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 16, 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 16, 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	
Dan Howard	Town of Amherst	Planning Director	Present	
Samuel A. Alba	Town of Amherst	Interim Town Attorney	Present	

V. MINUTES APPROVAL

1. Monday, December 02, 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.

VIII. DEVELOPMENT REVIEW ACTIONS

1. Resolution 2024-994

SEQR Determination - 1050 New Road (SP-2023-09)

BE IT 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, issuance of special use permits and adoption of local laws, and

NOW THEREFORE BE IT FURTHER RESOLVED, that this Town Board as SEQR Lead Agency has reviewed a request for a Special Use Permit at 1050 New Road 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

NOW THEREFORE BE IT FURTHER RESOLVED, that the Planning Board at their meeting of June 25, 2024 held a public hearing on the site plan application for the proposed use and issued a Determination of Significance by adopting a Negative Declaration pursuant to 6NYCRR Part 617 of the State Environmental Quality Review Act (SEQRA) and Town Code Chapter 104, as amended, and

NOW THEREFORE 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

12/16/2024
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 2024-900

Adoption of a Special Use Permit for Solar Energy Project - 1050 New Road (SP-2023-09)

THEREFORE BE IT RESOLVED, that pursuant to NYS Town Law Sec.272-a, the Town Board concurs with the findings of the Planning Board as stated in their resolution of June 25, 2024 that the proposed solar energy development to be located at 1050 New Road is consistent with the adopted Bicentennial Comprehensive Plan and §8-6-7 of the Town of Amherst Zoning Ordinance as follows:

) Will be generally consistent with the policies of the Comprehensive Plan;
) Meets any specific criteria set forth in this Ordinance;
) Will be compatible with existing uses adjacent to and near the property;
) Will be in harmony with the general purpose of this Ordinance;
) Will not tend to depreciate the value of adjacent property;
) Will not create a hazard to health, safety or the general welfare;
) Will not alter the essential character of the neighborhood nor be detrimental to the neighborhood residents; and
) Will not otherwise be detrimental to the public convenience and welfare.

and

NOW THERFEORE BE IT FURTHER RESOLVED, that in accordance with Section 6-10-7 B (3) (d) of the Town of Amherst Zoning Ordinance, the Planning Board recommended to the Town Board approval of the Special Use Permit for the proposed solar development as stated in their resolution of June 25, 2024; and

NOW THERFEORE BE IT FURTHER RESOLVED, that pursuant with Section 8-6-6 of the Town of Amherst Zoning Ordinance, the Town Board approves said Special Use Permit subject to the following conditions:

. That the Amherst Industrial Development Agency (AIDA) approve a Payment in lieu of Taxes (PILOT) and Community Benefit Agreement (CBA) and that a copy of the finalized and signed PILOT and CBA agreements be provided to the Planning Department prior to the issuance of final approved site plan drawings by that department.

2. That a decommissioning bond or funds be provided and that the amount be approved by the Town Attorney's Office.

3. That the petitioner provide the means for the maintenance of the agricultural component of the project and the contract for the required agricultural component chosen by the petitioner (animal grazing vegetation and/or apiary management) be reviewed by the Planning Department and Town Attorneys office before it is executed between the petitioner and the subcontractor.

4. That if wetland impacts exceed 0.10 acres or more, the petitioner must contact the U.S. Army Corps of Engineers.

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.

12/16/2024
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

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 7:03 PM.

The following speakers addressed the Town Board:
John Trabert, 234 Mt Vernon Rd - Town debt & residency requirement
Dennis Hoban, 216 California Dr - Town debt
Spike Mertes - tax abatements & Resolution 2024-900
Joe Voytovich, 35 Bucyrus Dr - subject matter list
Judy Ferraro, 213 Donna Lea Blvd - gun club property
Ray Herman, 114 Oakgrove Dr - executive session
Tom Frank, Main St - Resolution 2024-1036
Chris Drongosky, Youngs Rd - gun club property
Don Smith, 201 N Long St - Resolution 2024-996
Matt Plunkett, 299 Northill Dr - lack of construction progress around the Town

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 7:32 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:

B. DEPUTY SUPERVISOR LAVIN:

C. COUNCILMEMBER BERGER:

1. Resolution 2024-995

Amherst Recreation Commission Re-Appointment

WHEREAS, the Amherst Town Recreation Department, also known as the Amherst Recreation Commission or Rec. Commission, maintains a strong liaison with the Amherst Town Board; and

WHEREAS, activity volunteers and the varied recreation and sport constituencies conduct programming and competitions on Town property through shared communication, trust, and strategies which serve and promote the advancement of recreational participation for all age levels in Amherst; and

WHEREAS, Pamela Hart has expressed interest in continuing serving on the Amherst Recreation Commission.

NOW, THEREFORE, BE IT RESOLVED that the Amherst Town Board reappoints Pamela Hart to her second term to conclude December 31, 2031.

12/16/2024
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 2024-996

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

AGENDA ITEM : DECEMBER 16TH, 2024

TO: **Town Board**

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

DATE: **December 11, 2024**

RE: **Resolution Approving a Revised Purchase Agreement for 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 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 Town Board, by resolution dated December 2, 2024, issued a State Environmental Quality Review Act ("SEQRA") negative declaration for the acquisition of the Property, authorized the acquisition of the Property, approved the Purchase Agreement related thereto, and authorized the Town Supervisor to execute the Purchase Agreement; and

WHEREAS, subsequent to the December 2, 2024 approving resolution, counsel for the parties have made non-substantive changes to the proposed Purchase Agreement; and

WHEREAS, out of an abundance of caution, the revised Purchase Agreement has been submitted to the Town Board for approval;

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

1. The attached revised Purchase Agreement 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).

2. 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 16, 2024**)

12/16/2024
Consent

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

2. Resolution 2024-997

2025 Fire Protection District Contracts

AGENDA ITEM : DECEMBER 16th, 2024

TO: **Town Board**

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

DATE: **December 10, 2024**

RE: **2025 Fire Protection District Contracts:**
***Fire Protection District No. 1 - Autumn Harvest**

***Fire Protection District No. 2 - Lamm Post**
***Fire Protection District No. 3 - Lehn Springs**
***Fire Protection District No. 4 - Mill Street**
***Fire Protection District No. 15 - Park Club**
***Fire Protection District No. 16 - Williamsville-Sheridan**
*** ***
Fire Protection District No. 9 - Ellicott Creek Volunteer Fire Company, Inc.
***Fire Protection District No. 11 - Getzville Fire Company, Inc.**
***Fire Protection District No. 14 - Main-Transit Fire Department, Inc.**
***Fire Protection District No. 10 - North Amherst Fire**
***Fire Protection District No. 18 - North Bailey Fire Company, Inc.**
***Fire Protection District No. 13 - East Amherst Fire Department**
***Fire Protection District No. 12 - Swormville Fire Dept., Inc.**

Kindly schedule a Public Hearing for the second meeting in January 2025 to approve the above-referenced Fire Protection Contracts for the 2025 calendar year.

Thank you.

SAA:nmb
c: Tim Koller, Deputy Town Clerk *(***Agenda Item : December 16, 2024**)

12/16/2024
Consent

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

3. Resolution 2024-998

Lease Agreement - Portion of 1350 Eggert Road (CRS #5188)

AGENDA ITEM : DECEMBER 16th, 2024

TO: **Town Board**

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

DATE: **December 11, 2024**

RE: **Lease Agreement For Portion of 1350 Eggert Road (CRS #5188) (Eggertsville Community Center)**

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

RESOLVED, the Town Board hereby authorizes the Supervisor to execute the attached Lease Agreement with 1097 Group, LLC for the above-referenced property pending successful completion of the Contract Routing System (CRS).

Thank you.

SAA:nmb
Attachment
c: Tim Koller, Deputy Town Clerk (**Agenda Item : December 16, 2024**)

12/16/2024
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

4. Resolution 2024-999

2025-2026 Lawley Insurance Binder (CRS #5264)

AGENDA ITEM : DECEMBER 16TH, 2024

TO: **Town Board**

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

DATE: **December 11, 2024**

RE: **Lawley Insurance Proposal/Binder ($1,263,245.50) (CRS #5264)**
Lawley Broker Fee ($55,000)
Excess A – ($412,877.00)
Excess B (Part 1) - $5 Million Excess $10 Million ($164,028.75)
Excess B (Part 2) - $5 Million Excess $15 Million (Excluding Law Enforcement) ($128,027.50)
Property - Travelers ($301,664.00 Premium + $934.00 Fire Fee)
Crime - Travelers ($4,562.00)
Excess Workers Comp. - ($155,104.00)
Cyber Insurance - Cowbell Insurance ($85,386.25)
3-Year Tail for Abuse/Molestation Coverage ($10,662.00)

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

RESOLVED, the Town Board authorizes the Supervisor or the Town Attorney to bind insurance coverage in the amounts outlined above by executing the attached insurance

binder pending successful completion of the Contract Routing System (CRS).

Thank you.

SAA:nmb
c: Tim Koller, Deputy Town Clerk
(**Agenda Item - December 16, 2024**)
Lynda Juul, Director of Finance
Daryl C. Bramer, CPA, Town Comptroller

12/16/2024
Consent

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

5. Resolution 2024-1000

Alienation of a Portion of 1265 Smith Road

AGENDA ITEM : DECEMBER 16TH, 2024

TO: **Town Board**

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

DATE: **December 11, 2024**

RE: **Alienation of a Portion of 1265 Smith Road**

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

WHEREAS, on September 16, 2024 this Board granted permission to Bell Atlantic Mobile Systems, LLC d/b/a Verizon Wireless to file a special use permit with the Amherst Zoning Board of Appeals to obtain permission to construct a 115 foot tall Wireless Communication Tower on Town owned land at 1265 Smith Road; and

WHEREAS, the parcel is designated as "Parkland" and is constrained by jurisdictional wetlands and has remained vacant since its donation to the Town; and

WHEREAS, the Town of Amherst seeks to "Alienate" a portion of the parcel in order to lease such area to Verizon Wireless for the construction of its wireless communications facility; and

WHEREAS, Verizon's feasibility study has demonstrated that the subject Town owned land will meet its radio frequency coverage and capacity needs for a

serious gap in radio service coverage for a portion of north east Amherst; and

WHEREAS, the Town of Amherst is aware of a gap in cellular communications in portions of East Amherst, as its residents have expressed concern for lack of communications in emergencies, particularly for those residents which no longer have land lines for telephone communications; and

WHEREAS, on October 16, 2024 the Town of Amherst Zoning Board of Appeals granted a Special Use Permit and necessary waivers to permit the construction of Verizon's telecommunications facility; and

WHEREAS, the alienation process requires the approval of the New York State Legislature and the designation of alternative parcels as "Parkland" or the improvement of existing recreation facilities in a capital amount equal to the value of the alienated parcel;

NOW THEREFORE BE IT RESOLVED that pursuant to 6NYCRR Part 617 (SEQR) and Town Code Section 104, as amended, that the requirements of SEQR have been completed and the Town Board reaffirms the attached Negative Declaration issued by the Amherst Zoning Board of Appeals attached hereto and made part of this resolution; and

BE IT FURTHER RESOLVED that the Town Board declares that that portion of 1265 Smith Road as described on the attached survey encompassing the lease area, access area and easements, currently owned and occupied by the Town of Amherst, be removed as parkland and other land owned by the Town of Amherst of equivalent recreational suitability and value located at 70 Tupelo Lane, a recent Town acquisition for a proposed neighborhood park be substituted as parkland in its place or that capital improvements to an existing recreation facility in the amount of the parcel's value be made; and

BE IT FURTHER RESOLVED that the Supervisor with the assistance of the Town Attorney's office is hereby authorized to take all necessary actions to effect this alienation procedure, including working with the New York State Legislature.

SAA:nmb
c: Tim Koller, Deputy Town Clerk (**Agenda Item – December 16, 2024**)

12/16/2024
Consent

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

6. Resolution 2024-1001

Settlement of Litigation Matter : Barbati V. TOA

AGENDA ITEM : DECEMBER 16th, 2024

TO: **Town Board**

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

DATE: **December 10, 2024**

RE: **Barbati v. Town of Amherst**
Settlement of Lawsuit

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

RESOLVED, the Town Board hereby authorizes full and final settlement of the above matter in the amount of $100,000.00 and also authorizes the Supervisor to execute any and all settlement documents associated with the full and final settlement of such matter.

Thank you.

SAA:nmb
c: Tim Koller, Deputy Town Clerk (**Agenda Item : December 16, 2024**)

12/16/2024
Consent

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

B. TOWN CLERK:

C. ASSESSOR:

D. BUILDING/BUILDING MAINTENANCE:

1. Resolution 2024-1002

Change Order Town Hall Main Entrance

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 $7,057.90.

The project originally included a scope of work for 500 square feet of concrete sidewalk replacement, identified under Allowance 2 (material allowance). Due to time of year, work will not be occurring. Additionally, Allowance 1 funds (identified for unforeseen conditions) were not completely used, and remaining funds will now be returned to the Town.

Allowance 1 (unforeseen conditions) remaining funds	549.90
Allowance 2 (material replacements) remaining funds	6,508.00
CREDIT for unused Allowances total	7,057.90

As outlined above, the project above shall **decrease** funding required from the project associated with account 2414.4972.

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

12/16/2024
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 2024-1003

Budget Transfers and Amendments

For December 16, 2024 Town Board Agenda

To: Town Board
From: Office of Town Comptroller
Date: 12/11/2024
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:***
N2142.4000 AMH HOME Acq. $100,000.00	N2141.4000 AMH 1st Time $100,000.00

To transfer funds from Amherst Home New Construction to Amherst Home 1st Time Homebuyer.

A3121.1000 Police – Personal Services $162,564.00 A3121.2600 Other Equipment $175,000.00
A3121.8030 Police – FICA $12,436.00
To transfer funds from personal services and FICA into Other Equipment for the purchase of 50 M-4 style rifles to replace existing patrol rifles, 170 new Glock handguns with holographic optics to replace existing officer handguns, and related accessories to make the firearms functional for police use.

BUDGET AMENDMENTS – 2024

INCREASE: ***INCREASE:***

N2256.03089 State AHC Grant- State Aid $62,640.00 N2256.4000 Contractual $56,376.00
N2256.1000 Personal Services $5,818.86
N2256.8030 FICA $445.14
To recognize State AHC Grant Revenue.

A3121.02720 Police – Donations $61,394.90 A3121.2600 Other Equipment $61,394.90
To accept donation from the Amherst Police Foundation and increase other equipment, for the purchase of firearms.

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

D5110.02617 Highway – Auction Revenue $30,704.50 D5130.4240 Machinery – Equip. Repairs $30,704.50
To recognize auctions proceeds and increase expenditure line for repairs.

12/16/2024
Consent

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

G. CONTRACT COMPLIANCE:

1. Resolution 2024-1004

Approval to Participate in TIPS National Cooperative Purchasing Program - CRS #5187

WHEREAS, the Town of Amherst, pursuant to the authority granted by New York State purchasing requirements, desires to participate in The Interlocal Purchasing System (TIPS); and

WHEREAS, TIPS is a National Cooperative Purchasing Program offered by Region VIII Education Services Center, located in Pittsburg, Texas (Camp County); and

WHEREAS, participation, through membership and utilization of competitively bid and awarded vendor contracts in a cooperative purchasing program specializing in the management of high quality cooperative procurement solutions will be beneficial to the taxpayers through the anticipated savings to be realized by the Town;

NOW, THEREFORE, BE IT RESOLVED, that the Town of Amherst has identified a stated need for participation in The Interlocal Purchasing System (TIPS); and

BE IT FURTHER RESOLVED, that Brian Kulpa, Town Supervisor, is authorized and directed to sign and deliver any and all necessary documents herewith for and on behalf of the Town of Amherst.

12/16/2024
Consent

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

2. Resolution 2024-1005

Award Informal Bid #20241030 Town Wide Grease and Oil Interceptor Disposal - CRS #5238

WHEREAS, the Contract Compliance and Administration Department received informal bids on November 12, 2024 for Town Wide Grease and Oil Interceptor Disposal; and

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

NOW, THEREFORE, BE IT RESOLVED, the Town Board authorizes the Contract Compliance and Administration Department to award a two year contract, effective December 19, 2024 to Safety Kleen Systems, Inc.; and

BE IT FURTHER RESOLVED, The Town Board authorizes the Supervisor to sign the contract with Safety Kleen Systems, Inc.

12/16/2024
Consent

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

3. Resolution 2024-1006

Award Bid #2024047 Police Rifles - CRS #5242

WHEREAS, the Contract Compliance and Administration Department received bids on November 14, 2024 for Bid #2024047 Police Rifles; and

WHEREAS, the bid process resulted in responses from six (6) vendors, as per the attached bid tabulation form;

NOW, THEREFORE, BE IT RESOLVED, the Town Board authorizes the Contract Compliance and Administration Department to award this bid to Allstar Tactical; and

BE IT FURTHER RESOLVED, The Town Board authorizes the Supervisor to sign the contract with Allstar Tactical; and

BE IT FURTHER RESOLVED, that approval is pending successful completion of the Contract Routing System due to the fact that the purchase is being made using 2024 funds, and a purchase order must be issued before the end of 2024; and

BE IT FURTHER RESOLVED, the Town Board authorizes the trade in of the following equipment as part of the award, in the quantities listed:

37 H&K G36 5.56 rifles with magazines
37 EOTECH 552 sights
37 Streamlight TLR-1 lights
37 Troy flip-up battle sights

12/16/2024
Consent

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

4. Resolution 2024-1007

Award Bid #2024049 Drone for Emergency Services - CRS #5248

WHEREAS, the Contract Compliance and Administration Department received bids on December 5, 2024 for Bid #2024049 Drone for Emergency Services; and

WHEREAS, the bid process resulted in responses from seven (7) vendors, as per the attached bid tabulation form;

NOW, THEREFORE, BE IT RESOLVED, the Town Board authorizes the Contract

Compliance and Administration Department to award this bid to B&H Foto & Electronics Corp.; and

BE IT FURTHER RESOLVED, The Town Board authorizes the Supervisor to sign the contract with B&H Foto & Electronics Corp.; and

BE IT FURTHER RESOLVED, that approval is pending successful completion of the Contract Routing System due to the fact that this purchase is being made using 2024 funds, and a purchase order must be issued before the end of 2024.

12/16/2024
Consent

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

5. Resolution 2024-1008

Award Bid #2024050 Removal & Replacement of Highway Department Unit Heaters - CRS #5249

WHEREAS, the Contract Compliance and Administration Department received bids on December 5, 2024 for Bid #2024050 Removal and Replacement of Highway Department Unit Heaters; and

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

NOW, THEREFORE, BE IT RESOLVED, the Town Board authorizes the Contract Compliance and Administration Department to award this bid to O'Connor Mechanical Corp., and

BE IT FURTHER RESOLVED, The Town Board authorizes the Supervisor to sign the contract with O'Connor Mechanical Corp.; and

BE IT FURTHER RESOLVED, that approval is pending successful completion of the Contract Routing System due to the fact that the Highway Garage is currently without fully operating heat.

12/16/2024
Consent

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

6. Resolution 2024-1009

Extension of Erie County Bid #222371-002 for Paint - CRS #5259

WHEREAS, Sherwin-Williams has agreed to extend their contract for Erie County Bid #222371-002 for Paint (original CRS #3880);

NOW, THEREFORE, BE IT RESOLVED, the Town Board approves a one-year extension of the contract with Sherwin-Williams Co. through December 31, 2025; and

BE IT FURTHER RESOLVED, the Town Board authorizes the Supervisor to sign the contract extension with Sherwin-Williams Co.; and

BE IT FURTHER RESOLVED, that approval is pending successful completion of the Contract Routing System due to the fact that the current contract will expire on 12/31/2024.

12/16/2024
Consent

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

7. Resolution 2024-1010

Erie County Bid #240258-004 for Ice Melt - CRS #5255

WHEREAS, the Contract Compliance and Administration Department is requesting approval to use the Erie County Contract for Ice Melt - Erie County Bid #240258-004 with SiteOne Landscape Supply; and

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

NOW, THEREFORE, BE IT RESOLVED, the Town Board approves and authorizes the Supervisor to sign the contract with SiteOne Landscape Supply; and

BE IT FURTHER RESOLVED, that approval is pending successful completion of the Contract Routing System due to the fact that we are currently without a contract.

12/16/2024
Consent

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

8. Resolution 2024-1011

Extend RFP #202005 for Medical Administration Services - CRS #5254

WHEREAS, Independent Health Corporation has agreed to extend their contract under RFP #202005 for Medical Administration Services (Original CRS #2248);

NOW, THEREFORE, BE IT RESOLVED, the Town Board approves a three-year extension of the contract with Independent Health Corporation for the term January 1, 2025 through December 31, 2027; and

BE IT FURTHER RESOLVED, the Town Board authorizes the Supervisor to sign the contract extension with Independent Health Corporation; and

BE IT FURTHER RESOLVED, that approval is pending successful completion of the Contract Routing System due to the fact that the contract expires on December 31, 2024.

12/16/2024
Consent

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

9. Resolution 2024-1012

Extension of RFP #202107 Town Wide Dental Administration Services - CRS #5252

WHEREAS, The Guardian Life Insurance Company of America has agreed to extend RFP #202107 for Town Wide Dental (Original CRS #3034) as per the attached Extension Agreement; and

WHEREAS, Town staff as well as the Town's Employee Benefits Consultant recommend this extension;

NOW, THEREFORE, BE IT RESOLVED, the Town Board approves a three-year extension of the contract with The Guardian Life Insurance Company of America through December 31, 2027; and

BE IT FURTHER RESOLVED, the Town Board authorizes the Supervisor to sign the contract extension with The Guardian Life Insurance Company of America; and

BE IT FURTHER RESOLVED, that approval is pending successful completion of the Contract Routing System due to the fact that the current contract expires on 12/31/2024.

12/16/2024
Consent

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

10. Resolution 2024-1013

Extension of Agreement for Workers' Compensation Consulting Services - CRS #5251

WHEREAS, Alterity Group, LLC has agreed to extend their contract for Workers' Compensation Consulting Services (Original CRS #3974); and

WHEREAS, the Human Resources Department also wishes to extend the contract;

NOW, THEREFORE, BE IT RESOLVED, the Town Board approves a two-year extension of the contract with Alterity Group, LLC, through December 31, 2026; and

BE IT FURTHER RESOLVED, the Town Board authorizes the Supervisor to sign the contract extension with Alterity Group, LLC; and

BE IT FURTHER RESOLVED, that approval is pending successful completion of the Contract Routing System due to the fact that the current contact expires on 12/31/2024.

12/16/2024
Consent

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

11. Resolution 2024-1014

Extension of Bid #2020034 Walk Off Mats - CRS #5236

WHEREAS, Cintas has agreed to extend their contract for Bid #2020034 for Town Wide Walk Off Mats (Original CRS #2354); and

NOW, THEREFORE, BE IT RESOLVED, the Town Board approves a two-year extension of the contract with Cintas for the period of January 19, 2025 through January 18, 2027; and

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

12/16/2024
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:

L. FINANCE:

M. HIGHWAY

1. Resolution 2024-1015

Authorize Supervisor to Sign STANLEY STEEL AND ALUMINIUM Contract Extension CRS #5235

NOW THEREFORE BE IT RESOLVED, that the Town of Amherst has approved the contract with the Highway Department which allows for the contract to be extended for a period of (12) twelve months at the same terms and conditions; and

WHERE AS, The Highway Department is requesting approval for the extension of the contract under Resolution 2024-292 from 01/03/2025 through 01/02/2026.

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 #5235) and the approval of the Town Attorney.

12/16/2024
Consent

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

2. Resolution 2024-1016

Authorize Supervisor to Sign LACAL EQUIPMENT INC Contract Extension - CRS #5237

WHEREAS, BID #2022035 Highway Department allows for the contract to be extended for a period of one (1) year at the same terms and conditions; and

WHEREAS, The Highway Department is requesting approval for the extension of the contract

under Resolution 2024-88 from 01/03/25 through 01/02/2026.

This contract is subject to the Contract Routing System (CRS #5237) extension and the approval of the Town Attorney.

12/16/2024
Consent

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

3. Resolution 2024-1017

Contract Extension-Modification Resolution 2024-92

Whereas, Resolution 2024-92 per Bid #2019038, Highway Department for Dump Box, Plow Parts and Custom Metal Fabrication allows the contract to be extended and modified for a period of (24) months at the same terms and conditions; and

WHEREAS, the Highway Department is requesting approval for the extension and modification of the contract under Resolution 2024-92 from 12/12/2023 through 12/12/25;

NOW, THEREFORE, BE IT RESOLVED, the Town Board authorizes the Highway Department to extend as follows the approved contracts with Valley Fab & Equipment, Inc for (CRS#1753/3114/4555) and Viking Cives Inc (#1755/3115/4554), and

BE IT FURTHER RESOLVED, the Town Board authorizes the Supervisor to sign the correct extension for the two (2) vendors subject to the Contract Routing System with correct dates.

12/16/2024
Consent

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

N. HUMAN RESOURCES:

1. Resolution 2024-1018

Principal Clerk Typist/Youth & Recreation

Please appoint a Principal Clerk Typist to the Youth & Recreation Department. Permanent, from list, pending satisfactory completion of a probationary term as set forth in the Civil Service Rule XIII. Effective December 17, 2024 at an annual salary of $39,448, Grade 7, Step A for Donna Cicero.

This is a promotion for an employee currently serving as Senior Clerk Typist.
Replacing an employee who transferred to another department.

12/16/2024
Consent

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

2. Resolution 2024-1019

Recreation Specialist - PT/Building Maintenance/Facilities

Please appoint a Recreation Specialist - PT to the Building Maintenance/Facilities Department. Permanent, pending satisfactory completion of a probationary term as set forth in the Civil Service Rule XIII. Effective December 23, 2024. Annual compensation not to exceed $34,999 for Daniel Rizzo.

12/16/2024
Consent

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

3. Resolution 2024-1020

Maintenance Worker/Engineering-Plant #16

Please appoint a Maintenance Worker to the Engineering Department/Plant #16. Permanent, pending satisfactory completion of a probationary term as set forth in the Civil Service Rule XIII. Effective December 17, 2024 at an hourly rate of $20.63, Grade II, Step 1.

Contingent upon completing all pre-employment requirements.

Replacing an employee who transferred to another department.

12/16/2024
Consent

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

4. Resolution 2024-1021

Youth Service Program Coordinator/Youth & Recreation

Please appoint a Youth Service Program Coordinator to the Youth & Recreation Department. Permanent, from list, pending satisfactory completion of a probationary term as set forth in the Civil Service Rule XIII. Effective December 17, 2024 at an annual salary of $61,052, Grade 10, Step J for Antonella Stravalaci.

This is a permanent appointment for a current employee who has been serving provisionally.

Contingent upon successful completion of Erie County Civil Service Rules and Regulations.

12/16/2024
Consent

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

O. INFORMATION TECHNOLOGY:

P. PLANNING:

1. Resolution 2024-1022

To Set a Date for the Second of the Two Public Hearings Required by the U.S. Department of Housing and Urban Development for the FY 2025 Community Development Action Plan and the 2025-2029 Consolidated Plan

WHEREAS, the Town is required to hold at least two public hearings for the 2025 Annual Action Plan and 2025-2029 Consolidated Plan, encompassing both the Community Development Block Grant and HOME applications; and

WHEREAS, the Town held the first public hearing on October 15, 2024 for the Plans, now therefore be it

RESOLVED, the Town Board of the Town of Amherst sets January 21, 2025 for the second public hearing for the 2025 Annual Action Plan and the Five Year Consolidated Plan.

12/16/2024
Consent

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

Q. POLICE:

1. Resolution 2024-1023

Acceptance of Donation to Police Department

TOWN BOARD AGENDA ITEM: DECEMBER 16, 2024

TO: **Town Board**

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

RE: **Acceptance of Donation to Police Department**

Kindly adopt a resolution authorizing the Town Board to accept a monetary donation to the Police Department from the Amherst Police Foundation in the amount of $61,364.90 for purchase of new departmental firearms.

Thank you.

SPC:msl
C: Tim Koller, Deputy Town Clerk (**Agenda Item: December 16, 2024**)

12/16/2024
Consent

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

2. Resolution 2024-1024

Request for Additional Funds 2024 Asset Forfeiture Trust Account

TOWN BOARD AGENDA: DECEMBER 16, 2024

TO: **Town Board**

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

RE: **Request for Additional Funds**
2024 Asset Forfeiture Trust Account

Kindly adopt a resolution authorizing the approval to spend up to an additional $30,000.00 from T2917 Asset Forfeiture Trust Account. This account is federally regulated by instituted guidelines regarding the expenditure of funds.

Thank you.

SPC:msl
C: Tim Koller, Deputy Town Clerk (**Agenda Item: December 16, 2024**)

12/16/2024
Consent

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

3. Resolution 2024-1025

APD HQ Main Stairwell Flooring Removal & Replacement GP Flooring Solutions (CRS #5258)

TOWN BOARD AGENDA ITEM: DECEMBER 16, 2024

TO: **Town Board**

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

RE: **APD HQ Main Stairwell Flooring Removal & Replacement GP Flooring Solutions (CRS #5258)**

Kindly adopt a resolution authorizing the Supervisor to adopt and execute an agreement between the Town of Amherst (Police) and GP Flooring Solutions (CRS#5258) 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 16, 2024)**

12/16/2024
Consent

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

4. Resolution 2024-1026

Eaton Office Supplies, Co., Inc. Purchase of Office Furniture (CRS #5257)

TOWN BOARD AGENDA ITEM: DECEMBER 16, 2024

TO: **Town Board**

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

RE: **Eaton Office Supplies, Co., Inc.**
Purchase of Office Furniture (CRS #5257)

Kindly adopt a resolution authorizing the Supervisor to adopt and execute an agreement between the Town of Amherst (Police) and Eaton Office Supplies Co., Inc. (CRS#5257) 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 16, 2024)**

12/16/2024
Consent

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

5. Resolution 2024-1027

Range Cleaning Contract Bailey Ave. Training Facility Range Action Target, Inc. (CRS #5265)

TOWN BOARD AGENDA : DECEMBER 16, 2024

TO: **Town Board**

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

RE: **Range Cleaning Contract**
Bailey Ave. Training Facility Range
Action Target, Inc. (CRS #5265)

Kindly adopt a resolution authorizing the Supervisor to adopt and execute an agreement between the Town of Amherst (Police) and Action Target, Inc. (CRS #5265) 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 16, 2024)**

12/16/2024
Consent

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

6. Resolution 2024-1028

FY23 COPS Technology & Equipment Program Grant Office of Community Oriented Policing Services (CRS #5266)

TOWN BOARD AGENDA ITEM: DECEMBER 16, 2024

TO: **Town Board**

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

RE: **FY23 COPS Technology & Equipment Program Grant**
Office of Community Oriented Policing Services (CRS #5266)

Kindly adopt a resolution the following Resolution with regard to the above matter:

WHEREAS, the Town of Amherst has been awarded a congressional earmark for the Police Communication Tower Project to be located at the former Nike Base Property; and

WHEREAS, the Town of Amherst is authorized to accept this congressional earmark in the amount of $900,000 for the project described in the application and no matching funds are required to receive the funds; and

NOW, THEREFORE BE IT RESOLVED, that the Town Board and Supervisor are hereby authorized to accept these funds and approve all corresponding grant agreement documentation as part of the Department of Justice COPS Technology Grant System.

SPC:msl
C: Tim Koller, Deputy Town Clerk (**Agenda Item: December 16, 2024**)

12/16/2024
Consent

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

R. SENIOR SERVICES:

1. Resolution 2024-1029

Amherst Senior Center Cafe'

WHEREAS, The Town is providing a café within the Senior Center for the benefit of its users, and

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

WHEREAS, The Town of Amherst Senior Centers Trust and Agency Account was setup to benefit the Center and its Center members, and

WHEREAS, funds are needed to cover the cost of the built in Millwork for the Café, and

THEREFORE BE IT RESOLVED, the Amherst Town Board authorizes the transfer of $18,000 from the Trust and Agency Account, T2100, into KP2349 Senior Center Café and Gift Shop, for the cost of the built in Millwork for the equipment for the café.

12/16/2024
Consent

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

2. Resolution 2024-1030

Class Instructor Jean Widlicka CRS #5167

We respectfully request Town Board permission to authorize the Supervisor to sign the Contract Amendment to the Presenter/Performer Commitment between The Town of

Amherst (Senior Services) and Jean Widlicka.

12/16/2024
Consent

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

3. Resolution 2024-1031

Purchase of Kitchen Equipment CRS #5245

We respectfully request Town Board permission to authorize the Supervisor to approve the purchase of Kitchen Equipment from B & G Foodservice Equipment and Supplies upon successful completion of the Contract Routing Process.

12/16/2024
Consent

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

4. Resolution 2024-1032

Class Instructor Sebnem Mekinulov CRS #5168

We respectfully request Town Board permission to authorize the Supervisor to sign the Contract Amendment to the Presenter/Performer Commitment between the Town of Amherst (Senior Services) and Sebnem Mekinulov.

12/16/2024
Consent

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

5. Resolution 2024-1033

Class Instructor Marilyn Ciavarella CRS #5169

We respectfully request Town Board permission to authorize the Supervisor to sign the Contract Amendment to the Presenter/Performer Commitment between the Town of Amherst (Senior Services) and Marilyn Ciavarella.

12/16/2024
Consent

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

6. Resolution 2024-1034

Class Instructor Dawn Tarbox-Szerbiak CRS #5166

We respectfully request Town Board permission to authorize the Supervisor to sign the Contract Amendment to the Presenter/Performer Commitment between the Town of Amherst and Dawn Tarbox-Szerbiak.

12/16/2024
Consent

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

7. Resolution 2024-1035

Purchase of Coffee and Tea Products- SJ McCullagh, Inc CRS #5192

We respectfully request Town Board permission to authorize the Supervisor to sign the contract between the Town of Amherst (Senior Services) and SJ McCullagh, Inc.

12/16/2024
Consent

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

S. SEWER/PLANT 16:

T. YOUTH AND RECREATION:

1. Resolution 2024-1036

Intermunicipal Agreement - Paradise Park CRS #5056

Authorize the Supervisor to sign an intermunicipal agreement between the Town of Amherst and Erie County for construction of a restroom facility at Paradise Park.

12/16/2024
Consent

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

2. Resolution 2024-1037

Service Agreement - DFC Grant CRS #5194

Authorize the Supervisor to sign a contract between the Town of Amherst (Youth & Recreation Department) and The Prevention Council of Erie County for work related to the town's 2024-2025 Drug Free Communities Grant.

12/16/2024
Consent

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

3. Resolution 2024-1038

Travel Authorization - USHA Winter Meeting

Authorize Eric Guzdek and Linda Groff to attend the US Amateur Hockey Association Winter Meeting in Nashville, TN from 1/15-1/19/24. All costs will be paid by the NYS Amateur Hockey Association.

12/16/2024
Consent

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

4. Resolution 2024-1039

Advertising Agreement and Trade - CRS #5260

Authorize the Supervisor to sign a contract between the Town of Amherst (Youth & Recreation Department) and the Amherst Bee for advertising in 2025, pending successful completion of the contract routing process.

12/16/2024
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 2024-102

Correspondence from Sean Hopkins, Esq. - 1789 Dodge Road

Letter from Sean Hopkins, Esq. regarding the proposed residential subdivision at 1789 Dodge Road.

12/16/2024
Referred to Planning & Attorney

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

2. Communication 2024-103

Correspondence from Marc Rosenthal - Address Change

Letter from Marc Rosenthal seeking to change the address of their office building from 1 Beresford Court to 6700 Main Street.

12/16/2024
Received & Filed

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

3. Communication 2024-104

Summons and Complaint: State of New York Mortgage Agency Vs. Town of Amherst Et Al.

12/16/2024
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 comment on matters involving Amherst other than those pertinent to Public Hearings that day. Speakers will be limited to 3 minutes.

A motion to open Public Expression was made by Supervisor Kulpa, seconded by Deputy Supervisor Lavin and unanimously approved 5-0. Public Expression was opened at 7:41 PM.

The following speakers addressed the Town Board:
John Trabert, 234 Mt Vernon Rd - Clerk to judge employment posting
Tom Frank, Main St - Amherst Central Park
Jane Cox, 4584 Harlem Rd - residency requirements
Chris Drongosky, Youngs Rd - Golf fees
Bob Drdul, 92 Chateau Ter - Town debt
Matt Plunkett, 299 Northill Dr - Town board is helping developers over residents
Christina Coyle-Lenz, 64 Chateau Ter E - Town Boards needs to be working for residents
Don Smith, 201 N Long St - Town's long term debt
Dennis Hoban, 216 California Dr - Town's spending

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 8:04 PM.

XVIII. SUSPENSION OF RULES

Supervisor Kulpa moved to open Suspension of Rules to bring forth 7 unlisted items. The motion was seconded by Councilmember Berger and unanimously approved 5-0. Suspension of Rules was opened at 8:09 PM.

There being no further business requiring Suspension of Rules, Supervisor Kulpa moved to close, seconded by Councilmember Berger and unanimously approved 5-0. Suspension of Rules was closed at 8:11 PM.

1. Resolution 2024-1040

Settlement of Article 7 Matter - Tim Donut US Limited Inc. C/O Ryan Property Tax Services

SUSPENSION ITEM: DECEMBER 16, 2024 TOWN BOARD AGENDA

TO: **Town Board**

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

DATE: **December 12, 2024**

RE: **Settlement of Article 7 Matter**
Tim Donut US Limited Inc. c/o Ryan Property Tax Services v. Town of Amherst

Kindly adopt a resolution authorizing the following:

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

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

Thank you.

SAA:rms
Attachment
c: Tim Koller, Deputy Town Clerk
(*w/attachment,* **Agenda Item: December 16, 2024**)
Emily Murphy, Town Assessor

12/16/2024
A motion to approve was made by Deputy Supervisor Lavin, seconded by Councilmember Berger and unanimously approved 5-0.

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

2. Resolution 2024-1041

Settlement of Article 7 Matter - Amusements of WNY Inc.

SUSPENSION ITEM: DECEMBER 16, 2024 TOWN BOARD AGENDA

TO: **Town Board**

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

DATE: **December 12, 2024**

RE: **Settlement of Article 7 Matter**
Amusements of WNY Inc. v. Town of Amherst

Kindly adopt a resolution authorizing the following:

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

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

Thank you.

SAA:rms
Attachment
c: Tim Koller, Deputy Town Clerk
(*w/attachment,* **Agenda Item: December 16, 2024**)
Emily Murphy, Town Assessor

12/16/2024
A motion to approve was made by Deputy Supervisor Lavin, seconded by Councilmember Berger and unanimously approved 5-0.

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

3. Resolution 2024-1042

Settlement of Article 7 Matter - Amusements of WNY Inc.

SUSPENSION ITEM: DECEMBER 16, 2024 TOWN BOARD AGENDA

TO: **Town Board**

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

DATE: **December 12, 2024**

RE: **Settlement of Article 7 Matter**
Amusements of WNY Inc. v. Town of Amherst

Kindly adopt a resolution authorizing the following:

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

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

Thank you.

SAA:rms
Attachment
c: Tim Koller, Deputy Town Clerk
(*w/attachment,* **Agenda Item: December 16, 2024**)
Emily Murphy, Town Assessor

12/16/2024
A motion to approve was made by Deputy Supervisor Lavin, seconded by Councilmember Berger and unanimously approved 5-0.

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

4. Resolution 2024-1043

Settlement of Article 7 Matter - Springbank Develops Inc. C/O Ryan Property Tax Services

SUSPENSION ITEM: DECEMBER 16, 2024 TOWN BOARD AGENDA

TO: **Town Board**

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

DATE: **December 12, 2024**

RE: **Settlement of Article 7 Matter**
Springbank Develops Inc. c/o Ryan Property
Tax Services v. Town of Amherst

Kindly adopt a resolution authorizing the following:

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

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

Thank you.

SAA:rms
Attachment
c: Tim Koller, Deputy Town Clerk
(*w/attachment,* **Agenda Item: December 16, 2024**)
Emily Murphy, Town Assessor

12/16/2024
A motion to approve was made by Deputy Supervisor Lavin, seconded by Councilmember Berger and unanimously approved 5-0.

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

5. Resolution 2024-1044

Temporary Access Agreement – CATCO (CRS #5267)

SUSPENSION ITEM : TOWN BOARD AGENDA - DECEMBER 16th, 2024

TO: **Town Board**

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

DATE: **December 16, 2024**

RE: **Temporary Access Agreement – CATCO (CRS #5267)**

Staging of Inspection Trailer on Town Property

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

RESOLVED, the Town Board hereby authorizes the Supervisor to execute the attached Temporary Access Agreement with CATCO for its use of Town property for the above purposes pending successful completion of the Contract Routing System (CRS).

Thank you.

SAA:nmb
Attachment
c: Tim Koller, Deputy Town Clerk
(**Suspension Item : Town Board Agenda - December 16, 2024**)

12/16/2024
A motion to approve was made by Deputy Supervisor Lavin, seconded by Councilmember Berger and unanimously approved 5-0.

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

6. Resolution 2024-1045

Stop Loss Insurance – Medical / Rx

Suspension Item to Town Board Agenda of December 16, 2024
Stop Loss Insurance

To: Deputy Supervisor Lavin

From: Lynda Juul

Date: December 16, 2024

Re: Stop Loss Insurance – Medical / Rx

Following is a request for the 12/16/2024 Town Board agenda as a suspension item:

Please approve the attached proposal from HM Life Insurance Company of New York for Stop Loss Insurance related to the Town's medical/Rx program. Proposals were received from two companies, with three additional companies declining to quote. After meeting with our Employee Benefit Consultant, we are recommending the Town renew with the current carrier at the current deductibles.

The current policy ends on 12/31/2024, and a new policy needs to be approved to go into effect on 1/1/2025.

12/16/2024
A motion to approve was made by Deputy Supervisor Lavin, seconded by Councilmember Berger and unanimously approved 5-0.

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

7. Resolution 2024-1046

Microsoft Program Signature Form

Suspension to Town Board Agenda Item December 16, 2024

TO: Amherst Town Board

FROM: Dave Willer, Director of Information Technology

DATE: December 16, 2024

RE: **Microsoft Program Signature Form**

Respectfully request the Town Board approve the Supervisor to sign the attached "Program Signature Form" which will allow the Town of Amherst to purchase Microsoft Licensing Products through SHI as part of the NYS OGS contract. This request is pending approval in the contract routing system.

12/16/2024
A motion to approve was made by Deputy Supervisor Lavin, seconded by Councilmember Berger and unanimously approved 5-0.

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

XIX. ADJOURNMENT

There being no further business to come before the Town Board, Supervisor Kulpa moved to adjourn, seconded by Councilmember Berger and unanimously approved 5-0. The Town Board meeting of December 16, 2024 was adjourned at 8:11 PM.

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

Francina J. Spoth
Town Clerk

Meeting: 12/16/24 07:00 PM
Department: Planning
Initiated by: **Dan Howard**
Co-Sponsored by:

DOC ID: 29751 **RESOLUTION 2024-994** **ADOPTED**

SEQR Determination - 1050 New Road (SP-2023-09)

BE IT 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, issuance of special use permits and adoption of local laws, and

NOW THEREFORE BE IT FURTHER RESOLVED, that this Town Board as SEQR Lead Agency has reviewed a request for a Special Use Permit at 1050 New Road 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

NOW THEREFORE BE IT FURTHER RESOLVED, that the Planning Board at their meeting of June 25, 2024 held a public hearing on the site plan application for the proposed use and issued a Determination of Significance by adopting a Negative Declaration pursuant to 6NYCRR Part 617 of the State Environmental Quality Review Act (SEQRA) and Town Code Chapter 104, as amended, and

NOW THEREFORE 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

12/16/2024
A motion to approve was made by Supervisor Kulpa, seconded by Councilmember Berger and unanimously approved 5-0.

FINANCIAL IMPACT:

None

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
Supervisor

Daniel C. Howard, AI
Planning Director

Daniel J. Ulatowski, AI
Assistant Planning Dire

Attachment: SP-2023-09_TB_SUP_Neg_Dec_11122024 (RES-2024-994 : SEQR Determination - 1050 New Road (SP-2023-09))

DRAFT
(11/12/2024)

SEQR
Negative Declaration

NOTICE OF DETERMINATION OF NON-SIGNIFICANCE

Lead Agency: Town of Amherst
Town Board

Project: SP-2023-09

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: Special Use Permit

SEQR Status: Type I Action

Description of Action: Issuance of a special use permit for the Construction of a 21.9± acre solar panel farm and creation of 2 single-family lots fronting on New Road. Work will include the site improvements not specifically stated above, including, stormwater, utilities, grading, lighting, paving, and landscaping.

Location: 1050 New Road, Amherst, Erie County

Petitioner: NED – New Energy Solar 8 LLC

REASONS SUPPORTING THIS DETERMINATION

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

1. The project is not expected to cause a substantial adverse change in existing air quality, ground or surface water quality or quantity, or noise levels; a substantial increase in solid waste production; or a substantial increase in the potential for erosion, flooding, leaching or drainage problems. The Engineering Service Department on October 12, 2023 reviewed the Engineer's Report submitted on September 20, 2023. The Stormwater Pollution Prevention Plan (SWPPP) submitted on September 20, 2023 was also reviewed. Based on its review of these documents, the Department has determined that the project has or will have met all applicable requirements and has no objection to its approval.

2. The project will not result in the removal or destruction of large quantities of vegetation or fauna; or in significant adverse impacts to fish or wildlife species, habitats or other natural resources. The Planning Department reviewed a Landscape Plan submitted on July 18, 2023 and determined that it meets or exceeds Zoning Ordinance requirements for greenspace. The Landscape Plan has or will have met all Zoning Ordinance and Town requirements for landscaping.

3. The project is not expected to create any substantive conflict with the Town Comprehensive Plan. The Planning Department in their review of June 10, 2024, the Zoning Enforcement Officer in his/her review dated June 10, 2024 has reviewed the application documents and Building Department in their review of September 26, 2023 has reviewed the application documents submitted and determined that the subject project has or will have met all NYS Building Code – 2020 and Zoning Ordinance regulations.

4. The project is not within an area identified by the State as potentially containing significant cultural or archeological resources, nor will it impair the character or quality of important historical resources.

5. The project will not impair the character or quality of important aesthetic resources or of existing community or neighborhood character. The project is located in the Suburban Agricultural (SA) zoning district; neighboring uses are Rural Residential and Vacant lots and zoned Suburban Agricultural (SA); therefore, the project is consistent with surrounding land use.

6. The proposed subject development will include a 21.9 acre solar panel farm and 2 single family residential homes fronting on New Road which will not cause a major change in the use of either the quantity or type of energy.

7. The project will not create any hazard to human health. The Fire Chief's Association on November 29, 2023, has reviewed the project and has no objection to the approval of the site plan, as all requirements of this agency/these agencies has or will have been met.

Attachment: SP-2023-09_TB_SUP_Neg_Dec_11122024 (RES-2024-994 : SEQR Determination - 1050 New Road (SP-2023-09))

8. The project will cause a substantial change in the use, or intensity of use, of land including agricultural, open space or recreational resources, or in its capacity to support existing uses. The 21.9 acre solar panel farm and 2 single family residential homes will be consistent with the scale of surrounding land uses.

9. The function of the proposed 21.9 acre solar panel farm and 2 single family residential homes will not significantly increase the number of people using the site over its previous level of use.

10. Review by the Town Traffic/Safety Board dated October 5, 2023, indicates that significant negative traffic impacts are not expected to result from the proposed project.

11. A coordinated review of the project has been undertaken by Town Departments, in addition to those mentioned above, Highway on September 28, 2023, Assessor on September 29, 2023, Plumbing Division on September 26, 2023, and Right-of-Way Agent on October 11, 2023. These reviews have not identified any significant environmental issues and indicate that the proposal will not have a significant damaging impact on the environment.

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

_____ _____

Scott A. Marshall, Principal Planner Date

_____ _____

Brian J. Kulpa, Supervisor Date

SM/ac
X:\Current_Planning\Files\Site Plans\2023\SP-2023-09_(1050_New_Rd)_2023\Special Use Permit\SP-2023-09_TB_SUP_Neg_Dec_11122024.doc
cc: Commissioner of Building
Town Engineer
Fire Chiefs'
Highway
Traffic/Safety
ECDEP
Jeff Palumbo, Block Longo LaMarca & Brzezinski, 9276 Main Street, Clarence, NY 14031

Attachment: SP-2023-09_TB_SUP_Neg_Dec_11122024 (RES-2024-994 : SEQR Determination - 1050 New Road (SP-2023-09))

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

Francina J. Spoth
Town Clerk

Meeting: 12/16/24 07:00 PM
Department: Town Clerk
Initiated by: **Timothy Koller**
Co-Sponsored by:

DOC ID: 29636 **RESOLUTION 2024-900** **ADOPTED**

Adoption of a Special Use Permit for Solar Energy Project - 1050 New Road (SP-2023-09)

THEREFORE BE IT RESOLVED, that pursuant to NYS Town Law Sec.272-a, the Town Board concurs with the findings of the Planning Board as stated in their resolution of June 25, 2024 that the proposed solar energy development to be located at 1050 New Road is consistent with the adopted Bicentennial Comprehensive Plan and §8-6-7 of the Town of Amherst Zoning Ordinance as follows:

) Will be generally consistent with the policies of the Comprehensive Plan;
) Meets any specific criteria set forth in this Ordinance;
) Will be compatible with existing uses adjacent to and near the property;
) Will be in harmony with the general purpose of this Ordinance;
) Will not tend to depreciate the value of adjacent property;
) Will not create a hazard to health, safety or the general welfare;
) Will not alter the essential character of the neighborhood nor be detrimental to the neighborhood residents; and
) Will not otherwise be detrimental to the public convenience and welfare.

and

NOW THERFEORE BE IT FURTHER RESOLVED, that in accordance with Section 6-10-7 B (3) (d) of the Town of Amherst Zoning Ordinance, the Planning Board recommended to the Town Board approval of the Special Use Permit for the proposed solar development as stated in their resolution of June 25, 2024; and

NOW THERFEORE BE IT FURTHER RESOLVED, that pursuant with Section 8-6-6 of the Town of Amherst Zoning Ordinance, the Town Board approves said Special Use Permit subject to the following conditions:

. That the Amherst Industrial Development Agency (AIDA) approve a Payment in lieu of Taxes (PILOT) and Community Benefit Agreement (CBA) and that a copy of the finalized and signed PILOT and CBA agreements be provided to the Planning Department prior to the issuance of final approved site plan drawings by that department.

2. That a decommissioning bond or funds be provided and that the amount be approved by the Town Attorney's Office.

3. That the petitioner provide the means for the maintenance of the agricultural component of the project and the contract for the required agricultural component chosen by the petitioner (animal grazing vegetation and/or apiary management) be reviewed by the Planning Department and Town Attorneys office before it is executed between the petitioner and the subcontractor.

4. That if wetland impacts exceed 0.10 acres or more, the petitioner must contact the U.S. Army Corps of Engineers.

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.

12/16/2024

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

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 : Adoption of a Special Use Permit for Solar Energy Project - 1050 New

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 : Adoption of a Special Use Permit for Solar Energy Project - 1050 New

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 : Adoption of a Special Use Permit for Solar Energy Project - 1050 New

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 : Adoption of a Special Use Permit for Solar Energy Project - 1050 New

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).

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 : Adoption of a Special Use Permit for Solar Energy Project - 1050 New

RECEIVED
SEP 19 2023
TOWN OF AMHERST

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 : Adoption of a Special Use Permit for Solar Energy Project - 1050 New

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 : Adoption of a Special Use Permit for Solar Energy Project - 1050 New

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 : Adoption of a Special Use Permit for Solar Energy Project - 1050 New

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

Appl. No. _____

TOWN CLERK USE
DATE: _____
TIME: _____
REC'D BY: _____

Date Filed: _____ Mtg. Date _____ Accepted By: _____

Attachment: SP-2023-09 SUP TB letter packet 111224 (RES-2024-900 : Adoption of a Special Use Permit for Solar Energy Project - 1050 New

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 : Adoption of a Special Use Permit for Solar Energy Project - 1050 New

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 : Adoption of a Special Use Permit for Solar Energy Project - 1050 New

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 : Adoption of a Special Use Permit for Solar Energy Project - 1050 New

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 : Adoption of a Special Use Permit for Solar Energy Project - 1050 New

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 : Adoption of a Special Use Permit for Solar Energy Project - 1050 New

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 : Adoption of a Special Use Permit for Solar Energy Project - 1050 New

- 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 : Adoption of a Special Use Permit for Solar Energy Project - 1050 New

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 : Adoption of a Special Use Permit for Solar Energy Project - 1050 New

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 : Adoption of a Special Use Permit for Solar Energy Project - 1050 New

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 : Adoption of a Special Use Permit for Solar Energy Project - 1050 New

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 : Adoption of a Special Use Permit for Solar Energy Project - 1050 New

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 : Adoption of a Special Use Permit for Solar Energy Project - 1050 New

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: _____

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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

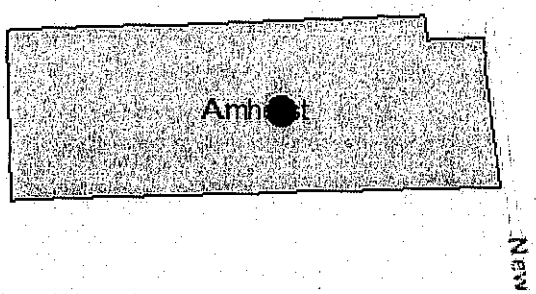
Signature P. Sj Peter J. Sorgi, Esq. Title Project Attorney

PRINT FORM

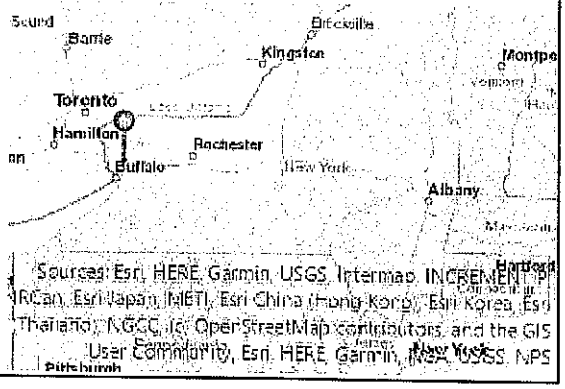
Attachment: SP-2023-09 SUP TB letter packet 111224 (RES-2024-900 : Adoption of a Special Use Permit for Solar Energy Project - 1050 New

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.

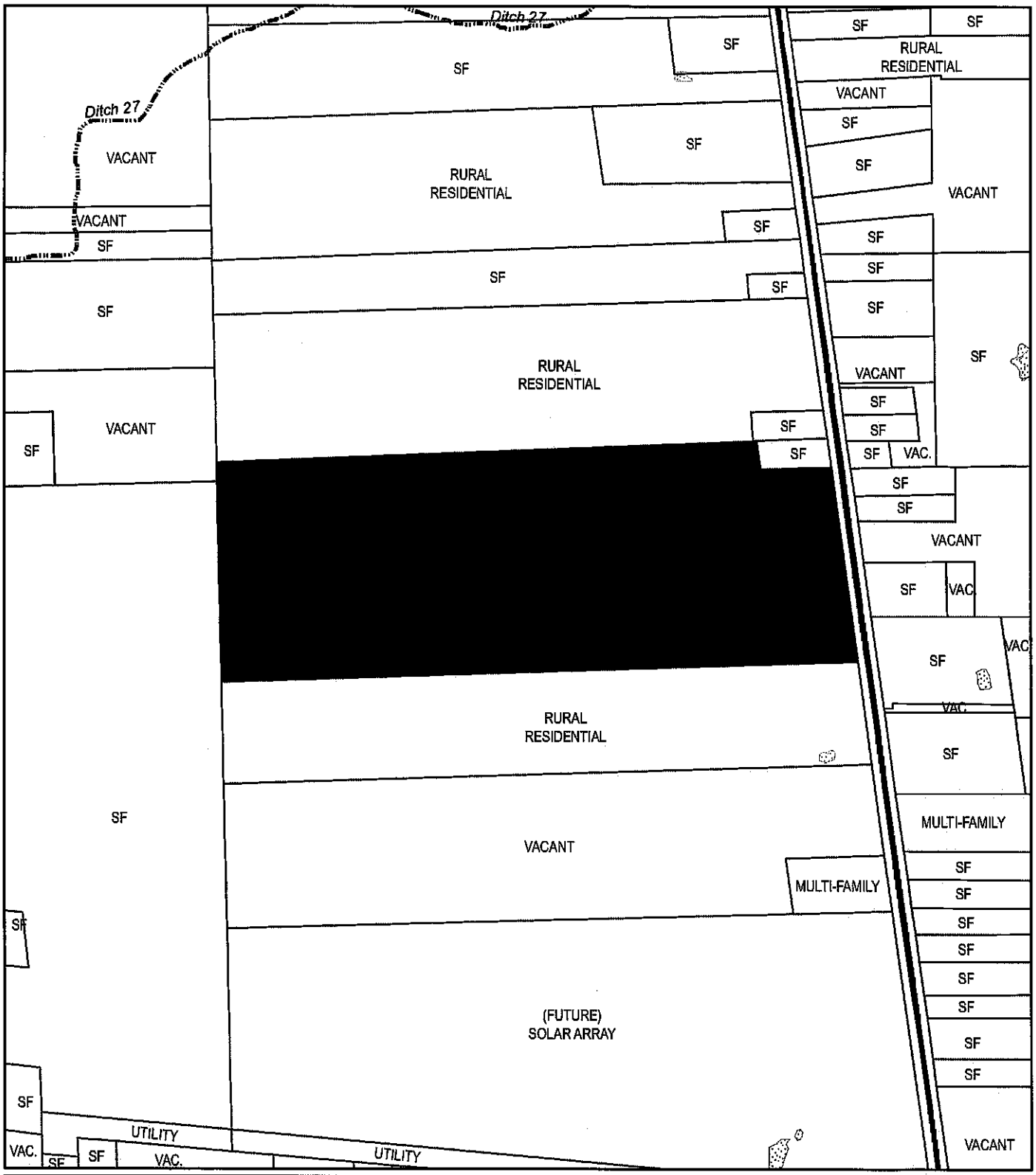


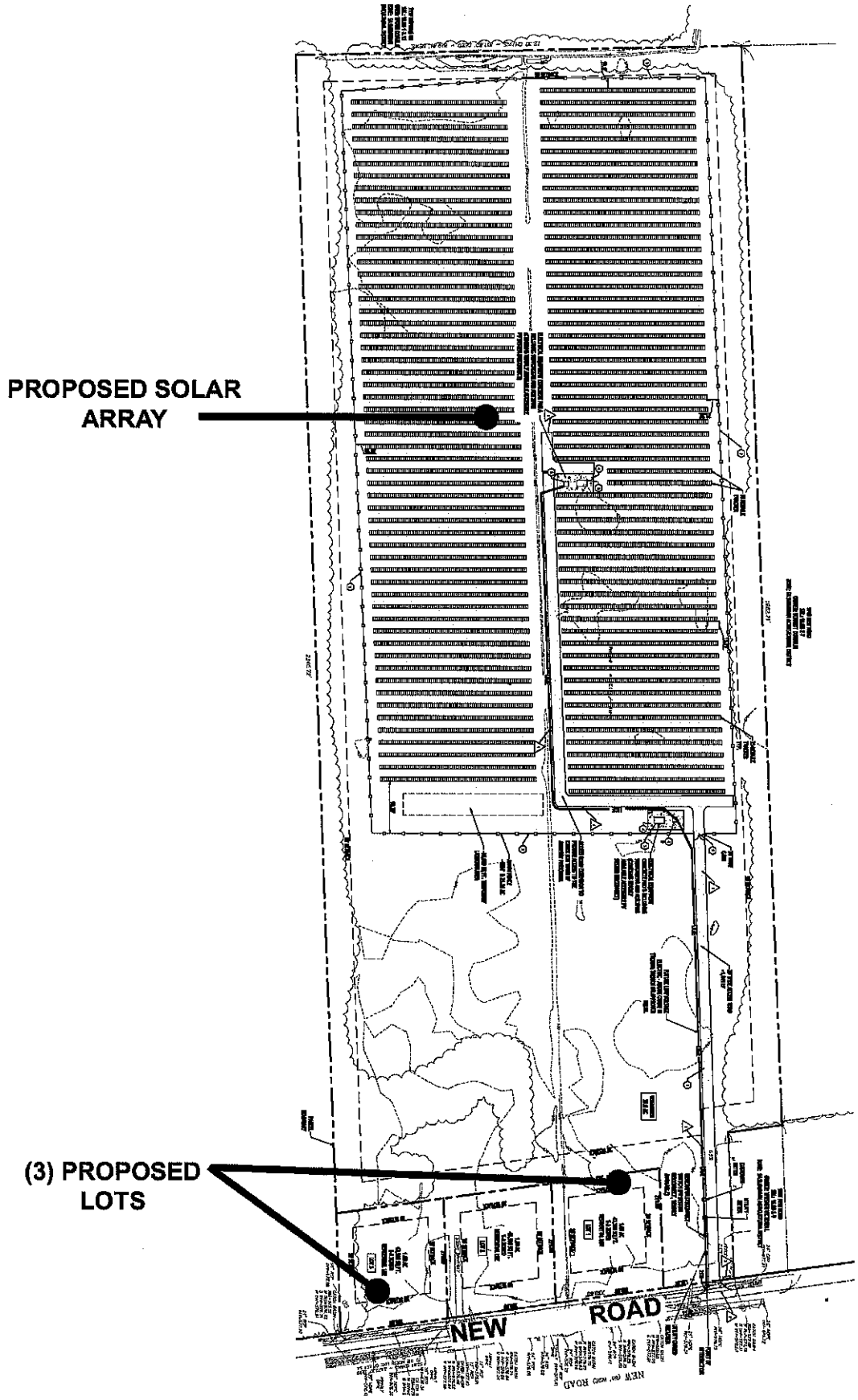
B.i.i [Coastal or Waterfront Area]	No
B.i.ii [Local Waterfront Revitalization Area]	No
C.2.b. [Special Planning District]	Yes - Digital mapping data are not available for all Special Planning Districts. Refer to EAF Workbook.
C.2.b. [Special Planning District - Name]	NYS Heritage Areas:West Erie Canal 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 : Adoption of a Special Use Permit for Solar Energy Project - 1050 New

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 : Adoption of a Special Use Permit for Solar Energy Project - 1050 New

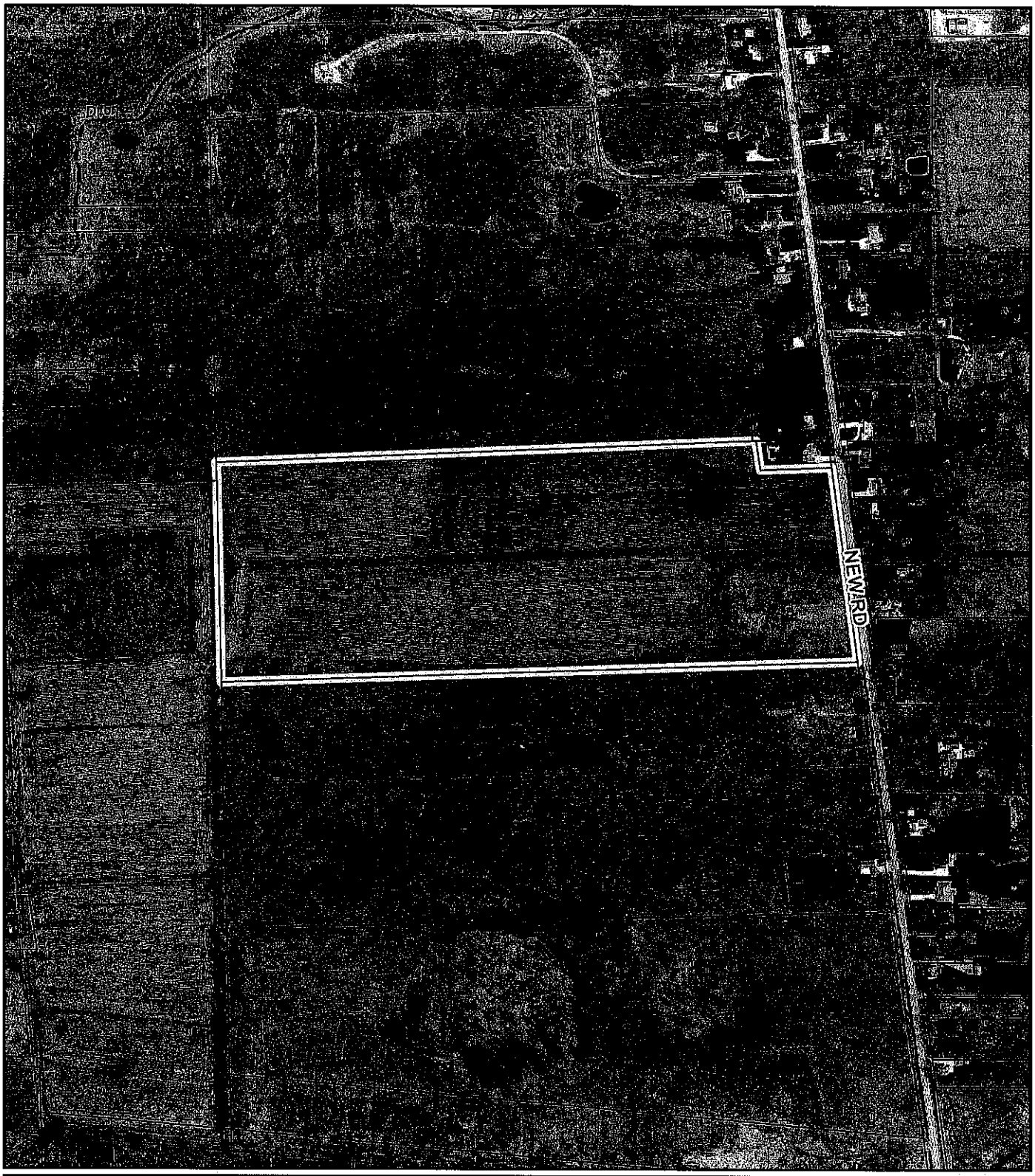

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SITE PLAN

SP-2023-09
1050 New Road
10/31/2023

Attachment: SP-2023-09 SUP TB letter packet 111224 (RES-2024-900 : Adoption of a Special Use Permit for Solar Energy Project - 1050 New



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 : Adoption of a Special Use Permit for Solar Energy Project - 1050 New

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 : Adoption of a Special Use Permit for Solar Energy Project - 1050 New

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 : Adoption of a Special Use Permit for Solar Energy Project - 1050 New

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 : Adoption of a Special Use Permit for Solar Energy Project - 1050 New

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 : Adoption of a Special Use Permit for Solar Energy Project - 1050 New

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 : Adoption of a Special Use Permit for Solar Energy Project - 1050 New

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.

Community Service For Over 65 years ATSB

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 : Adoption of a Special Use Permit for Solar Energy Project - 1050 New

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 : Adoption of a Special Use Permit for Solar Energy Project - 1050 New

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 : Adoption of a Special Use Permit for Solar Energy Project - 1050 New

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 : Adoption of a Special Use Permit for Solar Energy Project - 1050 New

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 : Adoption of a Special Use Permit for Solar Energy Project - 1050 New

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 : Adoption of a Special Use Permit for Solar Energy Project - 1050 New

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 : Adoption of a Special Use Permit for Solar Energy Project - 1050 New

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 : Adoption of a Special Use Permit for Solar Energy Project - 1050 New

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 : Adoption of a Special Use Permit for Solar Energy Project - 1050 New

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

Francina J. Spoth
Town Clerk

Meeting: 12/16/24 07:00 PM
Department: Councilmembers
Initiated by: **Jacqualine Berger**
Co-Sponsored by:

DOC ID: 29772 **RESOLUTION 2024-995** **ADOPTED**

Amherst Recreation Commission Re-Appointment

WHEREAS, the Amherst Town Recreation Department, also known as the Amherst Recreation Commission or Rec. Commission, maintains a strong liaison with the Amherst Town Board; and

WHEREAS, activity volunteers and the varied recreation and sport constituencies conduct programming and competitions on Town property through shared communication, trust, and strategies which serve and promote the advancement of recreational participation for all age levels in Amherst; and

WHEREAS, Pamela Hart has expressed interest in continuing serving on the Amherst Recreation Commission.

NOW, THEREFORE, BE IT RESOLVED that the Amherst Town Board reappoints Pamela Hart to her second term to conclude December 31, 2031.

12/16/2024
Consent

FINANCIAL IMPACT:

N/A

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: 12/16/24 07:00 PM
Department: Town Attorney
Initiated by: **Samuel A. Alba**
Co-Sponsored by:

DOC ID: 29789 **RESOLUTION 2024-996** **ADOPTED**

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

AGENDA ITEM : DECEMBER 16TH, 2024

TO: **Town Board**

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

DATE: **December 11, 2024**

RE: **Resolution Approving a Revised Purchase Agreement for 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 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 Town Board, by resolution dated December 2, 2024, issued a State Environmental Quality Review Act ("SEQRA") negative declaration for the acquisition of the Property, authorized the acquisition of the Property, approved the Purchase Agreement related thereto, and authorized the Town Supervisor to execute the Purchase Agreement; and

WHEREAS, subsequent to the December 2, 2024 approving resolution, counsel for the parties have made non-substantive changes to the proposed Purchase Agreement; and

WHEREAS, out of an abundance of caution, the revised Purchase Agreement has been submitted to the Town Board for approval;

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

1. The attached revised Purchase Agreement 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).

2. 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 16, 2024**)

12/16/2024
Consent

FINANCIAL IMPACT:

$5.725M

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

PURCHASE AGREEMENT

(330 Maple Road, Amherst, New York)

THIS PURCHASE AGREEMENT (this "**Agreement**") is made and entered into as of December ___, 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.

Attachment: Purchase Agreement - ACC - 330 Maple Road Rev (RES-2024-996 : Acquisition of Real Property @ 218 and 330 Maple Road

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 the same have been delivered to or made available to Buyer or any of its Affiliates or their respective agents, employees, consultants, attorneys, contractors or representatives, 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: Peter Iannini (Telephone: (716) 253-6171; E-mail: peter.iannini@stewart.com). 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

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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. Buyer shall cause the Title Company and surveyor to simultaneously provide copies of the Title Search and Survey to Seller when the same are delivered to Buyer. 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 and deliver such Title Commitment to Seller and Buyer within five (5) Business Days of Buyer's attorney's receipt of the Title Search. 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

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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);

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(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 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 material documents, materials and other information relating to the Property Information that, to Seller's knowledge, are in the

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possession of Seller. 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 (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

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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); (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**;

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(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

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(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).

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

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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 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

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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).

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.

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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.

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7.1.8 Employees. Seller does not have any employees.

7.1.9 Anti-Terrorism Laws.

(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 Exceptions, 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

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proceeding against Buyer that, if determined adversely to Buyer, would adversely affect the ability of Buyer to perform its obligations hereunder.

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

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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 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

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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 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").**

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8.2 **RELEASE; WAIVER**.

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,

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PRESENT AND FUTURE ENVIRONMENTAL CONDITIONS ON THE PROPERTY, AND THE RISK THAT ADVERSE PHYSICAL CHARACTERISTICS AND CONDITIONS, INCLUDING WITHOUT 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.

_____

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

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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: Peter Iannini Telephone: (716) 253-6171 E-mail: peter.iannini@stewart.com

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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 Rev (RES-2024-996 : 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,

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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.

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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.]

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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: _____

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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

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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.

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EXHIBIT B

INTENTIONALLY OMITTED

Attachment: Purchase Agreement - ACC - 330 Maple Road Rev (RES-2024-996 : 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.

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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 Rev (RES-2024-996 : 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 Rev (RES-2024-996 : Acquisition of Real Property @ 218 and 330 Maple Road

SCHEDULE A

LEGAL DESCRIPTION

Attachment: Purchase Agreement - ACC - 330 Maple Road Rev (RES-2024-996 : 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.

Attachment: Purchase Agreement - ACC - 330 Maple Road Rev (RES-2024-996 : Acquisition of Real Property @ 218 and 330 Maple Road

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

Attachment: Purchase Agreement - ACC - 330 Maple Road Rev (RES-2024-996 : 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, 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 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.

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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 Rev (RES-2024-996 : 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 Rev (RES-2024-996 : 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 Rev (RES-2024-996 : 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

Attachment: Purchase Agreement - ACC - 330 Maple Road Rev (RES-2024-996 : Acquisition of Real Property @ 218 and 330 Maple Road

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 Rev (RES-2024-996 : Acquisition of Real Property @ 218 and 330 Maple Road

RENT-ROLL/LEASE CHART

NONE

Attachment: Purchase Agreement - ACC - 330 Maple Road Rev (RES-2024-996 : 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 (a) condominium developments comprised of separate individual residential condo units that are each separately sold and owned by individuals and (b) 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

Attachment: Purchase Agreement - ACC - 330 Maple Road Rev (RES-2024-996 : Acquisition of Real Property @ 218 and 330 Maple Road

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

Attachment: Purchase Agreement - ACC - 330 Maple Road Rev (RES-2024-996 : Acquisition of Real Property @ 218 and 330 Maple Road

whatsoever, whether at law, in equity, by statute or otherwise, whether known, unknown, suspected or unsuspected.

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 Rev (RES-2024-996 : 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 Rev (RES-2024-996 : 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 Rev (RES-2024-996 : 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 Rev (RES-2024-996 : 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).

Attachment: Purchase Agreement - ACC - 330 Maple Road Rev (RES-2024-996 : Acquisition of Real Property @ 218 and 330 Maple Road

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 Rev (RES-2024-996 : 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 Rev (RES-2024-996 : 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).

Attachment: Purchase Agreement - ACC - 330 Maple Road Rev (RES-2024-996 : Acquisition of Real Property @ 218 and 330 Maple Road

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 Rev (RES-2024-996 : 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 Rev (RES-2024-996 : Acquisition of Real Property @ 218 and 330 Maple Road

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

Francina J. Spoth
Town Clerk

Meeting: 12/16/24 07:00 PM
Department: Town Attorney
Initiated by: **Samuel A. Alba**
Co-Sponsored by:

DOC ID: 29760 **RESOLUTION 2024-997** **ADOPTED**

2025 Fire Protection District Contracts

AGENDA ITEM : DECEMBER 16th, 2024

TO: **Town Board**

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

DATE: **December 10, 2024**

RE: **2025 Fire Protection District Contracts:**
***Fire Protection District No. 1 - Autumn Harvest**
***Fire Protection District No. 2 - Lamm Post**
***Fire Protection District No. 3 - Lehn Springs**
***Fire Protection District No. 4 - Mill Street**
***Fire Protection District No. 15 - Park Club**
***Fire Protection District No. 16 - Williamsville-Sheridan**
*** ***
Fire Protection District No. 9 - Ellicott Creek Volunteer Fire Company, Inc.
***Fire Protection District No. 11 - Getzville Fire Company, Inc.**
***Fire Protection District No. 14 - Main-Transit Fire Department, Inc.**
***Fire Protection District No. 10 - North Amherst Fire**
***Fire Protection District No. 18 - North Bailey Fire Company, Inc.**
***Fire Protection District No. 13 - East Amherst Fire Department**
***Fire Protection District No. 12 - Swormville Fire Dept., Inc.**

Kindly schedule a Public Hearing for the second meeting in January 2025 to approve the above-referenced Fire Protection Contracts for the 2025 calendar year.

Thank you.

SAA:nmb
c: Tim Koller, Deputy Town Clerk *(***Agenda Item : December 16, 2024**)

12/16/2024
Consent

FINANCIAL IMPACT:

As detailed in the adopted 2025 budget (attached).

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

Attachment: 2025FPDBudget-112520241109 12 (RES-2024-997 : 2025 Fire Protection District Contracts - TOA/VOW)

Town of Amherst
Fire Protection & Fire Districts
2025 Supervisor's Budget

			Phone 4060	Pension Phone / WC Cancer Reimb	Hydrant 4070	Pension 4090	Contract 4110	Cancer Insurance 8055	Workers Comp 8040	Taxes 4190	Deficit 4000	Appropriated Fund Balance or Plus Deficit Fund Balance	Less Interest Income	Amount Amount to Raise in Taxes
Fire Protection														
	Autumn Harvest	2024	106.00		2,620.00	-	59,502.15		-	-	-	(1,000.00)	(48.26)	61,179.89
	F3001	2025	100.00		2,620.00	-	53,621.53		-	-	-	(900.00)	(12.00)	55,429.53
			(6.00)		-	-	(5,880.62)	-	-	-	-	100.00	36.26	(5,750.36)
	Lamm Post	2024	-		1,150.00	-	0.22		-	-	-	-	(2.06)	1,148.16
	F3002	2025	-		1,150.00	-	0.12		-	-	-	(25.00)	(0.63)	1,124.49
			-		-	-	(0.10)	-	-	-	-	(25.00)	1.43	(23.67)
	Lehn- Springs	2024	20.00		500.00	-	11,723.92		-	-	-	-	(13.87)	12,230.05
	F3003	2025	20.00		500.00	-	12,691.39		-	-	-	(300.00)	(3.55)	12,907.84
			-		-	-	967.47	-	-	-	-	(300.00)	10.32	677.79
	Mill	2024	20.00		680.00	-	10,948.87		-	-	-	-	(7.87)	11,641.00
	F3004	2025	20.00		680.00	-	11,621.30		-	-	-	(75.00)	(2.18)	12,244.12
			-	-	-	-	672.43	-	-	-	-	(75.00)	5.69	603.12
	Ellicott Creek	2024	1,100.00	(6,106.00)	48,000.00	167,930.83	719,065.25	3,861.31	10,600.00	3,561.09	-	-	(382.71)	947,629.77
	F3009	2025	1,000.00	(6,106.00)	48,000.00	169,722.00	740,637.21	3,788.52	10,600.00	27.48	-	(500.00)	(102.22)	967,066.99
			(100.00)	-	-	1,791.17	21,571.96	(72.79)	-	(3,533.61)	-	(500.00)	280.49	19,437.22
	North Amherst	2024	500.00		33,400.00	140,381.31	148,629.52	1,930.66	6,300.00	-	-	(1,000.00)	(144.53)	329,996.96
	F3010	2025	500.00		33,400.00	154,084.00	156,061.00	2,141.34	6,300.00	-	-	(1,400.00)	(42.54)	351,043.80
			-	-	-	13,702.69	7,431.48	210.68	-	-	-	(400.00)	101.99	21,046.84
	Getzville	2024	2,200.00		123,000.00	233,285.83	1,372,981.20	5,726.45	15,000.00	7,090.03	-	(3,900.00)	(741.48)	1,754,642.03
	F3011	2025	2,000.00		123,000.00	255,052.00	1,414,170.63	6,313.87	15,000.00	50.11	-	(2,900.00)	(201.58)	1,812,485.03
			(200.00)	-	-	21,766.17	41,189.43	587.42	-	(7,039.92)	-	1,000.00	539.90	57,843.00
	Swormville	2024	750.00	(2,282.28)	43,250.00	81,240.80	472,181.65	5,910.63	14,000.00	-	-	(1,900.00)	(276.76)	612,874.04
	F3012	2025	750.00	(2,465.22)	43,250.00	82,604.93	486,347.10	6,156.80	14,000.00	-	-	(200.00)	(66.14)	630,377.47
			-	(182.94)	-	1,364.13	14,165.45	246.17	-	-	-	1,700.00	210.62	17,503.43
	East Amherst	2024	2,100.00	(1,901.78)	77,750.00	91,643.13	774,110.37	5,346.43	9,800.00	-	-	(2,500.00)	(408.55)	955,939.60
	F3013	2025	1,100.00	(2,222.27)	77,750.00	104,981.19	797,333.68	5,929.86	9,800.00	1,217.61	-	(1,200.00)	(110.82)	994,579.25
			(1,000.00)	(320.49)	-	13,338.06	23,223.31	583.43	-	1,217.61	-	1,300.00	297.73	38,639.65
	Main-Transit	2024	2,100.00		76,100.00	190,809.58	928,775.14	9,849.11	15,000.00	3,767.10	-	(1,600.00)	(502.47)	1,224,298.46
	F3014	2025	2,000.00		76,100.00	198,899.00	956,638.39	10,925.98	15,000.00	177.98	-	(1,500.00)	(140.63)	1,258,100.72
			(100.00)	-	-	8,089.42	27,863.25	1,076.87	-	(3,589.12)	-	100.00	361.84	33,802.26
	Park Club	2024	75.00		5,100.00	-	43,166.29			-	-	-	(32.78)	48,308.51
	F3015	2025	75.00		5,100.00	-	33,441.32			-	-	(400.00)	(8.78)	38,207.54
			-	-	-	-	(9,724.97)	-	-	-	-	(400.00)	24.00	(10,100.97)
	Williamsville - Sheridan	2024	625.00	(18,114.98)	12,600.00	-	299,395.45	5,055.23	13,059.75	-	-	(4,300.00)	(223.56)	308,096.89
	F3016	2025	625.00	(16,662.03)	12,600.00	-	272,382.06	5,976.78	10,685.25	-	-	(500.00)	(40.58)	285,066.48
			-	1,452.95	-	-	(27,013.39)	921.55	(2,374.50)	-	-	3,800.00	182.98	(23,030.41)
	North Bailey	2024	2,100.00		7,850.00	202,626.57	291,651.90	4,681.04	8,500.00	806.28	-	(1,000.00)	(215.10)	517,000.69
	F3018	2025	750.00		7,850.00	217,336.00	300,401.46	5,192.45	8,500.00	-	-	(1,800.00)	(68.35)	538,161.56
			(1,350.00)	-	-	14,709.43	8,749.56	511.41	-	(806.28)	-	(800.00)	146.75	21,160.87
	Totals	2024	11,696.00	(28,405.04)	432,000.00	1,107,918.05	5,132,131.93	42,360.86	92,259.75	15,224.50	-	(17,200.00)	(3,000.00)	6,784,986.05

Attachment: 2025FPDBudget-112520241109 12 (RES-2024-997 : 2025 Fire Protection District Contracts - TOA/VOW)

Town of Amherst
Fire Protection & Fire Districts
2025 Supervisor's Budget

			Phone 4060	Pension Phone / WC Cancer Reimb	Hydrant 4070	Pension 4090	Contract 4110	Cancer Insurance 8055	Workers Comp 8040	Taxes 4190	Deficit 4000	Appropriated Fund Balance or Plus Deficit Fund Balance	Less Interest Income	Amount Amount to Raise in Taxes
		2025	8,940.00	(27,455.52)	432,000.00	1,182,679.12	5,235,347.19	46,425.60	89,885.25	1,473.18	-	(11,700.00)	(800.00)	6,956,794.82
			(2,756.00)	949.52	-	74,761.07	103,215.26	4,064.74	(2,374.50)	(13,751.32)	-	5,500.00	2,200.00	171,808.77
Fire Districts														
	Snyder	2024	-	-	-	-	1,558,383.00	-	-	-	-	-		1,558,383.00
	AG1100	2025	-	-	-	-	1,596,126.00	-	-	-	-	-	-	1,596,126.00
			-	-	-	-	37,743.00	-	-	-	-	-	-	37,743.00
	Eggertsville	2024	-	-	-	-	1,475,349.00	-	-	-	-	-	-	1,475,349.00
	AG1200	2025	-	-	-	-	1,490,135.00	-	-	-	-	-	-	1,490,135.00
			-	-	-	-	14,786.00	-	-	-	-	-	-	14,786.00
	Totals	2024	-	-	-	-	3,033,732.00	-	-	-	-	-		3,033,732.00
		2025	-	-	-	-	3,086,261.00	-	-	-	-	-	-	3,086,261.00
			-	-	-	-	52,529.00	-	-	-	-	-	-	52,529.00
	Grand Totals	2024	11,696.00	(28,405.04)	432,000.00	1,107,918.05	8,165,863.93	42,360.86	92,259.75	15,224.50	-	(17,200.00)	(3,000.00)	9,818,718.05
		2025	8,940.00	(27,455.52)	432,000.00	1,182,679.12	8,321,608.19	46,425.60	89,885.25	1,473.18	-	(11,700.00)	(800.00)	10,043,055.82
			(2,756.00)	949.52	-	74,761.07	155,744.26	4,064.74	(2,374.50)	(13,751.32)	-	5,500.00	2,200.00	224,337.77

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

Francina J. Spoth
Town Clerk

Meeting: 12/16/24 07:00 PM
Department: Town Attorney
Initiated by: **Samuel A. Alba**
Co-Sponsored by:

DOC ID: 29763 **RESOLUTION 2024-998** **ADOPTED**

Lease Agreement - Portion of 1350 Eggert Road (CRS #5188)

AGENDA ITEM : DECEMBER 16th, 2024

TO: **Town Board**

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

DATE: **December 11, 2024**

RE: **Lease Agreement For Portion of 1350 Eggert Road (CRS #5188) (Eggertsville Community Center)**

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

RESOLVED, the Town Board hereby authorizes the Supervisor to execute the attached Lease Agreement with 1097 Group, LLC for the above-referenced property pending successful completion of the Contract Routing System (CRS).

Thank you.

SAA:nmb
Attachment
c: Tim Koller, Deputy Town Clerk (**Agenda Item : December 16, 2024**)

12/16/2024
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Lavin and unanimously approved 5-0.

FINANCIAL IMPACT:

Lease years 1-5 - $27,500/month; $330,000/year

Lease years 6-10 - $28,333.33/month; $340,000/year

Funding Source: TBD

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

Attachment: EggertsCommCtrLease-11202024143215 (RES-2024-998 : Lease Agreement - Portion of 1350 Eggert Road (CRS# 5188))

LEASE AGREEMENT

LANDLORD:	1097 Group, LLC 295 Main Street, Suite 700 Buffalo, New York 14203
TENANT:	Town of Amherst Attn: Town Supervisor 5583 Main Street Williamsville, NY 14221 With a copy to the Town Attorney
LEASED PREMISES:	Portion of 1350 Eggert Road Amherst, New York

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* FOR PURPOSES HEREIN, PARAGRAPHS DEFINED AS "IO" ARE INTENTIONALLY OMITTED.

Attachment: EggertsCommCtrLease-11202024143215 (RES-2024-998 : Lease Agreement - Portion of 1350 Eggert Road (CRS# 5188))

LEASE AGREEMENT

This Lease is made this ____ day of _____, 2024, by and between 1097 Group, LLC, with offices at 295 Main Street, Suite 700, Buffalo, New York 14203 (hereinafter "Landlord") and the Town of Amherst, New York, with offices at 5583 Main Street, Williamsville, New York 14221 (hereinafter "Tenant"), for and in consideration of the rents, agreements and conditions herein reserved and contained on the part of Tenant to be paid, performed and observed.

WITNESSETH:

Subject to the terms and conditions contained in this Lease Agreement, Landlord hereby leases to Tenant the premises (hereinafter "Leased Premises"), as shown on Exhibit A, as follows:

ARTICLE 1

Summary of Definitions and Material Terms

LEASED PREMISES:	A portion of 1350 Eggert Road, Amherst, New York, as shown on Exhibit A.
LANDLORD'S MANAGING AGENT:	10 ELLICOTT SQUARE COURT CORPORATION d/b/a ELLICOTT DEVELOPMENT COMPANY, with offices at 295 Main Street, Suite 700, Buffalo, New York 14203
USABLE SQUARE FEET:	Approximately 7,710 Square Feet. Final square footage will be confirmed upon completion of plans.
LEASE TERM:	Ten (10) Years
LEASE COMMENCEMENT DATE:	The date Landlord delivers possession of the Leased Premises to Tenant with Landlord's Work substantially complete.
BASE RENT COMMENCEMENT DATE:	The earlier of (i) thirty (30) days following the Lease Commencement Date, or (ii) the date Tenant opens any portion of the Leased Premises for business.
RENEWAL OPTION:	Two (2) – Five (5) Year Renewal Terms
LEASE TERMINATION DATE:	Ten (10) Years from the Base Rent Commencement Date
USE OF PREMISES:	Town of Amherst Youth Center

BASE RENT:

LEASE YEARS	ANNUAL RENT	MONTHLY RENT
1 - 5	$330,000.00	$27,500.00
6 - 10	$340,000.00	$28,333.33

SECURITY DEPOSIT: None Required

ARTICLE 2

Quiet Enjoyment

Provided Tenant is not in default, Tenant shall have peaceable and quiet enjoyment and possession of the Leased Premises herein demised during the Lease Term and any renewals without any hindrance from Landlord, its agents, servants or employees.

ARTICLE 3

Term and Commencement

3.1 Lease Term. This Lease shall commence on the Lease Commencement Date at

Attachment: EggertsCommCtrLease-11202024143215 (RES-2024-998 : Lease Agreement - Portion of 1350 Eggert Road (CRS# 5188))

8:00 a.m. and terminate on the Lease Termination Date at 5:00 p.m. The Lease Term shall commence on the Lease Commencement Date, which shall be the date Landlord delivers possession of the Leased Premises to Tenant with Landlord's Work substantially complete. Notwithstanding the above, Tenant's obligation for the payment of Base Rent shall commence the earlier of (i) thirty (30) days following the Lease Commencement Date, or (ii) the date Tenant opens any portion of the Leased Premises for business. In the event the Base Rent Commencement Date shall be other than on the first day of a calendar month, all rentals applicable to such fractional month shall be paid pro- rata as of the Base Rent Commencement Date. The Lease Term is stated in lease years. Lease year shall mean twelve consecutive calendar months except that the first lease year shall commence as of the Base Rent Commencement Date and include additional days of a partial month if the Base Rent Commencement Date is other than the first day of the month.

The Lease Term shall not commence and Tenant shall not take possession of the Leased Premises until all NYS Office of Children and Family Services ("OCFS") School-Age Childcare regulations and Erie County Health Department ("ECDOH") summer camp regulations have been satisfied as evidenced by the applicable license or certificate of inspection issued by OCFS and/or ECDOH.

Landlord, at no charge to Tenant, shall allow Tenant six (6) weeks early entrance on the Leased Premises for planning and programming purposes and to prepare the Leased Premises for installation of Tenant's fixtures and equipment for no other purpose. Prior to entering the Leased Premises, for the purposes of installing its fixtures and equipment, Tenant shall obtain writing consent of Landlord, which consent shall not be unreasonably withheld. Tenant shall obey all reasonable restrictions of Landlord and shall prepare the Leased Premises in a manner so as not to interfere with Landlord's Work.

3.2 Landlord's Substantial Completion. Landlord's Work, as defined in Exhibit B, shall commence upon Landlord's receipt of a fully executed Lease Agreement, Tenant approved plans and specifications and the required building permit. Substantial completion means Landlord's Work is complete, or the only incomplete items are minor or insubstantial details of construction, mechanical adjustments, or finishing touches. Before the Lease Commencement Date, the parties shall inspect the work set forth in Exhibit B and prepare a punchlist of deficiencies, setting forth completion work, and Landlord shall reasonably correct such punchlist deficiencies within a reasonable time.

3.3 Renewal Option. Provided Tenant is not then in default, Tenant shall have the option to renew this Lease for two (2) additional periods of five (5) years each at a Base Rent to be mutually agreed upon by the parties, but no less than $350,000.00 annually for the first renewal option, and otherwise on the same terms and conditions as provided herein. Tenant shall exercise each renewal option by providing Landlord written notice of its intent to renew at least one hundred and eighty (180) days prior to the expiration of the then current Lease Term.

ARTICLE 4

Security Deposit

None required.

ARTICLE 5

Use of Leased Premises and Rules and Regulations

5.1 (a) The Leased Premises shall be used and occupied by Tenant as provided in Article 1, and for no other purpose without Landlord's prior written consent.

(b) Tenant acknowledges that, except as herein expressly provided, neither Landlord nor any agent of Landlord has made any representation or warranty with respect to the Leased Premises, or with respect to the suitability of either for Tenant's business, nor has Landlord agreed to undertake any modification, alteration or improvements to the Leased Premises except as provided in this Lease.

(c) Any use of the Leased Premises in violation of the Rules and Regulations hereinafter described in Article 5.2 is expressly prohibited.

5.2 Rules and Regulations: Tenant shall, at its sole cost and expense:

Attachment: EggertsCommCtrLease-11202024143215 (RES-2024-998 : Lease Agreement - Portion of 1350 Eggert Road (CRS# 5188))

(a) Furnish, install and maintain in the Leased Premises all of Tenant's property necessary for the operation of Tenant's business;

(b) Maintain the Leased Premises in a clean, safe, neat, sanitary and orderly condition;

(c) Tenant shall not sell, suffer, permit to be kept, used, sold in, upon or about the Leased Premises any adverse environmental materials, radiological materials, or any other materials of a nature which may endanger any part of the Leased Premises or its occupants, business patrons or invitees, or present any unusual fire, explosion or other damaging or dangerous hazard or possibility of contamination;

(d) Comply with all governmental rules, regulations, ordinances, statutes and laws now or hereafter in effect pertaining to the Leased Premises or Tenant's use thereof;

(e) Refrain from dumping, disposal, reduction, incineration or other burning of any trash, papers, refuse or garbage of any kind in or about the Leased Premises;

(f) Store all trash and garbage within the Leased Premises in appropriate containers so located as not to be visible to customers and business invitees and so as not to create or permit any health or fire hazard;

(g) Refrain from using or permitting the use of the Leased Premises, or any portion thereof, as living quarters, sleeping quarters or lodging rooms;

(h) Refrain from keeping, displaying or selling any merchandise outside of the Leased Premises;

(i) Refrain from committing or suffering to be committed any waste upon, or any unlawful, improper or offensive use of the Leased Premises, or any public or private nuisance, act, or thing which may disturb the quiet enjoyment of any other tenant, occupant, or any neighbors thereof;

(j) The sidewalks shall not be obstructed by any tenants, agents or employees, or used by them for purposes other than ingress or egress to and from their respective premises;

(k) No additional locks shall be placed upon any doors nor shall any duplicate keys be made without the consent of Landlord. All necessary keys will be furnished by Landlord, and the same shall be surrendered upon the termination of this Lease, and Tenant shall then give to Landlord or its agents explanation of the combination of all locks upon the doors or vaults;

(l) Water fixtures shall not be used for any purpose other than those for which they were constructed, and any damage resulting to them from misuse, defacing of, or injury to any part of the Leased Premises shall be borne by the person who shall occasion it. No personnel shall waste water by interfering with the faucets or otherwise;

(m) No dogs or other animals will be allowed in the Leased Premises, except as provided for under the Americans with Disabilities Act of 1990.

5.3 Prohibited Operations: No use or operation will be made, conducted or permitted on, or with respect to, all or any part of the Leased Premises if such use or operation is prohibited by law or any governmental authority having jurisdiction and/or is obnoxious to, or out of harmony with Landlord. Nor shall the property be used or operations be conducted in such a manner as to cause any noise or sound that is objectionable due to intermittence, beat, frequency, shrillness or loudness; any obnoxious odor; any noxious, toxic, caustic, or corrosive fuel, gas or chemical; any dust, dirt or fly ash in excessive quantities.

5.4 General Authority: In addition to the foregoing, Tenant shall comply with all other reasonable rules and regulations which Landlord may at any time and from time to time establish concerning the use of the Leased Premises; provided, however, that any such rule or regulation so made shall not unreasonably interfere with Tenant's use and enjoyment of the Leased Premises.

Attachment: EggertsCommCtrLease-11202024143215 (RES-2024-998 : Lease Agreement - Portion of 1350 Eggert Road (CRS# 5188))

ARTICLE 6

Right of First Refusal

Tenant shall have the right of first refusal to purchase the Leased Premises subject to the following conditions:

a. The right is effective and operative only in the event that Landlord desires to sell the Leased Premises, and

b. The right shall be inapplicable to a transfer, by way of sale, gift or devise, including a trust, to or for a party related to Landlord or Landlord's affiliates.

In the event that Landlord receives a written bona fide offer for the purchase of the Leased Premises, which offer Landlord shall be ready and willing to accept, then Tenant shall have the first right to purchase the Leased Premises at the same price, terms and conditions as shall be contained in such offer. Landlord shall give Tenant written notice of the price, terms and conditions of the offer; and Tenant shall have ten (10) days from and after the receipt of such notice from Landlord, in which to elect to purchase the Leased Premises at the same price, terms and conditions as contained in the offer. If Tenant shall elect not to purchase the Leased Premises or shall fail to give Landlord written notice within the time provided for herein, then Landlord may sell the Leased Premises but only at the same price, terms and conditions specified in the notice Landlord submitted to Tenant.

ARTICLE 7

Exterior Areas and Parking

Landlord shall maintain, repair and replace all parking areas, driveways, entrances and exits, lighting, pedestrian sidewalks, landscaped areas and any other exterior areas servicing the Leased Premises, including the removal of snow, ice and debris. Tenant, its agents, employees, customers and invitees are granted the non-exclusive right to use the exterior areas, except areas that are restricted, for their intended purposes subject to Landlord's right, from time to time, to establish, modify and enforce reasonable rules and regulations with respect to the exterior areas, provided, however, that Landlord shall, at all times, maintain and have adequate means of ingress and egress to and from accepted highways and public streets.

Landlord shall provide Tenant with thirty-eight (38) on-site parking spaces as shown on Exhibit D attached hereto, the cost of which has been included in Tenant's Base Rent. Parking shall be provided at Tenant's sole risk of loss and Landlord shall not be liable under any circumstances for damage and/or theft related to the vehicles of Tenant, its employees, or invitees.

ARTICLE 8

Building Access and Security

Tenant shall have 24-hour per day, 7-day per week access to the Leased Premises. Landlord is under no obligation to provide security systems or services to the Leased Premises. At Tenant's discretion, Tenant may provide security to the Leased Premises at its sole cost and expense. In the event Tenant opts to install a security system, Landlord must be provided with the means necessary to access the Leased Premises in the event of an emergency and Landlord's representative is to be added to the emergency call list. Landlord shall provide a property manager contact for the Leased Premises who will be available on a 24-hour per day, 7 days per week basis.

ARTICLE 9

Maintenance

9.1 Maintenance by Landlord. Except where damaged by the negligence of Tenant, its employees or invitees, Landlord shall keep or cause to be kept in good condition the roof and structural components of the Leased Premises, including but not limited to, exterior walls, foundation and exterior utility lines from the main to the Leased Premises, reasonable wear and tear excepted. Landlord shall keep or cause to be in kept in good condition the heating, ventilating, and air conditioning systems (including any exterior components thereof), plumbing, electrical and fire/life safety systems for the first Lease Year (the "Warranty Period"). Landlord is responsible for the cost of any damages to the Leased Premises caused by the negligence of Landlord, its employees or

Attachment: EggertsCommCtrLease-11202024143215 (RES-2024-998 : Lease Agreement - Portion of 1350 Eggert Road (CRS# 5188))

agents.

9.2 Maintenance by Tenant. Tenant shall keep or cause to be kept in a neat, clean, orderly and safe condition, and in accordance with all applicable laws, ordinances and regulations of any governmental authority having jurisdiction (including any necessary replacements) those non-structural, improvements on and about the Leased Premises, including, but not limited to, the flooring, walls, ceilings, utility service from the meter, storefront and doors, and for all heating, ventilating and air conditioning systems (including any exterior components thereof), plumbing, electrical and fire/life safety systems following the Warranty Period . At all times during the Lease Term, Tenant shall arrange for, keep in effect and pay the cost of contracts reasonably acceptable to Landlord for at minimum semi-annual maintenance and servicing of all heating, ventilation and air conditioning systems on the Leased Premises. Tenant shall provide current copies of such contracts to Landlord at all times during the Lease Term. Tenant shall be responsible for the repair or replacement of all plate glass on or about the Leased Premises and for the replacement of all LED fixtures, fluorescent tubes, ballasts and incandescent bulbs. Tenant shall further be responsible for all janitorial work, interior and exterior window cleaning, extermination of the Leased Premises and garbage removal. Tenant shall maintain its dumpster area in good order and clean, sanitary condition at all times. Tenant shall permit no waste, damage or injury to the Leased Premises.

In the event Tenant fails to reasonably maintain or repair the Leased Premises in accordance with this Article, Landlord shall give written notice thereof to Tenant, and if Tenant fails to commence such maintenance within ten (10) days following receipt of such notice or neglects to prosecute the completion of such maintenance with reasonable diligence or adequately to complete such repairs within a reasonable time thereafter, Landlord may perform such maintenance or repairs, the cost of which shall be paid by Tenant to Landlord as Additional Rent upon demand. Landlord may make the repairs without liability to Tenant for any loss or damage that may occur, including, but not limited to, Tenant's stock or business.

ARTICLE 10

Improvements and Renovations

10.1 Landlord shall construct the Leased Premises in accordance with Landlord's Work as provided on Exhibit B attached hereto.

10.2 Tenant is responsible for all additional improvements to the Leased Premises, including but not limited to, Tenant's Work as provided on Exhibit C attached hereto. All Tenant work will be made only after having submitted contracts and plans thereof to Landlord and having received Landlord's written approval of the same. Tenant shall comply with all applicable municipal codes in performing any construction or renovation to the Leased Premises and provide Landlord with certificates evidencing reasonable appropriate insurance coverage for all contractors, subcontractors and/or other parties performing repairs, improvements, construction and/or renovations to the Leased Premises prior to the commencement of any work. All work performed within the Leased Premises will be completed in a good and workmanlike manner and shall fully comply with the Americans with Disabilities Act of 1990 and/or any other law, ordinance or regulation of like impact hereafter in effect or promulgated. Tenant shall be responsible for obtaining all necessary building permits and/or licenses and all debris of the work will be removed from the Leased Premises by Tenant, at its sole cost and expense. Reference to Tenant in this section shall also embrace its employees, contractors, subcontractors, and employees of its contractors and subcontractors.

10.3 Tenant will pay or cause to be paid all costs and charges for work performed by Tenant, or caused to be performed for Tenant, in or to the Leased Premises, and for all materials furnished for or in connection with any such work. Tenant will indemnify Landlord against, and hold Landlord and the Leased Premises free, clear and harmless of and from, all mechanics' liens and claims of account of such work by or on behalf of Tenant. If any such lien, at any time, is filed against the Leased Premises, Tenant will cause such lien to be discharged of record within twenty (20) days after the filing of such lien, except that if Tenant desires to contest such lien it will furnish Landlord, within such twenty (20) day period, security reasonably satisfactory to Landlord of at least one hundred percent (100%) of the amount of the claim, plus estimated costs and interest. If a final judgment establishing the validity or existence of a lien for any amount is entered Tenant will pay and satisfy the same at once. If Tenant fails to pay any charge for which a mechanics' lien has been filed, and has not given Landlord security as described above, Landlord may, at its option, pay such charge and related costs and interest, and the amount so paid, together with reasonable attorneys' fees incurred in connection with such lien, will immediately be due from Tenant to Landlord as Additional Rent.

Attachment: EggertsCommCtrLease-11202024143215 (RES-2024-998 : Lease Agreement - Portion of 1350 Eggert Road (CRS# 5188))

ARTICLE 11

Signage

Tenant shall not erect, display, or affix any sign without, in each instance, the prior written consent of Landlord, which consent shall not be unreasonably withheld or delayed. All such signage shall at all times conform to Landlord's standard and to applicable codes, laws, ordinances, and regulations of any governmental authority having jurisdiction. Tenant's installation and/or subsequent removal of such signage shall be made in such manner as to avoid injury, damage and structural overloading of the Leased Premises. Tenant shall obtain all sign permits at Tenant's expense and Tenant shall maintain all signage in good condition and repair throughout the Lease Term. Upon the removal of such signage, Tenant shall restore the Leased Premises to its condition prior to the installation.

ARTICLE 12

Indemnification and Insurance

12.1 Release and Indemnification:

(a) Tenant and all those claiming by, through, or under Tenant shall store its property in, and shall occupy and use the Leased Premises, any improvements therein, appurtenances thereto and all other portions of the Leased Premises solely at its own risk. To the fullest extent permitted by law, Landlord shall not be liable to Tenant or Tenant's employees or agents for any loss of life, bodily or personal injury, business interruption or property damage arising from or occurring on the Leased Premises or arising from use or occupation of the Leased Premises caused by the acts and omissions of Tenant, its agents, servants or employees, or by any other person entering the Leased Premises under the express or implied invitation of Tenant, or caused by the Leased Premises becoming out of repair, or Tenant's failure to perform any and all obligations set forth in any provisions of this Lease.

(b) To the fullest extent permitted by law, Tenant agrees to defend, indemnify and hold harmless Landlord from and against any and all claims, demands, fines, suits, actions, proceedings, orders, decrees, losses and judgments of any kind or nature by or in favor of anyone whomsoever (including any associated costs and expenses, including attorney's fees) resulting from or in connection with loss of life, bodily or personal injury, business interruption or property damage, arising from or occurring on the Leased Premises, or arising directly or indirectly from the use and occupancy of the Leased Premises or any improvements therein or appurtenances thereof, except where caused by the negligence or willful acts of Landlord.

(c) Except to the extent caused by the negligence of or misconduct of Tenant, its agents, employees or other representatives, to the fullest extent permitted by law Landlord hereby agrees to indemnify and save Tenant, its principals, agents, employees, representatives, successors and assigns safe and harmless from and against all losses, costs, liabilities, claims, actions, damages and expenses, including reasonable attorneys' fees and disbursements, penalties and fines, incurred in connection with or arising from (a) any default by Landlord in the observance or performance of any of its obligations under this Lease Agreement; and/or (b) conduct by Landlord or Landlord's contractors, agents, servants, employees, visitors, invitees or licensees within Landlord's control in or about the Leased Premises during the Lease Term. Landlord shall pay to Tenant, within thirty (30) days after receipt of bills or statements therefor (which period may be reasonably extended if required by Landlord's insurance), all reasonable sums payable by Landlord to Tenant according to the provisions of this section.

(d) To the fullest extent permitted by Law, Tenant agrees to defend, indemnify and hold harmless Landlord and Landlord's agents and employees from and against any and all liens, claims, fines, action, proceedings and orders, decrees, or judgments of any kind or nature arising from Tenant's failure to comply with the requirements of the New York State and local authorities relating to Tenant's use of the Leased Premises.

(e) Tenant shall give reasonably prompt notice to Landlord in case of fire or other substantive casualty, accidents in the Leased Premises, any defects therein, or in any of its fixtures, machinery or equipment.

(f) Tenant and Landlord expressly acknowledge that all of the foregoing and following provisions of this section shall apply and become effective from and after the Lease Commencement Date and shall be effective to the full extent permitted by law.

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12.2 Tenant Insurance:

(a) Tenant agrees that from and after the delivery of the Leased Premises from Landlord to Tenant, and for the duration of this Lease, Tenant shall maintain the insurance coverage set forth in this subsection. Tenant shall not permit such insurance to be cancelled or otherwise terminated for any reason other than exhaustion of limits.

(i) Commercial general liability insurance.

(a) Such insurance shall be written on an "occurrence" basis, and shall designate the Leased Premises as an insured location;

(b) Such insurance shall have a per-occurrence limit of no less than Two Million Dollars ($2,000,000);

(c) Such insurance shall insure property damage, bodily injury and personal injury, including false arrest, false imprisonment, defamation, wrongful eviction, and invasion of privacy;

(d) Tenant is required to have Landlord and Landlord's Managing Agent added to such insurance as additional insureds, and such additional insured coverage must not be limited to liability arising out of Tenant's negligence or other fault;

(e) Such insurance shall be primary, and shall apply without contribution from any policy issued to Landlord or Landlord's Managing Agent as named insureds;

(f) Such insurance shall cover Tenant's liability assumed under this Lease, including, but not limited to, Tenant's obligation to indemnify Landlord and Landlord's agents and employees under subsection 12.1 herein;

(g) Such insurance shall cover property damage, bodily injury and personal injury to employees of additional insureds;

(h) Such insurance, if subject to a self-insured retention of deductible, shall be written or endorsed to provide that any such self-insured retention or deductible is inapplicable to additional insureds;

(i) Such insurance shall include a waiver of subrogation in favor of Landlord and Landlord's Managing Agent; and

(j) Such insurance shall be written or endorsed to specify that the aggregate limit of such insurance separately applies to the Leased Premises.

(ii) Property insurance covering all of Tenant's leasehold improvements, trade fixtures, merchandise and personal property, books and records located or used in, on or upon the Leased Premises, and personal property of others in Tenant's possession against any and all loss or damage, including theft. Such insurance shall include a waiver of subrogation in favor of Landlord and Landlord's Managing Agent. Where Tenant is responsible for the maintenance and replacement of plate glass on the Leased Premises, Tenant may self-insure the risk.

(b) By the Lease Commencement Date herein, Tenant shall provide Landlord with certificates of insurance reflecting the insurance required under this subsection 12.2. Such certificates shall identify Landlord and Landlord's Managing Agent as additional insureds under the policies required under subsection 12.2(a)(i). Such certificates shall state that the policies identified in the certificate shall not be cancelled unless and until thirty (30) days prior written notice has been given to Landlord. By the Lease Commencement Date herein, Tenant shall also provide Landlord with complete copies of the policies required under this subsection 12.2.

12.3 Tenant's Failure to Obtain Insurance. In the event that Tenant fails to procure and/or maintain any insurance required by this Article or fails to carry insurance required by law or governmental regulation, Landlord may (but is without obligation to do so) at any time or from time to time, and without notice, procure such insurance and pay the premiums therefore. Tenant shall repay Landlord all sums so paid by Landlord, together with interest at two percent (2%) above the judicial rate of interest and any incidental costs or expenses incurred by Landlord in connection therewith, within five (5) days following Landlord's written demand to Tenant for such payment.

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Notwithstanding this provision, Landlord does not hereby waive or forego any legal or equitable remedies it may have for Tenant's breach of contract to procure insurance.

12.4 Adjustments to Policy Coverages. The limits of insurance coverage required under this Lease are subject to review by Landlord at the end of each two (2) year period following the Lease Commencement Date, at which time Landlord may adjust such limits for inflation and/or expenses or losses incurred. Limits may be increased up to the lesser of: (a) the limits of similar coverage carried by prudent landlords and tenants of comparable buildings in the area which the Leased Premises are located; or (b) twenty-five percent (25%) of the immediately previous limit(s).

ARTICLE 13

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ARTICLE 14

Assignment and Subletting

Tenant, for itself, its heirs, distributees, executors, administrators, legal representatives, successors and assigns, expressly covenants that it shall not voluntarily or by operation of law assign, mortgage or encumber this Lease, without the prior written consent of Landlord in each instance, which consent shall not be unreasonably withheld. Notwithstanding anything herein to the contrary, any permitted assignment or sublet shall not relieve Tenant of its primary liability for all of Tenant's obligations under this Lease, including the payment of Base Rent and Additional Rent.

ARTICLE 15

Access to Landlord

Landlord or its agents shall have the right to enter the Leased Premises to examine the same or make such repairs, alterations or additions as Landlord shall deem necessary for the safety, preservation and improvement of the Leased Premises and Landlord or its agents may show the Leased Premises, and may place on the windows or doors thereof, a notice "To Rent" for three (3) months prior to the Lease Termination Date.

ARTICLE 16

Condemnation/Eminent Domain

16.1 Total Condemnation: If the whole of the Leased Premises shall be taken for a public or quasi-public use or purpose under the power of eminent domain or by private purchase in lieu thereof, the Lease Term shall terminate as of the date actual physical possession thereof shall be so taken.

16.2 Partial Condemnation:

(a) If any portion of the Leased Premises shall be taken for a public or quasi-public use or purpose under the power of eminent domain or by private purchase in lieu thereof, and such partial taking may be reasonably construed to render the remainder of the Leased Premises unsuitable for the business of Tenant, Tenant shall be entitled either to elect to cancel and terminate this Lease as of the date actual physical possession of such portion shall be so taken by the condemning authority, or to remain in possession of the remainder of the Leased Premises not so taken; provided, however, that Tenant shall give Landlord written notice of its election within ten (10) days after the date of transfer of title or possession, whichever occurs first, and failing so to do Tenant shall be deemed to have elected to remain in possession. In the event Tenant shall elect or be deemed to have elected to remain in possession, or if the portion of the Leased Premises so taken shall not be so extensive as may reasonably be construed to render the remainder of the Leased Premises unsuitable for the business of Tenant, then and in either such event, if any portion of the total award is made for a taking of any portion of Tenant's premises, Landlord shall (but only out of and not exceeding such portion of the award received by Landlord for or on account of such taking) repair, reconstruct or restore the remainder of the Leased Premises to their condition as it existed immediately prior to such taking (and Tenant shall not be entitled to any damages by reason of any inconvenience or loss sustained by Tenant as a result thereof) and, except as otherwise herein provided this Lease shall continue in all respects in full force and effect.

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16.3 Abatement of Rent:

(a) Monthly Rental: If any portion of the Leased Premises shall be taken for a public or quasi-public use or purpose and Tenant shall elect or be deemed to have elected to remain in possession as hereinabove provided, or if the portion of the Leased Premises so taken shall not be so extensive as may reasonably be construed to render the remainder of the Leased Premises unsuitable for the business of Tenant, then, and in either such event, the Base Rent and Additional Rent shall be adjusted as follows:

(1) During the period between the date of such actual taking of physical possession and the completion of repairs, reconstruction or restoration, Tenant shall be required to pay only such portion of the Base Rent and Additional Rent equal to the portion thereof which the number of square feet of gross floor area in the Leased Premises remaining in a tenantable condition during such period bears to the total number of square feet of gross floor area in the Leased Premises immediately prior to such taking of physical possession.

(2) Upon completion of repairs, reconstruction or restoration, and thereafter throughout the remainder of the Lease Term, the Base Rent and Additional Rent reserved herein shall be equitably reduced in the same proportion which the number of square feet of gross floor area in the Leased Premises so taken bears to the total number of square feet of gross floor area in the Leased Premises immediately prior to such taking of physical possession.

(b) No Other Abatement: Except for the abatement in the Base Rent and Additional Rent expressly provided for herein, there shall be no reduction, change or abatement of any rental or other charge payable by, or on the part of, Tenant to Landlord hereunder, or in the method of computing, accounting for or paying the same; and in no event shall there be any reduction, change or abatement of any rental or other charge whatsoever hereunder until such time as there shall have been an actual taking of physical possession of a portion of the Leased Premises.

16.4 Condemnation of Leasehold Interest: If a leasehold interest in the Leased Premises shall be taken for a public or quasi-public use or purpose under the power of eminent domain or by private purchase in lieu thereof, this Lease shall not be terminated nor shall Tenant be excused from full performance of its covenants for the payment of money or any other obligations hereunder capable of performance by Tenant, but in such event Tenant may claim and recover from the condemning authority all compensation and damages payable on account of Tenant's leasehold interest in the Leased Premises.

16.5 Damages Awarded:

(a) Except as otherwise herein provided, all damages awarded or other sums or awards paid on account of any condemnation or taking under the power of eminent domain or by private purchase in lieu thereof, of the Leased Premises, or any portion or portions thereof, shall belong to and shall be the sole property of Landlord; whether such damages or other sums are awarded as compensation for loss or diminution in value of the leasehold, or for the fee of the Leased Premises, or otherwise, and Tenant hereby assigns to Landlord any interest which it might otherwise have in any such award.

(b) Tenant in no event shall have any claim whatsoever against Landlord for loss or diminution in value of the leasehold or for the value of any unexpired Lease Term, Tenant hereby expressly waives any such right or claim; provided, however, that Tenant shall be entitled to receive any award or portion thereof made for the taking of any of Tenant's property, for any cost to which Tenant might be put in relocating Tenant's property, and for interruption of, or damage to Tenant's business.

16.7 Effect of Termination: In the event this Lease is canceled or terminated pursuant to any of the provisions of this Article all Base Rent and Additional Rent shall be paid either as of the date upon which actual physical possession shall be taken by the condemnor, or as of the date upon which Tenant ceases doing business in, upon or from the Leased Premises, whichever last occurs; and the parties shall thereupon be released from all further liability hereunder, except that Landlord shall make an equitable refund to Tenant of any unearned, unused or unappropriated advance rental or Deposit theretofore paid by Tenant to Landlord hereunder.

16.8 Voluntary Sale: A voluntary sale of all or any part of the Leased Premises by Landlord to any public or quasi-public body, agency or person, corporate or otherwise, having the power of eminent domain, either under threat of condemnation or while condemnation proceedings are pending, shall be deemed to be a taking under the power of eminent domain for the purpose of this

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Article.

ARTICLE 17

Casualty

17.1 Substantial Destruction: In the event the Leased Premises should be damaged or destroyed by fire or other casualty, Tenant shall give written notice thereof to Landlord promptly. If the Leased Premises are substantially destroyed (50% or more of replacement cost) by fire or other casualty, or if the damage is to such extent that it reasonably appears rebuilding or repair cannot be completed within one hundred eighty (180) days of the casualty, then this Lease shall terminate at the option of Landlord upon written notice to Tenant within thirty (30) days after the casualty occurs. Upon such notice, this Lease shall terminate and Tenant's financial obligations hereunder shall be abated effective as of the date of the casualty. In the event the option to terminate is not so exercised, this Lease shall remain in full force and effect and Landlord shall proceed with due diligence to repair and restore the Leased Premises to substantially the same condition as prior to such casualty. Tenant's financial obligations hereunder shall be abated from the date of such casualty until the Leased Premises have been so repaired or restored.

17.2 Partial Destruction: If the Leased Premises shall be damaged by fire or other casualty, but (i) not to such extent as to be substantially destroyed (50% or more of replacement cost) or (ii) to such extent that rebuilding or repair can be completed within one hundred eighty (180) days of the casualty, this Lease shall not terminate and Landlord shall proceed with reasonable diligence to rebuild and repair the Leased Premises to substantially the condition in which they existed prior to the casualty. Tenant's financial obligations hereunder shall be abated in proportion to the amount of the Leased Premises rendered untenantable until the Leased Premises have been so repaired or restored. This Article 18 supersedes Landlord's obligations under Article 9.1.

17.3 Tenant hereby waives the provisions of Section 227 of the New York Real Property Law or any law of like import now or hereafter in effect.

ARTICLE 18

Subordination

18.1 General: This Lease and its rights hereunder are subject and subordinate to all mortgages, deeds of trust or other encumbrance, which now or hereafter affect the Leased Premises. This Lease shall also be subject and subordinate to all renewals, modifications, conditions, consolidations, replacements, amendments and extensions of any of the aforementioned now or hereafter placed, charged or enforced against Landlord's interest in this Lease and the leasehold estate thereby created. In confirmation of any such subordination upon written request of Landlord and/or mortgagee and without cost, Tenant shall execute promptly any instrument that Landlord may from time to time request. The subordination of this Lease to any mortgages which may hereafter be placed on any ground or underlying lease of the Leased Premises, and to all renewals, modifications, consolidations and extensions thereof, is made on the express condition that so long as this Lease is in full force and effect and no default exists which would entitle Landlord to terminate this Lease or dispossess Tenant, then Tenant shall not be joined as a party Defendant to any action or proceeding to foreclose such mortgage, and the rights of Tenant under this Lease shall not be terminated, and the possession of Tenant shall not be disturbed by the holder of any such mortgage or by any proceedings on the debt which any such rights were acquired, as a result of such proceedings or by virtue of a right of power contained in any such mortgage or the bond or note secured thereby.

18.2 Certificate of Subordination: The aforementioned provisions shall be self-operative and no further instrument of subordination shall be required by any such lessor or mortgagee. In the event Landlord desires confirmation of such subordination, Tenant shall execute promptly and without charge therefore any certificate or document that Landlord may request. The certificate shall also contain at the election of any mortgagee an agreement whereby Tenant agrees to attorn to mortgagee and/or its assigns, provided that mortgagee and its assigns agree to recognize Tenant's rights under this Lease.

18.3 Estoppel Certificates: Tenant shall, without charge, at any time, and from time to time hereafter, within ten (10) days after written request of Landlord, certify by a written instrument in form satisfactory to Landlord, duly executed and acknowledged with any mortgagee or purchaser, or proposed purchaser, or any other person specified in such request:

(a) As to whether this Lease has been supplemented or amended, and if so, the

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substance and manner of supplement or amendment;

(b) As to the validity and force and effect of this Lease, in accordance with its provisions as then constituted;

(c) As to the existence of any default hereunder;

(d) As to the existence of any offset, counterclaims, or defenses hereto on the part of Tenant;

(e) As to the commencement and expiration dates of the Lease Term;

(f) As to any other matter as may reasonably be so requested.

Any such certificates may be relied upon by Landlord or any other person to whom the same may be exhibited or delivered and the contents of such certificate shall be binding on Tenant.

ARTICLE 19

Default and Remedies

19.1 Tenant Default: Any one or more of the following events shall constitute a "Tenant Event of Default" hereunder:

(a) If Tenant fails to pay any installment of Base Rent or Additional Rent within three (3) days after it is past due regardless of whether Landlord has given notice that such installment is past due; or

(b) If Tenant fails to remedy a default by it with respect to any of the other covenants, conditions and agreements contained herein or in any rider, exhibit or other addendum hereto, within thirty (30) days after notice thereof; provided, however, that in the event of a default which does not involve the payment of money and which cannot reasonably be cured within thirty (30) days, Tenant shall not be in default of this Agreement if Tenant diligently and in good faith continues to effect curative action in a continuous manner until such time as such default is cured in full;

(c) If Tenant abandons or vacates the Leased Premises or ceases to conduct its business therein; or

(d) If Tenant shall (i) apply for or consent to the appointment of or the taking of possession by a receiver, liquidator, custodian or trustee of itself or of all or a substantial part of its property, (ii) admit in writing its inability, or be generally unable, to pay its debts as such debts become due, (iii) make a general assignment for the benefit of its creditors, (iv) commence a voluntary case under the Federal Bankruptcy Code (as now or hereafter in effect), (v) file a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, (vi) fail to controvert in a timely or appropriate manner, or acquiesce in writing to, any petition filed against itself in an involuntary case under such Bankruptcy Code, or (vii) take any action for the purpose of effecting any of the foregoing; or

(e) If a proceeding or case shall be commenced, without the application or consent of Tenant in any court of competent jurisdiction seeking (i) liquidation, reorganization, dissolution, winding-up, or composition or adjustment of debts, (ii) the appointment of a trustee, receiver, liquidator, custodian or the like of Tenant, or of all or any law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, and Tenant fails to controvert such action or proceeding in a timely and appropriate manner, or an order, judgment or decree approving or ordering any of the foregoing shall be entered and continue unstayed and in effect for a period of thirty (30) days; or any order for relief against Tenant shall be entered in an involuntary case under such Bankruptcy Code; or

(f) Any representation or warranty made by Tenant herein, or in any report, certificate, financial statement or other instrument furnished pursuant hereto or any of the foregoing shall prove to be false, misleading or incorrect in any material respect as of the date made;

(g) Tenant permits to continue, for a period of ten (10) days after receipt of written notice from Landlord the existence of unsafe or unsanitary conditions or practices in or about the Leased Premises; provided, however, if the unsafe or unsanitary condition is such as to require

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replacement, repair, or construction, Tenant shall have a reasonable time in which to correct, but must begin action on the matter immediately upon receipt of the notice;

(h) The interest of Tenant under this Lease is transferred, passes to or devolves upon, by operation of law or otherwise, any other person, firm or corporation without the prior written consent of Landlord;

(i) Tenant becomes, without the prior written approval of Landlord a successor or merged corporation in a merger, a constituent corporation in a consolidation of a corporation in dissolution;

(j) Any lien is filed against the Leased Premises because of any act or omission of Tenant and such lien is not removed, enjoined or a bond for satisfaction of such lien is not posted within thirty (30) days;

(k) Where no curative period is specifically provided above, it is the intent of the parties that Tenant shall have a period of ten (10) days following receipt of notice thereof to effect a reasonable cure.

19.2 Landlord Default: Any one or more of the following events shall constitute a "Landlord Event of Default" hereunder: Landlord fails to perform any material covenants, terms, conditions, obligations, and provisions of this Lease Agreement. Tenant shall provide to Landlord written notice of a Landlord Event of Default and Landlord shall have thirty (30) days to cure such. If such Landlord Event of Default is not cured within the thirty (30) day period, Tenant shall have the right to terminate this Lease Agreement by written notice to Landlord. If any such Landlord Event of Default cannot be cured within thirty (30) days, it shall constitute an exception to the foregoing provided that Landlord promptly commences and continues with diligence and in good faith to remedy such until completion.

19.2 If a Tenant Event of Default shall occur, Landlord may, in addition to any other right or rights which Landlord may have, serve a written three (3) days notice of cancellation of this Lease upon Tenant, and upon the expiration of the three (3) days, this Lease shall end and expire as fully and completely as if the date of expiration of such three (3) day period were the Lease Termination Date. Tenant shall then quit and surrender the Leased Premises to Landlord but Tenant shall remain liable as hereinafter provided. If the three (3) day notice of cancellation shall have been given, and the Lease shall expire as aforesaid, or if any execution or attachment shall be issued against Tenant or any of Tenant's property whereupon the Leased Premises shall be taken or occupied by someone other than Tenant, then and in either of such events, Landlord may, without notice, re-enter the Leased Premises and dispossess Tenant and the legal representative of Tenant or other occupant of the Leased Premises by summary proceedings or otherwise, and remove their effects and hold the Leased Premises as if this Lease had not been made, but Tenant shall remain liable hereunder as hereinafter provided. Upon any removal of Tenant's property by authority hereunder, the property may be stored at a public warehouse or elsewhere at Tenant's sole cost and expense.

19.3 In case of any default, re-entry, expiration and/or dispossession by summary proceedings or otherwise, (a) all Base Rent, Additional Rent and other sums then to be paid by Tenant pursuant to this Lease shall become due thereupon and to be paid up to the time of such re-entry, dispossession and/or expiration, together with such reasonable expenses as Landlord may incur for legal expenses, attorney's fees, brokerage, and/or putting the Leased Premises in good order, (b) Landlord may re-let the Leased Premises or any part or parts thereof, either in the name of Landlord or otherwise, for a term or terms, which may at Landlord's option be less than or exceed the period which would otherwise have constituted the balance of the Lease Term and may grant concessions or free rent and/or, (c) Tenant or the legal representatives of Tenant shall also pay Landlord as liquidated damages for the failure of Tenant to observe and perform Tenant's covenants herein contained, any deficiency between the rents and other sums hereby reserved and/or covenanted to be paid and the net amount, if any, of the rents collected on account of the lease or leases of the Leased Premises for each month of the period which would otherwise have constituted the balance of the Lease Term. In computing such damages there shall be added to the deficiency such reasonable expenses as may be incurred in connection with re-letting, such as legal expenses, attorney's fees, brokerage and for keeping the Leased Premises in good order.

19.4 Acceleration: Not required.

19.5 Waiver of Right to Re-entry: Tenant hereby expressly waives, so far as permitted by law, the service of any notice of intention to re-enter provided for in any statute, and except as is herein otherwise provided Tenant, for and on behalf of itself and all persons claiming through or under Tenant (including any leasehold mortgagee or other creditor), and also waives any and all

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right of redemption, re-entry or repossession in case Tenant shall be dispossessed by a judgment, or by warrant of any court or judge, or in case of re-entry or repossession by Landlord, or any expiration or termination of this Lease.

19.6 Failure to Insist on Strict Performance: The failure or delay of Landlord to insist, in any one or more instances, upon a strict performance of any covenant, term, provision or agreement of this Lease shall not be construed as a waiver or relinquishment thereof, but the same shall continue and remain in full force and effect, notwithstanding any law, usage or custom to the contrary. The receipt by Landlord of rent with knowledge of the breach of any covenant or agreement hereunder shall not be deemed a waiver of the rights of Landlord with respect to such breach, and no waiver by Landlord of any provision hereof shall be deemed to have been made unless expressed in writing and signed by Landlord.

ARTICLE 20

Surrender of Leased Premises

20.1 Tenant shall, upon the termination of this Lease by lapse of time or otherwise, return the Leased Premises to Landlord in as good condition as when received, loss by fire or other unavoidable casualty and reasonable wear and tear excepted. It is understood and agreed that the exception made as to "loss by fire or other unavoidable casualty" does not include damages, fires or casualties caused or contributed to by the act or neglect of Tenant, its servants, agents, employees, invitees or licensees, and not compensated for by insurance. Tenant shall surrender all keys to the Leased Premises and inform Landlord of all combinations on locks, safes and vaults.

20.2 All installations, additions, fixtures and improvements in or upon the Leased Premises, whether placed there by Landlord or Tenant, including, without limitation, paneling, decoration, window treatments, partitions, railings, carpeting and flooring, shall become the property of Landlord and shall remain upon the Leased Premises at the termination of this Agreement without compensation, allowance or credit to Tenant, provided, however, that Tenant shall have the option of removing any trade fixtures which it installed in or upon the Leased Premises prior to the termination of this Lease, but Tenant shall remain responsible for repairing any damage caused to the Leased Premises by such removal. Further, Tenant shall have the right to remove any fixtures, equipment, or other assets that are subject to any pre-existing contractual obligations to be returned to any county, state, or federal government agency.

20.3 Any furniture, equipment, machinery or movable property owned by Tenant and brought onto the Leased Premises during Tenant's occupancy thereof and not removed at the termination of this Lease, shall be deemed to have been abandoned by Tenant and shall without any further act by Tenant be conclusively deemed to have been conveyed by Tenant to Landlord as by bill of sale without further payment or credit by Landlord to Tenant and may be sold by Landlord or disposed of by Landlord as it sees fit. Any amount realized upon any such sale shall be the property of Landlord. If Landlord had directed Tenant to remove any or all of such property, Tenant shall remain liable for the cost of its removal and for the cost of restoring the Leased Premises after such removal.

20.4 Upon the expiration or earlier termination of this Lease, by lapse of time or otherwise, Tenant shall remove from the Leased Premises all property not owned by Tenant but placed or stored therein in the operation of Tenant's business or otherwise. If any such property has not been removed by Tenant on the date of the termination or expiration of this Lease, Landlord may, at its option (but shall not be obligated to), remove, dispose of, or arrange for the storage of such property, or take any other action regarding it. Tenant shall defend, indemnify and hold Landlord harmless from the claim of any person or entity regarding such property, and Tenant shall further be liable for the cost of the removal and/or storage of such property.

20.5 Should Tenant fail to surrender the Leased Premises in accordance with this Article, Landlord shall bill Tenant its then current hourly rate (currently $60.00 per labor hour) for all cleaning, repair work and/or property and debris removal, in addition to all applicable dumpster fees and material costs.

20.6 Except for surrender upon the expiration or earlier termination of the Lease Term, no surrender to Landlord of this Lease or of the Leased Premises shall be valid or effective unless agreed to and accepted in writing by Landlord.

20.7 The provisions of this Article shall survive the termination or expiration of this Lease.

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ARTICLE 21

Holding Over

Should Tenant fail to vacate the Leased Premises at the termination hereof, such holding over shall operate and be construed to be a tenancy from month to month only, unless otherwise agreed in writing, at a Base Rent equal to the Base Rent paid for the last month of the Lease Term plus fifty percent (50%) of such amount, unless otherwise agreed in writing, plus Additional Rent as provided herein, subject to the conditions, obligations and provisions of this Lease. No such holding over or payment or acceptance of Rent shall constitute or be deemed reconfirmation or renewal of this Lease. Nothing in this Article shall be construed as consent by Landlord to the possession of the Leased Premises after the expiration or termination of this Lease.

ARTICLE 22

Obligations of Tenant

If Tenant fails to perform any of its obligations hereunder, Landlord may after three (3) days notice to Tenant of its intention to do so (but Landlord shall not be obligated to) perform same, and in such event, Tenant shall reimburse Landlord for the cost thereof, and reimbursement shall be due and payable upon demand by Landlord and shall bear interest at a rate of prime plus three percent (3%), except that if such rate exceeds the maximum rate of interest allowed by applicable statutes, the interest rate will be reduced to the maximum rate permitted by law.

ARTICLE 23

Base Rent and Additional Rent

23.1 Base Rent: Tenant agrees to pay Base Rent without notice, offset, deduction or abatement from the Base Rent Commencement Date and during the Lease Term due and payable on the first day of each month, in the amount provided in Article 1.

23.2 Additional Rent: Utilities: Effective as of the Lease Commencement Date, Tenant shall be solely responsible for and shall promptly pay when due all charges for heat, water, sewer, gas, electricity, telephone, cable and any other utility used upon or furnished to the Leased Premises, together with all taxes levied or other charges on such utilities. Tenant shall separately contract for and shall maintain all utilities in its own name and for its own account with the applicable utility companies. It is expressly understood that all service hereunder shall be furnished by the appropriate public utilities and not by Landlord.

Tenant shall be entitled to use the entire roof area of the Leased Premises for such utility purposes as Tenant shall choose, including, but not limited to, the installation of cell towers, small cell installations, fiber optics installations, poles and antennas for satellite dishes, provided the same does not create an unreasonable or unsafe load upon the roof nor negatively affect Landlord's roof warranty. The installation must be done with the prior written approval of Landlord, which shall not be unreasonably withheld or delayed.

23.3 Additional Rent: Escalation for Increased Operating Expenses and Real Estate Taxes: Not applicable.

23.4 No Offset: Tenant shall have no right to offset against Base Rent or Additional Rent except as specifically provided in this Lease.

ARTICLE 24

Liability and Exculpation

The term Landlord as used herein shall mean only the owner or owners at the time in question of the fee title of the Leased Premises. In the event of any transfer of such title or interest, Landlord herein named (and in case of any subsequent transfer, the then grantor) shall be relieved, from and after the date of such transfers, of all liability for Landlord's obligations thereafter to be performed; provided, however, that any funds in the hands of Landlord or the then grantor at the time of such transfer in which Tenant has an interest shall be delivered to the grantee. The obligations contained in this Lease to be performed by Landlord, shall, subject as aforesaid, be binding on Landlord's successors and assigns only during their respective periods of ownership.

Attachment: EggertsCommCtrLease-11202024143215 (RES-2024-998 : Lease Agreement - Portion of 1350 Eggert Road (CRS# 5188))

Notwithstanding anything to the contrary set forth in this Lease, it is specifically understood and agreed by Tenant that there shall be absolutely no personal liability on the part of Landlord or on the part of the partners, shareholders, or agents of Landlord with respect to any of the terms, covenants and conditions of this Lease, and Tenant shall look solely to the equity, if any, of Landlord in the Leased Premises for the satisfaction of each of the terms, covenants and conditions of this Lease to be performed by Landlord; such exculpation of personal liability to be absolute and without any exception whatsoever.

ARTICLE 25

Miscellaneous

25.1 Parties Bound: This agreement shall inure to the benefit of, and shall be binding upon, Landlord and Tenant, and their respective successors, assigns and heirs.

25.2 Governing Law: This agreement shall be governed by, and construed in accordance with, the laws of the State of New York.

25.3 Broker: Unless otherwise specified herein, Landlord and Tenant mutually warrant, one to another, that there are no real estate brokers entitled to a commission as a result of producing this Lease and that neither employed or engaged a real estate broker or agent to effectuate this Lease. Each party hereto agrees to indemnify, defend and hold the other party harmless from and against all other claims for brokerage commissions and finder's fees arising from or attributable to the acts or omissions of the indemnifying party or any party or entity acting or purportedly acting on behalf of the indemnifying party.

25.4 Notices: All notices required to be sent under the provisions of this Lease to Landlord and Tenant by one another shall be in writing and delivered by personal service or sent by U.S. mail, certified, return receipt requested, to the addresses set forth on the first page of this Lease with Landlord's notice directed to Landlord's Managing Agent as well as Landlord.

25.5 Captions and Section Numbers: The captions and sections and article numbers appearing in this Lease are inserted only as a matter of convenience and in no way define, limit, construe and describe the scope of intent of such sections or actions for this Lease nor in any way affect this Lease.

25.6 Remedies Cumulative: The various rights, options, elections, powers and remedies contained in this Lease, including the rights herein granted to terminate this Lease, shall be construed as cumulative and no one of them shall be exclusive of any of the others, or of any other legal or equitable remedy which either party might otherwise have in the event of breach or default in the terms hereof, and the exercise of one right or remedy by such party shall not impair its right to any other right or remedy until all obligations imposed upon the other party have been fully performed.

25.7 No Partnership: Nothing contained in this Lease shall be deemed or construed by the parties hereto or by any third person to create the relationship of principal and agent or of partnership or of joint venture or of any association between Landlord and Tenant, and neither the method of computation of rent nor any other provision contained in this Lease nor any acts of the parties hereto shall be deemed to create any relationship other than Landlord and Tenant.

25.8 Time of the Essence: Time is of the essence with respect to all matters provided in this Lease.

25.9 Recording of Lease: The parties agree that this Lease shall not be recorded, provided however, upon the request of either party hereto, the other party shall join in the execution of a Memorandum of Lease for the purpose of recording. The Memorandum shall describe the parties, the Leased Premises and the Lease Term and shall incorporate this Lease by reference. The party requesting execution of the Memorandum shall pay all expenses of recording.

25.10 Covenants and Condition: Each provision of this Lease to be performed by the parties shall be construed as both a covenant and condition.

25.11 Force Majeure: If either party shall be delayed or hindered in or prevented from the performance of any act required hereunder, including completion of the Leased Premises by Landlord as required herein, by reason of strikes, lock-outs, labor trouble, inability to procure materials, failure of power, restrictive governmental laws or regulations, riots, insurrections, war or other reason of like nature not the fault of the party delayed, then performance of such act shall be

Attachment: EggertsCommCtrLease-11202024143215 (RES-2024-998 : Lease Agreement - Portion of 1350 Eggert Road (CRS# 5188))

excluded for the period of the delay and the period equivalent to the period of such delay.

25.12 Trial By Jury: Tenant does hereby expressly waive all rights to trial by jury on any cause of action directly or indirectly involving the terms, covenants or conditions of this agreement or the Leased Premises or any matters whatsoever arising out of or in any way connected with this Lease. The provisions of this Lease relating to indemnification and to waiver of a jury trial and the right of redemption shall survive the termination or expiration of this Lease.

25.13 Accord and Satisfaction: No payment by Tenant or receipt by Landlord of a lesser amount than that provided herein shall be deemed to be other than on account of the earliest stipulated rent; nor shall any endorsement or statement on any check or any letter accompanying any check or payment as rent be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such rent or pursue any other remedy provided.

25.14 Expenses and Attorneys' Fees: Tenant shall pay Landlord hereunder all reasonable attorneys' fees and expenses and all other expenses which may be incurred by Landlord (to the extent that same are not paid to Landlord pursuant to any insurance policies maintained by Tenant in accordance with this Lease) in enforcing any of the obligations of Tenant under this Lease or in any other litigation or negotiation in which Landlord shall become involved through or because of Tenant use or occupancy of the Leased Premises, any action or omission of Tenant or the breach of any representations, warranties, covenants or agreements of Tenant contained in or relating to this Lease.

25.15 Late Charge: Any installment of Base Rent or Additional Rent not received within seven (7) days after it is due shall be subject to a late charge of four percent (4%).

25.16 Availability of Funds: This Lease shall be deemed executory only to the extent of the monies available to Tenant for the leasing of the Leased Premises and no liability shall be incurred by Tenant beyond the monies available for such purpose.

25.17 Entire Agreement; Amendment: As of the execution hereof, this Lease contains all covenants and agreements between Landlord and Tenant and constitutes the exclusive, final and complete agreement relating in any manner to the rental, use and occupancy of the Leased Premises, and the other matters set forth in this Lease. No oral statement(s) or prior written matters shall have any force or effect after the signing of this Lease. All such matters shall be merged herein and be superseded hereby. Tenant agrees it is not relying on any representations or agreements other than those contained in this Lease.

This Lease, and all provisions herein, shall not be modified except by a writing subscribed to by all parties nor may this Lease be canceled by Tenant except as provided herein. If a provision hereof is declared invalid or unenforceable, it shall not affect any other provision in this Lease. This Lease shall not be binding upon Landlord until signed by both parties and delivered in executed form to each. This Lease may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; all such counterparts shall together constitute but one and the same Lease.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals.

LANDLORD:
1097 GROUP, LLC

By: _____
William A Paladino DBA
Title: Manager

TENANT:
TOWN OF AMHERST

By: _____

Title: _____

Attachment: EggertsCommCtrLease-11202024143215 (RES-2024-998 : Lease Agreement - Portion of 1350 Eggert Road (CRS# 5188))

STATE OF NEW YORK :
: ss.:
COUNTY OF ERIE :

On the 14th day of November, in the year 2024, before me, the undersigned, a notary public in and for said state, personally appeared William A. Paladino, 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 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.

Wendy Hartnett
Notary Public

WENDY HARTNETT
Notary Public, State of New York
Qualified in Erie County
My Commission Expires February 20, 2027

STATE OF NEW YORK :
: ss.:
COUNTY OF ERIE :

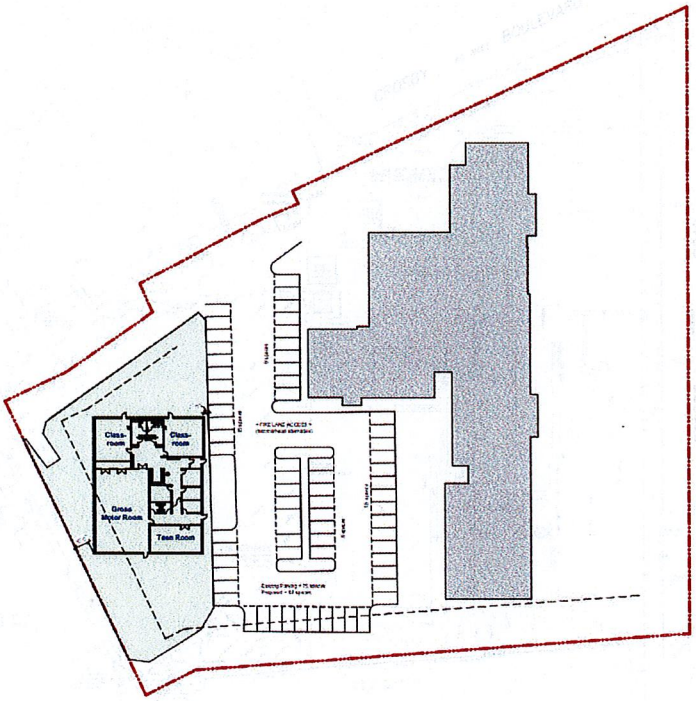
On the ____ day of _____, in the year 2024, before me, the undersigned, a notary public in and for said state, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged 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

Attachment: EggertsCommCtrLease-11202024143215 (RES-2024-998 : Lease Agreement - Portion of 1350 Eggert Road (CRS# 5188))

EXHIBIT A

LEASED PREMISES – SITE PLAN



PLEASE INITIAL

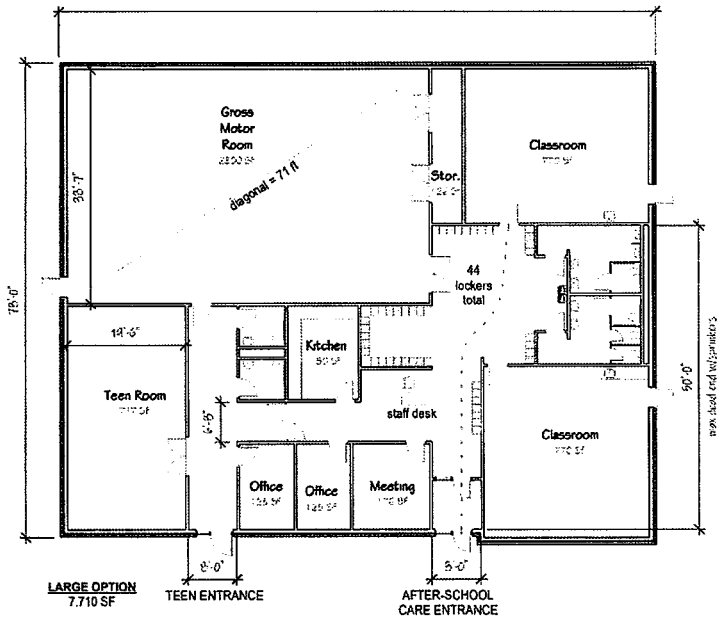
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Attachment: EggertsCommCtrLease-11202024143215 (RES-2024-998 : Lease Agreement - Portion of 1350 Eggert Road (CRS# 5188))

EXHIBIT A-1

LEASED PREMISES – FLOOR PLAN



PLEASE INITIAL

_____

_____

Attachment: EggertsCommCtrLease-11202024143215 (RES-2024-998 : Lease Agreement - Portion of 1350 Eggert Road (CRS# 5188))

EXHIBIT B

LANDLORD'S WORK

Landlord's Work will consist of the construction of the Building Shell and the Tenant Improvements as described more fully below.

BUILDING SHELL:

The Building Shell will consist of an approximately 7,710 square foot, single-story building, related site work and the building systems, which shall be constructed by Landlord substantially in accordance with the Plans and Specifications to be mutually approved by the parties. Landlord shall have sole discretion regarding the construction type, design and finishes for the exterior Building Shell.

The Building Shell shall consist of all of the structural components of the Building, central building systems, and site work, including the roof, foundation, floor slab, exterior wall, entry doors, windows, electric service, HVAC equipment (but excluding ductwork, diffusers and controls), plumbing mains, fire detection and alarm system, parking lot, storm drainage, access drives, walkways and landscaped areas.

TENANT IMPROVEMENTS:

Landlord shall provide building standard Tenant Improvements to the Leased Premises substantially in accordance with the Floor Plan attached hereto as Exhibit A-1, the Plans and Specifications to be mutually approved by the parties and the Base Building Standards attached hereto as Exhibit B-1.

LANDLORD RESERVES THE RIGHT TO MAKE FROM TIME TO TIME SUCH CHANGES TO THE PLANS AND SPECIFICATIONS AND/OR SUBSTITUTIONS IN MATERIALS AS IT DEEMS REASONABLY NECESSARY AND/OR PRACTICABLE PROVIDED SUCH CHANGES OR SUBSTITUTIONS DO NOT MATERIALLY ALTER THE CONFIGURATION OF THE PREMISES OR MATERIALLY DIMINISH THE QUALITY OF LANDLORD'S WORK.

ANY CHANGES, UPGRADES OR ADDITIONAL WORK REQUESTED BY TENANT WILL BE PROVIDED BY LANDLORD ONLY AFTER TENANT HAS EXECUTED A TENANT AUTHORIZATION FORM (TAF) AND HAS AGREED TO REIMBURSE LANDLORD FOR THE COST THEREOF IN ACCORDANCE WITH THE TAF, WHICH COST SHALL INCLUDE SEVEN PERCENT (7%) OVERHEAD AND PROFIT.

PLEASE INITIAL

_____

_____

Attachment: EggertsCommCtrLease-11202024143215 (RES-2024-998 : Lease Agreement - Portion of 1350 Eggert Road (CRS# 5188))

EXHIBIT B-1

BASE BUILDING STANDARDS

SEE ATTACHED

PLEASE INITIAL

_____

_____

Attachment: EggertsCommCtrLease-11202024143215 (RES-2024-998 : Lease Agreement - Portion of 1350 Eggert Road (CRS# 5188))

Cost Code	Description of Work	Tab No.

BASE BUILDING STANDARDS

01020	**Building Permit:** • Landlord will apply and pay for the cost of the building permit and all other associated permits including the demolition permit, plumbing permit, and electrical permit. • The permit process will include the submission of all Plans and specifications necessary to obtain those permits.	N/A
00752	**Architectural Plans & Specifications:** • Landlord will provide reasonable Architectural and Engineering services including the preparation of plans and specifications necessary to complete the space in accordance with Tenant's requirements. Tenant shall have the right to three (3) sets of revisions to Tenant's base floor plan at no additional cost. Any additional revisions will be done at Tenant's cost. Tenant shall approve the base floor plan prior to Landlord commencing permit drawings. All revisions to the base floor plan following Tenant's approval will also be completed at Tenant's cost.	N/A
08200	**Doors & Frames:** a. Entry Doors: Entrance and exit doors installed in Fire Rated partitions will be 3'-0" x 7'-0" x 1-¾" fire rated, solid core wood with rotary cut natural birch veneer in choice Mohawk standard stain – or – painted hollow metal door with a hollow metal frame. b. Interior Doors: Doors to be 3'-0" x 7'-0" x 1-¾", solid core wood with rotary cut natural birch veneer in choice Mohawk standard stain (or paint) and painted hollow metal knockdown frame.	1
08752	**Door Hardware:** ▪ Hagar (Grade 2) or equal lever handle, locksets and passage sets, (3) hinges per door and one wall mounted doorstop. ▪ All hardware will be lever handles and ADA compliant. ▪ Closers will be installed only on Fire Rated door as required by code. ▪ Keying – Tenant to provide Landlord information regarding how doors are to be keyed.	2
06400	**Millwork:** a. Cabinets: ▪ Landlord to provide and install (5) lineal feet of laminate base cabinets in the breakroom. ▪ Cabinets to be Wilsonart or Formica standard laminate with fiber core. ▪ Wolf Classic solid hardwood cabinets are also available in Classic door styles and colors. b. Countertops: ▪ Landlord to provide and install (5) lineal feet of laminate countertops with backsplash and sink cutout. ▪ Countertops to be Wilsonart or Formica standard laminate with fiber core.	3

Attachment: EggertsCommCtrLease-11202024143215 (RES-2024-998 : Lease Agreement - Portion of 1350 Eggert Road (CRS# 5188))

Cost Code	Description of Work	Tab No.
09200	**Wall Partitions:** ▪ Demising Walls - Walls separating Tenants will extend from the floor to the underside of the above deck and will be constructed of 3-5/8" metal studs at 16" on center with 5/8" type X gypsum wallboard. Sound batt insulation will be provided within the wall cavity. These partitions will be taped with (3) layers of joint compound applied and sanded to finish (level-4). ▪ Common Area Walls - Partitions located between common areas and Tenant suites will extend from the floor to the underside of the above deck and will be constructed of 3-5/8" metal studs at 16" on center with 5/8" gypsum wallboard. Sound batt insulation will be provided within the wall cavity. These partitions will be taped with (3) layers of joint compound applied and sanded to finish (level-4). ▪ Interior Walls - The partitions within the suite will extend from the floor to 6" above the acoustical ceiling and will be constructed of 3-5/8" metal studs 24" on center with 5/8" gypsum wallboard. These partitions will be taped with (3) layers of joint compound applied and sanded to finish (level-4). Sound batt insulation will be provided within the wall cavity. ▪ Existing Walls - Will be patched and prepared as necessary to receive a paint finish.	4
09400	**Acoustic Ceilings:** ▪ Acoustical panel tile to be 2'x4' Armstrong Cortega, flat, lay-in or equal. ▪ Ceiling grid to be 15/16" Armstrong Prelude exposed grid or equal. ▪ Color to be white.	5
09550	**Vinyl Composite Tile (VCT):** ▪ Armstrong Excelon 1/8", 12"x12" tiles or equal. ▪ Color selected by Tenant from "Standard" options. ▪ VCT to be used in all bathrooms, break rooms, mechanical rooms, storage, IT rooms and file rooms.	6
09650	**Carpet:** ▪ Patcraft PDQ Select 1 Modular Carpet Tile, 24"x24", glued directly to sub-floor. ▪ Color and pattern selected by Tenant from PDQ Select 1 lines.	7
09650	**Rubber Cove Base:** ▪ 4" Roppe, Johnsonite or equal vinyl cove base will be used. ▪ Color selected by Tenant from standard color options.	8
09700	**Paint:** ▪ Sherwin Williams ProMar 200 or equal paint with eggshell finish will be used. ▪ (1) coat primer and (2) finish coats of paint. ▪ Colors to be selected by tenant and includes (1) primary color and (1) accent color. ▪ Exposed ceilings include (1) coat primer and (2) coats of Sherwin Williams Dryfall Paint, flat.	9

Attachment: EggertsCommCtrLease-11202024143215 (RES-2024-998 : Lease Agreement - Portion of 1350 Eggert Road (CRS# 5188))

Cost Code	Description of Work	Tab No.
10100	**Bathroom Partitions:** ▪ General Partitions Solid Phenolic Core Series-40 toilet partitions will be used in all bathrooms including in the tenant suite and common areas. ▪ Finish to be General Partitions Wilsonart Laminate, standard options. Landlord to approve tenant selections for common area bathrooms.	10
10400	**Interior Signage:** ▪ Restrooms, Mechanical rooms, electrical rooms and all other code required signage Furnished and Installed by Landlord. All other interior signage Furnished and Installed by Tenant with prior landlord approval.	11
10400	**Exterior Signage:** ▪ Furnished and Installed by Tenant with prior landlord approval.	N/A
10500	**Bathroom Accessories:** ▪ Bobrick stainless steel, chrome, aluminum, or plastic finish, depending on the particular product, will be used in all bathrooms. Hand dryers are excluded.	12
11100	**Appliances:** ▪ Furnished and Installed by Tenant with prior landlord approval.	N/A
12100	**Blinds:** ▪ Roller shades with Rollease Acmeda parts and 3000 NET 1%-5% open fabric will be provided. ▪ Color to be N902 Charcoal/Bronze, openness selected by Tenant.	13
15100	**Fire Sprinklers:** ▪ When applicable to the particular building, pendent mounted or upright chrome heads will be provided. In areas with finished ceilings, semi-recessed white sprinkler heads will be provided. ▪ Fire sprinkler installation will follow building standards and NFPA-13 codes. ▪ Fire extinguishers in semi-recessed, white cabinets will be provided per code.	14
15200	**Plumbing:** ▪ Toilet Rooms - When applicable, handicapped accessible bathroom facilities and drinking fountains are provided in common areas of each floor or in the tenants space as required by code. ▪ Drinking fountains exclude bottle filling station. ▪ Break room sink will be provided. Sink to be single bowl, stainless steel. Faucets to be single lever with chrome finish.	15
15300	**HVAC:** ▪ The building standard is unique to each building but all systems deliver heating and cooling to create a comfortable environment to the satisfaction of the Tenant. ▪ HVAC systems will be sized for a cooling load of 1-Ton/400SF for office/retail space and 1-Ton/200SF for restaurant space. ▪ All concealed ductwork is rectangular, exposed ductwork to be spiral. ▪ Exposed ductwork to remain un-painted. ▪ Duct insulation to be installed 20ft from HVAC Units.	16

Attachment: EggertsCommCtrLease-11202024143215 (RES-2024-998 : Lease Agreement - Portion of 1350 Eggert Road (CRS# 5188))

Cost Code	Description of Work	Tab No.

(Continued from page 3)

- Diffusers used for air distribution will be 2'x2' white colored.
- Return Grilles used as a means to return air from the office space to the return air plenum above the ceiling will be a 2'x2' egg crate, white colored.

16100	**Electrical:** ▪ Receptacles - Either 120/208 volt, or 277/480-volt power will be provided depending upon the building. ▪ Receptacles will be connected at the panel at a rate of 10 per each 20-amp breaker. The Landlord will provide only wall outlets. ▪ GFCI (ground fault circuit interrupted) receptacles will be provided where required by code. ▪ White or ivory colored duplex receptacles will be provided. ▪ Exit signs - Will be installed as per code. ▪ Fixtures will be white plastic body fixtures. ▪ Emergency Lights - Will be installed as per code; fixtures will be white plastic body fixtures.	17
16300	**Lighting:** ▪ 2'x4' Cree C-TR flat panel LED lights will be installed in locations with finished ceilings. 2'x4' XFiT KT-CBLED24 LED center basket troffer fixtures are also available. ▪ 1'x4' Nuvo 65-340 flat panel LED lights w/suspension kits will be installed in locations with exposed ceilings. ▪ Lighting will be provided at a rate one fixture per every 100-square foot of floor space.	18
16500	**Fire Alarm Devices:** ▪ Pull stations, strobe lights and audible alarms will be provided as per code.	19
16550	**Data & Phone:** ▪ Furnished and Installed by Tenant. ▪ Landlord will provide empty conduit with a pull string from the device outlet to above the ceiling. One wall-mounted outlet will be provided for every 150 square feet of floor area.	N/A
17000	**Furniture, Fixtures and Equipment:** ▪ Will be the responsibility of the tenant to furnish and install. This includes the cost of moving all furniture and furnishings.	N/A

Attachment: EggertsCommCtrLease-11202024143215 (RES-2024-998 : Lease Agreement - Portion of 1350 Eggert Road (CRS# 5188))

EXHIBIT C

TENANT'S WORK

Tenant shall be responsible for providing and installing, at its sole costs and expense, the following improvements in and to the Leased Premises:

1. All fixtures, furniture and equipment required or convenient to Tenant's operation.
2. All signage.
3. All security.
4. All telephone, data and low voltage wiring.
5. All window treatments.
6. Other improvements not expressly included as part of Landlord's Work or included on the final Plans and Specifications approved by the parties, including, without limitation, any upgraded items or upgraded level of finishes requested by Tenant.

PLEASE INITIAL

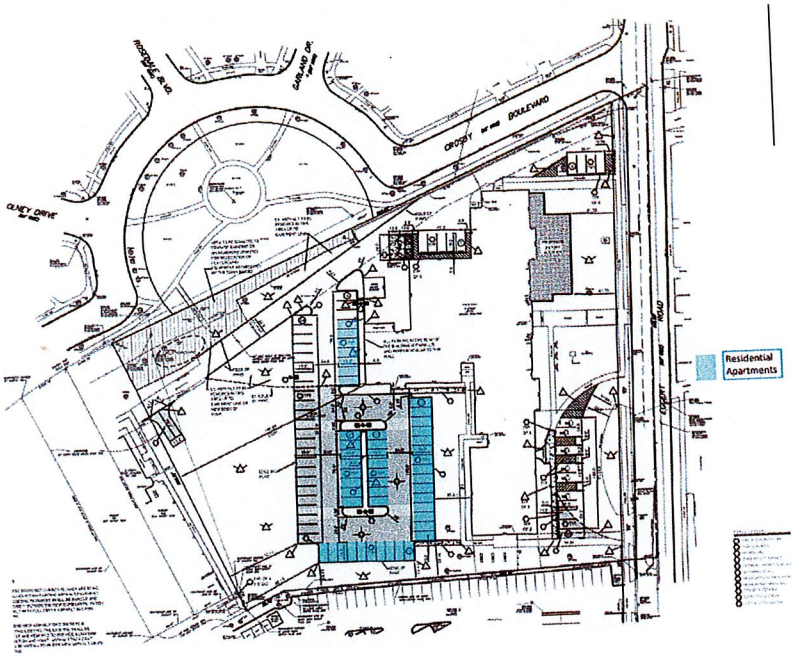
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Attachment: EggertsCommCtrLease-11202024143215 (RES-2024-998 : Lease Agreement - Portion of 1350 Eggert Road (CRS# 5188))

EXHIBIT D

PARKING PLAN



PLEASE INITIAL

_____

_____

Attachment: EggertsCommCtrLease-11202024143215 (RES-2024-998 : Lease Agreement - Portion of 1350 Eggert Road (CRS# 5188))

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

Francina J. Spoth
Town Clerk

Meeting: 12/16/24 07:00 PM
Department: Town Attorney
Initiated by: **Samuel A. Alba**
Co-Sponsored by:

DOC ID: 29785 **RESOLUTION 2024-999** **ADOPTED**

2025-2026 Lawley Insurance Binder (CRS #5264)

AGENDA ITEM : DECEMBER 16TH, 2024

TO: **Town Board**

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

DATE: **December 11, 2024**

RE: **Lawley Insurance Proposal/Binder ($1,263,245.50) (CRS #5264)**
Lawley Broker Fee ($55,000)
Excess A – ($412,877.00)
Excess B (Part 1) - $5 Million Excess $10 Million ($164,028.75)
Excess B (Part 2) - $5 Million Excess $15 Million (Excluding Law Enforcement) ($128,027.50)
Property - Travelers ($301,664.00 Premium + $934.00 Fire Fee)
Crime - Travelers ($4,562.00)
Excess Workers Comp. - ($155,104.00)
Cyber Insurance - Cowbell Insurance ($85,386.25)
3-Year Tail for Abuse/Molestation Coverage ($10,662.00)

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

RESOLVED, the Town Board authorizes the Supervisor or the Town Attorney to bind insurance coverage in the amounts outlined above by executing the attached insurance binder pending successful completion of the Contract Routing System (CRS).

Thank you.

SAA:nmb
c: Tim Koller, Deputy Town Clerk
(**Agenda Item - December 16, 2024**)
Lynda Juul, Director of Finance
Daryl C. Bramer, CPA, Town Comptroller

12/16/2024
Consent

FINANCIAL IMPACT:

$1,318,245.50 - P1915.4930/R1915.4930

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

INSURANCE PROPOSAL

Attachment: 25-26 Town of Amherst Renewal Proposal (RES-2024-999 : 2025-2026 Lawley Insurance Binder (CRS #5264))

Town of Amherst

December 11, 2024

Lawley

lawleyinsurance.com | 1.844.4LAWLEY

Lawley | PRODUCTS AND SERVICES MENU

Business Insurance

lawleyinsurance.com/business

Property & Casualty

- General Liability
- Property
- Workers' Compensation Coverage
- Automobile/Commercial Vehicle Fleet Insurance
- Umbrella/Excess Liability Insurance
- Inland Marine/Equipment Coverage
- Business Income/Extra Expense
- Employee Dishonesty
- International Coverages
- Boiler & Machinery/Equipment Breakdown
- Transportation/Ocean Marine
- Owner's and Contractor's Protective Liability
- Builder's Risk
- Surety/Bonding
- Captive Programs
- Alternative Risk Financing
- Flood
- Earthquake

Specialty Products

- Pollution Liability/Environmental
- Professional Liability/Errors & Omissions
- Crime (Fidelity) Insurance
- Cyber Liability
- Director's and Officer's/Management Liability (D&O)
- Employment Practices Liability
- Fiduciary Liability
- Business Travel Accident/Kidnap & Ransom Insurance
- Identity Theft

Employee Benefits

lawleyinsurance.com/benefits

- Medical Insurance
- Prescription Drug Plans
- Private Benefits Exchange - Lawley Marketplace
- Medical Captive Programs
- Consortiums/Trusts
- Dental & Vision Benefits
- Group Life Insurance
- NYS Disability (DBL)
- Short-Term Disability Insurance
- Long-Term Disability Insurance
- Voluntary Insurance
- Executive Benefits
- Retirement Planning and 401k Administration
- Underwriting & Reporting
- Compliance
- Wellness Programs & Health Management Programs
- Lawley Simplifi

Industry Specialties/Practice Groups

lawleyinsurance.com/specialties

- Affordable Housing
- Construction
- Car Dealers
- Healthcare Facilities
- Manufacturing
- Not-for-Profits
- Farms
- Municipalities and Schools

Products/services are subject to state eligibility

Attachment: 25-26 Town of Amherst Renewal Proposal (RES-2024-999 : 2025-2026 Lawley Insurance Binder (CRS #5264))

Risk Management

lawleyinsurance.com/riskmanagement

Loss Control & Safety Services

- Safety Training & Safety Program Evaluations
- General Liability Loss Control
- Loss Source and Trending Analysis
- Code Rule 59 Consultation
- OSHA Assistance
- Defensive Driving Courses & Vehicle Fleet Loss Control
- Ergonomics Evaluation, Training, & Development
- Captive Loss Control
- Life Safety & Evacuation Plans
- Fire & Protection Systems Assistance
- Site Hazard Analysis
- Return to Work Programs
- Industrial Hygiene - Air, Noise Sampling
- Business Interruption - Contingency & Continuity Planning
- Contractual Liability & Risk Transfer
- Grant Submission & Training
- Accident Investigation

Claims Management

- Claim Trend Analysis
- Claims Reviews (Workers' Compensation and General Liability)
- Claims Consulting Services
- Coverage Analysis Consulting and Monitoring
- Experience Modification Review and Recalculation
- First Aid Claim Program (Workers' Compensation)
- Litigation Management
- Reserve Analysis (Loss Forecaster Software)

Personal Insurance

lawleyinsurance.com/personal

- Automobile Insurance
- Homeowners Insurance
- Vacation or Secondary Home Insurance
- Jewelry, Fine Arts, and Collectibles Insurance
- Renters Insurance
- Condominium Insurance
- Landlord (Rental Properties) Insurance
- Excess/Personal Umbrella Liability
- Flood Coverage, Primary & Excess
- Life Insurance
- Motorcycle Insurance
- Recreational Vehicle Insurance
- Watercraft Insurance
- Co-Ops Insurance
- Identity Theft Insurance
- Trip/Travel/International Medical & Evacuation Coverage
- Workers' Compensation (Domestic Help)
- Earthquake

MyWave

lawleyinsurance.com/mywave

MyWave – A customized portal for your HR needs: thousands of valuable resources, OSHA forms and peer-based forums to keep you informed and in-the-know

Lawley Benefits University

lawleyinsurance.com/lbu

Lawley Benefits University – Resources and events to help keep you informed about changes to healthcare legislation, healthcare reform, compliance issues and more. These tools help you successfully control insurance costs while staying educated on changes to the insurance environment

Products/services are subject to state eligibility

Attachment: 25-26 Town of Amherst Renewal Proposal (RES-2024-999 : 2025-2026 Lawley Insurance Binder (CRS #5264))

Your Lawley Team

Lawley

At Lawley we are committed to providing our clients with the best possible service. We have assembled an experienced team dedicated to your account.

The Insurance Advisor evaluates your exposures and designs a cost-effective program.

Insurance Advisor	Michael Lawley	Phone:	(716) 849-8658
		Fax:	(716) 849-8291
		Email:	mlawley@lawleyinsurance.com

The Account Executive supports your Producer and commercial lines team in the servicing of your account.

Account Executive	Patrick Quinn, ARM	Phone:	(716) 849-4365
		Fax:	(716) 849-8291
		Email:	pquinn@lawleyinsurance.com

The Account Manager is your contact for all of your coverage and service requests.

Account Manager	Patsy Fuller	Phone:	(716) 849-1543
		Fax:	(716) 849-8291
		Email:	pfuller@lawleyinsurance.com

The Specialty Account Manager supports your Producer and commercial lines team in the servicing of your specialty policy needs.

Specialty Account Manager	Nick Talarico	Phone:	(585) 498-4724
		Fax:	(716) 849-8291
		Email:	ntalarico@lawleyinsurance.com

The Assistant Account Manager supports your Account Manager in fulfillment of service requests.

Assistant Account Manager	Abriah Baker	Phone:	(716) 849-1549
		Fax:	(716) 849-8291
		Email:	asbaker@lawleyinsurance.com

The Claim Consultant is responsible for reporting all loss information to the insurance company and then following up to make certain the claim is resolved.

Claim Consultant	Andrea Albert	Phone:	(716) 849-8692
		Fax:	(716) 849-8291
		Email:	aalbert@lawleyinsurance.com

Attachment: 25-26 Town of Amherst Renewal Proposal (RES-2024-999 : 2025-2026 Lawley Insurance Binder (CRS #5264))

Contacts

Lawley

Please review the contact information we have on file. Over the course of a year, we may need to reach out to you for updates, notices or important information. If there is a specific person we should contact directly for billing, claims, inspections, service requests, please note that next to their name and the preferred method of contact.

		Changes or Corrections
Contact Name	Sam Alba	
Contact Address	Town of Amherst 5583 Main Street Amherst NY 14221	
Contact Phone #	(716) 631-7037	
Contact Email	salba@amherst.ny.us	
Description	Interim Town Attorney	

Attachment: 25-26 Town of Amherst Renewal Proposal (RES-2024-999 : 2025-2026 Lawley Insurance Binder (CRS #5264))

Renewal Comparison

Lawley

Insured: Town of Amherst
Proposed Effective Date: 1/1/2025
Proposed Expiration Date: 1/1/2026

Coverage	2024-2025 Expiring Program	2025-2026 Proposed Program
Property (Travelers) Premium Fire Fee	$277,989.00 $852.00	$301,664.00 934.00
	Travelers	*Travelers*
Excess Workers Compensation	$152,959.00	$155,104.00
	Midwest Casualty	*Midwest Casualty*
Excess Liability – Policy A $10 Million Limit	$377,998.00*	$412,877.00 Includes Taxes & Surcharges
	HCC	*Travelers*
Excess Liability (Policy B) - $5M excess $10M	$158,737.50	$164,028.75
	Upland	*Upland*
Excess Liability (2nd Policy B) -$5m excess $15m	$62,436.75	$128,027.50
	Homesite	*Aurenity*
Excess Liability (2nd Policy B- Law Enforcement Liability Only	$38,849.19	N/A
	Indian Harbor	
Crime	$4,584.00	$4,562.00
	Travelers	*Travelers*
Cyber Liability	$85,376.92	$85,386.25
	Cowbell	*Cowbell*
3-Year Tail for Abuse/Molestation Coverage	*N/A*	$10,662.00
		HCC
Total Insurance Premium	**$1,159,782.36**	***$1,263,245.50***
Lawley Broker Fee (in lieu of commission)	$55,000.00	$55,000.00
Total Program Cost	**$1,214,782.36**	**$1,318,245.50**

Attachment: 25-26 Town of Amherst Renewal Proposal (RES-2024-999 : 2025-2026 Lawley Insurance Binder (CRS #5264))

Renewal Comparison

Lawley

Notes:

- The Overall Program is up 8.52% due to various increases, mostly on the Excess Liability layers.
- Travelers Self-Insured Retention (SIR) is $1 Million vs. $2 Million on the expiring policy with HCC…This is a huge improvement!
- Travelers covers Abuse/Molestation on an Occurrence Basis vs. Claims-Made. We are recommending that the Town purchase a 3-year tail policy from HCC to cover claims that come in from allegations that occurred from 2011-2024.
- ***IMPORTANT:*** The Travelers quote is contingent upon the Town implementing an Employee Handbook that all employees must review and sign off on. Coverage can be cancelled if this is not completed to their satisfaction
- The Crime coverage is being offered on a 3-year policy term with Annual Installments of $4,562
- There are multiple forms that need to be signed in order to bind coverage…Those will be sent via DocUsign to the Town Attorney as requested

Attachment: 25-26 Town of Amherst Renewal Proposal (RES-2024-999 : 2025-2026 Lawley Insurance Binder (CRS #5264))

Marketing Results

Lawley

Carrier	Quote Offered	Premium	Comments
HCC GL/UM *(Incumbent)*	Yes	$802,790- $9M $502,790- $5M	Sexual Abuse & Molestation tail coverage from HCC: • 1 Year – $5,331 • 2 Year – $8,885 • 3 Year - $10,662
Travelers (GL/UM)	Yes	$412,877- $10M	Abuse- Occurrence Form
Metris (GL/UM)	Yes	$363,500- $5M	Non-Admitted plus taxes & fees
APEX (Upland $5Mx$5M)	Yes	$164,028.75	$155,000 Premium TRIA $3,100 State Tax $5,691.60 Stamping Fee $237.15
APEX (Starstone $5Mx$10M)	Yes	$150,800.63	$145,350 Premium State Tax $5,232.60 Stamping Fee $218.03

Attachment: 25-26 Town of Amherst Renewal Proposal (RES-2024-999 : 2025-2026 Lawley Insurance Binder (CRS #5264))

Property

Lawley

Named Insureds

Town of Amherst

Policy Term	1/1/2025– 1/1/2026
Policy Type:	Property
Carrier:	Travelers Indemnity Company (Admitted, A++ A.M Best Rating)

Property Coverage

Loc# Bldg#	Location Street	Subject of Insurance	Limit	Cause of Loss	Ded	Valuation
ALL	Blanket **	Total Insured Values	$478,903,013	Special	$100,000	Replacement Cost
	Blanket	Flood	$12,500,000	Flood	$100,000	Replacement Cost
	Blanket	Earthquake*	$12,500,000	Earthquake	$100,000	Replacement Cost
	Blanket	Contractor's Equipment	$12,413,873	Special	$25,000	Replacement Cost
	Blanket	Vehicle Damage – Excluding Over the Road Exposures	$5,000,000	Special	$100,000	Replacement Cost
	Blanket	Equipment Breakdown	$100,000,000	Equipment Breakdown	$100,000	Replacement Cost
	Blanket	Electronic Data Processing Equipment	$5,226,230	Special (Including theft)	$25,000	Replacement Cost

****125% Margin Clause**

*No coverage for losses occurring to buildings, structures or property in Zone A or prefixed A, Zone V or prefixes Zone V as classified under NFIP.

Notable Forms & Endorsements

Form #	Description
	Ordinance or Law $25,000,000 - Undamaged Portion $ 5,000,000 - Demolition Increased Cost of Construction included in the limit shown for loss to undamaged portion of the building
	Accounts Receivable $2,500,000
MS C5 26	Errors & Omissions $1,000,000
MS C1 03	Extra Expense $1,000,000
	Fine Arts $100,000
MS C3 28	Unreported Premises- Direct Damage Per Location $500,000 Maximum at all unreported premises in any occurrence: $1,000,000
	Valuable Papers & Records $2,500,000
MS C3 28	Utility Service Interruption $5,000,000 – subject to 48 hour deductible
MS C5 36	Exclusion of Frame Buildings in Course of Construction

Attachment: 25-26 Town of Amherst Renewal Proposal (RES-2024-999 : 2025-2026 Lawley Insurance Binder (CRS #5264))

Property

Lawley

Address	City	Acct Occupancy Desc	Building Value	Extra Expense Value	Personal Proper Value
3755 TONAWANDA CREEK RD	AMHERST	Buffalo Niagara He	$1,979,286	$56,354	$15,174
			$607,344		
			$6,519,023		
400 MILL ST	WILLIAMSVILLE	Boiler Building	$103,000		
		Storage	$103,000		$50,000
4110 BAILEY AVE	AMHERST	Community Center	$3,885,876		$100,000
4220 BAILEY AVE	AMHERST	Police Training Ce	$17,079,785		$100,000
4255 HARLEM RD	AMHERST	Community Center	$11,792,579	$56,354	$100,000
		30 x 40 Pavilion	$51,500		
450 MAPLE RD	AMHERST	Parks Dept. Storage	$2,090,781		$76,034
		Audubon Clubhouse	$410,661		$24,459
		Par 3 Clubhouse	$75,933		$1,439
4620 MAIN ST	AMHERST	Snyder Library	$2,003,996		$1,726
5005 SHERIDAN	AMHERST	Youth Center	$4,713,918		$100,000
5571 MAIN ST	WILLIAMSVILLE	Library	$1,883,573		$2,933
5583 MAIN ST	WILLIAMSVILLE	Town Hall	$9,098,206		$461,307
1042 N FOREST	WILLIAMSVILLE	Highway Department	$15,602,525		$1,017,710
		Paint Shop	$138,801		$8,632
		Pole Barn	$118,411		
		Salt Storage Barn	$154,500		
		Salt Storage Barn	$154,500		
		Engineering Pump S	$700,716		$14,387
		STORAGE	$309,000		$100,000
		STORAGE	$515,000		$100,000
730 HOPKINS RD	WILLIAMSVILLE	Clearfield Recreation	$9,495,200		$100,000
		Clearfield Library	$4,769,113		$2,877
85 N FOREST RD	AMHERST	North Forest Pool	$515,000		
772 N FOREST RD	BUFFALO	Main Club House	$8,240,000		
773 N FOREST RD	BUFFALO	Maintenance Garage	$927,000		
774 N FOREST RD	BUFFALO	Golf Cart Storage	$412,000		
30 S CAYUGA RD	AMHERST	Office/2 tenants o	$3,502,000		$25,000
1100 N FOREST RD	WILLIAMSVILLE	Engineering Office	$4,822,185		$100,000
1290 HOPKINS RD	WILLIAMSVILLE	Margaret Louise Pa	$179,368		
146 BRENON RD	AMHERST	Veterans Canal Par	$442,900		$50,000
		39 Sanitary Lift S	$7,230,600		
1615 AMHERST MANOR DR	WILLIAMSVILLE	Northtown Center a	$25,750,000		$629,453
		Boiler Building	$103,000		

Attachment: 25-26 Town of Amherst Renewal Proposal (RES-2024-999 : 2025-2026 Lawley Insurance Binder (CRS #5264))

Property

Lawley

		Storage	$51,500		
		Storage	$51,500		
351 KLEIN RD	WILLIAMSVILLE	Bandshell Stage Th	$345,241		
351 KLEIN RD	WILLIAMSVILLE	Bassett Park Restr	$169,035		
3575 TONAWANDA CREEK RD	AMHERST	Oakwood Storage an	$128,465		$50,000
		Oakwood Golf Clubh	$78,260		
370 JOHN JAMES AUDUBON PKWY	AMHERST	Senior Center	$17,133,403		$300,000
350 JOHN J AUDUBON PKWY	AMHERST	Library	$7,125,620		$100,000
400 JOHN J AUDUBON PKWY	AMHERST	Courthouse	$4,407,944		$200,000
4415 MILLERSPORT HWY	AMHERST	Garage "A" Storage	$7,005,022		$100,000
		Garage "B" Storage	$218,559		$100,000
		North Amherst Recr	$9,405,122		$100,000
4845 MILLERSPORT HWY	AMHERST	Impound	$51,500		$50,000
500 JOHN J AUDUBON PKWY	AMHERST	Police Station & F	$21,264,028		$1,000,000
		Police Service Gar	$944,279		$100,000
		Rear Storage Build	$103,000		
		Storage Building	$386,250		
550 SMITH RD	AMHERST	Building "A" - Sto	$519,801		$17,267
		Building "B" Maint	$614,313		
		Building "C" Recor	$750,916		
INDIVIDUAL SITES ON MAIN ST	AMHERST	5 Small Grinder St	$257,500		
KINGS HWY AT HARLEM RD	AMHERST	Bypass Station	$30,900		
N FOREST RD ACROSS FROM	WILLIAMSVILLE	Storm Water Statio	$30,900		
455 TONAWANDA CREEK RD	AMHERST	Pump Station	$24,452,314		$2,877
		Grit Chamber	$3,787,806		$2,877
		Equalization Tanks	$4,735,022		
		Sludge Disposal	$77,707,096		$2,877
		Return Activated S	$5,884,497		$2,877
		Return Activated B	$4,659,585		$2,877
		Intermediate Pump	$5,150,000		
		Disinfection Chemi	$2,452,218		
		Filter Building	$7,615,766		
		HVAC / Woodshop	$515,000		$250,000
		Plant Facility Gar	$1,030,000		$2,877
		Sewer Crew Garage	$1,713,024		$5,754

Attachment: 25-26 Town of Amherst Renewal Proposal (RES-2024-999 : 2025-2026 Lawley Insurance Binder (CRS #5264))

Property

Lawley

		Administration Bui	$5,150,000		$543,688
		Meter Building #1	$1,269,856		$7,195
		Meter Building #2	$1,097,683		$2,159
		Oxygen Transfer Ba	$3,643,678		
		Clarifiers Stage 1	$11,526,097		
		Mixed Liquid Chan	$2,596,668		
		Oxy Transfer Basin	$7,789,643		
		Stage 2 Clarifiers	$12,459,297		
		Stage 2 Mixed Liqu	$2,369,485		
		CO Stripping Tanks	$2,296,639		
		Phostrip Basins	$1,030,000		
		Phostrip Channel	$1,030,000		
		Recarbonated Tanks	$515,000		
		Chlorine Contact T	$1,660,007		$2,159
		Process Water Pump	$1,369,423		
		Diversion Chamber	$772,500		
		Transition Tunnel	$1,702,238		
		Sub Surface Tunnel	$3,184,877		
		Sub Surface Tunnel	$2,393,244		
		Sub Surface Tunnel	$110,911		
		Electric Central S	$1,030,000		
		Solids Handling El	$1,757,463		
		Electric Sub Stati	$1,030,000		
		Electric Sub Stati	$1,030,000		
		Oxy Supply Sys Enc	$8,637,278		
		Motor Ctrl Ctr Enc	$105,370		
		Motor Ctrl Ctr Enc	$108,620		
		Equalization Tank	$6,074,005		$2,159
		Deodorization Buil	$515,000		$3,595
		Overflow Basin	$4,995,919		$3,595
		Metering Pit #3	$414,202		
		Receiving Chamber	$276,134		
		Transition Chamber	$276,134		
		Metering Pit #4	$414,202		$7,195
		Dechlorination Bui	$196,482		$14,387
		Electrical Garage	$475,754		$14,387
		Electrical Shop	$515,000		$100,000
		Vacuum Filter Buil	$152,753		$14,387

Attachment: 25-26 Town of Amherst Renewal Proposal (RES-2024-999 : 2025-2026 Lawley Insurance Binder (CRS #5264))

Property

Lawley

Building Value	$449,227,22
Contents Value	$6,286,32
Extra Expense Value	$112,70
Vehicles	$23,758,17
EDP	$5,226,23
Contractors Equipment	$11,287,97
Total TIV	**$495,898,63**

Attachment: 25-26 Town of Amherst Renewal Proposal (RES-2024-999 : 2025-2026 Lawley Insurance Binder (CRS #5264))

Excess Worker's Compensation

Lawley

Named Insured

Town of Amherst

Policy Term:	1/1/2025– 1/1/2026
Policy Type:	Excess Workers Compensation
Carrier:	Midwest Employers Casualty Corporation (Admitted, A+ A.M. Best Rating)

	2024	2025
Estimated total Payroll	$62,355,984	$63,230,399
Covered State(s)	NY	NY
Retention – Fire/Police	$1,250,000	$1,250,000
Retention – All Other Employees	$1,000,000	$1,000,000
Specific Limit	Statutory	Statutory
Employers Liability Limit	$1,000,000/$1,000,000	$1,000,000/$1,000,000
Premium Rate (per $100 of Payroll)	* $0.2453	* $0.2453
Total Minimum Premium	$137,663	$139,594
Total Estimated Policy Period Premium	**$152,959**	**$155,104**

*** Note: Expiring Term was year 1 of a 2 year term policy**

Classifications shown below may be subject to audit – please refer to policy.

Loc	State	Street	Code	Classification	Payroll
1	NY	5583 Main Street	0106	Tree Pruning, Spraying, Repairing & Drivers	$866,441.00
			3724	Millwright Work NOC & Drivers	$563,679.00
			7580	Seage Disp. Plant	$4,308,433.00
			7711	Firefighters-Volunteer & Driver	$2,500,000.00
			7720	Police Officers & Drivers	$22,063,395.00
			8391	Auto Repair Shop & Parts Dept. Emp, Drivers	$2,140,548.00
			8810	Clerical NOC	$11,155,135.00
			8820	Attorney/Law Office/Library	$744,722.00
			9026	Building Op-Commercial	$1,644,903.00
			9063	Y.M.C.A Type Instutions All Empolyees	$4,074,873.00
			9102	Park NOC-All Employees & Drivers	$2,972,060.00
			9402	Sewer/Street Cleaner	$4,820,033.00
			9403	Garbage/Etc. Collection	$770,234.00
			9410	Municipal NOC	$4,605,943.00
				Total Estimated Payroll	**$63,230,399.00**

Attachment: 25-26 Town of Amherst Renewal Proposal (RES-2024-999 : 2025-2026 Lawley Insurance Binder (CRS #5264))

General Liability

Named Insured

Town of Amherst

Policy Term	1/1/2025– 1/1/2026
Policy Type:	Excess Liability
Carrier:	Travelers Indemnity Company (Admitted, A++ A.M Best Rating)

Coverage	Limit
General Aggregate	**$2,000,000**
Products/Completed Operations Aggregate	**$2,000,000**
Personal/Advertising Injury	$1,000,000
Each Occurrence	$1,000,000
Damage to Rented Premises	**$500,000**
Medical Expenses	Excluded
Sewage Back- Up Limit	**$1,000,000**
Abuse or Molestation Aggregate Limit	**$2,000,000**
Each Abuse or Molestation Offense Limit	$1,000,000

Self-Insured Retentions

Coverage	Limit
Each Occurrence Retention	**$1,000,000**
Personal Injury and Advertising Injury Each Person or Organization Retention	**$1,000,000**
Each Abuse or Molestation Offense Retention	**$1,000,000**

Employee Benefits Liability- Claims Made

Coverage	Limit
Aggregate Limit	$3,000,000
Each Employee Limit	$1,000,000
Retroactive Date	**None**

Self-Insured Retentions

Coverage	Limit
Each Employee Self Insured Retention (Loss and Loss Expense)	$1,000,000

Law Enforcement Liability-Occurrence

Coverage	Limit
Aggregate Limit	$1,000,000
Each Wrongful Act Limit	$1,000,000

Self-Insured Retentions

Coverage	Limit
Each Wrongful Act Self Insured Retention -Damages and Defense Expenses	$1,000,000

Attachment: 25-26 Town of Amherst Renewal Proposal (RES-2024-999 : 2025-2026 Lawley Insurance Binder (CRS #5264))

General Liability

Public Entity Management Liability-Occurrence

Coverage	Limit
Aggregate Limit	$1,000,000
Each Wrongful Act Limit	$1,000,000

Self-Insured Retentions

Coverage	Limit
Each Wrongful Act Self Insured Retention-Damages and Defense Expenses	$1,000,000

Public Entity Employment Related Practices Liability-Claims Made

Coverage	Limit
Aggregate Limit	$1,000,000
Each Wrongful Act Limit	$1,000,000
Retroactive Date	**1/1/2025**

Self-Insured Retentions

Coverage	Limit
Each Wrongful Employment Practice Offense Self Insured Retention-Damages and Defense Expenses	$1,000,000

Attachment: 25-26 Town of Amherst Renewal Proposal (RES-2024-999 : 2025-2026 Lawley Insurance Binder (CRS #5264))

Business Automobile

Lawley

Attachment: 25-26 Town of Amherst Renewal Proposal (RES-2024-999 : 2025-2026 Lawley Insurance Binder (CRS #5264))

Named Insured

Town of Amherst

Coverage	Limit
Combined Single Limit - Including Hired/Non-Owned Auto Liability	$1,000,000
Personal Injury Protection (PIP) Coverage - Each Person	Included
Supplementary Uninsured/Underinsured Motorist (includes Statutory Uninsured Motorist) - Each Accident	$1,000,000

Number of autos, excluding trailers

- 386

Number of trailers

- 43

Self-Insured Retentions

Coverage	Limit
Auto Liability (Bodily Injury/Property Damage)	$1,000,000
Uninsured/Underinsured Motorist (UM/UIM)	$1,000,000

Commercial Auto Physical Damage

Coverage	Valuation	Deductible
Comprehensive	Actual Cash Value	$1,000
Collision	Actual Cash Value	$1,000

Number of Units

- 429

Schedule of Vehicles

- Schedule on File with Carrier

New York law requires every automobile insurance policy sold in the state to provide liability coverage. This coverage insures you if another person accuses you of injuring them or damaging their property. It pays for the cost of your legal defense and any damages you may owe to that person because of a court verdict or out of court settlement, up to the amount of insurance you purchased.

Supplemental spousal liability is coverage that applies when you are injured in an accident where your spouse was driving and at fault. With supplemental spousal liability coverage, you are able to collect compensation from your own insurance company due to your spouse's responsibility for the car accident.

Composite Rated

Excess Umbrella Liability- Travelers

Lawley

Named Insured

Town of Amherst

Coverage	Limit
Each Occurrence	$10,000,000
Aggregate	$10,000,000
Self-Insured Retention	$1,000,000

Schedule of Underlying Insurance

Coverage	Limit
General Liability	$1,000,000
Employee Benefits Liability	$1,000,000
Auto Liability	$1,000,000
Law Enforcement Liability	$1,000,000
Public Entity Management Liability	$1,000,000
Public Entity Employment Related Practices Liability	$1,000,000

Attachment: 25-26 Town of Amherst Renewal Proposal (RES-2024-999 : 2025-2026 Lawley Insurance Binder (CRS #5264))

Excess Umbrella Liability-$5Mx$10M Upland

Lawley

Named Insured

Town of Amherst

Coverage	Limit
Each Occurrence	$5,000,000
Aggregate	$5,000,000
Self-Insured Retention	

Schedule of Underlying Insurance

Coverage	Limit
Excess Liability	$10,000,000
General Liability	
- Each Occurrence	$1,000,000
- General Aggregate	$3,000,000
- Product & Completed Operations Aggregate	$1,000,000
- Personal & Advertising Injury	$1,000,000
Automobile Liability	$1,000,000
Employer's Liability (Midwest Employers Casualty Co)	
- Per Accident	$1,000,000
- Disease Policy Limit	$1,000,000
- Disease Each Employee	$1,000,000

Attachment: 25-26 Town of Amherst Renewal Proposal (RES-2024-999 : 2025-2026 Lawley Insurance Binder (CRS #5264))

Excess Umbrella Liability-$5Mx$15M Aurenity

Lawley

Named Insured

Town of Amherst

Coverage	Limit
Each Occurrence	$5,000,000
Aggregate	$5,000,000
Self-Insured Retention	

Schedule of Underlying Insurance

Coverage	Limit
Excess Liability	$15,000,000

Attachment: 25-26 Town of Amherst Renewal Proposal (RES-2024-999 : 2025-2026 Lawley Insurance Binder (CRS #5264))

Crime

Lawley

Named Insured

Town of Amherst

Policy Term:	1/1/2025 – 1/1/2026
Policy Type:	Crime Coverage
Policy Number:	106359035
Carrier:	Travelers Casualty & Surety of America (Admitted, “A++” A.M. Best Rating)

Coverage	Limit	Deductible
Forgery or Alteration	$500,000	$5,000
On Premises	$500,000	$5,000
In Transit	$500,000	$5,000
Money orders and counterfeit paper currency	$500,000	$5,000
Computer Fraud	$500,000	$5,000
Computer Program and Electronic Data Restoration Expense	$100,000	$10,000
Funds Transfer Fraud	$500,000	$5,000
Identity Fraud Expense Reimbursement	$25,000	$0
Social Engineering	$250,000	$10,000
Telecommunication Fraud Insuring Agreement	$100,000	$5,000

Additional Coverage:

- Government Entity Crime Endorsement – Faithful Performance of Duty - $500,000
- Government Entity Crime Endorsement Including Coverage for Treasurers and Tax Collectors – Employee Theft - $500,000
- Add Schedule Excess Single Loss Limit of Insurance for Specified Employees or Positions Endorsement - $250,000

Attachment: 25-26 Town of Amherst Renewal Proposal (RES-2024-999 : 2025-2026 Lawley Insurance Binder (CRS #5264))

Cyber Liability

Lawley

Named Insured

Town of Amherst

Policy Term:	1/1/2025 – 1/1/2026
Retroactive Date:	Full Prior Acts
Policy Type:	Cyber Liability – Claims Made
Carrier:	Palomar Excess & Surplus Insurance Company (Non-Admitted)

Coverage	Limit	Retention
Liability Costs	$5,000,000	$100,000
PCI Costs	$5,000,000	$100,000
Regulatory Costs	$5,000,000	$100,000
Cowbell Breach Fund	$5,000,000	$100,000
Data Restoration Costs	$5,000,000	$100,000
Extortion Costs	$5,000,000	$100,000
Business Impersonation Costs	$5,000,000	$100,000
Business Interruption Loss	$5,000,000	8 Hours - $100,000
Contingent Business Interruption Loss	$5,000,000	8 Hours - $100,000
System Failure	$5,000,000	8 Hours - $100,000
Contingent System Failure	$5,000,000	8 Hours - $100,000
Cyber Crime Loss	$250,000	$100,000
Bricking Costs	$5,000,000	$100,000
Policy Aggregate	**$5,000,000**	**N/A**

Additional Coverage Information

- Reputational Harm Expense - $5,000,000
  - Waiting Period – 12 Hours
  - Retroactive Date – Full Prior Acts
- Criminal Reward - $100,000
- General Data Protection Regulation - $5,000,000
- Utility Fraud Attack - $100,000
- Media Liability - $5,000,000
- BIPA Exclusion Endorsement
- Blanket Additional Insured Endorsement

Extended Reporting Period

This coverage form is written on a Claims-made basis. You may have an option to purchase an Extended Reporting Period (ERP) endorsement should your policy be cancelled or non-renewed.

Attachment: 25-26 Town of Amherst Renewal Proposal (RES-2024-999 : 2025-2026 Lawley Insurance Binder (CRS #5264))

Electronic Document Delivery

Lawley

December 10, 2024

Town of Amherst
5583 Main Street
Williamsville, NY 14221

Dear Sam:

Lawley has gone “paperless” and we encourage you to do the same. We are pleased to announce the option to receive your insurance policy documents electronically via E-mail.

If you would like to participate in our electronic delivery program, please review the following statement, provide us with your contact/recipient e-mail address and fax number, sign, and return to us via e-mail at **Error! Reference source not found.** or fax number 716-849-8291.

We (“Client”) hereby give consent and agree to receive documents related to insurance coverages written through or quoted by Lawley (“Agent/Broker”) in the form of electronic records. Agent/Broker may transmit documents to Client through electronic media, including but not limited to electronic mail, optical disks (including but not limited to compact discs and digital versatile discs), floppy disks, hard drives, thumb drives, jump drives, magnetic tapes, facsimiles, downloads from Web sites, and any other kinds of electronic media acceptable to both Client and Agent/Broker. Documents to be so delivered include but are not limited to policy information pages and coverage forms; endorsements; binders; certificates and evidences of insurance; automobile insurance identification cards; premium quotations; premium worksheets; invoices; premium finance agreements; audit statements; loss control reports; claim reports; correspondence; and notices of cancellation and non-renewal. Client’s signature or that of Client’s representative signifies that Client voluntarily agrees to use electronic records in accordance with section 309 of the New York State Technology Law. Client understands that, from the date of this agreement until such time as Client or Client’s representative revokes this consent in writing, Agent/Broker will send documents to Client in electronic form only and will not provide Client with paper copies of the documents. However, Client may specifically request a paper version of an electronically furnished document.

Please forward the documents to us via e-mail at:

Client contact E-mail address: _____

_____ _____
Client Name **Date**

_____ _____
Signature **Title**

Attachment: 25-26 Town of Amherst Renewal Proposal (RES-2024-999 : 2025-2026 Lawley Insurance Binder (CRS #5264))

Sign Off

Lawley

Town of Amherst
5583 Main Street
Williamsville, NY 14221

Is the mailing address listed above correct? Yes:_____ No:_____

If you have answered No to the question shown above, please make corrections below:

_____

_____

Please respond in Section 1 ***and*** Section 2, then sign where indicated:

Section 1 ***- Select one of the following by placing an (X) in the appropriate box***

☐ By my signature below, I certify that I have requested Lawley Service, Inc. and/or Lawley LLC. bind coverage as shown in this proposal. All changes from the original proposal are noted and initialed.

☐ By my signature below, I certify that I have requested Lawley Service, Inc. and/or Lawley LLC. bind coverage as shown in this proposal, with no changes from the original proposal

Section 2 ***- Select one of the following by placing an (X) in the appropriate box***

☐ By my signature below, I certify that I have declined quotes for additional coverages

☐ By my signature below, I certify that I have requested Lawley Service, Inc. and/or Lawley LLC. obtain Quotes for the following coverage: *(please list below)*

_____

Signed: _____ **Date:** _____

Name: **Town of Amherst**

Term: 1/1/2025 to 1/1/2026

We ask that you do not accept our brief description of the insurance coverages as a complete explanation of the policy terms. The actual policy language will govern the scope and limits of coverage involved.

Attachment: 25-26 Town of Amherst Renewal Proposal (RES-2024-999 : 2025-2026 Lawley Insurance Binder (CRS #5264))

Compensation Disclosure

The following disclosure is provided pursuant to Insurance Department Regulation No. 194 (11 NYCRR 30.1 et seq.):

Lawley Service, Inc. and/or Lawley LLC, ("the producer") is an insurance producer licensed by the State of New York. Insurance producers are authorized by their license to confer with insurance purchasers about the benefits, terms and conditions of insurance contracts; to offer advice concerning the substantive benefits of particular insurance contracts; to sell insurance; and to obtain insurance for purchasers. The role of the producer in any particular transaction typically involves one or more of these activities.

Compensation will be paid to the producer, based on the insurance contract the producer sells. Depending on the insurer(s) and insurance contract(s) the purchaser selects, compensation will be paid by the insurer(s) selling the insurance contract or by another third party. Such compensation may vary depending on a number of factors, including the insurance contract(s) and the insurer(s) the purchaser selects. In some cases, other factors such as the volume of business a producer provides to an insurer or the profitability of insurance contracts a producer provides to an insurer also may affect compensation.

The insurance purchaser may obtain information about compensation expected to be received by the producer based in whole or in part on the sale of insurance to the purchaser, and (if applicable) compensation expected to be received based in whole or in part on any alternative quotes presented to the purchaser by the producer, by requesting such information from the producer.

Attachment: 25-26 Town of Amherst Renewal Proposal (RES-2024-999 : 2025-2026 Lawley Insurance Binder (CRS #5264))

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

Francina J. Spoth
Town Clerk

Meeting: 12/16/24 07:00 PM
Department: Town Attorney
Initiated by: **Samuel A. Alba**
Co-Sponsored by:

DOC ID: 29791 **RESOLUTION 2024-1000** **ADOPTED**

Alienation of a Portion of 1265 Smith Road

AGENDA ITEM : DECEMBER 16TH, 2024

TO: **Town Board**

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

DATE: **December 11, 2024**

RE: **Alienation of a Portion of 1265 Smith Road**

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

WHEREAS, on September 16, 2024 this Board granted permission to Bell Atlantic Mobile Systems, LLC d/b/a Verizon Wireless to file a special use permit with the Amherst Zoning Board of Appeals to obtain permission to construct a 115 foot tall Wireless Communication Tower on Town owned land at 1265 Smith Road; and

WHEREAS, the parcel is designated as "Parkland" and is constrained by jurisdictional wetlands and has remained vacant since its donation to the Town; and

WHEREAS, the Town of Amherst seeks to "Alienate" a portion of the parcel in order to lease such area to Verizon Wireless for the construction of its wireless communications facility; and

WHEREAS, Verizon's feasibility study has demonstrated that the subject Town owned land will meet its radio frequency coverage and capacity needs for a serious gap in radio service coverage for a portion of north east Amherst; and

WHEREAS, the Town of Amherst is aware of a gap in cellular communications in portions of East Amherst, as its residents have expressed concern for lack of communications in emergencies, particularly for those residents which no longer have land lines for telephone communications; and

WHEREAS, on October 16, 2024 the Town of Amherst Zoning Board of Appeals granted a Special Use Permit and necessary waivers to permit the construction of Verizon's telecommunications facility; and

WHEREAS, the alienation process requires the approval of the New York State Legislature and the designation of alternative parcels as "Parkland" or the improvement of existing recreation facilities in a capital amount equal to the value of the alienated parcel;

NOW THEREFORE BE IT RESOLVED that pursuant to 6NYCRR Part 617

(SEQR) and Town Code Section 104, as amended, that the requirements of SEQR have been completed and the Town Board reaffirms the attached Negative Declaration issued by the Amherst Zoning Board of Appeals attached hereto and made part of this resolution; and

BE IT FURTHER RESOLVED that the Town Board declares that that portion of 1265 Smith Road as described on the attached survey encompassing the lease area, access area and easements, currently owned and occupied by the Town of Amherst, be removed as parkland and other land owned by the Town of Amherst of equivalent recreational suitability and value located at 70 Tupelo Lane, a recent Town acquisition for a proposed neighborhood park be substituted as parkland in its place or that capital improvements to an existing recreation facility in the amount of the parcel's value be made; and

BE IT FURTHER RESOLVED that the Supervisor with the assistance of the Town Attorney's office is hereby authorized to take all necessary actions to effect this alienation procedure, including working with the New York State Legislature.

SAA:nmb
c: Tim Koller, Deputy Town Clerk (**Agenda Item – December 16, 2024**)

12/16/2024
Consent

FINANCIAL IMPACT:

Financial impact will be positive in the form of a negotiated lease payment to the Town of Amherst from Verizon Wireless.

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: 12/16/24 07:00 PM
Department: Town Attorney
Initiated by: **Samuel A. Alba**
Co-Sponsored by:

DOC ID: 29759 **RESOLUTION 2024-1001** **ADOPTED**

Settlement of Litigation Matter : Barbati V. TOA

AGENDA ITEM : DECEMBER 16th, 2024

TO: **Town Board**

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

DATE: **December 10, 2024**

RE: **Barbati v. Town of Amherst**
Settlement of Lawsuit

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

RESOLVED, the Town Board hereby authorizes full and final settlement of the above matter in the amount of $100,000.00 and also authorizes the Supervisor to execute any and all settlement documents associated with the full and final settlement of such matter.

Thank you.

SAA:nmb
c: Tim Koller, Deputy Town Clerk (**Agenda Item : December 16, 2024**)

12/16/2024
Consent

FINANCIAL IMPACT:

P1915.4110 - $100,000

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: 12/16/24 07:00 PM
Department: Building/Building Maintenance
Initiated by: **Daniel Rizzo**
Co-Sponsored by:

DOC ID: 29762 **RESOLUTION 2024-1002** **ADOPTED**

Change Order Town Hall Main Entrance

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 $7,057.90.

The project originally included a scope of work for 500 square feet of concrete sidewalk replacement, identified under Allowance 2 (material allowance). Due to time of year, work will not be occurring. Additionally, Allowance 1 funds (identified for unforeseen conditions) were not completely used, and remaining funds will now be returned to the Town.

Allowance 1 (unforeseen conditions) remaining funds	549.90
Allowance 2 (material replacements) remaining funds	6,508.00
CREDIT for unused Allowances total	7,057.90

As outlined above, the project above shall **decrease** funding required from the project associated with account 2414.4972.

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

12/16/2024
Consent

FINANCIAL IMPACT:

KP2414.4972 Decrease $7057.90

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

Town of Amherst
Change Order #1

PROJECT:
Town Hall - Reconstruct Main Entrance Stairs

2024-F-7.01

CONTRACT INFORMATION:
Contract For:
Town Hall - Reconstruct Main Entrance Stairs
Date: 7/25/2024

CHANGE ORDER INFORMATION:
Change Order Number: 001

OWNER:
Town of Amherst
5583 Main St.
Williamsville, NY 14221

ARCHITECT / ENGINEER:
Town of Amherst / Bldg Maintenance &
5583 Main St.
Williamsville, NY 14221

CONTRACTOR:
Dan's Snowplowing LLC
66 Aberdeen Street
Cheektowaga, NY 14225

The Contract is changed as follows:

Credit returned for unused Allowance work as follows:
Allowance 1 = 549.90 remaining unused funds
Allowance 2 = material allowance, unused, valued at 6,508.00
Related scope(s) of work will be removed from the project. Additional information, including history of Allowance disbursements is attached.

The original Contract Sum was	$ 100,444
The net change by previously authorized Change Orders	$ 0
The Contract Sum prior to this Change Order was	$ 100,444
The Contract Sum will be **decreased** by this Change Order in the amount of	($ 7,057
The new Contract Sum, including this Change Order, will be	**$ 93,386**

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 Constructio 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 Constructior Change Directive.

NOT VALID UNTIL SIGNED BY THE ARCHITECT, CONTRACTOR AND OWNER.

Town of Amherst / Bldg Maintenance & Facilities	Dan's Snowplowing LLC	Town of Amherst
ARCHITECT/ENGINEER	CONTRACTOR	OWNER
Anne Dafchik	Rachel Bliemeister	
SIGNATURE	SIGNATURE	SIGNATURE
Anne Dafchik, Architect	Rachel Bliemeister-owner	
PRINTED NAME AND TITLE	PRINTED NAME AND TITLE	PRINTED NAME AND TITLE
12/10/2024	12/5/2024	
DATE	DATE	DATE

Attachment: Change Order 1 - Return Unused Allowances (RES-2024-1002 : Change Order Town Hall Main Entrance)

Allowance 1, Draw 1

ALLOW-1: Contingency Allowance

ALLOWANCE DISBURSEMENT AUTHORIZATION

Owner _____
Architect/Engineer _____
Contractor _____
Field _____
Other _____
Other _____

Town of Amherst, Project No. 2024-F-7.01
Front Stair Reconstruction

Allowance Disbursement No. 1 Initiation Date: 9/9/2024 via RFI-01

Contract For: Reconstruct Entry Stairs at Town Hall
5583 Main Street, Williamsville NY 14221

To Contractor: Dan's Snowplowing LLC
66 Aberdeen Street Cheektowaga, NY 14225

Contract Date: August 19, 2024

Not valid until signed by Owner and Contractor

The Original Contract Allowance	$ 2,500.00
Net Allowance Disbursements previously authorized	0.00
Charges to Contract Allowance as a result of this authorization	CREDIT 1,000.00
Current Contract Allowance Balance including this authorization	$ 3,500.00

Owner: Dan Rizzo, Town of Amherst Facilities

Architect/Engineer: Anne Dafchik, Town of Amherst Architect

Contractor: Rachel Bliemeister, Dan's Snowplowing LLC

Attachment: Change Order 1 - Return Unused Allowances (RES-2024-1002 : Change Order Town Hall Main Entrance)

Allowance 1, Draw 1

REQUEST FOR INFORMATION	RFI #: 01
	Date: 9/9/24

Town of Amherst
Project Name: **Reconstruct Entry Stairs at Town Hall, # 2024-F-7.01**

Contractor Name: Dan's Snowplowing LLC

To: Ann Dafchik Firm:

From: Tim Such

WE REQUEST YOUR ATTENTION (OR CONFIRMATION) REGARDING THE FOLLOWING:

Subject: Stair Nosings

Location: Amherst Town Hall
5583 Main Street

Information is Requested By: Tim Such 9/9/24

MESSAGE:

We would like the give a credit of $200 per Stair Nosing which equals a total of $1,000

Due to weather and time, stair nosings would get damaged quickly and need

repeated maintenance/replacement

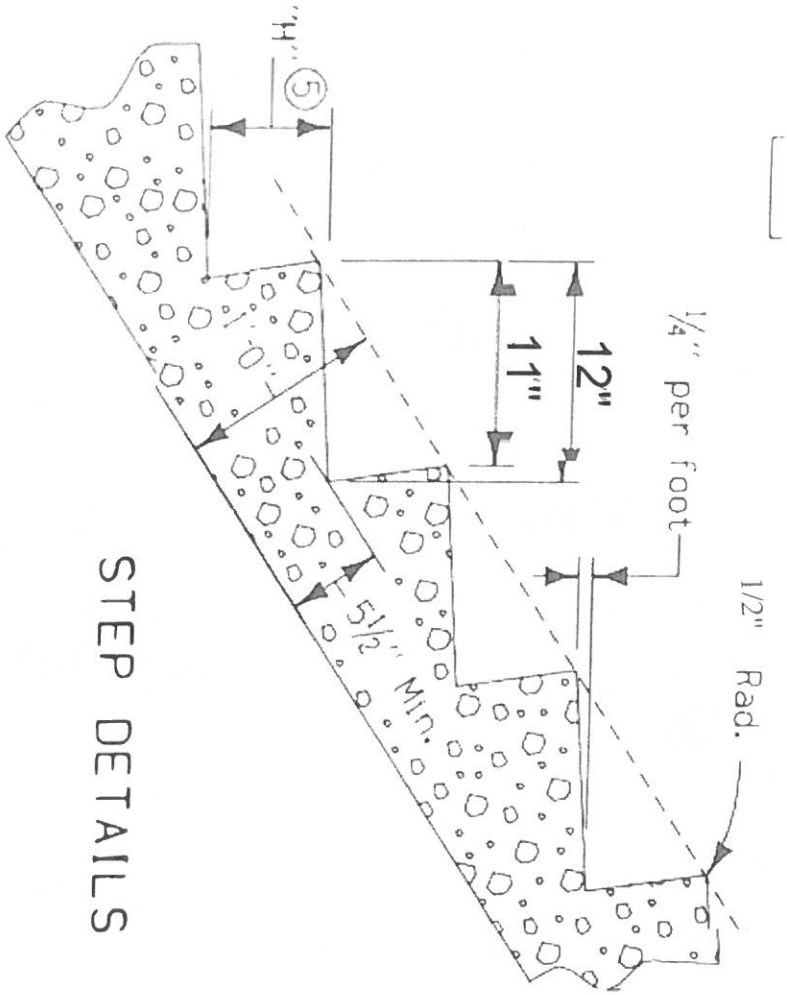
If you would still like to use stair nosings, please give exact size/measurements needed.

Contractors Name:

By: Date:

Attachment: Change Order 1 - Return Unused Allowances (RES-2024-1002 : Change Order Town Hall Main Entrance)

Allowance 1, Draw 1



Attachment: Change Order 1 - Return Unused Allowances (RES-2024-1002 : Change Order Town Hall Main Entrance)

Allowance 1, Draw 2

ALLOW-1: Contingency Allowance

ALLOWANCE DISBURSEMENT AUTHORIZATION

Owner
Architect/Engineer
Contractor
Field
Other
Other

Town of Amherst, Project No. 2024-F-7.01
Front Stair Reconstruction

Allowance Disbursement No. 2 Initiation Date: 10/10/2024

Contract For: Reconstruct Entry Stairs at Town Hall
5583 Main Street, Williamsville NY 14221

To Contractor: Dan's Snowplowing LLC
66 Aberdeen Street Cheektowaga, NY 14225

Contract Date: August 19, 2024

Not valid until signed by Owner and Contractor

The Original Contract Allowance	$	2,500.00
Net Allowance Disbursements previously authorized		1,000.00 credit
Charges to Contract Allowance as a result of this authorization	$	2,950.10 charge
Current Contract Allowance Balance including this authorization	$	549.90

Owner: Dan Rizzo, Town of Amherst Facilities

Architect/Engineer: Anne Dafchik, Town of Amherst Architect

Contractor: Rachel Bliemeister, Dan's Snowplowing LLC

Attachment: Change Order 1 - Return Unused Allowances (RES-2024-1002 : Change Order Town Hall Main Entrance)

Allowance 1, Draw 2

RECEIVED SEPT 30, 2024

Amherst - patch work near stairs

			Amount
8 bags of strong mix			
8 bags			
$ 85.00 per bag		$	680.00
1 bag - finisher			
1 bag			
$ 85.00 per bag		$	85.00
chip out loose materials and pach with stong base then use finisher for final coat			
finisher			
2 men			
1 days			
$ 875.00 per day		$	1,750.00
		$	2,515.00
	O/P 15%	$	377.25
		$	2,892.25
	BOND 2%	$	57.85
		$	2,950.10

Attachment: Change Order 1 - Return Unused Allowances (RES-2024-1002 : Change Order Town Hall Main Entrance)

Allowance 1, Draw 2

PHOTOS OF UNFORESEEN CONDITIONS REQUIRING PATCHING



Deterioration between existing top slab and vertical foundation walls, typical both sides of steps



Attachment: Change Order 1 - Return Unused Allowances (RES-2024-1002 : Change Order Town Hall Main Entrance)

Allowance 2 - Unused, value per Schedule of Values

Item 5a

APPLICATION AND CERTIFICATION FOR PAYMENT

AIA DOCUMENT G702 PAGE ONE OF PAGES

TO OWNER: Amherst
5583 Main St
Amherst, NY 14221

PROJECT: Proj # 2024-F-7.01
5583 Main St
Amherst, NY 14221

APPLICATION NO: 1

Distribution to:
[ ] OWNER
[ ] ARCHITECT
[X] CONTRACTOR
[ ]
[ ]

PERIOD TO: 30-Sep-24

FROM CONTRACTOR:
Dan's Snow Plowing LLC
66 Aberdeen St
Cheektowaga, N.Y. 14225

VIA ARCHITECT:
Facilities Dept.
5583 Main St
Amherst , NY 14221

PROJECT NOS: #2024-F-7.01

CONTRACT:

CONTRACT DATE: 08/19/24

CONTRACTOR'S APPLICATION FOR PAYMENT

Application is made for payment, as shown below, in connection with the Contract.
Continuation Sheet, AIA Document G703, is attached.

1. ORIGINAL CONTRACT SUM			$ 100,444
2. Net change by Change Orders			$ 0
3. CONTRACT SUM TO DATE (Line 1 ± 2)			$ 100,444
4. TOTAL COMPLETED & STORED TO DATE (Column G on G703)			$ 71,744
5. RETAINAGE:			
a. 5 % of Completed Work (Column D + E on G703)	$	3,587	
b. % of Stored Material (Column F on G703)	$		
Total Retainage (Lines 5a + 5b or Total in Column I of G703)			$ 3,587
6. TOTAL EARNED LESS RETAINAGE (Line 4 Less Line 5 Total)			$ 68,157
7. LESS PREVIOUS CERTIFICATES FOR PAYMENT (Line 6 from prior Certificate)			$ 0
8. CURRENT PAYMENT DUE			$ **68,157**
9. BALANCE TO FINISH, INCLUDING RETAINAGE (Line 3 less Line 6)	$		32,287

CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Total changes approved in previous months by Owner	0	
Total approved this Month	0	
TOTALS	0	0
NET CHANGES by Change Order	0	

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown herein is now due.

CONTRACTOR: Dan's Snow Plowing LLC

By: _____ Date: _____

State of: New York County of: Erie
Subscribed and sworn to before me this day of
Notary Public:
My Commission expires:

ARCHITECT'S CERTIFICATE FOR PAYMENT

In accordance with the Contract Documents, based on on-site observations and the data comprising the application, the Architect certifies to the Owner that to the best of the Architect's knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED . . . . . $ 68,157

(Attach explanation if amount certified differs from the amount applied. Initial all figures on this Application and onthe Continuation Sheet that are changed to conform with the amount certified.)
ARCHITECT:

By: _____ Date: _____

This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.

AIA DOCUMENT G702 · APPLICATION AND CERTIFICATION FOR PAYMENT · 1992 EDITION · AIA® · © 1992 THE AMERICAN INSTITUTE OF ARCHITECTS, 1735 NEW YORK AVE., N.W., WASHINGTON, DC 20006-5292
Users may obtain validation of this document by requesting a completed AIA Document D401 - Certification of Document's Authenticity from the Licensee.

Attachment: Change Order 1 - Return Unused Allowances (RES-2024-1002 : Change Order Town Hall

Allowance 2 - Unused, value per Schedule of Values

Item 5a

CONTINUATION SHEET

AIA DOCUMENT G703

AIA Document G702, APPLICATION AND CERTIFICATION FOR PAYMENT, containing
Contractor's signed certification is attached.
In tabulations below, amounts are stated to the nearest dollar.
Use Column I on Contracts where variable retainage for line items may apply.

APPLICATION NO: 1
APPLICATION DATE: 25-Sep-24
PERIOD TO: 30-Sep-24
ARCHITECT'S PROJECT NO: TA # 22101

A ITEM NO.	B DESCRIPTION OF WORK	C SCHEDULED VALUE	D WORK COMPLETED FROM PREVIOUS APPLICATION (D + E)	E WORK COMPLETED THIS PERIOD	F MATERIALS PRESENTLY STORED (NOT IN D OR E)	G TOTAL COMPLETED AND STORED TO DATE (D+E+F)	G % (G ÷ C)	H BALANCE TO FINISH (C - G)	I RETAINAGE (IF VARIABLE RATE)
1	mobilization	$15,000		$15,000		$15,000	100.00%		$750
2	temp fence	$2,000		$1,800		$1,800	90.00%	$200	$90
4	demo concrete	$6,844		$6,844		$6,844	100.00%		$342
4	signage	$1,500		$1,500		$1,500	100.00%		$75
5	wash column bases	$800		$800		$800	100.00%		$40
6	survey	$1,500		$1,500		$1,500	100.00%		$75
7	excavation / haul spoils	$10,000		$10,000		$10,000	100.00%		$500
8	concrete footers / walls	$10,000		$10,000		$10,000	100.00%		$500
9	backfill stone	$3,500		$3,500		$3,500	100.00%		$175
10	stairs	$12,000		$12,000		$12,000	100.00%		$600
11	concrete flat work	$8,800		$8,800		$8,800	100.00%		$440
12	railings	$14,992					0.00%	$14,992	$0
13	paint existing stairs	$1,500					0.00%	$1,500	$0
14	top soil	$3,000					0.00%	$3,000	$0
15	allowance 1	$2,500					0.00%	$2,500	$0
16	allowance 2	$6,508					0.00%	$6,508	$0
17									$0
18									$0
19									$0
20									$0
21									$0
22									$0
23									$0
31									$0
	Grand Total	$100,444	$0	$71,744	$0	$71,744	71.43%	$28,700	$3,587

Attachment: Change Order 1 - Return Unused Allowances (RES-2024-1002 : Change Order Town Hall

AIA DOCUMENT G703 · CONTINUATION SHEET FOR G702 · 1992 EDITION · AIA® · © 1992
THE AMERICAN INSTITUTE OF ARCHITECTS, 1735 NEW YORK AVENUE, N.W., WASHINGTON, D.C. 20006-5232

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

Francina J. Spoth
Town Clerk

Meeting: 12/16/24 07:00 PM
Department: Comptroller
Initiated by: **Daryl Bramer**
Co-Sponsored by:

DOC ID: 29782 **RESOLUTION 2024-1003** **ADOPTED**

Budget Transfers and Amendments

For December 16, 2024 Town Board Agenda

To: Town Board
From: Office of Town Comptroller
Date: 12/11/2024
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:***
N2142.4000 AMH HOME Acq. $100,000.00	N2141.4000 AMH 1st Time $100,000.00
To transfer funds from Amherst Home New Construction to Amherst Home 1st Time Homebuyer.	
A3121.1000 Police – Personal Services $162,564.00 A3121.8030 Police – FICA $12,436.00	A3121.2600 Other Equipment $175,000.00
To transfer funds from personal services and FICA into Other Equipment for the purchase of 50 M-4 style rifles to replace existing patrol rifles, 170 new Glock handguns with holographic optics to replace existing officer handguns, and related accessories to make the firearms functional for police use.	

BUDGET AMENDMENTS – 2024

INCREASE:	***INCREASE:***
N2256.03089 State AHC Grant- State Aid $62,640.00	N2256.4000 Contractual $56,376.00 N2256.1000 Personal Services $5,818.86 N2256.8030 FICA $445.14
To recognize State AHC Grant Revenue.	
A3121.02720 Police – Donations $61,394.90	A3121.2600 Other Equipment $61,394.90
To accept donation from the Amherst Police Foundation and increase other equipment, for the purchase of firearms.	
N2423.02785 CDBG & VG- PI $170.00	N2423.4000 Contractual $170.00
To recognize Community Development program income from 169 Hillcrest, Amherst.	
D5110.02617 Highway – Auction Revenue $30,704.50	D5130.4240 Machinery – Equip. Repairs $30,704.50
To recognize auctions proceeds and increase expenditure line for repairs.	

12/16/2024
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: 12/16/24 07:00 PM
Department: Contract Compliance
Initiated by: **Lynda Juul**
Co-Sponsored by: **Supervisor Brian J. Kulpa**

DOC ID: 29672 **RESOLUTION 2024-1004** **ADOPTED**

Approval to Participate in TIPS National Cooperative Purchasing Program - CRS #5187

WHEREAS, the Town of Amherst, pursuant to the authority granted by New York State purchasing requirements, desires to participate in The Interlocal Purchasing System (TIPS); and

WHEREAS, TIPS is a National Cooperative Purchasing Program offered by Region VIII Education Services Center, located in Pittsburg, Texas (Camp County); and

WHEREAS, participation, through membership and utilization of competitively bid and awarded vendor contracts in a cooperative purchasing program specializing in the management of high quality cooperative procurement solutions will be beneficial to the taxpayers through the anticipated savings to be realized by the Town;

NOW, THEREFORE, BE IT RESOLVED, that the Town of Amherst has identified a stated need for participation in The Interlocal Purchasing System (TIPS); and

BE IT FURTHER RESOLVED, that Brian Kulpa, Town Supervisor, is authorized and directed to sign and deliver any and all necessary documents herewith for and on behalf of the Town of Amherst.

12/16/2024
Consent

FINANCIAL IMPACT:

N/A

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

INTERLOCAL AGREEMENT
Region 8 Education Service Center

Town of Amherst, New York
PUBLIC ENTITY (TIPS MEMBER)

_____ - _____
Control Number (TIPS will Assign)

and

Region 8 Education Service Center
Pittsburg, Texas

225 - 950
Region 8 Texas County-District Number

The Texas Education Code §8.002 permits Regional Education Service Centers, at the direction of the Commissioner of Education, to provide services to assist school districts, colleges and universities in improving student performance and increasing the efficiency and effectiveness of school, college and university financial operations. Region 8 Education Service Center is an Education Service Center which is defined as a "political subdivision" in Texas Education Code 8.009 and falls under the definition of "Unit of State Government" in Chapter 2260 of the Texas Government Code.[1] Pursuant to Section 791 of the Texas Government Code (The Interlocal Cooperation Act) to increase the efficiency and effectiveness of local governments, Region 8 Education Service Center may enter into an interlocal agreement with any political subdivision or local government of this state or any other state to provide purchasing functions and services.[2]

Vision:
TIPS will continue to become the premier purchasing cooperative in North America through the qualifying and procurement of quality vendors and through serving all public entities and qualifying non-profits.

Purpose:
The purpose of this Agreement shall be to improve procurement process efficiencies and assist in achieving best value for the participating public entities through cooperative purchasing.

Duration:
This Agreement is effective immediately and shall be in effect for one (1) year and automatically renews for an additional year annually. The Agreement may be terminated without cause immediately if the public entity Member provides written notice of termination to Region 8 Education Service Center or if Region 8 Education Service Center provides the public entity Member Sixty (60) days prior written notice of termination.

Statement of Services to be Performed:
Region 8 Education Service Center, by this Agreement, agrees to provide cooperative purchasing services to the above-named public entity through a program known as The Interlocal Purchasing System ("TIPS") Program.

Role of the TIPS Purchasing Cooperative:

- Provide for the organizational structure of the program.
- Provide staff for efficient operation of the program.
- Promote marketing of the TIPS Program.
- Coordinate the Solicitation Process for all Vendor Awarded Contracts.
- Provide members with procedures for placing orders through TIPS PO System.

1 Tex. Edu. Code Sec. 8.009; Tex. Gov. Code Sec. 2260.001.
2 Tex. Gov. Code Chapter 791, The Interlocal Cooperation Act.

Attachment: NON-TEXAS_INTERLOCAL_AGREEMENT_FORM_2023 (RES-2024-1004 : Approval to Participate in TIPS National Cooperative

- Maintain filing system for Due Diligence Documentation.
- Collect fees from vendors as the method of financing this undertaking and supporting the operational costs of TIPS.

Role of the Public Entity:

- Commit to participate in the program by an authorized signature on membership forms.
- Designate and keep current a Primary Contact and Secondary Contact for entity.
- Commit to purchase products and services from TIPS Vendors when in the best interest of the entity.
- Submit Purchase Orders and/or Vendor Contracts through the TIPS PO System by emailing the pdf document to tipspo@tips-usa.com.
- Accept shipments of products ordered from Awarded Vendors.
- Process Payments to Awarded Vendors in a timely manner.
- Report all TIPS purchases to TIPS through TIPS authorized methods.
- Determine when a TIPS purchase is legal and appropriate under Federal, State, and Local law and policy before proceeding with a TIPS purchase.

General Provisions:

The Parties agree to comply fully with all applicable federal, state, and local statutes, ordinances, rules, and regulations in connection with the programs contemplated under this Agreement. This Agreement is subject to all applicable present and future valid laws governing such programs.

No joint agency or joint real property ownership is created by this Agreement.

This Agreement shall be governed by the law of the State of Texas and venue shall be in the county in which the administrative offices of RESC 8 are located which is Camp County, Texas.

This Agreement contains the entire agreement of the Parties hereto with respect to the matters covered by its terms, and it may not be modified in any manner without the express written consent of the Parties.

If any term(s) or provision(s) of this Agreement are held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions of this Agreement shall remain in full force and effect.

The Parties to this Agreement expressly acknowledge and agree that all monies paid pursuant to this Agreement shall be paid from legally appropriated and budgeted available funds for the current fiscal year of each such entity.

Before any party may resort to litigation, any claims, disputes or other matters in question between the Parties to this Agreement shall be submitted to nonbinding mediation. The site of the mediation shall be in Camp County, Texas or a site mutually agreed by the parties. The selection of the mediator shall be mutually agreed. The cost of mediation shall be shared equally.

No Party to this Agreement waives or relinquishes any immunity or defense on behalf of themselves, their directors, officers, employees, and agents as a result of its execution of this Agreement and performance of the functions and obligations described herein.

The Parties agree that the Public Entity TIPS Member is solely responsible for identifying when utilization of a TIPS Contract for procurement is legal and appropriate under Federal, State, and Local law and policy. TIPS

Attachment: NON-TEXAS_INTERLOCAL_AGREEMENT_FORM_2023 (RES-2024-1004 : Approval to Participate in TIPS National Cooperative

contracts are available for TIPS Member use when the TIPS Member determines that such a procurement is appropriate and legal. TIPS cannot and does not analyze TIPS Member procurements for legality. The Parties agree that TIPS shall not be responsible or liable for any claims, challenges, audit findings, legal holdings, or damages resulting from the TIPS Member's decision to utilize a TIPS Contract when it is not appropriate to do so under the laws and policies applicable to the purchase.

This Agreement may be negotiated and transmitted between the Parties by electronic means and the terms and conditions agreed to are binding upon the Parties.

Authorization:

Region 8 Education Service Center and The Interlocal Purchasing System (TIPS) Program have entered into an Agreement to provide cooperative purchasing opportunities to entities as outlined above through awarded vendor agreements procured by public solicitation in accordance with applicable Texas statutes.

This Interlocal Agreement process was approved by the governing boards of the respective parties at meetings that were posted and held in accordance with the respective state.

The individuals signing below are authorized to do so by the respective parties to this Agreement.

Membership Entity-	**Region 8 Education Service Center**
Town of Amherst, New York	
By: _____	By: _____
Authorized Signature	Authorized Signature
Title: Supervisor	Title: Executive Director, Texas Region 8 ESC
Date _____	Date _____

Public Entity Contact Information

Lynda L. Juul	ljuul@amherst.ny.us		
Primary Purchasing Person's Name	Primary Person's Email Address		
5583 Main St.	Williamsville	New York	14221
Entity Address	City	State	Zip
Zach Kittleman	zkittleman@amherst.ny.us		
Secondary Person's Name	Secondary Person's Email Address		
716-631-7076			
Entity Phone Number	Entity Fax Number		

Attachment: NON-TEXAS_INTERLOCAL_AGREEMENT_FORM_2023 (RES-2024-1004 : Approval to Participate in TIPS National Cooperative

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

Francina J. Spoth
Town Clerk

Meeting: 12/16/24 07:00 PM
Department: Contract Compliance
Initiated by: **Lynda Juul**
Co-Sponsored by: **Supervisor Brian J. Kulpa**

DOC ID: 29701 **RESOLUTION 2024-1005** **ADOPTED**

Award Informal Bid #20241030 Town Wide Grease and Oil Interceptor Disposal - CRS #5238

WHEREAS, the Contract Compliance and Administration Department received informal bids on November 12, 2024 for Town Wide Grease and Oil Interceptor Disposal; and

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

NOW, THEREFORE, BE IT RESOLVED, the Town Board authorizes the Contract Compliance and Administration Department to award a two year contract, effective December 19, 2024 to Safety Kleen Systems, Inc.; and

BE IT FURTHER RESOLVED, The Town Board authorizes the Supervisor to sign the contract with Safety Kleen Systems, Inc.

12/16/2024
Consent

FINANCIAL IMPACT:

Town Wide; Various Accounts; Amount TBD

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

Informal Bid #20241030 Town Wide Grease & Oil Interceptor Disposal							
Low Bidder				NOCO		Safety Kleen Systems	
Item #	Qty	U/M	Description	Unit Price	Total Price	Unit Price	Total Price
1	8	Each	Truck Stop Fee - Total Truck Fee to stop at each Town of Amherst Facility requiring Grease and Oil Interceptor to be inspected and/or vacuum pumped of Oils and Grease during the yearly contract period.	$350.00	$2,800.00	$350.00	$2,800.00
2	5,000	Gallon	Liquids Removal - Total cost to remove liquids within the Grease and Oil Interceptor. The cost shall be based on total number of gallons of liquid requiring removal from each Town facility interceptor during the yearly contract period.	$1.35	$6,750.00	$1.65	$8,250.00
3	900	Gallon	Solids Removal - Total cost to remove solids within the Grease and Oil Interceptor. The cost shall be based on total number of gallons of solids requiring removal from each Town facility interceptor during the yearly contract period.	$2.65	$2,385.00	$1.65	$1,485.00
4	16	Hour	Vacuum Truck Hourly Cost	$235.00	$3,760.00	$175.00	$2,800.00
5	8	Each	Fuel Surcharge - to stop at each Town of Amherst Facility requiring Grease and Oil Interceptor to be inspected and/or pumped during the yearly contract period.	$0.00	$0.00	$0.00	$0.00
			Total Bid:		**$15,695.00**		**$15,335.00**

Attachment: Bid Tab Grease & Oil Interceptor Disposal (RES-2024-1005 : Award Informal Bid #20241030

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

Francina J. Spoth
Town Clerk

Meeting: 12/16/24 07:00 PM
Department: Contract Compliance
Initiated by: **Lynda Juul**
Co-Sponsored by: **Supervisor Brian J. Kulpa**

DOC ID: 29750 **RESOLUTION 2024-1006** **ADOPTED**

Award Bid #2024047 Police Rifles - CRS #5242

WHEREAS, the Contract Compliance and Administration Department received bids on November 14, 2024 for Bid #2024047 Police Rifles; and

WHEREAS, the bid process resulted in responses from six (6) vendors, as per the attached bid tabulation form;

NOW, THEREFORE, BE IT RESOLVED, the Town Board authorizes the Contract Compliance and Administration Department to award this bid to Allstar Tactical; and

BE IT FURTHER RESOLVED, The Town Board authorizes the Supervisor to sign the contract with Allstar Tactical; and

BE IT FURTHER RESOLVED, that approval is pending successful completion of the Contract Routing System due to the fact that the purchase is being made using 2024 funds, and a purchase order must be issued before the end of 2024; and

BE IT FURTHER RESOLVED, the Town Board authorizes the trade in of the following equipment as part of the award, in the quantities listed:

37 H&K G36 5.56 rifles with magazines
37 EOTECH 552 sights
37 Streamlight TLR-1 lights
37 Troy flip-up battle sights

12/16/2024
Consent

FINANCIAL IMPACT:

A3121-2600; $99,620.00

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

Bid #2024047 Police Rifles

Low Bidder			Vendor Name:	Battle Arms Development		IWI US INC.		Arms Unlimited		Escarpment Arms		Allstar Tactical		PAI Defense Offer #1		PAI Defense Offer #2	
Item #	Qty.	U/M		Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price
1	50	Each	Fully assembled short barreled rifles (AR-15 / M4 platform) with a suppressor	$2,295.00	$114,750.00	$2,140.00	$107,000.00	$2,475.00	$123,750.00	$2,912.75	$145,637.50	$2,820.95	$141,047.50	$2,847.00	$142,350.00	$2,897.00	$144,850.00
2	150	Each	PMAG Gen-M2 MOE 30 Round magazines	$9.50	$1,425.00	$10.00	$1,500.00	$9.50	$1,425.00	$12.30	$1,845.00	$9.95	$1,492.50	$10.00	$1,500.00	$10.00	$1,500.00
3			Total Trade-In Value		($30,895.00)		($18,500.00)		($18,500.00)		($30,525.00)		($42,920.00)		($46,805.00)		($46,805.00)
			(Enter individual trade-in values in the table on page 5 and total of all trade-ins here)														
			Total Net Bid (minus trade-in)		$85,280.00		$90,000.00		$106,675.00		$116,957.50		$99,620.00		$97,045.00		$99,545.00
			Estimated lead time between order and delivery:	16 weeks - some 3rd party items such as suppressors are built to order and running 90+ day lead times. Rifles can be built in 30 days from time of award.		90 days from PO		45 days		Lead time estimated at 90 days pending ATF approval.		120 days		EST 60 - 120 days		EST 60 - 120 days	
			Warranty Duration:	2 Years		5 Years - free armorers course at factory.		Manufacturers' warranties		5 years from manufacturer defects, lifetime on barrel.		Lifetime on all Manufacturer defects.		Factory Warranties		Factory Warranties	
			Price quoted to be delivered price. No additional freight will be allowed.														

NOTES:

Battle Arms Development - Does not meet bid spec as per APD review.

IWI US INC. - Trade in calculation for H & K G36 5.56 rifles calculated incorrectly. Vendor confirmed it should be $14,800, not $14,000, for a total trade in value of $18,500 (not $17,700). Bid does not meet bid spec as per APD review.

Arms Unlimited - Does not meet bid spec as per APD review.

Allstar Tactical - Provided specifications attached to the back of their bid.

PAI Defense - Provided 2 options, additional information was attached to the bid package. Does not meet bid spec as per APD review.

Attachment: Bid Analysis Police Rifles (RES-2024-1006 : Award Bid #2024047 Police Rifles - CRS #5242)

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

Francina J. Spoth
Town Clerk

Meeting: 12/16/24 07:00 PM
Department: Contract Compliance
Initiated by: **Lynda Juul**
Co-Sponsored by: **Supervisor Brian J. Kulpa**

DOC ID: 29758 **RESOLUTION 2024-1007** **ADOPTED**

Award Bid #2024049 Drone for Emergency Services - CRS #5248

WHEREAS, the Contract Compliance and Administration Department received bids on December 5, 2024 for Bid #2024049 Drone for Emergency Services; and

WHEREAS, the bid process resulted in responses from seven (7) vendors, as per the attached bid tabulation form;

NOW, THEREFORE, BE IT RESOLVED, the Town Board authorizes the Contract Compliance and Administration Department to award this bid to B&H Foto & Electronics Corp.; and

BE IT FURTHER RESOLVED, The Town Board authorizes the Supervisor to sign the contract with B&H Foto & Electronics Corp.; and

BE IT FURTHER RESOLVED, that approval is pending successful completion of the Contract Routing System due to the fact that this purchase is being made using 2024 funds, and a purchase order must be issued before the end of 2024.

12/16/2024
Consent

FINANCIAL IMPACT:

A3641-2290; $6,941.77

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

Bid #2024049 Drone for Emergency Services

Low Bidder			Vendor Name:	Unmanned Vehicle Technologies		Adorama Inc.		B & H Foto		Axon Enterprise		TXAT LLC		Cloud City Drones		Kijero, LLCX	
Item #	QTY	U/M		Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price
1	1	Each	Autel Robotics EVO Max 4T Bundle (or equivalent)	$8,549.05	$8,549.05	$8,278.21	$8,278.21	$6,095.00	$6,095.00	$16,464.00	$16,464.00	$8,999.00	$8,999.00	$8,549.05	$8,549.05	$8,420.00	$8,420.00
2	3	Each	Autel Robotics EVO Max Batteries (or equivalent)	$303.05	$909.15	$241.16	$723.48	$238.03	$714.09	Included	$0.00	$319.00	$957.00	$303.05	$909.15	$310.53	$931.59
3	1	Each	Autel Robotics EVO Max Series Multi-Charger (or equivalent)	$0.00	$0.00	$133.11	$133.11	$132.68	$132.68	Included	$0.00	$145.00	$145.00	$137.75	$137.75	$314.74	$314.74
			TOTAL		$9,458.20		$9,134.80		**$6,941.77**		$16,464.00		$10,101.00		$9,595.95		$9,666.33
			NOTES:														

Unmanned Vehicle Technologies: No charge for line item #3.

B & H Foto: References Rockland County Contract #RCO-RC-2024-003**.** Also noted that this is an all or none bid.

Axon Enterprise: Bid is for Axon Air - Skydio X10 Starter Kit as an equivalent.

Cloud City Drones: Line item #2 unit price identified as $319, but on the quote attached it is $303.05 each after 5% discount. The total cost is correct, the 5% just wasn't taken out of the unit price.

Attachment: Bid Analysis Drone for Emergency Services (RES-2024-1007 : Award Bid #2024049 Drone for

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

Francina J. Spoth
Town Clerk

Meeting: 12/16/24 07:00 PM
Department: Contract Compliance
Initiated by: **Lynda Juul**
Co-Sponsored by: **Supervisor Brian J. Kulpa**

DOC ID: 29761 **RESOLUTION 2024-1008** **ADOPTED**

Award Bid #2024050 Removal & Replacement of Highway Department Unit Heaters - CRS #5249

WHEREAS, the Contract Compliance and Administration Department received bids on December 5, 2024 for Bid #2024050 Removal and Replacement of Highway Department Unit Heaters; and

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

NOW, THEREFORE, BE IT RESOLVED, the Town Board authorizes the Contract Compliance and Administration Department to award this bid to O'Connor Mechanical Corp., and

BE IT FURTHER RESOLVED, The Town Board authorizes the Supervisor to sign the contract with O'Connor Mechanical Corp.; and

BE IT FURTHER RESOLVED, that approval is pending successful completion of the Contract Routing System due to the fact that the Highway Garage is currently without fully operating heat.

12/16/2024
Consent

FINANCIAL IMPACT:

KP1924-4972; $9,430.00

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

Bid #2024050 Removal & Replacement of Highway Department Unit Heaters													
Low Bidder			Vendor Name:	NOCO Sustain LLC dba NOCO Mechanical		Willett		DV Brown		Parise Mechanical		O'Connor Mechanical	
Item #	QTY	U/M		Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price
1	1	Each	Demolition and removal of existing 250,000 BTU unit	$460.00	$460.00	$1,500.00	$1,500.00	$2,400.00	$2,400.00	$800.00	$800.00		$0.00
2	1	Each	Demolition and removal of existing 300,000 BTU unit	$460.00	$460.00	$1,500.00	$1,500.00	$2,600.00	$2,600.00	$800.00	$800.00		$0.00
3	1	Each	Furnish & Install 250,000 BTU Modine PDP250 Unit Heater (or equivalent)	$4,240.00	$4,240.00	$10,250.00	$10,250.00	$9,000.00	$9,000.00	$5,000.00	$5,000.00		$0.00
4	1	Each	Furnish & Install 300,000 BTU Modine PDP300 Unit Heater (or equivalent)	$4,740.00	$4,740.00	$10,250.00	$10,250.00	$12,000.00	$12,000.00	$4,500.00	$4,500.00		$0.00
			TOTAL		$9,900.00		$23,500.00		$26,000.00		$11,100.00		$9,430.00
NOTES:													
O'Connor Mechanical just provided a total and did not itemize. They were at the bid opening and confirmed it includes all 4 line items. Also confirmed via email.													

Attachment: Bid Analysis Removal & Replacement of Highway Department Unit Heaters (RES-2024-1008 :

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

Francina J. Spoth
Town Clerk

Meeting: 12/16/24 07:00 PM
Department: Contract Compliance
Initiated by: **Lynda Juul**
Co-Sponsored by: **Supervisor Brian J. Kulpa**

DOC ID: 29780 **RESOLUTION 2024-1009** **ADOPTED**

Extension of Erie County Bid #222371-002 for Paint - CRS #5259

WHEREAS, Sherwin-Williams has agreed to extend their contract for Erie County Bid #222371-002 for Paint (original CRS #3880);

NOW, THEREFORE, BE IT RESOLVED, the Town Board approves a one-year extension of the contract with Sherwin-Williams Co. through December 31, 2025; and

BE IT FURTHER RESOLVED, the Town Board authorizes the Supervisor to sign the contract extension with Sherwin-Williams Co.; and

BE IT FURTHER RESOLVED, that approval is pending successful completion of the Contract Routing System due to the fact that the current contract will expire on 12/31/2024.

12/16/2024
Consent

FINANCIAL IMPACT:

Town Wide; Various Accounts; Amount TBD

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

COUNCILMEMBERS
Jacqualine Berger
Shawn Lavin
Angela Marinucci
Michael Szukala

December 10, 2024

Sherwin-Williams Co.
1470 Main Street
Buffalo, NY 14209
ATTN: Christina Sobczynski

Re: Erie County Bid #222371-002
CRS 3880 – Town Wide Paint

Dear Ms. Sobczynski:,

The Town of Amherst wishes to extend the above listed Erie County contract for an additional one-year period, through December 31, 2025, under the same pricing structure, terms and conditions as the original agreement.

Extension is provided for per the attached contract renewal. This offer is for your immediate consideration and acceptance. Please indicate below whether you agree to extend or do not wish to extend. Please respond **within seven days upon receipt of this request.**

If you wish to extend, please return three (3) originals to:
Town of Amherst Contract Compliance Department
5583 Main Street
Williamsville, NY 14221

After approval and execution by the Town of Amherst, a fully signed copy will be returned to you for your files.

X Yes, I agree to extend _____ No, I do not wish to extend

Company Name: The Sherwin-Williams Company

Representative (Please print): Beniam Tirfe Title: Strategic Account Manager

Signature: Beniam Tirfe Date: 12/10/2024

Acceptance by the Town of Amherst:

Brian Kulpa, Supervisor Date

Attachment: Sherwin Williams CRS (RES-2024-1009 : Extension of Erie County Bid #222371-002 Paint - CRS #5259)

COUNTY OF ERIE
DIVISION OF PURCHASE
MEMORANDUM

To: All Using Departments

From: Jamie Kucewicz, Buyer

Date: November 22, 2024

Subject: PAINT – SHERWIN WILLIAMS

Bid No.: 222374-002

Effective Dates: Extended through December 31, 2025

SHERWIN-WILLIAMS CO. (vendor #112356):
1470 Main Street
Buffalo, NY 14209
Contact: Christina Sobczynski
Phone: 716-884-2346

Brand – Sherwin-Williams
% off attached price sheet – 66%
*25% off paint supplies

Additional fees – paint care fee $.45 per unit <1 gallon, $.95 per unit 1-2 gallons, $1.95 per unit >2 gallons
*fee will be on invoices but not on quotes

Attachment: Sherwin Williams CRS (RES-2024-1009 : Extension of Erie County Bid #222371-002 Paint - CRS #5259)

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

Francina J. Spoth
Town Clerk

Meeting: 12/16/24 07:00 PM
Department: Contract Compliance
Initiated by: **Lynda Juul**
Co-Sponsored by: **Supervisor Brian J. Kulpa**

DOC ID: 29769 **RESOLUTION 2024-1010** **ADOPTED**

Erie County Bid #240258-004 for Ice Melt - CRS #5255

WHEREAS, the Contract Compliance and Administration Department is requesting approval to use the Erie County Contract for Ice Melt - Erie County Bid #240258-004 with SiteOne Landscape Supply; and

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

NOW, THEREFORE, BE IT RESOLVED, the Town Board approves and authorizes the Supervisor to sign the contract with SiteOne Landscape Supply; and

BE IT FURTHER RESOLVED, that approval is pending successful completion of the Contract Routing System due to the fact that we are currently without a contract.

12/16/2024
Consent

FINANCIAL IMPACT:

Town Wide; Various Accounts; TBD

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

COUNTY OF ERIE
DIVISION OF PURCHASE
MEMORANDUM

TO: All Using Departments

FROM: Tricia Pierce, Buyer

DATE: November 14, 2024

SUBJECT: Ice Melt Products
Bid #240258-004

This is to advise you that there is a new contract for ***Ice Melt Products.*** The new contract is good through October 31, 2025.

For your convenience any information needed is listed on the attached sheet. Please be sure to get your requirements in early. Check your stock to see if your department needs to place an order.

When submitting your requisition, please be sure to use commodity code #775 and purchasing group #004. Be sure to reference bid #240258-004.
For your convenience I have listed the information on the attached sheet.

Attachment: 2024 2025 Ice Melt Memo Erie County (RES-2024-1010 : Erie County Bid #240258-004 Ice Melt - CRS #5255)

ICE MELT PRODUCTS
CONTRACT TERM: NOVEMBER 1, 2024 – OCTOBER 31, 2025
BID NO.: 240258-004
COMMODITY CODE: 775

VENDOR INFORMATION

Siteone Landscape Supply- Vendor #l 18129
24 79 Walden Ave.
Cheektowaga, NY 14225
Telephone 716-684-0151
Email Jrhodes@siteone.com or rkreher@siteone.com
No Minimums

Bison Laboratories.- Vendor #109769
100 Leslie St. Buffalo, NY 14211
Telephone #716-895-2707
Fax #716-895-1408

1. **ICE MELTER - Siteone Landscape Supply**
   Brand: Tillson GoMelt+
   $8.95/50#Bag
   $438.55/pallet-49 Bags

2. **ROCK SALT – Bison Laboratories**
   Brand: American Rock Salt
   $4.40/50# Bag
   $215.60/pallet – 49 Bags

3. **CALCIUM CHLORIDE - Siteone Landscape Supply**
   Brand: Pelladow
   $14.91/50#Bag
   $820.05/pallet-55 Bags

Attachment: 2024 2025 Ice Melt Memo Erie County (RES-2024-1010 : Erie County Bid #240258-004 Ice Melt - CRS #5255)

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

Francina J. Spoth
Town Clerk

Meeting: 12/16/24 07:00 PM
Department: Contract Compliance
Initiated by: **Lynda Juul**
Co-Sponsored by: **Supervisor Brian J. Kulpa**

DOC ID: 29768 **RESOLUTION 2024-1011** **ADOPTED**

Extend RFP #202005 for Medical Administration Services - CRS #5254

WHEREAS, Independent Health Corporation has agreed to extend their contract under RFP #202005 for Medical Administration Services (Original CRS #2248);

NOW, THEREFORE, BE IT RESOLVED, the Town Board approves a three-year extension of the contract with Independent Health Corporation for the term January 1, 2025 through December 31, 2027; and

BE IT FURTHER RESOLVED, the Town Board authorizes the Supervisor to sign the contract extension with Independent Health Corporation; and

BE IT FURTHER RESOLVED, that approval is pending successful completion of the Contract Routing System due to the fact that the contract expires on December 31, 2024.

12/16/2024
Consent

FINANCIAL IMPACT:

Town Wide; Various Accounts; Amount TBD

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

INDEPENDENT HEALTH CORPORATION
ADMINISTRATIVE SERVICES AGREEMENT

This Administrative Services Agreement ("Agreement") is made by and between **TOWN OF AMHERST** ("Sponsor"), and **INDEPENDENT HEALTH CORPORATION** ("IHC"). Sponsor has established an employee benefit welfare plan (or plans) providing group health coverage (collectively, if applicable, the "Plan"), which are funded out of Sponsor's general assets, for its employees, their dependents or other eligible persons and Sponsor desires to arrange for IHC or its subsidiary (collectively herein "IHC") to provide certain administrative services to and on behalf of Sponsor in regard to the Plan, as set forth in this Agreement. The Effective Date of this Agreement is January 1, 2025.

1. DEFINITIONS. For the purpose of this Agreement, the following terms shall have the meanings set forth below:

1.1 "Affordable Care Act Section 1557 Compliance" generally prohibits Covered Entities from discriminating on the basis of race, color, national origin, sex, age, disability or gender identity.

1.2 "Administrative Service Fee" means the fee for administrative services provided by IHC to Sponsor and the Plan under this Agreement.

1.3 "Assignment of Benefits" means a legally binding document in which a Participant assigns his/her right to benefits under the Plan to a provider of Health Services.

1.4 "COBRA" means the portion of the Consolidated Omnibus Budget Reconciliation Act of 1985 (29 USC 1161, et seq.) as amended from time to time, which requires most employers to offer continuation coverage to employees and dependents who meet certain requirements, as well as the applicable regulations.

1.5 "COBRA Beneficiary(s)" means a former Participant who has elected to continue receiving Health Services under the Plan pursuant to COBRA.

1.6 "Code" means the Internal Revenue Code, as amended.

1.7 "Covered Employee" means an eligible employee or former employee of Sponsor who has coverage under the Plan.

1.8 "Covered Entity as referenced in the Affordable Care Act Section 1557 Compliance: means an entity that operates a health program or activity, any part of which receives federal financial assistance from HHS, or an Employee Health Benefit Program that receives HHS funding.

1.9 "ERISA" means the Employee Retirement Income Security Act of 1974, as amended.

Attachment: ASA and BAA -Town of Amherst 2025-2027 (RES-2024-1011 : Extend RFP #202005 for Medical Administration Services - CRS

1.10 "Health Services" means the health care services or supplies, set forth in **Exhibit C**, which are covered by this Agreement and the Plan, and received by Participants.

1.11 "HIPAA" Health Insurance Portability and Accountability Act of 1996, as amended.

1.12 "Network" means a group of Network Providers who have entered into agreements to provide medically necessary services to Participants, if applicable.

1.13 "Network Provider" means a Health Services provider who has entered into an agreement to provide medically necessary services to Participants, if applicable.

1.14 "Participant" means a Covered Employee, such employee's spouse, dependent or other eligible person who has coverage under the Plan. Sponsor shall in its sole discretion determine who are Covered Employees and Participants, unless otherwise specified in this Agreement.

1.15 "Plan" means the plan of group health coverage established by Sponsor for its Participants and described in the Plan Document and Summary Plan Description, as may be amended from time to time. The Plan is self-funded and is an "Employee Welfare Benefit Plan" as the term is defined under ERISA (if applicable).

1.16 "Plan Administrator" means the Sponsor.

1.17 "Plan Document" means the document(s) establishing and setting forth the terms of the Plan.

1.18 "Plan Year" means the period of coverage designated by the Sponsor.

1.19 "Qualified Beneficiary" means a Participant who was covered under the Plan on the day before he or she experienced a Qualifying Event.

1.20 "Qualifying Event" means the occurrence of any one of the specific events defined in the COBRA regulations that result in a loss of coverage by a Participant under the Plan.

1.21 "Summary Plan Description" or "SPD" means the document(s) which the Sponsor provides to the Covered Employee or Participant containing a summary of benefits provided under the Plan, including eligibility requirements, funding arrangements, claims procedures and, if applicable, ERISA rights.

Attachment: ASA and BAA -Town of Amherst 2025-2027 (RES-2024-1011 : Extend RFP #202005 for Medical Administration Services - CRS

2. THE PLAN

2.1 Sponsor is solely responsible for establishing and maintaining the Plan. Except as otherwise provided in this Agreement, the Sponsor shall be the sole fiduciary of the Plan.

2.2 Sponsor shall be solely responsible for maintaining and preparing the Plan Document and Summary Plan Description, except that any references in the document to Network Providers or to IHC or services provided by IHC must be approved in writing by IHC before any distribution of the documents to Participants. Sponsor is responsible for providing IHC with the current and most up to date copy of its Plan Document and SPD. The SPD shall be incorporated by reference to **Exhibit A,** and shall serve as the administrative document for the Plan as set forth in Section 3.3**.** The SPD may be changed and/or updated from time to time without the need for an amendment to this Agreement.

In the event Sponsor elects to have IHC draft its SPD (as set forth in **Exhibit C**), Sponsor shall be solely responsible for the final content of the SPD.

2.3 The Plan Document and Summary Plan Description may be amended by Sponsor at its discretion, but with respect to changes requiring implementation revisions by IHC, Sponsor shall give IHC written notice of any such amendment at least ninety (90) days before its implementation date.

2.4 Any amendment which would increase or change the nature of the services provided by IHC under this Agreement must be approved in writing by IHC and the Sponsor in order for the change in services to be included under this Agreement. Any such approved increase or change shall also be a basis for IHC to request renegotiation of the fee paid to IHC by Sponsor. In the event the parties cannot agree on a new fee or an unapproved increase or change is made, IHC may terminate this Agreement upon sixty (60) days written notice to Sponsor and IHC shall continue to administer the Plan without the proposed amendments during the transition period.

2.5 If required by the applicable Network (if any), the Plan shall provide a higher level of coverage for Health Services received from Network Providers than those received from non-Network Providers.

2.6 IHC does not insure nor underwrite the liability of Sponsor under the Plan. Sponsor retains the ultimate responsibility for claims made pursuant to the Plan and is responsible for all expenses incident to the Plan, except expenses specifically assumed by IHC in this Agreement.

2.7 IHC shall have the right to attend any informational meetings for potential Participants relating to the Plan and shall cooperate with Sponsor's efforts to

Attachment: ASA and BAA -Town of Amherst 2025-2027 (RES-2024-1011 : Extend RFP #202005 for Medical Administration Services - CRS

provide information regarding the Plan and the Network Providers.

2.8 IHC will use its best efforts to provide Sponsor with information in IHC's possession to assist Sponsor in its compliance with any laws or regulations applicable to the Plan, including, if applicable, ERISA, HIPAA, the Code and any applicable regulations promulgated thereunder. However, Sponsor's and Plan's compliance with any such laws and regulations shall be the sole responsibility of Sponsor, and Sponsor shall comply and ensure that the Plan complies with all such laws and regulations. Such compliance shall include but not be limited to all notifications required to be provided to Participants, unless otherwise agreed to by the parties.

2.9 Sponsor shall not name IHC or represent that IHC is, and IHC shall not be, the Plan Administrator or a named fiduciary of the Plan as those terms are used in ERISA (or other applicable law) except as otherwise provided in this Agreement. If at any time IHC is in doubt as to the proper interpretation of the Plan with respect to eligibility for benefits or otherwise, it shall promptly notify Sponsor, which shall render its judgment on the interpretation to be followed by IHC.

2.10 In the event that the Plan, the Sponsor, the arrangement established by this Agreement, or any payments for claims for Health Services or fees to IHC are subjected to any form of governmental or regulatory charges, including but not limited to any premium taxes, insolvency fund fees, guarantee fund fees, licensing fees or any similar charges, such charges shall be the sole responsibility of the Sponsor or the Plan and the Sponsor shall hold harmless and indemnify IHC from the payment of any such charges.

2.11 In the event IHC's performance of its duties under this Agreement is made materially more burdensome or expensive due to a change in federal, state or local laws or regulations during the term of this Agreement, the parties shall negotiate an appropriate adjustment to the fee paid to IHC. If the parties cannot agree on an adjusted fee within thirty (30) days after IHC has sent written notice of the material change and its wish to negotiate an adjusted fee to Sponsor, then IHC or Sponsor may terminate this Agreement by sixty (60) days prior written notice to the other party and IHC shall continue to administer the Plan without the required changes during the transition period.

2.12 So that IHC can perform its services under this Agreement, Sponsor shall timely provide IHC with all information that IHC reasonably requests and otherwise cooperate with IHC. Sponsor understands and acknowledges that IHC shall rely on any information provided by Sponsor as accurate, valid and complete and that IHC’s performance of its obligations under this Agreement is dependent on receiving such accurate, valid and complete information.

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3. SERVICES PROVIDED BY IHC

3.1 IHC shall provide the services described in **Exhibit B,** in the manner described in **Exhibit B** and in this Agreement. It is understood and acknowledged by Sponsor that IHC shall provide its services in accordance with its standard policies and business practices. In the event Sponsor requests non-standard or customized services, i.e., other than the services set forth in this Agreement, the additional cost of such services shall be paid to IHC by Sponsor in accordance with the schedule set forth in **Exhibit C**.

3.2 In the event Sponsor has elected to have IHC make final claim determinations as set forth in **Exhibit B** and **Exhibit C**, Sponsor delegates to IHC the limited "fiduciary duty" and "discretionary authority" for the sole and only purpose of making adverse benefits determinations for review of appealed claims under the Plan in accordance with 29 CFR §2560.503-1(h).

IHC accepts only the foregoing fiduciary duties and, in performing these duties, shall at all times follow the provisions of the Summary Plan Description, to the extent consistent with ERISA (if applicable). Sponsor shall be solely responsible for payment of all claims which IHC upholds.

In the event that any action or proceeding is brought against IHC arising out of the performance of its fiduciary duties under this Agreement, any expense, cost and fees, including attorney's fees, incurred by IHC in defense of such action or proceeding shall be reimbursed by Sponsor.

3.3 IHC shall administer the Plan in accordance with the SPD which has been approved, finalized and incorporated by reference in **Exhibit A**. In the event the Sponsor has not approved and finalized an SPD upon the effective date of this Agreement, until such time as IHC receives a final SPD, IHC shall administer the Plan in accordance with the benefit information it has in its possession and solely determines is applicable for Plan administration purposes. Absent an SPD, IHC shall administer the Plan in accordance with its standard policies and practices.

3.4 In the event Sponsor has elected to have IHC provide COBRA administrative services as set forth in **Exhibit B** and **Exhibit C**, IHC's performance of COBRA administrative services will be dependent upon Sponsor providing IHC with the following:

(a) Complete and accurate COBRA eligibility information in the form and manner requested by IHC. Sponsor must notify IHC of Qualified Beneficiaries within fourteen (14) days of the Qualifying Event. The notification must include the following:

- name, social security number;

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- date and type of Qualifying Event;
- current mailing address of Qualified Beneficiary; and
- any other information reasonably requested by IHC and available to Sponsor.

(b) Updated information about the eligibility of a Qualified Beneficiary or eligible dependent of a Qualified Beneficiary, including, but not limited to:

- a change in address of the Qualified Beneficiary;
- the death or disability of a Qualified Beneficiary;
- the divorce or separation of a Qualified Beneficiary; and
- the enrollment of the Qualified Beneficiary in Medicare or other group health plan coverage after electing COBRA.

(c) Complete and accurate premium information for each coverage option.

(d) Notification of any pertinent change in Plan coverage, such as premium rate changes or changes in Sponsor information no later than ninety (90) days prior to the effective date of change.

(e) Notification of any election, premium payment or communication regarding COBRA coverage made directly to Sponsor as soon as received, but no later than five (5) business days following receipt.

3.5 In the event IHC is the "Registered Reporting Entity" for purposes of required Medicare Secondary Payer ("MSP") reporting under Section 111 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 ("MMSEA"), or under the Substance Use Disorder Prevention that Promotes Opioid Recovery and Treatment ("SUPPORT") for Patients and Communities Act, as applicable, IHC may rely upon the enrollment and census information provided to it by Sponsor and Sponsor's Plan Participants. Sponsor shall indemnify and hold IHC harmless for penalties associated with noncompliance under the MMSEA and the SUPPORT Act, if applicable.

4. RECORDS AND REPORTS

4.1 IHC shall maintain records relating to its responsibilities under this Agreement, including records relating to claims processing. Original paper records may be converted to film and/or electronic media, in which case the original paper records will not be retained by IHC. Sponsor shall maintain records relating to the terms and operation of the Plan, including the identification of Participants, payments to IHC and payments for Health Services.

To the extent allowable under state and federal law, including but not limited to HIPAA, and in accordance with this Agreement, any Business Associate

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Agreement or related documents between the parties, each party may have access to the records directly relating to the Plan and maintained by the other party during normal business hours and upon reasonable notice, provided, however, that IHC shall not have to disclose provider payment fee schedules or other proprietary information. A party shall pay the cost of copies of any records which it requests from the other party at a rate of $.25 per single page. This copying charge applies only to copies requested as part of an audit and does not apply to the regular reports provided pursuant to the terms of this Agreement.

4.2 If a party wishes to inspect or audit the records of the other party under this Section, such party must provide the other with at least sixty (60) days advance notice. The scope and parameters of such audit shall be mutually agreed upon by the parties. However, in no event will the scope of the audit include records dating back further than the past twenty-four (24) months of Health Service claims administered by IHC (unless legally required otherwise).

In the event Sponsor wishes for a third party to conduct an audit or inspection, Sponsor shall provide IHC with a copy of the business associate agreement in effect between third party auditor and Sponsor. Sponsor accepts and agrees that third party auditor may be required to sign a business confidentiality agreement protecting IHC's business information prior to conducting any such audit. Sponsor further agrees that any audits must be conducted in accordance with state and federal law, including but not limited to HIPAA and IHC policies and procedures in effect for such compliance purposes.

Any audits conducted by Sponsor shall be at its own expense.

4.3 The parties shall maintain the confidentiality of any information relating to Participants in accordance with any applicable laws and regulations including but not limited to the Standards for Privacy of Individually Identifiable Health Information under HIPAA (45 CFR Parts 160 and 164). The parties agree to the terms and conditions of the Business Associate Agreement, which is set forth as Exhibit G of this Agreement and is incorporated herein by reference. Neither party shall disclose any confidential business information of the other party without the prior written consent of that party.

4.4 The parties shall act in conformance with HIPAA and all regulations issued from time to time, and the Business Associate Agreement entered into between the parties attached hereto as Exhibit G.

4.5 Sponsor acknowledges that it is required to take certain steps to safeguard the privacy and confidentiality of individually identifiable health information regarding Plan Participants. In order for Sponsor to be able to receive protected health information, it shall execute a Business Associate Agreement, adopt policies and procedures, and amend its Plan documents to the extent required by HIPAA. Upon

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request, Sponsor will provide to IHC a signed HIPAA Plan Sponsor Certification indicating its compliance with applicable HIPAA requirements. Sponsor will not request that IHC disclose protected health information to Sponsor except as consistent with the HIPAA regulations, the HIPAA Plan Sponsor Certification provided to IHC by Sponsor, the Sponsor's Notice of Privacy Practices, the Plan documents, and any relevant federal or state laws or regulations. Sponsor will indemnify and hold IHC harmless from and against any and all claims arising out of Sponsor's use or disclosure of protected health information received from IHC.

4.6 In the event of any termination of this Agreement, IHC shall provide Sponsor with copies of records in IHC's possession relating to the Plan and necessary for the continued operation of the Plan. The copies may be provided in hard copy or machine readable from, at IHC's discretion. Any costs related to record transfer will be passed through to Sponsor.

4.7 All records maintained by either party relating to the Plan shall be kept for at least 7 years after the date the records were created at which time they may be returned to the other party at that party's request. If Sponsor is required to keep claim records for a longer period of time, they will have to make their own arrangements for storage.

4.8 IHC shall provide Sponsor with periodic reports as set forth in **Exhibit B** and as allowed by state and federal law, including but not limited to HIPAA**.** Sponsor shall provide or file all reports required by law including, if applicable, ERISA in connection with the operation of the Plan.

4.9 In the event Sponsor maintains stop-loss insurance for the Plan, Sponsor shall provide IHC a copy of the stop-loss/reinsurance policy which shall be deemed incorporated into this Agreement, attached hereto as **Exhibit E**. Sponsor agrees to notify IHC of any changes in the terms thereof.

Sponsor is solely responsible for selecting the stop-loss insurance broker, carrier and policy coverage. Policy coverage includes Sponsor's deductible/retention exposures, claim submission requirements/limitations and contract exclusions. If Sponsor's chosen stop-loss carrier adjudicates a given stop loss claim as denied or partially denied, or if reimbursement pursuant to the applicable stop-loss policy is otherwise limited in any way, Sponsor acknowledges that IHC has no responsibility for any determination made by the stop-loss carrier.

Sponsor shall indemnify and hold harmless IHC against all claims, demands, costs, expenses (including reasonable attorneys' fees), liabilities, losses, stop-loss denials or limitations, or lost network or other negotiated discounts where the aforementioned harm is caused by acts or omissions of the Sponsor, unfavorable stop-loss policy terms, or unfavorable interpretations of the terms of an applicable Plan Document or stop-loss policy made by the stop-loss carrier.

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4.10 As allowable under state and federal law, including but not limited to HIPAA, IHC agrees to disclose claims information to other business associates of Sponsor, as well as any applicable stop-loss carrier, provided Sponsor provides proof it has entered into applicable business associate agreements with such business associates, and such business associates and stop-loss carrier sign business confidentiality agreements protecting IHC's business information in such circumstances where IHC deems it necessary to have a business confidentiality agreement. Sponsor shall identify and authorize IHC in the HIPAA Plan Sponsor Certification to disclose claims information to specific business associates and/or the stop loss carrier (if applicable).

4.11 Before the effective date of this Agreement, or prior to renewal (as applicable), Sponsor shall provide IHC with the current or new enrollment applications of eligible employees and their dependents, including COBRA Beneficiaries. On an ongoing basis prior to the start of coverage, Sponsor will supply IHC with enrollment updates including, where appropriate, enrollment files and/or applications of Participants. IHC shall be entitled to rely on this enrollment information for purposes of eligibility of Participants in paying claims and providing services under this Agreement.

If either party determines that a Participant was included in the list of Participants in error, IHC shall use its best efforts to recoup payments made to Providers. Such recoupment efforts shall be limited to a retroactive date no more than sixty (60) days prior to the date the error was discovered and/or communicated to IHC by Sponsor. IHC does not guarantee repayment. In the event Sponsor requests that IHC attempt recoupment of payments made to Providers for a greater period of time, such recoupment efforts will be at an additional fee as set forth in **Exhibit C**.

With respect to administrative service fees, any adjustments shall be limited to a retroactive date no more than sixty (60) days prior to the date the request for such adjustment is made.

5. PAYMENTS TO PROVIDERS

5.1 Sponsor is solely responsible for payment for Health Services and Sponsor shall indemnify and hold IHC harmless from any claims asserted against IHC by any provider or any Participant for payment for Health Services. The parties acknowledge that claims under the Plan are to be paid by Sponsor from its general assets and that this is an unfunded plan.

5.2 Payments to Network Providers shall be made in accordance with the terms of the applicable agreement IHC maintains with each Network Provider, as may be

amended from time to time. Non-Network Providers shall be paid according to the terms and conditions of the Plan upon execution of an Assignment of Benefits by Participants. In the event that a dispute arises between Sponsor and any provider regarding payment of a claim, IHC shall use its best efforts to facilitate resolution of the dispute. IHC shall not be liable for payment of claims based upon incorrect information received from Sponsor, any Providers (including networks), or Participants.

5.3 Sponsor shall be solely responsible for depositing from its general assets, amounts into the account out of which claims for Health Services shall be paid (the "Claims Account"). The Claims Account shall be set up as provided in **Exhibit D.**

5.4 Upon production of the "checkwrite," IHC shall notify Sponsor of the total claims payment for that checkwrite. The Claims Account shall be funded immediately, but in no event later than two (2) business days following notification of amounts necessary for claims payment. IHC shall review large claims, as IHC shall determine are in need of review, and notify, as permitted by applicable law, the stop-loss carrier of claims according to the Sponsor's stop/loss policy.

5.5 In the event that for any reason funds are not available to complete a checkwrite in the required amount and Sponsor fails to provide the required amount of funds within forty-eight (48) hours after notice of the need to provide such funds, IHC reserves the right to terminate this Agreement and its obligations under this Agreement and may provide notice of such termination to Providers.

5.6 In the event that Sponsor has at any time failed to make funds available to pay claims for Health Services or fees to IHC, in addition to any other remedies, IHC shall have the right to offset any unpaid amounts against any amounts owed to Sponsor by IHC, or any entity related to IHC.

5.7 If IHC, after undertaking steps to effectuate termination of services pursuant to Section 5.5 above, agrees to reinstate administrative services for the Plan, IHC shall invoice Sponsor and Sponsor agrees to pay any and all fees incurred as a result of time spent by IHC employees to reinstate the Plan, as set forth in **Exhibit C**.

5.8 The details of the banking arrangement for the Claims Account are set forth in **Exhibit D**.

5.9 In the event of erroneous payment of a claim, IHC will make reasonable attempts to recoup the amount paid but shall not be required to utilize collection agencies, attorneys, or to commence litigation. Sponsor shall assign the claim and/or cooperate so that IHC can recoup the erroneous claim payment.

5.10 In the event that the Centers for Medicare and Medicaid Services (CMS) determines that Sponsor's Plan has underpaid a claim under "Medicare Secondary Payer" laws,

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both parties acknowledge that Plan assets will be used to correct such underpayment. In the instance of an eligibility error on the part of IHC, IHC will be responsible to correct the underpayment, unless such error was the result of IHC's reliance on inaccurate eligibility information provided by Sponsor.

6. COMPENSATION

6.1 For services provided by IHC under this Agreement, payment shall be made as follows:

(a) In the event Sponsor has elected in **Exhibit C** to remit payment of Administrative Service Fees to IHC using the "Invoice" payment method, IHC shall invoice Sponsor on the 15th of the month prior to the month during which the administrative services will be provided by IHC, for the applicable Administrative Service Fees set forth in **Exhibit C**, with payment due and payable on the 1st day of that following month. If payment is not received by IHC within fifteen (15) days of the due date, interest shall be due and payable at a rate of 1.5% per month.

(b) In the event Sponsor has elected in **Exhibit C** to remit payment of Administrative Service Fees to IHC using the "Direct Bill" payment method, Sponsor agrees to allow IHC to withdraw the Administrative Service Fees from its Claims Account based on the monthly employee census, and provide appropriate documentation, on or about the first of each month for that month's administrative services. In the event that Sponsor delays funding of the Claims Account beyond the 15th of the month, a 1.5% late charge per month will be assessed on the Administrative Service Fees.

6.2 For any leased networks, or where IHC acts as an intermediary only, the administrative charges are determined by a "third party" (i.e., leased PPO networks, prescription drug companies, etc.) and are not under IHC's control. If any leased networks are accessed on behalf of Sponsor, IHC will use its best efforts to obtain, negotiate, or otherwise arrange service price reductions or "preferred provider groups" on Sponsors behalf. Any discounts offered by leased networks are not guaranteed. Sponsor will be billed an access fee or a percentage of savings fee as applicable. Fees or administrative charges are determined by the leased networks and are subject to change at any time.

6.3 With respect to administrative services provided to Sponsor's medical plan only, in the event Sponsor utilizes an external Pharmacy Benefits Manager ("PBM"), IHC may be required to provide eligibility information to the PBM on behalf of Sponsor, issue enrollee ID cards containing information about the prescription drug program, assist on coverage issues, and/or handle Sponsor billing. In the event IHC does not

Attachment: ASA and BAA -Town of Amherst 2025-2027 (RES-2024-1011 : Extend RFP #202005 for Medical Administration Services - CRS

charge for this additional service, Sponsor consents that IHC is permitted to receive from the PBM a fee, which may be in the form of commission payments, rebates, administrative fees or otherwise, for such services provided to the Plan by IHC. IHC shall disclose any fees it is required to by law.

6.4 Sponsor agrees to pay the following charges:

(a) Charges associated with any and all cost containment services provided by IHC, to the extent that such services are elected in writing by the Sponsor and at the prices listed in Exhibit C.

(b) When IHC provides or arranges for the services indicated in Section 6.4 (a) above, Sponsor agrees to pay IHC at the prices listed in Exhibit C.

(c) IHC may process non claims-based charges through the periodic claims payment (check write) process (including, but not limited to, HCRA surcharges, access fees, case management fees).

6.5 IHC may propose changes to the Administrative Service Fee charged to the Sponsor by notifying Sponsor in writing of such proposed change at least ninety (90) days prior to the end of the current term of the Agreement. If the parties are unable to agree on a change to the Administrative Service Fee, IHC may terminate this Agreement by giving at least sixty (60) days prior written notice to the Sponsor. If Sponsor does not respond to such notification of proposed change within thirty (30) days of receipt, then the next one (1) year term will renew automatically with a 5% increase to the Administrative Service Fee. IHC will provide Sponsor with notice of this increase and a revised Exhibit C reflecting the change. IHC will continue to administer the Plan under the prior agreed upon Administrative Service Fee until the start of the new one (1) year term, at which time the increased Administrative Service Fee will take effect. Sponsor agrees to pay IHC the increased Administrative Service Fee for any services rendered after the start of the new one (1) year term. Failure to pay the increased Administrative Service Fee shall constitute a material breach of the Agreement.

6.6 In the event Sponsor requests additional services or utilizes an external vendor to perform services for the Plan, and requests Nova to implement programs and/or coordinate services with such vendor, Sponsor may be required to compensate Nova for such services. Prior to performing the services, Nova shall prepare a Statement of Work (SOW) outlining costs involved with such services, the SOW must be executed by both parties. Any charges incurred shall be invoiced to Sponsor through usual invoicing practices.

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7. TERM AND TERMINATION

7.1 This Agreement shall have an initial term from January 1, 2025 through December 31, 2027. Renewal is automatic for subsequent one (1) year terms (or a longer renewal term as referenced in **Exhibit C**) unless Sponsor notifies IHC of its intent not to renew the Agreement ninety (90) days prior to the expiration of the current term.

7.2 If Sponsor fails to make any payment to IHC or to a Network Provider when such payment is due under this Agreement, or to meet its obligations to pay amounts into the Claims Account as required by Section 5.3, IHC may terminate this Agreement within two business days (2) of sending written notice to the Sponsor.

7.3 Either party may terminate this Agreement as specified below if the other party has breached a material provision of this Agreement. In the event of a material breach, the breaching party must be notified of the breach and that the other party is exercising its right to terminate in sixty (60) days. Upon receipt of such notification, the breaching party shall have thirty (30) days within which to cure the breach or diligently pursue a cure of the breach which will take more than thirty (30) days. In the event that the breach has been cured, or a cure has been commenced and diligently pursued prior to the expiration of the 30th day, then the Agreement shall not be terminated and the parties shall continue in accordance with its terms and conditions. In the event that the breach has not been cured, this Agreement shall terminate.

7.4 The Agreement may be terminated effective immediately at any time upon written notice thereof given by one party to the other in the event the following occurs: any party becomes insolvent; is adjudicated bankrupt; its business comes into possession or control, even temporarily, of any trustee in bankruptcy; a receiver is appointed for it; or it makes a general assignment for the benefit of creditors.

If any of these events occurs, no interest in this Agreement shall be deemed an asset or liability of such insolvent party, nor shall any interest in this Agreement pass by the operation of law without the consent of the parties.

7.5 IHC may terminate this Agreement effective immediately upon written notice to Sponsor in the event Sponsor ceases to be actively engaged in business, if the Plan is terminated or if Sponsor or the Plan are in substantial non-compliance with ERISA or other applicable laws, rules, or regulations.

7.6 In the event of termination of this Agreement for any reason set forth in this Article 7, IHC shall provide reasonable cooperation to the person or entity selected by Sponsor to assume administration of the Plan, but shall have no obligation to provide any services under this Agreement after the effective date of termination including claims incurred, but not received prior to the effective date of termination.

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Notwithstanding the above, should Sponsor request IHC to render services and IHC agree to provide services beyond the termination date, IHC shall be paid the charges specified in **Exhibit C**.

7.7 The parties agree that in the event of termination of this Agreement, neither party shall make any statement to the media unless such statement has been mutually agreed to.

7.8 In the event Sponsor has agreed to a multi-year Agreement or renewal as set forth in Paragraph 1 of **Exhibit C**, Sponsor may terminate this Agreement prior to the expiration of the Agreement or renewal term upon the occurrence of the following events: (a) Sponsor's enrollment falls below the minimum required to obtain stop loss coverage; or (b) Sponsor experiences financial difficulties necessitating it to transition its group health plan from self-funded to fully-insured.

8. DISPUTES

Any dispute arising hereunder except a dispute relating to Sponsor's failure to make payments to IHC or Network Providers when due, shall be resolved pursuant to arbitration under the auspices of the American Health Lawyers Association, utilizing one arbitrator who shall be chosen from a list of arbitrators maintained by the AHLA and is mutually acceptable to both parties. Arbitration shall commence within thirty (30) days of notice and shall be heard in the County of Erie, New York. A decision of the arbitrators shall be final and may be reduced to judgment and filed and enforced in any Court or appropriate jurisdiction. The parties agree that the arbitrators shall not have the authority to award punitive damages.

9. DISCLAIMER

EXCEPT AND ONLY AS INDICATED OTHERWISE IN THIS AGREEMENT, THE SPONSOR ACKNOWLEDGES AND AGREES THAT IHC IS NOT TO BE DEEMED A FIDUCIARY, AND ACTS ONLY AS A PROVIDER OF SPECIFIED SERVICES WITH RESPECT TO SPONSOR'S WELFARE BENEFIT PLAN(S).

IHC DOES NOT INSURE OR OTHERWISE PROVIDE ANY GUARANTEES WITH RESPECT TO THE OPERATION OF THE PLAN.

THE SERVICES TO BE PERFORMED BY IHC SHALL BE MINISTERIAL IN NATURE. EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT, IHC WILL HAVE NO FINAL DISCRETIONARY AUTHORITY OR CONTROL OVER THE MANAGEMENT OR DISPOSITION OF PLAN ASSETS, AND NO AUTHORITY OVER, OR RESPONSIBILITY FOR, PLAN ADMINISTRATION EXCEPT FOR PERFORMANCE OF THOSE SERVICES DESCRIBED IN THIS AGREEMENT.

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IHC IS NEITHER THE SPONSOR OF THE PLAN NOR PLAN ADMINISTRATOR, AND IS NOT A PROVIDER OF HEALTH SERVICES TO PARTICIPANTS. THEREFORE, IHC WILL HAVE NO RESPONSIBILITY FOR: (A) FUNDING OF PLAN BENEFITS; (B) ANY INSURANCE COVERAGE RELATING TO THE PLAN, PARTICIPANTS OR SPONSOR; (C) PLAN DESIGN, INCLUDING ADOPTION OF ANY AMENDMENTS TO THE PLAN DOCUMENT OR SUMMARY PLAN DESCRIPTION; OR (D) THE NATURE OR QUALITY OF PROFESSIONAL HEALTH SERVICES RENDERED TO PARTICIPANTS.

10. MISCELLANEOUS

10.1 This Agreement constitutes the entire agreement between the parties and supersedes all other agreements between the parties hereto, and no representations or agreements, oral or otherwise, between the parties not embodied herein or attached hereto shall be of any force and effect. Any additions or amendments to this Agreement subsequent hereto shall be of no force and effect unless in writing and signed by the parties.

10.2 None of the provisions of this Agreement are intended to create nor shall be deemed or construed to create any relationship between Sponsor and IHC other than that of independent entities contracting with each other hereunder solely for the purpose of effecting provisions of this Agreement. Neither of the parties, nor any of their respective employees or designated agents, shall be construed to be the agent, employee or representative of the other.

10.3 Neither party may assign this Agreement without the written consent of the other party, which shall not be unreasonably withheld, except that a party may assign this Agreement to: (i) a subsidiary, parent, affiliate, division, or corporation controlled by majority control of the assigning party; (ii) a successor corporation related to the assigning party by merger, consolidation, non-bankruptcy reorganization, or governmental action, or (iii) a purchaser of substantially all of the assigning party's assets. Any attempt to assign this Agreement in contravention of the preceding sentence is void. Notwithstanding the foregoing, IHC may subcontract with its parent, affiliates and subsidiaries or third party service providers to perform services for Sponsor under this Agreement.

10.4 Sponsor acknowledges that IHC will not be deemed to be providing legal or tax advice to Sponsor as a result of the duties undertaken pursuant to this Agreement.

10.5 Except as limited further in this Section, each party agrees to indemnify, defend, and hold the other party and its directors, employees, officers, attorneys, agents and subcontractors harmless from and against all actions, suits, claims, losses, liabilities, and demands whatsoever, including costs, expenses, and attorneys' fees

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(including fees relating to the enforcement of this indemnification) (collectively "Claims") to the extent such Claims arise out of the intentional conduct, willful misconduct, or fraud of the indemnifying party under this Agreement or applicable law.

Sponsor agrees that any liability incurred by IHC under this Agreement shall not exceed the amount of the event or occurrence upon which such action, claims, or demands are based, and in no event to exceed one month of Administrative Service Fees paid to IHC.

Each party maintains adequate insurance to cover their respective potential liability under this Section 10.5.

Sponsor further agrees that in no event shall IHC be liable to Sponsor or any eligible participant or their beneficiaries, representatives, successors or assigns, for any indirect, incidental, special, consequential, compensatory or punitive damages or damages for lost profits, arising under or in connection with this Agreement.

This Section 10.5, and all other indemnification provisions, shall survive termination of this Agreement.

10.6 The Sponsor and IHC reserve the right to control the use of their respective (corporate) names and any of their respective symbols, trademarks and service marks, presently existing or subsequently established. Neither party will issue any press release or other third party communication relative to this Agreement without the prior written consent of the other party. Neither party will use the name of the other party nor of the other party's employees in any advertising or sales promotional material or in any other way not required by law or regulation without the prior written consent of the other party.

10.7 The waiver by either party of a breach or violation of any provision of this Agreement shall not operate as or be construed to be a waiver of any subsequent breach or violation thereof.

10.8 In the event any provision hereof is declared null and void by a Court of law, the remaining provisions of this Agreement shall remain in full force and effect.

10.9 Any notice required to be given hereunder shall be sent to the parties at their respective addresses as set forth below.

Independent Health Corporation
511 Farber Lakes Drive
Williamsville, New York 14221
Attn: General Counsel

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Town of Amherst
5538 Main St.
Williamsville, NY 14221-5488
Attn: Robert McCarthy

10.10 Each party agrees that it will comply with all applicable laws, rules and regulations pertaining to its business operations ("Applicable Laws"). Failure by either party to comply with Applicable Laws may be considered a material breach of this Agreement.

10.11 All headings are included for convenience of reference only and are not of substantive effect.

IN WITNESS WHEREOF, the undersigned have executed this Agreement on the date set forth below, to be effective as of January 1, 2025.

INDEPENDENT HEALTH CORPORATION		**TOWN OF AMHERST**	
By:	_____	By:	_____
Name:	_____	Name:	_____
Title	_____	Title	_____
Date:	_____	Date:	_____

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EXHIBIT A

SUMMARY PLAN DESCRIPTION
Incorporated by reference if applicable

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EXHIBIT B

INDEPENDENT HEALTH CORPORATION
ADMINISTRATIVE SERVICES

1. Implementation. For initial implementation, IHC will: (a) prepare and provide access to claim forms, enrollment forms and benefit summaries necessary for it to provide services under this Agreement for up to 110% of the number of eligible employees under the Plan; and (b) prepare and print ID cards. Any additional amounts of documents, forms or ID cards shall be quoted upon request and charged to Sponsor. Ongoing annual enrollment/renewal costs will be charged as set forth in **Exhibit C**.

   Sponsor shall provide to IHC its preferences for the style, look, and content of the ID cards. If any changes or revisions are required for these forms, ID cards or documents, or if Sponsor requests customized forms, ID cards or documents, Sponsor shall bear the cost of preparing and printing such forms, ID cards or documents.

2. Provider Network Access. IHC has created or has access to a list of Network Providers. A current list is available to Participants on IHC's web site. IHC makes no representations or promises regarding the continued availability to the Plan or Participants of a Network Provider. Deletions or additions to the list of Network Providers may be made in the sole discretion of IHC.

   IHC shall provide such services as are necessary in its judgment to administer and maintain the Provider network, including providing information to the Network Providers regarding the terms of the Plan, such as amounts of any co-payments or deductibles, and providing identification of Participants to Network Providers.

3. Claims Processing.

   3.1 IHC shall perform the adjudication and payment of claims for Health Services under the Plan. IHC shall require the Network Providers to submit claims for Health Services directly to IHC. IHC shall provide access to standard forms for the submission of claims by Participants for Health Services received from providers who are not in the network. Claims shall be paid in accordance with the terms and conditions of the Plan and the terms of this Agreement. Sponsor has the final, binding and exclusive discretionary authority with regard to the payment of any claim.

   3.2 IHC shall perform the following functions in connection with the adjudication of claims:

      (a) Establish claims processing criteria including timeliness of submission and payment of claims.

(b) Establish claims review criteria (edit lists).

(c) Produce and distribute an Explanation of Benefits in accordance with Plan set-up.

(d) Prepare and issue periodic reports.

(e) Establish a toll free 800 number good in North America for Participants and Providers.

3.3 IHC shall conduct coordination of benefits consistent with the terms of the Plan. Sponsor shall obtain from Participants and provide IHC with any information in its possession regarding the existence of other coverage for a Participant. If another plan or carrier is primary for a Health Service, IHC shall direct Providers to first seek payment from that plan or carrier.

3.4 IHC may, but shall not be obligated to, assert, or may arrange for a third party to assert, any subrogation rights of Sponsor in regard to payments for Health Services. Sponsor shall cooperate with any such subrogation efforts. Sponsor shall receive any net subrogation recoveries, after deduction of the costs of recovery, including any costs IHC or a third party has incurred or amounts they are entitled to receive in regard to such subrogation efforts. However, IHC shall have no affirmative duty to pursue, or to contract with any third party to pursue, such rights of subrogation, and Sponsor may independently pursue such rights after 60 days written notice to IHC of its intent to do so on its own or through a third party. Subrogation shall be administered at the rates set forth in **Exhibit C**.

4. Online Enrollment.

4.1 In the event the parties utilize online enrollment of Participants, the following guidelines shall apply:

(a) It is the sole responsibility of the Sponsor to input enrollment data. Sponsor warrants and represents that such data shall be accurate, and shall hold IHC harmless for any claims by Participants relating to the input of any enrollment information.

(b) Upon request, Sponsor shall forward to IHC within forty-eight (48) hours a hard copy or electronic copy of the Participant's enrollment application, or any such form necessary to process the claim.

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5. On Site Meetings. Unless specified in **Exhibit C**, if Sponsor requires IHC's or any subcontractor's attendance at on-site meetings, or if any materials are requested by Sponsor, the charges for such attendance at meetings or materials shall be quoted upon request.

6. Reports. IHC shall provide Sponsor with a standard monthly, quarterly and annual reporting package.

7. Audit. IHC shall perform random and large claim audit in accordance with its standard practices. A copy of audit procedures will be made available to the Sponsor upon request.

8. Service. IHC shall provide Sponsor with a dedicated Account Representative.

9. Standard Medical Management (administration of medical plan only). IHC shall establish utilization review/quality assurance criteria for review of claims. Individual criteria for specific procedures and protocols will be made available to the Sponsor upon request.

   IHC shall provide the following medical management services in accordance with IHC's standard practice:

   - Pre-certification or Preauthorization
   - Medical necessity review

   IHC shall provide the following medical management services in accordance with IHC's standard practice:

   - Case Management
   - Preauthorization/Precertification Services
   - Chronic Condition Management

10. HCRA Administration (administration of medical plan only). As required under the 1996 and 2000 New York Health Care Reform Acts ("HCRA"), IHC shall calculate and forward HCRA surcharge payments to New York State on Sponsor's behalf.

11. Medical Help Line (administration of medical plan only). IHC shall provide access to a 24-hour medical help line for persons covered under the Plan, if elected, at the rate set forth in **Exhibit C**.

12. Claim Fiduciary. IHC shall provide second level appeals of adverse benefits determinations under the Plan at the rate set forth in **Exhibit C**, if elected.

13. Management of External Appeals. IHC shall manage external appeals at the rate set forth in **Exhibit C**, if elected. Rates charged for the external review by the independent review organization will be passed through to the Sponsor.

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14. Wellness and Disease Management. IHC shall provide access to online and/or onsite wellness and disease management programs, if elected, at the rate(s) set forth in **Exhibit C**.

15. Optional Medical Management. IHC shall provide access to additional utilization management, if elected, at the rate set forth in **Exhibit C**.

16. Limited English Proficiency (LEP) Compliance. If elected, at the rate set forth in **Exhibit C**, IHC shall provide LEP administrative services to Sponsor as set forth below:

(a) IHC will provide model non-discrimination notices to plan participants when transmitting documents that require a signature or response from the plan participant.
(b) IHC will include tag lines notifying plan participants of the availability of translation services in the top 15 languages as required by the Department of Health and Human Services.
(c) IHC will arrange for the provision of oral and written translation services if requested by a plan participant covered under Sponsor's Employee Health Benefit Program. Sponsor will pay IHC the fee listed in Exhibit C for the administrative services described in subsections (a) through (c) of this Section 7. In addition, Sponsor will be responsible for payment of any translation fees charged by IHC's vendor for the telephonic or written translation of documents. (d) Sponsor, not IHC, is responsible for any plan document or Summary Plan Description amendments required for IHC Section 1557 compliance.

17. Online Price Comparison Tool. For Plan Years beginning on or after January 1, 2022, IHC shall provide access, through a third-party service provider, to an online price comparison tool that will allow Participants to compare expected out-of-pocket costs for particular Health Services covered under the Plan across multiple Providers.

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19. Gag Clause Prohibition Attestation Services. The Employee Retirement Income Security Act Section 724 ("Section 724") prohibits group health plans from entering into an agreement with a health care provider, network, or other service provider that includes "gag clauses" that directly or indirectly restrict the group health plan from: (1) making available provider-specific cost and quality of care information or data to a variety of third parties, including, but not limited to, plan participants, referring health care providers, and individuals who are eligible to become plan participants; (2) electronically accessing de-identified claims and encounter information for plan participants in accordance with a variety of data protection laws, rules and regulations; and (3) sharing information or data set forth in subdivisions (1) or (2) in this section to their business associates, as defined in the Health Insurance Portability and Accountability Act's Privacy Rule, in accordance with a variety of data protection laws, rules, and regulations. Section 724 also requires group health plans to submit a Gag Clause Prohibition Attestation ("Attestation") to the U.S. Departments of Labor, Treasury, and Health and Human Services (collectively the "Departments") electronically using the Departments' online portal by December 31st of each year, beginning on December 31, 2023. In furtherance of Sponsor's compliance with Section 724, IHC agrees that its agreements with health care providers, networks, or other service providers do not include such gag clauses. IHC agrees to submit the Gag Clause Prohibition Attestation on behalf of Sponsor to the U.S. Departments by December 31st of each year, beginning with December 31, 2023. Concerning the provider networks IHC contracts with through a third party ("Third Party Networks"), IHC will use its best efforts to obtain similar attestations from its Third Party Network's compliance with Section 724 and it will rely on the Third Party Network's attestation of compliance with Section 724 when it submits Sponsor's Attestation. IHC does not represent or warrant the accuracy of a Third Party Network's attestation of compliance with Section 724.

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EXHIBIT C

ADMINISTRATIVE SERVICE FEE SCHEDULE FOR SERVICES

Sponsor shall pay the following Administrative Service Fees for the administrative services provided by IHC under this Agreement:

1. Sponsor has elected to make payment of the Administrative Service Fees under this Agreement using the Direct Bill payment method as more particularly described in Section 6.1 of the Agreement.

   For Health Services administration, Sponsor agrees to pay the following fees Per Employee Per Month ("PEPM"):

ADMINISTRATION	January 1, 2025 through December 31, 2025	January 1, 2026 through December 31, 2026	January 1, 2027 through December 31, 2027
Medical Claims Administration -Adjudication -Coordination of benefits administration -Issuance of Explanation of Benefits (EOBs) -Check printing -First level appeal management -Large claim and random claims audit -Standard reporting package **Network Access** -Access to Independent Health's proprietary network for participants in the service area **Eligibility Management Services** -Entry (electronic or paper) -Eligibility maintenance -Initial and maintenance ID Cards upon member enrollment (one card per member to a maximum of four per family) -Notice of Termination **Stop Loss** -Reporting	$48.35 PEPM	$50.00 PEPM	$51.50 PEPM

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HCRA Administration -Monthly reporting and submission of New York State Surcharges **Integrated Medical Management Services** -Provider Preauthorization (consistent with Independent Health established policy) -Member Precertification (if applicable based on benefit design) -High-Tech Radiology Precertification -Chronic Condition Management -Case Management -24-Hour Medical Help Line -Wellness Discounts (cost of programs not included, pass-through to client) **Account and Member Services** -Designated account manager and account specialist -Toll-Free member services number available Monday – Friday, 8 a.m. – 8 p.m. EST -Quarterly employer meetings -Annual plan performance review, including clinical and reporting analysis **Palliative Care Program** -Comprehensive care, provided by an interdisciplinary team, for patients living with a chronic, often progressive illness and their families. Specific services provided by the palliative care team may include: -Discussions about treatment choices and symptom management -Coordination of care with all health care providers -Emotional support for the patient and the family -24/7 telephone access to a	Monthly Charges for an enrolled member will be billed as a non-claims expense based on that month's utilization	Monthly Charges for an enrolled member will be billed as a non-claims expense based on that month's utilization	Monthly Charges for an enrolled member will be billed as a non-claims expense based on that month's utilization

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registered nurse -Social work visits to help access community support services -Regular phone contact to monitor the patient's condition and answer questions			
Claims Fiduciary- Second Level Appeals	$1.00 PEPM	$1.00 PEPM	$1.00 PEPM
Claims Fiduciary- External Appeals	$500 per appeal + IRO pass through	$500 per appeal + IRO pass through	$500 per appeal + IRO pass through
Vision	Included in Admin	Included in Admin	Included in Admin
Premier Linx	$1.30 PEPM	$1.30 PEPM	$1.30 PEPM
Gag Clause Prohibition Attestation Services	Subject to passthrough fee from National Network	Subject to passthrough fee from National Network	Subject to passthrough fee from National Network
TOTAL	$50.65 PEPM	$52.30 PEPM	$53.80 PEPM

*If elected by Sponsor, IHC shall collect the designated Consultant Fee as part of its total Administrative Service Fee and remit the Consultant Fee to the Sponsor's broker of record in accordance with the terms of the applicable broker agreement.

The following additional services provided by IHC are exclusive of the above quoted Administrative Service Fee and will be charged in accordance with the fees listed below:

Cost Containment Services (Out-of-Network Claims)
(Only if service provided by IHC).....35% of Savings

Wrap Network Access .....35% of Savings

Claim Audits .....35% of Savings

Subrogation (Only if service is provided by IHC).....35% of Savings

PPO Network Access (for employees living outside of WNY service area) $12.50 PEPM

External Review Services .....Fee Pass Through

Ad Hoc or Custom Reporting .....$175 per hour

Custom Programming .....$175 per hour

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Printing for member materials .....Cost + 10%

Medicare Secondary Payer (MSP Reporting).....Quoted Upon Request

Global ID card reissue .....Quoted Upon Request

Clinical Integration * .....$3.81 PMPM

**Pass through payment to Catholic Medical Partners for initiatives aimed at improving care coordination and quality. Applies only to those members with CMP PCPs.*

Wellness/Disease Management/Optional Medical Management Implementation Fee.....Quoted Upon Request

Preparation of SPD .....Quoted Upon Request

The following additional services, when requested and agreed upon by the client, and provided by IHC are exclusive of the above Administrative Service Fees and will be charged in accordance with the fees listed below.

Retroactive Overpayment Requests.....$15.00 per request letter

Summary Material Modification (Amendment) Development.....$250 Standard; Customized Amendment Qu Upon Request

Summary of Benefits and Coverage[*].....Quoted Upon Request

Summary of Benefits and Coverage Amendments/Changes……...Quoted Upon Request

[*]*Printing and distribution will be the responsibility of the Sponsor.*

2. The cost of the development and printing of Member Enrollment Kits for the initial year of this Agreement is included in this start-up fee. In subsequent years, a fee will be assessed for these services.

3. Any additional services not listed in this **Exhibit C**, as agreed upon by both parties and performed by IHC shall be billed on an hourly basis in accordance with the fees listed below:

Employee	Fee Per Hour
Executive Officers	$200.00
Directors	$125.00
Staff	$ 75.00

Service	Fee Per Hour
Ad Hoc or Custom Reporting	$175
Custom Programming	$175

Payments for additional services rendered are to be made in accordance with the procedure

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for payment of the Administrative Service Fee pursuant to Paragraph 1 of this **Exhibit C**, and Section 6.1 of this Agreement.

4. Run-Out: If requested in writing by Sponsor, IHC will continue to administer claims payment for dates of service incurred prior to the termination date of the Agreement for three (3) months after the termination date of the Agreement at the current Administrative Service Fee as set forth in Paragraph 1 (or the Administrative Renewal Addendum) above. In the event IHC continues to provide administrative services beyond the third month, the fee for such continued administrative services shall be fifty percent (50%) of the current Administrative Service Fee noted above for the fourth, fifth and sixth month beyond the termination date of this Agreement, then fifteen dollars ($15) per claim thereafter.

5. Preparation of SPD. IHC may prepare a draft SPD for Sponsor at an additional fee. Such fee shall be quoted upon request, unless otherwise specified above.

6. Amendments to SPD. IHC may prepare draft amendments to the SPD for Sponsor, of required or discretionary amendments, at an additional fee. Such fee shall be quoted upon request.

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EXHIBIT D

BANKING ARRANGEMENT

Health Service claims are submitted by Participants or Providers to IHC for Payment.

1. IHC processes the claims and produces a biweekly check write and check register. The Sponsor maintains a claims checking account ("Claims Account") at the bank selected by Sponsor for the payment of Health Service claims. The Sponsor performs all bank reconciliations on this account and pays all bank fees.

2. IHC will provide 2 business days' notice to the Sponsor by fax or e-mail of the amounts necessary for claims payments.

3. Within 2 business days of notification from IHC, the Sponsor will transfer funds to the Sponsor's Claims Account.

4. Sponsor shall execute an ACH Authorization Form, a sample of which is attached hereto as Attachment 1, in order to permit IHC's payment vendor to access Sponsor's Claims Account for the purpose of making payments to the Providers. Payment vendor will ACH pull the claim payment total amount in its entirety and will release claim payments to Providers and/or Participants, as applicable.

5. IHC will forward copies of the check register to the Sponsor at that time.

6. Monthly, IHC will forward any voids and refunds received during that month to the Sponsor for the Sponsor to deposit either in the Claims Account or an account of their choosing.

7. Administrative Service Fees are invoiced monthly by IHC, or deducted from the Claims Account, as elected by the Sponsor in **Exhibit C**.

CONFIDENTIAL
Town of Amherst

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Exhibit D, Attachment 1

zelis

ACH AUTHORIZATION FORM

Date

Company Name
Address
City, State, Zip

Account for Credit Entries	**Account for Debit Entries**
Name of Bank:	**Name of Bank:**
Routing Number:	**Routing Number:**
Account Number:	**Account Number:**
Tax ID:	**Tax ID:**

By signing this ACH Authorization Form ("ACH Form"), Payer's subcontractor, Zelis Payments, LLC (**formally known as PAY PLUS SOLUTIONS INC**.)("Subcontractor") is authorized to credit or debit the account number listed above (the "Account") in connection with processing health plan payment transactions. Account Owner also agrees to be bound by National Automated Clearing House Association rules ("NACHA"). These rules provide, among other things, that debits and credits are provisional until final settlement is made through a Federal Reserve Bank or payment is otherwise made as provided in Article 4A-403(a) of the Uniform Commercial Code.

In addition, Account Owner agrees Subcontractor may make adjustments to the Account whenever a correction or change is required. For example, if Subcontractor makes an error with respect to a debit or credit, you agree Subcontractor may correct such error immediately. The right to make such adjustments shall not be subject to any limitations or time constraints, except as required by law. Account Owner agrees that Subcontractor may test the account by first crediting the Account in the amount not to exceed $1 and then debiting the same amount back. This will affirm the Account is set-up properly. Debit transactions may show the company name of Zelis or Pay-Plus. Further, the above banking institution will be given notice by the Account Owner to **REMOVE ANY DEBIT BLOCK OR DEBIT LIMIT** for Subcontractor by providing a copy of this form to the financial institution listed above noting "***Originating Company ID: 6452579291***".

This ACH Form shall remain in effect unless and until our Subcontractor has received written notification from you indicating that your authorization and this ACH Form have been terminated in such time and manner to allow us and our Subcontractor to act. The undersigned represents and warrants that the person executing this ACH Form is an authorized Signatory on the Account referenced above and all information regarding the Account and Account Owner is true and correct.

Signatory or Account Owner

Print Name

Title

Date

PROVIDE AN EXECUTED ACH AUTHORIZATION FORM COPY TO THE BANK LISTED ABOVE

Bank Notification:

Remove any DEBIT BLOCK or DEBIT LIMIT for "*Originating Company ID: 6452579291*"

CONFIDENTIAL
Town of Amherst

P

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EXHIBIT E

STOP-LOSS INSURANCE
(if applicable)

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EXHIBIT F

PERFORMANCE LEVEL GUARANTEES
(if applicable)

Attachment: ASA and BAA -Town of Amherst 2025-2027 (RES-2024-1011 : Extend RFP #202005 for Medical Administration Services - CRS

EXHIBIT G
INDEPENDENT HEALTH CORPORATION
HIPAA BUSINESS ASSOCIATE AGREEMENT

This **HIPAA BUSINESS ASSOCIATE AGREEMENT** ("Agreement") is made as of **January 1, 2025**, by and between **INDEPENDENT HEALTH CORPORATION** ("Business Associate" or "IHC") and **TOWN OF AMHERST**, as ("Plan Sponsor") of a group health plan ("Covered Entity").

A. **Introduction.** Covered Entity will make available and/or transfer to Business Associate certain information that is confidential and must be afforded special treatment and protection so Business Associate may perform services for Covered Entity under a separate Administrative Services Agreement ("ASA"). Business Associate agrees that such information shall constitute Protected Health Information and can be Used or Disclosed only in accordance with this Business Associate Agreement and a collection of federal laws, rules and regulations, including but not limited to, the Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-191, 110 Stat. 1936 (codified in scattered sections of 29 U.S.C. and 42 U.S.C.) ("HIPAA") Privacy Rule and Security Rule, the Health Information Technology for Economic and Clinical Health Act, 42 U.S.C. §§17921-17954 ("HITECH Act"), the Omnibus HIPAA Final Rule (78 Fed. Reg. 5566 (Jan. 25, 2013) (to be codified in scattered sections of 45 C.F.R. Parts 160 and 164)) ("Omnibus Rule") (collectively these federal rules are referred to collectively in this Business Associate Agreement as the "HIPAA Rules") and applicable state and federal laws, rules and regulations regarding the privacy, confidentiality and security of specific types of health information.

IHC is a "Business Associate" under the Privacy and Security Rules, with respect to its role as a third party administrator for self-funded group health plans. IHC performs certain administrative services for or on behalf of Covered Entity which involves access to and the disclosure of Protected Health Information.

B. **Definitions**. For the purposes of this Business Associate Agreement, the following terms shall have the following meaning:

1. "HITECH Act" means the Health Information Technology for Economic and Clinical Health Act, as enacted in the American Recovery and Reinvestment Act of 2009, 42 U.S.C. §§17921-17954. All references to the "HITECH Act" in this Business Associate Agreement shall be deemed to include the Omnibus Rule.

2. "Privacy Rule" means the HIPAA Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. Parts 160 and 164, Subparts A and E as amended, clarified and supplemented from time to time. All references to the "Privacy Rule" in this Business Associate Agreement shall be deemed to include the Omnibus Rule.

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3. "Security Rule" means the HIPAA Security Standards for the Protection of Electronic Protected Health Information at 45 C.F.R. Part 160 and Part 164, Subparts A and C as amended, clarified and supplemented from time-to-time. All references to the "Privacy Rule" in this Business Associate Agreement shall be deemed to include the Omnibus Rule.

4. "Standard Transactions Rule" means the HIPAA Standards for Electronic Transactions at 45 C.F.R. Parts 160 and 162.

5. The following terms used in this Business Associate Agreement shall have the same meaning ascribed to them in the HIPAA Rules: Access, Breach, Business Associate, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Electronic Protected Health Information ("Electronic PHI"), Genetic Information, Individual, Individually Identifiable Health Information, Marketing, Minimum Necessary, Notice of Privacy Practices, Personal Health Records, Protected Health Information ("PHI"), Required By Law, Secretary, Security Incident, Business Associate, Unsecured Protected Health Information ("Unsecured PHI"), Use, Payment and Treatment. For purposes of this Business Associate Agreement, unless otherwise specified, all obligations of Business Associate relating to PHI also shall apply to Electronic PHI.

C. **Nature of Use and Disclosure of Information**. Business Associate shall be permitted to Use and/or Disclose PHI provided or made available from Covered Entity solely to provide the services set forth in the ASA and as specifically set forth in this Section C. Business Associate shall not Use or Disclose the PHI provided or made available by Covered Entity for any purpose other than as: (1) expressly permitted by this Business Associate Agreement or the ASA; (2) as Required By Law; (3) permitted with Covered Entity's prior written consent; (4) necessary to Business Associate's employees, agents or representatives who need to know such PHI for the purposes set forth in the ASA; (5) to carry out Business Associate's legal responsibilities; or (6) for Data Aggregation for Covered Entity's Health Care Operations purposes. Furthermore, Business Associate may not Use or Disclose PHI in a manner that would violate 45 C.F.R. Part 164, Subpart E if done by Covered Entity.

D. **Business Associate's Obligations**.

1. Limits On Use And Disclosure. Business Associate agrees that the PHI provided or made available by Covered Entity shall not be Used or Disclosed other than as specifically set forth in Section C of this Business Associate Agreement.

2. Appropriate Safeguards. Business Associate shall establish and maintain appropriate administrative, technical and physical safeguards to protect the confidentiality, integrity and availability of PHI and Electronic PHI and to prevent any use or disclosure of the PHI other than as provided in Section C of this Business Associate Agreement.

3. Compliance with Security Rule. Business Associate shall comply with the Security Rule.

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4. Breach Reports. Following completion of its internal investigation, Business Associate shall report to Covered Entity, any of the following events (collectively referred to in this paragraph as "Breach"): (a) any Use or Disclosure of PHI not permitted under by Section C of this Business Associate Agreement or permitted by law; (b) any Security Incident as defined in 45 C.F.R. §164.304; (c) any "breach of the security of the system" as defined in New York General Business Law Section 899-aa(1)(c); and (d) any Breach of Unsecured PHI as defined at 42 U.S.C. §§17921 and 17932(h) and 45 C.F.R. §164.402. Business Associate's written report shall:

(i) identify the nature of the non-permitted Access, Use or Disclosure, including the date of the Breach and the date of discovery of the Breach;

(ii) identify the PHI Accessed, Used or Disclosed as part of the Breach;

(iii) upon request, assist Covered Entity in the performance of a risk assessment concerning the Breach;

(iv) identify what corrective action Business Associate took or will take to prevent further non-permitted Access, Use or Disclosure;

(v) identify what Business Associate did or will do to mitigate any harmful effect(s) of the non-permitted Access, Use or Disclosure;

(vi) provide such other information as Covered Entity may require to supplement Business Associate's written report;

(vii) cooperate with Covered Entity in its efforts to mitigate the Breach and comply with the HIPAA Rules and any applicable state breach notification rules; and

(viii) provide such other information as may be required pursuant to subsequently issued regulations issued under the HIPAA Rules.

The parties acknowledge that unsuccessful attempts to Access, Use, Disclose, modify or destroy Electronic PHI or to interfere with information system operations (collectively "Unsuccessful Security Events") occur daily and include but are not limited to events such as pings on Business Associates' firewall, port scans, attempts by an authorized user to enter a database with an invalid password or username or a denial-of-service attack that does not result in a server being taken off-line. As such, the parties acknowledge that real-time reporting of such Unsuccessful Security Events by Business Associate to Covered Entity would be a formidable task and it is not the intention of the parties to have Business Associate report Unsuccessful Security Events to Covered Entity under this Section D (4). Further, Covered Entity agrees that an inadvertent disclosure by Business Associate to another Covered Entity or to a subcontractor with whom Business Associate has a Business Associate Agreement in place shall not constitute a Breach as defined in this Agreement, provided that Business Associate ensures that any PHI disclosed

inadvertently is returned or destroyed and, as such, shall not require disclosure to Covered Entity under this Section D (4).

5. Right of Access to Information & Amendments. If Covered Entity provides Business Associate with PHI that is part of a Designated Record Set, within fifteen (15) days of Covered Entity's request, Business Associate agrees: (a) to provide access to such PHI to Covered Entity or, when directed by Covered Entity, to an Individual in order for Covered Entity to meet the access to information provisions of the Privacy Rule, including providing access to PHI in electronic form (if readily producible) under 45 C.F.R. §164.524 (c)(2) and (b) to make any amendments(s) to such PHI.

6. Providing Accounting. Under the Privacy Rule, Covered Entity must provide Individuals an accounting of certain Disclosures of their PHI for a reason other than Treatment, Payment and Health Care Operations. To assist Covered Entity in providing this information to Individuals, Business Associate agrees to document Disclosures of PHI and information related to such Disclosures for reasons other than Treatment, Payment and Health Care Operations during the Term of the Agreement to enable Covered Entity to respond to an Individual's request for an accounting of disclosures of PHI and make available such information to Covered Entity within ten days of Covered Entity's request for the information. If Business Associate (or its agents or subcontractors, if applicable) receives a request for an accounting of disclosures directly from an Individual, Business Associate shall forward such request to Covered Entity within fifteen (15) days of receipt. It shall be Covered Entity's responsibility to prepare and deliver any such accounting requested.

7. Audits By the Secretary. Business Associate agrees: (a) to make its internal practices, books and records relating to the Use or Disclosure of PHI received from, or created or received by Business Associate on behalf of Covered Entity, available to the Secretary for purposes of determining Covered Entity's compliance with the HIPAA Rules; (b) to cooperate fully with Covered Entity when responding to such regulatory audits and investigations; and (c) to concurrently provide Covered Entity with copies of the information it provides to the Secretary.

8. Additional Business Associate(s). Business Associate shall enter into a written agreement to ensure that any subcontractors that create, receive, maintain or transmit PHI on behalf of Business Associate agree to the same restrictions, conditions and requirements that apply to Business Associate with respect to such PHI. If the agreement entered into between Business Associate and its subcontractors(s) permits additional subcontracting, Business Associate shall ensure that its subcontractor requires its subcontractors to agree to the same restrictions, conditions and requirements that apply to Business Associate with respect to such PHI.

9. Minimum Necessary. Business Associate warrants, on its behalf and on behalf of its subcontractors, if any, that it will only request and use the minimum amount of PHI necessary to perform the stated purpose(s) of the ASA as set forth in Section C of this Business Associate Agreement.

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E. **Additional Business Associate Obligations.**

1. Mitigation Procedures. Business Associate shall mitigate to the maximum extent, any harmful effect(s) arising out of or from the intentional or inadvertent Use or Disclosure of PHI that is or could be contrary to this Business Associate Agreement, the HIPAA Rules or that could damage third parties.

2. Sanctions. Business Associate shall develop, implement and maintain sanction procedures for any employee, subcontractor agent who violates the terms of this Business Associate Agreement or the HIPAA Rules.

3. Indemnification. The indemnification provisions of the ASA shall apply to any breach of this Business Associate Agreement.

4. Property Rights. The PHI shall be and remain the property of Covered Entity. Neither Business Associate nor its subcontractor(s), if any, shall acquire title or rights to the PHI, excluding any de-identified information, as a result of this Business Associate Agreement or the ASA, unless such PHI also include proprietary information of Business Associate.

5. Response to Government Authorities. Business Associate shall notify Covered Entity within fifteen (15) business days of receipt of a governmental or administrative subpoena(s) or any informal request(s) from a governmental entity relating in any way to the PHI provided pursuant to this Business Associate Agreement and allow Covered Entity to seek a protective order or otherwise challenge the subpoena or request before responding thereto.

6. No Sale of PHI. Business Associate shall not directly or indirectly receive financial or in-kind remuneration in exchange for any PHI in compliance with 45 C.F.R. §164.502(a)(5)(ii).

7. Marketing. Business Associate shall not make or cause to be made any marketing communications about its products or services that is prohibited by 42 U.S.C. §17936(a) or 45 C.F.R. §164.508(a)(3).

8. Fundraising. Business Associate shall not make or cause to be made any written fundraising communication that is prohibited by 45 C.F.R. §164.514(f).

9. Restriction Requests. If applicable, Business Associate shall abide by any restriction request agreed to by Covered Entity under 45 C.F.R. §164.522(a) within fifteen (15) business days of receiving notice of such by Covered Entity.

10. Confidential Communications. If applicable, Business Associate shall abide by any confidential communication requirements that Covered Entity is subject to

under 45 C.F.R. §164.522(b) within fifteen (15) business days of receiving notice of such by Covered Entity.

11. Genetic Information. If applicable, Business Associate shall not Use or Disclose PHI that is Genetic Information for underwriting purposes, as defined at 45 C.F.R. §164.502(a)(5), conducted on behalf of Covered Entity.

12. Audits, Inspection and Enforcement. Within fifteen (15) days of a written request by Covered Entity, Business Associate and its agents or subcontractors, if any, shall allow Covered Entity to conduct a reasonable inspection of its facilities, systems, books, records, agreements, policies and procedures relating to the Use or Disclosure of PHI and the implementation of appropriate security safeguards pursuant to this Agreement for the purpose of determining whether Business Associate has complied with this Business Associate Agreement; provided, however, that: (a) Business Associate and Covered Entity shall mutually agree in advance upon the scope, timing and location of such an inspection; (b) Covered Entity shall protect the confidentiality of all confidential and proprietary information of Business Associate to which Covered Entity has access during the course of such inspection; (c) Covered Entity shall execute a nondisclosure agreement, upon terms mutually agreed upon by the parties, if requested by Business Associate; and (d) such inspection shall not occur more than once annually or, in the event of a Breach described in Section D (4) of this Business Associate Agreement, within thirty days of the Breach in question. The fact that Covered Entity inspects, or fails to inspect, Business Associate's facilities, systems, books, records, agreements, policies and procedures does not relieve Business Associate of its responsibility to comply with this Business Associate Agreement, nor does Covered Entity's: (i) failure to detect; or (ii) detection, but failure to notify Business Associate or require Business Associate's remediation of any unsatisfactory practices, constitute acceptance of such practice or a waiver of Covered Entity's enforcement rights under this Agreement.

13. Standard Transactions. If Business Associate conducts in whole or in part Standard Transactions for or on behalf of Covered Entity, Business Associate shall comply with the Standard Transaction Rule.

14. De-Identified Information. Business Associate may store, analyze, access and use components of PHI that have been de-identified in accordance with 45 C.F.R. §164.514 and that do not contain any PHI or Individually Identifiable Health Information, provided that any such use is consistent with applicable law.

F. **Disclosure of PHI to Covered Entity**. Covered Entity makes the following representations to Business Associate:

1. Plan Sponsor. Covered Entity is the Plan Sponsor.

2. Plan Document. The plan document has been amended as required under 45 CFR §164.504(f)(2), and contains all other provisions necessary to comply with the

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Privacy and Security Rules and the HITECH Act, and to permit Business Associate to disclose PHI to Covered Entity.

3. Certification and Adequate Separation. Covered Entity shall provide Business Associate with a Plan Sponsor Certification that it:

(i) will use and disclose PHI it receives from Business Associate only to perform the plan administrative functions;

(ii) has implemented procedures to provide for adequate separation between employees of Covered Entity who have access to PHI received from Business Associate to perform the plan administrative functions and all other employees of Covered Entity;

(iii) has safeguards in place, and satisfies all other requirements under law with respect to any PHI and Electronic PHI it receives from Business Associate; and

(iv) has amended the plan document as required by 45 CFR §164.504(f)(2), and will take all other action necessary to comply and continue to comply with the Privacy and Security Rules or the HITECH Act which are necessary to permit Business Associate to disclose PHI to Covered Entity consistent with this Agreement.

4. Additional Representations.

(i) Covered Entity will notify Business Associate immediately if any of its representations in this Section are no longer true.

(ii) Covered Entity will not request PHI from Business Associate, or request Business Associate to use or disclose PHI, beyond what is minimally necessary to accomplish the intended purpose or in any other manner not permitted under the plan document, the plan's notice of privacy practices, the Privacy and Security Rules or the HITECH Act.

5. Minimum Necessary Disclosure. Except in the case of disclosure of PHI to Covered Entity pursuant to a HIPAA-compliant authorization, Business Associate will make reasonable efforts to ensure that the amount of PHI disclosed to Covered Entity in accordance with this Section will be the minimum amount necessary to accomplish the intended purpose, as required, but subject to the exceptions provided under 45 CFR §164.502(b).

G. **Term and Termination.**

1. Term. This Business Associate Agreement shall become effective on the Effective Date of the ASA and shall continue until terminated by Covered Entity or the ASA expires or is terminated. In addition, certain provisions and requirements of this Business Associate Agreement shall survive its expiration or other termination of this

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Business Associate Agreement as noted herein.

2. Material Breach. A breach by Business Associate of any material provision of this Business Associate Agreement, as determined by Covered Entity, shall constitute a material breach and shall provide grounds for immediate termination of the Agreement by Covered Entity.

3. Reasonable Steps to Cure Breach. If Covered Entity knows of a pattern of activity or practice of Business Associate that constitutes a material breach or violation of Business Associate's obligations under the HIPAA Rules or the provisions of this Business Associate Agreement and does not terminate the Business Associate Agreement, then Business Associate shall take reasonable steps to cure such breach or end such violation, as applicable. If Business Associate's efforts to cure such breach or end such violation are unsuccessful, Covered Entity shall terminate this Business Associate Agreement and the ASA, if feasible. The obligations set forth in this Section are reciprocal and shall apply to Business Associate if it knows of a pattern of activity or practice of Covered Entity that constitutes a violation of Covered Entity's obligations under the HIPAA Rules and Business Associate shall cause this obligation to apply to its subcontractors, if permitted under the ASA.

4. Judicial or Administrative Proceedings. Either party may terminate this Business Associate Agreement and the Agreement, effective immediately, if: (a) the other party is named as a defendant in a criminal proceeding for a violation of the HIPAA Rules or applicable state law; or (b) a finding or stipulation that the other party has violated any standard or requirement of the HIPAA Rules or applicable state laws is made in any administrative or civil proceeding in which the party has been named.

5. Effect of Termination. Upon termination of this Business Associate Agreement for any reason, Business Associate shall return or destroy all PHI that Business Associate or its agents or subcontractors, if any, still maintain in any form and shall retain no copies of such PHI. If return or destruction is not feasible, Business Associate shall continue to extend the protections of Sections C, D and E of this Business Associate Agreement to such PHI, limit further Use of such PHI to those purposes that make the return or destruction of such PHI infeasible and retain such PHI for six years from the date this Business Associate Agreement terminates. If Business Associate elects to destroy the PHI, Business Associate shall cause one of its authorized corporate officers to certify in writing to Covered Entity that such PHI has been destroyed. This provision shall survive the termination of this Business Associate Agreement for any reason.

H. **Miscellaneous.**

1. Amendments. The parties agree to take such action as is necessary to amend this Business Associate Agreement from time-to-time so the parties may comply with the requirements of the HIPAA Rules, including but not limited to the Privacy and Security Rules. This Business Associate Agreement may be modified, or any rights under it waived,

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only by mutual consent and a written document executed by authorized representatives of both parties.

2. Ambiguity. Any ambiguities in this Business Associate Agreement or its defined terms shall be resolved in favor of a meaning that promotes the parties' compliance with the HIPAA Rules.

3. Survival. The confidentiality and security obligations hereunder are perpetual and shall survive the termination of the ASA or this Business Associate Agreement for any reason.

4. Disclaimer. Each party is solely responsible for all decisions it makes regarding the Use, Disclosure and safeguarding of PHI.

5. No Agency. The parties agree and acknowledge that Business Associate is an independent contractor and it is not the intention of either party, whether expressed or implied, to create an agency relationship under the Federal Common Law of Agency.

IN WITNESS WHEREOF, the parties have duly executed this Business Associate Agreement concurrently with the execution of the ASA.

INDEPENDENT HEALTH CORPORATION	**TOWN OF AMHERST**
By: _____	By: _____
Print Name: _____	Print Name: _____
Title: _____	Title: _____

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Independent Health
SELF-FUNDED SERVICES

Self-Funded Medical Administrative Service Quote

The following services/items will be included in the administrative fee for **Town of Amherst.** Administrative fees quoted are valid for 90 days beginning **August 6, 2024** based on an estimated population of **1,744** enrolled employees.

Medical Claims Administration:

- Adjudication
- Coordination of benefits administration
- Issuance of Explanation of Benefits (EOBs)
- Checkwrite Process
- First, second and external appeal management
- Large claim and random claims audit
- Standard reporting package

Network Access:

- Access to Independent Health's proprietary network for participants in the 23-county regional service area of Western New York

Eligibility Management Services:

- Entry (electronic or paper)
- Eligibility maintenance
- Initial and maintenance ID Cards upon member enrollment (one card per member -maximum of four per family)
- Notice of terminations

Stop Loss:

- Marketing
- Reporting

HCRA Administration:

- Monthly reporting and submission of New York State Surcharges

Integrated Medical Management Services:

- Provider Preauthorization (consistent with Independent Health established policy)
- Member Precertification (if applicable based on benefit design)
- High-Tech Radiology Precertification
- Chronic Condition Management
- Case Management
- 24-Hour Medical Help Line
- Wellness Discounts (cost of programs not included, pass-through to client)

Account and Member Services:

- Designated account manager and account specialist
- Toll-Free member services number available Monday – Friday, 8 a.m. – 8 p.m. EST
- Quarterly employer meetings
- Annual plan performance review, including clinical and reporting analysis

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Medical Services Administrative Quote to include above services:

	When offered with PBD®	When offered without PBD®
1/1/2025 – 12/31/2025	$48.35 PEPM	$50.35 PEPM
1/1/2026 – 12/31/2026	$49.30 PEPM	$51.30 PEPM
1/1/2027 – 12/31/2027	$50.30 PEPM	$52.30 PEPM

DOES NOT INCLUDE PBD RATES – DEVELOPED SEPARATELY BY PBD

The following additional services provided by Independent Health are exclusive of the above quoted administrative fee and will be charged in accordance with the fees listed below:

Cost Containment Negotiation (Out-of-Network Claims) .....35% of Savings Claim
Premier Linx.....$1.30 PEPM
Audits ..... .35% of Savings
External appeal management.....IRO pass-through
Subrogation ..... 35% of Savings
PPO Network Access –(Only if needed for employees living outside the Independent Health 23 county regional service area).....$5.00 PEPM
Travel Network Access ..... 35% of Savings
Ad Hoc or Custom Reporting ..... $175 per hour
Custom Programming ..... $175 per hour
Printing for member materials..... Cost + 10% Global ID
Card Reissue for client requested plan changes .....Quoted upon request
Clinical Integration**..... $3.81 PMPM

**Additional charges may apply if custom programming is required*
***Pass through payment to Catholic Medical Partners for initiatives aimed at improving care coordination and quality. Applies only to those members with CMP PCPs.*

OPTIONAL SERVICES

In addition to the standard services/items quoted above, Independent Health is offering the following optional services. Please check those that you will be purchasing.

PLAN COMPLIANCE SUPPORT			
Summary of Benefits and Coverage*	$250 per document	☐ Yes	☐ No
Summary of Benefits and Coverage Amendments or Changes	$100 per document	☐ Yes	☐ No
Summary Plan Description Development	Quoted Upon Request	☐ Yes	☐ No
Summary Plan Description Printing & Distribution	cost + 10%	☐ Yes	☐ No
Summary Material Modification (Amendment) Development	Quoted Upon Request	☐ Yes	☐ No
TELADOC			
Teladoc – General Medicine	$1.10 PEPM	☐ Yes	X No
Teladoc – General Medical, Behavioral Health & Dermatology	$1.65 PEPM	☐ Yes	X No
INTEGRATION WITH EXTERNAL PBM (if accumulator sharing is needed only one fee will apply)			

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Eligibility Sharing	$2.00 PEPM	☐ Yes	☐ No
Accumulator Sharing for Out-of-Pocket	$1.00 PEPM	☐ Yes	☐ No
Accumulator Sharing for Deductible and Out-of-Pocket	$2.00 PEPM	☐ Yes	☐ No
EXTERNAL VENDOR DATA EXCHANGE (Non PBM)			
One External Vendor - IHSFS Standard File Format - Custom File Format	 $1.00 PEPM $2.00 PEPM	☐ Yes	☐ No
Two External Vendors - IHSFS Standard File Format - Custom File Format	 $2.00 PEPM $3.00 PEPM	☐ Yes	☐ No
Three or more External Vendors	Quoted upon request	☐ Yes	☐ No
ADDITIONAL PROGRAMS			
FitWorks Prime Wellness Program	Quoted Upon Request	☐ Yes	X No
Brook Health Companion	$ .50 PEPM	☐ Yes	X No
Brook+ (Diabetes Prevention Program) Milestone 1: $160; Milestone 2: $160 Milestone 3: $160; Milestone 4: $70	Billed as a claim, based on eligible members milestone achievements	☐ Yes	☐ No
Health Extras (Plan funds utilization)	$1.95 PEPM	☐ Yes	X No
Health Equity HSA/HRA	$2.00 per participant per month	☐ Yes	X No
Vision (EyeMed)	Included in Base	X Yes	☐ No
Section 1557/LEP	$.17 PEPM	☐ Yes	X No
Benefit Engage Secure Portal for Enrollment	$ 2.25 PEPM	☐ Yes	X No
RedShirt Rewards (Plan funds utilization) Rewards program incentivizes members to actively participate in a variety of health and wellness activities designed to better manage their health. Available to Subscribers, Spouses and Dependents 18 years of age and older.	$.25 activation for each $10 reward per service ($30 annual limit per eligible member)	☐ Yes	X No

Your signature on the line below indicates your acceptance of these rates, as well as your authority to sign on behalf of the **Town of Amherst**. Please return a signed copy of the Administrative Service and Additional Services quote pages to your Account Executive so that we can begin making the preparations for implementation, which typically occurs during the 60 days prior to the plan effective date. It is understood that Independent Health and **Town of Amherst** are in the process of negotiating an Administrative Services Agreement to cover the terms and conditions under which this relationship shall proceed. These quote pages will be incorporated into that agreement. It is understood that the Administrative Service Agreement must be completed in advance of the plan effective date.

Signature and Title _____ **Date**_____

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

Francina J. Spoth
Town Clerk

Meeting: 12/16/24 07:00 PM
Department: Contract Compliance
Initiated by: **Lynda Juul**
Co-Sponsored by: **Supervisor Brian J. Kulpa**

DOC ID: 29766 **RESOLUTION 2024-1012** **ADOPTED**

Extension of RFP #202107 Town Wide Dental Administration Services - CRS #5252

WHEREAS, The Guardian Life Insurance Company of America has agreed to extend RFP #202107 for Town Wide Dental (Original CRS #3034) as per the attached Extension Agreement; and

WHEREAS, Town staff as well as the Town's Employee Benefits Consultant recommend this extension;

NOW, THEREFORE, BE IT RESOLVED, the Town Board approves a three-year extension of the contract with The Guardian Life Insurance Company of America through December 31, 2027; and

BE IT FURTHER RESOLVED, the Town Board authorizes the Supervisor to sign the contract extension with The Guardian Life Insurance Company of America; and

BE IT FURTHER RESOLVED, that approval is pending successful completion of the Contract Routing System due to the fact that the current contract expires on 12/31/2024.

12/16/2024
Consent

FINANCIAL IMPACT:

Town Wide; Various Accounts; Amount TBD

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 Lavin

COUNCILMEMBERS
Jacqualine Berger
Angela Marinucci
Michael Szukala

EXTENSION AGREEMENT

The Guardian Life Insurance Company of America agrees to extend the current contract with the Town of Amherst for RFP #202107 (Original CRS #3034) for Dental Administration Services for an additional two-year term. The contract term will be January 1, 2025 through December 31, 2026, at the following renewal rates:

Current Fee:	Renewal Monthly Fee:
$4.55 per employee per month	$4.65 per employee per month

Renewal rates shall be guaranteed for the two-year term.

SIGNED:

The Guardian Life Insurance Company of America	Brian J. Kulpa, Supervisor Town of Amherst
Dated: _____	Dated: _____

Attachment: The Guardian Extension Agreement (RES-2024-1012 : Extension of RFP #202107 Town Wide Dental Administration Services - CRS



It's renewal time!

Guardian is here to help.

RENEWAL INFORMATION FOR

TOWN OF AMHERST
GROUP PLAN # 00249878

RENEWAL PERIOD
January 1, 2025 - December 31, 2025

Guardian

guardiananytime.com
The Guardian Life Insurance Company of America, New York, NY.

Attachment: Town of Amherst 1.1.25 Dental Renewal - Board Final (RES-2024-1012 : Extension of RFP #202107 Town Wide Dental

What you'll find in this package

RENEWAL INFORMATION	PAGE
Commission Disclosure	4
Renewal Premiums At-a-Glance	5
Renewal Rates At-a-Glance	6
ASO Dental Details	7

Please note:

If your group plan includes multiple lines of coverage, a multi-line discount was used in the pricing. If you do not wish to renew all lines of coverage, please contact us for revised pricing.

Guardian

guardiananytime.com
The Guardian Life Insurance Company of America, New York, NY.

Attachment: Town of Amherst 1.1.25 Dental Renewal - Board Final (RES-2024-1012 : Extension of RFP #202107 Town Wide Dental

Participating Policy and Producer Compensation Disclosure Statement

Participating Policy Statement:

Any commercial insurance group policy underwritten and issued by The Guardian Life Insurance Company of America New York Domiciled mutual company, is a participating policy. It is not expected, however, that a dividend will be paid any such group policies. All coverage will be provided as set forth in the policies.

Producer Compensation Disclosure:

As is common with Group insurance, your coverage(s) might involve one or more licensed producers who will recei compensation from Guardian for soliciting, negotiating, securing and/or administering the insurance coverage(s) you ha purchased. Compensation to these producers may be paid in the form of base commissions, administrative servi commissions and, in some instances, supplemental compensation (e.g., an annual performance bonus). For more detail information regarding producer compensation relative to your Guardian coverage(s), please contact your Guardian loc sales consultant or account manager.

Compensation is generated based upon premium which has been remitted by the planholder and applied by Guardia Graded Commission scales, which can vary by product, are calculated based upon decremental scales (i.e. percenta payable decreases as defined premium thresholds are attained). Graded commission scales refresh annually upon ea plan's anniversary. For DHMO, Supplemental Health, SMD and/or ASO Vision commission information, or for any oth questions, please contact your local Guardian sales consultant or account manager.

If commissions are paid based on a percentage basis, the percentage is calculated monthly on enrolled lives, not eligil lives. Graded commission scales are calculated as a percentage of annual premium and are on a sliding scale.

Product	Commissions
Dental ASO	19.8%

Attachment: Town of Amherst 1.1.25 Dental Renewal - Board Final (RES-2024-1012 : Extension of RFP #202107 Town Wide Dental

Renewal Premiums At-a-Glance

EMPLOYER-SPONSORED COVERAGE		
Coverage	**Current Annual**	**Renewal Annual**
ASO Dental	$46,738	$47,765

KEY POINTS OF INFORMATION REGARDING PLAN PRICING

- Product-specific rates shown in this package have been determined based on a number of factors, including employee age and gender, group location, changes in group size and claims experience (when applicable)

Attachment: Town of Amherst 1.1.25 Dental Renewal - Board Final (RES-2024-1012 : Extension of RFP #202107 Town Wide Dental

Renewal Rates At-a-Glance

Good news ! There is a 2 year rate guarantee on this plan

DENTAL ASO PRICING INFORMATION					
		CURRENT		RENEWAL	
ASO Fee Tiers	Enrolled Employee	Monthly	Annual	Monthly	Annual
EE	856	$4.55	$46,738	$4.65	$47,765

Attachment: Town of Amherst 1.1.25 Dental Renewal - Board Final (RES-2024-1012 : Extension of RFP #202107 Town Wide Dental

Current Dental Plan Information

CONTRACT TYPE: DENTAL GUARD 2000

This plan is currently offered for Insurance Class 1, 2 and 3

PLAN BENEFITS SUMMARY

	In-Network	Out-of-Network
Network	DentalGuard Preferred	None
Coinsurance		
Preventive	100%	100%
Basic	100%	70%
Major	100%	50%
Deductible	$0	$50
Waived for preventive?	Yes	Yes
Claim Payment Basis	Fee Schedule	UCR 90%
Maximum	$1,500	$750
Orthodontia	Included	
Lifetime Maximum	$2,000	
Coinsurance	50%	
Maximum Rollover		
Threshold	N/A	
Rollover Amount	N/A	
In-network only rollover	N/A	
Max Rollover Limit	N/A	
Dependent Age Limit	23/25	

Plan information is for illustrative purposes only. Please consult plan contract for specific benefit levels.

Attachment: Town of Amherst 1.1.25 Dental Renewal - Board Final (RES-2024-1012 : Extension of RFP #202107 Town Wide Dental

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

Francina J. Spoth
Town Clerk

Meeting: 12/16/24 07:00 PM
Department: Contract Compliance
Initiated by: **Lynda Juul**
Co-Sponsored by: **Supervisor Brian J. Kulpa**

DOC ID: 29764 **RESOLUTION 2024-1013** **ADOPTED**

Extension of Agreement for Workers' Compensation Consulting Services - CRS #5251

WHEREAS, Alterity Group, LLC has agreed to extend their contract for Workers' Compensation Consulting Services (Original CRS #3974); and

WHEREAS, the Human Resources Department also wishes to extend the contract;

NOW, THEREFORE, BE IT RESOLVED, the Town Board approves a two-year extension of the contract with Alterity Group, LLC, through December 31, 2026; and

BE IT FURTHER RESOLVED, the Town Board authorizes the Supervisor to sign the contract extension with Alterity Group, LLC; and

BE IT FURTHER RESOLVED, that approval is pending successful completion of the Contract Routing System due to the fact that the current contact expires on 12/31/2024.

12/16/2024
Consent

FINANCIAL IMPACT:

R1915-4090; $9,500 annually

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 Lavin

COUNCILMEMBERS
Jacqualine Berger
Angela Marinucci
Michael Szukala

c/December 6, 2024

Alterity Group, LLC
3840 E. Robinson Rd., Ste. 323
Amherst, NY 14228
Attn: Greg O'Sullivan

Re: Agreement for Workers Compensation Consulting Services – CRS #3974

Dear Mr. O'Sullivan:

The Town of Amherst wishes to extend this agreement for an additional contract period, through December 31, 2026, under the same pricing structure, terms and conditions as the original agreement.

Extension is provided for in the original agreement. This offer is for your immediate consideration and acceptance. Please indicate below whether you agree to extend or do not wish to extend. Please respond **within seven days upon receipt of this request.**

If you wish to extend, please return three signed (3) originals to:
Town of Amherst
Contract Compliance & Administration Department
5583 Main Street
Williamsville, NY 14221

After approval and execution by the Town of Amherst, a fully signed copy will be returned to you for your files.

__X___ Yes, I agree to extend _____ No, I do not wish to extend

Company Name: _____Alterity Group, LLC_____

Representative (Please print):___Gina Teresi__ Title: ____Managing Director_____

Signature: _____ Date: _____12/10/24_____

Acceptance by the Town of Amherst:

_____

Brian Kulpa, Supervisor Date

Attachment: Alterity Signed Extension Memo (RES-2024-1013 : Extension of Agreement for Workers' Compensation Consulting Services - CRS

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

Francina J. Spoth
Town Clerk

Meeting: 12/16/24 07:00 PM
Department: Contract Compliance
Initiated by: **Lynda Juul**
Co-Sponsored by: **Supervisor Brian J. Kulpa**

DOC ID: 29744 **RESOLUTION 2024-1014** **ADOPTED**

Extension of Bid #2020034 Walk Off Mats - CRS #5236

WHEREAS, Cintas has agreed to extend their contract for Bid #2020034 for Town Wide Walk Off Mats (Original CRS #2354); and

NOW, THEREFORE, BE IT RESOLVED, the Town Board approves a two-year extension of the contract with Cintas for the period of January 19, 2025 through January 18, 2027; and

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

12/16/2024
Consent

FINANCIAL IMPACT:

Town Wide; Various Accounts; Amount TBD

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

COUNCILMEMBERS
Jacqualine Berger
Shawn Lavin
Angela Marinucci
Michael Szukala

October 24, 2024

Cintas Corporation
11980 Walden Ave.
Alden, NY 14004
ATTN: Ethan Fisher

Re: CRS 2354– Town Wide Walk Off Mats

Dear Mr. Fisher:,

The Town of Amherst wishes to extend the above listed contract for an additional two-year contract period, through January 18, 2027, under the same pricing structure, terms and conditions as the original agreement.

Extension is provided for per the attached contract renewal. This offer is for your immediate consideration and acceptance. Please indicate below whether you agree to extend or do not wish to extend. Please respond **within seven days upon receipt of this request.**

If you wish to extend, please return three (3) originals to:
Town of Amherst Contract Compliance Department
5583 Main Street
Williamsville, NY 14221

After approval and execution by the Town of Amherst, a fully signed copy will be returned to you for your files.

_X_ Yes, I agree to extend _____ No, I do not wish to extend

Company Name: Cintas Corporation

Representative (Please print): Ethan Fisher Title: Key Acct Mgr

Signature: _____ Date: 11/25/24

Acceptance by the Town of Amherst:

_____

Brian Kulpa, Supervisor Date

Attachment: Cintas Extension CRS (RES-2024-1014 : Extension of Bid #2020034 Walk Off Mats - CRS #5236)

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.

Revised 12.30..19

Attachment: Cintas Extension CRS (RES-2024-1014 : Extension of Bid #2020034 Walk Off Mats - CRS #5236)

5. Any accident shall be reported to the Office of the Town Attorney as soon as possible and not later than twenty-four (24) hours from the time of such accident. A detailed written report must be submitted to the Town of Amherst as soon thereafter as possible as and no later than three (3) days after the date of such accident.

6. No Assignment: In accordance with the provisions of section 109 of the General Municipal Law, the Contractor is hereby prohibited from assigning, transferring, conveying, subletting or otherwise disposing of this Agreement, or of its right, title or interest in this agreement, or its power to execute this Agreement, to any other person or corporation without the previous consent in writing of the Town.

7. Required Provisions of Law: Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to have been inserted herein. If any such provision is not inserted through mistake or otherwise, then upon the application of either party this Agreement shall be physically amended forthwith to make such insertion. In particular, the Contractor shall, among other things, fully comply with:

(a) Article 8 of the NYS Labor Law for public work contracts and Article 9 of the Labor Law regarding prevailing wage for Building Service employees.
(b) Labor Law Section 220-e and Executive Law Sections 291-299 and the Civil Rights Law relating to prohibition against discrimination and equal opportunity.
(c) Affirmative action as required by the Labor Law.
(d) Prevention of dust hazard required by Labor Law Section 222-a.
(e) Preference in employment of persons required by Labor Law Section 222.
(f) Eight-hour workday as required by Labor Law Section 220(2).
(g) Chapter 32 of the Town of Amherst: Minority Women and Business Utilization Commitment.
(h) Chapter 163 of the Town of Amherst: Registration of Sex Offenders.

8. The Contractor, in accordance with its status as an independent Contractor, covenants and agrees that it will conduct itself consistent with such status. It will neither hold itself out as nor claim to be, an officer or employee of the Town by reason hereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the Town, including, but not limited to: workers' compensation coverage, unemployment insurance benefits, Social Security coverage, or retirement membership or credit.

Waiver: No waiver of any breach of any condition of the Agreement shall be binding unless in writing and signed by the party waiving said breach. No such waiver shall in any way affect any other term or condition of this Agreement or constitute a cause or excuse for a repetition of such or any other breach unless the waiver shall include the same.

Attachment: Cintas Extension CRS (RES-2024-1014 : Extension of Bid #2020034 Walk Off Mats - CRS #5236)

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:

Cintas Corp
Print Name of Company

By: _____
Signature

Ethan Fisher
Printed name

Date: 11/25/24

Agreed to and Accepted by:

Town of Amherst

By: _____
Brian J. Kulpa, Supervisor

Date: _____

Attachment: Cintas Extension CRS (RES-2024-1014 : Extension of Bid #2020034 Walk Off Mats - CRS #5236)

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

Francina J. Spoth
Town Clerk

Meeting: 12/16/24 07:00 PM
Department: Highway
Initiated by: **Stephen Bryan**
Co-Sponsored by:

DOC ID: 29742 **RESOLUTION 2024-1015** **ADOPTED**

Authorize Supervisor to Sign STANLEY STEEL AND ALUMINIUM Contract Extension CRS #5235

NOW THEREFORE BE IT RESOLVED, that the Town of Amherst has approved the contract with the Highway Department which allows for the contract to be extended for a period of (12) twelve months at the same terms and conditions; and

WHERE AS, The Highway Department is requesting approval for the extension of the contract under Resolution 2024-292 from 01/03/2025 through 01/02/2026.

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 #5235) and the approval of the Town Attorney.

12/16/2024
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

STANLEY STEEL SERVICE CONTRACT EXTENSION

Let this document stand as a Contract Extension between STANLEY STEEL SERVICE and the Town of Amherst. STANLEY STEEL SERVICE agrees to hold prices and extend the current contract with THE Town of Amherst for: BID #2022032 and Resolution 2024-292 for Steel and Aluminum Products.

This contract will be extended for one (1) additional one (1) year period from 01/03/2025 to 01/02/2026 upon Town Board approval.

Agreed to and Accepted by:

STANLEY STEEL SERVICE

By: _____
Signature

Nick Hughes
Print Name

Director of sales + purchasing
Title

Date: 12/2/24

Agreed to and Accepted By:

TOWN OF AMHERST

BY: _____
Brian J. Kulpa
SUPERVISOR

Date: _____

Attachment: DOC120324-12032024084224 (RES-2024-1015 : Authorize Supervisor to Sign STANLEY STEEL AND ALUMINIUM Contract

STANSTE-01

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 2/27/202

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. T CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLIC BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORI REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endor If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statemen this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Walsh Duffield Companies, Inc. 801 Main St. Buffalo, NY 14203	CONTACT NAME: Jaime M. Ferrentino PHONE (A/C, No, Ext): (716) 362-7343 FAX (A/C, No): (844) 847-136 E-MAIL ADDRESS: jferrentino@walshduffield.com
	INSURER(S) AFFORDING COVERAGE — NAI
	INSURER A : Graphic Arts Mutual Insurance Company — 25984
INSURED Stanley Steel Service Corp P O Box 236 Buffalo, NY 14240-0236	INSURER B : Utica National Insurance Company of Ohio — 13998
	INSURER C : Republic Franklin Insurance Company — 12475
	INSURER D :
	INSURER E :
	INSURER F :

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PER INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH T CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TER EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE X OCCUR X Per Proj Agg GEN'L AGGREGATE LIMIT APPLIES PER: POLICY PRO-JECT LOC OTHER:	X	X	5030804	3/1/2024	3/1/2025	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ 1,00 $ 10 $ $ 1,00 $ 2,00 $ 2,00
B	AUTOMOBILE LIABILITY X ANY AUTO OWNED AUTOS ONLY SCHEDULED AUTOS HIRED AUTOS ONLY NON-OWNED AUTOS ONLY	X	X	5017787	3/1/2024	3/1/2025	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 1,00
C	X UMBRELLA LIAB X OCCUR EXCESS LIAB CLAIMS-MADE DED X RETENTION $ 10,000	X		5030806	3/1/2024	3/1/2025	EACH OCCURRENCE AGGREGATE Aggregate	$ 5,00 $ 5,00
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y / N If yes, describe under DESCRIPTION OF OPERATIONS below	N / A		5017789	3/1/2024	3/1/2025	PER STATUTE OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ 1,00 $ 1,00 $ 1,00

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Town of Amherst is an additional insured, if required in written contract, per General Liability endorsement #8E3548 0711, Automobile endorsement #8E2 Umbrella endorsement #CU0001 0413.
Coverage for Additional Insured is Primary and Non-Contributory. Waiver of Subrogation applies. Umbrella is following form.

CERTIFICATE HOLDER

Town of Amherst
5583 Main Street
Williamsville, NY 14221

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFO THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE
Edward F. Walsh Jr.

Attachment: DOC120324-12032024084224 (RES-2024-1015 : Authorize Supervisor to Sign STANLEY STEEL AND ALUMINIUM Contract

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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
Stanley Steel Service Corp. **P O Box 236** **1612 William Street** **Buffalo, NY 14206** Work Location of Insured *(Only required if coverage is specifically limited to certain locations in New York State, i.e., a Wrap-Up Policy)*	**(716) 893-8292** 1c. NYS Unemployment Insurance Employer Registration Number of Insured 1d. Federal Employer Identification Number of Insured or Social Securit Number 16-0800229
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 **Graphic Arts Mutual Insurance Company** 3b. Policy Number of Entity Listed in Box "1a" **5017789** 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 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 3A on the INFORMATION PAGE of the workers' compensation insurance policy).** The Insurance Carrier or its licensed agent wil 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.) **Otherwis this Certificate is valid for one year after this form is approved by the insurance carrier or its licensed agent, or until the poli 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 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: Edward F. Walsh, Jr.
(Print name of authorized representative or licensed agent of insurance carrier)

Approved by: Edward F Walsh (Signature) 2/27/2024 (Date)

Title: President

Telephone Number of authorized representative or licensed agent of insurance carrier: 716-853-3820

Please Note: Only insurance carriers and their licensed agents are authorized to issue Form C-105.2. Insurance brokers are NOT authorized t issue it.

C-105.2 (9-17)

Attachment: DOC120324-12032024084224 (RES-2024-1015 : Authorize Supervisor to Sign STANLEY STEEL AND ALUMINIUM Contract

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)
STANLEY STEEL SERVICE CORP.
1612 WILLIAM STREET
BUFFALO, NY 14206

Work Location of Insured *(Only required if coverage is specifically limited to certain locations in New York State, i.e., Wrap-Up Policy)*

1b. Business Telephone Number of Insured

1c. Federal Employer Identification Number of Insured or Social Security Number
160800229

2. Name and Address of Entity Requesting Proof of Coverage (Entity Being Listed as the Certificate Holder)
Town of Amherst
5583 Main Street
Williamsville, New York 14221

3a. Name of Insurance Carrier
HARTFORD LIFE AND ACCIDENT INSURANCE COMPANY

3b. Policy Number of Entity Listed in Box 1a
LNY197294000

3c. Policy effective period
07-01-2024 to 06-30-2025

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 na insured has NYS Disability and/or Paid Family Leave benefits insurance coverage as described above.

Date Signed 09-27-2024 By *Elizabeth Tello*
(Signature of insurance carrier's authorized representative or NYS licensed insurance agent of that insurance carrier)

Telephone Number (212) 553-8074 Name and Title: ELIZABETH TELLO – ASSISTANT DIRECTOR, STATUTORY SERVICES

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 employe

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.***

Attachment: DOC120324-12032024084224 (RES-2024-1015 : Authorize Supervisor to Sign STANLEY STEEL AND ALUMINIUM Contract

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

Francina J. Spoth
Town Clerk

Meeting: 12/16/24 07:00 PM
Department: Highway
Initiated by: **Stephen Bryan**
Co-Sponsored by:

DOC ID: 29746 **RESOLUTION 2024-1016** **ADOPTED**

Authorize Supervisor to Sign LACAL EQUIPMENT INC Contract Extension - CRS #5237

WHEREAS, BID #2022035 Highway Department allows for the contract to be extended for a period of one (1) year at the same terms and conditions; and

WHEREAS, The Highway Department is requesting approval for the extension of the contract under Resolution 2024-88 from 01/03/25 through 01/02/2026.

This contract is subject to the Contract Routing System (CRS #5237) extension and the approval of the Town Attorney.

12/16/2024
Consent

FINANCIAL IMPACT:

C8163 : 4240

D5130 : 4240

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

AGREEMENT EXTENSION

Let this document stand as an Agreement between LACAL EQUIPMENT, INC. and THE Town of Amherst permitting the Town of Amherst to participate in the purchase of Sweeper Parts for individual models to include brooms and supplies for individual vendors.

Lacal Equipment Inc and the Town of Amherst,
BID # 2022035, Resolution # 2024-88 AWARDED CONTRACT
from 01/03/2023 through 01/02/2025 and extended to 01/02/26
for Sweeper parts and supplies.

Agreed to and Accepted by:

LACAL EQUIPMENT INC

By: _____
Signature

Craig Merickel
Print Name

Sales Manager
Title

Date: 12/3/24

Agreed to and Accepted by:

TOWN OF AMHERST

By: _____
BRIAN KULPA
Supervisor

Date: _____

Attachment: LACAL (RES-2024-1016 : Authorize Supervisor to Sign LACAL EQUIPMENT INC Contract Extension - CRS #5237)

Town of Amherst

Contract Compliance & Administration Department

BID SPECIFICATIONS

ITEM NO	CATALOG NO/DESCRIPTION	% Off Manufacturers List Price
	NY State Contract # (If applicable)	
1	Leach Compactor/Packer Parts – All Models	NO BID
2	ODB Model LCT6000 Leaf Machine Parts	35%
3	Tarco/Tarrant/Loughberry Parts – All Models	5%
4	Keystone All Pro 460 Strip Brooms (Per Box) – NO EXCEPTIONS	5%
5	Keystone All Pro #411 Center Sweep Mandrel for Elgin Eagle Sweeper - NO EXCEPTIONS	5%
6	Keystone All Pro #410 Center Sweep Mandrel for Elgin Pelican Sweeper – NO EXCEPTIONS	5%
7	Keystone All Pro 466 Strip Brooms (Per Box) – NO EXCEPTIONS	5%
8	Sweeper Side Brooms Filled with 21 Steel Strands of Spring Wire, Nuts in Plastic Segments, 5 Segments per Box to Fit Elgin Sweepers NOTE: Oil coated or oil tempered wire are acceptable	5%
9	Elgin Sweeper Pars	35%
10	Rockford Sweeper Parts	NO BID
11	Superior Sweeper Parts	NO BID
12	Tennant Sweeper Parts	NO BID
13	Tymco Sweeper Parts	35%
	No Additional Charges Will Be Allowed	

NAME OF BIDDER: Lacal Equipment Inc

Attachment: LACAL (RES-2024-1016 : Authorize Supervisor to Sign LACAL EQUIPMENT INC Contract Extension - CRS #5237)

CERTIFICATE OF LIABILITY INSURANCE

DAT 12/03/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. TI CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICI BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZ 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 endors If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Gibbs Insurance Associates, LLC 131 W WALNUT STREET P O BOX 727 HILLSBORO, OH 45133	**CONTACT NAME:** James R. Gibbs **PHONE (A/C, No. Ext):** 937-393-3444 **FAX (A/C, No):** 937-393-5262 **E-MAIL ADDRESS:**
INSURED Lacal Equipment Company, Inc. Mary Lee Smock, CFO 901 West Pike Street Jackson Center, OH 45334	**INSURER(S) AFFORDING COVERAGE** — **NAIC** **INSURER A :** State Auto Insurance **INSURER B :** **INSURER C :** **INSURER D :** **INSURER E :** **INSURER F :**

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERI INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH TH CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERM EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	☑ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☑ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PRO-JECT ☐ LOC ☐ OTHER:			PBP2676959	12/19/2024	12/19/2025	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG Employee Benefits	$ 1,000 $ 100 $ 5 $ 1,000 $ 2,000 $ 2,000 $ 1,000
A	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ OWNED AUTOS ONLY ☑ SCHEDULED AUTOS ☑ HIRED AUTOS ONLY ☑ NON-OWNED AUTOS ONLY			BAP2393136	12/19/2024	12/19/2025	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 1,000 $ $ $
A	☑ UMBRELLA LIAB ☑ OCCUR EXCESS LIAB ☐ CLAIMS-MADE ☐ DED ☐ RETENTION $			PBP2676959	12/19/2024	12/19/2025	EACH OCCURRENCE AGGREGATE	$ 6,000 $ 6,000
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y/N ☐ N/A (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below			PBP2676959 Stop Gap Liability	12/19/2024	12/19/2025	☑ PER STATUTE ☑ OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ 1,000 $ 1,000 $ 1,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

"Town of Amherst is included as an additional insured. Coverage applies on a Primary and Non-Contributory basis for all ongoing completed operations.

CERTIFICATE HOLDER

Town of Amherst
5583 Main St
Buffalo, NY 14221

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFOR THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED I ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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Attachment: LACAL (RES-2024-1016 : Authorize Supervisor to Sign LACAL EQUIPMENT INC Contract Extension - CRS #5237)

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

Francina J. Spoth
Town Clerk

Meeting: 12/16/24 07:00 PM
Department: Highway
Initiated by: **Stephen Bryan**
Co-Sponsored by:

DOC ID: 29770 **RESOLUTION 2024-1017** **ADOPTED**

Contract Extension-Modification Resolution 2024-92

Whereas, Resolution 2024-92 per Bid #2019038, Highway Department for Dump Box, Plow Parts and Custom Metal Fabrication allows the contract to be extended and modified for a period of (24) months at the same terms and conditions; and

WHEREAS, the Highway Department is requesting approval for the extension and modification of the contract under Resolution 2024-92 from 12/12/2023 through 12/12/25;

NOW, THEREFORE, BE IT RESOLVED, the Town Board authorizes the Highway Department to extend as follows the approved contracts with Valley Fab & Equipment, Inc for (CRS#1753/3114/4555) and Viking Cives Inc (#1755/3115/4554), and

BE IT FURTHER RESOLVED, the Town Board authorizes the Supervisor to sign the correct extension for the two (2) vendors subject to the Contract Routing System with correct dates.

12/16/2024
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

Town of Amherst
Erie County, New York

Adopted
Jan 22, 2024 7:00 PM

Resolution
RES-2024-92

Contract Extension Bid #2019038 - Dump Box, Sander, Plow Parts and Custom Metal Fa - (Viking CRS # 4554/Valley Fab CRS #4555)

Information

Department: Highway
Category: Contracts, Agreements, Leases
Sponsors:

Attachments

Printout
DOC011624-01162024131053
DOC011624-01162024130327

Financial Impact

town wide various TBD

Body

WHEREAS. BID #2019038, Highway Department, Dump Box, Plow Parts and Custom Metal Fabrication allows the contract to be extended for a period of (12) twelve months at the same terms and conditions; and

WHEREAS, the Highway Department is requesting approval for the extension of the contract under Resolution 2019-1302 from 12/13/2021 to 12/12/2023 to 12/12/2024 and

NOW, THEREFORE, BE IT RESOLVED, the Town Board authorizes the Highway Department to extend as follows the contracts with Valley Fab & Equipment, Inc. (CRS #1753/3114/4555) and Viking Cives, Inc (1755/3115/4554), and

BE IT FURTHER RESOLVED, the Town Board authorizes the Supervisor to sign the extension for the two (2) vendors subject to the Contract Routing System and the approval of the Town Attorney.

1/22/2024
Consent

Meeting History

Jan 22, 2024 7:00 PM **Town Board** **Regular Meeting of the Town Board**

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

Discussion

Attachment: VALLEY FAB (RES-2024-1017 : Contract Extension-Modification Resolution 2024-92)

CONTRACT EXTENSION

Let this document stand as a Contract Extension between VALLEY FAB & EQUIPMENT and the Town of Amherst. VALLEY FAB & EQUIPMENT agrees to hold discounts and extend the current contract with the Town of Amherst for:

BID # 2019038 Dump Box, Sanders, Plow Parts and Fabrication

RESOLUTION # 2019-1302

This contract will be extended for one (2) year period from the date of Town of Amherst Town Board approval commencing on December 13, 2023 through December 12, 2025.

Agreed to and Accepted by:

VALLEY FAB & EQUIPMENT INC.

By: Karen J Schweickert
Signature

Karen J Schweickert
Print Name

Vice President
Title

Date: 12/11/23

Agreed to and Accepted By:

TOWN OF AMHERST

BY:
BRIAN KULPA
SUPERVISOR

Date: 1/22/24

Attachment: VALLEY FAB (RES-2024-1017 : Contract Extension-Modification Resolution 2024-92)

Bid #2019038 Dump Box, Sander, Plow Parts
Low Bidder

Item No.	Vendor Name:	CASE 755 Viking Cives	CASE 1753 Valley Fab
		% off Manufacturers List	% off Manufacturers List
1	All M/G Dump Box Parts	10%	
2	All Viking Cives Plow Systems Parts	10%	
3	All Galion Body Parts	10%	5%
4	All Force America Products Parts	10%	5%
5	All Smith Spreader Parts	10%	
6	All Brandon Body Parts	NB	5%
7	All Goodwin Body Parts	10%	5%
8	All Everst Equipment Parts	NB	5%
9	All Evolution Edges Plow Blade/Shoe Parts		
10	All Western Plow & Equipment Parts	10%	
11	All Donovan Tarp System Parts	10%	5%
12	All Roll-Rite Tarp System Parts	10%	
13	All Minimizer Fenders	10%	
	SYSTEM PARTS		
14	All Waltco Liftgate Parts	NB	
15	All Tommy Gate System Parts	NB	
16	All Rexroth Ground Speed Control Parts	10%	
17	All Harder Dump Box	10%	
	SPREADER PARTS		
	CUSTOM MATERIAL FABRICATION SPECS		
18	Labor cost per hour for custom metal fabrication	$90.00	$125.00
19	Materials cost per pound for hot rolled steel products used in fabrication process	$1.80	$1.75
20	Materials cost per pound for aluminum products used in the fabrication process	$2.25	$4.25
	NOTES:		
	Viking Cive: **#18: Quoted 10% off Hourly rate, which is $90** **#19: Quoted 10% off per pound rate, which is $2.00** **#20: Quoted 10% off per pound rate, which is $2.75**		

Attachment: VALLEY FAB (RES-2024-1017 : Contract Extension-Modification Resolution 2024-92)

ACMS

Contract Routing
Contract Management
Reports
Forms
Help

CRS-CMS ID # 1753-1981: Bid #2019038 Dump Box, Sander, Plow Parts & Custom Metal Fabrication - Valley Fab & Equipment, Inc.

/ Contract Management / All Town Contracts

General | Budget Details | Documents | Insurance | Extensions | Routing & Approvals

CRS ID #	1753
CMS ID #	1981
Townwide	Yes
Contract Type	Award of Public Bid Contract / RFP
Title	Bid #2019038 Dump Box, Sander, Plow Parts & Custom Metal Fabrication
Vendor	Valley Fab & Equipment, Inc.
Description	
Department	Highway
Responsible User(s)	☑ Anderson, Paul ☑ Bryan, Steve ☑ Floss, Steven ☑ Stanley, Kurt
Start/End Date	Yes
Start Date *	12/13/2019
End Date	12/12/2025
Status	Current
Active	◉ Yes ○ No

Attachment: VALLEY FAB (RES-2024-1017 : Contract Extension-Modification Resolution 2024-92)

ACMS

Contract Routing
Contract Management
Reports
Forms
Help

CRS-CMS ID # 1753-1981: Bid #2019038 Dump Box, Sander, Plow Parts & Custom Metal Fabrication - Valley Fab & Equipment, Inc.

/ Contract Management / All Town Contracts

General | Budget Details | Documents | Insurance | Extensions | Routing & Approvals

Number of Extensions 2

Extension Term (Months) 24

Extensions, Change Orders, and Term Task Order

Extension Type	Contract Extension #	CRS ID #	Title	ORG	OBJECT	Amount	New Start Dat
Contract Extension	1	3114	Bid #2019038 Dump Box, Sander, Plow Parts & Custom Metal Fabrication	Town Wide	Various	TBD	12/13/2021
Contract Extension	2	4555	Bid #2019038 Dump Box, Sander, Plow Parts & Custom Metal Fabrication	Town Wide	Various	TBD	12/13/2023

Attachment: VALLEY FAB (RES-2024-1017 : Contract Extension-Modification Resolution 2024-92)

Town of Amherst
Erie County, New York

Adopted
Jan 22, 2024 7:00 PM

Resolution
RES-2024-92

Contract Extension Bid #2019038 - Dump Box, Sander, Plow Parts and Custom Metal Fa - (Viking CRS # 4554/Valley Fab CRS #4555)

Information

Department: Highway
Category: Contracts, Agreements, Leases
Sponsors:

Attachments

Printout
DOC011624-01162024131053
DOC011624-01162024130327

Financial Impact

town wide various TBD

Body

WHEREAS. BID #2019038, Highway Department, Dump Box, Plow Parts and Custom Metal Fabrication allows the contract to be extended for a period of (12) twelve months at the same terms and conditions; and

WHEREAS, the Highway Department is requesting approval for the extension of the contract under Resolution 2019-1302 from 12/13/2021 to 12/12/2023 to 12/12/2024 and

NOW, THEREFORE, BE IT RESOLVED, the Town Board authorizes the Highway Department to extend as follows the contracts with Valley Fab & Equipment, Inc. (CRS #1753/3114/4555) and Viking Cives, Inc (1755/3115/4554), and

BE IT FURTHER RESOLVED, the Town Board authorizes the Supervisor to sign the extension for the two (2) vendors subject to the Contract Routing System and the approval of the Town Attorney.

1/22/2024
Consent

Meeting History

Jan 22, 2024 7:00 PM **Town Board** **Regular Meeting of the Town Board**

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

Discussion

Attachment: VALLEY FAB (RES-2024-1017 : Contract Extension-Modification Resolution 2024-92)

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

Francina J. Spoth
Town Clerk

Meeting: 01/18/22 07:00 PM
Department: Highway
Initiated by: **Stephen Bryan**
Co-Sponsored by:

DOC ID: 25250 **RESOLUTION 2022-106** **ADOPTED**

CONTRACT EXTENSION BID #2019038 - Dump Box, Sander, Plow Parts and Custom Metal Fab - CRS - Below

WHEREAS, BID # 2019038, Highway Department, Dump Box, Plow Parts and Custom Metal Fabrication allows the contract to be extended for a period of twenty-four (24) months at the same terms and conditions; and

WHEREAS, the Highway Department is requesting approval for the extension of the contract under Resolution 2019-1302 from 12/13/2021 to 12/12/2023; and

NOW, THEREFORE, BE IT RESOLVED, the Town Board authorizes the Highway Department to extend as follows the contracts with Valley Fab & Equipment, Inc. (CRS#1753/3114) and Viking Cives, Inc. (CRS#1755/3115), and

BE IT FURTHER RESOLVED, the Town Board authorizes the Supervisor to sign the extension for the two (2) vendors subject to the Contract Routing System and the approval of the Town Attorney.

1/18/2022
Consent

FINANCIAL IMPACT:

Town Wide

Various

TBD

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

Attachment: VALLEY FAB (RES-2024-1017 : Contract Extension-Modification Resolution 2024-92)

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

Jeffery C. Zeplowitz
Town Clerk

Meeting: 12/02/19 07:00 PM
Department: Contract Compliance
Initiated by: Lynda Juul
Co-Sponsored by:

DOC ID: 21231 **RESOLUTION 2019-1302** 12-12-2021 **ADOPTED**

Award Bid #2019038 Dump Box, Sander, Plow Parts & Custom Metal Fabrication - CRS #1753 & #1755

VF VC

WHEREAS, the Contract Compliance and Administration Department received bids on September 26, 2019 for Bid #2019038 for Dump Box, Sander, Plow Parts and Custom Metal Fabrication; and

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

NOW, THEREFORE, BE IT RESOLVED, the Town Board authorizes the Contract Compliance and Administration Department to award this bid as follows: Items 1-5, 7, 10-13, 16-20 to Viking Cives, 2917 Judge Road, Oakfield, NY 14125; Items #6 & 8 to Valley Fab & Equipment, Inc., 9776 Trevett Road, Boston, NY 14025; and

BE IT FURTHER RESOLVED, the Town Board authorizes the Supervisor to sign the contracts with Viking Cives and Valley Fab & Equipment, Inc.

12/02/2019
Consent

FINANCIAL IMPACT:

Town Wide; Various Accounts; Amount TBD

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

Attachment: VALLEY FAB (RES-2024-1017 : Contract Extension-Modification Resolution 2024-92)

ACORD

VALLE-8

OP ID: SM

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 06/06/2024

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 716-632-6118 United Insurance Agency, Inc. 90 Bryant Woods South Amherst, NY 14228 Martin Agency	CONTACT NAME: Sheila Mack PHONE (A/C, No, Ext): 716-632-6118 FAX (A/C, No): 716-631-5045 E-MAIL ADDRESS: smack@uiai.com
INSURED Valley Fab & Equipment Inc 9776 Trevett Rd LLC 9776 Trevett Rd, PO Box 380 Boston, NY 14025	INSURER(S) AFFORDING COVERAGE — NAIC # INSURER A : Erie Insurance Company — 26263 INSURER B : INSURER C : INSURER D : INSURER E : INSURER F :

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL 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:	X		Q610196140	06/22/2024	06/22/2025	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 X ANY AUTO OWNED AUTOS ONLY SCHEDULED AUTOS HIRED AUTOS ONLY NON-OWNED AUTOS ONLY			Q037430368	03/24/2024	03/24/2025	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 $ 10000			Q307270056NY	06/22/2024	06/22/2025	EACH OCCURRENCE AGGREGATE	$ 2,000,000 $ 2,000,000
A	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		Q855106976	01/01/2024	01/01/2025	X PER STATUTE OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ $ 1,000,000 $ 1,000,000 $ 1,000,000
A	Garagekeepers Direct Primary			Q610196140	06/22/2024	06/22/2025	Limit Ded	Actual Loss 200

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

The Town of Amherst is named as as Additional Insured on a primary and non contributory basis, to the extent of the written contract, not to exceed limits shown above.

CERTIFICATE HOLDER

TOWNAMH

Town of Amherst
5583 Main St
Williamsville, NY 14221

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Edward C. Kelly

ACORD 25 (2016/03)

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Attachment: VALLEY FAB (RES-2024-1017 : Contract Extension-Modification Resolution 2024-92)

NEW YORK STATE | Workers' Compensation Board

CERTIFICATE OF NYS WORKERS' COMPENSATION INSURANCE COVERAGE

1a. Legal Name & Address of Insured (use street address only) Valley Fab & Equipment Inc 9776 Trevett Rd, PO Box 380 Boston NY 14025	1b. Business Telephone Number of Insured 716-941-6644 1c. NYS Unemployment Insurance Employer Registration Number of Insured
Work Location of Insured *(Only required if coverage is specifically limited to certain locations in New York State, i.e., a Wrap-Up Policy)*	1d. Federal Employer Identification Number of Insured or Social Security Number 16-1541913
2. Name and Address of the 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 Erie Insurance Company 3b. Policy Number of entity listed in box "1a" Q85-5106976 3c. Policy effective period 01/01/2024 to 01/01/2025 3d. The Proprietor, Partners or Executive Officers are ☒ included. (Only check box if all partners/officers included) ☐ all excluded or certain partners/officers excluded.

This certifies that the insurance carrier indicated above in box "3" insures the business referenced above in box "1a" for workers' compensation under the New York State Workers' Compensation Law. **(To use this form, New York (NY) must be listed under Item 3A on the INFORMATION PAGE of the workers' compensation insurance policy).** The Insurance Carrier or its licensed agent will send this Certificate of Insurance to the entity listed above as the certificate holder in box "2".

The insurance carrier must notify the above certificate holder and the Workers' Compensation Board within 10 days IF a policy is canceled due to nonpayment of premiums or within 30 days IF there are reasons other than nonpayment of premiums that cancel the policy or eliminate the insured from the coverage indicated on this Certificate. (These notices may be sent by regular mail.) **Otherwise, this Certificate is valid for one year after this form is approved by the insurance carrier or its licensed agent, or until the policy expiration date listed in box "3c", whichever is earlier.**

This certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend or alter the coverage afforded by the policy listed, nor does it confer any rights or responsibilities beyond those contained in the referenced policy.

This certificate may be used as evidence of a Workers' Compensation contract of insurance only while the underlying policy is in effect.

Please Note: Upon cancellation of the workers' compensation policy indicated on this form, if the business continues to be named on a permit, license or contract issued by a certificate holder, the business must provide that certificate holder with a new Certificate of Workers' Compensation Coverage or other authorized proof that the business is complying with the mandatory coverage requirements of the New York State Workers' Compensation Law.

Under penalty of perjury, I certify that I am an authorized representative or licensed agent of the insurance carrier referenced above and that the named insured has the coverage as depicted on this form.

Approved by: Edward C Gelia Jr., CPCU
(Print name of authorized representative or licensed agent of insurance carrier)

Approved by: Edward C. Gelia Jr. 12-13-23
(Signature) (Date)

Title: Executive Vice President

Telephone Number of authorized representative or licensed agent of insurance carrier: 716-632-6118

Please Note: Only insurance carriers and their licensed agents are authorized to issue Form C-105.2. Insurance brokers are NOT authorized to issue it.

Attachment: VALLEY FAB (RES-2024-1017 : Contract Extension-Modification Resolution 2024-92)

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)
VALLEY FAB & EQUIPMENT, INC.
9776 TREVETT ROAD
BOSTON, NY 14025

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
7169416644

1c. Federal Employer Identification Number of Insured or Social Security Number
16-1541913

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
Standard Security Life Insurance Company of New York

3b. Policy Number of Entity Listed in Box 1a
R14963-000

3c. Policy Effective Period
1/1/2016 to 6/20/2025

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 6/21/2024 By _____
(Signature of insurance carrier's authorized representative or NYS licensed insurance agent of that insurance carrier)

Telephone Number (212) 355-4141 Name and Title SUPERVISOR-DBL/POLICY SERVICES

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 of Part 1 has been checked)

State of New York
Workers' Compensation Board

According to information maintained by the NYS Workers' Compensation Board, the above-named employer has complied with the NYS Disability and Paid Family Leave Benefits Law(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: VALLEY FAB (RES-2024-1017 : Contract Extension-Modification Resolution 2024-92)

Town of Amherst
Erie County, New York

Adopted
Jan 22, 2024 7:00 PM

Resolution
RES-2024-92

Contract Extension Bid #2019038 - Dump Box, Sander, Plow Parts and Custom Metal Fa - (Viking CRS # 4554/Valley Fab CRS #4555)

Information

Department: Highway
Category: Contracts, Agreements, Leases
Sponsors:

Attachments

Printout
DOC011624-01162024131053
DOC011624-01162024130327

Financial Impact

town wide various TBD

Body

WHEREAS. BID #2019038, Highway Department, Dump Box, Plow Parts and Custom Metal Fabrication allows the contract to be extended for a period of (12) twelve months at the same terms and conditions; and

WHEREAS, the Highway Department is requesting approval for the extension of the contract under Resolution 2019-1302 from 12/13/2021 to 12/12/2023 to 12/12/2024 and

NOW, THEREFORE, BE IT RESOLVED, the Town Board authorizes the Highway Department to extend as follows the contracts with Valley Fab & Equipment, Inc. (CRS #1753/3114/4555) and Viking Cives, Inc (1755/3115/4554), and

BE IT FURTHER RESOLVED, the Town Board authorizes the Supervisor to sign the extension for the two (2) vendors subject to the Contract Routing System and the approval of the Town Attorney.

1/22/2024
Consent

Meeting History

Jan 22, 2024 7:00 PM **Town Board** **Regular Meeting of the Town Board**

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

Discussion

Attachment: VIKING CIVES (RES-2024-1017 : Contract Extension-Modification Resolution 2024-92)

CONTRACT EXTENSION

Let this document stand as a Contract Extension between VIKING CIVES INC. and the Town of Amherst. VIKING CIVES INC. agrees to hold discounts and extend the current contract with the Town of Amherst for:

BID # 2019038 Dump Box, Sanders, Plow Parts and Fabrication

RESOLUTION # 2019-1302

This contract will be extended for one (2) year period from the date of Town of Amherst Town Board approval commencing on December 13, 2021 through December 12, 2025.

Agreed to and Accepted by:

VIKING CIVES INC.

By: Wade Ayers
Signature

Wade Ayers
Print Name

Regional Sales Manager
Title

Date: 12/14/2023

Agreed to and Accepted By:

TOWN OF AMHERST

BY:
BRIAN KULPA
SUPERVISOR

Date: 1/25/24

	Bid #2019038 Dump Box, Sander, Plow Parts		
	Low Bidder		
Item No.	Vendor Name:	CAS # 1755 Viking Cives	CAS # 1753 Valley Fab
		% off Manufacturers List	% off Manufacturers List
1	All M/G Dump Box Parts	10%	
2	All Viking Cives Plow Systems Parts	10%	
3	All Galion Body Parts	10%	5%
4	All Force America Products Parts	10%	5%
5	All Smith Spreader Parts	10%	
6	All Brandon Body Parts	NB	5%
7	All Goodwin Body Parts	10%	5%
8	All Everst Equipment Parts	NB	5%
9	All Evolution Edges Plow Blade/Shoe Parts		
10	All Western Plow & Equipment Parts	10%	
11	All Donovan Tarp System Parts	10%	5%
12	All Roll-Rite Tarp System Parts	10%	
13	All Minimizer Fenders	10%	
	SYSTEM PARTS		
14	All Waltco Liftgate Parts	NB	
15	All Tommy Gate System Parts	NB	
16	All Rexroth Ground Speed Control Parts	10%	
17	All Harder Dump Box	10%	
	SPREADER PARTS		
	CUSTOM MATERIAL FABRICATION SPECS		
18	Labor cost per hour for custom metal fabrication	$81.00	$125.00
19	Materials cost per pound for hot rolled steel products used in fabrication process	$1.80	$1.75
20	Materials cost per pound for aluminum products used in the fabrication process	$2.47	$4.25
	NOTES:		
	Viking Cive: **#18: Quoted 10% off Hourly rate, which is $90** **#19: Quoted 10% off per pound rate, which is $2.00** **#20: Quoted 10% off per pound rate, which is $2.75**		

Attachment: VIKING CIVES (RES-2024-1017 : Contract Extension-Modification Resolution 2024-92)

ACMS

Contract Routing
Contract Management
Reports
Forms
Help

CRS-CMS ID # 1755-1995: Bid #2019038 Dump Box, Plow Parts & Custom Metal Fabrication - Viking Cives

/ Contract Management / All Town Contracts

General | Budget Details | Documents | Insurance | Extensions | Routing & Approvals

CRS ID #	1755
CMS ID #	1995
Townwide	Yes
Contract Type	Award of Public Bid Contract / RFP
Title	Bid #2019038 Dump Box, Plow Parts & Custom Metal Fabrication
Vendor	Viking Cives
Description	
Department	Highway
Responsible User(s)	☑ Anderson, Paul ☑ Bryan, Steve ☑ Floss, Steven ☑ Stanley, Kurt
Start/End Date	Yes
Start Date *	12/30/2019
End Date	12/30/2025
Status	Current
Active	◉ Yes ○ No

Attachment: VIKING CIVES (RES-2024-1017 : Contract Extension-Modification Resolution 2024-92)

ACMS

Contract Routing
Contract Management
Reports
Forms
Help

CRS-CMS ID # 1755-1995: Bid #2019038 Dump Box, Plow Parts & Custom Metal Fabrication - Viking Cives

/ Contract Management / All Town Contracts

General | Budget Details | Documents | Insurance | Extensions | Routing & Approvals

Number of Extensions 2

Extension Term (Months) 24

Extensions, Change Orders, and Term Task Order

Extension Type	Contract Extension #	CRS ID #	Title	ORG	OBJECT	Amount	New Start Date
Contract Extension	1	3115	Bid #2019038 Dump Box, Plow Parts & Custom Metal Fabrication	Town Wide	Various	TBD	12/31/2021
Contract Extension	2	4554	Bid #2019038 Dump Box, Plow Parts & Custom Metal Fabrication	Town Wide	Various	TBD	12/31/2023

Attachment: VIKING CIVES (RES-2024-1017 : Contract Extension-Modification Resolution 2024-92)

Town of Amherst
Erie County, New York

Adopted
Jan 22, 2024 7:00 PM

Resolution
RES-2024-92

Contract Extension Bid #2019038 - Dump Box, Sander, Plow Parts and Custom Metal Fa - (Viking CRS # 4554/Valley Fab CRS #4555)

Information

Department: Highway
Category: Contracts, Agreements, Leases
Sponsors:

Attachments

Printout
DOC011624-01162024131053
DOC011624-01162024130327

Financial Impact

town wide various TBD

Body

WHEREAS. BID #2019038, Highway Department, Dump Box, Plow Parts and Custom Metal Fabrication allows the contract to be extended for a period of (12) twelve months at the same terms and conditions; and

WHEREAS, the Highway Department is requesting approval for the extension of the contract under Resolution 2019-1302 from 12/13/2021 to 12/12/2023 to 12/12/2024 and

NOW, THEREFORE, BE IT RESOLVED, the Town Board authorizes the Highway Department to extend as follows the contracts with Valley Fab & Equipment, Inc. (CRS #1753/3114/4555) and Viking Cives, Inc (1755/3115/4554), and

BE IT FURTHER RESOLVED, the Town Board authorizes the Supervisor to sign the extension for the two (2) vendors subject to the Contract Routing System and the approval of the Town Attorney.

1/22/2024
Consent

Meeting History

Jan 22, 2024 7:00 PM **Town Board** **Regular Meeting of the Town Board**

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

Discussion

Attachment: VIKING CIVES (RES-2024-1017 : Contract Extension-Modification Resolution 2024-92)

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

Francina J. Spoth
Town Clerk

Meeting: 01/18/22 07:00 PM
Department: Highway
Initiated by: **Stephen Bryan**
Co-Sponsored by:

DOC ID: 25250 **RESOLUTION 2022-106** **ADOPTED**

CONTRACT EXTENSION BID #2019038 - Dump Box, Sander, Plow Parts and Custom Metal Fab - CRS - Below

WHEREAS, BID # 2019038, Highway Department, Dump Box, Plow Parts and Custom Metal Fabrication allows the contract to be extended for a period of twenty-four (24) months at the same terms and conditions; and

WHEREAS, the Highway Department is requesting approval for the extension of the contract under Resolution 2019-1302 from 12/13/2021 to 12/12/2023; and

NOW, THEREFORE, BE IT RESOLVED, the Town Board authorizes the Highway Department to extend as follows the contracts with Valley Fab & Equipment, Inc. (CRS#1753/3114) and Viking Cives, Inc. (CRS#1755/3115), and

BE IT FURTHER RESOLVED, the Town Board authorizes the Supervisor to sign the extension for the two (2) vendors subject to the Contract Routing System and the approval of the Town Attorney.

1/18/2022
Consent

FINANCIAL IMPACT:

Town Wide

Various

TBD

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

Attachment: VIKING CIVES (RES-2024-1017 : Contract Extension-Modification Resolution 2024-92)

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

Jeffery C. Zeplowitz
Town Clerk

Meeting: 12/02/19 07:00 PM
Department: Contract Compliance
Initiated by: **Lynda Juul**
Co-Sponsored by:

DOC ID: 21231 **RESOLUTION 2019-1302** 12-12-2021 **ADOPTED**

Award Bid #2019038 Dump Box, Sander, Plow Parts & Custom Metal Fabrication - CRS #1753 & #1755

VF VC

WHEREAS, the Contract Compliance and Administration Department received bids on September 26, 2019 for Bid #2019038 for Dump Box, Sander, Plow Parts and Custom Metal Fabrication; and

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

NOW, THEREFORE, BE IT RESOLVED, the Town Board authorizes the Contract Compliance and Administration Department to award this bid as follows: Items 1-5, 7, 10-13, 16-20 to Viking Cives, 2917 Judge Road, Oakfield, NY 14125; Items #6 & 8 to Valley Fab & Equipment, Inc., 9776 Trevett Road, Boston, NY 14025; and

BE IT FURTHER RESOLVED, the Town Board authorizes the Supervisor to sign the contracts with Viking Cives and Valley Fab & Equipment, Inc.

12/02/2019
Consent

FINANCIAL IMPACT:

Town Wide; Various Accounts; Amount TBD

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

Attachment: VIKING CIVES (RES-2024-1017 : Contract Extension-Modification Resolution 2024-92)

VIKIUSA-01 MBEARD

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 12/10/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME:	
CH Insurance Brokerage Services Co., Inc. 100 S. Salina St. Suite 370 Syracuse, NY 13202	PHONE (A/C, No, Ext): (315) 234-7500	FAX (A/C, No): (315) 234-7508
	E-MAIL ADDRESS:	

INSURED	INSURER(S) AFFORDING COVERAGE	NAIC #
Viking-Cives USA 14331 Mill Street Harrisville, NY 13648	INSURER A : Liberty Mutual Fire Ins Co	23035
	INSURER B : Liberty Mutual Insurance Corp	42404
	INSURER C :	
	INSURER D :	
	INSURER E :	
	INSURER F :	

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE [X] OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY [X] PRO-JECT [ ] LOC OTHER:	X		TB2-621-094553-024	1/1/2024	1/1/2025	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ 5,000,00 $ 500,00 $ 10,00 $ 5,000,00 $ 5,000,00 $ 5,000,00
A	AUTOMOBILE LIABILITY X ANY AUTO OWNED AUTOS ONLY / SCHEDULED AUTOS HIRED AUTOS ONLY / NON-OWNED AUTOS ONLY			AS2-621-094553-034	1/1/2024	1/1/2025	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 2,000,00 $ $ $
B	X UMBRELLA LIAB [X] OCCUR EXCESS LIAB [ ] CLAIMS-MADE DED RETENTION $			TH7-621094553-044	1/1/2024	1/1/2025	EACH OCCURRENCE AGGREGATE	$ 1,000,00 $ 1,000,00
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N [N] N/A If yes, describe under DESCRIPTION OF OPERATIONS below			WA5-62D-094553-014	1/1/2024	1/1/2025	X PER STATUTE / OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ 1,000,00 $ 1,000,00 $ 1,000,00

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
The Town of Amherst is named as an Additional Insured on a primary & non-contributory basis.

CERTIFICATE HOLDER

The Town of Amherst
5583 Main Street
Amherst, NY 14221

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Joseph Comerford

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Attachment: VIKING CIVES (RES-2024-1017 : Contract Extension-Modification Resolution 2024-92)

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
Cives Corporation dba Viking-Cives USA 14331 Mill St. Harrisville, NY 13648	315-543-2321 1c. NYS Unemployment Insurance Employer Registration Number of Insured
Work Location of Insured *(Only required if coverage is specifically limited to certain locations in New York State, i.e., a Wrap-Up Policy)*	1d. Federal Employer Identification Number of Insured or Social Security Number 16-0955800
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 Liberty Insurance Corp. 3b. Policy Number of Entity Listed in Box "1a" WA5-62D-094553-014 3c. Policy effective period 1/1/2024 to 1/1/2025 3d. The Proprietor, Partners or Executive Officers are ☒ included. (Only check box if all partners/officers included) ☐ all excluded or certain partners/officers excluded.

This certifies that the insurance carrier indicated above in box "3" insures the business referenced above in box "1a" for workers' compensation under the New York State Workers' Compensation Law. **(To use this form, New York (NY) must be listed under Item 3 on the INFORMATION PAGE of the workers' compensation insurance policy).** The Insurance Carrier or its licensed agent will send this Certificate of Insurance to the entity listed above as the certificate holder in box "2".

Will the carrier notify the certificate holder within 10 days of a policy being cancelled for non-payment of premium or within 30 days if cancelled for any other reason or if the insured is otherwise eliminated from the coverage indicated on this certificate prior to the end of the policy effective period? ☒YES ☐NO

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: CH Insurance Brokerage Services Co., Inc.
(Print name of authorized representative or licensed agent of insurance carrier)

Approved by: Joe Cavarretta Jr 1/6/2024
(Signature) (Date)

Title: President

Telephone Number of authorized representative or licensed agent of insurance carrier: 315-234-7500

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 (9-15)

Attachment: VIKING CIVES (RES-2024-1017 : Contract Extension-Modification Resolution 2024-92)

HARTFORD LIFE AND ACCIDENT

CIVES CORPORATION

STATE OF NEW YORK

WORKERS' COMPENSATION BOARD

NOTICE OF COMPLIANCE

New York State Disability Benefits

Disability Benefits For Employees

1. If you are unable to work because of an illness or injury, not work-related, you may be entitled to receive weekly benefit from your employer, his or her insurance carrier, or from the Special Fund for Disability Benefits.
2. To claim benefits you must file a claim form within 30 days from the first date of your disability, but in no event more tha 26 weeks from such date.
3. Complete claim form DB-450 (Notice and Proof of Claim for Disability Benefits)
   You may obtain the form from your employer, his or her insurance carrier, your health provider, any Unemployment Insurance Office, the Workers' Compensation Board's website (www.wcb.ny.gov) or any office of the Board.
   IMPORTANT: Before filing your claim, your health provider must complete the "Health Care Provider's Statement" on th form showing your period of disability.
   - If you are employed, or have been unemployed for four weeks or less when your disability begins, send the complet form to your employer or the insurance carrier named below.
   - If you have been unemployed more than four weeks when your disability begins, send the completed form to the Workers' Compensation Board, Disability Benefits Bureau, 328 State Street, Schenectady, New York 12305.
4. You are entitled to be treated by any physician,chiropractor, dentist, nurse-midwife, podiatrist or psychologist of your choice. However, unlike workers' compensation, your medical bills will not be paid unless your employer and/or union provide for the payment of such bills under a Disability Benefits Plan or Agreement.
5. If you are ill or injured during the time you are receiving Unemployment Insurance Benefits, file a claim for Disability Benefits as soon as you sustain the injury or illness, by following the instructions outlined above.
6. If you are out of work in excess of seven days, your employer is required to send you a Disability Benefits Statement of Rights (Form DB-271S).
7. You may not take disability benefits at the same time as paid family leave benefits. The total amount of disability and pai family leave in a 52 week period cannot exceed 26 weeks.
8. Other information about disability benefits may be obtained by writing or calling the Workers' Compensation Board.

INSERT NAME, ADDRESS AND TELEPHONE NUMBER OF INSURER OR MAIN OFFICE OF AUTHORIZED NEW YORK SELF-INSURE

HARTFORD LIFE AND ACCIDENT

P.O. Box 2999, Hartford, CT 06104

Policy #: LNY965848001 Effective From: 10-01-2024 to 09-30-2025

☑ Statutory ☐ Under a Plan or Agreement

Class(es) of Employees Covered:

All employees eligible under New York State Disability Benefits Law

NYS Workers' Compensation Board
Customer Service: (877) 632-4996
www.wcb.ny.gov

PRESCRIBED BY THE CHAIR, WORKERS' COMPENSATION BOARD
THIS NOTICE MUST BE POSTED CONSPICUOUSLY IN AND ABOUT THE EMPLOYER'S PLACE OR PLACES OF BUSINESS.
Employers must post DB-120 so that all classes of their employees know who will pay their benefits.

DB-120 (11-17)

THE WORKERS' COMPENSATION BOARD EMPLOYS AND SERVES PEOPLE WITH DISABILITIES WITHOUT DISCRIMINATION

Attachment: VIKING CIVES (RES-2024-1017 : Contract Extension-Modification Resolution 2024-92)

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

Francina J. Spoth
Town Clerk

Meeting: 12/16/24 07:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 29753 **RESOLUTION 2024-1018** **ADOPTED**

Principal Clerk Typist/Youth & Recreation

Please appoint a Principal Clerk Typist to the Youth & Recreation Department. Permanent, from list, pending satisfactory completion of a probationary term as set forth in the Civil Service Rule XIII. Effective December 17, 2024 at an annual salary of $39,448, Grade 7, Step A for Donna Cicero.

This is a promotion for an employee currently serving as Senior Clerk Typist.
Replacing an employee who transferred to another department.

12/16/2024
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: 12/16/24 07:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 29773 **RESOLUTION 2024-1019** **ADOPTED**

Recreation Specialist - PT/Building Maintenance/Facilities

Please appoint a Recreation Specialist - PT to the Building Maintenance/Facilities Department. Permanent, pending satisfactory completion of a probationary term as set forth in the Civil Service Rule XIII. Effective December 23, 2024. Annual compensation not to exceed $34,999 for Daniel Rizzo.

12/16/2024
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: 12/16/24 07:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 29787 **RESOLUTION 2024-1020** **ADOPTED**

Maintenance Worker/Engineering-Plant #16

Please appoint a Maintenance Worker to the Engineering Department/Plant #16. Permanent, pending satisfactory completion of a probationary term as set forth in the Civil Service Rule XIII. Effective December 17, 2024 at an hourly rate of $20.63, Grade II, Step 1.

Contingent upon completing all pre-employment requirements.

Replacing an employee who transferred to another department.

12/16/2024
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: 12/16/24 07:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 29795 **RESOLUTION 2024-1021** **ADOPTED**

Youth Service Program Coordinator/Youth & Recreation

Please appoint a Youth Service Program Coordinator to the Youth & Recreation Department. Permanent, from list, pending satisfactory completion of a probationary term as set forth in the Civil Service Rule XIII. Effective December 17, 2024 at an annual salary of $61,052, Grade 10, Step J for Antonella Stravalaci.

This is a permanent appointment for a current employee who has been serving provisionally.

Contingent upon successful completion of Erie County Civil Service Rules and Regulations.

12/16/2024
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: 12/16/24 07:00 PM
Department: Planning
Initiated by: **Dan Howard**
Co-Sponsored by:

DOC ID: 29743 **RESOLUTION 2024-1022** **ADOPTED**

To Set a Date for the Second of the Two Public Hearings Required by the U.S. Department of Housing and Urban Development for the FY 2025 Community Development Action Plan and the 2025-2029 Consolidated Plan

WHEREAS, the Town is required to hold at least two public hearings for the 2025 Annual Action Plan and 2025-2029 Consolidated Plan, encompassing both the Community Development Block Grant and HOME applications; and

WHEREAS, the Town held the first public hearing on October 15, 2024 for the Plans, now therefore be it

RESOLVED, the Town Board of the Town of Amherst sets January 21, 2025 for the second public hearing for the 2025 Annual Action Plan and the Five Year Consolidated Plan.

12/16/2024
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, Superviso
Daniel C. Howard, AICP
Planning Director
Daniel J. Ulatowski, AIC
Assistant Planning Direc

November 27, 2024

Agenda of December 16, 2024

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

Subject: Set a second public hearing for the FY 2025 Community Development Action Plan & the Five-Year Consolidated Plan 2025-2029

Honorable Members:

The Town is required to hold a second public hearing prior to submitting the 2025 Draft Action Plan and the 2025-2025 Consolidated Plan for Community Development Block Grant (CDBG) and HOME funds to the Department of Housing and Urban Development (HUD). The Action Plan and Consolidated Plan development and adoption schedule previously discussed with the Town Board anticipated a hearing date of January 21, 2025.

The hearing would be held after the end of the required thirty-day public comment period on the Draft Action Plan and Consolidated Plan. The final documents are due at HUD 45 days prior to the beginning of the 2025 program year, but no later than February 14, 2025.

For your information, the remaining plan development and adoption tasks should be accomplished in accordance with the following schedule:

December 27, 2024	Beginning of CDBG/HOME 30-day public comment period ("Draft Action Plan & 5 Year Consolidated Plan" made available in libraries.)
January 27, 2025	End of 30-day public comment period on "Draft Annual Action Plan & Five-Year Consolidated Plan".
January 21, 2025	Second (and final) public hearing. (The first public hearing was held October 15, 2024.)

Attachment: tbletter-12112024114359 (RES-2024-1022 : Request 2Nd Public Hearing for 5 Year Consolidated Plan & 2025 Annual Plan)

February 3, 2025	Town Board authorizes Supervisor to submit the Final Plans to HUD.
February 14, 2025	FY2025 Annual Action Plan and 2025-2029 Consolidated Plan for CDBG/HOME due at HUD.
April 1, 2025	Beginning of 2025/2026 CDBG/HOME program year.

At your meeting of December 16, 2024, we are requesting that a public hearing date be set for January 21, 2025 for the FY 2025 Community Development Annual Action Plan and Five-Year Consolidated Plan. A draft resolution is attached for your consideration.

Very truly yours,

Daniel C. Howard, AICP
Planning Director

X:\Community Development\New Structure\ANNUAL PLAN\Data 2025\Public Hearings & Ads\Set 2nd PH-TBletter_12.16.24.docx

Attachment: tbletter-12112024114359 (RES-2024-1022 : Request 2Nd Public Hearing for 5 Year Consolidated Plan & 2025 Annual Plan)

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

Francina J. Spoth
Town Clerk

Meeting: 12/16/24 07:00 PM
Department: Police
Initiated by: **Scott Chamberlin**
Co-Sponsored by:

DOC ID: 29710 **RESOLUTION 2024-1023** **ADOPTED**

Acceptance of Donation to Police Department

TOWN BOARD AGENDA ITEM: DECEMBER 16, 2024

TO: **Town Board**

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

RE: **Acceptance of Donation to Police Department**

Kindly adopt a resolution authorizing the Town Board to accept a monetary donation to the Police Department from the Amherst Police Foundation in the amount of $61,364.90 for purchase of new departmental firearms.

Thank you.

SPC:msl
C: Tim Koller, Deputy Town Clerk (**Agenda Item: December 16, 2024**)

12/16/2024
Consent

FINANCIAL IMPACT:

Donation Amount: $61,364.90

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: 12/16/24 07:00 PM
Department: Police
Initiated by: **Scott Chamberlin**
Co-Sponsored by:

DOC ID: 29783 **RESOLUTION 2024-1024** **ADOPTED**

Request for Additional Funds 2024 Asset Forfeiture Trust Account

TOWN BOARD AGENDA: DECEMBER 16, 2024

TO: **Town Board**

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

RE: **Request for Additional Funds**
2024 Asset Forfeiture Trust Account

Kindly adopt a resolution authorizing the approval to spend up to an additional $30,000.00 from T2917 Asset Forfeiture Trust Account. This account is federally regulated by instituted guidelines regarding the expenditure of funds.

Thank you.

SPC:msl
C: Tim Koller, Deputy Town Clerk (**Agenda Item: December 16, 2024**)

12/16/2024
Consent

FINANCIAL IMPACT:

T2917: $30,000.00

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: 12/16/24 07:00 PM
Department: Police
Initiated by: **Scott Chamberlin**
Co-Sponsored by:

DOC ID: 29784 **RESOLUTION 2024-1025** **ADOPTED**

APD HQ Main Stairwell Flooring Removal & Replacement GP Flooring Solutions (CRS #5258)

TOWN BOARD AGENDA ITEM: DECEMBER 16, 2024

TO: **Town Board**

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

RE: **APD HQ Main Stairwell Flooring Removal & Replacement GP Flooring Solutions (CRS #5258)**

Kindly adopt a resolution authorizing the Supervisor to adopt and execute an agreement between the Town of Amherst (Police) and GP Flooring Solutions (CRS#5258) 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 16, 2024)**

12/16/2024
Consent

FINANCIAL IMPACT:

A 3120 .2150: $10,172.73

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 Police Department
500 John James Audubon Parkway
Amherst, NY 14228

Job Site:

Amherst Police / Jamie Anable
500 John James Audubon Pkwy
Main Stair Case - Speckled Treads & Rubber tile - Elevator
Amherst , NY 14228
Contact: Jamie Anable 716 435-8669

Proposal #	25000
Customer PO	
Contract #	PC69412
Date	12/8/2024
Sales Person	Tim Glassbrool
Designer	

Type		Quantity	Product Description	Color / Item Number	Price	T
Labor						
	Lab	73.5 LnFt	Remove existing treads - Install new Treads		$34.78	$2,556
Notes		PC69412 - NYS Contract				
Accessories	Mat	87.5 LnFt	Tarkett - VI Rubber Treads - Speckled VIHMNTSP - Hammered Surface- Hard Silver/Gray #55Insert(25) 3.5' treads	CAPE HATTERAS VK5	$30.00	$2,625
Notes		PC69412				
Wall Base	Mat		Wall base provided by Amherst Police			
	Lab	20 LnFt	Install wall base in elevator		$2.41	$48
Notes		PC69412				
Accessories	Mat	1 Each	Logo Mat - Elevator - 68"x51"		$835.00	$835
Labor						
	Lab	104 SqFt	Remove existing Rubber tile		$3.61	$375
Notes		PC69412				
Labor						
	Lab	180 SqFt	Flooring Disposal		$1.82	$327
Notes		Dispose material in Amherst Police provided dumpster				
VCT	Mat	128 SqFt	Tarkett - Speckled Rubber tile - HRTSP - 1/8" 24"x24" tile (4 cases) - Hammered Surface	CAPE HATTERAS VK5	$13.23	$1,693
	Lab	128 SqFt	Install Rubber tile		$6.50	$832
Notes		PC69412				
Accessories	Mat	2 BG	CMP Prep Star - 10lb			
	Lab	104 SqFt	Floor Prep - Minor Skim coat		$1.93	$200
Notes		Floor Prep - Minor skim coat				
Adhesive	Mat	1 CT	Tarkett 965 Tile & Tread Adhesive - 4 gal pail		$180.40	$180
Notes		PC69412 965 Tread adhesive -				
Adhesive	Mat	3 Each	930 Epoxy Nose Caulk - (13) 13.5oz cartridge			
Notes		Nose Caulk - 930-13.5				
Accessories	Mat	1 Each	Color Match Caulk	Tarkett - Color TBD		
Notes		Color Match Caulk				
Accessories	Mat	12 LnFt	Roppe Transition	TBD		
	Lab	12 LnFt	Provide & install transitions where needed		$6.05	$72
Notes		Provide & install transitions where necessary				

Attachment: Amherst Police - Main Stair Case & Elevator - Treads & Rubber tile (RES-2024-1025 : APD HQ Main Stairwell Flooring Removal &

Continuation For: Town of Amherst Police Department, Proposal # 25000

Type		Quantity	Product Description	Color / Item Number	Price	Total
Labor	Mat	1 Each	Freight/Delivery/Staging - all material		$426.00	$426.00
	Lab	1 Each	Staging			

Information

Estimated Install Date: TBD
Erie County Prevailing wage
State Contract Material Order: Yes

Contract Total	$10,172
Sales Tax	
Grand Total	$10,172

All pricing is per NYS Contract Tandus/Centiva PC69412

Thanks for your business!

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 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 manufacturer warranty.

Payment terms are net 30 unless otherwise noted. GP may invoice for materials upon order placement. A 1.5% interest charge per month will be assessed for late payment. 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 _____ Date _____

Attachment: Amherst Police - Main Stair Case & Elevator - Treads & Rubber tile (RES-2024-1025 : APD HQ Main Stairwell Flooring Removal &

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

Francina J. Spoth
Town Clerk

Meeting: 12/16/24 07:00 PM
Department: Police
Initiated by: **Scott Chamberlin**
Co-Sponsored by:

DOC ID: 29786 **RESOLUTION 2024-1026** **ADOPTED**

Eaton Office Supplies, Co., Inc. Purchase of Office Furniture (CRS #5257)

TOWN BOARD AGENDA ITEM: DECEMBER 16, 2024

TO: **Town Board**

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

RE: **Eaton Office Supplies, Co., Inc.**
Purchase of Office Furniture (CRS #5257)

Kindly adopt a resolution authorizing the Supervisor to adopt and execute an agreement between the Town of Amherst (Police) and Eaton Office Supplies Co., Inc. (CRS#5257) 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 16, 2024)**

12/16/2024
Consent

FINANCIAL IMPACT:

A 3120 .2100: $7,474.13

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

EATON OFFICE SUPPLY CO INC
180 JOHN GLENN DR
AMHERST, NY 14228-2228

Quote Name:	Amherst Police Chief's office - revised	**Quote Number:**	SQGHI005851-1
Created By:	Fay Schreiner	**Created Date:**	11/6/2024
Comments:		**Last Modified Date:**	11/20/2024
		Total Units:	24

Customer / Contact Information | **Shipping Information**

Line #	Qty	Tags	Item			T
001	1	13x36x29 13x36x29	H105532.CC 10500 SERIES BOOKCASE 2-SHELF 36WX13-1/8DX29-5/8H	Sell Price Discount List Price	$233.91 60.95% $599.00	$23 $59
			LAMINATE: Grd L1 Standard Laminates **LAMINATE_Selection:** Harvest--Harvest			

Line #	Qty	Tags	Item			T
002	2	20x36x29 20x36x29	H10563.CC 10500 SERIES LAT FILE 2-DRAWER 36W X 20D X	Sell Price Discount List Price	$479.14 60.95% $1,227.00	$95 $2,45
			LAMINATE: Grd L1 Standard Laminates **LAMINATE_Selection:** Harvest--Harvest			

Line #	Qty	Tags	Item			T
003	1	24/48 24/48	H105R2448.CC 48WX24D RECTANGLE WORKSURFACE	Sell Price Discount List Price	$130.82 60.95% $335.00	$13 $33
			LAMINATE: Grd L1 Standard Laminates **LAMINATE_Selection:** Harvest--Harvest			

Line #	Qty	Tags	Item			T
004	1	CD CD	H1522.C WOOD CENTER DRAWER 22W X 15-3/8D	Sell Price Discount List Price	$68.24 73.55% $258.00	$6 $25
			LAMINATE: Grd L1 Standard Laminates **LAMINATE_Selection:** Harvest			

Line #	Qty	Tags	Item			T
005	4	H2164 H2164	H2164.C.UR10 CAMBIA ARC ARM UPHOLSTERED BACK	Sell Price Discount List Price	$369.41 60.95% $946.00	$1,47 $3,784
			FINISH: Harvest 856 **FABRIC:** Grade 1 Uph **FABRIC_Selection:** Contourett--Black			

Line #	Qty	Tags	Item			T
006	1	HATB-2S-T HATB-2S-T	HHATB2S2LT.S.X.MEM 2 STAGE 2 LEG RECTANGLE T FOOT	Sell Price Discount List Price	$288.31 73.55% $1,090.00	$28 $1,09
			PAINT: P1 Paint Opts **PAINT_Selection:** Charcoal **GLIDE:** Standard Glide **KEYPAD:** Memory Preset			

Line #	Qty	Tags	Item	T

Attachment: Contract for CRS Routing 12.10.24 (RES-2024-1026 : Eaton Office Supplies: Purchase of Office Furniture (CRS #5257))

EATON OFFICE SUPPLY CO INC
180 JOHN GLENN DR
AMHERST, NY 14228-2228

007	4	HIGS6	HIGS6.F.S.IM.UR10.T	Sell Price	$250.70	$1,00
		HIGS6	IGNITION GUEST/MULTI-PURPOSE CHAIR FOUR-LEG STACKING	Discount	60.95%	
				List Price	$642.00	$2,56
		ARM:	Fixed			
		GLIDE/CAST:	All Surface Caster			
		BACK:	4-Way Black			
		FABRIC:	Grade 1 Uph			
		FABRIC_Selection:	Contourett--Black			
		FRAME:	Black			

Line #	Qty	Tags	Item			T
008	1	MA	HMASD.BLK	Sell Price	$313.96	$31
		MA	DUAL DYNAMIC	Discount	73.55%	
				List Price	$1,187.00	$1,18
		PAINT:	Black			

Line #	Qty	Tags	Item			T
009	2	PBBF	HNL291628PBBF.F.P.C.C	Sell Price	$417.44	$83
		PBBF	15-3/4WX29-1/8DX28-1/2H BOX/BOX/FILE PEDESTAL	Discount	60.95%	
				List Price	$1,069.00	$2,13
		PULL:	Loop/Black			
		GROMMET:	Black			
		LAMINATE:	Grd L1 Standard Laminates			
		LAMINATE_Selection:	Harvest			
		COLOR:	Grd L1 Standard Laminates			
		COLOR_Selection:	Harvest			

Line #	Qty	Tags	Item			T
010	1	EP3628L	HNLEP3628L.P.C	Sell Price	$139.80	$13
		EP3628L	1-1/8WX35DX28-1/2H END PANEL FOR 36D LEFT	Discount	60.95%	
				List Price	$358.00	$35
		GROMMET:	Black			
		LAMINATE:	Grd L1 Standard Laminates			
		LAMINATE_Selection:	Harvest			

Line #	Qty	Tags	Item			T
011	1	EP3628R	HNLEP3628R.P.C	Sell Price	$139.80	$13
		EP3628R	1-1/8WX35DX28-1/2H END PANEL FOR 36D RIGHT	Discount	60.95%	
				List Price	$358.00	$35
		GROMMET:	Black			
		LAMINATE:	Grd L1 Standard Laminates			
		LAMINATE_Selection:	Harvest			

Line #	Qty	Tags	Item			T
012	1	MP8428	HNLMP8428.X.C	Sell Price	$185.88	$18
		MP8428	84W X 27-7/8H MODESTY / BACK PANEL	Discount	60.95%	
				List Price	$476.00	$47
		GROMMET:	No Grommet			
		LAMINATE:	Grd L1 Standard Laminates			
		LAMINATE_Selection:	Harvest			

Line #	Qty	Tags	Item			T
013	1	36/84	HNLRC3684.GC.P.C	Sell Price	$341.30	$341.30
		36/84	84W X 36D RECTANGLE WORKSURFACE	Discount	60	

Attachment: Contract for CRS Routing 12.10.24 (RES-2024-1026 : Eaton Office Supplies: Purchase of Office Furniture (CRS #5257))

EATON OFFICE SUPPLY CO INC
180 JOHN GLENN DR
AMHERST, NY 14228-2228

		List Price	$874.00	$87
EDGE:	Smooth Flat--Harvest			
GROMMET:	Black			
LAMINATE:	Grd L1 Standard Laminates			
LAMINATE_Selection:	Harvest			

Line #	Qty	Tags	Item			T
014	1		inside delivery	Sell Price	$870.00	$87

Line #	Qty	Tags	Item			T
015	1		HTLD42.GC.N.C	Sell Price	$237.42	$23
			PRESIDE 42IN ROUND SHAPED LAMINATE TOP	Discount	60.95%	
				List Price	$608.00	$60
EDGE:			2MM/Flat--Harvest			
GROMMET:			No Grommets			
LAMINATE:			Grd L1 Standard Laminates			
LAMINATE_Selection:			Harvest			

Line #	Qty	Tags	Item			T
016	1		HTXLEG.S	Sell Price	$251.09	$25
			PRESIDE ALUMINUM X-LEG	Discount	60.95%	
				List Price	$643.00	$64
PAINT:			P1 Paint Opts			
PAINT_Selection:			Charcoal			

Total Sell Price: $7,474

Submitted By: Jay Schmin	
Accepted By:	
Date: 12/10/24	

Attachment: Contract for CRS Routing 12.10.24 (RES-2024-1026 : Eaton Office Supplies: Purchase of Office Furniture (CRS #5257))

Attachment: Contract for CRS Routing 12.10.24 (RES-2024-1026 : Eaton Office Supplies: Purchase of Office Furniture (CRS #5257))

Addendum to Contract Minor Exposure

1. Notwithstanding any other provision in this Agreement, the following clauses shall be controlling. Should any other provision of the Agreement conflict with the clauses in this Addendum then the provisions of this Addendum are to be enforceable and any conflicting provision shall be considered null and void.

2. No rules, requirements or customs of any society or association of professional Contractors or any similar association shall affect this Agreement in any way whatsoever or be binding upon the Town.

3. To the fullest extent permitted by law, Contractor shall indemnify and hold the Town, its officers, agents, and employees, harmless from any and all liability, demands, claims, or expenses, awards or judgments imposed upon the Town, its officers, agents, and/or employees, arising out of the work of the Contractor its officers, agents, subcontractors, and/or employees as well as the negligence, active or passive, of the Contractor, its officers, agents, subcontractors, and/or employees.

4. Contractor shall not commence work under this Agreement until it has obtained all insurance specified below, produced satisfactory proof of the same and such insurance has been approved by the Town.

(a) Workers' Compensation Insurance: Contractor shall take out and maintain during the life of this Agreement, Workers' Compensation Insurance (both Part A and Part B) for its employees to be assigned to the work hereto under.

(b) General Liability, Professional (if applicable) Liability and Property Damage Insurance: Contractor shall take out and maintain during the life of this Agreement, such general liability and property damage insurance as shall protect it and the Town of Amherst from claims for damages for personal injury, including accidental death, as well as from claims for property damage, which may arise from operations under this Agreement. The amounts of such insurance shall be as follows in an amount not less than $1,000,000.00 per occurrence for bodily injury and property damage including wrongful death, and $2,000,000.00 aggregate

(c) Contractor shall furnish the above insurances, including subcontractors' insurances, to the Town and shall also assure that any policy procured by it shall name the Town as an additional insured on a primary and non-contributory basis.

(d) Contractor shall ensure all its subcontractors, if any, have obtained all the above insurances and shall also assure that any policy procured by any subcontractor or sub-subcontractor shall name the Town as an additional insured on a primary and non-contributory basis.

Attachment: Contract for CRS Routing 12.10.24 (RES-2024-1026 : Eaton Office Supplies: Purchase of Office Furniture (CRS #5257))

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.

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: Eaton Office Supply Co., Inc.

Signature: Andrea L. Bradley

Print Name: Andrea L. Bradley

Title: President

Date: 12/10/2024

Sworn To Before Me This

10 Day of December, 2024

MELANIE ARSENAULT
Notary Public, State of New York
Qualified in Erie County
Reg. No. 01AR5037937
My Commission Expires Jan. 17, 2027

Melanie A. Arsenault
Notary Public

Attachment: Contract for CRS Routing 12.10.24 (RES-2024-1026 : Eaton Office Supplies: Purchase of Office Furniture (CRS #5257))

EATOOFF-03

13.Q.4.a

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 5/1/2024

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 License # 1009544 Lawley, LLC 361 Delaware Avenue Buffalo, NY 14202	CONTACT NAME: Tania Lanza PHONE (A/C, No, Ext): (716) 849-1546 1546 FAX (A/C, No): (716) 849-8291 E-MAIL ADDRESS: tlanza@lawleyinsurance.com
INSURED Eaton Office Supply Co., Inc. 180 John Glenn Drive Amherst, NY 14228	INSURER(S) AFFORDING COVERAGE — NAIC # INSURER A : Republic Franklin Insurance Company — 12475 INSURER B : Utica National Ins of OH — 13998 INSURER C : INSURER D : INSURER E : INSURER F :

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY							
	[ ] CLAIMS-MADE [X] OCCUR	X		5640629	5/1/2024	5/1/2025	EACH OCCURRENCE	$ 1,000,0
							DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 100,0
							MED EXP (Any one person)	$ 10,0
							PERSONAL & ADV INJURY	$ 1,000,0
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$ 2,000,0
	[ ] POLICY [ ] PRO-JECT [X] LOC						PRODUCTS - COMP/OP AGG	$ 2,000,0
	OTHER:							$
A	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	$ 1,000,0
	X ANY AUTO	X		5640631	5/1/2024	5/1/2025	BODILY INJURY (Per person)	$
	[ ] OWNED AUTOS ONLY [ ] SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	[ ] HIRED AUTOS ONLY [ ] NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
								$
B	X UMBRELLA LIAB [X] OCCUR			5641142	5/1/2024	5/1/2025	EACH OCCURRENCE	$ 10,000,0
	EXCESS LIAB [ ] CLAIMS-MADE						AGGREGATE	$ 10,000,0
	DED [X] RETENTION $ 10,000							$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						[ ] PER STATUTE [ ] OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y / N [ ] (Mandatory in NH)	N/A					E.L. EACH ACCIDENT	$
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$
							E.L. DISEASE - POLICY LIMIT	$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Additional Insured and Waiver of Subrogation coverage shown above and marked with an X. Terms set forth as evidenced by the attached endorsement(s) identified on the ACORD 101.

CERTIFICATE HOLDER	CANCELLATION
Town of Amherst 5583 Main Street Williamsville, NY 14221	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: Contract for CRS Routing 12.10.24 (RES-2024-1026 : Eaton Office Supplies: Purchase of Office Furniture (CRS #5257))

New York State Workers' Compensation Board

CERTIFICATE OF NYS WORKERS' COMPENSATION INSURANCE COVERAGE

1a. Legal Name and address of Insured (Use street address only)	1b. Business Telephone Number of Insured
Eaton Office Supply Co; Inc 180 John Glenn Dr Amherst, NY 14228	(716) 691-6100 **1c. NYS Unemployment Insurance Employer Registration Number of Insured**
Work Location of Insured *(Only required if coverage is specifically limited to certain location in New York State, i.e. a Wrap-Up Policy)*	**1d. Federal Employer Indentification Number of Insured or Social Security Number** 16-0417340
2. Name and Address of the Entity Requesting Proof of Coverage (Entity Being Listed as the Certificate Holder)	**3a.Name of Insurance Carrier**
Town of Amherst 5583 Main St Williamsville, NY 14221	Hartford Insurance Group **3b. Policy Number of entity listed in box "1a":** 01WB AJ5J22 **3c. Policy effective period:** 01/01/2024 - 01/01/2025 **3d. The Proprietor, Partners or Executive Officers are:** ☑ **included** (Only check box if all partners/officers included) ☐ **all excluded or certain partners/officers excluded**

This certifies that the insurance carrier indicated above in box "3" insures the business referenced above in box "1a" for workers' compensation under the New York State Workers' Compensation Law. (To use this form, New York (NY) must be listed under Item 3A on the INFORMATION PAGE of the workers' compensation insurance policy). The Insurance Carrier or its licensed agent will send this Certificate of Insurance to the entity listed above as the certificate holder in box "2".

The insurance carrier must notify the above certificate holder and the Workers' Compensation Board within 10 days IF a policy is canceled due to nonpayment of premiums or within 30 days IF there are reasons other than nonpayment of premiums that cancel the policy or eliminate the insured from the coverage indicated on this Certificate. (These notices may be sent by regular mail.) Otherwise, this Certificate is valid for one year after this form is approved by the insurance carrier or its licensed agent, or until the policy expiration date listed in box "3c", whichever is earlier.

This certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend or alter the coverage afforded by the policy listed, nor does it confer any rights or responsibilities beyond those contained in the referenced policy.

This certificate may be used as evidence of a Workers' Compensation contract of insurance only while the underlying policy is in effect.

Please Note: Upon cancellation of the workers' compensation policy indicated on this form, if the business continues to be named on a permit, license or contract issued by a certificate holder, the business must provide that certificate holder with a new Certificate of Workers' Compensation Coverage or other authorized proof that the business is complying with the mandatory coverage requirements of the New York State Workers' Compensation Law.

Under penalty of perjury, I certify that I am an authorized representative or licensed agent of the insurance carrier referenced above and that the named insured has the coverage as depicted on this form.

Approved By: William Lawley Jr.
(Print name of authorized representative or licensed agent of insurance carrier)

Approved By: _____ 12/12/23
(Signature) (Date)

Title: Managing Partner

Telephone Number of authorized representative or licensed agent of insurance carrier: CarrierPhone

Please Note: Only insurance carriers and their licensed agents are authorized to issue the C-105.2 form. Insurance brokers are NOT authorized to issue it.

Attachment: Contract for CRS Routing 12.10.24 (RES-2024-1026 : Eaton Office Supplies: Purchase of Office Furniture (CRS #5257))

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) EATON OFFICE SUPPLY CO., INC 180 JOHN GLENN DRIVE BUFFALO, NY 14228 Work Location of Insured *(Only required if coverage is specifically limited to certain locations in New York State, i.e., Wrap-Up Policy)* NEW YORK	1b. Business Telephone Number of Insured 716-691-6100 1c. Federal Employer Identification Number of Insured or Social Security Number 16-0417340
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 **The Guardian Life Insurance Company of America** 3b. Policy Number of Entity Listed in Box 1a 00385057 3c. Policy Effective Period 07/01/2024 to 07/01/2025

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 07/17/2024 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: Contract for CRS Routing 12.10.24 (RES-2024-1026 : Eaton Office Supplies: Purchase of Office Furniture (CRS #5257))

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

Francina J. Spoth
Town Clerk

Meeting: 12/16/24 07:00 PM
Department: Police
Initiated by: **Scott Chamberlin**
Co-Sponsored by:

DOC ID: 29794 **RESOLUTION 2024-1027** **ADOPTED**

Range Cleaning Contract Bailey Ave. Training Facility Range Action Target, Inc. (CRS #5265)

TOWN BOARD AGENDA : DECEMBER 16, 2024

TO: **Town Board**

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

RE: **Range Cleaning Contract**
Bailey Ave. Training Facility Range
Action Target, Inc. (CRS #5265)

Kindly adopt a resolution authorizing the Supervisor to adopt and execute an agreement between the Town of Amherst (Police) and Action Target, Inc. (CRS #5265) 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 16, 2024)**

12/16/2024
Consent

FINANCIAL IMPACT:

A 3122 .4220: $15,344.00

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

Invoice

ACTION TARGET™

3411 S. Mountain Vista Parkway, Provo, UT 84606-0636 801-377-8033 FAX: 801-377-8096

Invoice: 144109-1
Date: 2024-Dec-11
Order: 144109
CustID: 42318
Sales: Diana Rotolo
PO: RBTC 2024 ROC
Printed: 2024-Dec-11

Complete Billing	Shipping Terms: Delivered	Payment Due: 2025-Jan-10	Invoice Status: open	

Bill To:
Greg Bund
Amherst Police Department
4220 Bailey Ave
Buffalo, NY 14226 USA

Ln	Quan	Description	Each	Amount
1	1	RBT Cleaning Service - 2 bays total to be cleaned - Basic Pull Remove material until virgin rubber is visible or until a maximum of 75% of the original depth has been removed. WITHOUT fines removal. - Action Target Crew works 12 hour days. Access to site must be made available during these hours. - Crew will bag up and stage all lead for transport and recycling. - free packaging included with ATI Metals program - Generator included for work - Diagnostics report after cleaning showing health of berm/rubber and recomendations for future cleanings.	15344.00	15344.00
2	1	Metals Value - ATI Pays 39% of the daily spot pricing of the London Metals Exchange for lead and 54% of the LME for Brass - If placed into credit with ATI we add a 10% Bonus - Credit can be used to pay this invoice or for anything under the ATI umbrella.	0.00	0.00

Attachment: Quote (RES-2024-1027 : Bailey Training Facility Range Cleaning: Action Target (CRS #5265))

3	1	**OPTION - Haz - Waste Disposal - NOT INCLUDED IN QUOTE Filter and range waste disposal pricing is dependent on the amount of cubic yards of waste. Price is $1,000/cubic yard. Pricing is based on 400 lbs./cubic yard. Pricing is based on approved waste: lead contaminated filters, ppe, ballistic rubber blocks and other lead contaminated debris produced by the range. Pricing includes: UN-rated packaging required by EPA/DOT All documentation including Waste Profile and Manifest (Customer will receive the customer copy of the manifest on pickup. Customer will receive the facility signed off copy by mail within 35 days of proper disposal) Pickup at their facility Disposal at hazardous waste landfill Environmental, insurance, and security fees Fuel surcharge LTL Stop fee	0.00	0.00

Terms and Conditions:
Unless otherwise stated above, all accounts are Net 30 with the total amount due and payable 30 days form the invoice date. A FINANCE CHARGE of 1 1/2% per month (Annual Rate of 18%) will be charged on all past due accounts. Warranty services will not be performed unless the account is on a current basis. If collection is made by suit or otherwise, the purchaser agrees to pay interest until the balance is paid in full and also all collection costs including reasonable attorney fees.

Total:	15344.00
Amount Paid:	0.00
Total Due:	15344.00

Attachment: Quote (RES-2024-1027 : Bailey Training Facility Range Cleaning: Action Target (CRS #5265))

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

Francina J. Spoth
Town Clerk

Meeting: 12/16/24 07:00 PM
Department: Police
Initiated by: **Scott Chamberlin**
Co-Sponsored by:

DOC ID: 29802 **RESOLUTION 2024-1028** **ADOPTED**

FY23 COPS Technology & Equipment Program Grant Office of Community Oriented Policing Services (CRS #5266)

TOWN BOARD AGENDA ITEM: DECEMBER 16, 2024

TO: **Town Board**

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

RE: **FY23 COPS Technology & Equipment Program Grant**
Office of Community Oriented Policing Services (CRS #5266)

Kindly adopt a resolution the following Resolution with regard to the above matter:

WHEREAS, the Town of Amherst has been awarded a congressional earmark for the Police Communication Tower Project to be located at the former Nike Base Property; and

WHEREAS, the Town of Amherst is authorized to accept this congressional earmark in the amount of $900,000 for the project described in the application and no matching funds are required to receive the funds; and

NOW, THEREFORE BE IT RESOLVED, that the Town Board and Supervisor are hereby authorized to accept these funds and approve all corresponding grant agreement documentation as part of the Department of Justice COPS Technology Grant System.

SPC:msl
C: Tim Koller, Deputy Town Clerk (**Agenda Item: December 16, 2024**)

12/16/2024
Consent

FINANCIAL IMPACT:

$900,000 (Grant Revenue)

No Town match required

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

Department of Justice (DOJ)

Office of Community Oriented Policing Services (COPS Office)

Washington, D.C. 20531

Name and Address of Recipient:	TOWN OF AMHERST TOWN HALL 5583 MAIN ST
City, State and Zip:	WILLIAMSVILLE, NY 14221
Recipient UEI:	LUD2CUCRDQK7

Project Title: FY23 COPS Technology and Equipment Program (Congressionally Directed Spending)	**Award Number:** 15JCOPS-23-GG-01700-TECP
Solicitation Title: FY 2023 COPS Technology and Equipment Program Invitational Solicitation	
Federal Award Amount: $900,000.00	**Federal Award Date:** 9/20/23
Awarding Agency:	Office of Community Oriented Policing Services
Funding Instrument Type:	Grant
Opportunity Category: D **Assistance Listing:** 16.710 - Public Safety Partnership and Community Policing Grants	
Project Period Start Date: 12/29/22	**Project Period End Date:** 12/31/26
Budget Period Start Date: 12/29/22	**Budget Period End Date**: 12/31/26

Project Description:

The FY 2023 COPS Office Technology and Equipment Program (TEP) is an invitation-only grant program designed to develop and acquire effective equipment, technologies, and interoperable communications that assist in responding to and preventing crime.

The objective is to provide funding for projects which improve police effectiveness and the flow of information among law enforcement agencies, local government service providers, and the communities they serve. Funding shall be used for the projects, and in the amounts, specified under the heading “Community Oriented Policing Services, Technology and Equipment Community Projects/ COPS Law Enforcement Technology and Equipment” in the Joint Explanatory Statement – Division B, which is incorporated by reference into Public Law 117-328.

Attachment: Award_Package_FAW-177105 (RES-2024-1028 : FY23 COPS Technology & Equipment Program Grant: OCOPS)

Award Letter

September 20, 2023

Dear Brian Kulpa,

On behalf of Attorney General Merrick B. Garland, it is my pleasure to inform you the Office of Community Oriented Policing Services (the COPS Office) has approved the application submitted by TOWN OF AMHERST TOWN HALL f or an award under the funding opportunity entitled 2023 FY 2023 COPS Technology and Equipment Program Invitational Solicitation. The approved award amount is $900,000.
Review the Award Instrument below carefully and familiarize yourself with all conditions and requirements before accepting your award. The Award Instrument includes the Award Offer (Award Information, Project Information, Financial Information, and Award Conditions) and Award Acceptance. For COPS Office and OVW funding the Award Offer also includes any Other Award Documents.

Please note that award requirements include not only the conditions and limitations set forth in the Award Offer, but also compliance with assurances and certifications that relate to conduct during the period of performance for the award. These requirements encompass financial, administrative, and programmatic matters, as well as other important matters (e.g., specific restrictions on use of funds). Therefore, all key staff should receive the award conditions, the assurances and certifications, and the application as approved by the COPS Office, so that they understand the award requirements. Information on all pertinent award requirements also must be provided to any subrecipient of the award.

Should you accept the award and then fail to comply with an award requirement, DOJ will pursue appropriate remedies for non-compliance, which may include termination of the award and/or a requirement to repay award funds.

Prior to accepting the award, your Entity Administrator must assign a Financial Manager, Grant Award Administrator, and Authorized Representative(s) in the Justice Grants System (JustGrants). The Entity Administrator will need to ensure the assigned Authorized Representative(s) is current and has the legal authority to accept awards and bind the entity to the award terms and conditions. To accept the award, the Authorized Representative(s) must accept all parts of the Award Offer in the Justice Grants System (JustGrants), including by executing the required declaration and certification, within 45 days from the award date.

To access your funds, you will need to enroll in the Automated Standard Application for Payments (ASAP) system, if you haven't already completed the enrollment process in ASAP. The Entity Administrator should have already received an email from ASAP to initiate this process.

Congratulations, and we look forward to working with you.

HUGH CLEMENTS
COPS Director

Office for Civil Rights Notice for All Recipients

The Office for Civil Rights (OCR), Office of Justice Programs (OJP), U.S. Department of Justice (DOJ) has been delegated the responsibility for ensuring that recipients of federal financial assistance from the OJP, the Office of Community Oriented Policing Services (COPS), and the Office on Violence Against Women (OVW) are not engaged in discrimination prohibited by law. Several federal civil rights laws, such as Title VI of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973, require recipients of federal financial assistance to give assurances that they will comply with those laws. Taken together, these civil rights laws prohibit recipients of federal financial assistance from DOJ from discriminating in services and employment because of race, color, national origin, religion, disability, sex, and, for grants authorized under the Violence Against Women Act, sexual orientation and gender identity. Recipients are also prohibited from discriminating in services because of age. For a complete review of these civil rights laws and nondiscrimination requirements, in connection with DOJ awards, see https://ojp.gov/funding/Explore/LegalOverview/CivilRightsRequirements.htm.

Under the delegation of authority, the OCR investigates allegations of discrimination against recipients from individuals, entities, or groups. In addition, the OCR conducts limited compliance reviews and audits based on regulatory criteria.

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These reviews and audits permit the OCR to evaluate whether recipients of financial assistance from the Department are providing services in a nondiscriminatory manner to their service population or have employment practices that meet equal-opportunity standards.

If you are a recipient of grant awards under the Omnibus Crime Control and Safe Streets Act or the Juvenile Justice and Delinquency Prevention Act and your agency is part of a criminal justice system, there are two additional obligations that may apply in connection with the awards: (1) complying with the regulation relating to Equal Employment Opportunity Programs (EEOPs); and (2) submitting findings of discrimination to OCR. For additional information regarding the EEOP requirement, see 28 CFR Part 42, subpart E, and for additional information regarding requirements when there is an adverse finding, see 28 C.F.R. §§ 42.204(c), .205(c)(5).

The OCR is available to help you and your organization meet the civil rights requirements that are associated with DOJ grant funding. If you would like the OCR to assist you in fulfilling your organization's civil rights or nondiscrimination responsibilities as a recipient of federal financial assistance, please do not hesitate to contact the OCR at askOCR@ojp.usdoj.gov.

Award Information

This award is offered subject to the conditions or limitations set forth in the Award Information, Project Information, Financial Information, and Award Conditions.

Recipient Information

Recipient Name
TOWN OF AMHERST TOWN HALL

UEI
LUD2CUCRDQK7

ORI Number
no value

Street 1
5583 MAIN ST

Street 2

City
WILLIAMSVILLE

State/U.S. Territory
New York

Zip/Postal Code
14221

Country
United States

County/Parish
no value

Province
no value

Award Details

Federal Award Date
9/20/23

Award Type
Initial

Award Number
15JCOPS-23-GG-01700-TECP

Supplement Number
00

Federal Award Amount
$900,000.00

Funding Instrument Type
Grant

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Assistance Listing Number	Assistance Listings Program Title
16.710	Public Safety Partnership and Community Policing Grants

Statutory Authority

The Public Safety Partnership and Community Policing Act of 1994, 34 U.S.C. § 10381 et seq

[X] *I have read and understand the information presented in this section of the Federal Award Instrument.*

Project Information

This award is offered subject to the conditions or limitations set forth in the Award Information, Project Information, Financial Information, and Award Conditions.

Solicitation Title

2023 FY 2023 COPS Technology and Equipment Program Invitational Solicitation

Awarding Agency

COPS

Application Number

GRANT13857435

Grant Manager

NICHOLAS KOSTER

Phone Number

202-531-0432

E-mail Address

Nicholas.Koster@usdoj.gov

Project Title

FY23 COPS Technology and Equipment Program (Congressionally Directed Spending)

Performance Period Start Date

12/29/2022

Performance Period End Date

12/31/2026

Budget Period Start Date

12/29/2022

Budget Period End Date

12/31/2026

Project Description

The FY 2023 COPS Office Technology and Equipment Program (TEP) is an invitation-only grant program designed to develop and acquire effective equipment, technologies, and interoperable communications that assist in responding to and preventing crime.

The objective is to provide funding for projects which improve police effectiveness and the flow of information among law enforcement agencies, local government service providers, and the communities they serve. Funding shall be used for the projects, and in the amounts, specified under the heading “Community Oriented Policing Services, Technology and Equipment Community Projects/ COPS Law Enforcement Technology and Equipment” in the Joint Explanatory Statement – Division B, which is incorporated by reference into Public Law 117-328.

[X] *I have read and understand the information presented in this section of the Federal Award Instrument.*

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Financial Information

This award is offered subject to the conditions or limitations set forth in the Award Information, Project Information, Financial Information, and Award Conditions.

A financial analysis of budgeted costs has been completed. All costs listed in the approved budget below were programmatically approved based on the final proposed detailed budget and budget narratives submitted by your agency to the COPS Office. Any adjustments or edits to the proposed budget are explained below.

Budget Clearance Date: 7/5/23 9:26 AM

Comments
No items

Budget Category	Proposed Budget	Change	Approved Budget	Percentages
Sworn Officer Positions:	$0	$0	$0	no value
Civilian or Non-Sworn Personnel:	$0	$0	$0	no value
Travel:	$0	$0	$0	no value
Equipment:	$900,000	$0	$900,000	no value
Supplies:	$0	$0	$0	no value
SubAwards:	$0	$0	$0	no value
Procurement Contracts:	$0	$0	$0	no value
Other Costs:	$0	$0	$0	no value
Total Direct Costs:	$900,000	$0	$900,000	no value
Indirect Costs:	$0	$0	$0	no value
Total Project Costs:	$900,000	$0	$900,000	no value
Federal Funds:	$900,000	$0	$900,000	100.00%
Match Amount:	$0	$0	$0	0.00%
Program Income:	$0	$0	$0	0.00%

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Budget Category
Sworn Officer
Civilian Personnel
Travel
Equipment
Supplies
SubAwards
Procurement Contracts
Other Costs
Indirect Costs

[X] *I have read and understand the information presented in this section of the Federal Award Instrument.*

Other Award Documents

[X] *I have read and understand the information presented in this section of the Federal Award Instrument.*

No other award documents have been added.

Award Conditions

This award is offered subject to the conditions or limitations set forth in the Award Information, Project Information, Financial Information, and Award Conditions.

Condition 1
Reporting Subawards and Executive Compensation

The recipient agrees to comply with the following requirements of 2 C.F.R. Part 170, Appendix A to Part 170 – Award Term:
I. Reporting Subawards and Executive Compensation
a. Reporting of first-tier subawards.

Applicability. Unless you are exempt as provided in paragraph d. of this award term, you must report each action that equals or exceeds $30,000 in Federal funds for a subaward to a non-Federal entity or Federal agency (see definitions in paragraph e. of this award term).

2. Where and when to report.

i. The non-Federal entity or Federal agency must report each obligating action described in paragraph a.1. of this award term to http://www.fsrs.gov.

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ii. For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2010, the obligation must be reported by no later than December 31, 2010.)

3. What to report. You must report the information about each obligating action that the submission instructions posted at http://www.fsrs.gov specify.

b. Reporting total compensation of recipient executives for non-Federal entities.

1. Applicability and what to report. You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, if—

i. The total Federal funding authorized to date under this Federal award equals or exceeds $30,000 as defined in 2 CFR 170.320;

ii. in the preceding fiscal year, you received—

(A) 80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards), and

(B) $25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and,

iii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at http://www.sec.gov/answers/execomp.htm.)

2. Where and when to report. You must report executive total compensation described in paragraph b.1. of this award term:

i. As part of your registration profile at https://www.sam.gov.

ii. By the end of the month following the month in which this award is made, and annually thereafter.

c. Reporting of Total Compensation of Subrecipient Executives.

1. Applicability and what to report. Unless you are exempt as provided in paragraph d. of this award term, for each first-tier non-Federal entity subrecipient under this award, you shall report the names and total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if—

i. in the subrecipient's preceding fiscal year, the subrecipient received—

(A) 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards) and,

(B) $25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and

ii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at http://www.sec.gov/answers/execomp.htm.)

2. Where and when to report. You must report subrecipient executive total compensation described in paragraph c.1. of this award term:

i. To the recipient.

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ii. By the end of the month following the month during which you make the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (i.e., between October 1 and 31), you must report any required compensation information of the subrecipient by November 30 of that year.

d. Exemptions.

If, in the previous tax year, you had gross income, from all sources, under $300,000, you are exempt from the requirements to report:

i. Subawards, and

ii. The total compensation of the five most highly compensated executives of any subrecipient.

e. Definitions. For purposes of this award term:

1. Federal Agency means a Federal agency as defined at 5 U.S.C. 551(1) and further clarified by 5 U.S.C. 552(f).

2. Non-Federal entity means all of the following, as defined in 2 CFR part 25:

i. A Governmental organization, which is a State, local government, or Indian tribe;

ii. A foreign public entity;

iii. A domestic or foreign nonprofit organization; and,

iv. A domestic or foreign for-profit organization

3. Executive means officers, managing partners, or any other employees in management positions.

4. Subaward:

i. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.

ii. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see 2 CFR 200.331).

iii. A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.

5. Subrecipient means a non-Federal entity or Federal agency that:

i. Receives a subaward from you (the recipient) under this award; and

ii. Is accountable to you for the use of the Federal funds provided by the subaward.

6. Total compensation means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)).

Condition 2
Restrictions on Internal Confidentiality Agreements: No recipient or subrecipient under this award, or entity that receives a contract or subcontract with any funds under this award, may require any employee or contractor to sign an internal confidentiality agreement or statement that prohibits or otherwise restricts the lawful reporting of waste, fraud, or abuse to an investigative or law enforcement representative of a federal department or agency authorized to receive such information. Consolidated Appropriations Act, 2023, Public Law 117-328, Division E, Title VII, Section 742.

Condition 3

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Prohibited conduct by recipients and subrecipients related to trafficking in persons (including reporting requirements and COPS Office authority to terminate award): The recipient and subrecipient agree to comply with the requirements in 2 C.F.R. § 175.15(b) – Award Term:
I. Trafficking in persons.
a. Provisions applicable to a recipient that is a private entity.
1. You as the recipient, your employees, subrecipients under this award, and subrecipients' employees may not—
i. Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
ii. Procure a commercial sex act during the period of time that the award is in effect; or
iii. Use forced labor in the performance of the award or subawards under the award.
2. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if you or a subrecipient that is a private entity —
i. Is determined to have violated a prohibition in paragraph a.1 of this award term; or
ii. Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph a.1 of this award term through conduct that is either—
A. Associated with performance under this award; or
B. Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2CFR part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by DOJ at 2 C.F.R. Part 2867.
b. Provision applicable to a recipient other than a private entity. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity—
1. Is determined to have violated an applicable prohibition in paragraph a.1 of this award term; or
2. Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a.1 of this award term through conduct that is either—
i. Associated with performance under this award; or
ii. Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by DOJ at 2 C.F.R. Part 2867.
c. Provisions applicable to any recipient.
1. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph a.1 of this award term.
2. Our right to terminate unilaterally that is described in paragraph a.2 or b of this section:
i. Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended 22 U.S.C. 7104(g), and
ii. Is in addition to all other remedies for noncompliance that are available to us under this award.
3. You must include the requirements of paragraph a.1 of this award term in any subaward you make to a private entity.
d. Definitions. For purposes of this award term:
1. “Employee” means either:
i. An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or
ii. Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.
2. “Forced labor” means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.
3. “Private entity”:
i. Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR 175.25.
ii. Includes:
A. A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 CFR 175.25(b).
B. A for-profit organization.
4. “Severe forms of trafficking in persons,” “commercial sex act,” and “coercion” have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. 7102).

Condition 4
Duplicative Funding: The recipient understands and agrees to notify the COPS Office if it receives, from any other source, funding for the same item or service also funded under this award.

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Condition 5
Termination: Recipient understands and agrees that the COPS Office may terminate funding, in whole or in part, for the following reasons:
(1) When the recipient fails to comply with the terms and conditions of a Federal award.
(2) When an award no longer effectuates the program goals or agency priorities, to the extent such termination is authorized by law.
(3) When the recipient agrees to the termination and termination conditions.
(4) When the recipient provides the COPS Office written notification requesting termination including the reasons, effective date, and the portion of the award to be terminated. The COPS Office may terminate the entire award if the remaining portion will not accomplish the purposes of the award.
(5) Pursuant to any other termination provisions included in the award.
2. C.F.R. § 200.340.

Condition 6
Award Owner's Manual: The recipient agrees to comply with the terms and conditions in the applicable 2023 COPS Office Program Award Owner's Manual; DOJ Grants Financial Guide; COPS Office statute (34 U.S.C. § 10381, et seq.) as applicable; Students, Teachers, and Officers Preventing (STOP) School Violence Act of 2018 (34 U.S.C. § 10551, et seq.) as applicable; the requirements of 2 C.F.R. Part 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards) as adopted by the U.S. Department of Justice in 2 C.F.R. § 2800.101; 48 C.F.R. Part 31 (FAR Part 31) as applicable (Contract Cost Principles and Procedures); the Cooperative Agreement as applicable; representations made in the application; and all other applicable program requirements, laws, orders, regulations, or circulars.

Failure to comply with one or more award requirements may result in remedial action including, but not limited to, withholding award funds, disallowing costs, suspending, or terminating the award, or other legal action as appropriate.

Should any provision of an award condition be deemed invalid or unenforceable by its terms, that provision will be applied to give it the maximum effect permitted by law. Should the provision be deemed invalid or unenforceable in its entirety, such provision will be severed from this award.

Condition 7
Authorized Representative Responsibility: The recipient understands that, in accepting this award, the Authorized Representatives declare and certify, among other things, that they possess the requisite legal authority to accept the award on behalf of the recipient entity and, in so doing, accept (or adopt) all material requirements throughout the period of performance under this award. The recipient further understands, and agrees, that it will not assign anyone to the role of Authorized Representative during the period of performance under the award without first ensuring that the individual has the requisite legal authority.

Condition 8
Award Monitoring Activities: Federal law requires that recipients receiving federal funding from the COPS Office must be monitored to ensure compliance with their award conditions and other applicable statutes and regulations. The COPS Office is also interested in tracking the progress of our programs and the advancement of community policing. Both aspects of award implementation—compliance and programmatic benefits—are part of the monitoring process coordinated by the U.S. Department of Justice. Award monitoring activities conducted by the COPS Office include site visits, enhanced office-based grant reviews, alleged noncompliance reviews, financial and programmatic reporting, and audit resolution. As a COPS Office award recipient, you agree to cooperate with and respond to any requests for information pertaining to your award. This includes all financial records, such as general accounting ledgers and all supporting documents. All information pertinent to the implementation of the award is subject to agency review throughout the life of the award, during the close-out process and for three-years after the submission of the final expenditure report. 34 U.S.C. § 10385(a) and 2 C.F.R. §§ 200.334 and 200.337.

Condition 9
Contract Provision: All contracts made by the award recipients under the federal award must contain the provisions required under 2 C.F.R. Part 200, Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards. Please see appendices in the Award Owner's Manual for a full text of the contract provisions.

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Condition 10
Assurances and Certifications: The recipient acknowledges its agreement to comply with the Assurances and Certifications forms that were signed as part of its application.

Condition 11
Conflict of Interest: Recipients and subrecipients must disclose in writing to the COPS Office or pass-through entity, as applicable, any potential conflict of interest affecting the awarded federal funding in 2 C.F.R. § 200.112.

Condition 12
Debarment and Suspension: The recipient agrees not to award federal funds under this program to any party which is debarred or suspended from participation in federal assistance programs. 2 C.F.R. Part 180 (Government-wide Nonprocurement Debarment and Suspension) and 2 C.F.R. Part 2867 (DOJ Nonprocurement Debarment and Suspension).

Condition 13
Employment Eligibility: The recipient agrees to complete and keep on file, as appropriate, the Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) Employment Eligibility Verification Form (I-9). This form is to be used by recipients of federal funds to verify that persons are eligible to work in the United States. Immigration Reform and Control Act of 1986 (IRCA), Public Law 99-603.

Condition 14
Enhancement of Contractor Protection from Reprisal for Disclosure of Certain Information: Recipients and subrecipients agree not to discharge, demote, or otherwise discriminate against an employee as reprisal for the employee disclosing information that he or she reasonably believes is evidence of gross mismanagement of a federal contract or award, a gross waste of federal funds, an abuse of authority relating to a federal contract or award, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a Federal contract (including the competition for or negotiation of a contract) or award. Recipients and subrecipients also agree to provide to their employees in writing (in the predominant native language of the workforce) of the rights and remedies provided in 41 U.S.C. § 4712. Please see appendices in the Award Owner's Manual for a full text of the statute.

Condition 15
Equal Employment Opportunity Plan (EEOP): All recipients of funding from the COPS Office must comply with the federal regulations pertaining to the development and implementation of an Equal Employment Opportunity Plan. 28 C.F.R. Part 42 subpart E.

Condition 16
False Statements: False statements or claims made in connection with COPS Office awards may result in fines, imprisonment, debarment from participating in federal awards or contracts, and/or any other remedy available by law. 31 U.S.C. § 3729-3733.

Condition 17
Federal Civil Rights: The Applicant understands that the federal statutes and regulations applicable to the award (if any) made by the Department based on the application specifically include statutes and regulations pertaining to civil rights and nondiscrimination, and, in addition—
a. the Applicant understands that the applicable statutes pertaining to civil rights will include section 601 of the Civil Rights Act of 1964 (42 U.S.C. § 2000d); section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794); section 901 of the Education Amendments of 1972 (20 U.S.C. § 1681); and section 303 of the Age Discrimination Act of 1975 (42 U.S.C. § 6102);
b. the Applicant understands that the applicable statutes pertaining to nondiscrimination may include section 809(c) of Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (34 U.S.C. § 10228(c)); section 1407(e) of the Victims of Crime Act of 1984 (34 U.S.C. § 20110(e)); section 299A(b) of the Juvenile Justice and Delinquency Prevention Act of 2002 (34 U.S.C. § 11182(b)); and that the grant condition set out at section 40002(b)(13) of the Violence Against Women Act (34 U.S.C. § 12291(b)(13)), which will apply to all awards made by the Office on Violence Against Women, also may apply to an award made otherwise;
c. the Applicant understands that it must require any subrecipient to comply with all such applicable statutes (and

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associated regulations); and
d. on behalf of the Applicant, I make the specific assurances set out in 28 C.F.R. §§ 42.105 and 42.204.
The Applicant also understands that (in addition to any applicable program-specific regulations and to applicable federal regulations that pertain to civil rights and nondiscrimination) the federal regulations applicable to the award (if any) made by the Department based on the application may include, but are not limited to, 2 C.F.R. Part 2800 (the DOJ "Part 200 Uniform Requirements") and 28 C.F.R. Parts 22 (confidentiality - research and statistical information), 23 (criminal intelligence systems), 38 (regarding faith-based or religious organizations participating in federal financial assistance programs), and 46 (human subjects protection).

Condition 18
Mandatory Disclosure: Recipients and subrecipients must timely disclose in writing to the Federal awarding agency or pass-through entity, as applicable, all federal criminal law violations involving fraud, bribery, or gratuity that may potentially affect the awarded federal funding. Recipients that receive an award over $500,000 must also report certain civil, criminal, or administrative proceedings in SAM and are required to comply with the Term and Condition for Recipient Integrity and Performance Matters as set out in 2 C.F.R. Part 200, Appendix XII to Part 200. Failure to make required disclosures can result in any of the remedies, including suspension and debarment, described in 2 C.F.R. § 200.339. 2 C.F.R. § 200.113.

Condition 19
Reports/Performance Goals: To assist the COPS Office in monitoring and tracking the performance of your award, your agency will be responsible for submitting semi-annual programmatic performance reports that describe project activities during the reporting period and quarterly Federal Financial Reports using Standard Form 425 (SF-425). 2 C.F.R. §§ 200.328 - 200.329. The performance report is used to track your agency's progress toward implementing community policing strategies and to collect data to gauge the effectiveness of increasing your agency's community policing capacity through COPS Office funding. The Federal Financial Report is used to track the expenditures of the recipient's award funds on a cumulative basis throughout the life of the award.

Condition 20
Recipient Integrity and Performance Matters: For awards over $500,000, the recipient agrees to comply with the following requirements of 2 C.F.R. Part 200, Appendix XII to Part 200 – Award Term and Condition for Recipient Integrity and Performance Matters:
A. Reporting of Matters Related to Recipient Integrity and Performance
1. General Reporting Requirement
If the total value of your currently active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds $10,000,000 for any period of time during the period of performance of this Federal award, then you as the recipient during that period of time must maintain the currency of information reported to the System for Award Management (SAM) that is made available in the designated integrity and performance system (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)) about civil, criminal, or administrative proceedings described in paragraph 2 of this award term and condition. This is a statutory requirement under section 872 of Public Law 110-417, as amended (41 U.S.C. 2313). As required by section 3010 of Public Law 111-212, all information posted in the designated integrity and performance system on or after April 15, 2011, except past performance reviews required for Federal procurement contracts, will be publicly available.

2. Proceedings About Which You Must Report
Submit the information required about each proceeding that:

a. Is in connection with the award or performance of a grant, cooperative agreement, or procurement contract from the Federal Government;

b. Reached its final disposition during the most recent five-year period; and

c. Is one of the following:

(1) A criminal proceeding that resulted in a conviction, as defined in paragraph 5 of this award term and condition;

(2) A civil proceeding that resulted in a finding of fault and liability and payment of a monetary fine, penalty, reimbursement, restitution, or damages of $5,000 or more;

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(3) An administrative proceeding, as defined in paragraph 5. of this award term and condition, that resulted in a finding of fault and liability and your payment of either a monetary fine or penalty of $5,000 or more or reimbursement, restitution, or damages in excess of $100,000; or

(4) Any other criminal, civil, or administrative proceeding if:

(i) It could have led to an outcome described in paragraph 2.c.(1), (2), or (3) of this award term and condition;

(ii) It had a different disposition arrived at by consent or compromise with an acknowledgment of fault on your part; and

(iii) The requirement in this award term and condition to disclose information about the proceeding does not conflict with applicable laws and regulations.

3. Reporting Procedures
Enter in the SAM Entity Management area the information that SAM requires about each proceeding described in paragraph 2 of this award term and condition. You do not need to submit the information a second time under assistance awards that you received if you already provided the information through SAM because you were required to do so under Federal procurement contracts that you were awarded.

4. Reporting Frequency
During any period of time when you are subject to the requirement in paragraph 1 of this award term and condition, you must report proceedings information through SAM for the most recent five year period, either to report new information about any proceeding(s) that you have not reported previously or affirm that there is no new information to report. Recipients that have Federal contract, grant, and cooperative agreement awards with a cumulative total value greater than $10,000,000 must disclose semiannually any information about the criminal, civil, and administrative proceedings.

5. Definitions
For purposes of this award term and condition:

a. Administrative proceeding means a non-judicial process that is adjudicatory in nature in order to make a determination of fault or liability (e.g., Securities and Exchange Commission Administrative proceedings, Civilian Board of Contract Appeals proceedings, and Armed Services Board of Contract Appeals proceedings). This includes proceedings at the Federal and State level but only in connection with performance of a Federal contract or grant. It does not include audits, site visits, corrective plans, or inspection of deliverables.

b. Conviction, for purposes of this award term and condition, means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, and includes a conviction entered upon a plea of nolo contendere.

c. Total value of currently active grants, cooperative agreements, and procurement contracts includes—

(1) Only the Federal share of the funding under any Federal award with a recipient cost share or match; and

(2) The value of all expected funding increments under a Federal award and options, even if not yet exercised.

Condition 21
System for Award Management (SAM) and Universal Identifier Requirements: The recipient agrees to comply with the following requirements of 2 C.F.R. Part 25, Appendix A to Part 25 – Award Term:
I. System for Award Management and Universal Identifier Requirements
A. Requirement for System for Award Management
Unless you are exempted from this requirement under 2 CFR 25.110, you as the recipient must maintain current information in the SAM. This includes information on your immediate and highest level owner and subsidiaries, as well as on all of your predecessors that have been awarded a Federal contract or Federal financial assistance within the last three years, if applicable, until you submit the final financial report required under this Federal award or receive the final payment, whichever is later. This requires that you review and update the information at least annually after the initial registration, and more frequently if required by changes in your information or another Federal award term.

B. Requirement for Unique Entity Identifier
If you are authorized to make subawards under this Federal award, you:

Attachment: Award_Package_FAW-177105 (RES-2024-1028 : FY23 COPS Technology & Equipment Program Grant: OCOPS)

1. Must notify potential subrecipients that no entity (see definition in paragraph C of this award term) may receive a subaward from you until the entity has provided its Unique Entity Identifier to you.

2. May not make a subaward to an entity unless the entity has provided its Unique Entity Identifier to you. Subrecipients are not required to obtain an active SAM registration, but must obtain a Unique Entity Identifier.

C. Definitions
For purposes of this term:

1. System for Award Management (SAM) means the Federal repository into which a recipient must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found at the SAM internet site (currently at https://www.sam.gov).

2. Unique Entity Identifier means the identifier assigned by SAM to uniquely identify business entities.

3. Entity includes non-Federal entities as defined at 2 CFR 200.1 and also includes all of the following, for purposes of this part:

a. A foreign organization;

b. A foreign public entity;

c. A domestic for-profit organization; and

d. A Federal agency.

4. Subaward has the meaning given in 2 CFR 200.1.

5. Subrecipient has the meaning given in 2 CFR 200.1.

Condition 22
Additional High-Risk Recipient Requirements: The recipient agrees to comply with any additional requirements that may be imposed during the award performance period if the awarding agency determines that the recipient is a high-risk recipient. 2 C.F.R. § 200.208.

Condition 23
Criminal Intelligence Systems: Recipients using award funds to operate an interjurisdictional criminal intelligence system must comply with the operating principles of 28 C.F.R. Part 23. At the time of application, the recipient assured the COPS Office that it will comply with the requirements of 28 C.F.R. Part 23.

Condition 24
State Information Technology Point of Contact: The recipient agrees to ensure that the appropriate State Information Technology Point of Contact receives written notification regarding any technology or information-sharing project funded by this award during the obligation and expenditure period. This is to facilitate communication among local and state governmental entities regarding various information technology projects being conducted with these award funds. In addition, the recipient agrees to maintain an administrative file documenting the meeting of this requirement. For a list of State Information Technology Points of Contact, go to https://it.ojp.gov/technology-contacts.

Condition 25
Requirement to report actual or imminent breach of personally identifiable information (PII).

The recipient (and any subrecipient at any tier) must have written procedures in place to respond in the event of an actual or imminent breach (as defined in OMB M-17-12) if it (or a subrecipient)-- 1) creates, collects, uses, processes, stores, maintains, disseminates, discloses, or disposes of personally identifiable information (PII) (as defined in 2 C.F.R. 200.1) within the scope of a COPS Office grant-funded program or activity, or 2) uses or operates a Federal information system (as defined in OMB Circular A-130). The recipient's breach procedures must include a requirement

Attachment: Award_Package_FAW-177105 (RES-2024-1028 : FY23 COPS Technology & Equipment Program Grant: OCOPS)

to report actual or imminent breach of PII to the recipient's COPS Office Program Manager no later than 24 hours after an occurrence of an actual breach, or the detection of an imminent breach.

Condition 26
Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment: Recipient agrees that it, and its subrecipients, will not use award funds to extend, renew, or enter into any contract to procure or obtain any covered telecommunication and video surveillance services or equipment as described in 2 CFR §200.216. Covered services and equipment include telecommunications or video surveillance services or equipment produced or provided by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities); Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities); or an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of China. The use of award funds on covered telecommunications or video surveillance services or equipment are unallowable.
2. C.F.R. § § 200.216 & 471. See also Section 889 of the John S. McCain National Defense Authorization Act of Fiscal Year 2019, Public Law 115-232.

Condition 27
Modifications: Award modifications are evaluated on a case-by-case basis in accordance with 2 C.F.R. § 200.308(f). For federal awards in excess of $250,000, any modification request involving the reallocation of funding between budget categories that exceed or are expected to exceed 10 percent (10%) of the total approved budget requires prior written approval by the COPS Office. Regardless of the federal award amount or budget modification percentage, any reallocation of funding is limited to approved budget categories. In addition, any budget modification that changes the scope of the project requires prior written approval by the COPS Office.

Condition 28
The Paperwork Reduction Act Clearance and Privacy Act Review: Recipient agrees, if required, to submit all surveys, interview protocols, and other information collections to the COPS Office for submission to the Office of Management and Budget (OMB) for clearance under the Paperwork Reduction Act (PRA). Before submission to OMB, all information collections that request personally identifiable information must be reviewed by the COPS Office to ensure compliance with the Privacy Act. The Privacy Act compliance review and the PRA clearance process may take several months to complete. 44 U.S.C. §§ 3501-3520 and 5 U.S.C. § 552a.

Condition 29
Computer Network Requirement: The recipient understands and agrees that no award funds may be used to maintain or establish a computer network unless such network blocks the viewing, downloading, and exchanging of pornography. Nothing in this requirement limits the use of funds necessary for any federal, state, tribal, or local law enforcement agency or any other entity carrying out criminal investigations, prosecution, or adjudication activities. Consolidated Appropriations Act, 2023, Public Law 117-328, Division B, Title V, Section 527.

Condition 30
Domestic preferences for procurements: Recipient agrees that it, and its subrecipients, to the greatest extent practicable, will provide a preference for the purchase, acquisition, or use of goods, products, and materials produced in, and services offered in, the United States. 2. C.F.R. § 200.322 and Executive Order 14005, Ensuring the Future is Made in All of America by All of America's Workers, January 25, 2021.

Condition 31
Sole Source Justification: Recipients who have been awarded funding for the procurement of an item (or group of items) or service in excess of $250,000 and who plan to seek approval for use of a noncompetitive procurement process must provide a written sole source justification to the COPS Office for approval prior to obligating, expending, or drawing down award funds for that item or service. 2 C.F.R. § 200.325(b)(2).

Condition 32
Supplementing, not Supplanting: State, local, and tribal government recipients must use award funds to supplement, and not supplant, state, local, or Bureau of Indian Affairs (BIA) funds that are already committed or otherwise would

Attachment: Award_Package_FAW-177105 (RES-2024-1028 : FY23 COPS Technology & Equipment Program Grant: OCOPS)

have been committed for award purposes (hiring, training, purchases, and/or activities) during the award period. In other words, state, local, and tribal government recipients may not use COPS Office funds to supplant (replace) state, local, or BIA funds that would have been dedicated to the COPS Office-funded item(s) in the absence of the COPS Office award. 34 U.S.C. § 10384(a).

Condition 33
Travel Costs: Travel costs for transportation, lodging and subsistence, and related items are allowable with prior approval from the COPS Office. Payment for allowable travel costs will be in accordance with 2 C.F.R. § 200.475.

Condition 34
Extensions: Recipients may request an extension of the award period to receive additional time to implement their award program. Such extensions do not provide additional funding. Only those recipients that can provide a reasonable justification for delays will be granted no-cost extensions. Extension requests must be received prior to the end date of the award. 2 C.F.R. §§ 200.308(e)(2) and 200.309.

Condition 35
Allowable Costs: The funding under this award is for the payment of approved costs for program-specific purposes. The allowable costs approved for your agency's award are limited to those listed in your agency's award package. In accordance with 2 C.F.R. § 200.400(g), the recipient must forgo any profit or management fee. Your agency may not use award funds for any costs not identified as allowable in the award package.

Condition 36
Evaluations: The COPS Office may conduct monitoring or sponsor national evaluations of its award programs. The recipient agrees to cooperate with the monitors and evaluators. 34 U.S.C. § 10385(b).

Condition 37
Contracts and/or MOUs with Other Jurisdictions: Items funded under this award must only be used for law enforcement activities or services that benefit your agency and the population that it serves and cannot be utilized by other agencies unless the items benefit the population that your agency serves.

Condition 38
Community Policing: Community policing activities to be initiated or enhanced by your agency were identified and described in your award application. All equipment, technology, training, and civilian positions awarded under the TEP award must be linked to the implementation or enhancement of community policing. 34 U.S.C. § 10382 (c)(10).

Condition 39
Build America, Buy America Act (BABAA): To the extent that provisions found in Pub. L. No. 117-58, §§70901-52, as supplemented by OMB guidance M-22-11 (April 18, 2022) are applicable, recipients must use iron, steel, manufactured products, and construction materials produced in the United States for any infrastructure projects funded under this award unless they first request and obtain a waiver from the Office of Community Oriented Policing Services (COPS Office).

The Build America, Buy America Act (BABAA), Pub. L. No. 117-58, §§70901-52, requires all federal agencies, including the COPS Office, to ensure by May 14, 2022, that no federal financial assistance for "infrastructure" projects is provided "unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States."

In accordance with section 70914 of the BABAA, COPS Office recipients receiving funding for infrastructure projects (e.g., construction, renovation, and broadband infrastructure) may not use their grant funds for these infrastructure projects or activities unless they comply with the BABAA sourcing requirements or request and obtain a waiver of the requirements from the COPS Office.

The COPS Office may approve, subject to notice and comment requirements and OMB review, the following types of waivers in accordance with sections 70914(b) and (d), 70921(b), 70935, and 70937 of the Build America, Buy America Act:

Attachment: Award_Package_FAW-177105 (RES-2024-1028 : FY23 COPS Technology & Equipment Program Grant: OCOPS)

1. Nonavailability Waivers – Waivers addressing the unavailability of American made iron, steel, manufactured products, or construction materials.
2. Unreasonable Cost Waivers – Waivers reflecting that the overall cost of the infrastructure project with domestic iron, steel, manufactured products, or construction materials exceeds by more than 25 percent the overall cost of the project with foreign iron, steel, manufactured products, or construction materials.
3. Public Interest Waivers, which include:
i. de minimis standard waivers that exempt up to 5% of project costs up to the Simplified Acquisition Threshold when this would advance the public interest;
ii. small grants waivers for grants below the Simplified Acquisition Threshold when this would advance the public interest;
iii. adjustment period waivers such as brief, time limited waivers to allow recipients to transition to new rules and processes when this would advance the public interest;
iv. international trade obligations waivers when a recipient has assumed procurement obligations pursuant to the Government Procurement Agreement or any other trade agreement, and waivers to ensure compliance with such obligations may be in the public interest; and
v. general applicability waivers that are issued under limited conditions, e.g., product-specific waivers for which there are known domestic sourcing challenges.
4. Exigent Circumstances Waivers: In limited situations where there is an urgent need in an unforeseen and exigent circumstance, the COPS Office may waive the BABAA sourcing requirements without subjecting such waiver to public comments and the Office of Management and Budget's Made in America Office (MIAO) review.

Recipients do not need to obtain a waiver of the BABAA sourcing requirements from the COPS Office if they will use only American produced iron, steel, manufactured products, and construction materials for the project.

If a recipient determines a waiver is necessary, an application for a waiver should be submitted as soon as possible and provide detailed information to expedite the COPS Office's review. Recipients agree not to obligate, expend or draw down funds for infrastructure projects or activities unless they comply with the BABAA sourcing requirements or request and obtain a waiver of the requirements from the COPS Office.

If you have any questions about this requirement or requesting a waiver of the requirement, please contact your COPS Office Program Manager at 800-421-6770.

Condition 40
Compliance with National Environmental Policy Act and related statutes: Upon request, the recipient must assist the COPS Office in complying with the National Environmental Policy Act (NEPA), the National Historic Preservation Act, and other related federal environmental impact analyses requirements in the use of these award funds. Accordingly, the recipient agrees to determine if new construction or renovation or remodeling of a property will be funded by the grant, and if so, agrees to comply with all NEPA requirements prior to obligating, expending, or drawing down award funds for any award purposes. The recipient understands and agrees that complying with NEPA may require the preparation of an environmental study, including an Environmental Assessment (EA) and/or an Environmental Impact Statement (EIS), as directed by the COPS Office. The NEPA compliance process may take several months to complete. 42 U.S.C. §§ 4321 et seq.

[X] *I have read and understand the information presented in this section of the Federal Award Instrument.*

Award Acceptance

Declaration and Certification to the U.S. Department of Justice as to Acceptance

By checking the declaration and certification box below, I--

A. Declare to the U.S. Department of Justice (DOJ), under penalty of perjury, that I have authority to make this declaration and certification on behalf of the applicant.

B. Certify to DOJ, under penalty of perjury, on behalf of myself and the applicant, to the best of my knowledge and

Attachment: Award_Package_FAW-177105 (RES-2024-1028 : FY23 COPS Technology & Equipment Program Grant: OCOPS)

belief, that the following are true as of the date of this award acceptance: (1) I have conducted or there was conducted (including by applicant's legal counsel as appropriate and made available to me) a diligent review of all terms and conditions of, and all supporting materials submitted in connection with, this award, including any assurances and certifications (including anything submitted in connection therewith by a person on behalf of the applicant before, after, or at the time of the application submission and any materials that accompany this acceptance and certification); and (2) I have the legal authority to accept this award on behalf of the applicant.

C. Accept this award on behalf of the applicant.

D. Declare the following to DOJ, under penalty of perjury, on behalf of myself and the applicant: (1) I understand that, in taking (or not taking) any action pursuant to this declaration and certification, DOJ will rely upon this declaration and certification as a material representation; and (2) I understand that any materially false, fictitious, or fraudulent information or statement in this declaration and certification (or concealment or omission of a material fact as to either) may be the subject of criminal prosecution (including under 18 U.S.C. §§ 1001 and/or 1621, and/or 34 U.S.C. §§ 10271-10273), and also may subject me and the applicant to civil penalties and administrative remedies under the federal False Claims Act (including under 31 U.S.C. §§ 3729-3730 and/or §§ 3801-3812) or otherwise.

Agency Approval

Title of Approving Official	Name of Approving Official	Signed Date And Time
COPS Director	HUGH CLEMENTS	9/13/23 1:04 PM

Authorized Representative

Declaration and Certification (Law Enforcement Executive/Program Official)

Entity Acceptance

Title of Authorized Entity Official
Supervisor

Name of Authorized Entity Official
Brian Kulpa

Signed Date And Time
2/16/2024 10:41 AM

Declaration and Certification (Government Executive/Financial Official)

Entity Acceptance

Title of Authorized Entity Official
Town Comptroller

Name of Authorized Entity Official
DARYL BRAMER

Signed Date And Time
2/27/2024 1:49 PM

Attachment: Award_Package_FAW-177105 (RES-2024-1028 : FY23 COPS Technology & Equipment Program Grant: OCOPS)

Attachment: Award_Package_FAW-177105 (RES-2024-1028 : FY23 COPS Technology & Equipment Program Grant: OCOPS)

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

Francina J. Spoth
Town Clerk

Meeting: 12/16/24 07:00 PM
Department: Senior Services
Initiated by: **Melissa Abel**
Co-Sponsored by:

DOC ID: 29754 **RESOLUTION 2024-1029** **ADOPTED**

Amherst Senior Center Cafe'

WHEREAS, The Town is providing a café within the Senior Center for the benefit of its users, and

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

WHEREAS, The Town of Amherst Senior Centers Trust and Agency Account was setup to benefit the Center and its Center members, and

WHEREAS, funds are needed to cover the cost of the built in Millwork for the Café, and

THEREFORE BE IT RESOLVED, the Amherst Town Board authorizes the transfer of $18,000 from the Trust and Agency Account, T2100, into KP2349 Senior Center Café and Gift Shop, for the cost of the built in Millwork for the equipment for the café.

12/16/2024
Consent

FINANCIAL IMPACT:

$18,000

T2100-4002 into KP2349

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: 12/16/24 07:00 PM
Department: Senior Services
Initiated by: **Melissa Abel**
Co-Sponsored by:

DOC ID: 29765 **RESOLUTION 2024-1030** **ADOPTED**

Class Instructor Jean Widlicka CRS #5167

We respectfully request Town Board permission to authorize the Supervisor to sign the Contract Amendment to the Presenter/Performer Commitment between The Town of Amherst (Senior Services) and Jean Widlicka.

12/16/2024
Consent

FINANCIAL IMPACT:

A 6772-4090

$30.00 Per Hour

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

TOWN OF AMHERST

CLASS INSTRUCTOR/SUB-CONTRACTOR COMMITMENT FORM

Amherst Center for Senior Services
370 John James Audubon Pkwy.
Amherst NY 14228

Instructor Name: Jean Widlicka
(Payment/Check payable to same)

Address: 271 Campus Drive Apt. 2

Snyder, NY 14226

Class/Activity: Fitness Instructor

This is a -5- **year contract.**

Start Date: January 6, 2025 **Date executed below by the Town Supervisor**

End Date: January 5, 2030

Rate per hr.: $30.00

Jean Widlicka, **agrees to indemnify and hold the Town of Amherst harmless for any charges, damages, or liability resulting directly or indirectly from the negligence or culpable conduct of the instructor, its agents and/or employees and to release the Town of Amherst and its employees, agents, districts, commissions, and boards from liability arising from the performance of this agreements.**

Jean Widlicka — 11-5-24

Instructor/Leader Signature — Date

Brian J. Kulpa, Supervisor, Town of Amherst — Date

Contract Name Class Instructor CRS# 5167 Vendor Name Jean Widlicka

Contractor Commitment Form 2021

Attachment: Widlicka, Jean-12102024103852 (RES-2024-1030 : Class Instructor Jean Widlicka CRS #5167)

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

Francina J. Spoth
Town Clerk

Meeting: 12/16/24 07:00 PM
Department: Senior Services
Initiated by: **Melissa Abel**
Co-Sponsored by:

DOC ID: 29771 **RESOLUTION 2024-1031** **ADOPTED**

Purchase of Kitchen Equipment CRS #5245

We respectfully request Town Board permission to authorize the Supervisor to approve the purchase of Kitchen Equipment from B & G Foodservice Equipment and Supplies upon successful completion of the Contract Routing Process.

12/16/2024
Consent

FINANCIAL IMPACT:

A6772-4380

$7,063.20

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

Foodservice Equipment & Supplies
60 Commerce Avenue, Albany NY (518) 482-2111 Fax (518) 482-2112

Quote

12/10/2024

Project:
Town of Amherst Senior Service PC68656

From:
April Peltier
B&G Foodservice Equipment
60 Commerce Ave
Albany NY 12206
PH: 518-482-2111
FX: 518-482-2112

Job Reference Number: 76690

Item	Qty	Description	Sell	Sell Total
1	1 ea	**MOBILE PLATE AND DISH DISPENSER** Lakeside Manufacturing Model No. 5309 Dish Dispenser, non-heated, cabinet style, enclosed base, mobile, (3) self-leveling dish dispensing tubes, Easy-Glide™ design, maximum dish size 9-1/8" diameter, stainless steel construction, 4" Lake-Glide® swivel casters (2) with brakes, corner bumpers, NSF, Made in USA	$3,573.86	$3,573.86
		ITEM TOTAL:		**$3,573.86**
2	1 ea	**DISH CART / DOLLY** Cambro Model No. DCS1125110 Versa Dish Caddy, holds up to 11-1/4" round plates or up to 9-1/2" square plates, holds (4) columns, non-adjustable, vinyl cover, (2) 5" swivel casters with brakes & (2) 10" rear wheels, polyethylene, black, NSF	$648.00	$648.00
		ITEM TOTAL:		**$648.00**
3	3 ea	**CART, UTILITY/BUSSING** Lakeside Manufacturing Model No. 422 Utility Cart, 3-tier, open base, 500 lbs capacity, 18" x 27" shelf size, 11-1/2" shelf clearance, sound deadening panels, (1) push handle with bumpers, (2) bumpers on front legs, galvanized steel dolly frame, stainless steel construction, 4" swivel casters, Made in USA	$366.12	$1,098.36
	3 ea	Casters, 4" swivel, standard		
		ITEM TOTAL:		**$1,098.36**
4	2 ea	**UNIVERSAL PAN RACK** Channel Manufacturing Model No. UTR-20 Steam Table Pan Rack, Bun Pan / Steam Table Pan Rack, Standard Series, 20.5"W x 26"D x 70"H, Aluminum Construction, End Load, 3" Angle Spacing, (20) 18" x 26" or (40) 13" x 18" (2 per shelf) or 12" x 20" steam table pans (pan height determines capacity), 5" Swivel Stem Casters model # CSS45O, Made in USA, NSF, 54lbs. (ITEM WEIGHT ONLY), weight does not include 50 lbs. for pallet weight	$534.89	$1,069.78
	2 ea	Lifetime warranty against rust and corrosion		
		ITEM TOTAL:		**$1,069.78**
		Subtotal		$6,390.00
		Total		$6,390.00

Acceptance: _____ Date: _____

Printed Name: _____

Project Grand Total: $6,390.00

Attachment: B&G Final-12102024141753 (RES-2024-1031 : Purchase of Kitchen Equipment CRS #5245)

Foodservice Equipment & Supplies
60 Commerce Avenue, Albany NY (518) 482-2111 Fax (518) 482-2112

Quote

12/06/2024

Project:
Town of Amherst Senior Service PC68656

From:
April Peltier
B&G Foodservice Equipment
60 Commerce Ave
Albany NY 12206
PH: 518-482-2111
FX: 518-482-2112

Job Reference Number: 77078

Item	Qty	Description	Sell	Sell Total
1	5 ea	**SPILLAGE PAN** Duke Manufacturing Model No. 676 Spillage Pan, stainless steel water pan for exposed element unit, coved, 6-1/4" deep, holds 12" x 20" full-size & fractional food pans, NSF	$134.64	$673.20



ITEM TOTAL: **$673.20**

Subtotal $673.20
Total $673.20

Acceptance: _____ Date: _____
Printed Name: _____
Project Grand Total: $673.20

Attachment: B&G Final-12102024141753 (RES-2024-1031 : Purchase of Kitchen Equipment CRS #5245)

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.

Attachment: B&G Final-12102024141753 (RES-2024-1031 : Purchase of Kitchen Equipment CRS #5245)

5. Any accident shall be reported to the Office of the Town Attorney as soon as possible and not later than twenty-four (24) hours from the time of such accident. A detailed written report must be submitted to the Town of Amherst as soon thereafter as possible as and no later than three (3) days after the date of such accident.

6. No Assignment: In accordance with the provisions of Section 109 of the General Municipal Law, the Vendor is hereby prohibited from assigning, transferring, conveying, subletting or otherwise disposing of this Agreement, or of its right, title or interest in this agreement, or its power to execute this Agreement, to any other person or corporation without the previous consent in writing of the Town.

7. Required Provisions of Law: Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to have been inserted herein. If any such provision is not inserted through mistake or otherwise, then upon the application of either party this Agreement shall be physically amended forthwith to make such insertion. In particular, the Vendor shall, among other things, fully comply with:

(a) Article 8 of the NYS Labor Law for public work contracts and Article 9 of the Labor Law regarding prevailing wage for Building Service employees.
(b) Labor Law Section 220-e and Executive Law Sections 291-299 and the Civil Rights Law relating to prohibition against discrimination and equal opportunity.
(c) Affirmative action as required by the Labor Law.
(d) Prevention of dust hazard required by Labor Law Section 222-a.
(e) Preference in employment of persons required by Labor Law Section 222.
(f) Eight-hour workday as required by Labor Law Section 220(2).
(g) Chapter 32 of the Town of Amherst: Minority Women and Business Utilization Commitment.
(h) Chapter 163 of the Town of Amherst: Registration of Sex Offenders.

8. The Vendor, in accordance with its status as an independent Vendor, covenants and agrees that it will conduct itself consistent with such status. It will neither hold itself out as nor claim to be, an officer or employee of the Town by reason hereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the Town, including, but not limited to: workers' compensation coverage, unemployment insurance benefits, Social Security coverage, or retirement membership or credit.

Waiver: No waiver of any breach of any condition of the Agreement shall be binding unless in writing and signed by the party waiving said breach. No such waiver shall in any way affect any other term or condition of this Agreement or constitute a cause or excuse for a repetition of such or any other breach unless the waiver shall include the same.

9. This Agreement shall be governed by, and interpreted according to the laws of the State of New York. If the contract between the parties refers to the laws, statutes, rules,

Attachment: B&G Final-12102024141753 (RES-2024-1031 : Purchase of Kitchen Equipment CRS #5245)

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:

B&G Foodservice

Print Name of Company

By: April Peltier

Signature

April Peltier

Printed name

Date: 11/26/2024

Agreed to and Accepted by:

Town of Amherst

By: _____

Brian J. Kulpa, Supervisor

Date: _____

Attachment: B&G Final-12102024141753 (RES-2024-1031 : Purchase of Kitchen Equipment CRS #5245)

EXHIBIT "1"

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: B&G Foodservice

Signature: April Peltier

Print Name: April Peltier

Title: Admin

Date: 11/26/2024

Revised 4.2017

Attachment: B&G Final-12102024141753 (RES-2024-1031 : Purchase of Kitchen Equipment CRS #5245)

CERTIFICATE OF LIABILITY INSURANCE

DATE (M 11/26/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME: Monica Mucci CIC	
Berkshire Fairfield Insurance Agency 128 South Street Pittsfield MA 01201	PHONE (A/C, No, Ext): (413) 443-5300	FAX (A/C, No): (413) 443-2691
	E-MAIL ADDRESS: mmucci@bf-sfg.com	

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Great Northern Insurance Co.	20303
INSURER B : Federal Insurance Co.	20281
INSURER C : Bankers Standard Insurance Company	18279
INSURER D :	
INSURER E :	
INSURER F :	

INSURED
B&G Restaurant Supply Inc., B&G Food Service Equipment LLC
48 Eagle Street
Pittsfield MA 01201

COVERAGES **CERTIFICATE NUMBER:** 24-25 **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:	X	Y	3601-56-58	9/5/2024	9/5/2025	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG Employee Benefits	$ 1,000,0 $ 1,000,0 $ 10,0 $ 1,000,0 $ 2,000,0 $ 2,000,0 $ 1,000,0
B	AUTOMOBILE LIABILITY ANY AUTO ALL OWNED AUTOS [X] SCHEDULED AUTOS [X] HIRED AUTOS [X] NON-OWNED AUTOS	X	Y	9947-75-35	9/5/2024	9/5/2025	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 1,000,0 $ $ $
B	X UMBRELLA LIAB [X] OCCUR EXCESS LIAB CLAIMS-MADE DED [X] RETENTION $ 0	X	Y	7988-43-80	9/5/2024	9/5/2025	EACH OCCURRENCE AGGREGATE	$ 5,000,0 $ 5,000,0
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y/N [N] N/A (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		Y	7173-94-02	9/5/2024	9/5/2025	X PER STATUTE [ ] OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ 1,000,0 $ 1,000,0 $ 1,000,0

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Town of Amherst is an additional insured with respects to General Liability on a Primary and Non-Contributory Basis, including Waiver of Subrogation, for on-going and completed operations, where required by written contract.

CERTIFICATE HOLDER

Town of Amherst
5583 Main Street
Williamsville, NY 14221

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE
Monica Mucci CIC/MMM

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Attachment: B&G Final-12102024141753 (RES-2024-1031 : Purchase of Kitchen Equipment CRS #5245)

NEW YORK STATE | Workers' Compensation Board

CERTIFICATE OF NYS WORKERS' COMPENSATION INSURANCE COVERAGE

1a. Legal Name & Address of Insured (use street address only) B & G Restaurant Supply Inc And B & G Food Service Equipment Llc 48 Eagle Street Pittsfield, Massachusetts 01201 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 1-413-442-0390 1c. NYS Unemployment Insurance Employer Registration Number of Insured 1d. Federal Employer Identification Number of Insured or Social Security Number 204926551
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 Bankers Standard Insurance Company 3b. Policy Number of Entity Listed in Box "1a" 71739402 3c. Policy effective period 09/05/2024 to 09/05/2025 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 3A on the INFORMATION PAGE of the workers' compensation insurance policy)**. The Insurance Carrier or its licensed agent will send this Certificate of Insurance to the entity listed above as the certificate holder in box "2".

The insurance carrier must notify the above certificate holder and the Workers' Compensation Board within 10 days IF a policy is canceled due to nonpayment of premiums or within 30 days IF there are reasons other than nonpayment of premiums that cancel the policy or eliminate the insured from the coverage indicated on this Certificate. (These notices may be sent by regular mail.) Otherwise, this **Certificate is valid for one year after this form is approved by the insurance carrier or its licensed agent, or until the policy expiration date listed in box "3c", whichever is earlier.**

This certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend or alter the coverage afforded by the policy listed, nor does it confer any rights or responsibilities beyond those contained in the referenced policy.

This certificate may be used as evidence of a Workers' Compensation contract of insurance only while the underlying policy is in effect.

Please Note: Upon cancellation of the workers' compensation policy indicated on this form, if the business continues to be named on a permit, license or contract issued by a certificate holder, the business must provide that certificate holder with a new Certificate of Workers' Compensation Coverage or other authorized proof that the business is complying with the mandatory coverage requirements of the New York State Workers' Compensation Law.

Under penalty of perjury, I certify that I am an authorized representative or licensed agent of the insurance carrier referenced above and that the named insured has the coverage as depicted on this form.

Approved by: Paul Morrissette
(Print name of authorized representative or licensed agent of insurance carrier)

Approved by: _____ November 27, 2024
(Signature)

Title: Senior Vice President

Telephone Number of authorized representative or licensed agent of insurance carrier Gregory Picone

Please Note: Only insurance carriers and their licensed agents are authorized to issue Form C-105.2. Insurance brokers are NOT authorized to issue it.

Attachment: B&G Final-12102024141753 (RES-2024-1031 : Purchase of Kitchen Equipment CRS #5245)

Workers' Compensation Law

Section 57. Restriction on issue of permits and the entering into contracts unless compensation is secured.

1. The head of a state or municipal department, board, commission or office authorized or required by law to issue any permit for or in connection with any work involving the employment of employees in a hazardous employment defined by this chapter, and notwithstanding any general or special statute requiring or authorizing the issue of such permits, shall not issue such permit unless proof duly subscribed by an insurance carrier is produced in a form satisfactory to the chair, that compensation for all employees has been secured as provided by this chapter. Nothing herein, however, shall be construed as creating any liability on the part of such state or municipal department, board, commission or office to pay any compensation to any such employee if so employed.

2. The head of a state or municipal department, board, commission or office authorized or required by law to enter into any contract for or in connection with any work involving the employment of employees in a hazardous employment defined by this chapter, notwithstanding any general or special statute requiring or authorizing any such contract, shall not enter into any such contract unless proof duly subscribed by an insurance carrier is produced in a form satisfactory to the chair, that compensation for all employees has been secured as provided by this chapter.

Attachment: B&G Final-12102024141753 (RES-2024-1031 : Purchase of Kitchen Equipment CRS #5245)

NEW YORK STATE | Workers' Compensation Board

CERTIFICATE OF INSURANCE COVERAGE
DISABILITY AND PAID FAMILY LEAVE BENEFITS LAW

PART 1. To be completed by Disability and Paid Family Leave Benefits Carrier or Licensed Insurance Agent of that Carrier

1a. Legal Name & Address of Insured (use street address only)
B & G FOODSERVICE EQUIPMENT LLC
60 COMMERCE AVE
ALBANY, NY 12206

1b. Business Telephone Number of Insured
(518) 482-2111

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. Federal Employer Identification Number of Insured or Social Security Number
204926551

2. Name and Address of Entity Requesting Proof of Coverage (Entity Being Listed as the Certificate Holder)
TOWN OF AMHERST
5583 MAIN STREET
WILLIAMSVILLE, NY 14221

3a. Name of Insurance Carrier
New York State Insurance Fund (NYSIF)

3b. Policy Number of Entity Listed in Box "1a"
DBL 5554 08 - 5

3c. Policy effective period
10/01/2024 to 10/01/2025

4. Policy provides the following benefits:
- ☒ A. Both disability and paid family leave benefits
- ☐ B. Disability benefits only
- ☐ C. Paid family leave benefits only

5. Policy covers:
- ☒ A. All of the employer's employees eligible under the NYS Disability and Paid Family Leave Benefits Law
- ☐ B. Only the following class or classes of employer's employees:

Under penalty of perjury, I certify that I am an authorized representative or licensed agent of the insurance carrier referenced above and that the named insured has NYS Disability and/or Paid Family Leave Benefits insurance coverage as described above.

Date Signed 11/27/2024 By Kristin Markwica
(Signature of insurance carrier's authorized representative or NYS Licensed Insurance Agent of that insurance carrier)

Telephone Number (866) 697-4332 Name and Title **Kristin Markwica, Head of Disability Insurance Unit**

IMPORTANT: If Box 4A and 5A are checked, and this form is signed by the insurance carrier's authorized representative or NYS Licensed Insurance Agent of that carrier,this certificate is COMPLETE. Mail it directly to the certificate holder.

If Box 4B, 4C or 5B is checked, this certificate is NOT COMPLETE for purposes of Section 220, Subd. 8 of the NYS Disability and Paid Family Leave Benefits Law. It must be mailed for completion to the Workers' Compensation Board, DB Plans Acceptance Unit, PO Box 5200, Binghamton, NY 13902-5200

PART 2. To be completed by the NYS Workers' Compensation Board (Only if Box 4C or 5B of Part 1 has been checked)

State of New York
Workers' Compensation Board

According to information maintained by the NYS Workers' Compensation Board, the above-named employer has complied with the NYS Disability and Paid Family Leave Benefits Law with respect to all of his/her employees.

Date Signed _____ By _____
(Signature of Authorized NYS Workers' Compensation Board Employee)

Telephone Number _____ Name and Title _____

Please Note: *Only insurance carriers licensed to write NYS disability and paid family leave benefits insurance policies and NYS licensed insurance agent of those insurance carriers are authorized to issue Form DB-120.1.* ***Insurance brokers are NOT authorized to issue this form.***

DB-120.1 (10-17)

Certificate Number 815579

Attachment: B&G Final-12102024141753 (RES-2024-1031 : Purchase of Kitchen Equipment CRS #5245)

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 New York State Disability and Paid Family Leave Benefits Law. The Insurance Carrier or its licensed agent will send this Certificate of Insurance to the entity listed as the certificate holder in box "2".

The insurance carrier must notify the above certificate holder and the Worker's 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 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 NYS Disability and/or Paid Family Leave Benefits Coverage or other authorized proof that the business is complying with the mandatory coverage requirements of the New York State Disability and Paid Family Leave Benefits Law.

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: B&G Final-12102024141753 (RES-2024-1031 : Purchase of Kitchen Equipment CRS #5245)

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

Francina J. Spoth
Town Clerk

Meeting: 12/16/24 07:00 PM
Department: Senior Services
Initiated by: **Melissa Abel**
Co-Sponsored by:

DOC ID: 29775 **RESOLUTION 2024-1032** **ADOPTED**

Class Instructor Sebnem Mekinulov CRS #5168

We respectfully request Town Board permission to authorize the Supervisor to sign the Contract Amendment to the Presenter/Performer Commitment between the Town of Amherst (Senior Services) and Sebnem Mekinulov.

12/16/2024
Consent

FINANCIAL IMPACT:

A6772-4090

$30.00 per hour

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

TOWN OF AMHERST

CLASS INSTRUCTOR/SUB-CONTRACTOR COMMITMENT FORM

Amherst Center for Senior Services
370 John James Audubon Pkwy.
Amherst NY 14228

Instructor Name: Sebnem Mekinulov
(Payment/Check payable to same)

Address: 101 Maynard Drive

Amherst, New York 14226

Class/Activity: Music Instructor

This is a -5- **year contract.**

Start Date: January 6, 2025 **Date executed below by the Town Supervisor**

End Date: January 5, 2030

Rate per hr.: $30.00

Sebnem Mekinulov, **agrees to indemnify and hold the Town of Amherst harmless for any charges, damages, or liability resulting directly or indirectly from the negligence or culpable conduct of the instructor, its agents and/or employees and to release the Town of Amherst and its employees, agents, districts, commissions, and boards from liability arising from the performance of this agreements.**

Instructor/Leader Signature — Date: 11-4-24

Brian J. Kulpa, Supervisor, Town of Amherst — Date

Contract Name Class Instructor CRS# _____ Vendor Name Sebnem Mekinulov
Contractor Commitment Form 2021

Attachment: Mekinulov, Sebnem-12102024103935 (RES-2024-1032 : Class Instructor Sebnem Mekinulov CRS #5168)

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

Francina J. Spoth
Town Clerk

Meeting: 12/16/24 07:00 PM
Department: Senior Services
Initiated by: **Melissa Abel**
Co-Sponsored by:

DOC ID: 29776 **RESOLUTION 2024-1033** **ADOPTED**

Class Instructor Marilyn Ciavarella CRS #5169

We respectfully request Town Board permission to authorize the Supervisor to sign the Contract Amendment to the Presenter/Performer Commitment between the Town of Amherst (Senior Services) and Marilyn Ciavarella.

12/16/2024
Consent

FINANCIAL IMPACT:

A6772-4090

$30.00 Per Hour

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

TOWN OF AMHERST

CLASS INSTRUCTOR/SUB-CONTRACTOR COMMITMENT FORM

Amherst Center for Senior Services
370 John James Audubon Pkwy.
Amherst NY 14228

Instructor Name: Marilyn Ciavarella
(Payment/Check payable to same)

Address: 34 Southwick Drive

Orchard Park, NY 14127

Class/Activity: Fitness Instructor

This is a -5- **year contract.**

Start Date: January 6, 2025 **Date executed below by the Town Supervisor**

End Date: January 5, 2030

Rate per hr.: $30.00

Marilyn Ciavarella, **agrees to indemnify and hold the Town of Amherst harmless for any charges, damages, or liability resulting directly or indirectly from the negligence or culpable conduct of the instructor, its agents and/or employees and to release the Town of Amherst and its employees, agents, districts, commissions, and boards from liability arising from the performance of this agreements.**

Instructor/Leader Signature — Date: 11/5/24

Brian J. Kulpa, Supervisor, Town of Amherst — Date

Contract Name: Class Instructor CRS# 5169 Vendor Name: Marilyn Ciavarella

Attachment: Ciavarella, Marilyn-12102024104013 (RES-2024-1033 : Class Instructor Marilyn Ciavarella CRS #5169)

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

Francina J. Spoth
Town Clerk

Meeting: 12/16/24 07:00 PM
Department: Senior Services
Initiated by: **Melissa Abel**
Co-Sponsored by:

DOC ID: 29777 **RESOLUTION 2024-1034** **ADOPTED**

Class Instructor Dawn Tarbox-Szerbiak CRS #5166

We respectfully request Town Board permission to authorize the Supervisor to sign the Contract Amendment to the Presenter/Performer Commitment between the Town of Amherst and Dawn Tarbox-Szerbiak.

12/16/2024
Consent

FINANCIAL IMPACT:

A 6772-4090

$30.00 per hour

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

TOWN OF AMHERST

CLASS INSTRUCTOR/SUB-CONTRACTOR COMMITMENT FORM

Amherst Center for Senior Services
370 John James Audubon Pkwy.
Amherst NY 14228

Instructor Name: Dawn Tarbox - Szerbiak
(Payment/Check payable to same)

Address: 272 Towers Boulevard

Cheektowaga, NY 14227

Class/Activity: Dance and Fitness Instructor

This is a -5- **year contract.**

Start Date: January 6, 2025 **Date executed below by the Town Supervisor**

End Date: January 5, 2030

Rate per hr.: $30.00

Dawn Tarbox - Szerbiak, **agrees to indemnify and hold the Town of Amherst harmless for any charges, damages, or liability resulting directly or indirectly from the negligence or culpable conduct of the instructor, its agents and/or employees and to release the Town of Amherst and its employees, agents, districts, commissions, and boards from liability arising from the performance of this agreements.**

Instructor/Leader Signature — Date 11/21/24

Brian J. Kulpa, Supervisor, Town of Amherst — Date

Contract Name Class Instructor CRS# 5166 Vendor Name Dawn Tarbox – Szerbiak

Contractor Commitment Form 2019

Attachment: Tarbox-Szerbiak, Dawn-12102024103807 (RES-2024-1034 : Class Instructor Dawn Tarbox-Szerbiak CRS #5166)

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

Francina J. Spoth
Town Clerk

Meeting: 12/16/24 07:00 PM
Department: Senior Services
Initiated by: **Melissa Abel**
Co-Sponsored by:

DOC ID: 29778 **RESOLUTION 2024-1035** **ADOPTED**

Purchase of Coffee and Tea Products- SJ McCullagh, Inc CRS #5192

We respectfully request Town Board permission to authorize the Supervisor to sign the contract between the Town of Amherst (Senior Services) and SJ McCullagh, Inc.

12/16/2024
Consent

FINANCIAL IMPACT:

A6773-4000

Varies per order

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

Brian J. Kulpa
Supervisor, Town of Amherst

Melissa Abel
Executive Director, Senior Center

Town of Amherst Center for Senior Services

Purchase of Coffee and Tea Products

Agreement

Let this document stand as an Agreement between SJ McCullagh, Inc., and the Town of Amherst (Senior Services) permitting the Town of Amherst to participate in the purchase of coffee and tea products from SJ McCullagh, Inc. This agreement is valid for the purchase of coffee and tea products per quote which includes coffee makers and Keurig machines that are maintained as needed at no cost. This agreement is valid for 1 year from December 9, 2024 to December 8, 2025. Delivery included.

Agreed to and Accepted By:

SJ McCullagh, Inc.

By : _____
Michael Kwietniak
SJ McCullagh, Inc.

Date : 11/19/2024

Agreed to and Accepted By:

Town of Amherst

By : _____
Brian J. Kulpa, Supervisor
Town of Amherst

Date : _____

Attachment: coffee-11212024130258 (RES-2024-1035 : Purchase of Coffee and Tea Products- SJ McCullagh, Inc CRS #5192)

Coffee Quotes - Amherst Senior Center 2024			
ITEMS	COMPANIES		
	McCullagh	SYSCO	
12 oz. reg coffee - cost per bag	$ 4.91	$ 6.73	
12 oz. decafe coffee - cost per bag	$ 6.07	$ 6.91	
2 oz. reg coffee(42 per case, cost per bag)	$ 0.89	$ 1.43	
k-cups -4- 24/case	$ 41.96	$ 62.04	
cappuchinno 6/2#	$ 41.35	$ 52.48	
Bigelow tea 28 ct.	$ 4.80	$ 4.10	
8 oz. cup / lid 1000 per case (Paper)	73.7/73.65	53.92/48.25	
Arizona Tea 24/16 oz	$ 17.50	NA	
Arizona Tea lemon	NA	NA	
Arizona Tea 1/2 & 1/2 12/ 16oz	NA	NA	
Paper filters U3/18x7.5	no charge	$ 14.55	
paper filters 12 cup/ 4 1/2 inch	included	$ 16.82	
paper cup holders		54.95	
	all equiptment included and maintained by McCullagh at no charge	**No equiptment included**	

Attachment: coffee-1121202413025 8 (RES-2024-1035 : Purchase of Coffee and Tea Products- SJ McCullagh, Inc CRS #5192)

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.

Attachment: coffee-1121202413025 8 (RES-2024-1035 : Purchase of Coffee and Tea Products- SJ McCullagh, Inc CRS #5192)

5. Any accident shall be reported to the Office of the Town Attorney as soon as possible and not later than twenty-four (24) hours from the time of such accident. A detailed written report must be submitted to the Town of Amherst as soon thereafter as possible as and no later than three (3) days after the date of such accident.

6. No Assignment: In accordance with the provisions of Section 109 of the General Municipal Law, the Vendor is hereby prohibited from assigning, transferring, conveying, subletting or otherwise disposing of this Agreement, or of its right, title or interest in this agreement, or its power to execute this Agreement, to any other person or corporation without the previous consent in writing of the Town.

7. Required Provisions of Law: Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to have been inserted herein. If any such provision is not inserted through mistake or otherwise, then upon the application of either party this Agreement shall be physically amended forthwith to make such insertion. In particular, the Vendor shall, among other things, fully comply with:

(a) Article 8 of the NYS Labor Law for public work contracts and Article 9 of the Labor Law regarding prevailing wage for Building Service employees.
(b) Labor Law Section 220-e and Executive Law Sections 291-299 and the Civil Rights Law relating to prohibition against discrimination and equal opportunity.
(c) Affirmative action as required by the Labor Law.
(d) Prevention of dust hazard required by Labor Law Section 222-a.
(e) Preference in employment of persons required by Labor Law Section 222.
(f) Eight-hour workday as required by Labor Law Section 220(2).
(g) Chapter 32 of the Town of Amherst: Minority Women and Business Utilization Commitment.
(h) Chapter 163 of the Town of Amherst: Registration of Sex Offenders.

8. The Vendor, in accordance with its status as an independent Vendor, covenants and agrees that it will conduct itself consistent with such status. It will neither hold itself out as nor claim to be, an officer or employee of the Town by reason hereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the Town, including, but not limited to: workers' compensation coverage, unemployment insurance benefits, Social Security coverage, or retirement membership or credit.

Waiver: No waiver of any breach of any condition of the Agreement shall be binding unless in writing and signed by the party waiving said breach. No such waiver shall in any way affect any other term or condition of this Agreement or constitute a cause or excuse for a repetition of such or any other breach unless the waiver shall include the same.

9. This Agreement shall be governed by, and interpreted according to the laws of the State of New York. If the contract between the parties refers to the laws, statutes, rules,

Attachment: coffee-1121202413O258 (RES-2024-1035 : Purchase of Coffee and Tea Products- SJ McCullagh, Inc CRS #5192)

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:

SS McCullagh.
Print Name of Company

By: _____
Signature

Michael S. Kwiecka
Printed name

Date: 11/19/2024

Agreed to and Accepted by:

Town of Amherst

By: _____
Brian J. Kulpa, Supervisor

Date: _____

Attachment: coffee-11212024130258 (RES-2024-1035 : Purchase of Coffee and Tea Products- SJ McCullagh, Inc CRS #5192)

EXHIBIT "1"

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 provisio was added to the State Finance Law (SFL), Section 165-a, effective April 12, 2012. Under the Act, th 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 th OGS website.

By submitting a response to this solicitation, or by assuming the responsibility under a Contract/Leas awarded hereunder, Bidder/Contractor/Vendor (or any assignee) certifies that it will not utilize on suc 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 renev or extend a Contract/Lease (or assume responsibility of a Contract/Lease awarded must certify at the time th 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 t respond. If the person fails to demonstrate that it has ceased its engagement in the investment which is i violation of the Act within 90 days after the determination of such violation, then the Town shall take such actio as appropriate including, but not limited to, imposing sanctions, seeking compliance, recovering damages o declaring the Bidder/Contractor/Vendor in default.

The Town reserves the right to reject any Contract/Lease or request for assignment for an entity tha appears on the prohibited entities list prior to the award of a Contract/Lease, and to pursue a responsibility reviev with respect to any entity that is awarded a Contract/Lease and appears on the prohibited entities list afte Contract/Lease award.

Company Name: McCULLAGH-Coffee.

Signature: [signature]

Print Name: Michael S. Kwiatkowski

Title: Sales Rep.

Date: 11-19-2024.

Revised 4.201

Attachment: coffee-1121202413025 8 (RES-2024-1035 : Purchase of Coffee and Tea Products- SJ McCullagh, Inc CRS #5192)

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)
S. J. MCCULLAGH, INC.
DBA: MCCULLAGH COFFEE
245 SWAN STREET
BUFFALO, NY 14204

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
716-856-3473

1c. Federal Employer Identification Number of Insured or Social Security Number
16-0545970

2. Name and Address of Entity Requesting Proof of Coverage (Entity Being Listed as the Certificate Holder)
Amherst Center for Senior Services
370 John James Audubon Parkway
Amherst, NY 14228

3a. Name of Insurance Carrier
Standard Security Life Insurance Company of New York

3b. Policy Number of Entity Listed in Box 1a
35079-77

3c. Policy Effective Period
3/27/2016 to 7/15/2025

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 7/16/2024 By _____
(Signature of insurance carrier's authorized representative or NYS licensed insurance agent of that insurance carrier)

Telephone Number (212) 355-4141 Name and Title SUPERVISOR-DBL/POLICY SERVICES

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 of Part 1 has been checked)

State of New York
Workers' Compensation Board

According to information maintained by the NYS Workers' Compensation Board, the above-named employer has complied with the NYS Disability and Paid Family Leave Benefits Law(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: coffee-1121024130258 (RES-2024-1035 : Purchase of Coffee and Tea Products- SJ McCullagh, Inc CRS #5192)

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: coffee-1121024130258 (RES-2024-1035 : Purchase of Coffee and Tea Products- SJ McCullagh, Inc CRS #5192)

NEW YORK STATE | Workers' Compensation Board

CERTIFICATE OF NYS WORKERS' COMPENSATION INSURANCE COVERAGE

1a. Legal Name & Address of Insured (use street address only) S J McCullagh Inc. 245 Swann Street Buffalo, NY 14204 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 800-753-3473 1c. NYS Unemployment Insurance Employer Registration Number of Insured 1d. Federal Employer Identification Number of Insured or Social Security Number 16-0545970
2. Name and Address of Entity Requesting Proof of Coverage (Entity Being Listed as the Certificate Holder) Town of Amherst 5583 Main Street Amherst, NY 14221	3a. Name of Insurance Carrier MEMIC Indemnity Company 3b. Policy Number of Entity Listed in Box "1a" 310 2809762 3c. Policy effective period 07/08/2024 to 07/08/2025 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 3A on the INFORMATION PAGE of the workers' compensation insurance policy).** The Insurance Carrier or its licensed agent will send this Certificate of Insurance to the entity listed above as the certificate holder in box "2".

The insurance carrier must notify the above certificate holder and the Workers' Compensation Board within 10 days IF a policy is canceled due to nonpayment of premiums or within 30 days IF there are reasons other than nonpayment of premiums that cancel the policy or eliminate the insured from the coverage indicated on this Certificate. (These notices may be sent by regular mail.) **Otherwise, this Certificate is valid for one year after this form is approved by the insurance carrier or its licensed agent, or until the policy expiration date listed in box "3c", whichever is earlier.**

This certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend or alter the coverage afforded by the policy listed, nor does it confer any rights or responsibilities beyond those contained in the referenced policy.

This certificate may be used as evidence of a Workers' Compensation contract of insurance only while the underlying policy is in effect.

Please Note: Upon cancellation of the workers' compensation policy indicated on this form, if the business continues to be named on a permit, license or contract issued by a certificate holder, the business must provide that certificate holder with a new Certificate of Workers' Compensation Coverage or other authorized proof that the business is complying with the mandatory coverage requirements of the New York State Workers' Compensation Law.

Under penalty of perjury, I certify that I am an authorized representative or licensed agent of the insurance carrier referenced above and that the named insured has the coverage as depicted on this form.

Approved by: **Michael Bonetto**
(Print name of authorized representative or licensed agent of insurance carrier)

Approved by: _____ **7/8/2024**
(Signature) (Date)

Title: **Regional President**

Telephone Number of authorized representative or licensed agent of insurance carrier: **716-314-2000**

Please Note: Only insurance carriers and their licensed agents are authorized to issue Form C-105.2. Insurance brokers are NOT authorized to issue it.

C-105.2 (9-17)

www.wcb.ny.gov

Attachment: coffee-1121024130258 (RES-2024-1035 : Purchase of Coffee and Tea Products- SJ McCullagh, Inc CRS #5192)

Workers' Compensation Law

Section 57. Restriction on issue of permits and the entering into contracts unless compensation is secured.

1. The head of a state or municipal department, board, commission or office authorized or required by law to issue any permit for or in connection with any work involving the employment of employees in a hazardous employment defined by this chapter, and notwithstanding any general or special statute requiring or authorizing the issue of such permits shall not issue such permit unless proof duly subscribed by an insurance carrier is produced in a form satisfactory to the chair, that compensation for all employees has been secured as provided by this chapter. Nothing herein however, shall be construed as creating any liability on the part of such state or municipal department, board commission or office to pay any compensation to any such employee if so employed.

2. The head of a state or municipal department, board, commission or office authorized or required by law to enter into any contract for or in connection with any work involving the employment of employees in a hazardous employment defined by this chapter, notwithstanding any general or special statute requiring or authorizing any such contract, shall not enter into any such contract unless proof duly subscribed by an insurance carrier is produced in a form satisfactory to the chair, that compensation for all employees has been secured as provided by this chapter.

Attachment: coffee-1121024130258 (RES-2024-1035 : Purchase of Coffee and Tea Products- SJ McCullagh, Inc CRS #5192)

Client#: 1754678 SJMCC

ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 6/26/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer any rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME: Casey Reinhardt
USI Insurance Services, LLC 726 Exchange St. Ste 618 Buffalo, NY 14210 716 314-2000	PHONE (A/C, No, Ext): 716 314-2000 FAX (A/C, No): E-MAIL ADDRESS: casey.reinhardt@usi.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Chubb Indemnity Insurance Company	12777
INSURER B : Federal Insurance Company	20281
INSURER C : MEMIC Indemnity Co	11030
INSURER D :	
INSURER E :	
INSURER F :	

INSURED
S J McCullagh Inc dba McCullagh Coffee
245 Swan Street
Buffalo, NY 14204

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE X OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY PRO-JECT LOC OTHER:	X	X	D01780529	07/08/2024	07/08/2025	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 $10,000 $1,000,000 $2,000,000 $2,000,000 $
B	AUTOMOBILE LIABILITY X ANY AUTO OWNED AUTOS ONLY X HIRED AUTOS ONLY SCHEDULED AUTOS X NON-OWNED AUTOS ONLY	X	X	2473634983	07/08/2024	07/08/2025	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident) $	$1,000,000 $ $ $ $
B	X UMBRELLA LIAB X OCCUR EXCESS LIAB CLAIMS-MADE DED X RETENTION $10,000	X	X	78199847	07/08/2024	07/08/2025	EACH OCCURRENCE AGGREGATE $	$5,000,000 $5,000,000 $
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y/N N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N/A		3102809762	07/08/2024	07/08/2025	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	Hired Physical Damage			2473634983	07/08/2024	07/08/2025	$50,000 - ACV $1,000 Comp Ded. $1,000 Coll Ded.	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Additional Insured/Waiver of Subrogation coverage shown above and marked with an X apply only when such coverage is required by written contract signed by the insured prior to a loss

General Liability:
CBCG040001 - Commercial General Liability Enhancement Endorsement Form
(See Attached Descriptions)

CERTIFICATE HOLDER

Amherst Center for Senior Services
370 John James Audubon Pkwy
Buffalo, NY 14228

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: coffee-1121024130258 (RES-2024-1035 : Purchase of Coffee and Tea Products- SJ McCullagh, Inc CRS #5192)

Auto:
16-02-0316 - Additional Insured Primary & Non-Contributory
16-02-0295 - Commercial Automobile Broad Form Endorsement - New York
Umbrella :
Excess Follow Form 07-02-815

Workers Compensation:
Blanket Waiver of Subrogation WC 00 03-14

Attachment: coffee-1121202413025 8 (RES-2024-1035 : Purchase of Coffee and Tea Products- SJ McCullagh, Inc CRS #5192)

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

Francina J. Spoth
Town Clerk

Meeting: 12/16/24 07:00 PM
Department: Youth & Recreation
Initiated by: **Mary Diana Pouli**
Co-Sponsored by:

DOC ID: 29741 **RESOLUTION 2024-1036** **ADOPTED**

Intermunicipal Agreement - Paradise Park CRS #5056

Authorize the Supervisor to sign an intermunicipal agreement between the Town of Amherst and Erie County for construction of a restroom facility at Paradise Park.

12/16/2024
Consent

FINANCIAL IMPACT:

KP2501.02089; not to exceed $311,250.00

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

THIS INTERMUNICIPAL AGREEMENT (Agreement), made the **1ST DAY OF JULY 2024** by and between:

THE COUNTY OF ERIE, a municipal corporation of the State of New York, having an office and place of business at 95 Franklin Street, Buffalo, New York 14226, (hereinafter referred to as the "County")

and

THE TOWN OF AMHERST, a municipal corporation of the State of New York, having an office and place of business at **5583 MAIN STREET, WILLIAMSVILLE, NY 14221** (hereinafter referred to as the "Town").

WHEREAS, the County and Town, pursuant to General Municipal Law §§ 119-o, and 244-b, and otherwise, have municipal powers to design, improve, and maintain property for recreational purposes for the benefit of the public they serve, and to enter into joint agreements for the same; and

WHEREAS, the County and Town, pursuant to General Municipal Law § 95-a, and otherwise, are hereby authorized and empowered to establish, maintain and operate programs devoted in whole or in part to the welfare of the aging, and to contract with private, nonprofit corporations, associations, institutions or agencies for the operation and maintenance of such programs. Any such county, city, town, village or school district may appropriate, raise and expend moneys for the purposes of establishing, maintaining and operating, or contracting for the operation and maintenance of such programs, and may also receive and expend moneys from the state, the federal government or private individuals, corporations or associations for such purposes.; and

WHEREAS, the Town is the owner of certain real property (the "Property") described on **Schedule "A"** which is attached to and made a part of this Agreement; and

Attachment: Intermunicipal Agreement - Paradise Park (RES-2024-1036 : Intermunicipal Agreement - Paradise Park CRS #5056)

WHEREAS, the County desires to assist the Town in developing the Property, to the extent feasible, through funding **THE CONSTRUCTION FOR ATHLETIC STORAGE AND BATHROOMS FOR PARADISE PARK** which benefits the residents of the Town, and County (the substantial development of the Property into recreational space, and parkland is hereinafter referred to as the Project); and

WHEREAS, in order to develop the Property into the Project substantial engineering, and design expenses are required.

NOW, THEREFORE, in consideration of the premises and of the mutual representations, covenants and agreements herein set forth, the County and the Town, each binding itself, its successors and assigns, do mutually promise, covenant and agree as follows:

ARTICLE I
IMPROVEMENTS TO THE PROPERTY

Section 1.0. The Town shall undertake the activities set forth in **Schedule "B"**, which plans have been approved by the Town and the County, the services of which may be provided by inhouse design professionals (professional planners, licensed architects, and engineers), and reimbursed subject to certification of time and expense tracking, or professional services procured by the Town in compliance with General Municipal Law, and other applicable local laws.

ARTICLE II
PAYMENT

Section 2.0. In consideration of the improvements to be made to the Property, the County shall reimburse the Town an amount not to exceed **TWO HUNDRED FIFTY THOUSAND DOLLARS ($250,000.00)**, payable pursuant to the table attached hereto as **Schedule "C"**. The County shall have no further obligation whatsoever for the Property.

Any and all requests for payment shall be submitted by the Town on properly executed payment invoices of the County, substantiate time and expense for services provided, and paid only after approval by the County. In no event shall a payment be made to the Town prior to

Attachment: Intermunicipal Agreement - Paradise Park (RES-2024-1036 : Intermunicipal Agreement - Paradise Park CRS #5056)

completion of all improvements, the submission of reports and the approval of same by the County.

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.

Except as otherwise expressly stated in this Agreement, no payment shall be made by the County to the Town for out-of-pocket expenses or disbursements made in connection with the services rendered or the work to be performed hereunder.

Prior to the making of any payments hereunder, the County may, at its option, audit such books and records of the Town as are reasonably pertinent to this Agreement to substantiate the basis for payment. The County will not withhold payment pursuant to this paragraph for more than thirty (30) days after payment would otherwise be due pursuant to the provisions of this Section 2.0 but the County shall not be restricted from withholding payment for cause found in the course of such audit or because of failure of the Town to cooperate with such audit. 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.

ARTICLE III

RIGHTS AND RESPONSIBILITIES OF THE TOWN REGARDING THE PROJECT

Section 3.0. The Town shall have sole authority and control over the development, operation, management, scheduling and maintenance of the Property. The Property shall be operated as a **PARK AND RECREATIONAL AREA**, but shall be available to all County residents.

Section 3.1. The Town shall, at its sole cost and expense, assume full responsibility for the operation of the Property in accordance with this Agreement and for repair, maintenance and security of the Property in accordance with this Agreement, all to the satisfaction of the County.

Section 3.2. The Property shall be open and available to the general public and under no circumstance shall access be limited solely to residents of the Town or other designated local government.

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Section 3.3. The Town shall, at its sole cost and expense, repair, maintain and properly supervise the Property, it being understood and agreed that such repair, maintenance and supervision shall be performed by the Town when necessary and to correct hazardous conditions. The Town shall, at its own cost and expense, keep any and all refuse in containers and remove and dispose of same as required.

Section 3.4. Following construction of improvements on the Property, said improvements shall be available to the public as required by this Agreement although the Town shall have sole discretion to schedule the use of same as appropriate.

Section 3.5. The Town shall, at its own cost and expense, promptly comply with all statutes, ordinances, rules, orders, regulations, codes and requirements of the Federal, State, County and local governments and all insurance requirements applicable to the said Property or any part thereof or applicable to this Agreement. This shall include, but not be limited to, any and all Federal, State and Local procurement laws; County Local Law No. 3-2018 known as the Erie County Workforce Development and Diversification New York State Certified Worker Training Program, and the New York State Environmental Quality Review Act (SEQR), all to the extent applicable. The County's Commissioner or his designee shall be entitled to enter the Property, or any part thereof, at any and all times for any and all purposes, without the need to obtain the consent or permission of the Town.

Section 3.6. All advertising and signage to be utilized by the Town in connection with the operation of the Property shall be subject to the prior written approval of the Commissioner and shall be provided to the County in advance for review. The Town shall acknowledge the County's contribution toward improvement of the Property on any signs erected at the Property and on any other publications, documents, etc. mentioning the Property.

ARTICLE IV

Has Been Removed from this Contract

Attachment: Intermunicipal Agreement - Paradise Park (RES-2024-1036 : Intermunicipal Agreement - Paradise Park CRS #5056)

ARTICLE V
INSURANCE and INDEMNITY

5.0. The Town shall procure and maintain insurance coverage for its maintenance, operation and/or repair of the Property as specified in **Schedule "D"** attached hereto and made a part hereof.

5.1 During the term of this Agreement, the Town agrees to cause its design professionals, contractors, sub-contractors and vendors to maintain insurance coverage consistent with the insurance requirements included as **Schedule "D"** attached hereto and to name the "County of Erie" as an additional insured on all such insurance policies, and to provide to the County Attorney certificate(s) of insurance evidencing such insurance coverage prior to the commencement of any work hereunder.

5.2 Notwithstanding the preceding sentence, the Town may provide proof of self-insurance in lieu of insurance policies for the work performed by its own professionals in the design of the Project.

5.3. To the fullest extent authorized by law, the Town, and its design professionals shall indemnify and hold harmless the County, its 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 Town or third parties under the direction or control of the Town; and 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.

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ARTICLE VI
RESPONSIBILITIES OF THE COUNTY

Section 6.0. The County shall have no responsibility for the operation, and maintenance of the Property other than to provide the payment set forth in Section 2.0 hereof.

ARTICLE VII
TERM OF AGREEMENT

Section 7.0. The term of this agreement shall be **EIGHTEEN MONTHS (18)** commencing on **JULY 1, 2024** unless terminated sooner as provided herein.

ARTICLE VIII
NOTICES

Section 8.0. 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 sent by hand or overnight courier, or sent by facsimile (with acknowledgment received and a copy of the notice sent by overnight courier), to the respective addresses 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.

To the County:

Erie County Legislature
Office of the Minority Caucus
92 Franklin Street, 4th Floor
Buffalo, NY 14202

with copies to:

County Attorney
95 Franklin Street, Room 1634
Buffalo, New York 14202

To the Town:

TOWN OF AMHERST
5583 MAIN STREET
WILLIAMSVILLE, NY 14221

Attachment: Intermunicipal Agreement - Paradise Park (RES-2024-1036 : Intermunicipal Agreement - Paradise Park CRS #5056)

with copies to:

Town Attorney

ARTICLE IX
MISCELLANEOUS

Section 9.0. Any purported delegation of duties or assignment of rights under this Agreement without the prior express written consent of the County is void.

Section 9.1. The failure of the County to insist upon strict performance of any term, condition or covenant herein shall not be deemed a waiver of any rights or remedies that the County may have and shall not be deemed a waiver of any subsequent breach or default in the terms, conditions or covenants herein.

Section 9.2. It is mutually understood and agreed that the terms, covenants, conditions and agreements herein contained shall be binding upon the parties hereto and upon their respective successors, legal representatives and assigns.

Section 9.3. This Agreement and its attachments constitute the entire agreement between the parties hereto with respect to the subject matter hereof and shall supersede all previous negotiations, commitments and writings. This Agreement shall not be released, discharged, changed or modified except by an instrument in writing signed by a duly authorized representative of each of the parties.

Section 9.4. It is recognized and understood that the Town is not an agent of the County and in accordance with such status, the Town, its consultant(s), its subcontractor(s), and their respective officers, agents, employees, representatives and servants shall at all times during the term of this Agreement neither hold themselves out as, nor claim to be acting in the capacity of officers, employees, agents, representatives or servants of the County, nor make any claim, demand or application for any right or privilege applicable to the County, including without limitation, rights or privileges derived from workers compensation coverage, unemployment insurance benefits, social security coverage and retirement membership or credit.

Section 9.5. In the event that any one or more provisions, sections, subsections, clauses or words of this Agreement are for any reason held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this

Attachment: Intermunicipal Agreement - Paradise Park (RES-2024-1036 : Intermunicipal Agreement - Paradise Park CRS #5056)

Agreement, but this Agreement shall be construed and enforced as if such illegal or invalid section, subsection, clause or word has not been contained herein.

Section 9.6. This Agreement shall be deemed executory only to the extent of funds appropriated and made available for the purpose of this Agreement and no liability on account thereof shall be incurred by the County beyond the amount of such appropriated funds.

Section 9.7. The Town shall comply with Erie County Executive Order 13 (2014) and agrees to complete the Certificate collectively attached hereto as **Exhibit "E"** and made a part hereof. The Town 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 Town 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 Agency's compliance with Erie County Executive Order 13 (2014). Notwithstanding the termination provisions contained herein, violation of the provisions of Executive Order 13 (2014), may constitute grounds for the immediate termination of this Agreement and may constitute grounds for determining that the Town is not qualified to participate in future County contracts.

Section 9.8. All covenants, stipulations, promises, agreements and obligations of the Town and the County contained herein shall be deemed to be stipulations, promises, agreements and obligations of the Town and the County and not of any member, officer or employee of the Town or the County in his individual capacity and no recourse shall be had for any obligation or liability herein or any claim based thereon against any member, officer or employee of the Town or the County or any natural person executing this Agreement.

Section 9.9. This Agreement may be executed in two or more counterparts and all counterparts so executed shall for all purposes constitute one agreement binding upon all the parties hereto.

[END TEXT]

Attachment: Intermunicipal Agreement - Paradise Park (RES-2024-1036 : Intermunicipal Agreement - Paradise Park CRS #5056)

IN WITNESS WHEREOF, the parties hereto have set their hands and seals as of the day and year first above written.

COUNTY OF ERIE

_____
Mark C. Poloncarz / Lisa Chimera

County Executive / Deputy County Executive
Dated: _____

TOWN OF AMHERST

_____
Name:
Title: _____

Dated: _____

APPROVED AS TO CONTENT

_____
Name: STEVEN WHIPPLE
Title: Deputy Chief of Staff
Dated: _____

APPROVED AS TO FORM

_____
Name: KRISTEN M. WALDER
Title: Deputy County Attorney
Document No._____
Dated: _____

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SCHEDULE "A"

MAP OF THE PROPERTY

[to be attached]

Attachment: Intermunicipal Agreement - Paradise Park (RES-2024-1036 : Intermunicipal Agreement - Paradise Park CRS #5056)

SCHEDULE "B"

SCOPE OF WORK
PLANNED DESIGN AND ENGINEERING ACTIVITIES RELATED TO IMPROVEMENTS TO THE PROPERTY

[to be attached]

Attachment: Intermunicipal Agreement - Paradise Park (RES-2024-1036 : Intermunicipal Agreement - Paradise Park CRS #5056)

Paradise Park Restroom/ Storage Building
Scope of Work

The Town of Amherst will be constructing an approximate 1,800 SF building at Paradise Park, located at 700 Paradise Road in East Amherst.

Paradise Park is a community park that hosts an abundance of amenities for Erie County residents of all ages. It is home to baseball and soccer fields as well as basketball, tennis, and pickleball courts. The planned construction will support these existing recreational activities by providing storage for equipment during the off season and overnights. The building will include a utility room along with a multi-use handicap- accessible toilet room and a handicap- accessible family restroom. It will be designed to complement the suburban neighborhood and blend harmoniously into the park surroundings.

Attachment: Intermunicipal Agreement - Paradise Park (RES-2024-1036 : Intermunicipal Agreement - Paradise Park CRS #5056)

Short Environmental Assessment Form
Part 1 - Project Information

Instructions for Completing

Part 1 – Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 – Project and Sponsor Information

Town of Amherst Engineering Department

Name of Action or Project:
Paradise Park Restroom/Storage Building

Project Location (describe, and attach a location map):
700 Paradise Road, East Amherst, NY 14051

Brief Description of Proposed Action:
Construction of new restroom and storage building to support existing park activities.

Name of Applicant or Sponsor:	Telephone: 716-631-7154 ext. 7069
Michael Hitzel	E-Mail: mhitzel@amherst.ny.us

Address:
1100 North Forest Road

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: Funding will be provided by Erie County	☐	☑

3. a. Total acreage of the site of the proposed action? 32.11 acres
   b. Total acreage to be physically disturbed? .16 acres
   c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? 32.11 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

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	NO	YES	N/A
5. Is the proposed action,			
a. A permitted use under the zoning regulations?	☐	☑	☐
b. Consistent with the adopted comprehensive plan?	☐	☑	☐

	NO	YES
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	☐	☑

	NO	YES
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area?		
If Yes, identify: _____	☑	☐

	NO	YES
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	☑	☐
b. Are public transportation services available at or near the site of the proposed action?	☑	☐
c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?	☐	☑

	NO	YES
9. Does the proposed action meet or exceed the state energy code requirements?		
If the proposed action will exceed requirements, describe design features and technologies: _____ _____	☐	☑

	NO	YES
10. Will the proposed action connect to an existing public/private water supply?		
If No, describe method for providing potable water: _____ _____	☐	☑

	NO	YES
11. Will the proposed action connect to existing wastewater utilities?		
If No, describe method for providing wastewater treatment: _____ _____	☐	☑

	NO	YES
12. a. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places?	☑	☐
b. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?	☐	☑

	NO	YES
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?	☐	☑
b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody?	☑	☐
If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____ _____ _____		

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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: Gutters and downspouts will be connected to existing on site storm system.		
18. Does the proposed action include construction or other activities that would result in the impoundment of water or other liquids (e.g., retention pond, waste lagoon, dam)? If Yes, explain the purpose and size of the impoundment:	☑	☐
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe:	☑	☐
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe:	☑	☐

I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE

Applicant/sponsor/name: Michael Hitzel - Town of Amherst Engineering Dept. Date: 5/2/24

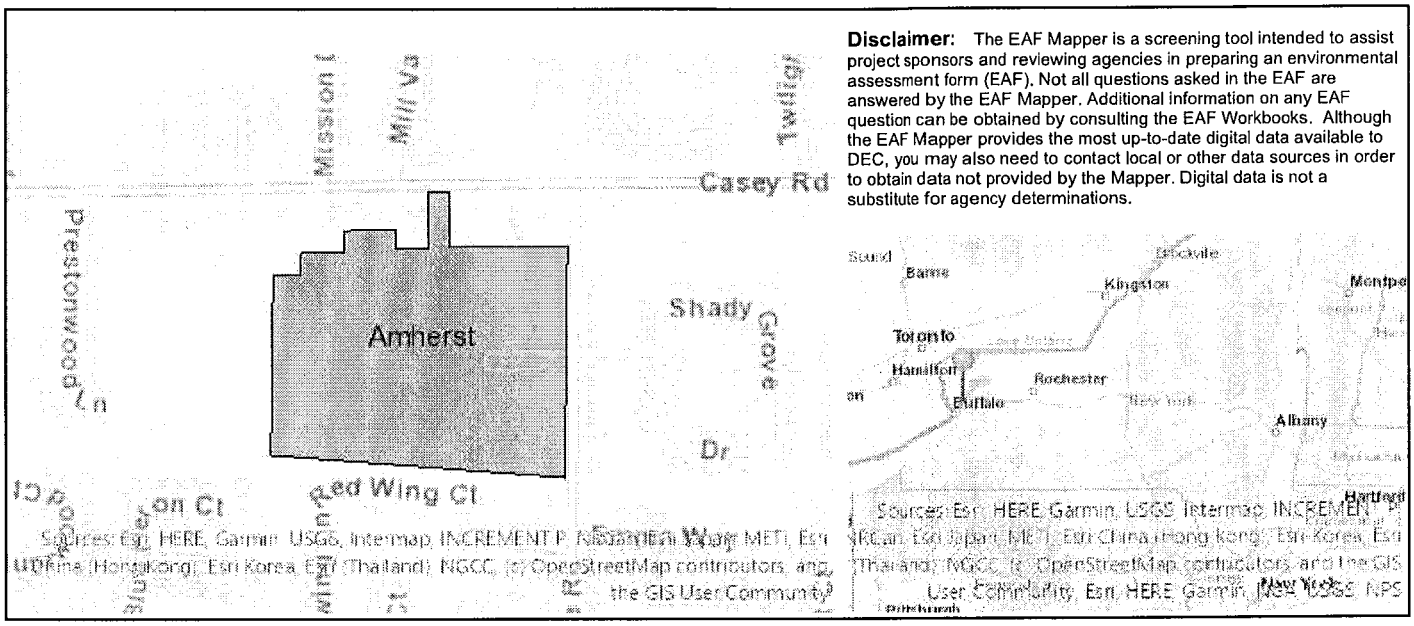
Signature: _____ Title: Architect

PRINT FORM

Attachment: Intermunicipal Agreement - Paradise Park (RES-2024-1036 : Intermunicipal Agreement - Paradise Park CRS #5056)

EAF Mapper Summary Report

Thursday, May 2, 2024 11:34 AM



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]	No

Attachment: Intermunicipal Agreement - Paradise Park (RES-2024-1036 : Intermunicipal Agreement - Paradise Park CRS #5056)

Agency Use Only [If applicable]

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? Small	☒	☒ BK
b. public / private wastewater treatment utilities? Small	☒	☒ BK
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

SEAF 2019

Attachment: Intermunicipal Agreement - Paradise Park (RES-2024-1036 : Intermunicipal Agreement - Paradise Park CRS #5056)

Agency Use Only [If applicable]

Project:

Date:

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.

☐ 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.

ERIE COUNTY (LEGISLATURE)	5/7/2024
Name of Lead Agency	Date
BRYAN FIUME	CHIEF OF STAFF
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

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SCHEDULE "C"

INVOICE
AMORTIZATION SCHEDULE FOR COUNTY PAYMENTS

[to be attached]

Attachment: Intermunicipal Agreement - Paradise Park (RES-2024-1036 : Intermunicipal Agreement - Paradise Park CRS #5056)

COUNTY OF ERIE

REQUEST FOR PAYMENT COVER PAGE

(to be completed by grantee with each payment request)

Organization: _____ Submitted By: _____
Name Title

Contract Number: _____

Invoice Date: _____ Invoice Number: _____

Invoice Period of Work: _____

Total Contract Amount: _____ Percent Complete: _____

Amount Requested in this Invoice: _____

Amount Previously Requested: _____

Total Expenditures to Date: _____

Summary of Work Completed (*link to task in scope of work, continue on separate page if needed*):

Task	Amount	Description of work completed during invoice period:

Attach invoices to cover sheet along with proof of payment to consultant or contractor (i.e., cancelled checks)

For Erie County Use Only

SAP No. _____ Funding Source: _____

Approved Amount: _____ Recommended by / Date: _____

Approval Date: _____ Approved By: _____

Edward A. Rath County Office Building · 95 Franklin Street. 10th Floor, Buffalo, NY 14202 · (716) 858-8390 · Facsimile (716) 858-7248

Attachment: Intermunicipal Agreement - Paradise Park (RES-2024-1036 : Intermunicipal Agreement - Paradise Park CRS #5056)

SCHEDULE "D"

STANDARD INSURANCE PROVISIONS

INSTRUCTIONS FOR COUNTY OF ERIE STANDARD INSURANCE CERTIFICATE

I. Insurance shall be procured and certificates delivered before commencement of work or delivery of merchandise or equipment.

II. CERTIFICATES OF INSURANCE

A. Shall be made to the "County of Erie, 95 Franklin St, Buffalo NY, 14202"

B. Coverage must comply with all specifications of the contract.

C. Must be executed by an insurance company, agency or broker, which is licensed by the Insurance Department of the State of New York. If executed by a broker, notarized copy of authorization to bind or certify coverage must be attached.

III. Forward the completed certificate to: County of Erie, (Department or Division) responsible for entering into the agreement for construction, purchase, lease or service.

IV. Minimum coverage with limits are as follows:

Vendor Classification	A Construction and Maintenance	B Purchase or Lease of Merchandise or Equipment	C Professional Services	D Property Leased To Others Or Use Of Facilities Or Grounds	E Concession-aires Services	F Livery Services	G All Purpose Public Entity Contra
Commercial Gen. Liab.	$1,000,000 per occ.	$1,000,000 CSL	$1,000,000 CSL	$1,000,000	$1,000,000 CSL	$1,000,000	$1,000,000 C
General Aggregate	$2,000,000	$2,000,000	$2,000,000	$2,000,000	$2,000,000	$2,000,000	$2,000,000
Products Completed Operations Liability	$2,000,000	$2,000,000	$2,000,000	$2,000,000	$2,000,000	$2,000,000	$2,000,000
Blanket Broad Form Contractual Liability	INCLUDE						
Contractual Liability		INCLUDE	INCLUDE	INCLUDE	INCLUDE	INCLUDE	INCLUDE
Broad Form P.D.	INCLUDE						
X.C.U. (explosion, collapse, Underground)	INCLUDE						
Liquor Law				INCLUDE	INCLUDE		
Auto Liab.	$1,000,000 CSL		$1,000,000 CSL	$1,000,000 CSL	$1,000,000 CSL	$1,000,000 CSL	$1,000,000 C
Owned	INCLUDE		INCLUDE	INCLUDE	INCLUDE	INCLUDE	INCLUDE
Hired	INCLUDE		INCLUDE	INCLUDE	INCLUDE	INCLUDE	INCLUDE
Non-Owned	INCLUDE		INCLUDE	INCLUDE	INCLUDE	INCLUDE	INCLUDE
Excess/Umbrella Liab.	$5,000,000	$1,000,000	$1,000,000	$1,000,000	$1,000,000	$5,000,000	$1,000,000
Worker's Compensation & Employer's Liability	STATUTORY	STATUTORY	STATUTORY	STATUTORY	STATUTORY	STATUTORY	STATUTOR
Disability Benefits	STATUTORY	STATUTORY	STATUTORY	STATUTORY	STATUTORY	STATUTORY	STATUTOR
Professional Liability			$5,000,000				
Erie County, To Be Named Add'l Insd.	Gen. Liab., Auto Liab., & Excess	Broad Form Vendors May Be Required	Gen. Liab., Auto Liab., & Excess	Gen. Liab., Auto Liab., & Excess	Gen. Liab., Auto Liab., & Excess	Gen. Liab., Auto Liab., & Excess	Gen. Liab., A Liab., & Exc

V. Construction contracts require excess Umbrella Liability limits of $5,000,000.

VI. Coverage must be provided on a primary-noncontributory bases.

VII. Designated Construction Project General Aggregate Limit Per Project Endorsement CG 25 03 is required.

VIII. If the concessionaire is required to have a N.Y.S. license to dispense alcoholic beverages an endorsement for liquor liability is required.

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IX. Waiver of Subrogation: Required on all lines unless noted.

X. Transportation of people in buses, vans or station wagons requires $5,000,000 excess liability.

XI. Workers Compensation: State Workers' Compensation / Disability Benefits Law --- Use Applicable Certificates Below:

Workers Compensation Forms

CE-200	Exemption
C105.2	Commercial Insurer
SI-12	Self Insurer
GSI-105.2	Group Self Insured
U-26.3	New York State Insurance Fund

DBL (Disability Benefits Law) Forms

CE-200	Exemption
DB-120.1	Insurers
DB-155	Self Insured

XII. The "ACORD" form certificate may be used in place of the County of Erie Standard Insurance Certificate, provided that all of the above referenced requirements are incorporated into the "ACORD" form certificate.

Attachment: Intermunicipal Agreement - Paradise Park (RES-2024-1036 : Intermunicipal Agreement - Paradise Park CRS #5056)

SCHEDULE "E"
ERIE COUNTY EQUAL PAY CERTIFICATION
(Reference Contract Paragraph 9.7)

Attachment: Intermunicipal Agreement - Paradise Park (RES-2024-1036 : Intermunicipal Agreement - Paradise Park CRS #5056)

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"). The average compensation for female employees is not consistently below the average compensation for male employees, taking into account mitigating factors. 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 Federal Equal Pay Law.

_____
Signature

Verification

STATE OF _____)
COUNTY OF _____) SS:

A)

_____, being duly sworn, states he or she is 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 his or her own knowledge.

B)

_____, being duly sworn, states that he or she is the
(Name of Corporate Officer)
_____, of _____, (Title
of Corporate Officer) (Name of Corporation)

the enterprise making the foregoing Certification, that he or she has read the Certification and knows its contents, that the statements and representations made in the Certification are true to his or her 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: Intermunicipal Agreement - Paradise Park (RES-2024-1036 : Intermunicipal Agreement - Paradise Park CRS #5056)

Amendment to
2024 Budget Book B
Amendment I
December 5, 2023

Add a new Budget Resolution No. 120 of the 2024 Budget - Book B as follows:

WHEREAS, this honorable body desires to support our communities and non-profit organizations to meet their capital project needs; and

WHEREAS, sufficient funding exists in Capital Project A.22095, Capital Agency Capital Fund, Fund 410, Funds Center 162 to address the capital project needs of our communities and non-profit organizations.

RESOLVED, the County Executive/Deputy County Executive be authorized to execute contracts with the following entities in the amounts indicated, from the capital accounts as noted:

Project Name #/WBS	Legal Name	Project Grant	Capital Account
Life Impact Food Pantry Expansion Project	Life Impact, Inc.	$500,000	A.22095.1.58
Town of Cheektowaga David Avenue Pedestrian Bridge	Town of Cheektowaga	$500,000	A.22095.1.59
Martin House Expansion Project	Martin House	$1,000,000	A.22095.1.60
Buffalo Urban League New Headquarters	Buffalo Urban League	$1,000,000	A.22095.1.61
Jewish Community Center Benderson Campus Security Upgrades	Jewish Community Center of Greater Buffalo	$400,000	A.22095.1.62
Town of Amherst Sewer Division Boulevard Mall "Market Square" Project	Town of Amherst	$600,000	A.22095.1.63
African American Cultural Center Building Improvements	African American Cultural Center	$500,000	A.22095.1.64
The Buffalo Center for Health Equity Building Improvements	The Buffalo Center for Health Equity	$500,000	A.22095.1.65
Town of Hamburg Shooting Range	Town of Hamburg	$200,000	A.22095.1.66
Lake Avenue Pedestrian Safety Project	Town of Hamburg	$250,000	A.22095.1.67
Village of Hamburg Legion Field Improvements	Village of Hamburg	$365,000	A.22095.1.68

[Bracketed] material is to be deleted; Underlined material is to be added

Attachment: Intermunicipal Agreement - Paradise Park (RES-2024-1036 : Intermunicipal Agreement - Paradise Park CRS #5056)

Village of Hamburg Parking Lot Project	Village of Hamburg	$180,000	A.22095.1.69
Village of Hamburg Police Equipment	Village of Hamburg	$5,000	A.22095.1.70
Village of Kenmore Police Headquarters Renovations	Village of Kenmore	$1,000,000	A.22095.1.87
Wall Reconstruction	Friends of Knox Farm	$500,000	A.22095.1.71
Pump Replacement	Town of Elma Water Department	$100,000	A.22095.1.72
Building Addition, Splash Pad, Kitchen Remodel	Boys & Girls Club of Elma, Marilla, Wales	$350,000	A.22095.1.73
Playground Improvements	Town of Aurora	$50,000	A.22095.1.74
Building Improvements	Orchard Park Boys & Girls Club	$250,000	A.22095.1.75
Playground Sportsfield Project	Town of Eden	$250,000	A.22095.1.76
All-Inclusive Playground at Recreation Center	Town of Orchard Park Rec Department	$250,000	A.22095.1.77
Visitors Center Construction	Graycliff Conservancy, Inc.	$250,000	A.22095.1.78
Boiler replacement and fireplace	Town of Alden	$100,000	A.22095.1.79
Ice rink improvements	Village of Depew	$200,000	A.22095.1.80
Improvements to Broadway location	Depew Lancaster Boys & Girls Club	$250,000	A.22095.1.81
Improvements	Town of Lancaster	$300,000	A.22095.1.82
Stieglemier Park Trail improvements	Town of Cheektowaga	$150,000	A.22095.1.83
Parks Improvements	Town of Clarence	$625,000	A.22095.1.84
Restroom/Storage at Paradise Park	Town of Amherst	$250,000	A.22095.1.85
Bike Path and Park Improvements	Village of Akron	$125,000	A.22095.1.86

; and be it further

RESOLVED, the Department of Environment and Planning is authorized to review the following projects pursuant to 6 N.Y.C.R.R.§ 617.1 to determine the environmental impact of the projects listed above to per the State Environmental Quality Review Act; and

RESOLVED, that authorization is hereby given to the Director of Budget and

Attachment: Intermunicipal Agreement - Paradise Park (RES-2024-1036 : Intermunicipal Agreement - Paradise Park CRS #5056)

Management to make any necessary budgetary adjustments as needed to administer these projects; and be it further

RESOLVED, that authorization is hereby given to the Comptroller's Office, following the necessary approvals of the Budget Office and Department of Environment and Planning, to make payments up to the contractual limits indicated above, with a total amount not to exceed $11,000,000, the source shall be Capital Project A.22095, Capital Agency Capital Fund, Fund 410, Funds Center 162; and be it further

RESOLVED, that authorization is hereby given to the Department of Law and County Executive/ Deputy County Executive to execute easements, deed restrictions, intermunicipal agreements and/or place additional requirements on the aforementioned contracting entities and associated real property (project location) as necessary to implement the projects; and be it further

RESOLVED, that the Clerk of the Legislature shall forward certified copies of this Resolution to the County Executive; the Erie County Comptroller; the Director of Budget and Management; Department of Law; and Department of Environment and Planning.

Attachment: Intermunicipal Agreement - Paradise Park (RES-2024-1036 : Intermunicipal Agreement - Paradise Park CRS #5056)

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

Francina J. Spoth
Town Clerk

Meeting: 12/16/24 07:00 PM
Department: Youth & Recreation
Initiated by: **Mary Diana Pouli**
Co-Sponsored by:

DOC ID: 29755 **RESOLUTION 2024-1037** **ADOPTED**

Service Agreement - DFC Grant CRS #5194

Authorize the Supervisor to sign a contract between the Town of Amherst (Youth & Recreation Department) and The Prevention Council of Erie County for work related to the town's 2024-2025 Drug Free Communities Grant.

12/16/2024
Consent

FINANCIAL IMPACT:

A 7257.4110; $12,974.00

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

AGREEMENT FOR SERVICES PROVIDED UNDER THE DRUG FREE COMMUNITIES GRANT

AGREEMENT dated this _____ day of _____, 2024, by and between the Town of Amherst (the Town), New York, a municipal corporation with offices at 5583 Main Street, Williamsville, NY 14221 and *The Prevention Council of Erie County* (*The Prevention Council)* with offices at 1625 Hertel Avenue, Buffalo NY 14216.

WITNESSETH

WHEREAS, *The Prevention Council* presently conducts Prevention Services and

WHEREAS, *The Prevention Council,* in cooperation with the Town of Amherst Youth & Recreation Department, is desirous of operating a Community Prevention Project, and

WHEREAS, the Town is a grantee eligible to receive reimbursement from the Centers for Disease Control for sponsoring such a project,

NOW, THEREFORE, it is mutually understood and agreed as follows:

1. The Town will sponsor a Community Prevention Project and pay to *The Prevention Council* a sum not to exceed *$12,974.00* for the period September 30, 2024 through September 30, 2025 for the operation of said project.

2. The amount paid by the Town in accordance with Paragraph 1 constitutes the Town's full obligation with regard to the agreement and all consequences arising therefrom, except that the Town shall be entitled to federal reimbursement as sponsor of the project.

3. *The Prevention Council* agrees to provide the following as part of the agreement: The services of the Director of Community-Based Programs at approximately .25FTE to

Attachment: Prevention Council complete 2024-25 (RES-2024-1037 : Service Agreement - DFC Grant CRS #5194)

assist with parent programs, lead planning for Family Day activities, and support the work of the Amherst Youth & Community Coalition.

4. *The Prevention Council* agrees to hire as its own employees any personnel required in conjunction with the operation of the Community Prevention Project.

6. The program will not discriminate against any applicant on the basis of color, national origin, disability, sex, or religion and will abide by all rules and regulations concerning discrimination and equal opportunity.

7. Except with regulation to duties normally accepted and imposed upon *The Prevention Council,* this agreement shall constitute the full and complete obligation of the parties thereto.

10. Claims for expenditures made by the project should be submitted no later than 90 days past the end of the quarter in which they were incurred.

TOWN OF AMHERST

BRIAN J. KULPA

_____

Supervisor

Date: _____

THE PREVENTION COUNCIL OF ERIE COUNTY

ROBIN MANN

_____

Executive Director

Date: 11/21/2024

Attachment: Prevention Council complete 2024-25 (RES-2024-1037 : Service Agreement - DFC Grant CRS #5194)

Consultant Minor Exposure Addendum to Contract

1. Notwithstanding any other provision in this Agreement, the following clauses shall be controlling. Should any other provision of the Agreement conflict with the clauses in this Addendum then the provisions of this Addendum are to be enforceable and any conflicting provision shall be considered null and void.

2. No rules, requirements or customs of any society or association of professional Consultants or any similar association shall affect this Agreement in any way whatsoever or be binding upon the Town.

3. To the fullest extent permitted by law, Consultant shall indemnify and hold the Town, its officers, agents, and employees, harmless from any and all liability, demands, claims, or expenses, awards or judgments imposed upon the Town, its officers, agents, and/or employees, arising out of the work of the Consultant its officers, agents, sub-Consultants, and/or employees as well as the negligence, active or passive, of the Consultant, its officers, agents, sub-Consultants, and/or employees.

4. Consultant shall not commence work under this Agreement until it has obtained all insurance specified below, produced satisfactory proof of the same and such insurance has been approved by the Town.

(a) Workers' Compensation Insurance: Consultant shall take out and maintain during the life of this Agreement, Workers' Compensation Insurance (both Part A and Part B) for its employees to be assigned to the work hereto under.

(b) General Liability, Professional (if applicable) Liability and Property Damage Insurance: Consultant shall take out and maintain during the life of this Agreement, such general liability and property damage insurance as shall protect it and the Town of Amherst from claims for damages for personal injury, including accidental death, as well as from claims for property damage, which may arise from operations under this Agreement. The amounts of such insurance shall be as follows in an amount not less than $1,000,000.00 per occurrence for bodily injury and property damage including wrongful death, and $2,000,000.00 aggregate.

(c) Consultant shall furnish the above insurances, including sub-Consultants' insurances, to the Town and shall also assure that any policy procured by it shall name the Town as an additional insured on a primary and non-contributory basis.

(d) Consultant shall ensure all its sub-Consultants, if any, have obtained all the above insurances and shall also assure that any policy procured by any sub-Consultant or sub-sub Consultant shall name the Town as an additional insured on a primary and non-contributory basis.

Attachment: Prevention Council complete 2024-25 (RES-2024-1037 : Service Agreement - DFC Grant CRS #5194)

5. Any accident shall be reported to the Office of the Town Attorney as soon as possible and not later than twenty-four (24) hours from the time of such accident. A detailed written report must be submitted to the Town of Amherst as soon thereafter as possible as and no later than three (3) days after the date of such accident.

6. No Assignment: In accordance with the provisions of Section 109 of the General Municipal Law, the Consultant is hereby prohibited from assigning, transferring, conveying, subletting or otherwise disposing of this Agreement, or of its right, title or interest in this agreement, or its power to execute this Agreement, to any other person or corporation without the previous consent in writing of the Town.

7. Required Provisions of Law: Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to have been inserted herein. If any such provision is not inserted through mistake or otherwise, then upon the application of either party this Agreement shall be physically amended forthwith to make such insertion. In particular, the Consultant shall, among other things, fully comply with:

(a) Article 8 of the NYS Labor Law for public work contracts and Article 9 of the Labor Law regarding prevailing wage for Building Service employees.
(b) Labor Law Section 220-e and Executive Law Sections 291-299 and the Civil Rights Law relating to prohibition against discrimination and equal opportunity.
(c) Affirmative action as required by the Labor Law.
(d) Prevention of dust hazard required by Labor Law Section 222-a.
(e) Preference in employment of persons required by Labor Law Section 222.
(f) Eight-hour workday as required by Labor Law Section 220(2).
(g) Chapter 32 of the Town of Amherst: Minority Women and Business Utilization Commitment.
(h) Chapter 163 of the Town of Amherst: Registration of Sex Offenders.

8. The Consultant, in accordance with its status as an independent Consultant, covenants and agrees that it will conduct itself consistent with such status. It will neither hold itself out as nor claim to be, an officer or employee of the Town by reason hereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the Town, including, but not limited to: workers' compensation coverage, unemployment insurance benefits, Social Security coverage, or retirement membership or credit.

Waiver: No waiver of any breach of any condition of the Agreement shall be binding unless in writing and signed by the party waiving said breach. No such waiver shall in any way affect any other term or condition of this Agreement or constitute a cause or excuse for a repetition of such or any other breach unless the waiver shall include the same.

9. This Agreement shall be governed by, and interpreted according to the laws of the State of New York. If the contract between the parties refers to the laws, statutes, rules, regulations or ordinances for any state other than New York State, to the laws, statutes, rules, regulations

Attachment: Prevention Council complete 2024-25 (RES-2024-1037 : Service Agreement - DFC Grant CRS #5194)

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:

The Prevention Council of Erie County
Print Name of Company

By: _____
Signature

Robin Mann
Printed name

Date: 11/26/25

Agreed to and Accepted by:

Town of Amherst

By: _____
Brian J. Kulpa, Supervisor

Date: _____

Attachment: Prevention Council complete 2024-25 (RES-2024-1037 : Service Agreement - DFC Grant CRS #5194)

NEW YORK STATE | Workers' Compensation Board

CERTIFICATE OF NYS WORKERS' COMPENSATION INSURANCE COVERAGE

1a. Legal Name & Address of Insured (use street address only) The Prevention Council of Erie County Inc 1625 Hertel Ave Buffalo NY 14216 Work Location of Insured *(Only required if coverage is specifically limited to certain locations in New York State, i.e., a Wrap-Up Policy)*	1b. Business Telephone Number of Insured (716)831-2298 1c. NYS Unemployment Insurance Employer Registration Number of Insured 1d. Federal Employer Identification Number of Insured or Social Security Number 16-0743218
2. Name and Address of Entity Requesting Proof of Coverage (Entity Being Listed as the Certificate Holder) Town of Amherst Community Center Amherst Youth Board 5583 Main Street Williamsville NY 14221	3a. Name of Insurance Carrier Michigan Millers Mutual Insurance Co 3b. Policy Number of Entity Listed in Box "1a" W0520477 3c. Policy effective period 09/01/2024 to 09/01/2025 3d. The Proprietor, Partners or Executive Officers are ☒ included. (Only check box if all partners/officers included) ☐ all excluded or certain partners/officers excluded.

This certifies that the insurance carrier indicated above in box "3" insures the business referenced above in box "1a" for workers' compensation under the New York State Workers' Compensation Law. **(To use this form, New York (NY) must be listed under Item 3A on the INFORMATION PAGE of the workers' compensation insurance policy).** The Insurance Carrier or its licensed agent will send this Certificate of Insurance to the entity listed above as the certificate holder in box "2".

The insurance carrier must notify the above certificate holder and the Workers' Compensation Board within 10 days IF a policy is canceled due to nonpayment of premiums or within 30 days IF there are reasons other than nonpayment of premiums that cancel the policy or eliminate the insured from the coverage indicated on this Certificate. (These notices may be sent by regular mail.) **Otherwise, this Certificate is valid for one year after this form is approved by the insurance carrier or its licensed agent, or until the policy expiration date listed in box "3c", whichever is earlier.**

This certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend or alter the coverage afforded by the policy listed, nor does it confer any rights or responsibilities beyond those contained in the referenced policy.

This certificate may be used as evidence of a Workers' Compensation contract of insurance only while the underlying policy is in effect.

Please Note: Upon cancellation of the workers' compensation policy indicated on this form, if the business continues to be named on a permit, license or contract issued by a certificate holder, the business must provide that certificate holder with a new Certificate of Workers' Compensation Coverage or other authorized proof that the business is complying with the mandatory coverage requirements of the New York State Workers' Compensation Law.

Under penalty of perjury, I certify that I am an authorized representative or licensed agent of the insurance carrier referenced above and that the named insured has the coverage as depicted on this form.

Approved by: William Lawley Jr.
(Print name of authorized representative or licensed agent of insurance carrier)

Approved by: _____ 08/29/2024
(Signature) (Date)

Title: Managing Partner

Telephone Number of authorized representative or licensed agent of insurance carrier: (716) 849-8618

Please Note: Only insurance carriers and their licensed agents are authorized to issue Form C-105.2. Insurance brokers are NOT authorized to issue it.

C-105.2 (9-17)

www.wcb.ny.gov

Attachment: Prevention Council complete 2024-25 (RES-2024-1037 : Service Agreement - DFC Grant CRS #5194)

ACORD

ERIECTY-01 DLISKOW

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 8/29/2024

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 License # 1009544
Lawley-Tradition
3988 Vineyard Drive
Dunkirk, NY 14048

CONTACT NAME: Danielle Liskow AAI, AAI-M
PHONE (A/C, No, Ext): (716) 673-6221 6221 FAX (A/C, No): (716) 672-3497
E-MAIL ADDRESS: dliskow@lawleyinsurance.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Michigan Millers Mutual Ins Co	14508
INSURER B :	
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

INSURED
The Prevention Council of Erie County Inc
1625 Hertel Avenue
Buffalo, NY 14216-2905

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		C0539596	9/1/2024	9/1/2025	EACH OCCURRENCE	$ 1,000,000
	X Abuse & Molestation						DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 100,000
	X Professsional Liab						MED EXP (Any one person)	$ 5,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						PERSONAL & ADV INJURY	$ 1,000,000
	X POLICY PRO-JECT LOC						GENERAL AGGREGATE	$ 2,000,000
	OTHER:						PRODUCTS - COMP/OP AGG	$ 2,000,000
							ABUSE AND MOLES	$ 1,000,000
A	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	$ 1,000,000
	ANY AUTO						BODILY INJURY (Per person)	$
	OWNED AUTOS ONLY / SCHEDULED AUTOS			C0539596	9/1/2024	9/1/2025	BODILY INJURY (Per accident)	$
	X HIRED AUTOS ONLY / X NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
								$
A	X UMBRELLA LIAB X OCCUR						EACH OCCURRENCE	$ 5,000,000
	EXCESS LIAB CLAIMS-MADE			C0539596	9/1/2024	9/1/2025	AGGREGATE	$ 5,000,000
	DED RETENTION $							$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						X PER STATUTE OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N	N/A		W0520477	9/1/2024	9/1/2025	E.L. EACH ACCIDENT	$ 500,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$ 500,000
							E.L. DISEASE - POLICY LIMIT	$ 500,000
A	Professional Liabili			C0539596	9/1/2024	9/1/2025	Aggregate	2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER

Town of Amherst Community Center
Amherst Youth Board
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

ACORD 25 (2016/03)

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Attachment: Prevention Council complete 2024-25 (RES-2024-1037 : Service Agreement - DFC Grant CRS #5194)

POLICY NUMBER: C 0539596 04

COMMERCIAL GENERAL LIABILITY
CG 20 26 04 13

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – DESIGNATED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):
TOWN OF AMHERST COMMUNITY CTR AMHERST YOUTH BOARD 5583 MAIN STREET WILLIAMSVILLE NY 14221
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

A. **Section II – Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

1. In the performance of your ongoing operations; or
2. In connection with your premises owned by or rented to you.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable Limits of Insurance shown in the Declarations;

whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

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Wolters Kluwer Financial Services | Uniform Forms™

Attachment: Prevention Council complete 2024-25 (RES-2024-1037 : Service Agreement - DFC Grant CRS #5194)

NEW YORK STATE | Workers' Compensation Board

CERTIFICATE OF INSURANCE COVERAGE
DISABILITY AND PAID FAMILY LEAVE BENEFITS LAW

PART 1. To be completed by Disability and Paid Family Leave Benefits Carrier or Licensed Insurance Agent of that Carrier

1a. Legal Name & Address of Insured (use street address only)
The Prevention Council of Erie County Inc
1625 Hertel Ave
Buffalo NY 14216

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)831-2298

1c. Federal Employer Identification Number of Insured or Social Security Number
16-0743218

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 Co

3b. Policy Number of Entity Listed in Box "1a"
D570506

3c. Policy effective period
01/01/2024 to 01/01/2025

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 08/29/2024 By _____
(Signature of insurance carrier's authorized representative or NYS Licensed Insurance Agent of that insurance carrier)

Telephone Number (716) 849-8618 Name and Title William Lawley, Jr., Principal

IMPORTANT: If Boxes 4A and 5A are checked, and this form is signed by the insurance carrier's authorized representative or NYS Licensed Insurance Agent of that carrier, this certificate is COMPLETE. Mail it directly to the certificate holder.

If Box 4B, 4C or 5B is checked, this certificate is NOT COMPLETE for purposes of Section 220, Subd. 8 of the NYS Disability and Paid Family Leave Benefits Law. It must be mailed for completion to the Workers' Compensation Board, Plans Acceptance Unit, PO Box 5200, Binghamton, NY 13902-5200.

PART 2. To be completed by the NYS Workers' Compensation Board (Only if Box 4C or 5B of Part 1 has been checked)

State of New York
Workers' Compensation Board

According to information maintained by the NYS Workers' Compensation Board, the above-named employer has complied with the NYS Disability and Paid Family Leave Benefits Law with respect to all of his/her employees.

Date Signed _____ By _____
(Signature of Authorized NYS Workers' Compensation Board Employee)

Telephone Number _____ Name and Title _____

Please Note: *Only insurance carriers licensed to write NYS disability and paid family leave benefits insurance policies and NYS licensed insurance agents of those insurance carriers are authorized to issue Form DB-120.1.* ***Insurance brokers are NOT authorized to issue this form.***

DB-120.1 (10-17)

DB-120.1 (10-17)

Attachment: Prevention Council complete 2024-25 (RES-2024-1037 : Service Agreement - DFC Grant CRS #5194)

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

Francina J. Spoth
Town Clerk

Meeting: 12/16/24 07:00 PM
Department: Youth & Recreation
Initiated by: **Mary Diana Pouli**
Co-Sponsored by:

DOC ID: 29774 **RESOLUTION 2024-1038** **ADOPTED**

Travel Authorization - USHA Winter Meeting

Authorize Eric Guzdek and Linda Groff to attend the US Amateur Hockey Association Winter Meeting in Nashville, TN from 1/15-1/19/24. All costs will be paid by the NYS Amateur Hockey Association.

12/16/2024
Consent

FINANCIAL IMPACT:

No cost to Town of Amherst

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 1/9/2023*

☒ $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
1/15/2025	1/19/2025	Nashville, TN	Attend the USA Hockey Annual Winter Meeting at no cost to the Town of Amhest as a the President of the New York State Amateur Hockey Association (USA Hockey District)

Expenses	Estimated	Budget A/C #	Actual
Transportation:			
Mileage @ $0.655			
Tolls			
Parking			
Local Transportation (bus/taxi)			
Plane/Rail/Bus			
Lodging:			
# nights @			
Meals:			
IRS Per Diem Per Day			
1st & Last Day of Travel @75%			
# Breakfasts @			
# Breakfasts @			
# Lunches @			
# Lunches @			
# Dinners @			
# Dinners @			
# Incidentals @			
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 Rausi

Department Head Signature

November 26, 2024

Date

I hereby certify that I have expended the above itemized amounts for business purposes for the Town of Amherst. Required receipts are attached.

Employee Signature — Date

Print Employee Name

Reimbursement Approved By:

Department Head Signature — Date

Complete Shaded Area For Expense Reimbursement

Town Board :

Date of Town Board Approval

Attachment: Guzdek - USAH Winter Meeting (RES-2024-1038 : Travel Authorization - USHA Winter Meeting)

TRAVEL EXPENSE APPROVAL/REIMBURSEMENT FORM

☐ $250 or LESS and under 75 miles — Department Head Approval ONLY Required — *REVISED 1/9/2023*

☒ $250 + or greater than 75 miles — Department Head AND Town Board Approval Required

NAME	Employee #	Department	Phone Number
Linda Groff	9420	Youth & Rec	(716) 631-7132

Destination and Purpose of Trip

Date of Departure	Date of Return	Destination	Purpose/Justification
1/15/2024	1/19/2024	Nashville, TN	Attend the USA Hockey Annual Winter Meeting at no cost to the Town of Amhest as a the Recording Secretary of the New York State Amateur Hockey Association (USA Hockey District)

Expenses	Estimated	Budget A/C #	Actual
Transportation:			
Mileage @ $0.655			
Tolls			
Parking			
Local Transportation (bus/taxi)			
Plane/Rail/Bus			
Lodging:			
# nights @			
Meals:			
IRS Per Diem Per Day			
1st & Last Day of Travel @75%			
# Breakfasts @			
# Breakfasts @			
# Lunches @			
# Lunches @			
# Dinners @			
# Dinners @			
# Incidentals @			
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 Pauli
Department Head Signature

November 26, 2024
Date

Town Board :

Date of Town Board Approval

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: Groff - USAH Winter Meeting (RES-2024-1038 : Travel Authorization - USHA Winter Meeting)

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

Francina J. Spoth
Town Clerk

Meeting: 12/16/24 07:00 PM
Department: Youth & Recreation
Initiated by: **Mary Diana Pouli**
Co-Sponsored by:

DOC ID: 29781 **RESOLUTION 2024-1039** **ADOPTED**

Advertising Agreement and Trade - CRS #5260

Authorize the Supervisor to sign a contract between the Town of Amherst (Youth & Recreation Department) and the Amherst Bee for advertising in 2025, pending successful completion of the contract routing process.

12/16/2024
Consent

FINANCIAL IMPACT:

A 7253.4025: $5,048.00

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

Bee Group Newspapers

WNY's Leading Suburban Newspapers

Memo To: Town of Amherst/Northtown Center at Amherst

Memo From: Trey Measer, Publisher

Memo Date: November 26, 2024

Subject: 2025 ADVERTISING AGREEMENT AND TRADE

Bee Publications will...

- Publish eight (8) full pages in 2025, free of charge for the Town of Amherst in The Amherst Bee
- Ads will be in black and white

Town of Amherst will...

- Purchase four (4) full page advertisements in The Amherst Bee Newspaper in the 2025 calendar year at the full promotional rate of $1,262 per paid ad. The first month of each quarter will be the paid ad by Town of Amherst and this ad will be pre-paid each quarter in January, April, July and October

- Town of Amherst will display the Bee's advertising message on the panel boards at each of the three (3) scoreboards at the Northtown Center at Amherst in exchange for the free advertising space above in The Amherst Bee

- Supply copy for each advertisement in a timely manner, so we may prepare the advertisement for print; Bee to do ad design included in this agreement

Contract effective: January 1, 2025 through December 31, 2025

	Heather A. Measer
Town of Amherst	**Bee Publications, Inc**
	12/10/24
Date	**Date**

Bee Publications, Inc.

Amherst Bee · Cheektowaga Bee · Clarence Bee · Depew Bee · East Aurora Bee
Ken-Ton Bee · Lancaster Bee · Orchard Park Bee · West Seneca Bee

5564 Main Street · Buffalo, NY 14221-5410 · 716/632-4700 · FAX 716/633-8601 · www.BeeNews.com

Attachment: TownOfAmherst_2025NewBeeNewsAgreement (RES-2024-1039 : Advertising Agreement and Trade - CRS #5260)

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

Francina J. Spoth
Town Clerk

Meeting: 12/16/24 07:00 PM
Department: Town Clerk
DOC ID: 29800

COMMUNICATION 2024-102 **REFERRED**

Correspondence from Sean Hopkins, Esq. - 1789 Dodge Road

Letter from Sean Hopkins, Esq. regarding the proposed residential subdivision at 1789 Dodge Road.

12/16/2024
Referred to Planning & Attorney

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

December 10, 2024

Brian J. Kulpa, Town Supervisor
Town of Amherst Town Hall
5583 Main Street
Williamsville, NY 14221

Re: 1789 Dodge Road – Proposed Residential Subdivision
Applicant: Joe Rubino

Dear Supervisor Kulpa and Councilmembers:

This letter is being submitted on behalf of Joe Rubino (the "Project Sponsor") in connection with the above referenced proposed residential subdivision at 1789 Dodge Road ("Project Site").

During its meeting held on held on November 21, 2024, the Planning Board granted Sketch Plan Approval for the proposed residential subdivision.

The Project Sponsor is requesting that the Town Board adopt a resolution during its meeting on to be held on Monday, December 16th at 6:30 p.m. confirming it will accept dedication of the proposed public roadway once the required approvals for the project have been obtained including a Public Improvement Permit, etc.

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: Jacqualine Berger, Councilmember
Shawn Lavin, Councilmember
Michael Szukala, Councilmember
Angela Marinucci, Councilmember
Francina J. Spoth, Town Clerk
Timothy J. Koller, Deputy Town Clerk
Martin Pollowy, Esq., Town Attorney
Daniel Howard, AICP, Planning Director
Sam Alba, Esq., Town Attorney
Steven Floss, Superintendent of Highways
Joe Rubino

HOPKINS SORGI & MCCARTHY PLLC
Attorneys at Law
35 California Drive, Suite 100, Williamsville, New York 14221
Direct: 716-510-4338 • E-mail: shopkins@hanlegal.com • www.hsmlegal.com

Attachment: Kulpa-Ltr-12-10-24 (COM-2024-102 : Correspondence from Sean Hopkins, Esq. - 1789 Dodge Road)

Christopher Wood, P.E., Carmina Wood Design
Dan LaPietra, EIT, Carmina Wood Design

Attachment: Kulpa-Ltr-12-10-24 (COM-2024-102 : Correspondence from Sean Hopkins, Esq. - 1789 Dodge Road)

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

Francina J. Spoth
Town Clerk

Meeting: 12/16/24 07:00 PM
Department: Town Clerk
DOC ID: 29801

COMMUNICATION 2024-103

RECEIVED & FILED

Correspondence from Marc Rosenthal - Address Change

Letter from Marc Rosenthal seeking to change the address of their office building from 1 Beresford Court to 6700 Main Street.

12/16/2024
Received & Filed

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

Limestone Services Center, LLC
6700 Main Street - 1 Beresford Ct.
Williamsville, NY 14221

December 8, 2024

Town of Amherst Town Board
5583 Main St.
Williamsville, NY 14221

Re: Use of Main Street Address for 1 Beresford Court.

Dear Supervisor Kulpa & Councilmembers:

We are writing to respectfully request that the Town of Amherst Town Board and its various Departments approve our request to change the address for our recently purchased office building at 1 Beresford Court to 6700 Main Street.

Our entity, Limestone Services Center, LLC purchased the building in April 2024. Prior to the closing on the purchase of the property, it was confirmed with the US Postal Service that 6700 Main Street was an acceptable address to receive mail and deliveries to the building located at the on southeast corner of Main Street and Beresford Court. Thei response indicated that the US Postal Service views the front door, which directly faces Main Steet, as 6700 Main Street for Mail and delivery service.

Regardless of what transpired in the past, there has been a substantial change of circumstance on Main Street since 1998, and we are asking to have that decision reconsidered and allow us to advertise our Main Street location like so many other businesses with property with frontage on Main Street located along the Main Street corridor. .

We researched every building on Main St between Transit Rd and Evans Rd. There are 18 buildings (some older than ours) with the following characteristics:

- Corner lot;
- Main Street frontage;
- No driveway on Main Street; and
- Use a Main Street address on their building and signage

A list of the 18 addresses is provided below as follows:

5808 Main St.

5813 Main St.

5839 Main St.

Attachment: Rosenthal-Ltr-Town Board-12-11-24 (COM-2024-103 : Correspondence from Marc Rosenthal - Address Change)

5870-5872 Main St.

5888 Main St.

The new build located at the corner of Main & Highland 5913 Main St.

5920-5930 Main St.

5959 Main St.

6333 Main St.

6363 Main St.

6467 Main St.

6565 Main St.

6580 Main St.

6760 Main St.

6770 Main St.

6779 Main St.

6790 Main St.

There are no buildings located on Main Street with the first three characteristics described herein that do not use a Main Street address.

The occupants of this building are comprised of four small businesses that collectively employ over 60 people, and due to the nature of our companies, we bring thousands of consumers to our building annually. These consumers come from all over Buffalo, and its suburbs, and patronize other local business while in the area. Beresford Court, which is exclusively a residential street, would be unfamiliar to people visiting our business, and even more so when they are from outside of the Town of Amherst.

Since acquiring this office building in April, we have renovated extensively, including maintenance, repairs, and paint to the exterior facade and a landscaping overhaul, attempting to be consistent with the high standards of our Main Street neighbors.

Our request is quite clearly founded in the new precedent that has been established, and now appears to be a norm, since a previous request was last made nearly 40 years ago.

We are requesting that this letter be placed on the agenda of the upcoming meeting of the Town Board to be held on Monday, December 16th at 7:00 p.m. and that this matter will be resolved expeditiously as we are anxious to submit permits for new signage and to advertise to our thousands of clients located in Western New York.

If you need anything else regarding our request, please do not hesitate to contact Chris Alderson at 716-984-4251. Chris is one of our managers of the business and is handling this matter for our group.

Attachment: Rosenthal-Ltr-Town Board-12-11-24 (COM-2024-103 : Correspondence from Marc Rosenthal - Address Change)

Sincerely,

Marc I. Rosenthal, Member

cc: Town of Amherst Town Board
Fran Spoth, Town Clerk
Mark Berke, Building Commissioner
Samuel Alba, Esq., Town Attorney
Sean Hopkins, Esq., Hopkins Sorgi & McCarthy PLLC

Attachment: Rosenthal-Ltr-Town Board-12-11-24 (COM-2024-103 : Correspondence from Marc Rosenthal - Address Change)

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

Francina J. Spoth
Town Clerk

Meeting: 12/16/24 07:00 PM
Department: Town Clerk
DOC ID: 29749

COMMUNICATION 2024-104 **REFERRED**

Summons and Complaint: State of New York Mortgage Agency Vs. Town of Amherst Et Al.

12/16/2024
Referred to Attorney

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

FILED: ERIE COUNTY CLERK 11/22/2024 03:22 PM INDEX NO. 817395/2024
NYSCEF DOC. NO. 1 RECEIVED NYSCEF: 11/22/2024

STATE OF NEW YORK
SUPREME COURT COUNTY OF ERIE

STATE OF NEW YORK MORTGAGE AGENCY,

Plaintiff,

-vs-

SUMMONS

SONYA Y. CAMERON; TOWN OF AMHERST;
NEW YORK STATE DEPARTMENT OF
TAXATION AND FINANCE;
"JOHN DOE" AND "JANE DOE " said
names being fictitious, it being the intention of
Plaintiff to designate any and all occupants of premises
being foreclosed herein,

Index No.

Defendants.

Mortgaged Premises:
45 Coronation Drive, Amherst, NY 14226

TO THE ABOVE NAMED DEFENDANT(S):

YOU ARE HEREBY SUMMONED to answer the Complaint in the above entitled action and to serve a copy of your Answer on the plaintiff's attorney within twenty (20) days of the service of this Summons, exclusive of the day of service, or within thirty (30) days after service of the same is complete where service is made in any manner other than by personal delivery within the State. The United States of America, if designated as a defendant in this action, may answer or appear within sixty (60) days of service. Your failure to appear or to answer will result in a judgment against you by default for the relief demanded in the Complaint. In the event that a deficiency balance remains from the sale proceeds, a judgment may be entered against you, unless the Defendant obtained a bankruptcy discharge and such other or further relief as may be just and equitable.

NOTICE
YOU ARE IN DANGER OF LOSING YOUR HOME

If you do not respond to this summons and complaint by serving a copy of the answer on the attorney for the mortgage company who filed this foreclosure proceeding against you and filing the answer with court, a default judgment may be entered and you can lose your home.

Attachment: DOC120524-12052024103313 (COM-2024-104 : Summons and Complaint: State of New York Mortgage Agency Vs. Town of Amherst

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.

DATED: November 8, 2024

Mark K. Broyles, Esq.
FEIN, SUCH & CRANE, LLP
Attorneys for Plaintiff
Office and P.O. Address
28 East Main Street, Suite 1800
Rochester, New York 14614
Telephone No. (585)232-7400
FKNYC226

SECTION: 67.08
BLOCK: 7
LOT: 20

Attachment: DOC120524-12052024103313 (COM-2024-104 : Summons and Complaint: State of New York Mortgage Agency Vs. Town of Amherst

FILED: ERIE COUNTY CLERK 11/22/2024 03:22 PM INDEX NO. 817395/2024
NYSCEF DOC. NO. 1 RECEIVED NYSCEF: 11/22/2024

NATURE AND OBJECT OF ACTION

The object of the above action is to foreclose a mortgage held by the Plaintiff recorded in the County of ERIE, State of New York as more particularly described in the Complaint herein.

TO THE DEFENDANT, except **SONYA Y. CAMERON**, the plaintiff makes no personal claim against you in this action.

Attachment: DOC120524-12052024103313 (COM-2024-104 : Summons and Complaint: State of New York Mortgage Agency Vs. Town of Amherst

FILED: ERIE COUNTY CLERK 11/22/2024 03:22 PM INDEX NO. 817395/2024
NYSCEF DOC. NO. 1 RECEIVED NYSCEF: 11/22/2024

STATE OF NEW YORK
SUPREME COURT COUNTY OF ERIE

STATE OF NEW YORK MORTGAGE AGENCY,

Plaintiff,

-vs-

COMPLAINT

SONYA Y. CAMERON; TOWN OF AMHERST; NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE; "JOHN DOE" AND "JANE DOE " said names being fictitious, it being the intention of Plaintiff to designate any and all occupants of premises being foreclosed herein,

Index No.

Defendants.

The plaintiff herein, by FEIN, SUCH & CRANE, LLP, its attorneys, complains of the defendants above named, and for its cause of action, alleges:

FIRST: The plaintiff, is an agency created pursuant to Chapter 612 of the Laws of New York, 1970, being Title 17 of Article 8 of the Public Authorities Law with a place of business in the City of New York, State of New York.

SECOND: Upon information and belief, at all times hereinafter mentioned, the defendant(s) reside or conduct business at the address set forth in "Schedule A" annexed hereto (any that are corporations being organized and existing under the laws of the State set forth therein), and are made defendants in this action in the capacities and for the reasons alleged therein.

THIRD: That the United States of America, the People of the State of New York, the State Tax Commission of the State of New York, the Industrial Commissioner of the State of New York, and all other agencies or instrumentalities of the Federal, State or local government,

Attachment: DOC120524-12052024103313 (COM-2024-104 : Summons and Complaint: State of New York Mortgage Agency Vs. Town of Amherst

however designated, if named as defendants, are made parties solely by reason of the facts set forth in the annexed "Schedule B."

FOURTH: That heretofore, to secure a sum of money to the stated Lender, its successor and assigns, the defendants duly executed, acknowledged and delivered to the stated Lender, a certain bond(s) or note(s) whereby they bound their successors or heirs, executors, administrators and assigns, jointly and severally, in the amount of said sum, as more fully described in the annexed "Schedule C," said schedule being a copy of the bond(s) or note(s), or accurate reference to the assumption agreement(s) evidencing indebtedness to plaintiff, together with the terms of repayment of said sum and rights of the plaintiff.

FIFTH: Plaintiff is in possession of the Note referenced in paragraph FOURTH prior to the commencement of this action and is entitled to enforce the Note.

SIXTH: That as security for the payment of said indebtedness, a Mortgage(s) was executed as annexed hereto in "Schedule D," acknowledged and delivered to the stated Lender/Mortgagee, its successors and assigns, wherein the named mortgagor or mortgagors bargained, granted and sold to the mortgagee named therein, its successors and assigns, the premises more particularly described therein (hereinafter, the "Mortgaged Premises") under certain conditions with rights, duties and privileges between the parties as described therein.

SEVENTH: The Mortgage is currently held by Plaintiff. Copies are attached in Schedule "D". As such, Plaintiff is current beneficiary of the Mortgage securing the Note, the originals of which are in Plaintiff's possession and control, and Plaintiff is otherwise entitled to enforce the subject Mortgage and Note pursuant to law.

EIGHTH: That said mortgage(s) was duly recorded and the mortgage tax(es) due thereon was duly paid in the County Clerk's Office at the place and time that appears therein.

Attachment: DOC120524-12052024103313 (COM-2024-104 : Summons and Complaint: State of New York Mortgage Agency Vs. Town of Amherst

NINTH: That Plaintiff has complied with all applicable provisions of the Laws 2020 ch. 381, Real Property Actions and Proceedings Law and Banking Law, including but not limited to Banking Law §595-a, 6-l, 6-m, and RPAPL § 1304 and 1306, where applicable and where the following information applies:

(1) The 90-day notice was sent at least 90 days before the commencement of this foreclosure action. Further, the notice under RPAPL Section 1304 was in 14 point type, contained the statutorily dictated language and the addresses and phone numbers of at least five US Department of Housing and Urban Development approved housing counseling agencies in the region where the borrower resides and was mailed by registered or certified mail and first class mail to the last known address of the borrower and to the property address, if different. Plaintiff has fully and completely complied with the RPAPL Section 1304. Further, Plaintiff has complied fully with RPAPL Section 1306 filing requirements in that the filing with the superintendent was completed within three (3) business days of the mailing.

TENTH: That the defendant(s), have failed to comply with the conditions of the mortgage(s) or bond(s) by failing to pay portions of principal, interest or taxes, assessments, water rates, insurance premiums, escrow and/or other charges, all as more fully described in "Schedule E".

ELEVENTH: That plaintiff elects herein to call due the entire amount secured by the mortgage(s) as more than thirty (30) days have elapsed since the date of default.

TWELFTH: That "Schedule E" sets forth the principal balance due and default date and rate at which interest accrued from the defendant(s) default.

THIRTEENTH: That in order to protect its security, the plaintiff has paid, if set forth in "Schedule E", or may be compelled to pay during the pendency of this action, local taxes, assess-

Attachment: DOC120524-12052024103313 (COM-2024-104 : Summons and Complaint: State of New York Mortgage Agency Vs. Town of Amherst

ments, water rates, insurance premiums and other charges assessed to the Mortgaged Premises, and hereby requests that any sums paid by it for said purposes, with interest thereon, be added to the sum otherwise due, be deemed secured by the mortgage(s) and be adjudged a valid lien on the Mortgaged Premises.

FOURTEENTH: That the defendants herein have or claim to have some interest in, or lien upon, the Mortgaged Premises or some part thereof, which interest or lien, if any, accrued subsequent to the lien of the plaintiff's mortgage(s).

FIFTEENTH: That the plaintiff is now the true and lawful holder of the said bond(s)/note(s) and is mortgagee of record or has been delegated the authority to institute a mortgage foreclosure action by the owner and holder of the subject mortgage and note; and there have been no prior proceedings, at law or otherwise, to collect or enforce the bond(s)/note(s) or mortgage(s) and no such proceedings are currently pending, or are in the process of being discontinued without prejudice.

SIXTEENTH: That Schedules "A", "B", "C", "D", and "E", be incorporated and made part of the Complaint with the same force and effect as if they were completely and fully set forth wherever reference is made to them herein.

SEVENTEENTH: The plaintiff shall not be deemed to have waived, altered, released or changed its election herein by reason of any payment after the commencement of this action of any or all of the defaults mentioned herein and such election shall continue to be effective.

WHEREFORE, plaintiff demands judgment adjudging and decreeing the amounts due it for principal, interest, costs and reasonable attorneys fees if provided for in the bond(s), note(s) or mortgage(s), and that the defendants, and any persons claiming by, through or under them subsequent to the commencement of this action, and every other person or corporation whose

Attachment: DOC120524-12052024103313 (COM-2024-104 : Summons and Complaint: State of New York Mortgage Agency Vs. Town of Amherst

15.3.a

right, title, conveyance or encumbrance of the Mortgaged Premises is subsequent or recorded subsequent to the plaintiff's interest, be forever barred and foreclosed of all right, claim, lien, interest or equity of redemption in and to the Mortgaged Premises; that the Mortgaged Premises, or part thereof, be decreed to be sold according to law as may be necessary to raise the amounts due for principal, interest, costs, allowances and disbursements, together with any monies advanced and paid by the plaintiff; that the plaintiff be paid the amounts due on said bond(s), note(s) and mortgage(s), and any sums paid by the plaintiff to protect the lien of its mortgage(s) out of the proceeds from the sale thereof, with interest thereon from the respective dates of payment thereof, costs and expenses of this action and reasonable attorneys' fees, if provided for in the bond(s), note(s) or mortgage(s), provided the amount of the sale proceeds permits said payment; that any of the parties hereto may purchase the Mortgaged Premises at sale; that this Court, if requested, forthwith appoint a Receiver of the rents and profits of the Mortgaged Premises with the usual powers and duties associated therewith; that the defendants whom executed the Note and were not otherwise released or discharged by bankruptcy be adjudged to pay any remaining deficiency; and such other or further relief as may be just and equitable. The plaintiff hereby reserves its right to share in surplus monies from the sale by virtue of its position as a judgment or other lien creditor, excluding the mortgage(s) foreclosed herein.

DATED: November 8, 2024

Mark K. Broyles, Esq.
FEIN, SUCH & CRANE, LLP
Attorneys for Plaintiff
Office and P.O. Address
28 East Main Street, Suite 1800
Rochester, New York 14614
Telephone No. (585)232-7400
FKNYC226

Attachment: DOC120524-12052024103313 (COM-2024-104 : Summons and Complaint: State of New York Mortgage Agency Vs. Town of Amherst

Packet Pg. 486

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

Francina J. Spoth
Town Clerk

Meeting: 12/16/24 07:00 PM
Department: Town Clerk
Initiated by: **Timothy Koller**
Co-Sponsored by:

DOC ID: 29808 **RESOLUTION 2024-1040** **ADOPTED**

Settlement of Article 7 Matter - Tim Donut US Limited Inc. C/O Ryan Property Tax Services

SUSPENSION ITEM: DECEMBER 16, 2024 TOWN BOARD AGENDA

TO: **Town Board**

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

DATE: **December 12, 2024**

RE: **Settlement of Article 7 Matter**
Tim Donut US Limited Inc. c/o Ryan Property Tax Services v. Town of Amherst

Kindly adopt a resolution authorizing the following:

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

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

Thank you.

SAA:rms
Attachment
c: Tim Koller, Deputy Town Clerk
(*w/attachment,* **Agenda Item: December 16, 2024**)
Emily Murphy, Town Assessor

12/16/2024
A motion to approve was made by Deputy Supervisor Lavin, seconded by Councilmember Berger and unanimously approved 5-0.

FINANCIAL IMPACT:

Assessment

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

At an IAS Term of the Supreme Court of the State of New York, held for the County of Erie, Buffalo, New York on the __ day of _____ ____, 2024.

PRESENT: HON. EMILIO COLAIACOVO

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE

IN THE MATTER OF THE APPLICATION FOR REVIEW UNDER ARTICLE 7 OF THE REAL PROPERTY TAX LAW OF A TAX ASSESSMENT BY TIM DONUT US LIMITED INC. c/o Ryan Property Tax Services

Petitioner,

-vs.-

THE BOARD OF ASSESSMENT REVIEW FOR THE TOWN OF AMHERST; THE ASSESSOR OF THE TOWN OF AMHERST; and THE TOWN OF AMHERST, NEW YORK

Respondents.

For Review of the Assessment of Certain Real Property known as 11520 Transit Road in the said Town of Amherst for the 2024-25 Tax Year.

CONSENT ORDER AND JUDGMENT

Index No.:

810072/2024

WHEREAS Petitioner has heretofore commenced the within proceeding under Article 7 of the Real Property Tax Law to review the assessment of a certain parcel of real property located at and known as 11520 Transit Road (SBL #4.00-3-6) in the Town of Amherst, County of Erie and State of New York for the tax year 2024-25, and

WHEREAS this proceeding has duly come before an IAS Term of this Court, and Kavinoky Cook LLP, Scott C. Becker, Esq., of counsel, having appeared for the Petitioner, Samuel A. Alba, Esq., Town of Amherst Counsel, having appeared for the Respondent Town of Amherst and Hodgson Russ LLP, Michael B. Risman, Esq., of Counsel, having appeared for the Intervenor-

Attachment: O&J 11520 Transit Rd Amherst Kelton 2024 Tax Year (RES-2024-1040 : Settlement of Article 7 Matter - Tim Donut US Limited Inc.

Respondent Williamsville Central School District, and the parties having agreed to a settlement of this proceeding, it is hereby

STIPULATED, ORDERED and ADJUDGED, that the assessment on the property designated as SBL #4.00-3-6 on the tax assessment roll of the Town of Amherst for the following tax year, has been as follows:

SBL #4.00-3-6 (11520 Transit Road)

Assessment Year	Assessment
2024-25	$1,065,000

and it is further

STIPULATED, ORDERED and ADJUDGED, that the assessment on the property designated as SBL #4.00-3-6 on the tax assessment roll of the Town of Amherst for the following tax year, shall be adjusted as follows:

SBL #4.00-3-6 (11520 Transit Road)

Assessment Year	Assessment
2024-25	$970,000

and it is further

STIPULATED, ORDERED and ADJUDGED, that the assessment on the property designated as SBL #4.00-3-6 on the tax assessment roll of the Town of Amherst for the following tax years, shall be as follows:

SBL #4.00-3-6 (11520 Transit Road)

Assessment Year	Assessment
2025-26	$970,000
2026-27	$970,000
2027-28	$970,000

Attachment: O&J 11520 Transit Rd Amherst Kelton 2024 Tax Year (RES-2024-1040 : Settlement of Article 7 Matter - Tim Donut US Limited Inc.

And it is further

STIPULATED, ORDERED and ADJUDGED, that the assessments as reduced, corrected and adjusted herein are fair, equitable and proper for the purposed of this settlement, and it is further

STIPULATED, ORDERED and ADJUDGED, that the officer or officers having custody of the aforesaid assessment rolls and the tax rolls of the Town of Amherst shall make or cause to be made upon the proper books and records of said Town the entries, changes and corrections necessary to conform said combined assessments to such corrected and reduced valuations that the appropriate financial officers are hereby directed and authorized to calculate and disburse any resulting refunds of taxes, and it is further

STIPULATED, ORDERED and ADJUDGECD, that Petitioner shall waive its right to any refund relating to its 2024 School tax bill for 11520 Transit Road (SBL #4.00-3-6), and it is further

STIPULATED, ORDERED and ADJUDGED, that Petitioner shall be issued a corrected 2025-26 Town and County tax bill and that, in the alternative, Petitioner shall be entitled to a refund of a portion of taxes paid with respect to its 2025 Town and County tax bill such portion shall be the difference in taxes based upon the unadjusted 2024-25 assessment and the 2024-25 assessment as adjusted herein. Such refund shall be made payable to Kavinoky Cook LLP as attorneys for Petitioner and shall be paid without interest so long as it is paid withing 30-days after service of a Court Order confirming this settlement. After such 30-day period expires, such refund shall be paid with statutory interest pursuant to Real Property Tax Law, such interest to be calculated from the date the taxes were paid through the date such refund is received, and it is further

STIPULATED, ORDERED and ADJUDGED, that the provisions of Section 727 of the Real Property Tax Law shall apply to this settlement, and it is further

STIPULATED, ORDERED and ADJUDGED, that in the event that the Assessor for the Town of Amherst assesses SBL #4.00-3-6 for any stated year at a level higher than provided for

Attachment: O&J 11520 Transit Rd Amherst Kelton 2024 Tax Year (RES-2024-1040 : Settlement of Article 7 Matter - Tim Donut US Limited Inc.

herein, Petitioner hereby reserves the right to reinstate and reinstitute its Article 7 proceedings herein settled, and the Respondents hereby agree to waive any objection based upon Statute of Limitations Grounds, and it is further

STIPULATED, ORDERED and ADJUDGED, that Petitioner shall have the right to seek specific enforcement of this Consent Order and Judgment by whatever means provided by law, and it is further

STIPULATED, ORDERED and ADJUDGED, that this Consent Order and Judgment hereby constitutes and represents the entire understanding and agreement among the parties and the full settlement of the assessment review proceeding herein, that there are no costs or disbursements awarded to, by, or against any party and that upon compliance with the terms of this Stipulation, Order and Judgment, the above proceeding shall be, and the same hereby is, settled and discontinued with prejudice, and it is further

STIPULATED, ORDERED and ADJUDGED, that this Consent Order and Judgment may be executed in multiple counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument.

Signing and Entry of the within Order and Judgment is hereby
Consented to:

KAVINOKY COOK LLP

Dated: _____

By: _____
Scott C. Becker, Esq.
Attorneys for Petitioners
726 Exchange Street, Suite 800
Buffalo, New York 14210

Attachment: O&J 11520 Transit Rd Amherst Kelton 2024 Tax Year (RES-2024-1040 : Settlement of Article 7 Matter - Tim Donut US Limited Inc.

AMHERST TOWN ATTORNEY

Dated:_____ By: _____

Samuel A. Alba, Esq.
Respondent, Town of Amherst
5583 Main Street
Williamsville, New York 14221

HODGSON RUSS LLP

Dated:_____ By: _____

Michael B. Risman, Esq.
Attorneys for Intervenor-Respondents, Williamsville Central School District
140 Pearl Street, Suite 100
Buffalo, New York 14202-4040

SO ORDERED:

_____
HON. EMILIO COLAIACOVO

ENTER:

10952/36977/638528

Attachment: O&J 11520 Transit Rd Amherst Kelton 2024 Tax Year (RES-2024-1040 : Settlement of Article 7 Matter - Tim Donut US Limited Inc.

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

Francina J. Spoth
Town Clerk

Meeting: 12/16/24 07:00 PM
Department: Town Clerk
Initiated by: **Timothy Koller**
Co-Sponsored by:

DOC ID: 29809 **RESOLUTION 2024-1041** **ADOPTED**

Settlement of Article 7 Matter - Amusements of WNY Inc.

SUSPENSION ITEM: DECEMBER 16, 2024 TOWN BOARD AGENDA

TO: **Town Board**

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

DATE: **December 12, 2024**

RE: **Settlement of Article 7 Matter**
Amusements of WNY Inc. v. Town of Amherst

Kindly adopt a resolution authorizing the following:

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

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

Thank you.

SAA:rms
Attachment
c: Tim Koller, Deputy Town Clerk
(*w/attachment,* **Agenda Item: December 16, 2024**)
Emily Murphy, Town Assessor

12/16/2024
A motion to approve was made by Deputy Supervisor Lavin, seconded by Councilmember Berger and unanimously approved 5-0.

FINANCIAL IMPACT:

Assessment

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

At an IAS Term of the Supreme Court of the State of New York, held for the County of Erie, Buffalo, New York on the __ day of _____ ____, 2024.

PRESENT: HON. DANIEL J. FURLONG

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE

IN THE MATTER OF THE APPLICATION FOR REVIEW UNDER ARTICLE 7 OF THE REAL PROPERTY TAX LAW OF A TAX ASSESSMENT BY AMUSEMENTS OF WNY INC.

Petitioner,

-vs.-

THE BOARD OF ASSESSMENT REVIEW FOR THE TOWN OF AMHERST; THE ASSESSOR OF THE TOWN OF AMHERST; and THE TOWN OF AMHERST, NEW YORK

Respondents.

For Review of the Assessment of Certain Real Property known as 2290 Millersport Hwy in the said Town of Amherst for the 2024-25 Tax Year.

CONSENT ORDER AND JUDGMENT

Index No.:

810070/2024

WHEREAS Petitioner has heretofore commenced the within proceeding under Article 7 of the Real Property Tax Law to review the assessment of a certain parcel of real property located at and known as 2290 Millersport Hwy (SBL #41.03-1-36) in the Town of Amherst, County of Erie and State of New York for the tax year 2024-25, and

WHEREAS this proceeding has duly come before an IAS Term of this Court, and Kavinoky Cook LLP, Scott C. Becker, Esq., of counsel, having appeared for the Petitioner, Samuel A. Alba, Esq., Town of Amherst Counsel, having appeared for the Respondent Town of Amherst and Hodgson Russ LLP, Michael B. Risman, Esq., of Counsel, having appeared for the Intervenor-Respondent Williamsville Central School District, and the parties having agreed to a settlement of

Attachment: O&J 2290 Millersport Hwy Amherst Kelton 2024 Tax Year (RES-2024-1041 : Settlement of Article 7 Matter - Amusements of WNY

this proceeding, it is hereby

STIPULATED, ORDERED and ADJUDGED, that the assessment on the property designated as SBL #41.03-1-36 on the tax assessment roll of the Town of Amherst for the following tax year, has been as follows:

SBL #41.03-1-36 (2290 Millersport Hwy)

Assessment Year	Assessment
2024-25	$1,260,000

and it is further

STIPULATED, ORDERED and ADJUDGED, that the assessment on the property designated as SBL #41.03-1-36 on the tax assessment roll of the Town of Amherst for the following tax year, shall be adjusted as follows:

SBL #41.03-1-36 (2290 Millersport Hwy)

Assessment Year	Assessment
2024-25	$1,100,000

and it is further

STIPULATED, ORDERED and ADJUDGED, that the assessment on the property designated as SBL #41.03-1-36 on the tax assessment roll of the Town of Amherst for the following tax years, shall be as follows:

SBL #41.03-1-36 (2290 Millersport Hwy)

Assessment Year	Assessment
2025-26	$1,100,000
2026-27	$1,100,000
2027-28	$1,100,000

Attachment: O&J 2290 Millersport Hwy Amherst Kelton 2024 Tax Year (RES-2024-1041 : Settlement of Article 7 Matter - Amusements of WNY

And it is further

STIPULATED, ORDERED and ADJUDGED, that the assessments as reduced, corrected and adjusted herein are fair, equitable and proper for the purposed of this settlement, and it is further

STIPULATED, ORDERED and ADJUDGED, that the officer or officers having custody of the aforesaid assessment rolls and the tax rolls of the Town of Amherst shall make or cause to be made upon the proper books and records of said Town the entries, changes and corrections necessary to conform said combined assessments to such corrected and reduced valuations that the appropriate financial officers are hereby directed and authorized to calculate and disburse any resulting refunds of taxes, and it is further

STIPULATED, ORDERED and ADJUDGECD, that Petitioner shall waive its right to any refund relating to its 2024 School tax bill for 2290 Millersport Hwy (SBL #41.03-1-36), and it is further

STIPULATED, ORDERED and ADJUDGED, that Petitioner shall be issued a corrected 2025-26 Town and County tax bill and that, in the alternative, Petitioner shall be entitled to a refund of a portion of taxes paid with respect to its 2025 Town and County tax bill such portion shall be the difference in taxes based upon the unadjusted 2024-25 assessment and the 2024-25 assessment as adjusted herein. Such refund shall be made payable to Kavinoky Cook LLP as attorneys for Petitioner and shall be paid without interest so long as it is paid withing 30-days after service of a Court Order confirming this settlement. After such 30-day period expires, such refund shall be paid with statutory interest pursuant to Real Property Tax Law, such interest to be calculated from the date the taxes were paid through the date such refund is received, and it is further

STIPULATED, ORDERED and ADJUDGED, that the provisions of Section 727 of the Real Property Tax Law shall apply to this settlement, and it is further

STIPULATED, ORDERED and ADJUDGED, that in the event that the Assessor for the

Attachment: O&J 2290 Millersport Hwy Amherst Kelton 2024 Tax Year (RES-2024-1041 : Settlement of Article 7 Matter - Amusements of WNY

Town of Amherst assesses SBL #41.03-1-36 for any stated year at a level higher than provided for herein, Petitioner hereby reserves the right to reinstate and reinstitute its Article 7 proceedings herein settled, and the Respondents hereby agree to waive any objection based upon Statute of Limitations Grounds, and it is further

STIPULATED, ORDERED and ADJUDGED, that Petitioner shall have the right to seek specific enforcement of this Consent Order and Judgment by whatever means provided by law, and it is further

STIPULATED, ORDERED and ADJUDGED, that this Consent Order and Judgment hereby constitutes and represents the entire understanding and agreement among the parties and the full settlement of the assessment review proceeding herein, that there are no costs or disbursements awarded to, by, or against any party and that upon compliance with the terms of this Stipulation, Order and Judgment, the above proceeding shall be, and the same hereby is, settled and discontinued with prejudice, and it is further

STIPULATED, ORDERED and ADJUDGED, that this Consent Order and Judgment may be executed in multiple counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument.

Signing and Entry of the within Order and Judgment is hereby
Consented to:

KAVINOKY COOK LLP

Dated: _____

By: _____
Scott C. Becker, Esq.
Attorneys for Petitioners
726 Exchange Street, Suite 800
Buffalo, New York 14210

Attachment: O&J 2290 Millersport Hwy Amherst Kelton 2024 Tax Year (RES-2024-1041 : Settlement of Article 7 Matter - Amusements of WNY

AMHERST TOWN ATTORNEY

Dated:_____ By: _____

Samuel A. Alba, Esq.
Respondent, Town of Amherst
5583 Main Street
Williamsville, New York 14221

HODGSON RUSS LLP

Dated:_____ By: _____

Michael B. Risman, Esq.
Attorneys for Intervenor-Respondents, Williamsville Central School District
140 Pearl Street, Suite 100
Buffalo, New York 14202-4040

SO ORDERED:

_____
HON. DANIEL J. FURLONG

ENTER:

10952/36979/638527

Attachment: O&J 2290 Millersport Hwy Amherst Kelton 2024 Tax Year (RES-2024-1041 : Settlement of Article 7 Matter - Amusements of WNY

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

Francina J. Spoth
Town Clerk

Meeting: 12/16/24 07:00 PM
Department: Town Clerk
Initiated by: **Timothy Koller**
Co-Sponsored by:

DOC ID: 29810 **RESOLUTION 2024-1042** **ADOPTED**

Settlement of Article 7 Matter - Amusements of WNY Inc.

SUSPENSION ITEM: DECEMBER 16, 2024 TOWN BOARD AGENDA

TO: **Town Board**

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

DATE: **December 12, 2024**

RE: **Settlement of Article 7 Matter**
Amusements of WNY Inc. v. Town of Amherst

Kindly adopt a resolution authorizing the following:

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

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

Thank you.

SAA:rms
Attachment
c: Tim Koller, Deputy Town Clerk
(*w/attachment,* **Agenda Item: December 16, 2024**)
Emily Murphy, Town Assessor

12/16/2024
A motion to approve was made by Deputy Supervisor Lavin, seconded by Councilmember Berger and unanimously approved 5-0.

FINANCIAL IMPACT:

Assessment

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

At an IAS Term of the Supreme Court of the State of New York, held for the County of Erie, Buffalo, New York on the __ day of _____ ____, 2024.

PRESENT: HON. DANIEL J. FURLONG

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE

IN THE MATTER OF THE APPLICATION FOR REVIEW UNDER ARTICLE 7 OF THE REAL PROPERTY TAX LAW OF A TAX ASSESSMENT BY AMUSEMENTS OF WNY INC.

Petitioner,

-vs.-

THE BOARD OF ASSESSMENT REVIEW FOR THE TOWN OF AMHERST; THE ASSESSOR OF THE TOWN OF AMHERST; and THE TOWN OF AMHERST, NEW YORK

Respondents.

For Review of the Assessment of Certain Real Property known as 1950 Sweet Home Road in the said Town of Amherst for the 2024-25 Tax Year.

CONSENT ORDER AND JUDGMENT

Index No.:

810065/2024

WHEREAS Petitioner has heretofore commenced the within proceeding under Article 7 of the Real Property Tax Law to review the assessment of a certain parcel of real property located at and known as 1950 Sweet Home Road (SBL #40.04-1-28) in the Town of Amherst, County of Erie and State of New York for the tax year 2024-25, and

WHEREAS this proceeding has duly come before an IAS Term of this Court, and Kavinoky Cook LLP, Scott C. Becker, Esq., of counsel, having appeared for the Petitioner, Samuel A. Alba, Esq., Town of Amherst Counsel, having appeared for the Respondent Town of Amherst and Gross Shuman P.C., John K. Rottaris, Esq., of Counsel, having appeared for the Intervenor-Respondent

Attachment: OJ 1950 Sweet Home Rd Anherst Kelton 2024 Tax Year (004).pdf.Corrected (RES-2024-1042 : Settlement of Article 7 Matter -

Sweet Home Central School District of Amherst and Tonawanda, New York, and the parties having agreed to a settlement of this proceeding, it is hereby

STIPULATED, ORDERED and ADJUDGED, that the assessment on the property designated as SBL #40.04-1-28 on the tax assessment roll of the Town of Amherst for the following tax year, has been and shall remain as follows:

SBL #40.04-1-28 (1950 Sweet Home Road)

Assessment Year	Assessment
2024-25	$1,255,000

and it is further

STIPULATED, ORDERED and ADJUDGED, that the assessment on the property designated as SBL #40.04-1-28 on the tax assessment roll of the Town of Amherst for the following tax year, shall be as follows:

SBL #40.04-1-28 (1950 Sweet Home Road)

Assessment Year	Assessment
2025-26	$675,000

and it is further

STIPULATED, ORDERED and ADJUDGED, that the assessment on the property designated as SBL #40.04-1-28 shall be based on a fair market value of $950,000 for the 2026-27, 2027-28 and 2028-29 tax years and shall be calculated as follows:

Assessment Year	Assessment
2026-27	$950,000 multiplied by the uniform percentage of value stated on the 2026-27 assessment roll
2027-28	$950,000 multiplied by the uniform percentage of value stated on the 2027-28 assessment roll

Attachment: OJ 1950 Sweet Home Rd Anherst Kelton 2024 Tax Year (004).pdf.Corrected (RES-2024-1042 : Settlement of Article 7 Matter -

2028-29	$950,000 multiplied by the uniform percentage of value stated on the 2028-29 assessment roll

and it is further

STIPULATED, ORDERED and ADJUDGED, that the assessments as reduced, corrected and adjusted herein are fair, equitable and proper for the purpose of this settlement, and it is further

STIPULATED, ORDERED and ADJUDGED, that the officer or officers having custody of the aforesaid assessment rolls and the tax rolls of the Town of Amherst shall make or cause to be made upon the proper books and records of said Town the entries, changes and corrections necessary to conform said combined assessments to such corrected and reduced valuations that the appropriate financial officers are hereby directed and authorized to calculate and disburse any resulting refunds of taxes, and it is further

STIPULATED, ORDERED and ADJUDGED, that the provisions of Section 727 of the Real Property Tax Law shall apply to this settlement, and it is further

STIPULATED, ORDERED and ADJUDGED, that in the event that the Assessor for the Town of Amherst assesses SBL #40.04-1-28 for any stated year at a level higher than provided for herein, Petitioner hereby reserves the right to reinstate and reinstitute its Article 7 proceedings herein settled, and the Respondents hereby agree to waive any objection based upon Statute of Limitations Grounds, and it is further

STIPULATED, ORDERED and ADJUDGED, that Petitioner shall have the right to seek specific enforcement of this Consent Order and Judgment by whatever means provided by law, and it is further

STIPULATED, ORDERED and ADJUDGED, that this Consent Order and Judgment hereby constitutes and represents the entire understanding and agreement among the parties and the full settlement of the assessment review proceeding herein, that there are no costs or disbursements awarded to, by, or against any party and that upon compliance with the terms of this Stipulation,

Attachment: OJ 1950 Sweet Home Rd Amherst Kelton 2024 Tax Year (004).pdf.Corrected (RES-2024-1042 : Settlement of Article 7 Matter -

Order and Judgment, the above proceeding shall be, and the same hereby is, settled and discontinued with prejudice, and it is further

STIPULATED, ORDERED and ADJUDGED, that this Consent Order and Judgment may be executed in multiple counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument.

Signing and Entry of the within Order and Judgment is hereby
Consented to:

KAVINOKY COOK LLP

Dated: _____ By: _____
Scott C. Becker, Esq.
Attorneys for Petitioners
726 Exchange Street, Suite 800
Buffalo, New York 14210

AMHERST TOWN ATTORNEY

Dated:_____ By: _____
Samuel A. Alba, Esq.
Respondent, Town of Amherst
5583 Main Street
Williamsville, New York 14221

GROSS SHUMAN P.C.

Dated:_____ By: _____
John K. Rottaris, Esq.
Attorneys for Intervenor-Respondents, Sweet Home Central School District of Amherst and Tonawanda, New York
465 Main Street, Suite 600
Buffalo, New York 14203

SO ORDERED:

_____
HON. DANIEL J. FURLONG

ENTER:

Attachment: OJ 1950 Sweet Home Rd Amherst Kelton 2024 Tax Year (004).pdf.Corrected (RES-2024-1042 : Settlement of Article 7 Matter -

Attachment: OJ 1950 Sweet Home Rd Anherst Kelton 2024 Tax Year (004).pdf.Corrected (RES-2024-1042 : Settlement of Article 7 Matter -

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

Francina J. Spoth
Town Clerk

Meeting: 12/16/24 07:00 PM
Department: Town Clerk
Initiated by: **Timothy Koller**
Co-Sponsored by:

DOC ID: 29811 **RESOLUTION 2024-1043** **ADOPTED**

Settlement of Article 7 Matter - Springbank Develops Inc. C/O Ryan Property Tax Services

SUSPENSION ITEM: DECEMBER 16, 2024 TOWN BOARD AGENDA

TO: **Town Board**

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

DATE: **December 12, 2024**

RE: **Settlement of Article 7 Matter**
Springbank Develops Inc. c/o Ryan Property
Tax Services v. Town of Amherst

Kindly adopt a resolution authorizing the following:

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

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

Thank you.

SAA:rms
Attachment
c: Tim Koller, Deputy Town Clerk
(*w/attachment,* **Agenda Item: December 16, 2024**)
Emily Murphy, Town Assessor

12/16/2024
A motion to approve was made by Deputy Supervisor Lavin, seconded by Councilmember Berger and unanimously approved 5-0.

FINANCIAL IMPACT:

Assessment

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

Attachment: O&J 1705 Niagara Falls Amherst Kelton 2024 Tax Year (RES-2024-1043 : Settlement of Article 7 Matter - Springbank Develops

At an IAS Term of the Supreme Court of the State of New York, held for the County of Erie, Buffalo, New York on the __ day of _____ ____, 2024.

PRESENT: HON. SHEILA DITULLIO

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE

IN THE MATTER OF THE APPLICATION FOR REVIEW UNDER ARTICLE 7 OF THE REAL PROPERTY TAX LAW OF A TAX ASSESSMENT BY SPRINGBANK DEVELOPS INC. c/o Ryan Property Tax Services

Petitioner,

-vs.-

THE BOARD OF ASSESSMENT REVIEW FOR THE TOWN OF AMHERST; THE ASSESSOR OF THE TOWN OF AMHERST; and THE TOWN OF AMHERST, NEW YORK

Respondents.

For Review of the Assessment of Certain Real Property known as 1705 Niagara Falls Blvd in the said Town of Amherst for the 2024-25 Tax Year.

CONSENT ORDER AND JUDGMENT

Index No.:

810175/2024

WHEREAS Petitioner has heretofore commenced the within proceeding under Article 7 of the Real Property Tax Law to review the assessment of a certain parcel of real property located at and known as 1705 Niagara Falls Blvd (SBL #54.01-2-14.1) in the Town of Amherst, County of Erie and State of New York for the tax year 2024-25, and

WHEREAS this proceeding has duly come before an IAS Term of this Court, and Kavinoky Cook LLP, Scott C. Becker, Esq., of counsel, having appeared for the Petitioner, Samuel A. Alba, Esq., Town of Amherst Counsel, having appeared for the Respondent Town of Amherst and Gross

Shuman P.C., John K. Rottaris, Esq., of Counsel, having appeared for the Intervenor-Respondent Sweet Home Central School District of Amherst and Tonawanda, New York, and the parties having agreed to a settlement of this proceeding, it is hereby

STIPULATED, ORDERED and ADJUDGED, that the assessment on the property designated as SBL #54.01-2-14.1 on the tax assessment roll of the Town of Amherst for the following tax year, has been and shall remain as follows:

SBL #54.01-2-14.1 (1705 Niagara Falls Blvd)

Assessment Year	Assessment
2024-25	$820,000

and it is further

STIPULATED, ORDERED and ADJUDGED, that the assessment on the property designated as SBL #54.01-2-14.1 on the tax assessment roll of the Town of Amherst for the following tax year, shall be as follows:

SBL #54.01-2-14.1 (1705 Niagara Falls Blvd)

Assessment Year	Assessment
2025-26	$410,000
2026-27	$615,000
2027-28	$615,000
2028-29	$615,000

and it is further

STIPULATED, ORDERED and ADJUDGED, that the assessments as reduced, corrected and adjusted herein are fair, equitable and proper for the purpose of this settlement, and it is further

STIPULATED, ORDERED and ADJUDGED, that the officer or officers having custody of the aforesaid assessment rolls and the tax rolls of the Town of Amherst shall make or cause to be

Attachment: O&J 1705 Niagara Falls Amherst Kelton 2024 Tax Year (RES-2024-1043 : Settlement of Article 7 Matter - Springbank Develops

made upon the proper books and records of said Town the entries, changes and corrections necessary to conform said combined assessments to such corrected and reduced valuations that the appropriate financial officers are hereby directed and authorized to calculate and disburse any resulting refunds of taxes, and it is further

STIPULATED, ORDERED and ADJUDGED, that the provisions of Section 727 of the Real Property Tax Law shall apply to this settlement, and it is further

STIPULATED, ORDERED and ADJUDGED, that in the event that the Assessor for the Town of Amherst assesses SBL #54.01-2-14.1 for any stated year at a level higher than provided for herein, Petitioner hereby reserves the right to reinstate and reinstitute its Article 7 proceedings herein settled, and the Respondents hereby agree to waive any objection based upon Statute of Limitations Grounds, and it is further

STIPULATED, ORDERED and ADJUDGED, that Petitioner shall have the right to seek specific enforcement of this Consent Order and Judgment by whatever means provided by law, and it is further

STIPULATED, ORDERED and ADJUDGED, that this Consent Order and Judgment hereby constitutes and represents the entire understanding and agreement among the parties and the full settlement of the assessment review proceeding herein, that there are no costs or disbursements awarded to, by, or against any party and that upon compliance with the terms of this Stipulation, Order and Judgment, the above proceeding shall be, and the same hereby is, settled and discontinued with prejudice, and it is further

STIPULATED, ORDERED and ADJUDGED, that this Consent Order and Judgment may be executed in multiple counterparts, each of which shall be deemed an original but all of which shall

Attachment: O&J 1705 Niagara Falls Amherst Kelton 2024 Tax Year (RES-2024-1043 : Settlement of Article 7 Matter - Springbank Develops

constitute one and the same instrument.

Signing and Entry of the within Order and Judgment is hereby
Consented to:

KAVINOKY COOK LLP

Dated: _____ By: _____
Scott C. Becker, Esq.
Attorneys for Petitioners
726 Exchange Street, Suite 800
Buffalo, New York 14210

AMHERST TOWN ATTORNEY

Dated:_____ By: _____
Samuel A. Alba, Esq.
Respondent, Town of Amherst
5583 Main Street
Williamsville, New York 14221

GROSS SHUMAN P.C.

Dated:_____ By: _____
John K. Rottaris, Esq.
Attorneys for Intervenor-Respondents, Sweet Home Central School District of Amherst and Tonawanda, New York
465 Main Street, Suite 600
Buffalo, New York 14203

SO ORDERED:

_____
HON. SHEILA DITULLIO

ENTER:

Attachment: O&J 1705 Niagara Falls Amherst Kelton 2024 Tax Year (RES-2024-1043 : Settlement of Article 7 Matter - Springbank Develops

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

Francina J. Spoth
Town Clerk

Meeting: 12/16/24 07:00 PM
Department: Town Clerk
Initiated by: **Timothy Koller**
Co-Sponsored by:

DOC ID: 29807 **RESOLUTION 2024-1044** **ADOPTED**

Temporary Access Agreement – CATCO (CRS #5267)

SUSPENSION ITEM : TOWN BOARD AGENDA - DECEMBER 16th, 2024

TO: **Town Board**

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

DATE: **December 16, 2024**

RE: **Temporary Access Agreement – CATCO (CRS #5267)**
Staging of Inspection Trailer on Town Property

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

RESOLVED, the Town Board hereby authorizes the Supervisor to execute the attached Temporary Access Agreement with CATCO for its use of Town property for the above purposes pending successful completion of the Contract Routing System (CRS).

Thank you.

SAA:nmb
Attachment
c: Tim Koller, Deputy Town Clerk
(**Suspension Item : Town Board Agenda - December 16, 2024**)

12/16/2024
A motion to approve was made by Deputy Supervisor Lavin, seconded by Councilmember Berger and unanimously approved 5-0.

FINANCIAL IMPACT:

n/a

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
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Francina J. Spoth
Town Clerk

Meeting: 12/16/24 07:00 PM
Department: Town Clerk
Initiated by: **Timothy Koller**
Co-Sponsored by:

DOC ID: 29812 **RESOLUTION 2024-1045** **ADOPTED**

Stop Loss Insurance – Medical / Rx

Suspension Item to Town Board Agenda of December 16, 2024
Stop Loss Insurance

To: Deputy Supervisor Lavin

From: Lynda Juul

Date: December 16, 2024

Re: Stop Loss Insurance – Medical / Rx

Following is a request for the 12/16/2024 Town Board agenda as a suspension item:

Please approve the attached proposal from HM Life Insurance Company of New York for Stop Loss Insurance related to the Town's medical/Rx program. Proposals were received from two companies, with three additional companies declining to quote. After meeting with our Employee Benefit Consultant, we are recommending the Town renew with the current carrier at the current deductibles.

The current policy ends on 12/31/2024, and a new policy needs to be approved to go into effect on 1/1/2025.

12/16/2024
A motion to approve was made by Deputy Supervisor Lavin, seconded by Councilmember Berger and unanimously approved 5-0.

FINANCIAL IMPACT:

A9060-0393/0394; $494,475

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

HM LIFE INSURANCE COMPANY OF NEW YORK

STOP LOSS PROPOSAL FOR
Town of Amherst

Sales Representative: Victor Parker
Broker: AP BENEFIT ADVISORS LLC
Claims Administrator: Independent Healthcare
Provider Network(s): Independent Health, RBP - Payer Compass
Utilization Review Vendor(s): Independent Health
Retirees: Only Under 65 Retirees Included

Proposed Effective Date: 01/01/2025
Through Date: 12/31/2025
RFP Situs State: NY

Specific (Check one option)	Lives	Current	☒ Renewal	☐ Option 1	☐ Option 2
Specific Deductible (per Covered Participant)		$275,000	$275,000	$300,000	$325,000
Policy Year Maximum Specific Benefit		Inforce	Unlimited	Unlimited	Unlimited
Lifetime Maximum Specific Benefit		Inforce	Unlimited	Unlimited	Unlimited
Eligible Claims Expenses		Med, Rx	Med, Rx	Med, Rx	Med, Rx
Specific Premium					
Single Rate	216	$27.00	$29.56	$26.67	$23.98
Family Rate	447	$71.38	$77.90	$71.21	$65.01
Total Lives	**663**				
Estimated Policy Term Specific Premium		$452,866	$494,475	$451,099	$410,870
Policy Term Aggregating Specific Loss Fund		$150,000	$150,000	$150,000	$150,000
Specific Covered Claims Basis		132/12	144/12	144/12	144/12
Commission		0.00%	0.00%	0.00%	0.00%
Specific Coverage Features/Options					
Specific Advance Funding					
Rate Cap					

Note: This proposal is not complete unless accompanied by the proposal notes and the basis of offer noted on the following pages.

Individual Special Requirements:

- Member 91255942301 will have an Individual Conditional Specific Deductible of $1,850,000, which is only applicable if she is approved and begins taking the drug Strensiq.

Attachment: Medical Stop Loss Contract (RES-2024-1045 : Stop Loss Insurance – Medical / Rx)

HM LIFE INSURANCE COMPANY OF NEW YORK

STOP LOSS PROPOSAL FOR
Town of Amherst

PROPOSAL NOTES

- The rates in this proposal are firm. Please provide a signed proposal.
- Large claim data must be submitted for any claims that are at or have the likelihood to exceed 50% of the group specific deductible. Large claim data must include age, sex, diagnosis, prognosis, treatment plan, case management notes (if applicable), Pre-Cert and paid/pended claims.
- The Specific rates in this proposal are based on an Aggregating Specific arrangement. Maximum Specific Liability includes estimated Policy Term Specific premium and the Aggregating Specific fund.
- This proposal includes Specific Advance Funding.
- Human Organ Transplant benefits are payable in accordance with the Covered Underlying Plan and are subject to the proposed Lifetime Maximum Specific Benefit offered within this proposal.
- This proposal includes a 50% rate cap on the Specific Premium Rate at the renewal of your Stop Loss Policy. If applicable, this increase also will apply to the Aggregating Specific Loss Fund. The rate cap does not apply to Material Changes including, but not limited to, the following: Covered Underlying Plan, HM's Stop Loss Policy provisions, the PPO network or the Claims Administrator, and the rates may be further adjusted by such changes. The rate cap rider applies to this Policy Term only. It may be offered at subsequent Stop Loss Policy renewals at the discretion of HM Underwriting.
- At renewal, We will not apply any new lasers, including but not limited to, an Alternate Specific Deductible or Excluded Claim Expense, within the Special Risk Limitations section of the policy, unless requested.

PROPOSAL ACCEPTANCE

Please acknowledge acceptance of the terms in this proposal by signing and returning by 12/20/2024. Please also indicate which option is chosen by checking the appropriate box on the previous page. All payments after the effective date of this policy, found on the previous page, must use the rates selected. Any deviation from the rates specified could result in an underpayment leading to a possible policy cancellation.
Failure to remit the signed agreement by 12/20/2024 will result in this proposal being considered expired.

Signature: _____ Title: _____

Accepted on the _____ day of _____, 20_____

Attachment: Medical Stop Loss Contract (RES-2024-1045 : Stop Loss Insurance – Medical / Rx)

Coverage is underwritten by HM Life Insurance Company, Pittsburgh, PA, in all states except New York under policy form series HMP-SL (08/19) or HMP-SL (06/20) or similar. In New York, coverage is underwritten by HM Life Insurance Company of New York, New York, NY, under policy form series HMP-SL (06/20) or similar. The coverage requested may not be available in all states and is subject to individual state approval.

HM LIFE INSURANCE COMPANY OF NEW YORK

STOP LOSS PROPOSAL FOR
Town of Amherst

initials: _____ date: _____

BASIS OF OFFER

Assumptions

- This proposal is subject to revision if there is a change in Proposed Effective or Renewal Dates or a change in the Covered Underlying Plan.
- This proposal is based on the utilization of the Provider Network(s) and the Utilization Review Vendor(s) listed in this proposal.
- This proposal assumes a minimum participation level of 50%.
- This proposal assumes the Covered Underlying Plan includes a pre-certification, utilization review and large case management program.
- This proposal is based on a description of the employee benefit plan(s) provided and approved by HM; employee and dependent census data; submission of any requested claim information; and any other information relevant to the underwriting risk. If any of the information was incorrect or changes the risk involved, the rates will be modified, and the Specific claims will be adjusted accordingly.
- Surcharges (including the bad debt and charity surcharge portion of the New York Reform Act applicable to services are rendered in New York State), pool charges, and/or covered lives assessments may be covered under the Stop Loss Policy if such charges are considered a claim cost. HM is not responsible for the filing and/or payment of any assessment for which HM is not directly liable including, but not limited to, the New Hampshire Vaccine Assessment as modified by NH HB 664.
- All standard policy provisions apply. The laws of the state where the policy is issued will apply. Certain exclusions and limitations may apply.
- The terms of this proposal are subject to revision by HM if there is a change in any state law or regulation between the date of this proposal and the effective date of the proposed Stop Loss coverage if HM deems such change to have a material effect on the risk being assumed. Such a revision can be made even if the proposal has already been accepted.
- This proposal will expire on the Proposed Effective Date.
- Unless otherwise limited or excluded by the Stop Loss Policy or under the Individual Special Requirements, Eligible Claim expenses under the Stop Loss Policy will follow the Covered Underlying Plan, up to the proposed Maximum Specific Benefit.
- The Agent is properly licensed and appointed by HM.
- The initial rates are guaranteed for the proposed Policy Term unless otherwise noted.
- There are no more than 15% COBRA participants.

Qualifications

- Any Stop Loss insurance requested and the Proposed Effective Date of that coverage must be approved by HM under Our current rules and practices.
- The premium rates are subject to change should the number of Covered Units change by 10% or more, either in total and/or by single/family mix.
- If the descriptions of the benefits or plan provisions differ from what was initially utilized to underwrite the risk, an updated Summary Plan Document or other acceptable plan description is required within 60 days of the Effective Date, and the premium rates may be subject to re-rating, retro-active to the Effective Date.
- This quote assumes the Covered Underlying Plan will include standard industry provisions and definitions including, but not limited to, eligibility, HIPAA, termination, leave of absence or disability, FMLA, subrogation, transplants and COB and exclusions for job-related injuries, treatments that are experimental and/or investigational, cosmetic, not medically necessary, war, felonies, charges in excess of usual and customary, and foreign medical care when traveling outside of the U.S. solely for the purpose of receiving medical care. In the event that a Summary Plan Document is not available within 60 days from the Proposed Effective Date, We reserve the right to issue the policy assuming standard exclusions will apply.
- Our approval is subject to the receipt of information concerning whether the Plan Document includes or excludes a subrogation provision. Such information must be received in conjunction with the signed proposal. If it is confirmed that a subrogation provision is included in the Plan Document, and it is later determined that the provision does not exist, a new Policy or Addendum will be required to be issued to comply with a New York state mandate.

Attachment: Medical Stop Loss Contract (RES-2024-1045 : Stop Loss Insurance – Medical / Rx)

Coverage is underwritten by HM Life Insurance Company, Pittsburgh, PA, in all states except New York under policy form series HMP-SL (08/19) or HMP-SL (06/20) or similar. In New York, coverage is underwritten by HM Life Insurance Company of New York, New York, NY, under policy form series HMP-SL (06/20) or similar. The coverage requested may not be available in all states and is subject to individual state approval.

- HIPAA Privacy rules permit the release of Protected Health Information (PHI) for the purpose of evaluating and accepting risk associated with the Plan Sponsor as part of "Health Care Operations." HM will use this information solely for the purpose of evaluating and accepting the risk and will not disclose any PHI collected except to perform this risk evaluation.
- The rates in this proposal are based on the Disclosure of all individuals considered a special enrollee due to having previously satisfied the plan's lifetime maximum. Written acceptance by HM must be acknowledged before terms of coverage for such individuals are included under HM's Stop Loss Policy.
- Any Stop Loss Policy issued by HM may be rescinded or re-underwritten if any information requested in connection with this proposal was intentionally concealed or misrepresented by or on behalf of the Policyholder and/or the Policyholder's Agent, or if the Policyholder and/or the Policyholder's Agent commits fraud.
- As used above: An "Agent" is the prospective Policyholder's representative including, but not limited to, the agent, producer or broker of record, or Claims Administrator. A "Claims Administrator" is a third-party administrator (TPA) designated by the Policyholder and approved by Us. Disclosure or Disclosed means to provide Claim Information and any other documentation or data requested by Us including, but not limited to, Census and Demographic Information and the estimated number of Covered Units prior to the beginning of the Policy Term.

Coverage is underwritten by HM Life Insurance Company, Pittsburgh, PA, in all states except New York under policy form series HMP-SL (08/19) or HMP-SL (06/20) or similar. In New York, coverage is underwritten by HM Life Insurance Company of New York, New York, NY, under policy form series HMP-SL (06/20) or similar. The coverage requested may not be available in all states and is subject to individual state approval.

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

Francina J. Spoth
Town Clerk

Meeting: 12/16/24 07:00 PM
Department: Town Clerk
Initiated by: **Timothy Koller**
Co-Sponsored by:

DOC ID: 29813 **RESOLUTION 2024-1046** **ADOPTED**

Microsoft Program Signature Form

Suspension to Town Board Agenda Item December 16, 2024

TO: Amherst Town Board

FROM: Dave Willer, Director of Information Technology

DATE: December 16, 2024

RE: **Microsoft Program Signature Form**

Respectfully request the Town Board approve the Supervisor to sign the attached "Program Signature Form" which will allow the Town of Amherst to purchase Microsoft Licensing Products through SHI as part of the NYS OGS contract. This request is pending approval in the contract routing system.

12/16/2024
A motion to approve was made by Deputy Supervisor Lavin, seconded by Councilmember Berger and unanimously approved 5-0.

FINANCIAL IMPACT:

n/a

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