Amount:** $63,000.00

10. Contact Name/Title: Flock Safety + NY - Amherst Town PD

11. E-mail Address: rphillips@apdny.org **12. Phone Number:** 7166891370

13. Exemption Requested (check the appropriate box) : ☑ **Sole Source** ☐ **Single Source**

Note: Sole source is defined as a procurement in which only one Subcontractor/Supplier is capable of supplying the required product or service. Single source is defined as a procurement in which although two or more Subcontractors/Suppliers can supply the required commodity or service, the Applicant/Grantee can provide substantial justification to award to a Subcontractor/Supplier over the other(s).

Complete the following fields below as succinctly as possible.

14.Provide a brief description of the program, including the contracted purpose and objective:

Flock offers a software and hardware situational awareness solution through a technology platform that upon detection is capable of capturing audio, video, image, and recording data and provide notifications. We desire access to these Services on our existing devices and additional Flock provided hardware.

15. Explain the circumstances detailing why it is necessary to contract non-competitively, including the expertise, experience, and knowledge of the subcontractor/supplier, including alternatives considered:

Flock has installed other components of our LPR system and they are the only vendor we can select to ensure that all software and hardware to be added to our system is compatible.

Attachment: QuoteMSASoleSourceTBAgenda 12.2.2024 (RES-2024-974 : Flock Group MSA: Installation of LPR (CRS# 5071))

16. Detail any time constraints anticipated with selecting another subcontractor/supplier, including the impact o the program, both programmatically and fiscally:

We would have to replace our existing fleet wide camera system, which would be financially and technically prohibitive. Further any proposed changes to our fleet system would cause this project to be delayed by at least a year.

OPDF Sole Source or Single Source Exemption Request Form

17. Detail the uniqueness of the subcontractor/supplier and how its services and/or commodities will benefit the contracted program:

Flock is the only vendor that is presently verified to be compatible with our existing installation of 26 Axon ALPR's.

18. Provide a justification detailing reasonableness of cost (i.e. similar costs for similar services in the region, continuation of current services at not increase in cost, etc.):

We have quoted LPR alternatives from multiple vendors (none of which are out-of-the-box compatible with our present fleet cameras) and Flock is the lowest cost option when accounting for upfront hardware and installation costs and requirements.

19. Provide any other details deemed necessary to substantiate this request:

Flock provides an infrastructure-free license plate reader system that utilizes Vehicle Fingerprint® technology to capture vehicular attributes. Presently we are only able to search by plate number, not vehicle type, color, etc.

Attachment: QuoteMSASoleSourceTBAgenda 12.2.2024 (RES-2024-974 : Flock Group MSA: Installation of LPR (CRS# 5071))

Certification

20. I certify to the best of my knowledge that the utilization of this subcontractor/supplier is in the best interests of my organizatior

21. Certified by: Richard J Phillips III 22. Date: 2/13/24

Note: Sole Source or Single Source Exemption will not be approved without a grantee certification.

PSGR: Chris Lammerts Date: 15 February 2024 ☑ Approved ☐ Denied

Reviewer Comments:

**** PSGR please attach a copy of the approved form in the shared drive P:\DCJS\OPDF\AllShared\Sole-Single So e Exemption Requests****

Attachment: QuoteMSASoleSourceTBAgenda 12.2.2024 (RES-2024-974 : Flock Group MSA: Installation of LPR (CRS# 5071))

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

Francina J. Spoth
Town Clerk

Meeting: 12/02/24 07:00 PM
Department: Police
Initiated by: **Scott Chamberlin**
Co-Sponsored by:

DOC ID: 29685 **RESOLUTION 2024-975** **ADOPTED**

Metals Recycling Contract: Bailey Ave. Training Facility Range Action Target, Inc. (CRS #5170)

TOWN BOARD AGENDA : DECEMBER 2, 2024

TO: **Town Board**

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

RE: **Metals Recycling Contract: Bailey Ave. Training Facility Range Action Target, Inc. (CRS #5170)**

Kindly adopt a resolution authorizing the Supervisor to adopt and execute an agreement between the Town of Amherst (Police) and Action Target, Inc. (CRS #5170) with regard to the above-entitled matter. This contract has successfully completed the Contract Routing Process.

Thank you.

SPC: msl
Attachment
C: Tim Koller, Deputy Town Clerk **(Agenda Item: December 2, 2024)**

12/2/2024
Consent

FINANCIAL IMPACT:

There is no cost to the Town for use of this service.

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

Action Target Inc.
c/o Diana Rotolo
3411 S. Mountain Vista Pkwy
Provo, Utah 84606
Tel: (801) 377-8033
Fax: (801) 377-8096

METALS RECYCLING CONTRACT - LE

THIS CONTRACT ("**Agreement**") between Action Target Inc. and its subsidiaries, assigns, and contractors on the one hand ("**ATI**" or the "**ATI Parties**") and Customer (identified on this page below) on the other hand is effective as of the date signed by the Parties below (the "**Effective Date**") and includes the Attachments. ATI and Customer are sometimes referred to each as a "**Party**" or together as "**Parties**". This Agreement includes this cover page and Attachments 1 and 2. By signing, Customer authorizes ATI to use credits generated pursuant to this Agreement to pay invoices payable by Customer to Action Target for the Range Services provided by Action Target until Customer rescinds such authorization.

"Customer":			
	Name:	Town of Amherst Police Department	
	Address:	500 John James Audubon Parkway	
	City/State/Zip:	Amherst, New York 14228	
	Tel:	716-689-1322	Fax:
	Authorized Agent:		Email:

AUTHORIZED:	**ACCEPTED AND AGREED**:
ACTION TARGET INC.	**CUSTOMER**: Town of Amherst Police Department
Authorized Signature: *Scott Wright*	Authorized Signature: Brian J. Kulpa, Town Supervisor
Printed Name and Title: Scott Wright, CFO	Printed Name and Title:
Date of Authorization: 2024-11-07	Date of Acceptance:

Attachment: 2024 Recycling Agreement for CRS Routing 11.12.24 (RES-2024-975 : Metals Recycling Contract: Action Target (CRS#: 5170))

ATTACHMENT 1
TERMS AND CONDITIONS

SECTION 1. TERM. The initial Term of this Agreement begins on the date both parties sign and will remain in effect for two (2) years terminating on December 31, 2026. During the Term, the Customer cannot accept payment or payment-in-kind from any entity or person other than ATI for services similar to the Service offered pursuant to this Agreement. At the conclusion of the Term and each subsequent Term, this Agreement may be extended for not more than 2 successive periods of equal length at the same pricing upon mutual agreement of both parties and can only be canceled by either Party by providing written notice at least 30 days before the end of the Term.

SECTION 2. SERVICES TO BE PERFORMED. ATI will remove or cause to be removed expended brass cartridge scrap and range lead scrap (the "**Service**") from the Customer's range.

a. **Scheduling**. Customer must contact ATI at 801-876-2442 or via email at recycle@actiontarget.com to schedule each Service. The date of service will be subject to ATI's availability to perform the Service and will be arranged within 3 business days of the request.

b. **Packaging Requirements**. Lead and brass must be separately identified, separately packaged, and on separate pallets. Drums or sacks must be strapped to the pallet and stagged for pickup in an area accessible by truck.

1. Brass Packaging. Customer must have all brass materials on pallets in either 55-gallon drums or Gaylord boxes with the top covered (stretch wrap or cardboard is okay). If the materials are in drums, the drums must be strapped to pallet. Drums should be filled to capacity and capped or lidded for transport.
2. Range Lead Packaging. Customer must have all range lead on pallets in sealed 55-gallon drums. Drums should be filled to capacity. Drums must be strapped to a pallet with one drum per pallet. Drums sent to you by Action Target will be on single drum pallets. Please use these for lead drum shipments.
3. Order Packaging. Customer may order 55-gallon drums, Gaylord boxes, pallets, or super sacks by contacting ATI. **Customer will pay for all other packaging including 20 gallon drums or five-gallon buckets (if required).**

c. **Lead Quality**. Pricing is based on clean, indoor range steel trap lead with no other contaminants, or rubber berm trap lead with less than 4% other contaminants, e.g., rubber. **ABSOLUTELY No floor sweepings, HEPA Vac contents, unspent gun powder or live rounds are to be present with lead.** If the lead containers are found to contain any live gun powder or live rounds the customer risks being charged for the extra handling, separating and disposal of the material apart from the lead. Mixing this material with your lead is very dangerous and can result in injury, property damage and loss of life.

d. **Brass Quality.** If any non-brass casings are fired on site, ATI will deduct this contaminant from brass and deduct from final weight confirmation. Small amounts of Shot shells and standard range sweeps may be in brass and is considered normal and expected, however, for large amounts of this material, after the sortation process, they must be disposed of as hazardous waste. We will deduct the following environmental fees to offset the treatment and disposal costs:

$1.75/LB for sweeps, environmental fee will be charged for treatment and hazardous waste disposal.
$0.40/LB for shot shells, environmental fee will be charged for hazardous waste disposal.

e. **Weight Limits**. To receive the credit amount listed below the minimum weight for which service should be scheduled is 4,000 lbs. Weights from 3,000 to 3,999 lbs. will receive the price listed below minus $.06 per lb. Weights from 2,999 lbs. or below will get a $0.10 per lb. premium and shipping will be deducted. The maximum per pallet weight is 4,000 lbs. per pallet. Customer is encouraged to utilize maximum weights when possible.

f. **Credit**. A Final Weight Confirmation Report will be emailed to Customer within one week of receipt of metals at receiving warehouse (transit time from pickup to warehouse is generally 3–7 days). Upon receipt of the Report, Customer may contact ATI and elect either (1) a Credit (plus 10% as discussed below) towards the Action Target Store, Action Target Equipment, or Action Target Services; or (2) a check; however, a check and credit may not be combined. If Customer elects a check, the check will be mailed to Customer within 30 days after receiving the Report in an amount as calculated below, subject to a possible deduction as stated herein. If Customer elects a credit, Customer will receive the Credit—in the amount the check would have been plus 10%—immediately after notifying Action Target as stated in the Report. If the customer has any outstanding unpaid balances with ATI, credit may be used to pay towards these balances. Notwithstanding anything herein, Credits expire after 24 months of Customer's receipt.

1. Brass shell credit. Customer will receive 54% of the copper price (per pound, brass shells received) that is published on The London Metal Exchange (www.LME.com) for the day Customer schedules the Service.
2. Steel Trap lead credit. Customer will receive 45% of the lead price (per pound of range lead received) that is published on The London Metal Exchange (www.LME.com) for the day Customer schedules the Service.
3. Rubber berm trap lead credit. Customer will receive 39% of the lead price (per pound of range lead received) that is published on The London Metal Exchange (www.LME.com) for the day Customer schedules the Service. **RBT Service Contract must be signed for RBT cleaning by ATI.**

Attachment: 2024 Recycling Agreement for CRS Routing 11.12.24 (RES-2024-975 : Metals Recycling Contract: Action Target (CRS#: 5170))

LME.com displays prices in dollars per metric ton. To convert to dollars per pound, use the following Credit Conversion Formula:

Steel Trap Range lead: (LME Price * 45%) / 2204.6 = price per pound
Rubber Berm Trap Range lead: (LME Price *39%) / 2204.6 = price per pound
Brass: (LME Price * 54%) / 2204.6 = price per pound

For example, if LME.com gives the lead price as $2,223, multiply that by 45%, which equals $1,000.35. Then to convert to dollars per pound, divide that by 2204.6. This gives you a price of $0.45 cents per pound with a minimum 4,000 lbs. Weights from 2,000 to 3,999 lbs. would receive $0.39 per lb. and weights over 10,000 lbs. will receive an increase as set forth in Attachment 2.

ATI will pick up lead dust and will provide a credit of $.01 per pound of lead dust.

For any questions related to scheduling, packaging requirements, quality, weight limits, or credit, please call 801-876-2442 or email recycle@actiontarget.com.

SECTION 3. CUSTOMER OBLIGATIONS. On the date of pickup, Customer must have the range available for ATI to perform the Service.

SECTION 4. ASSIGNMENT. Customer shall not assign any of the rights or obligations provided to it by or required under this Agreement, without first obtaining the prior written consent of ATI. Any assignment made by Customer without the prior written consent of ATI shall be null and void.

SECTION 5. CREDIT ADJUSTMENT. ATI shall be entitled to adjust the Credit Conversion Formula set forth in Section 2 upon changes in worldwide metals pricing. If ATI adjusts the formula, Customer shall be entitled to terminate the agreement within 30 days of notice of adjustment. If Customer does not notify ATI in writing of termination, this Agreement shall continue as set forth in Section 1.

SECTION 6. PACKAGING. If Customer breaches this Agreement, ATI shall be entitled to a reimbursement of costs for any packaging provided to Customer and any other remedies available.

SECTION 7. GENERAL PROVISIONS. This Agreement is governed by the laws of the State of Utah and any claim or dispute shall be brought in Utah County, Utah. If any term, provision, or condition of the Agreement is held to be invalid, void, or unenforceable by a court or forum of competent jurisdiction, then the remaining provisions shall continue in full force and effect, provided that such unenforceability does not materially affect the parties' rights under this Agreement. All obligations arising prior to the termination of the Agreement and all provisions of the Agreement allocating responsibility or liability between Customer and ATI shall survive the completion of all Services to be performed under the Agreement. Nothing contained in the Agreement shall create a contractual relationship or a cause of action in favor of a third party against ATI. The individuals executing the Agreement warrant that they have read and understood its provisions, and that they are authorized to bind the Parties for which they sign. The relationship between the parties is that of independent contractors and nothing contained in this Agreement shall be construed as creating any agency, partnership, franchise, business opportunity, joint venture, or other form of joint enterprise, employment, or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.

SECTION 8. ENTIRE AGREEMENT. This written Agreement is the entire integrated agreement between Customer and ATI and supersedes all prior negotiations, representations, or agreements, whether written or oral.

Attachment: 2024 Recycling Agreement for CRS Routing 11.12.24 (RES-2024-975 : Metals Recycling Contract: Action Target (CRS#: 5170))

CUSTOMER AND PROJECT INFORMATION

Range Name: Amherst Police Community Policing and Training Facility

Address: 4220 Bailey Avenue, Amherst New York 14226

Contact Person: Gregg Huller, Captain

Phone Number: 716-689-1398

Email Address: ghuller@apdny.org

Loading hours: 7:00AM-2:00PM

VOLUME

A full 55-gallon drum of brass weighs approximately 600 lbs., a 2/3-full 55-gallon drum of lead weighs approximately 1,200 lbs., and a full-size Gaylord box of brass weighs approximately 3,000 lbs. Knowing this:

- What is your approximate monthly brass volume in drums/lbs.?
- What is your approximate monthly lead volume in drums/lbs.?
- Do you shoot frangible bullets?
- How much weight do you anticipate ATI will pick up per Service?
- How often do you anticipate scheduling Service? (Minimum pickup weight is 4,000 lbs.)
- Does your range have a Total Containment Trap with a screw auger?

ACCESS

Dock high access?	YES	(NO)
Pallet jack on site?	YES	(NO)
Forklift on site?	YES	(NO)
18-wheeler access?	(YES)	NO
24-foot box truck access (lift gate)?	YES	(NO)

AMMUNITION

You do not need to sort your brass. We expect there to be 'floor sweeps' in your brass. This includes some volumes of steel, aluminum, shot gun shells, dust and debris. However, we only pay for lead and brass.

Aluminum?	YES	(NO)
Steel?	YES	(NO)
Shotgun shells?	(YES)	NO

We pay straight pound for pound. If your material contains any contaminants we will process them out and pay for your lead or brass weight only.

No floor sweepings or live rounds are to be present with lead

Attachment: 2024 Recycling Agreement for CRS Routing 11.12.24 (RES-2024-975 : Metals Recycling Contract: Action Target (CRS#: 5170))

ATTACHMENT 2
TIERED PRICING

Tier 1 – 10,000 lbs. limit of combined brass and lead

- Add $0.05 to the current market price for brass

- Add $0.03 to the current market price for lead

Tier 2 – 15,000 lbs. limit of combined brass and lead

- Add $0.05 to the current market price for brass

- Add $0.05 to the current market price for lead

Tier 3 – 40,000 lbs. limit of combined brass and lead

- Add $0.10 to the current price for brass

- Add $0.10 to the current price for lead

A full truckload is 44,000 lbs. For 41,000 lbs. to 44,000 lbs. pickups, Customer must provide a forklift and pallet jack or have a loading dock.

If Customer provides its own packaging, add $0.04 to the current market price for lead and brass

Attachment: 2024 Recycling Agreement for CRS Routing 11.12.24 (RES-2024-975 : Metals Recycling Contract: Action Target (CRS#: 5170))

Signature Certificate

Reference number: YE6VA-7S5HU-3XZIW-FJ6SM

Signer	Timestamp	Signature
Scott Wright Email: swright@actiontarget.com		
Sent:	07 Nov 2024 21:29:14 UTC	
Viewed:	07 Nov 2024 21:34:38 UTC	
Signed:	07 Nov 2024 21:34:51 UTC	
Recipient Verification:		IP address: 69.169.181.237
✔Email verified	07 Nov 2024 21:34:38 UTC	Location: Provo, United States

Document completed by all parties on:
07 Nov 2024 21:34:51 UTC

Page 1 of 1

Signed with PandaDoc

PandaDoc is a document workflow and certified eSignature solution trusted by 50,000+ companies worldwide.

Attachment: 2024 Recycling Agreement for CRS Routing 11.12.24 (RES-2024-975 : Metals Recycling Contract: Action Target (CRS#: 5170))

Attachment: 2024 Recycling Agreement for CRS Routing 11.12.24 (RES-2024-975 : Metals Recycling Contract: Action Target (CRS#: 5170))

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: 2024 Recycling Agreement for CRS Routing 11.12.24 (RES-2024-975 : Metals Recycling Contract: Action Target (CRS#: 5170))

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:

Action Target Inc

Print Name of Company

By: Scott Wright

Signature

Scott Wright

Printed name

Date: 2024-11-08

Agreed to and Accepted by:

Town of Amherst

By: _____

Brian J. Kulpa, Supervisor

Date: _____

Revised 12.30.19 SJS

Signature Certificate

Reference number: 37VXO-5SXSZ-CT6SK-4QQT4

Signer	Timestamp	Signature
Scott Wright Email: swright@actiontarget.com		
Sent:	08 Nov 2024 21:26:49 UTC	
Viewed:	08 Nov 2024 21:28:43 UTC	
Signed:	08 Nov 2024 21:28:53 UTC	
Recipient Verification:		IP address: 4.42.254.2
✔Email verified	08 Nov 2024 21:28:43 UTC	Location: Garden City, United States

Document completed by all parties on:
08 Nov 2024 21:28:53 UTC

Page 1 of 1

Signed with PandaDoc

PandaDoc is a document workflow and certified eSignature solution trusted by 50,000+ companies worldwide.

Attachment: 2024 Recycling Agreement for CRS Routing 11.12.24 (RES-2024-975 : Metals Recycling Contract: Action Target (CRS#: 5170))

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: Action Target Inc.

Signature: _____

Print Name: Scott Wright

Title: CFO

Date: 11/11/24

JENNIFER DAWN WARE
Notary Public - State of Utah
Comm. No. 732347
My Commission Expires on
Sep 13, 2027

Sworn To Before Me This

11 Day of November, 20 24

Jennifer Ware

Notary Public

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

Francina J. Spoth
Town Clerk

Meeting: 12/02/24 07:00 PM
Department: Police
Initiated by: **Scott Chamberlin**
Co-Sponsored by:

DOC ID: 29704 **RESOLUTION 2024-976** **ADOPTED**

Delta-Sonic Carwash Systems, Inc. (CRS #5171) Townwide Car Wash Contract

TOWN BOARD AGENDA ITEM: DECEMBER 2, 2024

TO: **Town Board**

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

RE: **Delta-Sonic Carwash Systems, Inc. (CRS #5171)**
Townwide Car Wash Contract

Kindly adopt a resolution authorizing the Supervisor to adopt and execute the attached contract between the Town of Amherst (Police) and Delta-Sonic Carwash Systems, Inc., with regard to the above-entitled matter. Approval of this contract is contingent upon the successful completion of the Contract Routing System.

Thank you.

SPC:msl
Attachment
C: Tim Koller, Deputy Town Clerk **(Agenda Item: December 2, 2024)**

12/2/2024
Consent

FINANCIAL IMPACT:

Townwide/Various

Amount TBD

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

Delta Sonic Car Wash Systems Inc

Main Office: 570 Delaware Ave., Buffalo, New York 14202

Phone Number: 716-541-2333

Amherst Police Department

NO INCREASE TO 2025 WASH PLANS

Unlimited Carwash

Type of Wash: Super Kiss Carwash Unlimited

Cost Per vehicle: $15.99 (Tax Exempt)

Wash Description: Under spray, Rust Inhibitor, Clear Coat Polish, Clear Coat Protection, High Pressure Sprays, Sonic Suds, Brake Dust Remover, Revitalizer**. ALL VEHICLES WILL HAVE FAST PASS LANE USE.**

25 Vehicles @ $15.99 a month = $399.75 per month (Tax exempt)

25 Vehicles @ $15.99 a Month = $2,398.50 for 6 Months

25 Vehicles @ $15.99 a Month = $4,797.00 for 1 year

The fleet of vehicles (approximately 54) will be charged $5.00 per wash when used. We will total up number of washes performed per monthly and invoice for number of washes. **ALL VEHCILES WILL HAVE FAST LANE USE WITH BAR CODE STICKER.**

Director of Commercial & Fleet Sales
Lawrence M Seibert
716-348-0808
Larryseibert@deltasoniccarwash.com

Attachment: 2025 Delta Sonic Agreement (RES-2024-976 : Delta-Sonic Carwash Systems, Inc. Townwide Car Wash Contract (CRS # 5171))

Attachment: 2025 Delta Sonic Agreement (RES-2024-976 : Delta-Sonic Carwash Systems, Inc. Townwide Car Wash Contract (CRS # 5171))

Addendum to Contract VENDOR ON SITE Minor

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.

(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.

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:

Delta Sonic Carwash Systems
Print Name of Company

By: _____
Signature

Lawrence M. Seibert
Printed name

Date: 11/8/24

Agreed to and Accepted by:

Town of Amherst

By: _____
Brian J. Kulpa, Supervisor

Date: _____

Revised 12.30.19 SJS

Attachment: 2025 Delta Sonic Agreement (RES-2024-976 : Delta-Sonic Carwash Systems, Inc. Townwide Car Wash Contract (CRS # 5171))

Attachment: 2025 Delta Sonic Agreement (RES-2024-976 : Delta-Sonic Carwash Systems, Inc. Townwide Car Wash Contract (CRS # 5171))

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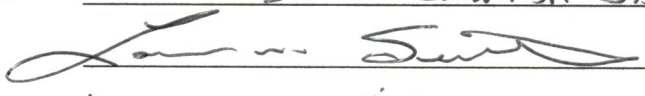
The Town reserves the right to reject any Contract/Lease or request for assignment for an entity that appears on the prohibited entities list prior to the award of a Contract/Lease, and to pursue a responsibility review with respect to any entity that is awarded a Contract/Lease and appears on the prohibited entities list after Contract/Lease award.

Company Name: DELTA SONIC CARWASH SYSTEMS

Signature: 

Print Name: Lawrence M. Seibert

Title: Director of Commercial/Fleet Sales

Date: 11/8/24

Sworn To Before Me This

_____ Day of _____, 20___

_____

Notary Public

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

Francina J. Spoth
Town Clerk

Meeting: 12/02/24 07:00 PM
Department: Police
Initiated by: **Scott Chamberlin**
Co-Sponsored by:

DOC ID: 29709 **RESOLUTION 2024-977** **ADOPTED**

APD HQ Flooring Removal GP Flooring Solutions (CRS #5193)

TOWN BOARD AGENDA : DECEMBER 2, 2024

TO: **Town Board**

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

RE: **APD HQ Flooring Removal**
GP Flooring Solutions (CRS #5193)

Kindly adopt a resolution authorizing the Supervisor to adopt and execute an agreement between the Town of Amherst (Police) and GP Flooring Solutions (CRS #5193) with regard to the above-entitled matter. Approval of this agreement is contingent upon the successful completion of the Contract Routing Process.

Thank you.

SPC:msl
Attachment
C: Tim Koller, Deputy Town Clerk **(Agenda Item: December 2, 2024)**

12/2/2024
Consent

FINANCIAL IMPACT:

A 3120 .2150: $3,538.32

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

GP Flooring Solutions
Headquarters
32 Marway Circle
Gates, NY 14624

(800) 832-3550

Proposal

For:

Town of Amherst
5583 Main Street
Williamsville, NY 14221

Job Site:

Town of Amherst Police Department / Jamie Anable
500 John James Audubon Pkwy
Chief office & Conference Room - Labor - Demo & prime
Williamsville, NY 14221
Contact: Jamie Anable 716 435-8669

Proposal #	24699
Customer PO	
Contract #	PC69412
Date	11/13/2024
Sales Person	Tim Glassbrook
Designer	

Type		Quantity	Product Description	Color / Item Number	Price	Total
Labor	Mat	1 Each				
	Lab	72 SqYd	Remove existing carpet Direct Glue Down		$8.59	$618.48
Notes		PC69412 Remove existing carpet - Glue Down				
Labor						
	Lab	72 SqYd	Flooring Disposal - Carpeting		$2.51	$180.72
Notes		PC69412 Disposal				
Labor						
	Lab	188 LnFt	Removal & Disposal of Existing Base		$1.33	$250.04
Notes		PC69412 Cove Base Removal				
Labor						
	Lab	648 SqFt	Adhesive Removal		$1.63	$1,056.24
Notes		PC69412 Scrap old adhesive				
Accessories	Mat	1 Each	C-56 Primer	Primer	$126.52	$126.52
	Lab	648 SqFt	Install Primer		$1.39	$900.72
Notes		PC69412 Primer				
Wall Base	Mat	240 LnFt	6" wall base	Charcoal	$1.69	$405.60
Notes		PC69412				

Information

All pricing per the Tarkett USA NYS Contract# PC69412
No Furniture move included
Thank you for your business!

	Total
Contract Tota	$3,538.32
Sales Tax	
Grand Tota	$3,538.32

Additional Conditions

Federal ID #16-6330058, NYS WBE-59619 (Email PO's to Orders@gpflooringsolutions.com)

We are pleased to present this confidential proposal for review by you and your organization. Work to be done M-F during normal working hours unless otherwise noted. If furniture is to be moved, electronics should be unplugged and any loose personal items should be put in a box on the desk top. Loose boxes, shoes, etc. on the floor should be removed and placed on the desk top as well. Certified third party moisture and pH testing is excluded from this

Attachment: ContractforCRSRouting 11.25.2024 (RES-2024-977 : APD HQ Flooring Removal: GP Flooring Solutions (CRS# 5193))

Continuation For: Town of Amherst, Proposal # 24699

Type	Quantity	Product Description	Color / Item Number	Price	Total

proposal. Warranty does not include any moisture related subfloor failures. Unforeseen conditions are not included in the proposal.

The proposal does not include ACM abatement work or any provisions for ACM in the work area. If an abatement is taking place prior to this work, please ensure that all abatement chemicals and residue are removed. The chemicals can have an adverse effect on the flooring materials and voids the manufacturers warranty.

Payment terms are net 30 unless otherwise noted. Due to the tariffs that have been implemented - certain product pricing may change after this proposal has been written. Please confirm pricing prior to executing any agreement or purchase order. Proposal expires 30 days from date of issuance.

Due to the current material pricing volatility, the prices of materials, taxes and/or surcharges contained in this proposal are those in effect as of the date of the proposal; GP Flooring Solutions shall be reimbursed for all increases in the cost of material.

Buyer _____ Date _____

Seller Linda Nauertz Date 11/25

Attachment: ContractforCRSRouting 11.25.2024 (RES-2024-977 : APD HQ Flooring Removal: GP Flooring Solutions (CRS# 5193))

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. A failure by Contractor to assure that any policy procured by any subcontractor or sub-subcontractor name the Town as an additional insured on a primary and non-contributory basis, shall be considered a material breach of the underlying contact and subject the Contactor to forfeiture of its performance bond, if any, and 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

Attachment: ContractforCRSRouting 11.25.2024 (RES-2024-977 : APD HQ Flooring Removal: GP Flooring Solutions (CRS# 5193))

prosecution of a breach of the insurance procurement requirements suit regardless of whether the Town is successful in said suit.

(e) A failure by Contractor to procure the General Liability, Professional 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 contact and subject the Contactor to forfeiture of its performance bond, if any, and 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.

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.

Attachment: ContractforCRSRouting 11.25.2024 (RES-2024-977 : APD HQ Flooring Removal: GP Flooring Solutions (CRS# 5193))

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 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:

GP Flooring Solutions
Print Name of Company

By: Linda Nauerth
Signature

Linda Nauerth
Printed Name

Date: 11/25/2024

Agreed to and Accepted by:

Town of Amherst

By: _____
Brian J. Kulpa, Supervisor

Date: _____

Revised 10-31-22

Attachment: ContractforCRSRouting 11.25.2024 (RES-2024-977 : APD HQ Flooring Removal: GP Flooring Solutions (CRS# 5193))

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Company Name: GP Flooring Solutions

Signature: Linda Nauerth

Print Name: Linda Nauerth

Title: Office Secretary

Date: 11/25/2024

Sworn To Before Me This

25 Day of November, 2024

Katrina Holmes

Notary Public

KATRINA HOLMES
Notary Public - State of New York
No. 01HO6339879
Qualified in Monroe County
My Commission Expires April 04, 2028

Attachment: ContractforCRSRouting 11.25.2024 (RES-2024-977 : APD HQ Flooring Removal: GP Flooring Solutions (CRS# 5193))

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 12/21/2023

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 FEDERATED MUTUAL INSURANCE COMPANY HOME OFFICE: P.O. BOX 328 OWATONNA, MN 55060	CONTACT NAME: CLIENT CONTACT CENTER PHONE (A/C, No, Ext): 888-333-4949 FAX (A/C, No): 507-446-4664 E-MAIL ADDRESS: CLIENTCONTACTCENTER@FEDINS.COM
INSURED 179-944-4 G. P. LAND AND CARPET CORPORATION, GP FLOORING SOLUTIONS 32 MARWAY CIR ROCHESTER, NY 14624-2321	INSURERS AFFORDING COVERAGE — NAIC # INSURER A: FEDERATED MUTUAL INSURANCE COMPANY — 13935 INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:

COVERAGES **CERTIFICATE NUMBER: 904** **REVISION NUMBER: 0**

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:	Y	Y	6112778	12/28/2023	12/28/2024	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 $100,000 $10,000 $1,000,000 $2,000,000 $2,000,000
A	AUTOMOBILE LIABILITY X ANY AUTO OWNED AUTOS ONLY SCHEDULED AUTOS HIRED AUTOS ONLY NON-OWNED AUTOS ONLY	N	N	6112778	12/28/2023	12/28/2024	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per Person) BODILY INJURY (Per Accident) PROPERTY DAMAGE (Per Accident)	$1,000,000
A	X UMBRELLA LIAB X OCCUR EXCESS LIAB CLAIMS-MADE DED X RETENTION $10,000	N	N	6112779	12/28/2023	12/28/2024	EACH OCCURRENCE AGGREGATE	$10,000,000 $10,000,000
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y/N ANY PROPRIETOR/PARTNER/ EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) N/A If yes, describe under DESCRIPTION OF OPERATIONS below						PER STATUTE OTHER 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)

SEE ATTACHED PAGE

CERTIFICATE HOLDER

179-944-4 904 0
TOWN OF AMHERST
5583 MAIN ST
WILLIAMSVILLE, NY 14221-5488

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: ContractorCRSRouting 11.25.2024 (RES-2024-977 : APD HQ Flooring Removal: GP Flooring Solutions (CRS# 5193))

ACORD

AGENCY CUSTOMER ID: 179-944-4

LOC #:

ADDITIONAL REMARKS SCHEDULE

AGENCY		NAMED INSURED
FEDERATED MUTUAL INSURANCE COMPANY		G. P. LAND AND CARPET CORPORATION, GP FLOORING SOLUTIONS 32 MARWAY CIR ROCHESTER, NY 14624-2321
POLICY NUMBER SEE CERTIFICATE # 904.0		
CARRIER SEE CERTIFICATE # 904.0	NAIC CODE	EFFECTIVE DATE: SEE CERTIFICATE # 904.0

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,

FORM NUMBER: 25 FORM TITLE: CERTIFICATE OF LIABILITY INSURANCE

PROJECT NO: 20356
PROJECT: TOWN OF AMHERST POLICE DEPARTMENT, 500 JOHN JAMES AUDUBON PKWY, GROUND FLOOR HALLWAYS 1ST & 2ND PHASE SHEET VINYL AMHERST NY 14228
THE CERTIFICATE HOLDER IS AN ADDITIONAL INSURED SUBJECT TO THE CONDITIONS OF THE ADDITIONAL INSURED - OWNERS, LESSEES OR CONTRACTORS - AUTOMATIC STATUS WHEN REQUIRED IN CONSTRUCTION AGREEMENT WITH YOU ENDORSEMENT FOR GENERAL LIABILITY.
INSURANCE PROVIDED BY THE GENERAL LIABILITY COVERAGE IS PRIMARY AND NONCONTRIBUTORY OVER OTHER INSURANCE.
GENERAL LIABILITY CONTAINS A WAIVER OF SUBROGATION IN FAVOR OF THE CERTIFICATE HOLDER SUBJECT TO THE CONDITIONS OF THE BLANKET WAIVER OF TRANSFER OF RIGHTS OF RECOVERY ENDORSEMENT.

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Attachment: ContractforCRSRouting 11.25.2024 (RES-2024-977 : APD HQ Flooring Removal: GP Flooring Solutions (CRS# 5193))

NEW YORK STATE | Workers' Compensation Board

CERTIFICATE OF
NYS WORKERS' COMPENSATION INSURANCE COVERAGE

1a. Legal Name Address of Insured (use street address only) G&A Outsourcing, LLC DBA: G&A Partners Labor Contractor, for leased workers to: G.P. Land & Carpet Corporation dba: GP Flooring Solutions 32 Marway Cir Gates, NY 14624 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 (713) 784-1181 1c. NYS Unemployment Insurance Employer Registration Number of insured 1d. Federal Employer Identification Number of Insured or Social Security Number 16-6330058
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 Zurich-American Insurance Company 3b. Policy Number of Entity Listed in Box "1a" WC 12-71-007-01 3c. Policy effective period 3/1/2024 to 3/1/2025 3d. The Proprietor, Partners, or Executive Officers are ☐ included. (Only check box if all partners/officers inclued) ☐ 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.

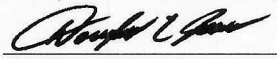
This certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend or alter the coverage afforded by the policy listed, nor does it confer any rights or responsibilities beyond those contained in the referenced policy.

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, licese 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 refernced above and that the named insured has the coverage as depicted on this form.

Approved by: Douglas Jones
(Print name of authorized representative or licensed agent of insurance carrier)

Approved by:  2/23/2024
(Signature) (Date)

Title: Vice President

Telephone number of authorized representative or licensed agent of insurance carrier: (480)951-4177

Please Note: Only insurance carriers and their licensed agents are authorized to issue Form C-105.2. Insurance brokers are NOT authorized to issue it.

C-105.2 (9-17) ww.wcb.ny.gov

Attachment: ContractforCRSRouting 11.25.2024 (RES-2024-977 : APD HQ Flooring Removal: GP Flooring Solutions (CRS# 5193))

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)

G.P. Land & Carpet Corporation DBA GP Flooring Solutions
32 Marway Cir
Gates, NY 14624

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

951-643-0381

1c. Federal Employer Identification Number of Insured or Social Security Number

166330058

2. Name and Address of Entity Requesting Proof of Coverage (Entity Being Listed as the Certificate Holder)

Town of Amherst Police Department
500 John James Audubon Parkway
Amherst, NY 14228

3a. Name of Insurance Carrier

Arch Insurance Company

3b. Policy Number of Entity Listed in Box 1a

11DBL2333900

3c. Policy Effective Period

7/1/2024 to 6/30/2025

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 11/25/2024 By _____
(Signature of insurance carrier's authorized representative or NYS licensed insurance agent of that insurance carrier)

Telephone Number 877-369-0979 Name and Title James Iannicelli, AVP Accident & Health

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)

Attachment: ContractforCRSRouting 11.25.2024 (RES-2024-977 : APD HQ Flooring Removal: GP Flooring Solutions (CRS# 5193))

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

Francina J. Spoth
Town Clerk

Meeting: 12/02/24 07:00 PM
Department: Senior Services
Initiated by: **Melissa Abel**
Co-Sponsored by:

DOC ID: 29707 **RESOLUTION 2024-978** **ADOPTED**

Amherst Senior Center Age Requirement

WHEREAS, The Town of Amherst Senior Centers current age requirement to join is 55, and

WHEREAS, The Town of Amherst Senior Center has not changed this age requirement to join in over 25 years and

WHEREAS, the Senior Center recognizes the national growing trend in senior programming geared towards age 50 + and

WHEREAS, the Senior Centers mission is to identify, understand, and create opportunities for improved quality of life for adults as the age, and

WHEREAS, in the last 5 years, we have seen the membership increase in the age group of 55-65 and requests to join have increased for those 50-55, Census numbers show the increase in the 50+ population, and we are increasing our Health and Wellness, pre-retirement planning, and support group planning, etc. to reflect the national trends and to coincide with AARP and

WHEREAS we are partnering with Amherst Youth and Recreation on family events , community events, and programming at various Town facilities including the Clearfield Recreation Center and the Northwest Amherst Community Center, and

WHERAS, the Senior Services Advisory Board has discussed this issue at length and agreed that the age requirement to join the Amherst Senior Center should be lowered from 55 to 50 and

RESOLVED, the age requirement to join the Amherst Senior Center will be lowered from age 55 to age 50 and this will go into effect January 1, 2025.

12/2/2024
Consent

FINANCIAL IMPACT:

N/A

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

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

Francina J. Spoth
Town Clerk

Meeting: 12/02/24 07:00 PM
Department: Senior Services
Initiated by: **Melissa Abel**
Co-Sponsored by:

DOC ID: 29708 **RESOLUTION 2024-979** **ADOPTED**

Permanent Suspension of New Non-Amherst Resident Memberships

WHEREAS, on October 24, 2011, the Town of Amherst approved non-Amherst resident memberships be made permanent and

WHEREAS, non-Amherst resident members would pay an annual fee of $30 single rate, $50 Household or Lifetime rate of $100 single or $150 Household and

WHEREAS, allowing non-residents to join would provide a benefit and not burden Town resources or compromise services to Amherst residents and

WHEREAS, Amherst residents would receive preference for class participation and

WHEREAS, in 2023 there had been reports from Amherst residents and staff of the senior center of negative impact due to increased registration of non-Amherst residents in classes and Amherst residents complained at Senior Center Representatives Council Meetings and to the Senior Center Director that they were not getting into classes when most reach capacity quickly and many have lengthy wait lists and

WHEREAS, December 18, 2023 Town Board Resolution 2023-1051 was adopted to suspend any new non-resident memberships for the year 2023 with a review in 1 year and

WHEREAS, the Senior Services Advisory Board discussed this issue at length at their October 9, 2024 meeting. There were minimal concerns brought to the Director during 2024 by non-Amherst residents. The Advisory Board agreed that it benefits Amherst residents by making the suspension permanent and a motion was approved to continue to not accept new non-Amherst memberships, and

THEREFORE, be it RESOLVED, that we will suspend any new non-Amherst residents permanently from joining the Amherst Senior Center.

12/2/2024
Consent

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

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

Francina J. Spoth
Town Clerk

Meeting: 12/02/24 07:00 PM
Department: Senior Services
Initiated by: **Melissa Abel**
Co-Sponsored by:

DOC ID: 29739 **RESOLUTION 2024-980** **ADOPTED**

Software for Senior Services CRS #5144

We respectfully request the Town Boards permission to authorize the Supervisor to sign the agreement between the Town of Amherst and Xavus Solutions, LLC DBA My Senior Center.

12/2/2024
Consent

FINANCIAL IMPACT:

A6772-4110

$2700.00

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

Abel, Melissa

From: Infotech Services
Sent: Thursday, October 31, 2024 10:46 AM
To: Abel, Melissa; Jacobs, Tammy; LeClair, Nancy; Kelly, Laurie; Pouli, Mary-Diana; Cicero, Donna; Burroughs, Nicole; Sliwa, Renee M.
Subject: Contract Approval: CRS ID #5144

CRS ID #: 5144
Title: Software for Senior Services
Vendor: Xavus Solutions, LLC DBA My Senior Center Contract Type: Sole Source Contract

Contract #5144 for Xavus Solutions, LLC DBA My Senior Center has been approved by the Attorney's Office and is ready to be placed on the Town Board agenda.

You are required to submit three (3) original signed (by vendor) contract packets to the Attorney's Office no later than the Friday before the Town Board Meeting. Please print out this approval email and attach it to the original contracts being submitted to the Town Attorney's office. Thank you.

Comment:

https://intranet/acms/cont_crs_main_rte_list.php?q=(rec_crs_id~equals~5144)

Attachment: xavus software-11262024171547 (RES-2024-980 : Software for Senior Services CRS #5144)

Brian J. Kulpa
Supervisor, Town of Amherst

Melissa Abel
Executive Director, Senior Center

Town of Amherst Center for Senior Services

Xavus Solutions
PO Box 55071 #30713
Boston, MA 02205-5071

Re: Exercise of Option to Extend Maintenance and Service

Please be advised that the Town of Amherst hereby extends its option to renew the Maintenance and Service Agreement with Xavus Solutions for an additional 12 month period starting on September 27, 2024 and ending on September 28, 2025.

Brian j. Kulpa
Supervisor, Town of Amherst

Chris Hamilton
President, Xavus Solutions, LLC

Date

10/24/2024
Date

Attachment: xavus software-11262024171547 (RES-2024-980 : Software for Senior Services CRS #5144)

Xavus Solutions
PO Box 55071 #30713
Boston, MA 02205-5071 USA
+15088344113
tina@myseniorcenter.com

INVOICE

BILL TO

Melissa Abel
Town of Amherst
Purchasing Department - 2nd Floor
5583 Main Street
Williamsville, NY 14221

SHIP TO

Melissa Abel
Amherst Senior Center
370 John James Audubon
Amherst, NY 14228

INVOICE # 24886
DATE 10/03/2024
DUE DATE 10/03/2024
TERMS Due Upon Receipt

DESCRIPTION	QTY	RATE	AMOUNT
MySeniorCenter - Annual Upgrades, Maintenance & Support for staff system software and first touchscreen software. The fee covers the database license, security for the staff system and application/cloud hosting. It also entitles you to: • Access to our technical support team via telephone, email and web between 8:30 am and 8:30 pm ET • Generally available product updates pushed out automatically • Nightly database back-up services • Periodic web-based refresher training	1	1,800.00	1,800.00
MySeniorCenter - Annual Upgrades, Maintenance & Support for 2nd touchscreen software	1	300.00	300.00
MySeniorCenter - Annual Upgrades, Maintenance & Support for 3rd touchscreen software	1	300.00	300.00
MySeniorCenter - Annual Upgrades, Maintenance & Support for 4th touchscreen software	1	300.00	300.00
Broadcast PREMIUM 1 year - unlimited calls; allows for Center's number to show on caller id when using the service. Also includes access to email and text/SMS broadcast functions. This is an annual fee	1	300.00	300.00
Burstable Zoom license integrated with MySeniorCenter. Allows for unlimited concurrent meetings. This is an annual fee	1	300.00	300.00
Discount - Sponsor-based model	1	-600.00	-600.00

Please make check payable to:
Xavus Solutions, LLC
PO Box 55071 #30713
Boston, MA 02205-5071

BALANCE DUE **$2,700.00**

To pay by credit card call 508-834-4113
Tax ID # 20-3434634

All prices are in USD unless otherwise stated.

Attachment: xavus software-1126024171547 (RES-2024-980 : Software for Senior Services CRS #5144)

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

Francina J. Spoth
Town Clerk

Meeting: 12/02/24 07:00 PM
Department: Senior Services
Initiated by: **Melissa Abel**
Co-Sponsored by:

DOC ID: 29740 **RESOLUTION 2024-981** **ADOPTED**

Computer/Touchscreen for Senior Services CRS #5145

We respectfully request Town Board and the Supervisors permission to purchase a Computer/Touchscreen for the senior center from Xavus Solutions LLC DBA My Senior Center.

12/2/2024
Consent

FINANCIAL IMPACT:

A6772-2130

$1650.00

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

Abel, Melissa

From: Infotech Services
Sent: Monday, November 18, 2024 10:05 AM
To: Abel, Melissa; Jacobs, Tammy; LeClair, Nancy; Kelly, Laurie; Pouli, Mary-Diana; Cicero, Donna; Burroughs, Nicole; Sliwa, Renee M.
Subject: Contract Approval: CRS ID #5145

CRS ID #: 5145
Title: Computer/Touchscreen for Senior Services
Vendor: Xavus Solutions LLC DBA MySeniorCenter Contract Type: Sole Source Contract

Contract #5145 for Xavus Solutions LLC DBA MySeniorCenter has been approved by the Attorney's Office and is ready to be placed on the Town Board agenda.

You are required to submit three (3) original signed (by vendor) contract packets to the Attorney's Office no later than the Friday before the Town Board Meeting. Please print out this approval email and attach it to the original contracts being submitted to the Town Attorney's office. Thank you.

Comment:

https://intranet/acms/cont_crs_main_rte_list.php?q=(rec_crs_id~equals~5145)

Attachment: xavus touchscreen-11262024171612 (RES-2024-981 : Computer/Touchscreen for Senior Services CRS #5145)

Xavus Solutions
PO Box 55071 #30713
Boston, MA 02205-5071 USA
+15088344113
tina@myseniorcenter.com

Quote

ADDRESS	SHIP TO	
Melissa Abel Town of Amherst Purchasing Department - 2nd Floor 5583 Main Street Williamsville, NY 14221	Melissa Abel Town of Amherst Amherst Senior Center 370 John James Audubon Amherst, NY 14228	QUOTE # s-090917-11820 DATE 10/07/2024 EXPIRATION DATE 12/20/2024

ACTIVITY	QTY	RATE	AMOUNT
Lenovo All in One Computer/Touchscreen with MySeniorCenter Touchscreen Application includes 1-Year Lenovo Warranty. The warranty is an agreement between the customer and Lenovo; MySeniorCenter is not responsible for any defects with this computer. - FOR REPLACEMENT ONLY	1	1,650.00	1,650.00T

Please sign/fax to 508-834-4125 or scan/email to tina@myseniorcenter.com.

SUBTOTAL	1,650.00
TAX (0%)	0.00
TOTAL	$1,650.00

Accepted By

Accepted Date

All prices are in USD unless otherwise stated.

Attachment: xavus touchscreen-11262024171612 (RES-2024-981 : Computer/Touchscreen for Senior Services CRS #5145)

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: xavus touchscreen-11262024171612 (RES-2024-981 : Computer/Touchscreen for Senior Services CRS #5145)

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:

Xavus Solutions dba MySeniorCenter
Print Name of Company

By: _____
Signature

Chris Hamilton
Printed name

Date: November 4, 2024

Agreed to and Accepted by:

Town of Amherst

By: _____
Brian J. Kulpa, Supervisor

Date: _____

Revised 12.30.19 SJS

Attachment: xavus touchscreen-11262024171612 (RES-2024-981 : Computer/Touchscreen for Senior Services CRS #5145)

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

Francina J. Spoth
Town Clerk

Meeting: 12/02/24 07:00 PM
Department: Sewer/Plant 16
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 29678 **RESOLUTION 2024-982** **ADOPTED**

Reject All Bids WPCF: HVAC Facility Improvements – Phase 4 (Mechanical Contract) Town Project No. 2017.002D

On October 24th, 2024 bids were received for the above referenced project. The bid tabulation is attached. After review of the bids, it is recommended that all bids be rejected due to insufficient funding. The bid documents will be revised, and the project will be rebid.

Thank you for your consideration of this request.

12/2/2024
Consent

FINANCIAL IMPACT:

N/A

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

Town of Amherst

WPCF HVAC Facility Improvements, Phase 4
TOA Project No. 2017.002D - Mechanical Contract

Bids Received
Thursday, October 24, 2024 at 12:00 P.M.

No.	BIDDER	BID BOND	BID ITEM NO. M-1	BID ITEM NO. M-2	BID ITEM NO. M-3	TOTAL BID (M-1 THRU M-3)
1	Parise Mechanical Inc.	Yes	$324,000.00	$56,000.00	$279,000.00	$659,000.00
2	Quackenbush Co., Inc.	Yes	$304,000.00	$99,000.00	$324,000.00	$727,000.00
3	Mollenberg-Betz, inc.	Yes	$330,000.00	$38,000.00	$454,000.00	$822,000.00
4	MLP Plumbing & Mechanical, Inc.	Yes	$323,800.00	$147,400.00	$442,000.00	$913,200.00

Bid Item Description
Bid Item No. M-1: Building 1 (Air Handling Unit)
Bid Item No. M-2: Building 4 (Circulation Pumps)
Bid Item No. M-3: Building 10 (Boilers & Circulation Pumps)
Total Bid (Sum of Items M-1 Thru M-3)

Attachment: TOA #2017.002D (Mechanical) - Bid Tabulation 10-24-2024 (RES-2024-982 : Reject All Bids - Mechanical Contract)

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

Francina J. Spoth
Town Clerk

Meeting: 12/02/24 07:00 PM
Department: Sewer/Plant 16
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 29679 **RESOLUTION 2024-983** **ADOPTED**

Reject All Bids WPCF: HVAC Facility Improvements – Phase 4 (Electrical Contract) Town Project No. 2017.002D

On October 24th, 2024 bids were received for the above referenced project. The bid tabulation is attached. After review of the bids, it is recommended that all bids be rejected due to insufficient funding. The bid documents will be revised, and the project will be rebid.

Thank you for your consideration of this request.

12/2/2024
Consent

FINANCIAL IMPACT:

N/A

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

Town of Amherst

WPCF HVAC Facility Improvements, Phase 4
TOA Project No. 2017.002D - Electrical Contract

Bids Received
Thursday, October 24, 2024 at 12:00 P.M.

No.	BIDDER	BID BOND	BID ITEM NO. E-1	BID ITEM NO. E-2	BID ITEM NO. E-3	TOTAL BID (E-1 THRU E-3)
1	Weydman Electric, Inc.	Yes	$34,500.00	$12,300.00	$17,400.00	$64,200.00

Bid Item Description
Bid Item No. E-1: Building 1 (Air Handling Unit)
Bid Item No. E-2: Building 4 (Circulation Pumps)
Bid Item No. E-3: Building 10 (Boilers & Circulation Pumps)
Total Bid (Sum of Items E-1 Thru E-3)

Attachment: TOA #2017.002D (Electrical) - Bid Tabulation 10-24-2024 (RES-2024-983 : Reject All Bids - Electrical Contract)

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

Francina J. Spoth
Town Clerk

Meeting: 12/02/24 07:00 PM
Department: Sewer/Plant 16
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 29680 **RESOLUTION 2024-984** **ADOPTED**

Rockwell Automation TechConnect Support Agreement Renewal Rexel, Inc. CRS #5190

The Engineering Department - Water Pollution Control Facility is currently seeking Town Board approval to authorize the Supervisor to sign the attached tech support and product update contract renewal agreement with Rexel, Inc. The contract will be for a term of three years at the cost of $6,098.40. The contract period would be from January 17, 2025 through January 16, 2028.

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

Funds for this request are available in G9916-4960.

Thank you for considering this request.

12/2/2024
Consent

FINANCIAL IMPACT:

G9916-4960

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

AGREEMENT

Let this document stand as an Agreement between REXEL INC. ("REXEL") and the Town of Amherst permitting the Town of Amherst to purchase a three-year Rockwell Automation tech support and product update as per the attached quote # S140803755, for a total of $6,098.40. The term of this contract will be from date of execution by the Town of Amherst through January 16, 2028.

Agreed to and Accepted by:

REXEL INC.

By: William Griffith
Signature

William Griffith
Printed name

Industrial Automation Sales Manager
Title

Date: 11/14/2024

Agreed to and Accepted by:

TOWN OF AMHERST

By: _____
Brian J. Kulpa
Supervisor

Date: _____

Attachment: DOC112124-11212024092236 (RES-2024-984 : Rockwell Automation TechConnect Support Agreement Renewal)

REXEL

Quotation

Rexel - Cheektowaga
505 DUKE ROAD, #400
CHEEKTOWAGA, NY 14225-5142
716-893-3030
Fax 716-706-0491

QUOTE DATE	QUOTE NUMBER	PAGE NO.
10/14/2024	S140803755	1 of 1

CUST PO#:	3800956836
JOB/REL#:	

QUOTE TO:

TOWN OF AMHERST
SEWAGE TREATMENT
455 TONAWANDA CREEK RD
AMHERST, NY 14228-1297

SHIP TO:

TOWN OF AMHERST
DP 16
455 TONAWANDA CREEK RD
AMHERST, NY 14228-1230

CUSTOMER NUMBER	CUSTOMER PHONE#	ORDERED BY	OUTSIDE SALESPERSON
17135			Jeffery Glenn (3903)

WRITER	WRITER PHONE#	WRITER EMAIL
Earl Blackmon		earl.blackmon@rexelusa.com

INSIDE SALESPERSON	SHIP VIA	TERMS	SHIP DATE	FREIGHT ALLOWED
Michael Canaday	DIRECT	PROX 25th	10/14/2024	No

ORDER QTY	DESCRIPTION	UNIT PRICE	EXT PRICE
1ea	AB TECHCONNECT SUPPORT AUTH#99109088 Quote#3800956836 01/17/2025 - 01/16/2028 * 9800-DC8AUTOB Automation Control Hardware, Product Support, 8 x 5 M-F, 5-10 Total Devices $6,098.40 Our Pn: 736337	6098.400/EA	6098.40

Subtotal	6098.40
S&H Charges	0.00
Sales Tax	0.00
Total	6098.40

Prices are subject to change at any time prior to shipment unless agreed to otherwise in writing signed by an authorized Seller representative. Orders related to this quotation must be received, accepted and released by Seller within 48 hours of issuance of the quotation and are subject to availability. Many of Seller's manufacturing partners have advised that until further notice they reserve the right to amend the delivery date, price, scope and quantity of supply and/or other terms and conditions set out in their offer or quotation and Seller equally reserves the right to pass through any such changes from its manufacturing partners to the Buyer. Delivery dates are estimated only. Seller shall not be liable for failure to meet such dates resulting from product shortages or manufacturing delays. Be advised that Seller considers any changes imposed by its manufacturing partners and other vendors outside of Seller's reasonable control and therefore subject to Force Majeure provisions or similar common law doctrines such as "frustration" or "impossibility".
Seller's Standard Terms and Conditions of Sale are incorporated by reference into this quotation. A copy of the most current version of Seller's Standard Terms and Conditions of Sale is available at https://www.rexelusainc.com/terms/terms.html
Full phone support at (888) 739-3577

Printed By: EBLACKMO on 10/14/2024 8:29:08 AM EST

Attachment: DOC112124-11212024092236 (RES-2024-984 : Rockwell Automation TechConnect Support Agreement Renewal)

Rockwell Automation

Rockwell Automation Contract Renewal

To renew support for another year, please review this quote and instructions below.

If no changes are required, please follow the purchase order instructions outlined in Section 2.3.

If changes are required before purchase, please contact your local Rockwell Automation Distributor.

Attachment: DOC112124-11212024092236 (RES-2024-984 : Rockwell Automation TechConnect Support Agreement Renewal)

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Rockwell Automation

Attachment: DOC112124-11212024092236 (RES-2024-984 : Rockwell Automation TechConnect Support Agreement Renewal)

Rockwell Automation Services Agreement - Renewal

FIXED PRICE PROPOSAL

3800956836

Town of Amherst Wwtp
Amherst, NY

Date of Issue: Friday, October 11, 2024
Quotation #: 309073 (RA Approval - QXSK10533A)

Presented to:
Town of Amherst Wwtp
455 Tonawanda Creek Rd
Amherst, Ny 14228-1230
United States

Proposed by:
Rexel USA, Inc.
505 Duke Rd Ste 400
Cheektowaga, NY 14225-5142
United States

Rockwell Automation
5470 S. Howell Avenue
Milwaukee, Wi 53207
United States

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Attachment: DOC112124-11212024092236 (RES-2024-984 : Rockwell Automation TechConnect Support Agreement Renewal)

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1 Rockwell Automation Statement of Work for Services

This proposal is offered to Rexel USA, Inc. for resale to Town of Amherst Wwtp ("Customer").

1.1 TechConnect℠ Support Agreement

This TechConnect℠ Support Agreement ("Agreement") allows plants to be connected to Rockwell Automation's world-class phone and electronic technical support.

Rockwell Automation's technical support team will provide assistance with installing, configuring and maintaining equipment and software, obtaining current software updates, diagnosing and fixing operating problems, or performing basic programming tasks.

1.1.1 Agreement Term

Agreement Term: Friday, January 17, 2025 to Sunday, January 16, 2028

1.1.2 TechConnect℠ Support Levels

Product Family	Description	Support Level	Service Level
9800-DC8AUTOB	Automation Control Hardware	Product Support	8 x 5 M-F

Table 1: TechConnect℠ Support Levels

1.1.3 Product Coverage Details

Rockwell Automation will provide TechConnect℠ Support coverage to Customer for the Rockwell Automation Product Families & software serial numbers listed below. Please ensure the following information is complete.

Hardware Type
Automation Control Hardware

Product Family & Software Serial Numbers	Description	Install Count
9800-DC8AUTOB	**Automation Control Hardware**	
9310-WED200ENE		1
1835220833	Studio 5000 Logix Emulate ESD S/W	1
9324-RLD300ENE		1
1203031449	Studio 5000 Standard Edition ESD S/W	1
9324-RLD700ENE		1
2022005167	Studio 5000 PRO, REPLACED W/9324-RLD700	1
9324-RLD700NXENE		1
2022196591	Studio 5000 Professional Edition ESD S/W	1
9326-LGXARCHENE		2

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Product Family & Software Serial Numbers	Description	Install Count
2075000927	Studio 5000 Architect ESD S/W	1
2075127812	Studio 5000 Architect ESD S/W	1
9357-CNETL3		2
1163029456	RSNetWorx For ControlNet ESD Software	1
1163255357	RSNetWorx For ControlNet ESD Software	1
9357-DNETL3		2
1235035800	RSNetWorx For DeviceNet ESD Software	1
1235296996	RSNetWorx For DeviceNet ESD Software	1
9357-ENETL3		2
1669000928	RSNetWorx For EtherNet ESD Software	1
1669232415	RSNetWorx For EtherNet ESD Software	1
9701-VWSTMENE		1
1564004980	FT View Studio for ME EN ESD Software	1

Note: If changes to the TechConnect℠ Support Product Coverage Details above are required, please contact your local Rockwell Automation sales office or Allen-Bradley® authorized distributor to request an updated proposal.

1.1.4 TechConnect℠ Support Information

1.1.4.1 TechConnect℠ Support Options

Rockwell Automation offers progressive levels of support to meet your business needs; see table below for all available support level options. Please refer to *Table 1: TechConnect℠ Support Levels* regarding support levels included in this Statement of Work.

Support Level	Support Services Description
Application Support	You are partnered with a team of technical support engineers who are uniquely designated to support your key applications. This team visits your site, becomes familiar with the applications, and gathers system drawings and documentation. This team will become an extension of your support staff, providing technical account management and scheduled consulting time. Application Support **includes the support elements of Product Support, System Support** and the following support elements: **Real-time, Application-Level Support** *Designated support team / Dedicated telephone and email / Documentation and case familiarization / Application knowledge management / Periodic performance reviews* **Surveillance and Alarming Options** *Device and/or process monitoring and alarming at Rockwell Automation facility or remotely / Access to historical data for troubleshooting* **Application-Level Administration Option** *Emergency backup / Performance tuning / Guaranteed field service call-out*
System Support	System Support allows your calls to be routed to a group of technical support engineers with proven expertise in Rockwell Automation control systems. You

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Support Level	Support Services Description
	will work with an engineer who manages your case through resolution and follow-up. System Support **includes the support elements of Product Support**, and the following support elements: **Real-time, System-Level Support** *Standard product and programming software / Advanced software / Proactive follow up / Single-point resolution* **Advanced Engineering Expertise** *Get support from system-level support engineers that have multiple years of experience in the industrial automation industry*
Product Support	As often as Customer needs require, you can contact Rockwell Automation technical support engineers for real-time phone support. Our engineers have deep knowledge of our products, software and legacy hardware and can use remote desktop technology to help troubleshoot or assist in the configuration of products quickly. Product Support **includes the support elements of Self-Assist Support**, and the following support elements: **Real-Time, Product-Level Support** *Standard product and programming software / Telephone and live chat support available in 20 languages / Remote desktop troubleshooting* **Learning+ Subscription Available for Purchase** *Highly interactive learning featuring lessons, software simulations, and demonstration videos to help reinforce learning concepts. Available on any tablet or PC using Chrome, Safari, IE, Edge or Firefox. Each course has a knowledge assessment, requiring 80% to pass. Upon successful completion of the course, a learner will be awarded CEUs (where applicable).* **Live View** *An enhanced support experience connecting you with Rockwell Automation Technical experts leveraging a live video feed and augmented reality annotations.* **Software Maintenance II** *Software update media / Emergency software replacement*
Self-Assist Support	Take advantage of the Knowledgebase, an online resource for technical information, support, and assistance. The Knowledgebase can assist in increasing productivity by finding solutions to technical questions more quickly - saving both time and money. The KnowledgeBase is maintained by the same engineers who provide TechConnect℠ Support and is updated with the hardware and software solutions from actual support cases. These updates are incorporated dynamically. Self-Assist includes the following support elements: **Welcome Kit** *Essential support agreement information / Support authorization number / Local support telephone number / User guide* **Digital Assist Library** *Cloud-hosted augmented reality library of work instructions. Leverage augmented reality to walk through the proper steps to complete tasks related to the repair and maintenance of Allen-Bradley hardware*

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Support Level	Support Services Description
	Software Maintenance I *Software update downloads* **Online Support Centre Access** *Knowledgebase tech notes / Interactive forums / Product notifications / Manage service tickets / Submit questions via email*

1.1.4.2 Definitions of Common Terms Used in Services

Technical Phone Support: Rockwell Automation phone support provides technical assistance for installation, configuration, troubleshooting, diagnosis, basic instruction programming and best practice recommendations. With an unlimited phone support agreement, Customer can call as often as needed throughout the term of your Agreement. Standard hours of coverage are 8:00 AM to 5:00 PM Monday – Friday (based on your local calling time; Rockwell Automation observed holidays excluded). Information on Rockwell Automation observed holidays can be found via the Knowledgebase in article #QA33258 (https://rockwellautomation.custhelp.com/app/answers/answer_view/a_id/819086/redirect).

Case Handling: Rockwell Automation handles cases that require further investigation as a priority with automatic escalation procedures, and call Customer back to provide a progress update if an answer is not immediately available.

Case Resolution Follow-up: For cases where Rockwell Automation could not confirm resolution on the initial call, Customer will receive a proactive follow-up within one business day (target response) to confirm that the problem was resolved or continue troubleshooting, if necessary.

1.1.4.3 Product Families

Rockwell Automation groups products into product families, making it simpler to deliver integrated support for hardware and software, including older and discontinued products. The lists available at the following link are not comprehensive; however, they illustrate how products are classified.

TECHCONNECT℠ PRODUCT FAMILY COVERAGE
http://literature.rockwellautomation.com/idc/groups/literature/documents/sp/gmsc-sp021_-en-p.pdf

1.1.5 Learning+ Subscription (Optional)

1.1.5.1 Summary of Learning+ Product Offerings*

Rockwell Automation's web-based training courses offer our high-quality content, while providing engaging and interactive features that can enhance the learning experience. Virtual Instructor Led sessions comprise lecture and show and tell type lab experiences. For a comprehensive list of Learning+ options, visit *Learning+ Training Subscriptions | Rockwell Automation.*

For a detailed description of all Rockwell Automation standard courses, please refer to the Course Descriptions found on the Rockwell Automation Training Services website:

https://www.rockwellautomation.com/en-us/support/training.html.

All topics in course descriptions may not be covered due to time constraints.

Attachment: DOC112124-11212024092236 (RES-2024-984 : Rockwell Automation TechConnect Support Agreement Renewal)

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1.1.6 Changes to Agreement

1.1.6.1 Updates to Supported Software Installed Base

Support included with new Licenses purchased during the agreement term are not covered by this scope of work. Each new software purchase includes an independent support contract which may be co-termed with your TechConnect anniversary date. Renewal of these purchases will occur in the Rockwell Automation commerce portal as a separate agreement.

Please work with your Rockwell Automation Customer Success Manager during each TechConnect renewal to consolidate and extend existing contracts to your next TechConnect renewal date.

1.1.6.2 Upgrade Options

Updates to existing TechConnect℠ Support Agreement and/or upgrades must be custom quoted by Rockwell Automation. Customer has the following upgrade options:

Coverage Level: Product and System Support agreements can be upgraded to 24x7x365 coverage (e.g., 8:00AM – 5:00PM to 24x7x365), which provides the option to call at any time, including weekends and holidays.

Support Level: Customer may upgrade support levels (e.g., Product Support to System Support) during the term of an existing agreement.

1.1.6.3 Changes to Scope

Contact your local Rockwell Automation sales representative if any adjustments are required during Agreement term, such as:

- Adding or removing a site from support
- Moving supported equipment and software to another supported facility
- Closing a plant and selling to another entity

1.1.6.4 Reinstatement Policy

If Customer does not renew their contract until after the expiration date of the contract, the Customer has the following options to reinstate their support:

a. If an agreement is not renewed on time and it has been less than 12 months since expiration, the renewed agreement will be backdated to the original expected start date and a 10% fee[1] will be added to the cost of the renewal.

b. If an agreement is not renewed on time and it has been longer than 12 months since expiration, the support agreement will be priced as a new agreement with current price levels and any previous discounts will not be applied.

c. For software packages that are removed from support and later reinstated, often referred to as "frozen" and "unfrozen," a 30% premium will be applied to each piece of software which carries a fee for maintenance as part of the TechConnect℠ program.

Note: There is a grace period of 10 days after the date of the Agreement expiration during which Customer can still access support. If Customer renews after the expiration date of the Agreement, the policy above applies regardless of this grace period.

[1] If Customer's TechConnect℠ Support Agreement has never included support for the product family in question, then the commercial "waive reinstatement" program applies for the respective packages.

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Attachment: DOC112124-11212024092236 (RES-2024-984 : Rockwell Automation TechConnect Support Agreement Renewal)

1.2 Customer Responsibilities

1.2.1 Maintenance, Electrical, and Operations Staff

When applicable, Customer will provide dedicated and available appropriate personnel knowledgeable in the process, operation, control system, and facility layout to assist Rockwell Automation personnel during onsite visits. They will remain onsite and available as necessary for project and/or safety reasons.

1.2.2 System Maintenance and Use

Customer is responsible for (i) the overall performance and overall design of the machine or manufacturing system, including safety features failure modes; (ii) properly using, calibrating, operating, monitoring and maintaining the products and system consistent with all Rockwell Automation or third-party provided instructions, warnings, recommendations, and product and system documentation; (iii) ensuring that properly trained personnel use, operate and maintain the products and system at all times; (iv) staying informed of product updates and alerts and implementing all updates and fixes; (v) notifying Rockwell Automation of any problems with the products or system; and (vi) all other factors affecting the products or system that are outside of the direct control of Rockwell Automation.

1.2.3 Access to the System

Customer will make the applicable processes and/or systems available to Rockwell Automation personnel during the mutually agreed upon schedule for services and equipment implementation as described in this Statement of Work.

1.3 Assumptions, Clarifications and Exceptions

The following assumptions, clarifications and exceptions have been made by Rockwell Automation in the development of this Statement of Work:

Reference	Assumptions (A), Clarifications (C) and Exceptions (E)
A1	**Safety.** All aspects of mechanical, electrical, and process safety are responsibilities of Customer.
A2	**Installation.** If applicable, all mechanical and electrical installation is to be provided and managed by Customer and their selected Contractor.
C1	**Quotation Scope.** Any elements not explicitly outlined within this Statement of Work are not included in the deliverables for this Rockwell Automation Services Agreement.
C2	**Documentation.** All project and system documentation will be in English and furnished in electronic format unless otherwise stated. Translation into other languages is not included in this Statement of Work.
C3	**RoHS.** Customer supplied/specified products will meet all applicable material restrictions as defined in RoHS. If it does not, Customer will notify Rockwell Automation prior to shipment of Customer supplied/specified products to Rockwell Automation. Customer will indemnify Rockwell Automation against any claim arising out of Rockwell Automation's use of Customer supplied/specified products.
C4	**Existing Devices.** Customer represents that any existing operator, machine-mounted, or field devices that are in use or are to be reused are in good working order and will be repaired or replaced by Customer when required. Repair and/or replacement of damaged devices is not included in Rockwell Automation's Statement of Work.
C5	**Documented Change Request (DCR) Process.** Changes to this scope of work requested by Customer throughout the duration of the Support Agreement will be identified and communicated

Attachment: DOC112124-11212024092236 (RES-2024-984 : Rockwell Automation TechConnect Support Agreement Renewal)

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	through project management at Rockwell Automation. Estimates for the material costs, labor, and schedule impacts will be prepared when a change in scope is identified. Refer to the Rockwell Automation Changes provision for additional terms.
C6	**Customer Specific Requirements.** This proposal does not include Customer specific requirements or onsite activities such as Customer or site specific safety training, background checks, health-related testing or vaccinations, international work visas, and copies of expense receipts. Rockwell Automation must be made aware of any such requirements prior to contract award. Costs for associated time and expenses incurred while complying with such requirements will be at Customer expense.
C7	**Infectious Disease Planning.** Rockwell Automation is committed to health, safety, and doing all we can to maintain a high level of service for our customers. We are committed to communicating with you about the impact that an infectious disease and any related governmental restrictions may have on the deployment of our personnel and delivery of the project and truly appreciate your cooperation and understanding. In submitting any purchase order, you acknowledge and agree that Rockwell Automation will be excused from performance, or delay in performance, of its obligations under this purchase order, regardless of whether a contract is currently in place governing the parties' relationship, to the extent that Rockwell Automation is unable to perform such obligations due to the effects of a known infectious disease affecting Rockwell Automation and/or third parties, including, without limitation, logistics and materials suppliers.
C8	**On-site Working Hours.** Rockwell Automation Standard working hours may differ by country. Contact your local Rockwell Automation Distributor or Sales Office to obtain current local standard working hours.
C9	**Stand-by time** is defined as time spent on-site waiting for completion of customer activities. This includes, but is not limited to, waiting for correction of construction, installation, and wiring or piping errors, and other delays beyond the control of, or not within, Rockwell Automation's specific responsibilities. Stand by time will be invoiced separately at applicable time and expense rates.
C10	**Work Site Safety**. Customer is responsible for assuring a safe and secure work environment, compliant with relevant local, state, provincial, and nationally recognized standards and regulations, for work at the site.
C11	**Safety and Substance Abuse.** Rockwell Automation will comply with its own Substance Abuse Policy which meets the intent of the DRUG FREE WORKPLACE Act and all other legal requirements regarding drug testing. A copy of this policy can be supplied upon request.
C12	**Ethics and Compliance.** All of Rockwell Automation's employees and every person who performs work for, or on behalf of Rockwell Automation are treated with respect and dignity. Rockwell Automation has a no-tolerance policy for discrimination, harassment, and zero tolerance for workplace violence and weapons. Please see the PartnerNetwork Code of Conduct and the Rockwell Automation Global Policy People for further details. https://www.rockwellautomation.com/en-us/company/about-us/sustainability/ethics-compliance.html.
C13	**Third Party Software.** This Statement of Work may include third party software that is subject to third party license terms ("Third Party Software"). Customer's right to use such Third Party Software as part of or in connection with the Work is subject to any applicable acknowledgements and license terms accompanying such Third Party Software contained therein. If there is a conflict between the licensing terms of such Third Party Software and this Statement of Work, the licensing terms of the Third Party Software shall prevail in connection with the related Third Party Software.
C14	**Information Security Standards** In the performance of all Work pursuant to this Agreement and Statement of Work, Customer and Rockwell Automation will comply with the following standards and practices: **Data Transmission** Customer agrees that all transmission or exchange of sensitive data with Rockwell Automation shall take place using secure, industry acceptable, standards (e.g., password-protected, using a complex password; encrypted WinZip sent via e-mail, or, for large files, an encrypted file transfer service; physical media such as paper/DVD sent securely; or another equally secure means of

Attachment: DOC112124-11212024092236 (RES-2024-984 : Rockwell Automation TechConnect Support Agreement Renewal)

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	transport). If Customer requires Rockwell Automation to use Customer specified system, the security of the data in transit and at rest once sent from Rockwell Automation is Customer's sole responsibility. **Customer-Provided Hard Disk** If Rockwell Automation personnel are required to use Customer provided hard disks, Customer agrees to provide the hard disk with designated backup and recovery processes and in encrypted form, using commercially supported or industry standard open-source encryption solutions. The Customer must use commercially reasonable efforts to prevent the Customer-provided hard disk from introducing any malicious software into Rockwell Automation's systems. These efforts shall include, but are not limited to, the use of anti-virus and/or anti-malware and the regular deployment of security patches to remediate any vulnerabilities. **Remote Access** Remote access by Rockwell Automation's personnel into Customer's control system(s) must be accomplished in accordance with either Customer or Rockwell Automation procedures, whichever is more stringent. If Customer requires Rockwell Automation personnel to use Customer-specified procedures, the security of the connection/session is Customer's sole responsibility, and Customer is solely responsible for logging activities of all users accessing the Customer's system.
C15	**Cybersecurity for Solutions.** Sub-contractors and/or third-party vendors will follow any applicable industry best practices and/or guidelines for cybersecurity and data protection with regard to IEC 62443 2-4.
C16	**Personal Data.** To the extent Rockwell Automation processes personal data in the performance of the services under this Statement of Work, such processing of personal data will be conducted in accordance with the Data Processing Addendum ("DPA") available at https://www.rockwellautomation.com/en-us/company/about-us/legal-notices/data-processing-addendum.html.
C17	**Customer Information.** Pursuant to the Customer Information provision in this Statement of Work, Rockwell Automation will share with its authorized distributor partner of record the types of Customer Data described therein.
C18	**Customer Success Publication.** Sharing customer success stories helps position customers as leaders among companies pursuing excellence in their industrial operations. Customer agrees that Rockwell Automation can reference and disclose Customer's name and logo in internal and external marketing materials and will share only the solutions and services purchased, Customer industry, location, and general results through a customer success story. Rockwell Automation will make no claims that Customer endorses the product or solution, and the success story will be used for marketing purposes only.

1.4 TechConnect℠ - Termination for Convenience

Either party may terminate this Agreement with a prior written 30-day notice. In the event Customer cancels, Customer would be subject to a termination fee equal to 25% of the remaining Agreement value. Termination request is invalid if remaining term of service is less than 2 months.

1.5 Rockwell Automation Commitment for Sales Through Distribution

General. This Commitment ("Commitment") covers purchase by Distributor's customer ("Customer") from Distributor of the hardware, and/or software (individually a "Product" and collectively "Products"), and/or services ("Services") and/or Products and Services described and integrated pursuant to this Statement of Work (collectively as integrated pursuant to the Statement of Work, the "Work") to be provided by Rockwell Automation, Inc. and/or its affiliates ("Rockwell Automation"). Its terms are integral to the Statement or Work. In other words, Customer purchases the Work subject to the terms contained in this Commitment (as well as other terms that may be included elsewhere in the Statement of Work). These terms apply directly to Customer and Rockwell Automation. Previously negotiated

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and signed terms and conditions with Customer that include provisions between Rockwell Automation and Customer that are intended to apply to the sale through distribution of Products, Services, and/or Work covered by this Commitment supersede these terms.

Warranty. (a) Warranty for the *Work*: Rockwell Automation warrants to Customer for the lesser period of 18 months from delivery or 12 months from startup, that the Work will perform as stated in the Statement of Work and the Products will be free of defects in material, fabrication, and workmanship provided that: (1) the operating conditions and use of the Work are in accordance with any standards set forth in the Statement of Work, Rockwell Automation's published specifications, and applicable recommendations of Rockwell Automation; and (2) the installation, adjustment, tuning, and start-up of the Work have been properly performed in accordance with Rockwell Automation's published specifications and any applicable recommendations of Rockwell Automation. Repaired or replacement Products provided pursuant to subparagraph (d) below are similarly warranted for the longer period of six months from date of shipment or the remainder of the original warranty term.

(b) *Products Warranty*: Rockwell Automation warrants to Customer for the period of 18 months from shipment, that the Products will be free of defects in material, fabrication, and workmanship provided that: (1) the operating conditions and use of the Product are in accordance with any standards set forth in the Statement of Work, Rockwell Automation's published specifications, and applicable recommendations of Rockwell Automation; and (2) the installation, adjustment, tuning, and start-up of the Product have been properly performed in accordance with Rockwell Automation's published specifications and any applicable recommendations of Rockwell Automation. Repaired or replacement Products provided pursuant to subparagraph (d) below are similarly warranted for the longer period of six months from date of shipment or the remainder of the original warranty term.

(c) *Services Warranty*: Rockwell Automation warrants to Customer for a period of 30 days from the date services are provided that service shall be performed in a workmanlike manner conforming to standard industry practice.

(d) *Remedies*: Remedies under this warranty will be limited to, at Rockwell Automation's discretion, replacement, repair, re-performance, modification, or issuance of a credit for the purchase price of the Products and/or Services involved, but only after Rockwell Automation's receipt of Customer's written notification of non-conforming Products, Services or Work and the return of such products pursuant to Rockwell Automation's instructions. Replacement Products, at Rockwell Automation's discretion, may be new, remanufactured, refurbished, or reconditioned. If the repair, re-performance, or replacement does not cure the defective performance, Customer may request emergency on-site service, which will be at Rockwell Automation's expense (consisting of time, travel, and expenses incurred by Rockwell Automation related to such services). If the defective performance is not due to warranted defects in the Products, Services or Work, the on-site service will be at Customer's expense. On-site warranty services performed at Rockwell Automation expense shall not include removal or reinstallation costs related to large-scale assemblies such as motors or transformers. The foregoing will be the exclusive remedies for any breach of warranty or breach of contract arising from warranted defects.

(e) *General*: Warranty satisfaction is available only if (a) Rockwell Automation is provided prompt written notice of the warranty claim, and (b) Rockwell Automation's examination discloses that any alleged defect has not been caused by misuse, neglect, improper installation, operation, maintenance, repair, alteration, or modification by other than Rockwell Automation, accident, or unusual deterioration or degradation of the Products or parts thereof due to physical environment or electrical or electromagnetic noise environment.

(f) THE ABOVE WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES AND CONDITIONS, WHETHER EXPRESSED, IMPLIED OR STATUTORY, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY, INFRINGEMENT, OR FITNESS FOR A PARTICULAR USE.

Disclaimer and Limitation of Liability. NEITHER ROCKWELL AUTOMATION NOR CUSTOMER WILL BE LIABLE TO THE OTHER FOR BUSINESS INTERRUPTION OR LOSS OF PROFIT, REVENUE, MATERIALS, DATA, OR THE LIKE (WHETHER DIRECT OR INDIRECT) OR FOR ANY INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES. EACH PARTY'S MAXIMUM CUMULATIVE LIABILITY TO EACH OTHER FOR ALL OTHER CLAIMS AND LIABILITIES WILL NOT EXCEED THE LESSER OF $1,000,000 OR THE COST OF THE WORK. ROCKWELL AUTOMATION DISCLAIMS ALL LIABILITY FOR TO GRATUITOUS ASSISTANCE PROVIDED BY ROCKWELL AUTOMATION BUT NOT REQUIRED BY THE STATEMENT OF WORK. THESE DISCLAIMERS AND LIMITATIONS OF LIABILITY WILL APPLY REGARDLESS THE FORM OF ACTION, WHETHER CONTRACT, TORT,

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OR OTHERWISE, AND EXTEND TO THE BENEFIT OF ROCKWELL AUTOMATION'S VENDORS AND APPOINTED DISTRIBUTOR.

Software Licenses and Ownership. (a) *Standard Software.* Software comprised of firmware or standard software (including, but not limited to packaged software, Rockwell Automation's preexisting templates, models and library files, and commercially available software) (collectively "Standard Software") is subject to Customer's acceptance of additional terms and conditions set forth in separate Rockwell Automation or third-party click-wrap license agreements provided with such Standard Software. Such terms and conditions shall be the exclusive terms and conditions applicable to such Standard Software, excluding Customer's obligation to pay any license fee which shall be identified in the Statement of Work.

(b) *Documentation and Application Software*. Rockwell Automation hereby grants to Customer a non-exclusive, non-transferable license to modify and use solely in conjunction with the Work all documentation and any Application Software created by Rockwell Automation as specified in the Statement of Work. Application Software includes application project files for control programming, design, configuration, and visualization in source code and/or scripting code created by Rockwell Automation under the Agreement for operational use with Rockwell Automation's Standard Software or the Customer's system as specified in the Statement of Work. Customer is solely responsible for its modifications to documentation and Application Software. Except for any Customer or third-party confidential information, Rockwell Automation retains all right, title, and interest to documentation and Application Software developed by Rockwell Automation. Customer shall not sublicense or assign the documentation or the Application Software except to a customer who purchases the Work from Customer. Customer may make an additional archival copy of such documentation and Application Software for backup.

(c) In the absence of a separate Rockwell Automation license agreement for software provided by Rockwell Automation under a Statement of Work, Rockwell Automation hereby grants Customer a non-exclusive, non-transferable license to use such software solely in conjunction with the Work for the project identified in the Statement of Work without the right to sublicense, disclose, disassemble, decompile, reverse engineer, or otherwise modify the software (except for modifications of Application Software as set forth above). Ownership of the respective Rockwell Automation or third-party software shall remain with Rockwell Automation or the third party.

(d) *Ownership of Pre-existing Intellectual Property.* Each party shall own all right, title, and interest in all patents, trademarks, copyrights, confidential information, trade secrets, mask rights, and other intellectual property rights as it owned on the date of this Agreement.

(e) *No Other Licenses*. Except as expressly set forth in this Agreement, no license under any patents, trademarks, copyrights, confidential information, trade secrets, mask rights, or other intellectual property rights is granted or implied by either party.

Government Clauses and Contracts. No government contract clauses, specification, or regulations apply to the Work, Products, or otherwise to this Statement of Work except to the extent agreed in writing by Rockwell Automation.

Confidentiality. (a) During the term of this Commitment and for a period of three years thereafter, each party will maintain in strict confidence all technical and business data and information disclosed by one party to the other that is marked "Confidential" and will not use or reveal such information without the prior written authorization of the other.

(b) The obligations of confidentiality and non-use will not apply to information (i) that is published or becomes part of the public domain other than by means of a breach of this Commitment; (ii) that a party can prove by written documentation was known to it prior to disclosure by the other party; (iii) that a party subsequently rightfully receives from a third party without an obligation of confidentiality; (iv) that a party discloses to a third party on a non-confidential basis; or (v) that was independently developed by the receiving party.

(c) Each party will take reasonable precautions to instruct its employees and consultants of its obligation under this section. Additionally, each party shall protect the exchanged information of the other against unauthorized use or disclosure with the same degree of care as it accords its own proprietary information of a similar type, but not less than reasonable care.

(d) Disclosure of confidential information will not be precluded if it is: (i) in response to a valid order of a court or governmental body of the United States or any political subdivision thereof; provided, however, that the disclosing

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party will first have made a reasonable effort to obtain a protective order requiring that the confidential information be used only for the purpose for which the order was issued; or (ii) otherwise required by law.

Delivery. Ex Works Rockwell Automation's plant or warehouse (per current Incoterms) or as otherwise specified in the Statement of Work (Delivery). In all cases, title transfers to Customer upon the earlier of Rockwell Automation's delivery to Customer or receipt by the first carrier for transport to Customer, except that title to all intellectual property rights associated with the Work remains with Rockwell Automation or its suppliers and licensors.

Acceptance. (a) Acceptance of the Work occurs either (i) on the date the Work conforms to acceptance criteria in the Statement of Work or is otherwise beneficially used by Customer, but in no event later than 60 days from start-up or 120 days following Delivery whichever occurs first; or (ii) if no acceptance criteria is specified in the Statement of Work then acceptance occurs upon Delivery.

(b) *Interim Approvals*. Any Rockwell Automation provided interim Work deliverable requiring Customer approval pursuant to the Statement of Work will be deemed accepted if formal Customer approval, written or as otherwise required, is not received by Rockwell Automation within two calendar weeks after the date submitted.

Changes. Any change resulting from any of the following circumstances is subject to equitable adjustments to price, scheduling, and other affected terms and conditions: (a) Customer requested changes, including those affecting the identity, scope, and delivery of the Products, Services or Work; (b) concealed or otherwise unknown physical conditions differing materially from those indicated or anticipated in the Statement of Work or that otherwise differ materially from those ordinarily found under similar circumstances; (c) delays caused by Customer, its employees, affiliates, other contractors to Customer, or any other party within Customer's reasonable control; and (d) any emergency endangering persons or property; in such emergency circumstances, Rockwell Automation may act at its discretion to prevent damage, injury, or loss.

All changes, except actions necessitated by emergencies as provided in (d) above, must be executed by a written change order signed or otherwise definitively authorized by both parties, and Rockwell Automation will not begin work on a change until it is authorized. All claims must be made within a reasonable time after the occurrence giving rise to the claim.

Temporary Suspension of Work by Customer. Except as set forth in the applicable Statement of Work, Customer may, by providing prior written notice, request that Rockwell Automation temporarily suspend performance and delivery of the Work, in whole or in part. The notice shall specify the portion of the Work to be suspended, the effective date of suspension, Customer's anticipated duration of suspension, and the reasons for the suspension. Rockwell Automation shall suspend performance as requested, except as necessary for the care or preservation of Work previously executed. On or before the date the suspension begins, Customer must pay Rockwell Automation the unpaid balance of the portion of the Work previously executed plus any additional costs incurred by Rockwell Automation as a result of the suspension. Rockwell Automation shall resume the suspended Work after a change order is executed covering adjustments to the contract price, schedule, and any other affected terms or conditions resulting from the suspension. Unless otherwise agreed, the maximum cumulative period for suspension is 60 days. Upon expiration of this or any shorter period agreed upon as provided above, Rockwell Automation may terminate this Agreement, and Customer shall pay all costs of cancellation (including third-party commitments, reasonable profit, and overhead) upon submission of Rockwell Automation's invoices.

Safety and Standards. Rockwell Automation is responsible for compliance of the Work with laws, regulations, and standards, including safety regulations and standards, of the country where the Work will be located that are applicable to the Work at the effective date of this Agreement. Customer must inform Rockwell Automation of any other laws, regulations, or standards that may apply to the Work. Rockwell Automation will be responsible for compliance with such other safety or other standards only if documented in the Statement of Work. Rockwell Automation is not responsible for laws, regulations, or standards that apply to Customer's (or end user's, if different from Customer) facility, equipment, process, information system, or data.

Site Rules, Licenses, Permits, Site Preparation. (a) Rockwell Automation agrees to comply with all applicable posted site rules of Customer (unless inconsistent with the obligations set forth in the Statement of Work) and any additional Customer's site rules that have been incorporated into the Statement of Work.

(b) Customer is responsible for: (1) all licenses, permits, clearances, and site access rights; (2) all sites being ready and equipped with all necessary Customer furnished equipment and facilities; (3) any required customer fixtures or

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facilities being safe, hazard free, structurally sound, and sufficient; (4) reasonable access to the worksite, (5) properly using, calibrating operating, monitoring and maintaining the Work consistent with all Rockwell Automation or third-party provided instructions, warnings, recommendations and documentation; (6) all other factors affecting the Work that are outside of the direct control of Rockwell Automation; and indemnifying Rockwell Automation for any claims to the percentage extent directly caused by Customer's breach of the obligations listed in this section (b).

Customer Specification. (a) Unless otherwise specified in the Statement of Work, Rockwell Automation does not warrant or indemnify and will not otherwise be liable for (i) design, materials, or construction criteria furnished or specified by Customer and incorporated into the Work or Products, (ii) products supplied by, made by or sourced from Customer or other manufacturers or vendors specified by Customer; or (iii) commercially available computer software, hardware, and electrical components. (Such Customer-specified products shall include but not be limited to any identified in the Statement of Work.) Any warranty or indemnity applicable to such Customer supplied/specified products will be limited solely to the warranty or indemnity, if any, extended by the original manufacturer or vendor other than Rockwell Automation to the extent permissible thereunder.

(b) *RoHS*: Customer supplied/specified products will meet all applicable material restrictions as defined in RoHS. If it does not, Customer will notify Rockwell Automation prior to shipment of the Customer supplied/specified products to Rockwell Automation. Customer will indemnify Rockwell Automation against any claim arising out of Rockwell Automation's use of Customer supplied/specified products.

Customer Information. (a) Customer represents and warrants that it has the rights to the information provided or made available by Customer to Rockwell Automation, including but not limited to technical specifications, drawings, source code, application code, communication interfaces, protocols, and all other documentation (collectively "Customer Information"), for Rockwell Automation to perform its obligations under this Agreement and that such access to and use of Customer Information under this Agreement will not infringe or violate any agreement, confidentiality obligations, copyrights, or other intellectual property rights of the original vendor or any other third party. Customer agrees to indemnify Rockwell Automation from any claims arising out of Rockwell Automation's use of Customer Information pursuant to the Statement of Work.

(b) In Rockwell Automation's performance of services, sales activities, or in connection with Customer's use of Rockwell Automation Products, Rockwell Automation may obtain, receive, or collect data or information, including Customer's contract information, computer system profile, Rockwell Automation Product installation data, and Customer's usage specific data of Rockwell Automation Products (collectively, the "Data"). In such cases, Customer grants Rockwell Automation a non-exclusive, worldwide, royalty-free, perpetual, non-revocable license to use, compile, distribute, display, store, process, reproduce, or create derivative works of the Data solely to facilitate the performance of sales and services by Rockwell Automation and its affiliates (including, but not limited to, quality, safety, energy, and security analytics, product and service diagnostics and prognostics, and reporting), and to facilitate or improve Customer's use of the Products. In addition, Customer grants Rockwell Automation and its affiliates a license to use and aggregate the Data in support of Rockwell Automation's marketing and sales activities. Rockwell Automation and its affiliates may also use this information in the aggregate, in a form which does not personally identify Customer, to improve Products and Rockwell Automation may share anonymous aggregate data with our third party suppliers and service providers.

Independent Terms. Rockwell Automation is not a party to or bound by any contract between Customer and Distributor, including by Distributor's acceptance of a Customer purchase order. Distributor is an independent enterprise, not an agent or representative of Rockwell Automation, and is not authorized to bind Rockwell Automation.

Effective Date. This Commitment will become effective when Customer purchases the Work from Distributor. Customer agrees that by purchasing the Work it accepts the Statement of Work and Commitment. Absent such purchase, this Commitment will become null and void. No addition or modification to the Commitment and Statement

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of Work, including terms appearing in Customer's purchase order or requisition, will bind Rockwell Automation unless mutually agreed to in writing.

Accepted.

Customer: _____

Date: _____

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2 Distributor Commercial Terms

2.1 Pricing Summary

Rexel USA, Inc.'s price is based on the Statement of Work set forth in Section 1 above. All prices are in USD.

Item	Product	Price
1	**9800-DC8AUTOB** *Automation Control Hardware, Product Support, 8 x 5 M-F, 5-10 Total Devices*	6,098.40

TOTAL PRICE: **USD 6,098.40**

Contract Reinstatement Fee: USD 609.84

If this contract is not renewed before the current Contract Expiration Date, a 10% Contract Reinstatement Fee will be applied to the Suggested Resale Price.

LEARNING+ SUBSCRIPTION (OPTIONAL): Web hosted, self-paced training courses including virtual classroom sessions are available for customers with an active TechConnect support agreement, as either single course access or annual subscription to all course content available in the Rockwell Automation Digital Learning Library. Please add the net amount for the Learning+ option desired in the correct quantity of desired users to your renewal PO.

Catalog Number	Description	List Price per User
LP-3TC	Learning+ 1 Class available for 3 months	USD 798.00
LP-SU1	Learning+ Single User Subscription	USD 4,489.00

2.2 Invoicing Schedule

100% upon purchase order

2.3 Purchase Order Instructions

Please Issue a Single Purchase Order to: Rexel USA, Inc.
Ref: Proposal # 3800956836

Purchase order should match the value and term proposed above. If a purchase order received does not match the term of the agreement, pricing will be subject to annual price adjustments.

2.4 Distributor Terms and Conditions of Sale

https://www.rexelusa.com/usr/termsAndconditions

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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-Consultant or sub-sub Consultant shall name the Town as an additional insured on a

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primary and non-contributory basis. Consultant shall ensure all its subconsultant s, if any, have obtained all the above insurances and shall also assure that any policy procured by any subconsultant or sub-subconsultant shall name the Town as an additional insured on a primary and non-contributory basis. A failure by Consultant to assure that any policy procured by any subconsultant or sub-subconsultant name the Town as an additional insured on a primary and non-contributory basis, shall be considered a material breach of the underlying contact and subject the Contactor to forfeiture of its performance bond, if any, and 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 regardless of whether the Town is successful in said suit.

(e) A failure by Consultant to procure the General Liability, Professional 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 contact and subject the Contactor to forfeiture of its performance bond, if any, and 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.

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

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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 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:

Agreed to and Accepted by:

Attachment: DOC112124-11212024092236 (RES-2024-984 : Rockwell Automation TechConnect Support Agreement Renewal)

Rexel
Print Name of Company

By: William Griffith
Signature

William Griffith
Printed name

Date: 11/14/2024

Town of Amherst

By: _____
Brian J. Kulpa, Supervisor

Date: _____

Attachment: DOC112124-11212024092236 (RES-2024-984 : Rockwell Automation TechConnect Support Agreement Renewal)

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: Rexel

Signature: William Griffith

Print Name: William Griffith

Title: Industrial Automation Sales Manager

Date: 11/14/2024

Revised 8.2023

Attachment: DOC112124-11212024092236 (RES-2024-984 : Rockwell Automation TechConnect Support Agreement Renewal)

ACORD®

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 12/26/2023

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
Arthur J. Gallagher Risk Management Services, LLC
300 S Riverside Plaza STE 1500
Chicago IL 60606

CONTACT NAME: Rexel Risk Management
PHONE (A/C, No, Ext): **FAX (A/C, No):**
E-MAIL ADDRESS:

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Zurich American Insurance Company	16535
INSURER B : ACE American Insurance Company	22667
INSURER C : ACE Fire Underwriters Insurance Company	20702
INSURER D : Lexington Insurance Company	19437
INSURER E : Allied World Surplus Lines Insurance Company	24319
INSURER F : Illinois Union Insurance Company	27960

INSURED
Rexel USA, Inc.
5429 LBJ Freeway, Suite 600
Dallas TX 75240

COVERAGES **CERTIFICATE NUMBER:** 1588072141 **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			GLO0337400020	1/1/2024	1/1/2025	EACH OCCURRENCE	$ 1,000,000
	CLAIMS-MADE X OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 500,000
							MED EXP (Any one person)	$ 10,000
							PERSONAL & ADV INJURY	$ 1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$ 2,000,000
	X POLICY PRO-JECT LOC						PRODUCTS - COMP/OP AGG	$ 2,000,000
	OTHER:							$
B F	AUTOMOBILE LIABILITY			ISAH10779492 G72556057 003	1/1/2024 1/1/2024	1/1/2025 1/1/2025	COMBINED SINGLE LIMIT (Ea accident)	$ 7,000,000
	X 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			AUC0337400120	1/1/2024	1/1/2025	EACH OCCURRENCE	$ 14,000,000
	EXCESS LIAB CLAIMS-MADE						AGGREGATE	$ 14,000,000
	DED RETENTION $							$
B C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y/N			WLR C52076468(AOS) SCF C52076547 (WI)	1/1/2024 1/1/2024	1/1/2025 1/1/2025	X PER STATUTE OTH-ER	
	ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBEREXCLUDED? N (Mandatory in NH)		N/A				E.L. EACH ACCIDENT	$ 1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$ 1,000,000
							E.L. DISEASE - POLICY LIMIT	$ 1,000,000
D E	Excess Automobile Errors & Omissions			029315984 0311-2054	1/1/2024 1/1/2024	1/1/2025 1/1/2025	Limit Per Claim	$3,000,000 $1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Town of Amherst is included as additional insured solely with respects to General Liability coverage, on a primary/non-contributory basis as evidenced herein a required by written contract.

CERTIFICATE HOLDER

Town of Amherst
Wastewater Treatment Facility
455 Tonawanda Creek Rd.
Amherst NY 14228
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

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Attachment: DOC112124-112120240922236 (RES-2024-984 : Rockwell Automation TechConnect Support Agreement Renewal)

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

Francina J. Spoth
Town Clerk

Meeting: 12/02/24 07:00 PM
Department: Sewer/Plant 16
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 29681 **RESOLUTION 2024-985** **ADOPTED**

Travel Request Required Operator Training Courses

The Engineering Department is requesting approval to send one (1) employee to attend the Basic Laboratory Procedures course at SUNY Buffalo State University in Buffalo, NY in January 2025. The total estimated cost for the employee to attend the course is estimated to be $781.00, and includes registration and per diem.

The Engineering Department is also requesting approval to send two (2) employees to attend the Activated Sludge Treatment Process course at SUNY Buffalo State University in Buffalo, NY in February 2025. The total estimated cost for each employee to attend the course is estimated to be $721.60, and includes registration and per diem.

Lastly, the Engineering Department is requesting approval to send two (2) employees to attend the Grade 3 Supervision and Technical Operations course at SUNY Buffalo State University in Buffalo, NY in March 2025. The total estimated cost for each employee to attend the course is estimated to be $856.90, and includes registration and per diem.

Funding for this request will be available in accounts G9916-4850 and G9916-4040.

Thank you for considering this request.

12/2/2024
Consent

FINANCIAL IMPACT:

G9916-4850 and G9916-4040

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

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]	Buffalo State University, Buffalo, NY	Basic Laboratory Procedures [redacted]

Expenses	Estimated	Budget A/C #	Actual
Transportation:			
Mileage @ $0.67		G9916-4040	
Tolls		G9916-4040	
Parking			
Local Transportation (bus/taxi)			
Plane/Rail/Bus			
Lodging:			
# nights @ $		G9916-4040	
Meals:			
IRS Per Diem Per Day: $80.00			
1st & Last Day of Travel @ 75%		G9916-4040	
# Breakfasts @ $ 20.00		G9916-4040	
# Lunches 5 @ $ 22.00	$110.00	G9916-4040	
# Dinners @ $ 33.00		G9916-4040	
# Incidentals 5 @ $ 5.00	$25.00	G9916-4040	
Registration/Conference Fee	$575.00	G9916-4850	
Textbook	$0.00	G9916-4850	
Other			
Subtotal	$710.00 -		N/A
Contingency - 10% of subtotal or $200	$71.00 -		N/A
TOTAL	$781.00 -		

Request Approved By:

Department Head Signature

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: 2025 Buff State Training Requests 1 (RES-2024-985 : Travel Request - Buff State)

GSA U.S. General Services Administration

FY 2025 per diem rates for ZIP Code 14222

Meals and incidental expenses (M&IE) rates and breakdown

Primary destination	County	M&IE total	Breakfast	Lunch	Dinner	Incidental expenses	First and lastday of travel
Buffalo	Erie	$80	$20	$22	$33	$5	$60.00

Attachment: 2025 Buff State Training Requests 1 (RES-2024-985 : Travel Request - Buff State)

CONTINUING PROFESSIONAL STUDIES
BUFFALO STATE • The State University of New York

Basic Laboratory Procedures

Class meets on the following dates: [redacted]
Class times: [redacted]

Register

Registration open through 12/30/2024 11:59 PM Eastern Time (US & Canada)

Register Now

Details

Basic Laboratory Procedures

Instructor

James Keyes

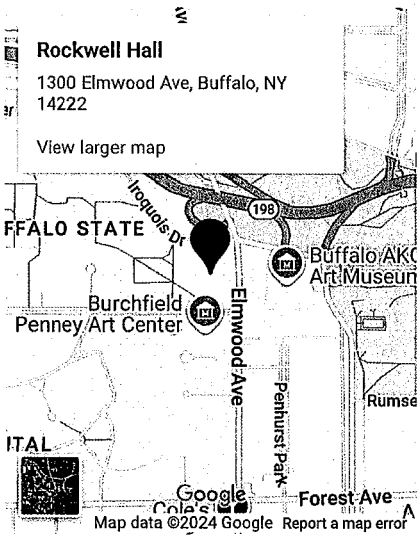
Financials

Registration is $575.00

Location

Science and Math Complex - Room 103

1300 Elmwood Ave
Buffalo, NY 14222



Contact Information

Contact Information: cps@buffalostate.edu

Attachment: 2025 Buff State Training Requests 1 (RES-2024-985 : Travel Request - Buff State)

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]	Buffalo State University, Buffalo, NY	Activated Sludge Wastewater Treatment Process [redacted]

Expenses	Estimated	Budget A/C #	Actual
Transportation:			
Mileage @ $0.67		G9916-4040	
Tolls		G9916-4040	
Parking			
Local Transportation (bus/taxi)			
Plane/Rail/Bus			
Lodging:			
# nights @ $		G9916-4040	
Meals:			
IRS Per Diem Per Day: $80.00			
1st & Last Day of Travel @ 75%		G9916-4040	
# Breakfasts @ $ 20.00		G9916-4040	
# Lunches 4 @ $ 22.00	$88.00	G9916-4040	
# Dinners @ $ 33.00		G9916-4040	
# Incidentals 4 @ $ 5.00	$20.00	G9916-4040	
Registration/Conference Fee	$525.00	G9916-4850	
Textbook	$23.00	G9916-4850	
Other			
Subtotal	$656.00 -		N/A
Contingency - 10% of subtotal or $200	$65.60 -		N/A
TOTAL	$721.60 -		

Request Approved By:

Department Head Signature

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: 2025 Buff State Training Requests 1 (RES-2024-985 : Travel Request - Buff State)

GSA U.S. General Services Administration

FY 2025 per diem rates for ZIP Code 14222

Meals and incidental expenses (M&IE) rates and breakdown

Primary destination	County	M&IE total	Breakfast	Lunch	Dinner	Incidental expenses	First and lastday of travel
Buffalo	Erie	$80	$20	$22	$33	$5	$60.00

Attachment: 2025 Buff State Training Requests 1 (RES-2024-985 : Travel Request - Buff State)

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Books
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Hello, sign in
Account & Lists
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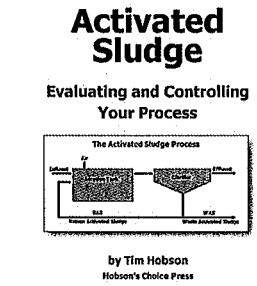

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by Tim Hobson (Author)

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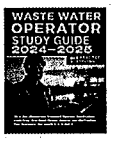

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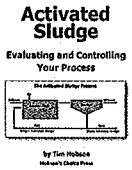

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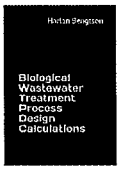

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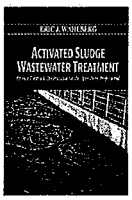

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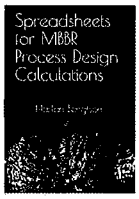

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ISBN-10 : 1500692999
ISBN-13 : 978-1500692995
Item Weight : 10.1 ounces
Dimensions : 8.5 x 0.27 x 11 inches
Best Sellers Rank: #1,533,057 in Books (See Top 100 in Books)
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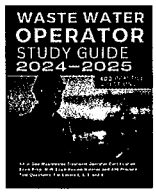

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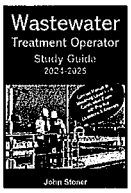

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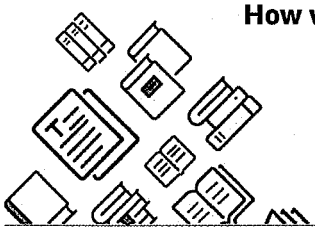

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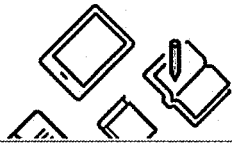

Customer reviews

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18 global ratings

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4 star 19%
3 star 8%
2 star 0%
1 star 0%

How customer reviews and ratings work

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Top reviews from the United States

Amazon Customer

Must read

Reviewed in the United States on March 7, 2020

Verified Purchase

Great book to help expand your knowledge on activated sludge

Helpful Report

Amazon Customer

Great book, very practical information

Reviewed in the United States on November 20, 2014

Great book, very practical information. This is my second one, gave the first one to an employee. If you run a wastewater treatment plant this is the book to have!!!!! We made several changes to our operation based on this book and cleared up problems which have been present for a long time. Both my employee and I are licensed and have been to numerous classes. This is the hands on day to day info you do not get in most classes. Would give it 10 stars if I could!!

One person found this helpful

Helpful Report

See more reviews ›

Top reviews from other countries

SEN J.

Good book about operations of the activated sludge process.

Reviewed in Canada on November 25, 2019

Verified Purchase

Attachment: 2025 Buff State Training Requests 1 (RES-2024-985 : Travel Request - Buff State)

Packet Pg. 611

13.S.4.a

Valuable information indeed. It is different from textbook but it is more practical and closer to real plant operation than any textbook. Highly recommend to any engineer who wants to know more about activated sludge process operation in a real plant.

Report

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Activated Sludge Wastewater Treatment Process

Class meets on the following dates: [redacted]
Class times: [redacted]

Register

Registration open through 2/4/2025 11:59 PM Eastern Time (US & Canada)

Register Now

Details

Activated Sludge Wastewater Treatment Process

Instructor

James Keyes

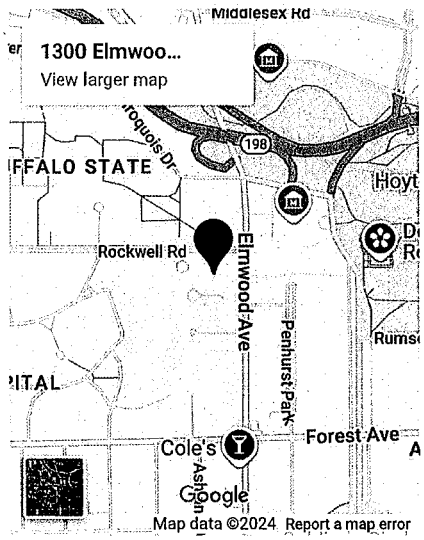
Financials

Registration is $525.00

Location

Buckham Hall - Room B145

1300 Elmwood Ave
Buffalo, NY 14222



Contact Information

Contact Information: cps@buffalostate.edu

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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]	Buffalo State University, Buffalo, NY	Activated Sludge Wastewater Treatment Process[redacted]

Expenses	Estimated	Budget A/C #	Actual
Transportation:			
Mileage @ $0.67		G9916-4040	
Tolls		G9916-4040	
Parking			
Local Transportation (bus/taxi)			
Plane/Rail/Bus			
Lodging:			
# nights @ $		G9916-4040	
Meals:			
IRS Per Diem Per Day: $80.00			
1st & Last Day of Travel @ 75%		G9916-4040	
# Breakfasts @ $ 20.00		G9916-4040	
# Lunches 4 @ $ 22.00	$88.00	G9916-4040	
# Dinners @ $ 33.00		G9916-4040	
# Incidentals 4 @ $ 5.00	$20.00	G9916-4040	
Registration/Conference Fee	$525.00	G9916-4850	
Textbook	$23.00	G9916-4850	
Other			
Subtotal	$656.00 -		N/A
Contingency - 10% of subtotal or $200	$65.60 -		N/A
TOTAL	$721.60 -		

Request Approved By:

Department Head Signature

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

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CONTINUING PROFESSIONAL STUDIES
BUFFALO STATE • The State University of New York

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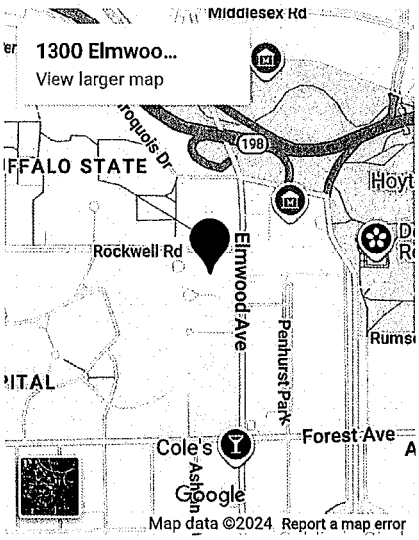

Contact Information

Contact Information: cps@buffalostate.edu

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FY 2025 per diem rates for ZIP Code 14222

Meals and incidental expenses (M&IE) rates and breakdown

Primary destination	County	M&IE total	Breakfast	Lunch	Dinner	Incidental expenses	First and lastday of travel
Buffalo	Erie	$80	$20	$22	$33	$5	$60.00

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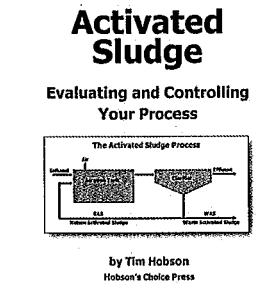

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by Tim Hobson (Author)

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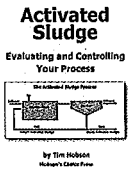

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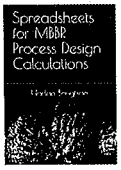

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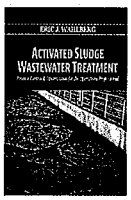

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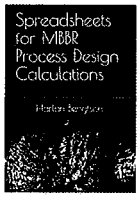

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ISBN-13 : 978-1500692995
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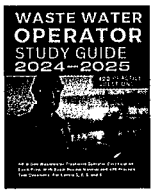

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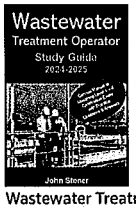

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Reviewed in the United States on March 7, 2020

Verified Purchase

Great book to help expand your knowledge on activated sludge

Helpful Report

Amazon Customer

Great book, very practical information

Reviewed in the United States on November 20, 2014

Great book, very practical information. This is my second one, gave the first one to an employee. If you run a wastewater treatment plant this is the book to have!!!!! We made several changes to our operation based on this book and cleared up problems which have been present for a long time. Both my employee and I are licensed and have been to numerous classes. This is the hands on day to day info you do not get in most classes. Would give it 10 stars if I could!!

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SEN J.

Good book about operations of the activated sludge process.

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Valuable information indeed. It is different from textbook but it is more practical and closer to real plant operation than any textbook. Highly recommend to any engineer who wants to know more about activated sludge process operation in a real plant.

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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]	Buffalo State University, Buffalo, NY	Grade 3 Supervision and Technical Operations [redacted]

Expenses	Estimated	Budget A/C #	Actual
Transportation:			
Mileage @ $0.67		G9916-4040	
Tolls		G9916-4040	
Parking			
Local Transportation (bus/taxi)			
Plane/Rail/Bus			
Lodging:			
# nights @ $		G9916-4040	
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IRS Per Diem Per Day: $80.00			
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# Breakfasts @ $ 20.00		G9916-4040	
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# Dinners @ $ 33.00		G9916-4040	
# Incidentals 4 @ $ 5.00	$25.00	G9916-4040	
Registration/Conference Fee	$575.00	G9916-4850	
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Other			
Subtotal	$779.00 -		N/A
Contingency - 10% of subtotal or $200	$77.90 -		N/A
TOTAL	$856.90 -		

Request Approved By:

_____

Department Head Signature

_____

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

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BUFFALO STATE • The State University of New York

Grade 3 Supervision and Technical Operations

Class meets on the following dates [redacted]
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Register Now

Details

Grade 3 Supervision and Technical Operations

Instructor

James Keyes

Financials

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Location

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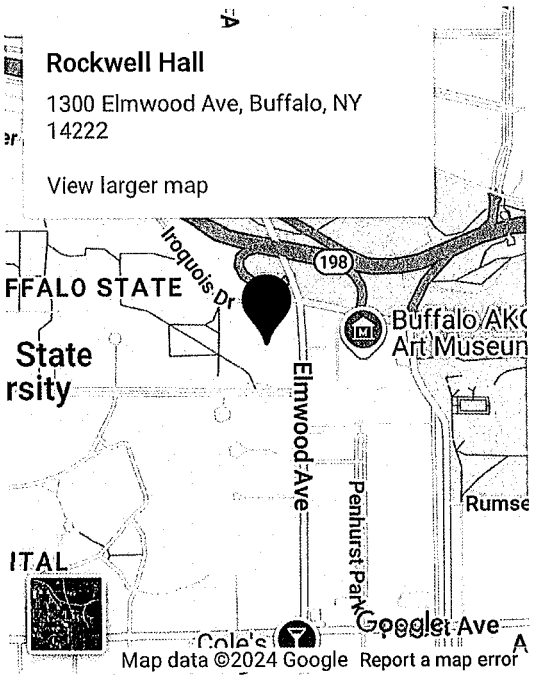

Contact Information

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Contact Information:
cps@buffalostate.edu

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FY 2025 per diem rates for ZIP Code 14222

Meals and incidental expenses (M&IE) rates and breakdown

Primary destination	County	M&IE total	Breakfast	Lunch	Dinner	Incidental expenses	First and lastday of travel
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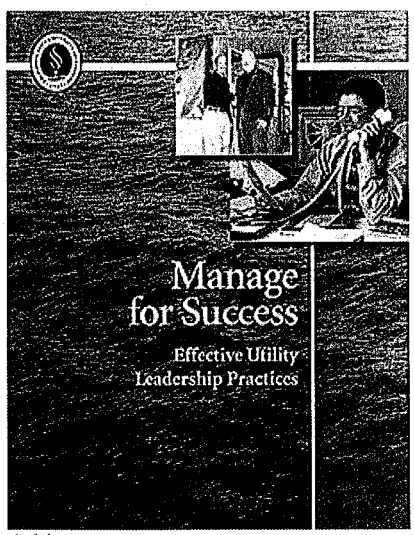

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4. Planning and Organizing
5. Training and Teaching Skills

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6. Problem-Solving Skills
7. Decision Making
8. Technical Issues and Regulatory Compliance
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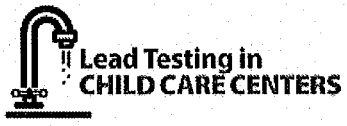

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Orders of 5 or more manuals qualify for free UPS Ground service within the continental U.S.

Attachment: 2025 Buff State Training Requests 1 (RES-2024-985 : Travel Request - Buff State)

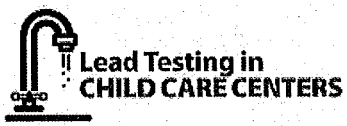
International/Canadian Shipping
Manuals are shipped via UPS for international/Canadian Shipping. For alternative shipping, please contact us at (916) 278-6142.

☐ I acknowledge that this transaction will appear as **PAYPAL OWPSACSTATE** on my credit card statement.
☐ I have read and acknowledge the Office of Water Programs **Return Policy**

Next >

✔

1 Items
Home
Operator Training
Research
Stormwater Training
Campus LID Project
Upcoming Events
University Connection
Media Library
About
Contact Us
Need Answers Quickly?
How To Reach Us
Careers
FAQ
OWP Supported Projects



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Privacy Policy ¤ Return Policy

Attachment: 2025 Buff State Training Requests 1 (RES-2024-985 : Travel Request - Buff State)

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]	Buffalo State University, Buffalo, NY	Grade 3 Supervision and Technical Operations [redacted]

Expenses	Estimated	Budget A/C #	Actual
Transportation:			
Mileage @ $0.67		G9916-4040	
Tolls		G9916-4040	
Parking			
Local Transportation (bus/taxi)			
Plane/Rail/Bus			
Lodging:			
# nights @ $		G9916-4040	
Meals:			
IRS Per Diem Per Day: $80.00			
1st & Last Day of Travel @ 75%		G9916-4040	
# Breakfasts @ $ 20.00		G9916-4040	
# Lunches 5 @ $ 22.00	$110.00	G9916-4040	
# Dinners @ $ 33.00		G9916-4040	
# Incidentals 4 @ $ 5.00	$25.00	G9916-4040	
Registration/Conference Fee	$575.00	G9916-4850	
Textbook - $49.00 + $20.00 shipping	$69.00	G9916-4850	
Other			
Subtotal	$779.00 -		N/A
Contingency - 10% of subtotal or $200	$77.90 -		N/A
TOTAL	$856.90 -		

Request Approved By:

Department Head Signature

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: 2025 Buff State Training Requests 1 (RES-2024-985 : Travel Request - Buff State)

CONTINUING PROFESSIONAL STUDIES
BUFFALO STATE • The State University of New York

Grade 3 Supervision and Technical Operations

Class meets on the following dates: [redacted]
Class times: [redacted]

Register

Registration open through 2/17/2025 11:59 PM Eastern Time (US & Canada)

Register Now

Financials

Registration is $575.00

Details

Grade 3 Supervision and Technical Operations

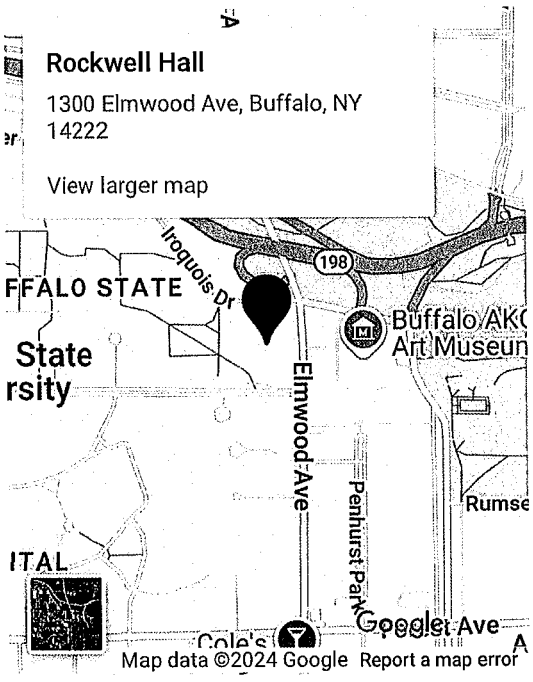
Instructor

James Keyes

Location

Buckham Hall - Room B145

1300 Elmwood Ave
Buffalo, NY 14222



Contact Information

Attachment: 2025 Buff State Training Requests 1 (RES-2024-985 : Travel Request - Buff State)

Contact Information:
cps@buffalostate.edu

Attachment: 2025 Buff State Training Requests 1 (RES-2024-985 : Travel Request - Buff State)

U.S. General Services Administration

FY 2025 per diem rates for ZIP Code 14222

Meals and incidental expenses (M&IE) rates and breakdown

Primary destination	County	M&IE total	Breakfast	Lunch	Dinner	Incidental expenses	First and lastday of travel
Buffalo	Erie	$80	$20	$22	$33	$5	$60.00

Attachment: 2025 Buff State Training Requests 1 (RES-2024-985 : Travel Request - Buff State)

Skip to Main Content

SACRAMENTO STATE
Redefine the Possible

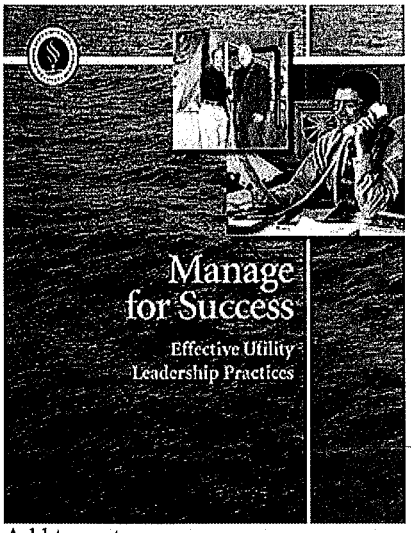
- Sacramento State Home |
- College of Engineering & Computer Science |
- Department of Civil Engineering

Sacramento State

Sign In
Create Account

Manage for Success: Effective Utility Leadership Practices

Preview Content



Add to cart

Objective

This course is designed to provide managers with additional training and skills in team building and problem identification and resolution.

Scope

This training manual stresses problem identification and solutions, working together as a team, communication, motivation, and evaluating and improving solutions to problems. Managers completing the training program will be confident that they have the tools and the ability to apply them to be successful managers. Utilities can help ensure that they have the needed management capacity by having their management personnel complete this training program.

4.5 CEUs (45 contact hours)
1st Edition, 2005
ISBN 978-1-59371-002-6
Course Time Limit: 6 months

Table of Contents

Learning Objectives (Click chapter title to open)

1. Supervising
2. Communicating
3. Human Relations
4. Planning and Organizing
5. Training and Teaching Skills

Attachment: 2025 Buff State Training Requests 1 (RES-2024-985 : Travel Request - Buff State)

6. Problem-Solving Skills
7. Decision Making
8. Technical Issues and Regulatory Compliance
9. Financial Management
10. Computers in Managing a Utility
11. Emergency Planning
12. Health and Safety Programs
13. Community Relations
14. Personal and Professional Skills

Other Sections

- Final Examination and Suggested Answers
- Subject Index

Enrollment $75 USD
Manual $49 USD
Course Package (Enrollment plus Manual) $124 USD
Instructor Guide available
Add to cart

Back to Top

0 Items
Home
Operator Training
Drinking Water Courses
Wastewater Courses
Management Courses
Online Courses
Math Courses
Water Treatment Specialist
Wastewater Treatment Specialist
Glossary
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Campus LID Project
Upcoming Events
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How To Reach Us
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FAQ
OWP Supported Projects

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Privacy Policy | Return Policy

Attachment: 2025 Buff State Training Requests 1 (RES-2024-985 : Travel Request - Buff State)

Checkout - Shipping Options

- 1 Shopping Cart
- 2 Contact Info
- Shipping ›
- 4 Order Summary
- 5 PayPal Checkout
- 6 Order Confirmation

Current total: $49.00 Next >

Shipping Options

OWP business days are Monday through Friday.

Orders placed after 1:30 pm will not be processed until the next business day.

○	UPS Ground (Business Days Only)	$20.00
	UPS Ground Shipping Map	
○	UPS Three Day Select (Business Days Only)	$57.00
○	UPS Second Day Air (Business Days Only)	$67.00
○	UPS Next Day Air (Business Days Only)	$149.00

Shipping Notice

Free Shipping for Orders of 5+ Manuals
Orders of 5 or more manuals qualify for free UPS Ground service within the continental U.S.

Attachment: 2025 Buff State Training Requests 1 (RES-2024-985 : Travel Request - Buff State)

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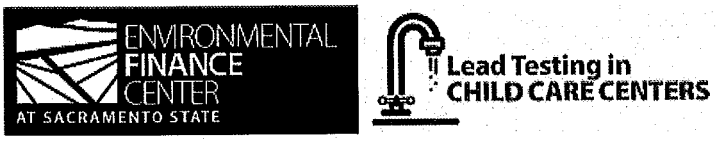
OWP Supported Projects



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Attachment: 2025 Buff State Training Requests 1 (RES-2024-985 : Travel Request - Buff State)

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

Francina J. Spoth
Town Clerk

Meeting: 12/02/24 07:00 PM
Department: Sewer/Plant 16
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 29683 **RESOLUTION 2024-986** **ADOPTED**

Travel Request - Morrisville Required Operator Training Courses

The Engineering Department is requesting approval to send one (1) employee to attend the Basic Laboratory Procedures course at the Environmental Training Center at SUNY Morrisville, in Morrisville, NY in January 2025. The total estimated cost for the employee to attend the course is estimated to be $2,279.63, and includes registration, tolls/mileage reimbursement, lodging and per diem.

The Engineering Department is also requesting approval to send one (1) employee to attend the Activated Sludge Wastewater Treatment Process course at the Environmental Training Center at SUNY Morrisville, in Morrisville, NY in January 2025. The total estimated cost for the employee to attend the course is estimated to be $2,003.53, and includes registration, tolls/mileage reimbursement, lodging and per diem.

Lastly, the Engineering Department is requesting approval to send two (2) employees to attend the Grade 3 Supervision and Technical Operations course at the Environmental Training Center at SUNY Morrisville, in Morrisville, NY in April 2025. The total estimated cost for each employee to attend the course is estimated to be $2,520.53, and includes registration, tolls/mileage reimbursement, lodging and per diem.

Funding for this request will be available in accounts G9916-4850 and G9916-4040.

Thank you for considering this request.

12/2/2024
Consent

FINANCIAL IMPACT:

G9916-4850 and G9916-4040

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

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]	Environmental Training Center, SUNY Morrisville, Morrisville, NY	Basic Laboratory Procedures [redacted]

Expenses	Estimated	Budget A/C #	Actual
Transportation:			
Mileage 368 @ $0.67	$246.56	G9916-4040	
Tolls	$25.83	G9916-4040	
Parking / GAS		G9916-4040	
Local Transportation (bus/taxi)			
Plane/Rail/Bus			
Lodging:			
# nights 6 @ $ 118.00	$708.00	G9916-4040	
Meals:			
IRS Per Diem Per Day: $68.00			
1st & Last Day of Travel @ 75% $51.00	$102.00	G9916-4040	
# Breakfasts 5 @ $ 16.00	$80.00	G9916-4040	
# Lunches 5 @ $ 19.00	$95.00	G9916-4040	
# Dinners 5 @ $ 28.00	$140.00	G9916-4040	
# Incidentals 5 @ $ 5.00	$25.00	G9916-4040	
Registration/Conference Fee	$650.00	G9916-4850	
Textbook	$0.00	G9916-4850	
Other			
Subtotal	$2,072.39 -		N/A
Contingency - 10% of subtotal or $200	$207.239 -		N/A
TOTAL	$2,279.63 -		

Request Approved By:

Department Head Signature

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: 2025 Morrisville Travel Requests (RES-2024-986 : Travel Request - Morrisville)

ENVIRONMENTAL TRAINING CENTER at SUNY MORRISVILLE

Basic Laboratory Procedures

[redacted]

Register

Registration open through 1/1/2025 11:59 PM Eastern Time (US & Canada)

Register Now

Details

$650.00 - This 30 hour course meets the NYS Department of Environmental Conservation certification requirements for laboratory proficiency. Participants must bring their own simple calculator, lab coat, and goggles. Textbook is provided at no additional charge.

Prerequisites

Basic Operations

Price

Registration is $650.00

Location

Galbreath Hall 141

About Us

ENVIRONMENTAL TRAINING CENTER at SUNY MORRISVILLE

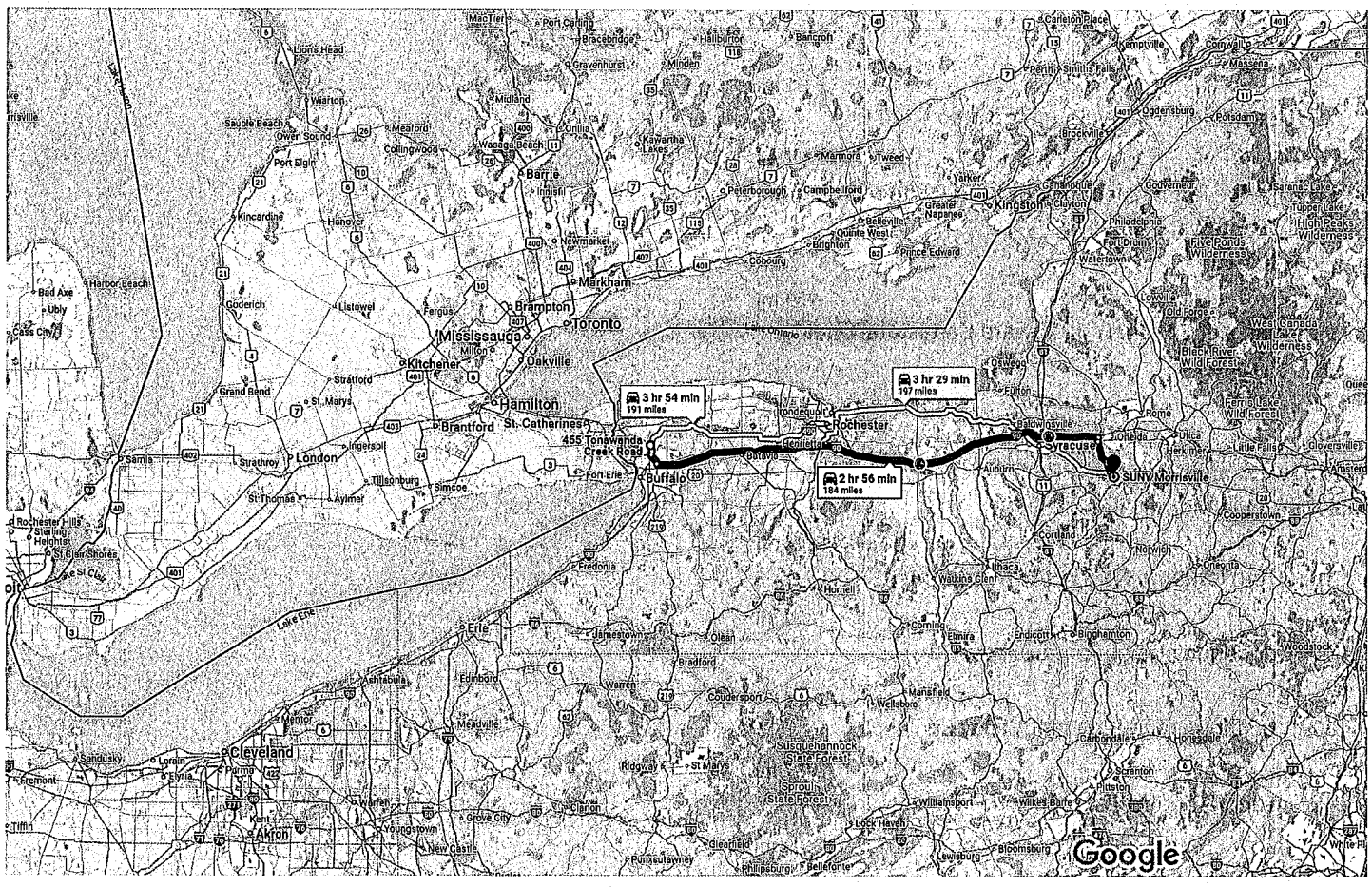
Attachment: 2025 Morrisville Travel Requests (RES-2024-986 : Travel Request - Morrisville)

13.S.5.a

Google Maps

455 Tonawanda Creek Rd, Buffalo, NY 14228 to SUNY Morrisville, 80 Eaton St, Morrisville, NY 13408

Drive 184 miles, 2 hr 56 min



Map data ©2024 Google 20 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 (3.9 mi)

1. Head south
   ⚠ Partial restricted usage road

446 ft

2. Turn right
   ⚠ Restricted usage road

0.2 mi

3. Turn right onto Tonawanda Creek Rd

0.6 mi

4. Turn right onto Sweet Home Rd

2.5 mi

5. Turn right to merge onto I-990 S

0.4 mi

Attachment: 2025 Morrisville Travel Requests (RES-2024-986 : Travel Request - Morrisville)

Follow I-90 E to NY-13 S/N Peterboro St in Canastota. Take exit 34 from I-90 E

2 hr 23 min (164 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

159 mi

9. Take exit 34 for NY-13 toward Canastota/Oneida

⚠ Toll road

0.5 mi

Take Oxbow Rd and Old County Rd to Chenango St/Suny School District in Morrisville

25 min (15.8 mi)

10. Turn left onto NY-13 S/N Peterboro St

1.3 mi

11. Continue straight onto Oxbow Rd

8.4 mi

12. Continue onto Pleasant Valley Rd

0.7 mi

13. Turn left onto Old County Rd

3.9 mi

14. Turn right onto Swamp Rd

0.3 mi

15. Continue onto Cedar St

0.5 mi

16. Turn left onto Main St

128 ft

17. Turn right onto Eaton St

0.5 mi

18. Turn left onto Madison Rd

0.2 mi

19. Continue onto Chenango St/Suny School District

ⓘ Destination will be on the right

443 ft

SUNY Morrisville

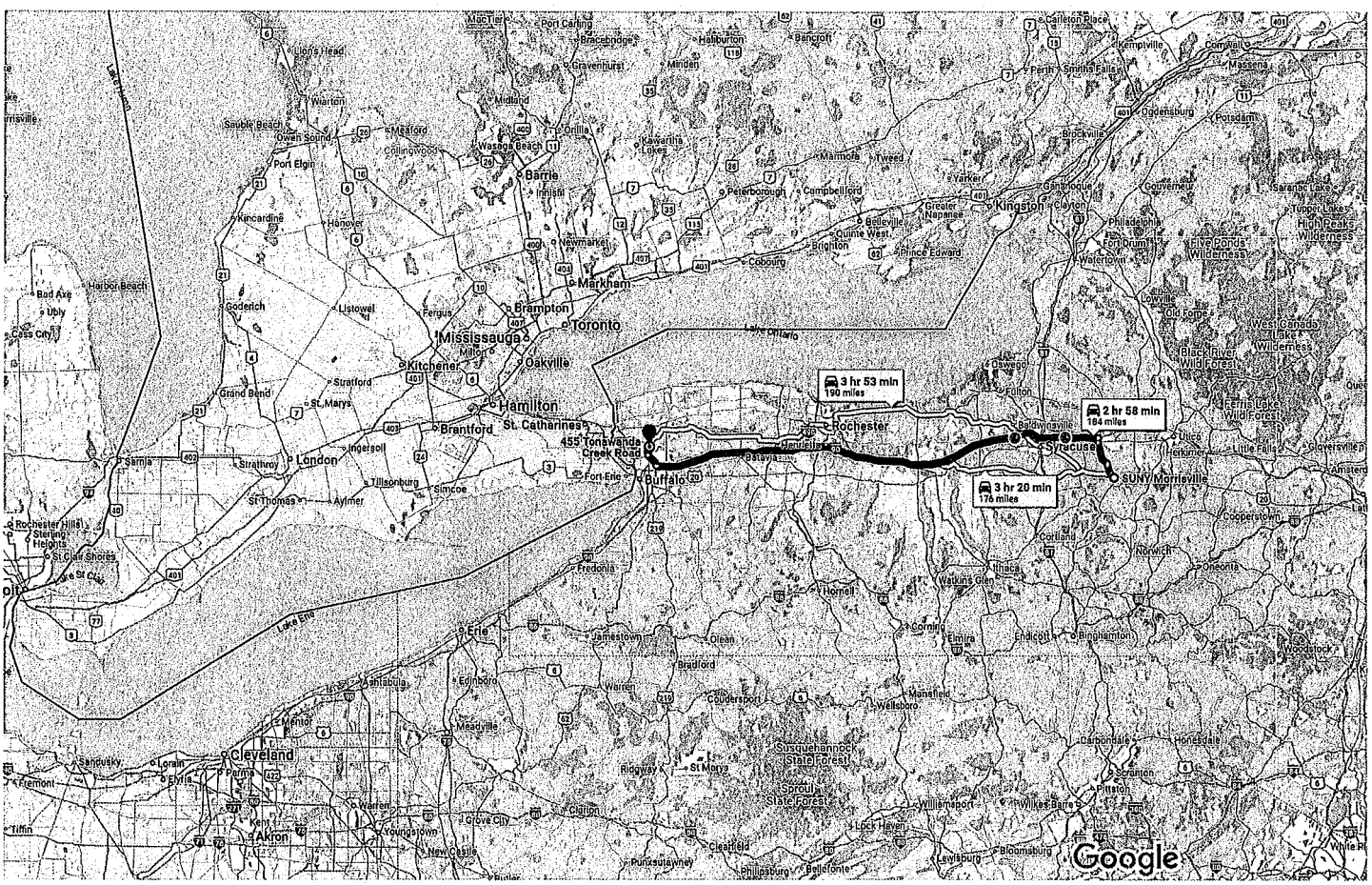
Attachment: 2025 Morrisville Travel Requests (RES-2024-986 : Travel Request - Morrisville)

13.S.5.a

Google Maps

SUNY Morrisville, 80 Eaton St, Morrisville, NY 13408 to 455 Tonawanda Creek Rd, Buffalo, NY 14228

Drive 184 miles, 2 hr 58 min



Map data ©2024 Google 20 mi

⚠ This route has tolls.

⚠ This route has restricted usage or private roads.

SUNY Morrisville

80 Eaton St, Morrisville, NY 13408

Get on I-90 W in Canastota from Old County Rd and Oxbow Rd

27 min (16.6 mi)

1. Head south on Chenango St/Suny School District toward Madison Rd

367 ft

2. Continue straight onto Madison Rd

0.2 mi

3. Turn right onto Eaton St

0.5 mi

4. Turn left onto Main St

128 ft

5. Turn right onto Cedar St

0.5 mi

6. Continue onto Swamp Rd

0.3 mi

Attachment: 2025 Morrisville Travel Requests (RES-2024-986 : Travel Request - Morrisville)

7. Turn left onto Old County Rd

3.9 mi

8. Turn right onto Pleasant Valley Rd

0.7 mi

9. Continue onto Oxbow Rd/Peterboro Rd
   Continue to follow Oxbow Rd

8.4 mi

10. Continue onto S Peterboro St

1.3 mi

11. Turn right to merge onto I-90 W
    Toll road

0.8 mi

Follow I-90 W to US-62 N/Niagara Fls Blvd in Amherst. Take exit 3 from I-290 W

2 hr 23 min (163 mi)

12. Merge onto I-90 W
    Toll road

158 mi

13. Use the right 2 lanes to take exit 50 toward I-290/Niagara Fls
    Toll road

0.4 mi

14. Continue onto I-290 W

4.6 mi

15. Use the right lane to take exit 3 for US-62/Niag Falls Blvd toward 3

0.3 mi

Continue on US-62 N/Niagara Fls Blvd to your destination

9 min (3.6 mi)

16. Use the right 2 lanes to turn right onto US-62 N/Niagara Fls Blvd

2.6 mi

17. Turn right onto Tonawanda Creek Rd

0.7 mi

18. Turn right
    Restricted usage road

0.2 mi

19. Turn left
    Partial restricted usage road

446 ft

455 Tonawanda Creek Rd
Buffalo, NY 14228

Attachment: 2025 Morrisville Travel Requests (RES-2024-986 : Travel Request - Morrisville)

13.S.5.a

*TOX

Thruway Authority

Toll and Distance Calculator

Tolls Rates Effective Jan. 1, 2024

Tolls from
Exit 49 - (I-90 - NYS Thruway) - Depew - Lockport - NY Route 78
to
Exit 34 - (I-90 - NYS Thruway) - Canastota - Oneida - Chittenango - NY Route 13

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 49 (I-90 - NYS Thruway) --> Exit 47 (I-90 - NYS Thruway)	$1.82	$3.18
Exit 47 (I-90 - NYS Thruway) --> Exit 46 (I-90 - NYS Thruway)	$0.76	$1.32
Exit 46 (I-90 - NYS Thruway) --> Exit 45 (I-90 - NYS Thruway)	$0.54	$0.94
Exit 45 (I-90 - NYS Thruway) --> Exit 44 (I-90 - NYS Thruway)	$0.18	$0.32
Exit 44 (I-90 - NYS Thruway) --> Exit 39 (I-90 - NYS Thruway)	$2.70	$4.73
Exit 39 (I-90 - NYS Thruway) --> Exit 36 (I-90 - NYS Thruway)	$0.31	$0.54
Exit 36 (I-90 - NYS Thruway) --> Exit 35 (I-90 - NYS Thruway)	$0.19	$0.33
Exit 35 (I-90 - NYS Thruway) --> Exit 34A (I-90 - NYS Thruway)	$0.11	$0.19
Exit 34A (I-90 - NYS Thruway) --> Exit 34 (I-90 - NYS Thruway)	$0.71	$1.24
Total	**$7.32**	**$12.79**
NY E-ZPASS CUSTOMERS WILL SAVE $5.47. 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: 155.8 miles

Calculate return tolls for Canastota - Oneida - Chittenango - NY Route 13 to Depew - Lockport - NY Route 78

ALONG YOUR TRIP, YOU WILL PASS THE FOLLOWING SERVICE AREAS

SERVICE AREA	MILEPOST
Pembroke Service Area	Milepost 397
Scottsville Service Area	Milepost 366
Clifton Springs Service Area	Milepost 337
Port Byron Service Area	Milepost 310
DeWitt Service Area	Milepost 280

Calculate Another Trip Back

Attachment: 2025 Morrisville Travel Requests (RES-2024-986 : Travel Request - Morrisville)

13.S.5.a

From

Thruway Authority

Toll and Distance Calculator

Tolls Rates Effective Jan. 1, 2024

Tolls from
Exit 34 - (I-90 - NYS Thruway) - Canastota - Oneida - Chittenango - NY Route 13
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 34 (I-90 - NYS Thruway) --> Exit 34A (I-90 - NYS Thruway)	$0.71	$1.24
Exit 34A (I-90 - NYS Thruway) --> Exit 35 (I-90 - NYS Thruway)	$0.11	$0.19
Exit 35 (I-90 - NYS Thruway) --> Exit 36 (I-90 - NYS Thruway)	$0.19	$0.33
Exit 36 (I-90 - NYS Thruway) --> Exit 39 (I-90 - NYS Thruway)	$0.31	$0.54
Exit 39 (I-90 - NYS Thruway) --> Exit 44 (I-90 - NYS Thruway)	$2.70	$4.73
Exit 44 (I-90 - NYS Thruway) --> Exit 45 (I-90 - NYS Thruway)	$0.18	$0.32
Exit 45 (I-90 - NYS Thruway) --> Exit 46 (I-90 - NYS Thruway)	$0.54	$0.94
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	**$7.46**	**$13.04**
NY E-ZPASS CUSTOMERS WILL SAVE $5.58. 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: 158.8 miles

Calculate return tolls for Niagara Falls - I-290 to Canastota - Oneida - Chittenango - NY Route 13

ALONG YOUR TRIP, YOU WILL PASS THE FOLLOWING SERVICE AREAS

SERVICE AREA	MILEPOST
Chittenango Service Area	Milepost 266
Warners Service Area	Milepost 292
Junius Ponds Service Area	Milepost 324
Seneca Service Area	Milepost 350
Ontario Service Area	Milepost 376
Clarence Service Area	Milepost 412

Calculate Another Trip Back

Attachment: 2025 Morrisville Travel Requests (RES-2024-986 : Travel Request - Morrisville)

13.S.5.a

Hilton
FOR THE STAY

Language English | Find Stay | Join | Sign In

Your Stay Edit Stay

Hampton Inn & Suites Cazenovia

[redacted]

1 room for 1 adult

Hampton Inn & Suites Cazenovia
25 Lakers Ln
Cazenovia, New York 13035 USA
Hotel details >

1 King W/fridge Nonsmoke
Change Room

Select a Rate **Step 2 of 3**

Special Rates | Use Points & Money

Prices shown are average per night. Select currency USD - US Dollar

Flexible Rate

Change or cancel up to 2 days before arrival. Free breakfast.

$135 Rate details > Select

Honors Discount
~~$135~~
$129 Rate details > Select

Semi-Flex

Change or cancel up to 6 days before arrival. Free breakfast.

$129 Rate details > Select

Honors Discount
~~$129~~
$126 Rate details > Select

Non-refundable

Free breakfast. No cancellations. Pay now.

$118 Rate details > Select

Honors Discount
~~$118~~
$115 Rate details > Select

Attachment: 2025 Morrisville Travel Requests (RES-2024-986 : Travel Request - Morrisville)

2X Points

Package

Change or cancel up to 2 days before arrival. Earn Double Hilton Honors Points. Hilton Honors Membership Required.

$141 Rate details >

Select

How can we help?

Request a Call

Customer Support

Online reservation assistance.

Hilton Honors Discount Terms & Conditions

Global Privacy Statement

Web Accessibility

Site Usage Agreement

Partner Accommodations Terms

Modern Slavery and Human Trafficking

AdChoices

Hilton Hotline

©2024 Hilton

Attachment: 2025 Morrisville Travel Requests (RES-2024-986 : Travel Request - Morrisville)

U.S. General Services Administration

FY 2025 per diem rates for ZIP Code 13408

Meals and incidental expenses (M&IE) rates and breakdown

Primary destination	County	M&IE total	Breakfast	Lunch	Dinner	Incidental expenses	First and lastday of travel
Standard Rate	Applies for all locations without specified rates	$68	$16	$19	$28	$5	$51.00

Attachment: 2025 Morrisville Travel Requests (RES-2024-986 : Travel Request - Morrisville)

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]	Environmental Training Center, SUNY Morrisville, Morrisville, NY	Grade 3 Supervision and Technical Operations [redacted]

Expenses	Estimated		Budget A/C #	Actual
Transportation:				
Mileage @ $0.67 368 miles	$246.56		G9916-4040	
Tolls $12.79 + $13.04	$25.83		G9916-4040	
Parking / GAS			G9916-4040	
Local Transportation (bus/taxi)				
Plane/Rail/Bus				
Lodging:				
# nights 6 @ $ 133.00	$798.00		G9916-4040	
Meals:				
IRS Per Diem Per Day: $68.00				
1st & Last Day of Travel @ 75% $51.00	$102.00		G9916-4040	
# Breakfasts 5 @ $ 20.00	$100.00		G9916-4040	
# Lunches 5 @ $ 22.00	$110.00		G9916-4040	
# Dinners 5 @ $ 33.00	$165.00		G9916-4040	
# Incidentals 5 @ $ 5.00	$25.00		G9916-4040	
Registration/Conference Fee	$650.00		G9916-4850	
Textbook - $49.00 + $20.00 shipping	$69.00		G9916-4850	
Other				
Subtotal	$2,291.39	-		N/A
Contingency - 10% of subtotal or $200	$229.139	-		N/A
TOTAL	$2,520.53	-		

Request Approved By:

Department Head Signature

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: 2025 Morrisville Travel Requests (RES-2024-986 : Travel Request - Morrisville)

ENVIRONMENTAL TRAINING CENTER at SUNY MORRISVILLE

Grade 3 Supervision & Technical Operations

[redacted]

Register

Registration open through 4/16/2025 11:59 PM Eastern Time (US & Canada)

Register Now

Details

$650.00 - This 30-hour course meets NYS Department of Environmental Conservation requirements for those persons desiring Grade 3 or higher certification. It is designed to help operators improve supervision and management skills, as well as technical operational skills, and is a mixture of lecture and classroom interactive activities. Textbook for this course is *Manage for Success* by the University of California at Sacramento. You may order in advance by calling the campus store at 315-684-6073.

Prerequisites

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Price

Registration is $650.00

Location

Galbreath Hall 141

About Us

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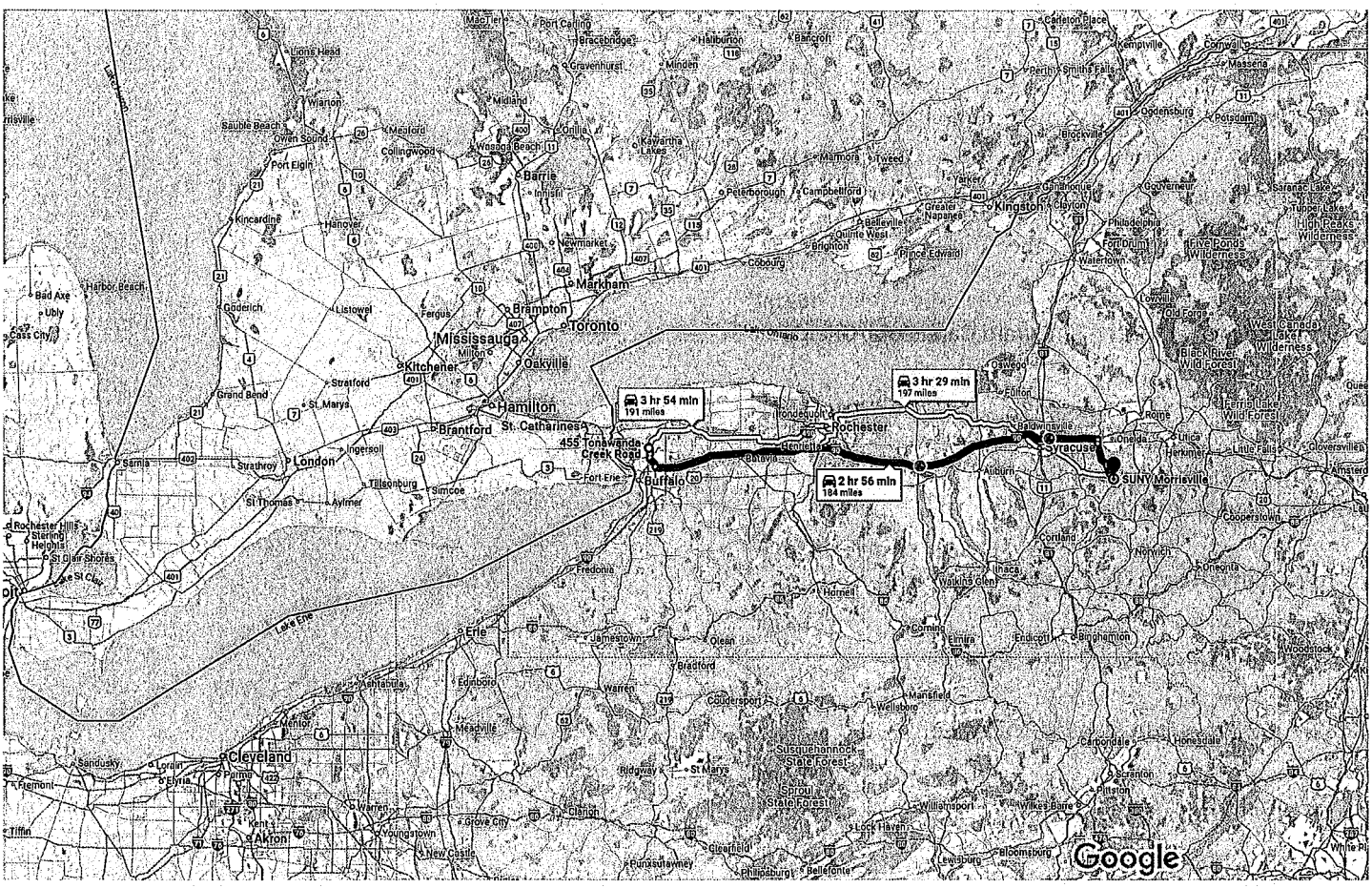
13.S.5.a

Google Maps

455 Tonawanda Creek Rd, Buffalo, NY 14228 to SUNY Morrisville, 80 Eaton St, Morrisville, NY 13408

Drive 184 miles, 2 hr 56 min



Map data ©2024 Google 20 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 (3.9 mi)

1. Head south
   ⚠ Partial restricted usage road

446 ft

2. Turn right
   ⚠ Restricted usage road

0.2 mi

3. Turn right onto Tonawanda Creek Rd

0.6 mi

4. Turn right onto Sweet Home Rd

2.5 mi

5. Turn right to merge onto I-990 S

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Follow I-90 E to NY-13 S/N Peterboro St in Canastota. Take exit 34 from I-90 E

2 hr 23 min (164 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

159 mi

9. Take exit 34 for NY-13 toward Canastota/Oneida

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0.5 mi

Take Oxbow Rd and Old County Rd to Chenango St/Suny School District in Morrisville

25 min (15.8 mi)

10. Turn left onto NY-13 S/N Peterboro St

1.3 mi

11. Continue straight onto Oxbow Rd

8.4 mi

12. Continue onto Pleasant Valley Rd

0.7 mi

13. Turn left onto Old County Rd

3.9 mi

14. Turn right onto Swamp Rd

0.3 mi

15. Continue onto Cedar St

0.5 mi

16. Turn left onto Main St

128 ft

17. Turn right onto Eaton St

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18. Turn left onto Madison Rd

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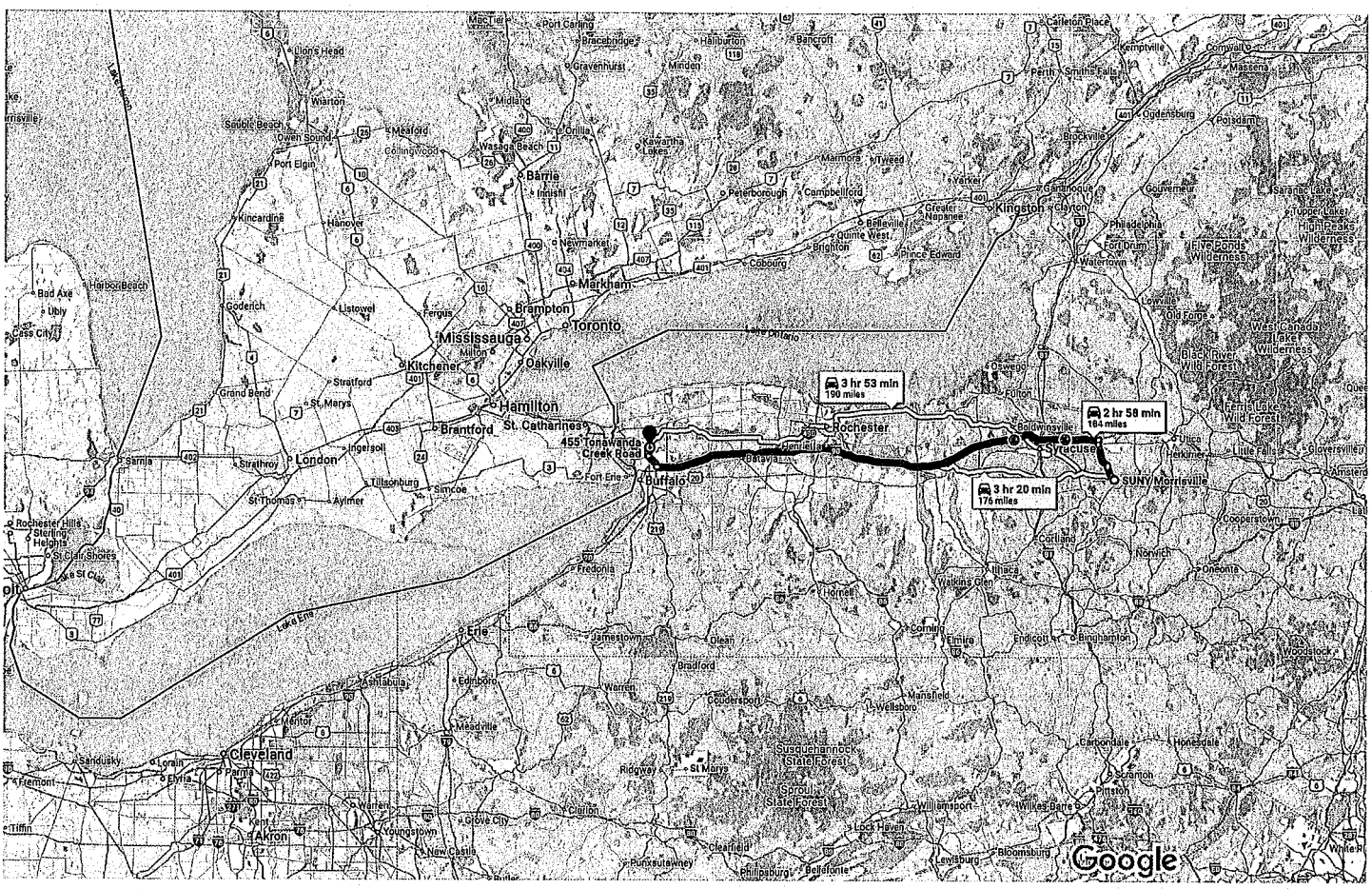

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    Toll road

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Follow I-90 W to US-62 N/Niagara Fls Blvd in Amherst. Take exit 3 from I-290 W

2 hr 23 min (163 mi)

12. Merge onto I-90 W
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158 mi

13. Use the right 2 lanes to take exit 50 toward I-290/Niagara Fls
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0.4 mi

14. Continue onto I-290 W

4.6 mi

15. Use the right lane to take exit 3 for US-62/Niag Falls Blvd toward 3

0.3 mi

Continue on US-62 N/Niagara Fls Blvd to your destination

9 min (3.6 mi)

16. Use the right 2 lanes to turn right onto US-62 N/Niagara Fls Blvd

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0.7 mi

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455 Tonawanda Creek Rd
Buffalo, NY 14228

Attachment: 2025 Morrisville Travel Requests (RES-2024-986 : Travel Request - Morrisville)

13.S.5.a

* TOX

Thruway Authority

Toll and Distance Calculator

Tolls Rates Effective Jan. 1, 2024

Tolls from
Exit 49 - (I-90 - NYS Thruway) - Depew - Lockport - NY Route 78
to
Exit 34 - (I-90 - NYS Thruway) - Canastota - Oneida - Chittenango - NY Route 13

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 49 (I-90 - NYS Thruway) --> Exit 47 (I-90 - NYS Thruway)	$1.82	$3.18
Exit 47 (I-90 - NYS Thruway) --> Exit 46 (I-90 - NYS Thruway)	$0.76	$1.32
Exit 46 (I-90 - NYS Thruway) --> Exit 45 (I-90 - NYS Thruway)	$0.54	$0.94
Exit 45 (I-90 - NYS Thruway) --> Exit 44 (I-90 - NYS Thruway)	$0.18	$0.32
Exit 44 (I-90 - NYS Thruway) --> Exit 39 (I-90 - NYS Thruway)	$2.70	$4.73
Exit 39 (I-90 - NYS Thruway) --> Exit 36 (I-90 - NYS Thruway)	$0.31	$0.54
Exit 36 (I-90 - NYS Thruway) --> Exit 35 (I-90 - NYS Thruway)	$0.19	$0.33
Exit 35 (I-90 - NYS Thruway) --> Exit 34A (I-90 - NYS Thruway)	$0.11	$0.19
Exit 34A (I-90 - NYS Thruway) --> Exit 34 (I-90 - NYS Thruway)	$0.71	$1.24
Total	**$7.32**	**$12.79**
NY E-ZPASS CUSTOMERS WILL SAVE $5.47. 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: 155.8 miles

Calculate return tolls for Canastota - Oneida - Chittenango - NY Route 13 to Depew - Lockport - NY Route 78

ALONG YOUR TRIP, YOU WILL PASS THE FOLLOWING SERVICE AREAS

SERVICE AREA	MILEPOST
Pembroke Service Area	Milepost 397
Scottsville Service Area	Milepost 366
Clifton Springs Service Area	Milepost 337
Port Byron Service Area	Milepost 310
DeWitt Service Area	Milepost 280

Calculate Another Trip Back

Attachment: 2025 Morrisville Travel Requests (RES-2024-986 : Travel Request - Morrisville)

* From *

Thruway Authority

Toll and Distance Calculator

Tolls Rates Effective Jan. 1, 2024

Tolls from
Exit 34 - (I-90 - NYS Thruway) - Canastota - Oneida - Chittenango - NY Route 13
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 34 (I-90 - NYS Thruway) --> Exit 34A (I-90 - NYS Thruway)	$0.71	$1.24
Exit 34A (I-90 - NYS Thruway) --> Exit 35 (I-90 - NYS Thruway)	$0.11	$0.19
Exit 35 (I-90 - NYS Thruway) --> Exit 36 (I-90 - NYS Thruway)	$0.19	$0.33
Exit 36 (I-90 - NYS Thruway) --> Exit 39 (I-90 - NYS Thruway)	$0.31	$0.54
Exit 39 (I-90 - NYS Thruway) --> Exit 44 (I-90 - NYS Thruway)	$2.70	$4.73
Exit 44 (I-90 - NYS Thruway) --> Exit 45 (I-90 - NYS Thruway)	$0.18	$0.32
Exit 45 (I-90 - NYS Thruway) --> Exit 46 (I-90 - NYS Thruway)	$0.54	$0.94
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	**$7.46**	**$13.04**
NY E-ZPASS CUSTOMERS WILL SAVE $5.58. 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: 158.8 miles

Calculate return tolls for Niagara Falls - I-290 to Canastota - Oneida - Chittenango - NY Route 13

ALONG YOUR TRIP, YOU WILL PASS THE FOLLOWING SERVICE AREAS

SERVICE AREA	MILEPOST
Chittenango Service Area	Milepost 266
Warners Service Area	Milepost 292
Junius Ponds Service Area	Milepost 324
Seneca Service Area	Milepost 350
Ontario Service Area	Milepost 376
Clarence Service Area	Milepost 412

Calculate Another Trip Back

Attachment: 2025 Morrisville Travel Requests (RES-2024-986 : Travel Request - Morrisville)

GSA U.S. General Services Administration

FY 2025 per diem rates for ZIP Code 13408

Meals and incidental expenses (M&IE) rates and breakdown

Primary destination	County	M&IE total	Breakfast	Lunch	Dinner	Incidental expenses	First and lastday of travel
Standard Rate	Applies for all locations without specified rates	$68	$16	$19	$28	$5	$51.00

Attachment: 2025 Morrisville Travel Requests (RES-2024-986 : Travel Request - Morrisville)

Hilton FOR THE STAY

Language English | Find Stay | Join | Sign In

Your Stay Edit Stay

Hampton Inn & Suites Cazenovia

[redacted]

1 room for 1 adult

Hampton Inn & Suites Cazenovia
25 Lakers Ln
Cazenovia, New York 13035 USA
Hotel details >

1 King W/fridge Nonsmoke
Change Room

Update Your Rate **Step 2 of 3**

Special Rates | ☐ Use Points & Money

Prices shown are average per night.

Select currency USD - US Dollar

Flexible Rate

Change or cancel up to 2 days before arrival. Free breakfast.

$154 Rate details > Select

Honors Discount ~~$154~~ $146 Rate details > Select

Semi-Flex

Change or cancel up to 6 days before arrival. Free breakfast.

$146 Rate details > Select

Honors Discount ~~$146~~ $143 Rate details > Select

Non-refundable

Free breakfast. No cancellations. Pay now.

$133 Rate details > Select

Honors Discount ~~$133~~ $130 Rate details > Select

2X Points

Package

Change or cancel up to 2 days before arrival. Earn Double Hilton Honors Points. Hilton Honors Membership Required.

$158 Rate details > Select

How can we help?

Request a Call

Customer Support
Online reservation assistance.

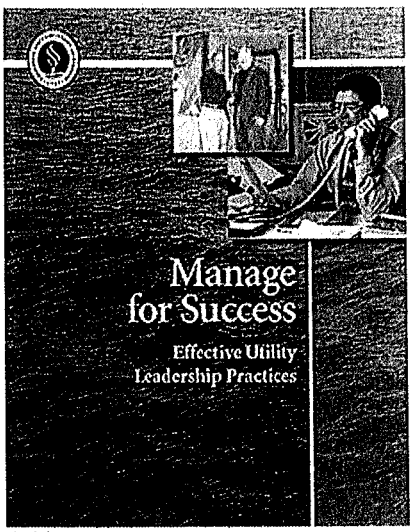
Hilton Honors Discount Terms & Conditions
Global Privacy Statement
Web Accessibility
Site Usage Agreement
Partner Accommodations Terms
Modern Slavery and Human Trafficking
AdChoices
Hilton Hotline

©2024 Hilton

Attachment: 2025 Morrisville Travel Requests (RES-2024-986 : Travel Request - Morrisville)

Manage for Success: Effective Utility Leadership Practices

Preview Content



Add to cart

Objective

This course is designed to provide managers with additional training and skills in team building and problem identification and resolution.

Scope

This training manual stresses problem identification and solutions, working together as a team, communication, motivation, and evaluating and improving solutions to problems. Managers completing the training program will be confident that they have the tools and the ability to apply them to be successful managers. Utilities can help ensure that they have the needed management capacity by having their management personnel complete this training program.

4.5 CEUs (45 contact hours)
1st Edition, 2005
ISBN 978-1-59371-002-6
Course Time Limit: 6 months

Table of Contents

Learning Objectives (Click chapter title to open)

1. Supervising
2. Communicating
3. Human Relations
4. Planning and Organizing
5. Training and Teaching Skills

Attachment: 2025 Morrisville Travel Requests (RES-2024-986 : Travel Request - Morrisville)

6. Problem-Solving Skills
7. Decision Making
8. Technical Issues and Regulatory Compliance
9. Financial Management
10. Computers in Managing a Utility
11. Emergency Planning
12. Health and Safety Programs
13. Community Relations
14. Personal and Professional Skills

Other Sections

- Final Examination and Suggested Answers
- Subject Index

Enrollment $75 USD
Manual $49 USD
Course Package (Enrollment plus Manual) $124 USD
Instructor Guide available
Add to cart

Back to Top

0 Items
Home
Operator Training
Drinking Water Courses
Wastewater Courses
Management Courses
Online Courses
Math Courses
Water Treatment Specialist
Wastewater Treatment Specialist
Glossary
Corrections
Links
Research
Stormwater Training
Campus LID Project
Upcoming Events
University Connection
Media Library
About
Contact Us
Need Answers Quickly?
How To Reach Us
Careers
FAQ
OWP Supported Projects

ENVIRONMENTAL FINANCE CENTER AT SACRAMENTO STATE
Lead Testing in CHILD CARE CENTERS
PFAS TESTING Powered by OWP

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Privacy Policy | Return Policy

Attachment: 2025 Morrisville Travel Requests (RES-2024-986 : Travel Request - Morrisville)

Checkout - Shipping Options

- 1 Shopping Cart
- 2 Contact Info
- Shipping ›
- 4 Order Summary
- 5 PayPal Checkout
- 6 Order Confirmation

Current total: $49.00 Next >

Shipping Options

OWP business days are Monday through Friday.

Orders placed after 1:30 pm will not be processed until the next business day.

UPS Ground
○ (Business Days Only) $20.00

UPS Ground Shipping Map

UPS Three Day Select
○ (Business Days Only) $57.00

UPS Second Day Air
○ (Business Days Only) $67.00

UPS Next Day Air
○ (Business Days Only) $149.00

Shipping Notice

Free Shipping for Orders of 5+ Manuals
Orders of 5 or more manuals qualify for free UPS Ground service within the continental U.S.

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International/Canadian Shipping
Manuals are shipped via UPS for international/Canadian Shipping. For alternative shipping, please contact us at (916) 278-6142.

☐ I acknowledge that this transaction will appear as **PAYPAL OWPSACSTATE** on my credit card statement.
☐ I have read and acknowledge the Office of Water Programs **Return Policy**

Next >

✔

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Attachment: 2025 Morrisville Travel Requests (RES-2024-986 : Travel Request - Morrisville)

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

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Request Approved By:

_____

Department Head Signature

_____

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_____

Town Board Resolution & Date

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_____

Employee Signature Date

_____

Print Employee Name

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Complete Shaded Area
For Expense Reimbursement

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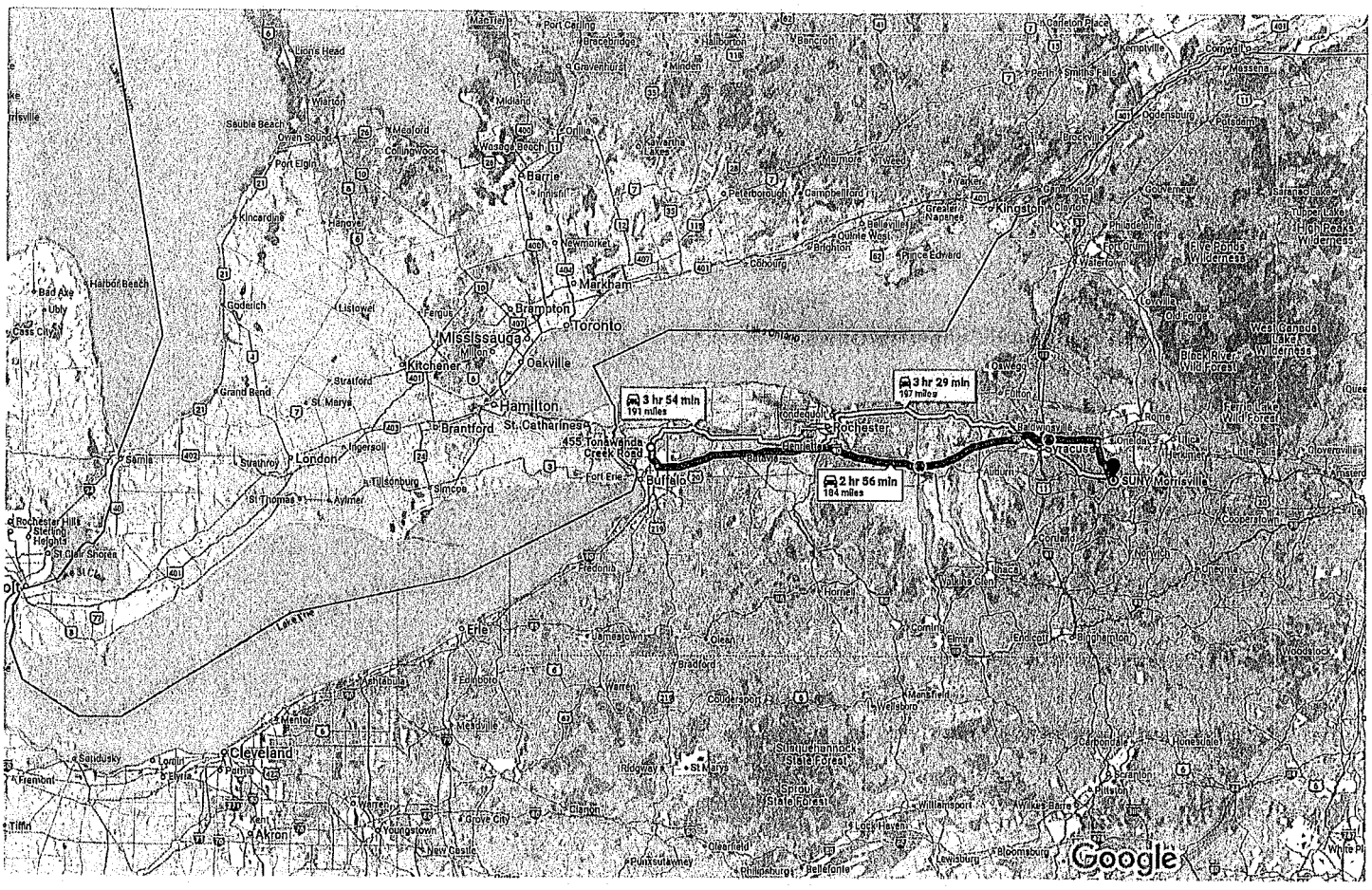

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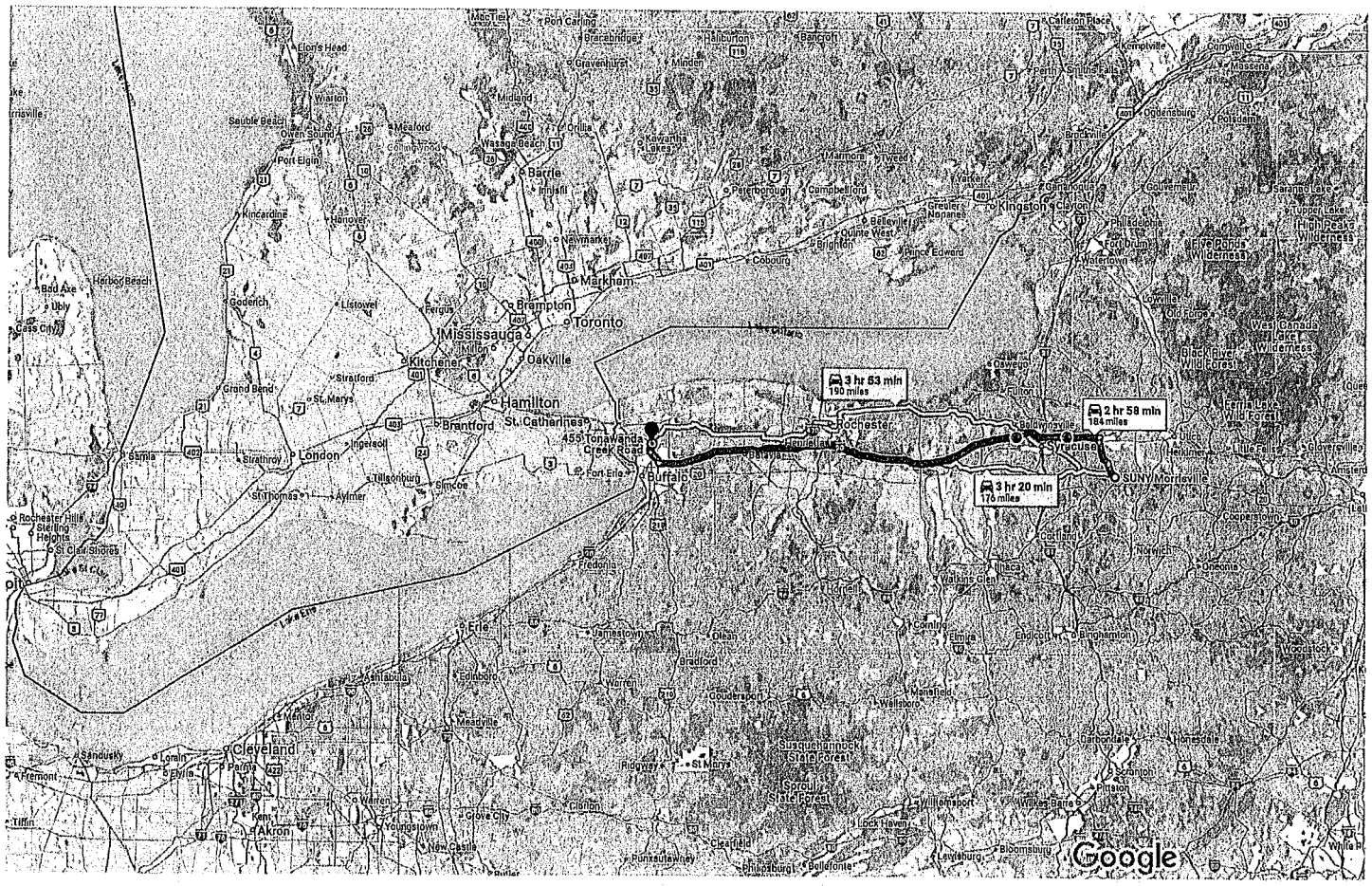

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15. Use the right lane to take exit 3 for US-62/Niag Falls Blvd toward 3

0.3 mi

Continue on US-62 N/Niagara Fls Blvd to your destination

9 min (3.6 mi)

16. Use the right 2 lanes to turn right onto US-62 N/Niagara Fls Blvd

2.6 mi

17. Turn right onto Tonawanda Creek Rd

0.7 mi

18. Turn right
    Restricted usage road

0.2 mi

19. Turn left
    Partial restricted usage road

446 ft

455 Tonawanda Creek Rd
Buffalo, NY 14228

Attachment: 2025 Morrisville Travel Requests (RES-2024-986 : Travel Request - Morrisville)

13.S.5.a

* TOX

Thruway Authority

Toll and Distance Calculator

Tolls Rates Effective Jan. 1, 2024

Tolls from
Exit 49 - (I-90 - NYS Thruway) - Depew - Lockport - NY Route 78
to
Exit 34 - (I-90 - NYS Thruway) - Canastota - Oneida - Chittenango - NY Route 13

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 49 (I-90 - NYS Thruway) --> Exit 47 (I-90 - NYS Thruway)	$1.82	$3.18
Exit 47 (I-90 - NYS Thruway) --> Exit 46 (I-90 - NYS Thruway)	$0.76	$1.32
Exit 46 (I-90 - NYS Thruway) --> Exit 45 (I-90 - NYS Thruway)	$0.54	$0.94
Exit 45 (I-90 - NYS Thruway) --> Exit 44 (I-90 - NYS Thruway)	$0.18	$0.32
Exit 44 (I-90 - NYS Thruway) --> Exit 39 (I-90 - NYS Thruway)	$2.70	$4.73
Exit 39 (I-90 - NYS Thruway) --> Exit 36 (I-90 - NYS Thruway)	$0.31	$0.54
Exit 36 (I-90 - NYS Thruway) --> Exit 35 (I-90 - NYS Thruway)	$0.19	$0.33
Exit 35 (I-90 - NYS Thruway) --> Exit 34A (I-90 - NYS Thruway)	$0.11	$0.19
Exit 34A (I-90 - NYS Thruway) --> Exit 34 (I-90 - NYS Thruway)	$0.71	$1.24
Total	**$7.32**	**$12.79**

NY E-ZPASS CUSTOMERS WILL SAVE $5.47. 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: 155.8 miles

Calculate return tolls for Canastota - Oneida - Chittenango - NY Route 13 to Depew - Lockport - NY Route 78

ALONG YOUR TRIP, YOU WILL PASS THE FOLLOWING SERVICE AREAS

SERVICE AREA	MILEPOST
Pembroke Service Area	Milepost 397
Scottsville Service Area	Milepost 366
Clifton Springs Service Area	Milepost 337
Port Byron Service Area	Milepost 310
DeWitt Service Area	Milepost 280

Calculate Another Trip Back

Attachment: 2025 Morrisville Travel Requests (RES-2024-986 : Travel Request - Morrisville)

* From

13.S.5.a

Thruway Authority

Toll and Distance Calculator

Tolls Rates Effective Jan. 1, 2024

Tolls from
Exit 34 - (I-90 - NYS Thruway) - Canastota - Oneida - Chittenango - NY Route 13
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 34 (I-90 - NYS Thruway) --> Exit 34A (I-90 - NYS Thruway)	$0.71	$1.24
Exit 34A (I-90 - NYS Thruway) --> Exit 35 (I-90 - NYS Thruway)	$0.11	$0.19
Exit 35 (I-90 - NYS Thruway) --> Exit 36 (I-90 - NYS Thruway)	$0.19	$0.33
Exit 36 (I-90 - NYS Thruway) --> Exit 39 (I-90 - NYS Thruway)	$0.31	$0.54
Exit 39 (I-90 - NYS Thruway) --> Exit 44 (I-90 - NYS Thruway)	$2.70	$4.73
Exit 44 (I-90 - NYS Thruway) --> Exit 45 (I-90 - NYS Thruway)	$0.18	$0.32
Exit 45 (I-90 - NYS Thruway) --> Exit 46 (I-90 - NYS Thruway)	$0.54	$0.94
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	**$7.46**	**$13.04**
NY E-ZPASS CUSTOMERS WILL SAVE $5.58. 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: 158.8 miles

Calculate return tolls for Niagara Falls - I-290 to Canastota - Oneida - Chittenango - NY Route 13

ALONG YOUR TRIP, YOU WILL PASS THE FOLLOWING SERVICE AREAS

SERVICE AREA	MILEPOST
Chittenango Service Area	Milepost 266
Warners Service Area	Milepost 292
Junius Ponds Service Area	Milepost 324
Seneca Service Area	Milepost 350
Ontario Service Area	Milepost 376
Clarence Service Area	Milepost 412

Calculate Another Trip Back

Attachment: 2025 Morrisville Travel Requests (RES-2024-986 : Travel Request - Morrisville)

U.S. General Services Administration

FY 2025 per diem rates for ZIP Code 13408

Meals and incidental expenses (M&IE) rates and breakdown

Primary destination	County	M&IE total	Breakfast	Lunch	Dinner	Incidental expenses	First and lastday of travel
Standard Rate	Applies for all locations without specified rates	$68	$16	$19	$28	$5	$51.00

Attachment: 2025 Morrisville Travel Requests (RES-2024-986 : Travel Request - Morrisville)

Hilton FOR THE STAY

Language English | Find Stay | Join | Sign In

Your Stay Edit Stay

Hampton Inn & Suites Cazenovia

[redacted]

1 room for 1 adult

Hampton Inn & Suites Cazenovia
25 Lakers Ln
Cazenovia, New York 13035 USA
Hotel details >

1 King W/fridge Nonsmoke
Change Room

Update Your Rate Step 2 of 3

Special Rates | Use Points & Money

Prices shown are average per night. Select currency USD - US Dollar

Flexible Rate
Change or cancel up to 2 days before arrival. Free breakfast.

$154 Rate details > Select

Honors Discount ~~$154~~ $146 Rate details > Select

Semi-Flex
Change or cancel up to 6 days before arrival. Free breakfast.

$146 Rate details > Select

Honors Discount ~~$146~~ $143 Rate details > Select

Non-refundable
Free breakfast. No cancellations. Pay now.

$133 Rate details > Select

Honors Discount ~~$133~~ $130 Rate details > Select

2X Points
Package

Change or cancel up to 2 days before arrival. Earn Double Hilton Honors Points. Hilton Honors Membership Required.

$158 Rate details > Select

How can we help?

Request a Call

Customer Support
Online reservation assistance.

Hilton Honors Discount Terms & Conditions
Global Privacy Statement
Web Accessibility
Site Usage Agreement
Partner Accommodations Terms
Modern Slavery and Human Trafficking
AdChoices
Hilton Hotline

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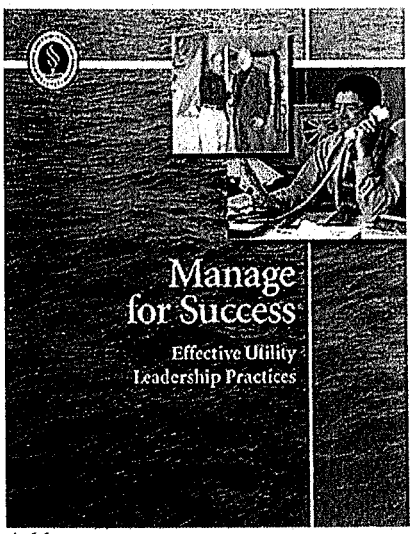
Attachment: 2025 Morrisville Travel Requests (RES-2024-986 : Travel Request - Morrisville)

Manage for Success: Effective Utility Leadership Practices

Preview Content



Add to cart

Objective

This course is designed to provide managers with additional training and skills in team building and problem identification and resolution.

Scope

This training manual stresses problem identification and solutions, working together as a team, communication, motivation, and evaluating and improving solutions to problems. Managers completing the training program will be confident that they have the tools and the ability to apply them to be successful managers. Utilities can help ensure that they have the needed management capacity by having their management personnel complete this training program.

4.5 CEUs (45 contact hours)
1st Edition, 2005
ISBN 978-1-59371-002-6
Course Time Limit: 6 months

Table of Contents

Learning Objectives (Click chapter title to open)

1. Supervising
2. Communicating
3. Human Relations
4. Planning and Organizing
5. Training and Teaching Skills

Attachment: 2025 Morrisville Travel Requests (RES-2024-986 : Travel Request - Morrisville)

6. Problem-Solving Skills
7. Decision Making
8. Technical Issues and Regulatory Compliance
9. Financial Management
10. Computers in Managing a Utility
11. Emergency Planning
12. Health and Safety Programs
13. Community Relations
14. Personal and Professional Skills

Other Sections

- Final Examination and Suggested Answers
- Subject Index

Enrollment $75 USD
Manual $49 USD
Course Package (Enrollment plus Manual) $124 USD
Instructor Guide available
Add to cart

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Lead Testing in CHILD CARE CENTERS
PFAS TESTING Powered by OWP

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Attachment: 2025 Morrisville Travel Requests (RES-2024-986 : Travel Request - Morrisville)

Checkout - Shipping Options

- 1 Shopping Cart
- 2 Contact Info
- Shipping ›
- 4 Order Summary
- 5 PayPal Checkout
- 6 Order Confirmation

Current total: $49.00 Next >

Shipping Options

OWP business days are Monday through Friday.

Orders placed after 1:30 pm will not be processed until the next business day.

UPS Ground
(Business Days Only) $20.00
UPS Ground Shipping Map

UPS Three Day Select
(Business Days Only) $57.00

UPS Second Day Air
(Business Days Only) $67.00

UPS Next Day Air
(Business Days Only) $149.00

Shipping Notice

Free Shipping for Orders of 5+ Manuals
Orders of 5 or more manuals qualify for free UPS Ground service within the continental U.S.

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International/Canadian Shipping
Manuals are shipped via UPS for international/Canadian Shipping. For alternative shipping, please contact us at (916) 278-6142.

☐ I acknowledge that this transaction will appear as **PAYPAL OWPSACSTATE** on my credit card statement.
☐ I have read and acknowledge the Office of Water Programs **Return Policy**

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✔

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FAQ
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ENVIRONMENTAL FINANCE CENTER AT SACRAMENTO STATE

Lead Testing in CHILD CARE CENTERS

PFAS TESTING Powered by OWP

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Attachment: 2025 Morrisville Travel Requests (RES-2024-986 : Travel Request - Morrisville)

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]	Environmental Training Center, SUNY Morrisville, Morrisville, NY	Activated Sludge Wastewater Treatment Process [redacted]

Expenses	Estimated	Budget A/C #	Actual
Transportation:			
Mileage 368 @ $0.67	$246.56	G9916-4040	
Tolls	$25.83	G9916-4040	
Parking / GAS		G9916-4040	
Local Transportation (bus/taxi)			
Plane/Rail/Bus			
Lodging:			
# nights 5 @ $ 115.00	$575.00	G9916-4040	
Meals:			
IRS Per Diem Per Day: $68.00			
1st & Last Day of Travel @ 75% $51.00	$102.00	G9916-4040	
# Breakfasts 4 @ $ 16.00	$64.00	G9916-4040	
# Lunches 4 @ $ 19.00	$76.00	G9916-4040	
# Dinners 4 @ $ 28.00	$112.00	G9916-4040	
# Incidentals 4 @ $ 5.00	$20.00	G9916-4040	
Registration/Conference Fee	$600.00	G9916-4850	
Textbook - already received	$0.00	G9916-4850	
Other			
Subtotal	$1,821.39 -		N/A
Contingency - 10% of subtotal or $200	$182.139 -		N/A
TOTAL	$2,003.53 -		

Request Approved By:

Department Head Signature

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: 2025 Morrisville Travel Requests (RES-2024-986 : Travel Request - Morrisville)

ENVIRONMENTAL TRAINING CENTER at SUNY MORRISVILLE

Activated Sludge Wastewater Treatment Process

[redacted]

Register

Registration open through 1/8/2025 11:59 PM Eastern Time (US & Canada)

Register Now

Details

$600.00 - This 24 hour course is required by the NYS Department of Environmental Conservation for persons pursuing an 'A' certification at any level. The textbook for this course is *Operation of Wastewater Treatment Plants, Volume I, 8th Edition*. You can order in advance by calling the campus store at 315-684-6073.

ETC students can now purchase their manuals on the Campus Store's website at https://bookstore.morrisville.edu/category/10004437. Shipping is $14 for the first manual, +$2 for each additional manual.

Prerequisites

Basic Operations

Price

Registration is $600.00

Location

Galbreath Hall 141

About Us

ENVIRONMENTAL TRAINING CENTER at SUNY MORRISVILLE

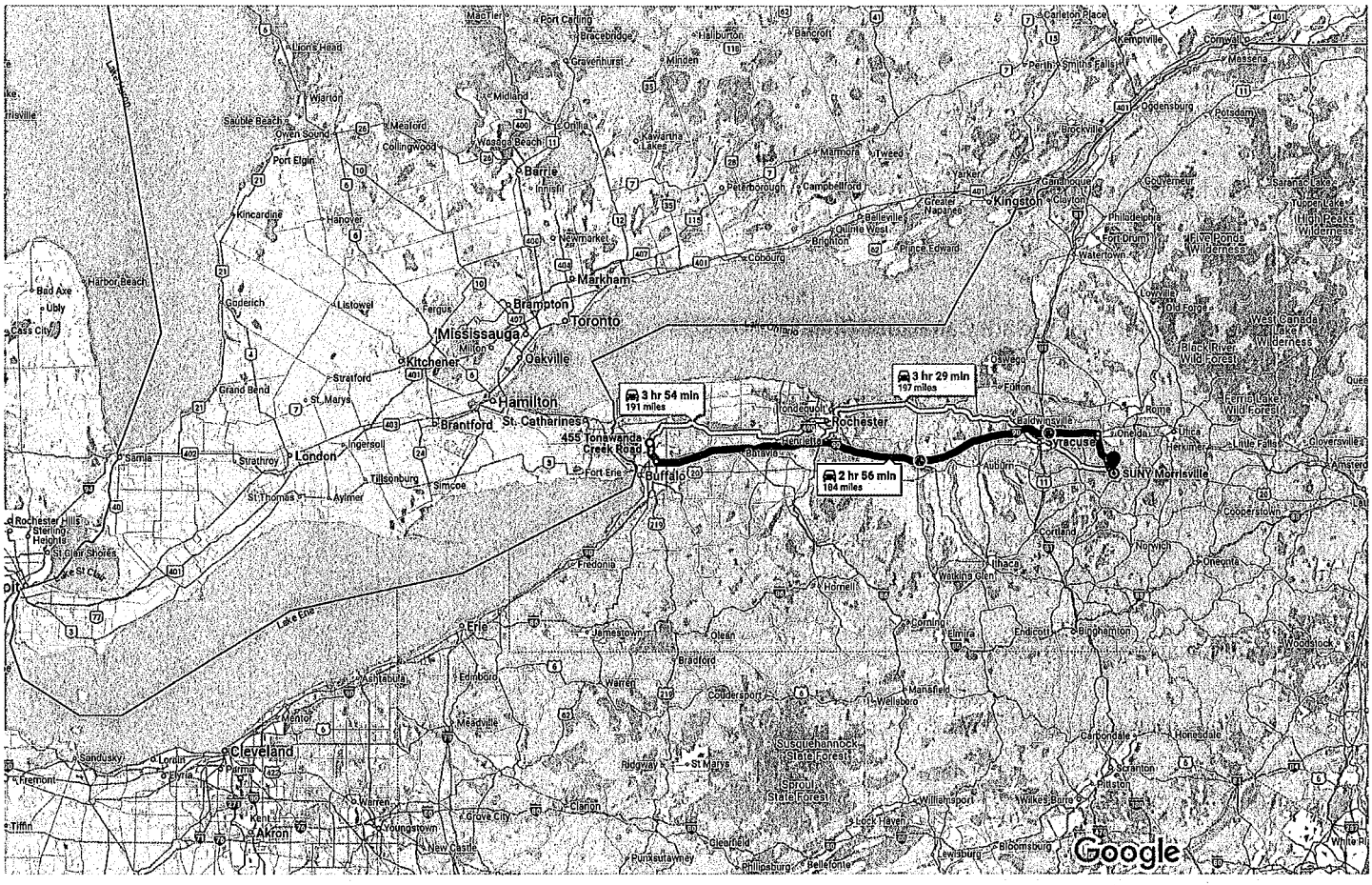
Attachment: 2025 Morrisville Travel Requests (RES-2024-986 : Travel Request - Morrisville)

13.S.5.a

Google Maps

455 Tonawanda Creek Rd, Buffalo, NY 14228 to SUNY Morrisville, 80 Eaton St, Morrisville, NY 13408

Drive 184 miles, 2 hr 56 min



Map data ©2024 Google 20 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 (3.9 mi)

1. Head south
   ⚠ Partial restricted usage road

446 ft

2. Turn right
   ⚠ Restricted usage road

0.2 mi

3. Turn right onto Tonawanda Creek Rd

0.6 mi

4. Turn right onto Sweet Home Rd

2.5 mi

5. Turn right to merge onto I-990 S

0.4 mi

Attachment: 2025 Morrisville Travel Requests (RES-2024-986 : Travel Request - Morrisville)

Follow I-90 E to NY-13 S/N Peterboro St in Canastota. Take exit 34 from I-90 E

2 hr 23 min (164 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

159 mi

9. Take exit 34 for NY-13 toward Canastota/Oneida

⚠ Toll road

0.5 mi

Take Oxbow Rd and Old County Rd to Chenango St/Suny School District in Morrisville

25 min (15.8 mi)

10. Turn left onto NY-13 S/N Peterboro St

1.3 mi

11. Continue straight onto Oxbow Rd

8.4 mi

12. Continue onto Pleasant Valley Rd

0.7 mi

13. Turn left onto Old County Rd

3.9 mi

14. Turn right onto Swamp Rd

0.3 mi

15. Continue onto Cedar St

0.5 mi

16. Turn left onto Main St

128 ft

17. Turn right onto Eaton St

0.5 mi

18. Turn left onto Madison Rd

0.2 mi

19. Continue onto Chenango St/Suny School District

ⓘ Destination will be on the right

443 ft

SUNY Morrisville

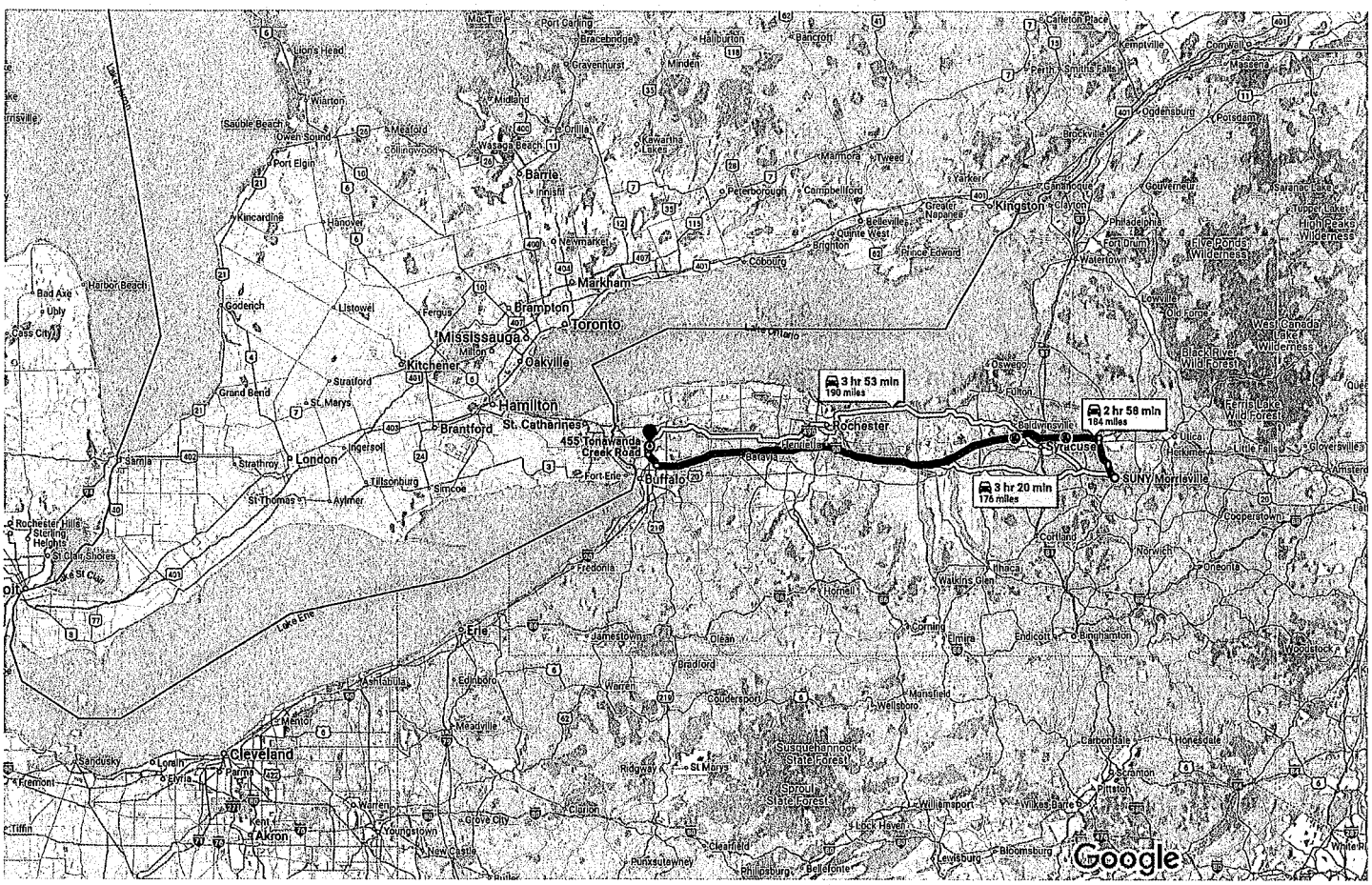
Attachment: 2025 Morrisville Travel Requests (RES-2024-986 : Travel Request - Morrisville)

13.S.5.a

Google Maps

SUNY Morrisville, 80 Eaton St, Morrisville, NY 13408 to 455 Tonawanda Creek Rd, Buffalo, NY 14228

Drive 184 miles, 2 hr 58 min



Map data ©2024 Google 20 mi

⚠ This route has tolls.

⚠ This route has restricted usage or private roads.

SUNY Morrisville

80 Eaton St, Morrisville, NY 13408

Get on I-90 W in Canastota from Old County Rd and Oxbow Rd

27 min (16.6 mi)

1. Head south on Chenango St/Suny School District toward Madison Rd

367 ft

2. Continue straight onto Madison Rd

0.2 mi

3. Turn right onto Eaton St

0.5 mi

4. Turn left onto Main St

128 ft

5. Turn right onto Cedar St

0.5 mi

6. Continue onto Swamp Rd

0.3 mi

Attachment: 2025 Morrisville Travel Requests (RES-2024-986 : Travel Request - Morrisville)

7. Turn left onto Old County Rd

3.9 mi

8. Turn right onto Pleasant Valley Rd

0.7 mi

9. Continue onto Oxbow Rd/Peterboro Rd
   Continue to follow Oxbow Rd

8.4 mi

10. Continue onto S Peterboro St

1.3 mi

11. Turn right to merge onto I-90 W
    Toll road

0.8 mi

Follow I-90 W to US-62 N/Niagara Fls Blvd in Amherst. Take exit 3 from I-290 W

2 hr 23 min (163 mi)

12. Merge onto I-90 W
    Toll road

158 mi

13. Use the right 2 lanes to take exit 50 toward I-290/Niagara Fls
    Toll road

0.4 mi

14. Continue onto I-290 W

4.6 mi

15. Use the right lane to take exit 3 for US-62/Niag Falls Blvd toward 3

0.3 mi

Continue on US-62 N/Niagara Fls Blvd to your destination

9 min (3.6 mi)

16. Use the right 2 lanes to turn right onto US-62 N/Niagara Fls Blvd

2.6 mi

17. Turn right onto Tonawanda Creek Rd

0.7 mi

18. Turn right
    Restricted usage road

0.2 mi

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    Partial restricted usage road

446 ft

455 Tonawanda Creek Rd
Buffalo, NY 14228

Attachment: 2025 Morrisville Travel Requests (RES-2024-986 : Travel Request - Morrisville)

13.S.5.a

TO

Thruway Authority

Toll and Distance Calculator

Tolls Rates Effective Jan. 1, 2024

Tolls from
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Approximate Distance: 155.8 miles

Calculate return tolls for Canastota - Oneida - Chittenango - NY Route 13 to Depew - Lockport - NY Route 78

ALONG YOUR TRIP, YOU WILL PASS THE FOLLOWING SERVICE AREAS

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Scottsville Service Area	Milepost 366
Clifton Springs Service Area	Milepost 337
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DeWitt Service Area	Milepost 280

Calculate Another Trip Back

Attachment: 2025 Morrisville Travel Requests (RES-2024-986 : Travel Request - Morrisville)

13.S.5.a

* FROM *

Thruway Authority

Toll and Distance Calculator

Tolls Rates Effective Jan. 1, 2024

Tolls from
Exit 34 - (I-90 - NYS Thruway) - Canastota - Oneida - Chittenango - NY Route 13
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 *
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Exit 34A (I-90 - NYS Thruway) --> Exit 35 (I-90 - NYS Thruway)	$0.11	$0.19
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Total	**$7.46**	**$13.04**
NY E-ZPASS CUSTOMERS WILL SAVE $5.58. 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: 158.8 miles

Calculate return tolls for Niagara Falls - I-290 to Canastota - Oneida - Chittenango - NY Route 13

ALONG YOUR TRIP, YOU WILL PASS THE FOLLOWING SERVICE AREAS

SERVICE AREA	MILEPOST
Chittenango Service Area	Milepost 266
Warners Service Area	Milepost 292
Junius Ponds Service Area	Milepost 324
Seneca Service Area	Milepost 350
Ontario Service Area	Milepost 376
Clarence Service Area	Milepost 412

Calculate Another Trip Back

Attachment: 2025 Morrisville Travel Requests (RES-2024-986 : Travel Request - Morrisville)

13.S.5.a

Hilton FOR THE STAY

Language English | Find Stay | Join | Sign In

Your Stay Edit Stay

Hampton Inn & Suites Cazenovia

[redacted]

1 room for 1 adult

Edit Stay

[redacted] | 1 Room, 1 Guest | Special Rates | Update | Hotels Nearby

Hampton Inn & Suites Cazenovia
25 Lakers Ln
Cazenovia, New York 13035 USA
Hotel details >

Select a Room Step 1 of 3

Sorry, we don't have any rooms available for those dates.

Check Nearby Hotels

Search with Flexible Dates

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Check-in [redacted]

Check-out [redacted]

Availability

SEARCH

Junior Suite

Maximum Occupancy
4

Minimum Stay
1 Night(s)

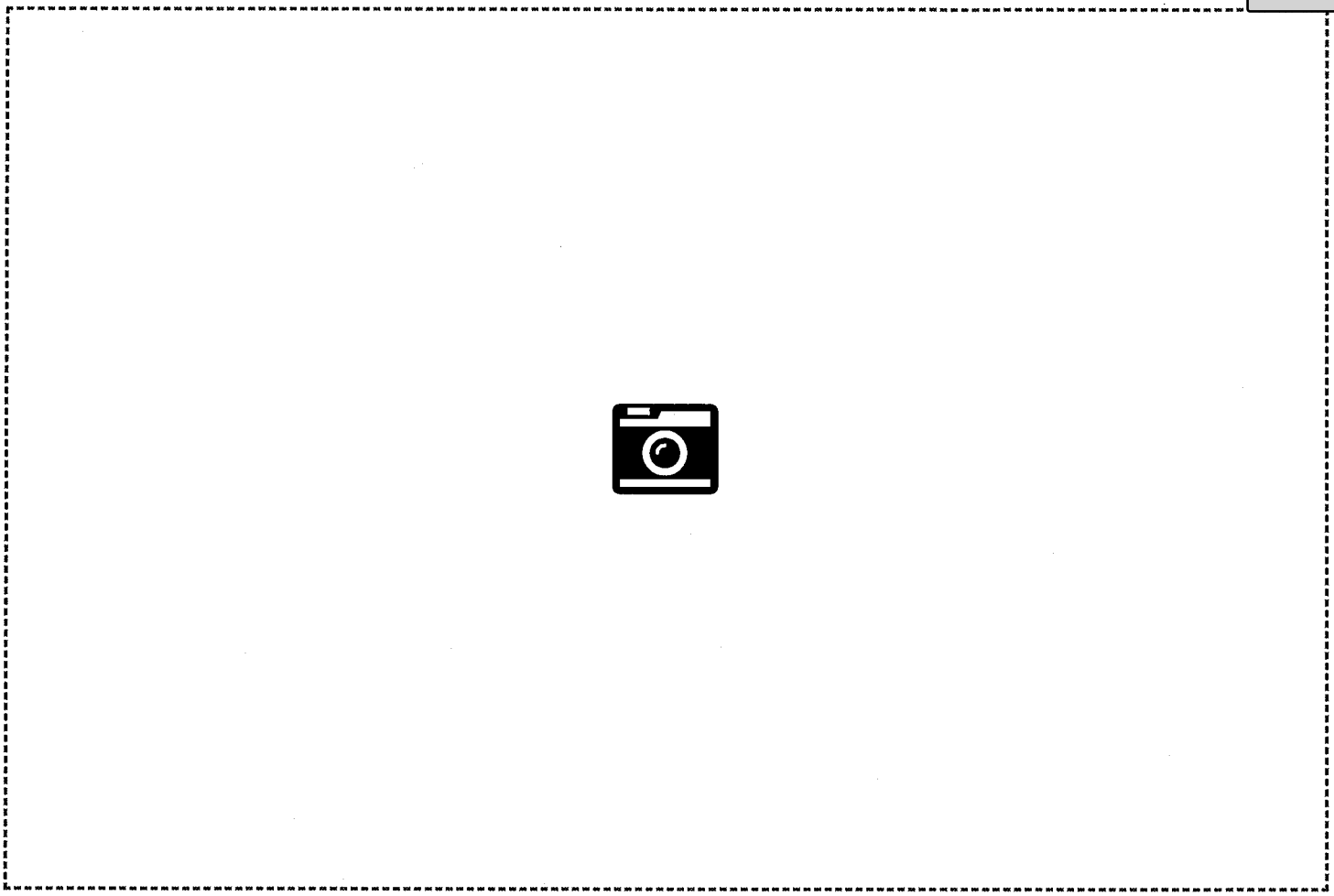
Standard Rate

Price From
$175.00

See Details

Adults 1 Children 0 Rooms 0

Attachment: 2025 Morrisville Travel Requests (RES-2024-986 : Travel Request - Morrisville)



Standard Queen

Maximum Occupancy
2

Minimum Stay
1 Night(s)

Standard Rate

Price From
$115.00

See Details

Adults 1 Children 0 Rooms 0

Attachment: 2025 Morrisville Travel Requests (RES-2024-986 : Travel Request - Morrisville)

Standard King

only 3 left

Maximum Occupancy
3

Minimum Stay
1 Night(s)

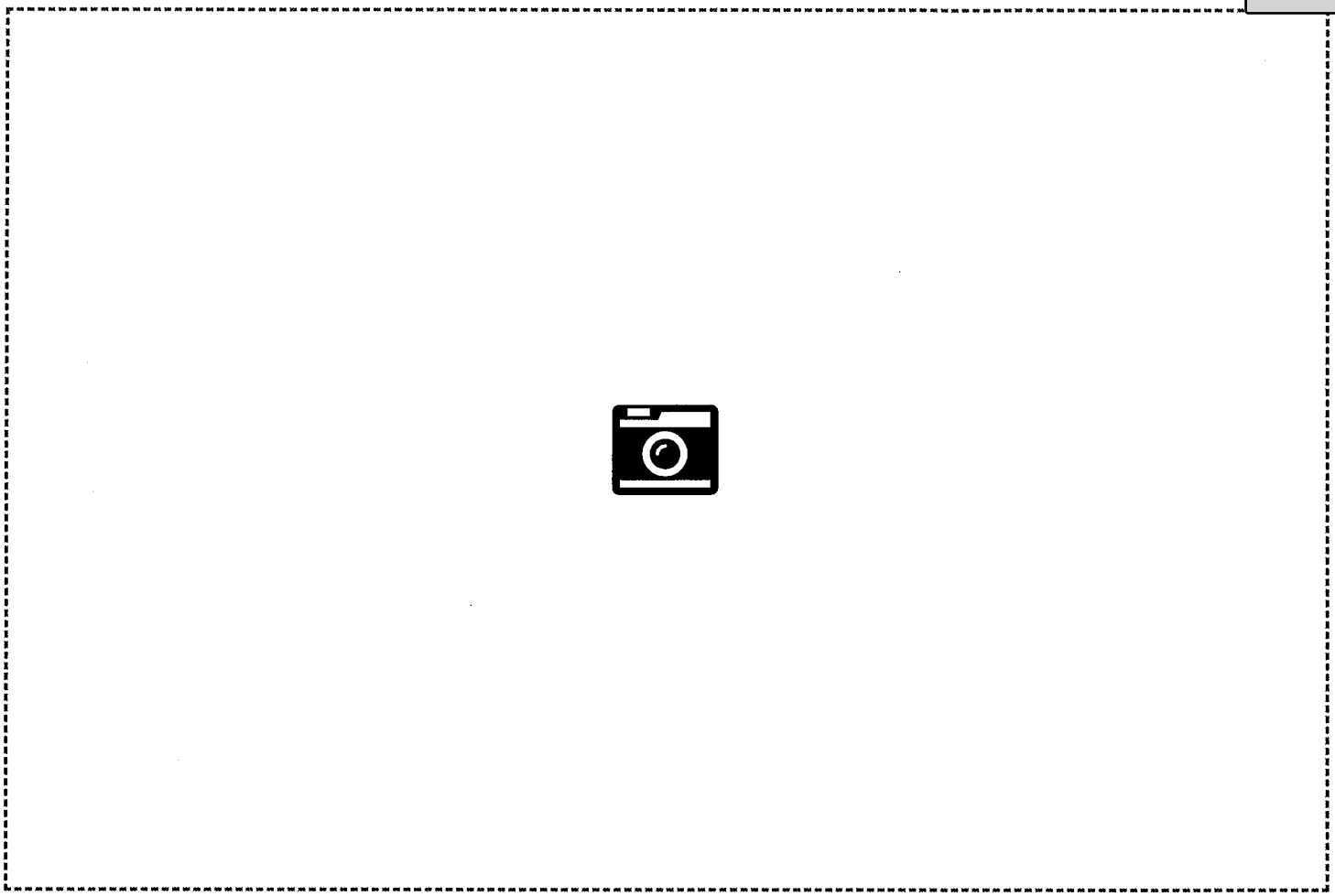
Standard Rate

Price From
$160.00

See Details

Adults 1 | Children 0 | Rooms 0

Attachment: 2025 Morrisville Travel Requests (RES-2024-986 : Travel Request - Morrisville)



Two Double Beds

only 4 left

Maximum Occupancy
4

Minimum Stay
1 Night(s)

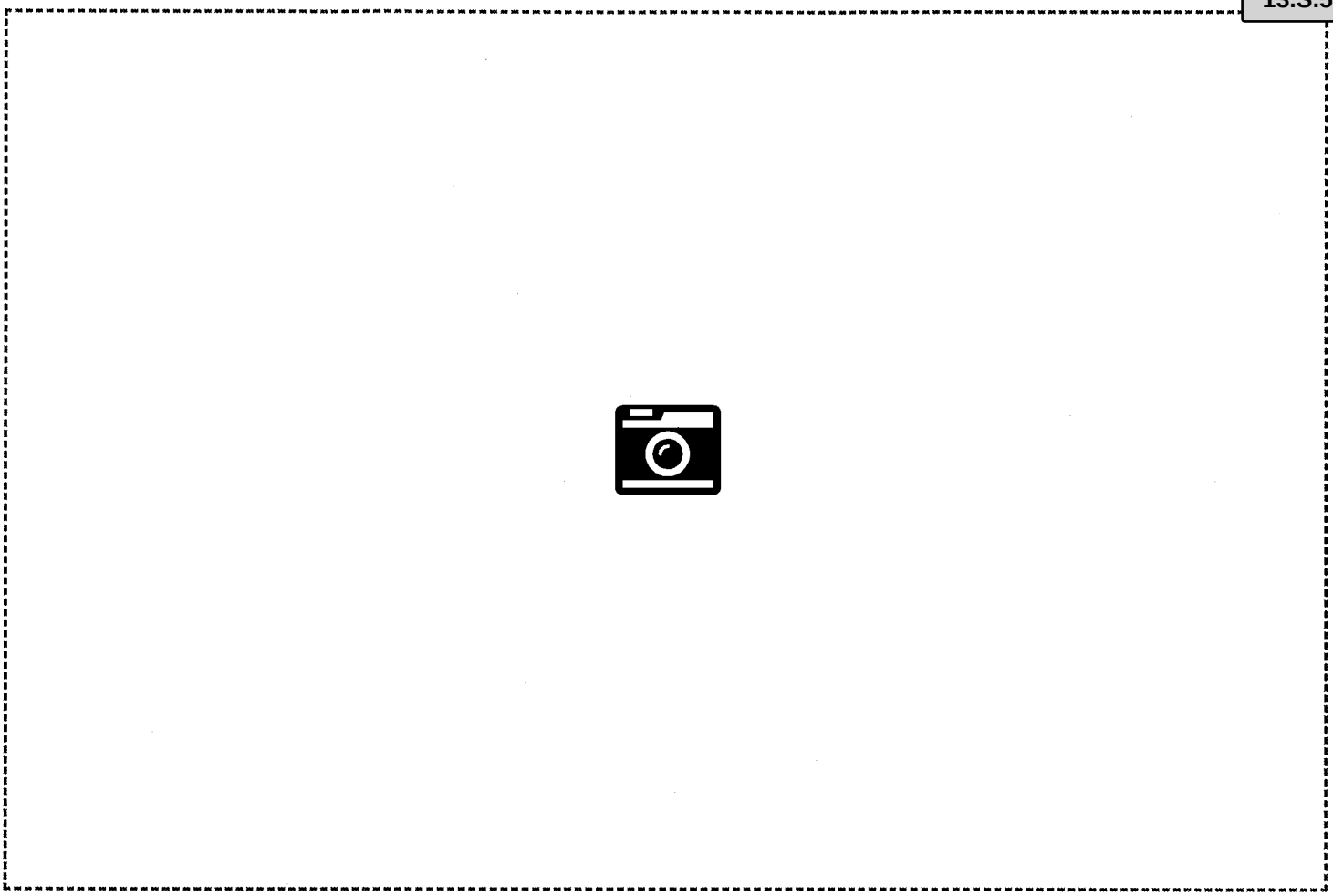
Standard Rate

Price From
$115.00

See Details

Adults 1 | Children 0 | Rooms 0

Attachment: 2025 Morrisville Travel Requests (RES-2024-986 : Travel Request - Morrisville)



King Suite

only 1 left

Maximum Occupancy
4

Minimum Stay
1 Night(s)

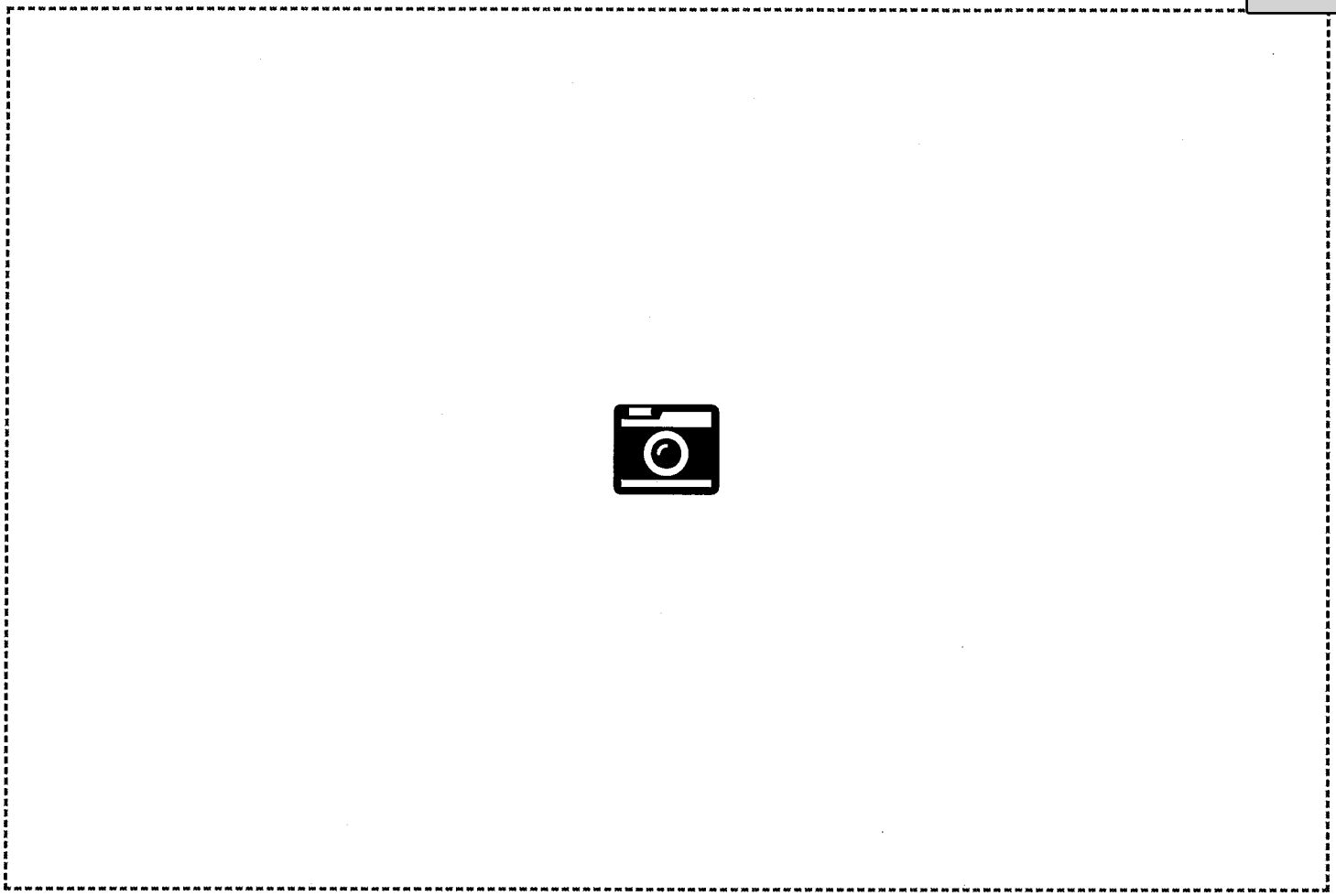
Standard Rate

Price From
$205.00

See Details

Adults 1 | Children 0 | Rooms 0

Attachment: 2025 Morrisville Travel Requests (RES-2024-986 : Travel Request - Morrisville)



Queen Suite

only 1 left

Maximum Occupancy
4

Minimum Stay
1 Night(s)

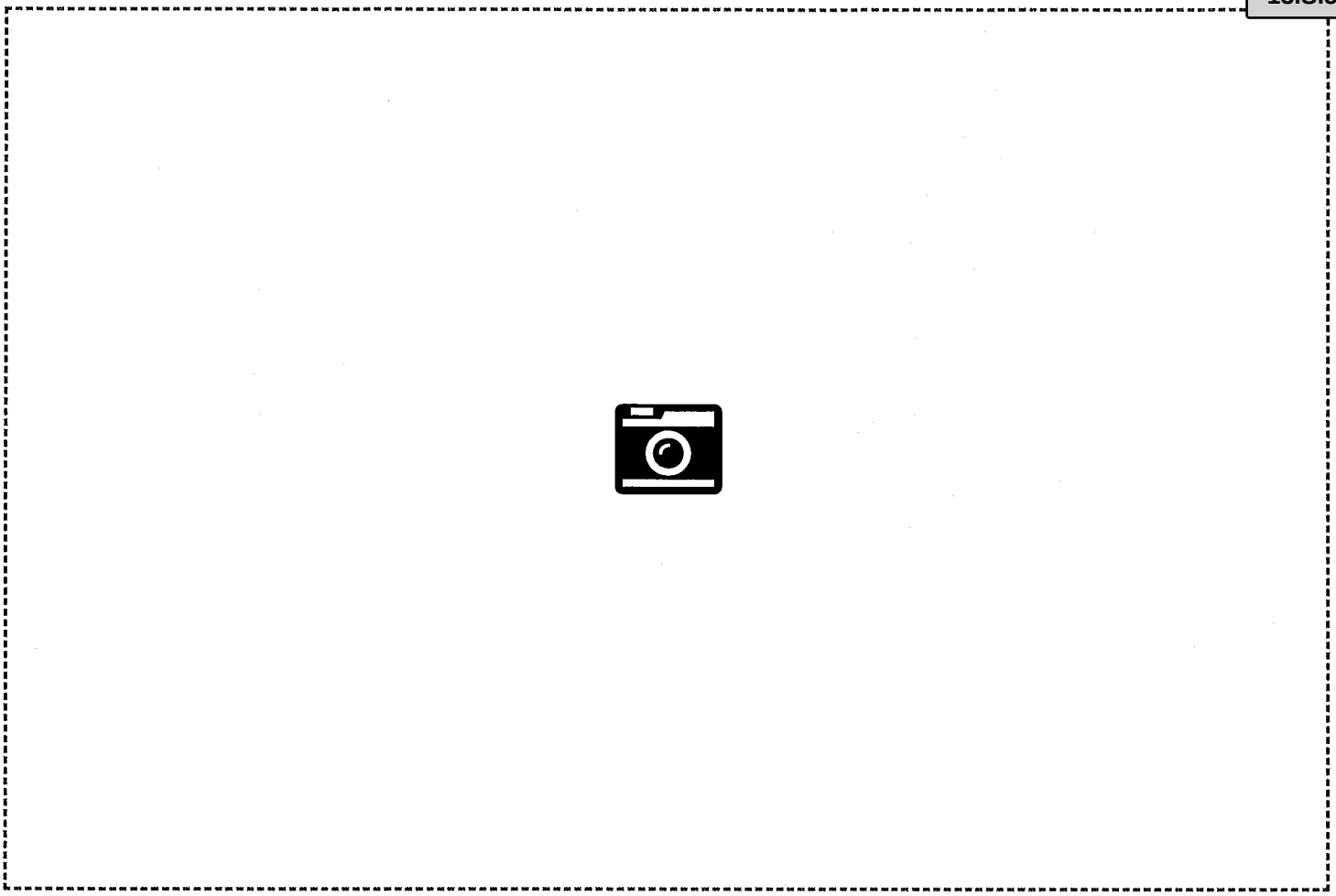
Standard Rate

Price From
$205.00

See Details

Adults 1 | Children 0 | Rooms 0

Attachment: 2025 Morrisville Travel Requests (RES-2024-986 : Travel Request - Morrisville)



Queen Junior Suite

only 1 left

Maximum Occupancy
3

Minimum Stay
1 Night(s)

Price From
$175.00

Standard Rate

See Details

Adults 1 | Children 0 | Rooms 0

BOOK NOW

Have a promo code?

Secure Online Payment Learn More

Attachment: 2025 Morrisville Travel Requests (RES-2024-986 : Travel Request - Morrisville)

U.S. General Services Administration

FY 2025 per diem rates for ZIP Code 13408

Meals and incidental expenses (M&IE) rates and breakdown

Primary destination	County	M&IE total	Breakfast	Lunch	Dinner	Incidental expenses	First and lastday of travel
Standard Rate	Applies for all locations without specified rates	$68	$16	$19	$28	$5	$51.00

Attachment: 2025 Morrisville Travel Requests (RES-2024-986 : Travel Request - Morrisville)

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

Francina J. Spoth
Town Clerk

Meeting: 12/02/24 07:00 PM
Department: Sewer/Plant 16
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 29716 **RESOLUTION 2024-987** **ADOPTED**

Flow Metering Contract Extension TecSmith, Inc. CRS No. 5183

The Engineering Department is requesting the Town Board authorize the attached contract extension with TecSmith, Inc. for flow meter monitoring, reporting, installs, rentals, and repairs. This contract shall be valid from February 1, 2025, through January 31, 2027.

Funding is available within the Engineering Department - Sewer Maintenance operating budget G9000-4090.

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

Thank you for considering this request.

12/2/2024
Consent

FINANCIAL IMPACT:

G9000-4090

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

CONTRACT EXTENSION

TecSmith, Inc. agrees to hold prices and extend the current contract with the Town of Amherst for Flow Metering (Bid #2020036; CRS No. 2365)

This contract, which expires on 1/31/2025, is hereby being extended for a term of Two years from February 1, 2025, to January 31, 2027, following the same terms and conditions as the original contract.

Agreed and accepted by:

TecSmith, Inc.

By: _____

ETHAN SMITH

Printed Name

Date: 11/18/2024

Agreed and accepted by:

Town of Amherst

By: _____

Brian J. Kulpa, Supervisor

Date: _____

Attachment: TecSmith Contract Extension all (RES-2024-987 : Flow Metering Contract Extension CRS No. 5183)

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. A failure by Contractor to assure that any policy procured by any subcontractor or sub-subcontractor name the Town as an additional insured on a primary and non-contributory basis, shall be considered a material breach of the underlying contact and subject the Contactor to forfeiture of its performance bond, if any, and 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 regardless of whether the Town is successful in said suit.

(e) A failure by Contractor to procure the General Liability, Professional 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 contact and subject the Contactor to forfeiture of its performance bond, if any, and 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: TecSmith Contract Extension all (RES-2024-987 : Flow Metering Contract Extension CRS No. 5183)

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.

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.

Attachment: TecSmith Contract Extension all (RES-2024-987 : Flow Metering Contract Extension CRS No. 5183)

Agreed to and accepted by:

TECSMITH INC
Print Name of Company

By: _____
Signature

ETHAN SMITH
Printed name

Date: 11/18/2024

Agreed to and accepted by:

Town of Amherst

By: _____
Brian J. Kulpa, Supervisor

Date: _____

Attachment: TecSmith Contract Extension all (RES-2024-987 : Flow Metering Contract Extension CRS No. 5183)

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: TECSMITH INC

Signature: [signature]

Print Name: ETHAN SMITH

Title: PRESIDENT

Date: 11/18/2024

Sworn To Before Me This

18th Day of November 2024

[signature]

Notary Public

JUDITH A MANSPEAKER
NOTARY PUBLIC STATE OF NEW YORK
GENESEE COUNTY
LIC. #01MA6242567
COMM. EXP. 06/06/2027

Revised 4.2017

Attachment: TecSmith Contract Extension all (RES-2024-987 : Flow Metering Contract Extension CRS No. 5183)

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

Francina J. Spoth
Town Clerk

Meeting: 12/02/24 07:00 PM
Department: Sewer/Plant 16
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 29717 **RESOLUTION 2024-988** **ADOPTED**

Payment Authorization Regional Truck & Trailer

The Engineering Department - Sewer Maintenance Division is requesting the Town Board authorize payment to Regional Truck & Trailer in the amount of $3788.34, using account G9000-2600 which requires Town Board approval.

Thank you for considering this request.

12/2/2024
Consent

FINANCIAL IMPACT:

G9000-2600

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

Regional International Corp.
1007 Lehigh Station Rd.
Henrietta, NY 14467
Phone (585) 359-2011
Fax (585) 359-2418
NYS Reg. Facility & Dismantler No. 7049760

Regional International of WNY, INC.
2425 Walden Ave PO Box 247
Buffalo, NY 14225
Phone (716) 681-9500
Fax (716) 681-3138
NYS Reg. Facility No. 7007440

Regional International Corp.
3515 Gates Rd and Routes 5 & 20
Geneva, NY 14456
Phone (315) 789-8543
Fax (315) 781-1840
NYS Reg. Facility No. 7049759

Invoice: **03377162**
Date / Hour: 11/19/2024 8:59:26AM
Repair Order: 377162
Customer: 03006
Branch: 3
Total Invoice: 3,788.34
Charge to Open Account

Bill To: TOWN OF AMHERST ENGINEERING DEPT.
ENGINEERING DEPT.
455 TONAWANDA CREEK ROAD
AMHERST, NY 14228

Ship To: TOWN OF AMHERST
ENGINEERING DEPT.
ENGINEERING DEPT.
455 TONAWANDA CREEK ROAD
AMHERST, NY 14228
Email: tdean@amherst.ny.us

Customer P/O: 2412954
Add User: tsauca1
Open Date: 11/06/2024
Salesperson: House
Completion Date: 11/14/2024

Unit Number: E63 **Model Year: 2015** **Make/Model: International 7400**
Type: Straight Truck **VIN: 1HTWCSTR9GH260953** **Meter: 16592 Miles**
ECM Reading: 2575

Task: 1 9910033 NEW YORK STATE INSPECTION (HEAVY) Department: Service
Complaint:

PLATE # AY4471

INSPECTION # 0112700210

INSPECTOR'S # V V 99

DATE : 11-11-2024
Correction: PERFORM STATE INSPECTION , PASSES WITH REPAIRS

Supp.	Part	Description / Ref Number	U/M	Quantity	Price	Extended Price
Tech:	208					
Labor Quote:	20.00					

Task 1 Subtotals	Parts:	$0.00
	Labor:	$20.00
	Task 1 Subtotals	$20.00

Task: 2 9012010 INSPECT ENGINE FOR LOW POWER/MISS/SURGE/ROUGH RUNN Department: Service
Complaint: CUSTOMER STATES WHEN TRUCK STARTS IN THE MORNING IT RUNS ROUGH, SOUNDS LIKE ITS STARVING FOR FUEL.

Attachment: Regional Invoice (RES-2024-988 : Payment Authorization)

** See Last Page for Invoice Total

Regional International Corp.
1007 Lehigh Station Rd.
Henrietta, NY 14467
Phone (585) 359-2011
Fax (585) 359-2418
NYS Reg. Facility & Dismantler No. 7049760

Regional International of WNY, INC.
2425 Walden Ave PO Box 247
Buffalo, NY 14225
Phone (716) 681-9500
Fax (716) 681-3138
NYS Reg. Facility No. 7007440

Regional International Corp.
3515 Gates Rd and Routes 5 & 20
Geneva, NY 14456
Phone (315) 789-8543
Fax (315) 781-1840
NYS Reg. Facility No. 7049759

Invoice: **03377162**
Date / Hour: 11/19/2024 8:59:26AM
Repair Order: 377162
Customer: 03006
Branch: 3
Total Invoice: $ 3,788.34
Charge to Open Account

Bill To: TOWN OF AMHERST ENGINEERING DEPT.
ENGINEERING DEPT.
455 TONAWANDA CREEK ROAD
AMHERST, NY 14228

Ship To: TOWN OF AMHERST ENGINEERING DEPT.
ENGINEERING DEPT.
455 TONAWANDA CREEK ROAD
AMHERST, NY 14228
Email: tdean@amherst.ny.us

Customer P/O: 2412954 Open Date: 11/06/2024 Completion Date: 11/14/2024
Add User: tsauca1 Salesperson: House

Correction: Customer complaint. Vehicle states when truck startes in morning it runs rough. Started vehicle, confirmed customer complaint, vehicle started and ran rough. Connected to computer and opened NEDS, vheicle has code for battery voltage at ACM too low. Opened FCAP for code, says to perform calibration update first. Opened NavKal, vehicle had an update availible. Update failed, NavKal says to attempt recovery, attempted 2 times, both times failed in the same way. Removed fuses for all modules in vehicle to isolate ECM and blank flash. Blank flash was successful. No codes showing now but still hard starting. Opened NEDS back up and watched live data for ICP desired and actual ICP. ICP desired is over 800, actual ICP is only around 350. Suspect vehicle has a high pressure oil issue not allowing injectors to fire correctly, Want to begin by disconnecting IPR and jumping.

Got permission to continue with diagnosis. Removed seerall connectors to try and access IPR valve connector. Got IPR valve disconnected. Inspected plug, terminals look good. Installed jumper to full field IPR valve. Desired originally was over 800 but only built to about 300-350. After full fielding, IPR built to 800+. Confidant vehicle needs an IPR valve. Creating P&A

Pulled off IPR valve. Screen is no longer there, vehicle will also need a high pressure fuel pump

Removed fuel filter assembly for access to remove hpop, disconnected fuel lines, removed an air line for access. Removed and replaced HPOP and IPR valve with new gasket and filter magnet. Torqued mounting bolts to spec. reinstalled high pressure oil line, reinstalled fuel filter assembly with new seal. Reinstalled all fuel and air lines. keyed on vehicle and bled fuel system. Started vehicle, vehicle running rough while air in system, needs to settle. Pulled outside to high idle and then be test driven.

engine smoothed out after high idling for about a half hour, test drove vehicle, no issues

Fired up engine to see how it ran after a cold soak. Engine fired right up, no issues

Customer complaint, oil leak. Pulled vehicle into shop, brake cleaned underside of engine and area surrounding HPOP that was replaced. Ran vehicle for 10 mintues at high idle and then let sit for another 10. No oil leak found, any oil was residual from HPOP replacement

Supp.	Part	Description / Ref Number	U/M	Quantity	Price	Extended Price
001	5010755R94-C	KIT, REMAN HIGH	each	-1.0	$565.31	$(565.31)
001	1873906C1	GASKET IRREGULAR MOLDED	each	1.0	$16.59	$16.59
	LIST PRICE IS $22.12					
001	5010755R94	PUMP,KIT, REMAN HIGH PRESSURE	each	1.0	$2,462.20	$2,462.20
	LIST PRICE IS $3,282.93					
001	5010755R94-C	KIT, REMAN HIGH	each	1.0	$565.31	$565.31
	LIST PRICE IS $3,282.93					
727	BDTC24704	CABLE TI	each	5.0	$0.11	$0.55
	LIST PRICE IS $0.14					
FCC	OILL90902-BOX	ABSORBENT PAD	box	10.0	$3.30	$33.00
	LIST PRICE IS $4.40					
	Computer	COMPUTER CHARGE		1.0	$125.00	$125.00
	Tech: 98246					

Task 2 Subtotals

Parts:	$2,512.34
Core Chg:	$565.31
Core Ret:	($565.31)

** See Last Page for Invoice Total

Attachment: Regional Invoice (RES-2024-988 : Payment Authorization)

Regional International Corp.
1007 Lehigh Station Rd.
Henrietta, NY 14467
Phone (585) 359-2011
Fax (585) 359-2418
NYS Reg. Facility & Dismantler No. 7049760

Regional International of WNY, INC.
2425 Walden Ave PO Box 247
Buffalo, NY 14225
Phone (716) 681-9500
Fax (716) 681-3138
NYS Reg. Facility No. 7007440

Regional International Corp.
3515 Gates Rd and Routes 5 & 20
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Phone (315) 789-8543
Fax (315) 781-1840
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Bill To: TOWN OF AMHERST ENGINEERING DEPT.
ENGINEERING DEPT.
455 TONAWANDA CREEK ROAD
AMHERST, NY 14228

Ship To: TOWN OF AMHERST ENGINEERING DEPT.
ENGINEERING DEPT.
455 TONAWANDA CREEK ROAD
AMHERST, NY 14228
Email: tdean@amherst.ny.us

Customer P/O: 2412954
Open Date: 11/06/2024
Completion Date: 11/14/2024
Add User: tsauca1
Salesperson: House

7.80	Labor:	$1,131.00
	Miscellaneous:	$125.00
	Task 2 Subtotals	$3,768.34

Detail Tax Info:

Erie Co Exempt	$0.00
NYS Exempt	$0.00
	$0.00

	Total Parts:	**$2,512.34**
	Total Core Charge:	**$565.31**
	Total Core Ret:	**$(565.31)**
7.80	**Total Labor:**	**$1,151.00**
	Total Miscellaneous:	**$125.00**
	Invoice Subtotal:	**$3,788.34**
	Total Tax:	**$0.00**
	Total Invoice:	**$3,788.34**

Payment Method	Terms	Due Date
Charge to Open Account	Net 30 Days	12/19/2024

Attachment: Regional Invoice (RES-2024-988 : Payment Authorization)

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

Francina J. Spoth
Town Clerk

Meeting: 12/02/24 07:00 PM
Department: Youth & Recreation
Initiated by: **Mary Diana Pouli**
Co-Sponsored by:

DOC ID: 29656 **RESOLUTION 2024-989** **ADOPTED**

Travel Authorization

Authorize Eric Guzdek to travel to the US Ice Rinks Board of Directors meeting in Chicago, IL from December 9-11, 2024 at no additional cost to the Town of Amherst.

12/2/2024
Consent

FINANCIAL IMPACT:

None

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

TRAVEL EXPENSE APPROVAL/REIMBURSEMENT FORM

☐ $250 or LESS and under 75 miles — Department Head Approval ONLY Required — *REVISED 12/22/2021*

☒ $250 + or greater than 75 miles — Department Head AND Town Board Approval Required

NAME	Employee #	Department	Phone Number
Eric W. Guzdek	**4327**	**Youth & Rec**	**(716) 631-7132**

Destination and Purpose of Trip

Date of Departure	Date of Return	Destination	Purpose/Justification
12/9/2024	**12/11/2024**	**Chicago, IL**	**U.S. Ice Rinks Board of Directors Meeting**

Expenses	Estimated	Budget A/C #	Actual
Transportation:			
Mileage @ $0.585			
Tolls			
Parking			
Local Transportation (bus/taxi)			
Plane/Rail/Bus			
Lodging:			
0 # nights @ **$0.00**	**$0.00**		
Meals:			
IRS Per Diem Per Day **$0.00**			
1st & Last Day of Travel @75%			
0 # Breakfasts @ **$0.00**	**$0.00**		
0 # Lunches @ **$0.00**	**$0.00**		
0 # Dinners @ **$0.00**	**$0.00**		
0 # Incidentals @ **$0.00**	**$0.00**		
Registration/Conference Fee			
Other			
Subtotal	**$0.00**		N/A
Contingency - 10% of subtotal or $200	**$0.00**		N/A
TOTAL	**$0.00**		

Request Approved By:

Mary Diana Rule

Department Head Signature

November 6, 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 :

Date of Town Board Approval

Complete Shaded Area
For Expense Reimbursement

Attachment: US Ice Rinks Travel Request (RES-2024-989 : Travel Authorization)

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

Francina J. Spoth
Town Clerk

Meeting: 12/02/24 07:00 PM
Department: Youth & Recreation
Initiated by: **Mary Diana Pouli**
Co-Sponsored by:

DOC ID: 29666 **RESOLUTION 2024-990** **ADOPTED**

Rink Refrigeration Updates - CRS #5164

Authorize the Supervisor to sign a grant contract between the Town of Amherst and the New York State DEC for rink refrigeration updates at the Northtown Center at Amherst.

12/2/2024
Consent

FINANCIAL IMPACT:

KP2316.03089; -$2,000,000.00 (revenue)

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

STATE OF NEW YORK CONTRACT FOR GRANTS FACE PAGE

STATE AGENCY (Name & Address): Department of Environmental Conservation 625 Broadway Albany, NY 12233-0001	BUSINESS UNIT/DEPT ID: DEC01 3350000 CONTRACT NUMBER: DEC01-C01805GG-3350000 CONTRACT TYPE (select one): ☐ Multi-Year Agreement ☐ Simplified Renewal Agreement ☑ Fixed Term Agreement
CONTRACTOR NAME: AMHERST TOWN OF	TRANSACTION TYPE: ☑ New ☐ Renewal (list periods) : ☐ Amendment (list periods) :
CONTRACTOR IDENTIFICATION NUMBERS: NYS Vendor ID Number: 1000003949 Federal Tax ID Number: 166002157	PROJECT NAME: Rink Refrigeration Upgrades ASSISTANCE LISTINGS (formerly CFDA) NUMBER (ALN) (Federally Funded Grants Only):
CONTRACTOR PRIMARY MAILING ADDRESS: 5789 Widewaters Parkway Dewitt, NY 13214 CONTRACTOR PAYMENT ADDRESS: 5583 MAIN ST WILLIAMSVILLE, NY 14221 ☐ Check if same as primary mailing address CONTRACTOR MAILING ADDRESS: 5583 MAIN ST WILLIAMSVILLE, NY 14221 ☐ Check if same as primary mailing address CONTRACTOR PRIMARY E-MAIL ADDRESS: pdevillier@amherst.ny.us	CONTRACTOR STATUS: ☐ For Profit ☑ Municipality ☐ Tribal Nation ☐ Individual ☐ Not-For- Profit Charities Registration Number: Exemption Status/Code: N/A ☐ Sectarian Entity
CURRENT CONTRACT TERM: From: 03/15/2023 To: 03/14/2028 AMENDED TERM: From: To:	CONTRACT FUNDING AMOUNT (*Fixed Term* – enter current period amount*;* *Simplified Renewal* – enter cumulative amount to date; *Multi-year* – enter total projected amount of the contract): CURRENT: $2,000,000.00 AMENDED: $0.00 FUNDING SOURCE(S) ☑ State ☐ Federal ☐ Other

Attachment: AGREEMENT_00000000000000000000136612 (RES-2024-990 : Rink Refrigeration Updates - CRS #5164)

STATE OF NEW YORK CONTRACT FOR GRANTS FACE PAGE

ATTACHMENTS INCLUDED AS PART OF THIS AGREEMENT (select all that apply):

☑ Appendix A

☑ Attachment A:
- ☑ A-1 Agency Specific Terms and Conditions
- ☑ A-2 Program Specific Terms and Conditions
- ☐ A-3 Federally Funded Grants and Requirements Mandated by Federal Laws

☑ Attachment B:
- ☑ B-1 Expenditure Based Budget
- ☐ B-2 Performance Based Budget
- ☐ B-3 Capital Budget
- ☐ B-4 Net Deficit Budget
- ☐ B-1(A) Expenditure Based Budget (Amendment)
- ☐ B-2(A) Performance Based Budget (Amendment)
- ☐ B-3(A) Capital Budget (Amendment)
- ☐ B-4(A) Net Deficit Budget (Amendment)

☑ Attachment C: Work Plan

☑ Attachment D: Payment and Reporting

☐ Other:

Attachment: AGREEMENT_00000000000000000000136612 (RES-2024-990 : Rink Refrigeration Updates - CRS #5164)

STATE OF NEW YORK CONTRACT FOR GRANTS SIGNATURE PAGE

IN WITNESS THEREOF, the parties hereto have electronically signed and agreed to this Contract, or approved this Contract on the dates below their signatures.

In addition, I, acting in the capacity as Contractor, certify that I am the signing authority, or have been delegated or designated formally as the signing authority by the appropriate authority or official, and as such I do agree, and I have the authority to agree, to all of the terms and conditions set forth in the Contract, including all appendices and attachments. I understand that (i) payment of a claim on this Contract is conditioned upon the Contractor's compliance with all applicable conditions of participation in this program and if applicable, the accuracy and completeness of information submitted to the State of New York through the New York State prequalification process and (ii) by electronically indicating my acceptance of the terms and conditions of the Contract, I certify that (a) to the extent that the Contractor is required to register and/or file reports with the Office of the Attorney General's Charities Bureau ("Charities Bureau"), the Contractor's registration is current, all applicable reports have been filed, and the Contractor has no outstanding requests from the Charities Bureau relating to its filings and (b) all data and response in the application submitted by the Contractor are true, complete and accurate. I also understand that use of my assigned User ID and Password on the State's contract management system is equivalent to having placed my signature on the Contract and that I am responsible for any activity attributable to the user of my User ID and Password. Additionally, any information entered will be considered to have been entered and provided at my direction. I further certify and agree that the Contractor agrees to waive any claim that this electronic record or signature is inadmissible in court, notwithstanding the choice of law provisions.

CONTRACTOR: AMHERST TOWN OF

_____

By: _____

Printed Name

Title: _____

Date: _____

In addition, the party below certifies that it has verified the electronic signature of the Contractor to this Contract.

STATE AGENCY:

_____

_____

By: _____

Printed Name

Title: _____

Date: _____

ATTORNEY GENERAL'S SIGNATURE
APPROVED AS TO FORM

By: _____

Printed Name

Title: _____

Date: _____

STATE COMPTROLLER'S SIGNATURE

By: _____

Printed Name

Title: _____

Date: _____

Attachment: AGREEMENT_000000000000000000000136612 (RES-2024-990 : Rink Refrigeration Updates - CRS #5164)

STATE OF NEW YORK
CONTRACT FOR GRANTS

This State of New York Contract for Grants, including all attachments and appendices (hereinafter referred to as 'Contract' or 'Agreement'), is hereby made by and between the State of New York acting by and through the applicable State Agency (State or Agency) and the public or private entity (Contractor) identified on the face page hereof (Face Page).

WITNESSETH:

WHEREAS, the State has the authority to regulate and provide funding for the operation of a program or performance of a service; and desires to contract with a responsive and responsible Contractor possessing the necessary resources to provide such services or work; and

WHEREAS, the Contractor is ready, willing, and able to provide such services or work and possesses or can make available all necessary qualified personnel, licenses, facilities and expertise to perform or have performed the services or work, as applicable, required pursuant to and in compliance with the terms of the Contract, specifications outlined in the grant solicitation, resulting award, and other associated documents comprising the Agreement.

NOW THEREFORE, in consideration of the promises, responsibilities, and covenants herein, the State and the Contractor agree to as follows:

STANDARD TERMS AND CONDITIONS

I. GENERAL PROVISIONS

A. Order of Precedence: In the event of a conflict among (i) the terms of the Contract or (ii) between the terms of the Contract and the original request for proposal, solicitation document, the program application or other documentation that was completed and executed by the Contractor in connection with the grant award, the order of precedence is as follows:

1. Appendix A -- Standard Clauses for New York State Contracts
2. Contract for Grants Standard Terms and Conditions
3. Modifications to the Face Page
4. Modifications to Attachment A-2: Program Specific Terms and Conditions; Attachment A-3: Federally Funded Grants and Requirements Mandated by Federal Laws (modifications not required by the Federal government)[1], Attachment B: Budget, Attachment C: Work Plan, and Attachment D: Payment and Reporting
5. The Face Page
6. Attachment A-2: Program Specific Terms and Conditions, Attachment A-3: Federally Funded Grants and Requirements Mandated by Federal Laws, Attachment B: Budget, Attachment C: Work Plan; and Attachment D: Payment and Reporting
7. Modifications to Attachment A-1: Agency Specific Terms and Conditions
8. Attachment A-1: Agency Specific Terms and Conditions
9. Other attachments, including, but not limited to, the request for proposal or program application, if incorporated by reference on the Face Page

[1] For modifications required by the Federal government see Section I(M)

Attachment: AGREEMENT_00000000000000000000136612 (RES-2024-990 : Rink Refrigeration Updates - CRS #5164)

The documents above, collectively, comprise the entire Agreement and govern the program for the entirety of the term of the Contract and any resulting renewals.

B. Funding: Funding for the term of the Contract shall not exceed the amount specified as "Contract Funding Amount" on the Face Page or as subsequently revised to reflect an approved renewal or cost amendment. Funding for the initial and subsequent periods of the Contract shall not exceed the applicable amounts specified in the applicable Attachment B form (Budget).

C. Contract Performance: The Contractor shall perform all services or work, as applicable, and comply with all provisions of the Contract to the satisfaction of the State. The Contractor shall provide services or work, as applicable, and meet the program objectives summarized in Attachment C (Work Plan) in accordance with the provisions of the Contract, relevant laws, rules and regulations, administrative, program and fiscal guidelines, and where applicable, operating certificate for facilities or licenses for an activity or program.

D. Modifications: Any modifications to this Agreement, including any budgetary changes, must be mutually agreed to in writing by both parties and be reflected on the Face Page where such terms are modified. Modifications may be subject to the approval of the AG and OSC in accordance with Appendix A, Section 3, Comptroller's Approval. A modification that would result in a transfer of funds among program activities or budget cost categories that does not affect the amount, consideration, scope or other terms of such Contract may be subject to the approval of the AG and OSC where the amount of such modification is, as a proportion of the total value of the Contract, equal to or greater than ten percent for contracts of five million dollars or less, or five percent for contracts of more than five million dollars. Modifications that are not subject to the AG and OSC approval shall be processed in accordance with the guidelines stated in the Contract.

E. Severability: Any provision of the Contract that is held to be invalid, illegal or unenforceable in any respect by a court of competent jurisdiction, shall be ineffective only to the extent of such invalidity, illegality or unenforceability, without affecting in any way the remaining provisions hereof; provided, however, that the parties to the Contract shall attempt in good faith to reform the Contract in a manner consistent with the intent of any such ineffective provision for the purpose of carrying out such intent. If any provision is held void, invalid or unenforceable with respect to particular circumstances, it shall nevertheless remain in full force and effect in all other circumstances.

F. Interpretation: The headings in the Contract are inserted for convenience and reference only and do not modify or restrict any of the provisions herein. All personal pronouns used herein shall be considered gender neutral. The Contract has been made under the laws of the State of New York, and the venue for resolving any disputes hereunder shall be in a court of competent jurisdiction of the State of New York.

G. Notice: All Notices under this Contract, including termination notices, shall be made in writing and directed to the representatives identified herein, or their designees and shall be transmitted by: a) certified or registered United States mail, return receipt requested; b) facsimile transmission; c) personal delivery; d) expedited delivery service; and/or e) e-mail. Notice shall be deemed to have been given either at the time of personal delivery or, in the case of expedited delivery service or certified or registered United States mail, as of the date of first attempted delivery at the address and in the manner provided herein, or in the case of facsimile transmission or e-mail, upon receipt.

The parties may, on written notice, designate other individuals as their representatives. Such representatives shall request, oversee, supervise, and accept performance of services provided by the Contractor and shall receive any required submissions. Whenever an action is to be taken, or approval for services given by the Agency, such action or approval may be given only by the representatives designated pursuant to this Section.

H. Indemnification: The Contractor shall be solely responsible and answerable in damages for all accidents, incidents, and/or injuries to persons (including death) or property arising out of or related to the services to be rendered by the Contractor or its subcontractors pursuant to this Contract. The Contractor shall indemnify and hold

Attachment: AGREEMENT_00000000000000000000136612 (RES-2024-990 : Rink Refrigeration Updates - CRS #5164)

harmless the State and its officers and employees from claims, suits, actions, damages, and cost of every nature arising out of the provision of services pursuant to the Contract.

I. Legal Action: No litigation or regulatory action shall be brought against the State of New York, the State Agency, or against any county or other local government entity with funds provided under the Contract. The term "litigation" shall include commencing or threatening to commence a lawsuit, joining, or threatening to join as a party to ongoing litigation, or requesting any relief from the State of New York, the State Agency, or any county, or other local government entity. The term "regulatory action" shall include commencing or threatening to commence a regulatory proceeding or requesting any regulatory relief from the State of New York, the State Agency, or any county, or other local government entity.

J. Partisan Political Activity and Lobbying: Funds provided pursuant to the Contract shall not be used for any partisan political activity, or for activities that attempt to influence legislation or election or defeat of any candidate for public office.

K. Reporting Fraud and Abuse: Contractor acknowledges that it has reviewed information on how to prevent, detect, and report fraud, waste, and abuse of public funds, including information about the Federal False Claims Act, the New York State False Claims Act, and whistleblower protections and will comply with requirements therein.

L. Reporting Risks to Performance: If any specific event, conjunction of circumstances, or any occurrence involving the staff, volunteers, directors, officers, subcontractors, or program participants of the Contractor threatens the successful completion of this project, in whole or in part, the Contractor agrees to notify the State Agency within three (3) calendar days of becoming aware of the occurrence describing the occurrence and the risk it poses to performance under the Contract. The Contractor's notice shall include a written description of the event and a recommended solution. Such events may include, but not be limited to, death or serious injury, an arrest or possible criminal activity.

M. Federally Funded Grants and Requirements Mandated by Federal Laws: All the Specific Federal requirements that are applicable to the Contract are identified in Attachment A-3 (Federally Funded Grants and Requirements Mandated by Federal Laws), attached hereto. To the extent that the Contract is funded, in whole or part, with Federal funds or mandated by Federal laws, (i) the provisions of the Contract that conflict with Federal rules, Federal regulations, or Federal program specific requirements shall not apply and (ii) to the extent that the modifications to Attachment A-3 are required by Federal requirements and conflict with other provisions of the Contract, the modifications to Attachment A-3 shall supersede all other provisions of this Contract; and (iii) the Contractor agrees to comply with all applicable Federal rules, regulations and program specific requirements including, but not limited to, those provisions that are set forth in Attachment A-3 (Federally Funded Grants and Requirements Mandated by Federal Laws), attached hereto.

N. Renewal:

1. **General Renewal:** The Contract may consist of successive periods on the same terms and conditions, as specified within the Contract (a "Simplified Renewal Contract"). Each additional or superseding period shall be on the forms specified by the State and shall be incorporated in the Contract.

2. **Renewal Notice to Not-for-Profit Contractors:** The Contract, as specified herein, may consist of successive periods on the same terms and condition referred to as a "Simplified Renewal Contract." Each additional or superseding period shall be on the forms specified by the State and shall be incorporated into the Contract. Pursuant to State Finance Law §179-t, if the Contract is with a not-for-profit Contractor and provides for a renewal option, the State shall notify the Contractor of the State's intent to renew or not to renew the Contract no later than ninety (90) calendar days prior to the end of the term of the Contract, unless funding for the renewal is contingent upon enactment of an appropriation, than thirty (30) calendar days after the appropriation becomes law, whichever is later. Notwithstanding the foregoing, in the event the State is unable to comply with the time frames set forth in this paragraph due to unusual circumstances beyond the control of the State

Attachment: AGREEMENT_00000000000000000000136612 (RES-2024-990 : Rink Refrigeration Updates - CRS #5164)

("Unusual Circumstances"), no payment of interest shall be due to the Contractor. For purposes of State Finance Law §179-t, "Unusual Circumstances" shall not mean the failure by the State to (i) plan for implementation of a program, (ii) assign sufficient staff resources to implement a program, (iii) establish a schedule for the implementation of a program or (iv) anticipate any other reasonably foreseeable circumstance. Notification to the Contractor of the State's intent to not renew the Contract must be in writing in the form of a letter, with the reason(s) for the non-renewal included. If the State does not provide notice to the Contractor of its intent not to renew the Contract as required in this Section and State Finance Law §179-t, the Contract shall be deemed continued until the date the State provides the necessary notice to the Contractor, in accordance with State Finance Law §179-t. Expenses incurred by the not-for-profit Contractor during such extension shall be reimbursable under the terms of the Contract.

II. TERMINATION AND SUSPENSION

A. Termination:

1. Grounds:

a) Mutual Consent: The Contract may be terminated at any time upon mutual written consent of the State and the Contractor.

b) Cause: The State may terminate the Contract immediately, upon written notice of termination to the Contractor, if the Contractor fails to comply with any of the terms and conditions of the Contract and/or with any applicable laws, rules, regulations, policies, or procedures. If the termination for cause results from unsatisfactory performance by the Contractor, the value of the work performed by the Contractor prior to termination shall be established by the State.

c) Non-Responsibility: Upon written notice to the Contractor, and a reasonable opportunity to be heard by the appropriate State officials or staff, this Contract may be terminated by the State at the Contractor's expense where the Contractor is determined by the State to be non-responsible. In such event, the State may complete contractual requirements in any manner it deems advisable and pursue available legal or equitable remedies for breach.

d) Convenience: The State may terminate the Contract in its sole discretion upon thirty (30) calendar days prior written notice.

e) Lack of Funds: If for any reason the State or the Federal government terminates or reduces its appropriation to the applicable State Agency or entity entering into the Contract or fails to pay the full amount of the allocation for the operation of one or more programs funded under this Contract, the Contract may be terminated or reduced at the State Agency's discretion. No reduction or termination shall apply to allowable costs already incurred by the Contractor whereby funds are available to the State Agency for payment of such costs. Upon termination or reduction of the Contract, all remaining funds paid to the Contractor that are not subject to allowable costs already incurred by the Contractor shall be returned to the State Agency. In any event, no liability shall be incurred by the State (including the State Agency) beyond monies available for the purposes of the Contract. The Contractor acknowledges that any funds due to the State Agency or the State of New York because of disallowed expenditures after audit shall be the Contractor's responsibility.

f) Force Majeure: Performance under the Contract may be terminated or suspended by the State immediately upon the occurrence of a "force majeure" event. For purposes of the Contract, "Force majeure" shall include, but not be limited to, natural disasters, war, rebellion, declared pandemics, insurrection, riot, strikes, lockout, and any unforeseen circumstances and acts beyond the control of the parties which render the performance of contractual obligations impossible.

2. Effect of Notice and Termination on State's Payment Obligations:

Upon receipt of notice of termination provided pursuant to the notice requirements prescribed in this Agreement, the Contractor shall stop work immediately and complete only those specific assignments and/or obligations, if any, subsequently

Attachment: AGREEMENT_00000000000000000000136612 (RES-2024-990 : Rink Refrigeration Updates - CRS #5164)

approved by the State. In the event of termination other than for cause, the Contractor shall be entitled to compensation for services performed through the date of termination that are accepted by the State, and for any subsequent services that are accepted by the State, rendered in connection with any successor consultants and contractors, including transfer of records, briefing and any other services deemed necessary or desirable by the State. The Contractor agrees to cooperate to the fullest respect with any successor consultants and contractors.

3. Effect of Termination Based on Misuse or Conversion of State or Federal Property:

Where the Contract is terminated for cause based on Contractor's failure to use some or all of the real property or equipment purchased pursuant to the Contract for the purposes set forth herein, the State may, at its option, require: a) repayment to the State of any monies previously paid to the Contractor; b) return of any real property or equipment purchased under the terms of the Contract; or c) an appropriate combination of clauses (a) and (b) herein.

Nothing herein shall be intended to limit the State's ability to pursue such other legal or equitable remedies as may be available.

4. Suspension:

The State may, in its discretion, order the Contractor to suspend performance for a reasonable period of time. In the event of such suspension, the Contractor shall be given formal written notice outlining the specific details of such suspension. Upon issuance of such notice, the Contractor shall comply with the particulars of the notice. The State shall have no obligation to reimburse Contractor's expenses during such suspension period. Activities may resume at such time as the State issues a formal written notice authorizing a resumption of performance under the Contract.

III. ADDITIONAL OBLIGATIONS, REPRESENTATIONS AND WARRANTIES

A. Contractor as an Independent Contractor/Employees:

1. The State and the Contractor agree that the Contractor is an independent contractor, and not an employee of the State and may neither hold itself out nor claim to be an officer, employee, or subdivision of the State nor make any claim, demand, or application to or for any right based upon any different status. Notwithstanding the foregoing, the State and the Contractor agree that if the Contractor is a New York State municipality, the Contractor shall be permitted to hold itself out, and claim, to be a subdivision of the State.

   The Contractor shall be solely responsible for the recruitment, hiring, provision of employment benefits, payment of salaries and management of its project personnel. These functions shall be carried out in accordance with the provisions of the Contract, and all applicable Federal and State laws and regulations.

2. The Contractor warrants that it, its staff, and any and all subcontractors have all the necessary licenses, approvals, and certifications currently required by the laws of any applicable local, state, or Federal government to perform the services or work, as applicable, pursuant to the Contract and/or any subcontract entered into under the Contract. The Contractor further agrees that such required licenses, approvals, and certificates shall be kept in full force and effect during the term of the Contract, or any extension thereof, and to secure any new licenses, approvals, or certificates within the required time frames and/or to require its staff and subcontractors to obtain the requisite licenses, approvals, or certificates. In the event the Contractor, its staff, and/or subcontractors are notified of a denial or revocation of any license, approval, or certification to perform the services or work, as applicable, under the Contract, Contractor shall immediately notify the State.

B. Subcontractors:

1. If the Contractor enters into subcontracts for the performance of work pursuant to the Contract, the Contractor shall take full responsibility for the acts and

Attachment: AGREEMENT_00000000000000000000136612 (RES-2024-990 : Rink Refrigeration Updates - CRS #5164)

omissions of its subcontractors. Nothing in the subcontract shall impair the rights of the State under the Contract. No contractual relationship shall be deemed to exist between the subcontractor and the State.

2. If requested by the State, the Contractor agrees not to enter into any subcontracts, or revisions to subcontracts, that are in excess of $100,000 for the performance of the obligations contained herein until it has received the prior written permission of the State, which shall have the right to review and approve each and every subcontract in excess of $100,000 prior to giving written permission to the Contractor to enter into the subcontract. All agreements between the Contractor and subcontractors shall be by written contract, signed by individuals authorized to bind the parties. All such subcontracts shall contain provisions for specifying (1) that the work performed by the subcontractor must be in accordance with the terms of the Contract, (2) that nothing contained in the subcontract shall impair the rights of the State under the Contract, and (3) that nothing contained in the subcontract, nor under the Contract, shall be deemed to create any contractual relationship between the subcontractor and the State. In addition, subcontracts shall contain any other provisions which are required to be included in subcontracts pursuant to the terms herein.

3. If requested by the State, the Contractor agrees to require the subcontractor to provide to the State the information the State needs to determine whether a proposed subcontractor is a responsible vendor.

4. When a subcontract equals or exceeds $100,000, the subcontractor shall submit a Vendor Responsibility Questionnaire (Questionnaire).

5. If requested by the State, upon the execution of a subcontract, the Contractor shall provide detailed subcontract information (a copy of subcontract will suffice) to the State within fifteen (15) calendar days after execution. The State may request from the Contractor copies of subcontracts between a subcontractor and its subcontractor.

6. The Contractor shall require any and all subcontractors to submit to the Contractor all financial claims for Services or work to the State agency, as applicable, rendered and required supporting documentation and reports as necessary to permit Contractor to meet claim deadlines and documentation requirements as established in Attachment D (Payment and Reporting). Subcontractors shall be paid by the Contractor on a timely basis after submitting the required reports and vouchers for reimbursement of services or work, as applicable. Subcontractors shall be informed by the Contractor of the possibility of non-payment or rejection by the Contractor of claims that do not contain the required information, and/or are not received by the Contractor by said due date.

C. Use of Material, Equipment, Or Personnel:

1. The Contractor shall not use materials, equipment, or personnel paid for under the Contract for any activity other than those provided for under the Contract, except with the State's prior written permission.

2. Any interest accrued on funds paid to the Contractor by the State shall be deemed to be the property of the State and shall either be credited to the State at the close-out of the Contract or, upon the written permission of the State, shall be expended on additional services or work, as applicable, provided for under the Contract.

D. Property:

1. For the purposes of the Contract, "Property" is defined as real property, equipment, or tangible personal property having a useful life of more than one year and an acquisition cost of $1,000 or more per unit. For Federally funded contracts, if there is any conflict in the definition of "Property" the federal awarding Agency definitions will apply.

    a) If an item of Property required by the Contractor is available as surplus to the State, the State at its sole discretion, may arrange to provide such Property to the Contractor in lieu of the purchase of such Property. Such Property shall be returned to the State at the Contractor's cost and expense upon the expiration of the Contract unless the State consents in

Attachment: AGREEMENT_00000000000000000000136612 (RES-2024-990 : Rink Refrigeration Updates - CRS #5164)

writing to the Contractor retaining possession of the Property to use for similar purposes.

b) In addition, the Contractor agrees to permit the State to inspect the Property and to monitor its use at reasonable intervals during the Contractor's regular business hours.

c) The Contractor shall be responsible for maintaining and repairing Property purchased or procured under the Contract at its own cost and expense. The Contractor shall procure and maintain insurance at its own cost and expense in an amount satisfactory to the State Agency, naming the State Agency as an additional insured, covering the loss, theft, or destruction of such equipment. The Contractor may not charge rental or use fees under this contract for use or acquisition of Property to carry out its obligations under the Contract.

d) The State has the right to review and approve in writing any new contract for the purchase of or lease for rental of Property (Purchase/Lease Contract) operated in connection with the provision of the services or work as specified in the Contract, if applicable, and any modifications, amendments, or extensions of an existing lease or purchase prior to its execution. If, in its discretion, the State disapproves of any Purchase/Lease Contract, then the State shall not be obligated to make any payments for such Property.

e) No member, officer, director, or employee of the Contractor shall retain or acquire any interest, direct or indirect, in any Property, paid for with funds under the Contract, nor retain any interest, direct or indirect, in such, without full and complete prior disclosure of such interest and the date of acquisition thereof, in writing to the Contractor and the State.

2. For non-Federally funded contracts, unless otherwise provided herein, the State shall have the following rights to Property purchased with funds provided under the Contract:

   a) For cost-reimbursable contracts, all right, title and interest in Property with a remaining useful life shall belong to the State unless otherwise agreed to, in writing, by the State and the Contractor. However, upon agreement by the State, title shall pass to Contractor upon the end of the Property's useful life (as the phrase "useful life" is defined in Internal Revenue Code § 1.169-2).

   b) For performance-based contracts, all right, title and interest in such Property shall belong to the Contractor.

3. For Federally funded contracts, title to Property whose requisition cost is borne in whole or in part by monies provided under the Contract shall be governed by the terms and conditions of Attachment A-3 (Federally Funded Grants and Requirements Mandated by Federal Laws).

4. The Contractor shall maintain an inventory of all Property that is owned by the State and obtained by the Contractor under this Agreement.

5. The Contractor shall execute any documents which the State may reasonably require to effectuate the provisions of this section.

E. Records and Audits:

1. General:

a) The Contractor shall establish and maintain, in paper or electronic format, complete and accurate books, records, documents, receipts, accounts, and other evidence directly pertinent to its performance under the Contract (collectively, Records).

b) The Contractor agrees to produce and retain for the balance of the term of the Contract, and for a period of six years from the later of the date of (i) the Contract and (ii) the most recent renewal of the Contract, any and all Records necessary to substantiate upon audit, the proper deposit and

Attachment: AGREEMENT_00000000000000000000136612 (RES-2024-990 : Rink Refrigeration Updates - CRS #5164)

expenditure of funds received under the Contract. Such Records may include, but not be limited to, original books of entry (e.g., cash disbursements and cash receipts journal), and the following specific records (as applicable) to substantiate the types of expenditures noted:

i. personal service expenditures: cancelled checks and the related bank statements, time and attendance records, payroll journals, cash and check disbursement records including copies of money orders and the like, vouchers and invoices, records of contract labor, any and all records listing payroll and the money value of non-cash advantages provided to employees, time cards, work schedules and logs, employee personal history folders, detailed and general ledgers, sales records, miscellaneous reports and returns (tax and otherwise), and cost allocation plans, if applicable.

ii. payroll taxes and fringe benefits: cancelled checks, copies of related bank statements, cash and check disbursement records including copies of money orders and the like, invoices for fringe benefit expenses, miscellaneous reports and returns (tax and otherwise), and cost allocation plans, if applicable.

iii. non-personal services expenditures: original invoices/receipts, cancelled checks and related bank statements, consultant agreements, leases, and cost allocation plans, if applicable.

iv. receipt and deposit of advance and reimbursements: itemized bank stamped deposit slips, and a copy of the related bank statements.

c) The OSC, AG and any other person or entity authorized to conduct an examination, as well as the State Agency or State Agencies involved in the Contract that provided funding, shall have access to the Records during the hours of 9:00 a.m. until 5:00 p.m., Monday through Friday (excluding State recognized holidays), at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying.

d) The State shall protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records, as exempt under Section 87 of the Public Officers Law, is reasonable.

e) Nothing contained herein shall diminish, or in any way adversely affect, the State's rights in connection with its audit and investigatory authority or the State's rights in connection with discovery in any pending or future litigation.

F. Confidentiality

1. Contractor agrees that it will not use confidential, personally identifiable information relating to individuals who may receive services, or proprietary information disclosed to Contractor in connection with the services or work ("Confidential Information") for any purpose other than in connection with the services or work and in compliance with all applicable provisions of State and federal law. The Contractor is fully responsible for its staff, its subcontractor(s), and any subcontractor's staff with regard to Confidential Information and shall ensure that they meet all obligations with respect to maintaining the confidentiality and security of any information deemed confidential.

2. Information which falls into any of the following categories shall not be considered Confidential Information: a) information that is previously rightfully known to the Contractor without restriction on disclosure; b) information that becomes, from no breach of the Contract on the part of the Contractor, generally known in the relevant industry, or is otherwise publicly available; and c) information that is independently developed by Contractor without use of the

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Confidential Information.

3. Except as specifically permitted in this Agreement, Contractor shall not, at any time, in any fashion, form or manner, divulge, disclose, communicate, or use, any Confidential Information other than in connection with the services or as otherwise provided herein.

4. Contractor may disclose Confidential Information if such information is required to be disclosed by Contractor by any law, rule, regulation, judicial or administrative process or applicable professional standards, provided that, to the extent permitted by applicable law or regulation, the Contractor notifies the State prior to any such required disclosure.

5. Contractor agrees that, as between the Parties, all Confidential Information in its possession obtained in connection with the services or work hereunder is at all times the sole property of the State.

6. Where allowable by law and agreed to by the State, Contractor may retain one copy of the Confidential Information and any summaries, analyses, notes, or extracts prepared by Contractor which are based on or contain portions of the Confidential Information evidencing its services or work for the State as required by law, regulation, professional standards, or reasonable business practice.

7. In protecting the Confidential Information, Contractor shall exercise the same standard of care used by Contractor to protect its own confidential and proprietary information, to prevent the disclosure of Confidential Information to any third party. Contractor shall not use Confidential Information for any purpose other than in furtherance of its services or work for the State.

G. Publicity:

1. Publicity regarding the work, services, performance, and/or project governed by this Agreement may not be released without prior written approval from the State. For the purposes of this Agreement, "Publicity" includes, but is not limited to: news conferences; news releases; public announcements; advertising; brochures; reports; discussions or presentations at conferences or meetings; and/or the inclusion of State materials, the State's name, or other such references to the State in any document or forum.

2. Any Publicity, publications, presentations or announcements of conferences, meetings or trainings which are funded in whole or in part through any activity supported under the Contract may not be published, presented or announced without prior approval of the State. Any such publication, presentation or announcement shall:

    a) Acknowledge the support of the State of New York and, if funded with Federal funds, the applicable Federal funding agency; and

    b) State that the opinions, results, findings and/or interpretations of data contained therein are the responsibility of the Contractor and do not necessarily represent the opinions, interpretations, or policy of the State or if funded with Federal funds, the State and the applicable Federal funding agency.

3. Notwithstanding the above, (i) if the Contractor is an educational research institution, the Contractor may, for scholarly or academic purposes, use, present, discuss, report or publish any material, data or analyses, other than Confidential Information, that derives from activity under the Contract and the Contractor agrees to use best efforts to provide copies of any manuscripts arising from Contractor's performance under this Contract, or if requested by the State, the Contractor shall provide the State with a thirty (30) day period in which to review each manuscript for compliance with Confidential Information requirements prior to publication; or (ii) if the Contractor is not an educational research institution, the Contractor may submit for publication, scholarly or academic publications that derive from activity under the Contract (but are not deliverable under the Contract), provided that the Contractor first submits such manuscripts to the State forty-five (45) calendar days prior to submission for consideration by a publisher in order for the State to review the manuscript for compliance with confidentiality requirements and restrictions and to make such other comments

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as the State deems appropriate. All derivative publications shall follow the same acknowledgments and disclaimer as described in Section III(F)(2) (Publicity) hereof.

H. Web-Based Applications-Accessibility:

Any network-based information and applications development, or programming delivered to or by the State pursuant to this contract or procurement, will comply with Section 508 of the Rehabilitation Act of 1973, as amended, and be consistent with New York State Enterprise IT Policy NYS-P08-005, Accessibility of Information Communication Technology, as such policy may be amended, modified, or superseded (the "Accessibility Policy"). The Accessibility Policy requires that State Entity Information Communication Technology shall be accessible to persons with disabilities as determined by accessibility compliance testing. Such accessibility compliance testing will be conducted by (State Entity name, contractor or other) and any report on the results of such testing must be satisfactory to (State Entity name).

I. Unemployment Insurance Compliance:

The Contractor shall remain current in both its quarterly reporting and payment of contributions or payments in lieu of contributions, as applicable, to the State Unemployment Insurance system as a condition of maintaining this grant.

1. The Contractor hereby authorizes the State Department of Labor to disclose to the State Agency staff only such information as is necessary to determine the Contractor's compliance with the State Unemployment Insurance Law. This includes, but is not limited to, the following: a) any records of unemployment insurance (UI) contributions, interest, and/or penalty payment arrears or reporting delinquency; b) any debts owed for UI contributions, interest, and/or penalties; c) the history and results of any audit or investigation; and d) copies of wage reporting information.

2. Such disclosures are protected under Section 537 of the State Labor Law, which makes it a misdemeanor for the recipient of such information to use or disclose the information for any purpose other than the performing due diligence as a part of the approval process for the Contract.

J. Charities Registration:

If applicable, the Contractor agrees to (i) obtain not-for-profit status, a Federal identification number, and a charitable registration number (or a declaration of exemption) and to furnish the State Agency with this information as soon as it is available, (ii) be in compliance with the OAG charities registration requirements at the time of the awarding of this Contract by the State and (iii) remain in compliance with the OAG charities registration requirements throughout the term of the Contract.

K. Vendor Responsibility:

The Contractor hereby acknowledges that the State Vendor Responsibility Questionnaire (Questionnaire) and certification are made part of this Contract and that any misrepresentation of fact in the Questionnaire and attachments, or in any Contractor responsibility information that may be requested by the State, may result in termination of this Contract.

The Contractor shall at all times during the contract term remain responsible. During the term of this Contract, any changes in the provided Questionnaire shall be disclosed to the State Agency, in writing, in a timely manner. Failure to make such disclosure may result in a determination of non-responsibility and termination of this Contract. Furthermore, the Contractor agrees, if requested by the State, it must present evidence of its continuing legal authority to do business in New York State, its integrity, experience, ability, prior performance, and organizational and financial capacity.

The State, in its sole discretion, reserves the right to make a final determination of non-responsibility at any time during the term of the Contract, based on any information provided in the Questionnaire and/or any updates, clarifications, or amendments thereof; and/or when it discovers information that calls into question the responsibility of the Contractor. Prior to making a final determination of non-responsibility, the State shall provide written notice to the Contractor that it has made a preliminary determination of non-responsibility. The State shall detail the reason(s) for the preliminary determination,

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and shall provide the Contractor with an opportunity to be heard.

The State reserves the right to suspend any or all activities under this Contract, upon discovery of such information warranting review of responsibility. In the event of such suspension, the Contractor will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the State issues a written notice authorizing a resumption of performance under this Contract.

L. Workers' Compensation Benefits:

1. In accordance with Section 142 of the State Finance Law, the Contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of the Contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

2. If a Contractor believes they are exempt from the Workers Compensation insurance requirement they must apply for an exemption.

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APPENDIX A

STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

PLEASE RETAIN THIS DOCUMENT
FOR FUTURE REFERENCE.

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STANDARD CLAUSES FOR NYS CONTRACTS

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word "Contractor" herein refers to any party other than the State, whether a contractor, licenser, licensee, lessor, lessee or any other party):

1. EXECUTORY CLAUSE. In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.

2. NON-ASSIGNMENT CLAUSE. In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the State's previous written consent, and attempts to do so are null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract let pursuant to Article XI of the State Finance Law may be waived at the discretion of the contracting agency and with the concurrence of the State Comptroller where the original contract was subject to the State Comptroller's approval, where the assignment is due to a reorganization, merger or consolidation of the Contractor's business entity or enterprise. The State retains its right to approve an assignment and to require that any Contractor demonstrates its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

3. COMPTROLLER'S APPROVAL. In accordance with Section 112 of the State Finance Law, if this contract exceeds $50,000 (or $75,000 for State University of New York or City University of New York contracts for goods, services, construction and printing, and $150,000 for State University Health Care Facilities) or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds $25,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services, either for itself or its customer agencies by the Office of General Services Business Services Center, is required when such contracts exceed $85,000. Comptroller's approval of contracts established as centralized contracts through the Office of General Services is required when such contracts exceed $125,000, and when a purchase order or other procurement transaction issued under such centralized contract exceeds $200,000.

4. WORKERS' COMPENSATION BENEFITS. In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

5. NON-DISCRIMINATION REQUIREMENTS. To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment, nor subject any individual to harassment, because of age, race, creed, color, national origin, citizenship or immigration status, sexual orientation, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, or domestic violence victim status or because the individual has opposed any practices forbidden under the Human Rights Law or has filed a complaint, testified, or assisted in any proceeding under the Human Rights Law. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State

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of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of $50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

6. WAGE AND HOURS PROVISIONS. If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the State of any State approved sums due and owing for work done upon the project.

7. NON-COLLUSIVE BIDDING CERTIFICATION. In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty
of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive bidding certification on Contractor's behalf.

8. INTERNATIONAL BOYCOTT PROHIBITION. In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds $5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2 NYCRR § 105.4).

9. SET-OFF RIGHTS. The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Comptroller.

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10. RECORDS. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, the "Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION. (a) Identification Number(s). Every invoice or New York State Claim for Payment submitted to a New York State agency by a payee, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. The number is any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Failure to include such number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or Claim for Payment, must give the reason or reasons why the payee does not have such number or numbers.

(b) Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN. In accordance with Section 312 of the Executive Law and 5 NYCRR Part 143, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of $25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of $100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of $100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the following shall

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apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:

(a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State contracts and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

(b) at the request of the contracting agency, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein; and

(c) the Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

Contractor will include the provisions of "(a), (b) and (c)" above, in every subcontract over $25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this clause. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

13. CONFLICTING TERMS. In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.

14. GOVERNING LAW. This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

15. LATE PAYMENT. Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article 11-A of the State Finance Law to the extent required by law.

16. NO ARBITRATION. Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

17. SERVICE OF PROCESS. In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify

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the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

18. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS. The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law, (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State.

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in § 165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

19. MACBRIDE FAIR EMPLOYMENT PRINCIPLES. In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

20. OMNIBUS PROCUREMENT ACT OF 1992. It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority- and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development
Division for Small Business and Technology Development
625 Broadway
Albany, New York 12245
Telephone: 518-292-5100

A directory of certified minority- and women-owned business enterprises is available from:

NYS Department of Economic Development
Division of Minority and Women's Business Development
633 Third Avenue 33rd Floor
New York, NY 10017
646-846-7364
Email: mailto:mwbebusinessdev@esd.ny.gov
https://ny.newnycontracts.com/FrontEnd/searchcertifieddirectory.asp

The Omnibus Procurement Act of 1992 (Chapter 844 of the Laws of 1992, codified in State Finance Law § 139-i and Public Authorities Law § 2879(3)(n)–(p)) requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than $1 million:

(a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority- and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;

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(b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;

(c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and

(d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

21. RECIPROCITY AND SANCTIONS PROVISIONS. Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively, codified in State Finance Law § 165(6) and Public Authorities Law § 2879(5)) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 2023, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii.

22. COMPLIANCE WITH BREACH NOTIFICATION AND DATA SECURITY LAWS. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law §§ 899-aa and 899-bb and State Technology Law § 208).

23. COMPLIANCE WITH CONSULTANT DISCLOSURE LAW. If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal or similar services, then, in accordance with Section 163 (4)(g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.

24. PROCUREMENT LOBBYING. To the extent this agreement is a "procurement contract" as defined by State Finance Law §§ 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law §§ 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

25. CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS.
To the extent this agreement is a contract as defined by Tax Law § 5-a, if the contractor fails to make the certification required by Tax Law § 5-a or if during the term of the contract, the Department of Taxation and Finance or the covered agency, as defined by Tax Law § 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.

26. IRAN DIVESTMENT ACT. By entering into this Agreement, Contractor certifies in accordance with State Finance Law § 165-a that it is not on the "Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012"

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("Prohibited Entities List") posted at:
https://ogs.ny.gov/iran-divestment-act-2012

Contractor further certifies that it will not utilize on this Contract any subcontractor that is identified on the Prohibited Entities List. Contractor agrees that should it seek to renew or extend this Contract, it must provide the same certification at the time the Contract is renewed or extended. Contractor also agrees that any proposed Assignee of this Contract will be required to certify that it is not on the Prohibited Entities List before the contract assignment will be approved by the State.

During the term of the Contract, should the state agency receive information that a person (as defined in State Finance Law § 165-a) is in violation of the above-referenced certifications, the state agency will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then the state agency

shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

The state agency reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities list after contract award.

27. ADMISSIBILITY OF REPRODUCTION OF CONTRACT. Notwithstanding the best evidence rule or any other legal principle or rule of evidence to the contrary, the Contractor acknowledges and agrees that it waives any and all objections to the admissibility into evidence at any court proceeding or to the use at any examination before trial of an electronic reproduction of this contract, in the form approved by the State Comptroller, if such approval was required, regardless of whether the original of said contract is in existence.

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ATTACHMENT A-1
AGENCY SPECIFIC TERMS AND CONDITIONS

Standard Clauses for All New York State Department of Environmental Conservation Contracts

The parties to the attached contract, license, lease, grant, amendment or other agreement of any kind (hereinafter "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract. The word "Contractor" herein refers to any party to the contract, other than the New York State Department of Environmental Conservation (hereinafter "Department").

I. Postponement, suspension, abandonment or termination by the Department: Within 15 days of receipt of notice, the Contractor shall deliver to the Department all data, reports, plans, or other documentation related to the performance of this contract, including but not limited to source codes and specifications, guarantees, warranties, as-built plans and shop drawings. In any of these events, the Department shall make settlement with the Contractor upon an equitable basis as determined by the Department which shall fix the value of the work which was performed by the Contractor prior to the postponement, suspension, abandonment or termination of this contract. This clause shall not apply to this contract if the contract contains other provisions applicable to postponement, suspension or termination of the contract.

II. Conflict of Interest

(a) Organizational Conflict of Interest - To the best of the Contractor's knowledge and belief, the Contractor warrants that there are no relevant facts or circumstances which could give rise to an organizational conflict of interest, as herein defined, or that the Contractor has disclosed all such relevant information to the Department.

(1) An organizational conflict of interest exists when the nature of the work to be performed under this contract may, without some restriction on future activities, impair or appear to impair the Contractor's objectivity in performing the work for the Department.

(2) The Contractor agrees that if an actual, or potential organizational conflict of interest is discovered at any time after award, whether before or during performance, the Contractor will immediately make a full disclosure in writing to the Department. This disclosure shall include a description of actions which the Contractor has taken or proposes to take, after consultation with the Department, to avoid, mitigate, or minimize the actual or potential conflict.

(3) To the extent that the work under this contract requires access to personal, proprietary or confidential business or financial data of persons or other companies, and as long as such data remains proprietary or confidential, the Contractor shall protect such data from unauthorized use and disclosure and agrees not to use it to compete with such companies.

(b) Personal Conflict of Interest - The following provisions with regard to management or professional level employee personnel performing under this contract shall apply until the earlier of the termination date of the affected employee(s) or the duration of the contract.

(1) A personal conflict of interest is defined as a relationship of an employee, subcontractor employee, or consultant with an entity that may impair or appear to impair the objectivity of the employee, subcontractor employee, or consultant in performing the contract work. The Contractor agrees to notify the Department immediately of any actual or potential personal conflict of interest with regard to any such person working on or having access to information regarding this contract, as soon as Contractor becomes aware of such conflict. The Department will notify the Contractor of the appropriate action to be taken.

(2) The Contractor agrees to advise all management or professional level employees involved in the work of this contract, that they must report any personal conflicts of interest to the Contractor. The Contractor must then advise the Department which will advise the Contractor of the appropriate action to be taken.

(3) Unless waived by the Department, the Contractor shall certify annually that, to the best of the Contractor's

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knowledge and belief, all actual, apparent or potential conflicts of interest, both personal and organizational, as defined herein, have been reported to the Department. Such certification must be signed by a senior executive of the Contractor and submitted in accordance with instructions provided by the Department. Along with the annual certification, the Contractor shall also submit an update of any changes in any conflict of interest plan submitted with its proposal for this contract. The initial certification shall cover the one-year period from the date of contract award, and all subsequent certifications shall cover successive annual periods thereafter. The certification is to be submitted no later than 45 days after the close of the previous certification period covered.

(4) In performing this contract, the Contractor recognizes that its employees may have access to data, either provided by the Department or first generated during contract performance, of a sensitive nature which should not be released without Department approval. If this situation occurs, the Contractor agrees to obtain confidentiality agreements from all affected employees working on requirements under this contract including subcontractors and consultants. Such agreements shall contain provisions which stipulate that each employee agrees not to disclose, either in whole or in part, to any entity external to the Department, Department of Health or the New York Department of Law, any information or data provided by the Department or first generated by the Contractor under this contract, any site-specific cost information, or any enforcement strategy without first obtaining the written permission of the Department. If a Contractor, through an employee or otherwise, is subpoenaed to testify or produce documents, which could result in such disclosure, the Contractor must provide immediate advance notification to the Department so that the Department can authorize such disclosure or have the opportunity to take action to prevent such disclosure. Such agreements shall be effective for the life of the contract and for a period of five (5) years after completion of the contract.

(c) Remedies - The Department may terminate this contract in whole or in part, if it deems such termination necessary to avoid an organizational or personal conflict of interest, or an unauthorized disclosure of information. If the Contractor fails to make required disclosures or misrepresents relevant information to the Department, the Department may terminate the contract, or pursue such other remedies as may be permitted by the terms of Clause I of this Attachment or other applicable provisions of this contract regarding termination.

(d) The Contractor will be ineligible to make a proposal or bid on a contract for which the Contractor has developed the statement of work or the solicitation package

(e) The Contractor agrees to insert in each subcontract or consultant agreement placed hereunder (except for subcontracts or consultant agreements for well drilling, fence erecting, plumbing, utility hookups, security guard services, or electrical services) provisions which shall conform substantially to the language of this clause, including this paragraph (e), unless otherwise authorized by the Department.

III. Dispute Resolution

The parties agree to the following steps, or as many as are necessary to resolve disputes between the Department and the Contractor.

(a) The Contractor specifically agrees to submit, in the first instance, any dispute relating to this contract to the designated individual, who shall render a written decision and furnish a copy thereof to the Contractor.

(1) The Contractor must request such decision in writing no more than fifteen days after it knew or should have known of the facts which are the basis of the dispute.

(2) The decision of the designated individual shall be the final DEC determination, unless the Contractor files a written appeal of that decision with the designated appeal individual ("DAI") within twenty days of receipt of that decision.

(b) Upon receipt of the written appeal, the DAI, will review the record and decision. Following divisional procedures in effect at that time, the DAI will take one of the following actions, with written notice to the Contractor.

(1) Remand the matter to the program staff for further negotiation or information if it is determined that the matter is not ripe for review; or

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(2) Determine that there is no need for further action, and that the determination of the designated individual is confirmed; or

(3) Make a determination on the record as it exists.

(c) The decision of the DAI shall be the final DEC decision unless the Contractor files a written appeal of that decision with the Chair of the Contract Review Committee ("CRC") within twenty days of receipt of that decision.

The designated individual to hear disputes is:

Mark Lowery,
Assistant Director, Office of Climate Change
NYS Department of Environmental Conservation
625 Broadway, 9th Floor
Albany, NY 12233-1030
(518) 402-8448

The designated appeal individual to review decisions is:

Jonathan Binder, Office of General Counsel
NYS Department of Environmental Conservation
625 Broadway, 14 Floor
Albany, NY 12233-1500
(518) 402-9188

The Chair of the Contract Review Committee is:

Department of Environmental Conservation
Nancy W. Lussier, Chair
Contract Review Committee
625 Broadway
Albany, NY 12233-5010
Telephone: (518) 402-9228

(d) Upon receipt of the written appeal, the Chair of the CRC, in consultation with the members of the CRC and the Office of General Counsel, will take one of the following actions, or a combination thereof, with written notice to the Contractor.

(1) Remand the matter to program staff for additional fact finding, negotiation, or other appropriate action; or

(2) Adopt the decision of the DAI; or

(3) Consider the matter for review by the CRC in accordance with its procedures.

(e) Following a decision to proceed pursuant to (d) 3, above, the Chair of the CRC shall convene a proceeding in accordance with the CRC's established contract dispute resolution guidelines. The proceeding will provide the Contractor with an opportunity to be heard.

(f) Following a decision pursuant to (d) 2 or (d) 3, the CRC shall make a written recommendation to the Deputy Commissioner for Administration who shall render the final DEC determination.

(g) At any time during the dispute resolution process, and upon mutual agreement of the parties, the Office of Hearings and Mediation Services (OHMS) may be requested to provide mediation services or other appropriate means to assist in resolving the dispute. Any findings or recommendations made by the OHMS will not be binding on either party.

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(h) Final DEC determinations shall be subject to review only pursuant to Article 78 of the Civil Practice Law and Rules.

(i) Pending final determination of a dispute hereunder, the Contractor shall proceed diligently with the performance of the Contract in accordance with the decision of the designated individual. Nothing in this Contract shall be construed as making final the decision of any administrative officer upon a question of law.

(j)(1) Notwithstanding the foregoing, at the option of the Contractor, the following shall be subject to review by the CRC:

Disputes arising under Article 15-A of the Executive Law (Minority and Women Owned Business participation), the Department's determination with respect to the adequacy of the Contractor's Utilization Plan, or the Contractor's showing of good faith efforts to comply therewith. A request for a review before the CRC should be made, in writing, within twenty days of receipt of the Department's determination.

(2) The CRC will promptly convene a review in accordance with Article 15-A of the Executive Law and the regulations promulgated thereunder.

IV. Tax Exemption

Pursuant to Tax Law Section 1116, the State is exempt from sales and use taxes. A standard state voucher is sufficient evidence thereof. For federal excise taxes, New York's registration Number 14740026K covers tax-free transactions under the Internal Revenue Code.

V. Litigation Support

In the event the Department becomes involved in litigation related to the subject matter of this contract, the Contractor agrees to provide background support and other litigation support, including but not limited to depositions, appearances, and testimony. Any compensation paid to the Contractor under this paragraph will be negotiated and based on the rates established in the contract, or as may otherwise be provided in the contract. No compensation for such support will be paid if the litigation is the result of the Contractors misconduct, negligence or omissions.

VI. Inventions or Discoveries

The Scope of work of this agreement shall not include any inventions. If, however, an invention results from this project it shall be owned as follows:

Any invention or discovery first made or conceived and reduced to practice in the performance of this Contract solely by the Contractor shall remain with the Contractor; provided that the Contractor shall grant to the Department and the State a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for on behalf of the Department and the State the subject copyright throughout the world, where the Contractor is able to do so.

Any invention or discovery made or conceived and reduced to practice in the performance of this Contract solely by Department or State shall remain with the State; provided that the Department or State shall grant to the Contractor a nonexclusive, nontransferable, irrevocable, paid-up license to use for non-commercial research, educational, and public service purposes.

Any invention or discovery made or conceived and reduced to practice in the performance of this Contract jointly by Contractor and Department or State in the performance of this work shall be jointly held by the Contractor and Department or State.

VII. Intellectual Property and Copyright Materials

(a) Title to, and the right to determine the disposition of any copyrights, or copyrightable material, first produced or created solely by Contractor in the performance of this work shall remain with the Contractor; provided that the Contractor shall grant to the Department and the State a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for on behalf of the Department and the State the subject copyright throughout the world, where the Contractor is able to do so.

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Title to, and the right to determine the disposition of any copyrights, or copyrightable material, first produced or created solely by Department or State in the performance of this work shall remain with the State; provided that the Department or State shall grant to the Contractor a nonexclusive, nontransferable, irrevocable, paid-up license to use for non-commercial research, educational, and public service purposes.

Title to, and the right to determine the disposition of any copyrights, or copyrightable material, first produced or created jointly by Contractor and Department or State in the performance of this work shall be jointly held by the Contractor and Department or State.

VIII. Patent and Copyright Protection

If any patented or copyrighted material is involved in or results from the performance of this Contract, this Article shall apply.

(a) The Contractor shall, at its expense, defend any suit instituted against the Department and indemnify the Department against any award of damages and costs made against the Department by a final judgment of a court of last resort based on the claim that any of the products, services or consumable supplies furnished by the Contractor under this Contract infringes any patent, copyright or other proprietary right; provided the Department gives the Contractor:

(1) prompt written notice of any action, claim or threat of infringement suit, or other suit, and

(2) the opportunity to take over, settle or defend such action at the Contractor's sole expense, and

(3) all available information, assistance and authority necessary to the action, at the Contractor=s sole expense.

The Contractor shall control the defense of any such suit, including appeals, and all negotiations to effect settlement, but shall keep the Department fully informed concerning the progress of the litigation.

(b) If the use of any item(s) or parts thereof is held to infringe a patent or copyright and its use is enjoined, or Contractor believes it will be enjoined, the Contractor shall have the right, at its election and expense to take action in the following order of precedence:

(1) procure for the Department the right to continue using the same item or parts thereof;

(2) modify the same so that it becomes non-infringing and of at least the same quality and performance;

(3) replace the item(s) or parts thereof with noninfringing items of at least the same quality and performance;

(4) if none of the above remedies are available, discontinue its use and eliminate any future charges or royalties pertaining thereto. The Contractor will buy back the infringing product(s) at the State's book value, or in the event of a lease, the parties shall terminate the lease. If discontinuation or elimination results in the Contractor not being able to perform the Contract, the Contract shall be terminated.

(c) In the event that an action at law or in equity is commenced against the Department arising out of a claim that the Department's use of any item or material pursuant to or resulting from this Contract infringes any patent, copyright or proprietary right, and such action is forwarded by the Department to the Contractor for defense and indemnification pursuant to this Article, the Department shall copy all pleadings and documents forwarded to the Contractor together with the forwarding correspondence and a copy of this Contract to the Office of the Attorney General of the State of New York. If upon receipt of such request for defense, or at any time thereafter, the Contractor is of the opinion that the allegations in such action, in whole or in part, are not covered by the indemnification set forth in this Article, the Contractor shall immediately notify the Department and the Office of the Attorney General of the State of New York in writing and shall specify to what extent the Contractor believes it is and is not obligated to defend and indemnify under the terms and conditions of this Contract. The Contractor shall in such event protect the interests of the Department and State of New York and secure a continuance to permit the State of New York to appear and defend its interests

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in cooperation with Contractor as is appropriate, including any jurisdictional defenses which the Department and State shall have.

(d) The Contractor shall, however, have no liability to the Department under this Article if any infringement is based upon or arises out of:

(1) compliance with designs, plans, or specifications furnished by or on behalf of the Department as to the items;

(2) alterations of the items by the Department;

(3) failure of the Department to use updated items provided by the Contractor for avoiding infringement;

(4) use of items in combination with apparatus or devices not delivered by the Contractor;

(5) use of items in a manner for which the same were neither designed nor contemplated; or

(6) a patent or copyright in which the Department or any affiliate or subsidiary of the Department has any direct or indirect interest by license or otherwise.

(e) The foregoing states the Contractor's entire liability for, or resulting from, patent or copyright infringement or claim thereof.

IX. Freedom of Information Requests

In response to a Freedom of Information Law (FOIL) request received by the Department, the Contractor agrees to provide to the Department records generated by the Contractor as a result of this contract's scope of work that are responsive to the FOIL request. The contractor may request that the Department except from disclosure records on the basis that they contain trade secrets or confidential commercial information in accordance with FOIL (Public Officers Law Section 87 and 6 NYCRR Part 616).

X. Article 15-Requirements

PARTICIPATION BY MINORITY GROUP MEMBERS AND WOMEN WITH RESPECT TO STATE CONTRACTS: REQUIREMENTS AND PROCEDURES

(a) General Provisions

(1) The Department is required to implement the provisions of New York State Executive Law Article 15-A and 5 NYCRR Parts 142-144 ("MWBE Regulations") for all State contracts as defined therein, with a value (1) in excess of $25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of $100,000 for real property renovations and construction.

(2) The Contractor to the subject contract (the "Contractor" and the "Contract," respectively) agrees, in addition to any other nondiscrimination provision of the Contract and at no additional cost to the New York State Department (the "Department"), to fully comply and cooperate with the Department in the implementation of New York State Executive Law Article 15-A. These requirements include equal employment opportunities for minority group members and women ("EEO") and contracting opportunities for certified minority and women-owned business enterprises ("MWBEs"). Contractor's demonstration of "good faith efforts" pursuant to 5 NYCRR §142.8 shall be a part of these requirements. These provisions shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions required by New York State Executive Law Article 15 (the "Human Rights Law") or other applicable federal, state or local laws.

(3) Failure to comply with all of the requirements herein may result in a finding of non-responsiveness, non-responsibility and/or a breach of contract, leading to the withholding of funds or such other actions, liquidated damages pursuant to Section VII of this Article or enforcement proceedings as allowed by the Contract.

(b) Contract Goals

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(1) For purposes of this procurement, the Department hereby establishes an overall goal of **30%** for Minority and Women-Owned Business Enterprises ("MWBE") participation, (based on the current availability of qualified MBEs and WBEs).

(2) For purposes of providing meaningful participation by MWBEs on the Contract and achieving the Contract Goals established in Section II-A hereof, Contractor should reference the directory of New York State Certified MWBEs found at the following internet address; https://ny.newnycontracts.com

Additionally, the Contractor is encouraged to contact the Division of Minority and Woman Business Development ((518) 292-5250; (212) 803-2414; or (716) 846-8200) to discuss additional methods of maximizing participation by MWBEs on the Contract.

(3) Where MWBE goals have been established herein, pursuant to 5 NYCRR §142.8, Contractor must document "good faith efforts" to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of the Contract. In accordance with Section 316-a of Article 15-A and 5 NYCRR §142.13, the Contractor acknowledges that if Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in the Contract, such a finding constitutes a breach of contract and the Contractor shall be liable to the Department for liquidated or other appropriate damages, as set forth herein.

(c) MWBE Responsibilities & Requirements

(1) Contractors must read, sign, and submit the NYSDEC MWBE Responsibilities & Requirements document. This document describes the MWBE requirements and provides directions for completing the required MWBE Utilization Plan form and subsequent Quarterly Reports.

(2) By signing and submitting this document, the Contractor acknowledges they understand the assigned MWBE goals, the MWBE Utilization Plan form requirements, the MWBE Quarterly Report requirements, and understand what Good Faith Efforts they must put forth to meet their assigned MWBE goals.

(d) MWBE Utilization Plan

(1) The Contractor represents and warrants that Contractor has submitted an MWBE Utilization Plan either prior to, or at the time of, the execution of the contract.

(2) Contractor agrees to use such MWBE Utilization Plan for the performance of MWBEs on the Contract pursuant to the prescribed MWBE goals set forth in Section X-B-1 of this Attachment.

(3) Contractor further agrees that a failure to submit and/or use such MWBE Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, Department shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsiveness.

(e) Equal Employment Opportunity (EEO)

(1) Contractor agrees to be bound by the provisions of Article 15-A and the MWBE Regulations promulgated by the Division of Minority and Women's Business Development of the State of Economic Development (the "Division"). If any of these terms or provisions conflict with applicable law or regulations, such laws and regulations shall supersede these requirements. Contractor shall comply with the following provisions of Article 15-A:

(i) Contractor and Subcontractors shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.

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(ii) The Contractor shall submit an EEO policy statement to the Department within seventy-two (72) hours after the date of the notice by Department to award the Contract to the Contractor.

(iii) If Contractor or Subcontractor does not have an existing EEO policy statement, the Department may provide the Contractor or Subcontractor a model statement. This statement can be found at the link provided in Section 8.

(iv) The Contractor's EEO policy statement shall include the following language:

a. The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force.

b. The Contractor shall state in all solicitations or advertisements for employees that, in the performance of the contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

c. The Contractor shall request each employer Department, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employer Department, labor union, or representative will not discriminate on the basis of race, creed, color, national origin, sex age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein.

d. The Contractor will include the provisions of Subdivisions (a) through (c) of this Subsection 4 and Paragraph "E" of this Section III, which provides for relevant provisions of the Human Rights Law, in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the Contract.

(2) Staffing Plan Form

To ensure compliance with this Section, the Contractor shall submit a Staffing Plan to document the composition of the proposed workforce to be utilized in the performance of the Contract by the specified categories listed, including ethnic background, gender, and Federal occupational categories. Contractors shall complete the Staffing Plan as part of the MWBE Utilization Plan and submit at the time of award of the contract.

(3) Workforce Employment Utilization Report Form ("Workforce Report")

(i) Once a contract has been awarded and during the term of Contract, Contractor is responsible for updating and providing notice to the Department of any changes to the previously submitted Staffing Plan. This information is to be submitted on a quarterly basis during the term of the Contract to report the actual workforce utilized in the performance of the Contract by the specified categories listed including ethnic background, gender, and Federal occupational categories. The Workforce Report must be submitted to report this information.

(ii) Separate forms shall be completed by Contractor and any subcontractor performing work on the Contract.

(iii) In limited instances, Contractor may not be able to separate out the workforce utilized in the performance of the Contract from Contractor's and/or subcontractor's total workforce. When a separation can be made,

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Contractor shall submit the Workforce Report and indicate that the information provided related to the actual workforce utilized on the Contract. When the workforce to be utilized on the contract cannot be separated out from Contractor's and/or subcontractor's total workforce, Contractor shall submit the Workforce Report and indicate that the information provided is Contractor's total workforce during the subject time frame, not limited to work specifically under the Contract.

(4) Contractor shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. Contractor and subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

(f) Quarterly MWBE Contractor Compliance Report

Contractor is required to submit a Quarterly MWBE Contractor Compliance Report Form to the Department by the 10th day following each end of quarter over the term of the Contract documenting the progress made towards achievement of the MWBE goals of the Contract.

(g) Waivers

(1) For Waiver Requests Contractor should use Waiver Request Form.

(2) If the Contractor, after making good faith efforts, is unable to comply with MWBE goals, the Contractor may submit a Request for Waiver form documenting good faith efforts by the Contractor to meet such goals. If the documentation included with the waiver request is complete, the Department shall evaluate the request and issue a written notice of acceptance or denial within twenty (20) days of receipt.

(3) If the Department, upon review of the MWBE Utilization Plan and updated Quarterly MWBE Contractor Compliance Reports determines that Contractor is failing or refusing to comply with the Contract goals and no waiver has been issued in regards to such non-compliance, the Department may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within seven (7) business days of receipt. Such response may include a request for partial or total waiver of MWBE Contract Goals.

(h) Liquidated Damages - MWBE Participation

(1) Where Department determines that Contractor is not in compliance with the requirements of the Contract and Contractor refuses to comply with such requirements, or if Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals, Contractor shall be obligated to pay to the Department liquidated damages.

(2) Such liquidated damages shall be calculated as an amount equaling the difference between:

(i) All sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and

(ii) All sums actually paid to MWBEs for work performed or materials supplied under the Contract.

(3) In the event a determination has been made which requires the payment of liquidated damages and such identified sums have not been withheld by the Department, Contractor shall pay such liquidated damages to the Department within sixty (60) days after they are assessed by the Department unless prior to the expiration of such sixtieth day, the Contractor has filed a complaint with the Director of the Division of Minority and Woman Business Development pursuant to Subdivision 8 of Section 313 of the Executive Law in which event the liquidated damages shall be payable if Director renders a decision in favor of the Department.

(i) Forms

Forms referenced in this Article can be found at http://www.dec.ny.gov/about/48854.html

XI. PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED SERVICE-DISABLED VETERAN OWNED BUSINESSES

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Article 17-B of the New York State Executive Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses ("SDVOB"), thereby further integrating such businesses into New York State's economy. The Department recognizes the need to promote the employment of service-disabled veterans and to ensure that certified service-disabled veteran-owned businesses have opportunities for maximum feasible participation in the performance of Department contracts.

In recognition of the service and sacrifices made by service-disabled veterans and in recognition of their economic activity in doing business in New York State, Bidders are expected to consider SDVOBs in the fulfillment of the requirements of the Contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles.

(a) Contract Goals

The Department hereby establishes an overall goal of **%** for SDVOB participation, based on the current availability of qualified SDVOBs. For purposes of providing meaningful participation by SDVOBs, the Bidder/Contractor should reference the directory of New York State Certified SDVOBs found at: https://ogs.ny.gov/veterans/. Questions regarding compliance with SDVOB participation goals should be directed to the Department's Designated Contacts.

Contractor must document "good faith efforts" to provide meaningful participation by SDVOBs as subcontractors or suppliers in the performance of the Contract (see clause (XI)(d) below).

(b) **SDVOB Utilization Plan**

1. In accordance with 9 NYCRR § 252.2(i), Bidders are required to submit a completed SDVOB Utilization Plan on Form SDVOB 100 with their bid.

2. The Utilization Plan shall list the SDVOBs that the Bidder intends to use to perform the Contract, a description of the work that the Bidder intends the SDVOB to perform to meet the goals on the Contract, the estimated dollar amounts to be paid to an SDVOB, or, if not known, an estimate of the percentage of Contract work the SDVOB will perform. By signing the Utilization Plan, the Bidder acknowledges that making false representations or providing information that shows a lack of good faith as part of, or in conjunction with, the submission of a Utilization Plan is prohibited by law and may result in penalties including, but not limited to, termination of a contract for cause, loss of eligibility to submit future bids, and/or withholding of payments. Any modifications or changes to the agreed participation by SDVOBs after the Contract award and during the term of the Contract must be reported on a revised SDVOB Utilization Plan and submitted to the Department.

3. The Department will review the submitted SDVOB Utilization Plan and advise the Bidder/Contractor of Department acceptance or issue a notice of deficiency within 20 days of receipt.

4. If a notice of deficiency is issued, Bidder/Contractor agrees that it shall respond to the notice of deficiency, within seven business days of receipt, by submitting to the Department, a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by the Department to be inadequate, The Department shall notify the Bidder/Contractor and direct the Bidder/Contractor to submit, within five business days of notification by the Department, a request for a partial or total waiver of SDVOB participation goals on SDVOB 200. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or proposal.

5. The Department may disqualify a Bidder's bid or proposal as being non-responsive under the following circumstances:

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(i) If a Bidder fails to submit an SDVOB Utilization Plan;
(ii) If a Bidder fails to submit a written remedy to a notice of deficiency;
(iii) If a Bidder fails to submit a request for waiver; or
(iv) If the Department determines that the Bidder has failed to document good faith efforts.

6. If awarded a Contract, Contractor certifies that it will follow the submitted SDVOB Utilization Plan for the performance of SDVOBs on the Contract pursuant to the prescribed SDVOB contract goals set forth above.

7. Contractor further agrees that a failure to use SDVOBs as agreed in the Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, The Department shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsibility.

(c) Request for Waiver

1. Prior to submission of a request for a partial or total waiver, Bidder/Contractor shall speak to the Designated Contacts at the Department for guidance.

2. In accordance with 9 NYCRR § 252.2(m), a Bidder/Contractor that is able to document good faith efforts to meet the goal requirements, as set forth in clause (XI)(d) below, may submit a request for a partial or total waiver on Form SDVOB 200, accompanied by supporting documentation. A Bidder may submit the request for waiver at the same time it submits its SDVOB Utilization Plan. If a request for waiver is submitted with the SDVOB Utilization Plan and is not accepted by the Department at that time, the provisions of clauses (XI)(b) 3., 4., & 5. will apply. If the documentation included with the Bidder's/Contractor's waiver request is complete, the Department shall evaluate the request and issue a written notice of acceptance or denial within 20 days of receipt.

3. Contractor shall attempt to utilize, in good faith, the SDVOBs identified within its SDVOB Utilization Plan, during the performance of the Contract. Requests for a partial or total waiver of established goal requirements made subsequent to Contract award may be made at any time during the term of the Contract to the Department but must be made no later than prior to the submission of a request for final payment on the Contract.

4. If the Department, upon review of the SDVOB Utilization Plan and Monthly SDVOB Compliance Report (SDVOB 101) determines that Contractor is failing or refusing to comply with the contract goals and no waiver has been issued in regards to such non-compliance, the Department may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within seven business days of receipt. Such response may include a request for partial or total waiver of SDVOB contract goals.

Waiver requests should be sent to the Department.

(d) Required Good Faith Efforts

In accordance with 9 NYCRR § 252.2(n), Contractors must document their good faith efforts toward utilizing SDVOBs on the Contract. Evidence of required good faith efforts shall include, but not be limited to, the following:

(1) Copies of solicitations to SDVOBs and any responses thereto.

(2) Explanation of the specific reasons each SDVOB that responded to Bidders/Contractors' solicitation was not selected.

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(3) Dates of any pre-bid, pre-award or other meetings attended by Contractor, if any, scheduled by the Department with certified SDVOBs whom the Department determined were capable of fulfilling the SDVOB goals set in the Contract.

(4) Information describing the specific steps undertaken to reasonably structure the Contract scope of work for the purpose of subcontracting with, or obtaining supplies from, certified SDVOBs.

(5) Other information deemed relevant to the waiver request.

(e) **Quarterly SDVOB Contractor Compliance Report**
In accordance with 9 NYCRR § 252.2(q), Contractor is required to report Quarterly SDVOB Contractor Compliance within the first month of each quarter to the Department during the term of the Contract for the preceding quarters' activity, documenting progress made towards achieving the Contract SDVOB goals. This information must be submitted using form SDVOB 101 and should be completed by the Contractor and submitted to the Department, by the 10th day of the first month of each quarter during the term of the Contract, for the preceding quarters' activity to: sdvob@dec.ny.gov

(f) **Breach of Contract and Damages**
In accordance with 9 NYCRR § 252.2(s), any Contractor found to have willfully and intentionally failed to comply with the SDVOB participation goals set forth in the Contract, shall be found to have breached the contract and Contractor shall pay damages as set forth therein.

XII. Iran Divestment Act Requirements

By entering into this Agreement, Contractor certifies in accordance with State Finance Law §165-a that it is not on the "Entities Determined to be Non-Responsive Bidders/Offerors pursuant to the New York State Iran Divestment Act of 2012" ("Prohibited Entities List") posted at:
http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf

Contractor further certifies that it will not utilize on this Contract any subcontractor that is identified on the Prohibited Entities List. Contractor agrees that should it seek to renew or extend this Contract, it must provide the same certification at the time the Contract is renewed or extended. Contractor also agrees that any proposed Assignee of this Contract will be required to certify that it is not on the Prohibited Entities List before the contract assignment will be approved by the State.

During the term of the Contract, should the state agency receive information that a person (as defined in State Finance Law §165-a) is in violation of the above-referenced certifications, the state agency will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then the state agency shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

The state agency reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities list after contract award.

XIII. Americans With Disabilities Act

In the event the monies defined herein are to be used for the development of facilities, outdoor recreation areas, transportation or written or spoken communication with the public, the Contractor shall comply with all requirements for providing access for individuals with disabilities as established by Article 4A of the New York State Public Buildings Law, Americans with Disabilities Act, and relevant sections of the New York State Uniform Fire Prevention and Building Code. Standards for certain Recreation Facilities are found in the 2010 ADA Standards for Accessible Design while others are found in the Architectural Barriers Act Accessibility Guidelines for Outdoor Recreation Areas, https://www.access-

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board.gov/guidelines-and-standards

XIV. Public Access to Facilities

If applicable to the project, the Contractor agrees to allow public access to any facilities developed with monies defined herein on the same basis to all residents of New York State for a period not less than five (5) years after the date of final payment under this Contract or five (5) years after the date that the final payment was due. Failure to comply with the provisions of this clause shall be considered an abandonment of the Project.

XV. Project Insurance Considerations

Refer to project insurance requirements as set forth in A-1 (B) Program Specific Terms and Conditions.

XVI. Amendment/Extensions

The Contract may be amended and/or extended by mutual written consent of all parties. Amendment forms will be incorporated into this Contract and will not take effect until approved by all applicable State agencies and final approval by the Office of the State Comptroller, if applicable. Contract amendments may be conditioned upon funds being re-appropriated in the State Budget each state fiscal year to the Department.

XVII. Environmental Protection Fund Acknowledgement

If applicable, in recognition of a portion of the Department funds utilized for any work completed under this Contract, the Contractor agrees to acknowledge in any communication to the public, that such funding was provided from the Environmental Protection Fund as administered by the New York State Department of Environmental Conservation.

XVIII. Vendor Responsibility

a) The Contractor shall at all times during the Contract term remain responsible. The Contractor agrees, if requested by the Commissioner or his or her designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.

b) The Department recommends that vendors file a required Vendor Responsibility Questionnaire online via the New York State VendRep System. To enroll in and use the New York State VendRep System, see the VendRep System Instructions available at http://www.osc.state.ny.us/vendrep/vendor_index.htm or go directly to the VendRep System online at https://portal.osc.state.ny.us.

c) Vendors must provide their New York State Identification Number when enrolling. To request assignment of a Vendor ID or for VendRep System assistance, contact the Office of the State Comptroller's Help Desk at 866-370-4672 or 518-408-4672 or by email at ciohelpdesk@osc.state.ny.us. Vendors opting to complete and submit a paper questionnaire can obtain the appropriate questionnaire from the VendRep website www.osc.state.ny.us/vendrep or may contact the Department of the Office of the State Comptroller's Help Desk for a copy of the paper form.

d) Upon written notice to the Contractor, and a reasonable opportunity to be heard with appropriate Department officials or staff, the Contract may be terminated by the Commissioner or his or her designee at the Contractor's expense where the Contractor is determined by the Commissioner or his or her designee to be non-responsible. In such event, the Commissioner or his or her designee may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.

XVIII. Permits

a) If applicable, the Contractor agrees to obtain all required permits, including but not limited to, local, state and federal permits prior to the commencement of any project related work. The Contractor agrees that all work performed in relation to the project by the Contractor or its agents, representatives, or contractors will comply with all relevant federal, state and local laws, rules, regulations and standards, zoning and building codes, ordinances, operating certificates for facilities, or licenses for an activity.

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b) With respect to the project, the contractor certifies that is has complied, and shall continue to comply with all requirements of the State Environmental Quality Review Act (SEQRA). The Contractor agrees to provide all environmental documents as may be required by the Department. The Contractor has notified, and shall continue to notify, the Department of all actions proposed for complying with the environmental review requirements imposed by SEQRA.

XIX. Approvals

The Contractor agrees that the project will be performed in accordance with the condition of any applicable administrative, judicial or governmental orders or approvals.

XX. Site Access

If applicable, the Contractor represents it has or will obtain title to or sufficient interest in the project site, including rights-of-way and necessary easements, before the start of the project to ensure undisturbed use and possession for purposes of construction and completion of the project, as well as operation of the project throughout its useful life.

XXI. Cost Overruns

If applicable, any cost overruns will not be paid by the Department and the Department is not committed to seeking additional appropriations or re-appropriation of funds and will not be responsible for the maintenance and operation of any facility which may be developed or equipment which may be purchased with the funds herein identified.

XXII. Construction Plans

It is the Contractor's responsibility (if applicable to the Project) to have all construction contract plans, specifications and cost estimates certified by a professional engineer licensed to practice in the State of New York. All certified plans and specifications shall become part of this Contract and shall be kept on the project site at all times.

XXIII. Payment and Reporting

a) The Contractor agrees to fully fund the Project and then seek reimbursement from the Department for eligible project costs. The Department will not process final payment for this Contract, until the Department determines that the project was completed satisfactorily and upon receipt of all required final close-out payment documentation in accordance with the direction and requirements described in Attachment D.

b) The Contractor will be entitled to receive reimbursement payments for work, projects, and/or services rendered as detailed and described in Attachment C and Attachment D of this Contract. Claims for reimbursement must be accompanied by such receipts and documents verifying expenditures as may be required by the Department and by the Comptroller. Satisfactory documentation shall include, but is not limited to, signed copies of payment vouchers or invoices, canceled checks/or the latest cumulative work-in-place estimate for each construction Contract, and any further documentation as may be required by the Department and/or the Comptroller. The Department reserves the right, in its sole discretion, to determine if the reimbursement request and accompanying documentation submitted by the Contractor is in satisfactory form and substance. A final payment determination will be based upon the Department's review of the Contractor's final voucher submission and reporting as described in Attachment D.

XXIV. On-Site Inspections

The State, Department or authorized representatives will conduct a review of the Project funded from this Contract, which may include on-site inspections, at a time that is satisfactory to the Department.

XXV. Prohibition on Purchase of Tropical Hardwoods

The Contractor certifies and warrants that all wood products to be sued under this contract award will be in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law, (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State of any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State. In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor

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will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in § 165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

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ATTACHMENT A-2
PROGRAM SPECIFIC TERMS AND CONDITIONS

Standard Clauses for All New York State Department of Environmental Conservation Contracts

I. Notices:

The Department's authorized representative for the implementation of this Contract and for approval, direction and receipt of all Project reports called for in this Contract is listed below. Whenever it is provided in this Contract that notice must be given or other communications sent to the Department, the notices or communications must be in writing and delivered or sent to the Department's authorized representative at:

Office of Climate Change
New York State Department of Environmental Conservation
625 Broadway – 9th Floor
Albany, New York, 12233-1030
Tel. No.: (518) 402-8448

A copy of all legal notices shall be sent to:
General Counsel
New York State Department of Environmental Conservation
625 Broadway - 14th Floor
Albany, New York, 12233-1500

The Contractor's authorized representative for the implementation of this Contract is the person authorized in the Resolution of Support for the contract. Notices or communications regarding this Contract should be in writing and delivered or sent to the Contractor's authorized representative at the address identified on the Face Page, with copies sent to the Contractor's contract administrator as identified in the contract application.

Notices delivered or sent shall be deemed for all purposes as notice to all persons who are Parties to this Contract as Department or Contractor.

II. Project Insurance Considerations

The Contractor agrees to procure and maintain at its own expense and without expense to the Department until final acceptance by the Department of the services covered by this Contract, insurance of the kinds and amounts as determined by the Department and based upon the project work plan. The insurance policies should be provided by insurance companies licensed to do business in the State of New York. Any delay or time lost as a result of the Contractor not having insurance required by the Contract shall not give rise to a delay claim or any other claim against the Department.

Upon execution of this Contract, the Contractor shall furnish to the Department a certificate or certificates, satisfactory to the Department, showing that it has complied with this Article. The insurance documentation shall provide that:

- Liability and protective liability insurance policies shall provide primary and non-contributory coverage to the NYS Department of Environmental Conservation for any claims arising from the Contractor's Work under this contract, or as a result of Contractor's activities.
- The State of New York, NYS Department of Environmental Conservation, Office of Climate Change its officers, agents and employees, shall be listed as Certificate Holder on all liability insurance certificate(s), as additional insureds on endorsements(s) and on additional supporting documentation.
- The policies shall include a waiver of subrogation endorsement in favor of the Department as an additional insured. The endorsement shall be on ISO Form Number CG 24 04 or a similar form with same modification to the policy.
- Policies shall not be changed or canceled until thirty (30) days prior written notice has been given to the Department as evidenced by an endorsement or declarations page.

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- Insurance documentation shall disclose any deductible, self-insured retention, aggregate limit or any exclusion to the policy that materially changes the coverage required by the Contract.
- Endorsements in writing must be added to and made part of the insurance contract for the purpose of changing the original terms to reflect the revisions and additions as described. A copy of these endorsements must be provided to the Department within a reasonable amount of time.
- Applicable insurance policy number(s) reference on the ACORD form must be referenced in the supporting documentation requested by the Department and supplied by the insurance company (e.g. endorsement page, declarations page, etc.).
- This Contract shall be void and of no effect unless the Contractor procures the required insurance policies and maintains them until completion of the work or acceptance by the Department, whichever event is later.

The kinds and amounts of insurance required are as follows:

a) Workers' Compensation coverage must be provided for work to be performed in New York State. The Contractor shall provide and maintain full New York State coverage during the life of this contract for the benefit of such employees as are required to be covered by the New York State Workers' Compensation Law.

Evidence of Workers' Compensation and Employers Liability coverage must be provided on one of the following forms specified by the Chairman of the New York State Workers' Compensation Board:

FORM #	**FORM TITLE**
C-105.2	Certificate of Workers' Compensation Insurance
U-26.3	State Insurance Fund Version of the C-105.2 form
SI-12/ GSI-105.2	Certificate of Workers' Compensation Self-Insurance
CE-200	Certificate of Attestation of Exemption – (no employees)

b) Disability Benefits coverage must be provided for work to be performed in New York State. The Contractor shall provide and maintain coverage during the life of the contract for the benefit of such employees as are required to be covered by the New York State Disability Benefits Law. Any waiver of this requirement must be approved by the Department of Environmental Conservation and will only be granted in unique or unusual circumstances.

Evidence of Disability Benefits coverage must be provided on one of the following forms specified by the Chairman of the New York State Workers' Compensation Board:

FORM #	**FORM TITLE**
DB-120.1	Certificate of Disability Benefit Insurance
DB-155	Certificate of Disability Benefit Self-Insurance
CE-200	Certificate of Attestation of Exemption – (no employees)

An ACORD form is **NOT** an acceptable proof of Workers' Compensation coverage. **ALL OF THE ABOVE REFERENCED FORMS, EXCEPT CE-200, SI-12 & DB-155 MUST NAME** The State of New York and The New York State Department of Environmental Conservation, Office of Climate Change, 625 Broadway 9th floor, Albany, NY 12233-1030, as the Entity Requesting Proof of Coverage.

Additional information can be obtained at the Worker's Compensation website:

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http://www.wcb.ny.gov/content/main/Employers/Employers.jsp

Upon review of the scope of work outlined in the Grant Application by the Department, the following types of liability insurance may be required:

c) Commercial General Liability Insurance with a limit of not less than $2,000,000 each occurrence, and $5,000,000 General aggregate. Such insurance shall cover liability arising from premises operations, independent contractors, products-completed operations, broad form property damage, personal and advertising injury, cross liability assumed in a contract (including tort liability of another assumed in a contract). Limits may be provided through a combination of primary and umbrella/excess liability policies. The CGL aggregate shall be endorsed to apply on a per project basis for construction contracts.

d) Business Automobile Liability with a limit of not less than $1,000,000 each accident. Such insurance shall cover liability arising out of any registered motor vehicle including owned, leased, hired and non-owned vehicles. If the Contractor does not own, rent or lease any registered vehicles and will not be using any vehicles on State Land proof of Business Automobile Liability Insurance shall not be required for this Contract. The Contractor shall assume full responsibility and liability that owners and operators of any registered vehicles entering State Land to conduct work under this contract carry the same Business Automobile Liability Insurance of the kinds and amounts listed above. NYS Department of Environmental Conservation reserves the right to request proof of the same.

e) Environmental Liability with a limit of not less than $1,000,000 providing primary coverage for bodily injury and property damage, including loss of use of damaged property or of property that has not been physically injured. Such policy shall provide coverage for actual, alleged or threatened emission, discharge, dispersal, seepage, release or escape of pollutants, including any loss, cost or expense incurred as a result of any cleanup of pollutants or in the investigation, settlement or defense of any claim, suit, or proceedings against the Department of Environmental Conservation arising from the Contractor's Work.

f) Professional Liability Insurance includes coverage for its negligent act, error or omission in rendering or failing to render professional services required by this contract arising out of specifications, installation, modification, abatement, replacement or approval of products, materials or processes containing pollutants, and the failure to advise of or detect the existence or the proportions of pollutants. The Contractor, any subcontractor or supplier retained by the Contractor to work on the contract shall procure and maintain during and for a period of three (3) years after completion of this contract, Professional Liability Insurance in the amount of $1,000,000. The professional liability insurance may be issued on a claims-made policy form, in which case the Contractor shall purchase at its sole expense, extended Discovery Clause coverage of up to three (3) years after work is completed if coverage is cancelled or not renewed.

g) Marine Protection & Indemnity: Anytime the activity involves work on navigable water or the work is connected to water related activities, the Contractor shall procure Marine Protection & Indemnity and Hull and Machinery coverage, if available. Hull and Machinery coverage shall be provided for the total value of the watercraft or equipment. The Contractor shall obtain Protective and Indemnity Liability insurance for all marine operations under the contract, with a minimum $2,000,000 limit.

Should the Contractor engage a subcontractor, the Contractor shall impose the insurance requirements of this document on the subcontractor. Contractor shall determine the required insurance types and limits, commensurate with the work of the Subcontractor. The Contractor will maintain the certificate or certificates and endorsements for all subcontractors hired as part of the Contractor's records.

h) Local Share Requirements
For all Climate Smart Communities Projects, including Climate Protection Implementation Projects and Climate Smart Communities Certification Projects, the Department share will not exceed fifty percent (50%) of the approved project costs, up to the Contract Funding Amount identified on the Face Page, and the Contractor must provide fifty percent (50%) of required eligible share with eligible costs not paid with state grant funds nor federal funds. This percentage will be specified in the Attachment B-1 (Expenditure Budget).

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i) Construction

The Contractor agrees to proceed expeditiously with the Project and shall complete the Project in accordance with the performance measures set forth in Attachment C (Work Plan) or any amendments to such Work Plan which are approved by the Department in writing.

The Contractor agrees that it shall notify the Department in writing thirty (30) calendar days prior to the start of construction or, if the start of construction began on or before the contract execution date, upon approval of the Contract the Contractor shall notify the Department in writing within thirty (30) calendar days as to the status of any construction.

The Contractor agrees that it shall notify the Department in writing thirty (30) days following initial start-up operation of the Project.

The Contractor agrees that it shall cause the Project to be designed and constructed in accordance with the engineering report or facilities plan, and if applicable to the project, the plans and specifications for the Project shall be stamped with the seal of a licensed professional engineer and shall be signed with the personal signature of such engineer in compliance with Education Law §7209(1) and (2), and which have been delivered to and approved by the Department, as well as any amendments thereto.

The Contractor agrees that it shall permit the Department to participate in all its meetings and conferences with respect to the Project. Upon request from the Department, the Contractor must submit to the Department reports, documents, data, contractual documents, administrative records, and other information pertinent to the Project.

The Contractor agrees to permit representatives of the Department to have unrestricted access to the Project at all reasonable times, and all contracts of the Contractor for construction or operation of all or a portion of the Project shall contain provisions that permit such access to the Project or work relating to the Project, wherever it is in preparation or progress, and that contractors or subcontractors shall provide proper facilities for such access and inspection and shall permit extracts and copies of Project records to be made by the representatives of the Department.

j) Engineering Certification/As-built Plans

Within sixty (60) calendar days after the end of the Contract Term, or upon final completion of the Project, the Contractor agrees that it will deliver the following to the Department:

- A certification stating that all portions of the Project funded by this award have been completed in accordance with this Contract, and constructed per the approved plans and specifications, and any approved amendments thereto.
- The certified "as built" plans and specifications for the Project. Any work not in accordance with the approved plans and specifications shall be remedied, unless such non-compliance is agreed to be waived by the Department.
- The Contractor shall retain all as-built plans and specifications for the Project for the useful life of the Project.

k) Useful Life of Project

The Contractor agrees that it is fully responsible for ensuring the proper and efficient monitoring, operation and maintenance of the Project satisfactory to the Department, including, but not limited, to retaining a sufficient number of qualified staff and ensuring performance of required tests and requirements. After completion of the Project, the Contractor shall, for a for a minimum period of ten (10) years (the useful life of the Project as provided in 6 NYCRR 492-3.3[e]) operate the Project or otherwise cause the Project to be operated properly in a sound and economical manner and shall maintain, preserve and keep the Project, or cause the Project to be maintained, preserved and kept, in good repair, working order and condition and shall make, or cause to be made, all necessary and proper repairs, replacements and renewals from time to time, so that at all times the Project may be operated properly in a manner consistent with the Project performance standards contained in the engineering report of facilities plan for the Project, with this Contract and with the requirements of any related permit or other governmental approval of the Project.

l) Eligible Costs

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The contract start date for all contracts awarded through this request for application will be March 15, 2023. Only those eligible project related costs incurred between March 15, 2023, and March 14, 2028, will be eligible for reimbursement of grant funding. Payments will not be approved or processed by the Department until a MCG is fully approved by the Department and, as applicable, the Attorney General and the State Comptroller, and work has been completed under the state contract. Advance payments are not authorized as part of the Climate Smart Communities Program.

m) Climate Smart Communities Program Requirements

The grant recipient shall provide estimates of the project's GHG emissions reductions, risk reduction, or other appropriate metrics, as approved by the program manager, through the end of the contract term, in the quarterly report, and/or final project report as applicable.

For certification actions funded in the Climate Smart Communities Certification Project category, the grant recipient shall include in the work plan all deliverables required for each action as described in the Climate Smart Communities Certification Portal Actions Page at https://www.ClimateSmart.ny.gov under subheadings "E. How to Obtain Points for this Action" and "F. What to Submit" and provide these items as deliverables under the MCG.

Work plans for certification actions funded in the climate smart communities Certification Project category must include a submittal of documentation required for certification approval through the Climate Smart Communities Certification Portal at https://www.ClimateSmart.ny.gov.

If the grant recipient develops, improves, restores or rehabilitates real property that is not owned by the Contractor as part of the work of this Contract, the Contractor shall obtain a climate change mitigation easement from the owner of the real property. Climate change mitigation easements shall be enforced as conservation easements are enforced in ECL section 49-0305.

Construction projects require the installation of an Environmental Protection Fund funding acknowledgement sign and a 30-day notice of construction commencement. An approved sign design will be provided to the grantee upon full execution of the contract. The signage must remain in place for the life of the project.

Per 6 NYCRR Part 492, Climate Smart Communities Projects, a retainage of 5% will be withheld from each payment request for adaptation and mitigation projects (implementation). The retainage is held in case a project is not completed or all required match is not provided by the grantee. All accumulated retainage will be added to the final payment request upon project completion, match fulfillment, and submission of all deliverables.

The following statement acknowledging DEC funding for the project must be included in any press releases or other public announcement, including newspaper articles and web posting, as well as all documents, brochures, reports, signage, maps, and exhibits: "This project has been funded in part by The Climate Smart Community Grant Program, Title 15 of the Environmental Protection Fund through the NYS Department of Environmental Conservation." If a ribbon-cutting or other promotional event is planned for the project, the event must be coordinated with the DEC Press Office.

Pursuant to ECL 54-1515, all infrastructure funded through the CSC program must be owned by the grantee and cannot be transferred to another entity for the duration of the infrastructure's useful life. Through a Climate Change Mitigation Easement, the infrastructure may be placed on property not owned by the municipality.

n) Agreements

Climate Change Mitigation Easement

If the project or project components will be located on a site that is not owned by the applicant municipality, the municipality shall obtain a climate change mitigation easement (CCME) from the owner of the property pursuant to Environmental Conservation Law (ECL) §54-1513, before installation of the project or project components occurs. CCMEs shall be enforced as conservation easements are enforced in ECL section 49-

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0305. The grant recipient shall develop, execute, and file the CCME with the County Clerk. The CCME must ensure the following:

- The property shall be accessible to the municipality for any necessary work to achieve the funded purpose throughout the anticipated life of the project.
- The property shall provide the identified public benefit, e.g., publicly accessible clean vehicle charging or fueling, throughout the anticipated life of the project.
- The property shall be used to achieve climate protection and mitigation goals pursuant to ECL Article 54 Title 15 "Climate Smart Community Projects," e.g., reduction of greenhouse gas emissions from municipal and community transportation, throughout the anticipated life of the project.
- The property owner shall provide information and data to the municipality or will provide access to the municipality for collection of data, as specified in the rebate contract.
- The term for the easement shall adequately accommodate the required expected useful life of the project, which is 10 years

Partnership Agreement
For projects that involve more than one municipality or non-municipal partner, formal, finalized agreements, (such as memoranda of understanding [MOU]) executed by all parties substantiating the collaboration and detailing the responsibilities and role of each party to the agreement must be provided to the DEC and include the name, headquarters address, and contact information of all partners and lead municipality; and must be signed and dated by the CEO or duly authorized representative of each party to the agreement. Awards involving a partnership agreement will not be moved to contract execution until the formal agreement is officially executed and a copy received by the DEC.

o) Ownership
Pursuant to ECL 54-1515, all infrastructure funded through the CSC program must be owned by the grantee and cannot be transferred to another entity for the duration of the infrastructure's useful life. Through a Climate Change Mitigation Easement, the infrastructure may be placed on property not owned by the municipality.

p) Job Creation
Grantees will report on jobs created as a result of the funded project in the quarterly report.

q) Reclaim of Funds
The Department reserves the right to reclaim funds paid to a grantee if false statements regarding eligibility of the project or any if its components are discovered after award or payment has been made.

r) State Assistance Payments
After approval of the Climate Smart Community grant or rebate application, the commissioner may, in the name of the state, enter contracts with municipalities to provide state assistance payments toward the cost of climate smart community projects. Contracts shall include the following provisions:

- An estimate of the costs of the project, as determined by the commissioner.
- An agreement by the commissioner to make state assistance payments toward the cost of the project by periodically reimbursing the municipality during the progress of project development or following completion of the project as may be agreed upon by the parties, in an amount not to exceed the amounts established elsewhere in this title.
- An agreement by the municipality
    - to proceed expeditiously with and complete the project as approved by the commissioner;
    - to undertake and maintain the climate smart community project in accordance with applicable law and rules and regulations;
    - to provide for the payment of the municipality's share of the cost of the project;
    - to assume the full cost of any additional elements or continued operation of the project;
    - to repay within one year of notification by the commissioner, any state assistance payments made toward the cost of the project or an equitable portion of such monies declared appropriate by the commissioner, if the municipality fails to complete the project as

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approved. (No repayment, however, shall be required where the commissioner determines that such failure, disposition, or change of use was immediately necessary to protect public health and safety.); and

- to apply for and make reasonable efforts to secure federal assistance for the project.

In connection with each contract, the commissioner shall keep adequate records of the amount of the payment by the state, if any, received by the municipality. Such records shall be retained by the commissioner and shall establish the basis for recalculation of the state payment as required herein.

The commissioner shall impose such contractual requirements and conditions upon any municipality that receives state assistance payments pursuant to this title as may be necessary and appropriate to ensure that a public benefit shall accrue from the use of public funds by such municipality. Such conditions shall include limitations on the right of the municipality to demolish or convey such property; provisions for public access or use where appropriate; a requirement that all plans for restoration, rehabilitation, improvement, demolition or other physical change must be subject to the commissioner's approval; and such other conditions that shall assure the preservation and protection of the project.

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ATTACHMENT B - BUDGET

Contract Periods

Contract Type: Fixed Term
Contract Term: 03/15/2023 - 03/14/2028
Contract Amount: $2,000,000.00

Contract Period Information Details
For Fixed Terms contracts, only Period 1 in the chart below is completed.

For Simplified Renewal contracts, Period 1 in the chart below is completed initially and additional periods are added incrementally as they are awarded.

For Multi-Year Contracts, all defined contract periods will be displayed. Out years represent projected funding amounts.

For all contracts, the Budget and Workplan Indicator is provided to represent whether these details are included on the following pages.

Contract Period Information

Number	Dates	Amount	Amended Dates	Amended Amount	Budget Indicator	Workplan Indicator
1	03/15/2023 - 03/14/2028	$2,000,000.00			Y	Y

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ATTACHMENT B-1 - EXPENDITURE BASED BUDGET SUMMARY

PROJECT NAME: Rink Refrigeration Upgrades
CONTRACTOR NAME: AMHERST TOWN OF
CONTRACT PERIOD NUMBER: 1
CONTRACT PERIOD: From: 03/15/2023
To: 03/14/2028

CATEGORY OF EXPENSE	GRANT FUNDS	MATCH FUNDS	MATCH PERCENTAGE	OTHER FUNDS	TOTAL FUNDS
1) Personal Services					
a) SALARY	$0.00	$0.00	0%	$0.00	$0.00
b) FRINGE	$0.00	$0.00	0%	$0.00	$0.00
Subtotal	$0.00	$0.00	0%	$0.00	$0.00
2) Non Personal Services					
a) CONTRACTUAL	$2,000,000.00	$2,000,000.00	100%	$0.00	$4,000,000.00
b) TRAVEL	$0.00	$0.00	0%	$0.00	$0.00
c) EQUIPMENT	$0.00	$0.00	0%	$0.00	$0.00
d) SPACE/PROPERTY RENT	$0.00	$0.00	0%	$0.00	$0.00
e) SPACE/PROPERTY OWN	$0.00	$0.00	0%	$0.00	$0.00
f) UTILITIES	$0.00	$0.00	0%	$0.00	$0.00
g) OPERATING EXPENSES	$0.00	$0.00	0%	$0.00	$0.00
h) OTHER	$0.00	$0.00	0%	$0.00	$0.00
Subtotal	$2,000,000.00	$2,000,000.00	100%	$0.00	$4,000,000.00
Total	$2,000,000.00	$2,000,000.00	100%	$0.00	$4,000,000.0

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ATTACHMENT B-1 - EXPENDITURE BASED BUDGET

PERSONAL SERVICES DETAIL WORKSHEET

SALARY									
POSITION TITLE	ANNUALIZED SALARY PER POSITION	STANDARD WORK WEEK (HOURS)	PERCENT OF EFFORT FUNDED	NUMBER OF MONTHS FUNDED	GRANT FUNDS	MATCH FUNDS	MATCH PERCENTAGE	OTHER FUNDS	TOTAL FUN
	$0.00	0.00	0.00	0.00	$0.00	$0.00	0%	$0.00	$0
				Sub Total	$0.00	$0.00	0%	$0.00	$0
FRINGE									
TYPE/DESCRIPTION									
					$0.00	$0.00	0%	$0.00	$0.
				Sub Total	$0.00	$0.00	0%	$0.00	$0.
				Personal Services Total	$0.00	$0.00	0%	$0.00	$0

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ATTACHMENT B-1 - EXPENDITURE BASED BUDGET
PERSONAL SERVICES DETAIL WORKSHEET

PERSONAL SERVICES NARRATIVE - FRINGE

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ATTACHMENT B-1 - EXPENDITURE BASED BUDGET

NON-PERSONAL SERVICES DETAIL WORKSHEET – CONTRACTUAL

CONTRACTUAL TYPE/DESCRIPTION	GRANT FUNDS	MATCH FUNDS	MATCH PERCENTAGE	OTHER FUNDS	TOTAL FUNDS
1. New York Power Authority (NYPA), Project Management, environmental studies	$390,000.00	$390,000.00	100%	$0.00	$780,000.
2. JW Danforth, Design	$110,000.00	$110,000.00	100%	$0.00	$220,000.
3. JW Danforth, Equipment, Installation, and Labor	$1,500,000.00	$1,500,000.00	100%	$0.00	$3,000,000.
Total	$2,000,000.00	$2,000,000.00	100%	$0.00	$4,000,000

CONTRACTUAL NARRATIVE

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ATTACHMENT C – WORK PLAN

SUMMARY

PROJECT NAME: Rink Refrigeration Upgrades
CONTRACTOR NAME: AMHERST TOWN OF
CONTRACT PERIOD NUMBER: 1
CONTRACT PERIOD: From: 03/15/2023
To: 03/14/2028

The Town of Amherst will upgrade the Northtown Center ice rink facility. Phase I of this project will focus on the north end ice plant and replacement of the feature rink ice pad. The existing flooded R-22 refrigeration system utilizes R-22 refrigerant which is an ozone depleting gas and is a harmful to the environment. The new chiller equipment will utilize CO2 (R744), a refrigerant with a zero global warming potential (GWP). Replacement of the refrigerant system will decrease **greenhouse gas emissions** from the facility by an estimated 6,000 pounds / 18,044 metric tons of Co2 GHG annually. The CO2 chiller will also be used for heat recovery to further reduce the use natural gas and further reduce greenhouse gas emissions from the facility, including hot water, dehumidification, and under floor heating.

Subsequent phases would renovate the three remaining existing ice rink pads and decommissioning of the two existing ice plants.

The Town will contract with NYPA with a Customer Project Commitment to act as a Project Manager for this project under NYPA¿s Energy Efficiency Program. New York Power Authority (NYPA) will manage the design and installation of CO2 Chiller.

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ATTACHMENT C – WORK PLAN
DETAIL

Objective
1 Project Administration - Project administration
Task
1.1 Initial contract meeting - Initial contract meeting with grantee and DEC Office of Climate Change
Performance Measures
1.1.1 Meeting summary minutes - Meeting summary submitted to DEC
Task
1.2 Public Relations - Public Relations
Performance Measures
1.2.1 Notify DEC of any press events - Notify DEC of any press events, releases, or groundbreaking ceremonies at least 1 month prior to the event.
Task
1.3 Funding Acknowledgment - Funding acknowledgment
Performance Measures
1.3.1 Acknowledgment statement - The following statement must be included in all press, documents, and exhibits: "This project has been funded in part by the Climate Smart Communities Grant Program, Title 15 of the Environmental Protection Fund through the New York State Department of Environmental Conservation."
Task
1.4 Reporting - Reporting
Performance Measures
1.4.1 MWBE reporting - MWBE reports filed quarterly in the New York State Contract System at https: //ny.newnycontracts.com/. SDVOB Quarterly Contractor Compliance Reports submitted to sdvob@dec.ny.gov 1.4.2 Reporting - Quarterly progress reports submitted to DEC within 30 days of the close of the quarter. 1.4.3 Reimbursement - Reimbursement requests submitted as needed, but only at the end of a quarter. Final reimbursement request is due to DEC within 120 days of the contract end date. 1.4.4 Reporting - Final project summary report and all deliverables submitted to DEC within 60 days of the contract end date.
Objective
2 Procure NYPA as the Energy Efficiency Program contractor (s) and ensure compliance with MWBE and SDVOB goals, including documenting all ¿good faith efforts¿ in the case a waiver is needed. - Procure NYPA as the Energy Efficiency Program contractor (s) and ensure compliance with MWBE and SDVOB goals, including documenting all ¿good faith efforts¿ in the case a waiver is needed.
Task
2.1 Approve and Execute a Customer Project Commitment for an Energy Efficiency Program per Public Authority¿s Law 1005(17) - Approve and Execute a Customer Project Commitment for an Energy Efficiency Program per Public Authority¿s Law 1005(17)
Performance Measures
2.1.1 Public Authority¿s Law 1005(17), Town Board Resolution and Customer Project Commitment with NYPA Submitted to DEC - Public Authority¿s Law 1005(17), Town Board Resolution and Customer Project Commitment with NYPA Submitted to DEC
Task
2.2 A. Compile all MWBE ¿good faith efforts and provide to mwbe@dec.ny.gov and compile all SDVOB ¿good faith efforts¿ and provide to sdvob@dec.ny.gov with a cc to the DEC program manager if waiver is requested. - A. Compile all MWBE ¿good faith efforts and provide to mwbe@dec.ny.gov and compile all SDVOB ¿good faith efforts¿ and provide to sdvob@dec.ny.gov with a cc to the DEC program manager if waiver is requested.
Performance Measures
2.2.1 copy of e-mail from grantee to DEC MWBE and/or SDVOB office with all good faith effort documentation. - copy of e-mail from grantee to DEC MWBE and/or SDVOB office with all good faith effort

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documentation.
Task
2.3 Project kickoff meeting with consultant, grantee, and DEC. - Project kickoff meeting with consultant, grantee, and DEC.
Performance Measures
2.3.1 Summary of meeting and timeline/plan for completing the scope of work submitted to DEC. - Summary of meeting and timeline/plan for completing the scope of work submitted to DEC.
Objective
3 Pre-construction Activities - Pre-construction Activities
Task
3.1 Obtain all required local, state, and/or federal permits. - Obtain all required local, state, and/or federal permits.
Performance Measures
3.1.1 Copies of all required permits and comments from reviewing agencies or public (if necessary). - Copies of all required permits and comments from reviewing agencies or public (if necessary).
Task
3.2 Document pre-construction conditions - Document pre-construction conditions
Performance Measures
3.2.1 Photo-documentation of the project site pre-construction, submitted to DEC. - Photo-documentation of the project site pre-construction, submitted to DEC.
Task
3.3 B. Notify DEC, in writing, 30 calendar days prior to the start of construction that work is about to begin. If construction had begun prior to contract execution, provide to DEC, in writing, the status of any construction underway at the time of contract execution. Provide an update of progress 30 days following initial startup. - B. Notify DEC, in writing, 30 calendar days prior to the start of construction that work is about to begin. If construction had begun prior to contract execution, provide to DEC, in writing, the status of any construction underway at the time of contract execution. Provide an update of progress 30 days following initial startup.
Performance Measures
3.3.1 30-day notice letter and 30-day progress update submitted to DEC. - 30-day notice letter and 30-day progress update submitted to DEC.
Task
3.4 Construction kickoff meeting - Construction kickoff meeting.
Performance Measures
3.4.1 Meeting minutes submitted to DEC - Meeting minutes submitted to DEC
Task
3.5 Install Environmental Protection Fund (EPF) acknowledgement sign - Install Environmental Protection Fund (EPF) acknowledgement sign
Performance Measures
3.5.1 Photographs of installed sign submitted to DEC including, but not be limited to a close-up with legible text and a wide, in-situ shot showing location and situation. - Photographs of installed sign submitted to DEC including, but not be limited to a close-up with legible text and a wide, in-situ shot showing location and situation.
Objective
4 Removal of old R-22 chiller and replacement with new CO2 chiller package for the feature rink. Dehumidification unit, heat recovery features, replacement of the existing water-cooling tower with an air-cooled unit and removal and replacement of the existing concrete ice rink floor and under floor piping. - Removal of old R-22 chiller and replacement with new CO2 chiller package for the feature rink. Dehumidification unit, heat recovery features, replacement of the existing water-cooling tower with an air-cooled unit and removal and replacement of the existing concrete ice rink floor and under floor piping.
Task
4.1 Construction oversight - Construction oversight
Performance Measures
4.1.1 weekly construction reports submitted to DEC - weekly construction reports submitted to DEC 4.1.2 photo-documentation of the project site during construction, submitted to DEC with biweekly reports. - photo-documentation of the project site during construction, submitted to DEC with biweekly reports.
Task

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4.2 Construction completion - Construction completion
Performance Measures
4.2.1 Final inspection report of the completed construction work signed by supervising engineer submitted to DEC. - Final inspection report of the completed construction work signed by supervising engineer submitted to DEC. 4.2.2 Certificate of completion stating that all portions of the project funded by this grant have been completed in accordance with this contract and constructed per the approved plans and specifications(amendments) submitted and/or certified "as-built" plans and specifications for any portions of the project funded by this grant, stamped with the seal of a licensed professional engineer, and signed with the personal signature of such engineer in compliance with Education Law §7209(1) and (2) submitted to DEC. - Certificate of completion stating that all portions of the project funded by this grant have been completed in accordance with this contract and constructed per the approved plans and specifications(amendments) submitted and/or certified "as-built" plans and specifications for any portions of the project funded by this grant, stamped with the seal of a licensed professional engineer, and signed with the personal signature of such engineer in compliance with Education Law §7209(1) and (2) submitted to DEC. 4.2.3 Photo-documentation of the project site after construction, submitted to DEC. - Photo-documentation of the project site after construction, submitted to DEC.
Objective
5 Monitor and report on project-appropriate metrics - Monitor and report on project-appropriate metrics
Task
5.1 A. Track the reduction in electricity and/or natural gas use in regard to hot water, dehumidification, and under floor heating resulting from the project. - A. Track the reduction in electricity and/or natural gas use in regard to hot water, dehumidification, and under floor heating resulting from the project.
Performance Measures
5.1.1 Summary of findings submitted to DEC. - Summary of findings submitted to DEC.
Task
5.2 Calculate the GHG emissions reduction from the shift to CO2 from R-22 and reductions in electricity and natural gas use, including leak estimate of refrigerant from the old system. - Calculate the GHG emissions reduction from the shift to CO2 from R-22 and reductions in electricity and natural gas use, including leak estimate of refrigerant from the old system.
Performance Measures
5.2.1 Report detailing reductions in electricity and/or natural gas use and GHG emissions annually resulting from the project. - Report detailing reductions in electricity and/or natural gas use and GHG emissions annually resulting from the project.

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ATTACHMENT D

PAYMENT AND REPORTING

A. General Terms and Conditions:

1. In full consideration of contract performance, the State Agency agrees to pay, and the Contractor agrees to accept a sum not to exceed the amount noted on the Face Page.

2. The State has no obligation to make payment until all required approvals, including the approval of the AG and OSC, if required, have been obtained and the contract is fully executed. Contractor obligations or expenditures that precede the start date of the Contract shall not be reimbursed.

3. Article 11-B of the State Finance Law sets forth certain time frames for the Full Execution of contracts or renewal contracts with not-for-profit organizations and the implementation of any program plan associated with such contract. For purposes of this section, "Full Execution" shall mean that the contract has been signed by all parties thereto and has obtained the approval of the AG and OSC. Any interest to be paid on a missed payment to the Contractor based on a delay in the Full Execution of the Contract shall be governed by Article 11-B of the State Finance Law.

4. Contractor must provide complete and accurate billing invoices to the State in order to receive payment. However, the State may, in its discretion, automatically generate a voucher in accordance with an approved contract payment schedule. The State may require the Contractor to submit billing invoices electronically.

5. The Contractor shall submit documentation to support its claims for payment pursuant to this Contract. All supporting documentation must be completed and provided in a manner satisfactory and acceptable to the State Agency in order for the Contractor to be eligible for payment.

6. Payment for invoices submitted by the Contractor shall be rendered electronically in accordance with OSC's procedures and practices governing electronic payment unless payment by paper check is expressly authorized by the head of the State Agency, in his or her sole discretion after the Contractor establishes extenuating circumstances requiring payment by paper check.

7. If travel expenses are an approved expenditure under the Contract, travel expenses shall be reimbursed at the lesser of the rates set forth in the written standard travel policy of the Contractor, the OSC guidelines, or United States General Services Administration rates. No out- of-state travel costs shall be permitted unless specifically detailed and pre-approved by the State.

8. The State reserves the right to withhold up to fifteen percent (15%) of the total amount of the Contract as security for the faithful completion of services or work, as applicable, under the Contract. This amount may be withheld in whole or in part from any single payment or combination of payments otherwise due under the Contract. In the event that such withheld funds are insufficient to satisfy Contractor's obligations to the State, the State may pursue all available remedies, including the right of setoff and recoupment.

9. All vouchers must be submitted by the Contractor no later than thirty (30) calendar days after the end date of the period for which reimbursement is claimed. In no event shall the amount received by the Contractor exceed the budget amount approved by the State Agency, and, if actual expenditures by the Contractor are less than such sum, the amount payable by the State Agency to the Contractor shall not exceed the amount of actual expenditures.

10. All obligations must be incurred prior to the end date of the contract. The final claim of the contract term shall be submitted to the State Agency up to ninety (90) calendar days after the contract end date to make final expenditures if this contract is State Funded. However, if this contract is funded, in whole or in part, with Federal funds, the Contractor shall have up to sixty (60) calendar days after the contract end date to make expenditures and submit the claim to the State Agency.

11. The State shall not be liable for payments on the Contract if it is made pursuant to a

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Community Projects Fund appropriation if insufficient monies are available pursuant to Section 99-d of the State Finance Law.

12. The Contractor may be required to submit a Consolidated Fiscal Reporting System ("CFR"). The CFR is a standardized electronic reporting method accepted by State agencies, consisting of schedules which, in different combinations, capture financial information for budgets, quarterly and/or mid-year claims, an annual cost report, and a final claim. The CFR, which must be submitted annually, is both a year-end cost report and a year-end claiming document. For New York City contractors, the due date shall be May 1 of each year; for Upstate and Long Island contractors, the due date shall be November 1 of each year.

B. Advance Payments and Claiming Requirements:

1. Advance payments, which the State in its sole discretion may make to not-for-profit grant recipients, shall be made and recouped in accordance with State Finance Law Section 179-u for both multiyear and renewal contracts and the provisions of this contract. Federally funded contract advances will be made as set forth by the Federal grant award requirements and applicable Federal regulations and this contract.

2. For simplified renewals, the payment schedule will be modified as part of the renewal process. For subsequent contract years in multi-year contracts, Contractor will be notified of the scheduled advance payments for the upcoming contract year no later than 90 days prior to the commencement of the contract year.

3. Recoupment of any advance payment(s) shall be recovered by crediting the percentage of subsequent claims and such claims shall be reduced until the advance is fully recovered within the Contract Term. Any unexpended advance balance at the end of the Contract Term shall be refunded by the Contractor to the State.

4. All Claim Submissions including Advance Payments, Initial Payments, and Reimbursements shall be made in accordance with the State Agency approved Schedule A: Claiming Requirements below.

Schedule A: Claiming Requirement

Period 1: 03/15/2023 - 03/14/2028			
Claim Number	**Claim Type**	**Claim Period**	**Due Date**
1	Quarterly Reimbursement	03/15/2023 - 06/14/2023	07/14/2023
2	Quarterly Reimbursement	06/15/2023 - 09/14/2023	10/14/2023
3	Quarterly Reimbursement	09/15/2023 - 12/14/2023	01/13/2024
4	Quarterly Reimbursement	12/15/2023 - 03/14/2024	04/13/2024
5	Quarterly Reimbursement	03/15/2024 - 06/14/2024	07/14/2024
6	Quarterly Reimbursement	06/15/2024 - 09/14/2024	10/14/2024
7	Quarterly Reimbursement	09/15/2024 - 12/14/2024	01/13/2025
8	Quarterly Reimbursement	12/15/2024 - 03/14/2025	04/13/2025
9	Quarterly Reimbursement	03/15/2025 - 06/14/2025	07/14/2025
10	Quarterly Reimbursement	06/15/2025 - 09/14/2025	10/14/2025
11	Quarterly Reimbursement	09/15/2025 - 12/14/2025	01/13/2026
12	Quarterly Reimbursement	12/15/2025 - 03/14/2026	04/13/2026
13	Quarterly Reimbursement	03/15/2026 - 06/14/2026	07/14/2026
14	Quarterly Reimbursement	06/15/2026 - 09/14/2026	10/14/2026
15	Quarterly Reimbursement	09/15/2026 - 12/14/2026	01/13/2027
16	Quarterly Reimbursement	12/15/2026 - 03/14/2027	04/13/2027
17	Quarterly Reimbursement	03/15/2027 - 06/14/2027	07/14/2027
18	Quarterly Reimbursement	06/15/2027 - 09/14/2027	10/14/2027
19	Quarterly Reimbursement	09/15/2027 - 12/14/2027	01/13/2028
20	Quarterly Reimbursement	12/15/2027 - 03/14/2028	04/13/2028

5. Milestone/Performance Reimbursement is based upon the Contractor satisfactorily meeting specified and meaningful events or milestones in performance of duties under this Contract. Requests for such payments be severable or cumulative. A severable event/milestone is independent of accomplishment of any other event. If the event is cumulative, the successful completion of an event or milestone is dependent on the previous completion of another event.

    - For non-performance based contracts, the Contractor's costs must be allocated

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pursuant to a plan that meets the requirements of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance) at 2 CFR Part 200. Methods used to determine and assign costs shall conform to generally accepted accounting practices and shall be consistent with the method(s) used by the Contractor to determine costs for other operations or programs. Such accounting standards and practices shall be subject to approval of the State.

- For performance-based milestone contracts, or for the portion of the contract amount paid on a performance basis, the Contractor shall maintain documentation demonstrating that milestones were attained.

6. Fee for Service Reimbursement is based upon a rate established by the Contractor for a service or services rendered. Payment shall be limited to only those fees specifically agreed upon in the Contract and shall be payable in accordance with the State Agency approved Schedule A: Claiming Requirements.

7. Rate Based Reimbursement is based upon an established rate per unit at defined intervals to be paid to the Contractor in accordance with the State Agency approved Schedule A: Claiming Requirements. Payment shall be limited to rate(s) established in the Contract and may be requested no more frequently than monthly.

8. Fifth Quarter Payments occur when there are scheduled payments and an expectation that services will be continued through renewals or subsequent contracts. Fifth quarter payment shall be paid to the Contractor at the conclusion of the final scheduled payment period of the preceding contract period. The State Agency shall generate a voucher in the fourth quarter of the current contract year to pay the scheduled payment for the next contract year.

9. If the Expenditure Based Budget is used in Attachment B-1 and the Expenditure Report is selected below, the Contractor shall submit, not later than the time period listed in the State Agency approved Schedule A: Claiming Requirements above, a detailed expenditure report, by object of expense. This report shall accompany the voucher submitted for such period.

☐ Expenditure Report Required

C. Refunds:

1. In the event that the Contractor must refund the State for Contract-related activities, including repayment of an advance or an audit disallowance, the refund must be made payable as set forth by the State Agency, must reference the contract number with its payment, and include a brief explanation of why the refund is being made.

2. If at the end or termination of the Contract there remains any unexpended balance of the monies advanced under the Contract in the possession of the Contractor, the Contractor shall make payment within forty-five (45) calendar days of the end or termination of the Contract. In the event that the Contractor fails to refund such balance the State may pursue all available remedies.

D. Progress Reporting Requirements:

If the State Agency determines that Work Plan Based Reporting is required to summarize the progress made on the performance measures established in the Contract, such reporting shall be made online as directed by the State Agency.

If Work Plan Based Reporting is not required, the Contractor shall comply with the following applicable provisions and the Contractor shall provide the State Agency with one or more of the following reports as required by the State Agency:

1. *Narrative/Qualitative Report:* The Contractor shall submit no later than the time period identified in Schedule B: Progress Reporting Requirements, below, a report, in narrative form, summarizing the services rendered during the quarter. This report shall detail how the Contractor has progressed toward attaining the qualitative goals enumerated in the Work Plan. This report should address all goals and objectives of the project and include

Attachment: AGREEMENT_00000000000000000000136612 (RES-2024-990 : Rink Refrigeration Updates - CRS #5164)

a discussion of problems encountered and steps taken to solve them.

2. *Statistical/Quantitative Report:* The Contractor shall submit, on a quarterly basis, no later than the time period listed in Schedule B: Progress Reporting Requirements, below, a detailed report analyzing the quantitative aspects of the program plan, as appropriate (e. g., number of meals served, clients transported, patient/client encounters, procedures performed, training sessions conducted, etc.)

3. *Final Report:* The Contractor shall submit a final report as required by the Contract, not later than the time period listed in Schedule B: Progress Reporting Requirements, below, which reports on all aspects of the program and detailing how the use of funds were utilized in achieving the goals set forth in Attachment C (Work Plan).

4. *Consolidated Fiscal Report:* The Contractor shall submit a consolidated fiscal report, which includes a year-end cost report and final claim not later than the time period listed in Schedule B: Progress Reporting Requirements below.

Schedule B: Progress Reporting Requirements

Period 1: 03/15/2023 – 03/14/2028			
Progress Report	**Report Type**	**Report Period**	**Due Date**
1	Progress Report	03/15/2023 - 06/14/2023	07/14/2023
2	Progress Report	06/15/2023 - 09/14/2023	10/14/2023
3	Progress Report	09/15/2023 - 12/14/2023	01/13/2024
4	Progress Report	12/15/2023 - 03/14/2024	04/13/2024
5	Progress Report	03/15/2024 - 06/14/2024	07/14/2024
6	Progress Report	06/15/2024 - 09/14/2024	10/14/2024
7	Progress Report	09/15/2024 - 12/14/2024	01/13/2025
8	Progress Report	12/15/2024 - 03/14/2025	04/13/2025
9	Progress Report	03/15/2025 - 06/14/2025	07/14/2025
10	Progress Report	06/15/2025 - 09/14/2025	10/14/2025
11	Progress Report	09/15/2025 - 12/14/2025	01/13/2026
12	Progress Report	12/15/2025 - 03/14/2026	04/13/2026
13	Progress Report	03/15/2026 - 06/14/2026	07/14/2026
14	Progress Report	06/15/2026 - 09/14/2026	10/14/2026
15	Progress Report	09/15/2026 - 12/14/2026	01/13/2027
16	Progress Report	12/15/2026 - 03/14/2027	04/13/2027
17	Progress Report	03/15/2027 - 06/14/2027	07/14/2027
18	Progress Report	06/15/2027 - 09/14/2027	10/14/2027
19	Progress Report	09/15/2027 - 12/14/2027	01/13/2028
20	Progress Report	12/15/2027 - 03/14/2028	04/13/2028
21	Final Report	03/15/2023 - 03/14/2028	05/12/2028

E. Special Payment and Reporting Provisions:

Period 1:

Attachment: AGREEMENT_00000000000000000000136612 (RES-2024-990 : Rink Refrigeration Updates - CRS #5164)

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

Francina J. Spoth
Town Clerk

Meeting: 12/02/24 07:00 PM
Department: Youth & Recreation
Initiated by: **Mary Diana Pouli**
Co-Sponsored by:

DOC ID: 29670 **RESOLUTION 2024-991** **ADOPTED**

2025 Golf Fees

Authorize the adoption of 2025 fees at the Audubon and Par 3 golf courses. These fees have been reviewed and recommended by the Amherst Recreation Commission.

12/2/2024
Consent

FINANCIAL IMPACT:

Revenue TBD

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

Audubon Golf Course

2024 In-Season Rates

	PUBLIC		RESIDENT CARD	
Weekday Rates	*Walk*	*Ride*	*Walk*	*Ride*
Mon-Fri Open - 4pm	$25	$41	$20	$36
Mon-Fri 4pm - Close	$20	$36	$15	$31
9 Holes	$18	$29	$15.50	$26.50
League 9	$16	$24	NA	NA

Weekend Rates				
Sat, Sun, Hol Open - 4pm	$29	$45	$24	$40
Sat, Sun, Hol 4pm - Close	$23	$39	$18	$34
9 Holes	$19	$30	$16.50	$27.50

Resident Advantage Card Discount = $5 on 18 and $2.50 on 9

Par 3				
7 Day	$14	$25	$12	$23

Season Passes - Green Fee Only		Notes
Annual Passholder - 7 Day	**$749**	**$699 for Renewal**
Annual Passholder Senior (60+) - Weekday	**$549**	**$499 for Renewal**
Annual Passholder Junior (-17) - Weekday	**$449**	
Resident Advantage Card - $29		Same $5 off 18 and $2.50 off 9

Carts $16 for 18 Holes
Carts $11 for 9 Holes
***Cart Fees are inclusive of tax**

Audubon Golf Course

2025 In-Season Rates

	PUBLIC		RESIDENT CARD	
Weekday Rates	*Walk*	*Ride*	*Walk*	*Ride*
Mon-Fri Open - 4pm	$26	$42	$20	$36
Mon-Fri 4pm - Close	$21	$37	$15	$31
9 Holes	$19	$30	$16.00	$27.00
League 9	$17	$25	NA	NA

Weekend Rates				
Sat, Sun, Hol Open - 4pm	$31	$47	$25	$41
Sat, Sun, Hol 4pm - Close	$24	$40	$18	$34
9 Holes	$20	$31	$17.00	$28.00

Resident Advantage Card Discount = $6 on 18 and $3 on 9, $2 on Par 3

Par 3				
7 Day	$14	$25	$12	$23

Season Passes - Green Fee Only		Notes
Annual Passholder - 7 Day	**$799**	**$749 for Renewal**
Annual Passholder Senior (60+) - Weekday	**$599**	**$549 for Renewal**
Annual Passholder Junior (-17) - Weekday	**$399**	
Resident Advantage Card - $29		$6 off 18 and $3 off 9
Veteran Advantage Card - $15		$6 off 18 and $3 off 9

Carts $16 for 18 Holes
Carts $11 for 9 Holes
***Cart Fees are inclusive of tax**

Attachment: Amherst Audubon Rate Sheet Comparison 2024-2025 (RES-2024-991 : 2025 Golf Fees)

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

Francina J. Spoth
Town Clerk

Meeting: 12/02/24 07:00 PM
Department: Youth & Recreation
Initiated by: **Mary Diana Pouli**
Co-Sponsored by:

DOC ID: 29711 **RESOLUTION 2024-992** **ADOPTED**

2024-2025 Youth Development Program Agreement - CRS #5149

Authorize the Supervisor to sign a contract between the Town of Amherst (Youth & Recreation Department) and Erie County (Department of Social Services) for the 2024-2025 program year.

12/2/2024
Consent

FINANCIAL IMPACT:

A7145.03089: -$48,279.00 (revenue)

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

13.T.4.a

Attachment: 2024-2025 Youth Development Program Agreement (RES-2024-992 : 2024-2025 Youth Development Program Agreement - CRS

2024-2025 YOUTH DEVELOPMENT PROGRAM AGREEMENT

THIS AGREEMENT is made as of the date of the last signature affixed hereto, by and between the County of Erie, a municipal corporation of the State of New York through the Erie County Department of Social Services, having its office at 95 Franklin Street, in the City of Buffalo, New York, hereinafter called the Department and **Town of Amherst Youth & Recreation Department**, a municipality maintaining offices at **1615 Amherst Manor Drive, Williamsville, New York 14221,** hereinafter called the Contractor.

WITNESSETH:

WHEREAS, Article 12 of the Erie County Charter has established a division of youth within the Erie County Department of Social Services; and

WHEREAS, the Contractor has submitted to the Department an application for a youth program to advance the moral, physical, mental and social well-being of the youth of the County of Erie; and

WHEREAS, the Department desires to assist the Contractor on its Youth Program, and to secure reimbursable funds therefore from the State of New York; and

WHEREAS, the Erie County Legislature has approved the Youth Program and authorized the County Executive to execute all necessary documents and agreements to implement such program.

NOW THEREFORE, it is mutually agreed between the parties as follows:

1. The New York State Office of Children & Family Services detail the program service to be rendered by the Contractor and the costs to be incurred by the Contractor in providing such service, and both become a part of this Agreement.

2. The Contractor agrees that it will comply with all provisions of the United States Constitution and of all laws of the State of New York and the County of Erie, and particularly with Section 103a and 103b of the General Municipal Law, the laws against discrimination and those regarding workers' compensation and employment disability and the New York State Office of Children & Family Services Law, and will comply with all the rules and regulations of the New York State Office of Children and Family Services and of the Comptroller of the County of Erie.

3. The Contractor agrees that the Department will not be liable for payment for any item not set forth in a Contractor line item budget or for monies expended by the Contractor beyond

the sum allocated in the program budget. Any modifications in the line item budget must be approved in advance, in writing by the Department and the New York State Office of Children and Family Services.

4. The Contractor agrees to submit to the Department on or before the fifteenth day of each succeeding quarter a report of its expenditures during the preceding quarter with verified or certified vouchers and other supporting data attached, which Quarterly Report of Expenditures must satisfy the Department that such quarterly expenditures were made in accordance with the New York State Office of Children & Families Fiscal Policies and Procedures Manual.

5. The Department reserves the right to hold or adjust the Contractor's current Reimbursement payment pending approval of the Contractor's Quarterly Report of Expenditures. The Department further reserves the right to hold or adjust the Contractor's current Reimbursement payment if the Contractor owes to the Department any monies from a previous year.

6. The Contractor agrees to refund the Department any unused amounts of Reimbursements paid to it under this agreement or determined to be inadequately or improperly accounted for in accordance with the Department, the Erie County Comptroller Audit or the New York State Office of Children & Family Services Audit.

7. The Contractor agrees to submit a final year end Expenditure Report to the Department on or before 30 (thirty) days after the end of the program year. Any exception to this requirement requires the written approval by the Department.

8. The Contractor agrees to adhere to all requirements set forth by the Erie County Youth Bureau Policy & Procedures Manual.

9. **The Contractor shall provide the contract services in accordance with the attached program narrative and budget labeled Appendix A, attached hereto and made part hereof.**

10. ACCOUNTABILITY

The Contractor shall be fully accountable for its performance under this Contract and its officers agree to answer, under oath, all questions relative to the performance thereof, and to any transaction, act or mission, had, done or omitted in connection herewith called before any judicial county, state or federal Contractor empowered to investigate this Contract or its performance.

11. AMENDMENT

This Agreement and its attachments constitute the entire Agreement between the parties with respect to the subject matter hereof and shall supersede all previous negotiations, commitments and writings. It shall not be released, discharged, changed or modified

Attachment: 2024-2025 Youth Development Program Agreement (RES-2024-992 : 2024-2025 Youth Development Program Agreement - CRS

except by an instrument in writing signed by a duly authorized representative of each of the parties.

In the event of any conflict between the terms of this Agreement and the terms of any schedule or attachment hereto, it is understood that the terms of this Agreement shall be controlling with respect to any interpretation of the meaning and intent of the parties.

12. ASSIGNMENT

The Contractor shall not delegate any duties or assign any of its rights under this Agreement without the prior express written consent of the County. The Contractor shall not subcontract any part of the Services without the written consent of the County, subject to any necessary legal approvals. Any purported delegation of duties, assignment of rights or subcontracting of Work under this Agreement without the prior express written consent of the County is void. All subcontracts that have received such prior written consent shall provide that subcontractors are subject to all terms and conditions set forth in this Agreement. It is recognized and understood by the Contractor that for the purposes of this Agreement, all Services performed by a County-approved subcontractor shall be deemed Work performed by the Contractor and the Contractor shall insure that such subcontracted work is subject to the material terms and conditions of this Agreement.

13. BACKGROUND CHECKS

The Contractor shall conduct a criminal history check for all prospective employees/volunteers as a condition of employment for the performance of work under this contract or any subcontract hereunder prior to any employment. Any applicant, volunteer or employee found to be a registered sex offender will be immediately removed from all work on this contract or any subcontract hereunder. In addition, contractor agrees to conduct the aforesaid criminal history check for all current and prospective employees/volunteers periodically throughout the course of their employment with the contractor. The contractor shall conduct said periodic checks no less than every 18 months for each employee/volunteer performing work under this contract or any subcontract hereunder.

14. CONFIDENTIALITY

The Contractor represents and agrees to safeguard the confidentiality of all information utilized by or in the possession of the Contractor under this Contract where such information is subject to Federal and State confidentiality statutes and regulations. Any breach of confidentiality by the Contractor, its agents or representatives pursuant to said statutes or regulations shall be cause for immediate termination of this Contract.

15. EQUIPMENT

The Contractor agrees that all equipment purchased under this Agreement with a unit cost over $200 (two hundred dollars) and/or with a useful life of more than 2 (two) years is the

Attachment: 2024-2025 Youth Development Program Agreement (RES-2024-992 : 2024-2025 Youth Development Program Agreement - CRS

property of the Department and upon the termination of this contract, the Department may request that the equipment be returned.

16. EXECUTIVE ORDER

The Contractor shall comply with Executive Order 13 (2014), and agrees to complete the Certificate collectively attached hereto and made a part hereof. The Contractor shall make such records available, upon request, to the County's Division of Equal Employment Opportunity for review. The County shall have the right, upon reasonable notice and at reasonable times, to inspect the books and records of the Contractor, its offices and facilities, for the purpose of verifying information supplied in the Erie County Equal Pay Certification and for any other purpose reasonably related to confirming the Contractor's compliance with Erie County Executive Order No. 13 (2014). Notwithstanding the termination provisions contained herein, violation of the provisions of Executive Order 13 (2014), may constitute grounds for determining that the Contractor is not qualified to participate in future county contracts.

17. EXECUTORY

The contract is executory only to the extent of monies available to the Department for the performance hereof and appropriated therefore and no liability on account thereof shall be incurred by the Department beyond the monies available and appropriated for the purpose thereof.

In addition, the parties recognize and acknowledge that the obligations of the County under this Agreement are subject to annual appropriations by its Erie County Legislature. Therefore, this Agreement shall be deemed executory only to the extent of the monies appropriated and available. The County shall have no liability under this Agreement beyond funds appropriated and available for payment pursuant to this Agreement. The parties understand and intend that the obligation of the County hereunder shall constitute a current expense of the County and shall not in any way be construed to be a debt of the County in contravention of any applicable constitutional or statutory limitations or requirements concerning the creation of indebtedness by the County, nor shall anything contained in this Agreement constitute a pledge of the general tax revenues, funds or moneys of the County. The County shall pay amounts due under this Agreement exclusively from legally available funds appropriated for this purpose. The County shall retain the right, upon the occurrence of the adoption of any County Budget by the County Legislature during the term of this Agreement or any amendments thereto, and for a reasonable period of time after such adoption(s), to conduct an analysis of the impacts of any such County Budget on County finances. After such analysis, the County shall retain the right to either terminate this Agreement or to renegotiate the amounts and rates set forth herein. If the County subsequently offers to pay a reduced amount to the Contractor, then the Contractor shall have the right to terminate this Agreement upon reasonable prior written notice.

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This Agreement is also subject to further financial analysis of the impact of any New York State Budget (the "State Budget") proposed and adopted during the term of this Agreement. The County shall retain the right, upon the occurrence of any release by the Governor of a proposed State Budget and/or the adoption of a State Budget or any amendments thereto, and for a reasonable period of time after such release(s) or adoption(s), to conduct an analysis of the impacts of any such State Budget on County finances. After such analysis, the County shall retain the right to either terminate this Agreement or to renegotiate the amounts and rates approved herein. If the County subsequently offers to pay a reduced amount to the Contractor, then the Contractor shall have the right to terminate this Agreement upon reasonable prior written notice.

18. FINANCIAL RECORDS

The Contractor agrees to keep and, upon reasonable prior request, make available to the United States, the New York State Department of Temporary Assistance, the Department and the Erie County Comptroller or their designees, its financial and other records of the funds paid to it and performed by it hereunder.

The United States, the New York State Department of Temporary Assistance, the Department and the Erie County Comptroller or their designees' may, at their option, on reasonable notice, and its expenses, audit the pertinent books and records of the Contractor concerning this Contract.

Prior to the making of any payments hereunder, the County may, at its option, audit such books and records of the Contractor as are reasonably pertinent to this Agreement to substantiate the basis for payment. The County shall, in addition, have the right to audit such books and records subsequent to payment, if such audit is commenced within one year following termination of this Agreement.

The failure of the Contractor to submit required reports as specified by the Department or as incorporated into this contract shall result in the suspension of all payments for services rendered by the Contractor pursuant to this Contract and may at the discretion of the Department result in the Department's cessation of service referrals to the Contractor until such time as the Contractor remedies said failure to the satisfaction of the Department. Reports required by the Department may be added, deleted or revised over time and these reports are deemed to be incorporated into this contractual agreement if and as they occur.

19. GOVERNING LAW

This Agreement may be executed simultaneously in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. This Agreement shall be construed and enforced in accordance with the laws of the State of New York. In addition, the parties hereby agree that any cause of action arising out of this Agreement shall be brought in the County of Erie.

If any term or provision of this Agreement is held by a court of competent jurisdiction to

Attachment: 2024-2025 Youth Development Program Agreement (RES-2024-992 : 2024-2025 Youth Development Program Agreement - CRS

be invalid or void or unenforceable, the remainder of the terms and provisions of this Agreement shall in no way be affected, impaired, or invalidated, and to the extend permitted by applicable law, any such term, or provision shall be restricted in applicability or reformed to the minimum extent required for such to be enforceable. This provision shall be interpreted and enforced to give effect to the original written intent of the parties prior to the determination of such invalidity or unenforceability.

20. HEADINGS

The headings used in this Agreement are for convenience of the parties only and shall not be considered in interpreting the meaning of any provisions of this Agreement.

21. INDEMNIFICATION

The Contractor agrees:

a) that except for the amount, if any, of damage contributed to, caused by, or resulting from the negligence of the County, the Contractor shall indemnify and hold harmless the County and New York State, their officers, employees and agents from and against any and all liability, damage, claims, demands, costs, judgments, fees, attorney's fees or loss arising directly or indirectly out of the performance or failure to perform hereunder by the Contractor or third parties under the direction or control of the Contractor; and
b) to provide defense for and defend, at its sole expense, any and all claims, demands or causes of action directly or indirectly arising out of this Agreement and to bear all other costs and expenses related thereto.

22. INDEPENDENT CONTRACTOR

The Contractor and the County agree that the Contractor and its officers, employees, agents, contractors, subcontractors, and/or consultants are independent contractors and not employees of the County or any department, Contractor, or unit thereof. In accordance with their status as independent contractors, the Contractor covenants and agrees that neither the Contractor nor any of its officers, employees, agents, contractors, subcontractors and/or consultants will hold themselves out as, or claim to be, officers or employees of the County or any department, Contractor or unit thereof, and that it will not by reason thereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the State of New York or the Department, including but not limited to Worker's Compensation coverage or retirement membership or credits.

23. INSURANCE

The Contractor agrees to procure and to maintain in force, for the duration of this Contract, such insurance naming the County of Erie as an additional insured, as is determined appropriate by the Department for the purpose of this Contract. Such coverage must be identified and entered upon the County Standard Insurance Certificate or its acceptable substitute and signed by the Contractor's insurance company, agent or broker, which shall

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be subject to approval by the County Department of Law and upon approval, shall be attached to and become part of the Contract.

24. INTERPRETATION

The Contractor shall be responsible for providing interpretation services to clients, when necessary, at no additional cost to the Department.

25. LAWS APPLICABLE

The Contractor agrees to comply, at its own expense, with the provisions of all applicable local, state and federal laws, rules and regulations. The Contractor shall further comply, at its own expense, with all applicable rules, regulations and licensing requirements pertaining to its professional status and that of its employees, partners, associates, subcontractors and other employed to render the Services hereunder.

26. MBE/WBE PARTICIPATION

Pursuant to County of Erie Local Law No. 9, it is the goal of the County to use its best efforts to encourage, promote and increase the participation of business enterprises owned and controlled by persons of color or women in contracts and projects funded by all Departments of the County. The Contractor agrees to complete the questionnaire attached hereto and forming a part hereof entitled Business Enterprises Owned and Controlled by Persons of Color or Women and submit same as an addition to the required fourth quarter report subject to the reporting terms contained in this agreement.

27. NON-DISCRIMINATION

The Contractor expressly agrees that neither it nor any contractor, subcontractor, employee, or any other person acting on its behalf shall discriminate against or intimidate any employee or other individual on the basis of race, creed, religion, color, gender, age, national origin, ethnicity, alienage or citizenship status, disability, marital status, sexual orientation, familial status, genetic predisposition or carrier status or any other status protected by New York State or Federal laws during the term of or in connection with this Agreement.

28. NON-REIMBURSABLE SERVICES

The Contractor certifies that the services being contracted are not otherwise available from the Contractor on a non-reimbursable basis.

29. NOTICES

All notices of any nature referred to in this Agreement shall be in writing and either sent by registered or certified mail postage pre-paid, or delivered by hand or overnight courier,

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or sent by facsimile (with acknowledgment received and a copy of the notice sent by registered or certified mail postage pre-paid), as set forth below or to such other addresses as the respective parties hereto may designate in writing. Notice shall be effective on the date of receipt.

Notices shall be sent to the following:

To the County Program Area:

Deputy Commissioner Youth Services
810 East Ferry Street
Buffalo, New York 14211

With a copy to:

Erie County Department of Social Services,
Office of Counsel, 95 Franklin St, Room 746
Buffalo, New York 14202

To the Contractor:

Town of Amherst Youth & Recreation Dept.
1615 Amherst Manor Drive
Williamsville, New York 14221

30. PAYMENT

Except as otherwise expressly stated in this Agreement, no payment shall be made by the County to the Contractor for out-of-pocket expenses or disbursements made in connection with the services rendered or the work to be performed hereunder.

Any and all requests for payment to be made, including any request for partial payment if such is permitted hereunder, shall be submitted by the Contractor on properly executed payment vouchers of the County and paid only after approval by the Commissioner. All payment vouchers must be accompanied by a numbered invoice and must contain the invoice number where indicated. All invoices submitted during each calendar year shall utilize consecutive numbering and be non-repeating. In no event shall final payment be made to the Contractor prior to completion of all Work and the approval of same by the Commissioner. The Contractor shall, at no additional charge, furnish all labor, services, materials, tools, equipment and other appliances necessary to complete the Services, unless specific additional charges are expressly permitted under this Agreement. It is recognized and understood that even if specific additional charges are expressly permitted under this Agreement, in no event shall total payment to the Contractor exceed the not-to exceed amount set forth above.

The Department agrees to pay the Contractor for said services to be rendered for the period set forth a sum not to exceed Forty-eight Thousand Two Hundred Seventy-nine Dollars and no cents ($48,279.00). Sum shall be paid to the Contractor upon invoice to be submitted to: Erie County Youth Bureau, Secure Youth Detention

Attachment: 2024-2025 Youth Development Program Agreement (RES-2024-992 : 2024-2025 Youth Development Program Agreement - CRS

Center, 810 East Ferry Street, Buffalo, New York 14211.

31. PROCUREMENT

This is a procurement contract with Erie County through the Erie County Department of Social Services, paid for in whole or in part with Federal funds. The vendor is not considered to be a sub-recipient of Federal assistance funds for the purpose of OMB Circular A-128 and A-133.

32. TERM

The term of this Agreement shall commence on October 1, 2024 and shall terminate on September 30, 2025, unless terminated earlier pursuant to the provisions of this Agreement. The Contractor shall report to the County on its progress toward completing the Work, as the Commissioner of the Department, or his/her duly authorized designee (the "Commissioner") may request, and shall immediately inform the Commissioner in writing of any cause for delay in the performance of its obligations under this Agreement.

33. TERMINATION

a) The County, upon thirty (30) days notice to the Contractor, may terminate this Agreement in whole or in part when the County deems it to be in its best interest. In such event, the Contractor shall be compensated and the County shall be liable only for payment for services already rendered under this Agreement prior to the effective date of termination. Upon receipt of notice that the County is terminating this Agreement in its best interests, the Contractor shall stop work immediately and incur no further costs in furtherance of this Agreement without the express approval of the Commissioner, and the Contractor shall direct any approved subcontractors to do the same.

   In the event of a dispute as to the value of the Services rendered by the Contractor prior to the date of termination, it is understood and agreed that the Commissioner shall determine the value of such Services rendered by the Contractor. The Contractor shall accept such reasonable and good faith determination as final.

b) The contract may be terminated immediately by ECDSS, without notice, for cause or discovery of the Contractor's non-performance or breach of this contract.

34. WAIVER

Failure of the County to insist, in any one or more instances, upon strict performances of any term or condition herein contained shall not be deemed a waiver or relinquishment of such term or condition, but the same shall remain in full force and effect. Acceptance by the County of any Work or the payment of any fee or reimbursement due hereunder with knowledge of a breach of any term or condition hereof, shall be deemed a waiver of any such breach and no waiver by the County of any provision hereof shall be implied.

Attachment: 2024-2025 Youth Development Program Agreement (RES-2024-992 : 2024-2025 Youth Development Program Agreement - CRS

IN WITNESS WHEREOF, the parties hereto have signed and executed this agreement on the date and year last written below.

APPROVED AS TO CONTENT

_____
ECDSS Program Area

DATE:_____

APPROVED AS TO FORM

BY: _____
ECDSS Office of Counsel

DATE: _____

FOR THE CONTRACTOR: _____
Signature

TITLE: _____

STATE OF NEW YORK)
COUNTY OF ERIE) SS.:

On this _____ day of _____, 20___, before me personally came _____, to me known, who, being duly sworn, did depose and say that they reside in _____; that they are the _____ of the corporation described in and which executed the foregoing instrument; that they know the seal of said corporation; that the seal affixed to said instrument was such corporate seal; that it was affixed by order of the Board of Directors of said corporation; and that they signed their name thereto by like order.

_____
NOTARY PUBLIC

My Commission expires _____

FOR THE ERIE COUNTY DEPARTMENT OF SOCIAL SERVICES:

_____
DEPUTY COMMISSIONER-YOUTH SVCS.

DATE: _____

FOR THE COUNTY OF ERIE:

_____
MARK POLONCARZ / LISA CHIMERA
County Executive / Deputy County Executive

DATE: _____

Attachment: 2024-2025 Youth Development Program Agreement (RES-2024-992 : 2024-2025 Youth Development Program Agreement - CRS

APPENDIX A

BUDGET & NARRATIVE

(PLEASE ATTACH NARRATIVE AND COMPLETE BUDGET FORM)

Attachment: 2024-2025 Youth Development Program Agreement (RES-2024-992 : 2024-2025 Youth Development Program Agreement - CRS

OCFS-5005 (Rev. 05/2012) FRONT

NEW YORK STATE
OFFICE OF CHILDREN AND FAMILY SERVICES

PROGRAM BUDGET

QYDS ID:

FISCAL YEAR: 2025

AGENCY/MUNICIPALITY: Town of Amherst

PROGRAM TITLE: Youth Leadership Development Program

FUND TYPE:

FISCAL CONTACT INFORMATION:
Include Name, Phone Number, E-mail address:
Lynda Juul, Finance Director
(716) 631-7007 ljuul@amherst.ny.us

PERSONAL SERVICES:

POSITION TITLE	RATE OF PAY	BASIS (H, W, BW, SM)	TOTAL OCFS PROGRAM AMOUNT (1)	TOTAL OCFS FUNDS REQUESTED FOR THIS PROGRAM
Asset Development Specialist	$ 56,550	annual	$ 22,000.00	
Director of Volunteers	$ 59,398	annual	$ 23,000.00	
Employment Clerk	$ 22.192	HR	$ 3,279.00	
	$		$	
	$		$	
	$		$	
	$		$	
TOTAL SALARIES AND WAGES			$ 48,279.00	$
TOTAL FRINGE BENEFITS			$	$
TOTAL PERSONAL SERVICES (1)			$ 48,279.00	$

CONTRACTED SERVICES AND STIPENDS

TYPE OF SERVICE OR CONSULTANT TITLE	RATE OF PAY	BASE (S,M,HR)	TOTAL OCFS PROGRAM AMOUNT (1)	
	$		$	
	$		$	
	$			
TOTAL CONTRACTED SERVICES (2)			$ 0.00	$

TOTAL MAINTENANCE & OPERATION (3)	$ 0.00	$

LIST EQUIPMENT TO BE PURCHASED OR RENTED:
(UNIT COST OVER $500 AND LIFE EXPECTANCY OF OVER TWO YEARS)

FACILITY REPAIRS

PROGRAM SITE ADDRESS		
	$	
	$	
TOTAL FACILITY REPAIRS (4)	$ 0.00	$

TOTAL OCFS PROGRAM AMOUNT	$	
+ TOTAL OCFS FUNDS REQUESTED		$ 48,279.00

LIST OF OTHER FUNDING SOURCES		
	$ 119,227.00	REIMBURSABLE TOTAL
	$ 70,948.00	MUNICIPAL FUNDING
	$	OTHER SOURCES

** USE AN ASTERISK NEXT TO THE FIGURES LISTED TO IDENTIFY THOSE ITEMS FOR WHICH OCFS REIMBURSEMENT IS NOT BEING REQUESTED.*
USE (IK) TO IDENTIFY ONLY IN KIND SERVICES, EQUIPMENT, ETC DONATED TO PROGRAM, WHERE ALLOWED.

Attachment: 2024-2025 Youth Development Program Agreement (RES-2024-992 : 2024-2025 Youth Development Program Agreement - CRS

Program Narrative

The Amherst Youth & Recreation Department has been serving teens through leadership development programs for over 60 years. In 2011 and 2012 (the last years of the competition) the Town of Amherst was named one of "America's 100 Best Communities for Youth", based in part on the outcome data presented by this program. Staff employed in the program have been with the agency 48, 32 and 10 years, respectively. The program is well-known in all three local school districts as well as the numerous private and parochial schools in the town, resulting in a continuous referral source for new members. Staff retention is high, with no anticipated openings in the coming year. Additional staff are trained and available to step in in case of an emergency. The agency also has strong ties with the Amherst Police Department and the Amherst Town Courts in serving youth, no matter what the setting.

The YES (Youth Engaged in Service) Volunteer component of the program was one of the original YES Programs in Erie County over 40 years ago. The YouthWork$ component of the program is the last remaining municipal "Rent A Kid" program and has grown into so much more. The Amherst Youth Consortium is a unique component that has been held up as a model for youth engagement under the federal Drug Free Communities program.

The program is able to provide services to individuals with disabilities and special needs. The Department has a relationship with the International Institute of Buffalo to provide translation services if necessary, as well as access to a tele-translation service. Additionally, the membership of the program is diverse, with many bilingual students participating. These young people often provide translation services, especially at food pantry events. They also share their cultures at educational and social events.

The program has a relationship with Deaf Access Services of People, Inc. to provide sign language interpreters. The program has a variety of adult volunteers on which to call in order to accommodate participants with developmental or physical disabilities. These volunteers provide additional support to the program staff so that participants may fully enjoy all aspects of the program. The only time that individuals with certain physical disabilities cannot be accommodated is if a resident requests a specific job (for example, mowing the lawn) which requires adaptation beyond the scope of the program. In instances such as this, every effort is made to find the participant an alternative job in which they can excel.

Collaboration: The program collaborates with over 35 community agencies to offer volunteer experiences for young people. It collaborates with 23 public schools and a half dozen private and parochial schools to offer peer learning and leadership development experiences. Program participants are offered summer employment opportunities in other areas of the agency, where appropriate. Students participate in the leadership of the program through an advisory board which helps guide the program's direction.

Safety: Programs are offered at all times of the day. Staff are always present and a two-deep leadership model is employed. Program participants must sign in/sign out for each activity. Staff are not allowed to leave the site until all program participants have been picked up. If staff need to meet with program participants one-on-one, they are encouraged to do so in a central conference room which has windows on two sides and is visible to the public. All staff associated with the program have office doors with windows in them if they absolutely must meet with a youth in private. In such instances, staff are required to notify their supervisor that they are meeting with a youth in their office, the nature of the meeting, and the approximate time they will be with the youth. Supervisors must remain on site until the meeting has ended. Staff have the discretion to cancel program activities or have youth leave a program site if they question the safety of the site or the activity. Supervisors are always available by cell phone and transportation is always available to move youth out of a location, if necessary. Staff and youth are never in unattended buildings - building maintenance or security staff is always present. Staff have access to a first-aid kit at events. Personal information of program participants is never shared without their consent.

Attachment: 2024-2025 Youth Development Program Agreement (RES-2024-992 : 2024-2025 Youth Development Program Agreement - CRS

Trustworthiness: Direct staff include Kathy Mobarak-Miller, Asset Development Specialist, who oversees the AYC component of the program. Mrs. Mobarak-Miller is a social worker with 48 years of experience in the agency. Antonella Stravalaci serves as Director of Volunteers and oversees the YES component of the program. She is a licensed school counselor with 32 years of experience in the agency. Robin Erwin serves as the Employment Clerk and oversees the YouthWork$ component of the program. She is completing 10 years with the agency and came to us with 10 years experience in private and not-for-profit settings working as an educator. Communication with program participants always includes the parents. All staff are trained in ACES (Adverse Childhood Experiences).

Empowerment, Voice and Choice: Program participants are allowed to exercise choice in all aspects of the program. Program activities are determined by the students, in collaboration with the staff who only have veto power if an activity is not physically or emotionally safe. Students are suppored in exercising their voice through various trainings and connections throughout Amherst, Western NY and NY State. Students serve as peer educators and mentors and sit on various school and civic committees representing and supported by the program.

The Youth Leadership Development Program is perhaps the most diverse youth program within the town. Amherst has a large Asian community - primarily Indian, Pakistani, Korean, Chinese and Japanese. Amherst also has a large Arabic-speaking population which is well-represented within the program. While the town's African-American population is substantially smaller, African-American students are represented within the leadership of all three program components. Staff and youth in the program have been involved in "Challenge to Change" since its start in the Buffalo region. This is a program that brings together diverse youth to help combat racial stereotypes and build relationships. Members of the Amherst Youth Consortium component of the program play an integral part on the town's Juneteenth celebration each year.

Attachment: 2024-2025 Youth Development Program Agreement (RES-2024-992 : 2024-2025 Youth Development Program Agreement - CRS

Erie County Equal Pay Certification

In order to comply with Executive Order 13 dated November 6, 2014, we hereby certify that we are in compliance with federal law, including the Equal Pay Act of 1963, Title VII of the Civil Rights Act of 1964, Federal Executive Order 11246 of September 24, 1965 and New York State Labor Law Section 194 (together "Equal Pay Law"). We understand that this certification is a material component of this contract. Violation of the provisions of Executive Order 13, which is attached hereto and made a part hereof, can constitute grounds for the immediate termination of this contract and may constitute grounds for determining that a bidder is not qualified to participate in future county contracts.

We have evaluated wages and benefits to ensure compliance with the Equal Pay Law. We certify that we have not been the subject of an adverse finding under the Equal Pay Law within the previous five years and, in the alternative, if we were the subject of an adverse finding under the Equal Pay Law within the previous five years, we have annexed a detailed description of the finding(s). In addition, we have annexed a detailed description of any currently pending claims under the Equal Pay Law in which we are involved.

_____

Signature

Verification

STATE OF _____)
COUNTY OF _____) SS:

A)

_____, being duly sworn, states they are the owner of (or a partner in) _____, and is making the foregoing Certification and that the statements and representations made in the Certification are true to their own knowledge.

OR

B)

_____, being duly sworn, states that they are the _____, of _____, the enterprise making the foregoing Certification, that they have read the Certification and know its contents, that the statements and representations made in the Certification are true to their own knowledge, and that the Certification is made at the direction of the Board of Directors of the Corporation.

Sworn to before me this _____
Day of _____, 20__

_____

Notary Public

Attachment: 2024-2025 Youth Development Program Agreement (RES-2024-992 : 2024-2025 Youth Development Program Agreement - CRS

QUESTIONNAIRE REGARDING BUSINESS ENTERPRISES OWNED AND CONTROLLED BY WOMEN OR PERSONS OF COLOR

As part of the County's program to encourage the meaningful and significant participation of business enterprises owned and controlled by persons of color or women in County contracts, completion of this form is required.

A "business enterprise owned and controlled by women or persons of color" means a business enterprise, including a sole proprietorship, limited liability partnership, partnership, limited liability corporation, or corporation, that either:

1. Meets the following requirements:

    a. Is at least 51% owned by one or more persons of color or women;
    b. Is an enterprise in which such ownership by persons of color or women is real, substantial and continuing;
    c. In an enterprise in which such ownership interest by persons of color or women has and exercises the authority to control and operate, independently, the day-to-day business decisions of the enterprise; and
    d. Is an enterprise authorized to do business in this state which is independently owned and operated.

2. Is a business enterprise certified as a minority business enterprise ("MBE") or women business enterprise ("WBE") pursuant to Article 15-a of the New York State Executive Law and the implementing regulations, 9 York Code of Rules and Regulations subtitle N Part 540 et seq., **OR**

3. Is a business enterprise certified as a small disadvantaged business concern pursuant to the Small Business Act, 15 U.S.C. 631 et seq., and the relevant provisions of the Code of Federal Regulations as amended.

Please note that the term "persons of color" as used in this form, means a United States citizen or permanent resident alien who is and can demonstrate membership of one of the following groups:

a. Black persons having origins in any of the Black African racial groups;
b. Hispanic persons of Mexican, Puerto Rico, Dominican, Cuban, Central or South American descent of either Indian or Hispanic origin regardless of race;
c. Native American or Alaskan native persons having origins in any of the original peoples of North America; or
d. Asian or Pacific Islander persons having origins in any of the Far East countries, South East Asia, the Indian subcontinent or the Pacific Islands.

Attachment: 2024-2025 Youth Development Program Agreement (RES-2024-992 : 2024-2025 Youth Development Program Agreement - CRS

1. Are you a business enterprise owned and controlled by women or persons of color in accordance with the standards listed above?

X ____ No

____ Yes*

*IMPORTANT: If you answered "yes" above, please indicate if you possess certification by New York State and/or the Federal government.

____ No, I do not have government certification.

____ Yes, I have government certification (must attach certificate).

2. If you answered "yes" above, please check off below whether your business enterprise is owned and controlled by women, persons of color, or both.

____ Women

____ Persons of Color (*please check off below all that apply*)

____ Black persons having origins in any of the Black African racial groups

____ Hispanic persons of Mexican, Puerto Rico, Dominican, Cuban, Central or South American descent of either Indian or Hispanic origin regardless of race

____ Native American or Alaskan native persons having origins in any of the original peoples of North America

____ Asian or Pacific Islander persons having origins in any of the Far East countries, South East Asia, the Indian subcontinent or the Pacific Islands

Name of Business Enterprise: Town of Amherst

Address: 5583 Main Street Williamsville, NY 14221

Signature: _____

_____ Notary Public

_____ Date

Attachment: 2024-2025 Youth Development Program Agreement (RES-2024-992 : 2024-2025 Youth Development Program Agreement - CRS

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

Francina J. Spoth
Town Clerk

Meeting: 12/02/24 07:00 PM
Department: Youth & Recreation
Initiated by: **Mary Diana Pouli**
Co-Sponsored by:

DOC ID: 29727 **RESOLUTION 2024-993** **ADOPTED**

Authorization to Pay Vendor

WHEREAS, on June 3, 2024 the liner at the Clearfield pool sprung an unexpected leak, and

WHEREAS, the situation needed to be addressed immediately to prevent the loss of water and further damage to the pool, and

WHEREAS, a new employee took it upon themselves to call a company that the Youth & Recreation Department had used in the past but for which it did not have a current contract, and

WHEREAS, a supervisor was not notified until after the leak was repaired, and

WHEREAS, the employee was counseled on the appropriate chain of command for purchasing, and

WHEREAS, the leak was successfully repaired and certified payroll was submitted,

NOW THEREFORE, BE IT RESOLVED that the Amherst Town Board authorizes the payment of $550.00 to Numarco, Inc for invoice 2024-004-01.

12/2/2024
Consent

FINANCIAL IMPACT:

A 7141.4220: $550.00

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

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

Francina J. Spoth
Town Clerk

Meeting: 12/02/24 07:00 PM
Department: Town Clerk
DOC ID: 29696

COMMUNICATION 2024-94 **APPROVED**

Request for Public Hearing - 1790, 1860 and 1920 North French Road & Portion of 999 Campbell Boulevard

Request from Sean Hopkins, Esq. for a public hearing to Amend the Comprehensive Plan for 1790, 1860 and 1920 North French Road & portion of 999 Campbell Boulevard.

This public hearing has been scheduled for the second Town Board meeting in January.

12/2/2024
Consent

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

November 22, 2024

Timothy J. Koller, Deputy Town Clerk
Town of Amherst Town Clerk's Office
5583 Main Street
Williamsville, NY 14221

Re: Application for Bicentennial Comprehensive Plan Amendment
Proposed Mixed-Use and Residential Project – 1790, 1860 and 1920
North French Road & Portion of 999 Campbell Boulevard
Applicant/Project Sponsor: SBLC Development Corp.
File No. 10066.7

Dear Tim:

This letter is being submitted on behalf of SBLC Development Corp. ("Project Sponsor") to request that the Town Board adopt a resolution during its next meeting to be held on Monday, December 2nd at 7:00 p.m. for the purpose of scheduling a public hearing in connection with the pending request to amend the Comprehensive Plan with respect to the above referenced property located at 1790, 1860 and 1920 North French Road and a portion of 999 Campbell Boulevard (collectively the "Project Site").

The Planning Board held a public hearing on the request to amend the Comprehensive Plan during its meeting held on Thursday, November 21st and adopted a resolution by a four to two voted recommending that the Town Board not approve the requested amendment of the Comprehensive Plan.

If you have any questions regarding this letter, please feel free to contact me at 510-4338 or via e-mail at shopkins@hsmlegal.com.

Sincerely,

HOPKINS SORGI & MCCARTHY PLLC

Sean W. Hopkins, Esq.

cc: Brian J. Kulpa, Supervisor
Daniel Howard, Planning Director
SBLC Development Corp.
Christopher Wood, P.E., Carmina Wood Design
Anthony Pandolfe, P.E., Carmina Wood Design
Donald A. Griebner, President, Real Property Services, LLC

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: Koller-Ltr-Request to Schedule Public Hearing-11-22-24 (COM-2024-94 : Request for Public Hearing - 1790, 1860 and 1920 North

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

Francina J. Spoth
Town Clerk

Meeting: 12/02/24 07:00 PM
Department: Town Clerk
DOC ID: 29667

COMMUNICATION 2024-95 **REFERRED**

Notice of Claim: Tonja Milanez Vs. Town of Amherst

12/2/2024
Referred to Attorney

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

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

NOV 18 2024 PM 12:27

TONJA MILANEZ,

Claimant,

-vs-

TOWN OF AMHERST,

Respondent.

NOTICE OF CLAIM

TO: AMHERST TOWN ATTORNEY
5583 Main Street
Williamsville, NY 14221

AMHERST TOWN CLERK
5583 Main Street
Williamsville, NY 14221

PLEASE TAKE NOTICE that TONJA MILANEZ has a claim against the TOWN OF AMHERST, for personal injuries, medical expenses and damages generally sustained by her, and in support thereof, the Claimant states:

FIRST: The name and post office address of Claimant is TONJA MILANEZ,

SECOND: The name and address of Claimant's attorney is R. Colin Campbell, Esq., CAMPBELL & ASSOCIATES, 38 Lake Street, Hamburg, New York 14075.

THIRD: The claim of TONJA MILANEZ is for personal injuries sustained by her through the negligence of TOWN OF AMHERST, its agents, servants or employees.

FOURTH: The date and time when the claim arose, and the date and time when the injuries were sustained, due to a fall, was approximately 5:15 a.m. on September 4, 2024. The

Attachment: DOC111824-11182024140013 (COM-2024-95 : Notice of Claim: Tonja Milanez Vs. Town of Amherst)

place where the claim arose was at or near the sidewalk abutting 105 Lincoln Road, Town of Amherst, State of New York 14226.

FIFTH: It is alleged, upon information and belief, the incident/accident was caused by the negligence of the TOWN OF AMHERST, by and through its employees, agents, and/or representatives and without any fault on the part of the Claimant herein. It is alleged, upon information and belief, that the aforesaid was negligent, careless and/or reckless: in failing to maintain a TOWN OF AMHERST sidewalk; in creating a dangerous condition; in failing to inspect a TOWN OF AMHERST sidewalk; and, in failing to ensure that the owner of the property abutting the subject sidewalk repaired the defective sidewalk. Said actions on the part of the TOWN OF AMHERST resulted in a dangerous condition the aforesaid created and/or had notice thereof and of which failed to remedy or warn.

SIXTH: Claimant, as a result of the negligence, carelessness and recklessness of TOWN OF AMHERST, its employees, agents and servants, sustained serious and severe personal injuries, the full extent and severity of which cannot be ascertained at this early date, but which are, upon information and belief, permanent in nature. The claimant's injuries known at this juncture include impact injuries to her hands and fingers, left foot soreness and swelling, and neck and back pain. Claimant, TONJA MILANEZ, also sustained costs associated with the above medical care and treatment. The injuries aforementioned are permanent, the full nature and extent of which are unknown at this time.

The undersigned presents this claim and demand for adjustment and payment, and notifies you that unless adjusted and paid within thirty (30) days from the date of its presentation, it is the intention of the Claimant to commence an action thereon.

Dated: November 13, 2024

Attachment: DOC111824-11182024140013 (COM-2024-95 : Notice of Claim: Tonja Milanez Vs. Town of Amherst)

TONJA MILANEZ

R. Colin Campbell, Esq.
CAMPBELL & ASSOCIATES
Attorneys for Plaintiff
38 Lake Street
Hamburg, New York 14075

Attachment: DOC111824-11182024140013 (COM-2024-95 : Notice of Claim: Tonja Milanez Vs. Town of Amherst)

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

Francina J. Spoth
Town Clerk

Meeting: 12/02/24 07:00 PM
Department: Town Clerk
DOC ID: 29655

COMMUNICATION 2024-96 **REFERRED**

Notice of Claim: New York Central Mutual Fire Insurance Company A/S/O Nicholas J. Pezzimenti & Kourtney A. Keller Vs. Town of Amherst

12/2/2024
Referred to Attorney

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

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE

New York Central Mutual Fire Insurance Company a/s/o Nicholas J. Pezzimenti and Kourtney A. Keller 1899 Central Plaza East Edmeston, New York 13335 Plaintiff, -against- Town of Amherst 5583 Main Street Williamsville, New York 14221 Defendant.	**NOTICE OF CLAIM**

PLEASE TAKE NOTICE that under General Municipal Law §50-e, New York Central Mutual Fire Insurance Company as subrogee of Nicholas J. Pezzimenti and Kourtney A. Keller, makes this claim against the Town of Amherst as follows:

1. Claimant office location: New York Central Mutual Fire Insurance Company
   1899 Central Plaza East
   Edmeston, New York 13335

2. Claimant is represented by: The Law Office of Philip G. Fortino
   Post Office Box 302
   Edmeston, New York 13335

3. This is a negligence claim against the Town of Amherst ("the Town") for property damage that arose from an accident on August 14, 2024, at or near the intersection of Burroughs Drive and Harlem Road in the Town of Amherst, New York.

4. The property damage is to a 2019 Cadillac XT5 bearing New York State license plate number "KAK3573" registered to Kourtney A. Keller ("Keller") and operated by Nicholas J. Pezzimenti ("Pezzimenti") with the express or implied permission and consent of Keller.

NOV 7 2024 PM2:00

Attachment: DOC110724-11072024140919 (COM-2024-96 : Notice of Claim: New York Central Mutual Fire Insurance Company A/S/O Nicholas J.

5. On August 14, 2024, Keller and Pezzimenti were insured by New York Central Mutual Fire Insurance Company ("the Claimant").
6. On August 14, 2024, the Town was the registered owner of a 2020 Ford pickup truck bearing New York State license plate number "BD7056."
7. On August 14, 2024, Jared J. Forcucci ("Forcucci") was operating the 2020 Ford pickup truck registered to the Town with their express or implied permission and consent.
8. On August 14, 2024, Pezzimenti was stopped behind Forcucci at the stop sign on Burroughs Drive when Forcucci backed into Pezzimenti causing damage to Keller's vehicle.
9. The damage caused to Keller's vehicle was caused solely by the fault and/or negligence of Forcucci and was without any fault and/or negligence on the part of Pezzimenti.
10. As a result of the accident, expenses were incurred in the amount of $1,289.45.

$586.14	Repair
$203.31	Rental
$500.00	Deductible
$1,289.45	

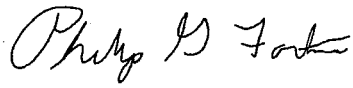
11. The Claimant presents this claim and request for payment and notifies you that unless adjusted and/or paid within thirty (30) days from the date of your receipt, it is the intention of the undersigned to commence an action against you.
12. This Notice of Claim has been timely filed pursuant to General Municipal Law §50-e. as it has been filed within ninety (90) days of the August 14, 2024, accident date.

WHEREFORE, the Claimant respectfully requests that this claim be allowed and paid by the Town of Amherst.

Attachment: DOC110724-11072024140919 (COM-2024-96 : Notice of Claim: New York Central Mutual Fire Insurance Company A/S/O Nicholas J.

Dated: October 24, 2024
Edmeston, New York

The Law Office of Philip G. Fortino
Attorneys for the Claimant



Philip G. Fortino, Esq.
PO Box 302
Edmeston, New York 13335
607-965-3601

To: Town of Amherst
5583 Main Street
Williamsville, New York 14221

Attachment: DOC110724-11072024140919 (COM-2024-96 : Notice of Claim: New York Central Mutual Fire Insurance Company A/S/O Nicholas J.

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

Francina J. Spoth
Town Clerk

Meeting: 12/02/24 07:00 PM
Department: Town Clerk
DOC ID: 29665

COMMUNICATION 2024-97 **REFERRED**

Notice of Motion: Chad Sleiman Vs. Town of Amherst Et Al.

12/2/2024
Referred to Attorney

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

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE

In the Matter of the Application of
CHAD SLEIMAN

Petitioner,

- against -

AMHERST POLICE DEPARTMENT and
TOWN OF AMHERST,

Respondents,

For a Judgment Pursuant to Article 78
of the Civil Practice Law and Rules:

NOTICE OF MOTION TO CURE MISTAKE, DEFECT, OMISSION OR IRREGULARITY
Index No.: 815023/2024

ORAL ARGUMENT REQUESTED

TO: THE SUPREME COURT OF THE STATE OF NEW YORK FOR ERIE COUNTY:

MOTION ON BEHALF OF:	Plaintiff, Chad Sleiman
DATE, TIME AND PLACE OF MOTION:	Tuesday, November 26, 2024, of this Justice Court in the 8th Judicial District, Part 28.
THE ABOVE-ENTITLED ACTION IS FOR:	Article 78 Special Proceeding.
SUPPORTING PAPERS:	Attorney Affirmation with Exhibits.
RELIEF DEMANDED:	A. An Order of the Court granting Plaintiff's Request to Cure a Mistake, Defect, Omission or Irregularity pursuant to CPLR 2001 and in the interests of justice, by permitting the Plaintiff to cure the failure to file a Notice of Motion with the Article 78 Petition. B. For such other and further relief as this Court deems just and proper.

NOV 14 2024 PM 1:0(

Attachment: DOC111524-11152024141646 (COM-2024-97 : Notice of Motion: Chad Sleiman Vs. Town of Amherst Et Al.)

PLEASE TAKE FURTHER NOTICE that pursuant to CPLR 2214, all papers, if any, in opposition to the motion shall be served no later than two days preceding the Notice to be heard date.

PLEASE ALSO TAKE FURTHER NOTICE that this motion is being served upon the opposition via USPS overnight mail.

DATED: Orchard Park, New York
November 12, 2024

By: Keliann M. Argy, Esq.
Elniski Law, PC

4226 N. Buffalo St., Ste. 10
Orchard Park, New York 14127
Phone.716.515.5995
Fax.716.608.1413
Email kelniski@elniskilaw.com

TO: Amherst Town Clerk
5583 Main Street
Williamsville, NY 14221

Amherst Police Department
500 John Audubon Pkwy
Buffalo, NY 14228

Amherst Town Attorney
5583 Main Street
Williamsville, NY 14221

Attachment: DOC111524-11152024141646 (COM-2024-97 : Notice of Motion: Chad Sleiman Vs. Town of Amherst Et Al.)

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE

In the Matter of the Application of
CHAD SLEIMAN

Petitioner,

- against -

AMHERST POLICE DEPARTMENT and
TOWN OF AMHERST,

Respondents,

For a Judgment Pursuant to Article 78
of the Civil Practice Law and Rules:

ATTORNEY AFFIRMATION IN SUPPORT OF MOTION TO CURE MISTAKE, DEFECT, OMISSION OR IRREGULARITY
Index No.: 815023/2024

KELIANN M. ARGY, ESQ., an attorney duly admitted to practice law in the State of New York, does hereby affirm under penalties of perjury:

1. I represent the Petitioner in the above-captioned matter; as such, I am fully familiar with the facts of this case based upon client communications, investigation, and my review of pertinent files and records maintained in the office of Elniski Law, PC. I submit this Affirmation in support of the relief requested in the annexed Notice of Motion pursuant to CPLR 2001, permitting Petitioner to cure a mistake, defect, omission, or irregularity.

2. In its discretion, pursuant to CPLR 2001, this Court may permit a mistake, omission, defect or irregularity to be corrected, upon such terms as may be just, or, if a substantial right of a party is not prejudiced, the mistake, omission, defect or irregularity shall be disregarded, provided that any applicable fees are paid.

3. On or about October 11, 2024, I e-filed a Verified Petition for Judgment pursuant

Attachment: DOC111524-11152024141646 (COM-2024-97 : Notice of Motion: Chad Sleiman Vs. Town of Amherst Et Al.)

to Article 78 of the CPLR along with Petitioner's supporting Affirmation, the Attorney Affirmation and exhibits. Attached hereto as **Exhibit A** is a copy of the pleadings.

4. Upon e-filing on October 11, 2024, I served a courtesy copy of the Verified Petition, Petitioner Affirmation, and exhibits via email and hardcopy to the Respondents. Thereafter, upon re-filing a corrected Petitioner Affirmation and receiving the index number, I formally served the Respondents with hardcopies of the stamped and e-filed Verified Petition, Petitioner Affirmation, and exhibits along with the Notifications of E-Filing. Attached hereto as **Exhibit B** is a copy of the Affirmation of Service and Notifications.

5. On or about October 31, 2024, after a brief conversation with the court, I learned that I inadvertently omitted the Notice of Petition when e-filing the pleadings and serving upon the Respondents.

6. This inadvertent omission created a defect in the filing but was accidentally missed due to other voluminous documentation I was preparing at the same time for another matter. The defective filing was my fault and no fault of the Petitioner. I respectfully contend that, in the interests of justice, Petitioner should not be adversely affected by counsel's mistake.

7. Moreover, by permitting Petitioner to cure said mistake/omission, no substantial right of the Respondents shall be prejudiced because the Respondents have not answered or submitted any response papers to said motion to date. However, the motion schedule was received in this office on today's date, notifying Petitioner that the motion shall be heard on January 9, 2025, at 9:30AM. As such, I revised the Notice of Petition to a *Proposed* Notice of Petition, including the date, and attached it hereto as **Exhibit C**.

8. In addition, by permitting Petitioner to cure said mistake or omission, no substantial right of the Respondents shall be prejudiced because there is no new or different argument,

Attachment: DOC111524-11152024141646 (COM-2024-97 : Notice of Motion: Chad Sleiman Vs. Town of Amherst Et Al.)

documentation, or exhibit such that it would change or interfere with any arguments or response that the Respondents are already in the process of preparing. The only change is the date, which allows Respondents substantial time still to prepare their answers to the Petition.

9. Accordingly, in this Court's discretion and in the interests of justice, permitting the Petitioner to cure this inadvertent mistake/omission preserves the Petitioner's filing date while it does not prejudice the Respondents in any way.

10. Petitioner has paid the necessary fees to bring forth this motion pursuant to CPLR 2001.

WHEREFORE, Petitioner herein prays this Court grants the relief requested in the Notice of Motion to Cure, and for any such further relief this Court deems just and proper.

DATED: November 12, 2024

By: Keliann M. Argy, Esq.
Elniski Law, PC

Attorney for the Petitioner, Chad Sleiman
4226 N. Buffalo St., Ste. 10
Orchard Park, New York 14127
Phone.716.515.5995
Fax.716.608.1413
Email kelniski@elniskilaw.com

Attachment: DOC111524-11152024141646 (COM-2024-97 : Notice of Motion: Chad Sleiman 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: 12/02/24 07:00 PM
Department: Town Clerk
DOC ID: 29695

COMMUNICATION 2024-98 **REFERRED**

Amended Notice of Motion: Chad Sleiman Vs. Town of Amherst Et Al.

12/2/2024
Referred to Attorney

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

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE

In the Matter of the Application of
CHAD SLEIMAN

Petitioner,

- against -

AMHERST POLICE DEPARTMENT and
TOWN OF AMHERST,

Respondents,

For a Judgment Pursuant to Article 78
of the Civil Practice Law and Rules:

"AMENDED"
NOTICE OF MOTION TO CURE MISTAKE, DEFECT, OMISSION OR IRREGULARITY
Index No.: 815023/2024

ORAL ARGUMENT REQUESTED

TO: THE SUPREME COURT OF THE STATE OF NEW YORK FOR ERIE COUNTY:

MOTION ON BEHALF OF:	Plaintiff, Chad Sleiman
DATE, TIME AND PLACE OF MOTION:	Thursday, January 9, 2025, at 9:30 AM of this Justice Court in the 8th Judicial District, Part 29, 8th Floor of the Buffalo City Court Building, 50 Delaware Ave., Buffalo, NY 14202.
THE ABOVE-ENTITLED ACTION IS FOR:	Article 78 Special Proceeding.
SUPPORTING PAPERS:	Attorney Affirmation with Exhibits.
RELIEF DEMANDED:	A. An Order of the Court granting Plaintiff's Request to Cure a Mistake, Defect, Omission or Irregularity pursuant to CPLR 2001 and in the interests of justice, by permitting the Plaintiff to cure the failure to file a Notice of Motion with the Article 78 Petition.

NOV 22 2024 PM3:01

Attachment: DOC112524-11252024083918 (COM-2024-98 : Amended Notice of Motion: Chad Sleiman Vs. Town of Amherst Et Al.)

Dated: November 18, 2024

Keliann M. Argy, Esq.

Attachment: DOC112524-11252024083918 (COM-2024-98 : Amended Notice of Motion: Chad Sleiman 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: 12/02/24 07:00 PM
Department: Town Clerk
DOC ID: 29653

COMMUNICATION 2024-99 **REFERRED**

Summons and Complaint: Anthony Goldsmith Vs. Town of Amherst

12/2/2024
Referred to Attorney

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

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

NOV 6 2024 AM 11:1

ANTHONY GOLDSMITH.

SUMMONS

Plaintiff,

Index No.: 816000/2024

v.

TOWN OF AMHERST,
5583 Main Street
Williamsville, New York 14221,

Defendant.

TO THE ABOVE-NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED AND REQUIRED to serve upon Plaintiff's attorneys, at the address stated below, a written Answer to the attached Complaint.

If this Summons is served upon you within the State of New York by personal service, you must respond within twenty (20) days after service, not counting the day of service. If this Summons is not personally delivered to you within the State of New York, you must respond within thirty (30) days after service is completed, as provided by law.

If you do not respond 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.

This action is brought within the County of Erie and the State of New York because of the residence of the Plaintiff in Erie County.

DATED: October 30, 2023
Buffalo, New York

T. Dylan Collins, Esq.
COLLINS & COLLINS ATTORNEYS, LLC
Attorneys for Plaintiff
267 North Street
Buffalo, New York 14201
(716) 885-9700

Attachment: DOC110724-11072024111059 (COM-2024-99 : Summons and Complaint: Anthony Goldsmith Vs. Town of Amherst)

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

ANTHONY GOLDSMITH

Plaintiff,

v.

TOWN OF AMHERST,

Defendant.

COMPLAINT

Index No. 816000/2024

The Plaintiff, ANTHONY GOLDSMITH, by and through his attorneys, COLLINS & COLLINS ATTORNEYS, LLC, as and for his Complaint against the Defendant, TOWN OF AMHERST, alleges:

1. Upon information and belief, the Defendant, TOWN OF AMHERST, was and still is a New York municipal corporation.

2. On and before November 7, 2023, Plaintiff was employed by Willet Builders, Inc.

3. Upon information and belief, Plaintiff's employer, Willet Builders, Inc., contracted with the Defendant, TOWN OF AMHERST, to provide certain construction services at the Town of Amherst Wastewater Treatment Facility located at 455 Tonawanda Creek Road, Buffalo, NY 14228.

4. On and before November 7, 2023, the Defendant, TOWN OF AMHERST, was the owner and/or operator of the construction site at the Town of Amherst Wastewater Treatment Facility located at 455 Tonawanda Creek Road, Buffalo, NY 14228.

5. On November 7, 2023, Plaintiff, ANTHONY GOLDSMITH, was in the course of his employment performing construction work on the property owned and/or controlled by the

Attachment: DOC110724-11072024111059 (COM-2024-99 : Summons and Complaint: Anthony Goldsmith Vs. Town of Amherst)

Defendant, TOWN OF AMHERST, when he was injured when by a piece of steel falling from above, and striking his head, causing serious, permanent, and painful injuries.

6. Defendant, TOWN OF AMHERST, was served with a Notice of Claim and conducted a 50-h hearing under the General Municipal Law on July 30, 2024.

7. At least thirty (30) days have elapsed from the service of the Notice of Claim upon the Defendant, TOWN OF AMHERST, without a settlement.

8. This action is being commenced within the statutory time period of one year and ninety days since the date of incident.

9. On November 7, 2023, while Plaintiff was working at the aforementioned construction site, the Defendant, their agents, employees, and/or servants were negligent and thereby caused the Plaintiff to suffer serious, permanent, and painful personal injuries.

10. On November 7, 2023, while Plaintiff was working at the construction site, the Defendant, their agents, employees, and/or servants violated the Labor Laws of the State of New York, including, but not limited to Labor Law §§ 200, 240(1) and 241(6), and thereby caused the Plaintiff to suffer serious, permanent, and painful personal injuries.

11. The injuries suffered by the Plaintiff, ANTHONY GOLDSMITH, were caused solely as a result of the negligence and/or statutory violations of the Defendant, their agents, employees, and/or servants.

12. As a direct and proximate result of the negligence and statutory violations of the Defendant, their agents, employees, and/or servants, the Plaintiff has sustained serious, permanent, and painful injuries, by reason of which the plaintiff will suffer damages in an amount exceeding the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

Attachment: DOC110724-11072024111059 (COM-2024-99 : Summons and Complaint: Anthony Goldsmith Vs. Town of Amherst)

13. This action falls within the exceptions set forth in CPLR § 1602.

WHEREFORE, Plaintiff, ANTHONY GOLDSMITH, hereby demands judgement against the Defendant, TOWN OF AMHERST, in an amount to be determined by a jury upon the trial of this action, plus the costs of disbursements thereof.

DATED: October 30, 2024
Buffalo, New York

T. Dylan Collins, Esq.
COLLINS & COLLINS ATTORNEYS, LLC
Attorneys for Plaintiff
267 North Street
Buffalo, New York 14201
(716) 885-9700

Attachment: DOC110724-11072024111059 (COM-2024-99 : Summons and Complaint: Anthony Goldsmith Vs. Town of Amherst)

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

Francina J. Spoth
Town Clerk

Meeting: 12/02/24 07:00 PM
Department: Town Clerk
DOC ID: 29657

COMMUNICATION 2024-100 **REFERRED**

Summons and Complaint: Nationstar Mortgage LLC Vs. Town of Amherst

12/2/2024
Referred to Attorney

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

15.7.a

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE

----------X

NATIONSTAR MORTGAGE LLC

Plaintiff,

vs

JOSEPH A. SMITH, UNITED STATES OF AMERICA ON BEHALF OF THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT, CHIEF CLERK OF THE CITY COURT OF BUFFALO, WEST SENECA TOWN COURT, LACKAWANNA CITY COURT, ERIE COUNTY MEDICAL CENTER, FIA CARD SERVICES, N.A., LANCASTER TOWN COURT, COMMISSIONER OF THE ERIE COUNTY DEPARTMENT OF SOCIAL SERVICES, BUFFALO CITY COURT, CROWN ASSET MANAGEMENT LLC, NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE, TOWN OF AMHERST

JOHN DOE (Those unknown tenants, occupants, persons or corporations or their heirs, distributees, executors, administrators, trustees, guardians, assignees, creditors or successors claiming an interest in the mortgaged premises.)

Defendant(s).

----------X

SUMMONS

MORTGAGED PREMISES:
619 Loretta Street
Tonawanda, NY 14150

TO 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. n case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Complaint.

NOTICE
YOU ARE IN DANGER OF LOSING YOUR HOME

Attachment: DOC110824-11082024085458 (COM-2024-100 : Summons and Complaint: Nationstar Mortgage LLC Vs. Town of Amherst)

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.

Erie County is designated as the place of trial. The basis of venue is the location of the mortgaged premises foreclosed herein.

Dated: October 30, 2024

/s/ Ashley M Pascuzzi
Ashley M Pascuzzi, Esq.
Gross Polowy LLC
Attorneys for Plaintiff
1775 Wehrle Drive, Suite 100
Williamsville, NY 14221
Tel.: (716) 204-1700

Attachment: DOC110824-11082024085458 (COM-2024-100 : Summons and Complaint: Nationstar Mortgage LLC Vs. Town of Amherst)

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE

----------X

NATIONSTAR MORTGAGE LLC

Plaintiff,

vs

JOSEPH A. SMITH, UNITED STATES OF AMERICA ON BEHALF OF THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT, CHIEF CLERK OF THE CITY COURT OF BUFFALO, WEST SENECA TOWN COURT, LACKAWANNA CITY COURT, ERIE COUNTY MEDICAL CENTER, FIA CARD SERVICES, N.A., LANCASTER TOWN COURT, COMMISSIONER OF THE ERIE COUNTY DEPARTMENT OF SOCIAL SERVICES, BUFFALO CITY COURT, CROWN ASSET MANAGEMENT LLC, NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE, TOWN OF AMHERST

JOHN DOE (Those unknown tenants, occupants, persons or corporations or their heirs, distributees, executors, administrators, trustees, guardians, assignees, creditors or successors claiming an interest in the mortgaged premises.)

Defendant(s).

----------X

COMPLAINT

MORTGAGED PREMISES:
619 Loretta Street
Tonawanda, NY 14150

The Plaintiff by its attorneys, Gross Polowy LLC, for its complaint against the Defendant(s) alleges upon information and belief as follows:

1. Plaintiff, Nationstar Mortgage LLC is a limited liability company organized under the laws of the State of Delaware and the owner and holder of the subject note and mortgage or has been delegated authority to institute this mortgage foreclosure action by the owner and holder of the subject note and mortgage and has the right to foreclose. Attached here as Schedule A is a copy of the original note.

2. On or about July 8, 2022, Joseph A. Smith executed and delivered a note whereby Joseph A. Smith promised to pay the sum of $181,649.00 plus interest on the unpaid amount due. The terms of the note were further modified.

Attachment: DOC110824-11082024085458 (COM-2024-100 : Summons and Complaint: Nationstar Mortgage LLC Vs. Town of Amherst)

3. As security for the payment of the note Joseph A. Smith duly executed and delivered a mortgage, in the amount of $181,649.00 which was recorded as follows.

Recording Date: July 15, 2022
Book 14059/Page 9611
Office of the Erie County Clerk

The mortgage was subsequently assigned to Nationstar Mortgage, LLC.

Said Mortgage was subsequently modified by a Loan Modification Agreement executed by Joseph A. Smith on April 16, 2023 and recorded April 26, 2023 in Book 11416, Page 4567 in the Office of the Erie County Clerk.

4. The mortgaged property is known as 619 Loretta Street, Tonawanda, NY 14150. The tax map designation is Section 66.28 Block 3 Lot 17. Plaintiff is foreclosing the land, buildings, and other improvements located on the property. The property is more fully described in Schedule B attached to this complaint.

5. Joseph A. Smith failed to comply with the conditions of the note and mortgage by not making the payment that was due on January 1, 2024 and subsequent payments.

6. There is now due and owing on the note and mortgage the following amounts:

Principal Balance: $142,087.35
Interest Rate: 7%
Date Interest Accrues from: December 1, 2023

Together with accrued late charges, monies advanced for taxes, assessments, insurance, securing, inspections, posting of notices, maintenance and preservation of the property.

7. In order to protect the value of the property and its rights in the property, the Plaintiff may have to pay additional taxes, assessments, water charges, insurance premiums and other charges and the costs, allowances, expenses of sale, and reasonable attorney's fees for the foreclosure. Plaintiff requests that any amount it pays, together with interest, be included in the total amount due.

8. The defendant(s) may have an interest encumbering the property, which is either subordinate to Plaintiff's mortgage, or paid in full, equitably subordinated, or adverse to Plaintiff's mortgage. The interest of each defendant is set forth in "Schedule C" of this complaint.

9. The interest or lien of the United States of America, the State, City or local government entity is set forth in "Schedule D" of this complaint.

10. Plaintiff has complied with sections 1304 and 1306 of the Real Property Actions and Proceedings Law and with all provisions of section 595-a of the Banking Law and any rules or regulations promulgated there under, and, if applicable, sections 6-l or 6-m of the Banking law.

Attachment: DOC110824-11082024085458 (COM-2024-100 : Summons and Complaint: Nationstar Mortgage LLC Vs. Town of Amherst)

11. No prior action was brought to recover any part of the mortgage debt.

WHEREFORE, PLAINTIFF DEMANDS:

a. Judgment accelerating the maturity of the debt and determining the amount due Plaintiff for principal, interest, late charges, taxes, assessments, insurance, maintenance and preservation of the property and other similar charges, together with costs, allowances, expenses of sale, reasonable attorney's fees, all with interest, pursuant to the terms of the Note and Mortgage.
b. That the property be sold at auction to the highest bidder in accordance with the referee's terms of sale.
c. That the interest of the defendant(s) and all persons claiming by or through them be foreclosed and their title, right, claim, lien, interest or equity of redemption to the property be forever extinguished.
d. That out of the sale proceeds, the Plaintiff be paid the amounts due for principal, interest, late charges, taxes, assessments, insurance, securing, inspections, posting of notices, maintenance and preservation of the property, and other similar charges, together with court costs, allowances, expenses of sale, and reasonable attorney's fees, all with interest.
e. That the property be sold in as is condition and subject to the facts an inspection or accurate survey of the property would disclose, covenants, restrictions, easements and public utility agreements of record, building and zoning ordinances and violations, and the equity of redemption of the United States of America.
f. That Plaintiff may purchase the property at the sale.
g. That a receiver be appointed for the property, if requested by Plaintiff.
h. That a deficiency judgment against Joseph A. Smith, to the extent allowable by law, for the amount that remains due after distribution of the sale proceeds, unless the debt was discharged in a bankruptcy or is otherwise uncollectable, be granted if requested by Plaintiff.
i. That if the Plaintiff possesses other liens against the property, they not merge with the mortgage being foreclosed and that Plaintiff, as a subordinate lien holder, be allowed to share in any surplus proceeds resulting from the sale.
j. That the Court award Plaintiff additional relief that is just, equitable and proper.

Dated: October 30, 2024

/s/ Ashley M Pascuzzi
Ashley M Pascuzzi, Esq.
Gross Polowy LLC
Attorneys for Plaintiff
1775 Wehrle Drive, Suite 100
Williamsville, NY 14221
Tel.: (716) 204-1700

Attachment: DOC110824-11082024085458 (COM-2024-100 : Summons and Complaint: Nationstar Mortgage LLC Vs. Town of Amherst)

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

Francina J. Spoth
Town Clerk

Meeting: 12/02/24 07:00 PM
Department: Town Clerk
DOC ID: 29664

COMMUNICATION 2024-101 **REFERRED**

Verified Petition & Notice of Petition: Marc Digiore Vs. Town of Amherst Zoning Board of Appeals

12/2/2024
Referred to Attorney

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

STATE OF NEW YORK
SUPREME COURT: COUNTY OF ERIE

MARC DIGIORE

Petitioner,

For a Judgment Pursuant to Article 78
of the Civil Practice Law and Rules

-against-

TOWN OF AMHERST ZONING BOARD OF APPEALS
5583 Main Street
Williamsville, New York 14221

RAS DEVELOPMENT I, LLC
4758 North French Road
East Amherst, New York 14051

Respondents.

VERIFIED PETITION

Index No. _____

Petitioner MARC DIGIORE, by and through his attorneys THE KNOER GROUP, PLLC, for his verified petition pursuant to Article 78 of the Civil Practice Law and Rules ("CPLR"), respectfully alleges as follows:

PARTIES

1. Petitioner MARC DIGIORE ("Petitioner" or "DiGiore") is an individual residing in Amherst, New York.

2. Petitioner is the owner of real property located at

NOV 14 2024 PM2:21

Attachment: DOC111524-11152024133152 (COM-2024-101 : Verified Petition & Notice of Petition: Marc Digiore Vs. Town of Amherst Zoning

15.8.a

3. Respondent TOWN OF AMHERST ZONING BOARD OF APPEALS ("ZBA") is a municipal board vested with the power to grant or deny variance requests affecting property in the Town of Amherst.

4. Respondent RAS DEVELOPMENT I, LLC ("RAS" or "Applicant") is a Limited Liability Company formed under the Laws of New York State with an office at 4758 North French Road, East Amherst, New York 14051.

5. Upon information and belief, RAS DEVELOPMENT I, LLC controls real property located at 4795 Sheridan Drive, Amherst, New York 14221 pursuant to a contract.

JURISDICTION AND VENUE

6. This Court has jurisdiction pursuant to CPLR 506(b) and 7804(b) and Town Law § 274-a and § 274-b.

7. Venue in the County of Erie is proper pursuant to CPLR 506(b) because it is the county in which Respondent Town of Amherst Zoning Board of Appeals made the determination complained of and the county in which the real property subject to the variance denial is located.

STATEMENT OF FACTS

8. Petitioner is the owner of real property located at

9. Applicant controls real property located at 4795 Sheridan Drive, Amherst, New York 14221 ("the Project Site") directly adjacent to Petitioner's property.

10. The Project Site is zoned MFR-5 under the Town of Amherst zoning ordinance. [Ex. 1 p. 2]

11. In April of 2024, Applicant filed a variance application and supporting documentation seeking four variances for the Project Site:

Attachment: DOC111524-11152024133152 (COM-2024-101 : Verified Petition & Notice of Petition: Marc Digiore Vs. Town of Amherst Zoning

a. Variance from Zoning Code § 203-3-15-5A(4) related to the front yard setback;

b. Variance from Zoning Code § 203-3-15-5A(4) related to the side yard setback on the east side of the Project Site;

c. Variance from Zoning Code § 203-3-11-B(2) related to residential density; and

d. Variance from Zoning Code § 203-3-15-6 related to the buffer between proposed buildings and proposed parking areas. [Ex 1 p. 2-3]

12. On May 9, 2024, Applicant made an updated submission to the ZBA with revised project plans, again seeking four variances for the Project Site. [Id. p. 3]

13. At a public hearing on May 13, 2024 testimony was heard from Applicant's attorney as well as comments in opposition from DiGiore, Carrie Wanamaker of 4775 Sheridan Drive, and Edward Marecki of 4765 Sheridan Drive. [Id. p. 3-4]

14. At the public hearing on May 13, 2024, the ZBA voted to adjourn the public hearing on the requested variances until its next scheduled meeting on June 18, 2024. [Id. p. 4]

15. On June 14, 2024, Applicant submitted an amended variance application and an updated concept site plan drawing, again seeking four variances for the Project Site. [Id. p. 4]

16. At a public hearing on June 18, 2024 testimony was heard from Applicant's attorney as well as comments in opposition from DiGiore, DiGiore's attorney, Wanamaker, and Marecki. [Id. p. 4-5]

17. DiGiore, through his counsel, raised concerns about the sharp increase in residential density the project would cause; concerns about impacts on traffic and traffic safety, including reference to three serious accidents near the Project Site in the prior three months;

Attachment: DOC111524-11152024133152 (COM-2024-101 : Verified Petition & Notice of Petition: Marc Digiore Vs. Town of Amherst Zoning

concerns about impacts on traffic sightlines caused by the proposed reduced front setback; concerns about the project's proximity to National Grid transmission lines adjacent to the eastern border of the property, where the Applicant sought to have a reduced side yard setback; and the aesthetic impacts on the neighborhood resulting from Applicant's front and side yard setback requests and Applicant's request to reduce the setback between buildings and parking areas.

18. DiGiore, through his counsel, raised concerns about the cumulative impacts on traffic and density resulting from Applicant's proposed project and variances, and another townhome development proposed by an entity associated with Applicant across the street from the Project Site which was undergoing Planning Board review.

19. DiGiore, through his counsel, specifically requested that the ZBA require a traffic study to address the potential impacts on traffic and traffic safety.

20. At the public hearing on June 18, 2024 the ZBA voted to adjourn the public hearing on the requested variances until its next scheduled meeting on August 13, 2024. [Id. p. 5].

21. On August 7, 2024, Applicant submitted another amended variance application, again seeking four variances for the Project Site, again seeking four variances:

a. Variance from Zoning Code § 203-3-15-5A(4) related to the front yard setback, to allow Building #2 to be 26.02 feet from the property line rather than 55.16 feet as required by code;

b. Variance from Zoning Code § 203-3-15-5A(4) related to the side yard setback on the east side of the Project Site, to allow Building #2 to be 35 feet from the property line rather than 55.16 feet as required by code;

Attachment: DOC111524-11152024133152 (COM-2024-101 : Verified Petition & Notice of Petition: Marc Digiore Vs. Town of Amherst Zoning

15.8.a

c. Variance from Zoning Code § 203-3-11-B(2) related to residential density, to allow construction of 10 one-bedroom units and 14 two-bedroom units on a 2.06 acre lot rather than a 2.23 acre lot as required by code; and

d. Variance from Zoning Code § 203-3-15-6 related to the buffer between proposed buildings and proposed parking areas, to allow a buffer of 9 feet rather than 15 feet as required by code. [Id. p. 9].

22. On August 9, 2024 Applicant submitted copies of a Traffic Generation and Site Distance Assessment dated August 8, 2024 prepared by Passero Associates. [Id. p. 5; 32-40].

23. On August 12, 2024, DiGiore, through his counsel, submitted a letter again raising concerns about the proposed variances and the ZBA's review under the State Environmental Quality Review Act ("SEQRA"), including concerns about information submitted by Applicant as part of the Part 1 Full Environmental Assessment Form and the Town of Amherst's Attachment to the Part 1 Full Environmental Assessment Form. [Ex. 1 p. 7; Ex. 2 p. 12-17].

24. On August 13, 2024, Applicant submitted copies of a Geotechnical Report prepared by Empire Geo Services dated January 16, 2016. [Ex. 1 p. 7; Ex. 2 p. 19-66].

25. At a public hearing on August 13, 2024 testimony was heard from Applicant's attorney as well as comments in opposition from DiGiore, DiGiore's attorney, Wanamaker, and Marecki. [Ex. 1 p. 8]

26. Wanamaker and Marecki offered specific comments about traffic concerns, noting that the existing traffic pattern already creates difficulties and dangers when making left turns into or out of existing residences and intersections, including lines of cars stacking in the center turn lane.

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27. At the public hearing on August 13, 2024 the ZBA voted to close the public hearing and set a deadline of August 23, 2024 at 5:00pm for any additional written comments or documents to be submitted to the Town Clerk. [Id. p. 8].

28. On August 16, 2024 Applicant submitted copies of a letter from NYS Office of Parks, Recreation, and Historic Preservation dated August 12, 2024 ("the Historic Resources Letter") which noted that the Project Site was adjacent to the State and National Register eligible Park Country Club of Buffalo, and based on a review of project plans submitted on August 8, 2024 which included a vegetated buffer between Park Country Club of Buffalo and the Project Site, the project would have no adverse impact on historical or archaeological resources. [Ex. 1 p. 8; Ex. 2 p. 69].

29. On August 23, 2024 DiGiore, through his counsel, submitted a letter in opposition to the requested variances and raising concerns about project impacts and the ZBA's review of the variances and SEQRA. [Ex. 1 p. 8; Ex. 2 p. 70-72]

30. On August 23, 2024 Applicant, through its counsel, submitted a letter including revisions to the Part 1 Full Environmental Assessment and the Town of Amherst Attachment to the Part 1 Full Environmental Impact Assessment. [Ex. 1 p. 8-9; Ex. 2 p. 73-93].

31. At its meeting on September 17, 2024 the ZBA voted to approve a negative declaration under SEQRA. [Ex. 3].

32. At its meeting on September 17, 2024 the ZBA voted to approve the four requested variances and imposing two conditions on the approval related to the appearance of the proposed buildings and installation of a privacy fence on the western edge of the portion of the Project Site to be developed. [Ex. 1 p. 10].

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33. The ZBA's determinations under SEQR and as to the variance requests, including the complete SEQR determination and findings of fact in support of granting the variances, were finalized and filed with the Town Clerk on October 4, 2024. [Ex. 4].

The SEQRA Determination

34. The ZBA improperly determined that the requested variances would not have any potentially significant adverse impacts on the environment.

35. The ZBA improperly relied on the Passero Letter to determine that the action would not result in any potentially significant adverse traffic impacts. [Ex. 3 p. 6].

36. The Passero Letter concluded that a traffic study was not warranted because a 24 unit multifamily housing development is estimated to create 30 or fewer peak hour trips and reviewing agencies generally use a guideline of 100 or more peak hour trips to trigger further study of potential traffic impacts. [Ex. 1 p. 33].

37. The Passero Letter also concluded that there would be sufficient Stopping Sight Distance from the Project Site's proposed driveway intersection based on the posted speed limit of Sheridan Drive. [Ex. 1 p. 34].

38. DiGiore raised specific concerns about traffic, including citation to a New York State Department of Environmental Conservation's guidance document for applying SEQRA ("the DEC Workbook"). [Ex. 2 p. 12-14]

39. The DEC Workbook clearly states that the threshold of 100 or more peak hour trips is not the only factor to be considered when deciding whether traffic analysis is required before issuing a determination under SEQRA. [https://dec.ny.gov/regulatory/permits-licenses/seqr/eaf-workbooks/part-1-project-and-setting/qd2-project-operations, last visited October 15, 2024].

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40. Specifically, other factors to be considered include where "high traffic volumes on surrounding roads may affect movement to and from the proposed development"; where there may be "inadequate site distance to access points"; or where "the proximity of proposed access points to other existing drives or intersections may be a problem." [Id.].

41. DiGiore advised the ZBA that such conditions were present, including existing levels of high traffic on Sheridan Drive near the Project Site, the history of severe traffic accidents near the Project Site in the preceding months, the proximity of intersections at Troy Del Way and Castlebrooke Lane, the proximity of the Park Country Club driveway, the proximity of other residential driveways, and the potential for vehicles to "stack" in the center turn lane. [Ex. 2 p. 13]

42. At the August 13, 2024 public hearing comments were heard from neighbors stating that the existing traffic conditions already cause vehicles to wait in the center turn lane and make left turns into or out of residences difficult and hazardous.

43. At the June 18, 2024 public hearing and by letter on August 12, 2024, DiGiore through his counsel also raised concerns about sight distances during the winter when snow is plowed and piled along or near the roadway. [Ex. 2 p. 13].

44. DiGiore raised the specific concern that granting the front setback variance would limit the space for plowed snow to be located, potentially resulting in high snow piles that would impede sight distance for vehicles turning into or out of the Project Site. [Id.].

45. Concerns about the impact of snow piles on visibility were echoed by other neighbors at the August 13, 2024 public hearing.

46. The ZBA's SEQR declaration makes no reference to the actual existing traffic conditions near the project site and concludes that a traffic impact study was not warranted solely

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because the Passero Letter concluded that the project was expected to "produce less than 30 trips" and that sight distances were sufficient. [Ex. 3 p. 6]

47. By failing to address the existing traffic levels, recent accident history, proximity of intersections and driveways, or concerns about the impacts of snow piles on site distances, the ZBA failed to take the necessary "hard look" and the determination under SEQRA must be vacated along with the decision granting the variances.

The ZBA Failed to Undertake Coordinated Review to Determine Cumulative Effects

48. The Town of Amherst requires applicants to submit an attachment to the Environmental Assessment Form ("the Town of Amherst Attachment"). [Ex. 2 p. 93].

49. The Town of Amherst Attachment requires the applicant to state whether it is aware of current or future plans by others in the Town of Amherst to develop property within approximately 1,000 feet of the present project request. [Id.].

50. The Town of Amherst Attachment submitted by Applicant on June 14, 2024 and on July 30, 2024 answered "no." [Ex. 2 p. 14].

51. That answer was false. At the time Applicant sought its variances a proposal for a 22-unit townhome project was pending with the Town of Amherst Planning Board to be located across the street from the Project Site at 4774 & 4780 Sheridan Drive ("the Townhome Project").

52. Various documentation identifies the developer of the Townhome Project as RAS Development I, LLC, RAS Development Company LLC, and 4780 Sheridan Drive LLC. The principal of RAS Development I, LLC submitted documentation in support of a rezoning request for the Townhome Project property. [Ex. 5 p. 29-31]

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53. DiGiore, through his counsel, advised the ZBA of the Townhome Project at the public hearing on June 18, 2024 and requested that the ZBA consider how the Townhome Project would impact traffic along with the pending variance requests.

54. Applicant submitted an amended Town of Amherst Attachment on August 23, 2024 disclosing the Townhome Project. [Ex. 2 p. 93].

55. The Town of Amherst's policy, as stated on the Town of Amherst Attachment, is that "Potential environmental impacts from adjacent or nearby projects undergoing the approval process will receive a coordinated environmental review to determine cumulative effects on common receivers (e.g. traffic and drainage corridors) and other relevant environmental concerns." [Id.].

56. The ZBA noted in its SEQRA determination that the Townhome Project received a negative declaration and site plan approval on June 25, 2024, thereby acknowledging that the project was "undergoing the approval process" at the time that Applicant first applied for its variances and during the public hearings on May 13, 2024 and June 18, 2024. [Ex. 3 p. 6].

57. The ZBA stated in its SEQRA determination that there was no need to conduct a cumulative impact analysis of the proposed variances and the Townhome Project because the projects were not "functionally dependent" nor located on contiguous properties. [Id.].

58. The Town of Amherst's stated policy does not require that projects be "functionally dependent" or upon contiguous properties. [Ex. 2 p. 93].

59. The Town of Amherst's stated policy is that any adjacent *or nearby* project will receive coordinated environmental review, and specifically notes review of cumulative effects on traffic. [Id.].

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60. As set out above, there are serious concerns about the impact of the requested variances on the existing traffic conditions. The addition of 22 residential townhome units directly across the street from the Project Site would undoubtedly have cumulative impacts on traffic when combined with the proposed development at the Project Site.

61. The fact that the Townhome Project received its negative declaration and site plan approval while the present variance requests for the Project Site were still undergoing approval did not relieve the ZBA of its obligation to undergo coordinated environmental review to assess the cumulative impacts.

62. The ZBA's decision to issue a negative declaration under SEQRA without undergoing a coordinated environmental review to assess cumulative impacts on the environment, including traffic, was arbitrary and capricious and the determination under SEQRA must be vacated along with the decision granting variances.

The ZBA's Adoption of Findings by the NYS Office of Parks, Recreation, and Historic Preservation Resulted in a Conditioned Negative Declaration

63. The ZBA's SEQRA declaration quoted the findings of the Office of Parks, Recreation, and Historic Preservation stating: "Since the proposed project area is adjacent to the State and National Register eligible Park Country Club of Buffalo, our office is reviewing this project. We have reviewed the proposed site plans and rendering received on 8/8/2024. In order to reduce visibility of the new construction from the adjacent historic property, we note that a vegetated buffer is proposed between Park Country Club and the proposed 2 story apartment buildings. Based on our review, it is the OPRHP's opinion that this project will have No Adverse Impact on historic or archaeological resources." [Ex. 3 p. 4-5].

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64. On August 23, 2024 DiGiore, through his counsel, advised that the proposed vegetated buffer was located within the National Grid easement area, and that National Grid had previously advised that it would not permit trees to be planted in that easement area because they may hinder National Grid's ability to service and operate its transmission lines, and that National Grid advised it would remove any trees planted in the easement area. [Ex. 2 p. 71].

65. DiGiore requested that Applicant resubmit plans to the Office of Parks, Recreation, and Historic Preservation removing those proposed trees and seeking a new determination as to whether the project may have adverse impacts if that vegetated buffer was not included. [Id.].

66. Applicant did not submit any further communications with or from the Office of Parks, Recreation, and Historic Preservation.

67. By adopting the findings of the Office of Parks, Recreation, and Historic Preservation which relied on the proposed vegetated buffer to reduce visibility of the new construction from the historic property, the ZBA implicitly determined that a potential adverse impact on historic resources was present but could be resolved by conditioning the project on the inclusion of a vegetated buffer to reduce visibility.

68. The ZBA's SEQRA determination should be treated as a Conditioned Negative Declaration, not a Negative Declaration.

69. A Conditioned Negative Declaration must be filed and published in the Environmental Notice Bulletin, and a 30 day minimum public comment period must be provided commencing with the publication of the notice. 6 NYCRR § 617.12.

70. The ZBA's SEQRA determination was not published in the Environmental Notice Bulletin and no public comment period on the determination was provided.

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71. The ZBA's SEQRA determination was made in violation of lawful procedure and must be vacated, along with the decision to grant the variances.

The Area Variances

72. When faced with an application for an area variance a Zoning Board of Appeals must consider certain factors set out in Town Law and engage in a balancing test weighing the benefit to the applicant against the potential adverse impacts to the community. Town Law § 267-b(3)(b).

73. The ZBA erroneously concluded that granting the requested area variances would not have any adverse effects or impacts on physical or environmental conditions in the neighborhood or result in an undesirable change in the character of the neighborhood or a detriment to nearby properties.

74. While the Findings of Fact recite the existence of objections made by DiGiore and others related to traffic and traffic safety when setting out the history of the application and documents received, they do not address any of the details of those objections, including the existence of factors outside the number of expected trips which called for further study of traffic impacts. [Ex. 1 p. 2-13].

75. The findings related to "Criteria #4: Whether the proposed variances will have an adverse effect or impact on the physical or environmental conditions in the neighborhood" make no reference to traffic, including either the comments by neighbors in opposition or the documentation offered by the Applicant. [Ex. 1 p. 12]

76. The findings related to Criteria #4 reference and rely the ZBA's negative declaration under SEQR, which as set out above was improper and failed to take the required "hard look" at traffic impacts. [Id.].

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77. By failing to address the potential adverse effects or impacts on traffic and traffic safety raised by DiGiore and others in letters and at the public hearings, the ZBA failed to properly consider whether the proposed variances would have an adverse effect or impact on the physical or environmental conditions of the neighborhood as required by Town Law § 267-b(3)(b) and its decision is arbitrary and capricious and made in violation of lawful procedure.

78. The ZBA's decision to grant the requested area variances must be vacated.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that a judgment be entered herein as follows:

A. Vacating the determination of the Town of Amherst ZBA under the State Environmental Quality Review Act;

B. Vacating the determination of the Town of Amherst ZBA to grant the requested variances;

C. Awarding Petitioner counsel fees and expenses under CPLR Article 86; and

D. Granting such other and further relief as the Court deems just and proper.

Dated: Buffalo, New York
October 31, 2024

Respectfully Submitted,

s/Colin M. Knoer

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15.8.a

TO: TOWN OF AMHERST ZONING BOARD OF APPEALS
Respondent
5583 Main Street
Williamsville, New York 14221

RAS DEVELOPMENT I, LLC
Respondent
4758 North French Road
East Amherst, New York 14051

Attachment: DOC111524-11152024133152 (COM-2024-101 : Verified Petition & Notice of Petition: Marc Digiore Vs. Town of Amherst Zoning

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VERIFICATION

STATE OF NEW YORK)
) ss.:
COUNTY OF ERIE)

MARC DIGIORE, being duly sworn, deposes and says:

1. I am the Petitioner in the above action.

2. I have read the foregoing petition and its factual contents are true to my personal knowledge, except as to those matters alleged therein to be upon information and belief, and as to those matters, I believe them to be true.

Marc DiGiore

Sworn to before me this
1 day of ~~October~~ November, 2024

Notary Public

LISA A. DEJOHN
Lic. #01DE4868488
Notary Public - State of New York
Qualified in Erie County
COMM. EXP. May 8 2026

Attachment: DOC111524-11152024133152 (COM-2024-101 : Verified Petition & Notice of Petition: Marc Digiore Vs. Town of Amherst Zoning

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STATE OF NEW YORK
SUPREME COURT: COUNTY OF ERIE

MARC DIGIORE
4785 Sheridan Drive
Amherst, New York 14221,

Petitioner,

NOTICE OF PETITION

For a Judgment Pursuant to Article 78
of the Civil Practice Law and Rules

Index No. _____

-against-

TOWN OF AMHERST ZONING BOARD OF APPEALS
5583 Main Street
Williamsville, New York 14221

RAS DEVELOPMENT I, LLC
4758 North French Road
East Amherst, New York 14051

Respondents.

PLEASE TAKE NOTICE that upon the annexed verified petition of Petitioner MARC DIGIORE, duly verified on the 1st of November, 2024, and the exhibits annexed thereto, an application will be made to this court at _____ a.m./pm on the _____ of _____, 2024, or as soon thereafter as counsel may be heard, for a Judgment granting relief under Article 78 of the CPLR as follows:

A. Vacating the determination of the Town of Amherst ZBA under the State Environmental Quality Review Act;

B. Vacating the determination of the Town of Amherst ZBA to grant the requested variances;

Attachment: DOC111524-11152024133152 (COM-2024-101 : Verified Petition & Notice of Petition: Marc Digiore Vs. Town of Amherst Zoning

C. Awarding Petitioner counsel fees and expenses under CPLR Article 86; and

D. Granting such other and further relief as the Court deems just and proper.

PLEASE TAKE FURTHER NOTICE that, pursuant to CPLR 7804(c) and (e) any answer and supporting affidavits and a certified transcript of the record shall be served on the undersigned attorneys for Petitioner no later than five days before the date and time above.

Dated: Buffalo, New York
November 2, 2024

Respectfully Submitted,

s/Colin M. Knoer

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TO: TOWN OF AMHERST ZONING BOARD OF APPEALS
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