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, August 23, 2021 | **3:00 PM** | **Amherst Municipal Building**

I. IN MEMORY

Jack Tower

II. INVOCATION

Councilmember Lavin

III. PLEDGE OF ALLEGIANCE

IV. ROLL CALL:

3:00 PM Meeting called to order on August 23, 2021 at Amherst Municipal Building, 5583 Main Street, Williamsville, NY.

Attendee Name	Organization	Title	Status	Arrived
Brian J. Kulpa	Town of Amherst	Supervisor	Present	
Jacqualine Berger	Town of Amherst	Deputy Supervisor	Present	
Deborah Bruch Bucki	Town of Amherst	Councilmember	Present	
Shawn Lavin	Town of Amherst	Councilmember	Present	
Michael Szukala	Town of Amherst	Councilmember	Present	
Francina J. Spoth	Town of Amherst	Town Clerk	Present	
Kathleen Cooper	Town of Amherst	Deputy Town Clerk	Present	
Stanley J. Sliwa	Town of Amherst	Town Attorney	Present	
Daryl Bramer	Town of Amherst	Comptroller	Present	
Daniel J. Ulatowski	Town of Amherst	Principal Planner	Present	
David Marrano	Town of Amherst	Town Assessor	Present	
Lynda Juul	Town of Amherst	Director of Finance	Present	
Robert McCarthy	Town of Amherst	Director of Human Resources	Present	
Mary Diana Pouli	Town of Amherst	Exec. Dir. of Youth & Recreation Departments	Present	

Patrick G. Lucey	Town of Amherst	Highway Superintendent	Present	

V. MINUTES APPROVAL

1. Monday, August 09, 2021

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

2. Tuesday, August 17, 2021

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

VI. PROCLAMATIONS AND ANNOUNCEMENTS

Deputy Supervisor Berger to recognize Overdose Awareness Day.

The Town Board will hold an Executive Session after today's meeting with respect to the following matters:

- Personnel matter to discuss potential Town Board appointments
- Matter that affects public safety if disclosed and discussion regarding proposed litigation

VII. 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 (2)

3. **Amherst Community Diversity Commission (9)**

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

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

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

7. **Arts & Culture in Public Places Board (5)**

8. **Board of Assessment Review**
   Membership is full.

9. **Board of Electrician Examiners**
   Membership is full.

10. **Board of Ethics**
    Membership is full.

11. **Board of Plumbing and Drainage Examiners**
    Membership is full.

12. **Citizens Financial Advisory Committee (2)**

13. **Design Advisory Board**

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

15. **Employee Suggestion Review Committee**
    Membership is full.

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

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

18. **Glen Park Joint Board (1)**
    Village vacancy

19. **Government Study Committee (2)**

20. **Historic Preservation Commission (1)**

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

22. Library Board of Trustees

Membership is full.

23. Minority / Woman Owned Business (4)

24. Open Government Advisory Board (4)

25. Planning Board

Membership is full.

26. Recreation Commission (2)

27. Recycling and Waste Committee (3)

28. Senior Services Advisory Board (2)

29. Traffic Safety Board

Membership is full.

30. Youth Board (5)

Adult vacancies (5), Youth vacancies (0)

31. Zoning Board of Appeals

Membership is full.

VIII. 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 Bucki and unanimously approved 5-0. Public Expression was opened at 3:06 PM.

The following speakers addressed the Town Board:
Kathryn McDaniel, 131 Campus Dr. E - Refuse not picking up mattresses across the street from her house; also questioned Town maintenance for 160 Campus Dr. where deceased neighbor lived
Jay DiPasquale, 125 MacArthur Dr. - Athletic field replacement project; UBMD; Res 2019-616 and 2021-212
Jane Cox, Harlem Rd. - Video from Special Meeting on 8/17, cannot hear the responses from people answering questions because they didn't use the podium microphone
Ray Herman, 112 Oakgrove - Rezonings, both sides should have equal time to voice their opinions
Tom Frank, Main St. - Erie Canalway

There were no additional speakers from the public, therefore Supervisor Kulpa moved to close Public Expression, seconded by Councilmember Lavin and unanimously approved 5-0. Public Expression was closed at 3:24 PM.

IX. COUNCILMEMBER RESOLUTIONS

A. SUPERVISOR KULPA:

B. DEPUTY SUPERVISOR BERGER:

C. COUNCILMEMBER BUCKI:

D. COUNCILMEMBER LAVIN:

E. COUNCILMEMBER SZUKALA:

X. SUSPENSION OF RULES

Deputy Supervisor Berger moved to open Suspension of Rules to bring forth 4 unlisted items. The motion was seconded by Councilmember Bucki and unanimously approved 5-0. Suspension of Rules was opened at 3:24 PM.

There being no further business requiring Suspension of Rules, Deputy Supervisor Berger moved to close, seconded by Councilmember Lavin and unanimously approved 5-0. Suspension of Rules was closed at 3:30 PM.

1. Resolution 2021-769

Determination of Environmental Significance (SEQR) Athletic Fields Improvements - NCAA Baseball Diamond Bond - $1,317,100.00

SUSPENSION ITEM : AUGUST 23RD, 2021 TOWN BOARD AGENDA

ADOPTION OF THIS SUSPENSION ITEM MUST BE DONE BEFORE ADOPTION OF THE BOND RESOLUTION FOR THE SAME PROJECT

TO: **Town Board**

FROM: **Stanley J. Sliwa, Esq., Town Attorney**

DATE: **August 20, 2021**

RE: **Determination of Environmental Significance (SEQR) (Approval and Issuance of a Negative Declaration) Athletic Fields Improvements - NCAA Baseball Diamond Bond - $1,317,100.00**

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

(1) Adopt the attached SEQR determination for the above project as determined by the Town of Amherst Planning Department and after subsequent approval by the Town of Amherst Planning Board at its August 19th, 2021 meeting.

Thank you.

SJS:nmb
Attachment
c: Kathy Cooper, Deputy Town Clerk
(w/attachment, **Suspension Agenda Item - August 23rd, 2021**)
Daryl C. Bramer, Comptroller *(w/attachment)*
Lynda Juul, Director of Finance *(w/attachment)*
Dan Howard, Director of Planning *(w/attachment)*
Ellen M. Kost, Assistant Director of Planning *(w/attachment)*
Jeffrey S. Burroughs, PE, Town Engineer (*w/attachment*)

8/23/2021
A motion to approve was made by Deputy Supervisor Berger, seconded by Councilmember Bucki and unanimously approved 5-0.

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

2. Resolution 2021-770

Approval to Sign a Temporary Access Agreement

Suspension to Town Board Agenda Item August 23, 2021

TO: **Amherst Town Board**

FROM: **Jacqualine Berger, Councilmember**

DATE: **August 23, 2021**

RE: **Approval to sign a Temporary Access Agreement**

BE IT RESOLVED that the Amherst Town Board approve the Town Supervisor to sign the Temporary Access Agreement between 111 North Maplemere LLC, Arc Building Partners LLC, and the Town of Amherst, pending completion of the CRS process.

8/23/2021

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

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

3. Resolution 2021-771

State of Emergency Due to Covid-19

Suspension to Town Board Agenda Item August 23, 2021

TO: **Amherst Town Board**
FROM: **James J. Zymanek, Director of Emergency Services**
DATE: **August 23, 2021**
RE: **State of Emergency due to Covid-19**

Whereas, the Town of Amherst has been continually monitoring the impact of the Covid-19 pandemic and its impact on our employees, business community and residents; and

Whereas, the region, which includes the Town of Amherst, has returned to the CDC's "high risk" category of community COVID-19 transmission; and

Whereas, the Town of Amherst needs to be able to authorize the use of Town facilities to coordinate with NYS and Erie County Health testing and vaccination programs, issuance of safety and health guidelines recommended by health professionals; and

Whereas, the Town of Amherst anticipates unexpected costs related to Covid response or to pursue NYS and Federal funding for programs to support our Covid response and recovery programs; and

Whereas, the Town of Amherst would need to take action to direct town departments to take whatever steps necessary to protect life and property, public infrastructure, and other such emergency assistance as deemed necessary; and

Now, Therefore Be It Resolved that the Amherst Town Board supports the Town Supervisor's return to a "Declaration of a State of Emergency".

8/23/2021
A motion to approve was made by Deputy Supervisor Berger, seconded by Councilmember Bucki and unanimously approved 5-0.

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

4. Communication 2021-92

Request to Schedule Public Hearings

Suspension to Town Board Agenda Item ~~April~~ August 23, 2021

TO: **Amherst Town Board**
FROM: **Sean W. Hopkins, Partner, Hopkins, Sorgi & McCarthy PLLC**
DATE: **~~April~~ August 23, 2021**
RE: **Request to Schedule Public Hearing - Northtown Automotive Companies; Site A of Muir Woods**

See the letters attached with the details of the Public Hearing requests of Northtown Automotive Companies and Sawyers Landing LLC.

8/23/2021
A motion to approve was made by Deputy Supervisor Berger and seconded by Councilmember Bucki. A motion to amend the date of the Suspension was then made by Councilmember Bucki, seconded by Deputy Supervisor Berger and unanimously approved 5-0. A motion to approve as amended was made by Supervisor Kulpa, seconded by Councilmember Lavin and unanimously approved 5-0.

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

XI. DEPARTMENT HEAD RESOLUTIONS AND REPORTS

A. TOWN ATTORNEY:

1. Resolution 2021-723

Oxford Amherst Preservation HDFC - PILOT - CRS #2818

AGENDA ITEM - AUGUST 23rd, 2021

TO: Town Board

FROM: Stanley J. Sliwa, Esq.
Town Attorney

DATE: August 18, 2021

RE: Oxford Amherst Preservation Housing Development Fund Company, Inc. and Oxford Amherst Preservation, L.P. Request for a PILOT Agreement pursuant to Section 577 of Article 11 of Private Housing Finance Law - CRS #2818

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

WHEREAS, Oxford Amherst Preservation Housing Development Fund Company, Inc. ("HDFC"), a New York not-for-profit corporation organized pursuant to Article 11 of the New York State Private Housing Finance Law ("PHFL") with an address of 200 John James Audubon Parkway, Suite 300, Amherst, New York 14228 and Oxford Amherst Preservation, L.P. ("Partnership"), a New York Limited Partnership with an address of 200 John James Audubon Parkway, Suite 300, Amherst, New York 14228 have requested that the Town of Amherst Town Board enter into a PILOT Agreement for 316 affordable living apartments ("Project") located on Allenhurst Road, Amherst, New York 14226, bearing SBL #67.71-4-22 (the "Property"); and

WHEREAS, the HDFC is, or will become, the legal or record owner, and the Partnership is or will become the beneficial and equitable owner, of an affordable housing project consisting of approximately 316 affordable living apartments located in the Town of Amherst, Erie County, New York, located on Allenhurst Road; and

WHEREAS, the HDFC is a corporation established pursuant to Section 402 of the Not-For-Profit Corporation Law of the State of New York and Article 11 of the Private Housing Finance Law of the State of New York; and

WHEREAS, the HDFC is the general partner of the Partnership; and

WHEREAS, the HDFC and the Partnership have each been formed for the purpose of providing residential rental accommodations for persons of low income; and

WHEREAS, the Project is intended to be **affordable to low** income households, and **affordability** of the Project for residential use by low income persons shall remain consistent throughout the duration of this Agreement; and

WHEREAS, the HDFC is a "housing development fund company" as the term is defined in Section 572 of the PHFL; and

WHEREAS, pursuant to section 577 of the PHFL, the local legislative body of a municipality may exempt the real property of a housing project of a housing development fund company from local and municipal taxes, including school taxes, other than assessments for local improvements, to the extent of all or a part of the value of the property included in the completed project; and

WHEREAS, it is the intention of the parties that the Partnership, for itself and the HDFC, shall make annual payments to the Town of Amherst (Town), the County of Erie

(County) and the Amherst School District (School District) for the term of this Agreement in lieu of real property taxes that would otherwise be assessed on the Project and the Property; and

WHEREAS, the Town, the County and the School District wish to grant the Partnership and the HDFC such relief as is permitted under Section 577 of the PHFL subject to the terms and conditions of this Agreement; and

WHEREAS, the Town recognizes that the Partnership and the HDFC may enter into an educational contribution agreement or similar type agreement with the School District whereby the Partnership and the HDFC provide financial support directly to the School District and upon the execution of such an agreement, the Town, per the direction of the School District, agrees to reduce the payments in lieu of property taxes to be otherwise provided to the School District under this Agreement as so provided for herein; and

WHEREAS, the HDFC and the Partnership have requested that the Town Board approve a PILOT Agreement with a term of ~~twenty (20)~~ fifteen (15) years for the Property; and

WHEREAS, the content and form of the proposed PILOT Agreement have been reviewed and approved by the Town Assessor's Office and the Town Attorney's Office and a copy of the approved form of the proposed PILOT Agreement is attached hereto; and

WHEREAS, the PILOT Agreement must be approved by Erie County and the Amherst Central School District;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board approves the requested PILOT Agreement for the Project subject to the three (3) conditions set forth below and the Supervisor of the Town of Amherst is hereby authorized to sign the PILOT Agreement between Oxford Amherst Preservation Housing Development Fund Company, Inc. and Oxford Amherst Preservation, LP, the Town of Amherst, Erie County and the Amherst Central School District upon satisfaction of the following three (3) conditions:

1. The PILOT Agreement is subject to review and approval by Erie County;

2. The PILOT Agreement is subject to review and approval by the Amherst Central School District; and

3. Approval of the PILOT Agreement is subject to successful completion of the Town's contract routing system.

SJS:lcg
c: Kathy Cooper, Deputy Town Clerk
(**Agenda Item : August 23rd, 2021,** *w/attachment*)
David Marrano, Town Assessor (*w/attachment*)

8/17/2021

After presentations related to the Affordable Housing Rehab Projects by Deep Katdare (Related Affordable), Leonard Skrill (NYS Homes and Community Renewal Financing), Laurie Stillwell (Amherst Community Development), and Dave Marrano (Amherst Town Assessor), Supervisor Kulpa motioned to adjourn until August 23rd. The motion was seconded by Councilmember Bucki and unanimously approved 4-0.

8/23/2021
A motion to approve was made by Supervisor Kulpa and seconded by Deputy Supervisor Berger. A motion was then made by Supervisor Kulpa to amend, seconded by Deputy Supervisor Berger and unanimously approved 5-0. Amendment changes the term from twenty (20) years to fifteen (15) years as shown in the resolution and in the revised attachment.

A motion to approve as amended was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

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

2. Resolution 2021-724

Princeton Amherst Preservation HDFC - PILOT Agreement - CRS #2819

AGENDA ITEM - AUGUST 23rd, 2021

TO: **Town Board**

FROM: **Stanley J. Sliwa, Esq., Town Attorney**

DATE: **August 18, 2021**

RE: **Princeton Amherst Preservation Housing Development Fund Company, Inc. and Princeton Amherst Preservation, LP - Request for a PILOT Agreement Pursuant to Section 577 of Article 11 of Private Housing Finance Law - CRS #2819**

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

WHEREAS, Princeton Amherst Preservation Housing Development Fund Company, Inc., ("HDFC") a New York not-for-profit corporation organized pursuant to Article 11 of the New York State Private Housing Finance Law ("PHFL") with an address of 200 John James Audubon Parkway, Suite 300, Amherst, New York 14228, and Princeton Amherst Preservation, L.P., ("Partnership") a New York Limited Partnership with an address of 200 John James Audubon Parkway, Suite 300, Amherst, New York 14228 have requested that the Town of Amherst Town Board enter into a PILOT Agreement for 304 affordable living apartments ("Project") located at 165 Princeton Road, Amherst, New York, 14226, bearing SBL #79.24-1-1 (the "Property"); and

WHEREAS, the HDFC, is, or will become, the legal or record owner, and the Partnership is, or will become, the beneficial and equitable owner of an affordable housing

project consisting of approximately 304 affordable living apartments located in the Town of Amherst, Erie County, New York, located at 165 Princeton Road; and

WHEREAS, the HDFC is a corporation established pursuant to Section 402 of the Not-For-Profit Corporation Law of the State of New York and Article 11 of the Private Housing Finance Law of the State of New York; and

WHEREAS, the HDFC is the general partner of the Partnership; and

WHEREAS, the HDFC and the Partnership have each been formed for the purpose of providing residential rental accommodations for persons of low income; and

WHEREAS, the Project is intended to be **affordable to low** income households, and **affordability** of the Project for residential use by low income persons shall remain consistent throughout the duration of this Agreement; and

WHEREAS, the HDFC is a "housing development fund company" as the term is defined in Section 572 of the PHFL; and

WHEREAS, pursuant to section 577 of the PHFL, the local legislative body of a municipality may exempt the real property of a housing project of a housing development fund company from local and municipal taxes, including school taxes, other than assessments for local improvements, to the extent of all or a part of the value of the property included in the completed project; and

WHEREAS, it is the intention of the parties that the Partnership, for itself and the HDFC, shall make annual payments to the Town of Amherst (Town), the County of Erie (County) and the Amherst School District (School District) for the term of this Agreement in lieu of real property taxes that would otherwise be assessed on the Project and the Property; and

WHEREAS, the Town, the County and the School District wish to grant the Partnership and the HDFC such relief as is permitted under Section 577 of the PHFL subject to the terms and conditions of this Agreement; and

WHEREAS, the Town recognizes that the Partnership and the HDFC may enter into an educational contribution agreement or similar type of agreement with the School District whereby the Partnership and the HDFC provide financial support directly to the School District and upon the execution of such an agreement, the Town, per the direction of the School District, agrees to reduce the payments in lieu of property taxes to be otherwise provided to the School District under this Agreement as so provided for herein; and

WHEREAS, HDFC and the Partnership have requested that the Town Board approve a PILOT Agreement with a term of ~~twenty (20)~~ fifteen (15) years for the Property; and

WHEREAS, the content and form of the proposed PILOT Agreement have been reviewed and approved by the Town Assessor's Office and the Town Attorney's Office and a copy of the approved form of the proposed PILOT Agreement is attached hereto; and

WHEREAS, the PILOT Agreement must be approved by Erie County and the Amherst Central School District;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board approves the requested PILOT Agreement for the Project subject to the three (3) conditions set forth below and the Supervisor of the Town of Amherst is hereby authorized to sign the PILOT

Agreement between Princeton Amherst Preservation Housing Development Fund Company, Inc. and Princeton Amherst Preservation, LP, the Town of Amherst, Erie County, and the Amherst Central School District upon satisfaction of the following three (3) conditions:

1. The PILOT Agreement is subject to review and approval by Erie County;

2. The PILOT Agreement is subject to review and approval by the Amherst Central School District; and

3. Approval of the PILOT Agreement is subject to successful completion of the Town's contract routing system.

SJS:lcg
c: Kathy Cooper, Deputy Town Clerk
(**Agenda Item : August 23rd, 2021,** w/attachment)
David Marrano, Town Assessor (w/attachment)

8/17/2021
After presentations related to the Affordable Housing Rehab Projects by Deep Katdare (Related Affordable), Leonard Skrill (NYS Homes and Community Renewal Financing), Laurie Stillwell (Amherst Community Development), and Dave Marrano (Amherst Town Assessor), Supervisor Kulpa motioned to adjourn until August 23rd. The motion was seconded by Councilmember Bucki and unanimously approved 4-0.

8/23/2021
A motion to approve was made by Supervisor Kulpa and seconded by Deputy Supervisor Berger. A motion was then made by Supervisor Kulpa to amend, seconded by Deputy Supervisor Berger and unanimously approved 5-0. Amendment changes the term from twenty (20) years to fifteen (15) years as shown in the resolution and in the revised attachment.

A motion to approve as amended was made by Supervisor Kulpa, seconded by Councilmember Lavin and unanimously approved 5-0.

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

3. Resolution 2021-725

Brewster Amherst Preservation HDFC - PILOT - CRS #2820

AGENDA ITEM - AUGUST 23rd, 2021

TO: **Town Board**

FROM: **Stanley J. Sliwa, Esq.**
Town Attorney

DATE: **August 18, 2021**

RE: **Brewster Amherst Preservation Housing Development Fund Company, Inc. and Brewster Amherst Preservation, L.P. - Request for a PILOT Agreement pursuant to Section 577 of Article 11 of Private Housing Fund - CRS #2820**

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

WHEREAS, Brewster Amherst Preservation Housing Development Fund Company, Inc. ("HDFC") a New York not-for-profit corporation organized pursuant to Article 11 of the New York State Private Housing Finance Law ("PHFL") with an address of 200 John James Audubon Parkway, Suite 300, Amherst, New York 14228, and Brewster Amherst Preservation, L.P., ("Partnership"), a New York Limited Partnership with an address of 200 John James Audubon Parkway, Suite 300, Amherst, New York 14228 have requested that the Town of Amherst Town Board enter into a PILOT Agreement for 216 affordable living apartments ("Project") located at 910-937 Robin Road, Amherst, New York 14221, bearing SBL #41.10-3-18 and 501-511 Robin and Little Robin Road, Amherst, New York 14221, bearing SBL #41.03-1-69 (collectively, the "Property"); and

WHEREAS, the HDFC, is, or will become, the legal or record owner, and the Partnership is, or will become, the beneficial and equitable owner of an affordable housing project consisting of approximately 216 affordable living apartments located in the Town of Amherst, Erie County, New York, located at the Property; and

WHEREAS, the HDFC is a corporation established pursuant to Section 402 of the Not-For-Profit Corporation Law of the State of New York and Article 11 of the Private Housing Finance Law of the State of New York; and

WHEREAS, the HDFC is the general partner of the Partnership; and

WHEREAS, the HDFC and the Partnership have each been formed for the purpose of providing residential rental accommodations for persons of low income; and

WHEREAS, the Project is intended to be **affordable to low** income households, and **affordability** of the Project for residential use by low income persons shall remain consistent throughout the duration of this Agreement; and

WHEREAS, the HDFC is a "housing development fund company" as the term is defined in Section 572 of the PHFL; and

WHEREAS, pursuant to Section 577 of the PHFL, the local legislative body of a municipality may exempt the real property of a housing project of a housing development fund company from local and municipal taxes, including school taxes, other than assessments for local improvements, to the extent of all or a part of the value of the property included in the completed project; and

WHEREAS, it is the intention of the parties that the Partnership, for itself and the HDFC, shall make annual payments to the Town of Amherst (Town), the County of Erie (County) and the Williamsville Central School District (School District) for the term of this

Agreement in lieu of real property taxes that would otherwise be assessed on the Project and the Property; and

WHEREAS, the Town, the County and the School District wish to grant the Partnership and the HDFC such relief as is permitted under Section 577 of the PHFL subject to the terms and conditions of this Agreement; and

WHEREAS, HDFC and the Partnership have requested that the Town Board approve a PILOT Agreement with a term of ~~twenty (20)~~ fifteen (15) years for the Property; and

WHEREAS, the content and form of the proposed PILOT Agreement have been reviewed and approved by the Town Assessor's Office and the Town Attorney's Office, a copy of the approved form of the proposed PILOT Agreement is attached hereto; and

WHEREAS, the PILOT Agreement must be approved by Erie County and the Williamsville Central School District;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board approves the requested PILOT Agreement for the Project subject to the three (3) conditions set forth below and the Supervisor of the Town of Amherst is hereby authorized to sign the PILOT Agreement between Brewster Amherst Preservation Housing Development Fund Company, Inc. and Brewster Amherst Preservation, LP, the Town of Amherst, Erie County, and the Williamsville Central School District upon satisfaction of the following three (3) conditions:

1. The PILOT Agreement is subject to review and approval by Erie County;

2. The PILOT Agreement is subject to review and approval by the Williamsville Central School District; and

3. Approval of the PILOT Agreement is subject to successful completion of the Town's contract routing system.

SJS:lcg
Attachment
c: Kathy Cooper, Deputy Town Clerk
(**Agenda Item : August 23rd, 2021**, *w/attachment*)
David Marrano, Town Assessor (*w/attachment*)

8/17/2021

After presentations related to the Affordable Housing Rehab Projects by Deep Katdare (Related Affordable), Leonard Skrill (NYS Homes and Community Renewal Financing), Laurie Stillwell (Amherst Community Development), and Dave Marrano (Amherst Town Assessor), Supervisor Kulpa motioned to adjourn until August 23rd. The motion was seconded by Councilmember Bucki and unanimously approved 4-0.

8/23/2021

A motion to approve was made by Supervisor Kulpa and seconded by Councilmember Lavin. A motion was then made by Supervisor Kulpa to amend, seconded by Deputy Supervisor Berger and unanimously approved 5-0. Amendment changes the term from twenty (20) years to fifteen (15) years as shown in the resolution and in the revised attachment.

A motion to approve as amended was made by Supervisor Kulpa, seconded by Councilmember Lavin and unanimously approved 5-0.

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

4. Resolution 2021-726

Parkside Amherst Preservation HDFC - PILOT - CRS #2821

AGENDA ITEM - AUGUST 23rd, 2021

TO: **Town Board**

FROM: **Stanley J. Sliwa, Esq.**
Town Attorney

DATE: **August 18, 2021**

RE: **Parkside Amherst Preservation Housing Development Fund Company, Inc. and Parkside Amherst Preservation, L.P. - Request for a PILOT Agreement pursuant to Section 577 of Article 11 of Private Housing Fund - CRS #2821**

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

WHEREAS, Parkside Amherst Preservation Housing Development Fund Company, Inc. ("HDFC") a New York not-for-profit corporation organized pursuant to Article 11 of the New York State Private Housing Finance Law ("PHFL") with an address of 200 John James Audubon Parkway, Suite 300, Amherst, New York, 14228, and Parkside Amherst Preservation, L.P. ("Partnership"), a New York Limited Partnership with an address of 200 John James Boulevard Parkway, Suite 300, Amherst, New York 14228 have requested that the Town of Amherst Town Board enter into a PILOT Agreement for 180 affordable living apartments ("Project") located at 302-332 Evans Road, Amherst, New York, 14221, bearing SBL #41.03-1-68 (the "Property"); 825-862 Robin Road, Amherst, New York, 14221, bearing SBL #41.11-3-1; 101-128 Robin Road, Amherst, New York, 14221, bearing SBL #41.03-1-60; 301-326 Robin Road, Amherst, NY 14221, bearing SBL #41.03-1-60; and 801-824 Robin Road, Amherst, New York 14221, bearing SBL #41-11-3-5 (collectively, the "Property"); and

WHEREAS, the HDFC is, or will become, the legal or record owner, and the Partnership is, or will become, the beneficial and equitable owner of an affordable housing project consisting of approximately 180 affordable living apartments located in the Town of Amherst, Erie County, New York, located at the Property; and

WHEREAS, the HDFC is a corporation established pursuant to Section 402 of the

Not-For-Profit Corporation Law of the State of New York and Article XI of the Private Housing Finance Law of the State of New York; and

WHEREAS, the HDFC is the general partner of the Partnership; and

WHEREAS, the HDFC and the Partnership have each been formed for the purpose of providing residential rental accommodations for persons of low income; and

WHEREAS, the Project is intended to be **affordable to low** income households, and **affordability** of the Project for residential use by low income persons shall remain consistent throughout the duration of this Agreement; and

WHEREAS, the HDFC is a "housing development fund company" as the term is defined in Section 572 of the PHFL; and

WHEREAS, pursuant to section 577 of the PHFL, the local legislative body of a municipality may exempt the real property of a housing project of a housing development fund company from local and municipal taxes, including school taxes, other than assessments for local improvements, to the extent of all or a part of the value of the property included in the completed project; and

WHEREAS, it is the intention of the Parties that the Partnership, for itself and the HDFC, shall make annual payments to the Town of Amherst (Town), the County of Erie (County) and the Williamsville Central School District (School District) for the term of this Agreement in lieu of real property taxes that would otherwise be assessed on the Project and the Property; and

WHEREAS, the Town, the County and the School District wish to grant the Partnership and the HDFC such relief as is permitted under Section 577 of the PHFL subject to the terms and conditions of this Agreement; and

WHEREAS, HDFC and the Partnership have requested that the Town Board approve a PILOT Agreement with a term of ~~twenty (20)~~ fifteen (15) years for the Property; and

WHEREAS, the content and form of the proposed PILOT Agreement have been reviewed and approved by the Town Assessor's Office and the Town Attorney's Office, a copy of the approved form of the proposed PILOT Agreement is attached hereto; and

WHEREAS, the PILOT Agreement must be approved by Erie County and the Williamsville Central School District;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board approves the requested PILOT Agreement for the Project subject to the three (3) conditions set forth below and the Supervisor of the Town of Amherst is hereby authorized to sign the PILOT Agreement between Parkside Amherst Preservation Housing Development Fund Company, Inc. and Parkside Amherst Preservation, LP, the Town of Amherst, Erie County, and the Amherst Central School District upon satisfaction of the following three (3) conditions:

1. The PILOT Agreement is subject to review and approval by Erie County;

2. The PILOT Agreement is subject to review and approval by the Williamsville Central School District; and

3. Approval of the PILOT Agreement is subject to successful completion of the Town's contract routing system.

SJS:lcg
Attachment
c: Kathy Cooper, Deputy Town Clerk
(**Agenda Item : August 23rd, 2021**, *w/attachment*)
David Marrano, Town Assessor (*w/attachment*)

8/17/2021
After presentations related to the Affordable Housing Rehab Projects by Deep Katdare (Related Affordable), Leonard Skrill (NYS Homes and Community Renewal Financing), Laurie Stillwell (Amherst Community Development), and Dave Marrano (Amherst Town Assessor), Supervisor Kulpa motioned to adjourn until August 23rd. The motion was seconded by Councilmember Bucki and unanimously approved 4-0.

8/23/2021
A motion to approve was made by Supervisor Kulpa and seconded by Councilmember Bucki. A motion was then made by Deputy Supervisor Berger to amend, seconded by Councilmember Lavin and unanimously approved 5-0. Amendment changes the term from twenty (20) years to fifteen (15) years as shown in the resolution and in the revised attachment.

A motion to approve as amended was made by Supervisor Kulpa, seconded by Councilmember Lavin and unanimously approved 5-0.

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

5. Resolution 2021-727

Athletic Fields Replacement - NCAA Baseball Diamonds (Bond Resolution - $1,317,100)

AGENDA ITEM -AUGUST 23RD, 2021

ADOPTION OF THIS BOND RESOLUTION MUST BE DONE AFTER ADOPTION OF THE SUSPENSION ITEM FOR THE SAME PROJECT

TO: **Town Board**

FROM: **Stanley J. Sliwa, Esq., Town Attorney**

DATE: **August 18, 2021**

RE: 2021-2026 C.I.P.
Athletic Fields Replacement Project
NCAA Baseball Diamonds
Bond Resolution - $1,317,100.00

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

(1) Adopt the attached bond resolution authorizing the issuance of $1,317,100.00 in serial bonds for the above-referenced Town improvement.

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

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

Thank you.

SJS:nmb
Attachment
c: Kathy Cooper, Deputy Town Clerk
(w/attachment, **Agenda Item - August 23rd, 2021**)
Daryl C. Bramer, Comptroller *(w/attachment)*
Lynda Juul, Director of Finance *(w/attachment)*
Dan Howard, Director of Planning *(w/attachment)*
Daniel Ulatowski, AICP, Assistant Director of Planning/ZEO *(w/attachment)*
Jeffrey S. Burroughs, PE, Town Engineer (*w/attachment*)

8/23/2021
The SEQR determination was adopted under Suspension of Rules prior to the approval of this resolution. Res. 2021-769.

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

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

6. Resolution 2021-728

Waiver of Attorney-Client/Attorney-Work Product Privileges

AGENDA ITEM : AUGUST 23RD, 2021

TO: Town Board

FROM: Stanley J. Sliwa, Esq., Town Attorney

DATE: August 18, 2021

RE: Waiver of Attorney-Client Privilege

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

WHEREAS, as part of the Town of Amherst's due diligence in determining whether to acquire the formal Westwood Country Club located in the Town of Amherst, the Town Attorney for the Town of Amherst obtained real estate appraisals of Westwood from the appraisal firm of Emminger Newton Pigeon & Magyar, Inc. in August, 2019 and the Town Attorney received those reports appraising the Westwood Country Club both in its current "RC" zoning as well as its prior "CF" zoning; and

WHEREAS, under FOIL, those reports are protected from disclosure and/or release by Attorney-Client and Attorney-Work product privileges; and

WHEREAS, the Town Board seeks to authorize the disclosure of those appraisal reports to comply with the July 4th, 2021 FOIL request of Daniel Rider (Request No. 1541); and

WHEREAS, the Town Board is being requested by the Town Attorney for the Town of Amherst and Town Supervisor for the Town of Amherst to waive the Attorney-Client and Attorney-Work Product privileges so that the Town Attorney can produce these appraisal reports to Mr. Rider; and

THEREFORE BE IT RESOLVED that the Town Board of the Town of Amherst hereby ~~waives the Attorney-Client and Attorney-Work Product privileges as it relates to the two (2) appraisal reports created by Emminger Newton Pigeon & Magyar, Inc. reflecting an appraisal of the formal Westwood Country Club site both in its current "RC" zoning and its prior "CF" zoning; and~~
refers the request to the Open Government Committee who should meet as soon as possible.

~~**BE IT FURTHER RESOLVED** that the Town Attorney is hereby authorized to release those appraisals to Mr. Rider in response to his FOIL request dated July 4, 2021 (Request No. 1541).~~

SJS:lcg
c: Kathy Cooper, Deputy Town Clerk (**AGENDA ITEM : AUGUST 23rd, 2021**)
David Marrano, Town Assessor

8/23/2021
A motion to approve was made by Supervisor Kulpa and seconded by Councilmember Lavin. A motion was then made by Councilmember Bucki to amend, seconded by Deputy Supervisor Berger and unanimously approved 5-0. Amendment is shown in the resolution.

A motion to approve as amended was made by Councilmember Bucki, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

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

B. TOWN CLERK:

1. Resolution 2021-729

Amusement License - Boulevard Federal Credit Union

Request by Boulevard Federal Credit Union for a First Class Amusement License for September 11, 2021 from 10 AM - 4 PM. Supervising Code Enforcement Officer recommends a fee of $25.

The Building Department recommends the following conditions:

1. Food Trucks must have a current Town of Amherst Food Vendor License and have the current inspection sticker affixed to the vehicle.
2. That all fire lanes be kept clear at all times.
3. Temporary power must be code compliant.
4. Bathroom facility must be made available & accessible.
5. On site accessible parking must be maintained.
6. Fire Department access must be maintained at all times in the event of an emergency.
7. Events with 1,000 guests or more will require "Crowd Managers" that are in compliance with chapter 4 of the 2020 FCNYS.
8. The applicant must abide by Chapter 138 of the Town of Amherst Code regarding noise.

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Councilmember Lavin and unanimously approved 5-0.

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

2. Resolution 2021-730

Fireworks Permit - Country Club of Buffalo

Request for fireworks permit on August 27, 2021 at 9:30 PM at Country Club of Buffalo, 250 Youngs Road with the following conditions:

1. That the spectators, parking areas and dwellings be 240 feet from the fireworks discharge location for vertical mortars. (max. 4 inch shells)
2. That one (1) 5-lb. ABC fire extinguisher, with a current inspection tag, is located at the firing site with a qualified operator. Additional extinguishers maybe required depending on site layout.
3. That the trajectory of shells shall not come within 25 feet of overhead objects.
4. That the actual shooters listed on the application be present at the site or a substitute shooters list be submitted five (5) or more days prior to the event.
5. If you would like to start the display earlier than the time proposed you must call 689-1212 before starting to be approved by our office.
6. Display shall follow NFPA 1123-2018 & IFC 2018.
7. Display must be completed by 11 PM.
8. Crowds over 1000 people require certified crowd managers.

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Councilmember Lavin and unanimously approved 5-0.

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

3. Resolution 2021-731

New Firefighters for the Getzville Fire Company

The two new firefighters for the Getzville Fire Company live in the Town of Amherst and reside within the Getzville Fire District.

Tyler Godson
98 Marine Drive
Amherst, NY 14228

Haley Daege
1418 N. French Road
Amherst, NY 14228

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Councilmember Szukala and unanimously approved 5-0.

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

4. Resolution 2021-732

New Firefighter for the Main-Transit Fire Department

The new firefighter for the Main-Transit Fire Department lives in the Town of Amherst and resides within the Main-Transit Fire District.

Dylan Warren
59 Spring Meadow Dr. #3
Williamsville, NY 14221

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

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

5. Resolution 2021-733

New Firefighter for the North Bailey Fire Company

The new firefighter for the North Bailey Fire Company lives in the Town of Amherst and resides within the North Bailey Fire District.

Joshua Hacker
1525 Amherst Manor Dr., Apt. 208
Amherst, NY 14221

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Councilmember Szukala and unanimously approved 5-0.

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

6. Resolution 2021-734

Permission for Insert in Tax Bill Mailing

WHEREAS, due to continuing COVID-19 concerns the Town Clerk's office has been forced to make changes for the safety of tax payers as well as Town employees, and

WHEREAS, we have been advised to encourage contactless payments such as mailing tax payments, using drop boxes, and paying online as a way of preventing the spread of COVID-19, and

WHEREAS, in order to help alleviate public concerns and to discourage residents from entering Town Hall and waiting in line to pay their taxes; now therefore

BE IT RESOLVED, that the Town Board authorizes the use of mail inserts as an informational tool to make tax payers aware of the various contactless payment methods available, and

BE IT FURTHER RESOLVED, this permission is for the 2021 School Tax Collection and if necessary, the 2022 County Tax Collection.

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

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

C. ASSESSOR:

D. BUILDING/BUILDING MAINTENANCE:

E. CENTRAL ALARM:

F. COMPTROLLER:

1. Resolution 2021-735

Budget Transfers and Amendments

For August 23, 2021 Town Board Agenda

To: Town Board
From: Office of Town Comptroller
Date: 8/18/2021
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 - 2021

FROM:	***TO:***
N1925.1000 Personal Services $53,166.52	N1925.1300 Longevity $600.00
N1925.4050 Mileage $623.77	N1925.1853 Sick Leave Incentive $147.88
N1925.8030 FICA $4,488.06	N1925.8010 Retirement $10,469.54
	N1925.8050 Hospital Insurance $8,389.13
	N1925.8051 Dental $719.27
	N1925.8052 Vision $114.12
	N1925.4000 Admin $37,838.41

To clean up budget in N1925.

BUDGET AMENDMENTS - 2021

INCREASE:	***INCREASE:***
N2023.02785 CDBG & VG - PI $170.00	N2023.4000 Contractual $170.00
To recognize Community Development program income from 169 Hillcrest Drive, Amherst.	
N2044.02785 Cheektowaga Home - PI $7,590.60	N2044.4000 Contractual $7,590.60
N2049.02785 Cheektowaga Home Admin $843.40	N2049.4003 Admin $843.40
To recognize Community Development program income from 91 Liberty Terrace, Cheektowaga.	
N2155.02785 Amherst Home - PI $7,896.10	N2155.4000 Admin $7,896.10
To recognize Community Development program income from 479 Lakewood, Amherst.	
N0001.20063 CDBG Income $4,152.00	N1521.4000 Contractual $4,152.00
To recognize Community Development program income for PO 22123642.	
N2155.02785 Amherst Home - PI $4,500.00	N2155.4000 Admin $4,500.00
N2154.02785 Amherst Home Admin $500.00	N2154.4003 Admin $500.00
To recognize Community Development program income from 144 Meadow Lea, Amherst.	
N2155.02785 Amherst Home - PI $12,761.82	N2155.4000 Admin $12,761.82
N2154.02785 Amherst Home Admin $1,417.98	N2154.4003 Admin $1,417.98
To recognize Community Development program income from 108 Campus, Amherst.	
N2155.02785 Amherst Home - PI $4,500.00	N2155.4000 Admin $4,500.00

N2154.02785 Amherst Home Admin $500.00 N2154.4003 Admin $500.00
To recognize Community Development program income from 1457 Eggert, Amherst .

N2155.02785 Amherst Home - PI $15,487.20 N2155.4000 Admin $15,487.20
N2154.02785 Amherst Home Admin $1,720.80 N2154.4003 Admin $1,720.80
To recognize Community Development program income from 68 Paul, Amherst.

A3310.02650 Traffic Control - Sales of Scrap $780.88 A3310.4430 Misc. $17,890.63
A3310.02680 Traffic Control - Ins. Proceeds $16,821.39
A3310.05001 Traffic Control - Refund of C/Y Exp. $288.36
To recognize sales of scrap, insurance proceeds, and refund of current expense revenue accounts and increase expenditure account for maintenance and repairs.

DECREASE: ***DECREASE:***
N0001.20063 CDBG Income $3,492.00 N1521.4000 Contractual $3,492.00
To decrease budget amendment from RES2021-581 for portion related to N1854.

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

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

G. CONTRACT COMPLIANCE:

1. Resolution 2021-736

Award RFP #202105 - Vision Coverage - CRS #2810

WHEREAS, the Contract Compliance and Administration Department received proposals on July 27, 2021 for RFP #202105 Vision Coverage; and

WHEREAS, the RFP process resulted in responses from five (5) vendors, with the recommendation by the review committee and the Town's employee benefit consultant to award a 2-year contract to the Town's current provider, VSP Vision Care / Eastern Vision Service Plan IPA, Inc.;

NOW, THEREFORE, BE IT RESOLVED, the Town Board authorizes the Contract Compliance and Administration Department to award this RFP to VSP Vision Care / Eastern Vision Service Plan IPA, Inc.; and

BE IT FURTHER RESOLVED, the Town Board authorizes the Supervisor to sign the contract with VSP Vision Care / Eastern Vision Service Plan IPA, Inc.; and

BE IT FURTHER RESOLVED, that approval is pending successful completion of the contract routing process due to the need to have a contract in place by September 1, 2021.

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

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

2. Resolution 2021-737

Award Bid #2021027 - Vehicle Lift Inspections, Service and Replacement - CRS #2828

WHEREAS, bids were received by the Contract Compliance and Administration Department on July 15, 2021 for Bid #2021027 Vehicle Lift Inspection, Service and Replacement; and

WHEREAS, two (2) bids were received as per the attached bid tabulation form;

NOW, THEREFORE, BE IT RESOLVED, the bid be awarded to Filtrec Corporation; and

BE IT FURTHER RESOLVED, the Town Board authorizes the Supervisor to sign the contract with Filtrec Corporation.

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Councilmember Szukala and unanimously approved 5-0.

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

3. Resolution 2021-738

Authorize Amendment to Indoor Air Professionals Contract - CRS #2803 (Original CRS/CMS #1331/1620)

WHEREAS, the Contract Compliance and Administration Department is requesting approval to amend the existing Kitchen Exhaust Systems Cleaning contract with Indoor Air Professionals to include work needed at the Audubon Golf Course;

NOW, THEREFORE, BE IT RESOLVED, the amendment to the contract is hereby approved; and

BE IT FURTHER RESOLVED, the Supervisor is authorized to sign the Amendment Agreement with Indoor Air Professionals; and

BE IT FURTHER RESOLVED, that approval is pending the successful completion of the contract routing system due to the fact that the next Town Board meeting is not until September 13, 2021, and work is needed as soon as possible at this site.

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

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

H. COURT:

I. ECONOMIC DEVELOPMENT:

J. EMERGENCY SERVICES:

K. ENGINEERING:

1. Resolution 2021-739

Certificate of Municipal Use or State Use NOCO Energy Corp CRS No. 2827

The Engineering Department Water Pollution Control Facility is currently seeking Town Board approval for the Supervisor to sign the attached "Certificate of Municipal Use or State Use" with NOCO Energy Corp. This certificate is to verify that the fuel purchased during the period of January 1, 2021 through December 31, 2021 is only being utilized for municipal use. The NYSOGS contract to purchase gasoline and flex fuel - E-85 under Group 05600, Award 23092, PC # 68459, was previously approved under CRS/CMS # 2286-2346 and RES-2020-936 on 12/4/20.

There is no additional cost for this request.

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

Thank you for considering this request.

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

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

2. Resolution 2021-740

A/E 3-Year Term Agreements

In an attempt to minimize the number of contracts that are routed through the multistep contractual review procedure and to minimize the staff time associated with the preparation and review of individual project RFPs, the Engineering Department is requesting that the Town Board award Owner/Engineer/Architecture 3-year term agreements (with an optional 4th year extension) to the following firms:

Firm	Specialty Term	CRS #
Marquis Engineering PC	Infrastructure	2844
GPI	Infrastructure	2845
JM Davidson Engineering DPC	Infrastructure	2846
Foit Albert Associates	Facilities	2847
ME Engineering	Facilities	2848
Natural Architecture PLLC	Facilities	2849
Design Synergies Architecture	Facilities	2850
CHA	**Infrastructure**	**Pending CRS**

This is the second of two requested rounds of awards as the first round was brought to the July 12th Town Board Meeting.

Please note that the intent of this procedure is to capture a majority of the professional services procured by the Engineering Department associated with all types of town projects; however individual RFPs will still be issued for large one-off projects.

With the award of the above referenced contracts, the Town is locking in consultant rates and personnel to prepare studies and designs related to the various capital and maintenance projects. Project scopes and budgets (comprising of individual work orders attached to the master agreement) will be developed between the Engineering Department and the consultant and approved by the Comptroller for budget compliance and executed by the Town Supervisor.

There are other advantages to this approach to engineering contracts:

1 The consultant and Engineering Department will jointly develop scope, which will minimize miscommunication's about scope and improve owner-engineer understanding of project and potential project pitfalls up front in process;
2 The process is more efficient for Engineering Department and other Town contracts personnel as less time is used to develop and review individual RFPs;
3 This will move the town away from low-cost engineering, which sometimes costs the Town additional money on the construction end as omissions and errors are expensive to fix during construction.

As you know, this type of contractual arrangement is not unique in the business. Most of the major municipalities and special districts have similar arrangements with the consulting community, including Erie County Division of Sewerage Management, the City of Buffalo Water Board, the City of Buffalo Department of Public Works and the Erie County Department of Public Works.

Funding for these contracts will be project based and they will be available to be used town wide.

Thank you for considering this request.

8/23/2021
A motion to approve was made by Supervisor Kulpa and seconded by Councilmember Bucki. A motion was then made by Deputy Supervisor Berger to amend, seconded by Councilmember Bucki and unanimously approved 5-0. Amendment adds CHA to the table above.

A motion to approve as amended was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

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

3. Resolution 2021-741

Casey Road Pedestrian and Bicycle Safety Improvements - Phase II Authorize the Supervisor to Submit a Transportation Alternatives Program (TAP) Grant

WHEREAS, in May 2017, the Town of Amherst was awarded $1.46 million by a New York Department of Transportation TAP grant to enhance pedestrian and bicycle mobility and safety along Casey Road, and

WHEREAS, Phase I of the Casey Road Pedestrian and Bicycle Safety Improvement Project was completed in 2019 with newly constructed sidewalks and bike lanes west of Paradise Road, and

WHEREAS, the Casey Road Phase I project continues to receive overwhelming support by the community, and

WHEREAS, a public information meeting held on May 22, 2018 indicated resident support for additional pedestrian and bicycle improvements along Casey Road east of Paradise Park with a proposed multi-use pathway connection within Paradise Park, and

WHEREAS, the Town has been waiting and anticipating another funding opportunity to extend the Casey Road bike lanes and pedestrian walkway, known as Phase II, and

WHEREAS, the scope of Phase II is consistent with the adopted Town of Amherst Recreation and Parks Master Plan in that it encourages transportation alternatives, expands trail facilities and the public's desire for connection to other existing amenities in the Town, and

WHEREAS, In July 2021, the NYSDOT announced a Transportation Alternatives Program (TAP) funding cycle that supports bicycle, pedestrian, multi-use path, and non-motorized transportation-related projects and programs, and

WHEREAS, successful TAP projects provides reimbursement of up to 80 percent of project-related costs, with the remaining 20 percent provided by project sponsors, and

THEREFORE BE IT RESOLVED, that the Town Board supports applying for the 2021 TAP for Phase II of the Casey Road Pedestrian and Bicycle Safety Improvement Project that connects Transit Road to Paradise Road with sidewalk and bike lanes as well as a pathway connection into Paradise Park, and

BE IT FURTHER RESOLVED, that the Town Board commits to funding the local share at no less than 20% of the total project cost through the 2022-2026 Capital Improvement Program should the TAP application be successfully awarded to the Town of Amherst.

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Councilmember Bucki and unanimously approved 5-0.

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

4. Resolution 2021-742

WPCF Transformer Testing & Repair Service Contract - Change Order No. 1 CRS 2836

We are requesting the Town Board approve the above referenced Change Order, which calls for an increase in hours for Bid Item #3 (hourly service rate) from 20 hours to

35.5 hours and would increase the contract price by $2,557.50. The project's revised contract price will be $79,298.50. This Change Order will cover the costs associated with the contractor performing additional on-site repair services. This is subject to the contract routing process.

Funding for this request is available from bond account KP1725-4972.

May we have your approval to award Ferguson Electric Service Co., Inc. the above referenced Change Order? Thank you for considering this request.

8/23/2021
A motion to approve was made by Supervisor Kulpa and seconded by Councilmember Bucki. A motion was then made by Supervisor Kulpa to amend, seconded by Councilmember Bucki and unanimously approved 5-0. Amendment adds the contract routing process.

A motion to approve as amended was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

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

5. Resolution 2021-743

Amherst Police & Court HVAC System Improvements - Phase IV - Change Order No. 3 & Final CRS No. 2834

We are requesting the Town Board consider approval of the above referenced Change Order, which increases the overall contract amount by $12,100.00. This change order is required to install a replacement motor for an inline fan and to also provide additional chiller electrical wiring to allow for chiller controls to be provided with emergency generator power in order to maintain programming during outages.

Funding is available for this change order from the project bond account KP2006.4972.

This request has successfully completed the contract review process.

Thank you for considering this request.

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

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

6. Resolution 2021-744

WPCF Influent Worthington Pump 3 Rebuild - Change Order No. 3 CRS 2841

We are requesting the Town Board approve the above referenced Change Order No. 3, which calls for a $2,230.00 decrease in the contract price as well as a 61-day no cost contract extension. The project's revised contract price will be $119,431.00. This Change Order is associated with the Contractor reusing, machining and installing an existing wear ring that was in good condition. Change Orders #1 and #2 authorized the purchase of an OEM lower shaft unit and sleeve, as well as, a remanufactured lower shaft unit and sleeve. The Contract is being extended to October 31, 2021 due to the previous delays in availability of new and remanufactured repair parts.

May we have your approval to award to Corrosion Products and Equipment, Inc. the above referenced Change Order? Funding is available from account KP2030-4972. This request is pending the successful completion of the contract review process. Thank you for considering this request.

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

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

7. Resolution 2021-745

WPCF Building No. 1 Elevator Modernization - Change Order No. 4 CRS 2843

The Engineering Department requests the Town Board approve the above referenced Change Order, which calls for a no-cost time extension until October 1, 2021 for Sicoli Construction Services, Inc. for the above-referenced project. There are no ancillary costs associated with this request.

Pending successful completion of the contract approval procedure, may we have your approval to execute Sicoli Construction Services, Inc. the above referenced Change Order? Thank you for considering this request.

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

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

8. Resolution 2021-746

Award of Bid - Senior Center Emergency Building Repairs

On August 17, 2021, bids were received for the above referenced project. After review of the five (5) bids received (bid tabulation attached), we recommend that the Town Board award this contract to Cavlee Development, Inc., 5983 S. Transit Road, Lockport, NY 14094 as per their low base bid amount of $20,250.00 and authorize the Supervisor to execute the contract(s) associated with the bid award.

Funding for this contract is available from account A6772.4220, which shall be fully reimbursed from the insurance company of the driver that caused the damage to this building.

Thank you for considering these requests.

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Councilmember Bucki and unanimously approved 5-0.

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

9. Resolution 2021-747

Award of Bid - Basketball Court Renovations Clearfield Recreation Center & Briarhurst Park

Bids were received on August 12, 2021 for the above referenced project. After review of the bids (tabulation attached), we recommend award be made to Louis Del Prince & Sons, Inc., 580 Cayuga Road, Cheektowaga, NY 14225-1312, based on their low total base bid of $49,733.00 to include both locations and authorize the Supervisor to execute the contract(s) associated with the bid award.

Funding for the above award is available from account KP1951-4972.

May we have your approval to award the above contract?

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

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

10. Resolution 2021-748

Award of Bid - 2021 Manhole Rehabilitation Project

On August 12, 2021, three (3) bids were received for the above referenced project. The bid tabulation sheet is attached. At this time, we recommend award of the contract to Camden Group, Inc. per their base bid and alternate no. A1-2 for a total contract amount of $174,800.00 and authorize the Supervisor to execute the contract associated with the bid award.

The funds for this project are available from bond account KP2130-4972.

May we have your approval to award Camden Group, Inc., the above referenced contract?

Thank you for considering this request.

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Councilmember Lavin and unanimously approved 5-0.

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

11. Resolution 2021-749

Award of Bid - Audubon Library Expansion - Phase I & II - Plumbing Contract M.K.S. Plumbing Corp

On August 12, 2021, bids were received for the above referenced project. After review of the eight (8) bids received (bid tabulation attached), we recommend award of this contract to M.K.S. Plumbing Corp., 19 Ransier Drive, West Seneca, NY 14224 in the base bid amount of $140,850.00 and authorize the Supervisor to execute the contract(s) associated with the bid award.

Funding for this contract shall be from project account KP2126-4972.

May we have your approval to award the above contract?

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

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

12. Resolution 2021-750

Audubon Library Expansion - Phase I & II - Electrical Contract Frey Electric Construction Co., Inc.

On August 12, 2021, bids were received for the above referenced project. After review of the six (6) bids received (bid tabulation attached), we recommend award of this contract to Frey Electric Construction Co. Inc., 100 Pearce Avenue, Tonawanda, NY 14150 in the base bid amount of $308,000.00 and authorize the Supervisor to execute the contract(s) associated with the bid award.

Funding for this contract shall be from project account KP2126-4972.

May we have your approval to award the above contract?

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Councilmember Bucki and unanimously approved 5-0.

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

13. Resolution 2021-751

Audubon Library Expansion - Phase I & II - Mechanical Contract Greater Niagara Mechanical, Inc.

On August 12, 2021, bids were received for the above referenced project. After review of the six (6) bids received (bid tabulation attached), we recommend award of this contract to Greater Niagara Mechanical, Inc., 7311 Ward Road, North Tonawanda, NY 14120, in the base bid amount of $334,600.00 and authorize the Supervisor to execute the contract(s) associated with the bid award.

Funding for this contract shall be from project account KP2126-4972.

May we have your approval to award the above contract?

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Councilmember Bucki and unanimously approved 5-0.

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

14. Resolution 2021-752

Award of Bid - Audubon Library Expansion - Phase I & II - General Contract Peak Construction Group, LLC

On August 12, 2021, bids were received for the above referenced project. After review of the ten (10) bids received (bid tabulation attached), we recommend award of this contract to Peak Construction Goup, LLC, 701 Seneca Street, Suite 604, Buffalo, NY 14210 in the amount of $2,158,800.00 to include the base bid, alternate bid No. 1 (entry corridor finishes), and alternate No. 2 (office floor finishes) and authorize the Supervisor to execute the contract(s) associated with the bid award.

Funding for this contract shall be from project account KP2126-4972.

May we have your approval to award the above contract?

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

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

L. FINANCE:

1. Resolution 2021-753

Authorize NYPA Energy Services Program Master Cost Recovery Agreement - CRS #2851

WHEREAS, the New York Power Authority (NYPA) offers a comprehensive range of programs and services to help customers save energy and related costs, reduce emissions, and meet renewable energy and other energy goals; and

WHEREAS, Public Authorities Law §1005(17) permits NYPA to finance, design, develop, construct, implement, provide and administer energy-related projects, programs and services for public entities; and

WHEREAS, the Trustees have authorized the establishment of NYPA's Energy Services Program ("ESP") to include, among other things, energy efficiency projects and services, clean energy technology projects and services and high-performance and sustainable building projects and services (including technologies that reduce air and other pollution and conserve materials and resources such as water); and the construction, installation and/or operation of facilities or equipment done in connection with any such projects, programs or services; and

WHEREAS, Public Authorities Law §1005(17) permits the Town of Amherst, a statutorily eligible entity, to enter into an energy services contract with the Authority for such energy-related projects, programs and services as authorized by Public Authorities Law; and

WHEREAS, NYPA and the Town of Amherst desire to work together to develop and implement Projects contemplated under the ESP and to enter into a Master Agreement; and

WHEREAS, the attached agreement has been reviewed by the Town Attorney, Director of Finance, Town Engineer, and Comptroller, and includes Town requested modifications that were approved by NYPA, but may require additional minor modifications by the Town Attorney;

NOW, THERFORE, BE IT RESOLVED, the Energy Services Program Master Cost Recovery Agreement Between the Town of Amherst and the Power Authority of the State of New York is hereby approved; and

BE IT FURTHER RESOLVED, the Supervisor is hereby authorized to sign the Agreement with NYPA; and

BE IT FURTHER RESOLVED, that approval is pending successful completion of the Contract Routing System, as the next Town Board meeting will not be held until September 13, 2021, and there are projects that the Town would like to begin working on with NYPA as soon as possible.

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Councilmember Bucki and unanimously approved 5-0.

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

M. HIGHWAY

1. Resolution 2021-754

Authorize the Purchase of One (1) XTREME VAC Model LCT600 Tow Behind Leaf Collector CRS # 2837

NOW THEREFORE BE IT RESOLVED, the Town Board authorizes the purchase of one (1) XTREME VAC Model LCT 600 Tow Behind Leaf Collector.

The purchase is from Cyncon Equipment, Inc., 7494 West Henrietta Road, Rush, New York 14543 for $56,622.92 per SOURCEWELL/NJPA CONTRACT.

NOW THEREFORE BE IT FURTHER RESOLVED, that the Town Board authorizes the Supervisor to sign this purchase. This purchase is subject to the Contract Routing System (CRS #2837) and approval of the Town Attorney.

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

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

2. Resolution 2021-755

Authorize Supervisor to Sign Contract Extension to Piggyback for International Spring Co. CRS #2839

NOW THEREFORE BE IT RESOLVED, that the Town of Amherst is approved contract extension to piggyback with the County of Erie contract with International Spring Company, 4396 Broadway, Depew NY to provide spring repairs and replacements.

The Erie County and International Spring Company is Bid - Reference #219048-004 for spring repairs and replacements. Contract term is 4/1/21 through 3/31/2022.

NOW THEREFORE BE IT FURTHER RESOLVED, that the Town Board authorizes the Supervisor to sign this contract. This contracts is subject to the Contract Routing System (CRS #2839) and the approval of the Town Attorney.

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

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

N. HUMAN RESOURCES:

1. Resolution 2021-756

Recreation Attendant - PT/Youth & Recreation

Recreation Attendant - PT/ Youth & Recreation, Effective August 24, 2021, Temporary, $13.00 ph, Step 1 for Christine Kobus.

Due to reduced availability of current part-time staff and COVID -19 Protocols.

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Councilmember Bucki and unanimously approved 5-0.

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

2. Resolution 2021-757

Laborer - PT/Building Maintenance

Laborer - PT/Building Maintenance, Effective August 24, 2021, Temporary, $12.99 ph, Step 1 for Devin Klumpp.

Replacing an employee who transferred to another department.

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Councilmember Bucki and unanimously approved 5-0.

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

3. Resolution 2021-758

Assistant Code Enforcement Officer/Building Department

Please appoint an Assistant Code Enforcement Officer to the Building Department. Provisional, pending satisfactory completion of a Civil Service Examination. Effective August 30, 2021 at an annual salary of $45,099, Grade 12, Step A for Conrad Nagel, Jr..

Contingent upon completing all pre-employment requirements.

Replacing an employee who resigned.

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

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

4. Resolution 2021-759

Cook/Senior Services

Please appoint a Cook to the Amherst Center for Senior Services, Permanent, pending satisfactory completion of a probationary term as set forth in the Civil Service Rule XIII. Effective August 24, 2021 at an annual salary of $34,800, Grade 5, Step A for Amanda B. Umphreyville.

This is a promotion for an employee currently serving as a Kitchen Helper.

Contingent upon completing all pre-employment requirements.

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Councilmember Bucki and unanimously approved 5-0.

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

5. Resolution 2021-760

Court Officer - PT/Court (2 Positions)

Court Officer - PT/Court (2 Positions), Effective August 24, 2021, $19.56 ph, Step 1. Permanent, pending satisfactory completion of a probationary term as set forth in the Civil Service Rule XIII for Larry G. Feger and Amanda J. Reeners.

Contingent upon completing all pre-employment requirements.

One position is replacing an employee who resigned.
One position is an on-call position.

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

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

O. INFORMATION TECHNOLOGY:

P. PLANNING:

1. Resolution 2021-761

To Authorize the Community Development Staff to Exceed the $40,000 Loan Limit for a Household on Hilton Boulevard

WHEREAS, Town Community Development Program staff originates and approves housing rehabilitation loans up to $40,000 for eligible homeowners using HOME & CDBG funds; and

WHEREAS, a homeowner on Hilton Boulevard needs a new outside sewer line for his home and previously had significant work done through the housing rehabilitation program including; replacement of the roof, soffits and gutters; a new furnace; windows, doors, and hot water tank; and

WHEREAS, Community Development staff is requesting permission to extend additional housing rehabilitation loan funds to this homeowner not to exceed $56,000;

NOW THEREFORE, BE IT RESOLVED THAT the Town of Amherst authorizes Community Development staff to exceed the $40,000 loan limit using HOME funding for this household, not to exceed $56,000.

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

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

Q. POLICE:

R. SENIOR SERVICES:

1. Resolution 2021-762

Class Instructor/Sub-Contractor Commitment Form CRS #2823

We respectfully request Town Board permission to authorize the Supervisor to sign the Class Instructor/Sub-Contractor Commitment Form between the Town of Amherst (Department of Senior Services) and Instructor, Mary Jo LaClair.

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Councilmember Lavin and unanimously approved 5-0.

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

2. Resolution 2021-763

Class Instructor/Sub-Contractor Commitment Form CRS #2825

We respectfully request Town Board permission to authorize the Supervisor to sign the Class Instructor/Sub-Contractor Commitment Form between the Town of Amherst (Department of Senior Services) and Instructor, Constance Kaminski (Connie).

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

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

3. Resolution 2021-764

Class Instructor/Sub-Contractor Commitment Form CRS #2824

We respectfully request Town Board permission to authorize the Supervisor to sign the Class Instructor/Sub-Contractor commitment form between the Town of Amherst (Department of Senior Services) and Instructor, William MacDougall.

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Councilmember Bucki and unanimously approved 5-0.

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

4. Resolution 2021-765

Class Instructor/Sub-Contractor Commitment Form CRS #2805

We respectfully request Town Board permission to authorize the Supervisor to sign the Class Instructor/Sub-Contractor Commitment Form between the Town of Amherst (Department of Senior Services) and Instructor, Peter Siedlecki.

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

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

5. Resolution 2021-766

Class Instructor/Sub-Contractor Commitment Form CRS #2804

We respectfully request Town Board permission to authorize the Supervisor to sign the Class Instructor/Sub-Contractor Commitment Form between the Town of Amherst (Department of Senior Services) and Instructor, Ruth Nawotniak.

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Councilmember Bucki and unanimously approved 5-0.

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

S. YOUTH AND RECREATION:

1. Resolution 2021-767

Child Day Care Services Agreement CRS #2817

Authorize the Supervisor to sign an agreement between the Town of Amherst (Youth & Recreation Department) and the Erie County Department of Social Services for reimbursement for after school childcare for qualified residents.

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

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

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2. Resolution 2021-768

Fall Winter 2021-2022 Proposed Ice Rental Rates

Authorize an increase in ice rental rates for the fall/winter 2021-2022 season, as per the attached schedule. These rates were approved by the Amherst Recreation Commission at its August 2021 meeting.

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

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

XII. UNFINISHED BUSINESS

1. Resolution 2021-78

Local Law Amending Chapter 19, Ethics

A public hearing for "A Local Law Amending Chapter 19 of The Code Of The Town of Amherst With Respect To The Code of Ethics".

The purpose of this Local Law shall be to amend various section of Chapter 19 of the Code of the Town of Amherst with respect to the list of officials, notice and verification of filing.

1/19/2021
A motion to adjourn to April 19th was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

4/19/2021
A motion to open the public hearing was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0. The public hearing was opened at 7:08 PM.

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

RESULT:	**TABLED (NO VOTE)**	**Next: 9/13/2021 7:00 PM**

2. Resolution 2021-153

Amend the Audubon Development Plan and the Zoning Map to Reclassify 2160 & 2170 North Forest Road from NCD-SA to NCD-ND

DRAFT RESOLUTION
(2/22/21)

Amend the Audubon Development Plan and the Zoning Map

[2160 & 2170 North Forest Road (NCD); Z-2020-06]

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

RESOLVED, that pursuant to NYS Town Law Sec.272-a, the Town Board concurs with the findings of the Planning Board as stated in their resolution of January 21, 2021 that the proposed New Community District - Neighborhood District (NCD-ND) classification at 2160 & 2170 North Forest Road is consistent with the adopted Bicentennial Comprehensive Plan, as amended, and be it further

RESOLVED, that to the extent the proposed classification is not consistent with the adopted Comprehensive Plan, the plan is hereby amended to be consistent with the proposed classification at this location, and be it further

RESOLVED, that in accordance with Section 203-8-3 of the Town Code (Zoning), the Town Board adopts Local Law (#) to amend the Town Zoning map subject to the following condition as recommended by the Planning Board:

1. That the petitioner include additional parking spaces beyond the 17 spaces shown on the concept plan at the site plan stage.

2/22/2021

A motion to open the public hearing was made by Supervisor Kulpa, seconded by Councilmember Lavin and unanimously approved 5-0. The public hearing was opened at 7:32 PM.

Sean Hopkins, Esq. presented.

The following speakers addressed the Town Board:
Joseph Hausbeck, 2180 N. Forest Rd. - Spoke in opposition; does not fit the concept of the neighborhood; submitted a letter listing various concerns
Fran Cummings, 2200 N. Forest Rd. - Voiced her concerns; property floods; traffic
Karen Macris, 2230 N. Forest Rd. - Asked questions; concern of dorm-like apartments; dumpster location and noise

There were no further speakers from the public, therefore Supervisor Kulpa moved to adjourn the public hearing to March 8th. The motion was seconded by Councilmember Szukala and unanimously approved 5-0. The public hearing was adjourned at 8:17 PM.

3/8/2021

A motion to adjourn to April 5th was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

4/5/2021

A motion to open the public hearing was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0. The public hearing was opened at 7:05 PM.

Sean Hopkins, Esq. presented updated plans.

The following speakers addressed the Town Board:

Fran Cummings, 2200 N. Forest Rd. - Concerned about it being student housing, lighting spillover, flooding and traffic
Joseph Hausbeck, 2180 N. Forest Rd. - Concerned about excavation of the site and the project being too large

There were no further speakers from the public, therefore Supervisor Kulpa moved to adjourn the public hearing to April 19th. The motion was seconded by Deputy Supervisor Berger and unanimously approved 5-0. The public hearing was adjourned at 7:34 PM.

4/19/2021
Per Supervisor Kulpa, the Petitioner has requested an adjournment. Supervisor Kulpa then moved to Adjourn to May 3rd, seconded by Deputy Supervisor Berger and unanimously approved 5-0. The hearing was adjourned at 7:09 PM.

5/03/2021
A motion to open the public hearing was made by Supervisor Kulpa, seconded by Councilmember Bucki and unanimously approved 5-0. The public hearing was opened at 7:09 PM.

Sean Hopkins, Esq. presented updated plans.

The following speaker addressed the Town Board:
Fran Cummings, 2200 N. Forest Rd. - Voiced her continued concerns regarding flooding, student housing in their senior citizen community

There were no further speakers from the public, therefore Supervisor Kulpa moved to close the public hearing, seconded by Councilmember Bucki and unanimously approved 5-0. The public hearing was closed at 7:29 PM.

RESULT:	**TABLED (NO VOTE)**	**Next: 9/13/2021 7:00 PM**

XIII. COMMUNICATIONS

1. Communication 2021-89

Request for Fee Waiver - Amherst Symphony Orchestra

Request from Lee Brusino for roadside signage and fee waiver for the Amherst Symphony Orchestra concerts.

CONCERT DATES: October 24, 2021, December 5, 2021, February 13, 2022 and April 10, 2022 are the proposed dates for our upcoming season.

SIGNAGE DATES: October 17 - 24, 2021; November 28 - December 5, 2021; February 6 - 13, 2022; April 3 - 10, 2022

SIGNAGE LOCATIONS: Clearfield Recreation Center, 730 Hopkins Rd; Parks Department, 450 Maple Road; 4255 Harlem Rd, Buffalo, NY 14226

The Building Department's recommendation is attached.

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Councilmember Bucki and unanimously approved 5-0.

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

2. Communication 2021-90

Ransom Oaks Opposition Letter

Letter of opposition to the rezoning of 10060 and 10090 Transit Road from the Ransom Oaks Community Corporation.

8/23/2021
Referred to Planning, Town Attorney, and Town Clerk to record in the public hearing.

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

3. Communication 2021-91

Notice of Claim: Elena Balea, Homer Balea, Jr. Vs. Town of Amherst

8/23/2021
Referred to Town Attorney.

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

XIV. PUBLIC IMPROVEMENT PERMITS

XV. PUBLIC EXPRESSION #2

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

A motion to open Public Expression was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0. Public Expression was opened at 3:54 PM.

There were no speakers from the public, therefore Supervisor Kulpa moved to close Public Expression, seconded by Councilmember Bucki and unanimously approved 5-0. Public Expression was closed at 3:54 PM.

XVI. ADJOURNMENT

There being no further business to come before the Town Board, Supervisor Kulpa moved to adjourn to Executive Session, seconded by Deputy Supervisor Berger and unanimously approved 5-0. The Town Board adjourned to Executive Session at 3:55 PM.

A motion to conclude Executive Session was made by Deputy Supervisor Berger, seconded by Councilmember Lavin and unanimously approved 5-0. The Executive Session ended at 4:38 PM.

Deputy Supervisor Berger motioned to adjourn the Town Board meeting at 4:39 PM, seconded by Councilmember Lavin and unanimously approved 5-0.

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

Francina J. Spoth
Town Clerk

Meeting: 08/23/21 03:00 PM
Department: Town Clerk
Initiated by: **Kathleen Cooper**
Co-Sponsored by:

DOC ID: 24694 **RESOLUTION 2021-769** **ADOPTED**

Determination of Environmental Significance (SEQR) Athletic Fields Improvements - NCAA Baseball Diamond Bond - $1,317,100.00

SUSPENSION ITEM : AUGUST 23RD, 2021 TOWN BOARD AGENDA

ADOPTION OF THIS SUSPENSION ITEM MUST BE DONE BEFORE ADOPTION OF THE BOND RESOLUTION FOR THE SAME PROJECT

TO: **Town Board**

FROM: **Stanley J. Sliwa, Esq., Town Attorney**

DATE: **August 20, 2021**

RE: **Determination of Environmental Significance (SEQR) (Approval and Issuance of a Negative Declaration) Athletic Fields Improvements - NCAA Baseball Diamond Bond - $1,317,100.00**

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

(1) Adopt the attached SEQR determination for the above project as determined by the Town of Amherst Planning Department and after subsequent approval by the Town of Amherst Planning Board at its August 19th, 2021 meeting.

Thank you.

SJS:nmb
Attachment
c: Kathy Cooper, Deputy Town Clerk
(w/attachment, **Suspension Agenda Item - August 23rd, 2021**)
Daryl C. Bramer, Comptroller *(w/attachment)*
Lynda Juul, Director of Finance *(w/attachment)*
Dan Howard, Director of Planning *(w/attachment)*
Ellen M. Kost, Assistant Director of Planning *(w/attachment)*
Jeffrey S. Burroughs, PE, Town Engineer (*w/attachment*)

8/23/2021
A motion to approve was made by Deputy Supervisor Berger, seconded by Councilmember Bucki and unanimously approved 5-0.

FINANCIAL IMPACT:

Bond - $1,317,100.00

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

Amherst
Town of Amherst Planning Department
Erie County, New York

Brian J. Kulpa
Supervisor

Daniel C. Howard,
Planning Direct

Daniel J. Ulatowski,
Assistant Planning Di

SEQR
Negative Declaration

NOTICE OF DETERMINATION OF NON-SIGNIFICANCE

Lead Agency:	Town of Amherst Planning Board	**Project:**	SP-1990-08_H
Address:	5583 Main Street Williamsville, NY 14221 (716) 631-7051	**Date:**	August 19, 2021

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

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

Title of Action: Site Plan Review

SEQR Status: Type 1 Action

Description of Action: Lou Gehrig Youth Baseball & Softball improvements including the expansion of the outfield limits with warning tracks, new field lighting and electrical service, fencing, foul poles, backstops, dugouts, portable bleachers, NCAA regulation bullpens, scoreboard, sound system and a shed. Work will include the site improvements not specifically stated above, including, stormwater, utilities, grading, lighting, paving, and landscaping.

Location: 550 Smith Road (portion), Amherst, Erie County

Petitioner: Town of Amherst

Attachment: SEQRNegDecPBApproved (RES-2021-769 : Determination of Environmental Significance (SEQR))

Reasons Supporting This Determination

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

1. The project is not expected to cause a substantial adverse change in existing air quality, ground or surface water quality or quantity, or noise levels; a substantial increase in solid waste production; or a substantial increase in the potential for erosion, flooding, leaching or drainage problems. The Engineering Department on August 18, 2021 reviewed the Grading, Drainage and Utility Plans submitted on August 6, 2021, Engineer's Report submitted on August 6, 2021, the Erosion Control Plan submitted on August 6, 2021 and The Stormwater Pollution Prevention Plan (SWPPP) submitted on August 6, 2021 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 Site Plan submitted on August 6, 2021 and determined that it meets or exceeds Zoning Ordinance requirements for greenspace. The Site Plan has or will have met all Zoning Ordinance and Town requirements for landscaping.

3. The project is not expected to create any material conflict with the Town Comprehensive Plan. The Building Department in their review of August 9, 2021 and the Planning Department in their review of August 17, 2021 have reviewed the application documents and determined in that the subject project has or will have met all International Building Code – 2018 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 Recreation Conservation zoning district (RC); neighboring uses are open space, parkland, recreational facilities, single family and multifamily residential within the Recreation Conservation District (RC), Suburban Agriculture District (SA) and Multifamily Residential District Five (MFR-5); therefore, the project is consistent with surrounding land use.

Attachment: SEQRNegDecPBApproved (RES-2021-769 : Determination of Environmental Significance (SEQR))

6. The proposed subject development will include the expansion of the outfield limits with warning tracks, new field lighting and electrical service, fencing, foul poles, backstops, dugouts, portable bleachers, NCAA regulation bullpens, scoreboard, sound system and a shed 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 August 13, 2021, reviewed the project and has no objection to the approval of the site plan, as all requirements of this agency has or will have been met.

8. The project will not cause a substantial change in the use, or intensity of use, of land including agricultural, open space or recreational resources, or in its capacity to support existing uses. The expansion of the outfield limits with warning tracks, new field lighting and electrical service, fencing, foul poles, backstops, dugouts, portable bleachers, NCAA regulation bullpens, scoreboard, sound system and a shed will be consistent with the scale of surrounding land uses.

9. The function of the proposed expansion of the outfield limits with warning tracks, new field lighting and electrical service, fencing, foul poles, backstops, dugouts, portable bleachers, NCAA regulation bullpens, scoreboard, sound system and a shed 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 August 5, 2021 and Erie County Dept. of Public Works –Highways Division dated August 16, 2021 indicates that significant negative traffic impacts are not expected to result from the proposed project.

11. A coordinated review of the project has been undertaken by Town Departments including, in addition to those mentioned above, Assessor on August 5, 2021, Plumbing Division on August 4, 2021, and Right-of-Way Agent on August 5, 2021. These reviews did not identify any potential significant adverse environmental issues and indicated that the proposal will not have a significant damaging impact on the environment.

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

Attachment: SEQRNegDecPBApproved (RES-2021-769 : Determination of Environmental Significance (SEQR))

Planning Board Approval
Moved by: Giuliani; Seconded by: Gelber Ayes 7; Noes 0

signature & title of preparer Date

Robert J. Gilmour, Planning Board Chair Date 8-19-21.

SM/ac
X:\Current_Planning\Files\Site Plans\1990\SP-1990-08_H_(550_Smith_Rd)_2021\SP-1990-08H_SEQR_Neg_Declaration_081921.docx
cc: Amherst Town Clerk
Building Department
Engineering
Fire Chiefs'
Highway
Traffic/Safety
ECDEP
NYSDEC
NYSDOT
Jeffrey Burroughs, Engineering Department
Eric Guzdek, Youth and Recreation
Leanne Voit, Wendel, 375 Essjay Rd., Suite 200, Williamsville, NY 14221

Attachment: SEQRNegDecPBApproved (RES-2021-769 : Determination of Environmental Significance (SEQR))

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

Francina J. Spoth
Town Clerk

Meeting: 08/23/21 03:00 PM
Department: Councilmembers
Initiated by: **Jacqualine Berger**
Co-Sponsored by:

DOC ID: 24702 **RESOLUTION 2021-770** **ADOPTED**

Approval to Sign a Temporary Access Agreement

Suspension to Town Board Agenda Item August 23, 2021

TO: **Amherst Town Board**

FROM: **Jacqualine Berger, Councilmember**

DATE: **August 23, 2021**

RE: **Approval to sign a Temporary Access Agreement**

BE IT RESOLVED that the Amherst Town Board approve the Town Supervisor to sign the Temporary Access Agreement between 111 North Maplemere LLC, Arc Building Partners LLC, and the Town of Amherst, pending completion of the CRS process.

8/23/2021
A motion to approve was made by Deputy Supervisor Berger, seconded by Councilmember Lavin and unanimously approved 5-0.

FINANCIAL IMPACT:

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

TEMPORARY ACCESS AGREEMENT

This Temporary Access Agreement (the "***Agreement***") is being entered into as of August ___, 2021 ("***Effective Date***") by and among 111 North Maplemere LLC, with an address as 50 Fountain Plaza, Suite 500, Buffalo, NY 14202 ("***Project Sponsor***"), Arc Building Partners LLC, with an address at 100 South Elmwood Avenue, Suite 100, Buffalo, NY 14202 ("***Arc***") and the Town of Amherst, with an address at 5583 Main Street, Williamsville, NY 14221 ("***Landowner***").

Subject to the terms and conditions contained in this Agreement, the Landowner, for valuable consideration, the sufficiency and receipt of which is hereby acknowledged, hereby grants the Project Sponsor and ARC the right to enter upon, use and occupy certain lands located at 500 Maple Road and of Landowner located at 1615 Amherst Manor Drive and 500 Maple Road (collectively "***Town Property***") that is contiguous to land owned by the Project Sponsor to be developed as a surgery center and medical office project ("***UBMD Project Site***"). Attached as Exhibit "A" is a plan depicting the Town Property that is subject to this Agreement.

1. Scope of Work to be Conducted by ARC on the Town Property. The use of the Town Property by ARC and its subcontractors shall be limited to the areas depicted on plan attached as Exhibit "1" consisting of the following:

A. Installation of a construction entrance driveway from the intersection Amherst Manor Drive and Coventry Drive to the UBMD Project Site. The work to be conducted on the Town Property to install the construction entrance driveway will not result in any disturbance to the parking spaces on the northeast portion of 1615 Amherst Manor Drive. The construction entrance driveway shall be installed in accordance with the Highway Work Permit issued by the New York State Department of Transportation dated August 12, 2021.

B. Demolition and removal of athletic field improvements including but not limited to a dugout, fencing, walkways, etc. within the areas shaded in green on the plan attached as Exhibit "A".

C. Connecting the storm sewer system lines for the UBMD Project into the Town's storm sewer infrastructure located on the Town Property within the areas shaded in blue on the plan attached as Exhibit "A".

D. Construction of a driveway to connect into existing athletic fields located on the Town Property within the area labelled as "Access to Town Property" on the plan attached as Exhibit A".

E. Installation of required stormwater management measures including silt sock per the approved Stormwater Pollution Prevention Plan ("SWPPP").

F. Planting of trees on the Town Property directly east of the UBMD Project Site shaded green on the plan attached as Exhibit "A".

Attachment: Access Agreement-Updated-08-23-21 (RES-2021-770 : Approval to Sign a Temporary Access Agreement)

2. Coordination of Work to be Completed on Town Property: The scheduling of the work to be completed by ARC on the Town Property other than the installation of the construction access to the UBMD Project Site which is scheduled to occur immediately after this Agreement has been executed by the parties shall be coordinated with the Town of Amherst Youth & Recreation Department. In connection with the coordination of the work to be completed on the Town Property, the Town's contact is Eric W. Guzdek (Tel: 631-7132 ext. 7512 – E-mail: eguzdek@amherst.ny.us).

3. Restoration of Town Property: ARC shall be responsible to maintain the Town Property in an orderly fashion and all work on the Town Property shall be performed in a neat and workmanlike manner and in accordance with the Building Permit issued by the Town of Amherst Building Department on July 27, 2021. A copy of the Building Permit dated July 27, 2021 is attached as Exhibit "2". ARC shall restore the Town Property to the condition in which it existed prior to its use as best as practicable. ARC shall observe all regulations applicable to the performance of the work on the Town Property.

4. Term: The term of this Agreement shall be from August 23, 2021 until December 21, 2022.

5. Insurance to be Provided by ARC: Prior to the commencement of the work on the Town Property, ARC shall provide Town Attorney's Office with an Insurance Certificate naming the Landowner as an additional insured party. The coverage amounts shall be the same as contained in the Insurance Certificate obtained by ARC in connection with the Highway Work Permit issued by the New York State Department of Transportation on August 12, 2021 that is attached hereto as Exhibit "3".

6. Assumption of Risk and Indemnification: ARC assumes all risk of, and indemnifies, protects and saves harmless Landowner and its successors and assigns from, all loss, damage, or injury to persons (including, without limitation, personal injuries resulting in death) or property and from all claims, demands, suits, liabilities, obligations and expenses arising therefrom, including reasonable legal fees and expenses, caused by or in any way connected with the exercise of the rights granted hereunder, except to the extent the same shall arise out of the negligent or intentional acts or omissions of any employee, officer, agent, invitee or representative of Landowner. In the event that any judgment, lien or other encumbrance is placed upon or levied against the Town Property in any suit or other proceedings due to activities conducted by ARC on the Town Property, ARC shall in a timely manner cause the same to be dissolved and discharged by giving bond or otherwise.

7. Reporting of Accidents: Any accident shall be reported to the Office of the Town Attorney as soon as possible and not later than twenty-four (24) hours from the time of such accident. A detailed written report must be submitted to the Town of Amherst as soon thereafter as possible as and not later than three (3) days after the date of such accident.

8. Miscellaneous:

Attachment: Access Agreement-Updated-08-23-21 (RES-2021-770 : Approval to Sign a Temporary Access Agreement)

A. Entire Agreement. This instrument constitutes the entire Agreement between the Purchaser and Seller relating to this sale and supersedes all other prior agreements and representation in connection with said sale. There are no other agreements, understandings, warranties, or representations between the Purchaser and Seller in connection with said sale.

B. No Amendment. This Agreement shall not be altered, amended, changed, waived, terminated, or otherwise modified in any respect or particular unless the same shall be in writing and signed by the parties hereto.

C. Counterparts. This Agreement may be executed in multiple counterparts, each of which will be considered to be original documents, but all of which, taken together, will be deemed to constitute a single instrument. Signature pages may be detached from multiple separate counterparts and attached to a single counterpart so that all signature pages are physically attached to the same instrument.

D. Governing Law. This Agreement shall be interpreted and enforced in accordance with the laws of the State of New York. If any provisions of this Agreement shall be unenforceable or invalid, the same shall not affect the remaining provisions of this Agreement.

E. Parties. Except as otherwise provided in this Agreement, this Agreement shall be binding upon, and shall inure to the benefit of, the parties hereto and to their respective heirs, executors, administrators, successors, and assigns.

F. 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.

G. Interpretation. This Agreement shall be governed by, and interpreted according to the laws of the State of New York. Any and all legal action necessary to enforce the Agreement will be held in Erie County, New York. 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.

H. Town Supervisor Authorized to Execute on Behalf of Landowner. Pursuant to resolution adopted by the Town Board during its meeting on August 23, 2021, the Town Supervisor is duly authorized to execute this Agreement on behalf of the Landowner.

Attachment: Access Agreement-Updated-08-23-21 (RES-2021-770 : Approval to Sign a Temporary Access Agreement)

IN WITNESS HEREOF, the parties have executed this Agreement effective as of the date set forth above.

LANDOWNER

By: _____
Name: Brian J. Kulpa
Title: Town Supervisor

ARC BUILDING PARTNERS LLC

By: _____
Name: Frank L. Ciminelli II
Title: President

111 NORTH MAPLEMERE LLC

By: _____
Name: Paul F. Ciminelli
Title: Member

Attachment: Access Agreement-Updated-08-23-21 (RES-2021-770 : Approval to Sign a Temporary Access Agreement)

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

Francina J. Spoth
Town Clerk

Meeting: 08/23/21 03:00 PM
Department: Emergency Services
Initiated by: **Jim Zymanek**
Co-Sponsored by:

DOC ID: 24703 **RESOLUTION 2021-771** **ADOPTED**

State of Emergency Due to Covid-19

Suspension to Town Board Agenda Item August 23, 2021

TO: **Amherst Town Board**
FROM: **James J. Zymanek, Director of Emergency Services**
DATE: **August 23, 2021**
RE: **State of Emergency due to Covid-19**

Whereas, the Town of Amherst has been continually monitoring the impact of the Covid-19 pandemic and its impact on our employees, business community and residents; and

Whereas, the region, which includes the Town of Amherst, has returned to the CDC's "high risk" category of community COVID-19 transmission; and

Whereas, the Town of Amherst needs to be able to authorize the use of Town facilities to coordinate with NYS and Erie County Health testing and vaccination programs, issuance of safety and health guidelines recommended by health professionals; and

Whereas, the Town of Amherst anticipates unexpected costs related to Covid response or to pursue NYS and Federal funding for programs to support our Covid response and recovery programs; and

Whereas, the Town of Amherst would need to take action to direct town departments to take whatever steps necessary to protect life and property, public infrastructure, and other such emergency assistance as deemed necessary; and

Now, Therefore Be It Resolved that the Amherst Town Board supports the Town Supervisor's return to a "Declaration of a State of Emergency".

8/23/2021
A motion to approve was made by Deputy Supervisor Berger, seconded by Councilmember Bucki and unanimously approved 5-0.

FINANCIAL IMPACT:

.

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

Town of Amherst

Office of the Supervisor

LOCAL DECLARATION OF "A STATE OF EMERGENCY"

"A State of Emergency" is herewith declared in the Town of Amherst, County of Erie, in the State of New York, for the period beginning August 23, 2021.

A State of Emergency has been declared due to the region having entered into the Centers of Disease Control "High Risk" transmission category along with the evolving challenges to protect the public health and safety related to the spread of COVID-19 affecting all of the Town of Amherst. Such conditions threaten or imperil the public safety of the citizens of the Town of Amherst.

As the Supervisor of the Town of Amherst, I, Brian J. Kulpa have exercised the authority given to me under Article 2B, Section 24 of the New York State Executive Law to preserve public safety and I hereby render all required and available assistance vital to the security, well-being, and health of the citizens of the Town.

I hereby direct all departments to take whatever steps necessary to protect life and property, public infrastructure, and other such emergency assistance as deemed necessary or as otherwise outlined in my emergency orders as of this date, August 23, 2021.

Brian J. Kulpa, Town Supervisor

Attachment: SUSPENSION Local Declaration of State of Emergency 20210823 (RES-2021-771 : State of Emergency Due to Covid-19)

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

Francina J. Spoth
Town Clerk

Meeting: 08/23/21 03:00 PM
Department: Councilmembers
DOC ID: 24696

COMMUNICATION 2021-92

APPROVE AS AMENDED

Request to Schedule Public Hearings

Suspension to Town Board Agenda Item ~~April~~ August 23, 2021

TO: **Amherst Town Board**
FROM: **Sean W. Hopkins, Partner, Hopkins, Sorgi & McCarthy PLLC**
DATE: **~~April~~ August 23, 2021**
RE: **Request to Schedule Public Hearing - Northtown Automotive Companies; Site A of Muir Woods**

See the letters attached with the details of the Public Hearing requests of Northtown Automotive Companies and Sawyers Landing LLC.

8/23/2021
A motion to approve was made by Deputy Supervisor Berger and seconded by Councilmember Bucki. A motion to amend the date of the Suspension was then made by Councilmember Bucki, seconded by Deputy Supervisor Berger and unanimously approved 5-0. A motion to approve as amended was made by Supervisor Kulpa, seconded by Councilmember Lavin and unanimously approved 5-0.

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

August 21, 2021

Kathleen Cooper, Deputy Town Clerk
Town of Amherst Town Clerk's Office
5583 Main Street
Williamsville, NY 14221

Re: Application to Amend Findings Statement [Z-2002-09D]
Proposed Mixed Use Project - Site A of Muir Woods
Portion of 1081 North French Road
Applicant/Project Sponsor: Sawyers Landing LLC
File No. 10160.6

This letter is being submitted on behalf of Sawyers Landing LLC ("Project Sponsor") to request that the Town Board adopt a resolution during its meeting on Monday, August 23rd at 3:00 p.m. for the purpose of scheduling a public hearing regarding the pending request to amend the Findings Statement issued by the Town Board pursuant to the State Environmental Quality Review Act ("SEQRA") on October 19, 2020 for the proposed use of Site "A" as a mixed-use project.

The Project Sponsor is requesting that the public hearing be scheduled for the meeting of the Town Board to be held on Monday, September 27th at 7:00 p.m.

The Planning Board held a public hearing on the requested Amended Findings Statement during its meeting on Thursday, August 19th and issued a favorable recommendation to the Town Board by a unanimous vote.

Please feel free to contact me at 510-4338 or via e-mail at shopkins@hsmlegal.com with any questions regarding this letter.

Thank you for your anticipated cooperation.

Sincerely,

HOPKINS SORGI & MCCARTHY PLLC

Sean W. Hopkins, Esq.

cc: Daniel J. Ulatowski, AICP, Assistant Planning Director/ZEO [Via e-mail]
William Severn, Severyn Development [Via mail]
Adam Faeth, Esq., Ciminelli Real Estate Corporation [Via mail]
Christopher Wood, P.E., Carmina Wood Morris DPC [Via e-mail]
David Sutton, R.A., Sutton Architecture PLLC [Via e-mail]

HOPKINS SORGI & MCCARTHY PLLC
Attorneys at Law
5500 Main Street, Suite 343 • Williamsville, New York 14221
Direct: 716-510-4338 • E-mail: shopkins@hsmlegal.com • www.hsr-legal.com

Attachment: Cooper-Ltr-1081 N French - Sawyers Landing Schedule Public Hearing-08-21-21 (COM-2021-92 : Request to Schedule Public

August 21, 2021

Kathleen Cooper, Deputy Town Clerk
Town of Amherst Town Clerk's Office
5583 Main Street
Williamsville, NY 14221

Re: Request for Relief of Zoning Condition [Z-2004-26A]
3800 Sheridan Drive – Town of Amherst
Applicant: Northtown Automotive Companies
File No. 10092.8

This letter is being submitted on behalf of Northtown Automotive Companies "(Project Sponsor") to request that the Town Board adopt a resolution during its meeting on Monday, August 23rd at 3:00 p.m. for the purpose of scheduling a public hearing regarding the pending request for Relief of a Zoning Condition being sought in connection with the proposed automotive dealership project at 3800 Sheridan Drive.

The Project Sponsor is requesting that the public hearing be scheduled for the meeting of the Town Board to be held on Monday, September 13th at 7:00 p.m.

The Planning Board held a public hearing on the requested for Relief of a Zoning Condition during its meeting on Thursday, August 19th and issued a favorable recommendation to the Town Board by a unanimous vote.

Please feel free to contact me at 510-4338 or via e-mail at shopkins@hsmlegal.com with any questions regarding this letter.

Thank you for your anticipated cooperation.

Sincerely,

HOPKINS SORGI & MCCARTHY PLLC

Sean W. Hopkins, Esq.

cc: Daniel J. Ulatowski, AICP, Assistant Planning Director/ZEO [Via e-mail]
Larry Schreiber, Northtown Automotive Companies [Via mail]
Jason Burford, GPI Engineering [Via e-mail]

HOPKINS SORGI & MCCARTHY PLLC
Attorneys at Law
5500 Main Street, Suite 343 • Williamsville, New York 14221
Direct: 716-510-4338 • E-mail: shopkins@hsmlegal.com • www.hsr-legal.com

Attachment: Cooper-Ltr-3800 Sheridan Northtown Schedule Public Hearing-08-21-21 (COM-2021-92 : Request to Schedule Public Hearings)

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

Francina J. Spoth
Town Clerk

Meeting: 08/23/21 03:00 PM
Department: Town Attorney
Initiated by: **Stanley J. Sliwa**
Co-Sponsored by:

DOC ID: 24650 **RESOLUTION 2021-723** **ADOPTED AS AMENDED**

Oxford Amherst Preservation HDFC - PILOT - CRS #2818

AGENDA ITEM - AUGUST 23rd, 2021

TO: **Town Board**

FROM: **Stanley J. Sliwa, Esq.**
Town Attorney

DATE: **August 18, 2021**

RE: **Oxford Amherst Preservation Housing Development Fund Company, Inc. and Oxford Amherst Preservation, L.P. Request for a PILOT Agreement pursuant to Section 577 of Article 11 of Private Housing Finance Law - CRS #2818**

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

WHEREAS, Oxford Amherst Preservation Housing Development Fund Company, Inc. ("HDFC"), a New York not-for-profit corporation organized pursuant to Article 11 of the New York State Private Housing Finance Law ("PHFL") with an address of 200 John James Audubon Parkway, Suite 300, Amherst, New York 14228 and Oxford Amherst Preservation, L.P. ("Partnership"), a New York Limited Partnership with an address of 200 John James Audubon Parkway, Suite 300, Amherst, New York 14228 have requested that the Town of Amherst Town Board enter into a PILOT Agreement for 316 affordable living apartments ("Project") located on Allenhurst Road, Amherst, New York 14226, bearing SBL #67.71-4-22 (the "Property"); and

WHEREAS, the HDFC is, or will become, the legal or record owner, and the Partnership is or will become the beneficial and equitable owner, of an affordable housing project consisting of approximately 316 affordable living apartments located in the Town of Amherst, Erie County, New York, located on Allenhurst Road; and

WHEREAS, the HDFC is a corporation established pursuant to Section 402 of the Not-For-Profit Corporation Law of the State of New York and Article 11 of the Private Housing Finance Law of the State of New York; and

WHEREAS, the HDFC is the general partner of the Partnership; and

WHEREAS, the HDFC and the Partnership have each been formed for the purpose of providing residential rental accommodations for persons of low income; and

WHEREAS, the Project is intended to be **affordable to low** income households, and **affordability** of the Project for residential use by low income persons shall remain

consistent throughout the duration of this Agreement; and

WHEREAS, the HDFC is a "housing development fund company" as the term is defined in Section 572 of the PHFL; and

WHEREAS, pursuant to section 577 of the PHFL, the local legislative body of a municipality may exempt the real property of a housing project of a housing development fund company from local and municipal taxes, including school taxes, other than assessments for local improvements, to the extent of all or a part of the value of the property included in the completed project; and

WHEREAS, it is the intention of the parties that the Partnership, for itself and the HDFC, shall make annual payments to the Town of Amherst (Town), the County of Erie (County) and the Amherst School District (School District) for the term of this Agreement in lieu of real property taxes that would otherwise be assessed on the Project and the Property; and

WHEREAS, the Town, the County and the School District wish to grant the Partnership and the HDFC such relief as is permitted under Section 577 of the PHFL subject to the terms and conditions of this Agreement; and

WHEREAS, the Town recognizes that the Partnership and the HDFC may enter into an educational contribution agreement or similar type agreement with the School District whereby the Partnership and the HDFC provide financial support directly to the School District and upon the execution of such an agreement, the Town, per the direction of the School District, agrees to reduce the payments in lieu of property taxes to be otherwise provided to the School District under this Agreement as so provided for herein; and

WHEREAS, the HDFC and the Partnership have requested that the Town Board approve a PILOT Agreement with a term of ~~twenty (20)~~ fifteen (15) years for the Property; and

WHEREAS, the content and form of the proposed PILOT Agreement have been reviewed and approved by the Town Assessor's Office and the Town Attorney's Office and a copy of the approved form of the proposed PILOT Agreement is attached hereto; and

WHEREAS, the PILOT Agreement must be approved by Erie County and the Amherst Central School District;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board approves the requested PILOT Agreement for the Project subject to the three (3) conditions set forth below and the Supervisor of the Town of Amherst is hereby authorized to sign the PILOT Agreement between Oxford Amherst Preservation Housing Development Fund Company, Inc. and Oxford Amherst Preservation, LP, the Town of Amherst, Erie County and the Amherst Central School District upon satisfaction of the following three (3) conditions:

1. The PILOT Agreement is subject to review and approval by Erie County;

2. The PILOT Agreement is subject to review and approval by the Amherst Central

School District; and

3. Approval of the PILOT Agreement is subject to successful completion of the Town's contract routing system.

SJS:lcg
c: Kathy Cooper, Deputy Town Clerk
(**Agenda Item : August 23rd, 2021,** *w/attachment*)
David Marrano, Town Assessor (*w/attachment*)

8/17/2021

After presentations related to the Affordable Housing Rehab Projects by Deep Katdare (Related Affordable), Leonard Skrill (NYS Homes and Community Renewal Financing), Laurie Stillwell (Amherst Community Development), and Dave Marrano (Amherst Town Assessor), Supervisor Kulpa motioned to adjourn until August 23rd. The motion was seconded by Councilmember Bucki and unanimously approved 4-0.

8/23/2021

A motion to approve was made by Supervisor Kulpa and seconded by Deputy Supervisor Berger. A motion was then made by Supervisor Kulpa to amend, seconded by Deputy Supervisor Berger and unanimously approved 5-0. Amendment changes the term from twenty (20) years to fifteen (15) years as shown in the resolution and in the revised attachment.

A motion to approve as amended was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

FINANCIAL IMPACT:

PILOT

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

AGREEMENT FOR PAYMENT IN LIEU OF TAXES

Between and Among

OXFORD AMHERST PRESERVATION HOUSING DEVELOPMENT FUND COMPANY, INC.
AND
OXFORD AMHERST PRESERVATION, L.P.

And

TOWN OF AMHERST, NEW YORK
COUNTY OF ERIE, NEW YORK
AMHERST CENTRAL SCHOOL DISTRICT, NEW YORK

THIS AGREEMENT FOR PAYMENT IN LIEU OF TAXES (this "***Agreement***") is made and entered into as of _____ ___, 2021 by and between **OXFORD AMHERST PRESERVATION HOUSING DEVELOPMENT FUND COMPANY, INC.**, a New York not-for-profit corporation organized pursuant to Article XI of the Private Housing Finance Law with an address of c/o Related Companies, 30 Hudson Yards, 72nd Floor, New York, New York 10001 (the "***HDFC***"), and **OXFORD AMHERST PRESERVATION, L.P.,** a New York limited partnership with an address of 200 John James Audubon Parkway, Suite 300, Amherst, NY 14228 (the "***Partnership***"), the **TOWN OF AMHERST, NEW YORK**, a municipal corporation with an address of 5583 Main Street, Williamsville, New York 14221 (the "***Town***"), the **COUNTY OF ERIE**, a municipal corporation with an address of 95 Franklin Street, Buffalo, New York 14202 (the "***County***") and the **AMHERST CENTRAL SCHOOL DISTRICT**, a school district with an address of 55 Kings Highway, Amherst, NY 14226 (the "***School District***"). The HDFC, Partnership, Town, County, and School District are each a "***Party***" and are collectively referred to herein as the "***Parties***".

WHEREAS, the HDFC, is, or will become, the legal or record owner, and the Partnership is or will become the beneficial and equitable owner, of an affordable housing project consisting of approximately 316 affordable residential apartments (the "***Project***") located in the Town of Amherst, Erie County, New York, located at 42 Oxford Ave, Amherst, NY 14226 (Tax Map No. 67.71-4-22) (the "***Property***"); and

WHEREAS, the HDFC is a corporation established pursuant to Section 402 of the Not-For-Profit Corporation Law of the State of New York and Article XI of the Private Housing Finance Law of the State of New York (the "PHFL"); and

WHEREAS, the HDFC and the Partnership have each been formed for the purpose of providing residential rental accommodations for persons of low-income at the Project; and

WHEREAS, the Project is intended to be affordable to low income households, and affordability of the Project for residential use by low income persons shall remain consistent throughout the duration of this Agreement; and

Attachment: Oxford.PILOT (RES-2021-723 : Oxford Amherst Preservation HDFC - PILOT - CRS #2818)

WHEREAS, the HDFC is a "housing development fund company" as the term is defined in Section 572 of the PHFL; and

WHEREAS, pursuant to section 577 of the PHFL, the local legislative body of a municipality may exempt the real property of a housing project of a housing development fund company from local and municipal taxes, including school taxes, other than assessments for local improvements, to the extent of all or a part of the value of the property included in the completed project; and

WHEREAS, it is the intention of the Parties that the Partnership, for itself and the HDFC, shall make annual payments to the Town, the County and the School District for the term of this Agreement in lieu of real property taxes that would otherwise be assessed on the Project and the Property; and

WHEREAS, the Town, the County and the School District wish to grant the Partnership and the HDFC such relief as is permitted under Section 577 of the PHFL subject to the terms and conditions of this Agreement; and

WHEREAS, the Town, by Resolution Number _____ of the Town Board, adopted on _____, approved such an exemption and authorized this Agreement to be executed on behalf of the Town by the Town Supervisor; and

WHEREAS, the County, by Resolution Number _____ of the Erie County Legislature, adopted on _____ __, 20__ approved such an exemption and authorized this Agreement to be executed on behalf of the County; and

WHEREAS, the School District, by Resolution Number _____ of the School Board, adopted on _____ ___, 20__ approved such an exemption and authorized this Agreement to be executed on behalf of the School District; and

WHEREAS, the Town recognizes that the Partnership and the HDFC may enter into an educational contribution agreement or similar type agreement with the School District whereby the Partnership and the HDFC provide financial support directly to the School District, and upon the execution of such an agreement the Town, per the direction of the School District, agrees to reduce the payments in lieu of property taxes to be otherwise provided to the School District under this Agreement as so provided for herein.

NOW THEREFORE, in exchange for the mutual commitments set forth herein and other good and valuable consideration, the Parties agree as follows:

1. **Tax Exemption.** The Parties agree that the Project qualifies for a real property tax exemption pursuant to section 577 of the PHFL and the Town hereby exempts from local and municipal taxes, including school taxes, other than assessments for local improvements, one hundred percent (100%) of the value of the Project and the Property, including both land and improvements. "***Local and Municipal Taxes***" shall mean any and all real estate taxes levied by

Attachment: Oxford.PILOT (RES-2021-723 : Oxford Amherst Preservation HDFC - PILOT - CRS #2818)

the County, the Town, the School District (collectively, the "***Taxing Jurisdictions***"). The Parties understand that the exemption extended pursuant to section 577 of the PHFL and this Agreement does not include exemption from special assessments, special ad valorem levies, improvement district charges or similar tax equivalents. This Agreement shall not limit or restrict the HDFC's or the Partnership's right to apply for or obtain any other tax exemption to which it might be entitled upon the expiration of this Agreement.

2. **Obligation of the Partnership, for itself and the HDFC, to Make Payments in Lieu of Taxes.** So long as the aforementioned exemption remains in place, the Partnership, for itself and the HDFC, shall make annual payments in lieu of taxes ("***PILOT Payments***") to the Town in the amounts set forth in ***Schedule "A"***, as attached hereto and made a part hereof, in satisfaction of all real property taxes. The PILOT Payments shall be required to be made to the Taxing Jurisdictions following the March 1, 2022 tax status date commencing with the 2023 tax fiscal year of the Town, the 2023 tax fiscal year of the County, and the 2022-2023 tax fiscal year of the School District. The Parties agree that no refund of any real property taxes levied upon the Property prior to the 2023 tax fiscal year of the Town, the 2023 tax fiscal year of the County, and the 2022-2023 tax fiscal year of the School District shall be sought or claimed on account of the exemption made effective pursuant to this Agreement.

3. **Requirements of the Partnership and the HDFC.**

a. The tax exemption provided by this Agreement will continue for a term of fifteen (15) years, unless sooner terminated by law or mutual agreement upon prior written consent of the Parties, provided that the Partnership and the HDFC continue to operate the Project and the Property for persons of low income in conformance with Article XI of the PHFL.

b. The HDFC and the Partnership shall provide the Town such information concerning their operations and the operations of the Project in form and substance as may from time to time be reasonably requested. Such information shall include, but shall not be limited to, general certificates of the HDFC and the Partnership and the annual financial statements of the HDFC and the Partnership from the calendar year immediately preceding the fiscal year in which payments are due.

c. The HDFC and the Partnership shall permit the Comptroller of the Town to audit their books and records within fourteen (14) days after receiving a written request from the Town.

4. **Taxing Authorities and Amounts.**

a. The Partnership, for itself and the HDFC, shall make annual PILOT Payments as follows:

i. A fixed annual PILOT Payment to the Town in the amounts as stated in ***Schedule "A"***, as attached hereto and made a part hereof, in satisfaction of all real property taxes.

Attachment: Oxford.PILOT (RES-2021-723 : Oxford Amherst Preservation HDFC - PILOT - CRS #2818)

ii. In addition to the payments set forth in Schedule A, the Partnership, for itself and the HDFC, will be responsible for paying all special assessments, special ad valorem levies, improvement district charges or similar tax equivalents as permitted by law.

iii. At the expiration of the fifteen (15) year term, this Agreement will cease to have any effect on the real property taxes due with respect to the Project and the Property will be taxed in accordance with applicable law unless otherwise extended or modified pursuant to a separate written agreement

b. The PILOT Payments shall be payable annually. Each such PILOT Payment to the Town shall be made on or before January 31 of that year, or such payment shall be considered delinquent, and such PILOT Payments shall be delivered to the Town of Amherst, c/o Town Clerk/Tax Receiver, 5583 Main Street, Williamsville, New York 14221, or such other place as may be designated from time to time by the Town. Each such PILOT Payment to the County shall be made on or before January 31 of that year, or such payment shall be considered delinquent, and such PILOT Payment shall be delivered to County of Erie, c/o Director of Real Property Tax Services, The Edward A. Rath County Office Building, Room 100, 95 Franklin Street, Buffalo, New York 14202, or such other place as may be designated from time to time by the County. Each such PILOT Payment to the School District shall be made on or before September 30 of that year, or such payment shall be considered delinquent, and such PILOT Payment shall be delivered to the Amherst Central School District, Attention Assistant Superintendent of Business & Finance, 55 Kings Highway, Amherst, NY 14226.

c. The Partnership shall prepare, or cause to be prepared, all documents and forms required under this Agreement.

d. Notwithstanding the Partnership's and the HDFC's obligations under this Agreement, and the Town's obligations as so described within this Agreement, should the Partnership and the HDFC enter into an educational contribution or other similar type agreement whereby the Partnership and the HDFC provide financial support directly to the School District (the "Education Contribution"), upon (i) submission of such agreement to the Town, and (ii) written notice of same to be provided to the Town specifically describing the terms and the amount of the Education Contribution, the PILOT Payment obligations thereafter to be made to the School District under this Agreement and Schedule A shall be reduced by an amount equal to the Education Contribution to be provided pursuant to such educational contribution agreement or other similar type agreement, provided that such reduction shall not exceed the School District's respective share of the PILOT Payment as set forth in Schedule A. Such reduction shall become effective upon the Town's next taxable status date after notice of at least (30) days is provided by the School District that an agreement for the Education Contribution has been entered into.

5. **Effect of Fulfillment of the Requirement.** Once having paid the amounts required by this Agreement when due, the Partnership and the HDFC shall not be required to pay any real property taxes for which such PILOT Payments have been made, except special assessments,

Attachment: Oxford.PILOT (RES-2021-723 : Oxford Amherst Preservation HDFC - PILOT - CRS #2818)

special ad valorem levies, improvement district charges or similar tax equivalents as permitted by law.

6. **Defaults in Payment in Lieu of Taxes.** In the event the Partnership, for itself and the HDFC, fails to make PILOT Payments as herein required when due, the amount or amounts not so paid shall be a lien on the Project and the Property in the same manner that delinquent real property taxes would be and continue as an obligation of the Partnership and the HDFC until fully paid. In addition, the Partnership, for itself and the HDFC, shall pay the appropriate taxing authority's or authorities' interest and penalties on the unpaid amount or amounts accruing at the same times and at the interest rates as if such amounts were delinquent real property taxes. In addition to any other remedies available to them for the collection of delinquent real property taxes, including, without limitation, in rem proceedings, the Town, the County and the School District may exercise any other remedies available, and such remedies shall be cumulative and the exercise of any remedy shall not be an action of remedies under law.

7. **Events of Default and Termination of Tax Exemption.**

a. An event of default (***"Event of Default"***) shall be defined as (l) failure of the Partnership, for itself and the HDFC, to make any payment required under this Agreement when due, (2) the Partnership's and/or HDFC's failure to provide any material notice as required by this Agreement to the Town and/or the Taxing Jurisdictions, (3) the HDFC's failure to qualify, or continue to qualify, for a real property tax exemption for the Project in accordance with section 577 of the PHFL, or (4) the transfer of title or beneficial ownership of any portion of the Project or the Property, without the consent of the Town except as otherwise set forth in Section 15 below.

b. Upon the occurrence of an Event of Default the Partnership and/or HDFC shall have ten (10) days after the receipt of written notice from the Town regarding such default to cure such default. In the event the Partnership and/or HDFC has not cured such default or defaults within such ten (10) day time period, then the exemption from real property taxes described herein shall be deemed to have been terminated as of the taxable status date of the Town's immediately preceding fiscal year.

c. Upon a termination of the exemption from real property taxes due to an Event of Default, the Partnership and the HDFC shall be liable for real property taxes on a pro-rata basis from and after the Town's taxable status date immediately preceding the Event of Default and the statutory lien applicable to such real property taxes shall be deemed in effect as of the lien date normally applicable to such year's real property taxes, unless a separate basis for a real property tax exemption then exists for the benefit of the HDFC.

d. Upon an Event of Default, the Partnership and HDFC shall, upon demand, pay to the Town all reasonable attorney's fees and related costs incurred in securing adherence to the terms of this Agreement.

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e. Any termination of the exemption from real property taxes due to an Event of Default shall not void the liability of the HDFC or the Partnership for any unpaid PILOT Payments required by this Agreement prior to such termination.

f. Upon an Event of Default, so long as the New York State Housing Finance Agency ("HFA"), its nominee or designee (an "HFA Party") holds a mortgage on the Property, the Town agrees to deliver a copy the written notice set forth in paragraph (b) above to HFA and HFA will have the right, but not the obligation, to cure such violation in the same timeframe given to the HDFC and the Partnership described above.

g. The Town hereby agrees that any cure of any Event of Default hereunder made or tendered by Wells Fargo Affordable Housing Community Development Corporation or its affiliate, as the Investor Limited Partner of the Partnership (the "Investor Limited Partner") shall be deemed to be cured by the Partnership, and shall be accepted or rejected by the Issuer on the same basis as if made or tendered by the Company. The Investor Limited Partner shall not be obligated to cure any Event of Default.

8. **Waiver.** No waiver or modification of this Agreement shall be valid unless in writing and duly executed by the Parties, and no evidence of any waiver or modification shall be offered or received in evidence in any proceeding, arbitration, or litigation arising out of or affecting this Agreement, or the rights or obligations of any Party hereunder, unless such waiver or modification is in writing, duly executed as aforesaid. No failure or delay on the part of the Town to exercise any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of such right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy.

9. **Modification.** Neither this Agreement nor any provision hereof may be amended, modified, waived, discharged or terminated, except by an instrument in writing duly executed and agreed to by the Parties hereto.

10. **Counterparts.** This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. The exchange of copies of this Agreement and of signature pages by facsimile or portable document format (PDF) transmission shall constitute effective execution and delivery of this Agreement as to the parties hereto and may be used in lieu of the original Agreement and signature pages for all purposes.

11. **Notices.** All notices, demands, requests, consents or other communications required or permitted to be given or made under the PILOT shall be in writing and addressed to the following:

If to the Town:
Town Attorney's Office
Attn: Stanley J. Sliwa, Esq.
Town of Amherst
5583 Main Street
Williamsville, NY 14221

Attachment: Oxford.PILOT (RES-2021-723 : Oxford Amherst Preservation HDFC - PILOT - CRS #2818)

Town Supervisor
Town of Amherst
5583 Main Street
Williamsville, NY 14221

Town Assessor
Town of Amherst
5583 Main Street
Williamsville, NY 14221

If to the HDFC or the Partnership:
Oxford Amherst Preservation, L.P.
200 John James Audubon Parkway
Suite 300
Amherst, NY 14228

With a copy to:
c/o Related Companies
30 Hudson Yards, 72nd Floor
New York, New York 10001
Attention: Matthew Finkle

With a copy to:
New York State Housing Finance Agency
641 Lexington Avenue
New York, New York 10022

With a copy to:
Wells Fargo Affordable Housing Community Development Corporation
MAC D1053-170
301 South College Street, 17th Floor
Charlotte, NC 28288
Attn: Director of Tax Credit Asset Management

If to Erie County:
Erie County Attorney's Office
95 Franklin Street
Buffalo, New York 14202

If to the School District:
Amherst Central School District
55 Kings Highway, Amherst, NY 14226

12. **Pay Equity.** The Partnership and the HDFC shall comply with Erie County Executive Order 13 (2014) and agree to complete the Erie County Equal Pay Certificate attached hereto as ***Schedule "B"*** and made a part hereof. The Partnership and HDFC 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 Partnership and the HDFC, their offices and facilities, for the purpose

Attachment: Oxford.PILOT (RES-2021-723 : Oxford Amherst Preservation HDFC - PILOT - CRS #2818)

of verifying information supplied in the Erie County Equal Pay Certification and for any other purpose reasonably related to conforming the HDFC's and the Partnership'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 Partnership and/or HDFC are not qualified to participate in future Town contracts.

13. **Binding Effect.** This Agreement shall inure to the benefit of and shall be binding upon the Parties. Each of the Parties represents and warrants that the execution, delivery and performance of this Agreement has been duly authorized and does not require any other consent or approval, does not violate any article, by-law or organizational document or any law, rule, regulation, order, writ, judgment or decree by which it is bound, and will not result in or constitute a default under any indenture, credit agreement, or any other agreement or instrument to which any of them is a party. Each Party represents that this Agreement shall constitute the legal, valid and binding agreement of the Parties enforceable in accordance with its terms.

14. **Amendments.** This Agreement may not be amended, changed, modified, altered or terminated without the prior written consent of each of the Parties hereto.

15. **Assignments.**

a. This Agreement may not be assigned in whole or in part without the prior written consent of the Town upon application made at least forty-five (45) days prior to a regularly scheduled meeting of the Town Board. A transfer in excess of fifty percent (50%) of the equity voting interests of the HDFC and/or the Partnership (including all parent and subsidiary companies and including the ultimate taxpayer(s) owning or controlling the Project and the Property) shall be deemed an assignment and require the prior written consent of the Town; provided, however, that any transfer between existing holders of ownership interests in the Partnership or the HDFC shall not require prior written consent of the Town even if such transfer would be in excess of fifty percent (50%) of the equity voting interests in the HDFC and/or Partnership.. Any assignment, if and once approved, shall be on the following conditions, as of the time of such assignment: (i) no assignment shall relieve the HDFC or the Partnership Company from primary liability for any of their obligations hereunder; (ii) the assignee shall assume the obligations of the HDFC and/or the Partnership hereunder to the extent of the interest so assigned; (iii) the HDFC and/or the Partnership shall, within ten (10) days after the delivery thereof, furnish or cause to be furnished to the Town a true and complete copy of such assignment and the instrument of assumption and related documents associated with Approved Assignment); (iv) the Project shall continue to be operated in compliance with Article XI of the PHFL; and (v) if the Town shall so request, as of the purported effective date of any such assignment, the HDFC and/or the Partnership at its or their sole cost shall furnish to the Town an opinion, in form and substance satisfactory to the Town as to items (i), (ii) and (iv) above. Any such assignment shall be subject to the review and approval by the Town and approval as to form by the Town Attorney with any such cost to be paid by the HDFC and/or

Attachment: Oxford.PILOT (RES-2021-723 : Oxford Amherst Preservation HDFC - PILOT - CRS #2818)

the Partnership, including reasonable attorneys' fees, and shall contain such terms and conditions as reasonably required by the Town and its counsel.

b. Notwithstanding anything to the contrary contained in this Section 15 or elsewhere in this agreement, the prohibition on Transfer described above shall not be construed to prohibit the transfer of title to the Project or any portion thereof to an HFA Party as a result of a foreclosure or the acceptance of a deed in lieu of foreclosure or comparable conversion of the loan held by HFA. During any period of time that an HFA Party owns the Project or if any subsequent owner acquires the Project from a HFA Party, neither HFA, nor such HFA Party, nor such subsequent owner will be liable or obligated for the breach or default of any obligation of any prior owner (including the Partnership and/or HDFC) under this Agreement, including, but not limited to, any payment or indemnification obligation, in which case the owner of the Project at the time the default occurred shall remain liable for any and all damages occasioned thereby even after such entity ceases to be the owner (and, in such event, any party seeking to collect such damages shall have no recourse and shall have no right to levy against, or otherwise collect on, any judgment from the Project), provided that such defaulting owner shall bear no liability under this Agreement for any damages occasioned by any subsequent default under this Agreement occurring after such entity ceases to be the owner of the Project.

16. **Applicable Law.** This Agreement shall be governed, construed and enforced in accordance with the laws of the State of New York for contracts to be wholly performed therein.

17. **Section Headings Not Controlling.** The headings of the several sections in this Agreement have been prepared for convenience of reference only and shall not control, affect the meaning of or be taken as an interpretation of any provision of this Agreement.

18. **Severability.** If any provision of this Agreement or its application is held invalid or unenforceable to any extent, the remainder of this Agreement shall remain in full force and effect and the application of that provision to other persons or circumstances shall be enforced to the greatest extent permitted by law.

19. **Entire agreement.** This Agreement constitutes the entire agreement of the Parties relating to PILOT Payments with respect to the Project and the Property and supersedes all prior contracts and/or agreements, whether oral or written, with respect thereto.

20. **Authority To Execute.** Any individual executing this Agreement on behalf of a Party represents and warrants that he or she is duly authorized to execute and deliver this Agreement on behalf of such Party, and this Agreement is binding upon such Party in accordance with its terms.

{Rest of Page Left Intentionally Blank}

Attachment: Oxford.PILOT (RES-2021-723 : Oxford Amherst Preservation HDFC - PILOT - CRS #2818)

(Signature Page for Agreement For Payment In Lieu Of Taxes)

IN WITNESS WHEREOF, the Town, County, School District, Partnership, and HDFC have duly executed this Agreement as of the day and year first above written.

COUNTY OF ERIE

BY: _____
Mark C. Poloncarz, County Executive
Maria R. Whyte, Deputy County Executive

Date: _____

TOWN OF AMHERST

BY: _____
Brian J. Kulpa, Supervisor

Date: _____

Approved as to content
for Erie County:

BY: _____
Daniel Castle, Interim Commissioner
Department of Planning
& Economic Development

Date: _____

Approved as to content for
the Town of Amherst:

BY: _____
David Marrano, Assessor

Date: _____

Approved as to form for
Erie County:

BY: _____
Kristen M. Walder, Esq.
Assistant County Attorney

Date: _____

Approved as to form for the
Town of Amherst:

BY: _____
Stanley J. Sliwa, Esq.,
Town Attorney

Date: _____

Attachment: Oxford.PILOT (RES-2021-723 : Oxford Amherst Preservation HDFC - PILOT - CRS #2818)

(Signature Page for Agreement For Payment In Lieu Of Taxes)

AMHERST CENTRAL SCHOOL DISTRICT

By: _____
Name:
Title:

Date: _____

OXFORD AMHERST PRESERVATION HOUSING DEVELOPMENT FUND COMPANY, INC., a New York not-for-profit corporation

By: _____
Matthew Finkle, Vice President

Date: _____

OXFORD AMHERST PRESERVATION, L.P., a New York limited partnership

By: Oxford Amherst MJP GP, LLC, a New York limited liability company, its co-general partner

By: _____
Victor L. Peterson III, President

Date: _____

By: Oxford Amherst Related GP, LLC, a New York limited liability company, its co-general partner

By: _____
Matthew Finkle, Vice President

Date: _____

Attachment: Oxford.PILOT (RES-2021-723 : Oxford Amherst Preservation HDFC - PILOT - CRS #2818)

SCHEDULE A

OXFORD PILOT PAYMENTS

Tax Year	Total PILOT	Town	School	County
1	237,000	23,700	165,900	47,400
2	242,925	24,293	170,048	48,585
3	248,998	24,900	174,299	49,800
4	255,223	25,522	178,656	51,045
5	261,604	26,160	183,123	52,321
6	268,144	26,814	187,701	53,629
7	274,847	27,485	192,393	54,969
8	281,719	28,172	197,203	56,344
9	288,761	28,876	202,133	57,752
10	295,981	29,598	207,186	59,196
11	303,380	30,338	212,366	60,676
12	310,965	31,096	217,675	62,193
13	318,739	31,874	223,117	63,748
14	326,707	32,671	228,695	65,341
15	334,875	33,487	234,412	66,975
Total	**4,249,867**	**424,987**	**2,974,907**	**849,973**

Attachment: Oxford.PILOT (RES-2021-723 : Oxford Amherst Preservation HDFC - PILOT - CRS #2818)

SCHEDULE B

ERIE COUNTY EQUAL PAY CERTIFICATE

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 _____[title of corporate office/position] of _____ [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____

_____

Attachment: Oxford.PILOT (RES-2021-723 : Oxford Amherst Preservation HDFC - PILOT - CRS #2818)

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

Francina J. Spoth
Town Clerk

Meeting: 08/23/21 03:00 PM
Department: Town Attorney
Initiated by: **Stanley J. Sliwa**
Co-Sponsored by:

DOC ID: 24651 **RESOLUTION 2021-724** **ADOPTED AS AMENDED**

Princeton Amherst Preservation HDFC - PILOT Agreement - CRS #2819

AGENDA ITEM - AUGUST 23rd, 2021

TO: **Town Board**

FROM: **Stanley J. Sliwa, Esq., Town Attorney**

DATE: **August 18, 2021**

RE: **Princeton Amherst Preservation Housing Development Fund Company, Inc. and Princeton Amherst Preservation, LP - Request for a PILOT Agreement Pursuant to Section 577 of Article 11 of Private Housing Finance Law - CRS #2819**

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

WHEREAS, Princeton Amherst Preservation Housing Development Fund Company, Inc., ("HDFC") a New York not-for-profit corporation organized pursuant to Article 11 of the New York State Private Housing Finance Law ("PHFL") with an address of 200 John James Audubon Parkway, Suite 300, Amherst, New York 14228, and Princeton Amherst Preservation, L.P., ("Partnership") a New York Limited Partnership with an address of 200 John James Audubon Parkway, Suite 300, Amherst, New York 14228 have requested that the Town of Amherst Town Board enter into a PILOT Agreement for 304 affordable living apartments ("Project") located at 165 Princeton Road, Amherst, New York, 14226, bearing SBL #79.24-1-1 (the "Property"); and

WHEREAS, the HDFC, is, or will become, the legal or record owner, and the Partnership is, or will become, the beneficial and equitable owner of an affordable housing project consisting of approximately 304 affordable living apartments located in the Town of Amherst, Erie County, New York, located at 165 Princeton Road; and

WHEREAS, the HDFC is a corporation established pursuant to Section 402 of the Not-For-Profit Corporation Law of the State of New York and Article 11 of the Private Housing Finance Law of the State of New York; and

WHEREAS, the HDFC is the general partner of the Partnership; and

WHEREAS, the HDFC and the Partnership have each been formed for the purpose of providing residential rental accommodations for persons of low income; and

WHEREAS, the Project is intended to be **affordable to low** income households, and **affordability** of the Project for residential use by low income persons shall remain

consistent throughout the duration of this Agreement; and

WHEREAS, the HDFC is a "housing development fund company" as the term is defined in Section 572 of the PHFL; and

WHEREAS, pursuant to section 577 of the PHFL, the local legislative body of a municipality may exempt the real property of a housing project of a housing development fund company from local and municipal taxes, including school taxes, other than assessments for local improvements, to the extent of all or a part of the value of the property included in the completed project; and

WHEREAS, it is the intention of the parties that the Partnership, for itself and the HDFC, shall make annual payments to the Town of Amherst (Town), the County of Erie (County) and the Amherst School District (School District) for the term of this Agreement in lieu of real property taxes that would otherwise be assessed on the Project and the Property; and

WHEREAS, the Town, the County and the School District wish to grant the Partnership and the HDFC such relief as is permitted under Section 577 of the PHFL subject to the terms and conditions of this Agreement; and

WHEREAS, the Town recognizes that the Partnership and the HDFC may enter into an educational contribution agreement or similar type of agreement with the School District whereby the Partnership and the HDFC provide financial support directly to the School District and upon the execution of such an agreement, the Town, per the direction of the School District, agrees to reduce the payments in lieu of property taxes to be otherwise provided to the School District under this Agreement as so provided for herein; and

WHEREAS, HDFC and the Partnership have requested that the Town Board approve a PILOT Agreement with a term of ~~twenty (20)~~ fifteen (15) years for the Property; and

WHEREAS, the content and form of the proposed PILOT Agreement have been reviewed and approved by the Town Assessor's Office and the Town Attorney's Office and a copy of the approved form of the proposed PILOT Agreement is attached hereto; and

WHEREAS, the PILOT Agreement must be approved by Erie County and the Amherst Central School District;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board approves the requested PILOT Agreement for the Project subject to the three (3) conditions set forth below and the Supervisor of the Town of Amherst is hereby authorized to sign the PILOT Agreement between Princeton Amherst Preservation Housing Development Fund Company, Inc. and Princeton Amherst Preservation, LP, the Town of Amherst, Erie County, and the Amherst Central School District upon satisfaction of the following three (3) conditions:

1. The PILOT Agreement is subject to review and approval by Erie County;

2. The PILOT Agreement is subject to review and approval by the Amherst Central School District; and

3. Approval of the PILOT Agreement is subject to successful completion of the Town's contract routing system.

SJS:lcg
c: Kathy Cooper, Deputy Town Clerk
(**Agenda Item : August 23rd, 2021,** w/attachment)
David Marrano, Town Assessor (w/attachment)

8/17/2021

After presentations related to the Affordable Housing Rehab Projects by Deep Katdare (Related Affordable), Leonard Skrill (NYS Homes and Community Renewal Financing), Laurie Stillwell (Amherst Community Development), and Dave Marrano (Amherst Town Assessor), Supervisor Kulpa motioned to adjourn until August 23rd. The motion was seconded by Councilmember Bucki and unanimously approved 4-0.

8/23/2021

A motion to approve was made by Supervisor Kulpa and seconded by Deputy Supervisor Berger. A motion was then made by Supervisor Kulpa to amend, seconded by Deputy Supervisor Berger and unanimously approved 5-0. Amendment changes the term from twenty (20) years to fifteen (15) years as shown in the resolution and in the revised attachment.

A motion to approve as amended was made by Supervisor Kulpa, seconded by Councilmember Lavin and unanimously approved 5-0.

FINANCIAL IMPACT:

PILOT

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

AGREEMENT FOR PAYMENT IN LIEU OF TAXES

Between and Among

PRINCETON AMHERST PRESERVATION HOUSING DEVELOPMENT FUND COMPANY, INC.
AND
PRINCETON AMHERST PRESERVATION, L.P.

And

TOWN OF AMHERST, NEW YORK
COUNTY OF ERIE, NEW YORK
AMHERST CENTRAL SCHOOL DISTRICT, NEW YORK

THIS AGREEMENT FOR PAYMENT IN LIEU OF TAXES (this "***Agreement***") is made and entered into as of _____ ___, 2021 by and between **PRINCETON AMHERST PRESERVATION HOUSING DEVELOPMENT FUND COMPANY, INC.,** a New York not-for-profit corporation organized pursuant to Article XI of the Private Housing Finance Law with an address of c/o Related Companies, 30 Hudson Yards, 72nd Floor, New York, New York 10001 (the "***HDFC***"), and **PRINCETON AMHERST PRESERVATION, L.P.,** a New York limited partnership with an address of 200 John James Audubon Parkway, Suite 300, Amherst, NY 14228 (the "***Partnership***"), the **TOWN OF AMHERST**, a municipal corporation with an address of 5583 Main Street, Williamsville, New York 14221 (the "***Town***"), the **COUNTY OF ERIE**, a municipal corporation with an address of 95 Franklin Street, Buffalo, New York 14202 (the "***County***") and the **AMHERST CENTRAL SCHOOL DISTRICT**, a school district with an address of 55 Kings Highway, Amherst, NY 14226 (the "***School District***"). The HDFC, Partnership, Town, County, and School District are each a "***Party***" and are collectively referred to herein as the "***Parties***".

WHEREAS, the HDFC, is, or will become, the legal or record owner, and the Partnership is or will become the beneficial and equitable owner, of an affordable housing project consisting of approximately 304 affordable residential apartments (the "***Project***") located in the Town of Amherst, Erie County, New York, located at 165 Princeton Road (Tax Map No. 79.24-1-1) (the "***Property***"); and

WHEREAS, the HDFC is a corporation established pursuant to Section 402 of the Not-For-Profit Corporation Law of the State of New York and Article XI of the Private Housing Finance Law of the State of New York (the "PHFL"); and

WHEREAS, the HDFC and the Partnership have each been formed for the purpose of providing residential rental accommodations for persons of low-income at the Project; and

WHEREAS, the Project is intended to be affordable to low income households, and **affordability** of the Project for residential use by low income persons shall remain consistent throughout the duration of this Agreement; and

Attachment: Princeton.PILOT (RES-2021-724 : Princeton Amherst Preservation HDFC - PILOT - CRS #2819)

WHEREAS, the HDFC is a "housing development fund company" as the term is defined in Section 572 of the PHFL; and

WHEREAS, pursuant to section 577 of the PHFL, the local legislative body of a municipality may exempt the real property of a housing project of a housing development fund company from local and municipal taxes, including school taxes, other than assessments for local improvements, to the extent of all or a part of the value of the property included in the completed project; and

WHEREAS, it is the intention of the Parties that the Partnership, for itself and the HDFC, shall make annual payments to the Town, the County and the School District for the term of this Agreement in lieu of real property taxes that would otherwise be assessed on the Project and the Property; and

WHEREAS, the Town, the County and the School District wish to grant the Partnership and the HDFC such relief as is permitted under Section 577 of the PHFL subject to the terms and conditions of this Agreement; and

WHEREAS, the Town, by Resolution Number _____ of the Town Board, adopted on _____, approved such an exemption and authorized this Agreement to be executed on behalf of the Town by the Town Supervisor; and

WHEREAS, the County, by Resolution Number _____ of the Erie County Legislature, adopted on _____ __, 20__ approved such an exemption and authorized this Agreement to be executed on behalf of the County; and

WHEREAS, the School District, by Resolution Number _____ of the School Board, adopted on _____ ___, 20__ approved such an exemption and authorized this Agreement to be executed on behalf of the School District; and

WHEREAS, the Town recognizes that the Partnership and the HDFC may enter into an educational contribution agreement or similar type of agreement with the School District whereby the Partnership and the HDFC provide financial support directly to the School District, and upon the execution of such an agreement the Town, per the direction of the School District, agrees to reduce the payments in lieu of property taxes to be otherwise provided to the School District under this Agreement as so provided for herein.

NOW THEREFORE, in exchange for the mutual commitments set forth herein and other good and valuable consideration, the Parties agree as follows:

1. **Tax Exemption.** The Parties agree that the Project qualifies for a real property tax exemption pursuant to section 577 of the PHFL and the Town hereby exempts from local and municipal taxes, including school taxes, other than assessments for local improvements, one hundred percent (100%) of the value of the Project and the Property, including both land and improvements. "***Local and Municipal Taxes***" shall mean any and all real estate taxes levied by

Attachment: Princeton.PILOT (RES-2021-724 : Princeton Amherst Preservation HDFC - PILOT - CRS #2819)

the County, the Town, the School District (collectively, the "***Taxing Jurisdictions***"). The Parties understand that the exemption extended pursuant to section 577 of the PHFL and this Agreement does not include exemption from special assessments, special ad valorem levies, improvement district charges or similar tax equivalents. This Agreement shall not limit or restrict the HDFC's or the Partnership's right to apply for or obtain any other tax exemption to which it might be entitled upon the expiration of this Agreement.

2. **Obligation of the Partnership, for itself and the HDFC, to Make Payments in Lieu of Taxes.** So long as the aforementioned exemption remains in place, the Partnership, for itself and the HDFC, shall make annual payments in lieu of taxes ("***PILOT Payments***") to the Town in the amounts set forth in ***Schedule "A"***, as attached hereto and made a part hereof, in satisfaction of all real property taxes. The PILOT Payments shall be required to be made to the Taxing Jurisdictions following the March 1, 2022 tax status date commencing with the 2023 tax fiscal year of the Town, the 2023 tax fiscal year of the County, and the 2022-2023 tax fiscal year of the School District. The Parties agree that no refund of any real property taxes levied upon the Property prior to the 2023 tax fiscal year of the Town, the 2023 tax fiscal year of the County, and the 2022-2023 tax fiscal year of the School District shall be sought or claimed on account of the exemption made effective pursuant to this Agreement.

3. **Requirements of the Partnership and the HDFC.**

a. The tax exemption provided by this Agreement will continue for a term of fifteen (15) years, unless sooner terminated by law or mutual agreement upon prior written consent of the Parties, provided that the Partnership and the HDFC continue to operate the Project and the Property for persons of low income in conformance with Article XI of the PHFL.

b. The HDFC and the Partnership shall provide the Town such information concerning their operations and the operations of the Project in form and substance as may from time to time be reasonably requested. Such information shall include, but shall not be limited to, general certificates of the HDFC and the Partnership and the annual financial statements of the HDFC and the Partnership from the calendar year immediately preceding the fiscal year in which payments are due.

c. The HDFC and the Partnership shall permit the Comptroller of the Town to audit their books and records within fourteen (14) days after receiving a written request from the Town.

4. **Taxing Authorities and Amounts**.

a. The Partnership, for itself and the HDFC, shall make annual PILOT Payments as follows:

i. A fixed annual PILOT Payment to the Town in the amounts as stated in ***Schedule "A"***, as attached hereto and made a part hereof, in satisfaction of all real property taxes.

Attachment: Princeton.PILOT (RES-2021-724 : Princeton Amherst Preservation HDFC - PILOT - CRS #2819)

ii. In addition to the payments set forth in Schedule A, the Partnership, for itself and the HDFC, will be responsible for paying all special assessments, special ad valorem levies, improvement district charges or similar tax equivalents as permitted by law.

iii. At the expiration of the fifteen (15) year term, this Agreement will cease to have any effect on the real property taxes due with respect to the Project and the Property will be taxed in accordance with applicable law unless otherwise extended or modified pursuant to a separate written agreement

b. The PILOT Payments shall be payable annually. Each such PILOT Payment to the Town shall be made on or before January 31 of that year, or such payment shall be considered delinquent, and such PILOT Payments shall be delivered to the Town of Amherst, c/o Town Clerk/Tax Receiver, 5583 Main Street, Williamsville, New York 14221, or such other place as may be designated from time to time by the Town. Each such PILOT Payment to the County shall be made on or before January 31 of that year, or such payment shall be considered delinquent, and such PILOT Payment shall be delivered to County of Erie, c/o Director of Real Property Tax Services, The Edward A. Rath County Office Building, Room 100, 95 Franklin Street, Buffalo, New York 14202, or such other place as may be designated from time to time by the County. Each such PILOT Payment to the School District shall be made on or before September 30 of that year, or such payment shall be considered delinquent, and such PILOT Payment shall be delivered to the Amherst Central School District, Attention Assistant Superintendent of Business & Finance, 55 Kings Highway, Amherst, NY 14226.

c. The Partnership shall prepare, or cause to be prepared, all documents and forms required under this Agreement.

d. Notwithstanding the Partnership's and the HDFC's obligations under this Agreement, and the Town's obligations as so described within this Agreement, should the Partnership and the HDFC enter into an educational contribution or other similar type agreement whereby the Partnership and the HDFC provide financial support directly to the School District (the "Education Contribution"), upon (i) submission of such agreement to the Town, and (ii) written notice of same to be provided to the Town specifically describing the terms and the amount of the Education Contribution, the PILOT Payment obligations thereafter to be made to the School District under this Agreement and Schedule A shall be reduced by an amount equal to the Education Contribution to be provided pursuant to such educational contribution or other similar type agreement, provided that such reduction shall not exceed the School District's respective share of the PILOT Payment as set forth in Schedule A. Such reduction shall become effective upon the Town's next taxable status date after notice of at least (30) days is provided by the School District that an agreement for the Education Contribution has been entered into.

5. **Effect of Fulfillment of the Requirement.** Once having paid the amounts required by this Agreement when due, the Partnership and the HDFC shall not be required to pay any real property taxes for which such PILOT Payments have been made, except special assessments,

Attachment: Princeton.PILOT (RES-2021-724 : Princeton Amherst Preservation HDFC - PILOT - CRS #2819)

special ad valorem levies, improvement district charges or similar tax equivalents as permitted by law.

6. **Defaults in Payment in Lieu of Taxes.** In the event the Partnership, for itself and the HDFC, fails to make PILOT Payments as herein required when due, the amount or amounts not so paid shall be a lien on the Project and the Property in the same manner that delinquent real property taxes would be and continue as an obligation of the Partnership and the HDFC until fully paid. In addition, the Partnership, for itself and the HDFC, shall pay the appropriate taxing authority's or authorities' interest and penalties on the unpaid amount or amounts accruing at the same times and at the interest rates as if such amounts were delinquent real property taxes. In addition to any other remedies available to them for the collection of delinquent real property taxes, including, without limitation, in rem proceedings, the Town, the County and the School District may exercise any other remedies available, and such remedies shall be cumulative and the exercise of any remedy shall not be an action of remedies under law.

7. **Events of Default and Termination of Tax Exemption.**

a. An event of default (***"Event of Default"***) shall be defined as (l) failure of the Partnership, for itself and the HDFC, to make any payment required under this Agreement when due, (2) the Partnership's and/or HDFC's failure to provide any material notice as required by this Agreement to the Town and/or the Taxing Jurisdictions, (3) the HDFC's failure to qualify, or continue to qualify, for a real property tax exemption for the Project in accordance with section 577 of the PHFL, or (4) the transfer of title or beneficial ownership of any portion of the Project or the Property, without the consent of the Town except as otherwise set forth in Section 15 below.

b. Upon the occurrence of an Event of Default the Partnership and/or HDFC shall have ten (10) days after the receipt of written notice from the Town regarding such default to cure such default. In the event the Partnership and/or HDFC has not cured such default or defaults within such ten (10) day time period, then the exemption from real property taxes described herein shall be deemed to have been terminated as of the taxable status date of the Town's immediately preceding fiscal year.

c. Upon a termination of the exemption from real property taxes due to an Event of Default, the Partnership and the HDFC shall be liable for real property taxes on a pro-rata basis from and after the Town's taxable status date immediately preceding the Event of Default and the statutory lien applicable to such real property taxes shall be deemed in effect as of the lien date normally applicable to such year's real property taxes, unless a separate basis for a real property tax exemption then exists for the benefit of the HDFC.

d. Upon an Event of Default, the Partnership and HDFC shall, upon demand, pay to the Town all reasonable attorney's fees and related costs incurred in securing adherence to the terms of this Agreement.

Attachment: Princeton.PILOT (RES-2021-724 : Princeton Amherst Preservation HDFC - PILOT - CRS #2819)

e. Any termination of the exemption from real property taxes due to an Event of Default shall not void the liability of the HDFC or the Partnership for any unpaid PILOT Payments required by this Agreement prior to such termination.

f. Upon an Event of Default, so long as the New York State Housing Finance Agency ("HFA"), its nominee or designee (an "HFA Party") holds a mortgage on the Property, the Town agrees to deliver a copy the written notice set forth in paragraph (b) above to HFA and HFA will have the right, but not the obligation, to cure such violation in the same timeframe given to the HDFC and the Partnership described above.

g. The Town hereby agrees that any cure of any Event of Default hereunder made or tendered by Wells Fargo Affordable Housing Community Development Corporation or its affiliate, as the Investor Limited Partner of the Partnership (the "Investor Limited Partner") shall be deemed to be cured by the Partnership, and shall be accepted or rejected by the Issuer on the same basis as if made or tendered by the Company. The Investor Limited Partner shall not be obligated to cure any Event of Default.

8. **Waiver.** No waiver or modification of this Agreement shall be valid unless in writing and duly executed by the Parties, and no evidence of any waiver or modification shall be offered or received in evidence in any proceeding, arbitration, or litigation arising out of or affecting this Agreement, or the rights or obligations of any Party hereunder, unless such waiver or modification is in writing, duly executed as aforesaid. No failure or delay on the part of the Town to exercise any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of such right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy.

9. **Modification**. Neither this Agreement nor any provision hereof may be amended, modified, waived, discharged or terminated, except by an instrument in writing duly executed and agreed to by the Parties hereto.

10. **Counterparts**. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. The exchange of copies of this Agreement and of signature pages by facsimile or portable document format (PDF) transmission shall constitute effective execution and delivery of this Agreement as to the parties hereto and may be used in lieu of the original Agreement and signature pages for all purposes.

11. **Notices.** All notices, demands, requests, consents or other communications required or permitted to be given or made under the PILOT shall be in writing and addressed to the following:

If to the Town: Town Attorney's Office
Attn: Stanley J. Sliwa, Esq.
Town of Amherst
5583 Main Street
Williamsville, NY 14221

Attachment: Princeton.PILOT (RES-2021-724 : Princeton Amherst Preservation HDFC - PILOT - CRS #2819)

Town Supervisor
Town of Amherst
5583 Main Street
Williamsville, NY 14221

Town Assessor
Town of Amherst
5583 Main Street
Williamsville, NY 14221

If to the HDFC or the Partnership:
Princeton Amherst Preservation, L.P.
200 John James Audubon Parkway
Suite 300
Amherst, NY 14228

With a copy to:
c/o Related Companies
30 Hudson Yards, 72nd Floor
New York, New York 10001
Attention: Matthew Finkle

With a copy to:
New York State Housing Finance Agency
641 Lexington Avenue
New York, New York 10022

With a copy to:
Wells Fargo Affordable Housing Community Development Corporation
MAC D1053-170
301 South College Street, 17th Floor
Charlotte, NC 28288
Attn: Director of Tax Credit Asset Management

If to Erie County:
Erie County Attorney's Office
95 Franklin Street
Buffalo, New York 14202

If to the School District:
Amherst Central School District
55 Kings Highway, Amherst, NY 14226

12. **Pay Equity.** The Partnership and the HDFC shall comply with Erie County Executive Order 13 (2014) and agree to complete the Erie County Equal Pay Certificate attached hereto as ***Schedule "B"*** and made a part hereof. The Partnership and HDFC 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 Partnership and the HDFC, their offices and facilities, for the purpose

Attachment: Princeton.PILOT (RES-2021-724 : Princeton Amherst Preservation HDFC - PILOT - CRS #2819)

of verifying information supplied in the Erie County Equal Pay Certification and for any other purpose reasonably related to conforming the HDFC's and the Partnership'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 Partnership and/or HDFC are not qualified to participate in future Town contracts.

13. **Binding Effect.** This Agreement shall inure to the benefit of and shall be binding upon the Parties. Each of the Parties represents and warrants that the execution, delivery and performance of this Agreement has been duly authorized and does not require any other consent or approval, does not violate any article, by-law or organizational document or any law, rule, regulation, order, writ, judgment or decree by which it is bound, and will not result in or constitute a default under any indenture, credit agreement, or any other agreement or instrument to which any of them is a party. Each Party represents that this Agreement shall constitute the legal, valid and binding agreement of the Parties enforceable in accordance with its terms.

14. **Amendments.** This Agreement may not be amended, changed, modified, altered or terminated without the prior written consent of each of the Parties hereto.

15. **Assignments.**

a. This Agreement may not be assigned in whole or in part without the prior written consent of the Town upon application made at least forty-five (45) days prior to a regularly scheduled meeting of the Town Board. A transfer in excess of fifty percent (50%) of the equity voting interests of the HDFC and/or the Partnership (including all parent and subsidiary companies and including the ultimate taxpayer(s) owning or controlling the Project and the Property) shall be deemed an assignment and require the prior written consent of the Town; provided, however, that any transfer between existing holders of ownership interests in the Partnership or the HDFC shall not require prior written consent of the Town even if such transfer would be in excess of fifty percent (50%) of the equity voting interests in the HDFC and/or Partnership.. Any assignment, if and once approved, shall be on the following conditions, as of the time of such assignment: (i) no assignment shall relieve the HDFC or the Partnership from primary liability for any of their obligations hereunder; (ii) the assignee shall assume the obligations of the HDFC and/or the Partnership hereunder to the extent of the interest so assigned; (iii) the HDFC and/or the Partnership shall, within ten (10) days after the delivery thereof, furnish or cause to be furnished to the Town a true and complete copy of such assignment and the instrument of assumption and related documents associated with Approved Assignment; (iv) the Project shall continue to be operated in compliance with Article XI of the PHFL; and (v) if the Town shall so request, as of the purported effective date of any such assignment, the HDFC and/or the Partnership at its or their sole cost shall furnish to the Town an opinion, in form and substance satisfactory to the Town as to any or all of the items (i), (ii) and (iv) above. Any such assignment shall be subject to the review and approval by the Town and approval as to form by the Town Attorney with any such cost to be paid by the HDFC and/or the Partnership, including reasonable attorneys' fees, and shall

Attachment: Princeton.PILOT (RES-2021-724 : Princeton Amherst Preservation HDFC - PILOT - CRS #2819)

contain such terms and conditions as reasonably required by the Town and its counsel.

b. Notwithstanding anything to the contrary contained in this Section 15 or elsewhere in this agreement, the prohibition on Transfer described above shall not be construed to prohibit the transfer of title to the Project or any portion thereof to an HFA Party as a result of a foreclosure or the acceptance of a deed in lieu of foreclosure or comparable conversion of the loan held by HFA. During any period of time that an HFA Party owns the Project or if any subsequent owner acquires the Project from a HFA Party, neither HFA, nor such HFA Party, nor such subsequent owner will be liable or obligated for the breach or default of any obligation of any prior owner (including the Partnership and/or HDFC) under this Agreement, including, but not limited to, any payment or indemnification obligation, in which case the owner of the Project at the time the default occurred shall remain liable for any and all damages occasioned thereby even after such entity ceases to be the owner (and, in such event, any party seeking to collect such damages shall have no recourse and shall have no right to levy against, or otherwise collect on, any judgment from the Project), provided that such defaulting owner shall bear no liability under this Agreement for any damages occasioned by any subsequent default under this Agreement occurring after such entity ceases to be the owner of the Project.

16. **Applicable Law.** This Agreement shall be governed, construed and enforced in accordance with the laws of the State of New York for contracts to be wholly performed therein.

17. **Section Headings Not Controlling.** The headings of the several sections in this Agreement have been prepared for convenience of reference only and shall not control, affect the meaning of or be taken as an interpretation of any provision of this Agreement.

18. **Severability.** If any provision of this Agreement or its application is held invalid or unenforceable to any extent, the remainder of this Agreement shall remain in full force and effect and the application of that provision to other persons or circumstances shall be enforced to the greatest extent permitted by law.

19. **Entire Agreement.** This Agreement constitutes the entire agreement of the Parties relating to PILOT Payments with respect to the Project and the Property and supersedes all prior contracts and/or agreements, whether oral or written, with respect thereto.

20. **Authority To Execute.** Any individual executing this Agreement on behalf of a Party represents and warrants that he or she is duly authorized to execute and deliver this Agreement on behalf of such Party, and this Agreement is binding upon such Party in accordance with its terms.

{Rest of Page Left Intentionally Blank}

Attachment: Princeton.PILOT (RES-2021-724 : Princeton Amherst Preservation HDFC - PILOT - CRS #2819)

(Signature Page for Agreement For Payment In Lieu Of Taxes)

IN WITNESS WHEREOF, the Town, County, School District, Partnership, and HDFC have duly executed this Agreement as of the day and year first above written.

COUNTY OF ERIE

BY: _____
Mark C. Poloncarz, County Executive
Maria R. Whyte, Deputy County Executive

Date: _____

Approved as to content
for Erie County:

BY: _____
Daniel Castle, Interim Commissioner
Department of Planning
& Economic Development

Date: _____

Approved as to form for
Erie County:

BY: _____
Kristen M. Walder, Esq.
Assistant County Attorney

Date: _____

TOWN OF AMHERST

BY: _____
Brian J. Kulpa, Supervisor

Date: _____

Approved as to content for
the Town of Amherst:

BY: _____
David Marrano, Assessor

Date: _____

Approved as to form for the
Town of Amherst:

BY: _____
Stanley J. Sliwa, Esq.,
Town Attorney

Date: _____

Attachment: Princeton.PILOT (RES-2021-724 : Princeton Amherst Preservation HDFC - PILOT - CRS #2819)

(Signature Page for Agreement For Payment In Lieu Of Taxes)

AMHERST CENTRAL SCHOOL DISTRICT

By: _____
Name:
Title:

Date: _____

PRINCETON AMHERST PRESERVATION HOUSING DEVELOPMENT FUND COMPANY, INC., a New York not-for-profit corporation

By: _____
Matthew Finkle, Vice President

Date: _____

PRINCETON AMHERST PRESERVATION, L.P.,
a New York limited partnership

By: Princeton Amherst MJP GP, LLC, a New York limited liability company, its co-general partner

By: _____
Victor L. Peterson III, President

Date: _____

By: Princeton Amherst Related GP, LLC, a New York limited liability company, its co-general partner

By: _____
Matthew Finkle, Vice President

Date: _____

Attachment: Princeton.PILOT (RES-2021-724 : Princeton Amherst Preservation HDFC - PILOT - CRS #2819)

SCHEDULE A

PRINCETON PILOT PAYMENTS

Tax Year	Total PILOT	Town	School	County
1	159,400	7,970	111,580	39,850
2	163,385	8,169	114,370	40,846
3	167,470	8,373	117,229	41,867
4	171,656	8,583	120,159	42,914
5	175,948	8,797	123,163	43,987
6	180,346	9,017	126,243	45,087
7	184,855	9,243	129,399	46,214
8	189,477	9,474	132,634	47,369
9	194,213	9,711	135,949	48,553
10	199,069	9,953	139,348	49,767
11	204,045	10,202	142,832	51,011
12	209,147	10,457	146,403	52,287
13	214,375	10,719	150,063	53,594
14	219,735	10,987	153,814	54,934
15	225,228	11,261	157,660	56,307
Total	**2,858,349**	**142,917**	**2,000,844**	**714,587**

Attachment: Princeton.PILOT (RES-2021-724 : Princeton Amherst Preservation HDFC - PILOT - CRS #2819)

SCHEDULE B

ERIE COUNTY EQUAL PAY CERTIFICATE

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 _____[title of corporate office/position] of _____ [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____

_____

Attachment: Princeton.PILOT (RES-2021-724 : Princeton Amherst Preservation HDFC - PILOT - CRS #2819)

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

Francina J. Spoth
Town Clerk

Meeting: 08/23/21 03:00 PM
Department: Town Attorney
Initiated by: **Stanley J. Sliwa**
Co-Sponsored by:

DOC ID: 24652 **RESOLUTION 2021-725** **ADOPTED AS AMENDED**

Brewster Amherst Preservation HDFC - PILOT - CRS #2820

AGENDA ITEM - AUGUST 23rd, 2021

TO: **Town Board**

FROM: **Stanley J. Sliwa, Esq.**
Town Attorney

DATE: **August 18, 2021**

RE: **Brewster Amherst Preservation Housing Development Fund Company, Inc. and Brewster Amherst Preservation, L.P. - Request for a PILOT Agreement pursuant to Section 577 of Article 11 of Private Housing Fund - CRS #2820**

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

WHEREAS, Brewster Amherst Preservation Housing Development Fund Company, Inc. ("HDFC") a New York not-for-profit corporation organized pursuant to Article 11 of the New York State Private Housing Finance Law ("PHFL") with an address of 200 John James Audubon Parkway, Suite 300, Amherst, New York 14228, and Brewster Amherst Preservation, L.P., ("Partnership"), a New York Limited Partnership with an address of 200 John James Audubon Parkway, Suite 300, Amherst, New York 14228 have requested that the Town of Amherst Town Board enter into a PILOT Agreement for 216 affordable living apartments ("Project") located at 910-937 Robin Road, Amherst, New York 14221, bearing SBL #41.10-3-18 and 501-511 Robin and Little Robin Road, Amherst, New York 14221, bearing SBL #41.03-1-69 (collectively, the "Property"); and

WHEREAS, the HDFC, is, or will become, the legal or record owner, and the Partnership is, or will become, the beneficial and equitable owner of an affordable housing project consisting of approximately 216 affordable living apartments located in the Town of Amherst, Erie County, New York, located at the Property; and

WHEREAS, the HDFC is a corporation established pursuant to Section 402 of the Not-For-Profit Corporation Law of the State of New York and Article 11 of the Private Housing Finance Law of the State of New York; and

WHEREAS, the HDFC is the general partner of the Partnership; and

WHEREAS, the HDFC and the Partnership have each been formed for the purpose of providing residential rental accommodations for persons of low income; and

WHEREAS, the Project is intended to be **affordable to low** income households, and

affordability of the Project for residential use by low income persons shall remain consistent throughout the duration of this Agreement; and

WHEREAS, the HDFC is a "housing development fund company" as the term is defined in Section 572 of the PHFL; and

WHEREAS, pursuant to Section 577 of the PHFL, the local legislative body of a municipality may exempt the real property of a housing project of a housing development fund company from local and municipal taxes, including school taxes, other than assessments for local improvements, to the extent of all or a part of the value of the property included in the completed project; and

WHEREAS, it is the intention of the parties that the Partnership, for itself and the HDFC, shall make annual payments to the Town of Amherst (Town), the County of Erie (County) and the Williamsville Central School District (School District) for the term of this Agreement in lieu of real property taxes that would otherwise be assessed on the Project and the Property; and

WHEREAS, the Town, the County and the School District wish to grant the Partnership and the HDFC such relief as is permitted under Section 577 of the PHFL subject to the terms and conditions of this Agreement; and

WHEREAS, HDFC and the Partnership have requested that the Town Board approve a PILOT Agreement with a term of ~~twenty (20)~~ fifteen (15) years for the Property; and

WHEREAS, the content and form of the proposed PILOT Agreement have been reviewed and approved by the Town Assessor's Office and the Town Attorney's Office, a copy of the approved form of the proposed PILOT Agreement is attached hereto; and

WHEREAS, the PILOT Agreement must be approved by Erie County and the Williamsville Central School District;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board approves the requested PILOT Agreement for the Project subject to the three (3) conditions set forth below and the Supervisor of the Town of Amherst is hereby authorized to sign the PILOT Agreement between Brewster Amherst Preservation Housing Development Fund Company, Inc. and Brewster Amherst Preservation, LP, the Town of Amherst, Erie County, and the Williamsville Central School District upon satisfaction of the following three (3) conditions:

1. The PILOT Agreement is subject to review and approval by Erie County;

2. The PILOT Agreement is subject to review and approval by the Williamsville Central School District; and

3. Approval of the PILOT Agreement is subject to successful completion of the Town's contract routing system.

SJS:lcg

Attachment
c: Kathy Cooper, Deputy Town Clerk
(**Agenda Item : August 23rd, 2021**, *w/attachment*)
David Marrano, Town Assessor (*w/attachment*)

8/17/2021

After presentations related to the Affordable Housing Rehab Projects by Deep Katdare (Related Affordable), Leonard Skrill (NYS Homes and Community Renewal Financing), Laurie Stillwell (Amherst Community Development), and Dave Marrano (Amherst Town Assessor), Supervisor Kulpa motioned to adjourn until August 23rd. The motion was seconded by Councilmember Bucki and unanimously approved 4-0.

8/23/2021

A motion to approve was made by Supervisor Kulpa and seconded by Councilmember Lavin. A motion was then made by Supervisor Kulpa to amend, seconded by Deputy Supervisor Berger and unanimously approved 5-0. Amendment changes the term from twenty (20) years to fifteen (15) years as shown in the resolution and in the revised attachment.

A motion to approve as amended was made by Supervisor Kulpa, seconded by Councilmember Lavin and unanimously approved 5-0.

FINANCIAL IMPACT:

PILOT

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

AGREEMENT FOR PAYMENT IN LIEU OF TAXES

Between and Among

BREWSTER AMHERST PRESERVATION HOUSING DEVELOPMENT FUND COMPANY, INC.,
AND
BREWSTER AMHERST PRESERVATION, L.P.,

and

THE TOWN OF AMHERST, NEW YORK
COUNTY OF ERIE, NEW YORK
WILLIAMSVILLE CENTRAL SCHOOL DISTRICT, NEW YORK

THIS AGREEMENT FOR PAYMENT IN LIEU OF TAXES (this "***Agreement***") is made and entered into as of _____ ___, 2021 by and between **BREWSTER AMHERST PRESERVATION HOUSING DEVELOPMENT FUND COMPANY, INC.**, a New York not-for-profit corporation organized pursuant to Article XI of the Private Housing Finance Law with an address of c/o Related Companies, 30 Hudson Yards, 72nd Floor, New York, New York 10001 (the "***HDFC*** "), and **BREWSTER AMHERST PRESERVATION, L.P.,** a New York limited partnership with an address of 200 John James Audubon Parkway, Suite 300, Amherst, NY 14228 (the "***Partnership***"), and the **TOWN OF AMHERST**, **NEW YORK**, a municipal corporation with an address of 5583 Main Street, Williamsville, Erie County, New York 14221 (the "***Town***"), the **COUNTY OF ERIE**, a municipal corporation with an address of 95 Franklin Street, Buffalo, New York 14202 (the "***County***") and the **WILLIAMSVILLE CENTRAL SCHOOL DISTRICT**, a school district with an address of 105 Casey Road, East Amherst, New York 14051 (the "***School District***"). The HDFC, Partnership, Town, County, and School District are each a "***Party***" and are collectively referred to herein as the "***Parties***".

WHEREAS, the HDFC, is, or will become, the legal or record owner, and the Partnership is or will become the beneficial and equitable owner, of an affordable housing project consisting of approximately 216 affordable residential apartments (the "***Project***") located in the Town of Amherst, Erie County, New York, at 910-937 Robin Road (Tax Map No. 41.10-3-18) and 501-511 Robin and Little Robin Road (Tax Map No. 41.03-1-69) (collectively, the "***Property***"); and

WHEREAS, the HDFC is a corporation established pursuant to Section 402 of the Not-For-Profit Corporation Law of the State of New York and Article XI of the Private Housing Finance Law of the State of New York (the "PHFL"); and

WHEREAS, the HDFC and the Partnership have each been formed for the purpose of providing residential rental accommodations for persons of low-income at the Project; and

Attachment: Brewster.PILOT (RES-2021-725 : Brewster Amherst Preservation HDFC - PILOT - CRS #2820)

WHEREAS, the Project is intended to be affordable to low income households, and affordability of the Project for residential use by low income persons shall remain consistent throughout the duration of this Agreement; and

WHEREAS, the HDFC is a "housing development fund company" as the term is defined in Section 572 of the PHFL; and

WHEREAS, pursuant to section 577 of the PHFL, the local legislative body of a municipality may exempt the real property of a housing project of a housing development fund company from local and municipal taxes, including school taxes, other than assessments for local improvements, to the extent of all or a part of the value of the property included in the completed project; and

WHEREAS, it is the intention of the Parties that the Partnership, for itself and the HDFC, shall make annual payments to the Town, the County and the School District for the term of this Agreement in lieu of real property taxes that would otherwise be assessed on the Project and the Property; and

WHEREAS, the Town, the County and the School District wish to grant the Partnership and the HDFC such relief as is permitted under Section 577 of the PHFL subject to the terms and conditions of this Agreement; and

WHEREAS, the Town, by Resolution Number _____ of the Town Board, adopted on _____, approved such an exemption and authorized this Agreement to be executed on behalf of the Town by the Town Supervisor; and

WHEREAS, the County, by Resolution Number _____ of the Erie County Legislature, adopted on _____ __, 20__ approved such an exemption and authorized this Agreement to be executed on behalf of the County; and

WHEREAS, the School District, by Resolution Number _____ of the School Board, adopted on _____ ___, 20__ approved such an exemption and authorized this Agreement to be executed on behalf of the School District.

NOW THEREFORE, in exchange for the mutual commitments set forth herein and other good and valuable consideration, the parties agree as follows:

1. Tax Exemption. The Parties agree that the Project qualifies for a real property tax exemption pursuant to section 577 of the PHFL and the Town hereby exempts from local and municipal taxes, including school taxes, other than assessments for local improvements, one hundred percent (100%) of the value of the Project and the Property, including both land and improvements. "***Local and Municipal Taxes***" shall mean any and all real estate taxes levied by the County, the Town, the School District (collectively, the "***Taxing Jurisdictions***"). The Parties understand that the exemption extended pursuant to section 577 of the PHFL and this Agreement does not include exemption from special assessments, special ad valorem levies, improvement district charges or similar tax equivalents. This Agreement shall not limit or restrict the HDFC's

Attachment: Brewster.PILOT (RES-2021-725 : Brewster Amherst Preservation HDFC - PILOT - CRS #2820)

or the Partnership's right to apply for or obtain any other tax exemption to which it might be entitled upon the expiration of this Agreement.

2. Obligation of the Partnership, for itself and the HDFC, to Make Payments in Lieu of Taxes. So long as the aforementioned exemption remains in place, the Partnership, for itself and the HDFC, shall make annual payments in lieu of taxes ("***PILOT Payments***") to the Town in the amounts set forth in ***Schedule "A"***, as attached hereto and made a part hereof, in satisfaction of all real property taxes. The PILOT Payments shall be required to be made to the Taxing Jurisdictions following the March 1, 2022 tax status date commencing with the 2023 tax fiscal year of the Town, the 2023 tax fiscal year of the County, and the 2022-2023 tax fiscal year of the School District. The Parties agree that no refund of any real property taxes levied upon the Property prior to the 2023 tax fiscal year of the Town, the 2023 tax fiscal year of the County, and the 2022-2023 tax fiscal year of the School District shall be sought or claimed on account of the exemption made effective pursuant to this Agreement.

3. Requirements of the Partnership and the HDFC.

a. The tax exemption provided by this Agreement will continue for a term of fifteen (15) years, unless sooner terminated by law or mutual agreement upon prior written consent of the Parties, provided that the Partnership and the HDFC continue to operate the Project and the Property for persons of low income in conformance with Article XI of the PHFL.

b. The HDFC and the Partnership shall provide the Town such information concerning their operations and the operations of the Project in form and substance as may from time to time be reasonably requested. Such information shall include, but shall not be limited to, general certificates of the HDFC and the Partnership and the annual financial statements of the HDFC and the Partnership from the calendar year immediately preceding the fiscal year in which payments are due.

c. The HDFC and the Partnership shall permit the Comptroller of the Town to audit their books and records within fourteen (14) days after receiving a written request from the Town.

4. Taxing Authority and Amounts.

a. The Partnership, for itself and the HDFC, shall make annual PILOT Payments as follows:

i. A fixed annual PILOT Payment to the Town in the amounts as stated in ***Schedule "A"***, as attached hereto and made a part hereof, in satisfaction of all real property taxes.

ii. In addition to the payments set forth in Schedule A, the Partnership, for itself and the HDFC, will be responsible for paying all special assessments,

Attachment: Brewster.PILOT (RES-2021-725 : Brewster Amherst Preservation HDFC - PILOT - CRS #2820)

special ad valorem levies, improvement district charges or similar tax equivalents as permitted by law.

iii. At the expiration of the fifteen (15) year term, this Agreement will cease to have any effect on the real property taxes due with respect to the Project and the Property will be taxed in accordance with applicable law unless otherwise extended or modified pursuant to a separate written agreement

b. The PILOT Payments shall be payable annually. Each such PILOT Payment to the Town shall be made on or before January 31 of that year, or such payment shall be considered delinquent, and such PILOT Payments shall be delivered to the Town of Amherst, c/o Town Clerk/Tax Receiver, 5583 Main Street, Williamsville, New York 14221, or such other place as may be designated from time to time by the Town. Each such PILOT Payment to the County shall be made on or before January 31 of that year, or such payment shall be considered delinquent, and such PILOT Payment shall be delivered to County of Erie, c/o Director of Real Property Tax Services, The Edward A. Rath County Office Building, Room 100, 95 Franklin Street, Buffalo, New York 14202, or such other place as may be designated from time to time by the County. Each such PILOT Payment to the School District shall be made on or before September 30 of that year, or such payment shall be considered delinquent, and such PILOT Payment shall be delivered to the Williamsville Central School District, Attention Assistant Superintendent of Business & Finance, 105 Casey Road, East Amherst, New York 14051.

c. The Partnership shall prepare, or cause to be prepared, all documents and forms required under this Agreement.

5. Effect of Fulfillment of the Requirement. Once having paid the amounts required by this Agreement when due, the HDFC and the Partnership shall not be required to pay any real property taxes for which such PILOT Payments have been made, except special assessments, special ad valorem levies, improvement district charges or similar tax equivalents as permitted by law.

6. Defaults in Payment in Lieu of Taxes. In the event the Partnership, for itself and the HDFC, fails to make PILOT Payments as herein required when due, the amount or amounts not so paid shall be a lien on the Project and the Property in the same manner that delinquent real property taxes would be and continue as an obligation of the Partnership and the HDFC until fully paid. In addition, the Partnership, for itself and the HDFC, shall pay the appropriate taxing authority's or authorities' interest and penalties on the unpaid amount or amounts accruing at the same times and at the interest rates as if such amounts were delinquent real property taxes. In addition to any other remedies available to them for the collection of delinquent real property taxes, including, without limitation, in rem proceedings, the Town, the County and the School District may exercise any other remedies available, and such remedies shall be cumulative and the exercise of any remedy shall not be an action of remedies under law.

Attachment: Brewster.PILOT (RES-2021-725 : Brewster Amherst Preservation HDFC - PILOT - CRS #2820)

7. Events of Default and Termination of Tax Exemption.

a. An event of default (***"Event of Default"***) shall be defined as (l) failure of the Partnership, for itself and the HDFC, to make any payment required under this Agreement when due, (2) the Partnership's and/or HDFC's failure to provide any material notice as required by this Agreement to the Town and/or the Taxing Jurisdictions, (3) the HDFC's failure to qualify, or continue to qualify, for a real property tax exemption for the Project in accordance with section 577 of the PHFL, or (4) the transfer of title or beneficial ownership of any portion of the Project or the Property, without the consent of the Town except as otherwise set forth herein.

b. Upon the occurrence of an Event of Default the Partnership and/or HDFC shall have ten (10) days after the receipt of written notice from the Town regarding such default to cure such default. In the event the Partnership and/or HDFC has not cured such default or defaults within such ten (10) day time period, then the exemption from real property taxes described herein shall be deemed to have been terminated as of the taxable status date of the Town's immediately preceding fiscal year.

c. Upon a termination of the exemption from real property taxes due to an Event of Default, the Partnership and the HDFC shall be liable for real property taxes on a pro-rata basis from and after the Town's taxable status date immediately preceding the Event of Default and the statutory lien applicable to such real property taxes shall be deemed in effect as of the lien date normally applicable to such year's real property taxes, unless a separate basis for a real property tax exemption then exists for the benefit of the HDFC.

d. Upon an Event of Default, the Partnership and HDFC shall, upon demand, pay to the Town all reasonable attorney's fees and related costs incurred in securing adherence to the terms of this Agreement.

e. Any termination of the exemption from real property taxes due to an Event of Default shall not void the liability of the HDFC or the Partnership for any unpaid PILOT Payments required by this Agreement prior to such termination.

f. Upon an Event of Default, so long as the New York State Housing Finance Agency ("HFA"), its nominee or designee (an "HFA Party") holds a mortgage on the Property, the Town agrees to deliver a copy the written notice set forth in paragraph (b) above to HFA and HFA will have the right, but not the obligation, to cure such violation in the same timeframe given to the HDFC and the Partnership described above.

g. The Town hereby agrees that any cure of any Event of Default hereunder made or tendered by Wells Fargo Affordable Housing Community Development Corporation or its affiliate, as the Investor Limited Partner of the Partnership (the "Investor Limited Partner") shall be deemed to be cured by the Partnership, and shall be accepted or rejected by the Issuer on the same basis as if made or tendered by the Company. The Investor Limited Partner shall not be obligated to cure any Event of Default.

Attachment: Brewster.PILOT (RES-2021-725 : Brewster Amherst Preservation HDFC - PILOT - CRS #2820)

8. Waiver. No waiver or modification of this Agreement shall be valid unless in writing and duly executed by the Parties, and no evidence of any waiver or modification shall be offered or received in evidence in any proceeding, arbitration, or litigation arising out of or affecting this Agreement, or the rights or obligations of any Party hereunder, unless such waiver or modification is in writing, duly executed as aforesaid. No failure or delay on the part of the Town to exercise any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of such right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy.

9. Modification. Neither this Agreement nor any provision hereof may be amended, modified, waived, discharged or terminated, except by an instrument in writing duly executed and agreed to by the Parties hereto.

10. Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. The exchange of copies of this Agreement and of signature pages by facsimile or portable document format (PDF) transmission shall constitute effective execution and delivery of this Agreement as to the parties hereto and may be used in lieu of the original Agreement and signature pages for all purposes.

11. Notices. All notices, demands, requests, consents or other communications required or permitted to be given or made under the PILOT shall be in writing and addressed to the following:

If to the Town:

Town Attorney's Office
Attn: Stanley J. Sliwa, Esq.
Town of Amherst
5583 Main Street
Williamsville, NY 14221

Town Supervisor
Town of Amherst
5583 Main Street
Williamsville, NY 14221

Town Assessor
Town of Amherst
5583 Main Street
Williamsville, NY 14221

If to the HDFC
or the Partnership:

Brewster Amherst Preservation, L.P.
200 John James Audubon Parkway
Suite 300
Amherst, NY 14228

Attachment: Brewster.PILOT (RES-2021-725 : Brewster Amherst Preservation HDFC - PILOT - CRS #2820)

With a copy to:	c/o Related Companies 30 Hudson Yards, 72nd Floor New York, New York 10001 Attention: Matthew Finkle
With a copy to:	New York State Housing Finance Agency 641 Lexington Avenue New York, New York 10022
With a copy to:	Wells Fargo Affordable Housing Community Development Corporation MAC D1053-170 301 South College Street, 17th Floor Charlotte, NC 28288 Attn: Director of Tax Credit Asset Management
If to Erie County:	Erie County Attorney's Office 95 Franklin Street Buffalo, New York 14202
If to the School District:	Williamsville Central School District 105 Casey Road East Amherst, New York 14051

12. Pay Equity. The HDFC and the Partnership shall comply with Erie County Executive Order 13 (2014) and agree to complete the Erie County Equal Pay Certificate attached hereto as ***Schedule "B"*** and made a part hereof. The HDFC and the Partnership 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 HDFC and the Partnership, their 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 conforming the HDFC's and the Partnership'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 HDFC and/or the Partnership are not qualified to participate in future Town contracts.

13. Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon the Parties. Each of the Parties represents and warrants that the execution, delivery and performance of this Agreement has been duly authorized and does not require any other consent or approval, does not violate any article, by-law or organizational document or any law, rule, regulation, order, writ, judgment or decree by which it is bound, and will not result in or constitute a default under any indenture, credit agreement, or any other agreement or instrument to which any of them is a party. Each Party represents that this Agreement shall constitute the legal, valid and binding agreement of the Parties enforceable in accordance with its terms.

Attachment: Brewster.PILOT (RES-2021-725 : Brewster Amherst Preservation HDFC - PILOT - CRS #2820)

14. Amendments. This Agreement may not be amended, changed, modified, altered or terminated without the prior written consent of each of the Parties hereto.

15. Assignments.

a. This Agreement may not be assigned in whole or in part without the prior written consent of the Town upon application made at least forty-five (45) days prior to a regularly scheduled meeting of the Town Board. A transfer in excess of fifty percent (50%) of the equity voting interests of the HDFC and/or the Partnership (including all parent and subsidiary companies and including the ultimate taxpayer(s) owning or controlling the Project and the Property) shall be deemed an assignment and require the prior written consent of the Town; provided, however, that any transfer between existing holders of ownership interests in the Partnership or the HDFC shall not require prior written consent of the Town even if such transfer would be in excess of fifty percent (50%) of the equity voting interests in the HDFC and/or Partnership. Any assignment, if and once approved, shall be on the following conditions, as of the time of such assignment: (i) no assignment shall relieve the HDFC or the Partnership Company from primary liability for any of their obligations hereunder; (ii) the assignee shall assume the obligations of the HDFC and/or the Partnership hereunder to the extent of the interest so assigned; (iii) the HDFC and/or the Partnership shall, within ten (10) days after the delivery thereof, furnish or cause to be furnished to the Town a true and complete copy of such assignment and the instrument of assumption and related documents associated with Approved Assignment); (iv) the Project shall continue to be operated in compliance with Article XI of the PHFL; and (v) if the Town shall so request, as of the purported effective date of any such assignment, the HDFC and/or the Partnership at its or their sole cost shall furnish to the Town an opinion, in form and substance satisfactory to the Town as to items (i), (ii) and (iv) above. Any such assignment shall be subject to the review and approval by the Town and approval as to form by the Town Attorney with any such cost to be paid by the HDFC and/or the Partnership, including reasonable attorneys' fees, and shall contain such terms and conditions as reasonably required by the Town and its counsel.

b. Notwithstanding anything to the contrary contained in this Section 15 or elsewhere in this agreement, the prohibition on Transfer described above shall not be construed to prohibit the transfer of title to the Project or any portion thereof to an HFA Party as a result of a foreclosure or the acceptance of a deed in lieu of foreclosure or comparable conversion of the loan held by HFA. During any period of time that an HFA Party owns the Project or if any subsequent owner acquires the Project from a HFA Party, neither HFA, nor such HFA Party, nor such subsequent owner will be liable or obligated for the breach or default of any obligation of any prior owner (including the Partnership and/or HDFC) under this Agreement, including, but not limited to, any payment or indemnification obligation, in which case the owner of the Project at the time the default occurred shall remain liable for any and all damages occasioned thereby even after such entity ceases to be the

Attachment: Brewster.PILOT (RES-2021-725 : Brewster Amherst Preservation HDFC - PILOT - CRS #2820)

owner (and, in such event, any party seeking to collect such damages shall have no recourse and shall have no right to levy against, or otherwise collect on, any judgment from the Project), provided that such defaulting owner shall bear no liability under this Agreement for any damages occasioned by any subsequent default under this Agreement occurring after such entity ceases to be the owner of the Project.

16. Applicable Law. This Agreement shall be governed, construed and enforced in accordance with the laws of the State of New York for contracts to be wholly performed therein.

17. Section Headings Not Controlling. The headings of the several sections in this Agreement have been prepared for convenience of reference only and shall not control, affect the meaning of or be taken as an interpretation of any provision of this Agreement.

18. Severability. If any provision of this Agreement or its application is held invalid or unenforceable to any extent, the remainder of this Agreement shall remain in full force and effect and the application of that provision to other persons or circumstances shall been forced to the greatest extent permitted by law.

19. Entire Agreement. This Agreement constitutes the entire agreement of the Parties relating to PILOT Payments with respect to the Project and the Property and supersedes all prior contracts and/or agreements, whether oral or written, with respect thereto.

20. Authority to Execute. Any individual executing this Agreement on behalf of a Party represents and warrants that he or she is duly authorized to execute and deliver this Agreement on behalf of such Party, and this Agreement is binding upon such Party in accordance with its terms.

{Rest of Page Left Intentionally Blank}

Attachment: Brewster.PILOT (RES-2021-725 : Brewster Amherst Preservation HDFC - PILOT - CRS #2820)

(Signature Page for Agreement For Payment In Lieu Of Taxes)

IN WITNESS WHEREOF, the Town, County, School District, Partnership, and HDFC have duly executed this Agreement as of the day and year first above written.

COUNTY OF ERIE

BY: _____
Mark C. Poloncarz, County Executive
Maria R. Whyte, Deputy County Executive

Date: _____

Approved as to content
for Erie County:

BY: _____
Daniel Castle, Interim Commissioner
Department of Planning
& Economic Development

Date: _____

Approved as to form for
Erie County:

BY: _____
Kristen M. Walder, Esq.
Assistant County Attorney

Date: _____

TOWN OF AMHERST

BY: _____
Brian J. Kulpa, Supervisor

Date: _____

Approved as to content for
the Town of Amherst:

BY: _____
David Marrano, Assessor

Date: _____

Approved as to form for the
Town of Amherst:

BY: _____
Stanley J. Sliwa, Esq.,
Town Attorney

Date: _____

Attachment: Brewster.PILOT (RES-2021-725 : Brewster Amherst Preservation HDFC - PILOT - CRS #2820)

(Signature Page for Agreement For Payment In Lieu Of Taxes)

WILLIAMSVILLE CENTRAL SCHOOL DISTRICT

By: _____
Name:
Title:

Date: _____

BREWSTER AMHERST PRESERVATION HOUSING DEVELOPMENT FUND COMPANY, INC., a New York not-for-profit corporation

By: _____
Matthew Finkle, Vice President

Date: _____

BREWSTER AMHERST PRESERVATION, L.P., a New York limited partnership

By: Brewster Amherst MJP GP, LLC, a New York limited liability company, its managing general partner

By: _____
Victor L. Peterson III, President

Date: _____

By: Brewster Amherst Related GP, LLC, a New York limited liability company, its co-general partner

By: _____
Matthew Finkle, Vice President

Date: _____

Attachment: Brewster.PILOT (RES-2021-725 : Brewster Amherst Preservation HDFC - PILOT - CRS #2820)

SCHEDULE A

BREWSTER PILOT PAYMENTS

Tax Year	Total PILOT	Town	School	County
1	183,600	91,800	45,900	45,900
2	188,190	94,095	47,048	47,048
3	192,895	96,447	48,224	48,224
4	197,717	98,859	49,429	49,429
5	202,660	101,330	50,665	50,665
6	207,727	103,863	51,932	51,932
7	212,920	106,460	53,230	53,230
8	218,243	109,121	54,561	54,561
9	223,699	111,849	55,925	55,925
10	229,291	114,646	57,323	57,323
11	235,024	117,512	58,756	58,756
12	240,899	120,450	60,225	60,225
13	246,922	123,461	61,730	61,730
14	253,095	126,547	63,274	63,274
15	259,422	129,711	64,855	64,855
Total	**3,292,302**	**1,646,151**	**823,075**	**823,075**

Attachment: Brewster.PILOT (RES-2021-725 : Brewster Amherst Preservation HDFC - PILOT - CRS #2820)

SCHEDULE B

ERIE COUNTY EQUAL PAY CERTIFICATE

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 _____[title of corporate office/position] of _____ [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____

_____

Attachment: Brewster.PILOT (RES-2021-725 : Brewster Amherst Preservation HDFC - PILOT - CRS #2820)

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

Francina J. Spoth
Town Clerk

Meeting: 08/23/21 03:00 PM
Department: Town Attorney
Initiated by: **Stanley J. Sliwa**
Co-Sponsored by:

DOC ID: 24653 **RESOLUTION 2021-726** **ADOPTED AS AMENDED**

Parkside Amherst Preservation HDFC - PILOT - CRS #2821

AGENDA ITEM - AUGUST 23rd, 2021

TO: **Town Board**

FROM: **Stanley J. Sliwa, Esq.**
Town Attorney

DATE: **August 18, 2021**

RE: **Parkside Amherst Preservation Housing Development Fund Company, Inc. and Parkside Amherst Preservation, L.P. - Request for a PILOT Agreement pursuant to Section 577 of Article 11 of Private Housing Fund - CRS #2821**

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

WHEREAS, Parkside Amherst Preservation Housing Development Fund Company, Inc. ("HDFC") a New York not-for-profit corporation organized pursuant to Article 11 of the New York State Private Housing Finance Law ("PHFL") with an address of 200 John James Audubon Parkway, Suite 300, Amherst, New York, 14228, and Parkside Amherst Preservation, L.P. ("Partnership"), a New York Limited Partnership with an address of 200 John James Boulevard Parkway, Suite 300, Amherst, New York 14228 have requested that the Town of Amherst Town Board enter into a PILOT Agreement for 180 affordable living apartments ("Project") located at 302-332 Evans Road, Amherst, New York, 14221, bearing SBL #41.03-1-68 (the "Property"); 825-862 Robin Road, Amherst, New York, 14221, bearing SBL #41.11-3-1; 101-128 Robin Road, Amherst, New York, 14221, bearing SBL #41.03-1-60; 301-326 Robin Road, Amherst, NY 14221, bearing SBL #41.03-1-60; and 801-824 Robin Road, Amherst, New York 14221, bearing SBL #41-11-3-5 (collectively, the "Property"); and

WHEREAS, the HDFC is, or will become, the legal or record owner, and the Partnership is, or will become, the beneficial and equitable owner of an affordable housing project consisting of approximately 180 affordable living apartments located in the Town of Amherst, Erie County, New York, located at the Property; and

WHEREAS, the HDFC is a corporation established pursuant to Section 402 of the Not-For-Profit Corporation Law of the State of New York and Article XI of the Private Housing Finance Law of the State of New York; and

WHEREAS, the HDFC is the general partner of the Partnership; and

WHEREAS, the HDFC and the Partnership have each been formed for the purpose of

providing residential rental accommodations for persons of low income; and

WHEREAS, the Project is intended to be **affordable to low** income households, and **affordability** of the Project for residential use by low income persons shall remain consistent throughout the duration of this Agreement; and

WHEREAS, the HDFC is a "housing development fund company" as the term is defined in Section 572 of the PHFL; and

WHEREAS, pursuant to section 577 of the PHFL, the local legislative body of a municipality may exempt the real property of a housing project of a housing development fund company from local and municipal taxes, including school taxes, other than assessments for local improvements, to the extent of all or a part of the value of the property included in the completed project; and

WHEREAS, it is the intention of the Parties that the Partnership, for itself and the HDFC, shall make annual payments to the Town of Amherst (Town), the County of Erie (County) and the Williamsville Central School District (School District) for the term of this Agreement in lieu of real property taxes that would otherwise be assessed on the Project and the Property; and

WHEREAS, the Town, the County and the School District wish to grant the Partnership and the HDFC such relief as is permitted under Section 577 of the PHFL subject to the terms and conditions of this Agreement; and

WHEREAS, HDFC and the Partnership have requested that the Town Board approve a PILOT Agreement with a term of ~~twenty (20)~~ fifteen (15) years for the Property; and

WHEREAS, the content and form of the proposed PILOT Agreement have been reviewed and approved by the Town Assessor's Office and the Town Attorney's Office, a copy of the approved form of the proposed PILOT Agreement is attached hereto; and

WHEREAS, the PILOT Agreement must be approved by Erie County and the Williamsville Central School District;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board approves the requested PILOT Agreement for the Project subject to the three (3) conditions set forth below and the Supervisor of the Town of Amherst is hereby authorized to sign the PILOT Agreement between Parkside Amherst Preservation Housing Development Fund Company, Inc. and Parkside Amherst Preservation, LP, the Town of Amherst, Erie County, and the Amherst Central School District upon satisfaction of the following three (3) conditions:

1. The PILOT Agreement is subject to review and approval by Erie County;

2. The PILOT Agreement is subject to review and approval by the Williamsville Central School District; and

3. Approval of the PILOT Agreement is subject to successful completion of the Town's contract routing system.

SJS:lcg
Attachment
c: Kathy Cooper, Deputy Town Clerk
(**Agenda Item : August 23rd, 2021**, *w/attachment*)
David Marrano, Town Assessor (*w/attachment*)

8/17/2021

After presentations related to the Affordable Housing Rehab Projects by Deep Katdare (Related Affordable), Leonard Skrill (NYS Homes and Community Renewal Financing), Laurie Stillwell (Amherst Community Development), and Dave Marrano (Amherst Town Assessor), Supervisor Kulpa motioned to adjourn until August 23rd. The motion was seconded by Councilmember Bucki and unanimously approved 4-0.

8/23/2021

A motion to approve was made by Supervisor Kulpa and seconded by Councilmember Bucki. A motion was then made by Deputy Supervisor Berger to amend, seconded by Councilmember Lavin and unanimously approved 5-0. Amendment changes the term from twenty (20) years to fifteen (15) years as shown in the resolution and in the revised attachment.

A motion to approve as amended was made by Supervisor Kulpa, seconded by Councilmember Lavin and unanimously approved 5-0.

FINANCIAL IMPACT:

PILOT

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

AGREEMENT FOR PAYMENT IN LIEU OF TAXES

Between and Among

PARKSIDE AMHERST PRESERVATION HOUSING DEVELOPMENT FUND COMPANY, INC.
AND
PARKSIDE AMHERST PRESERVATION, L.P.,

and

THE TOWN OF AMHERST, NEW YORK
COUNTY OF ERIE, NEW YORK
WILLIAMSVILLE CENTRAL SCHOOL DISTRICT, NEW YORK

THIS AGREEMENT FOR PAYMENT IN LIEU OF TAXES (this "***Agreement***") is made and entered into as of _____ ___, 2021 by and between **PARKSIDE AMHERST PRESERVATION HOUSING DEVELOPMENT FUND COMPANY, INC.**, a New York not-for-profit corporation organized pursuant to Article XI of the Private Housing Finance Law with an address of c/o Related Companies, 30 Hudson Yards, 72nd Floor, New York, New York 10001 (the "***HDFC*** "), and **PARKSIDE AMHERST PRESERVATION, L.P.,** a New York limited partnership with an address of 200 John James Audubon Parkway, Suite 300, Amherst, NY 14228 (the "***Partnership***"), and the **TOWN OF AMHERST, NEW YORK**, a municipal corporation with an address of 5583 Main Street, Williamsville, Erie County, New York 14221 (the "***Town***"), the **COUNTY OF ERIE**, a municipal corporation with an address of 95 Franklin Street, Buffalo, New York 14202 (the "***County***") and the **WILLIAMSVILLE CENTRAL SCHOOL DISTRICT**, a school district with an address of 105 Casey Road, East Amherst, New York 14051 (the "***School District***"). The HDFC, Partnership, Town, County, and School District are each a "***Party***" and are collectively referred to herein as the "***Parties***".

WHEREAS, the HDFC, is, or will become, the legal or record owner, and the Partnership is or will become the beneficial and equitable owner, of an affordable housing project consisting of 180 affordable residential apartments (the "***Project***") located in the Town of Amherst, Erie County, New York, at 302-332 Robin Road (Tax Map No. 41.03-1-68), 825-862 Robin Road (Tax Map No. 41.11-3-1), 101-128 Robin Road (Tax Map No. 41.03-1-60), 301-326 Robin Road (Tax Map No. 41.03-1-51) and 801-824 Robin Road (Tax Map No. 41.11-3-5) (collectively, the "***Property***"); and

WHEREAS, the HDFC is a corporation established pursuant to Section 402 of the Not-For-Profit Corporation Law of the State of New York and Article XI of the Private Housing Finance Law of the State of New York (the "PHFL"); and

WHEREAS, the HDFC and the Partnership have each been formed for the purpose of providing residential rental accommodations for persons of low-income at the Project; and

Attachment: Parkside.PILOT (RES-2021-726 : Parkside Amherst Preservation HDFC - PILOT - CRS #2821)

WHEREAS, the Project is intended to be affordable to low income households, and affordability of the Project for residential use by low income persons shall remain consistent throughout the duration of this Agreement; and

WHEREAS, the HDFC is a "housing development fund company" as the term is defined in Section 572 of the PHFL; and

WHEREAS, pursuant to section 577 of the PHFL, the local legislative body of a municipality may exempt the real property of a housing project of a housing development fund company from local and municipal taxes, including school taxes, other than assessments for local improvements, to the extent of all or a part of the value of the property included in the completed project; and

WHEREAS, it is the intention of the Parties that the Partnership, for itself and the HDFC, shall make annual payments to the Town, the County and the School District for the term of this Agreement in lieu of real property taxes that would otherwise be assessed on the Project and the Property; and

WHEREAS, the Town, the County and the School District wish to grant the Partnership and the HDFC such relief as is permitted under Section 577 of the PHFL subject to the terms and conditions of this Agreement; and

WHEREAS, the Town, by Resolution Number _____ of the Town Board, adopted on _____, approved such an exemption and authorized this Agreement to be executed on behalf of the Town by the Town Supervisor; and

WHEREAS, the County, by Resolution Number _____ of the Erie County Legislature, adopted on _____ __, 20__ approved such an exemption and authorized this Agreement to be executed on behalf of the County; and

WHEREAS, the School District, by Resolution Number _____ of the School Board, adopted on _____ ___, 20__ approved such an exemption and authorized this Agreement to be executed on behalf of the School District.

NOW THEREFORE, in exchange for the mutual commitments set forth herein and other good and valuable consideration, the parties agree as follows:

1. Tax Exemption. The Parties agree that the Project qualifies for a real property tax exemption pursuant to section 577 of the PHFL and the Town hereby exempts from local and municipal taxes, including school taxes, other than assessments for local improvements, one hundred percent (100%) of the value of the Project and the Property, including both land and improvements. "***Local and Municipal Taxes***" shall mean any and all real estate taxes levied by the County, the Town, the School District (collectively, the "***Taxing Jurisdictions***"). The Parties understand that the exemption extended pursuant to section 577 of the PHFL and this Agreement does not include exemption from special assessments, special ad valorem levies, improvement

Attachment: Parkside.PILOT (RES-2021-726 : Parkside Amherst Preservation HDFC - PILOT - CRS #2821)

district charges or similar tax equivalents. This Agreement shall not limit or restrict the HDFC's or the Partnership's right to apply for or obtain any other tax exemption to which it might be entitled upon the expiration of this Agreement.

2. Obligation of the Partnership, for itself and the HDFC, to Make Payments in Lieu of Taxes. So long as the aforementioned exemption remains in place, the Partnership, for itself and the HDFC, shall make annual payments in lieu of taxes ("***PILOT Payments***") to the Town in the amounts set forth in ***Schedule "A"***, as attached hereto and made a part hereof, in satisfaction of all real property taxes. The PILOT Payments shall be required to be made to the Taxing Jurisdictions following the March 1, 2022 tax status date commencing with the 2023 tax fiscal year of the Town, the 2023 tax fiscal year of the County, and the 2022-2023 tax fiscal year of the School District. The Parties agree that no refund of any real property taxes levied upon the Property prior to the 2023 tax fiscal year of the Town, the 2023 tax fiscal year of the County, and the 2022-2023 tax fiscal year of the School District shall be sought or claimed on account of the exemption made effective pursuant to this Agreement.

3. Requirements of the Partnership and the HDFC.

a. The tax exemption provided by this Agreement will continue for a term of fifteen (15) years, unless sooner terminated by law or mutual agreement upon prior written consent of the Parties, provided that the Partnership and the HDFC continue to operate the Project and the Property for persons of low income in conformance with Article XI of the PHFL.

b. The HDFC and the Partnership shall provide the Town such information concerning their operations and the operations of the Project in form and substance as may from time to time be reasonably requested. Such information shall include, but shall not be limited to, general certificates of the HDFC and the Partnership and the annual financial statements of the HDFC and the Partnership from the calendar year immediately preceding the fiscal year in which payments are due.

c. The HDFC and the Partnership shall permit the Comptroller of the Town to audit their books and records within fourteen (14) days after receiving a written request from the Town.

4. Taxing Authority and Amounts.

a. The Partnership, for itself and the HDFC, shall make annual PILOT Payments as follows:

i. A fixed annual PILOT Payment to the Town in the amounts as stated in ***Schedule "A"***, as attached hereto and made a part hereof, in satisfaction of all real property taxes.

ii. In addition to the payments set forth in Schedule A, the Partnership, for itself and the HDFC, will be responsible for paying all special assessments,

Attachment: Parkside.PILOT (RES-2021-726 : Parkside Amherst Preservation HDFC - PILOT - CRS #2821)

special ad valorem levies, improvement district charges or similar tax equivalents as permitted by law.

iii. At the expiration of the fifteen (15) year term, this Agreement will cease to have any effect on the real property taxes due with respect to the Project and the Property will be taxed in accordance with applicable law unless otherwise extended or modified pursuant to a separate written agreement

b. The PILOT Payments shall be payable annually. Each such PILOT Payment to the Town shall be made on or before January 31 of that year, or such payment shall be considered delinquent, and such PILOT Payments shall be delivered to the Town of Amherst, c/o Town Clerk/Tax Receiver, 5583 Main Street, Williamsville, New York 14221, or such other place as may be designated from time to time by the Town. Each such PILOT Payment to the County shall be made on or before January 31 of that year, or such payment shall be considered delinquent, and such PILOT Payment shall be delivered to County of Erie, c/o Director of Real Property Tax Services, The Edward A. Rath County Office Building, Room 100, 95 Franklin Street, Buffalo, New York 14202, or such other place as may be designated from time to time by the County. Each such PILOT Payment to the School District shall be made on or before September 30 of that year, or such payment shall be considered delinquent, and such PILOT Payment shall be delivered to the Williamsville Central School District, Attention Assistant Superintendent of Business & Finance, 105 Casey Road, East Amherst, New York 14051.

c. The Partnership shall prepare, or cause to be prepared, all documents and forms required under this Agreement.

5. Effect of Fulfillment of the Requirement. Once having paid the amounts required by this Agreement when due, the HDFC and the Partnership shall not be required to pay any real property taxes for which such PILOT Payments have been made, except special assessments, special ad valorem levies, improvement district charges or similar tax equivalents as permitted by law.

6. Defaults in Payment in Lieu of Taxes. In the event the Partnership, for itself and the HDFC, fails to make PILOT Payments as herein required when due, the amount or amounts not so paid shall be a lien on the Project and the Property in the same manner that delinquent real property taxes would be and continue as an obligation of the Partnership and the HDFC until fully paid. In addition, the Partnership, for itself and the HDFC, shall pay the appropriate taxing authority's or authorities' interest and penalties on the unpaid amount or amounts accruing at the same times and at the interest rates as if such amounts were delinquent real property taxes. In addition to any other remedies available to them for the collection of delinquent real property taxes, including, without limitation, in rem proceedings, the Town, the County and the School District may exercise any other remedies available, and such remedies shall be cumulative and the exercise of any remedy shall not be an action of remedies under law.

Attachment: Parkside.PILOT (RES-2021-726 : Parkside Amherst Preservation HDFC - PILOT - CRS #2821)

7. Events of Default and Termination of Tax Exemption.

a. An event of default (***"Event of Default"***) shall be defined as (l) failure of the Partnership, for itself and the HDFC, to make any payment required under this Agreement when due, (2) the Partnership's and/or HDFC's failure to provide any material notice as required by this Agreement to the Town and/or the Taxing Jurisdictions, (3) the HDFC's failure to qualify, or continue to qualify, for a real property tax exemption for the Project in accordance with section 577 of the PHFL, or (4) the transfer of title or beneficial ownership of any portion of the Project or the Property, without the consent of the Town except as otherwise set forth in Section 15 below.

b. Upon the occurrence of an Event of Default the Partnership and/or HDFC shall have ten (10) days after the receipt of written notice from the Town regarding such default to cure such default. In the event the Partnership and/or HDFC has not cured such default or defaults within such ten (10) day time period, then the exemption from real property taxes described herein shall be deemed to have been terminated as of the taxable status date of the Town's immediately preceding fiscal year.

c. Upon a termination of the exemption from real property taxes due to an Event of Default, the Partnership and the HDFC shall be liable for real property taxes on a pro-rata basis from and after the Town's taxable status date immediately preceding the Event of Default and the statutory lien applicable to such real property taxes shall be deemed in effect as of the lien date normally applicable to such year's real property taxes, unless a separate basis for a real property tax exemption then exists for the benefit of the HDFC.

d. Upon an Event of Default, the Partnership and HDFC shall, upon demand, pay to the Town all reasonable attorney's fees and related costs incurred in securing adherence to the terms of this Agreement.

e. Any termination of the exemption from real property taxes due to an Event of Default shall not void the liability of the HDFC or the Partnership for any unpaid PILOT Payments required by this Agreement prior to such termination.

f. Upon an Event of Default, so long as the New York State Housing Finance Agency ("HFA"), its nominee or designee (an "HFA Party") holds a mortgage on the Property, the Town agrees to deliver a copy the written notice set forth in paragraph (b) above to HFA and HFA will have the right, but not the obligation, to cure such violation in the same timeframe given to the HDFC and the Partnership described above.

g. The Town hereby agrees that any cure of any Event of Default hereunder made or tendered by Wells Fargo Affordable Housing Community Development Corporation or its affiliate, as the Investor Limited Partner of the Partnership (the "Investor Limited Partner") shall be deemed to be cured by the Partnership, and shall be accepted or rejected by the Issuer on the same basis as if made or tendered by the Company. The Investor Limited Partner shall not be obligated to cure any Event of Default.

Attachment: Parkside.PILOT (RES-2021-726 : Parkside Amherst Preservation HDFC - PILOT - CRS #2821)

8. Waiver. No waiver or modification of this Agreement shall be valid unless in writing and duly executed by the Parties, and no evidence of any waiver or modification shall be offered or received in evidence in any proceeding, arbitration, or litigation arising out of or affecting this Agreement, or the rights or obligations of any Party hereunder, unless such waiver or modification is in writing, duly executed as aforesaid. No failure or delay on the part of the Town to exercise any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of such right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy.

9. Modification. Neither this Agreement nor any provision hereof may be amended, modified, waived, discharged or terminated, except by an instrument in writing duly executed and agreed to by the Parties hereto.

10. Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. The exchange of copies of this Agreement and of signature pages by facsimile or portable document format (PDF) transmission shall constitute effective execution and delivery of this Agreement as to the parties hereto and may be used in lieu of the original Agreement and signature pages for all purposes.

11. Notices. All notices, demands, requests, consents or other communications required or permitted to be given or made under the PILOT shall be in writing and addressed to the following:

If to the Town:

Town Attorney's Office
Attn: Stanley J. Sliwa, Esq.
Town of Amherst
5583 Main Street
Williamsville, NY 14221

Town Supervisor
Town of Amherst
5583 Main Street
Williamsville, NY 14221

Town Assessor
Town of Amherst
5583 Main Street
Williamsville, NY 14221

If to the HDFC
or the Partnership:

Parkside Amherst Preservation, L.P.
200 John James Audubon Parkway
Suite 300
Amherst, NY 14228

Attachment: Parkside.PILOT (RES-2021-726 : Parkside Amherst Preservation HDFC - PILOT - CRS #2821)

With a copy to:	c/o Related Companies 30 Hudson Yards, 72nd Floor New York, New York 10001 Attention: Matthew Finkle
With a copy to:	New York State Housing Finance Agency 641 Lexington Avenue New York, New York 10022
With a copy to:	Wells Fargo Affordable Housing Community Development Corporation MAC D1053-170 301 South College Street, 17th Floor Charlotte, NC 28288 Attn: Director of Tax Credit Asset Management
If to Erie County:	Erie County Attorney's Office 95 Franklin Street Buffalo, New York 14202
If to the School District:	Williamsville Central School District 105 Casey Road East Amherst, New York 14051

12. Pay Equity. The HDFC and the Partnership shall comply with Erie County Executive Order 13 (2014) and agree to complete the Erie County Equal Pay Certificate attached hereto as ***Schedule "B"*** and made a part hereof. The HDFC and the Partnership 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 HDFC and the Partnership, their 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 conforming the HDFC's and the Partnership'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 HDFC and/or the Partnership are not qualified to participate in future Town contracts.

13. Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon the Parties. Each of the Parties represents and warrants that the execution, delivery and performance of this Agreement has been duly authorized and does not require any other consent or approval, does not violate any article, by-law or organizational document or any law, rule, regulation, order, writ, judgment or decree by which it is bound, and will not result in or constitute a default under any indenture, credit agreement, or any other agreement or instrument to which any of them is a party. Each Party represents that this Agreement shall constitute the legal, valid and binding agreement of the Parties enforceable in accordance with its terms.

Attachment: Parkside.PILOT (RES-2021-726 : Parkside Amherst Preservation HDFC - PILOT - CRS #2821)

14. Amendments. This Agreement may not be amended, changed, modified, altered or terminated without the prior written consent of each of the Parties hereto.

15. Assignments.

a. This Agreement may not be assigned in whole or in part without the prior written consent of the Town upon application made at least forty-five (45) days prior to a regularly scheduled meeting of the Town Board. A transfer in excess of fifty percent (50%) of the equity voting interests of the HDFC and/or the Partnership (including all parent and subsidiary companies and including the ultimate taxpayer(s) owning or controlling the Project and the Property) shall be deemed an assignment and require the prior written consent of the Town; provided, however, that any transfer between existing holders of ownership interests in the Partnership or the HDFC shall not require prior written consent of the Town even if such transfer would be in excess of fifty percent (50%) of the equity voting interests in the HDFC and/or Partnership. Any assignment, if and once approved, shall be on the following conditions, as of the time of such assignment: (i) no assignment shall relieve the HDFC or the Partnership Company from primary liability for any of their obligations hereunder; (ii) the assignee shall assume the obligations of the HDFC and/or the Partnership hereunder to the extent of the interest so assigned; (iii) the HDFC and/or the Partnership shall, within ten (10) days after the delivery thereof, furnish or cause to be furnished to the Town a true and complete copy of such assignment and the instrument of assumption and related documents associated with Approved Assignment); (iv) the Project shall continue to be operated in compliance with Article XI of the PHFL; and (v) if the Town shall so request, as of the purported effective date of any such assignment, the HDFC and/or the Partnership at its or their sole cost shall furnish to the Town an opinion, in form and substance satisfactory to the Town as to items (i), (ii) and (iv) above. Any such assignment shall be subject to the review and approval by the Town and approval as to form by the Town Attorney with any such cost to be paid by the HDFC and/or the Partnership, including reasonable attorneys' fees, and shall contain such terms and conditions as reasonably required by the Town and its counsel.

b. Notwithstanding anything to the contrary contained in this Section 15 or elsewhere in this agreement, the prohibition on Transfer described above shall not be construed to prohibit the transfer of title to the Project or any portion thereof to an HFA Party as a result of a foreclosure or the acceptance of a deed in lieu of foreclosure or comparable conversion of the loan held by HFA. During any period of time that an HFA Party owns the Project or if any subsequent owner acquires the Project from a HFA Party, neither HFA, nor such HFA Party, nor such subsequent owner will be liable or obligated for the breach or default of any obligation of any prior owner (including the Partnership and/or HDFC) under this Agreement, including, but not limited to, any payment or indemnification obligation, in which case the owner of the Project at the time the default occurred shall remain liable for any and all damages occasioned thereby even after such entity ceases to be the

Attachment: Parkside.PILOT (RES-2021-726 : Parkside Amherst Preservation HDFC - PILOT - CRS #2821)

owner (and, in such event, any party seeking to collect such damages shall have no recourse and shall have no right to levy against, or otherwise collect on, any judgment from the Project), provided that such defaulting owner shall bear no liability under this Agreement for any damages occasioned by any subsequent default under this Agreement occurring after such entity ceases to be the owner of the Project.

16. Applicable Law. This Agreement shall be governed, construed and enforced in accordance with the laws of the State of New York for contracts to be wholly performed therein.

17. Section Headings Not Controlling. The headings of the several sections in this Agreement have been prepared for convenience of reference only and shall not control, affect the meaning of or be taken as an interpretation of any provision of this Agreement.

18. Severability. If any provision of this Agreement or its application is held invalid or unenforceable to any extent, the remainder of this Agreement shall remain in full force and effect and the application of that provision to other persons or circumstances shall be enforced to the greatest extent permitted by law.

19. Entire Agreement. This Agreement constitutes the entire agreement of the Parties relating to PILOT Payments with respect to the Project and the Property and supersedes all prior contracts and/or agreements, whether oral or written, with respect thereto.

20. Authority To Execute. Any individual executing this Agreement on behalf of a Party represents and warrants that he or she is duly authorized to execute and deliver this Agreement on behalf of such Party, and this Agreement is binding upon such Party in accordance with its terms.

{Rest of Page Left Intentionally Blank}

Attachment: Parkside.PILOT (RES-2021-726 : Parkside Amherst Preservation HDFC - PILOT - CRS #2821)

(Signature Page for Agreement For Payment In Lieu Of Taxes)

IN WITNESS WHEREOF, the Town, County, School District, Partnership, and HDFC have duly executed this Agreement as of the day and year first above written.

COUNTY OF ERIE

BY: _____
Mark C. Poloncarz, County Executive
Maria R. Whyte, Deputy County Executive

Date: _____

Approved as to content
for Erie County:

BY: _____
Daniel Castle, Interim Commissioner
Department of Planning
& Economic Development

Date: _____

Approved as to form for
Erie County:

BY: _____
Kristen M. Walder, Esq.
Assistant County Attorney

Date: _____

TOWN OF AMHERST

BY: _____
Brian J. Kulpa, Supervisor

Date: _____

Approved as to content for
the Town of Amherst:

BY: _____
David Marrano, Assessor

Date: _____

Approved as to form for the
Town of Amherst:

BY: _____
Stanley J. Sliwa, Esq.,
Town Attorney

Date: _____

Attachment: Parkside.PILOT (RES-2021-726 : Parkside Amherst Preservation HDFC - PILOT - CRS #2821)

(Signature Page for Agreement For Payment In Lieu Of Taxes)

WILLIAMSVILLE CENTRAL SCHOOL DISTRICT

By: _____
Name:
Title:

Date: _____

PARKSIDE AMHERST PRESERVATION HOUSING DEVELOPMENT FUND COMPANY, INC., a New York not-for-profit corporation

By: _____
Matthew Finkle, Vice President

Date: _____

PARKSIDE AMHERST PRESERVATION, L.P.,

By: Parkside Amherst MJP GP, LLC, a New York limited liability company, its managing general partner

By: _____
Victor L. Peterson III, President

Date: _____

By: Parkside Amherst Related GP, LLC, a New York limited liability company, its co-general partner

By: _____
Matthew Finkle, Vice President

Date: _____

Attachment: Parkside.PILOT (RES-2021-726 : Parkside Amherst Preservation HDFC - PILOT - CRS #2821)

SCHEDULE A

PARKSIDE PILOT PAYMENTS

Tax Year	Total PILOT	Town	School	County
1	105,100	52,550	26,275	26,275
2	107,728	53,864	26,932	26,932
3	110,421	55,210	27,605	27,605
4	113,181	56,591	28,295	28,295
5	116,011	58,005	29,003	29,003
6	118,911	59,456	29,728	29,728
7	121,884	60,942	30,471	30,471
8	124,931	62,465	31,233	31,233
9	128,054	64,027	32,014	32,014
10	131,255	65,628	32,814	32,814
11	134,537	67,268	33,634	33,634
12	137,900	68,950	34,475	34,475
13	141,348	70,674	35,337	35,337
14	144,882	72,441	36,220	36,220
15	148,504	74,252	37,126	37,126
Total	**1,884,645**	**942,323**	**471,161**	**471,161**

Attachment: Parkside.PILOT (RES-2021-726 : Parkside Amherst Preservation HDFC - PILOT - CRS #2821)

SCHEDULE B

ERIE COUNTY EQUAL PAY CERTIFICATE
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 _____[title of corporate office/position] of _____ [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____

_____

Attachment: Parkside.PILOT (RES-2021-726 : Parkside Amherst Preservation HDFC - PILOT - CRS #2821)

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

Francina J. Spoth
Town Clerk

Meeting: 08/23/21 03:00 PM
Department: Town Attorney
Initiated by: **Stanley J. Sliwa**
Co-Sponsored by:

DOC ID: 24668 **RESOLUTION 2021-727** **ROLL CALL VOTE (ADOPTED)**

Athletic Fields Replacement - NCAA Baseball Diamonds (Bond Resolution - $1,317,100)

AGENDA ITEM -AUGUST 23RD, 2021

ADOPTION OF THIS BOND RESOLUTION MUST BE DONE AFTER ADOPTION OF THE SUSPENSION ITEM FOR THE SAME PROJECT

TO: **Town Board**

FROM: **Stanley J. Sliwa, Esq., Town Attorney**

DATE: **August 18, 2021**

RE: **2021-2026 C.I.P.**
Athletic Fields Replacement Project
NCAA Baseball Diamonds
Bond Resolution - $1,317,100.00

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

(1) Adopt the attached bond resolution authorizing the issuance of $1,317,100.00 in serial bonds for the above-referenced Town improvement.

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

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

Thank you.

SJS:nmb
Attachment
c: Kathy Cooper, Deputy Town Clerk
(w/attachment, **Agenda Item - August 23rd, 2021**)
Daryl C. Bramer, Comptroller *(w/attachment)*
Lynda Juul, Director of Finance *(w/attachment)*
Dan Howard, Director of Planning *(w/attachment)*
Daniel Ulatowski, AICP, Assistant Director of Planning/ZEO *(w/attachment)*
Jeffrey S. Burroughs, PE, Town Engineer (*w/attachment*)

8/23/2021
The SEQR determination was adopted under Suspension of Rules prior to the approval of

this resolution. Res. 2021-769.

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

FINANCIAL IMPACT:

Bond Resolution - $1,317,100.00

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

EXTRACT OF MINUTES

Meeting of the Town Board of the

Town of Amherst, in the

County of Erie, New York

August 23, 2021

* * *

A regular meeting of the Town Board of the Town of Amherst, in the County of Erie, New York, was held at the Town Hall, 5583 Main Street, Williamsville, New York, on August 23. 2021.

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

* * *

_____ offered the following resolution and moved its adoption:

Attachment: CertBondReso (RES-2021-727 : Athletic Fields Replacement - NCAA Baseball Diamonds (Bond Resolution - $1,317,100))

BOND RESOLUTION OF THE TOWN OF AMHERST, NEW YORK, ADOPTED AUGUST 23, 2021, AUTHORIZING THE RELOCATION OF NCAA BASEBALL DIAMOND PROJECT, STATING THE ESTIMATED TOTAL MAXIMUM COST THEREOF IS $1,317,100, APPROPRIATING SAID AMOUNT FOR SUCH PURPOSE, AND AUTHORIZING THE ISSUANCE OF BONDS IN THE PRINCIPAL AMOUNT OF $1,317,100 TO FINANCE SAID APPROPRIATION

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

Section 1. The Town of Amherst, in the County of Erie, New York (herein called the "Town"), is hereby authorized to undertake the Relocation of NCAA Baseball Diamond Project, as described in the map, plan and report dated July 2021, prepared by the Town Engineering Department (2021-2026 Capital Improvement Program Project YR-11A). The estimated total maximum cost thereof, including preliminary costs and costs incidental thereto and the financing thereof, is $1,317,100 and said amount is hereby appropriated for such purpose. The plan of financing includes the issuance of bonds in the aggregate principal amount of $1,317,100 to finance said appropriation, application of proceeds from an anticipated Amherst Central Park Infrastructure Fund, and to the extent necessary the levy and collection of taxes on all the taxable real property in the Town to pay the principal of said bonds and the interest thereon as the same shall become due and payable.

Section 2. Bonds of the Town in the principal amount of $1,317,100 are hereby authorized to be issued pursuant to the provisions of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (herein called the "Law"), to finance said objects or purposes as set forth in section 1 hereof.

Attachment: CertBondReso (RES-2021-727 : Athletic Fields Replacement - NCAA Baseball Diamonds (Bond Resolution - $1,317,100))

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

(a) The period of probable usefulness applicable to the class of objects or purposes for which said $1,317,100 bonds are authorized to be issued, within the limitations of Section 11.00 a. 19(c) of the Law, is fifteen (15) years.

(b) The proceeds of the bonds herein authorized and any bond anticipation notes issued in anticipation of said bonds may be applied to reimburse the Town for expenditures made after the effective date of this resolution for the purpose for which said bonds are authorized. The foregoing statement of intent with respect to reimbursement is made in conformity with Treasury Regulation Section 1.150-2 of the United States Treasury Department.

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

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

Attachment: CertBondReso (RES-2021-727 : Athletic Fields Replacement - NCAA Baseball Diamonds (Bond Resolution - $1,317,100))

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

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

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

(b) the provisions of law which should be complied with at the date of the publication of such resolution, or a summary thereof, are not substantially complied with,

and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or

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

Attachment: CertBondReso (RES-2021-727 : Athletic Fields Replacement - NCAA Baseball Diamonds (Bond Resolution - $1,317,100))

Section 7. This bond resolution is subject to a permissive referendum and the Town Clerk is hereby authorized and directed, within fifteen (15) days after the adoption of this resolution, to cause to be published, in full, in "The Amherst Bee," a newspaper having a general circulation within said Town and hereby designated the official newspaper of the Town for such publication and posted on the sign board of the Town maintained pursuant to the Town Law, a Notice in substantially the following form:

Attachment: CertBondReso (RES-2021-727 : Athletic Fields Replacement - NCAA Baseball Diamonds (Bond Resolution - $1,317,100))

TOWN OF AMHERST. NEW YORK

PLEASE TAKE NOTICE that on August 23. 2021, the Town Board of the Town of Amherst, in the County of Erie, New York, adopted a bond resolution entitled:

> "BOND RESOLUTION OF THE TOWN OF AMHERST, NEW YORK, ADOPTED AUGUST 23. 2021, AUTHORIZING THE RELOCATION OF NCAA BASEBALL DIAMOND PROJECT, STATING THE ESTIMATED TOTAL MAXIMUM COST THEREOF IS $1,317,100, APPROPRIATING SAID AMOUNT FOR SUCH PURPOSE, AND AUTHORIZING THE ISSUANCE OF BONDS IN THE PRINCIPAL AMOUNT OF $1,317,100 TO FINANCE SAID APPROPRIATION,"

an abstract of which bond resolution concisely stating the purpose and effect thereof, being as follows:

FIRST: AUTHORIZING said Town is authorized to undertake the Relocation of NCAA Baseball Diamond Project, as described in the map, plan and report dated July 2021, prepared by the Town Engineering Department (2021-2026 Capital Improvement Program Project YR-11A); STATING the estimated total maximum cost thereof, including preliminary costs, and costs incidental thereto and the financing thereof, is $1,317,100; APPROPRIATING said amount for such purpose; and STATING the plan of financing includes the issuance of bonds in the principal amount of $1,317,100 to finance said appropriation, application of proceeds from an anticipated Amherst Central Park Infrastructure Fund, and to the extent necessary the levy and collection of taxes on all the taxable real property in the Town to pay the principal of said bonds and the interest thereon;

SECOND: AUTHORIZING the issuance of bonds in the principal amount of $1,317,100 pursuant to the Local Finance Law of the State of New York (the "Law") to finance said appropriation;

THIRD: DETERMINING and STATING the period of probable usefulness applicable to the purpose for which said bonds are authorized to be issued is fifteen (15) years; the proceeds of said bonds and any bond anticipation notes issued in anticipation thereof may be applied to reimburse the Town for expenditures made after the effective date of this bond resolution for the purpose for which said bonds are authorized; and the proposed maturity of said bonds will exceed five (5) years;

FOURTH: DETERMINING that said bonds, and any bond anticipation notes issued in anticipation of said bonds, and the renewals of said bond anticipation notes shall be general obligations of the Town; and PLEDGING to their payment the faith and credit of the Town;

Attachment: CertBondReso (RES-2021-727 : Athletic Fields Replacement - NCAA Baseball Diamonds (Bond Resolution - $1,317,100))

FIFTH: DELEGATING to the Supervisor the powers and duties as to the issuance of said bonds, and any bond anticipation notes issued in anticipation of said bonds, or the renewals thereof; and

SIXTH: DETERMINING that the bond resolution is subject to a permissive referendum.

DATED: August 23. 2021

FRANCINA J. SPOTH,
Town Clerk

Section 8. The Town Clerk is hereby authorized and directed to cause said bond resolution to be published, in summary, after said bond resolution shall take effect, in the newspaper referred to in Section 7 hereof, and hereby designated the official newspaper for said publication, together with a Notice in substantially the form as provided by Section 81.00 of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York.

* * *

Attachment: CertBondReso (RES-2021-727 : Athletic Fields Replacement - NCAA Baseball Diamonds (Bond Resolution - $1,317,100))

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

AYES:

NOES:

The resolution was declared adopted.

****

Attachment: CertBondReso (RES-2021-727 : Athletic Fields Replacement - NCAA Baseball Diamonds (Bond Resolution - $1,317,100))

CERTIFICATE

I, FRANCINA J. SPOTH, Town Clerk of the Town of Amherst, in the County of Erie, State of New York, HEREBY CERTIFY that the foregoing annexed extract from the minutes of a meeting of the Town Board of said Town of Amherst duly called and held on August 23. 2021, has been compared by me with the original minutes as officially recorded in my office in the Minute Book of said Town Board and is a true, complete and correct copy thereof and of the whole of said original minutes so far as the same relate to the subject matters referred to in said extract.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of said Town of Amherst this _____day of August, 2021.

(SEAL)

_____
Town Clerk

Attachment: CertBondReso (RES-2021-727 : Athletic Fields Replacement - NCAA Baseball Diamonds (Bond Resolution - $1,317,100))

AFFIDAVIT OF POSTING

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

FRANCINA J. SPOTH, being duly sworn, deposes and says:

That she is and at all times hereinafter mentioned she was the duly elected, qualified and acting Town Clerk of the Town of Amherst, State of New York;

That on _____, 2021, she has caused to be conspicuously posted and fastened up a Notice setting forth an abstract of the bond resolution duly adopted by the Town Board on August 23. 2021, a copy of which is annexed hereto and made a part hereof, on the sign board of the Town maintained pursuant to the Town Law.

_____
Town Clerk

Subscribed and sworn to before me

this _____ day of August, 2021.

_____
Notary Public, State of New York

Attachment: CertBondReso (RES-2021-727 : Athletic Fields Replacement - NCAA Baseball Diamonds (Bond Resolution - $1,317,100))

Amherst

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

Brian J. Kulpa
Supervisor

Daniel C. Howard, AI
Planning Director

Daniel J. Ulatowski, AI
Assistant Planning Dire

Transmitted electronically

MEMORANDUM August 3, 2021

TO: Jeffery S. Burroughs, PE Town Engineer

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

RE: SEQR Determination – Athletic Fields Replacement Project
2021-2026 C.I.P. Project YR-11A
Audubon Recreation Complex NCAA Baseball Diamond Relocation

The Planning Department has reviewed the Map, Plan & Report for the subject project and has determined it to be a Type I action under the provisions of SEQR according to Part 617.7(b)(11) and Chapter 104, Section 104-3 of the Town of Amherst Code.

A determination of environmental significance, pursuant to the provisions of SEQR according to Part 617.7(a) will be considered by the Amherst Planning Board at their meeting of August 19, 2021 at which time they will also consider the approval of the site plan for the subject project.

Please contact our office if you have any questions.

X:\Special_Projects\SEQR_Engineering & Other TOA\Type_I_Unlisted__Other_Actions (PJ-2015-001A)\Audubon Recreation Complex NCAA Baseball Diamond Relocation_Lou Gehrig.docx

cc: Stanley J. Sliwa, Esq., Town Attorney
Daryl Bramer, Comptroller
Daniel Howard, Planning Director

Attachment: SEQRAudubon Recreation Complex NCAA Baseball Diamond Relocation_Lou Gehrig (RES-2021-727 : Athletic Fields Replacement

Attachment: MPR - Athletic Field Replacements_rev2 (RES-2021-727 : Athletic Fields Replacement - NCAA Baseball Diamonds (Bond

Town of Amherst
Youth & Recreation Department

Athletic Fields Replacement Project

2021 - 2026 C.I.P. Project YR-11A

Map, Plan & Report

July 2021

Rev. 8/3/21

CONTENTS:

- Approved 2021 - 2026 CIP Project YR-11A
- Introduction/Existing Conditions
- Proposed Scope
  - Williamsville Junior Football Association Field Relocation
  - Audubon Recreation Complex NCAA Baseball Diamond Relocation
- Financial / Taxation Summary
- SEQR Determination
- Exhibits (Figure 1, Figure 2, Figure 3, Figure 4)

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

Attachment: MPR - Athletic Field Replacements_rev2 (RES-2021-727 : Athletic Fields Replacement - NCAA Baseball Diamonds (Bond

APPROVED 2021-2026 CIP AMENDMENT:

At the Amherst Town Board Meeting of July 26, 2021 (and amended at the August 9, 2021 Town Board Meeting), the Town Board approved the amendment of the 2021-2026 CIP to include funding for YR-11A, Athletic Fields Replacement Project. This newly approved project encompasses three subprojects, two of which are to be funded through bond action proceeds and the third is to be funded via the trust and agency account established for the replacement of facilities displaced by the partial sale of lands included in the Audubon Recreation Complex. Those projects are:

- Williamsville Junior Football Association Field Relocation (bond funding)
- Audubon Recreation Complex NCAA Baseball Diamond Relocation (bond funding)
- Amherst Girls Softball Field Relocation (trust and agency account funding)

It is important to note that the above two bond funded projects will be requested as independent bond actions with the NCAA Baseball Diamond lagging two weeks due to the SEQR status of the project.

It is also anticipated that the bond principal and interest payments will be covered via reimbursement from the Pilot Increment Financing proceeds.

INTRODUCTION / EXISTING CONDITIONS:

As the Town of Amherst plans for the creation of a central park at the former Westwood Country Club property, components of the Audubon Recreation Complex will be swapped to acquire the former Westwood Country Club property. In this particular phase of the plan, the sale of a portion of Audubon Recreation Complex to UBMD in the upper northwest quadrant of the complex will necessitate the decommissioning of the football and practice fields for Williamsville Junior Football Association, the decommissioning of the NCAA Baseball Diamond and the decommissioning of three Amherst Girls' softball fields (see Figure 1).

PROPOSED SCOPE:

Williamsville Junior Football Association Field Relocation

This project will entail construction of a new game field and practice field on the east side of the North Amherst Recreation Center at 4415 Millersport Highway (see Figure 2). It is planned that the construction of new fields in this location will entail the following scope of work: grading and construction of an underdrain/storm water management system, installation of an irrigation system, construction of bleachers and perimeter fencing, installation of repurposed goal posts, installation of field lighting and associated electrical improvements and public address system installation. In addition, additional facility enhancements will include concrete walks for pedestrian access from the facility's adjacent parking lots (see Figure 3).

NCAA Baseball Diamond Relocation

This project will entail the reconstruction of an existing ninety foot baseball diamond at the Lou Gehrig Youth Baseball facility site located at 50 Dann Road (see Figure 2). It is planned that the reconstruction work will meet NCAA Division 2 standard. Improvements to the baseball

diamond will entail the following scope of work: minor grading work, construction of a new perimeter fence and warning track system and backstop, construction of new dugouts, construction of new bullpens, construction of a field lighting system, including a new electrical service, installation of bleachers and installation of a repurposed scoreboard from the ninety foot baseball diamond at the Audubon Recreation Complex (see Figure 4).

FINANCIAL SUMMARY:

Williamsville Junior Football Field Relocation

Professional Service Costs (Construction Phase Services)	$ 26,500
Estimated Construction Costs:	
Williamsville Junior Football Game Field Relocation	$ 1,325,000
Williamsville Junior Football Practice Field Relocation	$ 981,000
Total Construction Costs	$ 2,332,500
Legal / Administrative	$ 12,400
Project Contingency	$ 138,000
Total Amount to be Financed (bond)	**$ 2,482,900**

NCAA Baseball Diamond Relocation

Professional Service Costs (Construction Phase Services)	$ 5,500
Estimated Construction Costs:	
NCAA Baseball Diamond Relocation	$ 1,231,000
Total Construction Costs	$ 1,236,500
Legal / Administrative	$ 6,600
Project Contingency	$ 74,000
Total Amount to be Financed (bond)	**$ 1,317,100**

Please note that the above project costs above are estimates only and funding may be moved between projects if necessary.

TAXATION SUMMARY:

Total Bond Amount:	$ 3,800,000
Bond Term:	15 Years
Annual Tax Impacts:	$0.032 per $1,000 AV (General Fund)
Typical Property Taxation Impact:	$6.42 per $200,000 property

SEQR DETERMINATION:

The Town of Amherst Planning Department has determined that the Williamsville Junior Football Field Replacement project is a Type 2 SEQR action and that the NCAA Baseball Diamond Relocation project is a Type 1 SEQR action due to the local law which requires such when disturbing NYDEC wetlands adjacent areas (100 foot buffer area). The Planning Department correspondence is attached to this MPR.

Attachment: MPR - Athletic Field Replacements_rev2 (RES-2021-727 : Athletic Fields Replacement - NCAA Baseball Diamonds (Bond

TOWN OF AMHERST

Erie County, New York

Figure 1 - Audubon Recreation Complex 500 Maple Road

250 125 0 250

Feet



Attachment: MPR - Athletic Field Replacements_rev2 (RES-2021-727 : Athletic Fields Replacement - NCAA Baseball Diamonds (Bond

TOWN OF AMHERST

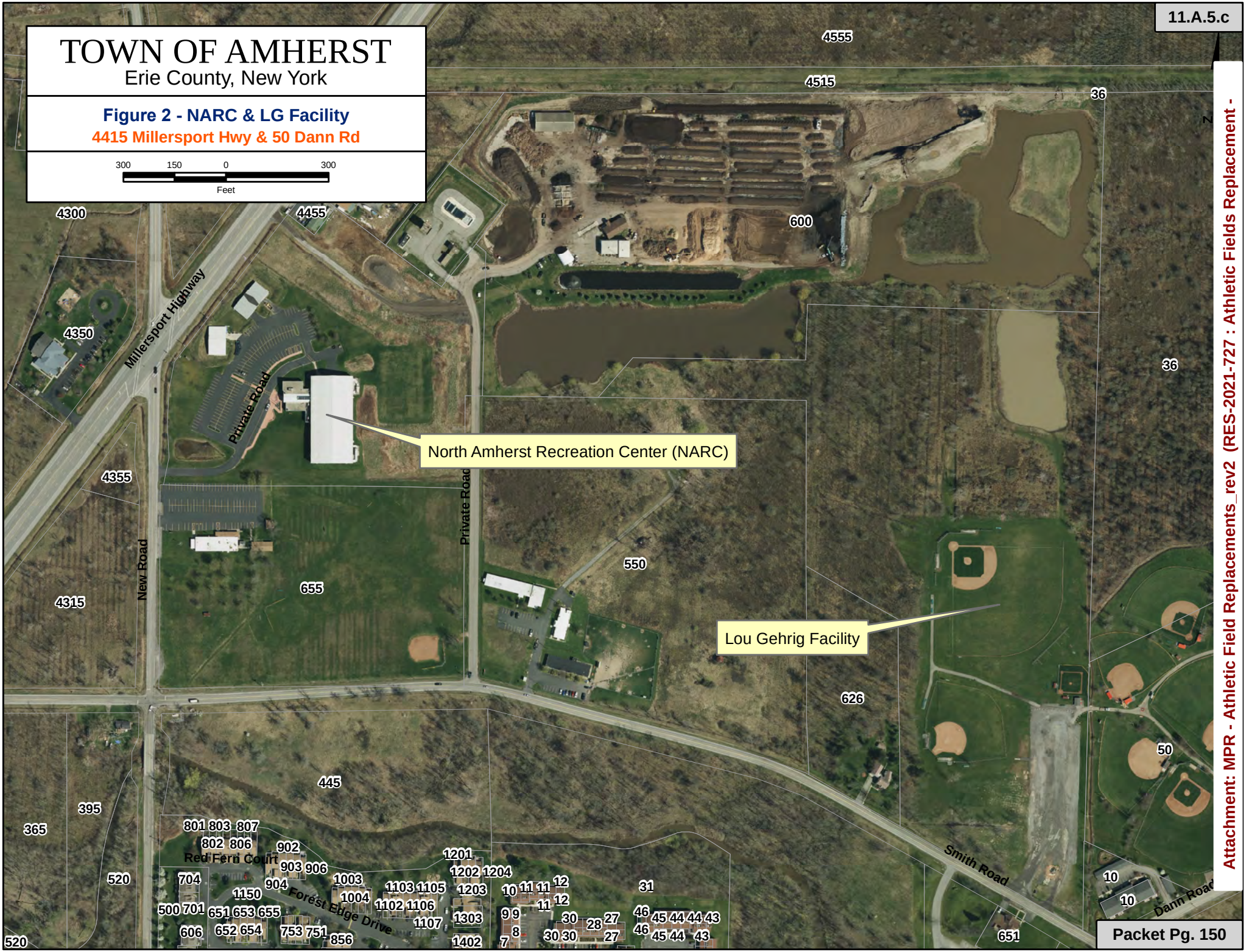
Erie County, New York

Figure 2 - NARC & LG Facility

4415 Millersport Hwy & 50 Dann Rd

300 150 0 300

Feet

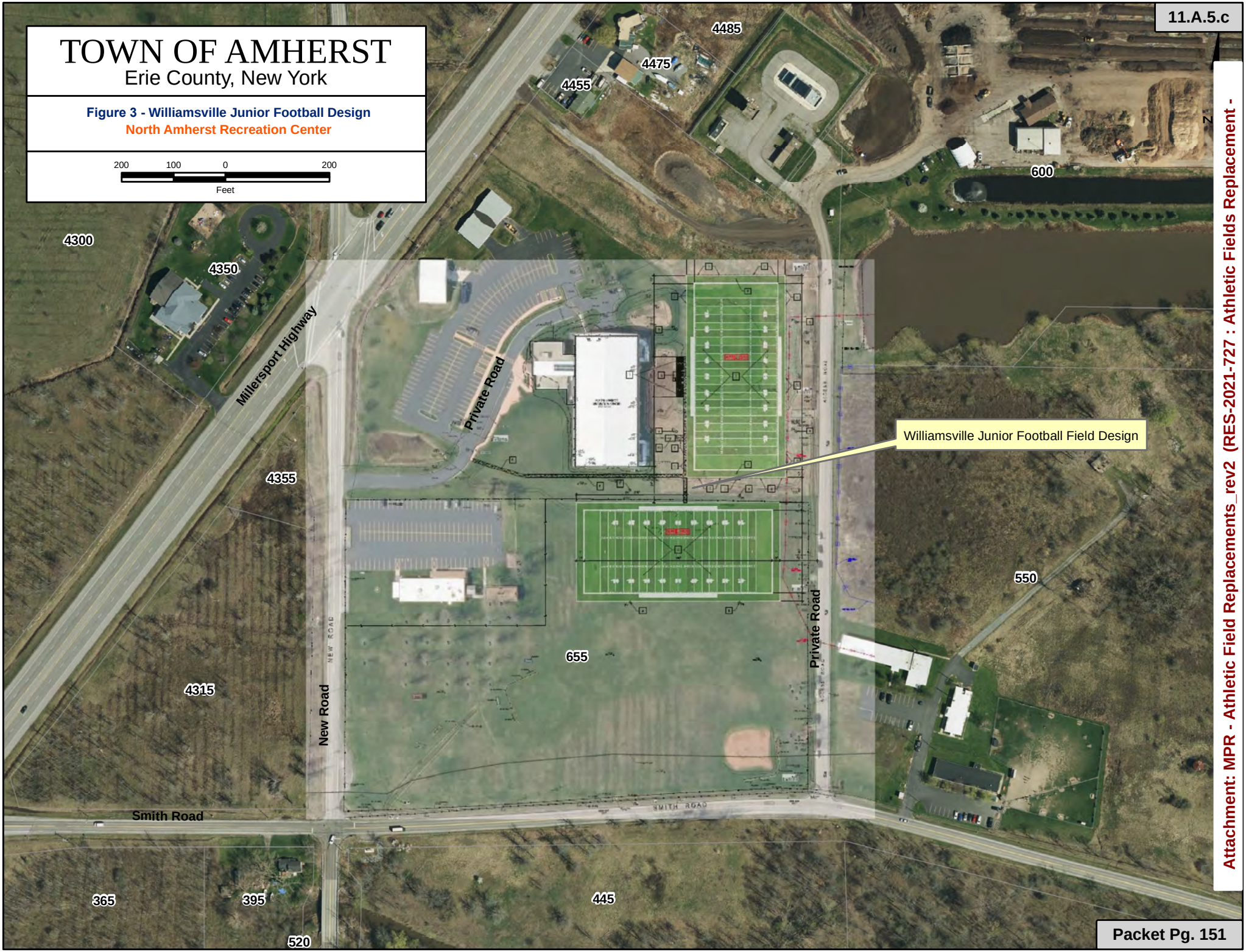


Attachment: MPR - Athletic Field Replacements_rev2 (RES-2021-727 : Athletic Fields Replacement -

TOWN OF AMHERST
Erie County, New York

Figure 3 - Williamsville Junior Football Design
North Amherst Recreation Center

200 100 0 200
Feet



Attachment: MPR - Athletic Field Replacements_rev2 (RES-2021-727 : Athletic Fields Replacement -

TOWN OF AMHERST
Erie County, New York

Figure 4 - NCAA Diamond Design
Lou Gehrig Facility

150 75 0 150
Feet



Lou Gehrig Field Design

36
550
626
50
Smith Road

Attachment: MPR - Athletic Field Replacements_rev2 (RES-2021-727 : Athletic Fields Replacement -

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

Francina J. Spoth
Town Clerk

Meeting: 08/23/21 03:00 PM
Department: Town Attorney
Initiated by: **Stanley J. Sliwa**
Co-Sponsored by:

DOC ID: 24684 **RESOLUTION 2021-728** **ADOPTED AS AMENDED**

Waiver of Attorney-Client/Attorney-Work Product Privileges

AGENDA ITEM : AUGUST 23RD, 2021

TO: **Town Board**

FROM: **Stanley J. Sliwa, Esq., Town Attorney**

DATE: **August 18, 2021**

RE: **Waiver of Attorney-Client Privilege**

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

WHEREAS, as part of the Town of Amherst's due diligence in determining whether to acquire the formal Westwood Country Club located in the Town of Amherst, the Town Attorney for the Town of Amherst obtained real estate appraisals of Westwood from the appraisal firm of Emminger Newton Pigeon & Magyar, Inc. in August, 2019 and the Town Attorney received those reports appraising the Westwood Country Club both in its current "RC" zoning as well as its prior "CF" zoning; and

WHEREAS, under FOIL, those reports are protected from disclosure and/or release by Attorney-Client and Attorney-Work product privileges; and

WHEREAS, the Town Board seeks to authorize the disclosure of those appraisal reports to comply with the July 4th, 2021 FOIL request of Daniel Rider (Request No. 1541); and

WHEREAS, the Town Board is being requested by the Town Attorney for the Town of Amherst and Town Supervisor for the Town of Amherst to waive the Attorney-Client and Attorney-Work Product privileges so that the Town Attorney can produce these appraisal reports to Mr. Rider; and

THEREFORE BE IT RESOLVED that the Town Board of the Town of Amherst hereby ~~waives the Attorney-Client and Attorney-Work Product privileges as it relates to the two (2) appraisal reports created by Emminger Newton Pigeon & Magyar, Inc. reflecting an appraisal of the formal Westwood Country Club site both in its current "RC" zoning and its prior "CF" zoning; and~~
refers the request to the Open Government Committee who should meet as soon as possible.

~~**BE IT FURTHER RESOLVED** that the Town Attorney is hereby authorized to release those appraisals to Mr. Rider in response to his FOIL request dated July 4, 2021 (Request No. 1541).~~

SJS:lcg
c: Kathy Cooper, Deputy Town Clerk (**AGENDA ITEM : AUGUST 23rd, 2021**)
David Marrano, Town Assessor

8/23/2021
A motion to approve was made by Supervisor Kulpa and seconded by Councilmember Lavin. A motion was then made by Councilmember Bucki to amend, seconded by Deputy Supervisor Berger and unanimously approved 5-0. Amendment is shown in the resolution.

A motion to approve as amended was made by Councilmember Bucki, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

FINANCIAL IMPACT:

None for the purposes of this resolution.

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

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

Francina J. Spoth
Town Clerk

Meeting: 08/23/21 03:00 PM
Department: Town Clerk
Initiated by: **Timothy Koller**
Co-Sponsored by:

DOC ID: 24646 **RESOLUTION 2021-729** **ADOPTED**

Amusement License - Boulevard Federal Credit Union

Request by Boulevard Federal Credit Union for a First Class Amusement License for September 11, 2021 from 10 AM - 4 PM. Supervising Code Enforcement Officer recommends a fee of $25.

The Building Department recommends the following conditions:

1. Food Trucks must have a current Town of Amherst Food Vendor License and have the current inspection sticker affixed to the vehicle.
2. That all fire lanes be kept clear at all times.
3. Temporary power must be code compliant.
4. Bathroom facility must be made available & accessible.
5. On site accessible parking must be maintained.
6. Fire Department access must be maintained at all times in the event of an emergency.
7. Events with 1,000 guests or more will require "Crowd Managers" that are in compliance with chapter 4 of the 2020 FCNYS.
8. The applicant must abide by Chapter 138 of the Town of Amherst Code regarding noise.

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Councilmember Lavin and unanimously approved 5-0.

FINANCIAL IMPACT:

Income to the Town.

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

TOWN OF AMHERST
BUILDING DEPARTMENT
INTER-DEPARTMENTAL CORRESPONDENCE
5583 MAIN STREET
WILLIAMSVILLE, NEW YORK 14221

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

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

Agenda Item

DATE: August 6, 2021

TO: Town Board

FROM: Douglas Gesel, Supervising Code Enforcement Officer,
Bryan Parnell, Senior Fire Inspector

RE: Amusement License for 2787 Niagara Falls Boulevard,
Boulevard Federal Credit Union

In response to the Amusement License Application dated June 15, 2021 from Lorna Jackson,

I recommend the approval of his request for First Class outdoor events at the above noted address. The fee for such an event is set be the Town Board, the fee can be from $5.00 to $50.00 per day, or fraction thereof.

With the event being held on Saturday September 11, 2021from 10:00 am until 4:00pm, in the parking area of the address noted above, I would recommend a fee of $25.00.

I would recommend that the following conditions be stated:

- Food Trucks must have a current Town of Amherst Food Vendor License and have the current inspection sticker affixed to the vehicle.
- That all fire lanes be kept clear at all times.
- Temporary power must be code compliant.
- Bathroom facility must be made available & accessible.
- On site accessible parking must be maintained.
- Fire Department access must be maintained at all times in the event of an emergency.
- Events with 1,000 guests or more will require "Crowd Managers" that are in compliance with Chapter 4 of the 2020 FCNYS.
- The applicant must abide by Chapter 138 of the Town of Amherst Code regarding noise.

Please contact me if you have any questions regarding this response.

Douglas Gesel, Supervising Code Enforcement Officer

cc: Fran Spoth, Town Clerk, Mark Berke P.E. Commissioner of Building

Attachment: DOC081021-08102021133215 (RES-2021-729 : Amusement License - Boulevard Federal Credit Union)

Koller, Timothy

From: Scott Chamberlin [redacted]
Sent: Thursday, August 5, 2021 6:14 PM
To: Koller, Timothy
Subject: Re: Boulevard Federal Credit Union - Amusement License Application

CAUTION: This email originated from outside of the organization.
Please do not click links or open attachments unless you recognize the sender and know the content is safe.

We have no issues with this.

SC

Chief Scott P. Chamberlin
Town of Amherst Police Department
500 John James Audubon Parkway
Amherst, NY 14228
(716)689-1351
[redacted]

On Wed, Aug 4, 2021 at 1:21 PM Koller, Timothy <tkoller@amherst.ny.us> wrote:
MEMORANDUM

Date: August 4, 2021

To: Scott Chamberlin, Chief of Police & Doug Gesel, Supv. Code Enforcement Officer & Bryan Parnell, Senior Fire Inspector

From: Timothy Koller, Deputy Town Clerk

Re: Amusement License

Attached is a request from Boulevard Federal Credit Union to hold a craft/garage fundraiser from 10 am - 4 pm on September 11 at Boulevard FCU, 2787 Niagara Falls Boulevard. Please review and send any written comments back to me as soon as possible so we can place this on the earliest Town Board Agenda. Thank you for your cooperation.

Timothy J. Koller
Deputy Town Clerk
Town of Amherst
(716) 631-7043

Attachment: DOC081021-08102021133215 (RES-2021-729 : Amusement License - Boulevard Federal Credit Union)

Town of Amherst
Amusement License Application

Organization or Resident: Boulevard Federal Credit Union

Address of Event: 2787 Niagar Falls Blvd

Describe Event: Craft / Garage Fundraiser

List All Dates: 9/11/2021 SAT
day/month/year & day of week

Number of Occasions: ONE

Time (Start & End): 10:00 Am T.11 4:00 PM

PLEASE ATTACH A SITE PLAN WITH DESIGNATED AREA FOR EVENT

Name of Organizer LORNA Jackson

Address 2787 Niagara Falls Blvd

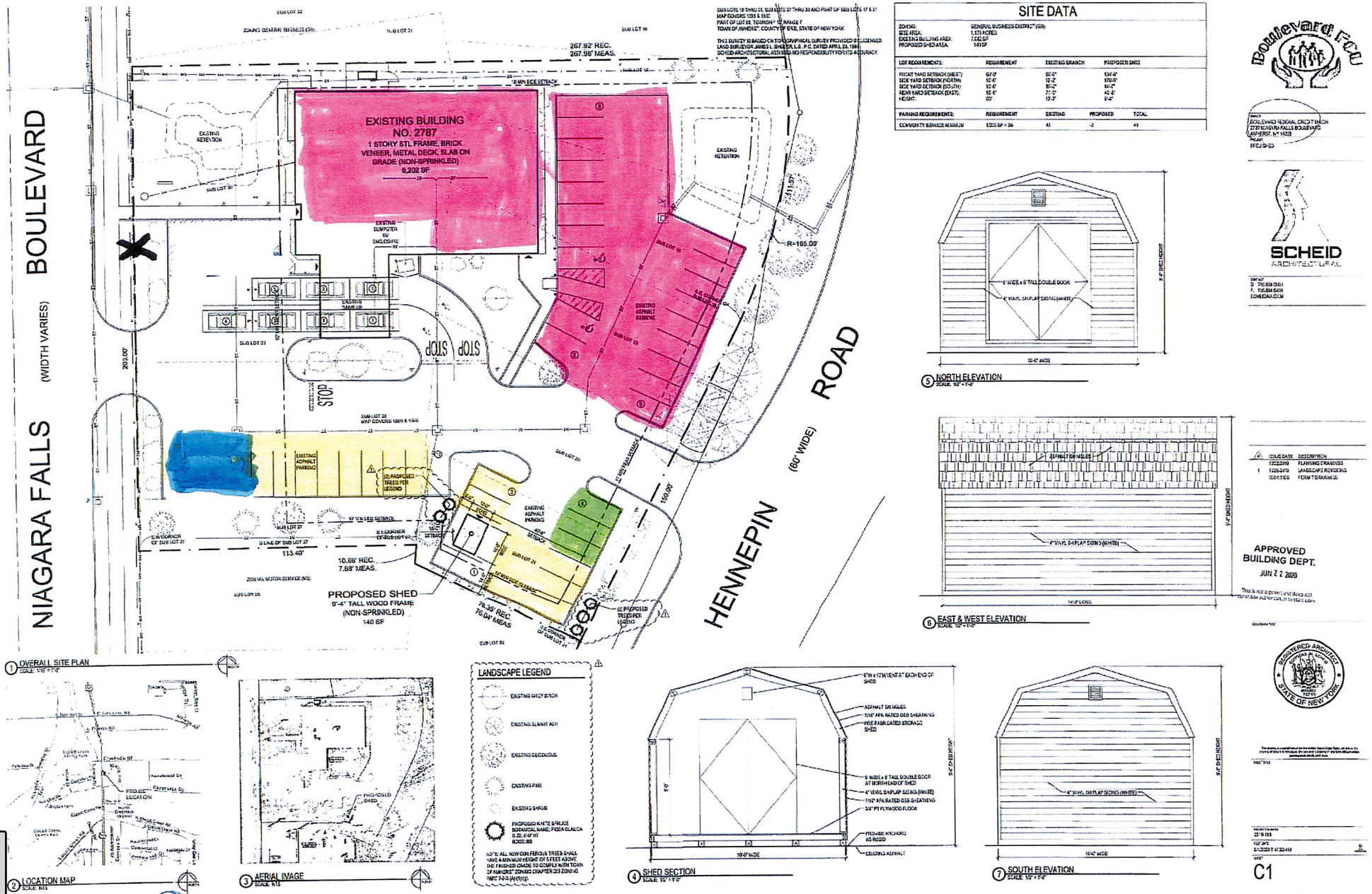
Phone Number 716 - 691 - 6727

Signature of Organizer Lorna Jackson

Date 6/15/2021

Office use only:
Submitted to Police & Building _____
Fee determined by Town Board _____
Business or Resident notified _____
Payment Rcvd _____
License issued and mailed out _____

Attachment: DOC081021-08102021133215 (RES-2021-729 : Amusement License - Boulevard Federal Credit Union)



FOOD TRUCK Handicap Parking Parking EVENT SIGN

Packet Pg. 159

11.B.1.a

Attachment: DOC081021-08102021133215 (RES-2021-729 : Amusement License - Boulevard Federal Credit Union)

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

Francina J. Spoth
Town Clerk

Meeting: 08/23/21 03:00 PM
Department: Town Clerk
Initiated by: **Timothy Koller**
Co-Sponsored by:

DOC ID: 24692 **RESOLUTION 2021-730** **ADOPTED**

Fireworks Permit - Country Club of Buffalo

Request for fireworks permit on August 27, 2021 at 9:30 PM at Country Club of Buffalo, 250 Youngs Road with the following conditions:

1. That the spectators, parking areas and dwellings be 240 feet from the fireworks discharge location for vertical mortars. (max. 4 inch shells)
2. That one (1) 5-lb. ABC fire extinguisher, with a current inspection tag, is located at the firing site with a qualified operator. Additional extinguishers maybe required depending on site layout.
3. That the trajectory of shells shall not come within 25 feet of overhead objects.
4. That the actual shooters listed on the application be present at the site or a substitute shooters list be submitted five (5) or more days prior to the event.
5. If you would like to start the display earlier than the time proposed you must call 689-1212 before starting to be approved by our office.
6. Display shall follow NFPA 1123-2018 & IFC 2018.
7. Display must be completed by 11 PM.
8. Crowds over 1000 people require certified crowd managers.

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Councilmember Lavin and unanimously approved 5-0.

FINANCIAL IMPACT:

$100.00 permit fee is paid.

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

TOWN OF AMHERST

BUILDING DEPARTMENT

ERIE COUNTY, NEW YORK

5583 MAIN STREET

WILLIAMSVILLE, NEW YORK 14221

PHONE: (716) 631-7080

FAX: (716) 631-7192

Mark Berke, P.E.
Commissioner of Building

Memorandum

DATE: August 13, 2021

TO: Francina Spoth, Town Clerk

FROM: Bryan W. Parnell, Senior Fire Inspector

RE: Fireworks Display – Country Club of Buffalo 250 Youngs Road

DATE & TIME: Friday August 27, 2021 @ 9:30 PM

All items required on the application appear to be in order. Therefore, we hereby recommend the approval of this application with the following conditions.

1) That the Spectators, parking areas and dwellings be 240 feet from the fireworks discharge location for vertical mortars. (max. 4 inch shells)
2) That one (1) 5-lb. ABC fire extinguisher, with a current inspection tag, is located at the firing site with a qualified operator. Additional extinguishers maybe required depending on site layout.
3) That the trajectory of shells shall not come within 25 feet of overhead objects.
4) That the actual shooters listed on the application be present at the site or a substitute shooters list be submitted five (5) or more days prior to the event
5) If you would like to start the display earlier than the time proposed you must call 689-1212 before starting to be approved by our office.
6) Display shall follow NFPA 1123-2018 & IFC 2018.
7) Display must be completed by 11 PM.
8) Crowds over 1000 people require certified crowd managers.

Bryan W. Parnell

Senior Fire Inspector
Fire Safety Division

X:\DOCS\BWP\fireworks display\2021\250 Youngs Rd - Buffalo CC 8-27-2021.docx

Attachment: DOC081921-08192021095130 (RES-2021-730 : Fireworks Permit - Country Club of Buffalo)

Town of Amherst, 5583 Main St., Williamsville, NY 14221 PH: 716-631-7045 FX: 716-631-7152

APPLICATION FOR FIREWORKS DISPLAY

The undersigned hereby makes application to the Town Board of the Town of Amherst to acquire a license pursuant to Chapter 68 (Amusements) of the Code of the Town of Amherst for the public display of fireworks in the Town of Amherst, Erie County, New York:

1. Name of individual/company sponsoring the display and the names of the persons actually to be in charge of the firing of the display areas: Country Club of Buffalo

   Young Explosives Corp.
2. Date and time of day at which the display is to be held: Add reason for display: wedding, corporate event etc.

   Friday August 27, 2021 @ 9:30PM
3. Exact location planned for the display:
   250 Youngs Rd. Amherst, NY
4. Age, experience and physical characteristics of individuals who are to discharge fireworks:

   Jerry Behlau PR-597 exp 7/24

   Arnell Bradshaw over 18
5. Number and kind of fireworks to be discharged (include largest shell size):

   approx. 200 misc. 1.3G ; Largest shell 4"
6. Manner and place of storage of these fireworks prior to the display:

   With Young Explosives at all times.
7. Attached is a diagram of the grounds on which the display is to be held. This diagram shows the point at which the fireworks are to be discharged, the location of all the buildings, highways, and other lines of communications in addition to the lines behind which the audience will be restrained, the location of all nearby trees, telegraph or telephone lines or other overhead obstructions.
8. This application shall be accompanied by a bond or policy of public liability insurance with a limit of $3,000,000 for personal injuries and $1,000,000 for property damage and proof of Workers' Compensation Insurance.
9. This application for a Fire Prevention Operating Permit (Code 52) must be accompanied by a check in the amount of $90 made out to "Town of Amherst".

Date: August 12, 2021

Company, Corporation or Individual
Country Club of Buffalo

By: [signature]

STATE OF NEW YORK
Erie COUNTY
TOWN OF Amherst

Sworn to before me this 12th day of August 2021

Lori L Mychalczuk
Notary Public

LORI L. MYCHALCZUK
Notary Public, State of New York
No. 01MY6034723
Qualified in Niagara County
Commission Expires December 13, 2021

Attachment: DOC081921-08192021095130 (RES-2021-730 : Fireworks Permit - Country Club of Buffalo)

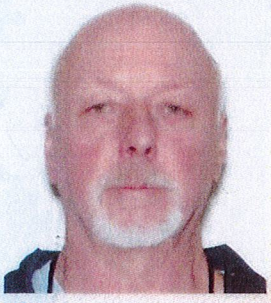


250 N Youngs Rd
Williamsville (Town of Amherst)

Attachment: DOC081921-08192021095130 (RES-2021-730 : Fireworks Permit - Country Club of Buffalo)

STATE OF NEW YORK - DEPARTMENT OF LABOR
PYROTECHNICIAN CERTIFICATE OF COMPETENCE

N.Y.S



JERRY L BEHLAU

CLASS: B
NON PROXIMATE AUDIENCE ONLY

THIS CARD MUST BE CARRIED
WHEN USING PYROT CERT# PR-597
EXPIRES 07/24

NYC & NYS CERTIFICATIONS REQUIRED IN NYC

01213 005958922 64

DMV# 679522790
EYES HAZ
HAIR GRY
HGT 6' 3 "

IF FOUND, RETURN TO:
NYSDOL - L&C UNIT
ROOM 161 BUILDING 12
STATE OFFICE CAMPUS
ALBANY NY 12240

Attachment: DOC081921-08192021095130 (RES-2021-730 : Fireworks Permit - Country Club of Buffalo)

U.S. Department of Justice
Bureau of Alcohol, Tobacco, Firearms and Explosives

Federal Explosives License/Permit
(18 U.S.C. Chapter 40)

In accordance with the provisions of Title XI, Organized Crime Control Act of 1970, and the regulations issued thereunder (27 CFR Part 555), you may engage in the activity specified in this license or permit within the limitations of Chapter 40, Title 18, United States Code and the regulations issued thereunder, until the expiration date shown. **THIS LICENSE IS NOT TRANSFERABLE UNDER 27 CFR 555.53.** See "WARNINGS" and "NOTICES" on reverse.

Direct ATF Correspondence To	ATF - Chief, FELC 244 Needy Road Martinsburg, WV 25405-9431	License/Permit Number	**6-NY-069-21-1K-00338**
Chief, Federal Explosives Licensing Center (FELC)	Christopher R. Reeps	Expiration Date	**October 1, 2021**

Name
YOUNG EXPLOSIVES CORP

Premises Address (Changes? Notify the FELC at least 10 days before the move.)
2165 NEW MICHIGAN ROAD
CANANDAIGUA, NY 14424-0000

Type of License or Permit
21-MANUFACTURER OF EXPLOSIVES

Purchasing Certification Statement

The licensee or permittee named above shall use a copy of this license or permit to assist a transferor of explosives to verify the identity and the licensed status of the licensee or permittee as provided by 27 CFR Part 555. The signature on each copy must be an original signature. A faxed, scanned or e-mailed copy of the license or permit with a signature intended to be an original signature is acceptable. The signature must be that of the Federal Explosives Licensee (FEL) or a responsible person of the FEL. I certify that this is a true copy of a license or permit issued to the licensee or permittee named above to engage in the business or operations specified above under "Type of License or Permit."

Mailing Address (Changes? Notify the FELC of any changes.)
YOUNG EXPLOSIVES CORP
P O BOX 18653
ROCHESTER, NY 14618-0000

James R Young	President
Licensee/Permittee Responsible Person Signature	Position/Title
Printed Name	10/1/18
	Date

Previous Edition is Obsolete YOUNG EXPLOSIVES CORP:2165 NEW MICHIGAN ROAD:14424:6-NY-069-21-1K-00338:October 1, 2021:21-MANUFACTURER OF EXPLOSIVES

ATF Form 5400.14/5400.15 Part 1
Revised October 2011

Federal Explosives License (FEL) Customer Service Information

Federal Explosives Licensing Center (FELC)
244 Needy Road
Martinsburg, WV 25405-9431

Toll-free Telephone Number: (877) 283-3352
Fax Number: (304) 616-4401
E-mail: FELC@atf.gov

ATF Homepage: www.atf.gov

Change of Address *(27 CFR 555.54(a)(1))*. Licensees or permittees may during the term of their current license or permit remove their business or operations to a new location at which they intend regularly to carry on such business or operations. The licensee or permittee is required to give notification of the new location of the business or operations not less than 10 days prior to such removal with the Chief, Federal Explosives Licensing Center. The license or permit will be valid for the remainder of the term of the original license or permit. **(The Chief, FELC, shall, if the licensee or permittee is not qualified, refer the request for amended license or permit to the Director of Industry Operations for denial in accordance with § 555.54.)**

Right of Succession *(27 CFR 555.59)*. (a) Certain persons other than the licensee or permittee may secure the right to carry on the same explosive materials business or operations at the same address shown on, and for the remainder of the term of, a current license or permit. Such persons are: (1) The surviving spouse or child, or executor, administrator, or other legal representative of a deceased licensee or permittee; and (2) A receiver or trustee in bankruptcy, or an assignee for benefit of creditors. (b) In order to secure the right provided by this section, the person or persons continuing the business or operations shall furnish the license or permit for for that business or operations for endorsement of such succession to the Chief, FELC, within 30 days from the date on which the successor begins to carry on the business or operations.

(Continued on reverse side)

Cut Here ✂

Federal Explosives License/Permit (FEL) Information Card

License/Permit Name: **YOUNG EXPLOSIVES CORP**

Business Name:

License/Permit Number: **6-NY-069-21-1K-00338**

License/Permit Type: **21-MANUFACTURER OF EXPLOSIVES**

Expiration: **October 1, 2021**

Please Note: Not Valid for the Sale or Other Disposition of Explosives.

Attachment: DOC081921-08192021095130 (RES-2021-730 : Fireworks Permit - Country Club of Buffalo)

STATE OF NEW YORK
DEPARTMENT OF LABOR

DIVISION OF
SAFETY AND HEALTH

LICENSE TO DEAL IN OR MANUFACTURE EXPLOSIVES

Expires: 2/28/2022

Young Explosives Corporation
PO Box 18653
Rochester, NY 14618

THIS LICENSE MUST BE POSTED IN YOUR PLACE OF BUSINESS

James R. Young

License No. D-2316

is hereby licensed to deal in or manufacture explosives in compliance with the requirements of the Labor Law and Industrial Code Rules. Any change in the conditions under which this license is granted may cause it to be revoked.

Eileen M. Franko, Acting Director FOR
THE COMMISSIONER OF LABOR

Every person selling, delivering or giving away any explosives must keep at the principal place of business within the state, a record of each transaction, including:

1) the NAME or TYPE and QUANTITY of explosives SOLD, DELIVERED or GIVEN. Note: No license is needed to purchase smokeless powder or black powder in quantities not exceeding five pounds for use in firing antique firearms or artifacts or replicas thereof. However, dealers MUST post all such transactions on the "Dealer-Manufacturer Report of Explosives Transactions".

2) the DATE OF EACH SALE, DELIVERY or GIFT.

3) the NAME, LICENSE NUMBER and BUSINESS ADDRESS of the purchaser, donee, or person to whom the explosives were delivered and the firm, if any, represented by such person.

4) the NAME, ADDRESS, and LICENSE NUMBER of the person TAKING THE EXPLOSIVES AWAY from the seller or donor.

SH-662 (5-98)

Attachment: DOC081921-08192021095130 (RES-2021-730 : Fireworks Permit - Country Club of Buffalo)

SCANNED
AUG 13 2021

NYSIF
New York State Insurance Fund

100 CHESTNUT STREET - SUITE 1000, ROCHESTER, NEW YORK 14604
| nysif.com

CERTIFICATE OF WORKERS' COMPENSATION INSURANCE

^ ^ ^ ^ ^ ^ 160900107
YOUNG EXPLOSIVES CORP
P O BOX 18653
ROCHESTER NY 14618

SCAN TO VALIDATE
AND SUBSCRIBE

POLICYHOLDER	CERTIFICATE HOLDER
YOUNG EXPLOSIVES CORP P O BOX 18653 ROCHESTER NY 14618	YOUNG EXPLOSIVES CORPORATION PO BOX 18653 ROCHESTER NY 14618-1461

POLICY NUMBER	CERTIFICATE NUMBER	POLICY PERIOD	DATE
R 400 999-9	147930	01/01/2021 TO 01/01/2022	2/22/2021

THIS IS TO CERTIFY THAT THE POLICYHOLDER NAMED ABOVE IS INSURED WITH THE NEW YORK STATE INSURANCE FUND UNDER POLICY NO. 400 999-9, COVERING THE ENTIRE OBLIGATION OF THIS POLICYHOLDER FOR WORKERS' COMPENSATION UNDER THE NEW YORK WORKERS' COMPENSATION LAW WITH RESPECT TO ALL OPERATIONS IN THE STATE OF NEW YORK, EXCEPT AS INDICATED BELOW, AND, WITH RESPECT TO OPERATIONS OUTSIDE OF NEW YORK, TO THE POLICYHOLDER'S REGULAR NEW YORK STATE EMPLOYEES ONLY.

IF YOU WISH TO RECEIVE NOTIFICATIONS REGARDING SAID POLICY, INCLUDING ANY NOTIFICATION OF CANCELLATIONS, OR TO VALIDATE THIS CERTIFICATE, VISIT OUR WEBSITE AT HTTPS://WWW.NYSIF.COM/CERT/CERTVAL.ASP. THE NEW YORK STATE INSURANCE FUND IS NOT LIABLE IN THE EVENT OF FAILURE TO GIVE SUCH NOTIFICATIONS.

THIS POLICY DOES NOT COVER CLAIMS OR SUITS THAT ARISE FROM BODILY INJURY SUFFERED BY THE OFFICERS OF THE INSURED CORPORATION.

PRESIDENT
JAMES YOUNG
1 OF 1 EXECUTIVE OFFICER OF
YOUNG EXPLOSIVES CORP

THE POLICY INCLUDES A WAIVER OF SUBROGATION ENDORSEMENT UNDER WHICH NYSIF AGREES TO WAIVE ITS RIGHT OF SUBROGATION TO BRING AN ACTION AGAINST THE CERTIFICATE HOLDER TO RECOVER AMOUNTS WE PAID IN WORKERS' COMPENSATION AND/OR MEDICAL BENEFITS TO OR ON BEHALF OF AN EMPLOYEE OF OUR INSURED IN THE EVENT THAT, PRIOR TO THE DATE OF THE ACCIDENT, THE CERTIFICATE HOLDER HAS ENTERED INTO A WRITTEN CONTRACT WITH OUR INSURED THAT REQUIRES THAT SUCH RIGHT OF SUBROGATION BE WAIVED.

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS NOR INSURANCE COVERAGE UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICY.

BY CAUSING THIS CERTIFICATE TO BE ISSUED TO THE CERTIFICATE HOLDER, THE POLICYHOLDER UNDERTAKES TO PROVIDE THE CERTIFICATE HOLDER 5 CALENDAR DAYS' NOTICE OF ANY CANCELLATION OF THE POLICY.

NEW YORK STATE INSURANCE FUND

DIRECTOR, INSURANCE FUND UNDERWRITING

VALIDATION NUMBER: 349971331

U-26.3

Attachment: DOC081921-08192021095130 (RES-2021-730 : Fireworks Permit - Country Club of Buffalo)

NEW YORK STATE | Workers' Compensation Board

CERTIFICATE OF INSURANCE COVERAGE
DISABILITY AND PAID FAMILY LEAVE BENEFITS LAW

PART 1. To be completed by Disability and Paid Family Leave Benefits Carrier or Licensed Insurance Agent of that Carrier

1a. Legal Name & Address of Insured (use street address only) YOUNG EXPLOSIVES CORP. 2165 NEW MICHIGAN ROAD CANANDAIGUA, NY 14424 Work Location of Insured *(Only required if coverage is specifically limited to certain locations in New York State, i.e., a Wrap-Up Policy)*	1b. Business Telephone Number of Insured (585) 394-1783 1c. Federal Employer Identification Number of Insured or Social Security Number 160900107
2. Name and Address of Entity Requesting Proof of Coverage (Entity Being Listed as the Certificate Holder) YOUNG EXPLOSIVES CORPORATION PO BOX 18653 ROCHESTER, NY 14618	3a. Name of Insurance Carrier **New York State Insurance Fund (NYSIF)** 3b. Policy Number of Entity Listed in Box "1a" DBL 6163 63 - 9 3c. Policy effective period 04/01/2021 to 04/01/2022

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 4/9/2021 By Melissa Jensen

(Signature of insurance carrier's authorized representative or NYS Licensed Insurance Agent of that insurance carrier)

Telephone Number (866) 697-4332 Name and Title **Melissa Jensen, Director of Disability Insurance Unit**

IMPORTANT: If Box 4A and 5A are checked, and this form is signed by the insurance carrier's authorized representative or NYS Licensed Insurance Agent of that carrier,this certificate is COMPLETE. Mail it directly to the certificate holder.

If Box 4B, 4C or 5B is checked, this certificate is NOT COMPLETE for purposes of Section 220, Subd. 8 of the NYS Disability and Paid Family Leave Benefits Law. It must be mailed for completion to the Workers' Compensation Board, DB Plans Acceptance Unit, PO Box 5200, Binghamton, NY 13902-5200

PART 2. To be completed by the NYS Workers' Compensation Board (Only if Box 4C or 5B of Part 1 has been checked)

State of New York
Workers' Compensation Board

According to information maintained by the NYS Workers' Compensation Board, the above-named employer has complied with the NYS Disability and Paid Family Leave Benefits Law with respect to all of his/her employees.

Date Signed _____ By _____

(Signature of Authorized NYS Workers' Compensation Board Employee)

Telephone Number _____ Name and Title _____

Please Note: *Only insurance carriers licensed to write NYS disability and paid family leave benefits insurance policies and NYS licensed insurance agents of those insurance carriers are authorized to issue Form DB-120.1.* ***Insurance brokers are NOT authorized to issue this form.***

DB-120.1 (10-17)

Certificate Number 638228

Attachment: DOC081921-08192021095130 (RES-2021-730 : Fireworks Permit - Country Club of Buffalo)

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: DOC081921-08192021095130 (RES-2021-730 : Fireworks Permit - Country Club of Buffalo)

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 8/11/2021

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 Britton Gallagher One Cleveland Center, Floor 30 1375 East 9th Street Cleveland OH 44114	CONTACT NAME: PHONE (A/C, No, Ext): 216-658-7100 FAX (A/C, No): 216-658-7101 E-MAIL ADDRESS:
INSURED Young Explosives Corporation P.O. Box 18653 Rochester NY 14618	INSURER(S) AFFORDING COVERAGE — NAIC # INSURER A : Everest National Insurance Company — 10120 INSURER B : Axis Surplus Insurance Company — 26620 INSURER C : INSURER D : INSURER E : INSURER F :

COVERAGES **CERTIFICATE NUMBER:** 2006502785 **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:	Y	Y	SI8GL00353-211	3/20/2021	3/20/2022	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ 1,000,000 $ 500,000 $ $ 1,000,000 $ 2,000,000 $ 2,000,000
A	AUTOMOBILE LIABILITY X ANY AUTO ALL OWNED AUTOS X HIRED AUTOS SCHEDULED AUTOS X NON-OWNED AUTOS	Y	Y	SI8CA00054-211	3/20/2021	3/20/2022	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 1,000,000 $ $ $
B	[ ] UMBRELLA LIAB [X] OCCUR X EXCESS LIAB [ ] CLAIMS-MADE DED [ ] RETENTION $	Y	Y	P-001-000088056-03	3/20/2021	3/20/2022	EACH OCCURRENCE AGGREGATE	$ 4,000,000 $ 4,000,000
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y / N [ ] (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N / A					PER STATUTE [ ] OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ $ $
	Hired Car Physical Damage						ACV $100 Comp. $500 Coll.	Limit Ded. Ded.

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Additional Insured extension of coverage is provided by above referenced General Liability policy where required by written agreement.
Date (s): Friday August 27, 20214
Location: Below 18th hole on golf course grounds
Additional Insured: Country Club of Buffalo; Town of Amherst
Group Code: Certificate#0285

CERTIFICATE HOLDER

Country Club of Buffalo
240 North Youngs Road
Williamsville NY 14421

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: DOC081921-08192021095130 (RES-2021-730 : Fireworks Permit - Country Club of Buffalo)

TOWN OF AMHERST
BUILDING DEPARTMENT
DIVISION OF FIRE SAFETY
5583 MAIN STREET
WILLIAMSVILLE, NEW YORK 14221
(716) 631-7142

FIRE PREVENTION / OPERATING PERMIT

APPLICATION DATE	DATE ISSUED	EXPIRATION DATE	PERMIT NUMBER
08/17/2021	08/17/2021	02/17/2022	FP-2021-0078

APPLICANT	ADDRESS	PHONE NUMBER
Youngs Explosives Corporation	PO Box 18653 Rochester	585-394-1783

LOCATION OF ACTIVITY: Country Club of Buffalo - (SITE) 250 Youngs Rd, Amherst, NY

THE ABOVE NAMED INDIVIDUAL/BUSINESS HEREBY MAKES APPLICATION TO CONDUCT THE FOLLOWING ACTIVITY PER CHAPTER 83 OF THE BUILDING CONSTRUCTION ADMINISTRATION CODE OF THE TOWN OF AMHERST. AND FOR THE KEEPING, STORAGE, OCCUPANCY, USE, SALE, HANDLING, OR MANUFACTURE OF THE FOLLOWING: (STATE QUANTITIES NORMALLY TO BE STORED, HOW STORED, OR USED, GIVING AMOUNTS FOR EACH KIND OR CATEGORY.)

Fireworks display on Friday August 27, 2021 @ 9:30 PM
approx. 200 shells with the max. of 4 inch shells
shooting location will be on the Trap range

Must follow NFPA 1123 and IFC 2018
Memo dated 8/13/2021 with additional requirements

IN ACCORDANCE WITH THE FIRE PREVENTION CODE OR NFPA SECTION(S):

APPROVED BY FIRE OFFICIAL	DATE	FEE PAID
By	08/17/2021	100.00

THIS PERMIT MUST BE POSTED ON THE ABOVE MENTIONED PREMISES

STATEMENT

I HEREBY ACKNOWLEDGE THAT: I HAVE READ THIS APPLICATION, THAT THE INFORMATION GIVEN IS CORRECT, AND THAT I AM THE OWNER OR DULY AUTHORIZED TO ACT IN THE OWNER'S BEHALF AND AS SUCH HEREBY AGREE TO COMPLY WITH THE APPLICABLE REQUIREMENTS OF THE FIRE PREVENTION CODE.

Signature

President
Title

DO NOT WRITE BELOW THIS LINE

COMMENTS:

APPROVED BY FIRE OFFICIAL

DATE

WHERE APPLICABLE - SEPARATE PERMITS ARE REQUIRED FOR BUILDING CONSTRUCTION ACTIVITY INCLUDING ELECTRICAL, PLUMBING, AND MECHANICAL INSTALLATIONS.

Attachment: DOC081921-08192021095130 (RES-2021-730 : Fireworks Permit - Country Club of Buffalo)

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

Francina J. Spoth
Town Clerk

Meeting: 08/23/21 03:00 PM
Department: Town Clerk
Initiated by: **Kathleen Cooper**
Co-Sponsored by:

DOC ID: 24640 **RESOLUTION 2021-731** **ADOPTED**

New Firefighters for the Getzville Fire Company

The two new firefighters for the Getzville Fire Company live in the Town of Amherst and reside within the Getzville Fire District.

Tyler Godson
98 Marine Drive
Amherst, NY 14228

Haley Daege
1418 N. French Road
Amherst, NY 14228

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Councilmember Szukala and unanimously approved 5-0.

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

TOWN OF AMHERST
VOLUNTEER FIRE DEPARTMENT MEMBERSHIP
RESIDENCY VERIFICATION FORM

Applicant Name: Tyler Joseph Godson

Applicant Home Address: 98 Marine Drive

Under penalty of perjury I, Tyler Godson affirm I am an applicant to be a member of the, Getzville volunteer (fire dept.) and my address of residence is listed above.

☑ My address is in the fire distract I've applied to or territory which is afforded protection by the fire department of the fire district or fire company pursuant to contract.

☐ My address is outside the district or territory that provides protection by the fire district or company, but is in the vicinity of my occupation, in which I will be able to render active service as a volunteer. My occupation address is:

Signature of Applicant: Tyler Godson

I have verified the applicant's address or employment, where applicable, by examining their driver's license or other suitable document such as a utility bill, lease or pay stub.

Signature:

Title: Corporate Secretary

Date: 07/06/2021

Submit this completed form to:
Amherst Town Clerk
5583 Main Street
Williamsville, NY 14221

Attachment: Godson FF (RES-2021-731 : New Firefighters for the Getzville Fire Company)

TOWN OF AMHERST
VOLUNTEER FIRE DEPARTMENT MEMBERSHIP
RESIDENCY VERIFICATION FORM

Applicant Name: Haley Daege

Applicant Home Address: 1418 N French Rd Amherst, NY 14228

Under penalty of perjury I, Haley Daege affirm I am an applicant to be a member of the, Getzville (fire dept.) and my address of residence is listed above.

- [x] My address is in the fire distract I've applied to or territory which is afforded protection by the fire department of the fire district or fire company pursuant to contract.
- [ ] My address is outside the district or territory that provides protection by the fire district or company, but is in the vicinity of my occupation, in which I will be able to render active service as a volunteer. My occupation address is:

_____

Signature of Applicant: Haley Daege

I have verified the applicant's address or employment, where applicable, by examining their driver's license or other suitable document such as a utility bill, lease or pay stub.

Signature: _____

Title: Corporate Secretary

Date: 8/11/21

Submit this completed form to:
Amherst Town Clerk
5583 Main Street
Williamsville, NY 14221

Attachment: daege residency (RES-2021-731 : New Firefighters for the Getzville Fire Company)

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

Francina J. Spoth
Town Clerk

Meeting: 08/23/21 03:00 PM
Department: Town Clerk
Initiated by: **Kathleen Cooper**
Co-Sponsored by:

DOC ID: 24647 **RESOLUTION 2021-732** **ADOPTED**

New Firefighter for the Main-Transit Fire Department

The new firefighter for the Main-Transit Fire Department lives in the Town of Amherst and resides within the Main-Transit Fire District.

Dylan Warren
59 Spring Meadow Dr. #3
Williamsville, NY 14221

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

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

TOWN OF AMHERST
VOLUNTEER FIRE DEPARTMENT MEMBERSHIP
RESIDENCY VERIFICATION FORM

Applicant Name: DYLAN WARREN

Applicant Home Address: 50 SPRING MEADOW DR. #3

Under penalty of perjury I, DYLAN WARREN affirm I am an applicant to be a member of the, MAIN - TRANSIT (fire dept.) and my address of residence is listed above.

- [X] My address is in the fire distract I've applied to or territory which is afforded protection by the fire department of the fire district or fire company pursuant to contract.
- [ ] My address is outside the district or territory that provides protection by the fire district or company, but is in the vicinity of my occupation, in which I will be able to render active service as a volunteer. My occupation address is:

Signature of Applicant: [signature]

I have verified the applicant's address or employment, where applicable, by examining their driver's license or other suitable document such as a utility bill, lease or pay stub.

Signature: [signature]

Title: SENIOR CAPTAIN

Date: 8.7.21

Submit this completed form to:
Amherst Town Clerk
5583 Main Street
Williamsville, NY 14221

Attachment: D. Warren Residency Form (RES-2021-732 : New Firefighter for the Main-Transit Fire Department)

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

Francina J. Spoth
Town Clerk

Meeting: 08/23/21 03:00 PM
Department: Town Clerk
Initiated by: **Kathleen Cooper**
Co-Sponsored by:

DOC ID: 24648 **RESOLUTION 2021-733** **ADOPTED**

New Firefighter for the North Bailey Fire Company

The new firefighter for the North Bailey Fire Company lives in the Town of Amherst and resides within the North Bailey Fire District.

Joshua Hacker
1525 Amherst Manor Dr., Apt. 208
Amherst, NY 14221

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Councilmember Szukala and unanimously approved 5-0.

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

North Bailey Fire Company
966 Sweet Home Road
Amherst, New York 14226

William Richter
President

Phone: (716) 836-9571
Fax: (716) 836-9599
www.northbaileyfire.com

Jeffrey Cutler
Chief

8/2/2021

Town Clerks Office
5583 Main St
Williamsville, NY 14221

To; The Amherst Town Board

We wish to submit the following individual for active membership in the North Bailey Fire Company. We request this to be done at the Town Boards earliest convenience.

Joshua Hacker
1525 Amherst manor Dr Apt. 208
Amherst, NY 14221

Respectfully Submitted
Joseph Abbarno, Secretary
Jeffrey Cutler, Chief

Attachment: Hacker-08092021133751 (RES-2021-733 : New Firefighter for the North Bailey Fire Company)

TOWN OF AMHERST
VOLUNTEER FIRE DEPARTMENT MEMBERSHIP
RESIDENCY VERIFICATION FORM

I, Joshua Hacker (name of applicant), am an applicant to be a member of North Bailey Fire Co (name of fire company to which the applicant has applied).
I affirm under penalty of perjury that I presently reside at the following address:

1525 Amherst Manor Drive Apt 208
Buffalo, NY 14221

☑ Which is in the fire district applied to or territory outside the fire district which is afforded fire protection by the fire department of the fire district or fire company pursuant to contract.

☐ Is outside the district or territory provided protection by the district or fire company, but by reason of my residence in the vicinity or my usual occupation I will be available to render active service as a volunteer based on the following grounds:

Joshua Hacker
Signature of Applicant

Attachment: Hacker-08092021133751 (RES-2021-733 : New Firefighter for the North Bailey Fire Company)

STATEMENT OF VOLUNTEER FIRE COMPANY OFFICIAL

The address of the applicant listed above is within the Fire Protection District or territory protected by such Fire Protection District to which he/she is applying, namely _____ (name of fire company) or such applicant lives outside the district but is able to render service by virtue of his residence and/or employment and such is allowed by the fire district and/or company by laws. We have verified the applicant's address or employment where applicable by examining their driver's license or other document such as a lease, utility bill, pay stub or other suitable document.

Joseph P Adams
Signature

Title : Secretary

Date: 8-2-2021

Please submit this completed residency verification form to:

Amherst Town Clerk
5583 Main Street
Williamsville, New York 14221

Attachment: Hacker-08092021133751 (RES-2021-733 : New Firefighter for the North Bailey Fire Company)

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

Francina J. Spoth
Town Clerk

Meeting: 08/23/21 03:00 PM
Department: Town Clerk
Initiated by: **Francina J. Spoth**
Co-Sponsored by:

DOC ID: 24669 **RESOLUTION 2021-734** **ADOPTED**

Permission for Insert in Tax Bill Mailing

WHEREAS, due to continuing COVID-19 concerns the Town Clerk's office has been forced to make changes for the safety of tax payers as well as Town employees, and

WHEREAS, we have been advised to encourage contactless payments such as mailing tax payments, using drop boxes, and paying online as a way of preventing the spread of COVID-19, and

WHEREAS, in order to help alleviate public concerns and to discourage residents from entering Town Hall and waiting in line to pay their taxes; now therefore

BE IT RESOLVED, that the Town Board authorizes the use of mail inserts as an informational tool to make tax payers aware of the various contactless payment methods available, and

BE IT FURTHER RESOLVED, this permission is for the 2021 School Tax Collection and if necessary, the 2022 County Tax Collection.

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

FINANCIAL IMPACT:

A1410 4025

2-sided buckslip: $619.00 (approx, based on 27,000)

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

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

Francina J. Spoth
Town Clerk

Meeting: 08/23/21 03:00 PM
Department: Comptroller
Initiated by: **Daryl Bramer**
Co-Sponsored by:

DOC ID: 24672 **RESOLUTION 2021-735** **ADOPTED**

Budget Transfers and Amendments

For August 23, 2021 Town Board Agenda

To: Town Board
From: Office of Town Comptroller
Date: 8/18/2021
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 - 2021

FROM:	***TO:***
N1925.1000 Personal Services $53,166.52	N1925.1300 Longevity $600.00
N1925.4050 Mileage $623.77	N1925.1853 Sick Leave Incentive $147.88
N1925.8030 FICA $4,488.06	N1925.8010 Retirement $10,469.54
	N1925.8050 Hospital Insurance $8,389.13
	N1925.8051 Dental $719.27
	N1925.8052 Vision $114.12
	N1925.4000 Admin $37,838.41

To clean up budget in N1925.

BUDGET AMENDMENTS - 2021

INCREASE:	***INCREASE:***
N2023.02785 CDBG & VG - PI $170.00	N2023.4000 Contractual $170.00
To recognize Community Development program income from 169 Hillcrest Drive, Amherst.	
N2044.02785 Cheektowaga Home - PI $7,590.60	N2044.4000 Contractual $7,590.60
N2049.02785 Cheektowaga Home Admin $843.40	N2049.4003 Admin $843.40
To recognize Community Development program income from 91 Liberty Terrace, Cheektowaga.	
N2155.02785 Amherst Home - PI $7,896.10	N2155.4000 Admin $7,896.10
To recognize Community Development program income from 479 Lakewood, Amherst.	
N0001.20063 CDBG Income $4,152.00	N1521.4000 Contractual $4,152.00
To recognize Community Development program income for PO 22123642.	
N2155.02785 Amherst Home - PI $4,500.00	N2155.4000 Admin $4,500.00
N2154.02785 Amherst Home Admin $500.00	N2154.4003 Admin $500.00
To recognize Community Development program income from 144 Meadow Lea, Amherst.	
N2155.02785 Amherst Home - PI $12,761.82	N2155.4000 Admin $12,761.82
N2154.02785 Amherst Home Admin $1,417.98	N2154.4003 Admin $1,417.98
To recognize Community Development program income from 108 Campus, Amherst.	
N2155.02785 Amherst Home - PI $4,500.00	N2155.4000 Admin $4,500.00
N2154.02785 Amherst Home Admin $500.00	N2154.4003 Admin $500.00
To recognize Community Development program income from 1457 Eggert, Amherst .	

N2155.02785 Amherst Home - PI $15,487.20 N2155.4000 Admin $15,487.20
N2154.02785 Amherst Home Admin $1,720.80 N2154.4003 Admin $1,720.80
To recognize Community Development program income from 68 Paul, Amherst.

A3310.02650 Traffic Control - Sales of Scrap $780.88 A3310.4430 Misc. $17,890.63
A3310.02680 Traffic Control - Ins. Proceeds $16,821.39
A3310.05001 Traffic Control - Refund of C/Y Exp. $288.36
To recognize sales of scrap, insurance proceeds, and refund of current expense revenue accounts and increase expenditure account for maintenance and repairs.

DECREASE: ***DECREASE:***
N0001.20063 CDBG Income $3,492.00 N1521.4000 Contractual $3,492.00
To decrease budget amendment from RES2021-581 for portion related to N1854.

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

FINANCIAL IMPACT:

Community Development and Traffic Control. See descriptions.

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

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

Francina J. Spoth
Town Clerk

Meeting: 08/23/21 03:00 PM
Department: Contract Compliance
Initiated by: **Lynda Juul**
Co-Sponsored by:

DOC ID: 24591 **RESOLUTION 2021-736** **ADOPTED**

Award RFP #202105 - Vision Coverage - CRS #2810

WHEREAS, the Contract Compliance and Administration Department received proposals on July 27, 2021 for RFP #202105 Vision Coverage; and

WHEREAS, the RFP process resulted in responses from five (5) vendors, with the recommendation by the review committee and the Town's employee benefit consultant to award a 2-year contract to the Town's current provider, VSP Vision Care / Eastern Vision Service Plan IPA, Inc.;

NOW, THEREFORE, BE IT RESOLVED, the Town Board authorizes the Contract Compliance and Administration Department to award this RFP to VSP Vision Care / Eastern Vision Service Plan IPA, Inc.; and

BE IT FURTHER RESOLVED, the Town Board authorizes the Supervisor to sign the contract with VSP Vision Care / Eastern Vision Service Plan IPA, Inc.; and

BE IT FURTHER RESOLVED, that approval is pending successful completion of the contract routing process due to the need to have a contract in place by September 1, 2021.

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

FINANCIAL IMPACT:

Town Wide - Various Accounts - Amount TBD

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

VSP® Renewal Exhibit for Town of Amherst
Group Number: 12265951
Renewal Effective Date: September 1, 2021

	VSP Signature Plan® Current Plan		VSP Signature Plan® Renewal Plan -1		VSP Signature Plan® Renewal Plan - 2		VSP Signature Plan® Renewal Plan - 3		VSP Signature Plan® Renewal Plan - 4	
Exam Copay	$15.00		$15.00		$15.00		$15.00		$15.00	
Materials Copay	$25.00		$25.00		$25.00		$25.00		$25.00	
Frequency: Exam: Lenses: Frame:	 Every 12 Months Every 12 Months Every 24 Months		 Every 12 Months Every 12 Months Every 24 Months		 Every 12 Months Every 12 Months Every 24 Months		 Every 12 Months Every 12 Months Every 24 Months		 Every 12 Months Every 12 Months Every 24 Months	
VSP Diabetic Eyecare Plus Program℠	$20 copay per visit		$20 copay per visit		$20 copay per visit		$20 copay per visit		$20 copay per visit	
Exam Coverage										
WellVision Exam®	Covered in full after copay		Covered in full after copay		Covered in full after copay		Covered in full after copay		Covered in full after copay	
Contact Lens Exam (Fitting & Evaluation)	**Standard and premium fit**: Covered in full after copay. Member receives 15% off contact lens exam services; copay will never exceed $60		**Standard and premium fit**: Covered in full after copay. Member receives 15% off contact lens exam services; copay will never exceed $60		**Standard and premium fit**: Covered in full after copay. Member receives 15% off contact lens exam services; copay will never exceed $60		**Standard and premium fit**: Covered in full after copay. Member receives 15% off contact lens exam services; copay will never exceed $60		**Standard and premium fit**: Covered in full after copay. Member receives 15% off contact lens exam services; copay will never exceed $60	
Routine Retinal Screening	No more than a $39 copay on routine retinal screening as an enhancement to a WellVision Exam		No more than a $39 copay on routine retinal screening as an enhancement to a WellVision Exam		No more than a $39 copay on routine retinal screening as an enhancement to a WellVision Exam		No more than a $39 copay on routine retinal screening as an enhancement to a WellVision Exam		No more than a $39 copay on routine retinal screening as an enhancement to a WellVision Exam	
Lens Coverage										
Basic Prescription Lenses: (Glass or plastic) Single vision Lined bifocal Lined trifocal Lenticular	Covered in full after copay		Covered in full after copay		Covered in full after copay		Covered in full after copay		Covered in full after copay	
Lens Enhancements[1]	Covered with a copay, saving an average of 40%		Covered with a copay, saving an average of 40%		Covered with a copay, saving an average of 40%		Covered with a copay, saving an average of 40%		Covered with a copay, saving an average of 40%	
	Single Vision	Multifocal	Single Vision	Multifocal	Single Vision	Multifocal	Single Vision	Multifocal	Single Vision	Multifocal
Standard Anti-Glare coating:	$37	$37	$37	$37	$37	$37	$37	$37	$37	$37
All other Anti-Glare coatings:	$51 - $75	$51 - $75	$51 - $75	$51 - $75	$51 - $75	$51 - $75	$51 - $75	$51 - $75	$51 - $75	$51 - $75
Impact-resistant lenses for children:	Covered in full	Covered in full	Covered in full	Covered in full	Covered in full	Covered in full	Covered in full	Covered in full	Covered in full	Covered in full
Impact-resistant lenses for adults:	$23	$28	$23	$28	$23	$28	$23	$28	$23	$28
Standard Progressives:	N/A	Covered in full	N/A	Covered in full	N/A	Covered in full	N/A	Covered in full	N/A	Covered in full
Premium & Custom Progressives:	N/A	$80 - $160	N/A	$80 - $160	N/A	$80 - $160	N/A	$80 - $160	N/A	$80 - $160
Tints/Light-reactive lenses:	$62	$76	$62	$76	$62	$76	$62	$76	$62	$76
Scratch-resistant coating:	$15	$15	$15	$15	$15	$15	$15	$15	$15	$15
[1] ***Prices shown reflect standard selections; premium or custom options may also be available at additional costs.***										
Frame Coverage										
VSP Doctors	$130 allowance; plus 20% off any amount above the allowance		$130 allowance; plus 20% off any amount above the allowance		$130 allowance; plus 20% off any amount above the allowance		$130 allowance; plus 20% off any amount above the allowance		$130 allowance; plus 20% off any amount above the allowance	
Contact Lens Coverage										
lective Contact Lenses (prescription contact lenses, in lieu of glasses)	$130 allowance		$130 allowance		$130 allowance		$130 allowance		$130 allowance	
Necessary Contact Lenses	Covered in full after copay		Covered in full after copay		Covered in full after copay		Covered in full after copay		Covered in full after copay	
Extra Savings										
VSP Laser VisionCare℠ Program Discounts on LASIK, Custom LASIK, and PRK, plus patient education.	Average 15% off or 5% off promotional offer Discounts only available from VSP contracted facilities. Members who've had laser surgery can use frame benefit for non-prescription sunglasses		Average 15% off or 5% off promotional offer Discounts only available from VSP contracted facilities. Members who've had laser surgery can use frame benefit for non-prescription sunglasses		Average 15% off or 5% off promotional offer Discounts only available from VSP contracted facilities. Members who've had laser surgery can use frame benefit for non-prescription sunglasses		Average 15% off or 5% off promotional offer Discounts only available from VSP contracted facilities. Members who've had laser surgery can use frame benefit for non-prescription sunglasses		Average 15% off or 5% off promotional offer Discounts only available from VSP contracted facilities. Members who've had laser surgery can use frame benefit for non-prescription sunglasses	
Additional Pairs of Glasses	30% off unlimited additional pairs of prescription glasses and/or non-prescription sunglasses purchased on the same day with the same provider who performed the exam. Or 20% off from any VSP provider within 12 months of the member's last WellVision Exam		30% off unlimited additional pairs of prescription glasses and/or non-prescription sunglasses purchased on the same day with the same provider who performed the exam. Or 20% off from any VSP provider within 12 months of the member's last WellVision Exam		30% off unlimited additional pairs of prescription glasses and/or non-prescription sunglasses purchased on the same day with the same provider who performed the exam. Or 20% off from any VSP provider within 12 months of the member's last WellVision Exam		30% off unlimited additional pairs of prescription glasses and/or non-prescription sunglasses purchased on the same day with the same provider who performed the exam. Or 20% off from any VSP provider within 12 months of the member's last WellVision Exam		30% off unlimited additional pairs of prescription glasses and/or non-prescription sunglasses purchased on the same day with the same provider who performed the exam. Or 20% off from any VSP provider within 12 months of the member's last WellVision Exam	
Out-of-Network Schedule										
Eye Exam:	$50.00		$50.00		$50.00		$50.00		$50.00	
Single Vision:	$50.00		$50.00		$50.00		$50.00		$50.00	
Lined Bifocal:	$75.00		$75.00		$75.00		$75.00		$75.00	
Lined Trifocal:	$100.00		$100.00		$100.00		$100.00		$100.00	
Lenticular:	$125.00		$125.00		$125.00		$125.00		$125.00	
Progressive:	$75.00		$75.00		$75.00		$75.00		$75.00	
Frame:	$70.00		$70.00		$70.00		$70.00		$70.00	
Elective Contact Lenses:	$105.00		$105.00		$105.00		$105.00		$105.00	
Necessary Contact Lenses:	$210.00		$210.00		$210.00		$210.00		$210.00	
Monthly Rates	Fully Insured		Fully Insured		Fully Insured		Self Insured		Self Insured	
Rates	Employee Only: $4.18 Employee + Family: $8.94		Employee Only: $4.44 Employee + Family: $9.50		Employee Only: $4.44 Employee + Family: $9.50		Admin Fee: $1.39 Estimated Claims Cost: $6.80		Admin Fee: $1.41 Estimated Claims Cost: $6.86	
Concession Rates	N/A		Employee Only: $4.18 Employee + Family: $8.94		Employee Only: $4.31 Employee + Family: $9.22		N/A		N/A	
Commissions	Sliding 10%		Sliding 10%		Sliding 10%		Sliding 10%		Sliding 10%	
Policy Term	2 Years		2 Years		4 Years		2 Years		3 Years	
Select the desired renewal plan			☒		☐		☐		☐	
Renewal Acceptance										

To renew your contract with VSP and ensure continuous service, please have the appropriate representative review this information, select the desired renewal action, sign and return this Renewal Agreement to the email address below. VSP produces your Plan Policy upon receipt of your confirmation of renewal. Your new Plan Policy may contain some provisions that are changed from those in your current Policy, so you should review the new Policy carefully upon receipt. Please file this Agreement with your VSP contract as it serves as your notice of renewal.

VSP® Renewal Exhibit for Town of Amherst
Renewal Effective Date: September 1, 2021

Derek Black
Key Client Manager, VSP
3333 Quality Drive
Rancho Cordova, CA 95670
Phone # 916-858-5268
Derek.Black@vsp.com

Signature:
Name: Brian J. Kulpa
Title: Supervisor, Town of Amherst
Date:

Based on applicable laws, benefits may vary by doctor location.

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Classification: Confidential
CL- Rev. 3/2021

Attachment: Final VSP IR Renewal Exhibit - Town of Amherst 12265951 (RES-2021-736 : Award RFP #202105 - Vision Coverage - CRS #2810)

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

Francina J. Spoth
Town Clerk

Meeting: 08/23/21 03:00 PM
Department: Contract Compliance
Initiated by: **Lynda Juul**
Co-Sponsored by:

DOC ID: 24643 **RESOLUTION 2021-737** **ADOPTED**

Award Bid #2021027 - Vehicle Lift Inspections, Service and Replacement - CRS #2828

WHEREAS, bids were received by the Contract Compliance and Administration Department on July 15, 2021 for Bid #2021027 Vehicle Lift Inspection, Service and Replacement; and

WHEREAS, two (2) bids were received as per the attached bid tabulation form;

NOW, THEREFORE, BE IT RESOLVED, the bid be awarded to Filtrec Corporation; and

BE IT FURTHER RESOLVED, the Town Board authorizes the Supervisor to sign the contract with Filtrec Corporation.

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Councilmember Szukala and unanimously approved 5-0.

FINANCIAL IMPACT:

Town Wide - Various Accounts - Amount TBD

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

Bid #2021027 Lift Inspection, Service and Replacement

Bid Pricing Sheet

				LiftNow							Filtrec Corporation						
				Inspection		**Service**		**Parts**		**Total**	**Inspection**		**Service**		**Parts**		**Total**
ITEM NO	QTY	U/M	CATALOG NO/DESCRIPTION	**Inspection Rate per Lift**	**Total Inspection Cost (Rate x # of Lifts)**	**Service Rate Per Hour**	**Total Service Cost (Rate x 2 Hrs./Lift x # of Lifts)**	**Parts Pricing % Discount off Mfg. List Price**	**Total Parts Cost ($300 Mfg. List - Discount % x # Lifts**	**Total Inspection Cost + Total Service Cost + Total Parts Cost**	**Inspection Rate per Lift**	**Total Inspection Cost (Rate x # of Lifts)**	**Service Rate Per Hour**	**Total Service Cost (Rate x 2 Hrs./Lift x # of Lifts)**	**Parts Pricing % Discount off Mfg. List Price**	**Total Parts Cost ($300 Mfg. List - Discount % x # Lifts**	**Total Inspection Cost + Total Service Cost + Total Parts Cost**
Vehicle Lift Inspection and Service																	
1	2	EA	**ENGINEERING DEPARTMENT – Bay 3 & 4** Rotary Vehicle Lifts – 15,000 lb. Capacity Model No. SPO15N310; Serial No. CQK08G0020 Model No. SPO15; Serial No. ACD01F0001	$399.00	$798.00	$399.00	$1,596.00	0%	$300.00	$2,694.00	$140.00	$280.00	$130.00	$520.00	25%	$450.00	$1,250.00
2	1	EA	**ENGINEERING DEPARTMENT – Bay 2** Rotary Vehicle Lift – 9,000 lb. Capacity Model No. SPOA9-100; Serial No. CCO95C0088	$399.00	$399.00	$399.00	$798.00	0%	$300.00	$1,497.00	$140.00	$140.00	$130.00	$260.00	25%	$225.00	$625.00
3	1	EA	**HIGHWAY DEPARTMENT** Rotary Vehicle Lift – Fore & Aft In-Ground Model No. AT70E	$599.00	$599.00	$399.00	$798.00	0%	$300.00	$1,697.00	$140.00	$140.00	$130.00	$260.00	25%	$225.00	$625.00
4	1	EA	**HIGHWAY DEPARTMENT** Ben Pearson Vehicle Lift Two (2) Column; Above Ground	$399.00	$399.00	$399.00	$798.00	0%	$300.00	$1,497.00	$140.00	$140.00	$130.00	$260.00	15%	$255.00	$655.00
5	1	EA	**HIGHWAY DEPARTMENT** Mohawk Vehicle Lift 0 Drive on Four (4) Post Model No. TR-30	$599.00	$599.00	$399.00	$798.00	0%	$300.00	$1,697.00	$140.00	$140.00	$130.00	$260.00	15%	$255.00	$655.00
6	1	EA	**HIGHWAY DEPARTMENT** Rotary Vehicle Lift – Two (2) Post Side x Side; In-Ground; Model No. DT0284	$599.00	$599.00	$399.00	$798.00	0%	$300.00	$1,697.00	$140.00	$140.00	$130.00	$260.00	25%	$225.00	$625.00
7	2	EA	**POLICE DEPARTMENT** Ammco Vehicle Lifts – 9,000 lb. Capacity Two (2) Post Lift	$399.00	$798.00	$399.00	$1,596.00	0%	$300.00	$2,694.00	$140.00	$280.00	$130.00	$520.00	15%	$510.00	$1,310.00
8	1	EA	**POLICE DEPARTMENT** Forward Vehicle Lift – 12,000 lb. Capacity Two (2) Post Lift	$399.00	$399.00	$399.00	$798.00	0%	$300.00	$1,497.00	$140.00	$140.00	$130.00	$260.00	25%	$225.00	$625.00
9	1	EA	**WASTEWATER TREATMENT FACILITY** Weaver Vehicle Lift – 9,000 lb. Capacity Model No. AFHT90; Serial No. 4EP64	$399.00	$399.00	$399.00	$798.00	0%	$300.00	$1,497.00	$140.00	$140.00	$130.00	$260.00	15%	$255.00	$655.00
10	1	EA	**YOUTH AND RECREATION DEPARTMENT** Rotary Lift by Dover Industries Co. – 9,000 lb. Capacity; Model No. SP098022	$399.00	$399.00	$399.00	$798.00	0%	$300.00	$1,497.00	$140.00	$140.00	$130.00	$260.00	25%	$225.00	$625.00
11			**TOTAL - Inspection and Repairs**							$17,964.00							$7,650.00

Attachment: Bid Tab Vehicle Lift Inspections (RES-2021-737 : Award Bid #2021027 - Vehicle Lift

Bid #2021027 Lift Inspection, Service and Replacement																		
Bid Pricing Sheet																		
				LiftNow							Filtrec Corporation							
Vehicle Lift Replacement:																		
12			Vehicle Lift Replacement: Please list Vehicle Lift Manufacturers that your company installs and services:	Service all brands - old and new. Install capable of all brands when possible. Our pending NYS OGS contract has select brands due to various agreements.							Rotary Lift and Forward Lift							
				Discount	Vehicle Lift Cost based on $4,000 Lift						Discount	Vehicle Lift Cost based on $4,000 Lift						
13	$4,000		Vehicle Lift - % Discount off Manufacturers List Price	0%	$4,000.00						38%	$2,480.00						
				Labor Rate	Total Labor (Based on 8 Hours)						Labor Rate	Total Labor (Based on 8 Hours)						
14	8	Hours	Hourly Labor Rate for Installation	$399.00	$3,192.00						$130.00	$1,040.00						
15			**TOTAL - LIFT Replacement**		**$7,192.00**							$3,520.00						
16			**GRAND TOTAL - Inspection & Repairs plus Lift Replacement Total of Line #11 + Line #15:**		**$25,156.00**							**$11,170.00**						
			To verify the Manufacturers' List Price, the vendor will be responsible to supply current manufacturer's list price at the time of invoicing.															
NOTES:																		
LiftNow: Line Items 1 and 7 under Service - they did not multiply x 2 lifts. Total Service Cost should be $1,596 under both lines, not $798.																		
Filtrec Corp.: Line Item 8, 9 & 10: Inspection rate per lift was multiplied x 2 lifts and these departments have 1 lift. Vehicle Lift Replacement Section - Filtrec listed NY State Contract PC67297																		

Attachment: Bid Tab Vehicle Lift Inspections (RES-2021-737 : Award Bid #2021027 - Vehicle Lift

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

Francina J. Spoth
Town Clerk

Meeting: 08/23/21 03:00 PM
Department: Contract Compliance
Initiated by: **Lynda Juul**
Co-Sponsored by:

DOC ID: 24673 **RESOLUTION 2021-738** **ADOPTED**

Authorize Amendment to Indoor Air Professionals Contract - CRS #2803 (Original CRS/CMS #1331/1620)

WHEREAS, the Contract Compliance and Administration Department is requesting approval to amend the existing Kitchen Exhaust Systems Cleaning contract with Indoor Air Professionals to include work needed at the Audubon Golf Course;

NOW, THEREFORE, BE IT RESOLVED, the amendment to the contract is hereby approved; and

BE IT FURTHER RESOLVED, the Supervisor is authorized to sign the Amendment Agreement with Indoor Air Professionals; and

BE IT FURTHER RESOLVED, that approval is pending the successful completion of the contract routing system due to the fact that the next Town Board meeting is not until September 13, 2021, and work is needed as soon as possible at this site.

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

FINANCIAL IMPACT:

A7250-4110 - $1,495.00

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

Indoor Air Professionals, In
Quality Care For Your Indoor Air

08/12/21

Mr. Dan Rizzo
Town of Amherst
5583 Main St
Williamsville, NY 14221

Re: Kitchen Exhaust and Building Exhaust Ductwork Cleaning 2021 – Audobon Golf Course – 500 Maple St – IAP #Q202107735

On-Site Observations

Based on our walkthrough (July 2021) of the kitchen exhaust and building exhaust systems, we are pleased to re-quote the kitchen exhaust system cleaning for the above referenced facility. Enclosed please find our scope of work and proposal per your request.

Recommendations

We recommend a thorough cleaning of the exhaust systems every year and also a 6 month cleaning of the hoods only to remove debris buildup, reduce airflow restrictions, and prevent any fire hazards.

We appreciate this opportunity to submit this quote, and look forward to being of service to the Larkin Development Group. Should you have any questions regarding this proposal, please feel free to contact out office.

Sincerely,
Indoor Air Professionals Inc

Robert Leddon ASCS VSMR WRT ASD
Project Manager

North America's Largest Staff of Certified Professionals

Attachment: Quote Indoor Air Professionals rev (RES-2021-738 : Authorize Amendment to Indoor Air Professionals Contract - CRS #2803

Indoor Air Professionals, In
Quality Care For Your Indoor Air

08/12/21

SCOPE OF WORK

Audobon Golf Course

ITEM #1: Kitchen Exhaust Cleaning

- **Hand-clean/Steam-clean (degrease)** one (1) kitchen exhaust ductwork system to include the following:
    1. One (1) roof-mount exhaust fan.
    2. One (1) kitchen exhaust hood.
    3. Ductwork connecting the fan and the hood.

ITEM #2: Building Exhaust Cleaning

- **Clean** two (2) building exhaust ductwork systems to include the following:
    1. Two (2) roof-mount exhaust fan.
    2. Nine (9) exhaust air grilles.
    3. Ductwork connecting the fans and the grilles.

PROJECT COSTS

The proposed costs, not including tax, to perform the above work in ITEM #1 and ITEM #2 are……...$1495.00

NOTES:

- **Projects will be managed by a NADCA Certified Air System Cleaning Specialist (ASCS).**
- Our prices include labor, materials, and supervision. These prices will remain firm and effective for 30 days, after which time reference should be made to this office. Sales tax **is not** included.
- We will need to coordinate the ductwork access areas with your facility in order to eliminate any delays in starting the project.

GENERAL CONDITIONS

Services are provided under the terms of Indoor Air Professionals, Inc. standard *General Conditions* agreement. This agreement contains a limitation of liability clause. Client consents to all terms.

TERMS

Payment is net 30 days after completion of the project. Interest rate fee of 1.5% per month will be charged on any balance after due date.

ACCEPTANCE

If the above meets with your approval, please indicate your acceptance in the space provided below and provide us with a purchase order referencing our quote number.

_____ _____ _____

Approved By Date Purchase Order Number

Re: Kitchen Exhaust and Building Exhaust Ductwork Cleaning 2021 – Audobon Golf Course – 500 Main St – IAP #Q202107735

Attachment: Quote Indoor Air Professionals rev (RES-2021-738 : Authorize Amendment to Indoor Air Professionals Contract - CRS #2803

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

Francina J. Spoth
Town Clerk

Meeting: 08/23/21 03:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 24675 **RESOLUTION 2021-739** **ADOPTED**

Certificate of Municipal Use or State Use NOCO Energy Corp CRS No. 2827

The Engineering Department Water Pollution Control Facility is currently seeking Town Board approval for the Supervisor to sign the attached "Certificate of Municipal Use or State Use" with NOCO Energy Corp. This certificate is to verify that the fuel purchased during the period of January 1, 2021 through December 31, 2021 is only being utilized for municipal use. The NYSOGS contract to purchase gasoline and flex fuel - E-85 under Group 05600, Award 23092, PC # 68459, was previously approved under CRS/CMS # 2286-2346 and RES-2020-936 on 12/4/20.

There is no additional cost for this request.

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

Thank you for considering this request.

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

FINANCIAL IMPACT:

N/A

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

NOCO

RECEIVED AUG 02 2021

noco.com

Date: July 29, 2021

To Our Valued Customer:

Federal tax laws require us to have a completed Certificate of Use on file to verify exemption eligibility of our government customers who purchase motor fuel or diesel motor fuel. Your 2021 FET Certificate of Use is enclosed.

For your convenience, your Buyer (Company) name, address and account number are already filled out. Please complete the rest of the Certificate in its entirety. We have also included an IRS article explaining why we are required to obtain this form every year.

Please note that we need the Certificate *in addition to* any other certificates or forms we may have previously requested.

Return the completed Certificate using one of the following:

- Scan and email to taxdept@noco.com
- Mail using the enclosed pre-addressed envelope
- Fax to 716-833-3241 ATTN: Tax Dept

Thank you for your attention to this matter. If you have any questions, contact Kate Mooney in the Tax Department at 716-614-1262 or kmooney@noco.com.

Sincerely,

David Bodkin

Assistant VP, Corporate Taxation

Encl.

Attachment: Certificate of Municipal Use Form (RES-2021-739 : Certificate of Municipal Use or State Use)

2440 Sheridan Drive • Tonawanda, New York 14150 • Phone (716) 833-6626 • (800) 662-6776 • Fax (716) 874-70

CERTIFICATE OF MUNICIPAL USE OR STATE USE

Issued to:

NOCO Energy Corp - 2440 Sheridan Drive - Tonawanda, NY 14150 - #16-0727383

(Name, address, and employer identification number of vendor)

The undersigned buyer ("Buyer") hereby certifies the following under penalties of perjury:

Buyer will use the gasoline and diesel fuel to which this certificate relates for the exclusive use of a state or local government, or the District of Columbia.

This certificate applies to the following - check one and complete as applicable:

☐ This is a single purchase certificate

1. Invoice or Delivery Ticket #: _____
2. Number of gallons: _____

☑ This certificate covers all purchases under a specified account or order number:

1. Effective date: **January 1, 2021**
2. Expiration date: **December 31, 2021**
   (Period not to exceed 1 year after the effective date)
3. Buyer account or purchase order #: 17493

Buyer will provide a new certificate to the vendor if any information in this certificate changes.

If Buyer uses the gasoline or diesel fuel to which this certificate relates for a purpose other than stated in the certificate Buyer will be liable for tax.

Buyer understands that the fraudulent use of this certificate may subject Buyer and all parties making such fraudulent use of this certificate to a fine or imprisonment, or both, together with the costs of prosecution.

Buyer (Customer) account #: 17493

Name of Buyer : TOWN OF AMHERST WASTE WATER

Address of Buyer : 455 TONAWANDA CREEK RD, BUFFALO, NY 14228

Buyer's 9 digit EIN: _____

***Name of person signing** (please print):* _____

***Title of person signing** (please print):* _____

Signature: _____ ***Date:*** _____

Attachment: Certificate of Municipal Use Form (RES-2021-739 : Certificate of Municipal Use or State Use)

IRS

Fuel Tax Exemptions for Government Entities

Fuel Tax Exemptions for Government Entities

Generally, federal excise taxes are imposed on taxable fuels, (i.e., gasoline, kerosene, and diesel), when removed from a taxable fuel terminal. Federal law provides a fuel excise tax exemption for the sale of any liquid used as a fuel in a motor vehicle, motorboat, or aircraft for the exclusive use of any state, or any political subdivision of a governmental entity, or the District of Columbia. This fuel excise tax exemption does not include Leaking Underground Storage Tank (LUST) tax.*

A local government includes any political subdivision of a state. An Indian tribal government is treated as a state only if the fuel is used in an activity that involves the exercise of an essential tribal government function. (**Note:** The American Red Cross is treated as a state for fuel excise tax exemption purposes.)

To qualify for tax-free treatment, a government entity must purchase the fuel for its own exclusive use. A resale of taxable fuel from one governmental entity to a second governmental entity, for its own exclusive use, is permissible. A sale from a governmental entity to a nonprofit education organization, other than the American Red Cross, does not qualify as exclusive use by a government.

The evidence required for a governmental entity tax-free sale is a certificate, executed and signed by an officer or employee authorized by the governmental entity to execute and sign the certificate. In cases where it is impracticable to furnish a separate certificate, due to purchase frequency, a certificate covering orders between specific dates (not to exceed one year) is acceptable. The certificates and proper records of invoices, orders, etc., relative to tax-free sales must be retained by the fuel distributor (ultimate vendor) and credit card issuer.

In general, a fuel distributor (ultimate vendor) sells taxable fuel tax-free to a governmental entity and submits a claim for refund of the fuel excise tax, if they paid federal excise tax on the fuel, have not collected the federal excise tax from the governmental entity, and are registered under Internal Revenue Code section 4101.

In the case where a fuel card (credit card) is issued to a governmental entity for use in purchasing tax exempt fuel, the person extending the credit (credit card issuer) to the governmental entity is entitled to the fuel excise tax refund, if the credit card issuer:

1. Is registered under section 4101,

Attachment: Certificate of Municipal Use Form (RES-2021-739 : Certificate of Municipal Use or State Use)

2. Has established that the amount of tax has not been collected from the person who purchased the diesel fuel or kerosene, or has obtained written consent from the ultimate purchaser to the allowance of the credit or refund, and
3. Has repaid or agreed to repay the amount of the tax to the ultimate vendor, has obtained the written consent of the ultimate vendor to the allowance of the credit or refund, or has made arrangements that provide the ultimate vendor with reimbursement of the tax.

If the credit card issuer fails to meet the above requirements, the law limits the claim to the governmental entity (ultimate purchaser). In this case, the credit card issuer must collect the tax from the governmental entity and only the governmental entity may make the claim.

As noted above, to purchase tax-free fuel, a certificate, (model M for gasoline and Model P for diesel and kerosene; see Publication 510), must be executed and retained by the fuel distributor or credit card issuer.

Note: Generally, a governmental entity cannot submit a fuel excise tax claim for refund of diesel fuel, kerosene, kerosene for use in aviation, gasoline, or aviation gasoline, unless the purchase was made with a fuel credit card.

In summary, claims may only be filed as follows:

1. By the registered credit card issuer if the governmental entity or local government (or nonprofit educational organization if applicable) used a credit card and the credit card issuer meets the requirements.
2. By the registered ultimate vendor if the ultimate purchaser did not use a credit card and the ultimate vendor meets the requirements.
3. By the ultimate purchaser if the ultimate purchaser used a credit card and the credit card issuer is not eligible to make the claim, nor can the registered ultimate vendor make the claim.

Governmental entities should exercise care in the purchase of fuel to ensure that the fuel supplier or credit card issuer meets the necessary requirements to process tax exempt transactions.

Additional Information on motor fuel excise tax and fuel credits is provided in Publication 510, Excise Taxes and Form 8849, Claim for Refund of Excise Taxes (Schedule 2, Sales by Registered Ultimate Vendors).

Page Last Reviewed or Updated: 14-Jan-2019

Attachment: Certificate of Municipal Use Form (RES-2021-739 : Certificate of Municipal Use or State Use)

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

Francina J. Spoth
Town Clerk

Meeting: 08/23/21 03:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 24677 **RESOLUTION 2021-740** **ADOPTED AS AMENDED**

A/E 3-Year Term Agreements

In an attempt to minimize the number of contracts that are routed through the multistep contractual review procedure and to minimize the staff time associated with the preparation and review of individual project RFPs, the Engineering Department is requesting that the Town Board award Owner/Engineer/Architecture 3-year term agreements (with an optional 4th year extension) to the following firms:

Firm	**Specialty Term**	**CRS #**
Marquis Engineering PC	Infrastructure	2844
GPI	Infrastructure	2845
JM Davidson Engineering DPC	Infrastructure	2846
Foit Albert Associates	Facilities	2847
ME Engineering	Facilities	2848
Natural Architecture PLLC	Facilities	2849
Design Synergies Architecture	Facilities	2850
CHA	**Infrastructure**	**Pending CRS**

This is the second of two requested rounds of awards as the first round was brought to the July 12th Town Board Meeting.

Please note that the intent of this procedure is to capture a majority of the professional services procured by the Engineering Department associated with all types of town projects; however individual RFPs will still be issued for large one-off projects.

With the award of the above referenced contracts, the Town is locking in consultant rates and personnel to prepare studies and designs related to the various capital and maintenance projects. Project scopes and budgets (comprising of individual work orders attached to the master agreement) will be developed between the Engineering Department and the consultant and approved by the Comptroller for budget compliance and executed by the Town Supervisor.

There are other advantages to this approach to engineering contracts:

1 The consultant and Engineering Department will jointly develop scope, which will minimize miscommunication's about scope and improve owner-engineer understanding of project and potential project pitfalls up front in process;
2 The process is more efficient for Engineering Department and other Town contracts personnel as less time is used to develop and review individual RFPs;
3 This will move the town away from low-cost engineering, which sometimes costs

the Town additional money on the construction end as omissions and errors are expensive to fix during construction.

As you know, this type of contractual arrangement is not unique in the business. Most of the major municipalities and special districts have similar arrangements with the consulting community, including Erie County Division of Sewerage Management, the City of Buffalo Water Board, the City of Buffalo Department of Public Works and the Erie County Department of Public Works.

Funding for these contracts will be project based and they will be available to be used town wide.

Thank you for considering this request.

8/23/2021

A motion to approve was made by Supervisor Kulpa and seconded by Councilmember Bucki. A motion was then made by Deputy Supervisor Berger to amend, seconded by Councilmember Bucki and unanimously approved 5-0. Amendment adds CHA to the table above.

A motion to approve as amended was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

FINANCIAL IMPACT:

TBD

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

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

Francina J. Spoth
Town Clerk

Meeting: 08/23/21 03:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 24678 **RESOLUTION 2021-741** **ADOPTED**

Casey Road Pedestrian and Bicycle Safety Improvements - Phase II Authorize the Supervisor to Submit a Transportation Alternatives Program (TAP) Grant

WHEREAS, in May 2017, the Town of Amherst was awarded $1.46 million by a New York Department of Transportation TAP grant to enhance pedestrian and bicycle mobility and safety along Casey Road, and

WHEREAS, Phase I of the Casey Road Pedestrian and Bicycle Safety Improvement Project was completed in 2019 with newly constructed sidewalks and bike lanes west of Paradise Road, and

WHEREAS, the Casey Road Phase I project continues to receive overwhelming support by the community, and

WHEREAS, a public information meeting held on May 22, 2018 indicated resident support for additional pedestrian and bicycle improvements along Casey Road east of Paradise Park with a proposed multi-use pathway connection within Paradise Park, and

WHEREAS, the Town has been waiting and anticipating another funding opportunity to extend the Casey Road bike lanes and pedestrian walkway, known as Phase II, and

WHEREAS, the scope of Phase II is consistent with the adopted Town of Amherst Recreation and Parks Master Plan in that it encourages transportation alternatives, expands trail facilities and the public's desire for connection to other existing amenities in the Town, and

WHEREAS, In July 2021, the NYSDOT announced a Transportation Alternatives Program (TAP) funding cycle that supports bicycle, pedestrian, multi-use path, and non-motorized transportation-related projects and programs, and

WHEREAS, successful TAP projects provides reimbursement of up to 80 percent of project-related costs, with the remaining 20 percent provided by project sponsors, and

THEREFORE BE IT RESOLVED, that the Town Board supports applying for the 2021 TAP for Phase II of the Casey Road Pedestrian and Bicycle Safety Improvement Project that connects Transit Road to Paradise Road with sidewalk and bike lanes as well as a pathway connection into Paradise Park, and

BE IT FURTHER RESOLVED, that the Town Board commits to funding the local share at no less than 20% of the total project cost through the 2022-2026 Capital Improvement Program should the TAP application be successfully awarded to the Town of Amherst.

8/23/2021

A motion to approve was made by Supervisor Kulpa, seconded by Councilmember Bucki and unanimously approved 5-0.

FINANCIAL IMPACT:

Fiscal Impact: 20% local project share by 2022 CIP (<$500,000)

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

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

Francina J. Spoth
Town Clerk

Meeting: 08/23/21 03:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 24679 **RESOLUTION 2021-742** **ADOPTED AS AMENDED**

WPCF Transformer Testing & Repair Service Contract - Change Order No. 1 CRS 2836

We are requesting the Town Board approve the above referenced Change Order, which calls for an increase in hours for Bid Item #3 (hourly service rate) from 20 hours to 35.5 hours and would increase the contract price by $2,557.50. The project's revised contract price will be $79,298.50. This Change Order will cover the costs associated with the contractor performing additional on-site repair services. This is subject to the contract routing process.

Funding for this request is available from bond account KP1725-4972.

May we have your approval to award Ferguson Electric Service Co., Inc. the above referenced Change Order? Thank you for considering this request.

8/23/2021
A motion to approve was made by Supervisor Kulpa and seconded by Councilmember Bucki. A motion was then made by Supervisor Kulpa to amend, seconded by Councilmember Bucki and unanimously approved 5-0. Amendment adds the contract routing process.

A motion to approve as amended was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

FINANCIAL IMPACT:

KP1725-4972; $2,557.50

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

Change Order

PROJECT: *(Name, address and Project File No.)*

CHANGE ORDER: **# 1**

DATE: 7-30-21

WPCF: Transformer Testing and Repair Service Contract

Project No. **2019.002G**

TO CONTRACTOR: *(Name and address)*

Ferguson Electric Service Co., Inc.
321 Ellicott Street
Buffalo, NY 14203

The Contract is changed as follows:

(*Include, where applicable, any undisputed amount attributable to previously executed construction Change Directives*)

1. Increase the number hours for Bid Item #3 (Hourly Service Rate) from 20 hours to 35.5 hours. The Contractor would perform additional on-site repair service.

   Original Contract Amount:
   ($165.00 hourly rate) x (20 hours) = $3,300.00 N.T.E. Amount

   Revised Contract Amount:
   ($165.00 hourly rate) x (35.5 hours) = $5,857.50 N.T.E. Amount

   - An increase of $2,557.50 for Bid Item #3

   All other terms and conditions remain the same.

The original (Contract Sum) (~~Guaranteed Maximum Price~~) was	$ 76,741.00
The net change by previously authorized Change Orders	$ 0.00
The (Contract Sum) (~~Guaranteed Maximum Price~~) prior to this Change Order was	$ 76,741.00
The (Contract Sum) (~~Guaranteed Maximum Price~~) will be (increased) (~~decreased~~) (~~unchanged~~) by this Change Order in the amount of	$ 2,557.50
The new (Contract Sum) (~~Guaranteed Maximum Price~~) including this Change Order will be	$ 79,298.50
The Contract Time will be (~~increased~~) (~~decreased~~) (unchanged) by	( ) days
The date of Substantial Completion as of the date of this Change Order therefore is	No change

(Note: This change Order does not include changes in the Contract Sum, Contract Time or Guaranteed Maximum Price which have been authorized by Construction Change Directive until the cost and time have been agreed upon by both the Owner and Contractor, in which case a Change Order is executed to supersede the Construction Change Directive).

NOT VALID UNTIL SIGNED BY THE ENGINEER, CONTRACTOR AND OWNER.

ENGINEER (*Firm name*)	CONTRACTOR (*Firm name*)	OWNER (*Firm name*)
N/A	Ferguson Electric Service Co., Inc.	Town of Amherst
ADDRESS	ADDRESS 321 Ellicott Street Buffalo, NY 14203	ADDRESS 5583 Main Street Williamsville, NY 14221
BY (*Signature*)	BY (*Signature*)	BY (*Signature*)
(*Typed name*)	(*Typed name*)	(*Typed name*) Brian J. Kulpa
DATE	DATE	DATE

Attachment: Change Order #1 Form - Ferguson Electric (#2019.002G) REV1-MJP 08-13-2021 (RES-2021-742 : WPCF Transformer Testing &

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

Francina J. Spoth
Town Clerk

Meeting: 08/23/21 03:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 24680 **RESOLUTION 2021-743** **ADOPTED**

Amherst Police & Court HVAC System Improvements - Phase IV - Change Order No. 3 & Final CRS No. 2834

We are requesting the Town Board consider approval of the above referenced Change Order, which increases the overall contract amount by $12,100.00. This change order is required to install a replacement motor for an inline fan and to also provide additional chiller electrical wiring to allow for chiller controls to be provided with emergency generator power in order to maintain programming during outages.

Funding is available for this change order from the project bond account KP2006.4972.

This request has successfully completed the contract review process.

Thank you for considering this request.

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

FINANCIAL IMPACT:

KP2006-4972; $12,100.00

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

AIA® Document G701™ – 2017

Change Order

PROJECT: *Police HVAC Improvements – Phase 4* *Project #2015.036C*	**CONTRACT INFORMATION:** *Contract For: Town of Amherst*	**CHANGE ORDER INFORMATION:** Change Order Number: 3 & Final Date: 08/13/21
OWNER: *Town of Amherst*	**ENGINEER:** *Buffalo Engineering*	**CONTRACTOR:** *Parise Mechanical.*

The Contract is changed as follows:

Install replacement motor for inline return air fan and provide additional chiller electrical wiring to allow for chiller controls to be provided with emergency generator power in order to maintain programming during outages.

The original Contract Sum was	$ 458,500.00
The net change by previously authorized Change Orders	$ 3,834.05
The Contract Sum prior to this Change Order was	$ 462,334.05
The Contract Sum will be increased by this Change Order in the amount of	$ 12,100.00
The new Contract Sum, including this Change Order, will be	$ 474,434.05
The Contract Time will be unchanged) by	(0) days.

NOTE: This Change Order does not include adjustments to the Contract Sum or Guaranteed Maximum Price, or the Contract Time, that have been authorized by Construction Change Directive until the cost and time have been agreed upon by both the Owner and Contractor, in which case a Change Order is executed to supersede the Construction Change Directive.

NOT VALID UNTIL SIGNED BY THE ARCHITECT, CONTRACTOR AND OWNER.

ENGINEER *(Buffalo Engineering)*	**CONTRACTOR** *(Parise Mechanical)*	**OWNER** *(Town of Amherst)*
SIGNATURE	**SIGNATURE**	**SIGNATURE**
PRINTED NAME AND TITLE	**PRINTED NAME AND TITLE**	**PRINTED NAME AND TITLE**
DATE	**DATE**	**DATE**

CAUTION: You should sign an original AIA Contract Document, on which this text appears in RED. An original assures that changes will not be obscured.

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Attachment: Parise Change Order #3 Form (RES-2021-743 : Amherst Police & Court HVAC System Improvements - Phase IV - Change Order No.

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

Francina J. Spoth
Town Clerk

Meeting: 08/23/21 03:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 24681 **RESOLUTION 2021-744** **ADOPTED**

WPCF Influent Worthington Pump 3 Rebuild - Change Order No. 3 CRS 2841

We are requesting the Town Board approve the above referenced Change Order No. 3, which calls for a $2,230.00 decrease in the contract price as well as a 61-day no cost contract extension. The project's revised contract price will be $119,431.00. This Change Order is associated with the Contractor reusing, machining and installing an existing wear ring that was in good condition. Change Orders #1 and #2 authorized the purchase of an OEM lower shaft unit and sleeve, as well as, a remanufactured lower shaft unit and sleeve. The Contract is being extended to October 31, 2021 due to the previous delays in availability of new and remanufactured repair parts.

May we have your approval to award to Corrosion Products and Equipment, Inc. the above referenced Change Order? Funding is available from account KP2030-4972. This request is pending the successful completion of the contract review process. Thank you for considering this request.

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

FINANCIAL IMPACT:

decrease of $2,230.00; KP2030-4972

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

Change Order

PROJECT: *(Name, address and Project File No.)*

CHANGE ORDER: **# 3**

DATE: 8-16-21

WPCF: Worthington Pump 3 Rebuild– General Contract

Project No. **2020.002D**

TO CONTRACTOR: *(Name and address)*

Corrosion Products & Equipment, Inc.
110 Elmgrove Park
Rochester, NY 14624

The Contract is changed as follows:

(*Include, where applicable, any undisputed amount attributable to previously executed construction Change Directives*)

1. The Contract is being extended to October 31, 2021, due to the current delays in availability of repair parts. The contractor has informed us that current delays are typical of late. We have asked for pricing to move forward with locally machined parts in the event that delays continue. Pump 3 needs to be back in service prior to the fall. If the OEM parts are delivered timely, they will be installed in Pump 3 and the machined parts will be used for a future pump rebuild. If the OEM parts are not timely, the machined parts will be installed and the OEM parts used for a future pump rebuild. The pricing for these 2 scenarios was considered for Change Orders 1 and 2 and work is currently underway rebuilding Pump 3. Reinstallation of Pump 3 is now estimated for early September, 2021. The contract price is being reduced by $2230 to account for the credit offered by CPE to reuse an existing wear ring.
2. All other terms and conditions remain the same.

The original (Contract Sum) (~~Guaranteed Maximum Price~~) was:	$ 90,000.00
The net change authorized Change Orders 1& 2 [new shaft/rebuilt shaft] :	$ 31,661.00
The (Contract Sum) (~~Guaranteed Maximum Price~~) prior to this Change Order was:	$ 121,661.00
The Contract will be decreased by this Change Order in the amount of {existing wear ring]:	$ - 2,230.00
The new (Contract Sum) (~~Guaranteed Maximum Price~~) including this Change Order will be:	$ 119,431.00

The Contract Time will be increased by 61 days.

The date of Substantial Completion as of the date of this Change Order therefore is: October 31, 2021

(Note: This change Order does not include changes in the Contract Sum, Contract Time or Guaranteed Maximum Price which have been authorized by Construction Change Directive until the cost and time have been agreed upon by both the Owner and Contractor, in which case a Change Order is executed to supersede the Construction Change Directive).

NOT VALID UNTIL SIGNED BY THE ENGINEER, CONTRACTOR AND OWNER.

ENGINEER (*Firm name*)	CONTRACTOR (*Firm name*)	OWNER (*Firm name*)
	Corrosion Products & Equip Inc.	Town of Amherst
ADDRESS	ADDRESS 110 Elmgrove Park Rochester, NY 14624	ADDRESS 5583 Main Street Williamsville, NY 14221
BY (*Signature*)	BY (*Signature*)	BY (*Signature*)
(*Typed name*)	(*Typed name*)	(*Typed name*) Brian J. Kulpa
DATE	DATE	DATE

Attachment: Pump 3- Change Order #3 Request Form (RES-2021-744 : WPCF Influent Worthington Pump 3 Rebuild - Change Order No. 3)

SERVICE SYSTEMS SOLUTIONS

April 1, 2021

Amherst WWTP
Richard Rink

CPE reported previously that the shaft from the #3 Influent pump we are currently repairing is damaged. This pump is a Worthington Model 30MC-1.

Two options to move forward were presented. It is my understanding that you have chosen to go with a new shaft, which I agree is the better option. This was beyond the original scope and will require a change order. The old shaft will be returned to site when the pump is delivered.

Options previously presented:
The first option is to plasma spray and machine back to tolerance. The cost of this option is $10,234.

The second option is to purchase a new shaft. The cost of this option is $15,532.

The lead time for either option is the same at 6-10 weeks. We feel more comfortable replacing the shaft.

Wear Rings:
Our report showed that the diametric clearance between the impeller and casing wear rings was outside of specification. We recommended making a skin cut on the casing wear ring and replacing the impeller wear ring to bring the clearance within specification. My understanding is that you agreed to this approach. This will allow CPE to provide a $2,230 credit.

Required change order amount then comes to $15,532 (impeller) - $2,230 (credit), or $13,302.00.

Please call with any questions or concerns.

Sincerely,

Robert Metz

315-727-4790

Cc: Pat Occhiuto, Bill Cox

ROCHESTER
110 Elmgrove Park
Rochester, NY 14624
P 585.247.3030
F 585.247.7268

ALBANY
35 Maplewood Avenue
Albany, NY 12205
P 518.458.7252
F 518.458.7259

CARIBBEAN
43 Main Street, Mandeville
Manchester, Jamaica W.I.
P 876.962.6592
F 876.963.8144

Attachment: Pump 3- CO letter regarding pricing (002) (RES-2021-744 : WPCF Influent Worthington Pump 3 Rebuild - Change Order No. 3)

SERVICE SYSTEMS SOLUTIONS

STANDARD TERMS AND CONDITIONS OF SALE

1. Entire Agreement. These Terms and Conditions of Sale (which include any purchase order or other document(s) attached hereto or referencing these Terms and Conditions of Sale) (the "terms") constitute the entire, complete, and exclusive agreement between the parties with respect to goods and/or services (a "deliverable" or the "deliverables") provided to Buyer by CPE as specified in these terms. If these terms are different from, or contain terms and conditions in addition to, Buyer's purchase order or any other document provided by Buyer (including any modifications thereto), CPE expressly rejects such different or additional terms in Buyer's document, and CPE's provision of the deliverables is expressly conditioned upon Buyer's acceptance of these terms. Notwithstanding any other acts or omissions of the parties, Buyer's acceptance of a deliverable constitutes Buyer's acceptance of all of these terms.

2. Acceptance/Delivery. No order or other request for deliverables will be binding upon CPE unless accepted in writing by CPE. Delivery is F.O.B. shipping point. Buyer assumes full responsibility for deliverables upon CPE's delivery to Buyer's carrier at shipping facility, including proper arrangement and security for transport. Any dates quoted for delivery are approximate only. In the event of CPE's inability for any reason to supply the total demand for deliverables, CPE may allocate its available supply among any or all purchasers, as well as departments and divisions of the CPE, on such basis as it may deem fair and practical, without liability for any failure of performance which may result therefrom.

3. Services. CPE will provide such services as may be specifically described in these terms, but shall have no obligation to provide any services unless agreed to by CPE in writing. Services are not provided as work-for-hire and CPE retains on an exclusive basis all rights to any intellectual property developed, delivered and/or used in providing services.

4. Price. The price for deliverables is specified in these terms. The price is exclusive of taxes and shipping related costs and is payable only in U.S. currency. Price, delivery terms, availability of deliverables and descriptions and specifications of deliverables is subject to change without notice. Buyer shall reimburse CPE for all taxes, shipping related costs or other charges which CPE may be required to pay upon the sale, transportation or use of the deliverables. The opening and maintenance of a credit account with CPE is subject to Buyer providing satisfactory references and observing all of the terms on which credit is given, including CPE's Credit Policy. CPE reserves the right to refuse to extend credit at any time and for any reason. Any discounts, rebates, warranties, or similar allowances given by CPE for the deliverables are expressly conditioned upon full and timely payment.

5. Payment. At CPE's option, the price and any applicable taxes, shipping related costs or other charges is due and payable on or before delivery, or if invoiced by CPE, due and payable thirty (30) days after the date of invoice. If Buyer fails to make payment when due, in addition to CPE's other rights and remedies, Buyer shall (i) pay CPE a late charge equal to the lesser of 1.5% or the highest lawful amount which may be charged to Buyer, per month and/or part of a month on the remaining unpaid balance due to CPE; and (ii) pay all expenses of collection of amounts due CPE from Buyer, including reasonable attorneys' fees. Buyer shall not be entitled to make any deductions or set off of any amounts (including those for alleged damages) against payments due to CPE hereunder.

6. Security Interest. Buyer grants CPE a purchase money security interest in all deliverables, including the proceeds, products thereof, additions and accessions thereto and replacements and substitutions therefor, with all rights and remedies of a secured party in any jurisdiction. Buyer authorizes CPE to file financing statements, or such other documents, appropriate to protect CPE's security interest, without Buyer's signature. If Buyer has granted a third party a blanket security interest in the type of collateral of which a deliverable would be characterized under the Uniform Commercial Code or applicable law, Buyer shall notify CPE of such fact in writing prior to shipment of deliverables.

7. Inspection. Promptly upon delivery, but no later than five (5) days after delivery, Buyer shall (i) examine and inspect all deliverables; and (ii) notify CPE of any defect in material or workmanship or any other fact that causes the deliverables not to conform to the agreement between Buyer and CPE. Failure to so inspect and inform CPE of a defect within the foregoing time period or the use of a deliverable by Buyer at any time shall be conclusive evidence that CPE has satisfactorily tendered delivery and that Buyer has inspected and accepted the deliverables. Buyer agrees that the foregoing time period provides Buyer with a reasonable time to inspect deliverables. Should Buyer properly notify CPE of any defects in deliverables, in addition to any obligations Buyer may have to CPE, Buyer shall re-pack the deliverable into its original packaging and store that deliverable indoors and in a dry and temperature regulated facility pending instructions from CPE.

8. Force Majeure. CPE is not responsible for any delay or failure to perform its obligations under these terms when such failure is due to any cause beyond its control. If shipments are delayed at Buyer's request, due to Buyer's acts or omissions, or due to circumstances that are not within CPE's control, payment shall be made by Buyer within ten (10) days after Buyer has been notified by CPE that a deliverable is ready for shipment. If shipment is delayed, in addition to any other remedy available to CPE, the deliverable may be stored by CPE at Buyer's risk and expense.

9. Returns/Cancellation. No deliverable may be returned unless CPE agrees in writing and such deliverable is (i) in new condition, suitable for resale in its undamaged original packaging and with all its original parts and (ii) has not been used, installed, modified, rebuilt, reconditioned, repaired, altered or damaged. If CPE agrees to accept a return, Buyer must pay all costs and bear all risk of returning the deliverable to CPE's facility and pay a re-stocking charge starting at 30% of the price. Orders accepted by CPE can only be cancelled with the written consent of CPE, such consent to be in the CPE's absolute discretion and then only upon payment of a reasonable cancellation charge.

10. Buyer Responsibilities. Buyer is responsible for obtaining any and all permits, licenses or other documents necessary for shipment, receipt or use of the deliverables and providing CPE written evidence thereof in advance of shipment. Buyer, its employees and agents will take all necessary steps to ensure that the deliverables will be set-up, assembled, installed and used (whether by Buyer or a third party) in accordance with CPE's instructions, any instruction manual, package insert or other materials provided with the deliverables, and all requirements of all applicable governmental authorities pertaining to the installation and operation of the deliverables. Buyer shall indemnify and hold CPE and CPE's directors, officers, employees and agents harmless against any and all damages, losses, costs, claims and expenses (including, without limitation, reasonable attorneys' fees and costs whether incurred in a third party action or in an action to enforce these terms) incurred by CPE or such persons that arise out of or relate to the failure of Buyer to comply with CPE's instructions, any instruction manual, package insert or other materials provided with the deliverables, and all requirements of applicable law or regulation pertaining to the installation and operation of the deliverables. CPE shall have no obligation to perform should Buyer be in breach of its obligations to CPE under these terms or any other contract with CPE.

11. Technical Advice. Upon request, CPE may furnish such technical advice or assistance as it has available in reference to the use of deliverables. It is expressly understood, however, that all such technical advice or assistance is given AS-IS and the CPE assumes no obligation or liability for the advice or assistance given or results obtained, and all such advice or assistance is given and accepted at Buyer's risk.

12. Limited Warranty. CPE warrants to Buyer that deliverables will be free from defects in material and workmanship. This warranty is not transferable or assignable and any such transfer or assignment is void.

This limited warranty does not cover service trips, service calls and labor charges, shipment of replacement parts, or damages due to: (i) failure to install, operate or maintain the deliverables in accordance with CPE's instructions, any instruction manual, package insert or other materials provided with the deliverables, and all requirements of applicable law or regulation; (ii) misuse, abuse, neglect or modification of a deliverable in any way; (iii) improper service or use of replacement parts or accessories that are not specified by CPE; (iv) improper installation by Buyer or a third party or any relocation of a deliverable after initial installation; (v) incorrect supply, accident, fire, flood, acts of God or other casualty; (vi) use of a deliverable other than for its intended purpose; (vii) shipment of a deliverable (all claims must be filed with the carrier); (viii) use of a deliverable in the vicinity of combustible or explosive materials; (ix) any defect in a

Attachment: Pump 3- CO letter regarding pricing (002) (RES-2021-744 : WPCF Influent Worthington Pump 3 Rebuild - Change Order No. 3)

SERVICE SYSTEMS SOLUTIONS

deliverable arising from a drawing, design, or specification supplied by or on behalf of Buyer; (x) failure of parts not manufactured by CPE; (xi) Buyer cannot prove original purchase date and required annual maintenance history, if any; (xii) the serial number or any similar or other identifying information on any deliverable is removed, defaced, modified or altered in any way; or (xiii) CPE is not permitted to inspect the damaged deliverable.

CPE makes no warranty regarding any deliverables produced or supplied by parties other than CPE. Those deliverables are subject to any terms and conditions imposed by such third parties.

No person other than an executive officer of CPE has authority to change or extend the terms of the above limited warranty and Buyer confirms that no other warranty terms have been extended by CPE or are applicable to the deliverables. Changes or extensions to the terms of the above limited warranty are binding only if confirmed in writing by CPE's duly authorized executive officer.

13. Limitation on Warranties/Damages. Any claim under the limited warranty set forth in Section 12 must be made within a period of twelve (12) months from the date of shipment by CPE or such claim is waived. Except as set forth in these terms, CPE makes no representation or warranty of any type, express or implied, including any warranty of merchantability, warranty of fitness for a particular purpose, warranty of non-infringement or warranty arising from any course of dealing, course of performance or usage of trade.

CPE will not under any circumstances be liable for any special, indirect, punitive or consequential damages (even if CPE has been notified of the possibility of such damages) resulting from or related to a deliverable including, without limitation, any loss of profits or loss of opportunity.

Some jurisdictions do not allow limitations on warranties or damages, so this limitation or exclusion may not apply to Buyer.

14. Remedy. CPE's sole obligation and Buyer's exclusive remedy with respect to any deliverable, whether arising in contract, tort (including negligence), strict liability, breach of warranty or otherwise, is limited to CPE, at its discretion, replacing or repairing the defective deliverable, providing replacement parts or issuing Buyer a credit equal to the price paid to CPE for such defective deliverable, and in no event will CPE's liability exceed the amounts actually received by CPE for any deliverable.

This exclusive remedy shall not be deemed to have failed its essential purpose so long as CPE is willing and able to: (i) repair or replace a defective deliverable or parts thereof or (ii) at CPE's option, refund the price received by CPE for the defective deliverable, within a reasonable time after Buyer demonstrates that a defect exists.

15. Limitation of Actions. Any action against CPE arising out of this transaction shall be commenced within one (1) year from the date such cause of action has accrued; otherwise the same shall be barred.

16. Intellectual Property. CPE is not transferring to Buyer any patent, copyright, trademark or other intellectual property rights in or related to any deliverable, other than the limited license to use the deliverable for Buyer's internal business purposes. The deliverables provided hereunder may be subject to patent, trade secret and other intellectual property rights and Buyer agrees that should the deliverables or certain information relevant thereto be made available to others it would cause irreparable harm to CPE. Therefore, Buyer agrees not to, and not to permit others to, use, disclose, copy or replicate (through, for example, reverse engineering or other similar process) any deliverable and/or any documentation or information regarding any deliverable.

Buyer shall indemnify and hold CPE and CPE's directors, officers, employees and agents harmless from and against any and all damages, losses, costs, claims and expenses (including, without limitation, reasonable attorneys' fees and costs whether incurred in a third party action or in an action to enforce these terms) incurred by CPE or such persons that may arise out of or relate to any or all claims of any nature alleging infringement of a third-party's intellectual property rights as a result of CPE's compliance with Buyer's written specifications or instructions for the manufacture of the deliverables (the "Specifications"). The foregoing shall not apply, however, to the extent (i) such infringement arises from any deviation, embellishment, interpretation, modification or creative work performed on the part of CPE that deviates from, or is in addition to, the specific requirements of the Specifications, or (ii) Buyer can demonstrate that CPE knew or should have known in the exercise of reasonable prudence that CPE's compliance with the Specifications would infringe such third-party's intellectual property rights.

17. Governing Law. These terms shall be governed by and construed in accordance with the laws of the State of New York, without regard to its principles of conflicts of laws, and shall not be governed by the provisions of the United Nations Convention on Contracts for International Sales of Goods. The parties agree that all actions or proceedings between them shall be tried and litigated only in the state and federal courts located in the County of Monroe, New York.

18. Termination. CPE may terminate these terms, and have no obligation to supply deliverables, immediately upon the bankruptcy or insolvency of CPE or CPE's breach of these terms. Buyer will pay the price for any deliverables delivered on or before the date of termination. CPE is not liable for any other costs, expenses, losses, damages or liabilities arising out of such termination. Termination or cancellation will not alter or terminate any of the parties' obligations under these terms that by their nature extend beyond termination or cancellation.

19. Assignment/Subcontract. Buyer may not delegate or assign any duties or rights under these terms without CPE's prior written consent, which consent may be withheld by CPE for any or no reason. Any such delegation or assignment in violation of this section is void.

20. Severability/Revision. Should any provision of these terms be held by a court of law, or other body having proper jurisdiction, to be illegal, invalid or unenforceable, the legality, validity and enforceability of the remaining provisions of these terms shall not be affected or impaired thereby and the parties agree that partial enforcement of these terms or revisions of the illegal, invalid or unenforceable provision is appropriate.

21. Notices. To be effective, all notices and other communications under these terms shall be in writing and sent to the intended recipient by personal delivery, by registered or certified mail, return receipt requested, or recognized overnight courier, at the party's address as set forth in the purchase order or other documents attached to these terms. Each party may change its address for receipt of notice by giving notice of such change pursuant to this section. Notice is given immediately upon personal delivery, or three business days following the date on which such notice is mailed in accordance with this section, or the next day following the date on which such notice is sent by overnight courier.

22. Entire Agreement, Amendment and Waiver. These terms (a) constitute the entire agreement between the parties as to the subject matter hereof and supersede all other prior agreements and understandings, both written and oral, between the parties with respect to the subject matter hereof, and (b) may be modified or amended only by a written document signed by CPE and Buyer. No supplement, modification or waiver of these terms will be binding unless executed in writing by the party to be bound thereby and specifically references these terms and the section(s) so modified. No waiver of any of these terms shall be deemed or shall constitute a waiver of any other term hereof (whether or not similar), nor shall such waiver constitute a continuing waiver unless otherwise expressly provided.

Attachment: Pump 3- CO letter regarding pricing (002) (RES-2021-744 : WPCF Influent Worthington Pump 3 Rebuild - Change Order No. 3)

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

Francina J. Spoth
Town Clerk

Meeting: 08/23/21 03:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 24683 **RESOLUTION 2021-745** **ADOPTED**

WPCF Building No. 1 Elevator Modernization - Change Order No. 4 CRS 2843

The Engineering Department requests the Town Board approve the above referenced Change Order, which calls for a no-cost time extension until October 1, 2021 for Sicoli Construction Services, Inc. for the above-referenced project. There are no ancillary costs associated with this request.

Pending successful completion of the contract approval procedure, may we have your approval to execute Sicoli Construction Services, Inc. the above referenced Change Order? Thank you for considering this request.

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

FINANCIAL IMPACT:

N/A

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

Change Order

PROJECT: *(Name, address and Project File No.)*

CHANGE ORDER: **# 4**

DATE: 8-17-21

WPCF: Building No. 1 Elevator Modernization

Project No. **2018.002F**

TO CONTRACTOR: *(Name and address)*

Sicoli Construction Services, Inc.
4800 Hyde Park Blvd.
Niagara Falls, NY 14305

The Contract is changed as follows:

(*Include, where applicable, any undisputed amount attributable to previously executed construction Change Directives*)

1. Requesting that the project substantial completion date of August 27, 2021 be extended to October 1, 2021.
2. All other terms and conditions remain the same.

The original (Contract Sum) (~~Guaranteed Maximum Price~~) was	$ 236,800.00
The net change by previously authorized Change Orders	$ 13,148.00
The (Contract Sum) (~~Guaranteed Maximum Price~~) prior to this Change Order was	$ 249,948.00
The (Contract Sum) (~~Guaranteed Maximum Price~~) will be (~~increased~~) (~~decreased~~) (unchanged) by this Change Order in the amount of	$ 0.00
The new (Contract Sum) (~~Guaranteed Maximum Price~~) including this Change Order will be	$ 249,948.00
The Contract Time will be (increased) (~~decreased~~) (~~unchanged~~) by	(35) days
The date of Substantial Completion as of the date of this Change Order therefore is	October 1, 2021

(Note: This change Order does not include changes in the Contract Sum, Contract Time or Guaranteed Maximum Price which have been authorized by Construction Change Directive until the cost and time have been agreed upon by both the Owner and Contractor, in which case a Change Order is executed to supersede the Construction Change Directive).

NOT VALID UNTIL SIGNED BY THE ENGINEER, CONTRACTOR AND OWNER.

ENGINEER (*Firm name*)	CONTRACTOR (*Firm name*)	OWNER (*Firm name*)
Buffalo Engineering, P.C.	Sicoli Construction Services, Inc.	Town of Amherst
ADDRESS: 4245 Union Road Buffalo, NY 14225	ADDRESS: 4800 Hyde Park Blvd. Niagara Falls, NY 14305	ADDRESS: 5583 Main Street Williamsville, NY 14221
BY (*Signature*)	BY (*Signature*)	BY (*Signature*)
(*Typed name*)	(*Typed name*)	Brian J. Kulpa (*Typed name*)
DATE	DATE	DATE

Attachment: Change Order #4 Form - Sicoli (#2018.002F) (RES-2021-745 : WPCF Building No. 1 Elevator Modernization - Change Order No. 4)

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

Francina J. Spoth
Town Clerk

Meeting: 08/23/21 03:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 24685 **RESOLUTION 2021-746** **ADOPTED**

Award of Bid - Senior Center Emergency Building Repairs

On August 17, 2021, bids were received for the above referenced project. After review of the five (5) bids received (bid tabulation attached), we recommend that the Town Board award this contract to Cavlee Development, Inc., 5983 S. Transit Road, Lockport, NY 14094 as per their low base bid amount of $20,250.00 and authorize the Supervisor to execute the contract(s) associated with the bid award.

Funding for this contract is available from account A6772.4220, which shall be fully reimbursed from the insurance company of the driver that caused the damage to this building.

Thank you for considering these requests.

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Councilmember Bucki and unanimously approved 5-0.

FINANCIAL IMPACT:

A6772-4220; $20,250.00

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

Senior Center Emergency Building Repairs

Bid Tabulation / August 17, 2021
T.O.A. Job No. 900060K

No.	Bidder	Bid Bond (Y / N)	Base Bid
1	Cavlee Development, Inc.	Yes	$20,250.00
2	The Peyton Barlow Co., Inc.	Yes	$36,200.00
3	Rodriguez Construction Group	Yes	$39,244.00
4	Sicoli Construction Services, Inc.	Yes	$43,888.00
5	Picone Construction Corp.	Yes	$52,000.00

Attachment: Senior Center Bid Tab (RES-2021-746 : Award of Bid - Senior Center Emergency Building Repairs)

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

Francina J. Spoth
Town Clerk

Meeting: 08/23/21 03:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 24686 **RESOLUTION 2021-747** **ADOPTED**

Award of Bid - Basketball Court Renovations Clearfield Recreation Center & Briarhurst Park

Bids were received on August 12, 2021 for the above referenced project. After review of the bids (tabulation attached), we recommend award be made to Louis Del Prince & Sons, Inc., 580 Cayuga Road, Cheektowaga, NY 14225-1312, based on their low total base bid of $49,733.00 to include both locations and authorize the Supervisor to execute the contract(s) associated with the bid award.

Funding for the above award is available from account KP1951-4972.

May we have your approval to award the above contract?

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

FINANCIAL IMPACT:

KP1951-4972; $49,733.00

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

Basketball Court Renovations

Thursday August 12, 2021

T.O.A. Job Nos. 2021.033

No.	BIDDER	LOCATION #1 Clearfield	LOCATION #2 Briarhurst	TOTAL
1	Louis Del Price & Sons, Inc.	$25,511.00	$24,222.00	$49,733.00
2	Anastasi Trucking, Inc.	$44,420.00	$35,530.00	$79,950.00
3	North Spur Construction	$52,500.00	$38,200.00	$90,700.00

Attachment: Bid Tab - Basketball Court Renovations (RES-2021-747 : Award of Bid - Basketball Court Renovations)

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

Francina J. Spoth
Town Clerk

Meeting: 08/23/21 03:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 24687 **RESOLUTION 2021-748** **ADOPTED**

Award of Bid - 2021 Manhole Rehabilitation Project

On August 12, 2021, three (3) bids were received for the above referenced project. The bid tabulation sheet is attached. At this time, we recommend award of the contract to Camden Group, Inc. per their base bid and alternate no. A1-2 for a total contract amount of $174,800.00 and authorize the Supervisor to execute the contract associated with the bid award.

The funds for this project are available from bond account KP2130-4972.

May we have your approval to award Camden Group, Inc., the above referenced contract?

Thank you for considering this request.

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Councilmember Lavin and unanimously approved 5-0.

FINANCIAL IMPACT:

KP2130-4972; $174,800.00

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

2021 SANITARY MANHOLE REHABILITATION PROJECT
TOWN OF AMHERST JOB NO. 2020.039A
BID TABULATION

BID DATE: AUGUST 12, 2021

BIDDER	BASE BID TOTAL	ALTERNATE A1-1 TOTAL	ALTERNATE A1-2 TOTAL
Camden Group Inc.	**$144,800.00**	$150,000.00	**$30,000.00**
United Survey, Inc.	$139,027.00	$157,500.00	$42,450.00
National Water Main Cleaning Co.	$157,770.00	$118,500.00	$32,500.00

TOTAL AWARD	**$174,800.00**

Attachment: 2021 MANHOLE REHAB Bid Tab_Basic_Award (RES-2021-748 : Award of Bid - 2021 Manhole

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

Francina J. Spoth
Town Clerk

Meeting: 08/23/21 03:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 24688 **RESOLUTION 2021-749** **ADOPTED**

Award of Bid - Audubon Library Expansion - Phase I & II - Plumbing Contract M.K.S. Plumbing Corp

On August 12, 2021, bids were received for the above referenced project. After review of the eight (8) bids received (bid tabulation attached), we recommend award of this contract to M.K.S. Plumbing Corp., 19 Ransier Drive, West Seneca, NY 14224 in the base bid amount of $140,850.00 and authorize the Supervisor to execute the contract(s) associated with the bid award.

Funding for this contract shall be from project account KP2126-4972.

May we have your approval to award the above contract?

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

FINANCIAL IMPACT:

KP2126-4972; $140,850.00

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

AUDUBON LIBRARY EXPANSION - PHASE I & II

Bid Tabulation / August 12, 2021

T.O.A. Job No. 2019.048

Plumbing Contractor

No.	Bidder	Contract Type	Total Base Bid
1	MKS Plumbing Corporation	Plumbing	$140,850.00
2	Jim Ando Plumbing	Plumbing	$145,000.00
3	MLP Plumbing & Mechanical, Inc.	Plumbing	$156,600.00
4	D.V. Brown & Associates	Plumbing	$163,800.00
5	Numarco, Inc.	Plumbing	$166,400.00
6	John W. Danforth Co.	Plumbing	$167,000.00
7	Mollenberg-Betz, Inc.	Plumbing	$170,700.00
8	Willett Builders, Inc.	Plumbing	$204,000.00

Attachment: Bid Tab - Plumbing (RES-2021-749 : Award of Bid - Audubon Library Expansion - Phase I & II - Plumbing Contract)

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

Francina J. Spoth
Town Clerk

Meeting: 08/23/21 03:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 24689 A **RESOLUTION 2021-750** **ADOPTED**

Audubon Library Expansion - Phase I & II - Electrical Contract Frey Electric Construction Co., Inc.

On August 12, 2021, bids were received for the above referenced project. After review of the six (6) bids received (bid tabulation attached), we recommend award of this contract to Frey Electric Construction Co. Inc., 100 Pearce Avenue, Tonawanda, NY 14150 in the base bid amount of $308,000.00 and authorize the Supervisor to execute the contract(s) associated with the bid award.

Funding for this contract shall be from project account KP2126-4972.

May we have your approval to award the above contract?

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Councilmember Bucki and unanimously approved 5-0.

FINANCIAL IMPACT:

KP2126-4972; $308,000.00

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

AUDUBON LIBRARY EXPANSION - PHASE I & II

Bid Tabulation / August 12, 2021

T.O.A. Job No. 2019.048

Electrical Contractor

No.	Bidder	Contract Type	Total Base Bid
1	Frey Electric Construction Co, Inc.	Electrical	$308,000.00
2	Goodwin Electric	Electrical	$342,700.00
3	Weydman Electric, Inc.	Electrical	$374,948.00
4	IPL	Electrical	$382,700.00
5	CIR Electical	Electrical	$416,500.00
6	O'Connll Electric Co.	Electrical	$416,998.00

Attachment: Bid Tab - Electrical (RES-2021-750 : Award of Bid - Audubon Library Expansion - Phase I & II - Electrical Contract)

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

Francina J. Spoth
Town Clerk

Meeting: 08/23/21 03:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 24690 A **RESOLUTION 2021-751** **ADOPTED**

Audubon Library Expansion - Phase I & II - Mechanical Contract Greater Niagara Mechanical, Inc.

On August 12, 2021, bids were received for the above referenced project. After review of the six (6) bids received (bid tabulation attached), we recommend award of this contract to Greater Niagara Mechanical, Inc., 7311 Ward Road, North Tonawanda, NY 14120, in the base bid amount of $334,600.00 and authorize the Supervisor to execute the contract(s) associated with the bid award.

Funding for this contract shall be from project account KP2126-4972.

May we have your approval to award the above contract?

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Councilmember Bucki and unanimously approved 5-0.

FINANCIAL IMPACT:

KP-2126-4972; $334,600.00

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

AUDUBON LIBRARY EXPANSION - PHASE I & II

Bid Tabulation / August 12, 2021

T.O.A. Job No. 2019.048

Mechanical Contractor

No.	Bidder	Contract Type	Total Base Bid
1	Greater Niagara Mechanical, Inc.	Mechanical	$334,600.00
2	MLP Plumbing & Mechanical, Inc.	Mechanical	$349,000.00
3	Parise Mechanical	Mechanical	$356,000.00
4	Mollenberg-Betz, Inc.	Mechanical	$384,000.00
5	D.V. Brown & Associates	Mechanical	$398,400.00
6	John W. Danforth Co.	Mechanical	$428,800.00

Attachment: Bid Tab - Mechanical - Greater Niagara (RES-2021-751 : Award of Bid - Audubon Library Expansion - Phase I & II - Mechanical

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

Francina J. Spoth
Town Clerk

Meeting: 08/23/21 03:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 24691 **RESOLUTION 2021-752** **ADOPTED**

Award of Bid - Audubon Library Expansion - Phase I & II - General Contract Peak Construction Group, LLC

On August 12, 2021, bids were received for the above referenced project. After review of the ten (10) bids received (bid tabulation attached), we recommend award of this contract to Peak Construction Goup, LLC, 701 Seneca Street, Suite 604, Buffalo, NY 14210 in the amount of $2,158,800.00 to include the base bid, alternate bid No. 1 (entry corridor finishes), and alternate No. 2 (office floor finishes) and authorize the Supervisor to execute the contract(s) associated with the bid award.

Funding for this contract shall be from project account KP2126-4972.

May we have your approval to award the above contract?

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

FINANCIAL IMPACT:

KP2126-4972; $2,158,800.00

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

AUDUBON LIBRARY EXPANSION - PHASE I & II

Bid Tabulation / August 12, 2021

T.O.A. Job No. 2019.048

General Contractor

No.	Bidder	Contract Type	Base Bid	Alternate No. 1 Entry Corridor Finishes	Alternate No. 2 Office Floor Finishes	Totals
1	Peak Construction Group, LLC	General	$2,117,000.00	$35,000.00	$6,800.00	$2,158,800.00
2	Sicioli Construction Services, Inc.	General	$2,138,400.00	$39,000.00	$8,000.00	$2,185,400.00
3	Cavlee Development	General	$2,171,000.00	$37,300.00	$6,000.00	$2,214,300.00
4	Concept Construction Corp.	General	$2,214,000.00	$38,000.00	$6,000.00	$2,258,000.00
5	Savarino Companies	General	$2,265,000.00	$35,000.00	$10,000.00	$2,310,000.00
6	Transit Construction Services Corp.	General	$2,275,000.00	$46,000.00	$6,000.00	$2,327,000.00
7	The Peyton Barlow Co., Inc.	General	$2,289,000.00	$32,680.00	$8,067.00	$2,329,747.00
8	Javen Construction Co., Inc.	General	$2,295,000.00	$49,000.00	$9,000.00	$2,353,000.00
9	Rodems Construction Co., Inc.	General	$2,312,000.00	$38,000.00	$4,500.00	$2,354,500.00
10	Willett Builders, Inc.	General	$2,860,000.00	$75,000.00		$2,935,000.00

Attachment: Bid Tab - General - Peak (RES-2021-752 : Award of Bid - Audubon Library Expansion - Phase I & II - General Contract)

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

Francina J. Spoth
Town Clerk

Meeting: 08/23/21 03:00 PM
Department: Finance
Initiated by: **Lynda Juul**
Co-Sponsored by:

DOC ID: 24576 **RESOLUTION 2021-753** **ADOPTED**

Authorize NYPA Energy Services Program Master Cost Recovery Agreement - CRS #2851

WHEREAS, the New York Power Authority (NYPA) offers a comprehensive range of programs and services to help customers save energy and related costs, reduce emissions, and meet renewable energy and other energy goals; and

WHEREAS, Public Authorities Law §1005(17) permits NYPA to finance, design, develop, construct, implement, provide and administer energy-related projects, programs and services for public entities; and

WHEREAS, the Trustees have authorized the establishment of NYPA's Energy Services Program ("ESP") to include, among other things, energy efficiency projects and services, clean energy technology projects and services and high-performance and sustainable building projects and services (including technologies that reduce air and other pollution and conserve materials and resources such as water); and the construction, installation and/or operation of facilities or equipment done in connection with any such projects, programs or services; and

WHEREAS, Public Authorities Law §1005(17) permits the Town of Amherst, a statutorily eligible entity, to enter into an energy services contract with the Authority for such energy-related projects, programs and services as authorized by Public Authorities Law; and

WHEREAS, NYPA and the Town of Amherst desire to work together to develop and implement Projects contemplated under the ESP and to enter into a Master Agreement; and

WHEREAS, the attached agreement has been reviewed by the Town Attorney, Director of Finance, Town Engineer, and Comptroller, and includes Town requested modifications that were approved by NYPA, but may require additional minor modifications by the Town Attorney;

NOW, THERFORE, BE IT RESOLVED, the Energy Services Program Master Cost Recovery Agreement Between the Town of Amherst and the Power Authority of the State of New York is hereby approved; and

BE IT FURTHER RESOLVED, the Supervisor is hereby authorized to sign the Agreement with NYPA; and

BE IT FURTHER RESOLVED, that approval is pending successful completion of the Contract Routing System, as the next Town Board meeting will not be held until September 13, 2021, and there are projects that the Town would like to begin working on with NYPA as soon as possible.

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Councilmember Bucki and unanimously approved 5-0.

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

NEW YORK STATE OF OPPORTUNITY. | NY Power Authority

ENERGY SERVICES PROGRAM

MASTER COST RECOVERY AGREEMENT

BETWEEN

POWER AUTHORITY OF THE STATE OF NEW YORK

AND

TOWN OF AMHERST

Sample

Attachment: NYPA Master Cost Recovery Agreement - Revised 8-18-2021 (RES-2021-753 : Authorize NYPA Energy Services Program Master

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ENERGY SERVICES PROGRAM
MASTER COST RECOVERY AGREEMENT

This Master Cost Recovery Agreement (this "Master Agreement"), dated _____, is entered into by and between POWER AUTHORITY OF THE STATE OF NEW YORK, a corporate municipal instrumentality of the State of New York with offices located at 123 Main Street, White Plains, New York 10601 ("Authority") and the Town of Amherst, a municipality with offices located at 5583 Main Street, Williamsville, NY 14221 ("Customer").

WHEREAS, Public Authorities Law §1005(17) permits the Authority, as deemed feasible and advisable by the Trustees, to finance and design, develop, construct, implement, provide and administer energy-related projects, programs and services for any public entity and certain other specified entities; and

WHEREAS, the Trustees have authorized the establishment of the Authority's Energy Services Program ("ESP") to include, among other things, energy efficiency projects and services, clean energy technology projects and services and high-performance and sustainable building projects and services (including technologies that reduce air and other pollution and conserve materials and resources such as water); and the construction, installation and/or operation of facilities or equipment done in connection with any such projects, programs or services; and

WHEREAS, Public Authorities Law §1005(17) permits Customer, a statutorily eligible entity, to enter into an energy services contract with the Authority for such energy-related projects, programs and services as authorized by Public Authorities Law; and

WHEREAS, Authority and Customer desire to work together to develop and implement Projects contemplated under the ESP and to enter into this Master Agreement as more particularly set forth herein.

NOW, THEREFORE, Authority and Customer (sometimes referred to herein collectively as the "Parties" and individually as a "Party"), in consideration of the mutual covenants and conditions contained herein and in these recitals, hereby agree as follows:

DEFINITIONS

The following definitions apply for all purposes of this Master Agreement:

"Advisory Services" means the consulting services provided by Authority or Service Providers to assist Customer in its efforts to reduce energy consumption and associated operations and maintenance costs, to realize environmental benefits, including but not limited to the reduction of air pollution; to conserve natural resources; and/or facilitate the use of clean energy sources at Customer's Facilities.

"Advisory Services Terms and Conditions" means the additional terms and conditions set forth in Exhibit C applicable to Advisory Services Projects provided by Authority or Service Provider to Customer hereunder.

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"Ancillary Documents" means documents, other than this Master Agreement and the Customer Project Commitment (and documents that modify them, such as Change Orders and Contingent Work Orders), covering information necessary for the implementation of a specific Project, such as authorizations, Substantial Completion and Operation Transfer Reports, Milestone Completion Reports and Final Inspection Reports, etc.

"Authority's Authorized Representative" means an individual designated by Authority in accordance with Section 10.1(b) to coordinate a Project on behalf of Authority and to communicate with Customer concerning such Project.

"Authority Implemented Work" means Work undertaken by Authority for Customer as more fully set forth in a CPC (subject to the terms and conditions of this Master Agreement and any applicable Transaction Document) through the services of qualified Service Providers or Subproviders engaged by Authority.

"Authority Material Handling Fee" is a fee applied by the Authority to the cost of materials purchased directly by the Authority for a Project, where applicable, to reimburse the Authority for procurement, material handling, storage and/or restocking. The amount of such fee, when applicable to a Project, will be set forth in the CPC, as superseded by the Final CPC.

"Authority Program Fee" mean Authority's fee applicable to each Project. Details of the Authority Program Fee will be set forth in the Compensation Schedule, attached hereto as Exhibit A, and the amount of such fee will be set forth in the CPC, as superseded by the Final CPC.

"Background Intellectual Property Rights" means Intellectual Property Rights of a Party owned, controlled, acquired, developed, invented, generated, authored, conceived or reduced to practice prior to the date of this Master Agreement, or acquired parallel to and independent of this Master Agreement or any Transaction Documents entered into under this Master Agreement.

"Capital Project" is a Project involving the design, construction, installation and/or modification of facilities and/or equipment in Customer's Facility.

"Capital Project Terms and Conditions" means the additional terms and conditions set forth in Exhibit B applicable to Capital Projects provided by Authority or Service Provider to Customer hereunder.

"Change Order" is a Transaction Document that memorializes a modification to the CPC that cannot be made by Contingency Work Order, setting forth agreed-upon additions, deletions or revisions to the Work, and the cost and/or time impact to the Project.

"Compensation Schedule" is a schedule attached hereto as Exhibit A setting forth details about the Authority Program Fee and other relevant Project costs, where applicable, for the different services offered by Authority under this Master Agreement.

"Contingency Work Order" is a Transaction Document that memorializes the Authority's use of the Project Contingency for a Project, such use to be reflected on subsequent CPCs that are executed for the particular Project.

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"Customer's Authorized Representative" means an individual designated by Customer in accordance with Section 10.1(a), to coordinate a Project on behalf of Customer and to assist Authority, its Service Providers and Subproviders with the implementation of the Project.

"Customer Project Commitment" or "CPC" is a Transaction Document containing terms and conditions for one or more specific Projects at a Customer's Facility(ies) that includes, at a minimum, the location of Customer's Facility, a detailed scope of Work (including a description of milestones, if any), the projected Project costs and any specific payment terms applicable to the Project.

"Data" refers to data, metadata, data elements, identifiers, data models, data structures, databases, information, files, documents, materials, content, libraries, code, scripts, algorithms, and any items similar to any of the foregoing, that are collected by the Authority.

"Debris" shall mean unregulated materials removed from a Customer Facility and unsuitable for further use.

"Environmental Laws" means all current and future federal, state and local laws (including common law), treaties, regulations, rules, ordinances, codes, decrees, judgments, directives, orders (including consent orders), environmental permits, and obligations and other requirements imposed by any "Governmental Authority" (as defined herein), including New York State Department of Environmental Conservation ("NYS DEC") Technical Administrative Guidance Memoranda and other guidance documents issued or published by any Governmental Authority, in each case, relating to pollution, protection of the environment, natural resources, or protection of human health and safety from conditions in the environment, the presence, "Release" (as defined herein) of, threatened Release of, or exposure to, "Hazardous Substances" (as defined herein), or to the generation, manufacture, processing, distribution, use, treatment, storage, transport, recycling or handling of, or arrangement for such activities with respect to, Hazardous Substances.

"Environmental Liabilities" means all liabilities, obligations, damages, losses, claims, actions, suits, judgments, orders, fines, penalties, fees, expenses, and costs, relating to environmental conditions or activities, including (i) Remediation costs, engineering costs, environmental consultant and expert fees, laboratory fees, permitting fees, investigation costs, defense costs, and reasonable attorneys' fees and expenses; (ii) any claims, demands, and causes of action relating to or resulting from any personal injury (including wrongful death), property damage (real or personal) or natural resource damage; and (iii) any penalties, fines or costs associated with the failure to comply with any Environmental Law.

"Energy Services Program" or "ESP" includes energy efficiency projects and services; clean energy technology projects and services; high-performance and sustainable building programs and services (including technologies that reduce air and other pollution, conserve materials and resources such as water); and the construction, installation and/or operation of facilities or equipment done in connection with any such project, programs and services.

"Facility" means the building, structure or premises owned and/or operated by Customer that may benefit from Customer's participation in Authority's ESP Program.

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"Final CPC" means the document that reflects the final reconciliation of Project costs and all amendments to the CPC that is issued by Authority to Customer upon completion of the Work for a Project.

"Final Inspection Report" means the report, if any, to be executed by Authority and Customer after completion of a Project.

"Hazardous Substances" means (i) any petroleum, petroleum products or byproducts, and all other regulated hydrocarbons (including without limitation, petrochemicals and crude oil), or any fraction thereof, coal ash, radon gas, asbestos, asbestos-containing material, urea formaldehyde, polychlorinated biphenyls, chlorofluorocarbons, and other ozone-depleting substances; and (ii) any chemical, material, substance, product or waste (including thermal discharges and hazardous waste) that is prohibited, limited, or regulated by or pursuant to any Environmental Laws.

"Intellectual Property Rights" means any and all intellectual property rights, including, but not limited to rights in any and all of the following: (i) technical information and know-how; (ii) discoveries, improvements, enhancements, upgrades, inventions, (whether or not patentable); (iii) patents, patent applications, patent disclosures, and any other patentable subject matter; (iv) copyrights, applications to register copyrights, works of authorship and any other copyrightable works; (v) trademarks, trade names, trade dresses, brand names, logos and similar marks; (vi) any sketches, drawings, outlines, drafts; (vii) computer software (including source code, executable code, databases, data and related documentation); (viii) trade secrets and know-how; and (ix) all improvements or modifications to any of the foregoing.

"Labor Cost" is that portion of the Total Reimbursement Costs for installation labor performed by Service Provider and Subprovider in connection with the Work performed in connection with a Project pursuant to a CPC based on this Master Agreement. Such costs will be detailed in each CPC.

"Long-Term Repayment Obligation" means the obligation of Customer to repay Authority in accordance with and subject to the terms of a loan agreement after conversion of a Short-Term Repayment Obligation.

"Material Cost" is that portion of the Total Reimbursement Costs related to equipment, materials and supplies in connection with the Work performed in connection with a Project pursuant to a CPC based on this Master Agreement. Such costs will be detailed in each CPC.

"Milestone Completion Report" means a document generated by Authority or Service Provider that identifies a milestone(s) satisfactorily completed during the progress of a Project or phase of a Project (i.e., design, construction, or otherwise), signifies Customer's concurrence with the completion of such milestone and represents Customer's authorization to proceed to the next milestone or phase of the Work, as applicable.

"Other Agreement" means any stand-alone agreements entered into between the Parties at any time, including, without limitation, non-disclosure agreements, privacy agreements, or grant agreements, but shall not include any Master Cost Recovery Agreement, Energy Efficiency

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Services Agreement or other agreements governing services under the ESP entered into by the Parties prior to the execution of this Master Agreement.

"Processed Data" means any data, information, work product, report, model or document produced, created or prepared at any time by the Authority which is a derivative work, compilation, combination, analysis, interpretation, repackaging, or reformatting of the Data.

"Project" means any project or service undertaken through Authority's ESP pursuant to a CPC based on this Master Agreement.

"Project Contingency" means a defined budget to be utilized at the Authority's discretion in accordance with Section 2.3 hereof for, among other things, unexpected costs and expenses that may arise during the performance of a Project (usually calculated as a percentage of Material Cost and Labor Cost).

"Release" means any actual or threatened release, spill, emission, emptying, escape, leaking, dumping, injection, pouring, deposit, disposal, discharge, dispersal, leaching, or migration into the environment or within any building, structure, facility, or fixture and/or the exacerbation of any preexisting condition of Hazardous Substances.

"Remediation" means the investigation (including any feasibility studies or reports), cleanup, removal, abatement, transportation, disposal, treatment (including in-situ treatment), management, stabilization, neutralization, collection, or containment of Hazardous Substances and any Release(s), that may be required to satisfy Environmental Laws, in each case, including, without limitation, any closure, restoration or monitoring, operations and maintenance activities, including any engineering or institutional controls, that may be required by any Governmental Authority after the completion of such investigation, study, cleanup, removal, transportation, disposal, treatment, neutralization, collection, or containment activities as well as the performance of any and all obligations imposed by any Governmental Authority in connection with such investigation, cleanup, removal, transportation, disposal, treatment (including in situ treatment), management, stabilization, neutralization, collection, or containment (including any such obligation that may be imposed pursuant to an Environmental permit or a consent order).

"Service Provider(s)" means a third party provider of goods and/or services that Authority, acting as the contracting entity, contracts with through its procurement policies, procedures and guidelines to perform Work in connection with a Project at Customer Facilities.

"Service Provider Fees" means the costs associated with the payment to Service Providers, its Subproviders and other third party professionals for Work performed with respect to a specific Project. Service Provider Fees will be detailed in each CPC.

"Short-Term Interest" is a cost component of the Total Reimbursement Costs of a Project representing the costs incurred by the Authority in connection with financing the delivery of a Project during the time within which such funds remain unpaid by Customer.

"Short-Term Repayment Obligation" refers to Customer's obligation to reimburse Authority for the costs of delivering a Project, as identified in the Final CPC.

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"Short-Term Repayment Obligation Maturity Date" means the date set forth in the Final CPC, no later than ninety (90) days following the approval of the Final CPC.

"Specific Subject Matter" shall mean intellectual property rights, payment and financing terms, Authority's liability and limitation thereof, Project warranties, and amendments to this Master Agreement and/or any Transaction Documents.

"Subprovider(s)" refers to individuals or entities retained by the Service Provider(s) to perform all or part of the Work.

"Substantial Completion and Operation Transfer Report" is a document signed by the Parties signifying that the equipment and/or facilities installed at the Project have been inspected, tested and accepted by Customer.

"Third Party" means any utility company, permit agency, governmental authority having jurisdiction over a Project, any contractor or service provider hired by Customer, or any other third party that is not a Service Provider or Subprovider but is, directly or indirectly, involved in or whose approval is required in connection with, a Project and not under contract, directly or indirectly, with the Authority.

"Total Annual Energy Savings" is the estimated net reduction in Customer's annual usage of (a) energy service, (b) other utilities including, but not limited to, water and sewer, and (c) any related operation or maintenance savings, if applicable, resulting from the installation of one or more energy conservation measures in accordance with this Master Agreement.

"Total Reimbursement Costs" is the sum of all of the costs of a Project as set forth in the CPC and Final CPC, including, but not limited to, to the extent applicable to such Project: (1) Material Cost; (2) Labor Cost; (3) the amount of the Project Contingency applied as a Project cost; (4) Service Provider Fees; (5) Authority Program Fee; (6) Short-Term Interest; and (7) other Project-related costs and expenses.

"Transaction Document(s)" means with respect to a Project, this Master Agreement and any related Customer Project Commitment and any document that modify them, such as Change Orders and Contingency Work Orders.

"Waste" refers to waste PCBs (as defined by the United States Environmental Protection Agency ("USEPA") in 40 CFR Part 761) and hazardous waste (as defined by the USEPA in 40 CFR Part 261 and the NYS DEC in 6 NYCRR Part 371) as well as other material regulated for purposes of release, reuse, disposal, or recycling (e.g. CFCs, ethylene glycol, mercury, oil, asbestos), which form a part of the equipment removed from Customer Facilities due to implementing the Work. Disposal of such Waste shall be conducted in accordance with the provisions set forth in Article IV.

"Work" means the services performed for Customer for a selected Customer Facility pursuant to this Master Agreement and the other Transaction Documents for a Project. The scope of Work shall be described in the CPC, as amended by subsequent Change Orders, Contingency Work Orders, and the Final CPC.

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Attachment: NYPA Master Cost Recovery Agreement - Revised 8-18-2021 (RES-2021-753 : Authorize NYPA Energy Services Program Master

ARTICLE I

SCOPE AND APPLICATION OF AGREEMENT; ORDER OF PRECEDENCE

1.1 Transaction Documents. In connection with each Project, the Parties will, either concurrently with or subsequently to this Master Agreement, enter into one or more Customer Project Commitments, or similar memoranda, that define a specific Project(s) and the costs and fees associated with such Project, and associated Ancillary Documents. Except as otherwise expressly set forth therein, all Transaction Documents, upon execution by the Parties, shall be governed by the terms and conditions of this Master Agreement. Each Transaction Document shall contain a specific reference to this Master Agreement and CPC, as applicable. This Master Agreement does not obligate Authority to accept requests for Projects issued by Customer or obligate any Party to enter into a CPC.

1.2 Entire Agreement. Subject to the provisions of Section 1.4 below, with respect to a Project, this Master Agreement (including Exhibits A, B, and C and any other exhibits, schedules or appendices hereto) and any Transaction Document which specifically references a Project, constitute the entire agreement between Authority and Customer concerning such Project, and supersedes all prior negotiations, representations, contracts and agreements concerning such Project.

1.3 Conflict and Order of Precedence. In the event of a conflict between the terms of this Master Agreement and the terms and conditions set forth in another Transaction Document, or between the terms of two or more Transaction Documents in effect for a Project, the order of precedence shall be a follows: (i) the terms of the CPC for such Project (as amended by Contingency Work Orders and/or Change Orders and as superseded by the Final CPC) but solely with respect to the price (i.e., the Project's Total Reimbursement Costs), payment and financing terms, and scope of Work (including description of milestones) of the Project; (ii) the terms of this Master Agreement; (iii) the remaining terms of the Project CPC; and (iv) the terms of any Ancillary Document. Notwithstanding the foregoing, the Parties agree that with respect to Specific Subject Matters, if the terms of a Transaction Document concerning a Specific Subject Matter are more favorable to Authority than the respective terms set forth in this Master Agreement, the more favorable terms of the Transaction Document shall prevail with respect to the Project to which it relates. (By way of example, if a Transaction Document includes a term that disclaims any warranties by Authority (or Service Provider) for Work performed, such term would prevail over the warranties set forth in Section 7.1. hereof.)

1.4 Other Agreements. This Master Agreement supersedes all Master Cost Recovery Agreements, Energy Services Agreements or other agreements governing services under the ESP entered into by the Parties prior to the execution of this Master Agreement. Notwithstanding the foregoing, this Master Agreement does not supersede and does not apply to any Other Agreements existing between Customer and Authority. Any projects which Authority has undertaken or undertakes at Customer Facilities pursuant to such Other Agreements, or under prior Energy Services Agreements under which projects remain incomplete as of the date of this Master Agreement, shall be governed by those agreements and related documents, unless otherwise agreed in writing. Termination of this Master Agreement shall have no effect on the Other Agreements which will remain in full force and effect according to their respective terms.

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1.5 Amendments. This Master Agreement and any other Transaction Document executed in connection herewith may be amended only in writing signed by an authorized officer or designee of Authority and Customer.

ARTICLE II

GENERAL PROJECT STRUCTURE

2.1 Customer Project Commitment or CPC. For each Project undertaken under this Master Agreement, the parties will enter into one or more CPC(s), each of which will state the specific terms and conditions applicable to such Project, segregating the Project into logical phases to be performed consecutively. Each CPC will include, at a minimum, the phasing plan setting forth how the Project will proceed, the location of Customer's Facility, scope of Work, (including description of milestones, if any), projected Total Reimbursement Costs, and payment terms.

The Authority is not obligated to commence any Work for a particular Project unless or until a CPC is executed by Authority and Customer. Notwithstanding the foregoing, the Parties may agree to expedite the commencement of a portion of the Work associated with a particular Project prior to the execution of a CPC provided that the Parties memorialize such agreement prior to the commencement of such Work in a writing that sets forth the specific items of Work to be commenced and the associated cost of such Work. In such event, Customer agrees to bear the costs of any Work undertaken by Authority or its Service Providers for Customer in preparation for or with respect to such Project or potential Project even if no CPC is ultimately executed.

2.2 Final CPC. As soon as practicable following completion of the Work and receipt of all invoices associated with a Project, Authority will generate a Final CPC which will include all Contingency Work Orders, and all agreed-upon Change Orders, if any. The Final CPC will reconcile the Total Reimbursement Costs set forth in the CPC on the basis of Authority's actual costs and will supersede all prior CPCs. The Final CPC shall also describe the Project-specific terms for the Work completed at the Facility or Facilities, Customer's Short-Term Repayment Obligation, and the final repayment terms. Authority and Customer shall execute such Final CPC, which shall be "deemed executed" unless Customer disputes such Final CPC in writing within forty-five (45) days of the Authority's transmission thereof. If Customer timely disputes the Final CPC, then the Parties shall endeavor to resolve the dispute as expeditiously as possible in accordance with the procedures set forth in Section 12.2; provided, however, that Customer shall pay any undisputed amounts of Customer's Short-Term Repayment Obligations set forth in the Final CPC in accordance with Article V hereof.

2.3 Contingency Work Order. If unexpected costs and expenses arise during the performance of a Project, the Authority may utilize the Project Contingency, provided that (i) the scope modifications, if any, are consistent with the general nature of the Project; (ii) the modifications do not render the Project ineligible under the Authority's Energy Services Program requirements; and (iii) the cumulative increased Project costs do not exceed the Project Contingency. Contingency Work Orders may be utilized to account for, among other things, remedial work required due to design or construction omissions (whether remedial work is caused by omissions of Authority, its Service Providers or Customer) to the extent that the requirements

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set forth above are met. If the requirements for a Contingency Work Order are not met, Authority and Customer may negotiate a Change Order as described in Section 2.4 below.

As the Project Contingency is utilized, the Authority will issue a Contingency Work Order, which shall be effective upon issuance and automatically update the terms of the respective CPC without the need for express Customer approval. Any objections to the manner in which the Authority is utilizing the Project Contingency must be raised by the Customer in writing to the Authority within seven (7) days of the Authority's issuance of any such Contingency Work Order, or such other period of time identified in the Contingency Work Order. Failure to comply with this notice requirement by the Customer will be deemed a waiver of any claim that (i) the Project Contingency was used improperly; or (ii) that payment on account of such Contingency Work Order is disputed. Upon request, the Authority will provide Customer with periodic reports that establish an accounting of how the Project Contingency is being utilized.

2.4 Change Order. Any party to a CPC may at any time by written notice to the other party request modifications to the Work described in the executed CPC. Authority shall provide Customer with a written analysis of the effects of the requested modification(s) and, provided that the requested modification(s) do not materially alter the general scope of the Project, the Parties will negotiate a Change Order to the CPC. No Change Order shall take effect until it is approved within the time period specified in the Change Order by Authority and by Customer in accordance with Customer's procedures to authorize amendments to the CPC. In the event of a dispute over a request for a Change Order, Authority may elect to proceed with the Work in accordance with the scope of Work as set forth in the CPC (as revised by agreed-upon Change Orders and/or Contingency Work Orders), or the dispute may be treated under the provisions of Section 12.1 hereof.

2.5 Unforeseen Circumstances or Conditions. In the event that circumstances or conditions at Customer's Facility are encountered after a CPC is executed, that may require changes to the Project schedule and/or result in an increase to the Total Reimbursement Costs of the Project, Authority shall as soon as practicable notify Customer. The CPC shall be revised by a Contingency Work Order or a Change Order, as applicable, to incorporate necessary changes to the Project schedule, the scope of Work and/or any increase in the Total Reimbursement Costs, as a result of the existence of the unforeseen circumstance or condition. Customer shall assume any increase in costs as part of its Short-Term Repayment Obligation.

2.6 Third Party Obligations. The Authority shall not be held responsible for any action or failure to act of Customer, its officers, employees, agents, representatives or any Third Party, including, but not limited to, any delay in issuance or any non-issuance of a permit or approval necessary to perform or close out the Work under a Project. Any changes to the Project schedule or scope of Work or any increase in the Total Reimbursement Costs caused by such act or failure to act, shall be Customer's responsibility. If the Third Party conduct necessitates the issuance of a Change Order to compensate the Authority for any changes to the Project schedule, scope of Work or Total Reimbursement Costs resulting from such act or failure to act, Authority may suspend its Work on the Project until Customer approves such Change Order. If Customer fails to approve the Change Order within thirty (30) days of its issuance or the Project is suspended as a result for more than ninety (90) days, Authority, in its sole discretion, may terminate all Project Work and issue a Final CPC as provided in Section 3.4(d) below.

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2.7 Execution and Disputes Regarding Reports. The execution of a Milestone Completion, Final Inspection, Substantial Completion and Operation Transfer Report or similar report(s) shall not be unreasonably withheld by either Party, and the Parties shall endeavor to fully execute such report within thirty (30) days after its submittal to Customer or it shall be deemed executed unless it was disputed by Customer in writing within such thirty (30) day period. In the event of any disputes by Customer with respect to such report(s), the Parties shall endeavor to resolve such dispute as expeditiously as possible in accordance with Sec. 12.1 hereof.

2.8 Limitation on Work in Certain Premises. Absent the express written consent of Authority, no Work of any kind shall be performed in any premises of Customer used for private business use within the meaning of Section 141(b) of the U.S. Internal Revenue Code of 1986, as amended.

2.9 Eligibility Criteria. Projects will be undertaken on an individual basis in Customer's Facilities as deemed feasible and advisable by Authority and mutually agreed to by Authority and Customer. A Project will not proceed unless it satisfies (as determined by Authority in its sole discretion) Authority's requirements related to reduction in overall primary energy costs, energy conservation, results in environmental benefits and/or other requirements of the Authority's Energy Services Program, then in effect.

ARTICLE III

SUSPENSION AND TERMINATION OF PROJECTS

3.1 Suspension of Work.

(a) Suspension by Customer. Customer may direct Authority to suspend Work at any Customer Facility by written notice to Authority. Authority, and the Service Providers and Subproviders, will thereupon cease Work at that Facility as soon as practicable.

(b) Suspension by Authority. In addition to any other right by Authority to suspend Work on a Project set forth herein, Authority may suspend Work at any Customer Facility if any of the following occurs: (i) Customer fails to make payment to Authority when due; and such payment default continues for a period of ten (10) days after written notice thereof by Authority to Customer; (ii) circumstances or conditions at Customer's Facility are discovered after a CPC is executed which require changes to the Project and/or result in an increase to the Project's Total Reimbursement Costs that cannot be covered by the use of any remaining Project Contingency budgeted for the Project; (iii) a Third Party's act or failure to act causes a delay to the critical path of the Project schedule that continues for a period of thirty (30) days after written notice thereof by Authority to Customer; (iv) a delay caused by a Force Majeure event continues for a period of fifteen (15) consecutive days; (v) the existence of a hazard not caused by Authority or its Service Provider(s) that threatens the safety and protection of the site, its inhabitants or the public; or (vi) the existence of an unforeseen circumstance or condition the correction of which could reasonably be expected to (A) create an unreasonable risk for Authority or Service Provider not ordinarily associated with projects of similar size and scope (as determined by Authority); (B) create a threat to life or safety of the inhabitants or the public in general, or (C) violate applicable federal, state or local laws, regulations, codes or standards.

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(c) Liability for Cost Increase as Result of Suspension. The suspension of Work by either Party pursuant to the provisions of this Section 3.1 may adversely impact the Project schedule, the scope of Work and/or the Total Reimbursement Costs. The CPC may be revised by a Contingency Work Order or Change Order, as applicable, to incorporate any necessary changes. Customer shall assume any increase in the Total Reimbursement Costs in full as part of its Short-Term Repayment Obligation unless the suspension was caused by the gross negligence or willful misconduct of Authority, its Service Provider or Subprovider, in which case Customer will not be responsible for any increase in the Total Reimbursement Costs to the extent such increase is caused by such gross negligence or willful misconduct.

(d) Resumption of Work After Suspension. In the event Work on a Project was suspended by a Party (whether pursuant to this Section 3.1 or otherwise), Authority and Customer have to agree in writing that Work shall resume before any Work on the Project can continue. In the event Work is suspended for more than ninety (90) days, Authority, in its sole discretion, may terminate Work for that Project and Authority shall issue a Final CPC as provided in Section 3.4(d) below.

3.2 Emergency. If an emergency results in or could reasonably be expected to result in personal injury or loss of life or damage or harm to property or public safety, Customer, acting in good faith in order to prevent, avoid or mitigate personal injury or loss of life or damage or harm to property or public safety may direct a Service Provider to suspend Work. Customer shall provide written notification to Authority of the suspension and events leading up to the suspension within eight (8) hours after the emergency has been stabilized. Sections 3.1(c) and (d) shall also be applicable to a suspension under this Section 3.2.

3.3 Termination of a Project. Authority may terminate a Project (and the related CPC) at any time upon thirty (30) days' prior written notice to Customer. In addition, the following incidents shall be deemed to immediately terminate a Project: (i) closure, abandonment, destruction or material damage to the Facility for which Project Work is being performed; (ii) reduction or elimination of energy savings or other modification to the Project that, in the Authority's opinion, renders the Project ineligible under the Authority's requirements for inclusion in its Energy Services Program , whether due to removal, by-passing or alteration of equipment or due to any unforeseen event; (iii) discovery of asbestos or other hazardous material in Customer's Facility that impedes the execution of the Work; and (iv) failure by Customer to make payment to Authority when due and such payment default continues for a period of thirty (30) days after written notice thereof by Authority to Customer.

3.4 Actions Upon Project Termination or Cancellation. In the event that a Project is canceled or terminated in whole or in part subsequent to execution of a CPC but prior to completion of such Project, Authority shall:

(a) Discontinue or direct Service Provider(s) to discontinue all Work and the placement of all orders for materials, equipment or labor otherwise required for the Project or terminated part of the Project, as applicable;

(b) Cancel or direct Service Provider to cancel all existing orders and subcontracts related to performance of the Project or terminated part of the Project, as applicable;

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(c) Take actions reasonably necessary, or as directed by Customer in writing, for the protection and preservation of the Work and all Project-related equipment, materials and property within Authority's or Service Provider's possession and control; and

(d) Issue a Final CPC covering (i) that portion of the Total Reimbursement Cost (excluding the Authority Program Fee) actually incurred by Authority at or prior to such termination/cancellation both for the performed and for the terminated portion(s) of the Work (including, but not limited to, non-cancelable material and equipment not yet incorporated into the Work); (ii) the costs for any additional services performed by Authority or Service Provider pursuant to 3.4(c) hereof; (iii) any wind-down costs incurred by Authority and its Service Providers and Subproviders as a result of the termination/cancellation, along with Service Providers' and Subproviders' reasonable and customary overhead and profit on the Work not executed; and (iv) the Authority Program Fee. The Authority Program Fee for a Project that is terminated or canceled prior to completion shall be as set forth in the Compensation Schedule, unless otherwise agreed upon by the Parties in the CPC.

ARTICLE IV

ENVIRONMENTAL PROVISIONS

4.1 Hazardous Materials and Disposal of Waste and Debris.

(a) General Responsibilities. With respect to Authority Implemented Work, Authority shall require that Service Provider and/or Subprovider (as applicable) be responsible for environmental air monitoring and thoroughly cleaning the job site, including the removal of Waste and Debris generated as a result of a Project. Such removal may involve the management, transportation and disposal of Waste and Debris. If in the course of performing the scope of the Project Work as described in the CPC for any Authority Implemented Work, Authority encounters existing Hazardous Materials, including but not limited to Waste, any such materials shall be handled, transported and disposed of in accordance with applicable local, state and federal laws and regulations, as well as Authority's policies and procedures.

(b) Customer is Generator of Waste. The Customer acknowledges that, in accordance with USEPA and NYS DEC regulations, it is, and remains the Generator of, and holds title to, any Waste encountered during Work performed pursuant to this Master Agreement. If the Customer holds a Hazardous Waste "Generator Identification Number" for the specific site where work is being performed (as defined in Section 3010 of Subtitle C of RCRA), that number will be utilized for any and all hazardous waste disposal. If a Hazardous Waste "Generator Identification Number" does not exist, one may need to be obtained from the USEPA for each site from which Authority removes Waste. The Customer authorizes Authority, where required by USEPA and/or NYS DEC regulations, to apply in the name of the Customer for Hazardous Waste Generator Identification Numbers in order to dispose of Waste pursuant to this Master Agreement and to act as the contact Party for such applications. To the extent that the Customer is the generator of the Waste, a duly authorized representative of the Customer must sign such applications when requested by Authority. The Customer also authorizes Authority, where required by USEPA and/or NYS DEC regulations, to prepare, in the name of the Customer, any manifests or other forms required for the disposal of the Waste generated pursuant to activities under this Master

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Agreement. A duly authorized representative of the Customer shall sign any manifests or other shipping records required to ship Waste offsite for disposal.

(c) Notification and Cost of Waste Disposal. With respect to Authority Implemented Work, Authority shall advise Customer (whenever possible, in advance of removal) where material determined to be Waste has been encountered which must be disposed of pursuant to USEPA and NYS DEC regulations. Authority shall keep the Customer fully informed of Authority's activities on its behalf and shall provide the Customer with copies of all applications and other materials provided or received in connection with actions taken pursuant to this authorization. The direct costs of Waste disposal will be included in the Final CPC. Any costs to Authority relating to the Project that may arise subsequent to the time the Final CPC is executed (or deemed executed) under present or future laws or regulations due to pollution, clean-up or otherwise at the site of disposal shall be borne by the Customer. If, however, such costs are due to the negligence or willful acts of Authority's Service Provider or Subprovider or due to the willful acts of Authority, the Customer shall not be responsible. With respect to Authority Implemented Work, Authority shall use reasonable diligence in overseeing the removal and disposal of Waste, shall maintain complete and accurate records thereof, and shall make those records available to the Customer upon request. In addition, any existing equipment determined by the Customer to be useful to the Customer may, at the Customer's request, be retained by the Customer and shall be the sole responsibility of the Customer.

(d) Customer Disposal of Waste. Notwithstanding the foregoing, the Customer shall have the option of disposing of Waste and Debris generated as a result of a Project at its own expense in accordance with all applicable local, state and federal laws and regulations, as well as Authority's policies and procedures.

4.2 Remediation. The Customer shall be responsible for the performance of any Remediation required under applicable local, state and federal Environmental Laws in order to address the existence or suspected existence of Hazardous Substances in, on, or under the job site that are discovered or encountered during Work performed and any Release or threatened Release in, on, under, over or migrating to, from or through the job site. The Customer shall promptly take all actions as are necessary to perform Remediation of any such Release or Discovery, and such other work as may be required by any Governmental Authority to safeguard the health, safety or welfare of any persons, the land and any improvements thereon or there under, from any Release or threatened Release or Discovery. In the case any Remediation is required, the Customer shall be responsible for restoring the affected portion or portions of the job site, together with any and all affected soil and groundwater, to the functional and topographical condition that existed prior to the Release and Remediation, as well as to the condition required by Environmental Laws, and as necessary to satisfy the requirements of any Governmental Authority exercising jurisdiction with respect to the job site for such Release or Discovery.

4.3 Environmental Indemnification. Customer shall be solely responsible for any and all loss, damage or injury to persons or property and for any cleanup costs associated with any site where Waste and Debris are disposed of or comes to be situated including, but not limited to, response and remedial costs. In addition, to the extent permitted by law, the Customer shall, at its sole cost and expense, indemnify, defend and hold harmless Authority and the State of New York against any loss, liability (including, without limitation, judgments, attorney's fees, court costs,

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penalties or fines), or expenses of any type (including, but not limited to, required corrective actions) which Authority or the State of New York incurs because of injury to, or death of any person, or on account of damage to property, or any other claim arising out of, in connection with, or as a consequence of (a) the disposition or use of retained equipment by the Customer or anyone for whose acts the Customer may be liable, and (b) any cleanup costs associated with any site where Waste and Debris are disposed of or come to be situated traceable to such Waste and Debris including, but not limited to, response and remedial costs.

ARTICLE V

RECOVERY OF COSTS/REPAYMENT OBLIGATION

5.1 Project Cost. Authority shall initially pay for and/or incur costs for all components of the Total Reimbursement Costs applicable to a Project at the selected Customer Facility. Customer agrees to pay the Authority the Total Reimbursement Costs specified in the respective CPC as reconciled by the Final CPC.

5.2 Total Reimbursement Costs. The following components of the Total Reimbursement Costs may be delineated in a CPC for a particular Project:

(a) Material Cost. The Material Cost represents the cost of materials, equipment, fixtures, tools, construction equipment and machinery, water, heat, utilities, transportation and other facilities necessary for the proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated into the Work.

(b) Labor Cost. The Labor Cost represents (i) the sum of all wages paid to skilled trade and craft workers, plus employee benefits, payroll taxes, insurance and related costs; or (ii) the fees paid to skilled trade and craft workers that are not employees, in each case as represented on the Service Providers' or Subproviders' invoice.

(c) Project Contingency. The Project Contingency, or a portion thereof, actually applied by the Authority to the Project as set forth in a Contingency Work Order.

(d) Service Provider Fees. The Service Provider Fees represent the costs associated with the payment of Service Providers, Subproviders and other third party professionals based on actual invoices, individual billing rates based on hourly increments, or a percentage fee applied to certain Project costs, plus reimbursable expenses;

(e) Authority Program Fee. The Authority Program Fee reimburses Authority for services provided by Authority during the implementation of a Project. The Authority Program Fee can be based on a percentage fee applied to certain Project costs, a lump sum fee, individual billing rates based on hourly increments and/or other fee arrangements identified in the Compensation Schedule.

(f) Short-Term Interest. Short-Term Interest reimburses the Authority for costs incurred in connection with financing the delivery of a Project. It is based on the underlying source of funds chosen by the Authority, in its sole discretion, to finance a Project during its

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implementation and may vary depending upon the actual financing product the Authority selects. In addition to the actual interest expense incurred by the Authority on the short-term debt issued for Project expenses, Short-Term Interest may include additional fees for administering the financing program including but not limited to costs incurred to secure liquidity facilities, remarketing services, purchase of an interest rate cap(s), issuing and payment agents and other financing related costs and credit premiums, if any.

(g) Other Project-Related Costs. Other Project-related costs may include Authority Material Handling Fee, Waste disposal costs, additional Project-specific insurance, surety bond costs, specialty services and other Project-specific costs not otherwise included in any of the above categories.

5.3 Billing. The specific billing method for each Project is set forth in the CPC and/or the long-term financing agreement associated with the particular Project. The final repayment amount due to the Authority will be the Total Reimbursement Costs as reconciled in a Final CPC to reflect adjustments to account for payments made or additional charges incurred by Customer and will constitute the Customer's Short-Term Repayment Obligation. In the event a Project is terminated before completion, Authority shall issue a Final CPC as provided in Section 3.4(d).

5.4 Payment.

(a) Payments. Customer shall pay any invoiced amounts to Authority within thirty (30) days of Customer's receipt of Authority's invoice. Any outstanding amounts not paid within such thirty (30) day period shall accrue additional Short-Term Interest until the date when payment is made in full. Such additional Short-Term Interest will be reflected on subsequent invoices and/or the Final CPC.

(b) Late Payment. Customer's final Short-Term Repayment Obligation shall be fully repaid on or before the Short-Term Repayment Obligation Maturity Date. Any amount due and unpaid on the Short-Term Repayment Obligation Maturity Date shall be subject to interest in accordance with the late payment rate set forth in State Finance Law §179(g).

5.5 Grants and Funding. Authority may pursue and apply for grants or other available funding for the respective Project, where applicable, when authorized by Customer. The Customer may assign the right to receive such grants or other available funding to the Authority, and the Authority may, at its sole discretion, accept such assignment. If Authority accepts such assignment, the Authority will apply the funds to reduce the Total Reimbursement Costs, provided the funds are actually received by the Authority by the Short Term Repayment Obligation Maturity Date.

5.6 Long-Term Financing for Capital Projects. Should Customer desire financing to satisfy its Short Term Repayment Obligation for a Capital Project, the Customer may apply for long-term financing through the financing products offered by the Authority to convert Customer's Short-Term Repayment Obligation to a Long-Term Repayment Obligation. The Authority at its sole discretion may make a long-term financing option available to the Customer. This is a fixed rate long-term financing product provided by the Authority in collaboration with a third-party. General parameters include:

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- Rates will be based on a fixed rate (Authority borrowing rate or equivalent) adjusted for customer's credit, term of agreement or other factors as appropriate;
- Available for the period after project acceptance and closing; and
- Funding is contingent on the execution of appropriate financing documentation containing customary terms and conditions including representations, warranties, covenants, legal opinions and other conditions precedent.

The Authority will endeavor to provide options for the Customer to make financing payments as a monthly billing surcharge to the Customer's electrical supply bill under the then-effective power supply agreement between the Customer and Authority (it being understood if a Customer is not served by the Authority, such monthly billing will not be a surcharge but rather a separate invoice for the repayment amount due).

The Authority from time to time may modify its financing offer and/or develop/offer new Project or program financing mechanisms to Customers. Details on future financing products will be provided and agreed on a Project- or program-specific basis either through a separate document or amendment to this agreement.

Regardless of whether the Customer elects to utilize any of the Authority's available financing products, the Customer is responsible for satisfying its Short Term Repayment Obligation within the time constraints set forth herein.

If the Customer elects to apply for Long Term Financing, it shall submit a loan application a minimum of 90-days prior to anticipated Final CPC execution. If Customer's application for long-term financing is approved by the Authority, the Parties' obligations with respect to such financing will be set out in an amendment to this agreement, the CPC, or as a separate agreement, with terms and conditions agreed to by the Parties.

ARTICLE VI

INSURANCE REQUIREMENTS

Authority's agreements with the Service Providers shall provide that the Service Provider or Subproviders shall obtain and maintain the policies of insurance with the identified limits set forth in Section 6.1, unless additional policies of insurance and/or higher limits are required under the applicable CPC. The costs of such insurance will be part of the Total Reimbursement Costs.

6.1 Insurance Requirements:

(a) Workers' Compensation (inclusive of New York State disability benefits) and Employer's Liability coverage;

(b) Commercial General Liability insurance policy, including Contractual Liability and Products/Completed Operations Liability coverages, with limits of not less than $2,000,000 per occurrence for bodily injury and not less than $2,000,000 for property damage, such policies naming Authority, Customer and the State of New York as additional insureds under the policy;

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(c) Automobile Liability coverage with a minimum limit of $1,000,000 per accident; and

(d) if required under the applicable CPC:

(i) Pollution Liability, including coverage for asbestos abatement, with minimum limits of $1,000,000 per occurrence;

(ii) Professional Liability insurance with a minimum limit of $1,000,000; and

(iii) Builder's risk insurance in the amount of the estimated Total Reimbursement Cost to be issued on a replacement cost basis without optional deductibles and will include the interests of Customer, Authority, and the Service Providers. Such insurance shall be maintained until final payment has been made by Customer to Authority.

6.2 Adjustments. The types of insurances required and/or policy limits listed in Sections 6.1 above may be adjusted as Customer and Authority deem appropriate in connection with a specific CPC. The form and sufficiency of each insurance policy required to be obtained hereunder by the Service Provider or Subprovider shall be subject to approval by Authority. Authority shall hold all Certificates of Insurance submitted to the Authority by its Service Providers and Subproviders with respect to any Project implemented under this Master Agreement.

6.3 Customer Insurance Requirements. With specific regard to the ESP equipment, for so long as any portion of Customer's Short-Term or Long-Term Repayment Obligation, as applicable, remains unpaid, Customer shall procure an all risk policy of insurance which will insure the equipment for full replacement cost value against loss while the equipment is in Customer's care, custody and control. The insurance policy shall name Authority and the State of New York as additional insured and loss payees, and shall contain a full waiver of subrogation against Authority, its agents, Service Providers, Subproviders and the State of New York. Customer shall also procure a Commercial General Liability insurance policy with minimum limits of $5,000,000 per occurrence for bodily injury and property damage naming Authority and the State of New York as additional insured. In lieu of obtaining all risk and commercial general liability insurance, Customer may request in writing to Authority to self-insure against risk of loss. Authority may approve or deny such request in its sole discretion. Customer agrees to provide any relevant documents or information requested by Authority in order for Authority to make the determination that Customer has sufficient resources to self-insure. The decision to self-insure will not relieve Customer of any of the obligations imposed herein and shall afford Authority the protection against loss and rights it would have received, if Customer had obtained such policies of insurance.

ARTICLE VII

WARRANTIES, DAMAGES, LIABILITY, ETC.

7.1 Service Provider's Warranty Requirements. Authority's agreements with its Service Providers shall provide that all Work performed and any materials provided by the Service Providers under the agreements shall be free from any defects. Such agreements shall further provide that any

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defective Work or materials identified within one (l) year after (i) execution (or deemed execution) by the Parties of a Substantial Completion and Operation Transfer Report or (ii) if no such report must be signed, completion of the Project, shall be promptly corrected, repaired, replaced, re-performed or otherwise remedied by the Service Provider and/or Subprovider(s) at no additional expense to Customer. Authority's agreements with Service Providers shall also provide that any manufacturers' warranties for equipment installed at Customer's Facilities be assigned to Customer.

Authority shall have no obligation to assist Customer with any warranty claims against a Service Provider or equipment manufacturer. Customer shall coordinate any warranty claims directly with the respective Service Provider or equipment manufacturer.

7.2 Authority Warranty Disclaimer. THE WARRANTY PROVIDED BY SERVICE PROVIDER AND THE ASSIGNED WARRANTIES OF THE EQUIPMENT MANUFACTURERS ARE EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES. AUTHORITY EXPRESSLY EXCLUDES ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, DESCRIPTION OR QUALITY NOT EXPRESSLY SET FORTH HEREIN, TO THE EXTENT PERMITTED BY LAW. NO AFFIRMATION OF AUTHORITY, BY WORDS OR ACTION, SHALL CONSTITUTE A WARRANTY. DESCRIPTIONS, SPECIFICATIONS, DRAWINGS, AND OTHER PARTICULARS FURNISHED TO CUSTOMER ARE ONLY ESTIMATES AND DO NOT CREATE A WARRANTY.

7.3 Projected Energy Savings. Authority and its Service Providers shall use their best efforts to prepare accurate engineering estimates. After energy efficiency Work is completed in Customer's Facility, it is the intent and expectation of the Parties that Customer's annual energy usage for that Facility shall not increase above the pre-installation level except due to changes in rates or increases in usage not related to the implementation of the ESP Work. Customer is responsible for providing Authority with accurate information concerning the operation of its Facility. Customer understands that the projected energy savings are based upon such Customer input. It is Customer's sole responsibility to ensure that the expected energy savings meet Customer's satisfaction at the time the CPC for a Project is executed.

AUTHORITY HEREBY DISCLAIMS ANY AND ALL LIABILITY FOR ANY ENERGY SAVINGS PROJECTED BY AUTHORITY OR OTHERWISE EXPECTED BY CUSTOMER THAT CANNOT BE ACHIEVED.

7.4 Uncontrollable Forces. Authority shall not be responsible for delays or failures in performance resulting from occurrences beyond its reasonable control including, but not limited to, acts of God, strikes, walkouts, acts of war, or any law, regulation, or action of any court or governmental authority, fire, malfunctions in communication lines or computer hardware, power failures, shipping or delivery delays or other events caused by those not party to this Master Agreement (including, without limitation, any Third Parties, and any Service Providers or Subproviders of Authority). In the event Authority or the Service Providers or Subproviders are unable to fulfill any obligations hereunder by reason of such uncontrollable forces, Customer will be notified in writing and the completion dates described in the CPC will be extended by the amount of additional time reasonably necessary to complete the Work. If necessary, Authority will issue a Contingency Work Order or a Change Order, as applicable.

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7.5 Damages, Indemnification by Service Provider.

(a) Damages. Authority's agreements with the Service Providers shall include a provision that all damage of whatever nature resulting from the performance of the Work or resulting to the Work during its progress, from whatever cause shall be borne by the Service Provider, and all Work performed shall be solely at the Service Provider's risk until the Work has been finally inspected and accepted by Authority. The Service Provider, however, shall not be responsible for damages resulting from gross negligence or willful misconduct of officials or employees of Authority or Customer.

(b) Indemnification. Authority's agreements with the Service Providers will include a provision that to the fullest extent permitted by law, the Service Provider shall assume the entire responsibility and liability for and defense of, and pay and indemnify, Authority, Customer, and the State of New York (where a Project undertaken for Customer is located on property of New York State), against any loss, damage, expense or liability and will hold each of them harmless from and pay any loss, damage, cost or expense (including without limitation, judgments, attorney's fees, and court costs) which Authority, Customer or the State of New York incur because of injury to or death of any person or on account of damage to property, or any claim arising out of, in connection with, or as a consequence of, the performance of the Work and/or any act or omission of the Service Provider or any of its Subproviders, employees, agents or anyone directly or indirectly employed by the Service Provider or anyone for whose acts the Service Provider may be liable.

7.6 Limitation of Authority's Liability.

(a) Obligation to Exhaust Remedies against Service Provider. In the event of any alleged Authority liability to Customer, Customer shall first pursue and exhaust all remedies in law against the Service Providers and Subproviders and under the insurance identified in Article VI above and carried by the Service Providers and Subproviders before making any claim or taking any action against Authority.

(b) Exclusion of Indirect, Incidental, Consequential Damages. To the fullest extent permitted by law, Authority shall not be liable to Customer, for any indirect, special, incidental, or consequential damages of any kind (including without limitation, any loss of property or equipment, loss of profits or revenue, loss of use of equipment or power systems, cost of capital, cost of purchased or replacement power or temporary equipment, including additional expenses incurred in using existing facilities) related to or arising in connection with this Master Agreement or any other Transaction Document executed in connection herewith, regardless of the form of action (whether in contract, tort or otherwise), even if Authority has been advised of the possibility of such damages.

(c) Total Liability Cap. The Parties agree that in no event shall Authority's total liability (whether in contract, tort or otherwise) for all claims relating to a Project exceed ten percent (10%) of the Total Reimbursement Costs for such Project set forth in the respective CPC.

(d) No Limitation of Service Provider/Subprovider Liability. Nothing in this Section 7.6 shall be construed as limiting the liability of a Service Provider or Subprovider to

Authority or Customer in connection with the performance of such Service Provider's or Subprovider's Work on Customer's premises.

(e) Customer agrees that in no case will it seek to enforce its claims for any remedy under this Master Agreement by withholding payments due under any other agreements with the Authority, or its assignees, including but not limited to any amendment to this Master Agreement, a CPC, or separate financing agreement to satisfy the Customer's Short- or Long-Term Repayment Obligation.

7.7 Customer's Responsibility for Project Equipment and Performed Work. Upon delivery at Customer's Facility, Customer shall be responsible for all damage to all Project materials, supplies and equipment of every description and all Work performed at Customer's site unless such damages are caused by Authority or its Service Providers or Subproviders.

ARTICLE VIII

INTELLECTUAL PROPERTY RIGHTS

8.1 Intellectual Property; Proprietary Information.

(a) Intellectual Property Rights. Neither Party shall acquire, directly or by implication, any ownership of any Background Intellectual Property Rights of the other Party. Each Party shall retain title to any Intellectual Property Rights developed, authored, conceived or reduced to practice independently and solely by that Party during the performance of this Master Agreement without the other Party's Background Intellectual Property Rights. Notwithstanding any of the foregoing, it is agreed by the Parties that Authority shall be the sole owner of all Intellectual Property Rights related to any Project which is jointly developed, invented or otherwise generated during the performance of this Master Agreement or any Transaction Document.

(b) Work Product; Proprietary Information. Unless and until Customer has repaid its Short-Term or Long-Term Repayment Obligation, as applicable, the Facility data, evaluations, design and other information produced by Authority or its Service Providers in connection with a Project shall be the property of Authority. Customer shall have the right to use any such proprietary information for the maintenance of Project installations in its Facilities. Upon payment in full by Customer, such information shall become the property of Customer. Any information identified as confidential which is exchanged by Authority and Customer shall be duly protected by the recipient to the extent permitted by law. It is understood that the Public Officers Law and other statutes and regulations regarding Freedom of Information may require the disclosure of information in certain situations.

ARTICLE IX

TERM AND TERMINATION

9.1 Term. This Master Agreement shall end on the tenth anniversary of the date first shown in the preamble above unless earlier terminated in writing by either Party in accordance with the terms of this Master Agreement.

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9.2 Termination of Master Agreement. Unless otherwise provided in this Master Agreement, either Authority or Customer may terminate this Master Agreement at any time upon one hundred twenty (120) days' prior written notice to the other Party.

9.3 Pending Projects. Authority and Customer acknowledge that a Project implemented pursuant to a CPC executed during the Term of this Master Agreement may extend beyond the expiration or early termination of this Master Agreement. Provided that the Project was commenced pursuant to a CPC that was executed during the Term of this Master Agreement, then this Master Agreement will be extended, as it applies to such CPC only and for the sole purpose of completing the Project. The Project implemented pursuant to such CPC may continue until completed or otherwise terminated earlier pursuant to the terms and conditions of this Master Agreement.

9.4 Extension. This Master Agreement may be renewed at the end of the current term for an additional period, such additional period not to exceed a period equal to the original Term, to be mutually determined by the Parties in writing and signed by an authorized officer or designee of Authority and Customer.

ARTICLE X

GENERAL OBLIGATIONS OF THE PARTIES

10.1 Authorized Representatives.

(a) Customer's Authorized Representative. For each Project, Customer shall designate a Customer's Authorized Representative and shall inform Authority in writing accordingly. If Customer desires to change its Customer Authorized Representative, it must notify Authority in writing (in accordance with notice requirements set forth herein) at least five (5) business days prior to such change. Customer's Authorized Representative shall coordinate the Project on behalf of Customer and assist Authority and the Service Providers and Subproviders with the implementation of the Project in the selected Facilities of Customer. Customer's Authorized Representative shall be responsible to obtain all necessary approvals, authorizations, and signatures of Customer with respect to any CPC, Change Order, Final CPC and other Transaction Document.

(b) Authority's Authorized Representative. For each Project, Authority shall designate an Authority's Authorized Representative and shall inform Customer accordingly. Authority's Authorized Representative shall coordinate the Project on behalf of Authority and communicate with Customer. Authority will inform Customer of any changes to its Authorized Representative.

10.2 Authority Obligations. With respect to any Authority Implemented Work, Authority shall comply with the following:

(a) Reporting and Information. Authority shall keep Customer informed as to the progress of the Work and shall provide Customer with periodic reports of all activities by the Service Providers and Subproviders at Customer's Facilities. Authority and its Service Providers

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shall meet with representatives of Customer upon reasonable notice to discuss any matters concerning the Projects.

(b) Permits, Licenses, Authorizations. Authority shall require that the Service Providers and Subproviders obtain and maintain all permits, licenses and authorizations required to perform the Work in Customer's Facilities and that they will comply with all applicable local, state and federal laws, guidelines and regulations, including applicable local, state and federal building, fire and electrical codes and standards. Any costs associated with permits and licenses that must be obtained by Service Provider or Subprovider for a specific Project will be reflected in the Total Reimbursement Costs. Notwithstanding the foregoing, neither Authority nor Service Provider (or Subprovider) shall be responsible for closing out open permits obtained by Service Provider (or Subprovider) due to existing deficiencies or code violations in Customer's Facility which are outside the Project scope.

(c) Service Provider/Subprovider Performance. Authority shall require its Service Providers and Subproviders to comply with regulations governing access to and performance of the Work in the selected Customer Facilities and to perform such Work in such a manner as not to unreasonably interfere with Customer's business at the Facilities. Authority shall also require its Service Providers and Subproviders to comply with Customer's operational and safety requirements, which in certain instances may require substantial supervision and control over the site by Customer.

(d) Records. Authority's Service Providers shall maintain accurate records of Project Work for a period of six (6) years after completion of a Project.

10.3 Customer Obligations. With respect to any Project entered into in connection with this Master Agreement, Customer shall have the following rights and obligations:

(a) Right to Inspect. Customer and Customer's Authorized Representative may observe and inspect all Work in any of Customer's Facilities and shall have the right to attend all Project job meetings.

(b) Attendance at Meetings. Upon reasonable request and notice from Authority or Service Provider, Customer shall attend meetings scheduled by Authority or Service Provider to discuss any Project-related matters.

(c) Site Rules and Regulations. Customer must promptly notify Authority of any site specific construction, safety, technical or other requirements and restrictions related to its Facility(ies) prior to the start and during the Project. If Customer becomes aware of any defect in the Work or any failure of Authority or the Service Provider or Subprovider to meet the respective Project requirements, the Customer shall give prompt notice to Authority.

(d) Access. Customer shall provide Authority and its Service Providers safe, proper and timely access to the Facility as necessary to perform the Work. Upon Authority's request, Customer's Authorized Representative will accompany Authority and its Service Providers to Customer Facilities. Customer shall promptly provide verbal and written notice of limitations or changes in site access.

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(e) Permits and Licenses.

(i) Customer shall provide Authority or Service Provider with such assistance (including, but not limited to, all necessary information requested by Service Provider) as may be required for Authority or Service Provider to obtain all permits, licenses and authorizations necessary to perform the Work in accordance with all applicable local, state and federal laws, regulations, codes and standards applicable to the Facility.

(ii) Customer shall be responsible and shall hold all licenses, permits, authorizations and regulatory approvals necessary for the lawful conduct of its business as presently conducted, and shall comply with all applicable statutes, laws, ordinances, rules and regulations of all governmental bodies, agencies and subdivisions having, asserting or claiming jurisdiction over it, with respect to any part of the conduct of its business and corporate affairs.

(f) Project Equipment. As long as Customer's Short-Term or Long-Term Repayment Obligation, as applicable, remains outstanding, (i) Customer will keep all Project-related equipment free from any and all liens, claims, encumbrances, and the like; (ii) Customer will not grant a security interest in such equipment to any party without the prior written consent of Authority; (iii) the equipment will remain at the Facility site as designated in a CPC; (iv) Customer will not sell, offer for sale, transfer, or dispose of such equipment without notice to Authority; (v) Customer will not use or permit any person to use the equipment in a manner prohibited by law or in a manner which would void any manufacturer's warranty; (vi) Customer agrees to maintain the equipment in good order and repair at all times, and will not waste or destroy the equipment or any part of it; and (vii) Customer will keep the equipment insured in accordance with the requirements set forth in Section 6.3 hereof.

(g) Coordination. Customer shall be responsible for facilitating coordination with Third Parties as required. Furthermore, Customer shall promptly resolve any disputes or issues that arise with any Third Parties. Customer shall be responsible for any changes to the Project schedule, the scope of Work and/or the Total Reimbursement Costs resulting from any delays due to unresolved disputes or issues with Third Parties pursuant to Section 2.6 hereof.

(h) Review and Approval. Customer will promptly review any documents submitted to it by Authority requiring Customer's decision and shall render any required decision pertaining thereto without undue delay.

(i) Assistance; Timely Performance. Customer shall cooperate with Authority and its Service Providers and Subproviders and provide Authority with such other assistance as necessary to facilitate the performance of the Work. Customer shall perform all obligations set forth in this Master Agreement and any other Transaction Document in a timely manner so as to permit the orderly progress of the Projects. Authority shall not be responsible for any Project delays due to Customer's non-compliance with its obligations set forth herein or in a Transaction Document.

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ARTICLE XI

DATA USAGE

11.1 License. Customer grants to the Authority a perpetual, non-exclusive, irrevocable, royalty-free, transferable, sublicensable license to use the Data for any and all purposes, including without limitation, the purpose of: (i) providing Electric Service, Energy Services and New York Energy Manager, including a right to store, record, backup, transmit, maintain, display and use or process Data, (ii) creating Processed Data, and (iii) any purpose of the Authority.

11.2 Limitations. The Authority may share the Data (whether or not aggregated or anonymized) with energy or utility industry organizations, educational and/or research institutions or laboratories, other distribution utilities, and similar organizations, for any purpose, including without limitation, to conduct energy-related studies, to analyze new services, to evaluate traffic on the grid, etc.

11.3 Processed Data Ownership. The Authority shall be the sole owner of all right, title and interest in and to the Processed Data, and reserves all rights, title and interest in and to the Processed Data, including all related intellectual property rights; and makes no representation with respect to the sharing of Processed Data.

ARTICLE XII

MISCELLANEOUS

12.1 Disputes. In the event of any dispute regarding ESP Work at any Customer Facility, Work there may be suspended by Authority until the matter is resolved to the mutual satisfaction of the Parties in accordance with the procedures set forth in Section 12.2 hereof. In the event the Parties are unable to resolve any such dispute after good faith efforts, the Work at that Facility shall terminate and Authority shall issue a Final CPC as provided in Section 3.4(d) hereof.

12.2 Dispute Resolution. The Parties shall use good faith efforts to settle promptly all disputes arising under this Master Agreement or in connection with any ESP Work. In the event that any dispute, including but not limited to a billing dispute, a dispute regarding the quality of the Work, or a dispute regarding the interpretation of this Master Agreement, arises and cannot be resolved in the normal course of business by operating personnel within twenty (20) days after commencement of a dispute, either Party may give the other Party formal notice of the dispute in accordance with the notice requirements set forth herein. In the event that such notice is given, the Parties shall attempt to resolve the dispute by negotiation between representatives who have the necessary authority to resolve the dispute in question. Within twenty (20) days after delivery of the notice, the receiving Party shall consider all information relevant to the dispute and shall submit to the other Party (in accordance with the notice requirements set forth herein) a proposal for resolution. Thereafter, the representatives shall confer in person or by telephone, promptly and no later than five (5) days after receipt of the proposal for resolution, to attempt to resolve the dispute. All reasonable requests for information by one Party to another Party will be honored. To the extent that disputes are not resolved pursuant to this process, the Parties reserve all rights under law or equity to seek and pursue remedies through the judicial process.

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12.3 Publicity.

(a) Public Announcements. Except as otherwise required by law, the Customer will not issue any press release or make any other public statement connected to or arising out of this Agreement or the matters contained herein without the Authority's prior written approval, which approval will not be unreasonably withheld or delayed. Any responses to news media inquiries or social media activities developed by the Customer, related to this Master Agreement, or any Project undertaken pursuant to this Master Agreement, will be coordinated with the Authority for review and approval prior to their release. A public announcement proposed by the Customer will be deemed accepted in the event that the Authority does not provide an objection thereto within five business days' notice thereof.

(b) Signage. The parties agree that Authority may, at no cost to Customer, install and maintain publicity signage at or in the vicinity of a Project. Customer will cooperate with Authority, and/or any third-party vendor designated by Authority, by timely responding to any questions regarding the design, manufacture, installation and maintenance of the signage. Customer will provide ordinary maintenance to the signage and promptly notify Authority after Customer becomes aware of any damage that may occur to the signage. The publicity signage may highlight the Project, any Authority or New York State program or other initiative and the identity of the parties supporting the Project, including those parties' respective logos. Upon written notice from the Customer the Authority will remove the signage.

12.4 Notices. All notices permitted or required hereunder or in connection with any Transaction Document shall be in writing and transmitted either: (i) via certified or registered United States mail, return receipt requested; (ii) by personal delivery; (iii) by expedited delivery service; or (iv) by e-mail (provided confirmation of transmission is mechanically or electronically generated and kept on file by the sender).

Such notices shall identify the Master Agreement and the Transaction Document to which it relates, and be addressed as follows or to such different addresses as the Parties may from time-to-time designate in accordance herewith:

To Authority:
NEW YORK POWER AUTHORITY
STRATEGIC SUPPLY MANAGEMENT
Name: John Canale
Title: Vice President, Strategic Supply Management
Address: 123 Main Street, 5th Floor, White Plains, NY 10601
E-Mail Address: john.canale@nypa.gov

with a copy to:
NEW YORK POWER AUTHORITY
LAW DEPARTMENT
Name: Debra Hopke, Esq.
Title: Principal Attorney
Address: 123 Main Street, 9th Floor, White Plains, NY 10601
E-Mail Address: debra.hopke@nypa.gov

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To Customer:
TOWN OF AMHERST
Name: Jeff Burroughs
Title: Town Engineer
Address: 1100 N. Forest Rd., Williamsville, NY 14221
E-Mail Address: : jburroughs@amherst.ny.us

Any such notice shall be deemed to have been given either at the time of personal delivery or, in the case of expedited delivery service or certified or registered United States mail, as of the date of first attempted delivery at the address and in the manner provided herein, or in the case of email, upon confirmed receipt. The Parties may, from time to time, specify any new or different address in the United States as their address for purpose of receiving notice under this Master Agreement (and any Transaction Document) by giving fifteen (15) days written notice to the other Party sent in accordance herewith. The Parties agree to mutually designate individuals as their respective representatives for the purposes of receiving notices under this Master Agreement.

12.5 No Waiver. The failure of any Party to insist upon strict adherence to any term of this Master Agreement or any Transaction Document executed in connection herewith on any occasion shall not be considered a waiver nor deprive that Party of the right thereafter to insist upon strict adherence to that term or any other term of this Master Agreement.

12.6 Assignment. This Master Agreement and any Transaction Document executed in connection herewith may not be assigned, transferred nor conveyed by either Party without the prior written consent of the other Party. Any attempted assignment, transfer or conveyance without such consent shall be entirely void ab initio and have no force or effect.

12.7 Governing Law; Venue. This Master Agreement (and any Transaction Document executed in connection herewith) and any and all disputes arising in connection herewith (whether in contract, tort or otherwise) shall be governed by and construed in accordance with the laws of the State of New York without giving effect to any choice or conflict of laws provision or rule that would cause the application of the laws of any jurisdiction other than New York. Any action at law, or in equity, for the enforcement of this Master Agreement (and any Transaction Document executed in connection herewith) or any dispute arising in connection herewith shall be instituted only in a court of competent jurisdiction located in the County of Albany, State of New York.

12.8 No Third Party Beneficiaries. Nothing contained in this Master Agreement shall, directly or indirectly, create a contractual relationship with, or give any claim or right of action in favor of, any third party (including, without limitation, any Service Provider or Subprovider) against Authority.

12.9 Severability. The invalidity or unenforceability of any provisions of this Master Agreement or of any Transaction Document executed in connection herewith shall not affect the validity or enforceability of any other provisions of this Master Agreement or Transaction Document, as applicable, which other provisions shall remain in full force and effect.

12.10 Survival of Provisions. The articles that contain provisions related to the following will survive the expiration, termination or completion of this Master Agreement: Conflict and

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Order of Precedence; Recovery of Costs and Repayment Obligation, Warranty, Damages, Liability, Ownership of Installed Work and Intellectual Property, Publicity; and Governing Law, Venue.

12.11 Not Construed Against Drafter. Authority and Customer acknowledge that they have read this Master Agreement, have had the opportunity to review it with an attorney of their respective choice, and have agreed to all its terms. Under these circumstances, Authority and Customer agree that the rule of construction that a contract be construed against the drafter shall not be applied in interpreting this Master Agreement and that in the event of any ambiguity in any of the terms or conditions of this Master Agreement, including any exhibits or schedules hereto, such ambiguity shall not be construed for or against any Party hereto on the basis that such Party did or did not author same.

12.12 Headings. The articles and section headings contained in this Master Agreement are for reference purposes only and shall not affect the meaning or interpretation of this Master Agreement.

12.13 Counterparts. This Master Agreement may be executed in counterparts via inked signature or electronic mark, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The fully executed Master Agreement may be delivered using pdf or similar file type transmitted via electronic mail, cloud based server, e-signature technology or other similar electronic means.

(SIGNATURE PAGE FOLLOWS)

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IN WITNESS WHEREOF, the parties hereto have duly executed this Master Agreement as of the effective date first written above.

POWER AUTHORITY OF THE STATE OF NEW YORK		TOWN OF AMHERST	
By:		By:	
Name:	John Canale	Name:	Brian J. Kulpa
Title:	Vice President, Strategic Supply Management	Title:	Town Supervisor
Date:		Date:	

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EXHIBIT A

STATEWIDE COMPENSATION SCHEDULE

As compensation for services rendered by the Authority under the Master Agreement, the Customer will pay the Authority Program Fee as set forth below.

A. CAPITAL PROJECTS

I. AUTHORITY PROGRAM FEE

For Capital Projects, the Authority Program Fee is calculated as a percentage of the cumulative sum of all costs related to a Project, including, but not limited to all Material Costs; Labor Costs; Service Provider Fees; the amount of the Project Contingency applied as a Project cost; and other Project-related costs and expenses. The Authority Program Fee is in addition to all such costs related to a Project. The Authority Program Fee percentage will be fixed upon execution of the CPC for the installation phase.

1. Authority Program Fee when Service Provider performs Work

The following table sets forth the Authority Program Fee where the Authority delivers a Project using one or more Service Providers to perform turnkey projects (audit, design, construction management and/or installation).

Project Size (in millions)	Authority Program Fee
$0 - $3M	12.5%
$3M - $6M	12.0%
$6M - $12.5M	11.5%
$12.5M - $40M	11.0%
$40M - $60M	10.5%
> $60M	10.0%

Exceptions to the above pricing may include projects delivered under Authority programs such as street lighting, electric vehicles, operations & maintenance, direct install and New York Energy Manager. Authority Program Fee exceptions will be documented in the CPC or other separate document.

2. Authority Program Fee when Authority and Service Provider perform Work

The following table sets forth the Authority Program Fee where the Authority will be performing design and construction management with its own forces using one or more Service Providers to perform installation. If the Authority procures material directly in lieu of using one of its Service Providers, there will be an additional Material Handling Fee of 1.5% charged on the Material Cost of the Project.

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Project Size (in millions)	Authority Program Fee
$0 - $3M	27.5%
$3M - $6M	27.0%
$6M - $12.5M	26.5%
$12.5M - $40M	26.0%
$40M - $60M	25.5%
> $60M	25.0%

3. Authority Program Fee when Authority provides Audit Services Only

The Authority Program fee for providing Audit services not contemplated as part of a full project (i.e. design, construction management and/or installation) is calculated as twenty-five percent (25%) of the costs related to the Audit.

II. MILESTONE PAYMENTS

To the extent applicable, the Authority Program Fee will be paid on milestones as detailed in the CPC or as otherwise mutually agreed upon.

III. AUTHORITY FEE IN THE EVENT OF PROJECT TERMINATION

1. Termination at or after Audit Phase

If a Project is terminated at or after the audit phase, but prior to moving forward with any design or implementation, the Authority's Program Fee is calculated as twenty-five percent (25%) of the actual costs associated with such audit.

2. Termination during Design, Procurement or Installation Phase

If a Project is terminated in whole or part during the design, procurement or installation phase, the Authority's Program Fee for the Project will be the cumulative percentage value at the current milestone (as if it had been achieved) and calculated based on the estimated Project costs, including, but not limited to all Material Costs; Labor Costs; Service Provider Fees; the amount of the Project Contingency applied as a Project cost; and other Project-related costs and expenses, including interest up through the current milestone (as if it had been achieved). For the purposes of calculating the Authority's Program Fee, the then current milestone is assumed complete once the Project is canceled.

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The following table sets forth the Authority Program Fee percentage segmented by milestone.

Milestone	% of Authority's Program Fee	Cumulative Authority Program Fee Percentage
30% Design	10%	10% + (audit cost)
90% Design	15%	25% + (audit cost)
100% Design & Bidding	15%	40% + (audit cost)
Construction CPC Preparation	10%	50% + (audit cost)
Construction (25% completion)	10%	60% + (audit cost)
Construction (50% completion)	15%	75% + (audit cost)
Construction (75% completion)	15%	90% + (audit cost)
Construction (100% completion)	10%	100% + (audit cost)

B. ADVISORY SERVICES PROJECTS

I. AUTHORITY PROGRAM FEE

The Authority Program Fee for the Advisory Services will be calculated according to one of the following methods as set forth in the CPC for the Project:

Time and Materials: The Authority's Program Fee maybe based on actual time and cost of material incurred by Authority or its Service Providers in connection with a Project based on rates defined in the Project CPC.

Lump Sum: The Authority's Program Fee may be based on the percentage complete of a lump sum or milestones defined in the Project CPC.

Unit Price: The Authority's Program Fee maybe based on the unit prices defined in the Project CPC.

Percent of Materials and Labor: The Authority's Program Fee maybe based on a percentage of Service Provider Material Costs and Labor Costs as defined in the Project CPC.

Other Mechanisms: The Authority's Program Fee may be based on an evolving cost recovery mechanisms not defined in this Master Agreement. If other mechanisms are selected, the Authority's Program Fee will be based on mutual Authority and Customer agreement and will be defined in the Project CPC.

II. PROJECT TERMINATION

If a Project is terminated in whole or part prior to completion of a Project, the Authority's Program Fee will be based on the Project costs incurred and any applicable fees earned by Authority up until the date of termination, plus any interest costs incurred. For the purposes of calculating the Authority's Program Fee, as applicable, the then current milestone is assumed complete once the Project is canceled.

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EXHIBIT B

CAPITAL PROJECT TERMS AND CONDITIONS

1. Application. In addition to the terms and conditions set forth in the main body of this Master Agreement, these Capital Project Terms and Conditions shall apply to all Capital Projects provided by Authority or Service Provider to Customer under the Master Agreement.

2. Capital Project Services. Capital Projects are generally delivered through the services of qualified installation Service Providers or Subproviders under contract with the Authority. Capital Project services may include any or all of the following services (as more fully described below): audit, design, construction management, equipment procurement, installation, commissioning, disposal of Waste, financing and other Project related services required to install a Project.

3. Audit.

(a) Scope. After Customer has identified potential Projects for Authority's and Customer's consideration, Customer may request that Authority perform an audit of the Facility. The audit will help identify opportunities for implementing ESP measures and will be scheduled by Customer's Authorized Representative and/or the appropriate Facility manager. The scope of the audit will be set forth in a CPC which shall be executed by an authorized officer or designee of Authority and Customer prior to commencement of any audit Work. In some instances, the audit will involve a complete inventory of the systems which are currently used in normal operation, while in others a more targeted approach will be taken. The audit may also include an analysis of whether hazardous materials and Waste related to those systems are likely to be present or generated as a result of installing a Project.

(b) Audit Report. Based upon the results of the audit, a written report will be furnished to Customer. The report will include an estimate of the Total Reimbursement Costs as well as estimates of the potential Total Annual Energy Savings and environmental or sustainability benefits, as applicable, that Customer can reasonably expect through implementation of the recommendations made in the report. If, after analysis of the report by Authority and Customer, Authority, in its sole discretion, determines that the Project either (1) does not meet Authority's eligibility criteria, or (2) is not appropriate at such Facility, activity there will cease.

(c) Deferment of Total Reimbursement Costs for Audit Work. Upon completion of the audit Work, if Customer and Authority decide to proceed to the next phase, Customer and Authority will execute a CPC reflecting the scope of such next Project phase. By executing the CPC, Customer acknowledges its concurrence with the audit results. Subject to Authority's approval, Customer may request that payment of the Total Reimbursement Costs for the audit Work, be deferred and included in the Total Reimbursement Costs of the CPC for the next Project phase.

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4. Project Design.

(a) General. If agreed upon by the Parties in a CPC, Authority shall prepare a Project design. Customer will be asked to review all aspects of the design and specifications. Where deemed appropriate by Authority and Customer, the Service Provider will arrange for geotechnical surveys (i.e., soil tests, borings, and related evaluations), surveys of the site (i.e., to determine physical characteristics of the site, such as utility locations), and/or demonstration installations (i.e., the installation of sample lighting fixtures or other equipment) of selected measures in Customer's Facility, all at Customer's sole risk.

(b) Milestones and Milestone Completion Reports. Authority will submit the Project design documents to the Customer at 30%, 60%, 90% and "final" design milestones, or according to the milestone schedule set forth in the respective CPC. Upon completion of each design milestone, Customer and Authority (or their duly authorized representatives) shall promptly review the design Work, or applicable portions thereof and Customer and Authority shall jointly sign a Milestone Completion Report. It shall be Customer's responsibility to determine that the proposed design meets Customer's needs.

(c) Deferment of Total Reimbursement Costs for Design Work. Unless otherwise set forth in the CPC for a Project, Authority may invoice the Customer for the Total Reimbursement Costs for the performed design Work through the milestone(s), if any, set forth in the CPC (plus any Total Reimbursement Costs incurred during the audit, if such costs were deferred and rolled over). Customer may request payment deferral if Customer approves Authority to proceed to the next milestone or the next Project phase. With Authority's approval, Customer's Short-Term Repayment Obligation will be deferred and rolled into the next milestone invoice, or at design completion, become part of the Total Reimbursement Costs of the CPC for the next Project phase.

(d) Ownership of Design Work Upon Early Termination. If Customer terminates the design Project prior to its completion, upon receipt of Customer's final payment, Authority will deliver to Customer all design plans and documents completed through the date of termination. Customer's use of such design plans and documents will be subject to any copyrights of the Authority and/or the designer. By using any incomplete or unfinished design plans and/or documents that have not been sealed with the licensed design professional's stamp upon delivery to Customer, Customer accepts full and complete responsibility for such design and further agrees to hold Authority harmless from its use of such incomplete or unfinished design plans and/or documents.

5. Procurement. After Authority and Customer agree on the Project's design and technical specifications, Authority or the Service Provider will competitively solicit, using the Authority's procurement guidelines, bids for the Work as set forth in the design documents. The resulting final design, specifications and bid price shall be incorporated into a CPC for the Project. Authority's contracts with its Service Providers will require compliance with the Authority's guidelines regarding the competitive solicitation of the services of Subproviders for Customer's Facilities, including the selection of minority and women-owned business enterprises. The services of Subproviders and equipment procurement will be obtained through a competitive bid process conducted by the Service Provider with Authority oversight. In the event Customer

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decides not to proceed with the installation Project, Customer shall reimburse Authority for the costs of any Work undertaken by Authority and/or its Service Provider in connection with the procurement process and the associated cost and expense of same.

6. Installation.

(a) General. After Authority and Customer have entered into a CPC for installation Work, the Service Provider and/or its Subproviders will perform the Work pursuant to the design and technical specifications set forth in such CPC.

(b) Substantial Completion and Operation Transfer Report. After Customer has inspected, tested and accepted the Project equipment, or portion thereof, installed by the Service Provider, the Parties will execute a Substantial Completion and Operation Transfer Report for the completed portion of the Work signifying (i) that Customer accepts responsibility for operation and maintenance of the installed equipment, (ii) that the Project, or specified portion thereof, is substantially complete, and (iii) the commencement of any warranty period.

(c) Final Inspection Report. Upon completion of the Work, Customer and Authority (or their duly authorized representatives) shall promptly inspect the entire Facility, or applicable portions thereof. Authority or its Service Providers will confirm that the Work has been satisfactorily completed according to the provisions of this Master Agreement and the applicable CPC. Authority and Customer shall jointly sign a Final Inspection Report.

7. Maintenance and Post-Installation Audit. Authority will provide Customer with information regarding the maintenance of Project installations and recommendations for appropriate replacement equipment to be used in those installations to facilitate proper usage and, if applicable, energy savings at Customer's Facilities. After the Project installations are completed, Customer shall use reasonable efforts to see that such maintenance and materials instructions are followed at its Facilities. While any portion of the Customer's Short-Term Repayment Obligation remains outstanding, Authority may, upon reasonable notice to Customer, audit installations in Customer's Facilities to evaluate compliance with such maintenance and materials instructions.

8. Project Closeout for Capital Projects. Notwithstanding the terms set forth in the CPC or Final CPC, the Customer shall, within the time specified in the Final CPC, but not later than the Short-Term Repayment Obligation Maturity Date, (a) repay the Short-Term Repayment Obligation from its own sources or (b) repay the Short-Term Repayment Obligation with the proceeds of a Long-Term Repayment Obligation separate contract. The Customer shall make payment of any remaining balance of the Short-Term Repayment Obligation that is not repaid by such financing upon receipt of the Authority's invoice and in accordance with the terms of this Master Agreement. The Short Term Repayment Obligation, as set forth in the Final CPC, shall include the Authority's estimate of Short-Term Interest to be accrued between the issuance of the Final CPC and Short-Term Repayment Obligation Maturity Date.

9. Authority Obligations. In addition to the obligations otherwise set forth herein and the respective CPC, Authority shall require the Service Provider to adhere to the Project's design

Sample

and technical specifications as set forth in the CPC and minimize any interference with the normal operations at Customer's Facility.

10. Customer Obligations. In addition to the obligations otherwise set forth herein and the respective CPC, Customer shall promptly review all completed installations. Customer shall review and approve, as may be required, any corrective or restoration Work resulting from improper work by the Service Provider.

11. Customer-Supplied Equipment and/or Work. Customer and Authority may agree in the CPC for the provision of Customer materials and/or completion of Customer work in connection with a Project, independent of Authority. If so, then Customer shall be responsible for any changes to the Project schedule, scope of Work or any increase in the Total Reimbursement Costs caused by Customer due to non-delivery of Customer materials or non- or late performance of Customer work and Authority shall issue any necessary Contingency Work Order or Change Order, as applicable. Authority may suspend its Work on the Project until Customer approves such Change Order. Furthermore, if the Customer does not meet the Project schedule with respect to Customer materials and/or Customer work, Authority has the right to terminate the Project if the delay is not cured within fifteen (15) days of written notice thereof by Authority to Customer and turn it over to Customer for completion without any liability on the part of Authority.

* * * * * *

Sample

NEW YORK STATE OF OPPORTUNITY. | NY Power Authority

EXHIBIT C

ADVISORY SERVICES TERMS AND CONDITIONS

1. Application. In addition to the terms and conditions set forth in the main body of this Master Agreement, these Advisory Services Terms and Conditions shall apply to all Advisory Services Projects provided by Authority or Service Provider to Customer pursuant to the Master Agreement.

2. Advisory Services. Upon Customer's request, Authority may provide any or all of the Advisory Services described below. Advisory Services may be provided by Authority employees and/or Service Providers with expertise in the area as determined by Authority. Authority and Customer will cooperate in good faith during the performance of such Advisory Services.

3. Description of Services

(a) *Review*. Review of information provided by the Customer regarding, among other things, Customer's site conditions, future plans for modifications to facilities, operations and/or usage, historical utility data, any relevant strategic plans or initiatives, and other relevant requirements that are specific to Customer.

(b) *Meetings*. Participate in meetings and conference calls as mutually agreed upon by the parties as being in the best interests of the Project or as otherwise detailed in the Customer Project Commitment.

(c) *Site Observations*. Observe Customer's facilities, physically or remotely via electronic means as determined by the Authority to assess the condition of existing equipment and physical site conditions.

(d) *Analysis*. Analyze data presented by Customer and/or collected by or on behalf of the Authority. Outreach to appropriate third parties as necessary to coordinate and/or collect additional data.

(e) *Advice and Guidance*. Deliver oral or written advice, guidance and other recommendations communicated via in person meetings, telephone conversations, or correspondence.

(f) *Deliverables and Reports*. Prepare reports, memorandums, and other documents that memorialize the advice, guidance and recommendations delivered to the Customer and support the Customer's underlying project, where applicable.

The foregoing descriptions are given by way of example and not by way of exclusion. Advisory Services may include services that have not yet been developed or approved by Authority

Sample

Attachment: NYPA Master Cost Recovery Agreement - Revised 8-18-2021 (RES-2021-753 : Authorize NYPA Energy Services Program Master

to date, provided such services are described in a CPC signed by both Parties to this Master Agreement.

4. Further Assistance; Information. In addition to the obligations set forth herein and the respective CPC, Customer shall provide Authority and/or Service Providers with such assistance as may be required to perform the Advisory Services. This may include, but is not limited to, providing access to the Customer's Facility(ies), information such as historical utility data, maintenance logs, existing feasibility studies, reports, equipment drawings or any other information or services reasonably requested by Authority and/or Service Providers.

* * * * * *

Sample

Attachment: NYPA Master Cost Recovery Agreement - Revised 8-18-2021 (RES-2021-753 : Authorize NYPA Energy Services Program Master

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

Francina J. Spoth
Town Clerk

Meeting: 08/23/21 03:00 PM
Department: Highway
Initiated by: **Stephen Bryan**
Co-Sponsored by:

DOC ID: 24658 **RESOLUTION 2021-754** **ADOPTED**

Authorize the Purchase of One (1) XTREME VAC Model LCT600 Tow Behind Leaf Collector CRS # 2837

NOW THEREFORE BE IT RESOLVED, the Town Board authorizes the purchase of one (1) XTREME VAC Model LCT 600 Tow Behind Leaf Collector.

The purchase is from Cyncon Equipment, Inc., 7494 West Henrietta Road, Rush, New York 14543 for $56,622.92 per SOURCEWELL/NJPA CONTRACT.

NOW THEREFORE BE IT FURTHER RESOLVED, that the Town Board authorizes the Supervisor to sign this purchase. This purchase is subject to the Contract Routing System (CRS #2837) and approval of the Town Attorney.

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

FINANCIAL IMPACT:

KP2118 : 2600

$56,622.92

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

AGREEMENT

Let this document stand as an Agreement between CYNCON EQUIPMENT INC.
And the Town of Amherst permitting the Town of Amherst to participate in the purchase of :
SOURCEWELL/ NJPA AND CYNCON EQUIPMENT INC.
Contract # 031121-ODB (OLD DOMINION BRUSH)
Maturity Date 04/30/2025

EQUIPMENT: ONE Xtreme Vac Model LCT600 Tow Behind Leaf Collector

from CYNCON Equipment with LCT600 Leaf Collector with NJPA/SOURCEWELL;
BID REFERENCE #031121-ODB with date of maturity 04/30/2025.

Agreed to and Accepted by:

CYNCON EQUIPMENT INC.

By: _____
Signature

Richard Wilcox
Print Name

General Manager
Title

Date: August 9, 2021

Agreed to and Accepted by:

TOWN OF AMHERST

By: _____
Brian J. Kulpa
Supervisor

Date: _____

Attachment: CYNCON CONTRACT (RES-2021-754 : Authorize the Purchase of One (1) XTREME VAC Model LCT600 Tow Behind Leaf Collector

Attachment: CYNCON CONTRACT (RES-2021-754 : Authorize the Purchase of One (1) XTREME VAC Model LCT600 Tow Behind Leaf Collector

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.

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: CYNCON CONTRACT (RES-2021-754 : Authorize the Purchase of One (1) XTREME VAC Model LCT600 Tow Behind Leaf Collector

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:

Cyncon Equipment Inc.
Print Name of Company

By: _____
Signature

Richard Wilcox
Printed name

Date: **August 9, 2021**

Agreed to and Accepted by:

Town of Amherst

By: _____
Brian J. Kulpa, Supervisor

Date: _____

Revised 12.30.19 SJS

Attachment: CYNCON CONTRACT (RES-2021-754 : Authorize the Purchase of One (1) XTREME VAC Model LCT600 Tow Behind Leaf Collector

IRAN DIVESTMENT ACT CERTIFICATION

As a result of the Iran Divestment Act of 2012 (Act), Chapter 1 of the 2012 Laws of New York provision was added to the State Finance Law (SFL), Section 165-a, effective April 12, 2012. Under t Act, the Commissioner of the Office of General Services (OGS) will develop a list (prohibited entities li of "persons" who are engaged in "investment activities in Iran" (both are defined terms in the law). Th list is posted on the OGS website.

By submitting a response to this solicitation, or by assuming the responsibility under Contract/Lease awarded hereunder, Bidder/Contractor/Vendor (or any assignee) certifies that it will n 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 seekir to renew or extend a Contract/Lease (or assume responsibility of a Contract/Lease awarded must certi at the time the Contract/Lease is renewed, extended or assigned that it is not included on the prohibite entities list.

During the term of the Contract/Lease, should the Town of Amherst (Town) receive informatio that a person is in violation of the above-referenced certification, the Town will offer the person a opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in th investment which is in violation of the Act within 90 days after the determination of such violation, the the Town shall take such action as appropriate including, but not limited to, imposing sanctions, seekin 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 entit that appears on the prohibited entities list prior to the award of a Contract/Lease, and to pursue responsibility review with respect to any entity that is awarded a Contract/Lease and appears on th prohibited entities list after Contract/Lease award.

Company Name: Cyncon Equipment Inc.

Signature: [signature]

Print Name: Richard Wilcox

Title: General Manager

Date: August 9, 2021

Sworn To Before Me This

9th Day of August, 2021

Marsha M Condon

Notary Public

MARSHA M. CONDON
Notary Public, State of New York
Monroe County, No. 01CO4798468
Commission Expires 2/28/22

Revised 4.2017

Attachment: CYNCON CONTRACT (RES-2021-754 : Authorize the Purchase of One (1) XTREME VAC Model LCT600 Tow Behind Leaf Collector

ACORD®

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 5/21/2021

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: Betty Barrett
Christopher Williams Agency Inc 26 South Main Street P.O. Box 499 Pittsford NY 14534	PHONE (A/C, No, Ext): (585) 586-3060 FAX (A/C, No): (585) 586-8006 E-MAIL ADDRESS: betty@christopherwilliamsagency.com
	INSURER(S) AFFORDING COVERAGE — NAIC #
	INSURER A: Hartford Insurance Group
INSURED Cyncon Equipment Inc 7494 West Henrietta Rd P O Box 30 Rush NY 14543	INSURER B:
	INSURER C:
	INSURER D:
	INSURER E:
	INSURER F:

COVERAGES **CERTIFICATE NUMBER:** 20-21 Master **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 Garage Liability GEN'L AGGREGATE LIMIT APPLIES PER: POLICY X PRO-JECT LOC OTHER:			01UUNQ00789	10/6/2020	10/6/2021	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ 1,000,0 $ 300,0 $ 10,0 $ 1,000,0 $ 2,000,0 $ 2,000,0
A	AUTOMOBILE LIABILITY X ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS X HIRED AUTOS X NON-OWNED AUTOS			01UUNQ00789	10/6/2020	10/6/2021	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 1,000,0
A	X UMBRELLA LIAB X OCCUR EXCESS LIAB CLAIMS-MADE DED X RETENTION $ 10,000			01RHU0K9037	10/6/2020	10/6/2021	EACH OCCURRENCE AGGREGATE	$ 3,000,0 $ 3,000,0
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N If yes, describe under DESCRIPTION OF OPERATIONS below		N/A				PER STATUTE OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ $

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

The Town of Amherst is an additional insured on a primary and non-contributory basis.
Hartford Policy Form #HG0001 (06/05) applies

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

Christopher Williams

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Attachment: CYNCON CONTRACT (RES-2021-754 : Authorize the Purchase of One (1) XTREME VAC Model LCT600 Tow Behind Leaf Collector

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
Cyncon Equipment, Inc. 7494 W Henrietta Rd Rush, NY 14543-9789	(585)533-2500 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 161115791
2. Name and Address of Entity Requesting Proof of Coverage (Entity Being Listed as the Certificate Holder)	3a. Name of Insurance Carrier
Town of Amherst 5583 Main Street Williamsville, NY 14221	Continental Indemnity Co. 3b. Policy Number of Entity Listed in Box "1a" 37-654689-01-03 3c. Policy effective period 10/06/20 to 10/06/21 3d. The Proprietor, Partners or Executive Officers are [X] 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: Todd Brown
(Print name of authorized representative or licenced agent of insurance carrier)

Approved by: _____ 05/21/2021
(Signature) (Date)

Title: Authorized Representative

Telephone Number of authorized representative or licensed agent of insurance carrier: (877) 234-4424

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: CYNCON CONTRACT (RES-2021-754 : Authorize the Purchase of One (1) XTREME VAC Model LCT600 Tow Behind Leaf Collector

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)
CYNCON EQUIPMENT INC

7494 WEST HENRIETTAROAD
RUSH, NY 14543

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
716-533-2500

1c. Federal Employer Identification Number of Insured or Social Security Number
161115791

2. Name and Address of Entity Requesting Proof of Coverage (Entity Being Listed as the Certificate Holder)
TOWN OF AMHERST
5583 MAIN STREET
WILLIAMSVILLE, NY 14221

3a. Name of Insurance Carrier
ShelterPoint Life Insurance Company

3b. Policy Number of Entity Listed in Box "1a"
DBL144700

3c. Policy effective period
04/01/2021 to 03/31/2022

4. Policy provides the following benefits:
- [x] A. Both disability and paid family leave benefits.
- [ ] B. Disability benefits only.
- [ ] C. Paid family leave benefits only.

5. Policy covers:
- [x] A. All of the employer's employees eligible under the NYS Disability and Paid Family Leave Benefits Law.
- [ ] B. Only the following class or classes of employer's employees:

Under penalty of perjury, I certify that I am an authorized representative or licensed agent of the insurance carrier referenced above and that the named insured has NYS Disability and/or Paid Family Leave Benefits insurance coverage as described above.

Date Signed 5/20/2021 By Richard O. White
(Signature of insurance carrier's authorized representative or NYS Licensed Insurance Agent of that insurance carrier)

Telephone Number 516-829-8100 Name and Title Richard White, Chief Executive Officer

IMPORTANT: If Boxes 4A and 5A are checked, and this form is signed by the insurance carrier's authorized representative or NYS Licensed Insurance Agent of that carrier, this certificate is COMPLETE. Mail it directly to the certificate holder.

If Box 4B, 4C or 5B is checked, this certificate is NOT COMPLETE for purposes of Section 220, Subd. 8 of the NYS Disability and Paid Family Leave Benefits Law. It must be mailed for completion to the Workers' Compensation Board, Plans Acceptance Unit, PO Box 5200, Binghamton, NY 13902-5200.

PART 2. To be completed by the NYS Workers' Compensation Board (Only if Box 4C or 5B of Part 1 has been checked)

State of New York
Workers' Compensation Board

According to information maintained by the NYS Workers' Compensation Board, the above-named employer has complied with the NYS Disability and Paid Family Leave Benefits Law with respect to all of his/her employees.

Date Signed _____ By _____
(Signature of Authorized NYS Workers' Compensation Board Employee)

Telephone Number _____ Name and Title _____

Please Note: *Only insurance carriers licensed to write NYS disability and paid family leave benefits insurance policies and NYS licensed insurance agents of those insurance carriers are authorized to issue Form DB-120.1.* ***Insurance brokers are NOT authorized to issue this form.***

DB-120.1 (10-17)

DB-120.1 (10-17)

Attachment: CYNCON CONTRACT (RES-2021-754 : Authorize the Purchase of One (1) XTREME VAC Model LCT600 Tow Behind Leaf Collector

Attachment: CYNCON CONTRACT (RES-2021-754 : Authorize the Purchase of One (1) XTREME VAC Model LCT600 Tow Behind Leaf Collector

CYNCON

Premier Municipal and Truck Equipment Since 1978

August 8, 2021

Town of Amherst
1042 N Forest Rd.
Williamsville NY 14221

Sourcewell Member #77341
Sourcewell Contract #031121-ODB

Description	**Quote**
Xtreme Vac Model LCT600 Tow Behind Leaf Collector With:	
John Deere 4045TFC03 4 Cyl. 74 HP Diesel, Final Tier 4	
Electronic engine controls with engine safety shut down system	
Remote electric throttle for engine	
Remote oil drain hose	
Boxed perforated radiator screen	
44 gallon polyethylene fuel tank	
13" clutch assembly w 2.25 dia. PTO shaft & safety engagement	
30" Suction impeller with six 3/8" thick T-1 steel blades	
4 Grove Power band belt drive for suction impeller	
Hydraulic hose boom powered by a 12V electric/hydraulic pump	
16" diameter x 120" Rubber intake hose with steel nozzle	
LED type DOT lights and an oval LED amber flasher light at rear	
16" diameter x 48" long rubber exhaust hose	
1/4" thick trailer deck with channel members on the ends	
HD height adjustable pintle eye with three quick release pins	
Parking jack with 5" swivel castor wheel	
Electric brakes with break-away actuator	
6,000 Lb Torflex axle w/EZ lube hubs & (2) ST225-75-R15 tires	
Sale Price	
Less 4.5% Sourcewell Contract Discount	$ 57,801.32
Sourcewell Contract Price	($ 2,138.40)
Delivery	$ 960.00
Delivered Contract Price	$ 56,622.92

Thank you for the opportunity to supply your equipment needs. As always, please contact me with any questions.

Best Regards,

Dave Hull

Sales Representative

Cyncon Equipment, Inc. 7494 West Henrietta Road, Rush, New York 14543
PH: 585-533-2500 FAX: 585-533-2501
1-800-429-6266

Sourcewell

Old Dominion Brush # 031121-ODB

Pricing for contract # 031121-ODB is provided at 4.5 % off MSRP to Sourcewell participating agencies.

Attachment: CYNCON CONTRACT (RES-2021-754 : Authorize the Purchase of One (1) XTREME VAC Model LCT600 Tow Behind Leaf Collector

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Proposal Evaluation
Grounds Maintenance Equipment, Attachments, and Accessories with Related Services RFP #031121

	Possible Points	Aebi Schmidt North America	Altec, Inc	Ariens Company	Bandit Industries, Inc.	BCS America, LLC	Blue Diamond Attachments	Bonnell Industries Inc.	BUCEPHALUS BUYER, LLC	C & B Manufacturing	Clark Equipment Company	Crary Bear Cat	Deere & Company	DuCo, LLC	Embanksape Equipment LLC	Exmark Mfg. Co., Inc.	Ferri	Generac Power Systems	Green Climber of North America	GREYB USA	H. Barber & Sons, Inc.	Husqvarna Professional Products, Inc.
Conformance to Terms/ Conditions to Include Documentation	50	43	39	43	42	36	42	42	37	39	44	43	41	45	41	41	36	43	41	35	42	43
Pricing	400	324	326	331	324	240	325	325	304	271	346	328	329	328	316	323	331	339	289	272	335	329
Financial, Industry and Marketplace Successes	75	65	54	65	62	55	63	63	62	60	69	65	71	69	61	57	56	63	61	53	64	67
Bidder's Ability to Sell/ Service Contract Nationally	100	84	66	86	78	75	83	71	83	70	98	83	87	85	74	81	65	86	72	68	73	83
Bidder's Marketing Plan	50	43	38	43	37	35	40	41	38	33	43	44	43	46	40	42	36	42	38	35	43	44
Value-Added Attributes	75	60	59	64	54	53	55	58	52	56	68	61	65	67	58	67	50	65	62	49	63	67
Warranty Coverages and Information	50	44	41	43	42	37	39	38	41	34	43	43	43	43	46	41	38	41	40	40	42	42
Selection and Variety of Products and Services Offered	200	161	145	164	159	146	153	144	164	134	172	148	175	157	139	174	138	162	139	134	146	174
Total Points	1,000	824	768	835	779	677	798	787	781	696	873	815	854	840	775	826	730	841	742	686	808	849
Rank Order		16	32	10	23	42	20	26	28	40	2	19	3	8.5	30.5	14	38	7	27	41	24	5

	Possible Points	Hustler Turf Equipment,Inc	Kärcher Municipal North America Corp.	Kubota Tractor Corporation	Land Pride, A Division of Great Plains Mfg, Inc.	Max Distributing / BCS America	Meridge Manufacturing, Inc.	MTD Products	RhinoAg, Inc.	Scag Power Equipment	Schiller Grounds Care	Smithco, Inc	Stonebrooke Equipment, Inc.	Switch-N-Go, LLC	The Toro Company	Tobroco Machinery LLC	Trackless Vehicles Ltd.	TURFCO Manufacturing	VENTURE PRODUCTS INC.	Walker Manufacturing Company	Wiedenmann North America, LLC	Woods Equipment Company
Conformance to Terms/ Conditions to Include Documentation	50	42	42	43	43	40	41	43	39	43	39	42	42	42	42	41	42	40	43	43	41	40
Pricing	400	353	319	330	335	123	320	337	313	339	290	322	317	287	346	328	309	300	320	315	317	339
Financial, Industry and Marketplace Successes	75	64	62	68	65	59	61	66	63	65	59	63	60	62	65	62	63	62	64	63	63	64
Bidder's Ability to Sell/ Service Contract Nationally	100	82	79	88	86	72	77	87	82	85	75	79	71	73	86	76	79	74	82	79	78	85
Bidder's Marketing Plan	50	43	41	43	42	39	38	42	39	42	42	40	37	37	43	42	41	42	43	42	41	45
Value-Added Attributes	75	61	61	67	55	55	59	61	56	63	52	58	52	53	67	55	58	58	56	60	59	56
Warranty Coverages and Information	50	43	46	39	41	43	41	44	43	43	36	43	42	40	38	39	43	44	41	40	42	43
Selection and Variety of Products and Services Offered	200	165	161	168	163	127	154	160	163	156	152	149	128	130	175	146	140	142	149	158	147	164
Total Points	1,000	853	809	847	829	758	791	840	798	836	745	786	749	734	862	788	775	762	796	798	786	836
Rank Order		4	17	6	13	34	22	8.5	20	11.5	36	25.5	35	33	2	25	39.5	39	22.5	20	27	11.5

DocuSigned by:
Kim Austin
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Kim Austin, MBA, CPPB, Procurement Lead Analyst

DocuSigned by:
Bill Davison
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Bill Davison, CPPO, NIGP-CPP, Procurement Analyst

DocuSigned by:
Beverly Hoemberg
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Beverly Hoemberg, Procurement Analyst

DocuSigned by:
Duff Erholtz
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Duff Erholtz, Procurement Analyst

Attachment: CYNCON CONTRACT (RES-2021-754 : Authorize the Purchase of One (1) XTREME VAC Model LCT600 Tow Behind Leaf Collector

SOURCEWELL
STATE OF MINNESOTA

Member Sharon Thiel moved the adoption of the following Resolution:

RESOLUTION TO RATIFY COOPERATIVE CONTRACTING AWARDS

Resolution No. 2020-32

WHEREAS, the Sourcewell Board of Directors previously authorized the solicitations for the cooperative categories listed on Appendix A, which is attached and incorporated; and

WHEREAS, Sourcewell issued the cooperative contracting solicitations for the authorized categories; and

WHEREAS, through the Sourcewell Procurement Policy, the Board designated the Chief Procurement Officer to administer Sourcewell's cooperative purchasing and contracting program and to award all competitively solicited contracts, without limitation; and

WHEREAS, the Chief Procurement Officer made the awards listed based on the results of the competitive solicitation process; and

WHEREAS, the Board acknowledges that the awards made by the Chief Procurement Officer are valid and binding; however, based upon some members' legal requirements the Chief Procurement Official is required to seek subsequent Board ratification of all cooperative purchasing awards.

NOW THEREFORE BE IT RESOLVED by the Board of Directors ratifies the cooperative contracting awards made by the Chief Procurement Officer listed on Appendix A.

The motion for the adoption of the foregoing resolution was duly seconded by Member Greg Zylka and the following voted in favor: (list names here)
Wilson, Zylka, Veronen, Nagel, Thomas, Thiel, Arts and Kircher

and the following voted against: (list names here or "NONE")
NONE

whereupon said resolution was declared duly passed and adopted.

ATTEST: DocuSigned by:

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Clerk to the Board of Directors

Attachment: CYNCON CONTRACT (RES-2021-754 : Authorize the Purchase of One (1) XTREME VAC Model LCT600 Tow Behind Leaf Collector

APPENDIX A

SOURCEWELL PROCUREMENT DEPARTMENT
BOARD ITEMS –December 2020

CONSENT AGENDA ITEMS

Requesting Board permission to Solicit the following categories:

- Plastic Refuse and Recycling Container Solutions and Related Equipment, Supplies and Accessories
- Tree and Vegetation Management Equipment, Attachments, and Accessories
- Facilities Maintenance Services
- Special Education Teletherapy Services

Requesting Board permission to Re-Solicit the following categories:

- Auction Services with Related Solutions (published 12/08/20)
- Bulk Solid Waste and Recycling Equipment with Related Services, Accessories and Supplies
- Grounds Maintenance Equipment, Attachments, and Accessories

NEW CONTRACTS

Supplier Name	Contract Number	Solicitation Title
MSC Industrial Supply	101320-MSI	*"Janitorial Supplies and Equipment with Related Services"*
Staples Contract & Commercial, LLC	101320-SCC	*"Janitorial Supplies and Equipment with Related Services"*
W.W. Grainger, Inc.	101320-WWG	*"Janitorial Supplies and Equipment with Related Services"*
Dover Fueling Solutions, Inc.	092920-DVR	*"Aboveground Fuel and Fluid Storage with Related Hardware, Software, and Services"*
E.J. Ward, Inc.	092920-EJW	*"Aboveground Fuel and Fluid Storage with Related Hardware, Software, and Services"*
Gilbarco, Inc.	092920-GVR	*"Aboveground Fuel and Fluid Storage with Related Hardware, Software, and Services"*
Graco, Inc.	092920-GRC	*"Aboveground Fuel and Fluid Storage with Related Hardware, Software, and Services"*
JF Petroleum Group	092920-JFA	*"Aboveground Fuel and Fluid Storage with Related Hardware, Software, and Services"*
Multiforce Systems Corp.	092920-MTF	*"Aboveground Fuel and Fluid Storage with Related Hardware, Software, and Services"*
Syn-Tech Systems, Inc.	092920-SYS	*"Aboveground Fuel and Fluid Storage with Related Hardware, Software, and Services"*
Titan Chemical Transfer Solutions, LLC	092920-TAN	*"Aboveground Fuel and Fluid Storage with Related Hardware, Software, and Services"*
Western Global	092920-WST	*"Aboveground Fuel and Fluid Storage with Related Hardware, Software, and Services"*

CONTRACT EXTENSIONS

Supplier Name	Contract Number	Solicitation Title
Gilbarco Veeder-Root	022217-GVR	*"Fleet Management and Related Technology Solutions"*
Synovia Solutions	022217-SSL	*"Fleet Management and Related Technology Solutions"*
Pitney Bowes	041917-PIT	*"Mailing and Postage Equipment with Related Software, Accessories, Services and Supplies"*
National Auto Fleet Group	081716-NAF	*"Class 6, 7, and 8 Chassis with Related Equipment"*
Falcon Road Maintenance	052417-FRM	*"Roadway Maintenance Equipment"*
Audio Enhancement, Inc.	111616-AEI	*"Classroom Audio Technology Equipment with Related Accessories, Services and Supplies"*

NEW ezIQC CONTRACTS

Company Name	Contract Number	State - Region - Type of Work

ezIQC RENEWALS

Company Name	Contract Number	
Minnesota Exteriors, Inc.	MN-TMA-R01-120518-MEI	
Kraus-Anderson Construction Company	MN-SEA-GC03-120518-KRU	
Kraus-Anderson Construction Company	MN-SWA-GC02-120518-KRU	
Kraus-Anderson Construction Company	MN-NCM-GC04-120518-KRU	
Innovative Builders of Alexandria, Inc.	MN-RRV-GC01-120518-IBA	
McDowall Company	MN-RRV-R02-120518-MDC	
Kraus-Anderson Construction Company	MN-IRA-GC02-120518-KRU	
Solid Rock Construction	MN-CMA-GC03-120518-SRC	
Kraus-Anderson Construction Company	MN-TMA-GC05-120518-KRU	
Nor-Son, Inc.	MN-IRA-GC01-120518-NSI	
Nor-Son, Inc.	MN-SEA-GC01-120518-NSI	

Attachment: CYNCON CONTRACT (RES-2021-754 : Authorize the Purchase of One (1) XTREME VAC Model LCT600 Tow Behind Leaf Collector

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APPENDIX A Continued

Nor-Son, Inc.	MN-TMA-GC02-120518-NSI	
RAK Construction, Inc.	MN-TMA-GC01-120518-RAK	
Solid Rock Construction	MN-TMA-GC03-120518-SRC	
RAK Construction, Inc.	MN-CMA-GC01-120518-RAK	
Nor-Son, Inc.	MN-NCM-GC02-120518-NSI	
Nor-Son, Inc.	MN-CMA-GC02-120518-NSI	
Nor-Son, Inc.	MN-RRV-GC02-120518-NSI	
Nor-Son, Inc.	MN-SWA-GC01-120518-NSI	
Bituminous Roadways, Inc.	MN-TMA-P01-120518-BRI	
McDowall Company	MN-TMA-R02-120518-MDC	
Minnesota Exteriors, Inc.	MN-SEA-R01-120518-MEI	
McDowall Company	MN-IRA-R02-120518-MDC	
Solid Rock Construction	MN-NCM-GC03-120518-SRC	
Minnesota Exteriors, Inc.	MN-CMA-R01-120518-MEI	
McDowall Company	MN-NCM-R02-120518-MDC	
Kraus-Anderson Construction Company	MN-RRV-GC03-120518-KRU	
L.S. Black Constructors, Inc.	MN-TMA-GC04-120518-LSB	
McDowall Company	MN-CMA-R02-120518-MDC	
McDowall Company	MN-SWA-R02-120518-MDC	
Mid-Minnesota Hot Mix	MN-CMA-P01-120518-MHM	
Minnesota Exteriors, Inc.	MN-NCM-R01-120518-MEI	
Minnesota Exteriors, Inc.	MN-RRV-R01-120518-MEI	
Solid Rock Construction	MN-SEA-GC02-120518-SRC	
Anderson Brothers	MN-NCM-P01-120518-ABC	
Hy-Tec Construction	MN-NCM-GC05-120518-HTC	
Minnesota Exteriors, Inc.	MN-SWA-R01-120518-MEI	
Kraus-Anderson Construction Company	MN-CMA-GC04-120518-KRU	
Minnesota Exteriors, Inc.	MN-IRA-R01-120518-MEI	

Attachment: CYNCON CONTRACT (RES-2021-754 : Authorize the Purchase of One (1) XTREME VAC Model LCT600 Tow Behind Leaf Collector

SOURCEWELL
STATE OF MINNESOTA

Member Thiel moved the adoption of the following Resolution:

RESOLUTION TO RATIFY COOPERATIVE CONTRACTING AWARDS

Resolution No. 2021-12

WHEREAS, the Sourcewell Board of Directors previously authorized the solicitations for the cooperative categories listed on Appendix A, which is attached and incorporated; and

WHEREAS, Sourcewell issued the cooperative contracting solicitations for the authorized categories; and

WHEREAS, through the Sourcewell Procurement Policy, the Board designated the Chief Procurement Officer to administer Sourcewell's cooperative purchasing and contracting program and to award all competitively solicited contracts, without limitation; and

WHEREAS, the Chief Procurement Officer made the awards listed based on the results of the competitive solicitation process; and

WHEREAS, the Board acknowledges that the awards made by the Chief Procurement Officer are valid and binding; however, based upon some members' legal requirements the Chief Procurement Official is required to seek subsequent Board ratification of all cooperative purchasing awards.

NOW THEREFORE BE IT RESOLVED by the Board of Directors ratifies the cooperative contracting awards made by the Chief Procurement Officer listed on Appendix A.

The motion for the adoption of the foregoing resolution was duly seconded by Member Zylka and the following voted in favor: (list names here)
Wilson, Zylka, Veronen, Nagel, Thomas, Thiel, Arts & Kircher
and the following voted against: (list names here or "NONE")
None
whereupon said resolution was declared duly passed and adopted.

ATTEST:

DocuSigned by:
Sara Nagel
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Clerk to the Board of Directors

Attachment: CYNCON CONTRACT (RES-2021-754 : Authorize the Purchase of One (1) XTREME VAC Model LCT600 Tow Behind Leaf Collector

APPENDIX A

SOURCEWELL PROCUREMENT DEPARTMENT
BOARD ITEMS - May 2021

CONSENT AGENDA ITEMS

Requesting Board permission to Solicit the following categories:

Requesting Board permission to Re-Solicit the following categories:

Tires and Related Equipment, Supplies, and Services
Restrooms and Related Solutions
Roadway Construction Equipment

NEW CONTRACTS

Supplier Name	Contract Number	Solicitation Title
Epson America, Inc.	030321-EPS	*"Copiers, Printers, and Multi-Function Devices with Related Supplies, Accessories and Services"*
HP, Inc.	030321-HPC	*"Copiers, Printers, and Multi-Function Devices with Related Supplies, Accessories and Services"*
Konica Minolta Business Solutions USA, Inc.	030321-KON	*"Copiers, Printers, and Multi-Function Devices with Related Supplies, Accessories and Services"*
Ricoh USA, Inc.	030321-RCH	*"Copiers, Printers, and Multi-Function Devices with Related Supplies, Accessories and Services"*
Sharp Electronics Corporation	030321-SEC	*"Copiers, Printers, and Multi-Function Devices with Related Supplies, Accessories and Services"*
Toshiba America Business Solutions, Inc.	030321-TOS	*"Copiers, Printers, and Multi-Function Devices with Related Supplies, Accessories and Services"*
Xerox Corporation	030321-XOX	*"Copiers, Printers, and Multi-Function Devices with Related Supplies, Accessories and Services"*
Convergint Technologies, LLC	030421-CTL	*"Facility Security Systems, Equipment, and Software with Related Services"*
Johnson Controls Fire Protection, LP	030421-JHN	*"Facility Security Systems, Equipment, and Software with Related Services"*
Siemens Industry, Inc.	030421-SIE	*"Facility Security Systems, Equipment, and Software with Related Services"*
Stanley Convergent Security Solutions,	030421-SCS	*"Facility Security Systems, Equipment, and Software with Related Services"*
Tyco Integrated Fire and Security dba Johnson Controls	030421-TIS	*"Facility Security Systems, Equipment, and Software with Related Services"*
Ariens Company	031121-ACO	*"Grounds Maintenance Equipment, Attachments, and Accessories with Related Services"*
Bobcat Company	031121-CEC	*"Grounds Maintenance Equipment, Attachments, and Accessories with Related Services"*
Cub Cadet	031121-MTD	*"Grounds Maintenance Equipment, Attachments, and Accessories with Related Services"*
Deere & Company	031121-DAC	*"Grounds Maintenance Equipment, Attachments, and Accessories with Related Services"*
Generac Power Systems	031121-GNR	*"Grounds Maintenance Equipment, Attachments, and Accessories with Related Services"*
Husqvarna Professional Products	031121-HSQ	*"Grounds Maintenance Equipment, Attachments, and Accessories with Related Services"*
Hustler Turf Equipment Inc.	031121-THE	*"Grounds Maintenance Equipment, Attachments, and Accessories with Related Services"*
Kubota Tractor Corporation	031121-KBA	*"Grounds Maintenance Equipment, Attachments, and Accessories with Related Services"*
Old Dominion Brush Company	031121-ODB	*"Grounds Maintenance Equipment, Attachments, and Accessories with Related Services"*
Scag Power Equipment Inc.	031121-SCG	*"Grounds Maintenance Equipment, Attachments, and Accessories with Related Services"*
The Toro Company	031121-TTC	*"Grounds Maintenance Equipment, Attachments, and Accessories with Related Services"*
Woods Equipment Company	031121-WDE	*"Grounds Maintenance Equipment, Attachments, and Accessories with Related Services"*
Morbark, LLC	031721-MBI	*"Tree Maintenance Equipment, Attachments and Accessories"*
Vermeer Corporation	031721-VRM	*"Tree Maintenance Equipment, Attachments and Accessories"*

Attachment: CYNCON CONTRACT (RES-2021-754 : Authorize the Purchase of One (1) XTREME VAC Model LCT600 Tow Behind Leaf Collector

APPENDIX A Continued

CONTRACT EXTENSIONS		
Supplier Name	**Contract Number**	**Solicitation Title**
Carrier Corporation	030817-CAR	*"HVAC Systems, Installation and Service with Related Products and Supplies"*
Crafco, Inc.	052417-CFC	*"Roadway Maintenance Equipment with Related Accessories, Attachments, Materials and Supplies"*

NEW ezIQC CONTRACTS		
Company Name	**Contract Number**	**State - Region - Type of Work**

ezIQC RENEWALS	
Company Name	**Contract Number**
Brown & Root	GA-A01-040820-KBR
Greene & Burdette Property Management, LLC	GA-A02-040820-GBP
HITT Contracting, Inc.	GA-A03-040820-HCI
Striker Contracting, LLC	GA-A04-040820-SCL
Crown Retail Services, Inc.	GA-A05-040820-CRS
Albion Scaccia Enterprises, LLC	GA-A06-040820-ALB
Paryani Construction	GA-A07-040820-PAR
HCR Construction, Inc.	GA-A08-040820-HCR
Lichty Commercial Construction, Inc.	GA-A09-040820-LIY
Place Services, Inc.	GA-A10-040820-PLA
Greene & Burdette Property Management, LLC	GA-B02-040820-GBP
Crown Retail Services, Inc.	GA-B03-040820-CRS
HITT Contracting, Inc.	GA-B04-040820-HCI
Albion Scaccia Enterprises, LLC	GA-B05-040820-ALB
Centennial Contractors Enterprises, Inc.	GA-B06-040820-CCE
Darsey Construction, LLC	GA-B07-040820-DAR
Place Services, Inc.	GA-B08-040820-PLA
Ujamaa Construction	GA-B10-040820-UJA
Darsey Constructionm LLC	GA-C01-040820-DAR
Greene & Burdette Property Management, LLC	GA-C02-040820-GBP
Albion Scaccia Enterprises, LLC	GA-C03-040820-ALB
HITT Contracting, Inc.	GA-C04-040820-HCI
Place Services, Inc.	GA-C05-040820-PLA
Centennial Contractors Enterprises, Inc.	GA-C06-040820-CCE
Engineering Design Technologies, Inc.	GA-C07-040820-EDT
Ujamaa Construction	GA-C08-040820-UJA
Jewel of the South	GA-C10-040820-JOS
Darsey Constructionm LLC	GA-D02-040820-DAR
Greene & Burdette Property	GA-D03-040820-GBP
Lynn Construction Contracting, Inc.	GA-D04-040820-LYN
Albion Scaccia Enterprises, LLC	GA-D05-040820-ALB
HITT Contracting, Inc.	GA-D06-040820-HCI
Place Services, Inc.	GA-D07-040820-PLA
Centennial Contractors Enterprises, Inc.	GA-D08-040820-CCE
Engineering Design Technologies, Inc.	GA-D09-040820-EDT
Ujamaa Construction	GA-D10-040820-UJA
F.H. Paschen, S.N. Nielsen & Associates,	GA-ST01-040820-FHP
Prime Contractors, Inc.	GA-ST02-040820-PCI
JOC Construction	GA-ST03-040820-LRI
Bayne Development Group	GA-ST04-040820-BDG
Huper Optik USA, LP	GA-ST05-040820-HOP
Ward Humphrey, Inc.	GA-ST06-040820-WHI
Johnson-Laux Construction, LLC	GA-ST07-040820-JLC
Osprey Management, LLC	GA-ST08-040820-OML
Astra Construction Services, LLC	GA-ST09-040820-ACS
Rubio and Son Interiors, Inc.	GA-ST10-040820-RSI
LEE Construction Group, Inc.	FL-NEA-GC01-041019-LCI

Attachment: CYNCON CONTRACT (RES-2021-754 : Authorize the Purchase of One (1) XTREME VAC Model LCT600 Tow Behind Leaf Collector

FHP Tectonics Corp.	FL-NEA-GC02-041019-FTC	
Epic Construction, Inc.	FL-NEA-GC03-041019-ECI	
Johnson-Laux Construction, LLC	FL-NEA-GC04-041019-JLC	
Charles Perry Partners, Inc.	FL-NEA-GC05-041019-CPP	
Astra Construction Services, LLC	FL-NEA-GC06-041019-ACS	
David Mancini & Sons, Inc.	FL-NEA-GC07-041019-DMS	
Lanzo Construction Co., Florida	FL-NEA-P01-041019-LCC	
Advanced Roofing, Inc.	FL-NEA-R01-041019-ADR	
EnviroWaste Services Group, Inc.	FL-NEA-UG1-041019-EWS	
Southern Underground Industries, Inc.	FL-NEA-UG2-041019-SUI	
LEE Construction Group, Inc.	FL-NWA-GC01-041019-LCI	
Astra Construction Services, LLC	FL-NWA-GC02-041019-ACS	
Johnson-Laux Construction, LLC	FL-NWA-GC03-041019-JLC	
OmniCon Corp	FL-NWA-GC04-041019-OMN	
Lanzo Construction Co., Florida	FL-NWA-P01-041019-LCC	
EnviroWaste Services Group, Inc.	FL-NWA-UG1-041019-EWS	
Southern Underground Industries, Inc.	FL-NWA-UG2-041019-SUI	
Advanced Roofing, Inc.	FL-NWA-R01-041019-ADR	
Harbour Construction, Inc.	FL-SEA-GC01-041019-HBC	
Shiff Construction & Development, Inc.	FL-SEA-GC02-041019-SCD	
d2 Construction, Inc.	FL-SEA-GC03-041019-DTC	
Team Contracting, Inc.	FL-SEA-GC04-041019-TCI	
BDI Construction Company	FL-SEA-GC05-041019-BDI	
Danz Contracting, LLC	FL-SEA-GC06-041019-DCL	
LEE Construction Group, Inc.	FL-SEA-GC07-041019-LCI	
FHP Tectonics Corp.	FL-SEA-GC08-041019-FTC	
Metro Express, Inc.	FL-SEA-P01-041019-MEI	
Lanzo Construction Co., Florida	FL-SEA-P02-041019-LCC	
Advanced Roofing, Inc.	FL-SEA-R01-041019-ADR	
EnviroWaste Services Group, Inc.	FL-SEA-UG1-041019-EWS	
Metro Express, Inc.	FL-SEA-UG2-041019-MEI	
BDI Construction Company	FL-WCA-GC01-041019-BDI	
LEE Construction Group, Inc.	FL-WCA-GC02-041019-LCI	
Epic Construction, Inc.	FL-WCA-GC03-041019-ECI	
Johnson-Laux Construction, LLC	FL-WCA-GC04-041019-JLC	
Charles Perry Partners, Inc.	FL-WCA-GC05-041019-CPP	
Caladesi Construction Co.	FL-WCA-GC06-041019-CAL	
Astra Construction Services, LLC	FL-WCA-GC07-041019-ACS	
Shiff Construction & Development, Inc.	FL-WCA-GC08-041019-SCD	
Caladesi Construction Co.	FL-WCA-P01-041019-CAL	
Lanzo Construction Co., Florida	FL-WCA-P02-041019-LCC	
Advanced Roofing, Inc.	FL-WCA-R01-041019-ADR	
EnviroWaste Services Group, Inc.	FL-WCA-UG1-041019-EWS	
Southern Underground Industries, Inc.	FL-WCA-UG2-041019-SUI	

ezIQC CONTRACT EXTENSIONS

Company Name	Contract Number	

Attachment: CYNCON CONTRACT (RES-2021-754 : Authorize the Purchase of One (1) XTREME VAC Model LCT600 Tow Behind Leaf Collector

XtremeVac (/)

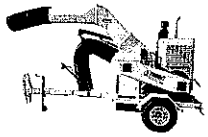
Please contact your local dealer for sales and service

(https://twitter.com/XtremeVac) (https://www.youtube.com/channel/UCaRX-WNVov6MJy

GyrHow) (https://www.linkedin.com/company/xtremevac)

(https://www.instagram.com/xtremevac

LCT600



The LCT600 is a powerful, heavy duty debris collector designed for the toughest jobs. The loader uses the powerful Kubota 87HP, gasoline engine to outlast and outperform any debris collector on the market.

Attachment: CYNCON CONTRACT (RES-2021-754 : Authorize the Purchase of One (1) XTREME VAC Model LCT600 Tow Behind Leaf Collector

Download Manual (PDF)

(/wp-content/uploads/2019/10/LCT600-Parts-Book-2019-web.pdf)

FEATURES

- Kubota 87HP gasoline engine
- Belt Drive, 4 groove power band
- 28" diameter Impeller made of T-1 AR steel
- Complete instrument panel
- Hydraulic Hose Boom

QUICK SPECS

LCT600	Xtreme Vac LCT600
Engine	Kubota 87HP, EPA T2, CARB T3, gasoline engine
Impeller	28" diameter with six 3/8" thick blades.
Blower Housing	Constructed of 10-gauge welded steel with 1/4" thick steel liners.
Suction Inlet	Curb side pickup.
Drive Type	4-groove power band.

DETAILED SPECS

Section	Detailed Specifications
Engine	Kubota WSG3800 3.8L, 4-cylinder gasoline engine rated 87HP @ 2600 rpm
Air Cleaner	Dry element with pre-cleaner.
Radiator	Pressurized, heavy-duty, trash style with 6-blade fan.
Radiator Screen	Boxed perforated steel screen is bottom hinged to allow for cleaning without powering down the engine. Face of screen is corrugated for maximum surface area and air flow.

Attachment: CYNCON CONTRACT (RES-2021-754 : Authorize the Purchase of One (1) XTREME VAC Model LCT600 Tow Behind Leaf Collector

Section	Detailed Specifications
Engine Controls	Electronic engine controls with engine safety shutdown system. Gauges include: Tachometer, hour meter, volt meter, fuel gauge and oil pressure gauge. All monitoring gauges have backlighting. Automatic safety shutdown for high temperature or low oil pressure with LED indicator lights. Glow plug control provided for cold weather start aid.
Engine Sheet Metal	Engine is covered by a custom sheet metal enclosure constructed of 16-gauge steel. The enclosure has front and rear access doors, which are louvered for proper air circulation. Two doors are provided on top of the enclosure for convenient access to the radiator cap and oil fill cap.
PTO	Heavy-duty 13" automotive style PTO with a 2.25" shaft.
Drive Type	4-groove power band.
Trailer	One piece construction, 1/4" formed steel plate with channel members on the ends.
Axle	Rubber Torflex axle rated at 6,000 pounds with EZ lube hubs. Electric brakes with break-away actuator.
Tires	ST225-75R15 radial tires mounted on steel white spoke rims with steel fenders.
Tow Tongue	Telescoping tongue, adjustable. Constructed of 4" x 5" steel tubing.
Pintle Hook	Heavy-duty pintle eye that is height adjustable without the use of tools.
Parking Jack	Heavy-duty top wind jack with 5" swivel steel wheel.
Trailer Lighting	LED type stop and turn signals with turn signal indicators. LED oval amber flasher is mounted in the rear.
Impeller	28" diameter with 6 gusseted blades constructed of 3/8" thick abrasive resistant T-1 steel with a Brinell hardness exceeding 400. Each blade is gusseted on the back side and welded to a 1/4" thick backing plate. Impeller blades are flat with serrated tips for increased wear. Impeller is secured to the shaft via a taper locking bushing.
Impeller Bearings	Two 2-1/4" diameter double roller 4 bolt flange type bearings. The bearings have a dynamic load rating of 27,280 lbs and a static load rating of 31,920 lbs. Bearings are mounted on plates that allow them to be removed along with the impeller and shaft by removing only eight bolts.
Impeller Shaft	2-1/4" diameter precision machined steel.

Attachment: CYNCON CONTRACT (RES-2021-754 : Authorize the Purchase of One (1) XTREME VAC Model LCT600 Tow Behind Leaf Collector

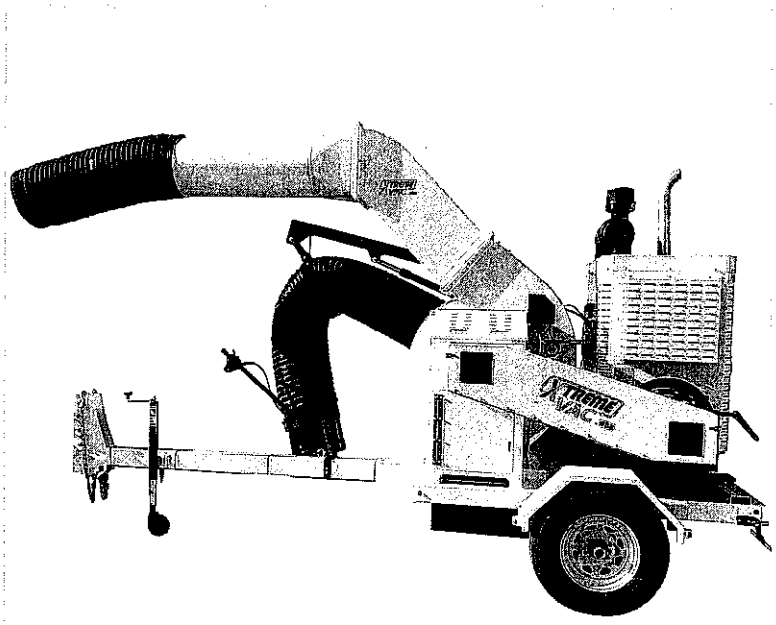
Section	Detailed Specifications
Blower Housing	40° degree style for minimal resistance. Outer housing is constructed of 10 gauge welded steel, front and back plates are 7-gauge steel. Inspection/clean out door is located on face to facilitate convenient inspection of internal contents or condition. A safety kill switch is located on the door to shut down the engine when the door is opened.
Liners	Slip-in style which require no bolts. Made of 1/4" steel.
Suction Inlet	Located on the curb side and incorporates quick access via removable rods.
Intake Hose	16" diameter x 120" long. Heavy-duty flexible rubber hose.
Exhaust Duct	Rectangular duct extension of the 40° blower housing. Constructed of 12-gauge steel and entered directly over the tongue for a balanced unit.
Exhaust Hose	16" diameter x 48" long heavy duty wire reinforced, 3/8" thick flexible rubber hose.
Hose Boom	Hydraulically controlled with an electric operated hydraulic pump. Boom pivots in a greaseable tube for effortless movement. Hydraulic cylinder is 1.5" diameter, with a minimum stroke length of 12".
Boom Controls	Push button style switch located on the intake hose nozzle.
Intake Nozzle	16" diameter nozzle with handle constructed of 12 gauge steel.
Fuel Tank	44-gallon capacity fuel tank manufactured of 1/4" thick roto-molded polyethylene, located under the trailer bed.
G.V.W.	4,500 lbs.
Paint	Each part is primed with a rust inhibitor primer and is painted with two coats of automotive quality paint. The parts are then assembled on the unit so that bolts, nuts, cables and grease fittings are not painted. Standard color is White.

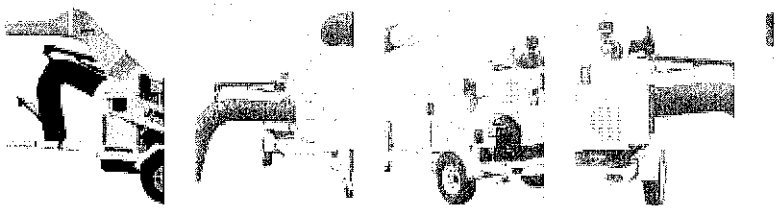
Attachment: CYNCON CONTRACT (RES-2021-754 : Authorize the Purchase of One (1) XTREME VAC Model LCT600 Tow Behind Leaf Collector

Section	Detailed Specifications
Options	• Hydraulic Parking Jack with caster wheel • Remote electric engine throttle with controls on the suction hose handle • Urethane suction hose • Hydraulic curb nozzle attachment in lieu of suction hose • PTO safety engagement system • 2-axis (up/down & left/right) hydraulic hose boom with central hydraulic system • 3-axis (up/down, left/right, & in/out) hydraulic hose boom with central hydraulic system • Driver's (street) side pickup • Fluid drive coupler in lieu of clutch and PTO • Custom paint color

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*Specifications are based on published information at the time of publication. Specifications are subject to change without notice. Not responsible for typographical errors.





Attachment: CYNCON CONTRACT (RES-2021-754 : Authorize the Purchase of One (1) XTREME VAC Model LCT600 Tow Behind Leaf Collector

(Units may be shown with optional features and/or colors)

The LCT600 is a powerful, heavy duty debris collector designed for the toughest jobs. The loader uses the powerful Kubota 87HP gasoline engine or John Deere 74HP diesel engine to outlast and outperform any debris collector on the market.

Download Literature (PDF)

(/wp-content/uploads/2019/06/XV-LCT600-Jun2019-2pg.pdf)

Download Dimensions (PDF)

(/wp-content/uploads/2021/04/LCT-Dimensions-and-Curb-Weights.pdf)

GET A QUOTE LOCATE DEALER

GET QUOTE _ FIND DEALER (index.php/deale

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Attachment: CYNCON CONTRACT (RES-2021-754 : Authorize the Purchase of One (1) XTREME VAC Model LCT600 Tow Behind Leaf Collector

XtremeVac (/)

Please contact your local dealer for sales and service

(https://twitter.com/XtremeVac) (https://www.youtube.com/channel/UCaRX-WNVov6MJy

GyrHow) (https://www.linkedin.com/company/xtremevac)

(https://www.instagram.com/xtremevac)

DEALER LOCATOR

Select a Region

Dealer Inquiries

Edward Beauregard

804-839-5146

Email: (tel:8048395146)ebeauregard@odbco.com (mailto:ebeauregard@odbco.com)

Martin Murrietta

256-851-1200

Email:MMurrietta@schwarze.com (tel:2568511200)

State	Dealer Information

Attachment: CYNCON CONTRACT (RES-2021-754 : Authorize the Purchase of One (1) XTREME VAC Model LCT600 Tow Behind Leaf Collector

State	Dealer Information
NEVADA	**Municipal Maintenance Equipment** 6230 Greyhound Lane Las Vegas, NV 89122 Phone: 888-484-9968 Website: WWW SOURCE-MME COM (HTTP // WWW SOURCE-MME COM)
NEW HAMPSHIRE	**Edward Beauregard** Phone: 804-839-5146 E-mail: ebeauregard@odbco.com
NEW JERSEY	**Timmerman Equipment** 3554 US-22 Whitehouse,, NJ 08888 Phone: 908-534-4126 E-mail: mail@timmermanequipment.com Website: WWW TIMMERMANEQUIPMENT COM (HTTP // WWW TIMMERMANEQUIPMENT COM)
NEW MEXICO	**Edward Beauregard** Phone: 804-839-5146 E-mail: ebeauregard@odbco.com
NEW YORK	Upstate New York **Cyncon Equipment** 7494 W. Henrietta Road Rush, NY 14543 Phone: 800-429-6266 E-mail: rwilcox@cyncon.com Website: WWW CYNCON COM (HTTP // WWW CYNCON COM)

Attachment: CYNCON CONTRACT (RES-2021-754 : Authorize the Purchase of One (1) XTREME VAC Model LCT600 Tow Behind Leaf Collector

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

Francina J. Spoth
Town Clerk

Meeting: 08/23/21 03:00 PM
Department: Highway
Initiated by: **Stephen Bryan**
Co-Sponsored by:

DOC ID: 24661 **RESOLUTION 2021-755** **ADOPTED**

Authorize Supervisor to Sign Contract Extension to Piggyback for International Spring Co. CRS #2839

NOW THEREFORE BE IT RESOLVED, that the Town of Amherst is approved contract extension to piggyback with the County of Erie contract with International Spring Company, 4396 Broadway, Depew NY to provide spring repairs and replacements.

The Erie County and International Spring Company is Bid - Reference #219048-004 for spring repairs and replacements. Contract term is 4/1/21 through 3/31/2022.

NOW THEREFORE BE IT FURTHER RESOLVED, that the Town Board authorizes the Supervisor to sign this contract. This contracts is subject to the Contract Routing System (CRS #2839) and the approval of the Town Attorney.

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

FINANCIAL IMPACT:

Town Wide

Various

TBD

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

AGREEMENT EXTENSION

Let this document stand as an Agreement Extension between INTERNATIONAL SPRING CO., 4396 BROADWAY, DEPEW, NY 14043 for Spring Repairs and Replacements and the Town of Amherst permitting the Town of Amherst to participate in the purchase of :

COUNTY OF ERIE- SPRING REPAIRS AND REPLACEMENT
BID REFERENCE # 219048-004
4/1/2021 through 3/31/2022

from INTERNATIONAL SPRING REPAIRS AND REPLACEMENT
Bid Reference # 219048-004
for the period from 4/1/2021 TO 3/31/2022

Agreed to and Accepted by:

INTERNATIONAL SPRING COMPANY

By: _____
Signature

Gaetano ModicaAmore
Print Name

owner/Vice President
Title

Date: 8/5/21

Agreed to and Accepted by:

TOWN OF AMHERST

By: _____
Brian J. Kulpa
Supervisor

Date: _____

Attachment: DOC081621-08162021125534 (RES-2021-755 : Authorize Supervisor to Sign Contract Extension to Piggyback for International

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

Francina J. Spoth
Town Clerk

Meeting: 06/22/20 04:30 PM
Department: Highway
Initiated by: **Stephen Bryan**
Co-Sponsored by:

DOC ID: 22028 **RESOLUTION 2020-552** **ADOPTED**

Authorize Supervisor to Sign Contract to Piggyback for International Spring Co. - CRS ~~#2079~~ 2039

NOW THEREFORE BE IT RESOLVED, that the Town of Amherst is approved to piggyback with County of Erie contract with International Spring Company, 4396 Broadway, Depew, NY 14043 to provide spring repairs and replacements.

The Erie County and International Spring Company is Bid - Reference # 219048-004 for spring repairs and replacements. Contract term is 4/1/2019 through 3/31/2021.

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 #2079) and the approval of the Town Attorney.

6/22/2020
A motion to approve was made by Supervisor Kulpa, seconded by Councilmember Bucki and unanimously approved 5-0.

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: DOC081621-08162021125534 (RES-2021-755 : Authorize Supervisor to Sign Contract Extension to Piggyback for International

COUNTY OF ERIE

MARK C. POLONCARZ
COUNTY EXECUTIVE

DIVISION OF PURCHASE

VALERIE M. FERRARACCIO
DIRECTOR

February 11, 2021

Internations Spring
Attn: Gaetano ModicaAmore
4396 Broadway
Depew, NY 14043

Re: Bid #219048-004 "Spring Repair"

Mr. ModicaAmore,

The County of Erie wishes to extend this agreement for an additional contract period commencing on April 1, 2021 and ending on March 31, 2022 under the same prices, terms and conditions as the original bid.

Extension is provided for per paragraph 26, Page 5 of 6 of the bid specifications. This offer is for your immediate consideration and acceptance. Please indicate below whether you agree to extend or do not wish to extend. Please respond **within seven days upon receipt of this request.** After approval and execution by the County, a fully signed copy will be returned to you for your files.

X Yes, I agree to extend No, I do not wish to extend

Please complete and submit the following documentation if indicated for any bid extension agreed upon. (only if checked off)

X Insurance Form ____ Workers Compensation Form

Company Name International Spring Co

Representative (Please print) G. ModicaAmore Title: V.P.

Signature [signature] Date 2/10/21

Sincerely,

[signature]
Tricia Pierce
Buyer

[signature]
Director of Purchasing
3/10/2021 Date

Attachment: DOC081621-08162021125534 (RES-2021-755 : Authorize Supervisor to Sign Contract Extension to Piggyback for International

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 07/23/202

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POL BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHOR 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 endo If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A stateme this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME: Barbara Hejna, CPCU, AAI
KS Roth Insurance Agency, Inc. 5880 S. Transit Road Lockport NY 14094	PHONE (A/C, No, Ext): (716)478-0024 FAX (A/C, No): (716)478-022 E-MAIL ADDRESS: barb@ksrothinsurance.com
	INSURER(S) AFFORDING COVERAGE — NAI
	INSURER A : ERIE INS CO OF NY — 162
INSURED International Spring Co & Falls Auto Spring Inc 6001-6015 Niagara Falls Blvd Niagara Falls NY 14304	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 PE INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TE EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	[X] COMMERCIAL GENERAL LIABILITY [ ] CLAIMS-MADE [X] OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: [X] POLICY [ ] PRO-JECT [ ] LOC [ ] OTHER:	Y	N	Q03-5980039	03/09/2021	03/09/2022	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG [ ]	$ 1000000 $ 1000000 $ 5000 $ $ None $ $
A	AUTOMOBILE LIABILITY [X] ANY AUTO [ ] OWNED AUTOS ONLY [ ] SCHEDULED AUTOS [X] HIRED AUTOS ONLY [X] NON-OWNED AUTOS ONLY [X] GARAGE	N	N	Q03-5980039	03/09/2021	03/09/2022	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident) Medical Pay	$ 1000000 $ $ $ $ 2000
	[ ] UMBRELLA LIAB [ ] OCCUR [ ] EXCESS LIAB [ ] CLAIMS-MADE [ ] DED [ ] RETENTION $						EACH OCCURRENCE AGGREGATE [ ]	$ $ $
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y/N ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? [ ] (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N/A	N	Q89-5101626	05/01/2021	05/01/2022	[ ] PER STATUTE [ ] OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ 100000 $ 100000 $ 500000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

The Town of Amherst is an Additional Insured on a primary and non-contributory basis under General Liability. Workers Compensation includes owner

CERTIFICATE HOLDER

Town of Amherst
5583 Main Street
Williamsville NY 14221

Fax: Email:

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEF THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

© 1988-2015 ACORD CORPORATI

Attachment: DOC081621-08162021125534 (RES-2021-755 : Authorize Supervisor to Sign Contract Extension to Piggyback for International

STATE OF NEW YORK
WORKERS' COMPENSATION BOARD

CERTIFICATE OF NYS WORKERS' COMPENSATION INSURANCE COVERAGE

1a. Legal Name & Address of Insured (Use street address only)
International Spring Co.
Falls Auto Spring Inc. d/b/a
6001 Niagara Falls Blvd
Niagara Falls, NY 14304-1537

1b. Business Telephone Number of Insured
716-283-2789

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
16-1407314

2. Name and Address of the Entity Requesting Proof of Coverage (Entity Being Listed as the Certificate Holder)
Town of Amherst
5583 Main Street
Williamsville, NY 14221

3a. Name of Insurance Carrier
Erie Ins Co of New York

3b. Policy Number of entity listed in box "1a"
Q89-5101626

3c. Policy effective period
05/01/2021 to 05/01/2022

3d. The Proprietor, Partners or Executive Officers are included. **(Only check box if all partners/officers included)**
☐ **all excluded or certain partners/officers excluded.**

This certifies that the insurance carrier indicated above in box "3" insures the business referenced above in box "1a" for workers' compensation under the New York State Workers' Compensation Law. **(To use this form, New York (NY) must be listed under Item 3A on the INFORMATION PAGE of the workers' compensation insurance policy).** The Insurance Carrier or its licensed agent will send this Certificate of Insurance to the entity listed above as the certificate holder in box "2".

The Insurance Carrier will also notify the above certificate holder within 10 days IF a policy is canceled due to nonpayment of premiums or within 30 days IF there are reasons other than nonpayment of premiums that cancel the policy or eliminate the insured from the coverage indicated on this Certificate. (These notices may be sent by regular mail.) Otherwise, this Certificate is valid for one year after this form is approved by the insurance carrier or its licensed agent, or until the policy expiration date listed in box "3c", whichever is earlier.

Please Note: Upon the cancellation of the workers' compensation policy indicated on this form, if the business continues to be named on a permit, license or contract issued by a certificate holder, the business must provide that certificate holder with a new Certificate of Workers' Compensation Coverage or other authorized proof that the business is complying with the mandatory coverage requirements of the New York State Workers' Compensation Law.

Under penalty of perjury, I certify that I am an authorized representative or licensed agent of the insurance carrier referenced above and that the named insured has the coverage as depicted on this form.

Approved by: Kevin S. Roth
(Print name of authorized representative or licensed agent of insurance carrier)

Approved by: _____ 07/23/2021
(Signature) (Date)

Title: President

Telephone Number of authorized representative or licensed agent of insurance carrier: 716-478-0024

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 (9-07)

www.wcb.state.ny.us

Attachment: DOC081621-08162021125534 (RES-2021-755 : Authorize Supervisor to Sign Contract Extension to Piggyback for International

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)
FALLS AUTO SPRING INC.
DBA: INTERNATIONAL SPRING
6001-6015 NIAGARA FALLS BLVD
NIAGARA FALLS, NY 14304-0000

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
+10000000000

1c. Federal Employer Identification Number of Insured or Social Security Number
16-1407314

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 Yor

3b. Policy Number of Entity Listed in Box "1a"
D42414-000

3c. Policy effective period
3/6/1992 to 7/25/2022

4. Policy provides the following benefits:
- [X] A. Both disability and paid family leave benefits.
- [ ] B. Disability benefits only.
- [ ] C. Paid family leave benefits only.

5. Policy covers:
- [X] A. All of the employer's employees eligible under the NYS Disability and Paid Family Leave Benefits Law.
- [ ] B. Only the following class or classes of employer's employees:

Under penalty of perjury, I certify that I am an authorized representative or licensed agent of the insurance carrier referenced above and that the name insured has NYS Disability and/or Paid Family Leave Benefits insurance coverage as described above.

Date Signed 7/26/2021 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 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.***

Attachment: DOC081621-08162021125534 (RES-2021-755 : Authorize Supervisor to Sign Contract Extension to Piggyback for International

AGREEMENT

Let this document stand as an Agreement between INTERNATIONAL SPRING CO., 4396 BROADWAY, DEPEW, NY 14043 for Spring Repairs and Replacements and the Town of Amherst permitting the Town of Amherst to participate in the purchase of :

COUNTY OF ERIE- SPING REPAIRS AND REPLACEMENT
BID REFERENCE # 219048-004
4/1/2019 through 3/31/2021

from INTERNATIONAL SPRING REPAIRS AND REPLACEMENT
Bid Reference # 219048-004
for the period from 4/1/2019 TO 3/31/2021

Agreed to and Accepted by:

INTERNATIONAL SPRING COMPANY

By: _____
Signature

Gaetano Modica Amore
Print Name

V.P. Owner
Title

Date: 5/19/20

Agreed to and Accepted by:

TOWN OF AMHERST

By: _____
Brian J. Kulpa
Supervisor

Date: 7/9/20

Attachment: DOC081621-08162021125534 (RES-2021-755 : Authorize Supervisor to Sign Contract Extension to Piggyback for International

COUNTY OF ERIE
DIVISION OF PURCHASE
MEMORANDUM

TO: ALL USING DEPARTMENTS

FROM: Tricia Pierce, Buyer

DATE: March 24, 2020

SUBJECT: 'SPRING REPAIRS" EXTENDED CONTRACT

This is to advise you that the contract for **"Spring Repairs and Replacement" has been extended.** The contract term is from April 1, 2019 through March 31, 2021.
The successful bidder is International.

When using this contract please reference Bid No.: 219048-004 on all orders. The Material Group is 060 and the Purchase Group is 004.

Make sure that when using this contract an order number is given along with the name of the department, contact name and telephone number.
Departments can set up a "Blanket Order" to be used during the year for any necessary work.

For your convenience, the necessary information is listed on the attached sheet.

SPRING REPAIR AND REPLACEMENT

Attachment: DOC081621-08162021125534 (RES-2021-755 : Authorize Supervisor to Sign Contract Extension to Piggyback for International

BID NO.: 219048-004
CONTRACT TERM: APRIL 1, 2019 – March 31, 2021
COMMODITY CODE: #060

VENDOR INFORMATION:

International Vendor #103713
4396 Broadway Depew, NY 14043
Telephone #683-8288 – Fax #683-6729

50% Discount off Dayton Brand
65% Discount off Flagg Brand
65% Discount off Traingle Brand
Warranty: 12 Months

Labor Rate per Hour: $50.00

SAMPLE RATES:	REPAIR	REPLACEMENT
Light Duty Pick Ups, Vans:	$50.00 – Front	$110.00 – Front
	$50.00 - Rear	$160.00 - Rear
Medium Duty Step Vans	$65.00 – Front	$150.00 – Front
	$90.00 - Rear	$185.00 - Rear
Heavy Duty Snow Plow Trucks	$110.00 – Front	$210.00 – Front
And Packers	$130.00 – Rear	$220.00 - Rear

Attachment: DOC081621-08162021125534 (RES-2021-755 : Authorize Supervisor to Sign Contract Extension to Piggyback for International

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

Francina J. Spoth
Town Clerk

Meeting: 08/23/21 03:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 24659 **RESOLUTION 2021-756** **ADOPTED**

Recreation Attendant - PT/Youth & Recreation

Recreation Attendant - PT/ Youth & Recreation, Effective August 24, 2021, Temporary, $13.00 ph, Step 1 for Christine Kobus.

Due to reduced availability of current part-time staff and COVID -19 Protocols.

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Councilmember Bucki and unanimously approved 5-0.

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

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

Francina J. Spoth
Town Clerk

Meeting: 08/23/21 03:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 24660 **RESOLUTION 2021-757** **ADOPTED**

Laborer - PT/Building Maintenance

Laborer - PT/Building Maintenance, Effective August 24, 2021, Temporary, $12.99 ph, Step 1 for Devin Klumpp.

Replacing an employee who transferred to another department.

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Councilmember Bucki and unanimously approved 5-0.

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

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

Francina J. Spoth
Town Clerk

Meeting: 08/23/21 03:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 24674 **RESOLUTION 2021-758** **ADOPTED**

Assistant Code Enforcement Officer/Building Department

Please appoint an Assistant Code Enforcement Officer to the Building Department. Provisional, pending satisfactory completion of a Civil Service Examination. Effective August 30, 2021 at an annual salary of $45,099, Grade 12, Step A for Conrad Nagel, Jr..

Contingent upon completing all pre-employment requirements.

Replacing an employee who resigned.

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

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

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

Francina J. Spoth
Town Clerk

Meeting: 08/23/21 03:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 24676 **RESOLUTION 2021-759** **ADOPTED**

Cook/Senior Services

Please appoint a Cook to the Amherst Center for Senior Services, Permanent, pending satisfactory completion of a probationary term as set forth in the Civil Service Rule XIII. Effective August 24, 2021 at an annual salary of $34,800, Grade 5, Step A for Amanda B. Umphreyville.

This is a promotion for an employee currently serving as a Kitchen Helper.

Contingent upon completing all pre-employment requirements.

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Councilmember Bucki and unanimously approved 5-0.

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

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

Francina J. Spoth
Town Clerk

Meeting: 08/23/21 03:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 24682 **RESOLUTION 2021-760** **ADOPTED**

Court Officer - PT/Court (2 Positions)

Court Officer - PT/Court (2 Positions), Effective August 24, 2021, $19.56 ph, Step 1. Permanent, pending satisfactory completion of a probationary term as set forth in the Civil Service Rule XIII for Larry G. Feger and Amanda J. Reeners.

Contingent upon completing all pre-employment requirements.

One position is replacing an employee who resigned.
One position is an on-call position.

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

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

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

Francina J. Spoth
Town Clerk

Meeting: 08/23/21 03:00 PM
Department: Planning
Initiated by: **Dan Howard**
Co-Sponsored by:

DOC ID: 24644 **RESOLUTION 2021-761** **ADOPTED**

To Authorize the Community Development Staff to Exceed the $40,000 Loan Limit for a Household on Hilton Boulevard

WHEREAS, Town Community Development Program staff originates and approves housing rehabilitation loans up to $40,000 for eligible homeowners using HOME & CDBG funds; and

WHEREAS, a homeowner on Hilton Boulevard needs a new outside sewer line for his home and previously had significant work done through the housing rehabilitation program including; replacement of the roof, soffits and gutters; a new furnace; windows, doors, and hot water tank; and

WHEREAS, Community Development staff is requesting permission to extend additional housing rehabilitation loan funds to this homeowner not to exceed $56,000;

NOW THEREFORE, BE IT RESOLVED THAT the Town of Amherst authorizes Community Development staff to exceed the $40,000 loan limit using HOME funding for this household, not to exceed $56,000.

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

FINANCIAL IMPACT:

Adoption of the proposed resolution utilizes federal funds and will have no impact on the Town Budget or tax rate.

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

Amherst

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

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

August 9, 2021

Town Board Agenda of August 23, 2021

Honorable Town Board
5583 Main Street
Williamsville, NY 14221

Subject: Request to exceed $40,000 loan limit on a Hilton Boulevard Household

Honorable Members:

Community Development Program staff is requesting permission to exceed the $40,000 loan limit to assist a household on Hilton Boulevard. The homeowner needs a new outside sewer line to his house but previously had substantial work done through the program in 2018 & 2001. The work included replacement of the roof, soffits and gutters; new windows, a new furnace and hot water tank.

Staff requests permission to provide up to, but not to exceed $56,000 in CDBG loan funds. The homeowner has over $92,000 in equity and no other liens on the property. The CDBG funds are allocated to the Town by the U.S. Department of Housing & Urban Development and are not part of the Town's overall operating budget. The expenditure of these funds in accordance with federal regulations has no direct fiscal impact on the Town.

We would appreciate an indication from the Board of its willingness to extend additional housing rehabilitation loan funds to this household before we authorize the homeowner to commence with the proposed work. Attached is a resolution for your consideration.

Thank you.

Very truly yours,

Daniel J. Ulatowski, AICP
Assistant Planning Director

X:\Community Development\Housing_Rehabilitation_Program\Letters\Exceed\TB_letter_18_Hilton_Bvd..docx

Attachment: exceed-08092021112722 (RES-2021-761 : Request to Exceed the $40,000 Loan Limit for a Housing Rehab Project)

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

Francina J. Spoth
Town Clerk

Meeting: 08/23/21 03:00 PM
Department: Senior Services
Initiated by: **Melissa Abel**
Co-Sponsored by:

DOC ID: 24662 **RESOLUTION 2021-762** **ADOPTED**

Class Instructor/Sub-Contractor Commitment Form CRS #2823

We respectfully request Town Board permission to authorize the Supervisor to sign the Class Instructor/Sub-Contractor Commitment Form between the Town of Amherst (Department of Senior Services) and Instructor, Mary Jo LaClair.

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Councilmember Lavin and unanimously approved 5-0.

FINANCIAL IMPACT:

$23.00 per hour charged to account #A6772-4090

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

TOWN OF AMHERST

CLASS INSTRUCTOR/SUB-CONTRACTOR COMMITMENT FORM

Amherst Center for Senior Services
370 John James Audubon Pkwy.
Amherst NY 14228

Instructor Name: Mary Jo LaClair
(Payment/Check payable to same)

Address: 32 Northledge Drive

Snyder, NY 14226

Class/Activity: Calligraphy Instructor

This is a -4- **year contract.**

Start Date: September 1, 2021 **Date executed below by the Town Supervisor**

End Date: August 31, 2025

Rate per hr.: $23.00

Mary JoLaClair, **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.**

Mary Jo La Clair
Instructor/Leader Signature

6/16/2021
Date

Brian J. Kulpa, Supervisor, Town of Amherst

Date

Contract Name _____ CRS#_____ Vendor Name _____

Attachment: la clair-07292021145813-0001 (RES-2021-762 : Class Instructor/Sub-Contractor Commitment Form CRS#2823)

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

Francina J. Spoth
Town Clerk

Meeting: 08/23/21 03:00 PM
Department: Senior Services
Initiated by: **Melissa Abel**
Co-Sponsored by:

DOC ID: 24664 **RESOLUTION 2021-763** **ADOPTED**

Class Instructor/Sub-Contractor Commitment Form CRS #2825

We respectfully request Town Board permission to authorize the Supervisor to sign the Class Instructor/Sub-Contractor Commitment Form between the Town of Amherst (Department of Senior Services) and Instructor, Constance Kaminski (Connie).

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

FINANCIAL IMPACT:

$25.00 per hour charged to account #A6772-4090

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

TOWN OF AMHERST

CLASS INSTRUCTOR/SUB-CONTRACTOR COMMITMENT FORM

Amherst Center for Senior Services
370 John James Audubon Pkwy.
Amherst NY 14228

Instructor Name: Constance Kaminski (Connie)
(Payment/Check payable to same)

Address: 57 Diane Drive

West Seneca, NY 14224

Class/Activity: Country Western Line Dance Instructor

This is a -5- **year contract.**

Start Date: November 1, 2021 **Date executed below by the Town Supervisor**

End Date: October 31, 2026

Rate per hr.: $25.00

Constance Kaminski **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.**

Constance Kaminski — Instructor/Leader Signature — 6/14/21 — Date

Brian J. Kulpa, Supervisor, Town of Amherst — Date

Contract Name _____ CRS# _____ Vendor Name _____

Contractor Commitment Form 2019

Attachment: Kaminski-07292021150016-0001 (RES-2021-763 : Class Instructor/Sub-Contractor Commitment Form CRS#2825)

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

Francina J. Spoth
Town Clerk

Meeting: 08/23/21 03:00 PM
Department: Senior Services
Initiated by: **Melissa Abel**
Co-Sponsored by:

DOC ID: 24665 **RESOLUTION 2021-764** **ADOPTED**

Class Instructor/Sub-Contractor Commitment Form CRS #2824

We respectfully request Town Board permission to authorize the Supervisor to sign the Class Instructor/Sub-Contractor commitment form between the Town of Amherst (Department of Senior Services) and Instructor, William MacDougall.

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Councilmember Bucki and unanimously approved 5-0.

FINANCIAL IMPACT:

$20.00 per hour charged to account #A6772-4090

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

TOWN OF AMHERST

CLASS INSTRUCTOR/SUB-CONTRACTOR COMMITMENT FORM

Amherst Center for Senior Services
370 John James Audubon Pkwy.
Amherst NY 14228

Instructor Name: William MacDougall
(Payment/Check payable to same)

Address: 622 Kaymar Drive

Amherst, NY 14228

Class/Activity: Woodcarving Instructor

This is a -4- **year contract.**

Start Date: October 1, 2021 **Date executed below by the Town Supervisor**

End Date: September 30, 2025

Rate per hr.: $20.00

William MacDougall, **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.**

William MacDougall — 7/15/21
Instructor/Leader Signature — Date

Brian J. Kulpa, Supervisor, Town of Amherst — Date

Contract Name _____ CRS#_____ Vendor Name _____

Attachment: Macdougall-07292021145936-0001 (RES-2021-764 : Class Instructor/Sub-Contractor Commitment Form CRS#2824)

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

Francina J. Spoth
Town Clerk

Meeting: 08/23/21 03:00 PM
Department: Senior Services
Initiated by: **Melissa Abel**
Co-Sponsored by:

DOC ID: 24666 **RESOLUTION 2021-765** **ADOPTED**

Class Instructor/Sub-Contractor Commitment Form CRS #2805

We respectfully request Town Board permission to authorize the Supervisor to sign the Class Instructor/Sub-Contractor Commitment Form between the Town of Amherst (Department of Senior Services) and Instructor, Peter Siedlecki.

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

FINANCIAL IMPACT:

$25.00 per hour charged to account #A6772-4090

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

TOWN OF AMHERST

CLASS INSTRUCTOR/SUB-CONTRACTOR COMMITMENT FORM

Amherst Center for Senior Services
370 John James Audubon Pkwy.
Amherst NY 14228

Instructor Name: Peter Siedlecki
(Payment/Check payable to same)

Address: 249 Windspear Avenue

Buffalo, NY 14215

Class/Activity: Creative Writing Workshop

This is a - 5 - **year contract.**

Start Date: September 15, 2021 **Date executed below by the Town Supervisor**

End Date: September 14, 2026

Rate per hr.: $25.00

Peter Siedlecki, **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: 7/8/21

Brian J. Kulpa, Supervisor, Town of Amherst — Date

Contract Name _____ CRS#_____ Vendor Name _____

Contractor Commitment Form 2021

Attachment: Siedlecki-07292021145857-0001 (RES-2021-765 : Class Instructor/Sub-Contractor Commitment Form CRS#2805)

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

Francina J. Spoth
Town Clerk

Meeting: 08/23/21 03:00 PM
Department: Senior Services
Initiated by: **Melissa Abel**
Co-Sponsored by:

DOC ID: 24667 **RESOLUTION 2021-766** **ADOPTED**

Class Instructor/Sub-Contractor Commitment Form CRS #2804

We respectfully request Town Board permission to authorize the Supervisor to sign the Class Instructor/Sub-Contractor Commitment Form between the Town of Amherst (Department of Senior Services) and Instructor, Ruth Nawotniak.

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Councilmember Bucki and unanimously approved 5-0.

FINANCIAL IMPACT:

$20.00 per hour charged to account #A6772-4090

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

TOWN OF AMHERST

CLASS INSTRUCTOR/SUB-CONTRACTOR COMMITMENT FORM

Amherst Center for Senior Services
370 John James Audubon Pkwy.
Amherst NY 14228

Instructor Name: Ruth Nawotniak
(Payment/Check payable to same)

Address: 2250 N French Rd Apt. 109

Getzville, NY 14068

Class/Activity: Bridge Lessons

This is a -5- **year contract.**

Start Date: September 1, 2021 **Date executed below by the Town Supervisor**

End Date: August 31, 2026

Rate per hr.: $20.00

Ruth H. Nawotniak, **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.**

Ruth H. Nawotniak — Instructor/Leader Signature — 6/7/21 — Date

Brian J. Kulpa, Supervisor, Town of Amherst — Date

Contract Name _____ CRS# _____ Vendor Name _____

Attachment: Nawotniak-07292021145725-0001 (RES-2021-766 : Class Instructor/Sub-Contractor Commitment Form CRS# 2804)

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

Francina J. Spoth
Town Clerk

Meeting: 08/23/21 03:00 PM
Department: Youth & Recreation
Initiated by: **Mary Diana Pouli**
Co-Sponsored by:

DOC ID: 24655 **RESOLUTION 2021-767** **ADOPTED**

Child Day Care Services Agreement CRS #2817

Authorize the Supervisor to sign an agreement between the Town of Amherst (Youth & Recreation Department) and the Erie County Department of Social Services for reimbursement for after school childcare for qualified residents.

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

FINANCIAL IMPACT:

A7145.02070;TBD (revenue)

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

County of Erie
Contract No.: DC 1720
Contract Period: 09/01/21 – 08/31/22
Comptroller's No.: 21-3544-SW
Tax ID No.: X 16-6002157

AGREEMENT

BY AND BETWEEN

THE COUNTY OF ERIE THROUGH THE ERIE COUNTY DEPARTMENT OF SOCIAL SERVICES

AND

TOWN OF AMHERST YOUTH BOARD

FOR THE PURCHASE OF

Child Day Care Services

Attachment: Child Day Care Services Agreement (RES-2021-767 : Child Day Care Services Agreement CRS#2817)

CONTRACT FOR PURCHASE OF CHILD DAY CARE SERVICE

This Contract (also referred to as Agreement) entered into this X____ day of X_____, 20___, by and between the County of Erie through the Erie County Department of Social Services, hereinafter "the Department", with offices at 95 Franklin Street, Buffalo, New York 14202, and **Town of Amherst Youth Board** hereinafter "the Contractor" with offices located at **1615 Amherst Manor Drive Williamsville, NY 14226. 4 sites (See attached)**

WITNESSETH:

WHEREAS, the Department is authorized pursuant to section 410 of the Social Services Law of the State of New York to provide subsid1950ized Child Day Care Services at public expense for eligible children pursuant to criteria established by the New York State Office of Children and Family Services, hereinafter "NYSOCFS" and

WHEREAS, the Contractor herein is authorized to provide Child Day Care Services pursuant to a registration issued by the NYSOCFS; and

WHEREAS, the Department believes in the importance of education and early intervention in the early development of its youngest residents. The contract is encouraged to make every effort possible to provide developmental screenings and quality educational opportunities for the children in their care. The Department also recommends the Contractor to take advantage of available resources in an effort to prepare the child for their formal educational experiences; and

WHEREAS, it is both administratively and economically feasible for the Department to contract for these services, and

NOW, THEREFORE, the parties hereto do covenant and agree as follows:

Attachment: Child Day Care Services Agreement (RES-2021-767 : Child Day Care Services Agreement CRS#2817)

1. **ACCOUNTABILITY**

The Contractor shall be fully accountable for its performance hereunder and agrees for itself, its officers and its employees to answer under oath all questions relevant to the performance thereof and to any transaction, act or omission in connection therewith if called before any judicial, county, state or federal agency empowered to investigate the Contract or its performance.

2. **AMENDMENT**

This Agreement and its attachments constitute the entire Agreement between the parties with respect to the subject matter hereof and shall supersede all previous negotiations, commitments and writings. It shall not be released, discharged, changed or modified except by an instrument in writing signed by a duly authorized representative of each of the parties.

In the event of any conflict between the terms of this Agreement and the terms of any schedule or attachment hereto, it is understood that the terms of this Agreement shall be controlling with respect to any interpretation of the meaning and intent of the parties.

3. **ASSIGNMENT**

The Contractor shall not delegate any duties or assign any of its rights under this Agreement without the prior express written consent of the County. The Contractor shall not subcontract any part of the Services without the written consent of the County, subject to any necessary legal approvals. Any purported delegation of duties, assignment of rights or subcontracting of Work under this Agreement without the prior express written consent of the County is void. All subcontracts that have received such prior written consent shall provide that subcontractors are subject to all terms and conditions set forth in this

Attachment: Child Day Care Services Agreement (RES-2021-767 : Child Day Care Services Agreement CRS#2817)

Agreement. It is recognized and understood by the Contractor that for the purposes of this Agreement, all Services performed by a County-approved subcontractor shall be deemed Work performed by the Contractor and the Contractor shall insure that such subcontracted work is subject to the material terms and conditions of this Agreement.

4. **BACKGROUND CHECKS**

The contractor shall conduct a criminal history and State Central Register of Child Abuse and Maltreatment check for all employees/volunteers as a condition of employment for the performance of work under this contract or any subcontract hereunder prior to any employment. Any applicant, volunteer or employee found to be a registered sex offender will be immediately removed from all work on this contract or any subcontract hereunder. In addition, contractor agrees to conduct the aforesaid history and State Central Register of Child Abuse and Maltreatment checks for all current and prospective employees/volunteers periodically throughout the course of their employment with the contractor. The contractor shall conduct said periodic checks at a minimal of every 18 months for each employee/volunteer performing work under this contract or any subcontract hereunder.

5. **CONFIDENTIALITY**

The Contractor represents and agrees to safeguard the confidentiality of all information utilized by or in the possession of the Contractor under this Contract where such information is subject to Federal and State confidentiality statutes and regulations. Any breach of confidentiality by the Contractor, its agents or representatives pursuant to said statutes or regulations shall be cause for immediate termination of this Contract.

6. **CONTRACTOR RESPONSIBILITIES**

Attachment: Child Day Care Services Agreement (RES-2021-767 : Child Day Care Services Agreement CRS#2817)

a. The Contractor undertakes and agrees to furnish Child Day Care Services to the Department in accordance with the terms of its State-issued registration and in compliance with all pertinent statutes, regulations and standards thereto.

b. The Contractor shall complete and retain for a period of six (6) years, in an accessible, chronologically organized and legible manner, signed Child Day Care agreements covering each child enrolled for Child Day Care Services. These agreements shall include the following:

i. Child Day Care rate;

ii. Method of payment;

iii. List of services to be provided;

iv. Full or part-time care.

Records of daily Child Day Care attendance and transportation service for these same children are also subject to this requirement.

c. **Contractor shall participate in the NYS Child Care Time and Attendance (CCTA) automated attendance module upon implementation of the system in March 2011 and thereafter. The automated attendance module of CCTA is a web-based system and requires the contractor to have access to a personal computer (PC) with internet capacity. The contractor shall provide educational activities for the children in care and participate in professional development as outlined in the OCFS regulations.**

d. The total payment by the Department and, if applicable, the fee paid by the parent of the child, shall not exceed the negotiated final child day care rate contained in the Schedule of Maximum Reimbursement Rates attached hereto and made a part

Attachment: Child Day Care Services Agreement (RES-2021-767 : Child Day Care Services Agreement CRS#2817)

hereof, Appendix A, and shall constitute payment in full for child day care services rendered under this Contract.

e. The cost of transportation is included in the negotiated final rate and shall be provided to a child under this Contract to the same extent that it is provided to other purchasers of equal care.

f. Payments made under this Contract shall not exceed the actual cost of such care and shall not exceed the amount to be charged to other purchasers of equal care.

g. The Contractor shall timely submit its claims for **payment through CCTA attendance submittal** or on a voucher or other forms satisfactory to the Department for the purpose of this Contract. The Contractor shall be responsible for requesting, in writing, a voucher authorizing payment within **ninety (90) days** from the beginning of service delivery **date** in a given case, if such a voucher has not been received by that date. The Department shall in no event be legally responsible for the payment for any services provided where the Contractor has not requested, in writing, **(attendance or voucher submission) payment for services within ninety (90) days of the beginning of the service dates.** When the Contractor has received a voucher authorizing payment the Contractor shall review it and return it to the Department for payment as soon as possible. The Department shall in no event be legally responsible for the payment for any services provided where the Contractor returned said voucher to the **Department later than ninety (90) days after the issuance** of said voucher. The Department shall in no event be legally responsible to adjust a payment already made where the Contractor has not requested, in writing, an adjustment to that payment within ninety (90) days of the date that payment was issued by the Department.

Attachment: Child Day Care Services Agreement (RES-2021-767 : Child Day Care Services Agreement CRS#2817)

7. **DEPARTMENT RESPONSIBILITIES**

a. The total payment by the Department and, if applicable, the fee paid by the parent of the child, shall not exceed the negotiated final child day care rate contained in the Schedule of Maximum Reimbursement Rates and shall constitute payment in full for child day care services rendered under this Contract.

b. The Department may conduct periodic unscheduled or scheduled on-site reviews of the Contractor's Child Day Care facilities, programs and records as deemed necessary. The purpose of these on-site reviews is to make certain that facilities identified in the contract meet the minimum standards for operation as defined in Part 400 of Title 18 of the "Official compilation of Codes, Rules and Regulations of the State of New York", and to ensure that all records are accurate, chronologically organized, legible and up to date. The Department need not give the Contractor prior notice of said review.

c. The cost of transportation is included in the negotiated final rate and shall be provided to a child under this Contract to the same extent as to other purchasers of care.

8. **EXECUTIVE ORDER**

The Agency shall comply with Executive Order 13 (2014), and agrees to complete the Certificate collectively attached hereto and made a part hereof. The Agency 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 Agency, its offices and facilities,

Attachment: Child Day Care Services Agreement (RES-2021-767 : Child Day Care Services Agreement CRS#2817)

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 No. 13 (2014). Notwithstanding the termination provisions contained herein, violation of the provisions of Executive Order 13 (2014), may constitute grounds for determining that the Agency is not qualified to participate in future county contracts.

9. **EXECUTORY CLAUSE**

The contract is executory only to the extent of monies available to the Department for the performance hereof and appropriated therefore and no liability on account thereof shall be incurred by the Department beyond the monies available and appropriated for the purpose thereof.

In addition, the parties recognize and acknowledge that the obligations of the County under this Agreement are subject to annual appropriations by the Erie County Legislature. Therefore, this Agreement shall be deemed executory only to the extent of the monies appropriated and available. The County shall have no liability under this Agreement beyond funds appropriated and available for payment pursuant to this Agreement. The parties understand and intend that the obligation of the County hereunder shall constitute a current expense of the County and shall not in any way be construed to be a debt of the County in contravention of any applicable constitutional or statutory limitations or requirements concerning the creation of indebtedness by the County, nor shall anything contained in this Agreement constitute a pledge of the general tax revenues, funds or moneys of the County. The County shall pay amounts due under this Agreement exclusively from legally available funds appropriated for this purpose. The County shall retain the right, upon the occurrence of the adoption of any County Budget by the County

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Legislature during the term of this Agreement or any amendments thereto, and for a reasonable period of time after such adoption(s), to conduct an analysis of the impacts of any such County Budget on County finances. After such analysis, the County shall retain the right to either terminate this Agreement or to renegotiate the amounts and rates set forth herein. If the County subsequently offers to pay a reduced amount to the Contractor, then the Contractor shall have the right to terminate this Agreement upon reasonable prior written notice.

This Agreement is also subject to further financial analysis of the impact of any New York State Budget (the "State Budget") proposed and adopted during the term of this Agreement. The County shall retain the right, upon the occurrence of any release by the Governor of a proposed State Budget and/or the adoption of a State Budget or any amendments thereto, and for a reasonable period of time after such release(s) or adoption(s), to conduct an analysis of the impacts of any such State Budget on County finances. After such analysis, the County shall retain the right to either terminate this Agreement or to renegotiate the amounts and rates approved herein. If the County subsequently offers to pay a reduced amount to the Contractor, then the Contractor shall have the right to terminate this Agreement upon reasonable prior written notice.

10. **GOVERNING LAW**

This Agreement may be executed simultaneously in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. This Agreement shall be construed and enforced in accordance with the laws of the State of New York. In addition, the parties hereby agree that any cause of action arising out of this Agreement shall be brought in the County of Erie.

If any term or provision of this Agreement is held by a court of competent jurisdiction to

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be invalid or void or unenforceable, the remainder of the terms and provisions of this Agreement shall in no way be affected, impaired, or invalidated, and to the extent permitted by applicable law, any such term, or provision shall be restricted in applicability or reformed to the minimum extent required for such to be enforceable. This provision shall be interpreted and enforced to give effect to the original written intent of the parties prior to the determination of such invalidity or unenforceability.

11. **HEADINGS**

The headings used in this Agreement are for convenience of the parties only and shall not be considered in interpreting the meaning of any provisions of this Agreement.

[THIS SPACE INTENTIONALLY LEFT BLANK]

Attachment: Child Day Care Services Agreement (RES-2021-767 : Child Day Care Services Agreement CRS#2817)

*4255 Harlem Rd.

12. **HOLIDAY CLOSINGS/HOURS/CENTER INFORMATION**

a. Closings: (Check all that apply)

☐ OPEN ALL HOLIDAYS

☒ NEW YEAR'S EVE ☒ MEMORIAL DAY ☒ VETERAN'S DAY
☒ NEW YEAR'S DAY

☒ M.L. KING DAY ☒ INDEPENDENCE DAY ☒ THANKSGIVING
☒ & DAY AFTER

☒ GOOD FRIDAY ☒ LABOR DAY ☒ CHRISTMAS EVE
☒ CHRISTMAS DAY

☒ PRESIDENTS DAY ☒ COLUMBUS DAY ☒ ELECTION DAY

☒ OTHER (Please Specify) Juneteenth

b. Hours of Operation

2:00 PM to 6:00 PM ☒ Weekdays ☐ Weekends

c. Capacity 110

10:30am - 6:00pm on school half days

d. Transportation ☐ Yes ☒ No

e. Ages 5-11

f. Contact Phone Number (716) 631-7208

g. Director's Name Michele Holmes

Contact's Name and Phone # Janice Zapfel (716) 631-7132 x 7511

Email Address jzapfel@amherst.ny.us

Attachment: Child Day Care Services Agreement (RES-2021-767 : Child Day Care Services Agreement CRS#2817)

*5005 Sheridan Dr.

12. **HOLIDAY CLOSINGS/HOURS/CENTER INFORMATION**

a. **Closings:** (Check all that apply)

☐ OPEN ALL HOLIDAYS

☒ NEW YEAR'S EVE ☒ MEMORIAL DAY ☒ VETERAN'S DAY
☒ NEW YEAR'S DAY

☒ M.L. KING DAY ☒ INDEPENDENCE DAY ☒ THANKSGIVING
☒ & DAY AFTER

☒ GOOD FRIDAY ☒ LABOR DAY ☒ CHRISTMAS EVE
☒ CHRISTMAS DAY

☒ PRESIDENTS DAY ☒ COLUMBUS DAY ☐ ELECTION DAY

☒ OTHER (Please Specify) Juneteenth

b. **Hours of Operation**

2:00 PM to 6:00 PM ☒ Weekdays ☐ Weekends

c. **Capacity** 65

10:30am-6:00pm on school half days

d. **Transportation** ☐ Yes ☒ No

e. **Ages** 5-11

f. **Contact Phone Number** (716) 633-8117

g. **Director's Name** Alan Laudico

Contact's Name and Phone # Janice Zapfel (716)631-7132 x 7511

Email Address jzapfel@amherst.ny.us

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* 730 Hopkins Rd.

12. **HOLIDAY CLOSINGS/HOURS/CENTER INFORMATION**

a. Closings: (Check all that apply)

☐ OPEN ALL HOLIDAYS

☒ NEW YEAR'S EVE ☒ NEW YEAR'S DAY ☒ MEMORIAL DAY ☒ VETERAN'S DAY

☒ M.L. KING DAY ☒ INDEPENDENCE DAY ☒ THANKSGIVING ☒ & DAY AFTER

☒ GOOD FRIDAY ☒ LABOR DAY ☒ CHRISTMAS EVE ☒ CHRISTMAS DAY

☒ PRESIDENTS DAY ☒ COLUMBUS DAY ☐ ELECTION DAY

☒ OTHER (Please Specify) Juneteenth

b. Hours of Operation

2:00 PM to 6:00 PM ☒ Weekdays ☐ Weekends

c. Capacity 44

10:30am-6:00pm on school half days

d. Transportation ☐ Yes ☒ No

e. Ages 5-11

f. Contact Phone Number (716) 689-1404

g. Director's Name Jennifer Reed

Contact's Name and Phone # Janice Zapfel (716)631-7132 x 7511

Email Address jzapfel@amherst.ny.us

Attachment: Child Day Care Services Agreement (RES-2021-767 : Child Day Care Services Agreement CRS#2817)

11.S.1.a

* 1615 Amherst Manor Dr.

12. **HOLIDAY CLOSINGS/HOURS/CENTER INFORMATION**

a. **Closings:** (Check all that apply)

☐ **OPEN ALL HOLIDAYS**

☒ **NEW YEAR'S EVE** ☒ **NEW YEAR'S DAY** ☒ **MEMORIAL DAY** ☒ **VETERAN'S DAY**

☒ **M.L. KING DAY** ☒ **INDEPENDENCE DAY** ☒ **THANKSGIVING** ☒ **& DAY AFTER**

☒ **GOOD FRIDAY** ☒ **LABOR DAY** ☒ **CHRISTMAS EVE** ☒ **CHRISTMAS DAY**

☒ **PRESIDENTS DAY** ☒ **COLUMBUS DAY** ☒ **ELECTION DAY**

☒ **OTHER (Please Specify)** Juneteenth

b. **Hours of Operation**

2:00 PM to 6:00PM ☒ **Weekdays** ☐ **Weekends**

c. **Capacity** 44

10:30am - 6:00pm on school half days

d. **Transportation** ☐ **Yes** ☒ **No**

e. **Ages** 5-11

f. **Contact Phone Number** (716) 631-7299

g. **Director's Name** Susan Mohney

Contact's Name and Phone # Janice Zapfel (716)631-7132 x7511

Email Address jzapfel@amherst.ny.us

Attachment: Child Day Care Services Agreement (RES-2021-767 : Child Day Care Services Agreement CRS#2817)

13. **INDEMNIFICATION**

The Contractor agrees:

a. that except for the amount, if any, of damage contributed to, caused by, or resulting from the negligence of the County, the Contractor shall indemnify and hold harmless the County and New York State, their officers, employees and agents from and against any and all liability, damage, claims, demands, costs, judgments, fees, attorney's fees or loss arising directly or indirectly out of the performance or failure to perform hereunder by the Contractor or third parties under the direction or control of the Contractor; and

b. to provide defense for and defend, at its sole expense, any and all claims, demands or causes of action directly or indirectly arising out of this Agreement and to bear all other costs and expenses related thereto.

14. **INDEPENDENT CONTRACTOR**

The Contractor and the County agree that the Contractor and its officers, employees, agents, contractors, subcontractors, and/or consultants are independent contractors and not employees of the County or any department, agency, or unit thereof. In accordance with their status as independent contractors, the Contractor covenants and agrees that neither the Contractor nor any of its officers, employees, agents, contractors, subcontractors and/or consultants will hold themselves out as, or claim to be, officers or employees of the County or any department, agency or unit thereof, and that it will not by reason thereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the State of New York or the Department, including but not limited to Worker's Compensation coverage or retirement membership or credits.

Attachment: Child Day Care Services Agreement (RES-2021-767 : Child Day Care Services Agreement CRS#2817)

15. **INSURANCE**

The Contractor agrees to procure and to maintain in force, for the duration of this Contract, such insurance naming the County of Erie as an additional insured, as is determined appropriate by the Department for the purpose of this Contract. Such coverage must be identified and entered upon the County Standard Insurance Certificate or its acceptable substitute and signed by the Contractor's insurance company, agent or broker, which shall be subject to approval by the County Department of Law and upon approval, shall be attached to and become part of the Contract.

16. **LAWS APPLICABLE**

The Contractor agrees to comply, at its own expense, with the provisions of all applicable local, state and federal laws, rules and regulations. The Contractor shall further comply, at its own expense, with all applicable rules, regulations and licensing requirements pertaining to its professional status and that of its employees, partners, associates, subcontractors and other employed to render the Services hereunder.

17. **MBE/WBE PARTICIPATION**

Pursuant to County of Erie Local Law No. 9, it is the goal of the County to use its best efforts to encourage, promote and increase the participation of business enterprises owned and controlled by persons of color or women in contracts and projects funded by all Departments of the County. **The Contractor agrees to complete the questionnaire attached hereto and forming a part hereof entitled Business Enterprises Owned and Controlled by Persons of Color or Women.**

18. **NON-DISCRIMINATION**

The Contractor expressly agrees that neither it nor any contractor, subcontractor, employee, or any other person acting on its behalf shall discriminate against or intimidate any

Attachment: Child Day Care Services Agreement (RES-2021-767 : Child Day Care Services Agreement CRS#2817)

employee or other individual on the basis of race, creed, religion, color, gender, age, national origin, ethnicity, alienage or citizenship status, disability, marital status, sexual orientation, familial status, genetic predisposition or carrier status or any other status protected by New York State or Federal laws during the term of or in connection with this Agreement.

19. **NON-REIMBURSABLE SERVICES**

The Contractor certifies that the services being contracted are not otherwise available from the Contractor on a non-reimbursable basis.

20. **PAYMENT**

Except as otherwise expressly stated in this Agreement, no payment shall be made by the County to the Contractor for out-of-pocket expenses or disbursements made in connection with the services rendered or the work to be performed hereunder.

Any and all requests for payment to be made shall be submitted by the Contractor in the manner described by the Department. In no event shall final payment be made to the Contractor prior to completion of all Work and the approval of same by the Commissioner. The Contractor shall, at no additional charge, furnish all labor, services, materials, tools, equipment and other appliances necessary to complete the Services, unless specific additional charges are expressly permitted under this Agreement.

21. **PAYMENT FOR TEMPORARY ABSENCE:**

The Department shall pay the Contractor for child day care services for children who are temporarily absent from the Contractor due to illness or extraordinary circumstances at the rate contained in this contract for:

a. No more than twelve (12) days due to illness in any one (1) calendar month and said absences may total no more than twelve (12) days in any one calendar quarter.

Attachment: Child Day Care Services Agreement (RES-2021-767 : Child Day Care Services Agreement CRS#2817)

Contractor can bill for and receive payment for no more than 12 absences in each 3-month calendar quarter. (Calendar quarters are: Jan-March; April-June; July-Sept; Oct-Dec). Absences must be verified by a statement signed by a parent/guardian. Verification must be maintained by the vendor and available to the Department upon request. Unused sick days may not be credited.

b. Where there are extenuating circumstances as defined in subparagraph d below, no more than fifteen (15) days in any one (1) calendar month and said absences may total no more than twenty (20) days in any one calendar quarter as defined in subparagraph a above.

c. Temporary absences in excess of the limitations established in subparagraph b above will be permitted only when the Department and the NYSOCFS expressly consent in writing to such payment.

d. Extenuating circumstance means a situation or occurrence, verified by the Department and noted in the child's services plan, in which a child is temporarily absent from child care for one of more of the following reasons:

i. it is necessary for the child to appear in court or keep other appointments related to the provision of preventive, foster care, adoption, or child protective services, or other needs as set forth in the child's services plan; or

ii. the child is ill, has a handicapping or other condition which requires medical care, or requires other medical care and or treatment; or

iii. the child's family is homeless, and the homelessness necessitates the child's absence from child day care or approved child care.

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e. The Contractor shall timely submit claims for temporary absences to the Department on such forms and in such manner as the Department prescribes.

f. The Contractor certifies that it requires the parents whose child day care costs are not paid by or subsidized by the Department to make payments for days when their children are absent from care.

22. **PREVAILING AGREEMENT**

In the event of any conflict between this Agreement/Contract (or any portion thereof) and any other Agreement/Contract between the Contractor and their customer, now existing or hereafter entered into, the terms of this Agreement/Contract shall prevail, take precedent and supersede the conflicting term(s) of the Agreement/Contract between the Contractor and their customer.

23. **PROCUREMENT**

This is a procurement contract with Erie County through the Erie County Department of Social Services, paid for in whole or in part with Federal funds. The vendor is not considered to be a subrecipient of Federal assistance funds for the purpose of OMB Circular A-128 and A-133.

24. **RECORDS**

a. The Contractor agrees to keep and upon request, make available to the Department, the Erie County Comptroller, the NYSOCFS and Federal personnel when Federal funds are being utilized, any and all books, records, documents, and other evidence and records of the funds paid to it and the services performed by it hereunder.

b. The Contractor agrees to collect statistical data of a fiscal nature on a regular basis and to make fiscal statistical reports at a time prescribed by and on forms furnished by the Department.

Attachment: Child Day Care Services Agreement (RES-2021-767 : Child Day Care Services Agreement CRS#2817)

c. The Contractor agrees to retain any and all books, records and other documents relevant to this Contract for six (6) years after the final payment for said services and said materials shall be subject to audit at any time during said six (6) year period.

25. **TERM**

a. **This Contract shall run from the first day of September, 2021 through the last day of August, 2022.**

b. The parties hereto agree to renegotiate this Contract in the event that the Department of Health and Human Services, and/or the NYSOCFS issue new or revised requirements to the Department as a condition for receiving continued Federal and/or State reimbursement.

c. This Contract is deemed executory only to the extent that monies are available to the Department and NYSOCFS in the year for the performance thereof and appropriated therefore and the Department and/or the NYSOCFS shall incur no other liability on account of the Contract.

26. **TERMINATION**

a. This Contract may be terminated at any time by the Department, without notice, upon discovery of Contractor's non-performance or other breach of this Contract.

b. Either party may terminate this Contract for other cause or reason upon thirty (30) days prior written notice to the other.

27. **WAIVER**

Failure of the County to insist, in any one or more instances, upon strict performance of any term or condition herein contained shall not be deemed a waiver or relinquishment of such term or condition, but the same shall remain in full force and effect. Acceptance by

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the County of any Work or the payment of any fee or reimbursement due hereunder with knowledge of a breach of any term or condition hereof, shall not be deemed a waiver of any such breach and no waiver by the County of any provision hereof shall be implied.

[END TEXT]

Revised Oct 2019

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IN WITNESS whereof, the parties have executed this Contract on the day and year first herein written.

APPROVED AS TO CONTENT:

_____
ECDSS Program Area

DATE: _____

APPROVED AS TO FORM:
ECDSS Office of Counsel

_____
ECDSS Attorney

DATE:_____

FOR THE CONTRACTOR: X_____
Signature

TITLE: X Town Supervisor

STATE OF NEW YORK)
COUNTY OF ERIE)

On this ____ day of _____, 20___, before me personally came _____, to me known, who, being duly sworn, did depose and say that (s)he resides in _____; that (s)he is an (the) _____of the corporation described in and which executed the foregoing instrument; that (s)he knew the seal of said corporation; that the seal affixed to said instrument was such corporate seal; that it was affixed by order of the Board of Directors of said corporation; and that (s)he signed (her) his name thereto by like order.

X_____
NOTARY PUBLIC

FOR THE DEPARTMENT OF SOCIAL SERVICES:

_____
COMMISSIONER
Date_____

FOR THE COUNTY OF ERIE:

_____
MARK POLONCARZ / MARIA WHYTE
County Executive / Deputy County Executive

Date_____

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APPENDIX A
SCHEDULE OF MAXIMUM REIMBURSEMENT RATES UNDER THIS CONTRACT

AGE	MAXIMUM RATE (Erie)	PROVIDER'S RATE	NEGOTIATED FINAL RATE (To be completed by Social Services)
Weekly Rate: (30 hours or more per week)			
0 - 1.5	280.00	N/A	
1.5 - 2	264.00	N/A	
2 - 3	264.00	N/A	
3 - 5	245.00	142.50	
6 - 12	215.00	142.50	
Full Time Rate Per Day: (6 or more hours per day)			
0 - 1.5	59.00	N/A	
1.5 - 2	55.00	N/A	
2 - 3	55.00	N/A	
3 - 5	51.00	28.50	
6 - 12	45.00	28.50	
Part Day Rate: (3-5 hours per day)			
0 - 1.5	39.00	N/A	
1.5 - 2	37.00	N/A	
2 - 3	37.00	N/A	
3 - 5	34.00	14.25	
6 - 12	30.00	14.25	
Part Time Rate Per Hour: (Less than 3 hours per day)			
0 - 1.5	9.75	N/A	
1.5 - 2	9.25	N/A	
2 - 3	9.25	N/A	
3 - 5	9.00	4.75	
6 - 12	9.00	4.75	

We are unable to accept the contract if additional information is included on Appendix A, other than the requested rates.
REGULATION 415.6 Payments made under this contract shall not exceed the actual cost of such care and shall not exceed the amount to be charged to other purchasers of equal care. The Contractor shall impose no fees other than those specified in the Contract.
IF YOU PROVIDE A DISCOUNT FOR MULTIPLE CHILDREN IN THE SAME FAMLY, ENTER PERCENTAGE OF DISCOUNT HERE ___%. PLEASE NOTE: IF YOU OFFER MULTIPLE PERCENTAGES FOR MULTIPLE CHILDREN, DSS WILL CALCULATE RATE USING HIGHEST PERCENTAGE OF DISCOUNT, AS CCTA IS ONLY ABLE TO ACCEPT ONE DISCOUNT LEVEL RATES ARE CONTINGENT UPON AVAILABILTY OF FUNDS. Reference: NYS Code Rules and Regulations

NAME OF PROVIDER: X Town of Amherst Youth Board

ECDSS Negotiated Rates By:_____ Date_____
Print Name_____ Title:_____

Rev 12/2019

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Erie County Equal Pay Certification

In order to comply with Executive Order 13 dated November 6, 2014, we hereby certify that we are in compliance with federal law, including the Equal Pay Act of 1963, Title VII of the Civil Rights Act of 1964, Federal Executive Order 11246 of September 24, 1965 and New York State Labor Law Section 194 (together "Equal Pay Law"). We understand that this certification is a material component of this contract. Violation of the provisions of Executive Order 13, which is attached hereto and made a part hereof, can constitute grounds for the immediate termination of this contract and may constitute grounds for determining that a bidder is not qualified to participate in future county contracts.

We have evaluated wages and benefits to ensure compliance with the Federal Equal Pay Law. We certify that we have not been the subject of an adverse finding under the Equal Pay Law within the previous five years and, in the alternative, if we were the subject of an adverse finding under the Equal Pay Law within the previous five years, we have annexed a detailed description of the finding(s). In addition, we have annexed a detailed description of any currently pending claims under the Equal Pay Law in which we are involved.

X _____

Signature

Verification

STATE OF _____)
COUNTY OF _____) SS:

X 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.

OR

X B)

_____, being duly sworn, states that he or she is the _____ (Title of Corporate Officer), of _____ (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___

X _____

Notary Signature

Attachment: Child Day Care Services Agreement (RES-2021-767 : Child Day Care Services Agreement CRS#2817)

Town of Amherst Youth Board Sites:

4255 Harlem Road Amherst, NY 14226
5005 Sheridan Drive Williamsville, NY 14221
730 Hopkins Road Williamsville, NY 14221
1615 Amherst Manor Drive Williamsville, NY 14221

Attachment: Child Day Care Services Agreement (RES-2021-767 : Child Day Care Services Agreement CRS#2817)

DAY CARE REQUEST FOR WAIVER OF AUTOMOBILE INSURANCE COVERAGE

STATE OF NEW YORK:
COUNTY OF ERIE: SS:

X Brian J Kulpa, being duly sworn, deposes and says that:

1. Town of Amherst
Your deponent is the owner/operator of a Day Care Center known as X Amherst Youth Board, which is located at X 1615 Amherst Manor Dr. Williamsville, NY 14221.

2. Town of Amherst
Your deponent has entered into a contract with the County of Erie, through the Erie County Department of Social Services, for the provision of day care services. Insurance Requirements of that contract are that an automobile policy of insurance be obtained by the Day Care Center; that certain limits of automobile insurance be obtained and maintained; that the County of Erie appear as an additional named insured on the automobile policy; and that the County of Erie be defended and held harmless in the event of any and all claims arising from an "automobile" claim.

3. Town of Amherst
Your deponent states that the Day Care Center, known as X Amherst Youth Board, as part of its operations, does not and will not transport children in its care, for any reason whatsoever.

4. Since the children in the care of the aforementioned Day Care Center are not and will not be transported by the Center, a request is hereby made that the requirements of automobile insurance coverage be waived for this contract year.

5. Town of Amherst
Your deponent agrees and understands that if the waiver is granted by the County of Erie, and if a child or children is (are) transported in contravention of these assertions to the contrary, then your deponent will be personally liable and responsible for any and all personal and/or property damages incurred as a result of said transportation.

6. Town of Amherst
Furthermore, your deponent agrees to provide a full and complete defense and indemnification to the County of Erie, in the event that any child or children being transported by the Day Care Center is (are) injured in any way, and a claim arises for that injury.

7. Town of Amherst
Finally, your deponent agrees and understands that the defense and indemnification requirements described herein are personal and are in addition to any defense and indemnification which may be provided by the Day Care Center itself.

8. This statement is made with the knowledge that the County of Erie, through the Erie County Department of Social Services, will rely upon the statements made herein in the decision to either grant or deny this request for a Waiver of the Requirement of Automobile Insurance Coverage.

By: X _____
Supervisor (Signature) Town of Amherst

Sworn to before me this _____ day of _____, 201__.

Notary Public X _____

Attachment: Child Day Care Services Agreement (RES-2021-767 : Child Day Care Services Agreement CRS#2817)

QUESTIONNAIRE REGARDING BUSINESS ENTERPRISES OWNED AND CONTROLLED BY WOMEN OR PERSONS OF COLOR

As part of the County's program to encourage the meaningful and significant participation of business enterprises owned and controlled by persons of color or women in County contracts, completion of this form is required.

A "business enterprise owned and controlled by women or persons of color" means a business enterprise, including a sole proprietorship, limited liability partnership, partnership, limited liability corporation, or corporation, that either:

1. Meets the following requirements:

   a. Is at least 51% owned by one or more persons of color or women;
   b. Is an enterprise in which such ownership by persons of color or women is real, substantial and continuing;
   c. In an enterprise in which such ownership interest by persons of color or women has and exercises the authority to control and operate, independently, the day-to-day business decisions of the enterprise; and
   d. Is an enterprise authorized to do business in this state which is independently owned and operated.

2. Is a business enterprise certified as a minority business enterprise ("MBE") or women business enterprise ("WBE") pursuant to Article 15-a of the New York State Executive Law and the implementing regulations, 9 York Code of Rules and Regulations subtitle N Part 540 et seq., OR

3. Is a business enterprise certified as a small disadvantaged business concern pursuant to the Small Business Act, 15 U.S.C. 631 et seq., and the relevant provisions of the Code of Federal Regulations as amended.

Please note that the term "persons of color" as used in this form, means a United States citizen or permanent resident alien who is and can demonstrate membership of one of the following groups:

a. Black persons having origins in any of the Black African racial groups;
b. Hispanic persons of Mexican, Puerto Rico, Dominican, Cuban, Central or South American descent of either Indian or Hispanic origin regardless of race;
c. Native American or Alaskan native persons having origins in any of the original peoples of North America; or
d. Asian or Pacific Islander persons having origins in any of the Far East countries, South East Asia, the Indian subcontinent or the Pacific Islands.

Attachment: Child Day Care Services Agreement (RES-2021-767 : Child Day Care Services Agreement CRS#2817)

1. Are you a business enterprise owned and controlled by women or persons of color in accordance with the standards listed above?

_X_ No

_____ Yes*

*IMPORTANT: If you answered "yes" above, please indicate if you possess certification by New York State and/or the Federal government.

_____ No, I do not have government certification.

_____ Yes, I have government certification (must attach certificate).

2. If you answered "yes" above, please check off below whether your business enterprise is owned and controlled by women, persons of color, or both.

_____ Women

_____ Persons of Color (*please check off below all that apply*)

_____ Black persons having origins in any of the Black African racial groups

_____ Hispanic persons of Mexican, Puerto Rico, Dominican, Cuban, Central or South American descent of either Indian or Hispanic origin regardless of race

_____ Native American or Alaskan native persons having origins in any of the original peoples of North America

_____ Asian or Pacific Islander persons having origins in any of the Far East countries, South East Asia, the Indian subcontinent or the Pacific Islands

Name of Business Enterprise: X Town of Amherst (Youth Board)

Address: X 1615 Amherst Manor Drive
Williamsville, NY 14221

Signature: X _____

X _____
Notary Public

_____
Date

Attachment: Child Day Care Services Agreement (RES-2021-767 : Child Day Care Services Agreement CRS#2817)

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

Francina J. Spoth
Town Clerk

Meeting: 08/23/21 03:00 PM
Department: Youth & Recreation
Initiated by: **Mary Diana Pouli**
Co-Sponsored by:

DOC ID: 24663 **RESOLUTION 2021-768** **ADOPTED**

Fall Winter 2021-2022 Proposed Ice Rental Rates

Authorize an increase in ice rental rates for the fall/winter 2021-2022 season, as per the attached schedule. These rates were approved by the Amherst Recreation Commission at its August 2021 meeting.

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

FINANCIAL IMPACT:

Potential increase of up to $60,900.00 in revenue to A7253.

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

Proposed Fall / Winter 2021 - 22 Ice Rates

September 1, 2020 - April 30, 2021		
Monday through Friday		***2020-21 Rates***
6:00 AM - 9:00 AM	Non-Prime	$150.00
9:00 AM - 2:00 PM	Third Tier*	$100.00
2:00 PM - 4:00 PM	Non-Prime	$150.00
4:00 PM - 11:00 PM	Prime	$215.00
11:00 PM - 1:00 AM	Non-Prime	$150.00
Saturday & Sunday		
6:00 AM - 11:00 PM	Prime	$215.00
11:00 PM - 1:00 AM	Non-Prime	$150.00

September 1, 2021 - April 30, 2022		
Monday through Friday		***Proposed 2021-22 Rates***
6:00 AM - 9:00 AM	Non-Prime	$155.00
9:00 AM - 2:00 PM	Third Tier*	$105.00
2:00 PM - 4:00 PM	Non-Prime	$155.00
4:00 PM - 11:00 PM	Prime	$225.00
11:00 PM - 1:00 AM	Non-Prime	$155.00
Saturday & Sunday		
6:00 AM - 11:00 PM	Prime	$225.00
11:00 PM - 1:00 AM	Non-Prime	$155.00

*This rate will apply with the exception of school holiday's and breaks. During holiday's and breaks, the Non-Prime rate will be in effect.

Approximate Effect of Rate Increase

5,530 Hours	**x $10 =**	**$55,300.00**
1,120 Hours	**x $5 =**	**$5,600.00**
	Total =	**$60,900.00**

Attachment: Fall Winter 2021-22 Proposed Ice Rates (RES-2021-768 : Fall Winter 2021-2022 Proposed Ice

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

Francina J. Spoth
Town Clerk

Meeting: 08/23/21 03:00 PM
Department: Town Clerk
Initiated by: **Kathleen Cooper**
Co-Sponsored by:

DOC ID: 22672 **RESOLUTION 2021-78** **TABLED (NO VOTE)**

Local Law Amending Chapter 19, Ethics

A public hearing for "A Local Law Amending Chapter 19 of The Code Of The Town of Amherst With Respect To The Code of Ethics".

The purpose of this Local Law shall be to amend various section of Chapter 19 of the Code of the Town of Amherst with respect to the list of officials, notice and verification of filing.

1/19/2021
A motion to adjourn to April 19th was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

4/19/2021
A motion to open the public hearing was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0. The public hearing was opened at 7:08 PM.

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

FINANCIAL IMPACT:

None for the purposes of this resolution.

RESULT:	**TABLED (NO VOTE)**	**Next: 9/13/2021 7:00 PM**

LOCAL LAW NO.___ -2021

TOWN OF AMHERST

COUNTY OF ERIE, STATE OF NEW YORK

A Local Law Amending Chapter 19 of the Code of the Town of Amherst With Respect to the Code of Ethics

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

Section 1. Title.

This Local Law shall be referred to as, "A Local Law Amending Chapter 19 of The Code of The Town of Amherst With Respect To The Code of Ethics."

Section 2. Purpose

The purpose of this Local Law shall be to amend various sections of Chapter 19 of the Code of the Town of Amherst with respect to the list of officials, notice and verification of filing.

Section 3.

Chapter 19 of the Code of the Town of Amherst is amended as follows:

§ 19-1. Title.
This chapter may be cited as the "The Code of Ethics."

§ 19-2. Statutory authority; ~~intent.~~
The Code of Ethics is enacted pursuant to Article 18 of the General Municipal Law and in recognition of the policy of the State of New York and the Town of Amherst to maintain the highest standards of integrity in public service.

§ 19-3. Intent.
A. The Code of Ethics is intended to afford Town officers and employees guidance in conforming to ethical standards; to promote public confidence in the integrity of Town government; to require public disclosure of financial interests that may influence, or be perceived as influencing, actions of Town officers and employees; to minimize unwarranted suspicion; and, to provide for fair and effective administration of this Code. This Code of Ethics shall be in addition to all of the restrictions, standards and provisions pertaining to the conduct of Town officers and employees.

~~Strikethrough~~ = Deleted language; Underline = Added language

Attachment: ProposedLocalLaw2021 (RES-2021-78 : Local Law Amending Chapter 19, Ethics)

B. This Code of Ethics is further enacted to:

1. Establish high standards of ethical conduct for Town officers and employees.

2. Afford Town officers and employees clear guidance in conforming to such standards.

3. Promote public confidence in the integrity of Town government.

4. Require public disclosure of financial interests that may influence, or be perceived as influencing, actions of Town officers and employees.

5. Facilitate consideration of potential ethical problems before they arise.

6. Minimize unwarranted suspicion.

7. Enhance accountability of government to the people it serves.

8. Provide for fair and effective administration of this Code.

§ 19-~~3~~4. Definitions.
As used in the Code of Ethics, the following terms shall have the meanings indicated:

AGENCY
Any office, board, body, advisory board, council, commission, agency, department, district, administration, division, bureau or committee of the Town of Amherst; and shall include but not be limited to the Town Board, ~~Zoning Board of Appeals, Planning Board, Traffic Safety Board, Recreation Commission, Library Board of Trustees, Board of Ethics, Government Study Committee, Youth Board, Board of Assessment Review, Senior Citizens Advisory Board, Amherst Industrial Development Agency, 9/11 Commemoration Commission, Amherst Committee on Disabilities, Amherst Community Diversity Council, Amherst Veterans Committee, Arts and Culture in Public Places Board, Board of Electrician Examiners, Board of Plumbing and Drainage Examiners, Citizens' Financial Advisory Committee, Employee Suggestion Review Committee, Energy Conservation Committee, FOIL Board, Glen Park Joint Board, Historic Preservation Commission, Information Technology Advisory Committee, Minority/Woman Owned Business in Amherst, Open Government Advisory Board, Recycling and Waste Committee~~ Amherst Committee on Disabilities, Amherst Community Diversity Council, Amherst Industrial Development Agency, Amherst Veterans Committee, Arts and Culture in Public Places Board, Board of Assessment Review, Board of Electrician Examiners, Board of Ethics, Board of Plumbing and Drainage Examiners, Citizens' Financial Advisor Committee, Design Advisory Board, Employee Suggestion Review Committee, Energy Conservation Committee, FOIL Board, Glen Park Joint Board,

Attachment: ProposedLocalLaw2021 (RES-2021-78 : Local Law Amending Chapter 19, Ethics)

Government Study Committee, Historic Preservation Commission, Information Technology Advisory Committee, Library Board of Trustees, Minority/Woman Owned Business, 911 Commemoration Commission, Open Government Advisory Board, Planning Board, Recreation Commission, Recycling and Waste Committee, Senior Citizens Advisory Board, Traffic Safety Board, Youth Board and Zoning Board of Appeals in Amherst, or an improvement district as provided by Article 12 of the Town Law.

APPEAR and APPEAR BEFORE
Communicating in whatever form, whether personally or through another person.

BUSINESS DEALING
Having or providing any contract, service or work with a municipality; buying, selling, renting, leasing or otherwise acquiring from or dispensing to a municipality any goods, services or property; or applying for, petitioning, requesting or obtaining any approval, grant, loan, license, permit or other privilege from the municipality.

CONFLICT OF INTEREST
A situation in which a person has a duty to more than one person or entity but could not do justice in the actual performance adverse to the interest of both parties. This also includes the situation in which the concerns or aims of two different parties or organizations are incompatible or a situation in which a person is in a position to derive personal benefits from actions or decisions made in their official capacity.

DISCRETIONARY ACT
Any action involving the exercise of judgment or discretion by a municipal officer or employee, either individually or as a member of any agency, and includes but is not limited to negotiation, approval, advice, recommendation, authorization or audit.

FAMILY MEMBER
A spouse, child, stepchild, brother, sister, parent, half-child, brother/sister-in-law, parent-in-law or dependent of a municipal officer or employee.

GIFT OR FINANCIAL BENEFIT
Money, service, loan, travel, entertainment, hospitality or any financial transaction on terms not available to the general public but shall not include normal hospitality or promotional materials if such hospitality or materials do not exceed One Hundred Dollars ($100.00) in value and are not received in circumstances in which it might reasonably be inferred that they were given with intention to influence or reward them in relation to the performance of their duties.

~~Strikethrough~~ = Deleted language; Underline = Added language

Attachment: ProposedLocalLaw2021 (RES-2021-78 : Local Law Amending Chapter 19, Ethics)

GOVERNING BODY
The Town Board of the Town of Amherst.

MINISTERIAL ACT
An action performed in a prescribed manner without the exercise of judgment or discretion as to the propriety of the act.

PAID TOWN OFFICER, EMPLOYEE OR OFFICIAL
Any Town officer, employee or official who receives a salary from the Town or who is compensated by the Town on a per-diem or hourly basis, but does not include a Town officer, employee or official who is solely reimbursed by the Town for expenses incurred in the course of his or her duties.

PARTICULAR MATTER
Any business dealing with the Town or any application therefor or any case, proceeding, determination, investigation, charge, accusation or arrest or any other matter involving a discretionary act of a Town officer or employee, but does not include the proposal, consideration or enactment of local laws, ordinances or regulations of general application.

PERSON
An individual, corporation, partnership, unincorporated association, LLC, LLP and all other legal entities.

POLITICAL PARTY
Any political party which appears on the ballot in the last biennial Town election.

RELATED PARTY
A spouse, child, parent, brother or sister of the Town officer or employee and a party with whom the Town officer or employee or his/her spouse, child, parent, brother or sister has or intends to enter into an employment, professional, business or financial relationship.

SPOUSE
A husband or wife from whom the Town officer or employee is not legally separated.

TOWN
The Town of Amherst, and includes all agencies thereof and officers, employees and officials thereof.

~~Strikethrough~~ = Deleted language; Underline = Added language

Attachment: ProposedLocalLaw2021 (RES-2021-78 : Local Law Amending Chapter 19, Ethics)

TOWN CLERK
The Clerk of the Town of Amherst.

TOWN OFFICER OR EMPLOYEE
Any officer, ~~or~~ employee, or intern of the Town of Amherst, whether paid or unpaid, including public officials and all other members of any agency in the Town of Amherst, but does not include the Town Justices, officers or employees of the Unified Court System. Volunteer firemen and civil defense volunteers shall not be deemed to be Town officers or employees.

TOWN OFFICIAL
Any Town officer, employee who has the authority, either alone or as a member of an agency/committee/board to perform discretionary acts on behalf of the Town with respect to any business dealing. "Town official" shall not include Town Justice and any Town officer or employee who performs only ministerial acts and duties.

§ 19-5. Applicability.

The requirements of this Code shall not replace but shall be in addition to all other legal requirements pertaining to the conduct of Town officers and employees. Every provision of this Code, except as expressly limited herein, shall apply to every officer and employee of the Town, whether paid or unpaid. It shall also apply to members, directors, officers and employees of any not-for-profit corporation if a majority of such corporation's members or directors serve by reason of their Town positions or if a majority of such corporation's officers or directors are appointed by one or more Town officers or bodies, such as the Amherst Industrial Development Agency. Any such not-for-profit corporation shall be deemed to be a Town agency for the purpose of this Code. The members, directors, officers and employees of any such corporation shall be deemed to be Town officers or employees for the purposes of this Code. It shall also apply to any person who is a member of a Town board, agency, commission, council or body, whether paid or unpaid, as well as to personal service/consultant contractors of Town Development Agencies defined above. This Code shall not apply to officers or employees of the Town Court of the Town of Amherst, unless adopted by their respective governing bodies. The Board of Ethics shall have discretion to grant a temporary exception to the provisions of this Chapter for any officer, employee, person, board, commission or agency to which this Chapter applies.

Attachment: ProposedLocalLaw2021 (RES-2021-78 : Local Law Amending Chapter 19, Ethics)

§ 19-46. General regulations.

A. No Town official or employee shall:

(1) Act as attorney, agent, broker, employee, consultant or representative for any person in connection with any business dealing that person has with the Town.

(2) Directly or indirectly, solicit any gift, or accept or receive any gift or series of gifts, having an annual aggregate value of One Hundred Dollars ($100.00) or more, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise or in any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence him or her or could reasonably be expected to influence him in the performance of his official duties or was intended as a reward for any official action on his or her part. The foregoing limitation shall not apply to campaign contributions not otherwise prohibited by law.

(3) Take or refrain from taking any action or agree to take or refrain from taking any action or induce or attempt to induce any other Town officer or employee to take or refrain from taking any action on any matter before the Town in order to obtain a pecuniary or material benefit for:

(a) Himself or herself;

(b) A family member;

(c) Any partnership, LLP or unincorporated association of which the Town officer or employee or family member, is a member or employee or in which he or she has a proprietary interest;

(d) Any corporation, LLC of which the Town officer or employee, or family member is an officer or director or of which he or she legally or beneficially owns or controls more than five percent (5%) of the outstanding stock;

(e) Any person with whom the Town official, or his or her family member, has an employment, professional, business or financial relationship; or

(f) Any person from whom the Town officer or employee or his or her spouse has received within any twelve-month period during the previous twenty-four (24) months a pecuniary or material benefit having an aggregate value greater than One Thousand Dollars and Zero

Attachment: ProposedLocalLaw2021 (RES-2021-78 : Local Law Amending Chapter 19, Ethics)

Cents ($1,000.00), unless said individuals make up less than five percent (5%) of a class of individuals benefitted.

(4) Appear before the agency/committee/board served by or which employs such Town officer or employee except on behalf of the Town or on his or her own behalf.

(5) Appear before the Town except on behalf of the Town or on his or her own behalf. This subsection shall only apply to officers and employees who are elected or who are paid by the Town.

(6) Appear as attorney or counsel against the interests of the Town in any matter in which the Town is a party or a complainant.

(7) Solicit any nonelected officer or employee of the Town to participate in an election campaign. This subsection shall not prohibit an elected officer from soliciting such participation from officers and employees who are appointed by and directly subordinate to such elected officer and who serve in positions which are in the exempt classification or the unclassified service under the Civil Service Law.

(8) Directly or through a person, campaign committee or other organization authorized to act on his or her behalf solicit any nonelected officer or employee of the Town to pay or promise to pay any assessment, subscription or contribution to a political party, political party organization or election campaign. This subsection shall not prohibit a general solicitation of a class of persons.

(9) Directly or through a person or campaign committee or other organization authorized to act on his or her behalf, solicit participation in an election campaign or payment or promise of payment of any assessment, subscription or contribution to a political party, political party organization or election campaign from any person who, to the knowledge of the municipal officer or employee, has or, within the previous twelve (12) months, has had any business dealing with the municipality. This subsection shall not prohibit a general solicitation of a class of persons.

(10) Directly or through a person or campaign committee or other organization authorized to act on his or her behalf, utilize Town property, the Town Seal, the Town Logo or stationery where the header or footer states the person's employment as a Town of Amherst employee, to solicit participation in an election campaign or payment or promise of payment of any assessment, subscription or contribution to a political party, political party organization or election campaign.

~~Strikethrough~~ = Deleted language; Underline = Added language

Attachment: ProposedLocalLaw2021 (RES-2021-78 : Local Law Amending Chapter 19, Ethics)

(11) Except where such disclosure is authorized by law, disclose any confidential information acquired in the course of his or her official duties or use any such information to advance the financial or other private interest of himself or herself or any other person.

(12) After termination of his or her term of office or employment with the Town, appear before the Town or receive compensation for any services rendered on behalf of any person other than the Town in relation to any particular matter upon which he or she took any discretionary act during his or her term of office or employment with the Town.

B. No partnership, LLP, LLC or corporation or unincorporated association of which a Town official is a member or employee or in which he or she has a proprietary interest nor any corporation, LLC of which he or she is an officer or director or legally or beneficially owns or controls more than five percent (5%) of the outstanding stock shall appear before the agency served by such Town official on behalf of any person other than the Town or itself.

C. No partnership, LLP or unincorporated association of which a Town official who is elected or paid by the Town is a member or employee or in which he or she has a proprietary interest nor any corporation, LLC of which he or she is an officer or director or of which he or she legally or beneficially owns or controls more than five percent (5%) of the outstanding stock shall appear before the Town on behalf of any person other than the Town or itself.

D. Nothing in this section shall be construed to prohibit a Town officer or employee or any other person from receiving a municipal service or benefit or using a municipal facility which is generally available to residents or a class of residents in the Town.

E. Nothing in this section shall be construed to prohibit any Town officer or employee listed in §11 of the Domestic Relations Law from accepting any gift or benefit having a value of One Hundred Dollars ($100.00) or less for the solemnization of a marriage by that Town officer or employee at a place other than the Town officer's or employee's normal place of business or at a time other than the officer's or employee's normal hours of business and except as may be otherwise restricted by law.

F. Nothing in this section shall be construed to prohibit a Town officer or employee from performing any ministerial act.

G. A person who knowingly violates any provision of this section may, in addition to any penalty contained in any other provisions of law, be dismissed,

Attachment: ProposedLocalLaw2021 (RES-2021-78 : Local Law Amending Chapter 19, Ethics)

suspended or removed from office or employment in the manner provided by law.

§ 19-~~5~~7. Transactional disclosure and recusal; definitions.

A. Whenever a Town official is requested or required to take any action on a matter before the Town and, to his or her knowledge, either the performance or nonperformance of that action would provide a pecuniary or material benefit to himself or herself or to any related person different from that which would be derived from the action by reason of its general application to a broad class of persons deriving such benefit, the Town official shall not participate in that matter unless the official's recusal prohibits Town action, then said officer or employee shall participate after full disclosure and reference to the particular legislation otherwise prohibiting Town action. The Town officer or employee also shall file promptly with his or her immediate superior, if any, and with the Town Clerk a signed statement disclosing the nature and extent of that interest.

B. For purposes of this section, the following terms shall have the meanings indicated:

RELATED PERSON

(1) A family member.

(2) Any corporation of which the municipal officer or employee is an officer or director or of which he or she legally or beneficially owns or controls more than five percent (5%) of the outstanding stock.

(3) Any person with whom the municipal officer or employee or his or her family member has an employment, business or financial relationship.

(4) Any person from whom the municipal officer or employee or his or her spouse has received within any twelve (12) month period during the previous twenty-four (24) months a pecuniary or material benefit having an aggregate value greater than One Thousand Dollars and Zero Cents ($1,000.00).

C. Nothing in this section shall be construed to prohibit a Town officer or employee from performing any ministerial act or to require a Town officer or employee to file a disclosure statement pursuant to Subsection A of this section prior to performing any ministerial act. The award of a contract by an officer or employee pursuant to the public bidding requirements of §103 of the General Municipal Law shall be deemed a ministerial act.

Attachment: ProposedLocalLaw2021 (RES-2021-78 : Local Law Amending Chapter 19, Ethics)

§ 19-~~6~~8. Disclosure statement.

A. Long Form Disclosures: All elected Town officials, all department heads and all Town Officials who are elected, appointed, paid or unpaid, who are members of the ~~Zoning Board of Appeals, Planning Board, Youth Board, Traffic Safety Board, Government Study Committee, Recreation Commission, Board of Assessment Review Amherst Industrial Development Agency, Board of Ethics, Board of Electrician Examiners, Board of Plumbing and Drainage Examiners, Citizens' Financial Advisory Committee, Energy Conservation Committee, FOIL Board, Historic Preservation Commission and the Open Government Advisory Board~~ Amherst Industrial Development Agency, Board of Assessment Review, Board of Plumbing and Drainage Examiners, Board of Electrician Examiners, Board of Ethics, Citizens' Financial Advisory Committee, Design Advisory Board, Energy Conservation Committee, FOIL Board, Government Study Committee, Historic Preservation Commission, Open Government Advisory Board, Planning Board, Recreation Commission, Traffic Safety Board, Youth Board and Zoning Board of Appeals shall file with the Town Clerk, who for the purpose of this section shall also be deemed the Secretary of the Board of Ethics as hereinafter set forth, a signed, annual disclosure statement within thirty (30) days of taking office and no later than April 30 of each year thereafter. Within thirty (30) days of any change in the information contained in his or her most recently filed statement, the ~~public~~ Town official shall file a signed amendment to the statement indicating the change.

B. Information to be disclosed by all those Town officials defined in Section 19-6A shall be in the following form:

Attachment: ProposedLocalLaw2021 (RES-2021-78 : Local Law Amending Chapter 19, Ethics)

(1) Name:

Address:
Email Address:

If married, spouse's name:

(2) (a) Title of Town position:

(b) Department, agency or other governmental entity:

(3) Do you receive any benefits, compensation or other consideration that are derive directly or indirectly from your employment or association with the Town of Amherst other than your remuneration from the Town?

Yes _____ No _____

If YES, please describe the nature, source of and amount such benefits, compensation o other consideration.

Nature	**Source**	**Amount**

(4) List the address and SBL of all real property in which you, your spouse or other famil member of your household has an ownership or other financial interest.

Name of Owner	**Address**

(5) List the name and address of any partnership, unincorporated association, corporatio business or employer of any sort of which you or your spouse is a member, officer o employee or from which you or your spouse derive income of any nature, giving you position and/or your spouse's position, if any, with such entity.

Self/Spouse	**Position**	**Organization and Address**

(6) List the name and address of any corporation, partnership, unincorporated associatio or business of which you or your spouse legally or beneficially owns or controls mor than 5% of the issued and outstanding stock or other ownership rights.

Self/Spouse	**Organization and Address**

~~Strikethrough~~ = Deleted language; Underline = Added language

Attachment: ProposedLocalLaw2021 (RES-2021-78 : Local Law Amending Chapter 19, Ethics)

(7) State any self-employment, and the general nature thereof, from which you or you spouse has derived gross income in excess of $2,000 during the previous calendar year.

Self/Spouse **General Nature**

(8) If you are unable, after reasonable effort, to obtain any of the information required herein so state and explain.

(9) List any position you held within the last 5 years as an officer of any political committee or political organization. The term "political organization" includes any independent body or any organization that is affiliated with or a subsidiary of a political party.

(10) List the source of all gifts received in the past year from the same or affiliated source aggregating in excess of $100.00 by you or a close relative, from any person or organization having had a regulatory or financial relationship with the Town within the past 2 years or expected to have such a relationship within the next 2 years, excluding gifts from a relative. The term "gifts" includes gifts of cash, property, personal items services, payments to third parties on your behalf, loans, forgiveness of debt honorariums, travel, entertainment, hospitality, tickets and any financial transaction or terms not available to the general public. The term "gifts" shall not include normal hospitality or promotional materials received within the past year if such hospitality or materials which, when aggregated by source, do not exceed $100.00 in value and are not received in circumstances in which it might reasonably be inferred that they were given with the intention to influence or reward you in relation to the performance of your duties.

Name of Family Member	Relationship to You	Name of Business Entity	Involvement with Town

(11) List your interest or any close relative in an entity which has had financial or regulatory activity with the Town or Amherst Industrial Development Agency within the last 2 years or is expected to have such activity within the next 2 years, except for a publicly traded business organization of which you own less than 5% of the outstanding stock or ownership interest. It is not necessary to disclose personal savings accounts and retirement accounts.

~~Strikethrough~~ = Deleted language; Underline = Added language

Attachment: ProposedLocalLaw2021 (RES-2021-78 : Local Law Amending Chapter 19, Ethics)

(12)

Name of Family Member	Relationship to You	Name of Business Entity	Involvement with Town

Outside employment. Describe any outside occupation, employment, trade, business or profession providing more than $1,000.00 per year for you or a close relative, if any, and indicate whether such activities are regulated by any state or local agency.

Name of Family Member	Position	Name, Address & Description of Organization	State or Local Agency

(13) Future employment. Describe any contract, promise or other agreement between you and anyone else with respect to your employment after leaving your Town office or position.

Past employment. Identify the source and nature of any income in excess of $1,000.00 per year from any employer, including deferred income, contributions to a pension or retirement fund, profit-sharing plan, severance pay or payments under a buy-out agreement for this year and the year prior to this year.

Name and Address of Income Source	Description of Income (i.e. pension, deferred compensation, etc)

(14) Identify and describe the source of any third-party payment or reimbursement for Town of Am st travel-related expenditures in excess of $250.00 for any matter that relates to your official duti The term "reimbursement" includes any travel-related expenses provided by anyone other than the wn for speaking engagements, conferences or fact-finding events that relate to your official duties.

Source	Description

Attachment: ProposedLocalLaw2021 (RES-2021-78 : Local Law Amending Chapter 19, Ethics)

(15) Describe all loans and debts of you or a close relative in excess of $5,000.00 (excluding retail accommodations such as primary mortgages, home equity loans, charge accounts, lines of credit and credit cards extended in the normal course of business which are ordinarily available to the general public by financial institutions (for example, banks) and/or merchants and which are not extended in circumstances in which it might be reasonably inferred that they were extended with the intention to influence or reward you in relation to the performance of your duties):

_____ _____

~~(month, day, year)~~
(date) Signature of Reporting Individual

C. Short Form Disclosure. All Town officials who are appointed, paid or unpaid, to any board of committee for who a long form disclosure is not required shall file a Short Form Disclosure form containing the following information:

(1) Name, Address, Email Address, Telephone Number (Both Home and Cell) and if married, Spouse's name.

(2) Title of Position (Name of Board or Committee)

(3) I hereby certify that I have read Chapter 19 of the Town of Amherst Town Code (Code of Ethics) and understand its restrictions upon my activities. I further certify that I will follow these provisions and that I do not have any conflict of interest as defined in the Code of Ethics.

Name & Date

§ 19-9. Transactional Disclosure Statement Required

A. Private interests. A Town officer or employee shall, before taking, advising or participating in any official discretionary action affecting his or her known private interest or the private interest of a related party, file a statement disclosing such interest and defining the proposed action.

~~Strikethrough~~ = Deleted language; Underline = Added language

Attachment: ProposedLocalLaw2021 (RES-2021-78 : Local Law Amending Chapter 19, Ethics)

B. Professional or business transactions. If a Town officer or employee wishes to enter into an employment, professional, business or financial transaction, other than a normal retail purchase or credit transaction on the same terms as are available to the general public, with another party and such other party has pending or is known by such Town officer or employee to be considering or has had pending within the prior twelve (12) months any financial or regulatory matter with a Town agency and the Town officer or employee or a subordinate officer or employee has participated in or is authorized to participate in any official discretionary action affecting such matter, the Town officer or employee shall file a statement disclosing such transaction and disclosing the nature of his or her participation in such action prior to entering into such transaction. If a Town officer or employee learns that a related party proposed to enter or has entered into such a transaction, then he or she shall promptly file such a statement.

§ 19-~~7~~10. Civil penalty; penalties for offenses.

A. Statement of financial disclosure.

(1) A reporting individual who knowingly ~~and willfully~~ fails to file an annual statement of financial disclosure as ~~provided~~ required herein shall be presumed to have voluntarily withdrawn from membership on the committee/board they were appointed to.

(2) A reporting individual who knowingly and ~~willfully with intent to deceive~~ makes a false statement or gives information which such individual knows or should have known to be false on such statement of financial disclosure filed pursuant to this Chapter shall be assessed a civil penalty in an amount not exceed Ten Thousand Dollars and Zero Cents ($10,000.00). Assessment of a civil penalty hereunder shall be made by the Town of Amherst Board of Ethics following a hearing which follows the procedure set forth in the rules of procedure adopted by the Board of Ethics.

(3) A reporting individual fails to file an amended financial disclosure within thirty (30) days of any change in information contained in his/her most recently filed financial disclosure statement shall be presumed to have withdrawn from membership in the committee or board that they were appointed to.

(4) For a violation of this subsection 2, the Town of Amherst Board of Ethics may, in lieu of a civil penalty, refer said violation to the District Attorney and, upon such conviction~~, but only after such referral, such violation shall be punishable as a misdemeanor~~.

~~Strikethrough~~ = Deleted language; Underline = Added language

Attachment: ProposedLocalLaw2021 (RES-2021-78 : Local Law Amending Chapter 19, Ethics)

(5) Notwithstanding any other provision of law to the contrary, no other penalty, civil or criminal, may be imposed for failure to file or for false filing of such statement, except that the appointing authority may impose disciplinary actions as otherwise provided by law.

B. For violations of the conflict of interest and transactional disclosure provisions of this chapter, the Town of Amherst Board of Ethics shall assess a civil penalty in an amount not to exceed Ten Thousand Dollars and Zero Cents ($10,000.00) or, in lieu thereof, issue a public censure or private admonition. In addition, the appointing authority may impose disciplinary action as otherwise provided by law.

C. For violations of the Section 19-4(A)(10) the Town of Amherst Board of Ethics shall assess a civil penalty in an amount not to exceed Ten Thousand Dollars and Zero Cents ($10,000.00) or, in lieu thereof, issue a public censure or private admonition. In addition, the appointing authority may impose disciplinary action as otherwise provided by law including removal from office/employment. For a violation of Section 19-4(A)(10), the Town of Amherst Board of Ethics may, in lieu of a civil penalty, refer a violation to the District Attorney and upon such conviction but only after such referral, such violation shall be punishable as a Class A misdemeanor.

D. The Town of Amherst Board of Ethics shall adopt rules governing the conduct of adjudicatory proceedings and appeals relating to the assessment of civil penalties herein authorized. Such rules shall provide for due process procedural mechanisms substantially similar to those set forth in Article 3 of the State Administrative Procedures Act, but such mechanisms may not be identical in terms or scope.

E. No reporting individual shall be subject to the sanction contained in Subsections 1 or 2 for any offense that occurred more than two (2) years before Notice is provided to that individual that he/she has violated the provisions of the Ethics Code.

F. Assessment of a civil penalty shall be final unless modified, suspended or vacated within thirty (30) days of imposition and, upon becoming final, shall be subject to review at the instance of the affected reporting individual in a proceeding commenced against the Town of Amherst Board of Ethics pursuant to Article 78 of the Civil Practice Law and Rules.

§ 19-~~8~~11. Maintenance of disclosure statements.
Transitional disclosure statements and annual disclosure statements shall be a matter of public record and shall be filed and indexed with the Town Clerk.

~~Strikethrough~~ = Deleted language; Underline = Added language

Attachment: ProposedLocalLaw2021 (RES-2021-78 : Local Law Amending Chapter 19, Ethics)

The Town Clerk shall retain such disclosure statements for a period of not less than seven (7) years from the date of filing.

§ 19-~~9~~12. List of officials; notice and verification of filing.

A. On or before the first day of April of each year the Town Supervisor, together with the Town Clerk, shall:

(1) File with the Town Clerk a list of names and offices or positions of all officials and employees required to file annual disclosures; and

(2) Notify all persons required to file annual disclosure forms and request that the same be filed with the Town Clerk no later than April 30th of ~~each year~~ or the subsequent business day. Said notifications are to be sent to the person's current residence on file with the Town Clerk and also be sent via email, if email is available.

(3) Notify all Department Heads/Town Board liaisons of the names of these persons required of the names and offices or positions of all officers and employees required to file annual disclosures with an indication of whether that individual has filed the required disclosure form.

(4) If the notice is returned, the Town Clerk within three (3) business days will then notify the relevant Department Head/Town Board liaison of the same within three (3) business days. Upon receipt of such notice, the Department Head/Town Board liaison shall immediately notify the person in writing (email shall suffice) that he/she needs to file the annual disclosure statement.

B. On or before the 15th day of May of each and every year, the Board of Ethics shall meet to ascertain and verify that every required individual has filed the required disclosure statement.

C. Failure of the Supervisor and the Town Clerk to notify any or all individuals required to file disclosure statements shall not relieve Town officials~~s~~ or employees of their duty to file the disclosure statements.

§19-13. Disclosure of Interest by Town Board member; abstention from action.

When a member of the Town Board must take official action on a matter in which the board member has a substantial personal economic interest, which interest is distinct from that of the general community, the member's constituents or a substantial class of the general community he or she shall

Attachment: ProposedLocalLaw2021 (RES-2021-78 : Local Law Amending Chapter 19, Ethics)

divest himself or herself of that interest or shall publicly disclose the nature and extent of such interest in writing to the Town Board. The board member ~~may~~ shall abstain from participating in such action upon consideration of any possible inference of impropriety and the affirmative public need for his or her participation in the action under consideration. ~~The board member's decision not to abstain shall not be deemed unethical.~~

§19-14. Applicant Disclosure

A. Where a person requests the Town or a Town officer, official or employee to take or fail to take any action (other than a ministerial act) that may result in a financial benefit ~~both to the requester and~~ to either any officer, official or employee of the Town, the ~~requester~~ Town officials shall disclose the names of any such persons, to the extent known to the requester at the time of the request.

B. If the request is made in writing, the disclosure shall accompany the request. If the request is oral and made at a meeting of a public body, the disclosure shall be set forth in the public record of the body. If the request is oral and not made at a meeting of a public body, the disclosure shall be set forth in writing filed with the Town Clerk.

§19-15. Registration before Town Agency

No Town officer or employee shall receive or enter into any agreement, whether expressed or implied, for compensation for services to be rendered in relation to any matter before any Town agency; provided, however, that this Section shall not be applicable if the Town officer or employee does not receive compensation by reason of his or her Town position and the matter is not before his or her own agency.

§19-16. Gifts and Financial Benefit.

A. No Town officer or employee shall directly or indirectly solicit, accept or receive any gift or financial benefit from or on behalf of any person or organization that has pending or is known by such Town officer or employee to be considering or has had pending within the prior twelve (12) months any financial or regulatory transaction with any Town agency in which he or she serves or over which he or she has any jurisdiction or appointing power.

B. For purposes of this Code, a Town officer's or employee's acceptance of travel and travel-related expenses from or on behalf of any person or organization that has pending or is known by such Town officer or employee to be considering or has had pending within the prior twelve (12) months can be considered a gift to the Town of Amherst rather than to the Town officer or employee when:

Attachment: ProposedLocalLaw2021 (RES-2021-78 : Local Law Amending Chapter 19, Ethics)

(1) The travel is for a Town purpose and therefore could properly be paid for with Town funds;

(2) The travel arrangements are appropriate to that purpose; and

(3) The travel is no longer than reasonably necessary to accomplish the business which is its purpose.

C. To avoid an appearance of impropriety, advanced notice of such travel, including itinerary and a proposed travel budget, should be submitted to the Board of Ethics for review, when practicable. Following the conclusion of the trip, the official should report to the Board of Ethics the itinerary and actual travel disbursements and payments or reimbursements of expenses.

§19.17. Future Employment.

No Town officer or employee, without proper disclosure to the Town Board shall solicit, negotiate for or promise to accept employment by any person, firm or corporation with which he or she or his or her agency is engaged on behalf of the Town in the transaction of business or which is or may be affected by his or her official action.

§19.18. Appearance of Compensation After Termination of Service

No Town officer or employee without proper disclosure to the Town Board shall, after the termination of service or employment with such municipality, appear before any agency of the Town or receive compensation for services in relation to any specific case, proceeding, application or matter before a Town agency or against the Town's interest in which he or she personally participated in the course of his or her service or employment.

§19.19. Abuse of Position

No Town officer or employee shall accept any employment, enter into any transaction or acquire any investment under circumstances in which any impression may reasonably be created that he or she will be influenced thereby in the conduct of his or her duties. No Town officer or employee shall use or attempt to use his or her official position to secure unwarranted benefits, privileges or exemptions for himself or herself or for others.

§19.20. Board Removal

Notwithstanding provisions set forth in the Code of the Board of Ethics, Town officials or its officers covered by this Code of Ethics who violate its provisions set forth herein may be removed by the Supervisor if appointed by him/her,

Attachment: ProposedLocalLaw2021 (RES-2021-78 : Local Law Amending Chapter 19, Ethics)

by the Town Board through a majority vote for appointments made by the Town Board, and by the Town Board through a majority vote for individuals appointed or designated by third parties.

§19.21.

~~B.~~ Any member serving on a Town board or committee who affirmatively commences a lawsuit against the Town, or is a named party to a lawsuit against the Town and/or any board while serving as a member of that board, must disclose to that board his or her involvement in the lawsuit and must refrain from participating in all board decisions that entail or are likely to entail issues that form the basis of the litigation and may be removed; and

§19.22

~~C.~~ Any member who receives financial and/or noneconomic gains from representing groups, corporations, or individuals in legal actions brought against the Town and/or any board shall not simultaneously serve as a board member on any board of the Town of Amherst and may be removed; and

§19-23

~~D.~~ Whenever necessary, the Supervisor shall require each member to disclose all conflicts on matters before the Board, and Board members shall recuse him/herself, if necessary, from any decision or underlying considerations regarding such matters.

(1) Nothing herein shall be deemed to impose civil penalties on Board members.

(2) Nothing herein shall be deemed to bar a Board member from bringing a timely suit against the Town or its agencies for personal injuries or damages as allowed by law.

§19-21~~4~~. Reservation of Right.

Nothing in this Code shall be deemed to bar or prevent the timely filing by a present or former Town officer or employee of any claim, account, demand or suit against the Town or any agency thereof on behalf of himself or any member of his family arising out of personal injury or property damage or for any lawful benefit authorized or permitted by law.

§19.2~~2~~5 Distribution of Provisions.

The Supervisor shall cause a copy of this Code to be compiled with Article 18 of the New York General Municipal Law and such other material he or she shall deem relevant. He or she shall cause a copy of such compilation to be

Attachment: ProposedLocalLaw2021 (RES-2021-78 : Local Law Amending Chapter 19, Ethics)

distributed to every officer and employee of the Town within thirty (30) days of the adoption of this code or as soon thereafter as may be practicable. Every officer and employee elected or appointed thereafter shall be furnished a copy of such compilation within ten (10) days after entering upon the duties of his or her position.

§ 19-~~112326~~. Duty to report.
Every Town officer or employee shall report to the Erie County District Attorney or the Town Attorney any action which may reasonably be interpreted as an improper attempt to influence him in the conduct of his office.

§19-~~102427~~. Board of Ethics.
A. A Board of Ethics is established and shall be known as the "Town of Amherst Board of Ethics."

B. The Board of Ethics shall consist of five (5) members who shall serve five (5) year terms of office, one such term expiring each year. Members shall be appointed by the Supervisor, subject to confirmation by the Town Board. If the Supervisor shall fail to appoint the members within thirty (30) days after the establishment of the Board of Ethics or within thirty (30) days after a vacancy occurs on the Board of Ethics, the Town Board shall appoint such member or members as the case may be. ~~Only o~~ One (1) member of the Board shall be an officer or employee of the Town of Amherst. In the event that a vacancy occurs prior to the expiration of the five (5) year term, such vacancy shall be filled for the balance of such term in the same manner as members are appointed to full terms. All members shall reside within the Town of Amherst. All members shall serve without compensation except that any member who is a Town of Amherst officer or employee shall be entitled to his usual compensation when attending upon the business of the Board of Ethics during normal working hours.

C. No more than two (2) members of the Board of Ethics may be affiliated with the same political party. No member of the Board of Ethics may hold an officer's position in any political party except such person may be a member of a county committee of a political party. The members shall elect a Chairman from among themselves and such other officers as may be deemed necessary from time to time.

D. A Board of Ethics member may be removed by the Town Supervisor with the approving consent of not fewer than four (4) members of the Town Board after a finding of substantial neglect of duty, gross misconduct in office, inability to discharge the powers or duties of the office or violation of this chapter after written notice of the charges and an opportunity for reply.

Attachment: ProposedLocalLaw2021 (RES-2021-78 : Local Law Amending Chapter 19, Ethics)

E. The Town Clerk shall be the Clerk of the Board of Ethics. All documents filed with the Town Clerk shall be deemed for the purposes of this chapter to be filings with the Board of Ethics.

F. The Board of Ethics established hereunder shall render advisory opinions to Town residents or employees on written request and, upon request of the Town Board, make recommendations to such Town Board as to any amendments of this chapter. The opinions of the Board of Ethics shall be advisory and confidential and in no event shall the identity of the town employee be disclosed except to authorized persons and agencies. Such opinions shall be on the advice of counsel employed by the Board of Ethics or, if none, of the Town Attorney.

G.~~F~~. The Board of Ethics shall have all the powers and duties as prescribed by Article 18 of the General Municipal Law. The Board of Ethics may adopt and amend such rules or procedures as are appropriate.

H. Such Board of Ethics upon its formation shall promulgate its own rules and regulations as to its form and procedures and shall maintain appropriate records of its opinions and proceedings.

Section 4. Effective Date

This Local Law shall take effect immediately and be filed in the Office of the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law and published pursuant to Sections 130 and 133 of the Town Law and Chapter 28 of the Code of the Town of Amherst.

Francina J. Spoth
Town Clerk
Town of Amherst
County of Erie, New York

Attachment: ProposedLocalLaw2021 (RES-2021-78 : Local Law Amending Chapter 19, Ethics)

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

Francina J. Spoth
Town Clerk

Meeting: 08/23/21 03:00 PM
Department: Town Clerk
Initiated by: **Kathleen Cooper**
Co-Sponsored by:

DOC ID: 22856 **RESOLUTION 2021-153** **TABLED (NO VOTE)**

Amend the Audubon Development Plan and the Zoning Map to Reclassify 2160 & 2170 North Forest Road from NCD-SA to NCD-ND

DRAFT RESOLUTION
(2/22/21)

Amend the Audubon Development Plan and the Zoning Map
[2160 & 2170 North Forest Road (NCD); Z-2020-06]

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

RESOLVED, that pursuant to NYS Town Law Sec.272-a, the Town Board concurs with the findings of the Planning Board as stated in their resolution of January 21, 2021 that the proposed New Community District - Neighborhood District (NCD-ND) classification at 2160 & 2170 North Forest Road is consistent with the adopted Bicentennial Comprehensive Plan, as amended, and be it further

RESOLVED, that to the extent the proposed classification is not consistent with the adopted Comprehensive Plan, the plan is hereby amended to be consistent with the proposed classification at this location, and be it further

RESOLVED, that in accordance with Section 203-8-3 of the Town Code (Zoning), the Town Board adopts Local Law (#) to amend the Town Zoning map subject to the following condition as recommended by the Planning Board:

1. That the petitioner include additional parking spaces beyond the 17 spaces shown on the concept plan at the site plan stage.

2/22/2021
A motion to open the public hearing was made by Supervisor Kulpa, seconded by Councilmember Lavin and unanimously approved 5-0. The public hearing was opened at 7:32 PM.

Sean Hopkins, Esq. presented.

The following speakers addressed the Town Board:
Joseph Hausbeck, 2180 N. Forest Rd. - Spoke in opposition; does not fit the concept of the neighborhood; submitted a letter listing various concerns

Fran Cummings, 2200 N. Forest Rd. - Voiced her concerns; property floods; traffic
Karen Macris, 2230 N. Forest Rd. - Asked questions; concern of dorm-like apartments; dumpster location and noise

There were no further speakers from the public, therefore Supervisor Kulpa moved to adjourn the public hearing to March 8th. The motion was seconded by Councilmember Szukala and unanimously approved 5-0. The public hearing was adjourned at 8:17 PM.

3/8/2021
A motion to adjourn to April 5th was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

4/5/2021
A motion to open the public hearing was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0. The public hearing was opened at 7:05 PM.

Sean Hopkins, Esq. presented updated plans.

The following speakers addressed the Town Board:
Fran Cummings, 2200 N. Forest Rd. - Concerned about it being student housing, lighting spillover, flooding and traffic
Joseph Hausbeck, 2180 N. Forest Rd. - Concerned about excavation of the site and the project being too large

There were no further speakers from the public, therefore Supervisor Kulpa moved to adjourn the public hearing to April 19th. The motion was seconded by Deputy Supervisor Berger and unanimously approved 5-0. The public hearing was adjourned at 7:34 PM.

4/19/2021
Per Supervisor Kulpa, the Petitioner has requested an adjournment. Supervisor Kulpa then moved to Adjourn to May 3rd, seconded by Deputy Supervisor Berger and unanimously approved 5-0. The hearing was adjourned at 7:09 PM.

5/03/2021
A motion to open the public hearing was made by Supervisor Kulpa, seconded by Councilmember Bucki and unanimously approved 5-0. The public hearing was opened at 7:09 PM.

Sean Hopkins, Esq. presented updated plans.

The following speaker addressed the Town Board:
Fran Cummings, 2200 N. Forest Rd. - Voiced her continued concerns regarding flooding, student housing in their senior citizen community

There were no further speakers from the public, therefore Supervisor Kulpa moved to close the public hearing, seconded by Councilmember Bucki and unanimously approved 5-0. The public hearing was closed at 7:29 PM.

RESULT:	**TABLED (NO VOTE)**	**Next: 9/13/2021 7:00 PM**

TOWN OF AMHERST

TOWN CLERK'S OFFICE

5583 MAIN STREET
WILLIAMSVILLE, NEW YORK 14221
(716) 631-7021
FAX (716) 631-7152
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Kathleen Cooper
Deputy Town Clerk

Timothy Koller
Deputy Town Clerk

March 3, 2021

MEMO TO: David Marrano, Town Assessor

FROM: Francina Spoth, Town Clerk

RE: Petition

The attached petition, in connection with the parcel located at 2160 and 2170 North Forest Road was received in my office. Will you kindly check if the protest has been signed by the owners of 20% or more, either of the area of the land included in such proposed change, or of the immediately adjacent extending 100 ft. therefrom, or of that directly opposite thereto, extending 100 ft. from the street frontage of such opposite land, as provided in Zoning Ordinance, section XXI, Article 2.

Attachment
cc: Town Board
Town Attorney

Attachment: protest petition 2160 n forest-03042021095641 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon

To: Members of the Amherst Town Board

c/o: Town of Amherst, Office of the Town Clerk

MAR03'21 PM 1:06 RCVD

Date: March 2, 2021

In Re: Requested Amendment to Rezone Property

Located at 2160 and 2170 North Forest Road

PROTEST PETITION

Pursuant to New York Consolidated Laws, Town Law, Section 265 (1)(b), we, the undersigned, being the owners of 20% or more of the area of land immediately adjacent to the land included in the above referenced proposed change, extending 100 feet therefrom, hereby petition that any such amendment shall require the approval of at least three-fourths of the members of the town board.

NAME:	ADDRESS:
[illegible]	2180 North Forest Rd
Rosemary Blando	2180 North Forest Rd

Attachment: protest petition 2160 n forest-03042021095641 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon

Town of Amherst, NY
Office of the Assessor
David C. Marrano SCA Assessor

5583 Main Street
Williamsville, New York 14221
Phone: (716) 631-7038
www.amherst.ny.us
dmarrano@amherst.ny.us

Memorandum

March 4, 2021

To: Francina Spoth, Town Clerk
Re: Petition – 2160 & 2170 North Forest Road

The protest petition for 2170 North Forest Road has been signed by the required property owners of one of Zoning Ordinance section XXI, Article 2. The signature(s) satisfied test 2. The Super Majority calculations are based on three tests:

1. 20% or more of the owners signed a petition
2. **20% of the AREA surround said rezoning within 100 feet has signed a petition**
3. 20% of the AREA within 100 feet directly across the street from said rezoning has signed a petition

Therefore a super majority vote will be required to enact the change in zoning, as it relates to 2170 North Forest Road.

2160 North Forest Road has not been signed by the required property owners to satisfy the Zoning Ordinance referenced above, as it relates to the 3 aforementioned tests.

Should you have questions, please feel free to contact me.

Cheryl E. Walfrand
Senior Real Property Appraiser

cc: David C. Marrano
Assessor

Attachment: protest petition 2160 n forest-03042021095641 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon

D R A F T (2/22/21)

SEQR

NEGATIVE DECLARATION

NOTICE OF DETERMINATION OF NON-SIGNIFICANCE

Lead Agency: Town of Amherst
Town Board

Project: Z-2020-06

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: Rezoning Request.

SEQR Status: Type I

Description of Action: Rezoning of 2.35± acres of land from NCD-SA to NCD-ND to allow a proposed 2-story, 8-unit apartment building.

Location: 2160 & 2170 North Forest Road (NCD), Town of Amherst, Erie County, New York

Petitioner: Coromandel Estates Amherst, LLC

Attachment: Z-2020-06_draft TB Neg Dec_2160 & 2170_2.22.21 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon

Reasons Supporting This Determination

Based on information submitted by the applicant, including a Full Environmental Assessment Form (EAF) - Part 1, a complete rezoning application, and concept plan, a preliminary staff analysis was undertaken. Compared to the criteria listed in Section 617.7, all indications are that the proposed rezoning of 2.35± acres of land from NCD-SA to NCD-ND for a proposed 2-story, 8-unit apartment building will not have a significant impact on the environment, as follows:

1. The action is not expected to cause a substantial adverse change in existing air quality, ground or surface water quality or quantity, or noise levels; a substantial increase in solid waste production; or a substantial increase in the potential for erosion, flooding, leaching or drainage problems. The Town Engineering Department on December 24, 2020 reviewed the application and EAF submitted on December 18, 2020, and had no objection or comments on the proposed rezoning. The Building Department requires that a floodplain development permit be obtained prior to final site plan approval.

2. The action will not result in the removal or destruction of large quantities of vegetation or fauna; or in significant adverse impacts to fish or wildlife species, habitats or other natural resources. A Landscape/Tree preservation Plan shall be required of the applicant upon submittal of a site plan application for development of the site at which stage all landscape requirements of the Zoning Ordinance will be met.

3. The action is not expected to create any material conflict with the Town Comprehensive Plan. The project will comply with all regulations of the Town Zoning Ordinance before final site plan approval is granted. The Town Building Department on January 13, 2021 reviewed the application and EAF submitted on December 18, 2020, and has no objection or comments on the proposed rezoning.

4. The property is within an area identified by the State as potentially containing significant cultural or archeological resources. A Phase I Archaeological Reconnaissance Survey was conducted in October 2020 by the University at Buffalo's Department of Anthropology. The report concluded that no prehistoric or historic sites were identified and recommended no further work. The NYS Office of Parks, Recreation and Historic Preservation's letter of October 30, 2020 concurred that the action will not impair the character or quality of important historical resources.

5. The action will not impair the character or quality of important aesthetic resources or of existing community or neighborhood character. The subject request is for reclassification from NCD-SA to NCD-ND. This property is in an area of Town with a variety of residential uses. The majority of this area is occupied by single-family homes, however, directly across North Forest Road from this site is the Beechwood Senior Residence/Asbury Pointe development. Within the past few years, apartment developments have been constructed further west along North Forest Road, most notably the "Muir Lake" apartments between Millersport Highway and John James Audubon Parkway. Therefore, the project is considered consistent with surrounding land use.

Attachment: Z-2020-06_draft TB Neg Dec_2160 & 2170_2.22.21 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon

6. The proposed reclassification to NCD-ND for the proposed 2-story, 8-unit apartment building will not cause a major change in the use of either the quantity or type of energy.

7. The reclassification to NCD-ND for the proposed 2-story, 8-unit apartment building will not create any hazard to human health.

8. The reclassification to NCD-ND will not cause a substantial change in the use, or intensity of use, of land including agricultural, open space or recreational resources, or in its capacity to support existing uses. The proposed 2-story, 8-unit apartment building will be consistent with the scale of surrounding land uses.

9. The reclassification to NCD-ND for the proposed 2-story, 8-unit apartment building 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 on December 30, 2020 and the NYS Department of Transportation on November 28, 2020 indicate that significant negative traffic impacts are not expected to result from the proposed project.

11. Coordinated reviews of the project have been undertaken by Town Departments including Building on January 13, 2021, Engineering on December 24, 2020, Attorney on January 4, 2021, Traffic/Safety Board on December 30, 2020, Assessor on December 23, 2020, and Right-of-Way Agent on December 29, 2020, along with outside agencies including the NYS Department of Environmental Conservation on January 22, 2021 and the Williamsville School District on December 28, 2020. 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 be causing significant negative environmental impacts.

_____ _____
Signature & title of preparer date

_____ _____
Brian J. Kulpa, Supervisor date

EK/ac
X:\Current_Planning\Files\Rezonings\2020\Z-2020-06_(2160 &_2170_North_Forest_Rd_NCD)_2020\Z-2020-06_draft TB Neg Dec_2.22.21.docx
cc: Amherst Town Clerk
Amherst Building Department
ECDEP
NYSDEC

Attachment: Z-2020-06_draft TB Neg Dec_2160 & 2170_2.22.21 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon

LOCAL LAW NO. _____-201_

TOWN OF AMHERST
COUNTY OF ERIE, STATE OF NEW YORK

A LOCAL LAW AMENDING CHAPTER 203 OF THE TOWN OF AMHERST CODE, KNOWN AS THE ZONING ORDINANCE, TO REZONE/RECLASSIFY 2160 AND 2170 NORTH FOREST ROAD FROM NCD-SA TO NCD-ND AND TO AMEND THE AUDUBON DEVELOPMENT PLAN AND TO AMEND THE ZONING MAP ACCORDINGLY.

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

Section 1. Title.

This Local Law shall be referred to as, "A Local Law Amending Chapter 203 of Town of Amherst Code, Known As The Zoning Ordinance, to Rezone/Reclassify 2160 and 2170 North Forest Road from NCD-SA to NCD-ND and to Amend The Audubon Development Plan and to Amend The Zoning Map Accordingly".

Section 2. Legislative Findings and Intent.

The Town Board of the Town of Amherst finds that an application to rezone/reclassify 2160 and 2170 North Forest Road from NCD-SA to NCD-ND and Amend the Audubon Development Plan and to Amend the Zoning Map Accordingly has been filed and is in proper order. The Town Board further finds that the request including the rezoning/reclassification and the amendment of the Audubon Development Plan is consistent with the Comprehensive Plan.

Section 3. Amherst Zoning Map.

The Town Board hereby: 1.) amends its Zoning Map which is incorporated by reference in the Town Zoning Code by amending/reclassifying from NCD-SA to NCD-ND the parcels at 2160 and 2170 North Forest Road; and 2.) amending the Audubon Development Plan, both being **subject to any conditions imposed by the authorizing resolution**; legally described as follows:

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Amherst, County of Erie, State of New York, being part of Lot 68, Township 12, Range 7 of the Holland Land Survey so-called and further bounded and described as follows.

BEGINNING at the intersection of the centerline of Stahl Road (66.0 feet wide) with the centerline of North Forest Road (66.0 feet wide):

THENCE: Southerly, along the centerline of Stahl Road extended southerly, a

Attachment: Draft Local Law-Reclassification of 2160 2170 North Forest Road-08-24-20 (RES-2021-153 : 2160 & 2170 Request to Rezone and

distance of 108 feet more or less to the north bank of Ellicott Creek;

THENCE: Westerly along said north bank of Ellicott Creek, a distance of 583 feet more or less to the west line of lands conveyed to Peter D. Durham by deed recorded in the Erie County Clerk's Office in Liber 9264 of Deeds at page 188;

THENCE: Northerly along said west line of Peter D. Durham lands, a distance of 10 feet more or less to the north bank of Ellicott Creek;

THENCE: Westerly and southerly along said north bank of Ellicott Creek, a distance of 227 feet more or less to a point distant 100 feet westerly from the said west line of Peter D. Durham lands as measured at right angles;

THENCE: Northerly along a line parallel with the west line of said Peter D. Durham lands distant 100.00 feet westerly therefrom measured at right angles, a distance of 491 feet more or less to the centerline of North Forest Road;

THENCE: Easterly, along said centerline of North Forest Road, a distance of 564.74 feet to the POINT OR PLACE OF BEGINNING.

Section 4. Validity.

This Local Law is adopted under the authority granted to the Town Board of the Town of Amherst pursuant to §§10(1)(ii)(a)(12), 20 and 27 of the Municipal Home Rule Law and §265 of the Town Law of the State of New York.

The invalidity of any provision of this Local Law shall not affect the validity of any other provision of this Local Law that can be given effect without such invalid provision.

Section 5. Effective Date.

This Local Law shall take effect immediately when it is filed in the Office of the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law and published pursuant to Sections 130 & 133 of the Town Law and Chapter 28 of the Code of the Town of Amherst.

Francina J. Spoth
Town Clerk
Town of Amherst
County of Erie, State of New York

Attachment: Draft Local Law-Reclassification of 2160 2170 North Forest Road-08-24-20 (RES-2021-153 : 2160 & 2170 Request to Rezone and

Amherst

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

Brian J. Kulpa
Supervisor

Daniel C. Howard, A
Planning Directo

Ellen M. Kost, AICP
Assistant Planning Dir

Town Board Agenda of February 22, 2021

February 9, 2021

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

Subject: Amendment #73 to the Audubon New Community District Development Plan to reclassify 2.35± acres of land from NCD-SA to NCD-ND; property located at 2160 & 2170 North Forest Road (NCD). Z-2020-06.

Honorable Members:

The subject property consists of two lots and forms a 2.35± acre irregularly shaped area located on the south side of North Forest Road, just west of the Stahl Road intersection. The site has 278.60± ft. of frontage and a depth of 497.16± ft. The site is vacant and partially wooded.

The south boundaries of the two lots are directly adjacent to Ellicott Creek, and the Ellicott Creek floodway extends onto both properties. A preliminary wetland investigation by Earth Dimensions, Inc. in July 2020 did not identify any federal jurisdictional wetlands or NYS wetlands on the subject properties. North Forest Road is a County collector.

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

The purpose of this request is to reclassify the land to allow a 2-story, 8-unit apartment building. The concept plan shows the building in the central portion of the site, with 17 parking spaces in front of the building, eight (8) of which are proposed to be in a free-standing garage. Parking would be accessed by one driveway to North Forest Road approximately in the center of the site. Space for emergency vehicle turnaround is shown between the building and the road. The plan also shows a covered patio with fire pit on the west side of the building and a dumpster location west of the building. Two stormwater basins are proposed near the north and south ends of the west property line. All development is shown outside the Ellicott Creek floodway.

The property was zoned New Community District – Suburban Agriculture (NCD-SA) with adoption of the Town-wide zoning ordinance and maps in 1976. No other requests are on file.

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

continued . .

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

A) **EXTENT TO WHICH THE PROPOSED AMENDMENT MEETS THE INTENT AND OBJECTIVES OF A NEW COMMUNITY DISTRICT AS EXPRESSED IN SECTION 5-2-2 OF THE ZONING ORDINANCE.**

The proposed revision to the development plan addresses the following objectives of the Zoning Ordinance.

Objectives

2-2A *A varied choice in the types of environment, occupancy, tenure, types and cost of housing, lot sizes, and community facilities available to existing and potential Town residents.*

The proposed project consists of a 2-story, 8-unit apartment building with 17 parking spaces in front of the building, eight (8) of which will be in a free-standing garage. One driveway to North Forest Road is shown in the central portion of the site. Two stormwater basins are proposed near the west property line. All development is shown outside the Ellicott Creek floodway.

The Assessor's office agrees with all statements made in the application and has no issue with the rezoning since units will be leased and not sold with condominium tax status.

The Building Department has approved the rezoning as submitted.

2-2B *Extensive usable open space and recreation areas, appropriate in terms of location, size and suitability of intended function.*

No usable open space or recreation areas are proposed with this project. The Ellicott Creek floodway, which extends onto these properties, will remain as open space and is prohibited by FEMA regulations from containing any structures.

2-2C *The provision of commercial, office or industrial uses of substantial real property tax productivity intended to support the financing of additional educational, municipal, and other public services required as a result of the development.*

No commercial, office or industrial uses are proposed with this project.

2-2D *Convenience in location of Commercial and Service Areas*

The closest commercial/service areas to the subject property are located on Millersport Highway (0.5 miles) and on Maple Road (1.5 miles). These include gas stations and a variety of restaurants. The UB North campus, on the opposite side of Ellicott Creek, also offers commercial services.

2-2E *The preservation of such features as trees, outstanding natural topography and geological features; the prevention of soil erosion; and the comprehensive design of storm water retention and proper drainage systems.*

As most of the wooded areas in the southern and eastern portions of these properties are within the Ellicott Creek floodway, they are proposed to remain undisturbed.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

The NYS Department of Environmental Conservation concurs that the Town of Amherst should act as SEQR Lead Agency and has the following comments:

1. Note that Ellicott Creek has a water classification and standard of B. Therefore, any physical alteration (ie, land clearing, filling, drainage pipe/ditch installation, etc.) to the bed or banks (within 50 feet of the stream) will require an Article 15, Title 5, Protection of Waters Permit from the NYSDEC.

2. The project site is located near a NYS Flood Control Easement, specifically Amherst Ellicott Creek Flood Control Project. Use of this easement requires an Article 16 Flood Control Land Use Permit from the NYSDEC.

3. The site is located within the designated 100-year floodplain per the Federal Emergency Management Agency's (FEMA) Firm Map No. 36029C0069H. The proposed project should be designed in accordance with all applicable local municipal laws for flood damage reduction. In addition, Ellicott Creek has a regulatory floodway, and any encroachment into floodway, including fill, requires an engineering analysis that demonstrates a 0.0' rise in the base flood elevation before a permit can be issued. Based on submitted plans, it also appears that the proposed patio/fire pit area is within the floodway and may require a separate floodplain development permit.

4. If any project activities will involve land disturbance of 1 acre or more, the project sponsor is required to obtain a State Pollutant Discharge Elimination System General Permit for Stormwater Discharges from Construction Activity.

5. This proposed project requires a sanitary sewer connection that is designed to convey 2,500 gallons/day or more of municipal sewage and is therefore considered a sanitary sewer extension. The Erie County Health Department will be the approving agency. A detailed Downstream Sewer Capacity Analysis must be performed and submitted for the proposed project as part of the Project's Engineering Report.

6. Portions of this project area are located on hydric soils. The project sponsor should contact the United States Department of the Army, Corps of Engineers (COE) to ensure that the project will not involve federally regulated wetlands or any other approval from that agency. If Federal Wetlands are involved, the COE may require Water Quality Certification from DEC.

7. The project site appears to be within an archaeologically sensitive area based on information obtained through the Cultural Resources Information System (CRIS) on the NYS Office of Park, Recreation and Historic Preservation's (OPRHP) website. As part of the SEQR process, this concern should be evaluated, unless it can be verified by appropriate documentation that the sites have been significantly disturbed in a way that would destroy potential artifacts. Note: If any of the described Department approvals are required, an appropriate archaeological investigation must be conducted in order to satisfy the NYS Historic Preservation Act.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

2-2F *The creative use of land and related physical development which allows an orderly transition of land from rural to urban uses.*

The subject properties are located within an area of Town with a variety of residential uses. The majority of this area is occupied by single-family homes, however, directly across North Forest Road from this site is the Beechwood Senior Residence/Asbury Pointe development. Within the past few years, apartment developments have been constructed further west along North Forest Road, most notably the "Muir Lake" apartments between Millersport Highway and John James Audubon Parkway.

The ROW Agent agrees with all statements made in the application and notes that an easement to the Town of Amherst on this property (liber 7105, page 369) should continue to be in effect and be reduced to an agreement.

2-2G *An efficient use of land resulting in smaller networks of utilities and streets and lessened burden of traffic on streets and highways thereby lowering utility and maintenance costs borne by new development.*

As the floodway is located on nearly half of the subject site, the concept plan submitted with this application shows the development limited to the central portion of the site. One driveway to North Forest Road is shown in the center of the site.

The Engineering Department, Traffic-Safety Board and Fire Chiefs' Association agree with all statements made in the application. The Highway Department review is pending.

NYSDOT reviewed the project, concurred with the Town acting as Lead Agency, and stated that the proposed project will not have a significant impact to traffic on the State Highway System.

The Erie County DPW – Highways Division concurs with the Town of Amherst being the Lead Agency for this project and has the following comments:

Permit Requirements:

1. The Developer will be required to apply for and obtain an Erie County Highway Work Permit for Utility Work Perm-2 for construction within the North Forest Road highway right-of-way.

2. The Developer will be required to apply for and obtain an Erie County Highway Work Permit for Non-Utility Work, Perm 3 for construction of a new entrance drive within the North Forest Road highway right-of-way.

Traffic Concerns:

1. A Traffic Impact Study may be needed due to the close proximity of the project to the intersection of North Forest and Stahl Road.

2-2H *Creation and preservation of natural and man-made features which will give increased environmental quality, encourage uses which will maintain high environmental quality and provide an attractive community design.*

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

The most important natural feature on this development site is the Ellicott Creek floodway, which according to FEMA regulations cannot hold structures of any kind. The wooded areas in the southern and eastern portions of the site within the floodway are therefore proposed to remain undisturbed.

This project is in an archaeologically sensitive location based on NYS mapping. A Phase I Archaeological Reconnaissance Survey was conducted in October 2020 by the Department of Anthropology at the University at Buffalo. The survey found that no historic or prehistoric sites were identified and recommended no further work. The NYS Office of Parks, Recreation and Historic Preservation concurs with the report's conclusion that no further archaeological investigations are warranted, and their opinion is that no properties, including archaeological and/or historic resources, listed in or eligible for the New York State and National Registers of Historic Places will be impacted by this project.

2-2I *Guidance and control of development in Flood Hazard Areas so that life and property both within and without such areas are protected.*

The Building Department is responsible for administering all flood code provisions; that department has no issue with the proposed rezoning but notes that a floodplain permit will be required. Town mapping from 2019 shows this property within the existing flood hazard area.

2-2J *Increased safety for all modes of travel, including pedestrian and bicycle.*

There are no sidewalks on North Forest Road in the vicinity of this project, and the petitioner does not propose to install any. An internal sidewalk is shown around the proposed building and parking lot but does not extend to the road.

The Williamsville Central School District notes that the District has received information on this project and placed it on file, and that a future bus stop will be located at a driveway entrance at North Forest Road in accordance with District policy.

2-2K *An appropriate balancing or accommodation of the effect of major public or private development elsewhere in the Town or its vicinity.*

While the proposed 8-unit apartment building presents a denser development than the nearby single-family lots, it is consistent with the adjacent Beechwood Senior Residence/Asbury Pointe development across North Forest Road. The property is close to the UB North Campus on the opposite side of Ellicott Creek. The development can also be expected to supplement the off-campus housing stock for faculty, staff and students. The developer has stated that these units are intended to be marketed to professionals who often work remotely.

2-2L *Sufficient civic and community facilities, carefully integrated with adjoining areas.*

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

There are no civic or community facilities proposed with this project; adequate civic and community facilities are located in the area.

2-2M *Provision for the orderly updating of long-term, large-scale development plans to reflect changing circumstances within an overall, Town-approved planning framework.*

The Comprehensive Plan's Conceptual Land Use Plan (Figure 6) indicates Mixed Residential use for the section of North Forest Road between Stahl Road and Millersport Highway. The Mixed Residential designation is aimed at projects with densities of 4 – 12 units/acre. The subject project will result in a density of 3.4 units/acre.

The requested change is generally compatible with the character of development in the area, although the other comparable developments are not located on the 'creek side' of North Forest Road. The 3-story, 90-unit "Muir Lake" apartments between Millersport Highway and J. J. Audubon Parkway, as well as the Beechwood/Asbury senior residence, do not back up to Ellicott Creek. It should be noted that the subject site is within the boundary of the Town's Local Waterfront Revitalization Program (LWRP) currently in progress. This project would require another level of review for consistency with waterfront policies if the LWRP was adopted by the Town (adoption is not expected within the next year).

2-2N *A more desirable environment than would be possible through the strict application of other sections of this Zoning Ordinance.*

The current zoning of New Community District – Suburban Agriculture (NCD-SA) allows single family dwellings only. The proposed development of the site includes 8 apartment units that would not be allowed under the current zoning classification. The demand for student housing in the area surrounding the UB campus makes this a desirable location for apartment use.

B) EXTENT TO WHICH THE PROPOSED DEVELOPMENT PLAN MEETS ALL THE REQUIREMENTS OF SUBSECTIONS 5-2-4, 5-2-5, and 5-2-6 OF THE ZONING ORDINANCE.

5-2-4 Location of NCD Not applicable (pertains to entire existing NCD within the Town).

5-2-5 Permitted Uses

5-2-5A(2) Neighborhood District. This classification includes primarily residential areas designed to provide living space for families and individuals. Ancillary uses designed to conveniently serve residents may be located within them. The classification includes:

a. Residences and dwelling units of every type, except as otherwise specified in this subsection.
b. Fraternity and sorority houses, dormitories, hostels and boardinghouses.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

c. Small convenience retail and service facilities, except for automobile drive-in restaurants, and ancillary office facilities designed to serve the needs of residents of the neighborhood.
d. Public or quasi-public facilities, including schools and day-care centers, religious buildings and other community facilities.
e. Recreation facilities, open space areas, and personal training facilities.
f. Special limited commercial services and facilities not already included in the above uses, storage yards, and open equipment structures.

5-2-5B Use Mixture: Not applicable.

5-2-6 Dimensional Standards

5-2-6A The overall residential density of an NCD shall not exceed five (5) dwelling units per gross acre. This density regulation applies to the entire New Community District (4,121± acres) within the Town. Although the density of the proposed development is 3.4 units/acre, it would not bring the overall NCD density beyond the threshold of 5 units/acre.

5-2-6B Dwelling Unit Area. Information not provided. All dwelling units and rooms included in a dwelling are required to have sufficient floor area to satisfy the applicable minimum floor area requirements of the State Building Construction Code or the Town Building Code, whichever is applicable. This requirement will need to be met.

5-2-6C Minimum Area. Not applicable

5-2-6D Building Arrangements. The proposed development will result in a 2-story, 8-unit apartment building in the central portion of the site. The proposed 17 parking spaces will result in 2 spaces/unit, the minimum required by code elsewhere in the Town.

C) THE PROPOSED DEVELOPMENT PLAN IS CONCEPTUALLY SOUND IN THAT IT MEETS PRESENT AND FUTURE COMMUNITY NEEDS

The requested NCD-ND classification and proposed project concept will generally result in a sound development plan for the subject area; however, the concept should include space for overflow parking beyond that required for residents of the development. Section 5-2-7A(8) in the Zoning Ordinance states that "Off-street parking, loading, and stacking spaces shall be provided so as to prevent overflow of parked or standing vehicles onto public or common vehicular or pedestrian rights-of-way."

D) THERE ARE ADEQUATE SERVICES AND UTILITIES AVAILABLE OR PROPOSED TO BE MADE AVAILABLE IN THE CONSTRUCTION OF THE DEVELOPMENT.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

All services and utilities are or will be made available with this development.

E) THE PROPOSED DEVELOPMENT PLAN IS CONSISTENT WITH THE TOWN COMPREHENSIVE PLAN

The proposed project generally complies with the locational and use criteria in the Comprehensive Plan for land near a university campus.

SEQR

This is a Type I action, and an environmental assessment consistent with SEQR has been prepared for the subject proposal. Pursuant to Local Law #3-82, as amended, the requirements of SEQR are complete and the proposal is not expected to have a significant adverse effect on the environment.

RECOMMENDATION

The Planning Board recommends that your Honorable Body concur with the Planning Board's findings relative to SEQR and issue the attached Negative Declaration, and that the subject request be **approved** based on the attached resolution.

Very truly yours,

DANIEL C. HOWARD, AICP
Planning Director

DH/EK/ac
Att.
X:\Current_Planning\Files\Rezonings\2020\Z-2020-06_(2160 &_2170_North_Forest_Rd_NCD)_2020\Z-2020-06_TB Letter_2.22.21.docx
cc: Stanley Sliwa, Town Attorney

Planning Board Approval – January 21, 2021
Ayes 7; Noes 0

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

TOWN OF AMHERST
PLANNING BOARD RESOLUTION
AMENDMENT #73 TO THE AUDUBON DEVELOPMENT PLAN
Z-2020-06

PETITIONER
Coromandel Estates Amherst LLC
c/o Sean Hopkins, Esq.
Hopkins Sorgi & McCarthy PLLC
5500 Main St., Suite 343
Williamsville, NY 14221

PROPERTY LOCATION
2160 & 2170 North Forest Road (NCD)

JAN29'21 AM 8:32 RCVD

WHEREAS the Town of Amherst Planning Board on Thursday, January 21, 2021 held a public hearing on Amendment #73 to the Audubon New Community District Development Plan to classify the subject property as suitable for use as an apartment development, and

WHEREAS the Planning Board has reviewed the Amendment plans and supporting documentation, and

WHEREAS the Amendment has been referred to the various Town review agencies, and

WHEREAS the Planning Board finds that:

A. The proposed Revision to the Development Plan meets the intent and objectives of a New Community District as expressed in Subsection 1-1.1.

B. The proposed Revision to the Development Plan meets all the requirements of Section 5-2-3 through 5-2-6.

C. The proposed Revision to the Development Plan is conceptually sound in that it meets present and future community needs.

D. There are or will be adequate services and utilities available or proposed to be made available in the construction of the development.

E. The proposed Amendment to the Development Plan is consistent with the Town Comprehensive Plan.

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

NOW THEREFORE BE IT RESOLVED that the Planning Board, in accordance with Section 8-15-2 of the Zoning Ordinance offers a positive report and recommends Town Board approval of Amendment #73 to the Audubon Development Plan with the following condition:

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

TOWN OF AMHERST
PLANNING BOARD RESOLUTION
AMENDMENT #73 TO THE AUDUBON DEVELOPMENT PLAN
Z-2020-06

PETITIONER
Coromandel Estates Amherst LLC

PROPERTY LOCATION
2160 & 2170 North Forest Road (NCD)

JAN29'21 AM 8:33 RCVD

1. That the petitioner include additional parking spaces beyond the 17 spaces shown on the concept plan at the site plan stage.

The foregoing resolution was adopted by the Town of Amherst Planning Board, January 21, 2021; moved by Chmiel; seconded by Giuliani; ayes 7, noes 0.

Robert J. Gilmour, Chair — Date 1/28/21

EK/ac
X:\Current_Planning\Files\Rezonings\2020\Z-2020-06_(2160 &_2170_North_Forest_Rd_NCD)_2020\Z-2020-06_resolution_012121.doc
cc: Commissioner of Building
Town Engineer
Highway Superintendent
Traffic/Safety Coordinator
Coromandel Estates Amherst LLC, c/o Sean Hopkins, 5500 Main St., Suite 343, Williamsville, NY 14221
Thiru Vikram, c/o Coromandel Estates LLC, 4515 Chestnut Ridge Road, Unit 106, Amherst NY 14228
Chris Wood, Carmina Wood Morris, 487 Main St., Suite 500, Buffalo NY 14203
Christina Barmosz, Silvestri Architects, 1321 Millersport Hwy., Amherst, NY 14221
David Pawlik, Creative Structures Services, 550 Seneca St., Suite 100, Buffalo NY 14204

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Amended Application - Reclassification 2160 and 2170 North Forest Road and to Amend the Audubon Development Plan
Date: December 17, 2020

Applicant: Mandel Estates Amherst LLC c/o Sean Hopkins, Esq.
5500 Main Street, Suite 343
Williamsville, NY 14221
Tel: 716.510-4338
E-mail: shopkins@hsr-legal.com

Original

TOWN OF AMHERST PLANNING DEPARTMENT

Application for Rezoning Review and, if required Comprehensive Plan Amendment

For Official Use

File #: Z-2020-06 **Acreage** — **Fee $** -0-

Address Verified by Assessor's Office _____ VERIFIED BY DATE

Materials Accepted by Town Clerk & Fee Paid _____ ACCEPTED BY DATE

Materials Checked by Building Dept. _____ RECEIVED BY DATE

Materials Received by Planning Dept. _____ RECEIVED BY DATE

		Fill In Applicable Fees
2 ACRES OR LESS	**$1,250**	$1,250.00
2 – 20 ACRES **$1,250 + $250/acres or fraction thereof over 2 acres**		$250.00
20 – 30 ACRES **$5,700 + $150/acre or fraction thereof over 20 acres**		____
OVER 30 ACRES **$6,900 +$75/acre or fraction thereof over 30 acres**		____
Request for Relief of/Change to Conditions of Zoning Approval	**$ 1,200**	____
AFFIDAVIT FEE FOR PUBLIC HEARING	**$ 15.00**	$15.00
TOTAL FEE:		$ 1,515.00

REVISED
DEC 18 2020
TOWN OF AMHERST
PLANNING DEPT.

Z-2020-06,
2160 & 2170 N. Forest Rd. (RCD)

[Note: A completed Amended Part 1 of the Full Environmental Assessment Form prepared pursuant to the State Environmental Quality Review Act ("SEQRA") is attached as Exhibit "2" of this Application.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

TO BE COMPLETED BY APPLICANT

1. **Petitioner:** Name: Coromandel Estates Amherst LLC

Address: c/o Sean Hopkins, Esq.
5500 Main Street, Suite 343
Williamsville, New York 14221
City State Zip Code

Phone: 510-4338 Fax:

E Mail shopkins@hsr-legal.com

2. **The undersigned hereby petitions the Honorable Town Board to rezone the following described property**

From: NCD-SA District

To: NCD-ND District

3. **Street address of land to be rezoned:** (must be verified by Town Assessor's Office)

2160 and 2170 North Forest Road

SBL #: 55.02-1-2 and 55.01-1-19.2

4. **Area of land to be rezoned** (in acres): 2.35

5. **Owner of Land:**

Name: Allen and Kristen Guerin

Address: 270 Rosedale Boulevard, Amherst, NY 14226

Telephone:

6. **Representative** (Architect, Engineer, Landscape Architect, Surveyor or Attorney):

Name: Sean W. Hopkins, Esq.

Address: 5500 Main Street, Suite 343
Williamsville, New York 14221
Tel: 716.510-4338 - E-mail: shopkins@hsr-legal.com
City State Zip Code

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

7. **Petitioner's interest in property**

_____Option to purchase

_____Owner

__X__Other (explain) Petitioner has entered into a contract to purchase the Project Site. A signed Authorization Form is attached as Exhibit 1 of this Amended Application.

8. **The following are all others having an interest in this application and join herein with the petitioner named above:** (describe extent of interest; attach sheets as needed)

Not Applicable.

9. **Attach Survey and Legal description of land to be rezoned. The Survey must be prepared by a New York State Licensed Land Surveyor.** The legal description of property to be reclassified is attached as Exhibit "3" and a full size copy of the Survey prepared by GPI dated dated July 13, 2020 is attached. A reduced size copy of the Survey is also attached as Exhibit "4".

10. **Said property has the following deed restrictions or Covenants:** (attach copy) Not Applicable.

Liber _____ Page _____

11. **Information on proposed project:**

A. Description of the character of the proposed development:

See Exhibit 5.

B. Rationale for rezoning request:

1. Why was this site chosen?

See Exhibit 5.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

2. Why cannot land be used with the existing zoning?

See Exhibit 5.

3. How will this rezoning impact surrounding properties?

See Exhibit 5.

4. How will this rezoning impact the school system?

See Exhibit 5.

12. Quantitative Data:

A. Total # of dwelling units 8
[The density of the proposed project has been reduced from 18 units to 8 units.]

B. Distribution of dwelling units by type Attached residential units for lease

C. Gross Residential Density per acre 3.40 units per acre

D. Total amount of Open Space Approximately 1 acre of greenspace and landscaping

E. Proposed Non-Residential Floor Area Not Applicable

13. Development Schedule:

Start Spring/Summer 2021

Finish 2022

Stages (# of) 1

14. If any portion of the proposed development is planned to be sold or leased, please describe:

The attached residential units will be leased to residential tenants.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

15. **Open Space ownership and maintenance provisions (if applicable):**

Greenspace and landscaping will be privately owned and maintained.

16. **Basis for Findings (Sec. 8-3-5 of the Town Zoning Code) (Attach sheets and supplemental materials as necessary.)**

A. **The proposed zoning and development plan must be generally consistent with the policies of the Comprehensive Plan and the Town Zoning Ordinance.**

1. State in detail why the proposed zoning is consistent with the adopted Town of Amherst Bicentennial Comprehensive Plan. Cite specific sections, maps, and/or figures in the plan that support the proposed zoning at this location (The Comprehensive Plan document is available at the Planning Department, Town Clerk's Office, Amherst libraries, or at www.amherst.ny.us). Add sheets as needed.

See Exhibit 6.

2. Pursuant to NYS Town Law Section 272a(11), "all Town land use regulations must be in accordance with a comprehensive plan adopted pursuant to this Section." The Town Board adopted the Comprehensive Plan pursuant to NYS Town Law 272 on January 2, 2007. If the rezoning is approved, the Town Board may require the Plan to be amended, as applicable.

Cite all text, map, and / or figures that must be amended to support the proposed zoning at this location (attach pages as necessary) and provide detailed suggested amendments.

See Exhibit 6.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

3. State why the proposed zoning is consistent with intent and objectives (Sec. 1-2-2) of the Zoning Ordinance:

See Exhibit 6.

B. Adequate Services and Utilities are available or are proposed to be made available with the construction of the development:

1. Sanitary Sewer
   Yes.
2. Storm Sewer/Drainage
   Yes.
3. Water
   Yes.
4. Other Yes.

C. Compatibility with the present zoning and conforming uses of nearby property and with the character of the neighborhood:

See Exhibit 6.

D. Suitability of the subject property for uses permitted by the current versus the proposed district:

See Exhibit 6.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

E. **Whether the proposed change tends to improve the balance of uses, or meets a specific demand in the Town:**

See Exhibit 6.

17. The petitioner encloses herewith the sum of $ 1,515.00 to pay the fee, and consents to the placement of a sign(s) at the described location identifying this request for a period of time to be determined by the Town Clerk.
[The filing fee was previously paid .]

18. The undersigned certifies that all information required to be disclosed pursuant to Section 809 of the General Municipal Law (see below) is as follows:

The undersigned swears or affirms that all statements made herein are true, that all drawings submitted correctly show the situation involved in this petition.

[Note: Authorization letter of property owners dated August 18, 2020 is attached to this Application.]

Counsel for Petitioner
Signature of Petitioner

Subscribed and sworn to before me this 17th day of December, 20 20

Notary Public, Erie County, New York

MARIANNE BRAUTLACHT
Notary Public, State of New York
Qualified in Erie County
My Commission Expires 01/14/20

N.Y.S. General Municipal Law - Section 809 Disclosure in certain applications:

1. Every application, petition or request submitted for a variance, amendment, change of zoning, approval of a plat, exemption from a plat or official map, license or permit, pursuant to the provision of any ordinance, local law, rule or regulation constituting the zoning and planning regulations of a municipality shall state the name, residence and the nature and extent of the interest of any state office or any office or employee of such municipality or of a municipality of which such municipality is a part, in the person, partnership or association making such application, petition or request (hereinafter called the applicant) to the extent known to such applicant.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

2. For the purpose of this section an officer or employee shall be deemed to have an interest in the applicant when he, his spouse, or their brothers, sisters, parents, children, grandchildren, or the spouse of any of them

   (a) is the applicant, or
   (b) is an officer, director, partner or employee of the applicant, or
   (c) legally or beneficially owns or controls stock of a corporate applicant or is a member of a partnership or association applicant, or
   (d) is a party to an agreement with such an applicant, express or implied, whereby he may receive any payment or other benefit, whether or not for services rendered, dependent or contingent upon the favorable approval of such applicant, petition or request.

3. In the county of Nassau the provisions of subdivisions one and two of this section shall also apply to a party officer. "Party Officer" shall mean any person holding any position or office, whether by election, appointment or otherwise, in any party as defined by subdivision four or section two of the election law.

4. Ownership of less than five per cent of the stock of a corporation whose stock is listed on the New York or American Stock Exchanges shall not constitute an interest for the purposes of this section.

5. A person who knowingly and intentionally violates this section shall be guilty of a misdemeanor.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Exhibit 1 – Authorization Form of Property Owners dated August 18, 2020

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Authentisign ID: 5F5EDAC5-6B0F-4377-B19F-0884A050FD33

AUTHORIZATION

Allen Guerin and Kristen Guerin, as the record owners of the parcels of land located at 2160 North Forest Road [SBL No. 55.02-1-1] and 2170 North Forest Road [SBL No. 55.01-1-19.2] in the Town of Amherst (collectively the "Project Site") hereby authorizes Postwork Capital LLC and its consultants to seek a rezoning and all other required governmental approvals from the municipal boards of the Town of Amherst in connection with a proposed multifamily project to be located on the Project Site.

Date: August 18, 2020 Signature: Authentisign Allen Guerin 08/19/2020
8/19/2020 9:14:43 AM EDT
Print Name: Allen Guerin

Date: August 18, 2020 Signature: Authentisign Kristen Guerin 08/19/2020
Print Name: Kristen Guerin

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Exhibit 2 – Amended Part 1 of Full Environmental Assessment Form Prepared Pursuant to the State Environmental Quality Review Act ("SEQRA") with Attachments "A" and "B"

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Amended Part 1 of Full Environmental Assessment Form with Attachments
Date: December 17, 2020

Full Environmental Assessment Form Part 1 - Project and Setting

Prepared By: Sean Hopkins, Esq.
Hopkins Sorgi & McCarthy PLLC
5500 Main Street, Suite 343
Williamsville, NY 14221
Tel: 510-4338
E-mail: shopkins@hsr-legal.com

Instructions for Completing Part 1

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

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

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

A. Project and Applicant/Sponsor Information.

Name of Action or Project: Proposed Multifamily Project		
Project Location (describe, and attach a general location map): 2160 and 2170 North Forest Road - Town of Amherst - Erie County		
Brief Description of Proposed Action (include purpose or need): The proposed action involves an amendment of the land use classification of 2160 and 2170 North Forest Road from NCD-SA to NCD-ND and an amendment of the Audubon Development Plan to accommodate the development of the Project Site as a three-story multifamily building consisting of 8 attached residential units for lease and all related site improvements as depicted on the Concept Site Plan prepared by Silvestri Architects, P.C. The proposed action has been defined broadly to include the construction of the proposed two-story multifamily building as well as all necessary site improvements including: parking spaces, a curb cut onto North Forest Road, access aisles, water and sanitary sewer lines as well as utility connections. Although the proposed project ("action") will not cross of any of the thresholds for a Type I action contained in 6 NYCRR Part 617.4. of SEQRA Regulations, it is a Type I action due the proximity of the Project Site to Ellicott Creek, which is a flowing watercourse, pursuant to a local law adopted by the Town of Amherst in 1982. The local law requires projects within 100 ft. of a flowing watercourse to be classified as Type I action. Given that the proposed project will not result in any potentially significant adverse environmental impacts, the issuance of a negative declaration pursuant to SEQRA is appropriate.		
Name of Applicant/Sponsor: Coromandel Estates Amherst LLC c/o Sean Hopkins, Esq.	Telephone: 716.510-4338 E-Mail: shopkins@hsr-legal.com	
Address: 5500 Main Street, Suite 343		
City/PO: Williamsville	State: NY	Zip Code: 14221
Project Contact (if not same as sponsor; give name and title/role): Same as Above.	Telephone: E-Mail:	
Address:		
City/PO:	State:	Zip Code:
Property Owner (if not same as sponsor): Allen and Kristen Guerin	Telephone: E-Mail:	
Address: 270 Rosedale Boulevard		
City/PO: Amherst	State: NY	Zip Code: 14226

REVISED
DEC 18 2020
TOWN OF AMH
PLANNING DEPT.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

B. Government Approvals

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

Government Entity	If Yes: Identify Agency and Approval(s) Required	Application Date (Actual or projected)
a. City Counsel, Town Board, or Village Board of Trustees ☑Yes ☐No	Town of Amherst Town Board - Reclassification NCD Property and Amend. of Audubon Dev. Plan	August 24, 2020
b. City, Town or Village Planning Board or Commission ☑Yes ☐No	Planning Board - Site Plan Approval	To be Determined
c. City, Town or Village Zoning Board of Appeals ☐Yes ☑No		
d. Other local agencies ☑Yes ☐No	Building Dept. - Building and Floodplain Permits; Stormwater Permit - Eng. Dept.	To be Determined
e. County agencies ☑Yes ☐No	ECDPW - Curb cut onto North Forest Road; ECWA - Water	To be Determined
f. Regional agencies ☐Yes ☑No		
g. State agencies ☑Yes ☐No	NYSDEC - DSCA and SPDES Permit and NYSOPRHP - Cultural resource review	To be Determined
h. Federal agencies ☐Yes ☑No		

i. Coastal Resources.
i. Is the project site within a Coastal Area, or the waterfront area of a Designated Inland Waterway? ☐Yes ☑No
ii. Is the project site located in a community with an approved Local Waterfront Revitalization Program? ☐Yes ☑No
iii. Is the project site within a Coastal Erosion Hazard Area? ☐Yes ☑No

C. Planning and Zoning

C.1. Planning and zoning actions.

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

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

C.2. Adopted land use plans.

a. Do any municipally- adopted (city, town, village or county) comprehensive land use plan(s) include the site where the proposed action would be located? ☑Yes ☐No
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: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

C.3. Zoning

a. Is the site of the proposed action located in a municipality with an adopted zoning law or ordinance. ☑ Yes ☐ No
If Yes, what is the zoning classification(s) including any applicable overlay district?
The zoning classification of the Project Site is NCD-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? NCD-ND

C.4. Existing community services.

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

b. What police or other public protection forces serve the project site?
Town of Amherst Police Department

c. Which fire protection and emergency medical services serve the project site?
Getzville Volunteer Fire Department

d. What parks serve the project site?
There are various Town parks that will be accessible to future residents of the project.

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)? Multifamily residential consisting of attached residential units for lease.

b. a. Total acreage of the site of the proposed action? 2.35 acres
b. Total acreage to be physically disturbed? 1.3 +/- acres
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? 2.35 acres

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

d. Is the proposed action a subdivision, or does it include a subdivision? ☐ Yes ☑ No
If Yes,
i. Purpose or type of subdivision? (e.g., residential, industrial, commercial; if mixed, specify types)

ii. Is a cluster/conservation layout proposed? ☐ Yes ☐ No
iii. Number of lots proposed? _____
iv. Minimum and maximum proposed lot sizes? Minimum _____ Maximum _____

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

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

	One Family	Two Family	Three Family	Multiple Family (four or more)
Initial Phase				8
At completion of all phases				8

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

h. Does the proposed action include construction or other activities that will result in the impoundment of any liquids, such as creation of a water supply, reservoir, pond, lake, waste lagoon or other storage? ☑ Yes ☐ No
If Yes,
i. Purpose of the impoundment: Stormwater management.
ii. If a water impoundment, the principal source of the water: ☐ Ground water ☐ Surface water streams ☑ Other specify: Runoff from impervious surfaces to be located on the Project Site.
iii. If other than water, identify the type of impounded/contained liquids and their source.
iv. Approximate size of the proposed impoundment. Volume: TBD million gallons; surface area: 0.3 acres
v. Dimensions of the proposed dam or impounding structure: n/a height; _____ length
vi. Construction method/materials for the proposed dam or impounding structure (e.g., earth fill, rock, wood, concrete):
impoundment is an excavation, a dam is not required

D.2. Project Operations

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

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

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

Attached as Attachment "A" of this Amended Part 1 of the Full EAF is a wetland investigation letter prepared by Scott Livingstone of Earth Dimensions, Inc. dated July 7, 2020 confirming there are not any wetland subject to the jurisdiction of either of the NYS Dept. of Environmental Conservation of the United States Army Corps of Engineers located on the Project Site.

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ii. Describe how the proposed action would affect that waterbody or wetland, e.g. excavation, fill, placement of structures, or alteration of channels, banks and shorelines. Indicate extent of activities, alterations and additions in square feet or acres:

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: 1,850 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: ECWA
- 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: 1,850 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: Town of Amherst Waste Water Treatment Plan on Tonawanda Creek Road
- Name of district: Town of Amherst Consolidated Sanitary Sewer District
- Does the existing wastewater treatment plant have capacity to serve the project? ☑Yes ☐No
- Is the project site in the existing district? ☑Yes ☐No
- Is expansion of the district needed? ☐Yes ☑No

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

If Yes:

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

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

If Yes:

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

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

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

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

If Yes:

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

_____ Square feet or 0.5 acres (impervious surface)

_____ Square feet or 2.35 acres (parcel size)

ii. Describe types of new point sources. roof, parking lot

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)?

Private on-site storm water management area. Discharge will be to Ellicott Creek.

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

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

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

If Yes, identify:

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

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

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

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

If Yes:

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

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

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

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

If Yes:

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

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

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

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

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

If Yes:

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

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

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

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

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

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

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

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

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

If Yes:

i. Estimate annual electricity demand during operation of the proposed action: Typical energy usage for a project of this type

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

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

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

i. During Construction:

- Monday - Friday: 7:00 a.m. to 7:00 p.m.
- Saturday: 8:00 a.m. to 5:00 p.m.
- Sunday: As needed
- Holidays: Not Applicable

ii. During Operations:

- Monday - Friday: Not Applicable
- Saturday: Not Applicable
- Sunday: Not Applicable
- Holidays: Not Applicable

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

If yes:

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

There will be short-term unavoidable noise impacts during the construction of the project that will result from construction equipment.

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:

Parking lot lights, 15' mounting height, dark sky compliant, minimum of 30' from nearest residence.

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: 3 tons per week (unit of time)
- Operation : 2 tons per month (unit of time)

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

- Construction: at the discretion of the contractor
- Operation: Project will follow town of Amherst recycling program

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

- Construction: NYSDEC approved landfill
- Operation: NYSDEC approved landfill

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

If Yes:

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

ii. Anticipated rate of disposal/processing:

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

iii. If landfill, anticipated site life: _____ years

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

If Yes:

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

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

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

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

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

If Yes: provide name and location of facility: _____

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

E. Site and Setting of Proposed Action

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

a. Existing land uses.

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

☐ Urban ☐ Industrial ☑ Commercial ☑ Residential (suburban) ☐ Rural (non-farm)
☐ Forest ☐ Agriculture ☐ Aquatic ☑ Other (specify): Asbury Pointe Retirement Community

ii. If mix of uses, generally describe:

There are a mixture of land uses in the vicinity of the Project Site including single-family homes, the Asbury Pointe Retirement Community and the Audubon Women's Health Medical Office.

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	0.9	+0.9
• Forested	.5	.5	0
• Meadows, grasslands or brushlands (non-agricultural, including abandoned agricultural)	1.8	.4	-1.4
• Agricultural (includes active orchards, field, greenhouse etc.)	0	0	0
• Surface water features (lakes, ponds, streams, rivers, etc.)			
• Wetlands (freshwater or tidal)	0	0	0
• Non-vegetated (bare rock, earth or fill)	0	0	0
• Other Describe: lawn/landscaping		0.3	+1.4

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

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:
The Asbury Pointe Retirement Community is located at 50 Stahl Road.

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: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

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: Cosad loamy fine sand 100 %

d. What is the average depth to the water table on the project site? Average: >5 feet

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

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

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

h. Surface water features.

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

ii. Do any wetlands or other waterbodies adjoin the project site? ☑Yes ☐No
If Yes to either *i* or *ii*, continue. If No, skip to E.2.i.

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

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

- Streams: Name 837-25 Classification B
- Lakes or Ponds: Name _____ Classification _____
- Wetlands: Name Federal Waters, Federal Waters, 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:
Name - Pollutants - Uses:Ellicott Creek, Lower, and tribs – Nutrients;Silt/Sediment – Aquatic Life

i. Is the project site in a designated Floodway? [There will not be any development in the Floodway associated with Ellicott Creek.] ☑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: _____

[Note: Attached as Attachment "A" of this Amended Part 1 of the Full EAF is a wetland investigation letter prepared by Scott Livingstone of Earth Dimensions, Inc. dated July 7, 2020 confirming there are not any wetland subject to the jurisdiction of either of the NYS Dept. of Environmental Conservation of the United States Army Corps of Engineers located on the Project Site.]

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

m. Identify the predominant wildlife species that occupy or use the project site:
Typical suburban species

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

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

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

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

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

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

b. Are agricultural lands consisting of highly productive soils present? ☐Yes ☑No
i. If Yes: acreage(s) on project site?
ii. Source(s) of soil rating(s):

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

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

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

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

[Note: A copy of the No Impact determination letter issued by the NYS Office of Parks, Recreation and Historic Preservation dated October 30, 2020 is provided at Attachment "B" of this Amended Part 1 of the Full EAF.]

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 Coromandel Estates Amherst LLC Date December 17, 2020

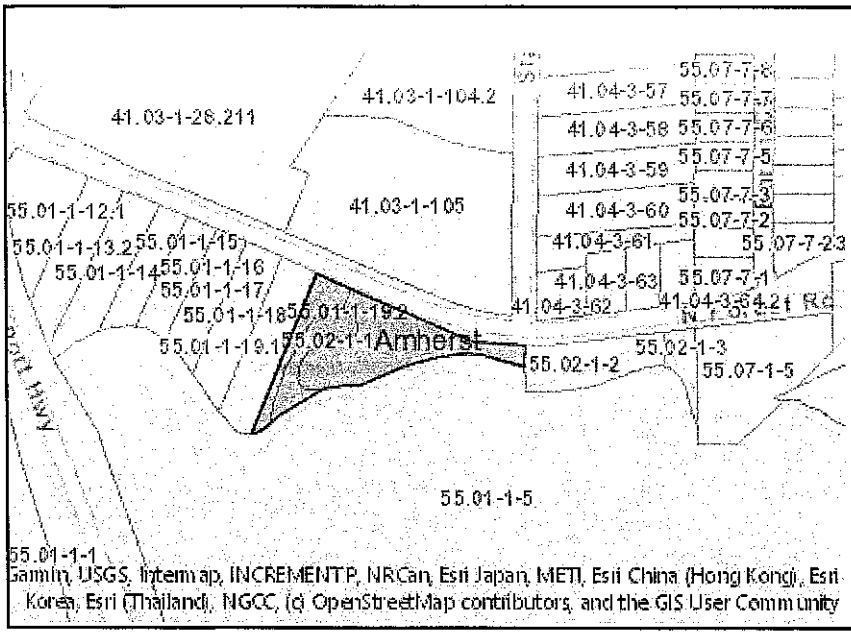
Signature _____ Title Counsel for Project Sponsor

PRINT FORM

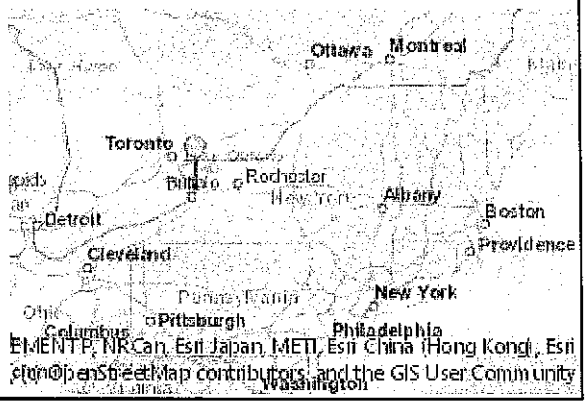
Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

EAF Mapper Summary Report

Monday, August 17, 2020 7:45 AM



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 - Stream Name]	837-25
E.2.h.iv [Surface Water Features - Stream Classification]	B
E.2.h.iv [Surface Water Features - Wetlands Name]	Federal Waters
E.2.h.v [Impaired Water Bodies]	Yes
E.2.h.v [Impaired Water Bodies - Name and Basis for Listing]	Name - Pollutants - Uses:Ellicott Creek, Lower, and tribs – Nutrients;Silt/Sediment – Aquatic Life

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

E.2.i. [Floodway]	Yes
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
E.2.o. [Endangered or Threatened Species]	No
E.2.p. [Rare Plants or Animals]	No
E.3.a. [Agricultural District]	No
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: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Attachment "A" of Amended Part 1 of Full Environmental Assessment Form – Wetland Investigation Letter of Scott J. Livingstone of Earth Dimensions, Inc. dated July 7, 2020

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

EARTH DIMENSIONS, INC.
* Soil & Hydrogeologic Investigations * Wetland Delineations
1091 Jamison Road, Elma NY 14059
(716) 655-1717 * Fax (716) 655-2915 www.earthdimensions.com

July 7, 2020 W4E87a

Thiru Vikram
4515 Chestnut Ridge Road
Amherst, New York 14228

Re: Preliminary Wetland Investigation – 1.9± acres
2160-2170 North Forest Road
Town of Amherst
Erie County, New York

Dear Mr. Vikram:

Earth Dimensions, Inc. (EDI) has completed a preliminary wetland investigation at the above referenced site for the purpose of identifying potential regulated wetlands and waterways. The site investigation was conducted on July 7, 2020. The attached map depicts the limits of our investigation. EDI did not identify any federally regulated wetlands as defined by the U.S. Army Corps of Engineers (USACE) Wetland Delineation Manuals within the limits of investigation. However, Ellicott Creek abuts the site on the south boundary and would be regulated by USACE under Section 404 of the Clean Water Act.

The New York State Department of Environmental Conservation (NYSDEC) On-line Resource Mapper does not depict any Freshwater Wetlands within or adjacent to the subject parcel. NYSDEC, thus, has no jurisdiction over any wetlands within the site. However, Ellicott Creek is a Class B stream and is regulated under Article 15 of New York Conservation Law.

Based on this investigation, it is our professional opinion that as long as no disturbance is proposed to the bed and banks of Ellicott Creek, your project may move forward without the need for a Section 404 permit from USACE or Article 15 permit from NYSDEC. Should your project propose impacts to the bed or banks of Ellicott Creek, we recommend that a Joint Application for permit be submitted to USACE and/or NYSDEC with a request for a Section 404 and/or an Article 15 permit, respectively.

If you have any questions, please contact our office at (716) 655-1717 or email slivingstone@earthdimensions.com.

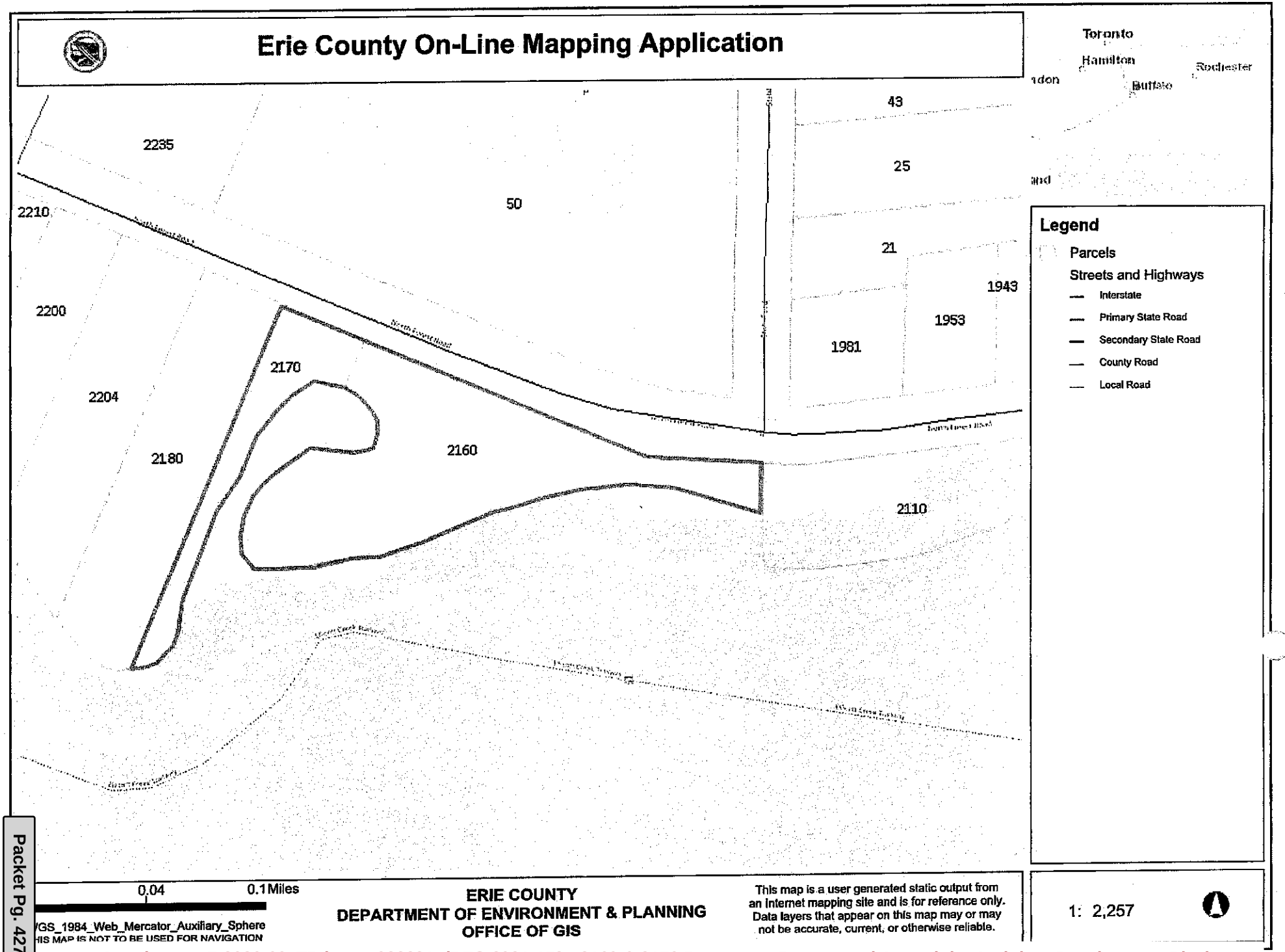
Very truly yours,
Earth Dimensions, Inc.

Scott J. Livingstone
Wetlands Operations Manager

Encl.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Erie County On-Line Mapping Application



ERIE COUNTY
DEPARTMENT OF ENVIRONMENT & PLANNING
OFFICE OF GIS

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

VGS_1984_Web_Mercator_Auxiliary_Sphere
THIS MAP IS NOT TO BE USED FOR NAVIGATION

Attachment "B" of Amended Part 1 of Full Environmental Assessment Form – No Impact Determination Letter of Josalyn Ferguson of the New York State Office of Parks, Recreation and Historic Preservation dated October 30, 2020

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

NEW YORK STATE OF OPPORTUNITY | Parks, Recreation, and Historic Preservation

ANDREW M. CUOMO
Governor

ERIK KULLESEID
Commissioner

October 30, 2020

Roberta Rappoccio
Associate Planner
Town of Amherst, NY Planning Department
5583 Main Street
Amherst, NY 14221

Re: DEC
Rezoning for 18-Unit 3-story New Construction Project
2160 North Forest Rd, Amherst, Erie County, NY
20PR05460
Z-2020-06

Dear Roberta Rappoccio:

Thank you for requesting the comments of the Division for Historic Preservation of the Office of Parks, Recreation and Historic Preservation (OPRHP). We have reviewed the Phase I Archaeological Reconnaissance Survey report prepared by the University at Buffalo's Archaeological Survey (Whalen & Angelini, October 2020; 20SR00539) in accordance with the New York State Historic Preservation Act of 1980 (section 14.09 of the New York Parks, Recreation, and Historic Preservation Law). These comments are those of the Division for Historic Preservation and relate only to Historic/Cultural resources.

Based on this review, it is OPRHP's understanding that no archaeological sites were identified during the above-noted investigation, and we concur with the report's conclusion that no further archaeological investigations are warranted. It is, therefore, OPRHP's opinion that no properties, including archaeological and/or historic resources, listed in or eligible for the New York State and National Registers of Historic Places will be impacted by this project. Should the project design be changed OPRHP recommends further consultation with this office.

If you have any questions, I can be reached via e-mail at Josalyn.Ferguson@parks.ny.gov.

Sincerely,

Josalyn Ferguson, Ph.D.
Scientist Archaeology

via email only

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Exhibit 3 – Legal Description of Property to be Reclassified from NCD-SA to NCD-ND

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

EXHIBIT 3 OF AMENDED APPLICATION

LEGAL DESCRIPTION OF PROPERTY TO BE RECLASSFIED FROM NCD-SA TO NCD-ND – 2160 AND 2170 NORTH FOREST ROAD

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Amherst, County of Erie, State of New York, being part of Lot 68, Township 12, Range 7 of the Holland Land Survey so-called and further bounded and described as follows.

BEGINNING at the intersection of the centerline of Stahl Road (66.0 feet wide) with the centerline of North Forest Road (66.0 feet wide):

THENCE: Southerly, along the centerline of Stahl Road extended southerly, a distance of 108 feet more or less to the north bank of Ellicott Creek;

THENCE: Westerly along said north bank of Ellicott Creek, a distance of 583 feet more or less to the west line of lands conveyed to Peter D. Durham by deed recorded in the Erie County Clerk's Office in Liber 9264 of Deeds at page 188;

THENCE: Northerly along said west line of Peter D. Durham lands, a distance of 10 feet more or less to the north bank of Ellicott Creek;

THENCE: Westerly and southerly along said north bank of Ellicott Creek, a distance of 227 feet more or less to a point distant 100 feet westerly from the said west line of Peter D. Durham lands as measured at right angles;

THENCE: Northerly along a line parallel with the west line of said Peter D. Durham lands distant 100.00 feet westerly therefrom measured at right angles, a distance of 491 feet more or less to the centerline of North Forest Road;

THENCE: Easterly, along said centerline of North Forest Road, a distance of 564.74 feet to the POINT OR PLACE OF BEGINNING.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Exhibit 4 – Reduced Size Copy of Survey of 2160 and 2170 North Forest Road as Prepared by GPI Surveying dated July 13, 2020

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

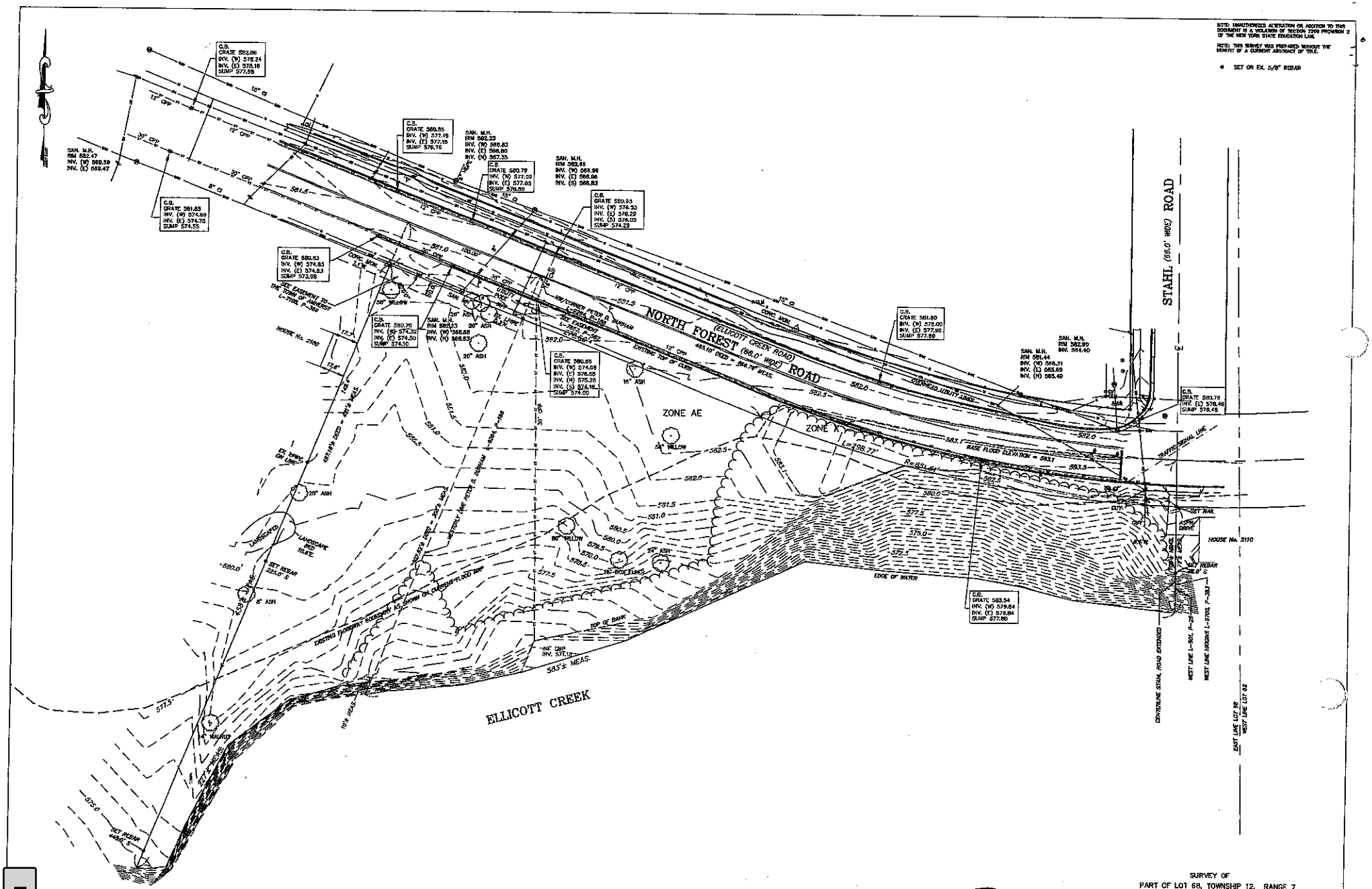

NOTE: UNAUTHORIZED ALTERATION OR ADDITION TO THIS DOCUMENT IS A VIOLATION OF SECTION 7209 PROVISION 2 OF THE NEW YORK STATE EDUCATION LAW.
NOTE: THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A CURRENT ABSTRACT OF TITLE.
● SET OR EX. 5/8" REBAR
NORTH FOREST ROAD (66.0' WIDE)
(ELLICOTT CREEK ROAD)
STAHL (66.0' WIDE) ROAD
ELLICOTT CREEK
ZONE AE
ZONE X
BASE FLOOD ELEVATION = 583'
HOUSE No. 2160
HOUSE No. 2170
EDGE OF WATER
TOP OF BANK
583'± MEAS.
SET REBAR
EX. IRON PIN
EX. CONC. MON.
C.B. GRATE 582.05 INV. (W) 576.24 INV. (E) 575.16 SUMP 577.55
C.B. GRATE 580.85 INV. (W) 577.15 INV. (E) 577.15 SUMP 576.75
C.B. GRATE 580.79 INV. (W) 577.09 INV. (E) 577.05 SUMP 576.69
C.B. GRATE 580.93 INV. (W) 576.53 INV. (E) 576.23 INV. (S) 576.03 SUMP 574.23
C.B. GRATE 581.85 INV. (W) 574.69 INV. (E) 574.79 SUMP 574.55
C.B. GRATE 580.53 INV. (W) 574.83 INV. (E) 574.83 SUMP 573.98
C.B. GRATE 580.70 INV. (W) 574.32 INV. (E) 574.50 SUMP 574.10
C.B. GRATE 580.65 INV. (W) 574.08 INV. (E) 574.55 INV. (N) 575.28 INV. (S) 574.15 SUMP 574.00
C.B. GRATE 581.80 INV. (W) 575.00 INV. (E) 577.92 SUMP 577.60
C.B. GRATE 583.78 INV. (E) 578.48 SUMP 578.48
C.B. GRATE 583.54 INV. (W) 579.64 INV. (E) 579.84 SUMP 577.60
SAN. M.H. RIM 582.17 INV. (W) 569.59 INV. (E) 569.47
SAN. M.H. RIM 582.23 INV. (W) 566.83 INV. (E) 566.80 INV. (N) 567.35
SAN. M.H. RIM 582.95 INV. (W) 568.96 INV. (E) 568.96 INV. (S) 568.83
SAN. M.H. RIM 581.44 INV. (W) 576.31 INV. (E) 565.69 INV. (N) 565.49
SAN. M.H. RIM 582.90 INV. 564.40
SAN. M.H. RIM 582.23 INV. (W) 566.83 INV. (N) 566.83
30" WILLOW
20" ASH
16" ASH
8" ASH
6" ASH
36" WILLOW
LANDSCAPED
LANDSCAPE BED ELEV.
EXISTING TOWPATH ROADWAY AS SHOWN ON CHESAPEAKE FLOOD MAP
WESTERLY LINE PER A. SURVEY L-3094, P-188
48.43'± DEED = 48.1'± MEAS.
491.11'± DEED = 491'± MEAS.
N/F LOWER PETER A. BURNHAM L-3094, P-188
N/F PETER A. BURNHAM L-3094, P-188
30' EASEMENT TO THE TOWN OF AMHERST L-7105, P-369
30' EASEMENT L-7105, P-369
30' EASEMENT L-7957, P-307
OVERHEAD UTILITY LINES
TRAFFIC SIGNAL LINE
CONC. MON.
CENTERLINE STAHL ROAD EXTENDED
WEST LINE L-901, P-38
WEST LINE HAVENS L-9700L, P-383
EAST LINE LOT 58
WEST LINE LOT 62
SURVEY OF
PART OF LOT 58, TOWNSHIP 12, RANGE 7
HOLLAND LAND COMPANY
TOWN OF AMHERST, ERIE COUNTY, NEW YORK
GPI ENGINEERING, LANDSCAPE ARCHITECTURE & SURVEYING, LLP
ENGINEERING • SURVEYING • LANDSCAPE ARCHITECTURE
4820 CONGRESS STREET, SUITE 100
BUFFALO, NEW YORK 14226
(716) 633-4844 FAX 633-4846
Job No. 5083-BOUNDARY Date: JUNE 24, 2014
Scale 1" = 40' Tax No.
REVISION/TYPE
UPDATE SURVEY AND TOPOGRAPHY
RE-SURVEY
REVISED FLOODWAY BOUNDARY
REFERENCES:
SEE SURVEY PREPARED BY GORDON & BRODERICK ASSOCIATES JOB No. 2-15-219
SEE SURVEY PREPARED BY GORDON & BRODERICK ASSOCIATES JOB No. 2-24-219
LETTER OF MAP REVISION (LOMR) CASE No. 95-02-015P DATED 1/11/96
FLOOD INSURANCE RATE MAP NUMBER 36029C0069H DATED JUNE 7, 2019*
*MAP NUMBER 36029C0069H DATED 6/7/19 SUPERCEDES LOMR CASE No. 95-02-015P DATED 1/11/96
EQUITY TITLE REPORT No. E18-10758T EXCEPTIONS:
EASEMENT TO THE TOWN OF AMHERST L-7105, P-369 – AS SHOWN
EASEMENT TO NEW YORK TELEPHONE COMPANY L-7957, P-307 – AS SHOWN
STATE OF NEW YORK MARK L. ANDREWS 060485 LICENSED LAND SURVEYOR

Exhibit 5 – Responses to Questions 11A & 11B of the Rezoning Application

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

EXHIBIT 5

AMENDED APPLICATION TO RECLASSIFY 2160 AND 2170 NORTH FOREST ROAD FROM NCD-SA TO NCD-ND

Question 11(A): **Description of the character of the proposed development:**

Response to Question 11(A): The modified layout of the proposed residential project is depicted on the updated Concept Site Plan prepared by Silvestri Architects P.C. A full size copy of the updated Concept Site Plan [Drawing AS-101 – Date: 12/16/20] is attached to this Amended Application and a reduced size copy is also provided at Exhibit "7". The updated layout of the proposed residential project consists of a two-story building consisting of eight (8) units for lease with related site improvements as depicted on the updated Concept Site Plan. It is important to mention that the updated Concept Plan reflects a deliberate effort made by the project team to reduce the density of the proposed multifamily project that previously consisted of a three-story building with eighteen (18) units. A copy of the previous Concept Plan for the project as prepared by Carmina Wood Morris DPC is provided at Exhibit "8" of this Amended Application.

It is important to mention that the layout of the proposed project as depicted on the updated Concept Site Plan provided is not meant to represent the final layout of the proposed project since modifications may be necessary based on the project review process and the preparation of fully engineered plans.

Question 11(B)(1): **Rationale for rezoning request: 1. Why was this site chosen?**

Response to Question 11(B)(1): The Project Site is an appropriate location for the proposed project given its location on North Forest Road in an area that consist of a mixture of uses and zoning

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

classifications. The Project Site was listed for sale and the Petitioner has entered into a contract to purchase the Project Site.

Question 11(B)(2): Why cannot land be used with the existing zoning?

Response to Question 11(B)(2): The Project Site is currently zoned NCD-SA. The allowable uses of property zoned NCD-SA are extremely limited given that the NCD-SA classification is intended for agricultural uses in rural areas.

Question 11(B)(3): How will this rezoning impact surrounding properties?

Response to Question 11(B)(3): The requested reclassification of the Project Site from NCD-SA to NCD-ND to accommodate the proposed residential project will not result in any potentially significant adverse impacts on surrounding properties. The density of the proposed residential project has been reduced from eighteen (18) units to eight (8) units as depicted on the updated Concept Plan prepared by Silvestri Architects P.C. [Drawing AS-101 – Date: 12/16/20]. An effort has been to reduce the density of the residential project and also to design the residential project to minimize environmental impacts associated with the proximity of Ellicott Creek. A completed Amended Part 1 of the Full Environmental Assessment Form prepared pursuant to the State Environmental Quality Review Act ("SEQRA") is attached as Exhibit "2".

Question 11(B)(4): How will this rezoning impact the school system?

Response to Question 11(B)(4): The proposed project will have positive impacts on the school district since the project will generate annual property taxes to be received by taxing jurisdictions. The proposed project will not generate a substantial demand for educational services.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Exhibit 6 – Responses to Questions 16A, 16B, 16D & 16E of the Rezoning Application

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

EXHIBIT 6

AMENDED APPLICATION TO RECLASSIFY 2160 AND 2170 NORTH FOREST ROAD FROM NCD-SA TO NCD-ND

Question 16(A)(1): **State in detail why the proposed zoning is consistent with the adopted Town of Amherst Bicentennial Comprehensive Plan. Cite specific sections, maps and/or figures in the plan that support the proposed zoning at this location.**

Response to Question 16(A)(1): The request to reclassify the Project Site from NCD-SA to NCD-ND to accommodate the proposed residential project consisting of eighteen attached units for lease is consistent with the adopted Bicentennial Comprehensive Plan. The Town of Amherst adopted the Bicentennial Comprehensive Plan in January of 2007 after completing a lengthy planning process that included numerous public meetings and public hearings involving the Comprehensive Plan Advisory Committee, the Planning Board and the Town Board.[1] On September 3, 2019, the Town Board most recently adopted an amendments to the Bicentennial Comprehensive Plan. The Comprehensive Plan is intended to guide future growth and redevelopment in the Town.

Figure 6 of the Bicentennial Comprehensive Plan is the Conceptual Land Use Plan and it depicts the Project Site as being appropriate for "Mixed Residential" use. A copy of Figure 6 of the Comprehensive Plan is provided at Exhibit "9". The Conceptual Land Use Plan is intended to communicate the overall direction and concept of future development in the Town of Amherst. The Mixed-Residential land use category is described in Chapter 3 of the Comprehensive Plan as

[1] A copy of the resolution adopted by the Town Board on January 2, 2007 for the purpose of adopting the Bicentennial Comprehensive Plan pursuant to Town Law Section 272-a is included at the beginning of the Comprehensive Plan. This resolution recites the lengthy planning history that incorporated numerous opportunities for public input as well as a coordinated environmental review pursuant to SEQRA that involved the preparation a Generic EIS and the issuance of a Findings Statement.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

being appropriate for a residential density of 4-12 units per acre the density of the proposed project is 7.66 units per acre.

Question 16(A)(2): Cite all text, map, and/or figures that must be amended to support the proposed zoning at this location and provide detailed suggested amendments.

Response to Question 16(A)(2): The adopted Comprehensive Plan does not need to be amended to accommodate the requested reclassification of the Project Site from NCD-SA to NCD-ND.

Question 16(A)(3): State why the proposed zoning is consistent with intent and objectives (Sec. 1-2-2) of the Zoning Ordinance:

Response to Question 16(A)(3): Section 1-2-1 of the Zoning Code is titled "Purpose" and it states as follows:

> *"The purpose of this Zoning Ordinance and the intent of the legislative authority in its adoption is to promote the environment of the town and its public health, safety, convenience, comfort, prosperity and the general welfare by regulating the use of buildings, other structures and land for residences, open space, public facilities, business, services, industry or other purposes; by regulating and restricting the bulk, height, design, building coverage and location of structures; by regulating and limiting population density; and for the aforesaid purposes, to divide the land within the limits of the town into districts of such number and dimensions generally consistent with the policies of the Comprehensive Plan and to provide procedures for the administration and amendment of said Zoning Ordinance."*

The request reclassification of the Project Site from NCD-SA to NCD-ND to accommodate the proposed residential project is consistent with the "Purpose" of the Zoning Code. Section 1-2-2 of the Zoning Code sets forth the objectives of the Zoning Code. This section of the Zoning Code lists thirteen (13) objectives that are discussed below as follows:

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

A. To protect the character and values of residential, institutional and public uses, business, commercial and manufacturing uses and to insure their orderly and beneficial development;

Response: The proposed project will be consistent with the objective of protecting the character and value of existing land uses and represents orderly and beneficial development.

B. To provide adequate open spaces for light, air and outdoor uses to include public, common and private open space areas;

Response: The proposed project is consistent with this objective.

C. To prevent overcrowding of land;

Response: The proposed residential project will not result in the overcrowding of land.

D. To prevent excessive concentration of population and to prevent spare and uncoordinated development;

Response: The proposed residential project will not result in an excessive concentration of population. The proposed residential project is not an example of uncoordinated development.

E. To regulate and control the location and spacing of buildings on the lot and in relation to the surrounding property generally consistent with the policies of the Comprehensive Plan.

Response: The requested reclassification of the Project Site from NCD-SA to NCD-ND and the proposed residential project are consistent with the policies of the Comprehensive Plan.

F. To protect persons and property from damage and injury due to fire or flood;

Response: The Site Plan review process will trigger the need for an Engineer's Report and SWPPP prepared by a licensed engineer to be prepared for review and approval by the Town's Engineering Department. The residential project will not increase the

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

likelihood of damage and injury due to fire and flood. The proposed project will be constructed per the stringent requirements of the NYS Building Code including the fire safety standards contained therein.

G. **To preserve and protect significant natural features and vegetation, thereby preventing ecological damage and visual blight which occur when those features or vegetation are eliminated or substantially altered to serve development purposes only.**

Response: The proposed residential project will not be inconsistent with this objective.

H. **To assure that structure and land use arrangements are aesthetically harmonious with nearby areas and structures.**

Response: The development of the Project Site in a manner consistent with the updated Concept Site Plan depicting a two-story building with 8 units will result in a residential project that is aesthetically harmonious with nearby areas and structures.

I. **To regulate the location of buildings and intensity of uses in relation to streets according to plans so as to cause the least interference with and be damaged least by traffic movements and hence result in lessened street congestion and improved public safety.**

Response: The proposed residential project will not result in any potentially significant traffic impacts and only curb cut will be provided onto North Forest Road, which is an Erie County Highway. The potential traffic impacts of the proposed project will be evaluated in connection with the coordinated environmental review of the project pursuant to SEQRA.

J. **To establish zoning patterns that insure economical extensions for sewers, water supply waste disposal and other public utilities, as well as development of recreation, schools and other public facilities;**

Response: The Project Site has access to sanitary sewer and water lines as well as necessary public utilities.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

K. To guide the future development of the town so as to being the gradual conformity of land, structures and uses generally consistent with the policies of the Comprehensive Plan.

Response: The proposed reclassification of the Project Site from NCD-SA to NCD-ND is consistent with this objective since the project is generally consistent with the recommended land use category of "Mixed Residential" as well as the planning objectives and policies in the Comprehensive Plan.

L. To accomplish the specific intents and goals set forth in the introduction to the respective sections.

Response: The proposed residential project is consistent with this objective.

M. To protect the community from visual pollution resulting from the unregulated use of signs and other advertising devices.

Response: The proposed residential project will not be inconsistent with this objective.

Question 16(C): Compatibility with the present zoning and conforming uses of nearby property and with the character of the neighborhood:

Response to Question 16(C): The proposed project is compatible with the present zoning and conforming uses of nearby properties and the character of the neighborhood.

Question 16(D): Suitability of the subject property for uses permitted by the current versus the proposed district:

Response to Question 16(D): The Project Site is not suitable for agricultural uses allowed in the NCD-SA district given its size, location and nearby land uses.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

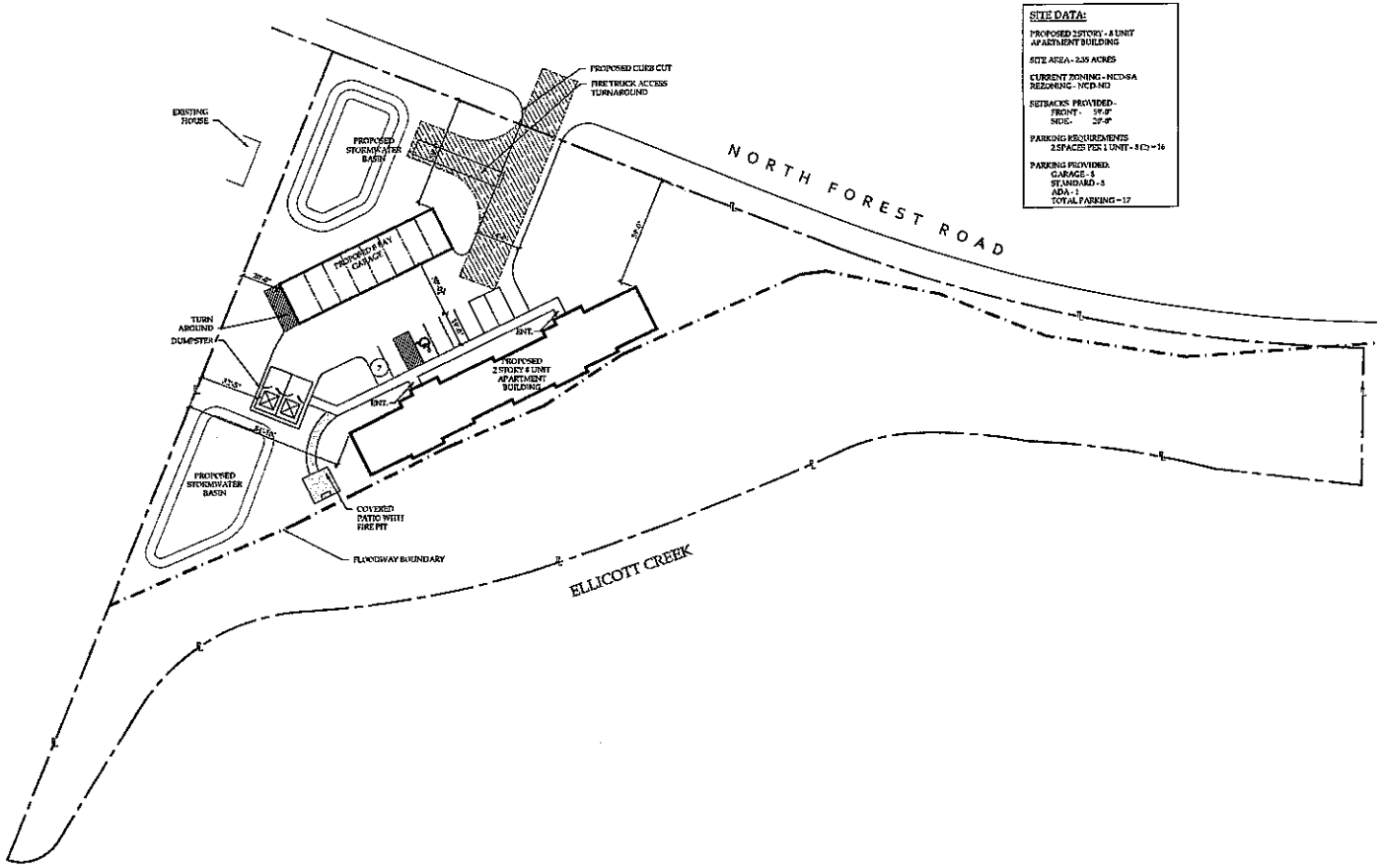
Question 16(E): **Whether the proposed change tends to improve the balance of uses, or meets a specific demand in the Town:**

Response to Question 16(D): The requested reclassification of the Project Site from NCD-SA to NCD-ND to accommodate the proposed residential project will have positive impacts on the balance of uses in the Town since there is demand for upscale attached residential units for lease in the Town.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Exhibit 7 – Reduced Size Copy of the Updated Concept Site Plan for the Proposed Project as Prepared by Silvestri Architects PC [Drawing AS-101 – Date: 12/16/20] [Note: A full size copy of Updated Concept Site Plan is also attached to this Amended Application]

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)



N

A1 CONCEPT SITE PLAN

NOTICE

This document, the property of, prepared and issued by the architect, is submitted for the specific project named _____ and the recipient by accepting this document assumes custody and agrees that this document will not be copied or reproduced in part or in whole, and any special features peculiar to this design shall not be incorporated in any other project, unless prior agreement has been obtained in writing. These documents will be returned immediately upon completion of the project or upon the request of the architect.

This document is the exclusive property of the architect, no rights to ownership are transferable, or shall be lost by the filing of this document with any and all public authorities for the purpose of compliance with Codes and or Ordinances, i.e. Building Permit, etc.

NORTH FOREST APARTMENTS

2160-2170 North Forest Rd
Amherst, ny

ISSUE:

SA PROJECT TEAM: PRINCIPAL R.Silvestri
PROJ. ARCH. S.Hunt DRAFTER B.Meinhardt
JOB CAPT. _____ INTERIORS K. Hanssen

SEAL:

TITLE:

CONCEPT SITE PLAN

SILVESTRI
ARCHITECTS • PC
1321 MILLERSPORT HWY PH. 716.691.0909
AMHERST, NY 14221 FAX 716.691.4773

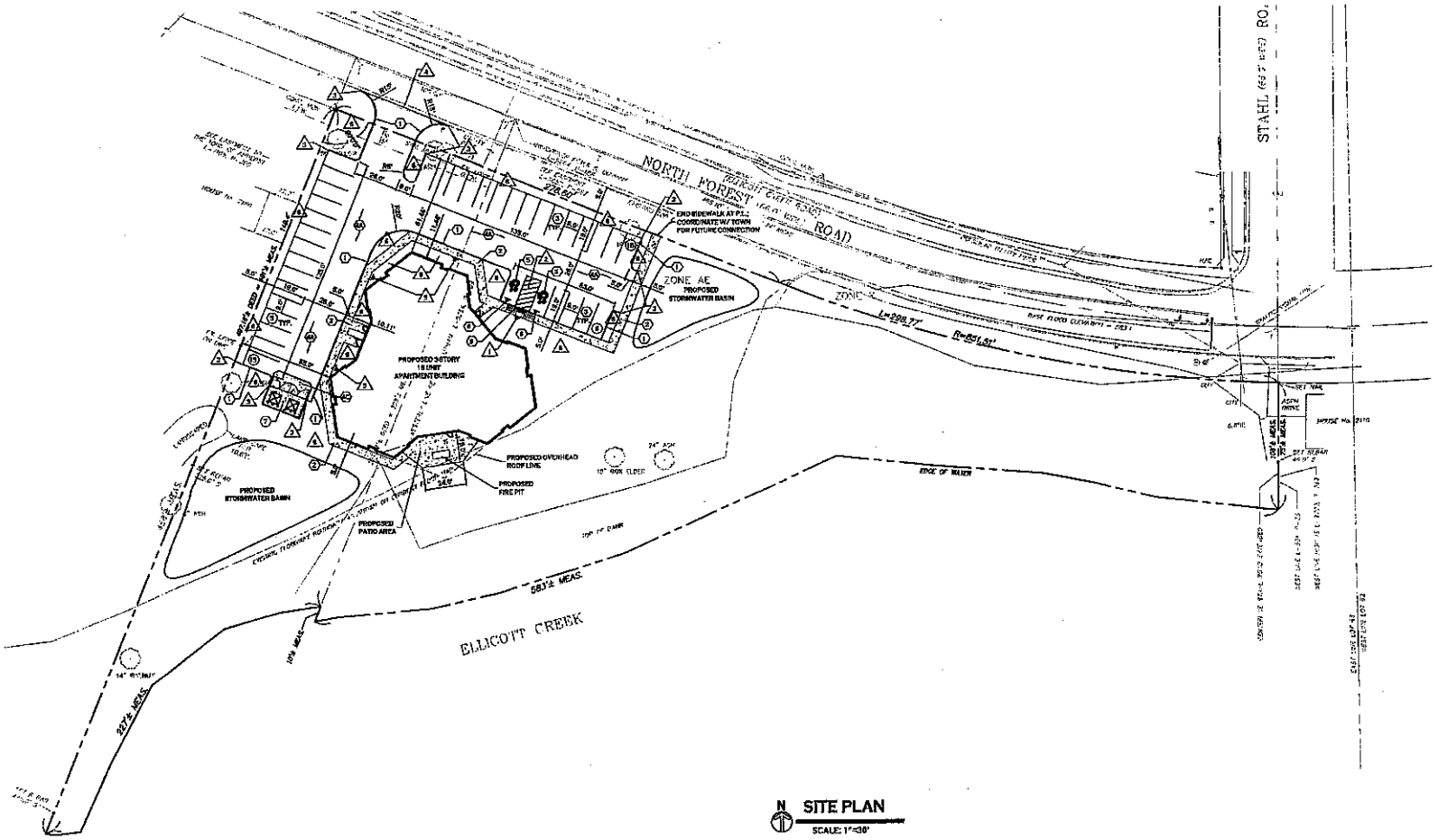
SA JOB #: 20060.02
DATE: 12/16/20

DRAWING #: AS-101

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Exhibit 8 – Reduced Size Copy of the Previous Concept Site Plan as Prepared by Carmina Wood Morris DPC [Drawing C-100 – Date: August 2020]

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)



N **SITE PLAN**
SCALE: 1"=30'

SITE DATA
TOTAL SITE 2.36 ACRES
ZONED: HC/BA (CURRENT) TO BE REZONED TO HC/AUD
USE: PROPOSED 3-STORY 18 UNIT APARTMENT BUILDING

PARKING REQ'D: 2 SPACE PER UNIT.
18 UNITS x 2 = 36 SPACES REQ'D.
56 SPACES PROVIDED.

SITE LEGEND
- PROPERTY LINE
- PROPOSED CONCRETE CURB
- PROPOSED CONCRETE SIDEWALK
- PROPOSED ASPHALT PAVEMENT
- PROPOSED SIGN
- PROPOSED PARKING NUMBER (27)
- PROPOSED LIGHT POLE
- PROPOSED WALL MOUNTED LIGHT

GENERAL NOTES:
1. INSTALL ALL MATERIALS TO MANUFACTURER'S RECOMMENDATIONS AND BEST STANDARDS OF TRADE INVOLVED.
2. SUBSTITUTIONS SHALL BE MADE ONLY WITH OWNER'S APPROVAL AND BE OF EQUIVALENT QUALITY TO WHAT IS SPECIFIED.
3. WORK SHALL BE COMPLETED IN STRICT ACCORDANCE WITH ALL LOCAL CODES AND OSHA SAFETY RULES AND REGULATIONS.
4. VERIFY ALL EXISTING CONDITIONS AND DIMENSIONS AT THE SITE. NOTIFY OWNER & ENGINEER OF DISCREPANCIES IN CONDITIONS SHOWN ON DRAWINGS PRIOR TO PROCEEDING WITH THE WORK.
5. CONTRACTOR SHALL BE RESPONSIBLE FOR PROTECTION OF ANY EXISTING STRUCTURES TO REMAIN AND ANY FINISH MATERIAL INSTALLED WHILE WORKING ON OTHER COMPONENTS.
6. CONTRACTOR SHALL KEEP JOB FREE OF DEBRIS AND MAKE FINAL CLEANUP TO SATISFACTION OF OWNER.
7. CONTRACTOR SHALL ASCERTAIN THE LOCATION OF ALL UTILITIES PRIOR TO CONSTRUCTION SO THAT THIS WORK WILL NOT DISTURB EXISTING LINES AND/OR INSTALLATIONS. COORDINATE ALL WORK WITH THE APPLICABLE UTILITY COMPANIES.
8. ALL OTHER PERMITS REQUIRED BY STATE OF NEW YORK, COUNTY OF ERIE, AND TOWN OF AMHERST ARE THE RESPONSIBILITY OF THE CONTRACTOR / DEVELOPER / OWNER.

SITE NOTES:
1. ALL RADII SHALL BE 3'-0" UNLESS OTHERWISE NOTED.
2. ALL DISTURBED AREAS: SHALL HAVE 4" MIN. OF TOPSOIL AND SEED.
3. ALL DIMENSIONS FROM PROPERTY LINES SHALL BE MEASURED PERPENDICULAR TO THE PROPERTY LINE.
4. CENTER ENTRANCE SIDEWALKS ON DOOR OPENINGS.
5. BUILDING DIMENSIONS ARE APPROXIMATE, REFER TO ARCHITECTURAL DRAWINGS FOR LAYOUT DIMENSIONS.

DETAIL LEGEND SEE SITE DETAIL SHEET
1. CONCRETE CURB
2. CONCRETE SIDEWALK, 5' WIDE UNLESS OTHERWISE NOTED
3. 90° PARKING STALL
4A. STANDARD DUTY ASPHALT
4C. EXTERIOR CONCRETE SLAB ON GRADE
5. HANDICAP PAVEMENT MARKINGS
6. HANDICAPPED PARKING SIGN
7. DUMPSTER ENCLOSURE
8. LIGHT POLE FOUNDATION
9. HANDICAP PAVEMENT RAMP

NOTE LEGEND
1. INSTALL "NO PARKING" SIGN, M.U.T.C.D. SIGN NO. R7-1C
2. 4" WIDE YELLOW PAINT STRIPE @ 45° @ 2'0 O.C., INFILL AREA AS SHOWN
3. REMOVE CURB IN 2' OR MATCH EXISTING CURB
4. MATCH EX. EDGE OF PAVEMENT, SAWCUT AS REQ'D TO ACHIEVE SQUARE EDGE TO MATCH
5. INSTALL "NO PARKING - FIRE LANE" SIGN, M.U.T.C.D. SIGN NO. R8-3
6. LANDSCAPED AREA - SEE LANDSCAPE PLAN. IF NO PLANTINGS, INSTALL TOPSOIL & SEED

NOTE: BOUNDARY AND TOPOGRAPHIC INFORMATION PROVIDED BY OTHERS. CARMINA WOOD MORRIS, D.P.C. ASSUMES NO RESPONSIBILITY FOR ITS ACCURACY.

30 0 30 60FT.

© Carmina Wood Morris DPC - All plans, records, files, and documents are instruments of service prepared solely for use with respect to this project, are the property of the Consultant and are not to be used in whole or in part for any other project without the written authorization of the Consultant. Unauthorized use of these documents shall be at the user's sole risk and without liability to the Consultant and user shall indemnify and hold harmless the Consultant from all claims, damages, losses and expenses including attorney's fees arising out of or resulting therefrom. Any unauthorized use, reuse or modification of these documents may be subject to criminal and civil penalties including those provided for in Section 7209 of the New York State Education Law. If altered, each item, deletion or addition to the plan must be identified on the plan and the alteration must be described in a letter to the Consultant requesting his written approval thereof. Any conflicts with the Consultant's rights or interests arising out of the unauthorized use, reuse or modification of these documents will be corrected by the user at his sole expense including the Consultant's professional fees and costs. The user will defend, indemnify and hold the Consultant harmless from any and all claims arising from the unauthorized use, reuse or modification of these documents by the user or any person or entity that acquires or obtains these documents from or through the user without the written authorization of the Consultant.

Carmina Wood Morris DPC
457 Main Street Suite 300
Buffalo, New York 14203
P 716.842.3195
F 716.842.0263

REVISIONS:
No. Description Date

PROJECT NAME:
Site Development Plans for:
Proposed 3-Story Apartment bldg
2160 - 2170 North F[illegible] Road
Amherst, New York

Date: 08/2020
Drawn by: C. Wood
Scale: As Noted

DRAWING NAME:
Concept
Site Plan

DRAWING NO.
C-100
Project no.: 20.143

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Exhibit 9 - Color Copy of Figure 6 of the Adopted Bicentennial Comprehensive Plan (titled "Conceptual Land Use Plan")

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Town of Amherst Bicentennial Comprehensive Plan

The Conceptual Land Use Plan is intended to communicate the overall direction and concept of future development. While it is not a zoning map and does not show the existing or proposed use of individual parcels, it is intended to show land use relationships, provide a generalized guide for future development, and establish a context for detailed area planning and design.

Location of Project Site - Designated as Appropriate for Mixed Residential Use

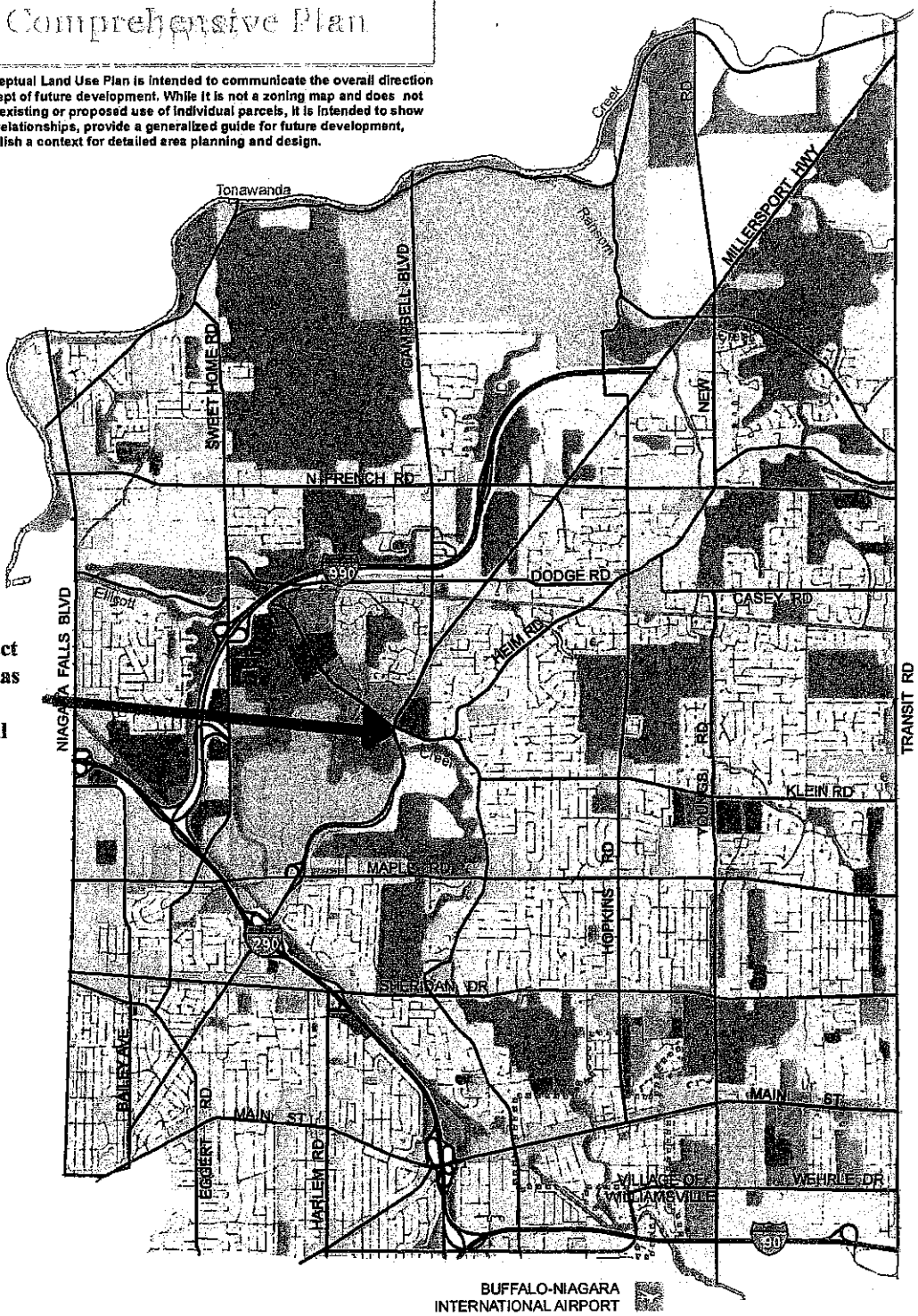


FIGURE 6

Conceptual Land Use Plan

Rural Residential
Single Family Residential
Mixed Residential
Medium Residential
Commercial / Mixed Use*
Special Use Center
Commercial - Office
Industrial - Office
Community Facilities
Educational Campus
Recreation, Open Space & Greenways
Agriculture
Transportation
Surface Water
Village of Williamsville Boundary

* See Map Figure 6-A for Additional Designations

SOURCE NOTES:

Original Source Data Provided by the Town of Amherst Information Technology Department, URS Corporation and Wallace Roberts & Todd, LLC

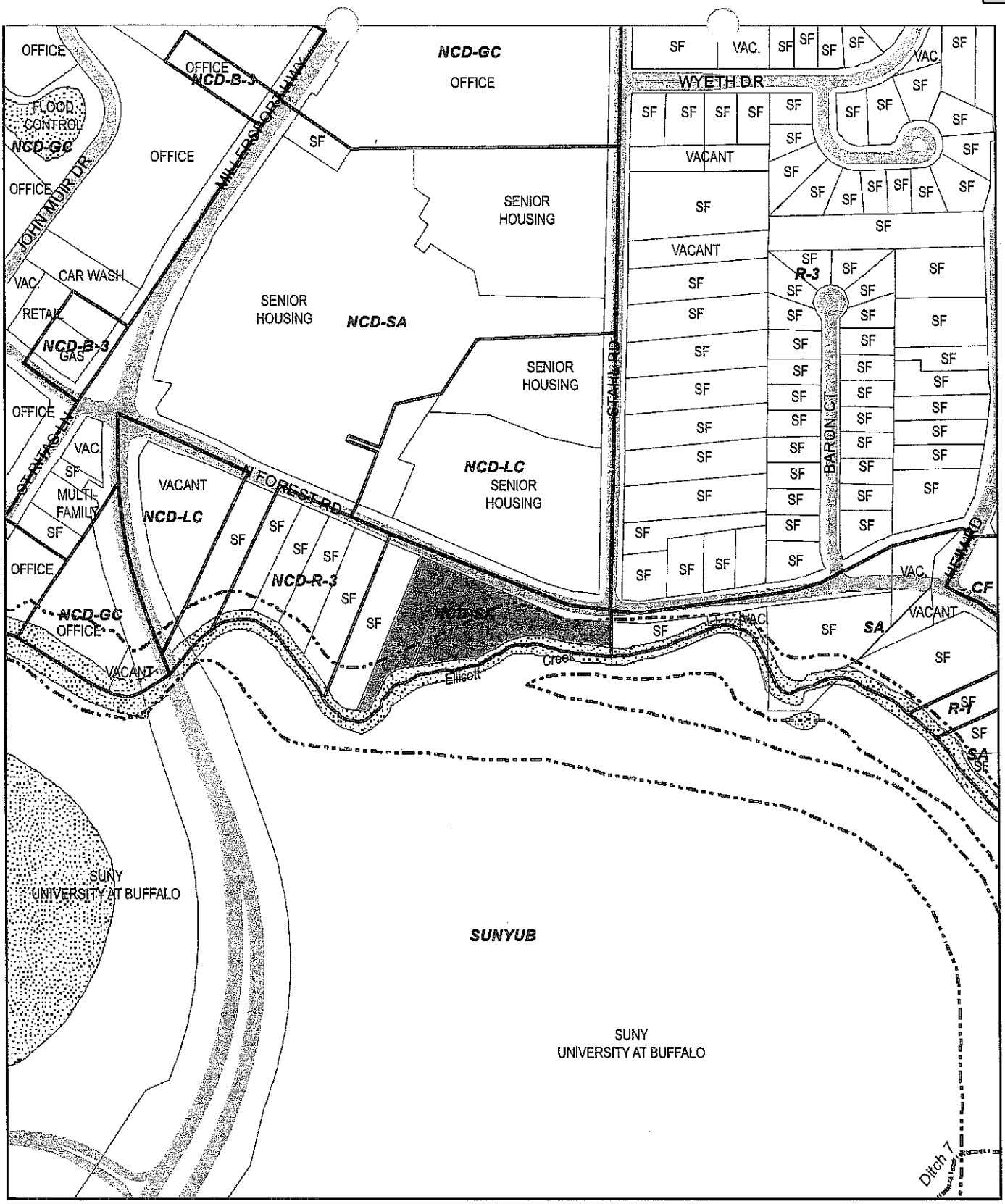
Map Compiled by the Town of Amherst Planning Department

Date: September 2019

N

0 0.25 0.5 0.75 1 1.25
Miles

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)



Z-2020-06
Proposed Amendment #73 to the Audubon New Community Development Plan to Reclassify 2.35+/- AC of Land from NCD-SA to NCD-ND
Property Located at 2160 & 2170 North Forest Road (NCD)

Coromandel Estates Amherst, LLC, Petitioner

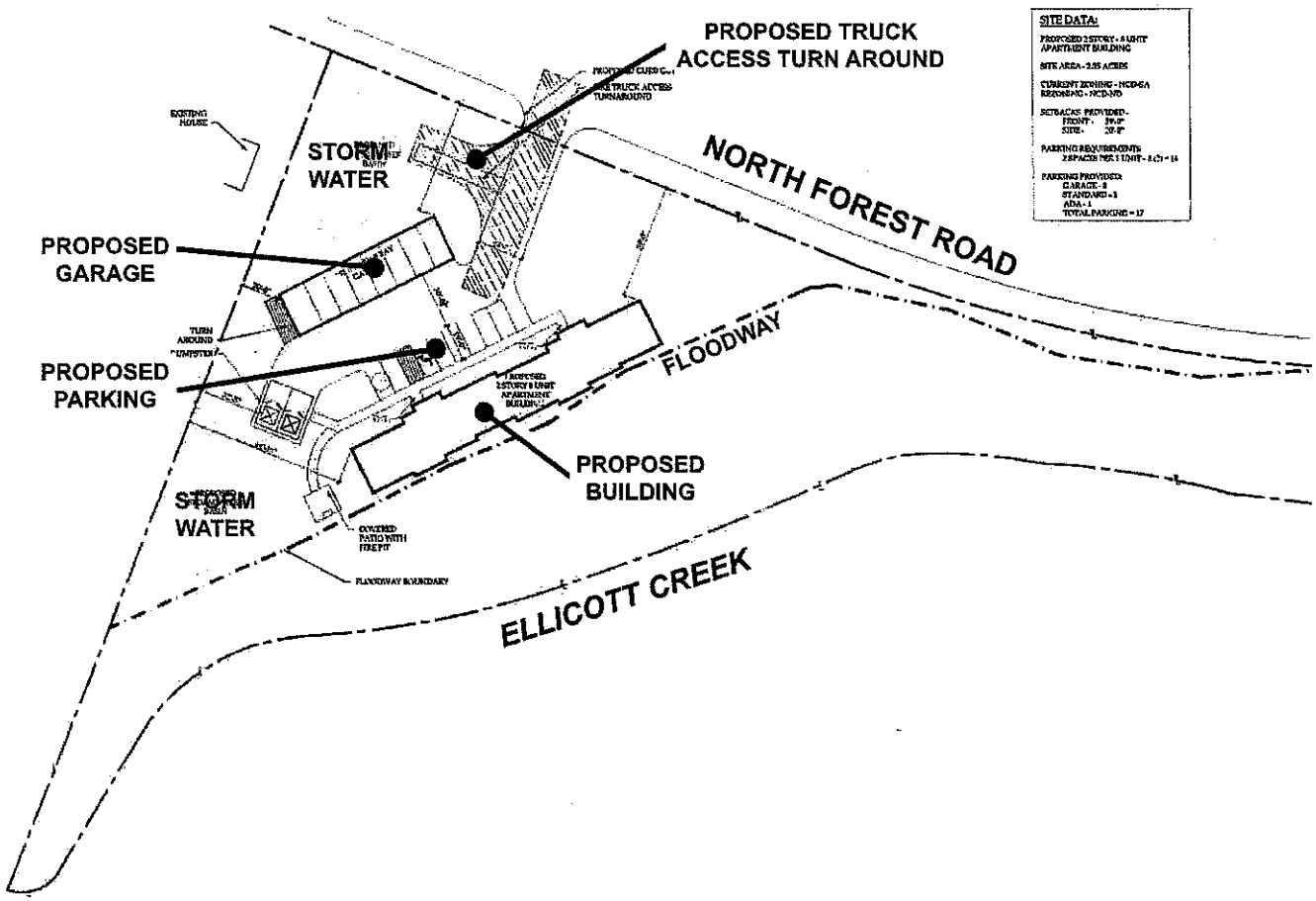
January 21, 2021

2160 & 2170 North Forest

Floodway Boundary

Prepared by the Town of Amherst Planning Department

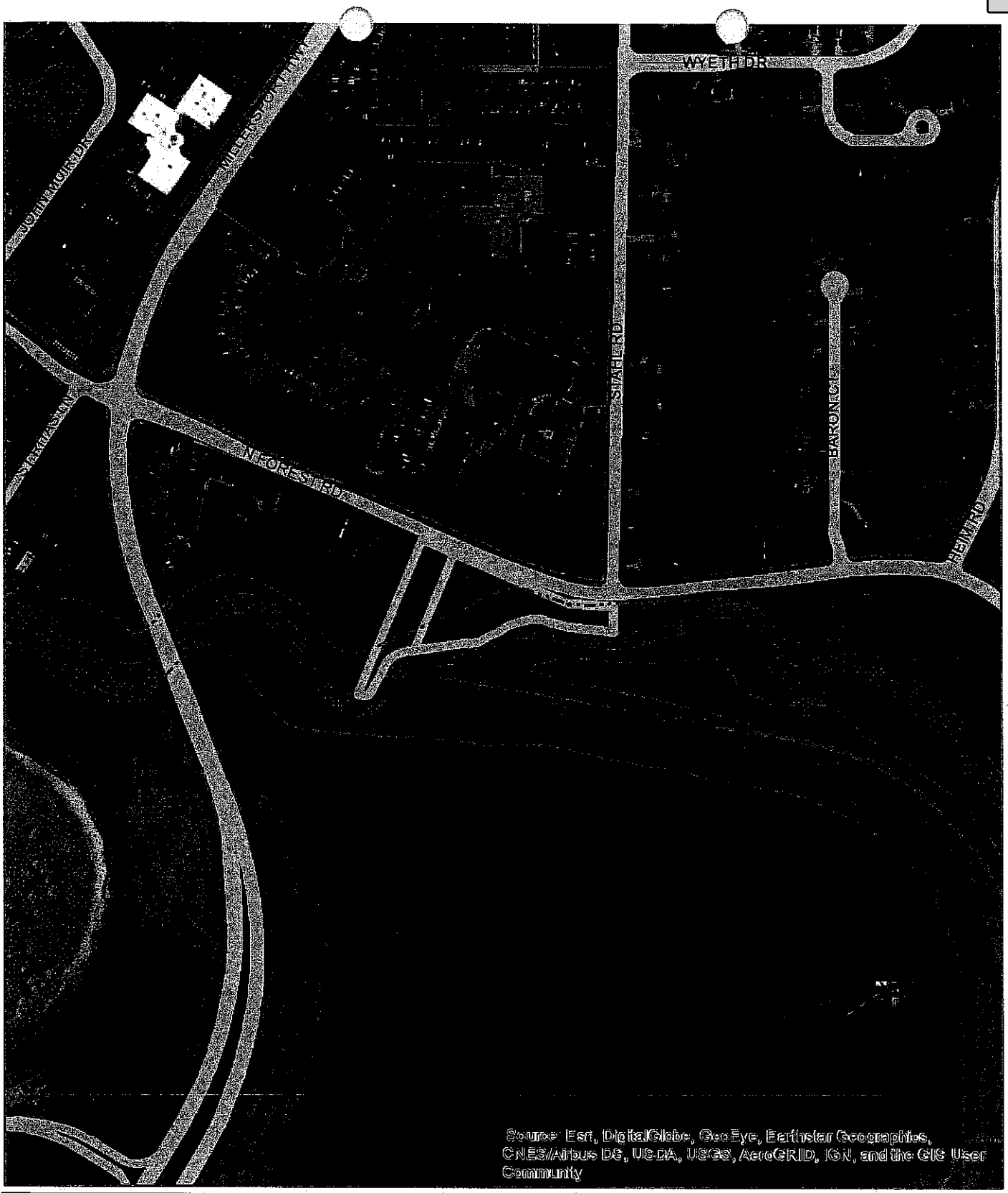
Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)



CONCEPT PLAN

Z-2020-06
2160 & 2170 North Forest Road
Received: 12/21/20

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)



Z-2020-06
Proposed Amendment #73 to the Audubon New Community Development Plan to Reclassify 2.35+/- AC of Land from NCD-SA to NCD-ND
Property Located at 2160 & 2170 North Forest Road (NCD)

Coromandel Estates Amherst, LLC, Petitioner
January 21, 2021

2160 & 2170 North Forest

Floodway Boundary

Prepared by the Town of Amherst Planning Department

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Williamsville Central Schools

Encouraging • Nurturing • Challenging

RECEIVED
SEP 22 2020
TOWN OF AMHERST
PLANNING DEPT.

September 15, 2020

Ms. Ellen Kost
Associate Planner
Town of Amherst Planning Department
5583 Main Street
Williamsville, NY 14221

RE: PROPOSED AMENTMENT #73 TO THE AUDUBON NEW COMMUNITY DEVELOPMENT PLAN TO RECLASSIFY 2.35 ACRES OF LAND FROM **NCD-SA** TO **NCD-ND, Z-2020-06**; PROPERTY LOCATED AT **2160 AND 2170 NORTH FOREST ROAD (NCD)**; COROMANDEL ESTATES AMHERST, LLC, PETITIONER.

Dear Ms. Kost:

The Williamsville Central School District has reviewed file number **Z-2020-06** for the request by Coromandel Estates Amherst, LLC to reclassify land for the above-named property.

Please note that the District has received this information and placed it on file. A future bus stop will be located at a driveway entrance at N. Forest Road in accordance with District policy.

Sincerely,

Thomas R. Maturski
Assistant Superintendent for Finance & Management Services

TRM/ld

cc: Coromandel Estates Amherst LLC c/o Sean Hopkins, Esq, 5500 Main St., Suite 343, Williamsville NY 14221; shopkins@hsr-legal.com
Scott Marshall, Principal Planner; smarshall@amherst.ny.us

105 Casey Road, P.O. Box 5000, East Amherst, NY 14051-5000 • Phone: (716) 626-8012, Fax: (716) 626-8017
www.williamsvillek12.org
Thomas R. Maturski, Assistant Superintendent for Finance & Management Services

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

COUNTY OF ERIE

MARK C. POLONCARZ
COUNTY EXECUTIVE

William E. Geary, Jr.,
COMMISSIONER

DEPARTMENT OF PUBLIC WORKS
RATH BUILDING 14TH FLOOR

TELEPHONE:716.858.8300
FAX: 716.858.8228

September 27, 2020
Ms. Ellen M. Kost, AICP
Town of Amherst
5583 Main Street
Williamsville, NY 14221

Re: Lead Agency Request
Proposed 3 Story Apartment Building
2160-2170 North Forest Road (CR-294)
(T) of Amherst, County of Erie

Dear Ms. Kost:

This Department has received your request for Lead Agency for the above referenced project and the rezoning of 2.35 acres. Erie County Department of Public Works takes no exception with the Town of Amherst being the Lead Agency for this project. This approval of Lead Agency is only from Erie County Department of Public Works and does not imply that other County Departments concur with this approval, as their response will be coming by separate letter.

Permit Requirements

The Developer will be required to apply for and obtain an Erie County Highway Work Permit for Utility Work Perm-2 for construction within the North forest Road highway right-of-way.

The Developer will be required to apply for and obtain an Erie Count Highway Work Permit for Non-Utility Work, Perm 3 for construction of a new entrance drive within the North Forest Road highway right-of-way.

Traffic Concerns

A Traffic Impact Study may be needed due to the close proximity of the project to the intersection of North Forest and Stahl Road.

We ask that you please keep us informed as this project progresses and forward design plans and reports when they become available.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Sincerely,

ERIE COUNTY DEPARTMENT OF PUBLIC WORKS

Darlene M. Svilokos, P.E.
Principal Civil Engineer

cc: Karen Hoak, Deputy Commissioner – Highways
Brian A. Rose, P.E., Supervisor of Engineering
Gina Wilkolaski, P.E., Traffic and Safety Engineer
John Dennee, Senior Highway Maintenance Engineer
File: CR-294

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Permits, Region 9
270 Michigan Avenue, Buffalo, NY 14203-2915
P: (716) 851-7165 I F: (716) 851-7168
www.dec.ny.gov

January 22, 2021

Ms. Ellen Kost
Town of Amherst
5583 Main Street
Williamsville, NY 14221

Dear Ms. Kost,

SEQR Lead Agency Coordination
Audubon New Community Development
2160 and 2170 North Forest Road
Town of Amherst, Erie County

This letter is in response to your December 23, 2020 correspondence regarding the above-noted project. The revised project plan has been reviewed and the Department has no additional comments on the proposed project beyond those in the attached September 30, 2020 SEQR lead agency response letter from this agency. Thank you.

If you have any other questions, please feel free to contact Ms. Kerri Pickard-DePriest of my staff or me at 716/851-7165.

Sincerely,

David S. Denk

Digitally signed by David S. Denk
DN: cn=David S. Denk, o=NYS DEC, ou=Div. of Env. Permits, email=david.denk@dec.ny.gov, c=US
Date: 2021.01.22 14:13:13 -05'00'

David S Denk
Regional Permit Administrator

KPD

ecc: Mr. Theodore Myers, NYSDEC, Division of Water
Mr. Sean Hopkins, Esq, shopkins@hsr-legal.com

Z-2020-06

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Amherst

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

RECEIVED
JAN 14 2021
TOWN OF AMHERST
PLANNING DEPT.

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

MEMORANDUM December 18, 2020

TO: Daniel Ulatowski, Principal Planner
Dave Marrano, Town Assessor
Douglas Gesel, Supervising Code Enforcement Officer, Building Department
Jeffrey Burroughs, Town Engineer
Patrick Lucey, Superintendent of Hwys/Mark Gortzig Gen. Crew Chief
Chris Schregel, Traffic/Safety Coordinator (c/o Eng)
Brian Barnes, Senior GIS Analyst (Eng.) (letter only)
Bryan Parnell, Fire Chiefs' Association (c/o Bldg)
Stan Sliwa, Town Attorney (Local Law Only)
Ann Demopoulos, Deputy Town Attorney, Right-of-Way Agent
Integrated Review Coordinator, ECDEP
ECHWY
NYSDEC
Williamsville Central School District

DEC 23 2020
TOWN OF AMHERST
BUILDING DEPT

FROM: Planning Department, Ellen M. Kost, AICP, Assistant Planning Director EMK

SUBJECT: PROPOSED AMENDMENT #73 TO THE AUDUBON NEW COMMUNITY DEVELOPMENT PLAN TO RECLASSIFY 2.35± ACRES OF LAND FROM **NCD-SA** TO **NCD-ND;** PROPERTY LOCATED AT **2160 and 2170 NORTH FOREST ROAD (NCD);** COROMANDEL ESTATES AMHERST, LLC, PETITIONER. **Z-2020-06**

REVISED APPLICATION AND CONCEPT PLAN:
Received December 18, 2020

REVIEW:

Do you agree with all statements made? Yes

If you do not, briefly state why: _____

General comments relative to your agency interests: a floodplain development permit will be required

If improvements are required involving your agency, please state schedule for completion (sewer construction, road widening, etc.)

Please call the Planning Department if additional information is required (631-7051).

Signature: Doug Gesel **Date:** 1-13-21

EK/jfa
X:\Current_Planning\Files\Rezonings\2006\Z-2006-06_(9290_Transit_Rd)_2006\Z-2020-06_Rev_Transmittal_Application & Concept Plan_121820.doc

cc: Scott Marshall, Principal Planner
Coromandel Estates Amherst LLC, c/o Sean Hopkins, 5500 Main St., Suite 343, Williamsville, NY 14221
Thiru Vikram, c/o Coromandel Estates LLC, 4515 Chestnut Ridge Road, Unit 106, Amherst NY 14228
Chris Wood, Carmina Wood Morris, 487 Main St., Suite 500, Buffalo NY 14203
Christina Barmosz, Silvestri Architects, 1321 Millersport Hwy., Amherst, NY 14221
David Pawlik, Creative Structures Services, 550 Seneca St., Suite 100, Buffalo NY 14204

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Amherst

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

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

RECEIVED
DEC 17 2020
TOWN ATTORNEY

MEMORANDUM December 18, 2020

TO: Daniel Ulatowski, Principal Planner
Dave Marrano, Town Assessor
Douglas Gesel, Supervising Code Enforcement Officer, Building Department
Jeffrey Burroughs, Town Engineer
Patrick Lucey, Superintendent of Hwys/Mark Gortzig Gen. Crew Chief
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ECHWY
NYSDEC
Williamsville Central School District

RECEIVED
JAN 05 2021
TOWN OF AMHERST
PLANNING DEPT.

FROM: Planning Department, Ellen M. Kost, AICP, Assistant Planning Director

SUBJECT: PROPOSED AMENDMENT #73 TO THE AUDUBON NEW COMMUNITY DEVELOPMENT PLAN TO RECLASSIFY 2.35± ACRES OF LAND FROM **NCD-SA** TO **NCD-ND**; PROPERTY LOCATED AT **2160 and 2170 NORTH FOREST ROAD (NCD);** COROMANDEL ESTATES AMHERST, LLC, PETITIONER. **Z-2020-06**

REVISED APPLICATION AND CONCEPT PLAN:
Received December 18, 2020

REVIEW:

Do you agree with all statements made? Yes

If you do not, briefly state why: _____

General comments relative to your agency interests: None at this time

If improvements are required involving your agency, please state schedule for completion (sewer construction, road widening, etc.)

Please call the Planning Department if additional information is required (631-7051).

Signature: Stanley Sliwa **Date:** 1/4/2021

EK/jfa
X:\Current_Planning\Files\Rezonings\2006\Z-2006-06_(9290_Transit_Rd)_2006\Z-2020-06_Rev_Transmittal_Application & Concept Plan_121820.doc

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Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Amherst

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

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

RECEIVED
DEC 21 2020
TOWN ATTORNEY

MEMORANDUM December 18, 2020

TO: Daniel Ulatowski, Principal Planner
Dave Marrano, Town Assessor
Douglas Gesel, Supervising Code Enforcement Officer, Building Department
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Williamsville Central School District

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TOWN OF AMHERST
PLANNING DEPT.

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REVISED APPLICATION AND CONCEPT PLAN:
Received December 18, 2020

REVIEW:

Do you agree with all statements made? Yes

If you do not, briefly state why: N/A

General comments relative to your agency interests: N/A

If improvements are required involving your agency, please state schedule for completion (sewer construction, road widening, etc.)
N/A

Please call the Planning Department if additional information is required (631-7051).

Signature: _____ **Date:** 12/29/20

EK/jfa
X:\Current_Planning\Files\Rezonings\2006\Z-2006-06_(9290_Transit_Rd)_2006\Z-2020-06_Rev_Transmittal_Application & Concept Plan_121820.doc

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Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Amherst

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

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

RECEIVED
DEC 31 2020
TOWN OF AMHERST
PLANNING DEPT.

MEMORANDUM December 18, 2020

TO: Daniel Ulatowski, Principal Planner
~~Dave Marrano~~, Town Assessor
Douglas Gesel, Supervising Code Enforcement Officer, Building Department
Jeffrey Burroughs, Town Engineer
Patrick Lucey, Superintendent of Hwys/Mark Gortzig Gen. Crew Chief
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Integrated Review Coordinator, ECDEP
ECHWY
NYSDEC
Williamsville Central School District

TO: Ellen Kost
From: Dave Marrano
12/23/20
See Below

FROM: Planning Department, Ellen M. Kost, AICP, Assistant Planning Director EMK

SUBJECT: PROPOSED AMENDMENT #73 TO THE AUDUBON NEW COMMUNITY DEVELOPMENT PLAN TO RECLASSIFY 2.35± ACRES OF LAND FROM **NCD-SA** TO **NCD-ND**; PROPERTY LOCATED AT **2160 and 2170 NORTH FOREST ROAD (NCD);** COROMANDEL ESTATES AMHERST, LLC, PETITIONER. **Z-2020-06**

REVISED APPLICATION AND CONCEPT PLAN:
Received December 18, 2020

REVIEW:

Do you agree with all statements made? Yes

If you do not, briefly state why: No Issue.

General comments relative to your agency interests: No Issue since units will be Leased, not sold w/ Condominium Tax Status

If improvements are required involving your agency, please state schedule for completion (sewer construction, road widening, etc.) N/A

Please call the Planning Department if additional information is required (631-7051).

Signature: _____ **Date:** 12/23/20

EK/jfa
X:\Current_Planning\Files\Rezonings\2006\Z-2006-06_(9290_Transit_Rd)_2006\Z-2020-06_Rev_Transmittal_Application & Concept Plan_121820.doc

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Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Amherst

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

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

RECEIVED
DEC 31 2020
TOWN OF AMHERST
PLANNING DEPT.

MEMORANDUM December 18, 2020

TO: Daniel Ulatowski, Principal Planner
Dave Marrano, Town Assessor
Douglas Gesel, Supervising Code Enforcement Officer, Building Department
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Ann Demopoulos, Deputy Town Attorney, Right-of-Way Agent
Integrated Review Coordinator, ECDEP
ECHWY
NYSDEC
Williamsville Central School District

TOWN OF AMHERST
ENGINEERING
DEPARTMENT
2020 DEC 22 P 12:51

FROM: Planning Department, Ellen M. Kost, AICP, Assistant Planning Director EMK

SUBJECT: PROPOSED AMENDMENT #73 TO THE AUDUBON NEW COMMUNITY DEVELOPMENT PLAN TO RECLASSIFY 2.35± ACRES OF LAND FROM **NCD-SA** TO **NCD-ND**; PROPERTY LOCATED AT **2160 and 2170 NORTH FOREST ROAD (NCD);** COROMANDEL ESTATES AMHERST, LLC, PETITIONER. **Z-2020-06**

REVISED APPLICATION AND CONCEPT PLAN:
Received December 18, 2020

REVIEW:

Do you agree with all statements made? YES

If you do not, briefly state why: _____

General comments relative to your agency interests: None At This Time

If improvements are required involving your agency, please state schedule for completion (sewer construction, road widening, etc.)

Please call the Planning Department if additional information is required (631-7051).

Signature: _____ **Date:** 12/30/20

EK/jfa
X:\Current_Planning\Files\Rezonings\2006\Z-2006-06_(9290_Transit_Rd)_2006\Z-2020-06_Rev_Transmittal_Application & Concept Plan_121820.doc

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Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Amherst

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

RECEIVED
Williamsville Central School District
DEC 23 2020
Asst Superintendent for
Finance & Management Services

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

MEMORANDUM December 18, 2020

RECEIVED
DEC 21 2020
TOWN OF AMHERST
PLANNING DEPT.

TO: Daniel Ulatowski, Principal Planner
Dave Marrano, Town Assessor
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ECHWY
NYSDEC
Williamsville Central School District

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REVISED APPLICATION AND CONCEPT PLAN:
Received December 18, 2020

REVIEW:

Do you agree with all statements made? In regard to site plan and SEQRA, the

If you do not, briefly state why: District does not have comments on these items

General comments relative to your agency interests: Williamsville Central School District school bus service will follow policy, presently, bus service would be at entrance of the apartment complex.

If improvements are required involving your agency, please state schedule for completion (sewer construction, road widening, etc.)

Please call the Planning Department if additional information is required (631-7051).

Signature: [signature] **Date:** 12/28/20

EK/jfa
X:\Current_Planning\Files\Rezonings\2006\Z-2006-06_(9290_Transit_Rd)_2006\Z-2020-06_Rev_Transmittal_Application & Concept Plan_121820.doc

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Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Amherst

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

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

TOWN OF AMHERST
ENGINEERING
DEPARTMENT
2020 DEC 22 P 12:37

MEMORANDUM December 18, 2020

TO: Daniel Ulatowski, Principal Planner
Dave Marrano, Town Assessor
Douglas Gesel, Supervising Code Enforcement Officer, Building Department
Jeffrey Burroughs, Town Engineer
Patrick Lucey, Superintendent of Hwys/Mark Gortzig Gen. Crew Chief
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Ann Demopoulos, Deputy Town Attorney, Right-of-Way Agent
Integrated Review Coordinator, ECDEP
ECHWY
NYSDEC
Williamsville Central School District

RECEIVED
DEC 28 2020
TOWN OF AMHERST
PLANNING DEPT.

FROM: Planning Department, Ellen M. Kost, AICP, Assistant Planning Director EMK

SUBJECT: PROPOSED AMENDMENT #73 TO THE AUDUBON NEW COMMUNITY DEVELOPMENT PLAN TO RECLASSIFY 2.35± ACRES OF LAND FROM **NCD-SA** TO **NCD-ND**; PROPERTY LOCATED AT **2160 and 2170 NORTH FOREST ROAD (NCD);** COROMANDEL ESTATES AMHERST, LLC, PETITIONER. **Z-2020-06**

REVISED APPLICATION AND CONCEPT PLAN:
Received December 18, 2020

REVIEW:

Do you agree with all statements made? YES.

If you do not, briefly state why: _____

General comments relative to your agency interests: NONE

If improvements are required involving your agency, please state schedule for completion (sewer construction, road widening, etc.)

Please call the Planning Department if additional information is required (631-7051).

Signature: _____ **Date:** 12/24/20

EK/jfa
X:\Current_Planning\Files\Rezonings\2006\Z-2006-06_(9290_Transit_Rd)_2006\Z-2020-06_Rev_Transmittal_Application & Concept Plan_121820.doc

cc: Scott Marshall, Principal Planner
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Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

RECEIVED
NOV 30 2020
TOWN OF AMHERST
PLANNING DEPT.

Kost, Ellen

From: Rutkowski, Edward (DOT) <Edward.Rutkowski@dot.ny.gov>
Sent: Saturday, November 28, 2020 12:50 PM
To: Kost, Ellen
Subject: 2160-2170 North Forest Rd, Proposed Rezoning for 18 Unit Apartment Building, Amherst
Attachments: 2160-2170 N Forest.pdf

CAUTION: This email originated from outside of the organization.
Please do not click links or open attachments unless you recognize the sender and know the content is safe.

Ellen,

New York State Department of Transportation (NYSDOT) reviewed the information submitted for the subject project and has the following comments:

- NYSDOT concurs with the Town of Amherst acting as the Lead Agency.
- The proposed project will not have a significant impact to traffic on the Stathe Highway System.

If you have any questions, please contact me either by email or phone.

Sincerely,
Ed Rutkowski

Edward S. Rutkowski, P. E.
SEQR/Site Plan Review Coordinator
NYSDOT - Region 5
100 Seneca Street
Buffalo, New York 14203
716-847-3575

NEW YORK STATE OF OPPORTUNITY. Department of Transportation

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

NEW YORK STATE OF OPPORTUNITY. | Parks, Recreation, and Historic Preservation

ANDREW M. CUOMO
Governor

ERIK KULLESEID
Commissioner

October 30, 2020

Roberta Rappoccio
Associate Planner
Town of Amherst, NY Planning Department
5583 Main Street
Amherst, NY 14221

Re: DEC
Rezoning for 18-Unit 3-story New Construction Project
2160 North Forest Rd, Amherst, Erie County, NY
20PR05460
Z-2020-06

Dear Roberta Rappoccio:

Thank you for requesting the comments of the Division for Historic Preservation of the Office of Parks, Recreation and Historic Preservation (OPRHP). We have reviewed the Phase I Archaeological Reconnaissance Survey report prepared by the University at Buffalo's Archaeological Survey (Whalen & Angelini, October 2020; 20SR00539) in accordance with the New York State Historic Preservation Act of 1980 (section 14.09 of the New York Parks, Recreation, and Historic Preservation Law). These comments are those of the Division for Historic Preservation and relate only to Historic/Cultural resources.

Based on this review, it is OPRHP's understanding that no archaeological sites were identified during the above-noted investigation, and we concur with the report's conclusion that no further archaeological investigations are warranted. It is, therefore, OPRHP's opinion that no properties, including archaeological and/or historic resources, listed in or eligible for the New York State and National Registers of Historic Places will be impacted by this project. Should the project design be changed OPRHP recommends further consultation with this office.

If you have any questions, I can be reached via e-mail at Josalyn.Ferguson@parks.ny.gov.

Sincerely,

Josalyn Ferguson, Ph.D.
Scientist Archaeology

via email only

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Carrato, Amy

From: ann bealer <annri35@msn.com>
Sent: Tuesday, October 06, 2020 3:26 PM
To: Carrato, Amy
Subject: Rezoning of property at 2160&2170 N. Forest Rd.

CAUTION: This email originated from outside of the organization.
Please do not click links or open attachments unless you recognize the sender and know the content is safe.

I am totally against the rezoning of the above properties for a 3 story apartment building. I spend my summers outside in my backyard and I would lose all my privacy. Traffic is a problem. We have trouble getting in and out of our driveways. At rush hour it is almost impossible. We also have frequent water brakes as the lines are old. They were supposed to put new lines in 3or4 years ago and they never did. How much more water can those pipes handle? Water pressure is another issue. Am and pm the pressure is low. I ask also where is the green space in Amherst. It seems all the developers want to do is build. And I would ask the Board members and the Planning Board if they would like a 3 story building right next door to them.

Ann Bealer
2204 N. Forest Rd.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Carrato, Amy

From: sprinter16@roadrunner.com
Sent: Sunday, October 11, 2020 11:29 AM
To: Carrato, Amy
Subject: Rezoning request located at 2160 & 2170 N Forest Rd.

CAUTION: This email origirated from outside of the organization.
Please do not click links or open attachments unless you recognize the sender and know the content is safe.

To Whom It May Concern,

We received a notice regarding the request to rezone 2160 & 2170 N Forest Rd. We live at 2200 N Forest Rd which is 3 houses down from the proposed rezoning and would like it noted that we are definitely not in favor of a 3 story apartment building or any apartment building for that matter.

Several years ago an effort was made to rezone the corner of N Forest Rd and Millersport Hwy to a 3 story apartment building and that effort was successfully denied based on various issues such as excessive traffic which is already a terrible problem, frequent water main breaks that occur in our area and the proposed targeted tenants which would have been college students. At the time, there was a house on the property that was being rented out to college students and the loud parties and noise created many complaints that required a police response.

As well as the concerns already mentioned, the project calls for 2 retention ponds that will drain in to Ellicott Creek. We always have flooding occur on the lower portion of our property during heavy rains and we do not want additional discharge of water from other sources as we feel this will create more opportunity for additional flooding as well as perhaps change the flow of the water.

Most of the homes that would be directly impacted by the proposed apartment building would lose all backyard privacy based on the illustration provided in the rezoning request. One of the only saving graces of living on an extremely busy, noisy street is the fact that we have no rear neighbors and are able to enjoy the view of the creek as well as the natural habitat. Having a 3 story apartment building and the noise it will create just through everyday living will definitely have a negative impact on those of us nearest to it.

We will continue to remain involved in the meetings and decisions regarding this request.

Fran & Dennis Cummings

2200 N Forest Rd

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Carrato, Amy

From: Dan Boscarino <dboscarino@yahoo.com>
Sent: Tuesday, October 13, 2020 3:07 PM
To: Carrato, Amy
Subject: Property at 2160& 2170 North Forest Road Planning Board meeting October 15

CAUTION: This email originated from outside of the organization.
Please do not click links or open attachments unless you recognize the sender and know the content is safe.

I'm writing to voice my opinion that I'm not in favor of rezoning the property. The corner is extremely busy and less than a half a mile from a school zone. The traffic is already unbearable on weekday mornings and evenings. This is a residential neighborhood and should stay that way, with single family homes only. I cannot see how anyone could approve a zoning change.

Regards,

Daniel M. Boscarino
Carrie Boscarino
57 Baron Ct
Getzville, New York

Sent from Yahoo Mail for iPad

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Carrato, Amy

From: Rosemary Blando <rblando@durham.com>
Sent: Tuesday, October 13, 2020 8:04 AM
To: Carrato, Amy
Cc: jjh2180@verizon.net
Subject: 2160 & 2170 North Forest Rd
Attachments: Amherst final draft.docx; Signed petitions.pdf

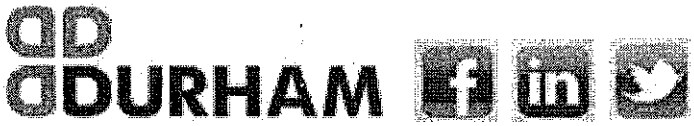
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Planning Board:
Attached please find our response to the request to approve **Amendment #73 of the Audubon New Community Development Plan**. This matter is scheduled to be heard as **item #3** on the Planning Board's **October 15th agenda**. Kindly acknowledge receipt via email as well as **jjh2180@vereizon.net**. My husband, Joseph Hausbeck plans to appear at the hearing, via Zoom, and requests permission to speak in rebuttal. The second attachment are (2) petitions in opposition to petitioner's request.
Thank you for your consideration,

Joseph J. Hausbeck
Rosemary Blando
Residents 2180 North Forest Rd
Williamsville, NY 14221

716.473.3972 cell

www.durhamstaffing.com



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Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Amherst Planning Board
5583 Main Street
Williamsville, New York 14221

Via email to: acarrato@amherst.ny.us

Re: Request to Approve Amendment #73 of the Audubon New Community Development Plan to Reclassify Property located at 2160 and 2170 North Forest Road.

To Whom It May Concern:

My wife and I are the owners and residents of 2180 North Forest Road, the property immediately adjoining the subject property. We have resided there over 23 years. We are hereby expressing our **strong opposition** to the above referenced matter which is scheduled for consideration by the Town Planning Board on Thursday, October 15th.

PROCEDURAL MATTER:

Prior to setting forth our concerns about the proposed project, I wish to raise a **procedural** concern. I am very concerned that there has been insufficient notice given of the upcoming hearing. In preparation for the hearing, I attempted to contact local residents to gauge their interest in the matter. I was advised that the Beechwood Campus and, specifically, the residents of Asbury Point, located directly across from the subject property on North Forest Road, were **not** given notice of the hearing. In addition, in speaking with the residents of eight (8) other parcels in close proximity to the subject, three (3) residents advised that they had **not** received any notice whatsoever. I attempted to contact other residents without success, perhaps because of the Covid 19 times in which we are living. I am therefore respectfully requesting that the Town insure that all reasonable efforts are made to assure that all Town Residents potentially impacted by the requested action be afforded their basic right to Notice and an Opportunity to be Heard.

SUBSTANTIVE MATTERS:

I would like to address the Request from two (2) perspectives.

I. **Character of the Neighborhood and the Subject Property:**

The property in question is the eighth parcel on the west side of North Forest Road, south of Millersport Highway. It is the last parcel on North Forest before Stahl Road and is immediately adjacent to the "zombie" property, known throughout Amherst as "that white house". The seven parcels between it and Millersport consist of six (6) single family ranch homes and one (1) one- story building, housing a Women's Medical Center. The Medical Center is on the corner of Millersport Highway (a commercial thoroughfare) and North Forest Rd. There is a substantial fenced buffer zone between the Medical Center and the first residential property, including an area dedicated to a Stormwater Management Practices Bio-retention Project, permitted by the NYS Dept. of Environmental Conservation. The rear of all the ranch homes, as well as the subject property, abut Ellicott Creek.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

It should be noted that the Medical Center required a rezoning. However, prior to that being accomplished, a different developer attempted to rezone that property to build a similar residential rental structure. That proposed redevelopment plan was objected to by the residents and was not approved by the Town. The question may therefore be asked as to why the Town should approve this application for a three-story multifamily residence on property which sits further down the same block (removed from any commercial intersection) which also presents potentially significant adverse environmental impacts.

On the opposite side of North Forest sits Asbury Point, a quiet and pristine retirement residence. Asbury Point is set back far from North Forest Road. There are dense wooded areas, landscaped areas, abundant mature trees and open greenspaces that act as a buffer between Asbury Point and North Forest Rd. The Asbury Point structure referred to by the petitioner is, indeed, three stories, but it has some underground parking. The structure, as well as its infrequently used limited surface parking area, is setback, partially concealed, and surrounded by walking paths. The building is entirely occupied by senior citizens who have a vested interest in the self-contained elderly campus. They are wonderful neighbors.

In contrast, the proposed project is a three-story, 18 unit apartment building with surface area parking for 36 cars. The site abuts our southern property line and is just 17.5 feet (+ or -) from the south wall of our home. It should be noted that the site plan describes the site as being 2.35 acres. However, the structure, surface parking and all appurtenances are "sandwiched in" on less than ½ of the "site". The remainder of the site sits in the existing floodway and is unusable. It is wooded, but sits behind the proposed development and offers no buffer between the structure and the street or our adjoining property. The "sandwiching" is so tight, that the proposed site plan reveals that portions of the proposed fire pit actually encroach into the floodway.

The site plan appears to show only a 5' "landscaped" area between the 15 parking spaces (that face our lot line and house) and the lot line itself. As the wall of our home sits approximately 17.5' from the lot line, and our home (a ranch which has no basement) sits on a concrete pad, cars will be parked 22.5' from the south wall of our house, with headlights shining in our bedroom windows. In addition, most likely because of the "sandwiching", the site plan seeks to place what appears to be a double bay dumpster extremely close to both our unfenced yard (which we use regularly throughout the spring, summer and fall) and our home. For the past 23 years we have had an unobstructed view of Ellicott Creek and the Ellicott Creek Trailway (bikepath). If this project is approved, we will have only an unobstructed view of the dumpster. We are also concerned about the potential impact of dumpster odors and the potential for rodent and pest infestation. Throughout the entire 23 years we have lived here, we have enjoyed the wildlife that regularly occupies these parcels. That wildlife includes the deer which miraculously seem to present us, each spring, with two new spotted fawns. However, it also includes the raccoon (anxiously awaiting the installation of the dumpsters) that we have observed in the tree on the property line, these are not the only potential significant adverse impacts on our property, but they are clearly indicative of the fact that this project is simple much too large for this site.

I would encourage all members of the Planning Board to personally visit the site to fully appreciate the concerns expressed.

II. <u>Specific Issues applicable to the Neighborhood:</u>

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

The proposed project is totally out of character and inconsistent with our neighborhood. It simply does not fit the site (see preceding section). The quality of life for the current residents on North Forest Road, will be adversely affected for numerous reasons. There are serious concerns over potential loss of property values; there are privacy concerns, traffic and traffic safety concerns, water issues and flooding concerns, erosion concerns, and soil and land subsidence concerns, among others.

WATER ISSUES – Over the years, the proposed site, as well as adjacent properties, have Experienced flooding issues from Ellicott Creek. During wet weather events, waters from the adjacent creek and diversion channel regularly flood portions of the proposed site, our premises, and the premises of neighbors to the north.

Prior to the construction of the Ellicott Creek diversion channel, the subject property had large depressions that used to flood regularly. Neighbors have told me that the property was actually used by local children for ice skating, and at some point a public berm was constructed along the creek in an effort to prevent the flooding. I have also been told that this berm material was later excavated and used by a prior owner of the subject property to fill the depressed areas that regularly flooded. This story may be substantiated by the following observation: on the property, there is a large old willow tree sitting about 5' deep in a rip rap well. Within that well are several plastic drain hoses, with clamps that appear to drain into the "well" area. This may be some indication of the possible depth of fill placed upon the subject property by prior owners. However, I have no idea what the composition of that fill is.

Attached to the petitioner's application for a variance is a copy of a letter from Earth Dimensions, Inc. related to a preliminary wetland investigation. That letter references an attached map which "depicts the limits of our investigation". The attached map (entitled "Erie County On-Line Mapping Application") purports to depict the subject property (2170 and 2160 North Forest Road). Please compare the configuration of the subject property shown upon that map with the configuration of the "same" property (2170 and 2160 North Forest Road) shown on the site plan. A comparison may substantiate the alleged prior flooding and the later use of fill should these questions be relevant to the question of site suitability for the proposed project.

It is my understanding that a pipe for drainage of surface water from the Asbury Point property was installed years ago, and ran under North Forest Road to what was once a culvert along the road adjoining the proposed site. Allegedly, a prior owner of the proposed site later had a 36" drainage pipe installed. That pipe bisected the proposed site and discharged the drainage water to the bank or bed of Ellicott Creek. I believe the discharge pipe itself is visible at the creek bank. However, I was unable to note any reference to that discharge system on the site plans or application documents. I have no knowledge as to whether there is any public record of this.

Based upon:

Past and current flooding issues;
The addition of ½ acre of impervious surface;
The non-use of pervious surfaces;

Lack of information regarding proposed excavations;
Lack of information regarding storm water basins and their location with respect to the topography of adjacent lands;
The discharge of storm water to Ellicott Creek; and
concerns over storm water management generally,

We have serious concern that this project will have a significant adverse environmental impact on our property and that of our neighbors to the north.

ERROSION CONCERNS - We have personally observed substantial erosion of the bank of Ellicott Creek on the site of the subject property. When we acquired our property 23 years ago, the subject property, which adjoins ours, had a large concrete wall comprised of sections of concrete attached to metal supports mounted along the creek bank. The wall was along the peninsular-like portion of the western end of the property. Over the years, due to substantial erosion of the bed behind the wall, the entire wall has fallen, section by section, into Ellicott Creek. All that currently remains of the structure are a few of the metal supports.

At the opposite end of the subject property (at the Stahl Road intersection) sits the infamous "white house". Its driveway is a matter of inches from the eastern end of the subject property. The White house (a zombie property) is generally believed to be falling into Ellicott Creek.

In our mind, concern over erosion raises an issue as to the safety and appropriateness of a construction project of this magnitude.

FLOOD CONTROL EASEMENT - Our property (which adjoins the subject property) is subject to a Flood Control Easement held by, or of interest to NYSDEC, USACOE and the TOWN of AMHERST. We assume the adjoining upstream property is, or should be, also subject to such an easement. However, I did not see it directly addressed in the petitioner's Environmental Assessment Form.

Concerns over storm water and its management (see above) would seem to have a direct impact upon any Flood Control Easement applicable to the subject property, as well as to ours.

SEWERS - The petitioner's "Application to Reclassify" represents that there is adequate sanitary Sewer capacity for the proposed project. This may not be the case. We have learned that the proposed action is considered a Sanitary Sewer Extension by the NYSDEC, and a detailed sewer capacity analysis must be performed and submitted for review and approval. Further investigation is necessary to avoid potential substantial adverse environmental impacts upon the community.

PUBLIC WATER - Again, the "Application to Reclassify" represents that adequate public water

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

capacity exists. However, we can attest to the fact that, in the past, we and others in our block (North Forest Rd from Millersport Hwy to Stahl Rd) have experienced numerous interruptions in water service. These interruptions have occurred from broken pipes in our block, and have occurred principally during cold weather. Interruptions have been for long periods and have been extremely inconvenient. Ruptured pipes were the culprit and geysers with flooding of the street were common.

In August, 2016, the Town Board approved a measure to replace the water line from Stahl Road to Millersport Highway. To date, I do not believe that project has been completed. Further investigation is necessary to avoid potential adverse environmental impacts on the community.

TRAFFIC – Petition asserts that the proposed project will not result in a substantial increase in traffic above present levels. This is simply not true. Having lived on this block of North Forest for over 23 years, I am familiar with its unique problems. North Forest to Millersport Highway is a major route to the University of Buffalo. It is also the preferred route for many cars entering the Beechwood Complex on Stahl Road. It is also the route followed by large numbers of Amherst residents seeking to access the I-290 and I-990.

This block (between Millersport and Stahl) is a two way (one lane in each direction) residential street. It experiences the full impact of traffic going ***to*** the University in the morning and returning from it in the afternoon. Depending upon the time of day, the traffic can be backed up from Stahl to Millersport or from Millersport to Stahl.

As Stahl Road is the main access point for the Beechwood Complex, and ends at North Forest, traffic is also regularly backed up on Stahl Road, at the intersection. To complicate matters further, there is a serious bend on North Forest, right at the intersection. Between cars coming down North Forest and cars turning at Stahl, living on North Forest and being the first driveway from Stahl is a serious challenge. It makes it extremely difficult to find an opening in traffic long enough to enter or exit our driveway.

The proposed project seeks a curb cut for a driveway entrance onto the site. The proposed driveway is near our joint property line. It is, therefore, even closer to the Stahl Road intersection. The project allows for 36 parking places. Potentially, that makes 36 more cars attempting the same maneuvers as we must attempt and further obstructing our ability to enter and exit. This is a problem common to each of my neighbors.

It should be noted that "traffic concerns" are not limited solely to traffic flow and traffic visibility. A multi-family residential project such as this should consider the safety of pedestrians and cyclists. Due to the proximity to the University and to the Ellicott Creek Trailway (Bike Path), this stretch of North Forest Road is used regularly by both. There are no discrete bike paths along this section, and sidewalks are limited to the opposite side of North Forest. Additionally, it is questionable whether either could be practically installed along North Forest, south of the subject site, due to the proximity to the creek and its erosion issues in that area.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

SOIL ISSUES AND DEPTH TO BEDROCK – Over the years, there have been numerous efforts by individuals to acquire and build on the subject property. It is our understanding that most of the efforts involved proposed single family residences. Despite contractual agreements to purchase, none of these efforts materialized. We assume that some were discouraged because of the existence of floodplain/floodway issues. However, some failed as a result of depth to bedrock issues. Borings have been taken on a number of occasions and the results, which are unknown to us, are rumored to be unfavorable to construction due to the depth to bedrock. It should also be noted that we learned that when Asbury Point was constructed, it was necessary to drive an extraordinary number of I-beams into the ground, in places up to 40 to 50' in depth.

It is noted that the petitioner's EAF references the depth to bedrock as being "greater than 5 feet". It also identifies the soils on 100% of the site to be "cosad loamy fine sand" and 100% of the site to be poorly drained.

In light of the afore referenced information relating to prior flooding, the prior placement of fill, and existing erosion concerns, the possibility of depth to bedrock discrepancies simply reinforces our concerns relating to the integrity of the potential structure. We believe that a complete geo-technical investigation and inspection should be required. We have heard of instances of properties collapsing, in one case into a creek, within the Town of Amherst. We have no desire to see that occur next door.

CONCLUSION:

In a perfect world, the subject site would be a small neighborhood park and a continuation of the beautiful greenspace located directly across the creek from the site. It could contain a pedestrian bridge over Ellicott Creek, accessible by the general public seeking safer access to the Bike Trail, as well as the residents of Asbury Point, who, in the past, have casually strolled on this site. Possibly, a kayak launch point could serve this site as well. My wife and I, as adjoining neighbors would welcome such alternative uses. We do not oppose this proposal on the basis of change. However, the property is privately owned and we lack the power of Eminent Domain.

Based upon the foregoing considerations, we, Joseph Hausbeck and Rosemary Blando, strongly oppose approval of the petitioner's request. As 23 year residents of the site immediately adjoining the subject site, we are of the opinion that the proposed project will result in potentially significant adverse environmental impacts upon this community. Additionally, we are firmly of the belief that the applicant has failed to provide sufficient information to establish that there will be no impacts and, at the very least, a Draft Environmental Impact Statement should be required.

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Town of Amherst Planning Board

5583 Main Street

Williamsville, NY 14221

We, the undersigned, being residents of North Forest Rd. between Stahl Rd and Millersport Highway, hereby **OPPOSE** the request filed by the petitioner **Coromandel Estates Amherst, LLC**, to approve amendment # 73 of the Audubon New Community Development Plan to reclassify 2.35 acres, more or less, of land located at 2160 and 2170 North Forest Rd.

Joseph Lagumbay 2160 North Forest Rd.
Rodney Hands 2180 North Forest Rd
Ann Beahen 2204 N. Forest Rd.
Donna J Beahen 2204 N. Forest Rd.
Ina Dennis Cummings 2220 N. Forest Rd.
Sterling Lawson 1881 N. Forest Rd
Joan Amico, 1936 North Forest, Amherst NY 14221
Steve Amico, 1936 North Forest, Amherst NY 14221

October 2020

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Town of Amherst Planning Board

5583 Main Street

Williamsville, NY 14221

We, the undersigned, being residents of North Forest Rd. between Stahl Rd and Millersport Highway, hereby **OPPOSE** the request filed by the petitioner **Coromandel Estates Amherst, LLC**, to approve amendment # 73 of the Audubon New Community Development Plan to reclassify 2.35 acres, more or less, of land located at 2160 and 2170 North Forest Rd.

George De Rosa
2220 North Forest Road, Williamsville, N.Y. 14221
Allen Miles
25 Stahl Rd, Getzville 14068 Allen Miles
[illegible]
W.R.D. 2220 N. Forest Rd. 14221
Karen Macura 2230 N FOREST RD 14221

October 2020

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Z-2020-06
2160 & 2170 N. Forest Rd

Carrato, Amy

From: Joan Amico <jamico99@gmail.com>
Sent: Wednesday, October 14, 2020 7:15 AM
To: Carrato, Amy
Subject: Planning Board Meeting 10/15 - Amendment #73 of the Audubon New Community Development Plan.

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My husband and I received notice of the proposed rezoning of residential property on North Forest Road and I would like to speak at the Planning Board meeting on October 15 about this rezoning.

Also, please share my comments below with the board:

This stretch of North Forest is primarily a residential area. It is not a commercial area and it should not be rezoned. It seems that over the last several years, long stretches of North Forest Road have been turned into apartment buildings and other commercial properties. Do we really need to build such structures alongside and embedded between single family homes? Would you want to live in-between commercial properties? Do we even need another apartment complex in this area?

The Town of Amherst should first and foremost make decisions that are best for the residents that live in their community. Please think about the residents, people like my husband and I, when deciding to rezone this and any property.

Kindly reply back to confirm receipt of this email.

Thank-you,

Joan and Steve Amico
1936 N Forest Rd, Williamsville, NY 14221

Attachment: Z-2020-06_TB letter_022221 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

GINEERING DPC|DBA
GEOTECHNICAL
INEERING SERVICES

Z-2020-06,
2160 and 2170 N. Fores

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☐ CORTLAND OFFICE
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535 Summit Point Drive
Henrietta, NY 14467
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Fax: (585) 359-9668

September 17, 2020
Project No. WB-20-105
(SJB Project No. BE-20-105)

Postwork Capital

c/o Buffalo Automation
10236 Transit Road
East Amherst, New York
14051

Attn. Mr. Thiru Vikram, CEO

Re: Geotechnical Engineering Report
Proposed Elysium Apartment Complex
2160 North Forest Road
Town of Amherst, New York

Dear Mr. Vikram:

WMA Engineering DPC, dba Empire Geotechnical Engineering Services (Empire), is pleased to submit the enclosed Geotechnical Engineering Report for the above referenced project. We have also e-mailed you an electronic copy (pdf file format) of this report, for your use and for distribution. Please contact me should you have any questions or wish to discuss this report. Thank you for considering Empire for this work and we look forward to working with you through the completion of this project.

Sincerely,

WMA Engineering DPC, dba
Empire Geotechnical Engineering Services

Thomas R. Seider, P.E.
Geotechnical Engineer

RECEIVED
OCT 07 2020
TOWN OF AMHERST
PLANNING DEPT.

Enc.: Geotechnical Engineering Report

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

WMA ENGINEERING DPC|DBA
EMPIRE GEOTECHNICAL
ENGINEERING SERVICES

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Fax: (607) 758-7188

ROCHESTER OFFICE
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Henrietta, NY 14467
Phone: (585) 359-2730
Fax: (585) 359-9668

Geotechnical Engineering Report
Proposed Elysium Apartment Complex
2160 North Forest Road
Town of Amherst, New York

Prepared For:

Postwork Capital

c/o Buffalo Automation
10236 Transit Road
East Amherst, New York
14051

Prepared By:

WMA Engineering, DPC
dba Empire Geotechnical Engineering Services
5167 South Park Avenue
Hamburg, New York, 14075



Project No. WB-20-105
(SJB Project No. BE-20-105)
September 2020

A Woman Owned Firm

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

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FIGURES

FIGURE 1 – SITE LOCATION PLAN

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APPENDIX A – SUBSURFACE EXPLORATION LOGS

Recently Completed Test Borings July 2020 (B-1 through B-5)

APPENDIX B – SUBSURFACE EXPLORATION LOGS

Previously Completed Test Borings February 2020 (B-1) June 2014 (B-1)

APPENDIX C – FILL MATERIAL AND EARTHWORK RECOMMENDATIONS

APPENDIX C – GEOTECHNICAL REPORT LIMITATIONS

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

1.00 INTRODUCTION

1.10 GENERAL

This report presents the results of a subsurface exploration program completed by SJB Services, Inc. (SJB), and a geotechnical engineering evaluation completed by WMA Engineering DPC, dba Empire Geotechnical Engineering Services (Empire), for the proposed Elysium Apartment Complex, planned off of North Forest Road, within the Town of Amherst, New York. Postwork Capital retained SJB and Empire to complete this work, which was done in general accordance with SJB's June 29th, 2020 proposal, that was authorized on July 2, 2020.

SJB, our affiliated subsurface exploration company, recently completed five test borings and installed a groundwater observation well at the site. Prior to this investigation, SJB and Empire completed two separate subsurface investigations and prepared geotechnical evaluation reports for projects that were planned at the site. These included a proposed house in July 2014 and a proposed garage type structure in March 2020. The previous investigations each included one test boring along with some geotechnical laboratory testing. Neither of the two projects were constructed. It is our understanding that Postwork Capital has received approval to use the data developed during the first two investigations, to supplement the findings from the recently completed investigation.

Based on the findings from the recent investigation, and the two previous investigations, Empire has prepared this report, which summarizes the subsurface conditions encountered, and presents geotechnical recommendations for design and construction of the foundations, slab-on-grade floor, and pavement areas, as well as the associated site preparation work for the proposed project.

1.20 SITE AND PROJECT DESCRIPTION

The project site is located along the south side of North Forest Road, immediately west of its intersection with Stahl Road (street address 2160 North Forest Road) within the Town of Amherst, New York. As shown on Figure 1, Ellicott Creek forms the southern boundary of the project site, resulting in an irregular triangular shaped parcel, with about 550 feet of frontage along North Forest Road. As shown on Figure 2, the ground surface at the site slopes downward towards Ellicott Creek, with surface elevations ranging from about 583 feet to 570 feet.

Based on a cursory review of older USGS mapping (www.historicaerials.com), it appears Ellicott Creek formerly extended farther to the north than its current location. As discussed in later sections of this report, the fill soils encountered within the test borings could be related to site filling within the limits of the former creek location.

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

The proposed apartment building will be located within the northwest corner of the site, beyond the floodway boundary, and where the site grades are more gradual. Based on the information provided by Silvestri Architects, PC, the apartment building will consist of a three story wood framed structure with an at-grade floor near the current site grades. Other than an elevator pit, no below grade structures are planned. Asphalt pavement driveways and parking areas are planned around the building. Figure 2 provides additional details about the proposed development.

2.00 SUBSURFACE EXPLORATIONS

2.10 JULY 2020 INVESTIGATION

The most recent subsurface exploration program included:

- 3 test borings completed within the limits of the proposed apartment building, designated as B-1 through B-3;
- 1 test boring completed within the southwest portion of the site, within a proposed terraced seating area, designated as B-4; and
- 1 test boring to the east of the proposed apartment building, within a future sports court area, designated as B-5.

The test boring locations were staked in the field by SJB, using a hand held global positioning system (GPS) instrument. The approximate test boring locations are shown on Figure 2. Survey level measurements were used to determine the approximate ground surface elevation at the test boring locations, using the rim of a catch basin frame within North Forest Road as a benchmark. The approximate benchmark location is shown on Figure 2, and has a reported elevation of 580.70 feet.

The recent test borings B-1 through B-5 were completed by SJB between July 23rd and July 27th, 2020, using a Central Mine Equipment (CME) model 550x, all-terrain tire mounted drill rig. Hollow stem auger and split spoon sampling techniques were used to advance the test borings through the overburden soils. Split spoon samples and Standard Penetration Test (SPT) were taken continuously from the ground surface to a depth of 12 feet, and in intervals of five feet or less for the remaining depth of the test borings. The split spoon samples and SPTs were completed general accordance with *ASTM D1586 – "Standard Test Method for Penetration Test and Split-Barrel Sampling of Soils"*.

Test borings B-1 through B-4 were advanced through the overburden until encountering the top of apparent bedrock, as identified by auger refusal, at depths of about 22 feet to 27.2 feet. After encountering auger refusal within test borings B-1 and B-4, 8 to 9 feet of rock coring was completed using an NQ'2' size core barrel, in accordance with *ASTM D 2113 – "Standard Practice for Rock Core Drilling and Sampling of Rock for Site Investigation"*. Test boring B-5 was completed to a depth of 15 feet.

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A Geologist prepared the test boring logs based on visual observations of the recovered soil and rock core samples and a review of the driller's field notes. The soil samples were described based on a visual/manual estimation of the grain size distribution, along with characteristics such as color, relative density, consistency, moisture, etc. The rock cores were also described, including characteristics such as color, rock type, hardness, weathering, bedding thickness, core recovery and rock quality designation (RQD). The test boring logs for the recently completed test borings B-1 through B-5 are presented in Appendix A, along with general information and a key of terms and symbols used to prepare the logs.

A groundwater monitoring well was installed within completed test boring B-2. The well consists of two inch diameter PVC screen and riser pipe, extending from the bottom of the test boring to above the ground surface. The sand pack extends from the bottom of the test boring up to a depth of about 14 feet. A bentonite chip seal was installed above the sand pack, with the remainder of the test boring backfilled with soil cuttings. Additional details regarding the construction of the well are shown on the Monitoring Well Completion Record, included in Appendix A, following test boring log B-2.

2.20 PREVIOUS INVESTIGATIONS

As noted, two previous investigations were completed at the site by SJB and Empire, each including one test boring along with some geotechnical laboratory testing. Test boring B-1 completed in June 2014 was drilled within the limits of the proposed apartment building. Test boring B-1 completed in February 2020 was completed within the southwest corner of the site. The approximate location of these test borings are shown on Figure 2. The test boring logs from the previous investigations, with updated ground surface elevations, are included in Appendix B. Additional information regarding the previous investigations is included in: Empire's July 11, 2014 Subsurface Exploration and Geotechnical Evaluation Report, along with the August 15, 2014 Follow-Up Information letter; and the March 14, 2020 Subsurface Exploration and Geotechnical Evaluation Report.

3.00 SUBSURFACE CONDITIONS

3.10 GENERAL

The subsurface conditions described in the following sections are based on the recently completed test borings B-1 through B-5, and previously completed test borings from 2014 and early 2020. Beneath the topsoil, fill type soils were encountered which extended to depths of about 4 feet to 10 feet. Beneath the fill, the upper indigenous soils consisted of silty clay soils, often containing intermixed organics, which extended to depths of about 18 to 20 feet. The remaining soils consisted of compact to very compact gravels and sands, which extended to the top of Shale bedrock at depths of about 25 to 28 feet. The soil and bedrock stratigraphy encountered along with the groundwater conditions observed are described in more detail below and on the test boring logs in Appendix A and Appendix B.

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3.20 FILL SOILS

Beneath the topsoil, fill type soils were encountered which extended to depths of about 4 to 10 feet. It should be expected that the depth of the fill will vary between and away from the exploration locations, and will be dependent on the original site topography and former limits of Ellicott Creek, prior to site filling and grading. As noted, based on a review of older USGS mapping, it appears Ellicott Creek formerly extended farther to the north than its current location.

The fill soils generally consisted of a reworked mixture of silty clays and sands with varying amounts of gravel and trace to little amounts of organics. Exceptions include: a layer of organic clayey silts encountered from about 4 to 6 feet within the 2014 test boring B-1; a zone of concrete fragments and soils observed within the upper four feet at test boring B-2; and a zone of asphalt fragments and soils observed from about 2 feet to 6 feet within test boring B-5. Trace amounts of glass, slag, concrete, organics, and asphalt were often observed within the fill soils. The Standard Penetration Test (SPT) "N" values obtained within the fill soils ranged from of 5 to "sample spoon refusal" (i.e. more than 50 blows required to advance the sample spoon with six inches or less of penetration). The variable nature of the fill soils, along with the variable relative density/consistency as determined from the SPT "N" values, indicate the fill soils were likely installed in an uncontrolled, non-engineered manner.

3.30 INDIGENOUS SOILS

Beneath the fill soils, and extending to depths of about 18 to 20 feet, the upper indigenous soils consisted of a mixture of silty clays and sands, often containing trace to little amounts of organics. Exception include the 15 to 17 feet deep sample from test boring B-2 which consisted predominately of organics. The silty clays and sands with organic are classified as CL, SC-SM, and OL-CL group soils using the Unified Soil Classification System (USCS). These upper indigenous soils appear to be alluvial deposited soils from Ellicott Creek. The SPT "N" values obtained within these soils ranged from "weight of hammer" (i.e. only the weight of the hammer and rods required to advance the sample spoon) to 8, indicating these soils have a "very soft" to "medium" consistency. Laboratory testing from the first two investigations indicate these soils, at depths shallower than about 12 to 14 feet, had a medium to high plasticity, a moisture content ranging from about 40% to 55%, and an organic content of about 5% to 8%.

Beneath a depth of about 18 to 20 feet, and extending to the top of bedrock at about 25 to 28 feet, the remaining indigenous soils consisted of a mixture of gravels and sands with little to some amounts of silts and clays. These soils are classified as GC-GM and SM group soils using the USCS. The SPT "N" values obtained within these deeper soils ranged from 40 to "sample spoon refusal", indicting the deeper soils have a "compact" to "very compact" relative density.

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3.40 BEDROCK

Recently completed test borings B-1 through B-4, along with test boring B-1 from 2014 and test boring B-1 from early 2020 were drilled through the overburden soils until encountering the top of apparent bedrock, as identified by auger refusal conditions. Following auger refusal within recently completed test borings B-1 and B-4, 8 feet, and 9 feet of rock coring was completed, respectively. The following table summarizes the depth and elevation where the top of bedrock was encountered, as identified by rock coring (C) or auger refusal (AR). At test boring B-4, rock coring was started at 22.0 feet. However, the upper portion of the recovered core consisted of soil, with the top of shale rock starting at a depth of about 24.4 feet.

Approximate Depth and Elevation of Top of Bedrock

Test Boring	Approximate Ground Surface Elevation (feet)	Depth / Elevation of Top of Bedrock (feet)
B-1	582.3	25.2 / 557.1 (C)
B-2	581.1	26.0 / 555.1 (AR)
B-3	579.5	26.5 / 553.0 (AR)
B-4	578.1	24.4 / 553.7 (C)
B-1 (2014)	581 +/-	26.0 / 555.0 (AR)
B-1 (Feb. 2020)	580.0	27.7 / 552.3 (AR)

The bedrock recovered from test borings B-1 and B-4 consisted of brown, medium hard, sound, laminated to thickly bedded, Shale bedrock. The core recoveries ranged from 66% to 100%. The rock quality designation (RQD) values for the first core runs were 21% and 47%, indicating the near surface bedrock has a "very poor" to "poor" rock mass quality. The RQD values for the second core runs were 81% and 85%, indicating the deeper bedrock has a "good" rock mass quality.

3.50 GROUNDWATER

Based on the information summarized below, a general groundwater condition at the time of our investigation appears to exist near a depth of about 10 to 11 feet, or approximate elevation 570 to 571 feet, which is near the water level within Ellicott Creek.

Water level measurements were made in the test borings following the completion of overburden drilling and sampling, and are presented on the test boring logs in Appendix A and Appendix B. At test boring B-3, the depth to water was about 21.5 feet below the ground surface. Within the remaining test borings, no water was observed. Based on the water levels measured within the observation well, as described below, it appears that

groundwater did not have sufficient time to fully accumulate and stabilize in the test holes within the time that had elapsed from the completion of drilling operations and the time of the measurements.

A groundwater observation well was installed within completed test boring B-2. SJB visited the site on August 6th, 2020, at which time the depth to water within the well was about 10.0 feet below the ground surface, correlating to approximate elevation 571 feet. Following the initial measurement, about 5 gallons of water was removed from the well, lowering the water level. SJB returned to the site on September 15th, 2020, at which time the depth to water within the well was about 11.1 feet below the surface, correlating to approximate elevation 570 feet. These depths generally correspond to the depths where the collected soil samples were described as "moist to wet" or "wet".

Some of the shallower samples of fill soils within test borings B-1 and B-5, along with some shallower samples of sandier indigenous soils within test boring B-3 were described as "moist to wet". These conditions could be representative of some perched or trapped groundwater within the more granular or looser fill and indigenous soils, which overlie less permeable indigenous soils. Perched groundwater conditions can be more prevalent following heavy or extended periods of precipitation and during seasonally wet periods. It should be expected that both permanent and perched groundwater conditions could vary with location and with changes in soil conditions, precipitation, seasonal conditions, and fluctuations of the water level within Ellicott Creek.

4.00 GEOTECHNICAL RECOMMENDATIONS

4.10 GENERAL CONSIDERATIONS AND RECOMMENDATIONS

The following general geotechnical considerations and recommendations are provided to assist with planning for the design and construction of the proposed apartment complex. More detailed recommendations are presented in the subsequent sections of this report.

1. Design and construction of the proposed building will be primarily impacted by: the fill soils that extend to depths of 4 to 10 feet; the underlying soft silty clay indigenous soils which also contain organics; and the apparent perched groundwater condition within some of the fill soils and shallower indigenous soils.

2. The fill soils and the underlying silty clay and organic indigenous soils are not suitable for supporting the proposed apartment building using a conventional shallow spread foundation design. These soils are highly compressible and can also subside with time due to decomposition of the organics, resulting in excessive amounts of settlement beneath spread foundations. In addition, the softer silty clay soils are considered marginal for support of spread foundations.

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3. Considering the issues associated with spread foundations, a deep foundation system is recommended for use at this site, which will transfer the building loads through the fill and softer indigenous soils and into the "compact" to "very compact" indigenous soils, first encountered about 18 to 20 feet below the surface. Suitable deep foundation options include: driven pipe piles; helical piles; and drilled, cast-in-place pier foundations (i.e. caissons or drilled shafts).

4. The deep foundation support options will generally eliminate the settlement risks discussed above for spread foundations. However, settlement risks will still remain with regard to the ground level floor, if designed as a conventional slab-on-grade. In order to eliminate all risks associated with a ground level floor constructed over the fill soils and softer indigenous / organic soils, the floor should be constructed as a structural floor supported by a deep foundation system. We understand, however, it may not be economically practical to use a structural floor slab.

   The Owner, therefore, could consider an approach of removing a portion of the existing fill and provide some additional Subbase Stone, along with a heavy duty stabilization geotextile and geo-grid reinforcement beneath the slab-on-grade construction. This will provide for a stiffer subgrade and reduce some of the differential settlement effects, if it were to occur. There are some uncertainties with this approach, such as the potential for some long-term differential settlement, resulting from unidentified zones of unsuitable fill soils or buried organics.

   If the Owner is willing accept these risks, then we would recommend the following be implemented as minimum requirements for constructing the slab-on-grade over the existing fill soils.

   - The existing fill subgrades should be thoroughly compacted and properly proof rolled, evaluated, and prepared in accordance with our recommendations provided in Section 4.90.6.
   - Any deleterious materials, such as organics, very soft soils, construction debris, etc., which are present within the fill soils at the bottom of the subgrade excavation, should be further undercut, removed, and replaced with additional Subbase Stone.
   - The slab-on-grade floor should be constructed over a minimum 24-inch thick layer of compacted Subbase Stone / Structural Fill, that is separated from the fill soils with a suitable stabilization/separation geotextile. The Structural Fill layer should also be reinforced with two separate layers of geo-grid.
   - Additional steel reinforcing within the floor slab should be considered to help further bridge and reduce the risks of any differential subsidence effects, should they occur.

5. The installation of new fill, necessary to raise the site grades within the proposed building will result in some settlement within the fill soils and softer zones of indigenous soils, which could induce some drown drag forces on the deep foundations. Accordingly, the amount of new fill installation should be limited and be completed at least 2 to 3 months prior to the installation of the deep foundations.

6. Excavations to construct the pile caps and elevator pit could encounter some perched groundwater. Appropriate dewatering measures should be implemented to allow for construction to proceed in the dry. Undercutting the subgrade soils by about 12 to 18 inches and replacing them with Structural Fill should be considered, to provide a firm and stable working surface for construction of the pile caps, grade beams, and elevator pit.

7. Based on the subsurface conditions encountered, the site can be classified as Seismic Site Class "D" in accordance with the criteria in the New York State Building Code.

4.20 DRIVEN PIPE PILES

A driven, closed end pipe pile, is recommended for use at the site due to its lager end bearing area, compared to an H-pile. The steel pipe pile should have a yield strength of at least 50 ksi, and should have a minimum wall thickness of 0.25 inches. A steel cap plate should be used to close the end of the pile. The perimeter of the cap plate should be flush with the outer surface of the pipe pile. Driving the pipe piles open ended is not recommended. Following driving and acceptance, the pipe pile should be filled with concrete or be capped, as determined by the Structural Engineer.

The pile foundations should be driven to practical refusal, into the "compact" to "very compact" gravel and sand soils, first encountered about 18 to 20 feet below the surface. A pipe pile driven to practical refusal can be designed for an allowable axial capacity equal to 25% of the pile yield strength or 12.5 kips per square inch (ksi), whichever is less, times the cross sectional area of the pile.

Based on the above design criteria, an 8.625 inch diameter pipe pile section (Grade 50 steel), with a wall thickness of 0.25 inches and a cross sectional area of 6.6 in^2, would provide an allowable axial compressive capacity of about 41 tons per pile. The pile, however, should be driven and tested for an ultimate capacity of 82 tons. The ultimate test capacity assumes a Factor of Safety of 2.0, as required by the Building Code of New York State.

Other pipe pile sections could also be used, based on current product availability, to obtain different allowable axial capacities, provided the same design criteria as outlined above is used.

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Pile foundations driven to practical refusal within the "compact" to "very compact" gravel and sand soils, are expected to undergo insignificant total settlement, when designed and constructed in accordance with our recommendations. Driven piles should be spaced a minimum of 3 pile widths apart, or three feet, whichever is greater. At this spacing, no group reduction factor is considered necessary. All exterior pile caps and grade beams for driven pile foundations should be embedded a minimum of 4 feet below final exterior grades for frost protection.

At least 3 random piles should be dynamically tested to confirm that the pile capacity has been obtained with an adequate factor of safety (i.e. Factor of Safety of 2.0 or greater as required by the Building Code of New York State).

It is possible that obstructions could be encountered within the fill soils. Such obstructions will hinder and impact the installation of the driven piles, and therefore should be anticipated and addressed as appropriate by the pile driving contractor. Accordingly, some pre-excavation and removal of these materials may be necessary for the proper installation of the piles.

4.30 HELICAL PILES

Helical piles, often referred to as "screw piles", bearing within the "compact" to "very compact" gravel and sand soils, first encountered about 18 to 20 feet below the surface, can be used for supporting the proposed building. Helical piles consist of a steel plate formed into the shape of a helix (one pitch of a screw thread) attached to a steel shaft. Installation is accomplished by applying torque to the shaft and screwing the pile into the soil. During the installation, the torque is measured as a correlation to the design capacity.

We recommend a performance specification for the helical piles be developed (i.e. required compressive and uplift capacities). The helical pile installation contractor can then provide a suitable design and installation procedure. Variables will include the diameter of the helical plate, the use of multiple plates, embedment length, number of piles, grouting or no grouting, etc. A New York registered Professional Engineer should prepare the helical pile design.

Preliminarily, helical piles designed to bear at a depth of about 20 feet, can be designed based on an allowable end bearing capacity of 15 kips per square foot (psf). Accordingly, a 14 inch diameter helix (end area of 1.07 square feet) would be expected to develop an allowable axial capacity of about 16 kips per pile. The actual design, however, should be completed by the contractor based on the performance specification developed for the project. Exterior grade beams and pile caps should be embedded a minimum of 4 feet for frost protection.

Due to the potential for the accumulation of perched or trapped groundwater within the fill soils, and the potential flooding events, we recommend the design groundwater elevation be assumed to exist at the ground surface.

At least one load test should be completed for each helical pile type to confirm the design capacity has been obtained with an adequate factor of safety (i.e. Factor of Safety of 2.0 or greater). The load test data should be correlated to the installation torque to provide acceptance criteria for the production piles. Based on the testing results, the actual production helical pile lengths may vary and therefore such contingencies should be planned for in the installation contracts.

4.40 DRILLED PIERS

Drilled pier foundations, if used, should bear within the "compact" to "very compact" gravel and sand soils, first encountered about 18 to 20 feet below the surface. We recommend the drilled piers bear at least 2 to 3 feet into the gravel and sand soils. Therefore, the drilled piers should bear at an elevation of about 559 to 560 feet, in order to develop adequate end bearing capacity. All drilled pier foundation construction should be monitored by qualified geotechnical personnel, to ensure the drilled piers are bearing on suitable indigenous soil bearing subgrades.

The drilled pier foundations can be sized based on a maximum net allowable end bearing capacity of 15 kips per square foot. In all cases, a minimum pier diameter of 30 inches is recommended. The piers will need to be sized based on the actual column and wall loads as determined by the designer.

Drilled piers should be spaced no closer than 3 pier diameters, center to center. Exterior grade beams and pier caps for a drilled pier foundation system should be embedded a minimum of 4 feet for frost protection. It is estimated that drilled pier foundations sized and properly constructed in accordance with our recommendations above will undergo a total settlement of less than ½ inch.

4.50 ELEVATOR PIT

As noted, a general groundwater condition is expected near elevation 570 feet to 571 feet, or about 10 to 11 feet below the existing surface. However, due to the potential for the accumulation of perched or trapped groundwater within the fill soils, and the potential flooding events, we recommend the groundwater conditions be assumed to exist at the ground surface. Accordingly, the below grade elevator pit walls, should be constructed with perimeter foundation drains to intercept any groundwater that may tend to collect against the walls, and the walls should be properly damp proofed. As an alternative, the walls could be designed to resist full hydrostatic pressures acting on the structure walls and bottom slab, and be designed as a fully waterproofed structure.

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The elevator pit walls should be designed to resist "at rest" lateral earth pressures generated by the earth backfill and any temporary or permanent surcharge loads, based on the soil parameters below. These parameters are based on the wall backfill consisting of Structural Fill, as described in Appendix C. In addition, perimeter exterior foundation drains should be incorporated in the design where the walls are designed for relieved hydrostatic pressures (i.e. drained conditions).

Where a foundation drainage system is not used, the walls should be designed to resist the hydrostatic pressures as well as the lateral earth pressures acting the walls. In this case, the lateral earth pressure should be computed based on a submerged soil unit weight. In addition, the floor / bottom slab must be designed to resist the hydrostatic uplift pressure acting on it, and the depressed structure should also be fully water proofed.

Recommended Soil Parameters for Elevator Pit Wall Design

- Coefficient of "At-Rest" Lateral Earth Pressure – 0.47
- Angle of Internal Friction – 32 Degrees
- Moist Unit Weight of Soil – 140 pcf
- Submerged or Buoyant Unit Weight of Soil – 80 pcf
- Surcharge Load Lateral Coefficient – 0.50

4.60 SLAB-ON-GRADE FLOOR

4.60.1 Floor Slab with Thickened Subbase

As discussed in Section 4.10, the ground level floor can be constructed as a slab-on-grade over the existing fill soils, provided the Owner is willing to accept the risks associated with this option. These risks include the potential for some on-going, long-term settlement, and unpredictable differential settlement, because of the variable composition and density of the fill, and potentially other undetected areas of unsuitable fill soils (i.e. organics, wood, etc.).

The existing fill soil subgrades should be thoroughly compacted and properly prepared and evaluated in accordance with our recommendations in Section 4.906 prior to placement of the geotextile and Subbase Stone material. A minimum of 24 inches of Subbase Stone should be placed beneath the slab-on-grade floor. A suitable stabilization/separation geotextile, such as Mirafi 600X, should be placed over the prepared subgrades and a geo-grid reinforcement such as a TriAx TX160, should be placed over the geotextile, prior to installation of the first lift of Subbase Stone. An additional layer of geo-grid should be installed after the first 12-inches of Structural Fill has been installed.

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The slab-on-grade floors can be designed using a modulus of subgrade reaction of 200 pounds per cubic inch at the top of the 24 inches of Subbase Stone. Additional steel reinforcing within the floor slab should be considered to help further bridge and reduce the risks of any differential subsidence effects, should they occur.

It is understood the finished floor grade will be established above the surrounding exterior grades. Therefore, the use of a moisture barrier does not appear warranted, unless otherwise recommended by the finished flooring manufacturer. It is recommended that the slab-on-grade be constructed such that it floats on the subbase and subgrades, and is not structurally connected to or resting directly on, perimeter walls or column footings, in order to limit differential settlement effects, unless the slab / wall or column interface is designed with sufficient reinforcement to bridge potential differential settlement effects at these interfaces.

4.60.2 Structural Floor Slab

As discussed in Section 4.10, the floor system could also be designed as a structural slab supported by the selected deep foundation system. Although potentially more costly, a structural floor slab will negate the settlement risks associated with constructing the floor over the fill soils.

If the floor is structurally supported, it is recommended a minimum of 6 inches Subbase Stone material be placed beneath the structural slab to provide a suitable working surface to construct the slab. It is understood the finished floor grade will be established above the surrounding exterior grades. Therefore, the use of a moisture barrier does not appear warranted, unless otherwise recommended by the finished flooring manufacturer.

We note that the above subbase stone thickness is not adequate for carrying construction vehicle loads. Therefore, it may be desirable for the Contractor to temporarily increase the Subbase Stone thickness within the building pad area to provide a suitable working surface to stage the construction, carry construction vehicle loads and protect the underlying subgrades. This will be particularly important if construction proceeds during seasonally wet periods. The additional subbase stone material could then be removed and re-graded in preparation for the actual floor construction and re-used as foundation backfill, pavement subbase, or as otherwise determined appropriate.

4.70 SEISMIC DESIGN CONSIDERATIONS

Based on the subsurface conditions encountered in the test borings, the project site can be classified as Seismic Site Class "D" in accordance with ASCE 7-16, Table 20.3-1, as referenced in the 2020 Building Code of New York State. Therefore, seismic design can be based on this seismic site classification.

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The spectral response accelerations at the project site were obtained by Empire using the SEAOC / OSHPD web site application https://seismicmaps.org/. Using the site location, the spectral response accelerations are 0.170g for the short period (0.2 second) response (S_S) and 0.045g for the one second response (S_1). For design purposes, these spectral response accelerations must be adjusted for the Seismic Site Class "D" soil profile determined for the project site.

Accordingly, the adjusted spectral response accelerations for Site Class "D" are as follows:

- Short Period Response (S_{MS}) - 0.272g
- 1 Second Period Response (S_{M1}) - 0.109g

The corresponding five percent damped design spectral response accelerations (S_{DS} and S_{D1}) are as follows:

- S_{DS} - 0.181g
- S_{D1} - 0.072g

4.80 PAVEMENT DESIGN AND CONSTRUCTION

4.80.1 Pavement Design

Pavement construction should include: removal of the existing topsoil and organic soils; excavation of the subgrade soils as necessary to establish the pavement profile grade; preparation of the exposed subgrades (i.e. drying, compaction and proof-rolling); installation of subgrade fill (i.e. Suitable Granular Fill), if necessary to raise site grades; and placement of the geotextile, pavement subbase course, and asphalt pavement.

Pavement design recommendations are provided for a Medium Duty Asphalt Concrete Pavement section. The pavement section recommended assumes that the subgrades will be prepared as described in Section 4.90.6.

Medium Duty Asphalt Concrete Pavement

- 1.5 inches - Top Course
- 3.0 inches - Binder Course
- 12 to 15 inches - Subbase Course*
- Geotextile

*It is recommended the subbase course thickness be increased to 15 inches in the entrance / exit areas, which will be subject to more frequent and heavier loads. Also, it may be necessary to increase the subbase thickness in some areas to improve subgrade conditions and to promote drainage to underdrains, as discussed below.

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Materials for the above pavement structure components should consist of the following:

A. Asphalt Concrete Top Course - NYSDOT Standard Specifications, Hot Mix Asphalt, 9.5 F3 Top Course.

B. Asphalt Concrete Binder Course - NYSDOT Standard Specifications, Hot Mix Asphalt, 19 F9 Binder Course.

C. Subbase Course – Should comply with NYSDOT Standard Specifications, Item No. 304.12 - Type 2 Subbase, as described in Appendix C.

D. Geotextile - Woven polypropylene stabilization/separation geotextile (i.e., Mirafi 600X or approved suitable equivalent).

4.80.2 Pavement Drainage

The installation of underdrains or edge drains are recommended to drain the pavement subbase course within any low points, in order to limit the potential for frost action and improve pavement structure performance and design life. Alternatively, the pavement subbase course can also be allowed to daylight/drain to an adjacent perimeter drainage swale. This could be accomplished by raising the pavement grade. Drainage of the pavement subgrades can be achieved by grading the subgrade to a slope of at least 2 percent to allow drainage to the underdrains or drainage swale.

Underdrains, if used, should include a geotextile (i.e. Mirafi 160N or suitable equivalent), selected considering drainage and filtration, installed around drainage stone surrounding a slotted or perforated drain pipe. The drainage stone should be sized in accordance with the pipe slotting or perforations. A crushed aggregate (½-inch washed gravel or stone) is generally acceptable for slotted underdrain pipe. The underdrain pipes should be set in the bottom of the subbase layer, or preferably below the top of the soil subgrade elevation. The drainage stone and surrounding geotextile should extend above the underdrain pipe and into the subbase layer. Underdrain pipes should be connected to the site storm water drainage system.

4.80.3 Pavement Construction

Placement of the pavement Subbase course can proceed, following proper subgrade preparation and subgrade filling. Installation of adjacent geotextile panels should have minimum overlap of 12 to 18 inches. The Subbase Stone should be placed and compacted in accordance with the recommendations in Appendix C. Construction of the Asphalt Concrete Pavement should be performed in accordance with NYSDOT Standard Specification Section 400. The Binder and Top Course compaction / evaluation should comply with NYSDOT Standard Specifications – 80 Series Compaction procedures, as a minimum, or as otherwise required by the jurisdictional agency. In addition, placement of asphalt concrete courses should not be permitted on wet or snow covered surfaces or when the subgrade surface is less than 40° F.

4.90 SITE PREPARATION AND CONSTRUCTION

4.90.1 Construction Dewatering

Construction dewatering will be required for surface water control and for excavations which encounter groundwater conditions. A general groundwater condition is expected near the water level within Ellicott Creek, which will not likely be encountered within the relatively shallow pile cap excavations, but will be encountered within any drilled pier excavations. As noted, there appears to be some shallower zones of perched or trapped groundwater within some of the fill soils and shallower zones of sandier indigenous soils, which could be encountered within the pile cap excavations, or excavations to construct the elevator pit.

Water should be diverted away from the work areas and should be prevented from accumulating on exposed subgrades. Exposed soil subgrades will be susceptible to strength degradation in the presence of excess moisture. It is anticipated that diversion berms and proper site grading will be sufficient to control surface water.

Groundwater conditions, when encountered, should be depressed at least 1 to 2 feet below the excavation bottom. It is anticipated that sump and pump methods of dewatering will be sufficient to control perched groundwater conditions, should it be encountered within the fill soils or sandier indigenous soils. Surface water and groundwater dewatering plans should include implementation of measures to control erosion, sedimentation and the migration of soil fines.

4.90.2 Driven Pile Construction and Testing

The pipe piles should be driven using a hammer producing a suitable energy to obtain the desired ultimate capacity, yet not overstress the pile. Pile stresses should not exceed 85% of the pile yield stress. The appropriate hammer and driving criteria should be determined by the pile installation contractor through the use of the wave equation, based on the actual pile hammer and cushions that will be used for the project. If the wave equation analysis indicates that the pile may be overstressed during driving then the contractor should select an alternate hammer/cushion arrangement, which will not overstress the pile.

At least three random piles, across the limits of the site, should be dynamically tested in accordance with *ASTM D 4945 – Standard Test Method for High Strain Dynamic Testing of Piles* to confirm the driving criteria and to evaluate that the allowable pile capacity has been obtained with an adequate factor of safety (i.e. Factor of Safety of 2.0 or greater). The dynamic testing should be performed prior to installation of the production piles. The test piles may be used as production piles provided the test data is acceptable. The results of the dynamic testing should include an evaluation to simulate static load testing.

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

The wave equation results, pile installation records and the results of the dynamic testing should be evaluated to confirm the design capacity and to possibly refine the driving criteria and pile lengths if determined necessary. It should be understood that the pile capacity provided was estimated using conventional static analyses based on engineering interpretation of the conditions disclosed by the test borings. Variations in soil conditions may occur, which can impact the actual pile installation requirements. Therefore, it is recommended that the contract documents contain provisions to make adjustments in the actual pile lengths required, should the installation conditions and field testing dictate such changes.

A qualified individual should observe all pile driving and should prepare an individual pile driving report for each pile installed. The report should include, pile number and location, hammer and cushion types, pile size and material, installed length, blows per foot, unusual conditions encountered during driving, top of pile elevation following driving and notes on any necessary re-striking.

Installed piles should be monitored for potential heaving during installation of adjacent piles. Any piles which heave should be re-driven and reseated as appropriate. Plumbness of the piles should be maintained within 1% of the total length. Any misaligned or damaged piles should be replaced. Following driving the inside of the pipe pile should be inspected, before concreting or capping, to assure that no damage occurred during driving. Any damaged piles should be removed and replaced.

4.90.3 Helical Pile Construction

Helical piles should be installed by a qualified and experienced contractor. The helical piles should be installed in a smooth continuous manner, with sufficient pressure to advance the helical piles. Alignment of the helical piles should be maintained within 1% of the total length. At least one load test should be completed to determine the helical pile capacity has been obtained with an adequate factor of safety (i.e. Factor of Safety of 2.0 or greater).

A correlation, using the torque during installation and the load testing data should be used to confirm subsequent helical piles are installed to two times the allowable design load. A qualified individual should observe the helical pile installation and prepare a report summarizing the installation process, load testing results, torque during installation, length of pile, etc.

4.90.4 Drilled Pier Foundation Construction

The drilled pier foundation construction is expected to encounter groundwater conditions near a depth of about 10 feet. Shallower zones of perched groundwater within the fill soils could also be encountered. Dewatering should be implemented as necessary to lower the groundwater within the drilled pier excavation casing in order to observe the pier excavation bottom and evaluate the bearing subgrade surface, and to allow construction in-the-dry.

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Alternatively, procedures for constructing the drilled piers below the groundwater elevation, can be implemented. However, there is less control during construction in-the-wet, and therefore, there may be greater risk associated with this construction procedure. If this method is used, the hole must be stabilized and the concrete must be placed in a manner that displaces slurry/water from the hole, such as a tremie method. It is recommended that the drilled piers be constructed only by a Contractor, who is qualified and experienced in such construction methods. In both cases the installation of temporary casing during drilling will be necessary to prevent the sloughing of the softer fill soils and indigenous soils into the excavations.

Initially, the excavation should extend to the proposed bearing grade. Loose soil should be removed from the bearing surface. The final bearing surface should be level or near level. Plumbness of the pier should be maintained within 1% of the total length. Casing removal during concrete placement should proceed in a manner that prevents or reduces to the extent possible, surrounding soil and water from protruding into the space that will be occupied by concrete. Qualified and experienced geotechnical personnel should monitor the drilled pier construction.

4.90.5 Excavation for Grade Beams and Pile Caps

Excavation for the pile caps and grade beams should be performed using a method, which reduces disturbance to the subgrade soils, such as a backhoe equipped with a smooth blade bucket. As noted, consideration should be given to undercutting the subgrade soils by about 12 to 18 inches and replacing them with Structural Fill, as described in Appendix C, to provide a firm and stable working surface.

Subgrades should be protected from precipitation and surface water. Water should not be allowed to accumulate on the soil subgrades and the subgrades should not be allowed to freeze, either prior to or after construction of foundations. If subgrades are not protected and degrade, they must be undercut/removed accordingly.

Excavations should be backfilled as soon as possible and prior to construction of the superstructure. It is recommended that the excavations be backfilled with a Structural Fill, as described in Appendix C.

4.90.6 Subgrade Preparation for Slab-on-Grade and Pavement Areas

The site preparation work should be performed during seasonally dry periods to minimize potential degradation of the subgrade soils and undercuts which may be required to establish a stable base for construction. It should be understood that the silty clay fill soils encountered at the site are sensitive and can degrade and lose strength when they are wet and disturbed by construction equipment traffic. Accordingly, efforts should be made to

maintain the subgrades in a dry and stable condition at all times, and minimize construction traffic directly over these soils. These efforts could include:

- Installation of drainage swales and underdrains (i.e. "French drains") to intercept and divert surface runoff and groundwater away from the construction areas;
- Proper grading and sloping of the subgrade and "sealing" of the surface with a smooth drum roller, at the end of each day or when rain is anticipated to promote runoff; and
- Restricting construction equipment traffic from traveling directly over the subgrade surfaces, especially when they are wet. Any subgrades, which become damaged, rutted or unstable should be undercut and repaired as necessary prior to placement of the overlying fill courses.

Existing trees, stumps, vegetation, topsoil, organic soils, soft or loose soils, and any other deleterious materials within the proposed slab-on-grade and pavement areas should be removed. Following stripping of the surface materials and any required excavation to the proposed subgrades, the exposed subgrades should be allowed to dry, as necessary, and then be thoroughly compacted/densified and then proof-rolled.

The subgrade compaction and proof-rolling should be performed prior to any required fill placement, using a vibratory smooth drum roller weighing at least 10 tons. The roller should be operated in the vibratory mode for compacting the subgrades and in the static mode for proof rolling. The roller should complete at least four passes over the exposed subgrades for the compaction/densification operation and at least two passes for the proof rolling evaluation.

The subgrade compaction and proof-rolling should be done under the guidance of, and observed by, a representative of Empire. Any areas, which appear wet, loose, soft, unstable or otherwise unsuitable, should be undercut. Over excavation, which may be required as the result of the proof-rolling, should be performed based on evaluation of the conditions by Empire. Resulting over-excavations should be backfilled with controlled Structural Fill. The placement of an initial lift of oversized stone fill material (i.e. "surge stone", "shot rock", etc.) encased in stabilization geotextile top and bottom, may be necessary in some cases to help stabilize the subgrades.

During construction, the Contractor should take precautions to limit construction traffic over the soil subgrades. Any subgrades, including existing soil subgrades or fill subgrades, which become damaged, rutted or unstable should be undercut and repaired as necessary prior to placement of the Subbase Stone.

Suitable Granular Fill, as described in Appendix C, can be used to raise the site grades beneath the Subbase Stone course for the slab-on-grade and pavement construction. The use of the on-site soils to raise site grades is not recommended as it is expected to be more difficult to obtain acceptable compaction and maintain stable fill subgrades (i.e. free of rutting and pumping conditions), due to its inherent finer grained composition and organic

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content. Placement of subgrade fill (Suitable Granular Fill), to raise site grades, should be observed and tested by a construction materials testing company. It is recommended that utility trenches located within pavement areas be backfilled with controlled Structural Fill.

5.00 CONCLUDING REMARKS

This report was prepared to assist in the design and construction of the proposed Elysium Apartment Complex, planned at 2160 North Forest Road, within the Town of Amherst, New York. The report has been prepared for the exclusive use of Postwork Capital, Buffalo Automation, Silvestri Architects, PC, and other members of the project design team, for specific application to this site and this project only.

The site information and recommendations were prepared based on Empire's understanding of the proposed project, as described herein, and through the application of generally accepted soils and foundation engineering practices. Empire should be consulted with any questions regarding the interpretation of the findings of our work, and/or the geotechnical considerations and recommendations presented. In addition, the recommendations presented are provided as guidance to the designer and should not be considered a project specification. No warranties, expressed or implied are made by the conclusions, opinions, recommendations or services provided.

Empire should be informed of any changes to the planned project so that it may be determined if any modifications to the information presented in this report are necessary. Empire and / or its designated representative should also be retained to review final plans and specifications and to monitor the foundation and site work construction to verify that the recommendations were properly interpreted and implemented.

Additional information regarding the use and interpretation of this report is presented in Appendix D.

Respectfully Submitted:

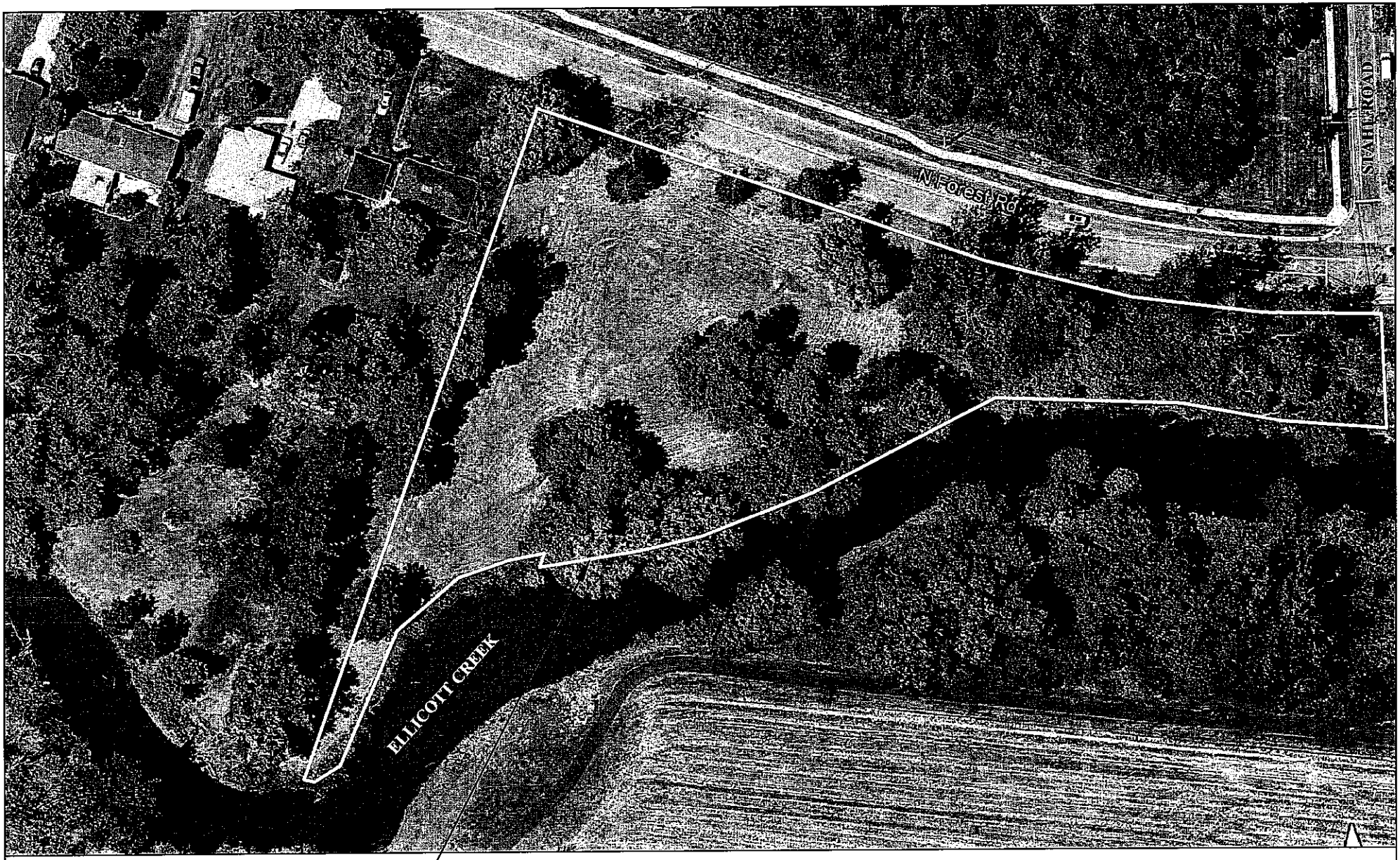
WMA Engineering DPC
dba Empire Geotechnical Engineering Services

Thomas R. Seider, P.E.
Senior Geotechnical Engineer

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

FIGURES



APPROXIMATE SITE LOCATION

N

WMA ENGINEERING DPC|DBA
EMPIRE GEOTECHNICAL
ENGINEERING SERVICES

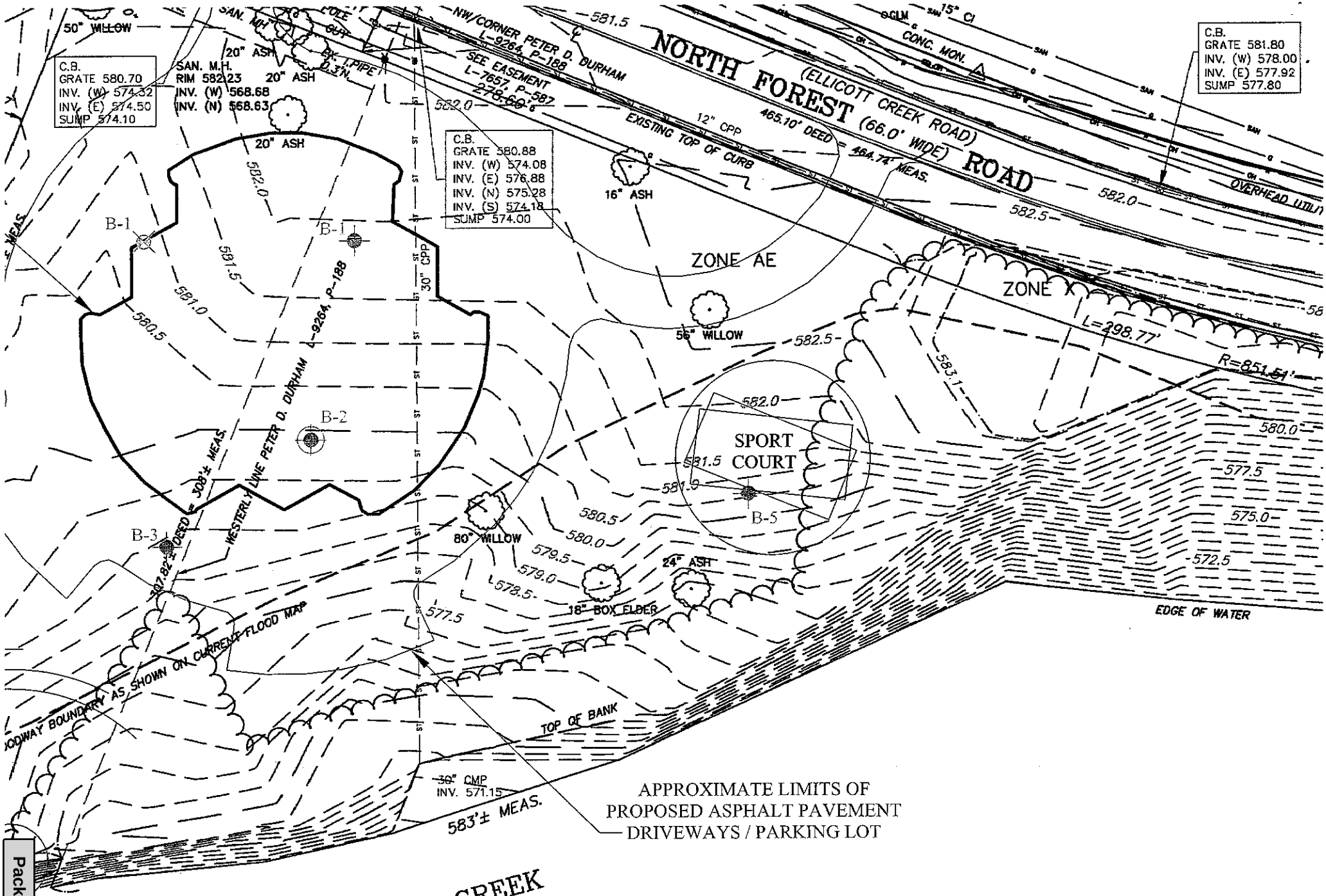
PROPOSED ELYSIUM APARTMENT COMPLEX
2160 NORTH FOREST ROAD
TOWN OF AMHERST, NEW YORK

	DR BY: WMA	SCALE: NTS	PROJECT NO.: WB-20-105

NOTE:

SI

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NOTE:

B-1 INDICATES APPROXIMATE LOCATION AND DESIGNATION OF TEST BORING

FIGURE DEVELOPED FROM JUNE 24, 2014

N

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Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

APPENDIX A

SUBSURFACE EXPLORATION LOGS

Recently Completed Test Borings
July 2020 (B-1 through B-5)

GENERAL INFORMATION & KEY TO SUBSURFACE LOGS

The Subsurface Logs attached to this report present the observations and mechanical data collected by the driller at the site, supplemented by classification of the material removed from the borings as determined through visual identification by technicians in the laboratory. It is cautioned that the materials removed from the borings represent only a fraction of the total volume of the deposits at the site and may not necessarily be representative of the subsurface condition between adjacent borings or between the sampled intervals. The data presented of the Subsurface Logs together with the recovered samples provide a basi for evaluating the character of the subsurface conditions relative to the project. The evaluation must consider all the recorded details and their procedures to more accurately evaluate the subsurface conditions. Any evaluation of the contents of this report and recovered samples must be performed by qualified professionals. The following information defines some of the procedures and terms used of the Subsurface Logs to describe the conditions encountered, consistent with the numbered identifiers shown o the Key opposite this page.

1. The figures in the Depth column define the scale of the Subsurface Log.
2. The Samples column shows, graphically, the depth range from which a sample was recovered. See Table I for descriptions of the symbols used to represent the various types of samples.
3. The Sample No. is used for identification on sample containers and/or Laboratory Test Reports.
4. Blows on Sampler – shows the results of the "Penetration Test", recording the number of blows required to drive a split spoon sampler into the soil. The number of blows required for each six inches is recorded. The first 6 inches of penetration is considered seating drive. The number of blows required for the second and third 6 inches of penetration is termed the penetration resistance,
5. Blows on Casing – Shows the number of blows required to advance the casing a distance of 12 inches. The casing size, hammer weight, and length of drop are noted at the bottom of the Subsurface Log. If the casing is advanced by means other than driving, t method of advancement will be indicated in the Notes column or under the Method of Investigation at the bottom of the Subsurfac Log. Alternatively, sample recovery may be shown in this column or other data consistent with the column heading.
6. All recovered soil samples are reviewed in the laboratory by an engineering technician, geologist, or geotechnical engineer, unless noted otherwise. Visual descriptions are made on the basis of a combination of the driller's field descriptions and noted observatio together with the sample as received in the laboratory. The method of visual classification is based primarily on the Unified Soil Classification System (ASTM D 2487) with regard to the particle size and plasticity (See Table No. II), and the Unified Soil Classification System group symbols for the soil types are sometimes included with the soil classification. Additionally, the relative portion, by weight, of two or more soil types is described for granular soils in accordance with "Suggested Methods of Test for Identification of Soils" by D.M. Burmister, ASTM Special Technical Publication 479, June 1970. (See Table No. III). Description o the relative soil density or consistency is based upon the penetration records as defined in Table No. IV. The description of the soil moisture is based upon the relative wetness of the soil as recovered and is described as dry, moist, wet, and saturated. Water introduced into the boring either naturally or during drilling may have affected the moisture condition of the recovered sample. Special terms are used as required to describe soil deposition in greater detail; several such terms are listed in Table V. When sampling gravelly soils with a standard two inch diameter split spoon, the true percentage of gravel is often not recovered due to t relatively small sampler diameter. The presence of boulders and large gravel is sometimes, but not necessarily, detected by an evaluation of the casing and sampler blows or through the "action" of the drill rig as reported by the driller.
7. Rock description is based on review of the recovered rock core and the driller's notes. Frequently used rock classification terms a included in Table VI.
8. The stratification lines represent the approximate boundary between soil types and the transition may be gradual. Solid stratification lines delineate apparent changes in soil type, based upon review of recovered soil samples and the driller's notes. Dashed lines convey a lesser degree of certainty with respect to either a change in soil type or where such change may occur.
9. Miscellaneous observations and procedures noted by the driller are shown in this column, including water level observations. It is important to realize the reliability of the water level observations depends upon the soil type (water does not readily stabilize in a hole through fine grained soils), and that any drill water used to advance the boring may have influenced the observations. The ground water level will fluctuate seasonally, typically. One or more perched or trapped water levels may exist in the ground seasonally. All the available readings should be evaluated. If definite conclusions cannot be made, it is often prudent to examine th conditions more thoroughly through test pit excavations or groundwater observation wells.
10. The length of core run is defined as the length of penetration of the core barrel. Core recovery is the length of core recovered divided by the core run. The RQD (Rock Quality Designation) is the total length of pieces of NX core exceeding 4 inches divided b the core run. The size core barrel used is also noted in the Method of Investigation at the bottom of the Subsurface Log.

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

DATE

STARTED _____

FINISHED _____

SHEET ____ OF ____

SJB SERVICES, INC. SUBSURFACE LOG

PROJ. No. _____

HOLE No. _____

SURF. ELEV. _____

G.W. DEPTH _____

PROJECT _____ LOCATION _____

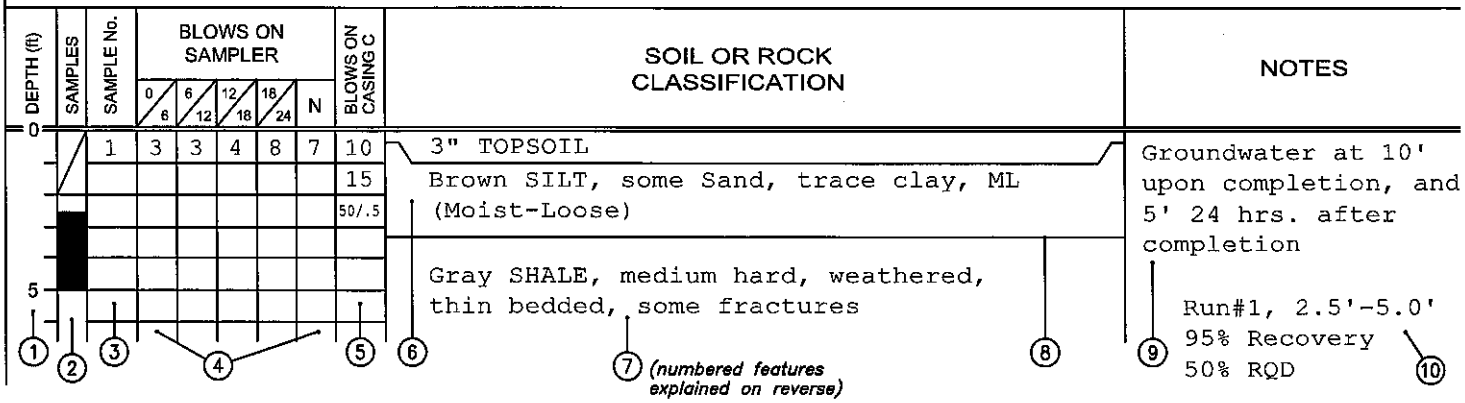


TABLE I

⁄	Split Spoon Sample
▮	Shelby Tube Sample
⊠	Geoprobe Macro-Core
▯	Auger or Test Pit Sample
■	Rock Core

TABLE II

Identification of soil type is made on basis of an estimate of particle sizes, and in the case of fine grained soils also on basis of plasticity.

Soil Type	Soil Particle Size	
Boulder	>12"	Coarse Grained (Granular)
Cobble	3" - 12"	
Gravel - Coarse	3" - 3/4"	
- Fine	3/4" - #4	
Sand - Coarse	#4 - #10	
- Medium	#10 - #40	
- Fine	#40 - #200	
Silt - Non Plastic (Granular) Clay - Plastic (Cohesive)	<#200	Fine Grained

TABLE III

The following terms are used in classifying soils consisting of mixtures of two or more soil types. The estimate is based on weight of total sample.

Term	Percent of Total Sample
"and"	35 - 50
"some"	20 - 35
"little"	10 - 20
"trace"	less than 10

(When sampling gravelly soils with a standard split spoon, the true percentage of gravel is often not recovered due to the relatively small sampler diameter.)

TABLE IV

The relative compactness or consistency is described in accordance with the following terms:

Granular Soils		Cohesive Soils	
Term	**Blows per Foot, N**	**Term**	**Blows per Foot, N**
Very Loose	0 - 4	Very Soft	0 - 2
Loose	4 - 10	Soft	2 - 4
Firm	10 - 30	Medium	4 - 8
Compact	30 - 50	Stiff	8 - 15
Very Compact	>50	Very Stiff	15 - 30
		Hard	>30

(Large particles in the soils will often significantly influence the blows per foot recorded during the penetration test)

TABLE V

Varved	Horizontal uniform layers or seams of soil(s).
Layer	Soil deposit more than 6" thick.
Seam	Soil deposit less than 6" thick.
Parting	Soil deposit less than 1/8" thick.
Laminated	Irregular, horizontal and angled seam and partings of soil(s).

TABLE VI

Rock Classification Term		Meaning
Hardness	- Soft	Scratched by fingernail
	- Medium Hard	Scratched easily by penknife
	- Hard	Scratched with difficulty by penknife
	- Very Hard	Cannot be scratched by penknife
Weathering	- Very Weathered	Judged from the relative amounts of disintegration, iron staining, core recovery, clay seams, etc.
	- Weathered	
	- Sound	

Rock Classification Term		Meaning	
Bedding	- Laminated	(<1")	Natural breaks in Rock Layers
	- Thin Bedded	(1" - 4")	
	- Bedded	(4" - 12")	
	- Thick Bedded	(12" - 36")	
	- Massive	(>36")	

(Fracturing refers to natural breaks in the rock oriented at some angle to the rock layers)

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

DATE:
START 7/23/2020
FINISH 7/23/2020
SHEET 1 OF 1

SJB SERVICES, INC.
SUBSURFACE LOG

HOLE NO. B-1
SURF. ELEV 582.3'
G.W. DEPTH See Notes

PROJECT: PROPOSED ELYSIUM APARTMENT COMPLEX
PROJ. NO.: BE-20-105
LOCATION: 2160 NORTH FOREST ROAD
AMHERST, NY

DEPTH FT.	SMPL NO.	BLOWS ON SAMPLER 0/6	6/12	12/18	N	SOIL OR ROCK CLASSIFICATION	NOTES
	1	2	4			TOPSOIL	Driller noted topsoil at the surface
		6	8		10	Brown Silty CLAY, some fine Gravel, little f-c Sand, tr.organics (moist, FILL)	
	2	8	7			One piece of coarse GRAVEL (moist, FILL)	WOH = Weight of Hammer and Rods
		6	5		13		
5	3	3	3			Brown Silty CLAY, some f-c Sand, little fine Gravel, tr.slag, tr.organics (moist-wet, FILL)	
		3	2		6		
	4	3	3			Contains tr.gravel, tr.glass, no slag	Sample #4: Contains wood
		4	3		7		
	5	WOH	2			Dark Brown Silty CLAY, little f-m Sand, tr.organics (moist, medium, CL)	Sample #5: Exhibits an organic odor
10		2	3		4		
	6	1	1			Contains tr.sand (moist-wet, soft)	
		1	1		2		Sample #6: Contains wood
15	7	WOH	1			Contains little f-m Sand, little Organics	Sample #7: Exhibits an organic odor, contains wood
		2	1		3		
20	8	6	21			Brown fine GRAVEL, some f-c Sand, little Silty Clay (moist, v.compact, GC-GM)	REF = Sample Spoon Refusal
		35	50/0.2		56		Driller noted hard augering at 20' to 25'
25	9	50/0.2			REF		NQ '2' Size Rock Core
						Brown SHALE Rock, medium hard, sound, thickly bedded, both natural and mechanical fractures	RUN #1: 25.2' - 30.2' REC = 72% RQD = 47%
30						Becomes laminated to thickly bedded	RUN #2: 30.2' - 33.2' REC = 100% RQD = 81%
35						Boring Complete at 33.0'	No Free Standing Water encountered before coring
							Free Standing Water recorded at 1' after coring
40							

N = NO. BLOWS TO DRIVE 2-INCH SPOON 12-INCHES WITH A 140 LB. PIN WT. FALLING 30-INCHES PER BLOW

CLASSIFIED BY: Geologist

DRILLER: A. KOSKE
DRILL RIG TYPE : CME-550X
METHOD OF INVESTIGATION ASTM D-1586 USING HOLLOW STEM AUGERS

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

DATE:
START 7/27/2020
FINISH 7/27/2020
SHEET 1 OF 1

SJB SERVICES, INC.
SUBSURFACE LOG

HOLE NO. B-2
SURF. ELEV 581.1'
G.W. DEPTH See Notes

PROJECT: PROPOSED ELYSIUM APARTMENT COMPLEX
PROJ. NO.: BE-20-105
LOCATION: 2160 NORTH FOREST ROAD
AMHERST, NY

DEPTH FT.	SMPL NO.	BLOWS ON SAMPLER 0/6	6/12	12/18	N	SOIL OR ROCK CLASSIFICATION	NOTES
	1	4	15			TOPSOIL	Driller noted topsoil at the surface
		21	19		36	Brown CONCRETE fragments, some Silty Clay, little f-c Sand (moist, FILL)	
	2	15	8				
		5	6		13	Contains little Silty Clay	Sample #1: Poor Recovery
5	3	2	2			Brown Silty CLAY, some f-c Sand, little fine Gravel, tr.organics (moist, FILL)	Sample #2: Poor Recovery
		3	6		5		
	4	4	50/0.2		REF	Contains some fine Gravel, little f-c Sand, tr.concrete (moist-wet)	
	5	50/0			REF		Sample #5: No Recovery
10							
	6	2	2			Dark Brown Silty CLAY, little Organics, tr.sand (moist-wet, medium, CL)	REF = Sample Spoon Refusal
		3	3		5		
15							
	7	1	2			Brown Organics, tr.sand (wet)	Sample #7: Poor Recovery, contains wood
		1	6		3		
20							
	8	31	40			Brown fine GRAVEL, some f-c Sand, little Silty Clay (wet, v.compact, GC-GM)	
		45	50/0.4		85		
25							
	9	50	50/0.2		REF		
						Boring Complete with Auger Refusal at 26.0'	No Free Standing Water reading obtained at boring completion
30							2" PVC groundwater observation well installed within completed test boring. Refer to completion record for details.
35							
40							

N = NO. BLOWS TO DRIVE 2-INCH SPOON 12-INCHES WITH A 140 LB. PIN WT. FALLING 30-INCHES PER BLOW

CLASSIFIED BY: Geologist

DRILLER: R. STEINER

DRILL RIG TYPE : CME-550X

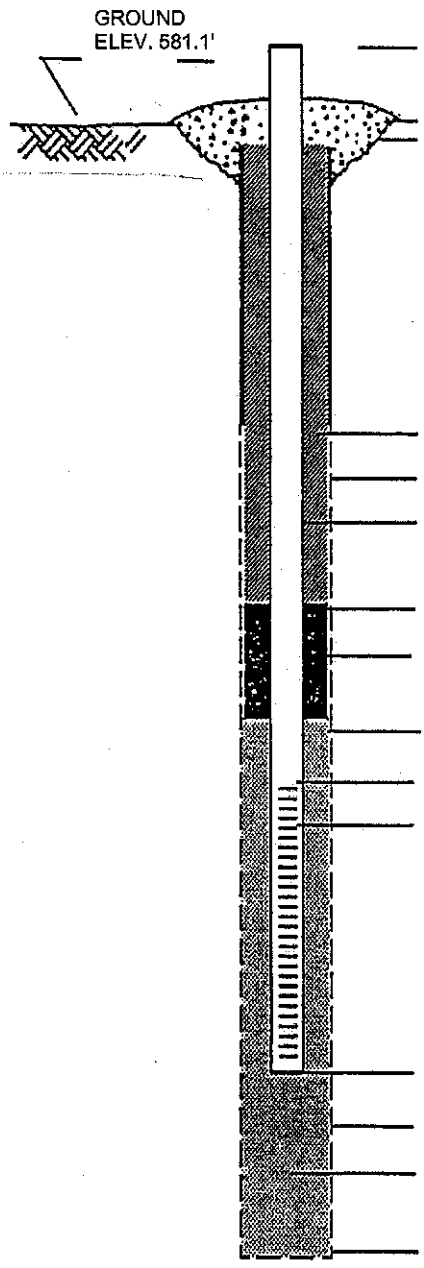
METHOD OF INVESTIGATION ASTM D-1586 USING HOLLOW STEM AUGERS

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

MONITORING WELL COMPLETION RECORD

SJB SERVICES, INC.

WELL NUMBER: B-2	
PROJECT: Elysium Apartments	**DRILLING METHOD:** ASTM D-1586 USING HSA
PROJECT NUMBER: BE-20-105	**GEOLOGIST:** N/A
DRILLER: R. Steiner	**INSTALLATION DATE(S):** 7/27/2020



TYPE OF SURFACE SEAL:	SOIL
TYPE OF BACKFILL:	SOIL AUGER CUTTINGS
BOREHOLE DIAMETER:	7" ±
I.D. OF RISER PIPE:	2"
TYPE OF RISER PIPE:	PVC
DEPTH OF SEAL:	12'
TYPE OF SEAL:	BENTONITE CHIPS
DEPTH OF SAND PACK:	14'
DEPTH OF TOP OF SCREEN:	15.6'
TYPE OF SCREEN:	PVC
SLOT SIZE X LENGTH:	0.01' x 10'
I.D. OF SCREEN:	2"
TYPE OF SAND PACK:	No. 0 Silica Sand
DEPTH BOTTOM OF SCREEN:	25.6'
DEPTH BOTTOM OF SAND PACK:	26.0'
TYPE OF BACKFILL BELOW OBSERVATION WELL:	N/A
ELEVATION/ DEPTH OF HOLE:	26.0'

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

DATE:
START 7/24/2020
FINISH 7/24/2020
SHEET 1 OF 1

SJB SERVICES, INC.
SUBSURFACE LOG

HOLE NO. B-3
SURF. ELEV 579.5'
G.W. DEPTH See Notes

PROJECT: PROPOSED ELYSIUM APARTMENT COMPLEX
PROJ. NO.: BE-20-105
LOCATION: 2160 NORTH FOREST ROAD
AMHERST, NY

DEPTH FT.	SMPL NO.	BLOWS ON SAMPLER 0/6	6/12	12/18	N	SOIL OR ROCK CLASSIFICATION	NOTES
	1	5	6			TOPSOIL	Driller noted topsoil at the surface
		15	10		21	Brown Silty CLAY, some f-c Sand, tr.organics (moist, FILL)	
	2	8	8			Contains little fine Gravel	
		10	11		18		Sample #2: Poor Recovery
5	3	2	2			Dark Gray f-c SAND, little Silty Clay, tr.organics	
		3	4		5	(moist-wet, loose, SC-SM)	
	4	3	2			(wet)	Sample #4: Contains wood
		3	2		5		
	5	2	2			Contains some Silty Clay (v.loose)	Sample #5: Contains wood
10		1	1		3		
	6	WOH/1.0				Contains little Organics, little Silty Clay	WOH = Weight of Hammer and Rods
		WOH/1.0			WOH		
15	7	WOH/1.0				Brown Silty CLAY, some f-c Sand, little fine Gravel	
		3	5		3	(wet, soft, CL)	
							Driller noted hard augering at 18' to 26.5'
20	8	28	47			Brown fine Gravel, some f-c Sand, little Silty Clay	
		50/0.4			REF	(moist, v.compact, GC-GM)	REF = Sample Spoon Refusal
25	9	50/0.2			REF		Sample #9: No Recovery
						Boring Complete with Auger Refusal at 26.5'	Free Standing Water recorded at 21.5' at boring completion
30							
35							
40							

N = NO. BLOWS TO DRIVE 2-INCH SPOON 12-INCHES WITH A 140 LB. PIN WT. FALLING 30-INCHES PER BLOW
CLASSIFIED BY: Geologist
DRILLER: R. STEINER
DRILL RIG TYPE : CME-550X
METHOD OF INVESTIGATION ASTM D-1586 USING HOLLOW STEM AUGERS

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

DATE:
START 7/23/2020
FINISH 7/23/2020
SHEET 1 OF 1

SJB SERVICES, INC.
SUBSURFACE LOG

HOLE NO. B-4
SURF. ELEV 578.1'
G.W. DEPTH See Notes

PROJECT: PROPOSED ELYSIUM APARTMENT COMPLEX
PROJ. NO.: BE-20-105
LOCATION: 2160 NORTH FOREST ROAD
AMHERST, NY

DEPTH FT.	SMPL NO.	BLOWS ON SAMPLER 0/6	6/12	12/18	N	SOIL OR ROCK CLASSIFICATION	NOTES
	1	1	2			TOPSOIL	Driller noted topsoil at the surface
		3	3		5	Brown Silty CLAY, some fine Gravel, little f-c Sand, tr.organics (moist, FILL)	
	2	2	5				
		10	50/0.2		15	Brown fine GRAVEL, some f-c Sand, little Concrete, little Silty Clay (moist, FILL)	
5	3	21	5				Sample #3: Contains wood
		3	3		8	Dark Brown Silty CLAY, tr.sand, tr.organics (moist, medium, CL)	
	4	4	2				Sample #4: Contains wood
		3	2		5	Contains little Organics, little f-c Sand (moist-wet) (soft)	
	5	1	1				Sample #5: Contains wood, Exhibits an organic odor
10		1	1		2		
	6	2	1			Brown Silty CLAY, little f-c Sand, tr.gravel (moist-wet, soft, CL)	
		1	2		2		
15	7	2	2			Contains some fine Gravel (moist, medium)	Driller noted hard augering at 18' to 22'
		4	7		6		
20							REF = Sample Spoon Refusal
	8	20	19			Brown fine GRAVEL, some f-c Sand, little Silty Clay (moist, compact, GC-GM)	
		21	25		40		NQ '2' Size Rock Core
	9	50/0			REF	22.0' to 24.4': Brown f-c GRAVEL, some f-c Sand, little Silty Clay (moist, GC-GM)	RUN #1: 22.0' - 27.0' REC = 66% RQD = 21%
25						Brown SHALE Rock, medium hard, sound, laminated to thickly bedded, both natural and mechanical fractures	
							RUN #2: 27.0' - 31.0' REC = 90% RQD = 85%
30							
						Boring Complete at 31.0'	No Free Standing Water encountered before coring
35							Free Standing Water recorded at 1' after coring
40							

N = NO. BLOWS TO DRIVE 2-INCH SPOON 12-INCHES WITH A 140 LB. PIN WT. FALLING 30-INCHES PER BLOW

CLASSIFIED BY: Geologist

DRILLER: A. KOSKE
DRILL RIG TYPE : CME-550X

METHOD OF INVESTIGATION ASTM D-1586 USING HOLLOW STEM AUGERS

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

DATE:
START 7/24/2020
FINISH 7/24/2020
SHEET 1 OF 1

SJB SERVICES, INC.
SUBSURFACE LOG

HOLE NO. B-5
SURF. ELEV 582.0'
G.W. DEPTH See Notes

PROJECT: PROPOSED ELYSIUM APARTMENT COMPLEX
PROJ. NO.: BE-20-105
LOCATION: 2160 NORTH FOREST ROAD
AMHERST, NY

DEPTH FT.	SMPL NO.	BLOWS ON SAMPLER 0/6	6/12	12/18	N	SOIL OR ROCK CLASSIFICATION	NOTES
	1	1	4			TOPSOIL	Driller noted topsoil at the surface
		7	10		11	Brown Silty CLAY, some fine Gravel, little f-c Sand, tr.organics (moist-wet, FILL)	
	2	8	9				
		10	12		19	Brown-Black ASPHALT fragments, little Silty Clay, little fine Gravel, tr.sand (moist, FILL)	
5	3	7	10				
		15	16		25	Contains some fine Gravel, little f-c Sand, tr.silty clay tr.organics	
	4	5	5				
		6	6		11	Dark Brown Silty CLAY, tr.sand, tr.organics (moist, stiff, CL)	
	5	1	2			Contains little f-m Sand (moist-wet, medium)	Sample #5: Contains wood
10		2	2		4		
	6	1	1			Brown-Gray f-m SAND, little Silty Clay, tr.organics (moist-wet, v.loose, SC-SM)	Samples #6 & #7: Contains wood
		2	1		3		
	7	1	2			Contains tr.gravel, tr.shells	
15		2	3		4		
						Boring Complete at 15.0'	No Free Standing Water recorded at boring completion
20							
25							
30							
35							
40							

N = NO. BLOWS TO DRIVE 2-INCH SPOON 12-INCHES WITH A 140 LB. PIN WT. FALLING 30-INCHES PER BLOW

CLASSIFIED BY: Geologist

DRILLER: R. STEINER
DRILL RIG TYPE : CME-550X
METHOD OF INVESTIGATION ASTM D-1586 USING HOLLOW STEM AUGERS

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

APPENDIX B

SUBSURFACE EXPLORATION LOGS

Previously Completed Test Borings
February 2020 (B-1)
June 2014 (B-1)

DATE:
START 2/20/2020
FINISH 2/20/2020
SHEET 1 OF 1

SJB SERVICES, INC.
SUBSURFACE LOG

HOLE NO. B-1
SURF. ELEV 580.0'
G.W. DEPTH See Notes

PROJECT: PROPOSED NEW HOME
PROJ. NO.: BE-20-010
LOCATION: 2160-2170 NORTH FOREST
AMHERST, NY

DEPTH FT.	SMPL NO.	BLOWS ON SAMPLER 0/6	6/12	12/18	N	SOIL OR ROCK CLASSIFICATION	NOTES
	1	WOH	2			TOPSOIL	Driller noted Topsoil at the surface
		3	5		5	Brown Silty CLAY, tr.sand, tr.organics (moist, FILL)	
	2	6	3			Becomes Dark Brown to Brown, Contains tr.asphalt, tr.brick	
		2	3		5		
5	3	2	2			Brown Silty CLAY, tr.gravel, tr.sand (moist-wet, FILL)	
		3	3		5		
	4	4	4			Brown Silty CLAY, tr.gravel, tr.sand, tr.organics	
		3	3		7	(moist-wet, medium, CL / Possible FILL)	
	5	1	1			Dark Brown Silty CLAY, tr.sand, tr.organics	
10		1	1		2	(moist, v.soft, CL)	
	6	WOH	WOH			Becomes Dark Brown to Dark Gray, occasional moist-wet partings	WOH = Weight of Hammer and Rods
		WOH	WOH		WOH		
	7	WOH	WOH			Red Brown Silty CLAY, some f-c Sand	
		WOH	WOH		WOH	(moist-wet, v.soft, CL)	
15	8	WOH	WOH			Contains some f-c Gravel	
		2	3		2		
	9	7	8			Contains little f-c Gravel (v.stiff)	
		8	8		16		
	10	8	12			Contains some f-c Gravel (moist)	
20		12	13		24		
	11	15	24			Contains little f-c Sand (hard)	
		17	19		41		
							REF = Sample Spoon Refusal
25							
	12	27	50/0.4		REF	Brown f-c SAND, some Silt, little f-c Gravel	Sample #13: Poor Recovery, possible weathered bedrock
						(moist, v.compact, SM)	
	13	50/0.2			REF	Brown fine GRAVEL, tr.sand (moist, v.compact, GP)	
30						Boring Complete with Auger Refusal at 27.7'	No Free Standing Water encountered at boring completion
35							
40							

N = NO. BLOWS TO DRIVE 2-INCH SPOON 12-INCHES WITH A 140 LB. PIN WT. FALLING 30-INCHES PER BLOW

CLASSIFIED BY: Geologist

DRILLER: S. WOLKIEWICZ JR.

DRILL RIG TYPE : CME-550X

METHOD OF INVESTIGATION ASTM D-1586 USING HOLLOW STEM AUGERS

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

DATE
START 6/30/2014
FINISH 6/30/2014
SHEET 1 OF 1

SJB SERVICES, INC.
SUBSURFACE LOG

HOLE NO. B-1
SURF. ELEV 581' +/-
G.W. DEPTH See Notes

PROJECT: PROPOSED RESIDENTIAL HOME
PROJ. NO.: BE-14-109
LOCATION: 2160 NORTH FOREST ROAD
AMHERST, NY

DEPTH FT.	SMPL NO.	BLOWS ON SAMPLER 0/6	6/12	12/18	N	SOIL OR ROCK CLASSIFICATION	NOTES
	1	3	4			TOPSOIL	Driller notes approx. 6" Topsoil
		5	7		9	Red-Brown and Black Silty CLAY, tr.sand, tr.gravel (moist, FILL)	
	2	5	8				
		7	10		15	Brown-Gray and Black f-m SAND, some Silt, tr.gravel (moist, FILL)	
5	3	3	3				
		4	4		7	Black Organic Clayey SILT, little f-c Sand (moist, FILL)	
	4	2	2			Gray and Black Organic Silty CLAY, tr.peat (moist, medium, OL-CL)	
		3	4		5		
	5	2	3				
10		3	3		6		
	6	2	2				
		2	2		4		
	7	3	2				
		3	4		5		
15	8	WOH/1.5				Becomes Red-Brown (wet, v.soft)	WOH = Weight of Hammer and Rods
			1		WOH		
	9	1	1				
		1	1		2	Contains little f-c Sand, tr.gravel	REF = Sample Spoon Refusal
	10	31	50/0.3		REF	Red-Brown f-m SAND and Silt, tr.gravel (moist, SM)	
20							
	11	19	23				
		21	22		44	(compact)	
25							
	12	19	50/0.4		REF		
						Boring Complete with Sample Spoon Refusal at 25.9' and Auger Refusal at 26.0'	No Free Standing Water encountered at Boring Completion
30							
35							
40							

N = NO. BLOWS TO DRIVE 2-INCH SPOON 12-INCHES WITH A 140 LB. PIN WT. FALLING 30-INCHES PER BLOW

CLASSIFIED BY: Geologist

DRILLER: A. JAKUBCZAK

DRILL RIG TYPE : CME-550X

METHOD OF INVESTIGATION ASTM D-1586 USING HOLLOW STEM AUGERS

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

APPENDIX C

FILL MATERIAL AND EARTHWORK RECOMMENDATIONS

APPENDIX C

FILL MATERIAL AND EARTHWORK RECOMMENDATIONS

I. Material Recommendations

A. Structural Fill

Structural Fill should consist of a crusher run stone, free of clay, organics and friable or deleterious particles. As a minimum, the crusher run stone should meet the requirements of New York State Department of Transportation, Standard Specifications, Item 304.12 – Type 2 Subbase, with the following gradation requirements.

Sieve Size Distribution	Percent Finer by Weight
2 inch	100
¼ inch	25-60
No. 40	5-40
No. 200	0-10

B. Subbase Stone

The subbase stone course placed as the aggregate course beneath slab-on-grade and pavement construction should conform to the same material requirements as Structural Fill as stated above.

C. Suitable Granular Fill

Suitable soil material, well graded from coarse to fine and classified as GW, GP, GM, SW, SP or SM type soil using the Unified Soil Classification System (ASTM D-2487) and having no more than 85 percent by weight material passing the No. 4 sieve, no more than 20 percent by weight material passing the No. 200 sieve and which is generally free of particles greater than 6 inches, will be acceptable as Suitable Granular Fill. It should also be free of topsoil, asphalt, concrete rubble, wood, debris, clay and other deleterious materials.

Suitable Granular Fill can be used as foundation backfill and as subgrade fill to raise site grades beneath slab-on-grade and pavement construction. Material meeting the requirements of New York State Department of Transportation, Standard Specifications, Item 203.07 – Select Granular Fill, or Item 203.20 Select Granular Subgrade is acceptable for use as Suitable Granular Fill.

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

II. Placement and Compaction Requirements

All controlled fill placed beneath foundations, slab-on-grade construction and pavement construction should be compacted to a minimum of 95 percent of the maximum dry density as measured by the modified Proctor test (ASTM D1557). Fill placed in non-loaded grass areas can be compacted to a minimum of 90 percent of the maximum dry density (ASTM D1557).

Placement of fill should not exceed a maximum loose lift thickness of 6 to 9 inches with the exception of subbase courses beneath slab on grade and pavement construction, which can be placed in a single lift not exceeding 15 inches. The loose lift thickness should be reduced in conjunction with the compaction equipment used so that the required density is attained.

Fill should have a moisture content within two percent of the optimum moisture content at the time of compaction. Subgrades should be properly drained and protected from moisture and frost. Placement of fill on frozen subgrades is not acceptable. It is recommended that all fill placement and compaction be monitored and tested on a full-time basis by a representative of Empire Geo-Services, Inc.

III. Quality Assurance Testing

The following minimum laboratory and field quality assurance testing frequencies are recommended to confirm fill material quality and post placement and compaction conditions. These minimum frequencies are based on generally uniform material properties and placement conditions. Should material properties vary or conditions at the time of placement vary (i.e. moisture content, placement and compaction, procedures or equipment, etc.) Then additional testing is recommended. Additional testing, which may be necessary, should be determined by qualified geotechnical personnel, based on evaluation of the actual fill material and construction conditions.

A. Laboratory Testing of Material Properties

- Moisture content (ASTM D-2216) - 1 test per 4,000 cubic yards or no less than 2 tests per each material type.
- Grain Size Analysis (ASTM D-422) - 1 test per 4,000 cubic yards or no less than 2 tests per each material type.
- Liquid and Plastic Limits (ASTM D-4318) 1 test per 4,000 cubic yards or no less than 2 tests per each material type. Liquid and Plastic Limit testing is necessary only if appropriate, based on material composition (i.e. clayey or silty soils).

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

- Modified Proctor Moisture Density Relationship (ASTM D-1557) 1 test per 4,000 cubic yards or no less than 1 test per each material type. A maximum/minimum density relationship (ASTM D-4253 and ASTM D-4254) may be an appropriate substitute for ASTM D-1557 depending on material gradation.

B. Field In-Place Moisture/Density Testing (ASTM D-3017 and ASTM D-2922)

- Backfilling along trenches and foundation walls - 1 test per 50 lineal feet per lift.
- Backfilling Isolated Excavations (i.e. column foundations, manholes, etc.) 1 test per lift.
- Filling in open areas for slab-on-grade construction - 1 test per 2,500 square feet per lift.

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

APPENDIX D

GEOTECHNICAL REPORT LIMITATIONS

GEOTECHNICAL REPORT LIMITATIONS

WMA Engineering DPC / DBA Empire Geotechnical Engineering Services (Empire) has endeavored to meet the generally accepted standard of care for the services completed, and in doing so is obliged to advise the geotechnical report user of our report limitations. Empire believes that providing information about the report preparation and limitations is essential to help the user reduce geotechnical-related delays, cost over-runs, and other problems that can develop during the design and construction process. Empire would be pleased to answer any questions regarding the following limitations and use of our report to assist the user in assessing risks and planning for site development and construction.

PROJECT SPECIFIC FACTORS: The conclusions and recommendations provided in our geotechnical report were prepared based on project specific factors described in the report, such as size, loading, and intended use of structures; general configuration of structures, roadways, and parking lots; existing and proposed site grading; and any other pertinent project information. Changes to the project details may alter the factors considered in development of the report conclusions and recommendations. *Accordingly, Empire cannot accept responsibility for problems which may develop if we are not consulted regarding any changes to the project specific factors that were assumed during the report preparation.*

SUBSURFACE CONDITIONS: The site exploration investigated subsurface conditions only at discrete test locations. Empire has used judgement to infer subsurface conditions between the discrete test locations, and on this basis the conclusions and recommendations in our geotechnical report were developed. It should be understood that the overall subsurface conditions inferred by Empire may vary from those revealed during construction, and these variations may impact on the assumptions made in developing the report conclusions and recommendations. *For this reason, Empire should be retained during construction to confirm that conditions are as expected, and to refine our conclusions and recommendations in the event that conditions are encountered that were not disclosed during the site exploration program.*

USE OF GEOTECHNICAL REPORT: Unless indicated otherwise, our geotechnical report has been prepared for the use of our client for specific application to the site and project conditions described in the report. *Without consulting with Empire, our geotechnical report should not be applied by any party to other sites or for any uses other than those originally intended.*

CHANGES IN SITE CONDITIONS: Surface and subsurface conditions are subject to change at a project site subsequent to preparation of the geotechnical report. Changes may include, but are not limited to, floods, earthquakes, groundwater fluctuations, and construction activities at the site and/or adjoining properties. *Empire should be informed of any such changes to determine if additional investigative and/or evaluation work is warranted.*

MISINTERPRETATION OF REPORT: The conclusions and recommendations contained in our geotechnical report are subject to misinterpretation. *To limit this possibility, Empire should review project plans and specifications relative to geotechnical issues to confirm that the recommendations contained in our report have been properly interpreted and applied.*

Subsurface exploration logs and other report data are also subject to misinterpretation by others if they are separated from the geotechnical report. This often occurs when copies of logs are given to contractors during the bid preparation process. *To minimize the potential for misinterpretation, the subsurface logs should not be separated from our geotechnical report and the use of excerpted or incomplete portions of the report should be avoided.*

OTHER LIMITATIONS: Geotechnical engineering is less exact than other design disciplines, as it is based partly on judgement and opinion. For this reason, our geotechnical report may include clauses that identify the limits of Empire's responsibility, or that may describe other limitations specific to a project. These clauses are intended to help all parties recognize their responsibilities and to assist them in assessing risks and decision making. Empire would be pleased to discuss these clauses and to answer any questions that may arise.

Attachment: GeoTech report_2160 & 2170 N For (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon Development Plan)

March 3, 2021

Brian J. Kulpa, Supervisor
Town of Amherst Town Board
5583 Main Street
Williamsville, NY 14221

Re: Application to Reclassify 2160 and 2170 North Forest Road from
NCD-SA to NCD-ND and to Amend the Audubon Development Plan [Z-2020-06]
Applicant/Project Sponsor: Coromandel Estates Amherst LLC
File 10181.1

Dear Supervisor Kulpa and Councilmembers:

This letter is being submitted on behalf of Applicant for the purpose of submitting an updated Concept Site Plan incorporating modifications to the project layout made based on input received during the public hearing held by the Town Board on February 22nd as well as additional modifications made for the purpose of improving the layout of the proposed residential project.

Attached as Exhibit "1" is the updated Concept Site Plan [Drawing AS-101 – Date: 03/01/21] prepared by Christina Barmosz of Silvestri Architects PC incorporating the following modifications to the project layout:

1. The previously proposed stormwater basin on the western portion of the Project Site adjacent to the property at 2180 North Forest Road has been eliminated;

2. The dumpster enclosure has been relocated from the western portion of the Project Site to the eastern portion of Project Site. Additionally, screening has been added on the exterior edges of the dumpster enclosure;

3. The previously proposed two-story eight-unit building has been replaced with 2 two-story four-unit buildings;

4. The proposed covered patio with a fire pit has been relocated so that it will between the 2 two-story four-unit buildings;

5. Landscaping and a fence has been added along the western boundary of the Project that is contiguous to 2180 North Forest Road;

6. Landscaping has been added along the North Forest Road frontage of the Project Site;

7. The parking to be provided on the Project Site has been increased from 17 spaces to 23 spaces (2.88 parking spaces per unit) consistent with the zoning condition recommended by the Planning Board on January 21st in connection with its issuance of a favorable

Attachment: Kulpa-Ltr-Updated Concept Site Plan-03-03-21 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon

HOPKINS SORGI & MCCARTHY PLLC
Attorneys at Law
5500 Main Street, Suite 343 • Williamsville, New York 14221
Direct: 716-510-4338 • E-mail: shopkins@hsr-legal.com • www.hsr-legal.com

recommendation to the Town Board stating: "That the petitioner include additional parking spaces beyond the 17 spaces shown on the concept plan at the site plan stage.[1]"

Attached as Exhibit "2" are copies of the project update letters to interested property owners dated March 2nd that included an 11" x 17" size copy of the updated Concept Site Plan. The updated Concept Plan demonstrates the concerted effort that has been made by the project team to incorporate input received from the public during the public hearing held on February 22nd.

The Town Board will be holding continuation of the virtual public hearing in connection with the pending request to reclassify the Project Site from NCD-SA to NCD-ND and to amend the Audubon Development Plan during its meeting on Monday, March 8th at 7:00 p.m. The Applicant is requesting that the Town Board adopt a resolution during its upcoming meeting for the purpose of issuing a negative declaration pursuant to the State Environmental Quality Review Act ("SEQRA") and approving the requested reclassification of the Project Site from NCD-SA to NCD-ND and an amendment of the Audubon New Community Development Plan.

If you have any questions regarding this letter or the attached documentation, please feel free to contact me at 510-4338 or via e-mail at shopkins@hsr-legal.com.

Sincerely,

HOPKINS SORGI & MCCARTHY PLLC

Sean W. Hopkins, Esq.

cc: Jacqualine Berger, Deputy Supervisor
Deborah Bruch Bucki RN PhD, Councilmember
Shawn Lavin, Councilmember
Michael Szukala, Councilmember
Francina J. Spoth, Town Clerk
Kathy Cooper, Deputy Town Clerk
Stanley J. Sliwa, Esq., Town Attorney
Ellen Kost, AICP, Assistant Planning Director
Thiru Vikram, Coromandel Estates Amherst LLC
Christina Barmosz, Silvestri Architects PC
Christopher Wood, P.E., Carmina Wood Morris DPC

[1] During its meeting on January 21st, the Planning Board adopted a resolution by a unanimous 7-0 vote recommending that the Town Board: 1. Issue a negative declaration pursuant to SEQRA; 2. Approve the reclassification of the Project Site from NCD-SA to NCD-ND; and, 3. Approve Amendment #73 to the Audubon New Community District Development Plan. The Planning Board findings in support of its favorable recommendation were as follows: A. The proposed Revision to the Development Plan meets the intent and objectives of a New Community District as expressed in Subsection 1-1.1; B. The proposed Revision to the Development Plan meets all the requirements of Section 5-2-3 through 5-2-6; C. The proposed Revision to the Development Plan is conceptually sound in that it meets present and future community needs; D. There are or will be adequate services and utilities available or proposed to be made available in the construction of the development; and, E. The proposed Amendment to the Development Plan is consistent with the Town Comprehensive Plan.

Attachment: Kulpa-Ltr-Updated Concept Site Plan-03-03-21 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon

Exhibit 1 – Updated Concept Site Plan [Drawing AS-101 – Date: 03/01/21] Prepared by Christina Barmosz of Silvestri Architects PC

Attachment: Kulpa-Ltr-Updated Concept Site Plan-03-03-21 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon



A1 CONCEPT SITE PLAN

NOTICE

This document, the property of, prepared and issued by the architect, is submitted for the specific project namely _____ and the recipient by accepting this document assumes custody and agrees that this document will not be copied or reproduced in part or as whole, and any special features peculiar to this design shall not be incorporated in any other project, unless prior agreement has been obtained in writing. These documents will be returned immediately upon completion of the project or upon the request of the architect.

This document is the exclusive property of the architect, no rights to ownership are transferable, or shall be lost by the filing of this document with any and all public authorities for the purpose of compliance with Codes and or Ordinances, i.e. Building Permit, etc.

NORTH FOREST APARTMENTS

2160-2170 North Forest Rd
Amherst, ny

ISSUE:

SA PROJECT TEAM: PRINCIPAL P.Silvestri
PROJ. ARCH. S. Hunt DRAFTER W. Manhardt
JOB CAPT. _____ INTERIORS K. Hamann

SEAL:

TITLE:

CONCEPT SITE PLAN

SILVESTRI
ARCHITECTS · PC
1321 MILLERSPORT HWY PH. 716.691.0900
AMHERST NY 14221 FAX 716.691.4773

SA JOB #: 20060.02
DATE: 03/01/21
DRAWING #: AS-101

Attachment: Kulpa-Ltr-Updated Concept Site Plan-03-03-21 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon

Exhibit 2 – Project Update Letters to Residents dated March 2, 2021

Attachment: Kulpa-Ltr-Updated Concept Site Plan-03-03-21 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon

HSM

March 2, 2021

Joan Amico
1936 North Forest Road
Williamsville, NY 14221

Re: Application to Reclassify 2160 and 2170 North Forest Road from NCD-SA to NCD-ND and to Amend the Audubon Development Plan [Z-2020-06]
Applicant/Project Sponsor: Coromandel Estates Amherst LLC
File 10181.1

Dear Ms. Amico:

This letter is being sent to you to provide you with a project update. Based on the input received during the virtual public hearing held by the Town Board on February 22nd, the layout of the proposed project has been updated.

An 11" x 17" size copy of the updated Concept Site Plan [Drawing AS-101 – Date: 03/01/21] is enclosed depicting the following modifications to the project layout:

1. The previously proposed stormwater basin on the western portion of the Project Site adjacent to the property at 2180 North Forest Road has been eliminated;

2. The dumpster enclosure has been relocated from the western portion of the Project Site to the eastern portion of Project Site. Additionally, screening has been added on the exterior edges of the dumpster enclosure;

3. The previously proposed two-story eight-unit building has been replaced with 2 two-story four-unit buildings;

4. The proposed covered patio with a fire pit has been relocated so that it will between the 2 two-story four-unit buildings;

5. Landscaping and a fence has been added along the western boundary of the Project that is contiguous to 2180 North Forest Road; and

6. Landscaping has been added along the North Forest Road frontage of the Project Site.

The Town Board will be holding continuation of the virtual public hearing in connection with the pending request to reclassify the Project Site from NCD-SA to NCD-ND and to amend the Audubon Development Plan during its meeting on **Monday, March 8th at 7:00 p.m.**

If the Town Board approves the pending application, then the next step in the project review process will be to seek Site Plan approval from the Planning Board once the fully engineered plans

HOPKINS SORGI & MCCARTHY PLLC
Attorneys at Law
5500 Main Street, Suite 343 • Williamsville, New York 14221
Direct: 716-510-4338 • E-mail: shopkins@hsr-legal.com • www.hsr-legal.com

Attachment: Kulpa-Ltr-Updated Concept Site Plan-03-03-21 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon

and related technical documentation have been prepared by Carmina Wood Morris DPC, the project engineering firm.

Please feel free to contact me with any questions at 510-4338 or via e-mail at shopkins@hsr-legal.com if you have any questions regarding this letter or the enclosed updated Concept Site Plan.

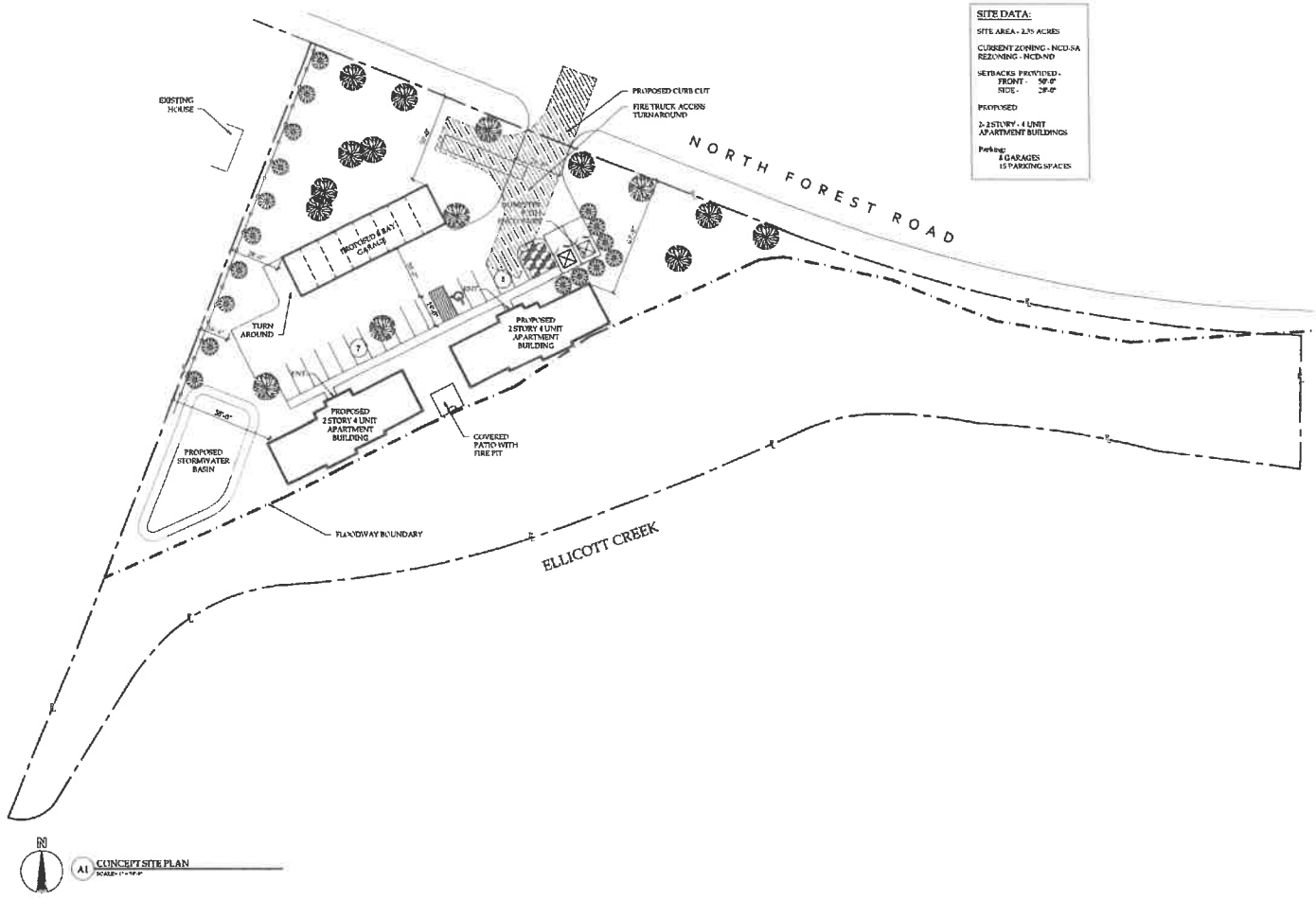
Sincerely,

HOPKINS SORGI & MCCARTHY PLLC

Sean W. Hopkins, Esq.

Enc. 11" x 17" copy updated Concept Site Plan [Drawing AS-101 – Date: 03/01/21]

Attachment: Kulpa-Ltr-Updated Concept Site Plan-03-03-21 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon



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NORTH FOREST APARTMENTS

2160-2170 North Forest Rd
Amherst, ny

ISSUE

SA PROJECT TEAM: PRINCIPAL P.Silvestri
PROJ. ARCH. S.Hurd DRAFTER W.Masharoff
JOB CAPT. _____ INTERIORS K.Hansen

SEAL:

TITLE:

CONCEPT SITE PLAN

SILVESTRI
ARCHITECTS · PC
1291 MILITARY RD PH. 716.691.0900
AMHERST NY 14221 FAX 716.691.4773

SA JOB #: 20060.02
DATE: 03/01/21
DRAWING #: AS-101

Attachment: Kulpa-Ltr-Updated Concept Site Plan-03-03-21 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon

HSM

March 2, 2021

Joseph Hausbeck
2180 North Forest Road
Williamsville, NY 14221

Re: Application to Reclassify 2160 and 2170 North Forest Road from NCD-SA to NCD-ND and to Amend the Audubon Development Plan [Z-2020-06]
Applicant/Project Sponsor: Coromandel Estates Amherst LLC
File 10181.1

Dear Mr. Hausbeck:

This letter is being sent to you to provide you with a project update. Based on the input received during the virtual public hearing held by the Town Board on February 22nd, the layout of the proposed project has been updated.

An 11" x 17" size copy of the updated Concept Site Plan [Drawing AS-101 – Date: 03/01/21] is enclosed depicting the following modifications to the project layout:

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6. Landscaping has been added along the North Forest Road frontage of the Project Site.

The Town Board will be holding continuation of the virtual public hearing in connection with the pending request to reclassify the Project Site from NCD-SA to NCD-ND and to amend the Audubon Development Plan during its meeting on **Monday, March 8th at 7:00 p.m.**

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Attorneys at Law
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Attachment: Kulpa-Ltr-Updated Concept Site Plan-03-03-21 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon

and related technical documentation have been prepared by Carmina Wood Morris DPC, the project engineering firm.

Please feel free to contact me with any questions at 510-4338 or via e-mail at shopkins@hsr-legal.com if you have any questions regarding this letter or the enclosed updated Concept Site Plan.

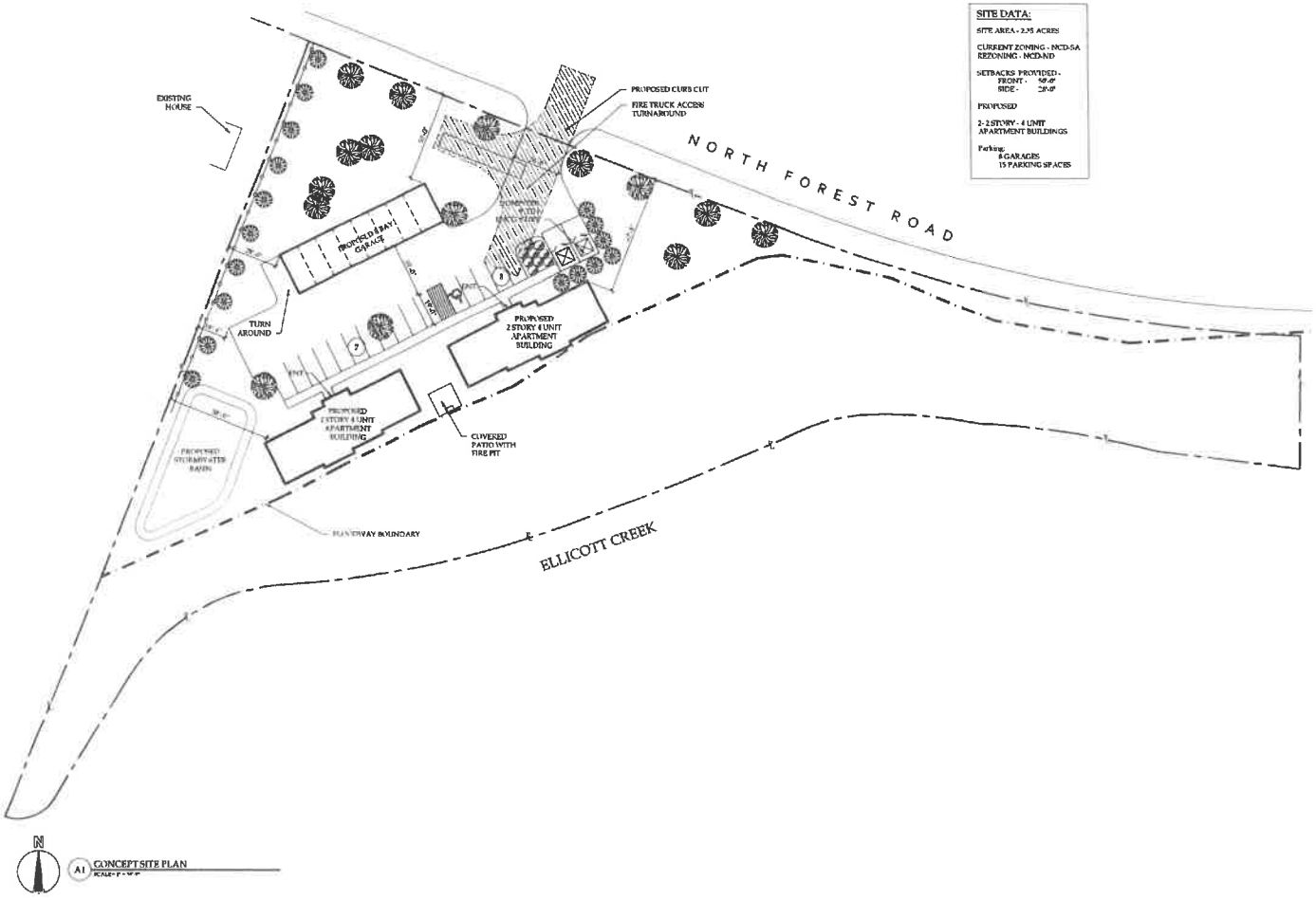
Sincerely,

HOPKINS SORGI & MCCARTHY PLLC

Sean W. Hopkins, Esq.

Enc. 11" x 17" copy updated Concept Site Plan [Drawing AS-101 – Date: 03/01/21]

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NORTH FOREST APARTMENTS

2160-2170 North Forest Rd
Amherst, ny

ISSUE:

SA PROJECT TEAM: PRINCIPAL P.Silvestri
PROJ. ARCH. S.Hunt DRAFTER W.Manhardt
JOB CAPT. _____ INTERIORS K.Hermann

SEAL:

TITLE:

CONCEPT SITE PLAN

SILVESTRI
ARCHITECTS · PC
1301 MILLERSPORT HWY PH. 716.691.0800
AMHERST NY 14221 FAX 716.691.4773

SA JOB #: 20060.02
DATE: 03/01/21
DRAWING #: AS-101

HSM

March 2, 2021

Fran Cummings
2200 North Forest Road
Williamsville, NY 14221

Re: Application to Reclassify 2160 and 2170 North Forest Road from NCD-SA to NCD-ND and to Amend the Audubon Development Plan [Z-2020-06]
Applicant/Project Sponsor: Coromandel Estates Amherst LLC
File 10181.1

Dear Ms. Cummings:

This letter is being sent to you to provide you with a project update. Based on the input received during the virtual public hearing held by the Town Board on February 22nd, the layout of the proposed project has been updated.

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HOPKINS SORGI & MCCARTHY PLLC
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and related technical documentation have been prepared by Carmina Wood Morris DPC, the project engineering firm.

Please feel free to contact me with any questions at 510-4338 or via e-mail at shopkins@hsr-legal.com if you have any questions regarding this letter or the enclosed updated Concept Site Plan.

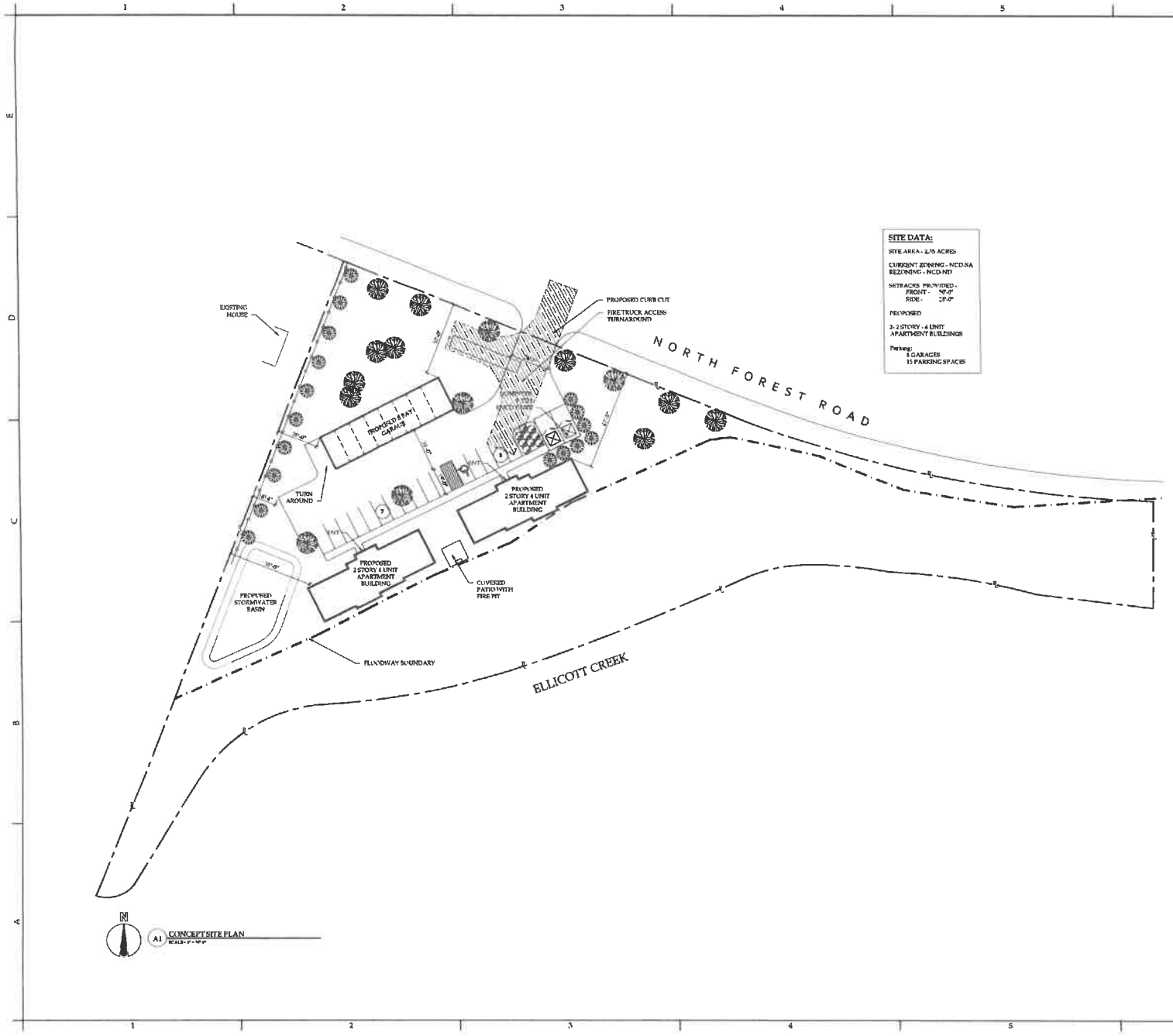
Sincerely,

HOPKINS SORGI & MCCARTHY PLLC

Sean W. Hopkins, Esq.

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NORTH FOREST APARTMENTS

2160-2170 North Forest Rd
Amherst, ny

ISSUE:

SA PROJECT TEAM: PRINCIPAL P.Silvestri
PROJ. ARCH. S.Hunt DRAFTER W.Manhardt
JOB CAPT. _____ INTERIORS K.Hamann

SEAL:

TITLE:

CONCEPT SITE PLAN

SILVESTRI
ARCHITECTS · PC
1324 MILITARY/SPORT HWY PH. 716.691.0800
AMHERST NY 14221 FAX 716.691.4773

SA JOB #: 20060.02
DATE: 03/01/21
DRAWING #: AS-101

HSM

March 2, 2021

Karen Macris
2230 North Forest Road
Williamsville, NY 14221

Re: Application to Reclassify 2160 and 2170 North Forest Road from NCD-SA to NCD-ND and to Amend the Audubon Development Plan [Z-2020-06]
Applicant/Project Sponsor: Coromandel Estates Amherst LLC
File 10181.1

Dear Karen:

This letter is being sent to you to provide you with a project update. Based on the input received during the virtual public hearing held by the Town Board on February 22nd, the layout of the proposed project has been updated.

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and related technical documentation have been prepared by Carmina Wood Morris DPC, the project engineering firm.

Please feel free to contact me with any questions at 510-4338 or via e-mail at shopkins@hsr-legal.com if you have any questions regarding this letter or the enclosed updated Concept Site Plan.

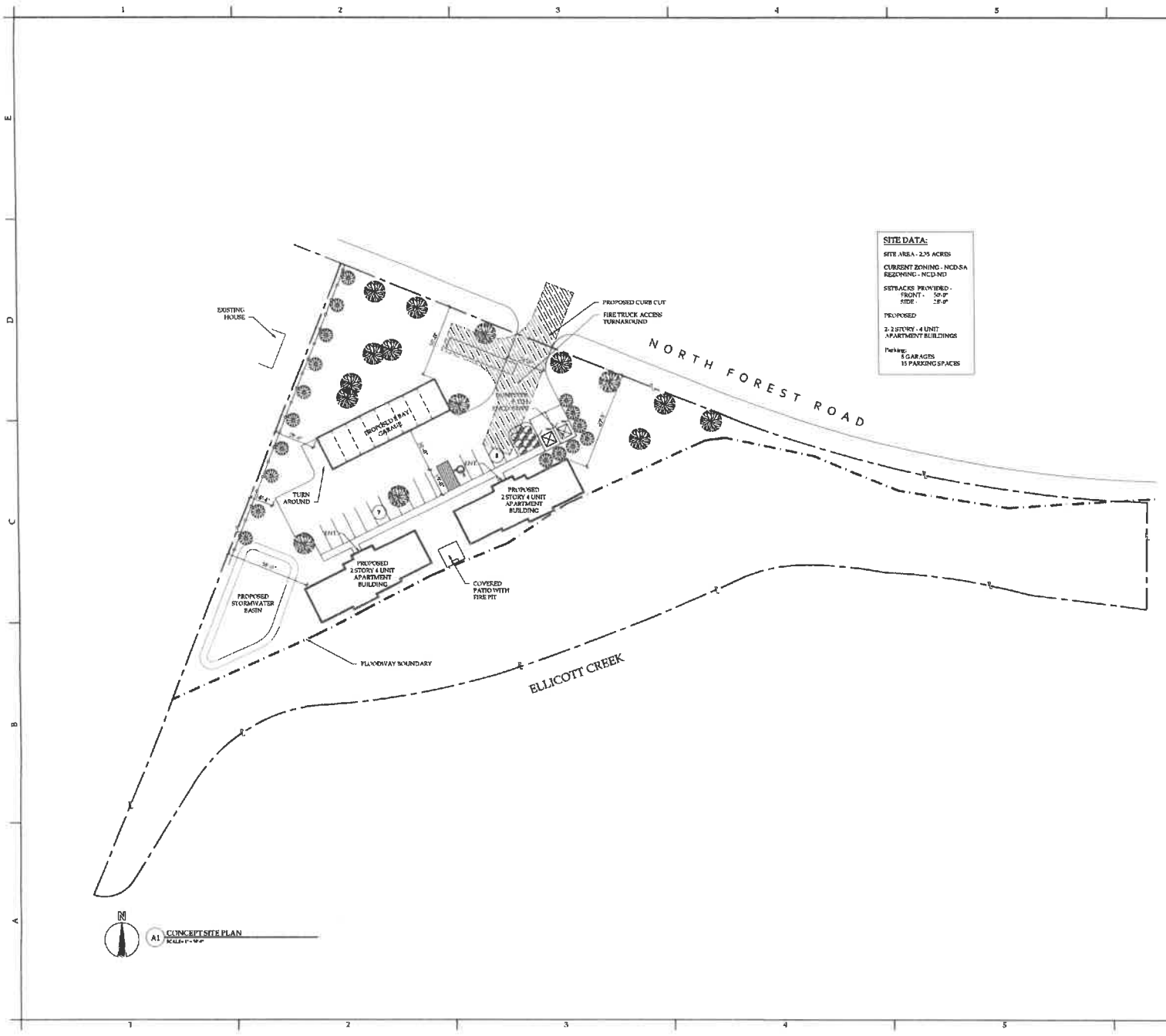
Sincerely,

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Sean W. Hopkins, Esq.

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NORTH FOREST APARTMENTS

2160-2170 North Forest Rd
Amherst, ny

ISSUE:

SA PROJECT TEAM: PRINCIPAL P. Silvestri
PROJ. ARCH. S. Hynd DRAFTER W. Manhardt
JOB CAPT. _____ INTERIORS K. Hamann

SEAL:

TITLE:

CONCEPT SITE PLAN

SILVESTRI
ARCHITECTS - PC
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AMHERST NY 14221 FAX 716.691.4773

SA JOB #: 20060.02
DATE: 03/01/21
DRAWING #: AS-101

Attachment: Kulpa-Ltr-Updated Concept Site Plan-03-03-21 (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon

Public Hearing – Town of Amherst Town Board

Request to Approve Amendment #73 of the Audubon New Community Development Plan to Reclassify 2.35 acres of Land from NCD-SA to NCD-ND

Address: 2160 & 2170 North French Road

Petitioner: Coromandel Estates Amherst, LLC

(Z-2020-06)

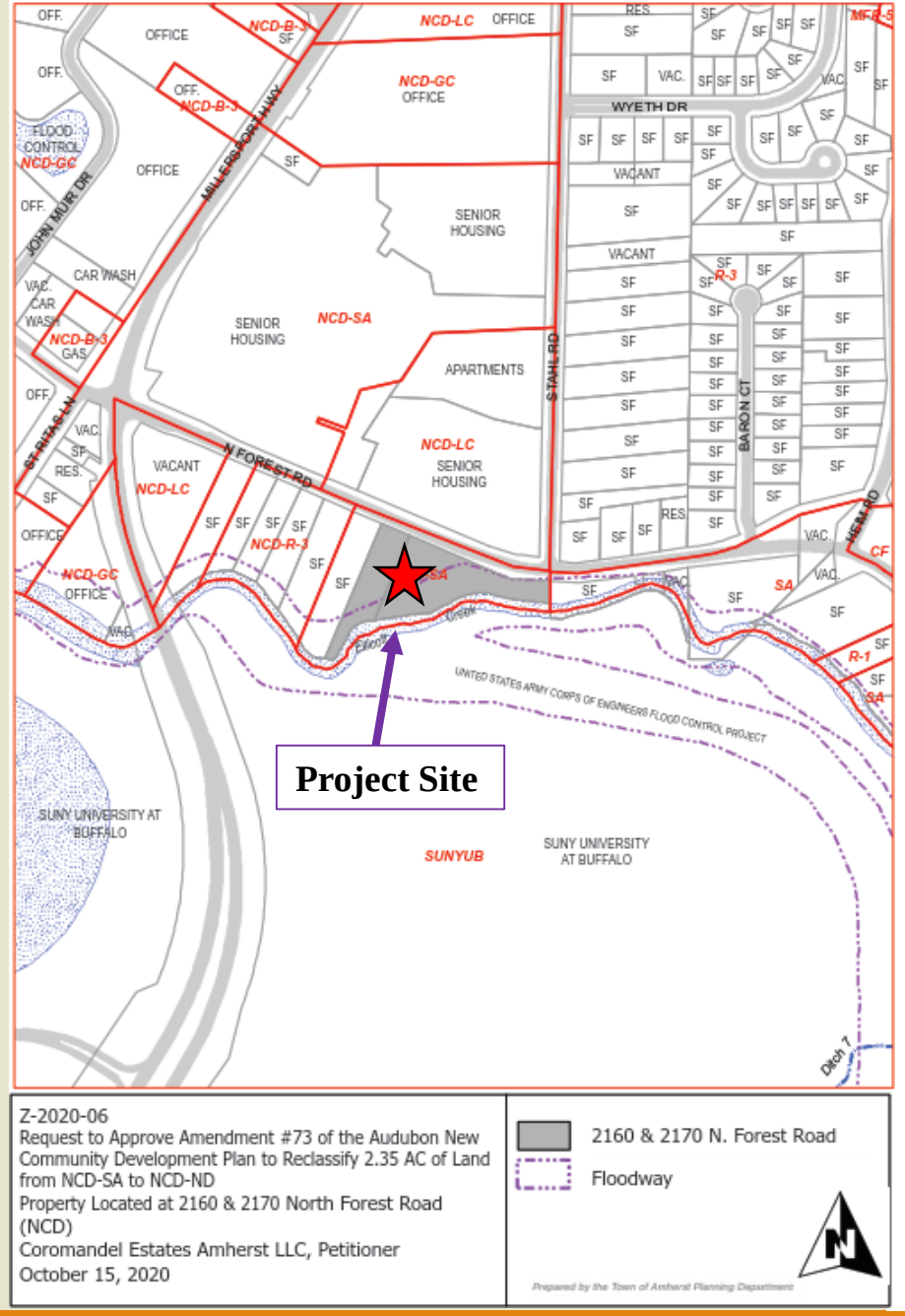
Attachment: PP Presentation-2160 & 2170 N Forest-Town Board-05-03-21 (RES-2021-153 :

Location:

- South side of N Forest Road, approximately 900± feet southeast of the intersection of Millersport Hwy and N Forest Road; and located at the southwest corner of Stahl Road and N Forest Road intersection

Zoning: New Community District – Suburban Agriculture ("NCD-SA")

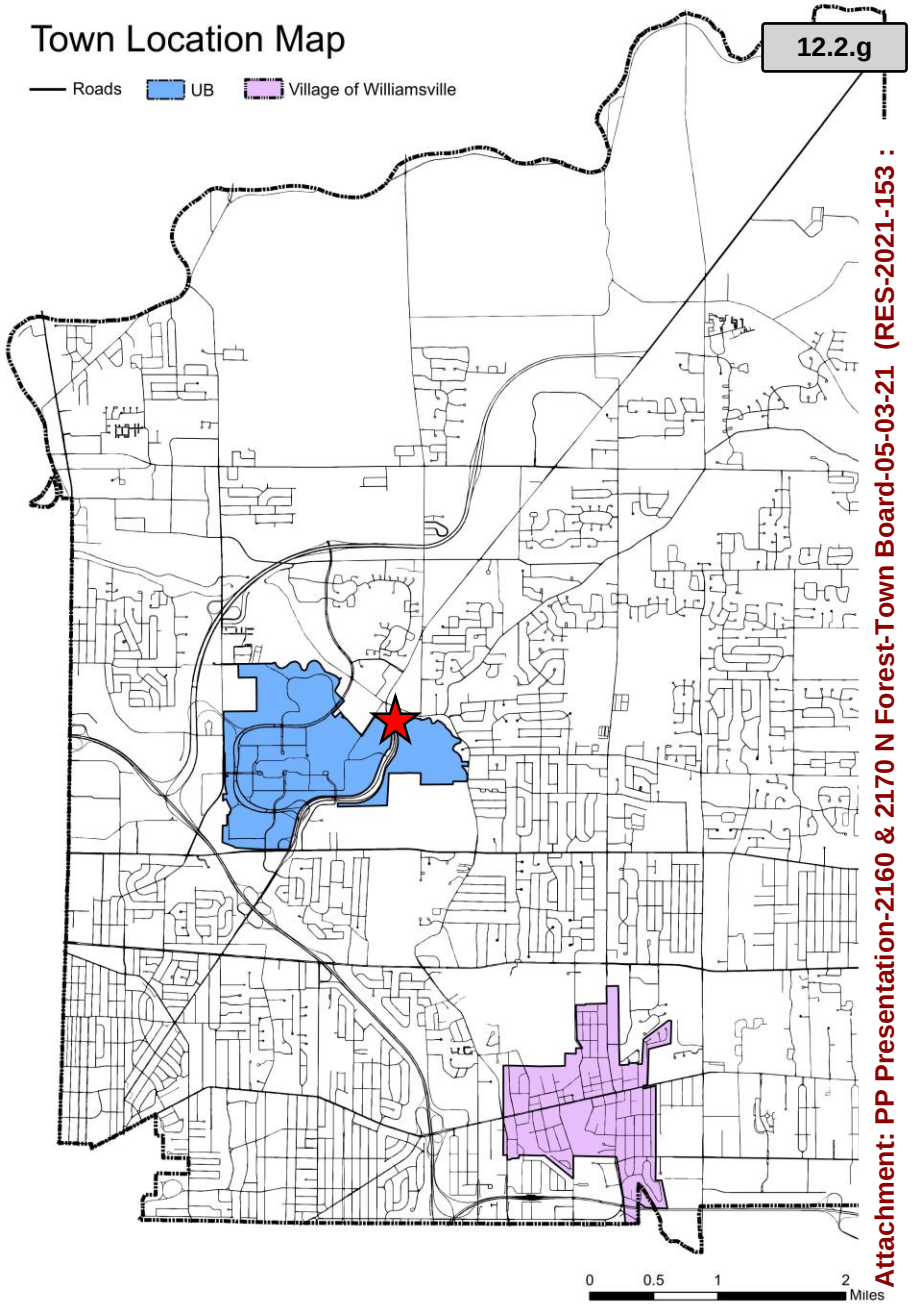
Proposed Reclassification: New Community District – Neighborhood District ("NCD-ND"



Z-2020-06
Request to Approve Amendment #73 of the Audubon New Community Development Plan to Reclassify 2.35 AC of Land from NCD-SA to NCD-ND
Property Located at 2160 & 2170 North Forest Road (NCD)
Coromandel Estates Amherst LLC, Petitioner
October 15, 2020

2160 & 2170 N. Forest Road
Floodway

Prepared by the Town of Amherst Planning Department



12.2.g

Attachment: PP Presentation-2160 & 2170 N Forest-Town Board-05-03-21 (RES-2021-153 :

Continuation of the Public Hearings held on February 22nd and April 5th [Not requesting issuance of a decision this evening]

Parcel Size:
2.35± acres

Neighboring Uses:

- Vacant land zoned NCD-SA adjacent to the east
- Single Family residential zoned NCD-R3 to the west and north east
- Asbury Pointe Retirement Community – Zoned NCD-LC to the North
- Vacant land owned by SUNY to the south on the opposite side of Ellicott Creek



Attachment: PP Presentation-2160 & 2170 N Forest-Town Board-05-03-21 (RES-2021-153 :

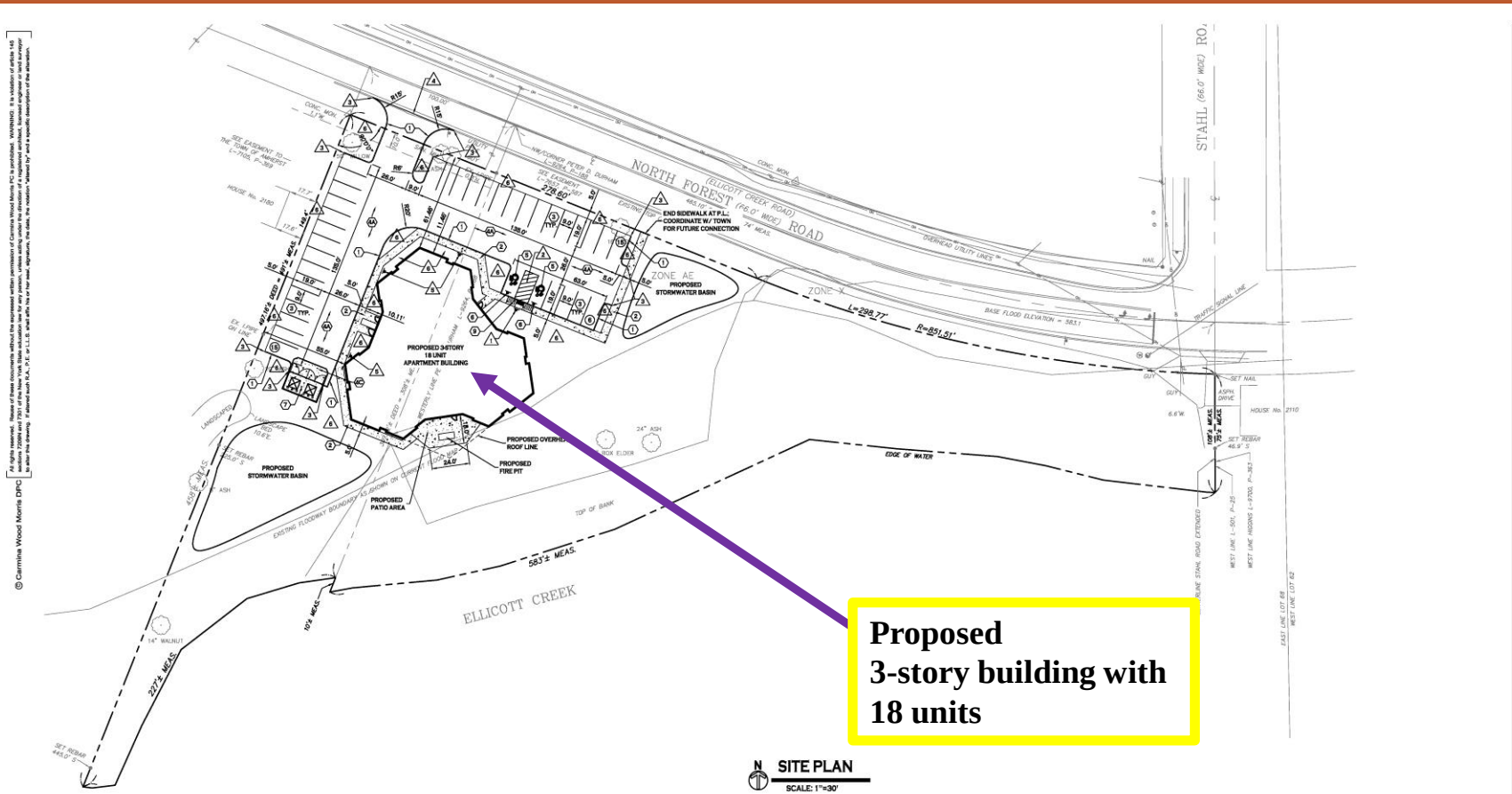
Project Description:

- Request to reclassify 2.35 acres of land from NCD-SA to NCD-ND, and a request to approve Amendment #73 of the Audubon New Community Development Plan
- Two 2-story multi-family building consisting of 8 attached residential units for lease and related site improvements.
- One driveway onto North Forest Road, access aisles, water and sanitary sewer lines and other necessary utility connections are included on the updated Concept Plan.
- The project is a Type I Action due to the proximity of the project site to Ellicott Creek, which is a flowing watercourse-any project within 100 ft. of a flowing watercourse is to be classified as Type I action per Town Local Law adopted in 1982.
- Letters with updated copy of the Concept Plan send to the individuals who spoke during the virtual public hearing held by the Town Board on February 22nd.

Attachment: PP Presentation-2160 & 2170 N Forest-Town Board-05-03-21 (RES-2021-153 :

Original Concept Plan:

- 3-story building with 18 units and 36 parking spaces
- The originally proposed project layout updated based on input received regarding the original Concept Plan



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Attachment: PP Presentation-2160 & 2170 N Forest-Town Board-05-03-21 (RES-2021-153 :

Concept Plan Presented on February 22nd:

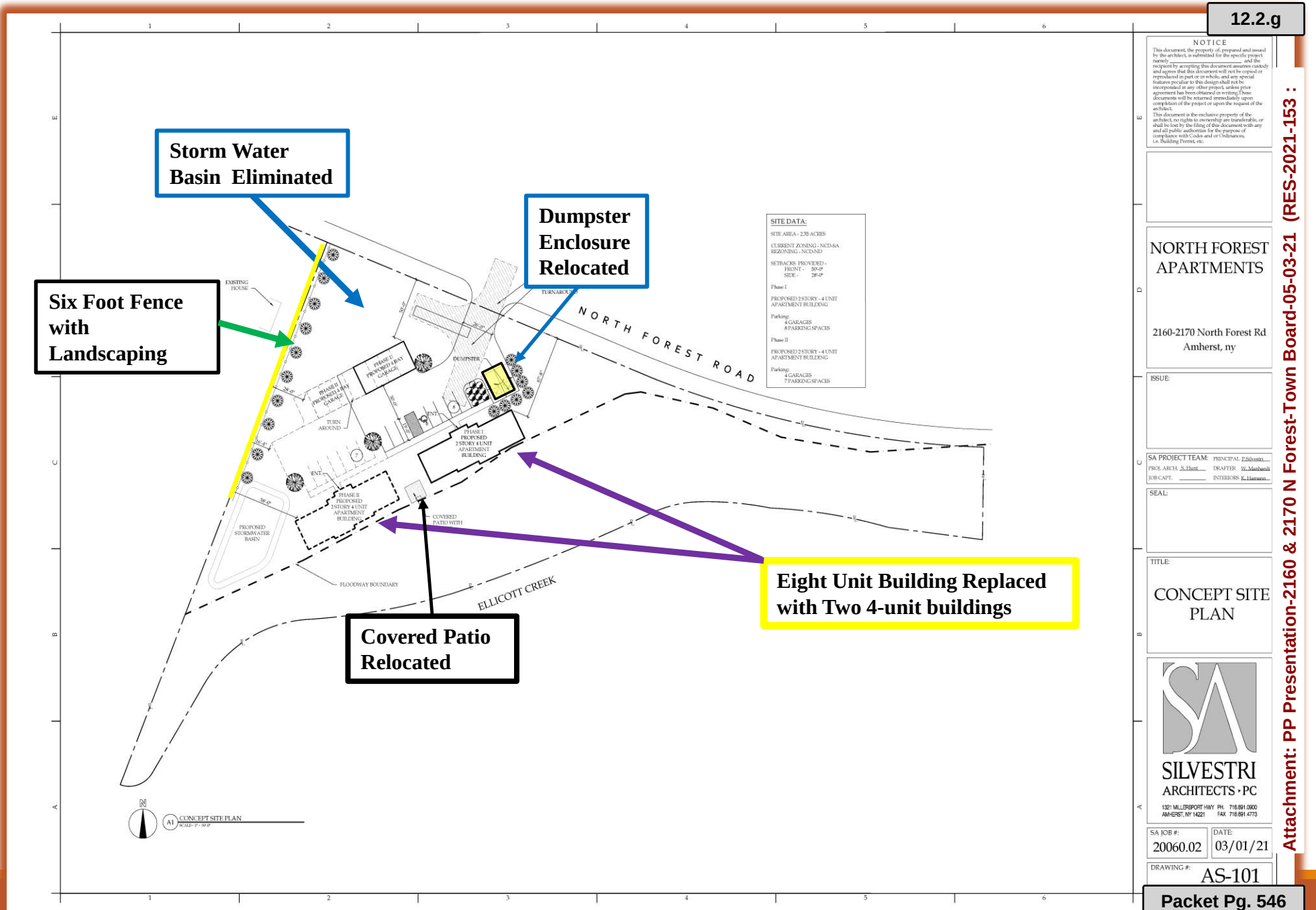
- Project layout had been updated based on input received regarding the original Concept Plan
- 2-story building with 8 units and 16 parking spaces [Density reduced by 56%]
- Low Density: 3.4 units per acre
- No impact to the regulated floodway



Attachment: PP Presentation-2160 & 2170 N Forest-Town Board-05-03-21 (RES-2021-153 :

Updated Concept Plan presented during the Public Hearing on April 5th:

- Two 2-story buildings with 23 parking spaces [8 garage spaces] – 2.87 spaces per unit
- Stormwater basin eliminated along North Forest Road frontage
- Covered patio relocated
- Dumpster enclosure relocated
- 6 foot fence with landscaping added along property line with 2180 North Forest Road
- No impact on the regulated floodway



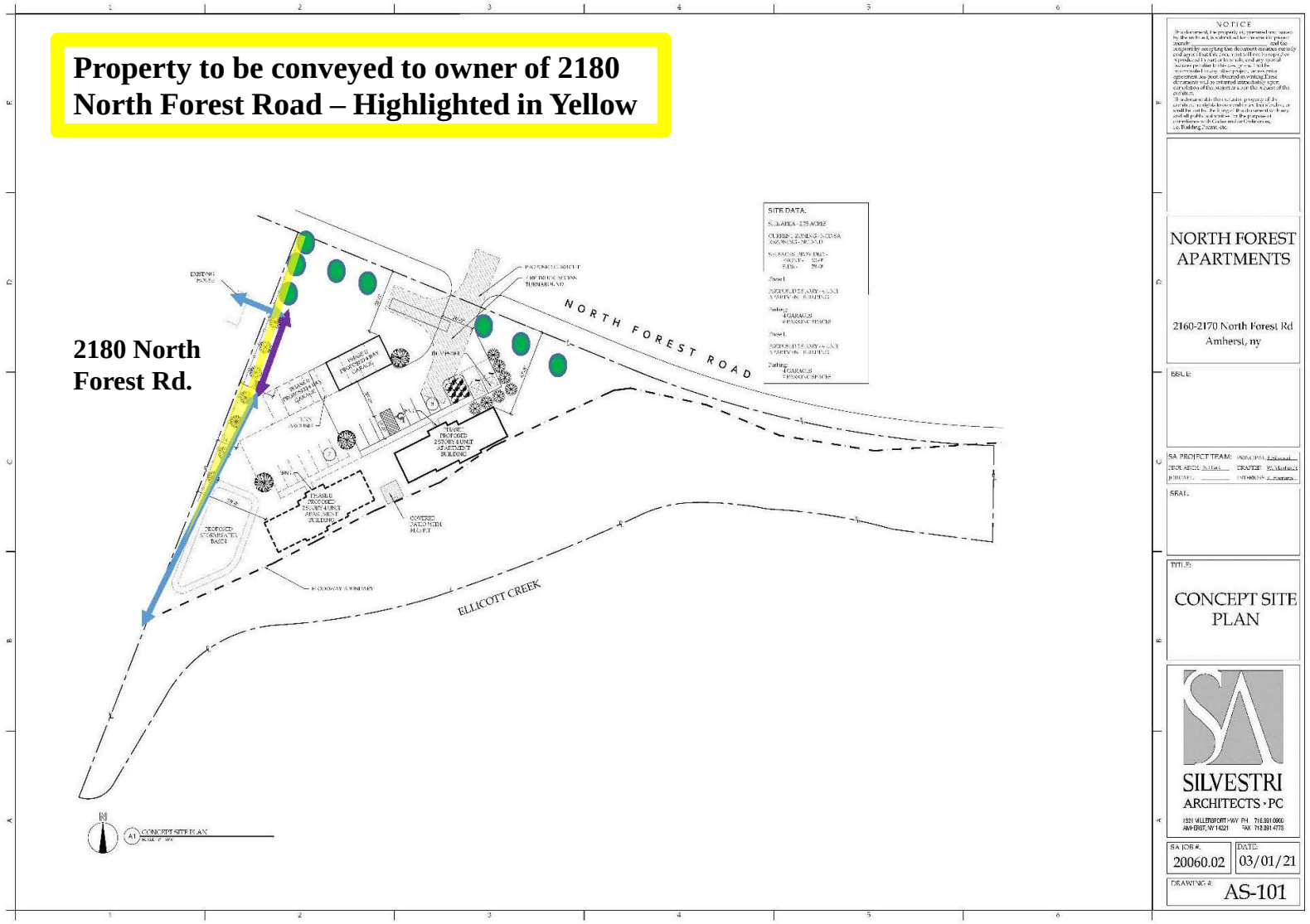
Updated Concept Plan:

Green: Landscaping along frontage of shared property line with 2180 North Forest Road and along North Forest Road frontage of the Project Site

Purple: 6 ft. fence beginning at front of home on 2180 North Forest Road located 15 ft. from existing property line

Blue: Ranch style open fence with height of approx. 3 ft. [same fence to be attached to existing home on adjacent property]

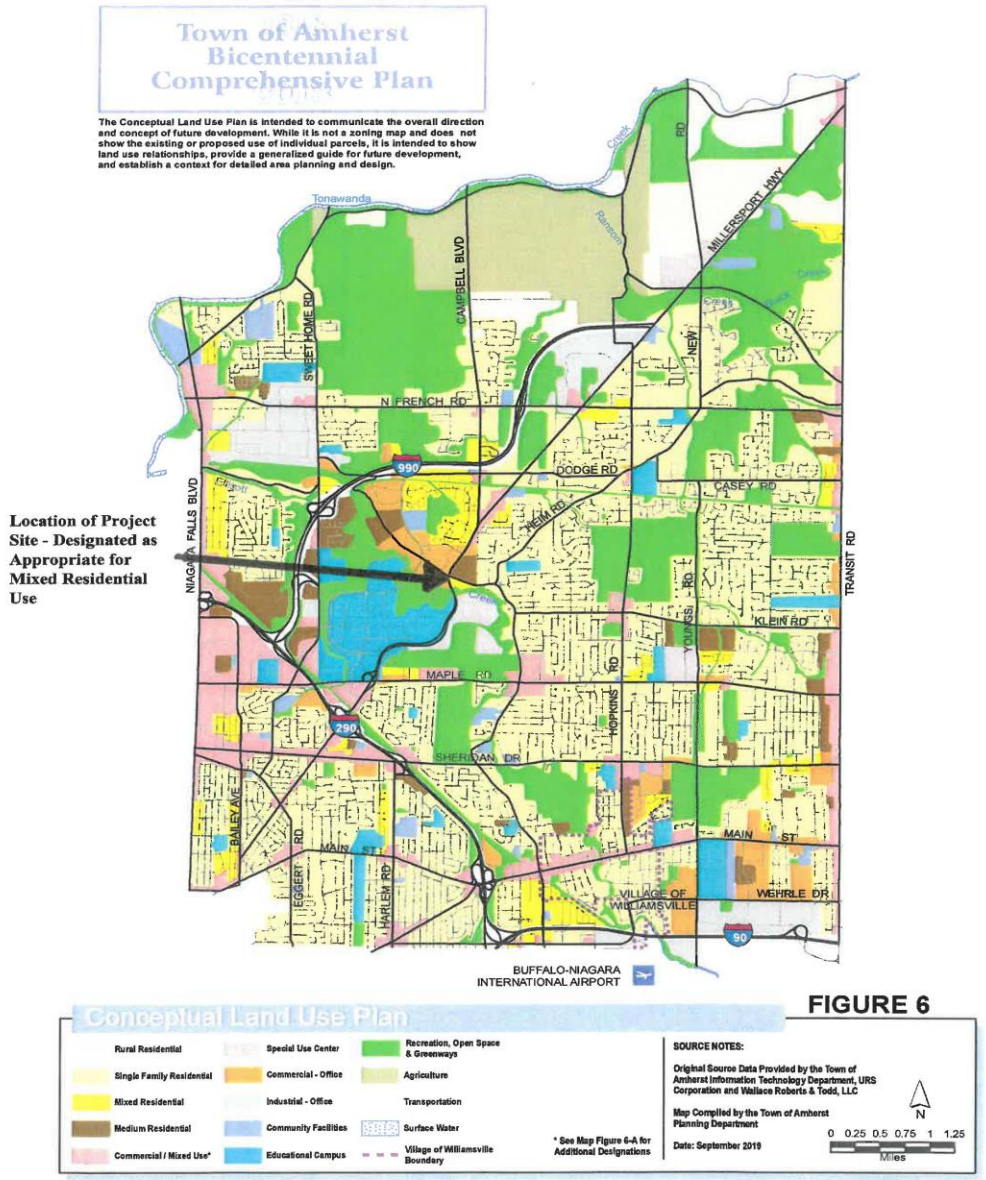
Yellow: 15 ft. of property to be conveyed to owner of 2180 North Forest Road upon the Applicant obtaining site plan approval and closing on the purchase of the Project Site.



Attachment: PP Presentation-2160 & 2170 N Forest-Town Board-05-03-21 (RES-2021-153 :

Reclassification of Project Site from NCD-SA to NCD-ND:

- Recommended land use per Figure 6 of the Comprehensive Plan is Mixed Residential Use
- Mixed-Residential land use category is described in Chapter 3 of the Comprehensive Plan as being appropriate for a residential density of 4-12 units per acre - The density of the proposed project is only 3.4 units per acre.
- "Although longstanding policy has tended to favor low-density, single-family residential use, recent development trends have seen a substantial increase in the amount of new multi-family housing. The need for higher density housing will grow along with the component of the population that will increasingly choose smaller housing types, including retirees, empty nesters, singles, and other smaller household types."
- Current NCD-SA zoning is not consistent with the adopted Comprehensive Plan
- NCD-SA zoning only allow for agricultural uses and single-family dwellings on large lots.



Attachment: PP Presentation-2160 & 2170 N Forest-Town Board-05-03-21 (RES-2021-153 :

State Environmental Quality Review Act ("SEQRA"):

- SEQRA's substantive requirements:
  - Identify the potential environmental impacts,
  - Hard Look at the identified impacts, and
  - Issue SEQRA determination supported by a reasoned elaboration
- Type I action due to proximity to Ellicott Creek
- Density reduced from 18 unit to 8 units [3.4 unit per acre – Density of 3.5 units per acre allowed in the R-3 zoning district]
- **No development in the regulated floodway – A floodplain development permit will be required from the Building Department**
- **No lighting spillover onto adjacent properties [Photometric Plan will be submitted with the Site Plan Application]**
- **The project is not a student housing project nor a short-term rental project**
- No wetlands per the Wetland Investigation Letter of Scott Livingstone of Earth Dimensions dated July 7, 2020
- Traffic: Single driveway onto North Forest Road - The trip generation rate for the peak weekday hour for the 8 proposed apartments per the ITE Trip Generation Report is 4.48 trips

Attachment: PP Presentation-2160 & 2170 N Forest-Town Board-05-03-21 (RES-2021-153 :

State Environmental Quality Review Act ("SEQRA"):

- No impact determination letter issued by the NYS Office of Parks, Recreation and Historic Preservation on October 30, 2020
- On-site stormwater management system will comply with the stringent stormwater water quality and quantity standards of the New York State Dept. of Environmental Conservation including handling of a 100 yr. storm event
- Fully engineered plans, Engineer's Report and SWPPP will be required with future submission of a Site Plan Application
- Geotechnical Report prepared by Empire Geo Engineering Services dated September 17, 2020 – foundation design and site improvement based on soil conditions per NYS Building Code requirements

Approximate Depth and Elevation of Top of Bedrock

Test Boring	Approximate GroundSurface Elevation (feet)	Depth / Elevation ofTop of Bedrock (feet)
B-1	582.3	25.2 / 557.1 (C)
B-2	581.1	26.0 / 555.1 (AR)
B-3	579.5	26.5 / 553.0 (AR)
B-4	578.1	24.4 / 553.7 (C)
B-1 (2014)	581 +/-	26.0 / 555.0 (AR)
B-1 (Feb. 2020)	580.0	27.7 / 552.3 (AR)

WMA ENGINEERING DPC|DBA
EMPIRE GEO TECHNICAL ENGINEERING SERVICES

CORPORATE/ BUFFALO OFFICE
5167 South Park Avenue
Hamburg, NY 14075
Phone: (716) 649-8110
Fax: (716) 649-8051

ALBANY OFFICE
PO Box 2199
Ballston Spa, NY 12020

5 Knabner Road
Mechanicville, NY 12118
Phone: (518) 899-7491
Fax: (518) 899-7496

CORTLAND OFFICE
60 Miller Street
Cortland, NY 13045
Phone: (607) 758-7182
Fax: (607) 758-7188

ROCHESTER OFFICE
535 Summit Point Drive
Henrietta, NY 14467
Phone: (585) 359-2730
Fax: (585) 359-9668

September 17, 2020
Project No. WB-20-105
(SJB Project No. BE-20-105)

Postwork Capital
c/o Buffalo Automation
10236 Transit Road
East Amherst, New York
14051

Attn. Mr. Thiru Vikram, CEO

Re: Geotechnical Engineering Report
Proposed Elysium Apartment Complex
2160 North Forest Road
Town of Amherst, New York

Dear Mr. Vikram:

WMA Engineering DPC, dba Empire Geotechnical Engineering Services (Empire), is pleased to submit the enclosed Geotechnical Engineering Report for the above referenced project. We have also e-mailed you an electronic copy (pdf file format) of this report, for your use and for distribution. Please contact me should you have any questions or wish to discuss this report. Thank you for considering Empire for this work and we look forward to working with you through the completion of this project.

Sincerely,

WMA Engineering DPC, dba
Empire Geotechnical Engineering Services

Thomas R. Seider, P.E.
Geotechnical Engineer

Enc.: Geotechnical Engineering Report

A Woman Owned Firm

Attachment: PP Presentation-2160 & 2170 N Forest-Town Board-05-03-21 (RES-2021-153 :

Planning Board's Recommendation:

- Planning Board held a public hearing on January 21st
- The Planning Board adopted a resolution by a unanimous 7-0 vote recommending that the Town Board:
  - Issue a negative declaration pursuant to SEQRA,
  - Approve the reclassification of the Project Site from NCD-SA to NCD-ND, and
  - Approve Amendment #73 to the Audubon New Community District Development Plan
- The Planning Board recommended the following condition: "That the petition include additional parking spaces beyond the 17 spaces shown on the concept plan at the site plan stage."
- Planning Board's findings in support of its favorable recommendation were as follows:
  - A. The proposed Revision to the Development Plan meets the intent and objectives of a New Community District as expressed in Subsection 1-1.1.
  - B. The proposed Revision to the Development Plan meets all the requirements of Section 5-2-3 through 5-2-6.
  - C. The proposed Revision to the Development Plan is conceptually sound in that it meets present and future community needs.
  - D. There are or will be adequate services and utilities available or proposed to be made available in the construction of the development.
  - E. **The proposed Amendment to the Development Plan is consistent with the Town Comprehensive Plan.**

Attachment: PP Presentation-2160 & 2170 N Forest-Town Board-05-03-21 (RES-2021-153 :

Conclusion:

- Requesting that the Town Board:
  - 1. Issue a negative declaration pursuant to SEQRA,
  - 2. Approve the reclassification of the Project Site from NCD-SA to NCD-ND subject to appropriate conditions, and
  - 3. Approve Amendment #73 to the Audubon New Community District Development Plan subject to the condition recommended by the Planning Board as follows: “That the petition include additional parking spaces beyond the 17 spaces shown on the concept plan at the site plan stage.” [The updated Concept Plan depicts 23 parking spaces]
- Questions…

Attachment: PP Presentation-2160 & 2170 N Forest-Town Board-05-03-21 (RES-2021-153 :

3 May 2021

Francina J. Spoth, Town Clerk
Town of Amherst
5583 Main Street
Williamsville, New York 14221

Via email to: fspoth@amherst.ny.us

Re: Public Hearing of the Town Board held on May 3, 2021
Request to Amend the Land Use Classification of 2160 and 2170 North Forest Road

To: MEMBERS of the TOWN BOARD:

Kindly accept my apology for my inability to communicate via zoom last evening. I was able to hear portions of the proceedings, but whether "muted" or "unmuted", was simply unable to be heard. This particular problem was a first for me and was extremely frustrating. I did hear that the hearing was being closed, but I ask your indulgence in considering the following comments I intended to make last evening.

I did meet at the property with Mr. Hopkins to discuss some issues my wife and I had specific to our ownership of the adjoining property. Mr. Hopkins was extremely professional and concessions were made regarding those issues. However, the resolution of the matter was complicated further by the Petitioner's new proposal to do the development in phases. We strongly object to that process. The dust, dirt, noise and inconvenience of construction would be unbearable if it had to be endured twice. I note that the developer wishes to avail itself of all hours of construction operations allowable under law, including Sundays, if needed. Under the circumstances, two phases of construction would be one too many. It should also be noted that the Petitioner's prior concept plans for more units did not require more than one phase. Why two phases should be necessary for a smaller project is perplexing.

That being said, my neighbors and I remain opposed to this project as it is simply too big and the intended use is simply incompatible with the character of the neighborhood as a single family development. I believe we have provided ample justification for this Board to deny the proposed petition. Please consider the following points:

- This is an apartment complex which belongs on the West side of Millersport Highway – not the East side. The West side is inundated with similar projects. The East side is fully developed with single family homes, with the sole exception of this one vacant parcel which sits in the middle of single family homes.

- A similar proposal for the corner of North Forest and Millersport (a commercial highway) was not approved. It is inconsistent to allow the same type of project further up North Forest.

Attachment: Town of AMHERST BOARD LTR - Hausbeck (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon

- The majority of the site (more than 50%) is in a floodway and cannot be developed even if the petition was to be approved.

- If 8 units were to be approved for the remaining 1.1 acres, the project would have a de facto density of 7.3, well in excess of the maximum density of 5 allowable under the Town Zoning Ordinance 5-2-6.

- The Petitioner's repeated assertion that the proposal is "consistent" with the Town's Comprehensive Plan is simply **not** binding on this Board. The Plan clearly states that it is intended to be **"flexible".** The Plan is **not** a zoning map and it is **not** meant to dictate land use.

In addition to the above, we have raised a number of issues about whether the site itself is suitable for this type of development due to documented flooding, documented erosion issues, and documented uncontrolled and un-engineered filling of portions of the site which were at one time part of Ellicott Creek.

The Board is certainly within its rights to reject the petition and I urge it to do so.

Thank you for your consideration.

Sincerely,

Joseph Hausbeck

Attachment: Town of AMHERST BOARD LTR - Hausbeck (RES-2021-153 : 2160 & 2170 Request to Rezone and Amend the Audubon

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

Francina J. Spoth
Town Clerk

Meeting: 08/23/21 03:00 PM
Department: Town Clerk
DOC ID: 24639

COMMUNICATION 2021-89 **APPROVED**

Request for Fee Waiver - Amherst Symphony Orchestra

Request from Lee Brusino for roadside signage and fee waiver for the Amherst Symphony Orchestra concerts.

CONCERT DATES: October 24, 2021, December 5, 2021, February 13, 2022 and April 10, 2022 are the proposed dates for our upcoming season.

SIGNAGE DATES: October 17 - 24, 2021; November 28 - December 5, 2021; February 6 - 13, 2022; April 3 - 10, 2022

SIGNAGE LOCATIONS: Clearfield Recreation Center, 730 Hopkins Rd; Parks Department, 450 Maple Road; 4255 Harlem Rd, Buffalo, NY 14226

The Building Department's recommendation is attached.

8/23/2021
A motion to approve was made by Supervisor Kulpa, seconded by Councilmember Bucki and unanimously approved 5-0.

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

Cooper, Kathy

Subject: FW: Amherst Symphony Orchestra Roadside signage for 2021-2022

From: Lee Brusino <>
Sent: Thursday, August 5, 2021 11:27 AM
To: Spoth, Francina <fspoth@amherst.ny.us>
Subject: Re: Amherst Symphony Orchestra Roadside signage for 2021-2022

CONCERT DATES: October 24, 2021, December 5, 2021, February 13, 2022 and April 10, 2022 are the proposed dates for our upcoming season.

SIGNAGE DATES: October 17 - 24, 2021; November 28 - December 5, 2021; February 6 - 13, 2022; April 3 - 10, 2022

SIGNAGE LOCATIONS: Clearfield Recreation Center, 730 Hopkins Rd; Parks Department, 450 Maple Road; 4255 Harlem Rd, Buffalo, NY 14226

Thank you.

Lee Brusino
Amherst Symphony Orchestra
VP Promotions

On Thu, Aug 5, 2021 at 11:14 AM Lee Brusino <l> wrote:

> Will do, thank you.
>
> On Thu, Aug 5, 2021 at 11:03 AM Spoth, Francina <fspoth@amherst.ny.us> wrote:
>
> > Lee,
> >
> > Please provide the locations and dates for signs. After I receive that information I will place it on the Town Board Agenda for the August 23rd Meeting. After Board approval my office will send you a letter to apply for permits.
> >
> > Thank you.
> >
> > Fran
> >
> > **From:** Lee Brusino <l>
> > **Sent:** Thursday, August 5, 2021 8:33 AM
> > **To:** Spoth, Francina <fspoth@amherst.ny.us>
> > **Subject:** Amherst Symphony Orchestra Roadside signage for 2021-2022
> >
> > Dear Francine Spoth,
> >
> > Thank you for your help and support for our successful Summer Concert. Please advise as to the letter that needs to be submitted for the upcoming season's four concerts which need roadside signage with a fee

Attachment: Amherst Symphony (COM-2021-89 : Request for Fee Waiver - Amherst Symphony Orchestra)

waiver. You aided in the last letter submitted to the board for the summer concert (thank you). I will compose as you direct.

October 24, 2021, December 5, 2021, February 13, 2022 and April 10, 2022 are the proposed dates for our upcoming season. Joe Frese indicated the importance of applying as soon as possible. Again, please advise. Thank you for your time and consideration

Lee Brusino

Amherst Symphony Orchestra

VP Promotions

Attachment: Amherst Symphony (COM-2021-89 : Request for Fee Waiver - Amherst Symphony Orchestra)

TOWN OF AMHERST
BUILDING DEPARTMENT

INTER-DEPARTMENTAL CORRESPONDENCE

5583 MAIN STREET
WILLIAMSVILLE, NEW YORK 14221

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

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

Memorandum

DATE: August 11, 2021

TO: Kathy Cooper, Deputy Town Clerk

FROM: Doug Gesel, Supervising Code Enforcement Officer, Amherst Building Department

RE: Waiver of Fees for Temporary Sign Permit of Amherst Symphony Orchestra

The Amherst Building Department recommends approval of the waiver of fees for the Amherst Symphony Orchestra's for temporary signs to be placed on town properties.

The properties and dates are as follows:

SIGNAGE DATES:
October 17 - 24, 2021
November 28 - December 5, 2021
February 6 - 13, 2022
April 3 - 10, 2022

SIGNAGE LOCATIONS:
Clearfield Recreation Center, 730 Hopkins Rd; Parks Department
Amherst Parks Department, 450 Maple Road,
Harlem Road Community Center; 4255 Harlem Rd, Buffalo, NY 14226

Permits will be required.

Doug Gesel

Supervising Code Enforcement Office
Town of Amherst Building Department

8/11/2021

Attachment: Amherst Symphony - Bldg response (COM-2021-89 : Request for Fee Waiver - Amherst Symphony Orchestra)

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

Francina J. Spoth
Town Clerk

Meeting: 08/23/21 03:00 PM
Department: Town Clerk
DOC ID: 24645

COMMUNICATION 2021-90 **REFERRED**

Ransom Oaks Opposition Letter

Letter of opposition to the rezoning of 10060 and 10090 Transit Road from the Ransom Oaks Community Corporation.

8/23/2021
Referred to Planning, Town Attorney, and Town Clerk to record in the public hearing.

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

Ransom Oaks Community Corporation 101 Ransom Oaks Drive East Amherst, NY 14051

Town of Amherst Town Board
Municipal Building (Town Hall)
5583 Main Street
Williamsville, NY 14221

August 6, 2021

Re: Forbes Capretto Rezoning Proposal

Dear Chairman Kulpa and Members of the Town Board:

We are writing to you on behalf of the Ransom Oaks Community Corporation (the "**Community**") located in the Town of Amherst (the "**Town**"). As you know, the Community consists of 1,130 residences, and is adjacent to the proposed Forbes Capretto Homes ("**Forbes Capretto**" or "**Applicant**") rezoning/redevelopment project site at 10060 and 10090 Transit Road, East Amherst, NY, 14051 ("**Rezoning Site**"). As you are aware, the Applicant has proposed to rezone certain property within the Town to construct a mixed-use commercial and residential development. The Community adamantly urges the Town to reject this proposal.

The Community has reviewed the rezoning request, which we understand consists of a proposal to: rezone 29.21 acres from S-A (Suburban Agricultural) and MS (Motor Service District) to R-3 (Residential District Three, 13.57 acres), MFR-5 (Multifamily Residential District Five, 12.73 acres, and CTR-2.5 (Retrofit Zoning District 2.95 acres), all for the currently-stated purpose of constructing a "mixed use commercial/ residential with [a] variety of attached/detached multi and single family housing" development (collectively, the "**Project**"). The Project would result in 120 new dwelling units (52 single family and 68 multifamily).[1]

First and foremost, we appreciate your time in reviewing and your consideration of the issues raised in this letter.

[1] We respectfully note that the Project application materials reviewed by the Planning Board contained a number of outdated documents and references, which make it unclear whether the Applicant is proposing 120 units or as many as 150.

Attachment: Ransom Oaks Ruby Lane Opposition Letter(9853466.1)-C (COM-2021-90 : Ransom Oaks Opposition Letter)

Attachment: Ransom Oaks Ruby Lane Opposition Letter(9853466.1)-C (COM-2021-90 : Ransom Oaks Opposition Letter)

Based on a review of: (i) documentation submitted by the Applicant to the Town Planning Board, including information presented at public hearings; (ii) materials provided by the Applicant to the Community's representatives; and (iii) relevant provisions of the Zoning Ordinance of the Town ("**Zoning Code**") and the Town's Bicentennial Comprehensive Plan, amended December 14, 2020 ("**Comprehensive Plan**"), the Community feels very strongly that an approval by the Town allowing the Applicant to continue forward with the Project would be devastating to the Community and its residents, both immediately and in the long-term. The Community's reasoning is set forth below.

I. The Proposed Project is Inconsistent with the Comprehensive Plan

Through its submissions, the Applicant asserts that the Project is consistent with the Comprehensive Plan. However, the documents submitted by the Applicant offer very little in terms of details, and instead rely on generalized statements and conclusory language in an attempt to establish this purported consistency.

For instance, the rezoning documentation submitted by the Applicant states that the Comprehensive Plan encourages (at the Rezoning Site) "compatible mixed and commercial uses, which the proposed project provides." However, the rezoning submission to the Planning Board seems to rely on an outdated version of the Comprehensive Plan's Conceptual Land Use Plan ("**Land Use Plan**"). The Applicant sites to the Town's 2018 version of the Comprehensive Plan and to the March 2009 version of the Land Use Plan (see Exhibits A and B of Applicant's Planning Board submission). As discussed further below, the vast majority of the Rezoning Site appears to be designated as single-family residential (and open/green space), and not mixed-use, as asserted in the rezoning application. The current Comprehensive Plan contains an updated Land Use Plan dated December 2020, and *the Applicant should not be able to rely on an inapplicable/outdated version of the Comprehensive Plan in attempting to establish the Project's consistency with the same.*

There are two key reasons why the Project is, in fact, inconsistent with the current Comprehensive Plan, and as such, should be rejected by the Town:

1) The Project calls for multi-family residential and commercial development in an area identified primarily for single-family residential development (see Comprehensive Plan Figure 6, Land Use Plan).

Contrary to the Applicant's assertions, the Rezoning Site is mostly within the single-family residential area on the Land Use Plan, with smaller portions of the Rezoning Site being within areas designated as (a) recreation, open space & greenways and (b) commercial/mixed use. The Community notes that the Applicant's submissions do not appear to identify any specific proposed recreation, open space or greenway areas or plans. Even more, the Comprehensive Plan recommends that "new infill development" in single-family residential areas should be "consistent with the established character of surrounding/connected neighborhoods." In this case, the Project is not consistent with the established (primarily) single-family residential nature of the Community, as it proposes both multi-family residential and commercial development. In fact, the Comprehensive Plan states (referring to an area slightly south of the Project):

> As an example, to the north of North French Road there exists a large area of large, deep frontage lots that reflects a rural development pattern. While this area is zoned for single-family development at higher densities, the pattern of land parcels does not lend itself to land assembly and efficient subdivision development. Therefore, in spite of the suburban zoning and the availability of utilities and public facilities, the area designated for single-family use north of North French Road should strive to retain much of its low-density rural pattern and character, avoiding long uninterrupted strips of housing.

While the lot referred to in the Comprehensive Plan is not the same as the Rezoning Site, the directive of the Comprehensive Plan remains the same - land development must reflect sensible, low-density, single-family residential development. The Project, by contrast, proposes a majority of multifamily units, and only 2 acres of open space.

> 2) The Project would disrupt the "neighborhood fabric and quality of life" by allowing undesired commercial intrusion into an area designated as single-family residential (see Comprehensive Plan section 3.3.1).

The rezoning documentation provides no discussion as to what types of commercial uses may accompany the Project, which understandably makes the Community apprehensive about a blanket approval for the desired rezoning. This is especially true because the CTR 2.5 district "is intended to provide for a variety of retail, service and commercial uses, as well as multi-family residences or offices."

Attachment: Ransom Oaks Ruby Lane Opposition Letter(9853466.1)-C (COM-2021-90 : Ransom Oaks Opposition Letter)

Attachment: Ransom Oaks Ruby Lane Opposition Letter(9853466.1)-C (COM-2021-90 : Ransom Oaks Opposition Letter)

If the Project is approved, the Community believes it is important to point out each of the non-residential uses that are permitted by right in the CTR 2.5 district, thus, having the potential to be constructed as part of the Proposed Project[2]: (1) ambulance service; (2) business college, commercial school; (3) college, university; (4) day care*; (5) passenger station; (6) place of worship; (7) public utility service structure or facility*; (8) school, elementary/secondary; (9) utility, minor; (10) animal care*; (11) drive-through facility*; (12) lodging; (13) medical; (14) office; (15) personal service; (16) recreation, indoor; (17) restaurant; (18) restaurant with outdoor dining*; (19) retail sales and service; (20) vehicle sales, indoor; and (21) all uses and structures customarily incidental to a principal use.

Suffice it to say, approval of the Project opens the door to many potential uses that are not compatible with the character of the Community or surrounding areas. Even if the Applicant has no intention to develop any of the above commercial uses at the Rezoning Site, a future owner of the subject parcels could decide to establish one or more of these uses. At a minimum, the Town should, as a practice, consider rejecting rezoning petitions that do not clearly limit the types of commercial establishments that are proposed to be developed in largely residential areas.

Further, the development schedule provided for the Project suggests that development will span over four years. The fact that the rezoning of the Rezoning Site results in four years' worth of development activity immediately abutting residential neighborhoods is further evidence that the rezoning will impact the adjacent communities.

II. The Proposed Project is Not Consistent with the Intent and Objectives of the Zoning Code

Sections 1-2-1 and 1-2-2 of the Zoning Code set forth the purposes and objectives of the same in order to clearly identify the priorities of the Town as it pertains to land development and public health and safety, including the convenience, comfort, prosperity, and general welfare of its citizens. Although the Applicant asserts that the Proposed Project is consistent with the Zoning Code's intent and objectives, the Community quickly identified several objectives incompatible with the Proposed Project that should result in the Town rejecting the rezoning petition.

[2] A "*" denotes those uses which are permitted but subject to supplemental use standards.

The following Zoning Code objectives (under section 1-2-2) are not supported by the Proposed Project:

- Subsection A - "To protect the character and values of residential, institutional and public uses, business, commercial and manufacturing uses and to insure their orderly and beneficial development"

  Without outright rejecting or conditioning any potential approval of the Proposed Project, the rezoning will not ensure orderly and beneficial development nor will it protect the single-family residential values or character of the Community.

- Subsections C and D - "To prevent overcrowding of the land" and "To prevent excessive concentration of population and to prevent sparse and uncoordinated development"

  The Applicant is proposing to construct a mixed-use development that will likely consist of multi-family residential and commercial establishments in an area that is well established and designated primarily as single-family residential. The Proposed Project could very easily lead to overcrowding of the Community given the close proximity between the two, and due to the proposed connecting roads.

- Subsection I - "To regulate the location of buildings and intensity of uses in relation to streets according to plans so as to cause the least interference with and be damaged least by traffic movements and hence result in lessened street congestion and improved public safety"

  As discussed further below, the Proposed Project will create more street congestion and more instances of automobile/pedestrian interactions, thus, leading to streets that are less safe and less attractive to future potential Community residents.

- Subsection K - "To guide the future development of the town so as to bring about the gradual conformity of land, structures and uses generally consistent with the policies of the Comprehensive Plan"

Attachment: Ransom Oaks Ruby Lane Opposition Letter(9853466.1)-C (COM-2021-90 : Ransom Oaks Opposition Letter)

As discussed in detail above, the Proposed Project is not consistent with the policies of the Comprehensive Plan. For example, the Center 2.5 District "is intended to provide for a variety of retail, service and commercial uses, as well as multi-family residences or offices."

III. The Proposed Project Creates Traffic and Safety Issues

The Proposed Project intends to establish a new road that would connect directly from Transit Road, a high-traffic State Route, to Ruby Lane, a local road within the Community. This development would bring higher levels of traffic in an otherwise quiet and low-traffic, residential street, increasing the likelihood of dangerous pedestrian-automobile interactions. If approved, the Proposed Project would connect commercial establishments and multi-family residential homes to streets that have enjoyed the single-family residential nature of the community. As the new development would necessarily increase traffic flow through a residential street, Community residents would be faced with: (a) busier and noisier streets with higher levels of traffic originating from outside of the Community; and (b) streets that are undoubtedly more dangerous to children and other pedestrians.

IV. The Proposed Project Presents a Stormwater and Flooding Hazard

According to a Stormwater Management System Summary Report dated February 2021 and prepared by Greenman-Pederson, Inc. ("**Stormwater Report**"), the Project would increase impervious surface coverage of the Rezoning Site from 1.4% to 41.2%, a 29-fold increase. The Rezoning Site consists of wetlands, which act as a natural drainage area for rainwater, including from surface water runoff. However, if developed, detention ponds would need to be constructed (3 of them, according to the Stormwater Report) in order to collect and detain stormwater runoff generated from the Project. Even so, the Community (and Erie County in general) recently received near-record amounts of rainwater over the last month, and Community residents have reported valid concerns regarding any new development's impact on potential flooding issues.

Conclusion

In sum, the proposed Project would be a detriment to the Community, which is a long-established planned neighborhood of primarily single-family homes, and also patio homes, condos and town homes. Our Community markets itself as a peaceful, friendly, and private residential community ideal for relaxation and recreation for families,

Attachment: Ransom Oaks Ruby Lane Opposition Letter(9853466.1)-C (COM-2021-90 : Ransom Oaks Opposition Letter)

children and adults. The Community feels very strongly that the proposed redevelopment is premature and, if rushed through, will have lasting impacts on these important qualities, including negative impacts to aesthetics, property values, and residents' quality of life they currently enjoy as part of the Community.

Accordingly, we urge the Town to deny the rezoning petition as proposed in order to avoid potentially costly and long lasting harmful impacts to the Community.

Sincerely,

Christopher Bogdan
President, Ransom Oaks Community Corporation

Attachment: Ransom Oaks Ruby Lane Opposition Letter(9853466.1)-C (COM-2021-90 : Ransom Oaks Opposition Letter)

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

Francina J. Spoth
Town Clerk

Meeting: 08/23/21 03:00 PM
Department: Town Clerk
DOC ID: 24654

COMMUNICATION 2021-91 **REFERRED**

Notice of Claim: Elena Balea, Homer Balea, Jr. Vs. Town of Amherst

8/23/2021
Referred to Town Attorney.

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

IN THE MATTER OF THE CLAIM OF:

ELENA BALEA
HOMER BALEA JR.,

Claimants,

NOTICE OF CLAIM

vs.

TOWN OF AMHERST,

Respondent.

VIA CERTIFIED MAIL

TO: TOWN OF AMHERST
Attn: Attorney's Office
5583 Main St.
Williamsville, NY 14221

PLEASE TAKE NOTICE, that the above-named Claimants, by and through their attorneys, Cantor, Wolff, Nicastro & Hall, LLC, 350 Main St. Suite 2140, Buffalo, NY 14202, hereby make a claim against the TOWN OF AMHERST as follows:

1. Claimants' full names are Elena Balea and Homer Balea Jr..

2. Claimant, Elena Balea's date of birth is [redacted] Claimant, Homer Balea Jr.'s date of birth is [redacted]

3. That on the 6th day of June at approximately 10:30 a.m., the claimant, Elena Balea, was caused to trip and fall on the street/walkway area located in front of 290 Little Robin Road, Amherst, NY 14228. Claimant fell as a result of a defective condition, a depression/pothole/crack/tripping hazard, which was created by the negligence of the respondent in the plowing of the street/area at said location. That after the condition was created by the plowing of the respondent, the respondent was made aware of the condition and failed to remedy

Attachment: DOC081221-08122021084610 (COM-2021-91 : NOC: Balea Vs TOA)

it. Attached herewith is a photograph of the location where the claimant fell. The yellow circled area is where the claimant fell.

4. That the incident described above was caused by the negligence of the Town of Amherst, its agents, servants, or employees, and that the aforesaid Town of Amherst, its agents, servants, or employees, were careless, reckless, or negligent, in improperly plowing and/or maintaining the area where this incident occurred, causing a depression/pothole/crack/tripping hazard to be created and left there in the same state and in a hazardous condition, creating a trap for pedestrians walking in that vicinity.

5. That as a result of this fall, the claimant Elena Balea, sustained multiple fractures to her left arm (humerus), resulting in her being disabled from employment and suffering pain and suffering (as well as incurring medical expenses). Ms. Balea had a surgery for her injuries.

6. That in addition, the fall caused her husband, Homer Balea Jr., to be deprived of the services, society and consortium of his wife, Elena Balea.

7. That the claimants hereby make a claim against the respondent, Town of Amherst, for their personal injuries incurred as a result of this accident.

8. That the claimants respectfully reserve the right to amend this Notice of Claim if necessary.

PLEASE TAKE NOTICE, that in the event the Respondent fails to resolve this matter, the Claimants intend to commence an action in the Supreme Court of the State of New York, County of Erie, to recover damages in an amount which is currently undetermined, together with the costs and disbursements of this action and for such other and further relief as the Court

Attachment: DOC081221-08122021084610 (COM-2021-91 : NOC: Balea Vs TOA)

deems just and proper.

Dated: July 16, 2021
Buffalo, NY

David J. Wolff Jr., Esq.
Cantor, Wolff, Nicastro & Hall LLC
Attorneys for Claimant
350 Main St. Suite 2140
Buffalo, New York 14202
(716) 848-8000

Attachment: DOC081221-08122021084610 (COM-2021-91 : NOC: Balea Vs TOA)