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, February 7, 2022 | **7:00 PM** | **Amherst Municipal Building**

I. IN MEMORY

Leonard Castrianno

II. INVOCATION

Councilmember Bucki

III. PLEDGE OF ALLEGIANCE

IV. ROLL CALL:

7:00 PM Meeting called to order on February 7, 2022 at Amherst Municipal Building, 5583 Main Street, Williamsville, NY.

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

V. MINUTES APPROVAL

1. Tuesday, January 18, 2022

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

VI. PROCLAMATIONS AND ANNOUNCEMENTS

The Town Board meeting may be accessed via Zoom at the following link:
https://us02web.zoom.us/j/82569771449?pwd=OWVFU3RHOGlCQW4wSE96Y0c2SkQ2UT09

Meeting ID: 825 6977 1449
Passcode: 605200

Or via phone by dialing 1-929-205-6099 and utilizing the same Meeting ID and Passcode. Audio/Call-In Instructions: Note to callers your phone number will display to the public, to conceal your number enter *67 before you enter the phone number below. To comment during the public hearing call-in participants must dial *9 to "raise your hand" to be recognized for speaking.

During the Zoom meeting, you may click on the Participants tab then choose the Raise Hand feature to speak. You may also navigate to the bottom options bar in your video screen and click Reactions. Underneath Reactions, there should be a separate button to Raise Your Hand.

VII. PUBLIC HEARINGS

Speakers will be limited to 3 minutes.

1. Resolution 2022-120

1501 - 1551 Niagara Falls Boulevard Rezoning

Request to rezone 1501 - 1551 Niagara Falls Boulevard from CTR-5 to DC-3.

2/7/2022
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 7:11 PM.

Attorney James Boglioli, Benderson Development, presented.

There were no speakers from the public, therefore Supervisor Kulpa moved to close the hearing and set a decision date for the February 28th Town Board meeting, seconded by

Councilmember Bucki and unanimously approved 5-0. The public hearing was closed at 7:26 PM.

RESULT:	**HEARING CLOSED**

2. Resolution 2022-121

Town of Amherst Streetlight Acquisition and Upgrades - Public Hearing (Bond Resolution - $26.5M)

AGENDA ITEM : FEBRUARY 7TH, 2022

TO: **Town Board**

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

DATE: **February 1, 2022**

RE: **Town of Amherst Streetlight Acquisition and Upgrades**
2022-2027 C.I.P. - Project No. H-15
TOA Job No. 2016.054
Public Hearing For Bond Resolution - $26,500,000

The above-referenced matter is scheduled for a Public Hearing on February 7, 2022 at 7:00 p.m. In this regard, kindly adopt a resolution (1) Adopting the attached SEQR determination for the above project as determined by the Town of Amherst Planning Department **prior to the Public Hearing being deemed closed**; and (2) Adopting the attached bond documents **once the Public Hearing has been deemed closed**.

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

Thank you.
SJS:nmb
Attachment
c: Tim Koller, Deputy Town Clerk
(w/attachment, **Agenda Item - February 7th, 2022**)
Daryl C. Bramer, Comptroller *(w/attachment)*
Lynda Juul, Director of Finance *(w/attachment)*
Dale Ulatowski, AICP, Assistant Planning Director/ZEO (*w/attachment)*
Dan Howard, Director of Planning *(w/attachment)*
Jeffrey S. Burroughs, PE, Town Engineer (*w/attachment*)
Christopher P. Schregel, Project Manager (*w/attachment*)

2/7/2022
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 7:28 PM.

Jeff Burroughs, Town Engineer, presented.

The following speakers addressed the Town Board:
Don Smith, 201 N Long St - spoke in support, it will be good for the Town long term
Tom Weisbeck, 48 Drawbridge - spoke out against the street light acquisition

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

There were no further speakers from the public, therefore Supervisor Kulpa moved to close the public hearing, seconded by Deputy Supervisor Berger and unanimously approved 5-0. The public hearing was closed at 8:07 PM.

A motion to approve 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

VIII. DEVELOPMENT REVIEW ACTIONS

1. Resolution 2022-122

Adoption of Local Law to Amend the Zoning Map (1789 Dodge Road, Z-2020-15)

DRAFT RESOLUTION
February 7, 2022

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 does not concur with the findings of the Planning Board as stated in their resolution of September 23, 2021 that the proposed Single Family Residential District Three (R-3) zoning at 1789 Dodge Road is generally inconsistent with the policies of the adopted Bicentennial Comprehensive Plan, and is not compatible with the present zoning and conforming use of nearby property and with the character of the neighborhood, and be it further

RESOLVED, that the Town Board does find that the proposed Residential District Three (R-3) zoning at 1789 Dodge Road is consistent with the adopted Bicentennial Comprehensive Plan because the proposal provides single-family residential density within the target range (2-4 units/acre) as established by Section 3.3.1 of the Bicentennial

Comprehensive Plan for single family residential uses and further depicted by Figure 6 of the Plan and is consistent in character with the other single-family subdivisions in the vicinity, which is predominantly single family homes, and be it further

RESOLVED, that the Town Board does find that the proposal is consistent with the adopted Bicentennial Comprehensive Plan because the proposal will incorporate design changes that reflect a mutually beneficial transition between the R-3 zoning to the surrounding S-A zoning by utilizing perimeter open spaces, a 75-foot natural buffer / no build area along the Dodge Road frontage, and be it further

RESOLVED, that in accordance with Chapter 203, Section 8-3-6 of the Town Code (Zoning), the Town Board adopts Local Law (#) to amend the Town Zoning map from Suburban Agriculture (SA) to Residential District Three (R-3) subject to the following conditions:

1. That future development of the site shall be limited to single family detached residential uses with a maximum yield of fifteen (15) homes.
2. That any future development of a principal or accessory structure or uses in the 2.7 acres of Permanent Open Space shall be prohibited. The only proposed development of the portion of the Permanent Open Space is limited to required stormwater management system improvements and utility infrastructure.
3. That a protective covenant/conservation easement shall be placed on all proposed open space and confirm total acreage to be under the control of a home owners association.
4. That the final plat design shall include a right-of-way access to a potential future Youngs Road extension.
5. That the landscaping and screening to be provided in the Permanent Open Space along the Dodge Road frontage of the project site shall require the approval of the Planning Board at the Preliminary Plat Application stage of the subdivision review process.

RESULT: WITHDRAWN

IX. PERSONAL APPOINTMENTS TO BOARDS & COMMITTEES

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

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

1. 9/11 Commemoration Committee

Membership is unlimited.

2. Amherst Committee on Disabilities (3)

3. Amherst Community Diversity Commission (5)

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**

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 (1)**
    Membership is full.

23. Minority / Woman Owned Business (4)

24. Open Government Advisory Board (4)

25. Planning Board

Membership is full.

26. Recreation Commission

27. Recycling and Waste Committee (3)

28. Senior Services Advisory Board (2)

29. Traffic Safety Board

Membership is full.

30. Youth Board (4)

Adult vacancies (4), Youth vacancies (0)

31. Zoning Board of Appeals

Membership is full.

X. PUBLIC EXPRESSION

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

A motion to open Public Expression was made by Supervisor Kulpa, seconded by Councilmember Bucki and unanimously approved 5-0. Public Expression was opened at 8:10 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 8:10 PM.

XI. CONSENT AGENDA

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

XII. COUNCILMEMBER RESOLUTIONS

A. SUPERVISOR KULPA:

B. DEPUTY SUPERVISOR BERGER:

1. Resolution 2022-123

Appointment to the Planning Board

WHEREAS, New York State Town Law gives authority to the Amherst Town Board to appoint a Planning Board; and

WHEREAS, the powers of the Amherst Planning Board (Planning Board) are to review and approve site plans, subdivision applications, coordinate sign plans, rezoning applications and make recommendations to the Amherst Town Board; and

WHEREAS, the Planning Board also participates in the development of Comprehensive Plans and review any matter referred by the Amherst Town Board and reports to the Amherst Town Board; and

WHEREAS, the Amherst Planning Board consists of seven (7) members, each serving seven (7) years, with one member's term concluding at the end of a calendar year; and

WHEREAS, Carrie Kahn has served on the Zoning Board of Appeals and has expressed interest in serving on the Planning Board.

NOW, THEREFORE, BE IT RESOLVED that the Amherst Town Board appoints Carrie Kahn to her first full term to conclude December 31, 2028.

2/7/2022
Consent

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

2. Resolution 2022-124

Appointment to the Zoning Board of Appeals

WHEREAS, pursuant to the provisions of Section 267 of the New York State Town Law, the Town of Amherst maintains a Zoning Board of Appeals (ZBA) consisting of five (5) members appointed by the Amherst Town Board (Town Board), each for a term of five (5) years, with terms concluding on a staggered basis; and

WHEREAS, the ZBA is authorized to grant relief from any provision of the Town of Amherst Zoning Ordinance or any decision of an administrative official charged with the enforcement of that ordinance; and

WHEREAS, the ZBA is empowered to grant special use permits in certain instances as spelled out in the Zoning Ordinance and Amherst Town Law specifies the grounds and criteria that the ZBA must use to grant a variance; and

WHEREAS, the ZBA has a board of five (5) members each serving a term of five (5) years; and

WHEREAS, Brian Bray has expressed interest serving on the ZBA.

NOW, THEREFORE, BE IT RESOLVED that the Amherst Town Board appoints Brian Bray to the Zoning Board of Appeals for a term to conclude December 31, 2026.

2/7/2022
Consent

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

3. Resolution 2022-125

Gas Meter Repair

WHEREAS, a four gas multi meter is used to detect hazardous gases; and

WHEREAS, the Amherst Fire Safety Division responds to emergency situations that at times requiring air monitoring within a fire scene; and

WHEREAS, this meter, currently malfunctioning, is the standard meter used by many town departments thus allowing for ease of use and calibration.

NOW, THEREFORE, BE IT RESOLVED that the Town Board approves the repair of a GMI Multi Gas Meter from Avoidable Alarm Fund T-2999.4002, for the health and safety of the Amherst Fire Safety Division.

2/7/2022
Consent

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

4. Resolution 2022-126

Establishing a Fee and Participation Policy for the Farmers Market at Bassett Park

WHEREAS, the Parks Administration of the Town of Amherst Facilities and Parks Administration Department seeks to establish a "Fee and Participation Policy" to offset operating costs associated with the organization, management, and related programming associated with the Farmer's Market at Bassett Park; and

WHEREAS, the Farmer's Market has been a successful departmental event in the past, and the Parks Administration wishes to build upon the success of this seasonal, monthly event by adding additional programming such as live music and performances ; and

WHEREAS, the attached "Fees and Participation Policy" has been vetted by thorough research and comparative pricing models and analysis and the department and vendors are pleased with the low cost per market; and

WHEREAS, all monies collected by the Parks Administration will be handling using the previously approved process; and

NOW, THEREFORE, BE IT RESOLVED, the Town Board hereby approves the attached documents for form and content, and recognizes and adopts the pages listed and contain therein as the official fee structure of the Town of Amherst Parks Administration, Market at Bassett Park.

2/7/2022
Consent

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

C. COUNCILMEMBER BUCKI:

D. COUNCILMEMBER LAVIN:

1. Resolution 2022-127

Amherst Youth Board Reappointments

WHEREAS, the Amherst Youth Board, AYB, is an organization offering varied services in support of children, youth and families living in the Town of Amherst. Chartered by the Amherst Town Board and New York State Executive Law, the agency is governed by a policy-making board of 23 citizen volunteers, comprising both adults and youth; and

WHEREAS, members are appointed by the Amherst Town Board for three-year terms, meet monthly and participate in decisions affecting programming, policies, funding and public relations for youth programs and services; and

WHEREAS, Nora Robshaw and Angela Seo have expressed interest in continuing service to the Amherst Youth Board.

NOW, THEREFORE, BE IT RESOLVED that Nora Robshaw and Angela Seo be reappointed to the Amherst Youth Board for a term to end on December 31, 2024.

2/7/2022
Consent

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

E. COUNCILMEMBER SZUKALA:

XIII. DEPARTMENT HEAD RESOLUTIONS AND REPORTS

A. TOWN ATTORNEY:

1. Resolution 2022-128

Agreement for Purchase and Sale of Streetlights (CRS# 3147)

AGENDA ITEM : FEBRUARY 7TH, 2022

TO: Town Board

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

DATE: February 1, 2022

RE: Agreement For Purchase and Sale of Streetlights Between: Niagara Mohawk Power Corporation d.b.a. National Grid and the Town of Amherst (CRS# 3147)

Kindly adopt a resolution authorizing the Supervisor to execute the attached agreement for the purchase and sale of streetlights subject to successful completion of the Contract Routing System.

Thank you.
SJS:nmb
Attachment
c: Tim Koller, Deputy Town Clerk
(*w/attachment,* **Agenda Item - February 7, 2022**)
Lynda Juul, Director of Finance (*w/attachment)*
Daryl C. Bramer, Comptroller (*w/attachment)*
Christopher P. Schregel, Project Manager (*w/attachment)*

2/7/2022
A motion to approve 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

2. Resolution 2022-129

License Agreement (Attachments to Utility Poles and Structures) (CRS# 3148)

TO: Town Board

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

DATE: February 1, 2022

RE: License Agreement (Attachments To Utility Poles and Structures) Between: Niagara Mohawk Power Corporation d.b.a. National Grid and the Town of Amherst (CRS# 3148)

Kindly adopt a resolution authorizing the Supervisor to execute the attached agreement for customer owned street and area lighting attachments subject to successful completion of the Contract Routing System.

Thank you.
SJS:nmb
Attachment
c: Tim Koller, Deputy Town Clerk
(*w/attachment,* **Agenda Item - February 7, 2022**)
Lynda Juul, Director of Finance (*w/attachment)*
Daryl C. Bramer, Comptroller (*w/attachment)*
Christopher P. Schregel, Project Manager (*w/attachment)*

2/7/2022
A motion to approve 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

3. Resolution 2022-130

Request for Public Hearing - Sewer Mtce. Bldg. Roof Restoration (Bond Resolution - $175,000)

AGENDA ITEM : FEBRUARY 7th, 2022

TO: **Town Board**

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

DATE: **February 1, 2022**

RE: **Sewer Maintenance Building Roof Restoration**
2022-2027 C.I.P. - Project No. E-22
TOA Job No. 2019.010A
Request For Public Hearing - Bond Resolution - $175,000

Kindly adopt the attached Order Calling Public Hearing regarding the above matter by scheduling a Public Hearing for the project on March 14th, 2022 at 7:00 p.m.

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

Thank you.

SJS:nmb
Attachment

c: Tim Koller, Deputy Town Clerk
(w/attachment, **Agenda Item - February 7, 2022**)
Daryl C. Bramer, Comptroller *(w/attachment)*
Lynda Juul, Director of Finance *(w/attachment)*
Dale Ulatowski, AICP, Assistant Planning Director/ZEO (*w/attachment)*
Dan Howard, Director of Planning *(w/attachment)*
Jeffrey S. Burroughs, PE, Town Engineer (*w/attachment*)
Brian J. Armstrong, EIT, Assistant Municipal Engineer (*w/attachment*)

2/7/2022
A motion to approve 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

4. Resolution 2022-131

Lease of Farmland - 1040 Tonawanda Creek Road (CRS# 3153)

AGENDA ITEM - FEBRUARY 7TH, 2022

TO: **Town Board**

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

DATE: **February 1, 2022**

RE: **Lease of 1040 Tonawanda Creek Road**
Melvin De Vantier and Gail R. De Vantier
Adopt Resolution Approving Lease Subject
To Permissive Referendum (CRS#3153)

Mr. and Mrs. DeVantier are requesting renewal of the attached lease for the 2022 calendar year for the above property. They have sent a check in the amount of $800.00 in consideration of this request. Once the lease is approved, the check will be forwarded to Daryl C. Bramer, Town Comptroller.

Therefore, kindly adopt a resolution authorizing the Supervisor to execute the attached lease subject to permissive referendum and pending successful completion of the Contract Routing System.

Thank you.

SJS:nmb
Attachment

c: Tim Koller, Deputy Town Clerk
(*w/attachment,* **Agenda Item : February 7th, 2022**)
Daryl C. Bramer, Town Comptroller (*w/attachment)*
Lynda Juul, Director of Finance (*w/attachment)*

2/7/2022
Consent

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

5. Resolution 2022-132

Permanent Public Drainage Easement - 695 Casey Road (Cavagnaro)

AGENDA ITEM : FEBRUARY 7TH, 2022

TO: **Town Board**

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

DATE: **February 1, 2022**

RE: **Permanent Public Drainage Easement**
Cavagnaro - 695 Casey Road
CRS# 3152

Kindly adopt a resolution authorizing the Supervisor to execute the attached Easement Agreement subject to successful completion of the Contract Routing System.

The Highway and Engineering Departments have reviewed and approved the agreement.

Thank you.

NMB:hs
Attachment
c: Tim Koller, Deputy Town Clerk
(*w/attachment,* **Agenda Item - February 7, 2022**)
Tim Lucey, General Crew Chief (Highway) (*w/attachment)*
Jeffrey S. Burroughs, PE, Town Engineer (*w/attachment)*

2/7/2022
Consent

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

6. Resolution 2022-133

Article 7 Settlement - 4400 Maple Road

AGENDA ITEM : FEBRUARY 7TH, 2022

TO: **Town Board**

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

DATE: **February 1, 2022**

RE: **Settlement of Article 7 Matter**
4400 Maple

Kindly adopt a resolution authorizing the following:

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

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

Thank you.

SAA:nmb
Attachment
c: Tim Koller, Deputy Town Clerk
(*w/attachment,* **Agenda Item : February 7, 2022**)
Emily Murphy, Town Assessor

2/7/2022
Consent

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

7. Resolution 2022-134

Article 7 Settlement - Getzville Plaza

AGENDA ITEM : FEBRUARY 7TH, 2022

TO: **Town Board**

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

DATE: **February 1, 2022**

RE: **Settlement of Article 7 Matter**
Getzville Plaza 2006 LLC

Kindly adopt a resolution authorizing the following:

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

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

Thank you.

SAA:nmb
Attachment
c: Tim Koller, Deputy Town Clerk
(*w/attachment,* **Agenda Item : February 7, 2022**)
Emily Murphy, Town Assessor

2/7/2022
Consent

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

8. Resolution 2022-135

Article 7 Settlment - David J. Luzon (103 Shadow Wood)

AGENDA ITEM : FEBRUARY 7TH, 2022

TO: **Town Board**

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

DATE: February 1, 2022

RE: Settlement of Article 7 Matter
David J. Luzon - 103 Shadow Wood Drive

Kindly adopt a resolution authorizing the following:

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

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

Thank you.

SAA:nmb
Attachment
c: Tim Koller, Deputy Town Clerk
(*w/attachment,* **Agenda Item : February 7, 2022**)
Emily Murphy, Town Assessor

2/7/2022
Consent

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

9. Resolution 2022-136

Article 7 Settlement - Spindrift Property Associates, II and III, LLC

AGENDA ITEM : FEBRUARY 7TH, 2022

TO: Town Board

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

DATE: February 1, 2022

RE: Settlement of Article 7 Matter
Spindrift Property Associates II, LLC
Spindrift Property Associates III, LLC

Kindly adopt a resolution authorizing the following:

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

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

Thank you.

SAA:nmb
Attachment
c: Tim Koller, Deputy Town Clerk
(*w/attachment,* **Agenda Item : February 7, 2022**)
Emily Murphy, Town Assessor

2/7/2022
Consent

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

10. Resolution 2022-137

Article 7 Settlement - Windsor Park Retail

AGENDA ITEM : FEBRUARY 7TH, 2022

TO: **Town Board**

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

DATE: **January 29, 2022**

RE: **Settlement of Article 7 Matter**
Windsor Park Retail Center a/k/a WP Properties LLC a/k/a WRSB Development Co. LLC a/k/a WRSB Dev Co LLC

Kindly adopt a resolution authorizing the following:

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

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

Thank you.

SAA:nmb

Attachment
c: Tim Koller, Deputy Town Clerk
(*w/attachment,* **Agenda Item : February 7, 2022**)
Emily Murphy, Town Assessor

2/7/2022
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

11. Resolution 2022-138

Article 7 Settlement - Fasanello (30 Brownstone Court)

AGENDA ITEM : FEBRUARY 7TH, 2022

TO: **Town Board**

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

DATE: **February 1, 2022**

RE: **Settlement of Article 7 Matter**
Joseph F. Fasanello - 30 Brownstone Court

Kindly adopt a resolution authorizing the following:

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

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

Thank you.

SAA:nmb
Attachment
c: Tim Koller, Deputy Town Clerk
(*w/attachment,* **Agenda Item : February 7, 2022**)
Emily Murphy, Town Assessor

2/7/2022
Consent

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

12. Resolution 2022-139

Article 7 Settlement -

AGENDA ITEM : FEBRUARY 7TH, 2022

TO: **Town Board**

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

DATE: **February 1, 2022**

RE: **Settlement of Article 7 Matter**
Interwest Holdings I LLC

Kindly adopt a resolution authorizing the following:

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

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

Thank you.

SAA:nmb
Attachment
c: Tim Koller, Deputy Town Clerk
(*w/attachment,* **Agenda Item : February 7, 2022**)
Emily Murphy, Town Assessor

2/7/2022
Consent

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

13. Resolution 2022-140

Article 7 Settlement - 93 NYRPT LLC

AGENDA ITEM : FEBRUARY 7TH, 2022

TO: **Town Board**

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

DATE: **February 1, 2022**

RE: **Settlement of Article 7 Matter**
93 NYRPT LLC

Kindly adopt a resolution authorizing the following:

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

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

Thank you.

SAA:nmb
Attachment
c: Tim Koller, Deputy Town Clerk
(*w/attachment,* **Agenda Item : February 7, 2022**)
Emily Murphy, Town Assessor

2/7/2022
Consent

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

14. Resolution 2022-141

Article 7 Settlement - BG Lockport

AGENDA ITEM : FEBRUARY 7TH, 2022

TO: **Town Board**

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

DATE: February 1, 2022

RE: Settlement of Article 7 Matter
1551 NFB, LLC for itself and as agent-in-fact for BG Lockport LLC

Kindly adopt a resolution authorizing the following:

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

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

Thank you.

SAA:nmb
Attachment
c: Tim Koller, Deputy Town Clerk
(*w/attachment,* **Agenda Item : February 7, 2022**)
Emily Murphy, Town Assessor

2/7/2022
Consent

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

15. Resolution 2022-142

Article 7 Settlement - EGate-93

AGENDA ITEM : FEBRUARY 7TH, 2022

TO: Town Board

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

DATE: February 1, 2022

RE: Settlement of Article 7 Matter
EGate-93

Kindly adopt a resolution authorizing the following:

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

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

Thank you.

SAA:nmb
Attachment
c: Tim Koller, Deputy Town Clerk
(*w/attachment,* **Agenda Item : February 7, 2022**)
Emily Murphy, Town Assessor

2/7/2022
Consent

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

16. Resolution 2022-143

Article 7 Settlement - Liffiton (47 Sandelwood Drive)

AGENDA ITEM : FEBRUARY 7TH, 2022

TO: **Town Board**

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

DATE: **February 1, 2022**

RE: **Settlement of Article 7 Matter**
Jack and Kathleen Liffiton - 47 Sandelwood Drive

Kindly adopt a resolution authorizing the following:

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

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

(3) Authorizing Emily Murphy to sign the attached Consent Order as the Town Assessor for the Town of Amherst.

Thank you.

SAA:nmb
Attachment
c: Tim Koller, Deputy Town Clerk
(*w/attachment,* **Agenda Item : February 7, 2022**)
Emily Murphy, Town Assessor

2/7/2022
Consent

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

B. TOWN CLERK:

C. ASSESSOR:

D. BUILDING/BUILDING MAINTENANCE:

1. Resolution 2022-144

Town of Amherst Facilities and Parks Administration Use of Social Media

WHEREAS, the Parks Administration of the Town of Amherst Facilities and Parks Administration Department seeks to establish an online presence for the purposes of promoting parks events and sharing general parks and town information; and

WHEREAS, the Town of Amherst has established and adopted a social media policy as per Resolution RES-2018-748; and

WHEREAS, the Parks Administration of the Town of Amherst Facilities and Parks Administration Department agrees to the aforementioned policy; and

WHEREAS, the attached document reflects the existing and current policy, and designates Elizabeth Graczyk, Parks Administration, Dan Rizzo, Facilities and Parks Administration, and Lynda Vetrano, Facilities Assistant, as the official administrators for the Parks Administration Department, and such documents have been signed and submitted to the Information Technology Department as required; and

NOW, THEREFORE, BE IT RESOLVED, the Town Board hereby approves the attached documents for form and content, and recognizes the pages listed and contain therein as official town department accounts.

2/7/2022
Consent

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

2. Resolution 2022-145

Mold Remediation at Heritage Village CRS #3150

Subject to successful completion of contract routing, please authorize the Supervisor to sign for work needed as soon as possible at Heritage Village by Metro Environmental, 2939 Lockport Rd, Niagara Falls, NY 14305.

2/7/2022
Consent

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

3. Resolution 2022-146

Quarterly Sprinkler Inspection for Williamsville Youth & Family CRS #3142

Please authorize the Supervisor to sign contract between Town of Amherst and Davis Ulmer, One Commerce Dr., Amherst, NY 14228.

2/7/2022
Consent

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

E. CENTRAL ALARM:

F. COMPTROLLER:

1. Resolution 2022-147

Tyler Technologies (MUNIS) Licensing and Support Agreement CRS# 3139

Please approve the annual licensing and data base support agreement that covers general ledger, budgeting, accounts payable, MUNIS Office, payroll, purchase orders, Tyler Forms processing, GUI and Tyler system management services support for MUNIS for the period 1/1/2022 - 12/31/2022. The annual cost is $81,312.44.

Contract #3139 has successfully completed the contract routing process.

2/7/2022
Consent

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

2. Resolution 2022-148

Budget Transfers and Amendments

For February 7, 2022 Town Board Agenda

To: Town Board
From: Office of Town Comptroller
Date: 2/2/2022
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 - 2022

FROM:	***TO:***
A1110.1000 Town Justice - Personal Services $51,480.00	A1420.1000 Town Attorney $51,480.00
A1110.8030 Town Justice - FICA $3,938.22	A1420.8030 Town Attorney $3,938.22
A1110.8050 Town Justice - Health Insurance $9,858.96	A1420.8050 Town Attorney $9,858.96
A1110.8051 Town Justice - Dental $444.00	A1420.8051 Town Attorney $444.00
A1110.8052 Town Justice - Vision $50.16	A1420.8052 Town Attorney $50.16

To transfer funds for retired employee and new job duties for Town Attorney.

A1420.4010 Town Attorney - Office Expense $700.00A1420.2100 Furniture, Chairs, Desks $700.00
Per Department's request.

BUDGET AMENDMENTS - 2021

INCREASE:	***INCREASE:***
A3649.04589 Federal Revenue $7,324,375.92	A3649.1000 Personal Svcs $6,803,344.64 A3649.1200 Overtime $153,445.47 A3649.1740 Briefing $264,328.77 A3649.1853 Sick Leave Incentive $149.58 A3649.2130 Computer Equip $468.21 A3649.2450 Public Safety Equip $1,582.48 A3649.2550 Other Equip $2,083.00 A3649.4010 Office Supplies $2,354.05 A3649.4020 Postage & Freight $3.36 A3649.4025 Print/Adv/Lease $1,338.10 A3649.4060 Telephone $911.83 A3649.4120 Training & Edu $240.00 A3649.4310 Gas & Oil $1,837.68 A3649.4410 Pub Safety & Med Supply $4,832.96 A3649.4420 Uniform & Shoes $609.86 A3649.8010 State Retirement $22,081.87 A3649.8030 FICA $15,561.41 A3649.8050 Hospital & Med Ins. $47,403.50 A3649.8051 Dental $1,593.53 A3649.8052 Vision $205.62

To recognize ARPA Revenue at 12/31/2021.

BUDGET AMENDMENTS - 2022

INCREASE:	***INCREASE:***
KP2104.03089 Amh. Gateway Park - NYS Grant $365,000	KP2104.4972 Construction $365,000

To set up budget for Amherst Gateway Park, NYS Grant, CRS# 3117.

A1411.03089 LGRMIF Grant - NYS Grant $52,650.00	A1411.1000 Personal Services $3,158.38 A1411.8030 FICA $241.62 A1411.4110 Contractual $49,250.00

To set up budget for Local Governments Records Management Improvement Funds Grant, CRS#3100.

KP2116.02770 Knox Box - Other Revenue $46,382.50	KP2116.2150 Equipment $41,000.00 KP2116.1000 Personal Services $5,000.00 KP2116.8030 FICA $382.50

To recognize revenue from the Knox Box upgrade project and increase expenditures for the purchase of units and payroll costs of installation.

N2123.02785 CDBG & VG- PI $12,691.20	N2123.4000 Contractual $12,691.20
N2125.02785 CDBG & VG Admin $3,172.80	N2125.1000 Personal Services $2,947.33 N2125.8030 FICA $225.47
N2141.02785 1ST Time Homebuyers- PI $4,500.00	N2141.4000 Contractual $4,500.00
N2154.02785 Amherst Admin- PI $500.00	N2154.4003 Admin $500.00

To recognize Community Development program income from 1746 Eggert Rd., Amherst.

KP2101.02720 Rec Area Improv. - Donations $50,000	KP2101.4972 Construction $50,000

To recognize donation from Russell J. Salvatore Foundation for KP2101 Recreation Area Improvements.

N2123.02785 CDBG & VG- PI $300.00	N2123.4000 Contractual $300.00

To recognize Community Development program income from 299 Harding Rd., Amherst.

C8161.02131 Refuse - Totes $16,500.00	C8161.4531 Garbage Totes $16,500.00

To recognize revenue and increase expenditure line for Garbage Totes for new garbage service.

N1945.02785 Acquisition - PI $24,500.00 N1945.4000 Contractual $24,500.00
N2144.02785 New Construction - PI $103,573.82 N2144.4000 Contractual $103,573.82
N2149.02785 HOME Admin- PI $11,508.20 N2149.4003 Admin $11,508.20
To recognize Community Development program income from 23 Hoerner Ave., Cheektowaga.

N2150.02785 Tonawanda HOME- PI $32,104.80 N2150.4000 Contractual $32,104.80
N2153.02785 Tonawanda Admin- PI $3,567.20 N2153.4003 Admin $3,567.20
To recognize Community Development program income from 310 Claremont Ave, Tonawanda.

N2140.02785 Amherst HOME Rehab $7,089.30 N2140.4000 Contractual $7,089.30
N2154.02785 Amherst Admin- PI $787.70 N2154.4003 Admin $787.70
To recognize Community Development program income from 12 Spruce Rd, Amherst.

2/7/2022
Consent

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

G. CONTRACT COMPLIANCE:

1. Resolution 2022-149

Award Bid #2021035 - Liquid Sodium Bisulfite Solution - CRS #3118

WHEREAS, the Contract Compliance and Administration Department received bids on December 30, 2021 for Sodium Bisulfite; and

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

NOW, THEREFORE, BE IT RESOLVED, the Town Board authorizes the Contract Compliance and Administration Department to award Item 1A for a one-year contract to PVS Chemical Solutions, Inc.; and

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

2/7/2022
Consent

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

2. Resolution 2022-150

Award Bid #2021036 - Senior Center Printing - CRS #3154

WHEREAS, the Contract Compliance and Administration Department received bids on December 30, 2021 for Bid #2021036 Senior Center Printing; and

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

NOW, THEREFORE, BE IT RESOLVED, the Town Board authorizes the Contract Compliance and Administration Department to award Items #1-5 and #7-11 of this bid to Penny Lane Printing; and

BE IT FURTHER RESOLVED, the Town Board authorizes the Supervisor to sign the contract with Penny Lane Printing, pending successful completion of the contract routing process due to the fact that a contract is needed to begin work on the 2022 membership brochure, and the next Town Board meeting does not occur for three (3) weeks.

2/7/2022
Consent

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

3. Resolution 2022-151

Approve Wellness Program Addendum No. 1 and Business Associate Agreement - CRS #3126

WHEREAS, the Professional Services Agreement with CHC Wellbeing, Inc., was approved by the Town Board at the November 8, 2021 Town Board Meeting (Resolution #2021-1027); and

WHEREAS, additional services are being requested, including A1C testing being added to biometric screenings and the transfer of historical data, and a Business Associate Agreement is requested by the vendor;

NOW, THEREFORE, BE IT RESOLVED, the Town Board approves Addendum No. 1 to the Professional Services Agreement and the Business Associate Agreement; and

BE IT FURTHER RESOLVED, the Town Board authorizes the Supervisor to sign the above referenced documents.

2/7/2022
Consent

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

H. COURT:

I. ECONOMIC DEVELOPMENT:

J. EMERGENCY SERVICES:

1. Resolution 2022-152

Firefighter Cancer Benefit Program 2022 CRS ID #3155

WHEREAS, the New York State Legislature mandated cancer coverage for volunteer firefighters effective January 1, 2019,

WHEREAS, the Amherst Town Board adopted on December 10, 2018 Resolution 2018-1292 approving basic mandated cancer coverage from The Hartford Life and Accident Insurance Company,

NOW THEREFORE BE IT RESOLVED that the Amherst Town Board approves the renewal of the Basic Cancer Coverage through The Hartford Life and Accident Insurance Company Policy Number 681360 administered by AIS Administrators, and payment of the total amount of $37,111.75. Subject to successful completion of the CRS routing process.

2/7/2022
A motion to approve was made by Supervisor Kulpa and seconded by Deputy Supervisor Berger. A motion to amend was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0. Amendment adds the underlined language. 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

K. ENGINEERING:

1. Resolution 2022-153

Street Light Purchase and Upgrade CRS 3137

In 2015, New York's Governor signed into law the Streetlight Replacement & Savings Act which establishes procedures for the transfer of street light system ownership from a utility to a municipality. In October 2019, the Town hired an Energy consultant that conducted a Comprehensive Energy Audit of the Town's existing street lighting system. The result was a recommendation to upgrade the street lighting system with the installation of LED street lights after purchasing the assets from the utility companies.

The project's goal is to improve the total functionality of the Town's street lighting while reducing energy and operational costs. To assist in accomplishing these goals, the Town has opted to team with New York Power Authority (NYPA) in providing a turn-key solution in the purchase and upgrade of the street lighting system. The Town entered into an Energy Services Program Master Cost Recovery Agreement with NYPA on October 7, 2021 allowing this arrangement to move forward under an Authorization to Proceed.

Would you please authorize the Supervisor to sign the attached Authorization to Proceed with a NYPA turn-key street lighting project? The project will be financed through a combination of General Fund and the Streetlight District bonds. Thank you for considering this request.

2/7/2022
A motion to approve 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

2. Resolution 2022-154

CIP Amendment - Morningside Subdivision Roadway Reconstruction CIP Project No. H-11

The Engineering Department is recommending amendment of the 2022-2027 CIP for above project with respect to funding source. This project was originally allocated to be bonded against the General Fund but as this roadway is an asset of the Highway District, we request that the funding source be amended for these funds to be bonded against the Highway District.

CIP No.	Project Description	2022 CIP Allocation	Amend To

H-11	Morningside Subdivision Roadway Reconstruction - Phase I (Morningside Lane)	$224,700 LA	$224,700 LD

LA = General Fund Bond
LD = Highway District Bond

Please approve this amendment to the 2022-2027 CIP and allocate the funding as shown above.

2/7/2022
Consent

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

3. Resolution 2022-155

CIP Amendment - Sewer Maintenance Building Roof Restoration CIP Project No. E-22

The Engineering Department is recommending amendment of the 2022-2027 CIP for above project with respect to funding source. This project was originally allocated to be bonded against the General Fund but as this building is an asset of the Consolidated Sanitary Sewer District (CSSD), we request that the funding source be amended for these funds to be bonded against the CSSD.

CIP No.	Project Description	2022 CIP Allocation	Amend To
E-22	Sewer Maintenance Building Roof Restoration	$175,000 LA	$175,000 LG

LA = General Fund Bond
LG = Sanitary Sewer District Bond

Please approve this amendment to the 2022-2027 CIP and allocate the funding as shown above.

2/7/2022
Consent

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

4. Resolution 2022-156

CIP Amendment - Adding LED Streetlights to Various Neighborhoods CIP Project No. H-16

The Engineering Department is recommending amendment of the 2022-2027 CIP for the above project in the amounts shown in the table below. This amendment will allocate adequate funding to the Town's Evergreen Landing Subdivision Street Lighting Project.

CIP No.	Project Description	2022 Bond Allocations	Amend To
H-16	Adding LED streetlights in various neighborhoods in Town and along Sweet Home Road	$ 400,000 LA $ 100,000 X $ 900,000 LF	$ 1,350,000 LF
	Total	**$ 1,400,000**	**$ 1,350,000**

LA: General Fund Bond; LF: Lighting District Bond; X: Private Source

Please approve this amendment to the 2022-2027 CIP and reassign the funding as identified above. Please note that these costs are not included in the 2022 CIP total. The on-going Town-wide street lighting conversion project will provide the savings to offset the cost of this project by the reduction of utility payments.

2/7/2022
Consent

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

5. Resolution 2022-157

Budget Details Amendment - CRS 3108 - Hach

The Engineering Department, Water Pollution Control Division, is requesting approval to amend the budget details of CRS-CMS 3108-2933 for the agreement with Hach Company, originally approved under RES-2022-51. The requested amendment will change the account to be charged to bond account KP2136-2150, WPCF Building & Equipment Infrastructure, Phase 3.

Funds will be available in KP2136-2130.

Thank you for considering this request.

2/7/2022
Consent

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

6. Resolution 2022-158

Payment Authorization - Xylem Dewatering Solutions CRS 3131

The Engineering Department-Water Pollution Control Facility Division is requesting that the Town Board authorize the Supervisor to approve payment of Xylem Dewatering Solutions. Inc. invoice 401116712, work order 704016671/1.0 for $1,404.53. This approval is for work already completed to our Godwin portable pump by Xylem Dewatering Solutions a "sole source" repair facility. While the parts purchased on this invoice were according to our Town bid 2020033A Pump Parts, the labor portion of $910.00 is not included in the contract. All work performed was off-site, delivered and picked up by a WPCF employee and as such, we also request a waiver from insurance.

Funds will be available in G9916-4910.

This request has successfully completed the contract review process.

2/7/2022
Consent

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

7. Resolution 2022-159

Support Renewal Agreement - Rockwell Automation - CRS 3129

The Engineering Department-Water Pollution Control Facility is currently seeking Town Board approval to authorize the Supervisor to sign the attached agreement with Rexel USA, Inc. This agreement will allow the WPCF to purchase a three-year Rockwell Automation tech support and product update for a total of $5,177.00 and will be valid through October 17, 2024.

Funds are available from account G9916-4960 as follows:

- Year 1 - $1,837.00
- Year 2 - $1,670.00
- Year 3 - $1,670.00

This request has successfully completed the contract review process.

Thank you for considering this request.

2/7/2022
Consent

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

8. Resolution 2022-160

One-Year Subscription for Mitchell! ProDemand OnlineService Manual CRS 3144

We respectfully request the Town Board to authorize the Supervisor to sign the enclosed Mitchell1 Order Form in order to renew our online subscription of Automotive Service/Repair Manuals for vehicle maintenance and repairs. The online subscription provides important software-driven diagnostic tools for the Engineering Department. The total amount for the 1-year subscription is $2,448.00.

We are also requesting an insurance waiver as this is for an online-only subscription and Mitchell1 representatives will not be on site. Funding will be available from the Sewer Maintenance account G 9000 - 4240.

This request has successfully completed the contract review procedure. Thank you for considering this request.

2/7/2022
Consent

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

9. Resolution 2022-161

One Year Maintenance & Support Renewal MP2 Enterprise Edition Software CRS 3146

We are required to maintain a licensing agreement with the software vendor, Hexagon EAM Holdings, LLC (formerly Infor US, Inc.), to supply on-line maintenance and technical support for the MP2 Enterprise Edition. MP2 Enterprise Edition is the main operating software used to control and monitor all assets and equipment for the Engineering Sewer Maintenance Department.

As such, we are requesting your approval for a 1-Year maintenance & support renewal for the MP2 Enterprise Edition software. The maintenance & support agreement annual cost is $3,726.62 and will cover the period from February 1, 2022 to January 31, 2023.

In addition, we are also requesting Board approval for a partial waiver of the insurance requirements included in the Addendum to Contract form. The insurance waiver is requested due to the fact that this vendor will NOT come onto Town Property. Hexagon will be supplying the software and all technical assistance virtually from their offices which are located outside of the Town.

This request is pending the successful completion of the contract review procedure. Funds will be available for this agreement from account G9000 - 4090. Thank you for considering this request.

2/7/2022
Consent

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

10. Resolution 2022-162

Purchase of TPMS Diagnostics Tool

We are requesting Town Board approval to purchase a diagnostic scan tool from Advance Professional (quotes attached). This tool is used to diagnose mechanical issues with our Town vehicles. The total cost for the purchase of the diagnostic scan tool will be $5,998.00.

Funding for this purchase is available from budget code G9000-2550 which requires Town Board approval.

Thank you for considering this request.

2/7/2022
Consent

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

11. Resolution 2022-163

Progressive Cavity Pump Parts Procurement - Shrier Martin CRS No. 3132

The Engineering Department-Water Pollution Control Facility is requesting the Town Board to authorize the Supervisor to sign an agreement with Shrier-Martin Process Equipment. This agreement is for Moyno™ progressive cavity pump parts as listed on Shrier-Martin quote 7780, dated January 12, 2022. Shrier-Martin Process Equipment is the "sole source" supplier of Moyno™ parts for our territory. The WPCF would also request a waiver from insurance as this company would be utilizing a third party delivery service. The total cost of this procurement would be $8,688.93 plus freight. The term of this contract will be from date of execution by the Town of Amherst through April 01, 2022.

This request has successfully completed the contract review process.

Funds will be available in G9916-4860.

Thank you for considering these requests.

2/7/2022
Consent

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

12. Resolution 2022-164

Change Order No. 1 Increase of $19,175.00 to Camden Group, Inc. 2021 Sanitary Sewer Manhole Rehabilitation CRS# 3145

We are requesting the Town Board approve the above referenced Change Order No. 1, which calls for a $19,175.00 increase in the contract amount. This Change Order is necessary to account for additional locations that were added to the relining scope after the bid went out and all locations relined had manhole rehabilitation done.

May we please have approval for Change Order No.1 for an increase in the contract amount? This change order increase of $19,175.00 is available from project bond account KP 2130 - 4972. This request has been approved under the contract review process. Thank you for considering this request.

2/7/2022
Consent

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

L. FINANCE:

M. HIGHWAY

1. Resolution 2022-165

Payment Authorization for Sole Source Vendor

We are requesting your approval to authorize the Town Comptroller to pay the attached invoice/purchase order PO # 22120804 for $2,261.28 for 2021 and PO #22020818 encumbered for $13,672.15. Both are associated with this sole source vendor.

We are required to purchase from Custom Truck One Source (North American Equipment Upfitters) for mandatory inspection and replacement at seven years plus for aerial lift vehicles as they represent a sole source for Highway to purchase specific inspections and parts for Town trucks and aerial buckets.

Please approve the above request and authorize the payment of PO #22120804 and PO #22020818 totaling $15,933.43. Funding is available within the 2021 Budget. Thank you!

2/7/2022
Consent

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

2. Resolution 2022-166

Authorize the Purchase of One (1) TOWMASTER HeavyEquipment Trailer, Model T-16DT #3033

NOW THEREFORE BE IT RESOLVED, the Town Board authorizes the purchase of one (1) TOWMASTER HEAVY EQUIPMENT TRAILER, MODEL T - 16DT. This request replaces Resolution # 2021-1061, dated 11/22/2021 to change financial impact account.

The purchase is from George & Swede Sales & Service Inc, 7155 Big Tree Road, Pavilion, NY 14525 for $13,657.60 under SOURCEWELL CONTRACT #121918-MNR with maturity date of 02/11/2023.

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 #3033) and the approval of the Town Attorney.

2/7/2022
Consent

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

N. HUMAN RESOURCES:

1. Resolution 2022-167

Senior Clerk Typist/Planning Department

Please appoint a Senior Clerk Typist to the Planning Department. Permanent, from list, pending satisfactory completion of a probationary term as set forth in the Civil Service Rule XIII. Effective February 8, 2022 at an annual salary of $35,583, Grade 5, Step A for Rachel Boerschig.

This is a promotion for an employee currently serving as a Clerk Typist.

2/7/2022
Consent

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

2. Resolution 2022-168

Recreation Attendant - PT / Senior Center

Recreation Attendant - PT / Senior Center, Effective February 8, 2022, Temporary, $15.10 ph, Step 4 for Christine Luehrsen.

2/7/2022
Consent

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

3. Resolution 2022-169

Maintenance Worker/Engineering (2 Positions)

Please appoint two (2) Maintenance Workers to the Engineering Department. Permanent, pending satisfactory completion of a probationary term as set forth in the Civil Service Rule XIII. Effective February 8, 2022 at an hourly rate of $19.69, Grade II, Step A for Daniel Thuman and Jacob Bukowski.

These positions will fill vacancies due to Retirements.

2/7/2022
Consent

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

4. Resolution 2022-170

Motor Equipment Operator/Engineering (2 Positions)

Please appoint two (2) Motor Equipment Operators to the Engineering Department. Permanent, pending satisfactory completion of a probationary term as set forth in the Civil Service Rule XIII. Effective February 8, 2022 at an hourly rate of $20.84, Grade III, Step 1 for Jeffrey Vetter and James Maddigan.

Contingent upon completing all pre-employment requirements.

These positions will fill vacancies due to Retirements.

2/7/2022
Consent

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

5. Resolution 2022-171

Recreation Supervisor-PT/Youth & Recreation

Recreation Supervisor - PT / Youth & Recreation, Effective February 8, 2022, Temporary, $15.70 ph, Step 1 for Carol A. Rogers.

Filling a position created to provide outreach programs.

2/7/2022
Consent

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

6. Resolution 2022-172

Recreation Attendant - PT / Youth & Recreation

Recreation Attendant - PT / Youth & Recreation, Effective February 8, 2022, Temporary, $13.80 ph, Step 3 for Samuel J. Greco.

Filling a vacant position due to the reduced availability of our current staff.

2/7/2022
Consent

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

7. Resolution 2022-173

Recreation Attendant - PT / Youth & Recreation (4 Positions)

Recreation Attendant - PT / Youth & Recreation (4 Positions) , Effective February 8, 2022, Temporary, $13.20 ph, Step 1 for Maggie Alesius, Zachary Collins, Jenna Doerfler and Madelyn Standish.

Filling vacant positions due to reduced availability of our current part-time staff.

2/7/2022
Consent

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

O. INFORMATION TECHNOLOGY:

P. PLANNING:

1. Resolution 2022-174

Travel Request for Jeffrey Klein to Attend the Finger Lakes Building Officials Educational Conference

Please approve a travel request for Jeffrey Klein to attend a 3 day educational conference from March 14, 2022-March 16, 2022 at a cost not to exceed $390.00.

2/7/2022
Consent

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

2. Resolution 2022-175

To Adopt the 2022 CDBG/HOME Annual Action Plan and to Authorize the Supervisor to Submit the Plan to HUD

WHEREAS, the Town has prepared an Action Plan delineating the use of CDBG and HOME funds for Fiscal Year 2022 to address housing and community development needs identified in the 2020 -2024 Five Year Consolidated Plan; and

WHEREAS, the Town has complied with HUD requirements that at least two public hearings be held. The first hearing was on October 18, 2021 and the second one on January 18, 2022 to inform citizens of the availability of CDBG and HOME funds for Program Year 2022, now, therefore, be it

RESOLVED that the Amherst Town Board hereby adopts the 2022 CDBG/HOME Annual Action Plan for April 1, 2022-March 31, 2023, and authorizes the Supervisor to act as official representative of the Town in submitting the Action Plan and amendments thereto, all understandings and assurances contained therein, and authorizes him to act in connection with the submission of the Action Plan and to provide such additional information as may be required by the Department of Housing and Urban Development.

2/7/2022
Consent

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

3. Resolution 2022-176

To Authorize the Supervisor to Extend the Agreement with the Center for Elder Law & Justice (CELJ) for Free Legal Services CRS #3149

WHEREAS, the Town of Amherst received a second special appropriation of the Coronavirus Aid, Relief and Economic Security (CARES) Act funding through the Town's Community Development Block Grant Program (CDBG-CV); and

WHEREAS, on January 4, 2021 the Town Board approved a substantial amendment to the 2020 Annual Action Plan for Community Development to allocate the second appropriation of CDBG-CV funding; and

WHEREAS, the amendment included a $62,500 award for the (CELJ) to manage increased legal assistance requests from senior Town residents due to pandemic related housing insecurity; and

WHEREAS, at the Town Board meeting of March 8, 2021, the contract was approved for the period April 1, 2020 through August 31, 2021. Due to the eviction moratorium being in effect until January 15, 2022, Community Development staff would like to extend the contract until September 30, 2022. Now therefore, be it

RESOLVED, the Town Board of the Town of Amherst authorizes the Town Supervisor, subject to the satisfactory completion of the contract routing process, to extend the contract with the (CELJ) until September 30, 2022. Adequate funds are available in the CDBG budget to cover the maximum $62,500.00 cost of the proposed contract.

2/7/2022
Consent

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

Q. POLICE:

1. Resolution 2022-177

Travel & Training Request Institute of Police Technology and Management Pedestrian/Bicycle Crash Investigation Court

TOWN BOARD AGENDA ITEM : FEBRUARY 7, 2022

TO: **Town Board**

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

RE: **Travel & Training Request**
Institute of Police Technology and Management
Pedestrian/Bicycle Crash Investigation Court

Kindly adopt a Resolution authorizing two (2) Investigators to attend an investigative course with regard to the above matter. This course was held in Saratoga County, New York from January 23, 2022 through January 28, 2022. The cost for this course is approximately $1354.13.

Thank you.

SPC:msl
Attachment
C: Tim Koller, Deputy Town Clerk **(Agenda Item: February 7, 2022)**

2/7/2022
Consent

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

2. Resolution 2022-178

Travel & Training Request NYTOA Law Enforcement Tactical Training Conference & Expo

TOWN BOARD AGENDA ITEM : FEBRUARY 7, 2022

TO: **Town Board**

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

RE: Travel & Training Request
NYTOA Law Enforcement Tactical Training Conference & Expo

Kindly adopt a Resolution authorizing four (4) ERT members to attend the NYTOA Law Enforcement Tactical Training Conference & Expo. This conference is held in Verona, New York from April 26, 2022 through April 29, 2022. The cost for this course is approximately $3407.46.

Thank you.

SPC:msl
Attachment
C: Tim Koller, Deputy Town Clerk **(Agenda Item: February 7, 2022)**

2/7/2022
Consent

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

3. Resolution 2022-179

Vocational Training Contract (CRS# 3143) Williamsville Central School District

TOWN BOARD AGENDA ITEM : FEBRUARY 7, 2022

TO: Town Board

FROM: Scott P. Chamberlin, Chief of Police

RE: Vocational Training Contract (CRS# 3143)
Williamsville Central School District

Kindly adopt a Resolution authorizing the Supervisor to enter into and execute the above entitled contract with the Williamsville Central School District (CRS #3143). This contract has successfully completed the Contract Routing Process.

Thank you.

SPC:msl
Attachment
C: Tim Koller, Deputy Town Clerk ***(Agenda Item: February 7, 2022)***

2/7/2022
Consent

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

4. Resolution 2022-180

Action Target, Inc. (CRS# 3151) Metals Recycling Contract: Bailey Training Facility Range

TOWN BOARD AGENDA ITEM : FEBRUARY 7, 2022

TO: **Town Board**

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

RE: **Action Target, Inc. (CRS# 3151)**
Metals Recycling Contract: Bailey Training Facility Range

Kindly adopt a Resolution authorizing the Supervisor to enter into and execute the above entitled contract with the Action Target, Inc. (CRS #3151). This contract has successfully completed the Contract Routing Process.

Thank you.

SPC:msl
Attachment
C: Tim Koller, Deputy Town Clerk ***(Agenda Item: February 7, 2022)***

2/7/2022
Consent

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

R. SENIOR SERVICES:

S. YOUTH AND RECREATION:

1. Resolution 2022-181

Emergency Purchase Authorization

Authorize the purchase of 990 pounds of R 22 from Trane to address an issue with the south end compressors at the Northtown Center at Amherst.

2/7/2022
Consent

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

2. Resolution 2022-182

Lease Agreement CRS #3140

Authorize the Supervisor to sign an agreement between the Town of Amherst (Youth & Recreation Department) and Elder Care Solutions of WNY, LLC for rental of office space at the Harlem Road Community Center.

2/7/2022
Consent

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

3. Resolution 2022-183

Travel Authorization - CADCA

Authorize Anne Rohrer to attend the 2022 Community Anti-Drug Coalitions of America (CADCA) National Forum in National Harbor, MD from 1/30-2/5/22. All costs will be paid for

by the Drug Free Communities grant.

2/7/2022
Consent

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

XIV. UNFINISHED BUSINESS

XV. COMMUNICATIONS

1. Communication 2022-8

Request for Public Hearing - 100 Maple Road

Request from Sean Hopkins, Esq. for a public hearing with respect to the rezoning of 100 Maple Road from GB to SC-3.

This hearing has been scheduled for March 14th.

2/7/2022
Consent

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

2. Communication 2022-9

Amherst Symphony Orchestra Signage

Request from the Amherst Symphony Orchestra requesting a fee waiver and permission for signage to be placed at Parks Department, Clearfield Library and the Harlem Road Community Center for one week prior to the concert on February 20th. Response from the Building Commissioner is attached.

2/7/2022

Consent

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

3. Communication 2022-10

Resident(S) Comments Regarding 1789 Dodge Road

Residents comments regarding the rezoning and development of 1789 Dodge Road.

2/7/2022
Referred to Planning and Attorney.

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

4. Communication 2022-11

Resident Comments Regarding Sale of Meyer Road Property

Resident has questions about sale of Meyer Road property, posted assessment and sale price.

2/7/2022
Referred to Planning, Attorney and Assessor.

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

5. Communication 2022-12

Notice of Claim: Paul Gust Vs. Town of Amherst Et Al.

2/7/2022
Referred to Town Attorney.

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

6. Communication 2022-13

Notice of Claim: Verizon Vs. Town of Amherst

2/7/2022
Referred to Town Attorney.

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

7. Communication 2022-14

Notice of Claim: Helena Axelrod Vs. Town of Amherst

2/7/2022
Referred to Town Attorney.

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

8. Communication 2022-15

Notice of Claim: Anthony Bartucca Vs. Town of Amherst Et Al

2/7/2022
Referred to Town Attorney.

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

9. Communication 2022-16

Notice of Claim: Robert and Karla Smyton Vs. Town of Amherst

2/7/2022
Referred to Town Attorney.

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

10. Communication 2022-17

Summons and Complaint: Dominic Dunstan, a Minor, by and through His Mother and Natural Guardian, Catherine Dunstan, and Catherine Dunstan, Individually Vs. Town of Amherst Et Al.

2/7/2022
Referred to Town Attorney.

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

XVI. PUBLIC IMPROVEMENT PERMITS

1. Resolution 2022-184

PIP 3097 - Evergreen Landing Phase V - Sanitary Sewer

Attached please find an application for a Sanitary Sewer Public Improvement Permit properly filled out. Permit fee and inspection cost amount to $7,425.00.

Two (2) checks will be sent to the Town Clerk, one for $150.00 to be retained as a Permit Fee and one (1) in the amount of $7,275.00 which will be sent to the Comptroller's Office by the Town Clerk to be held in escrow to cover the inspection cost.

At this time we are asking for your approval of the application for PIP No. 3097.

2/7/2022
Consent

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

2. Resolution 2022-185

PIP 3098 - Evergreen Landing Phase V - Waterline

Attached please find an application for a Waterline Public Improvement Permit properly filled out. Permit fee and inspection cost amount to $9,174.00.

Two (2) checks will be sent to the Town Clerk, one for $150.00 to be retained as a Permit Fee, and one (1) in the amount of $9,024.00, which will be sent to the Comptroller's Office by the Town Clerk to be held in escrow to cover the inspection cost.

At this time we are asking for your approval of the application for PIP No. 3098.

2/7/2022
Consent

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

3. Resolution 2022-186

PIP 3099 - Evergreen Landing Phase V - Storm Sewer

Attached please find an application for a Storm Sewer Public Improvement Permit properly filled out. Permit fee and inspection cost amount to $3,762.80.

We are sending two (2) checks to the Town Clerk, one for $150.00 to be retained as a Permit Fee and one in the amount of $3,612.80 which will be sent to the Comptroller's Office by the Town Clerk to be held in escrow to cover the inspection cost.

At this time we are asking for your approval of the application for PIP No. 3099.

2/7/2022
Consent

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

4. Resolution 2022-187

PIP 3100 - Evergreen Landing Phase V - Paving & Curbing

Attached please find an application for a Pavement and Curbs Public Improvement Permit properly filled out. Permit fee and inspection cost amount to $46,291.20.

We are sending two (2) checks to the Town Clerk, one for $150.00 to be retained as a Permit Fee and one in the amount of $46,141.20 which will be sent to the Comptroller's Office by the Town Clerk to be held in escrow to cover the inspection cost.

At this time we are asking for your approval of the application for PIP No. 3100.

2/7/2022
Consent

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

5. Resolution 2022-188

PIP 3079 - Geselwoods Subdivision - Sanitary Sewer

This is to certify that the referenced sanitary sewer construction has been completed in accordance with plans and specifications, and we recommend that the same be accepted.

A Maintenance Bond for a period of two (2) years in the amount of $20,975.00, representing 25% of the cost of construction has been forwarded to the Town Clerk.

2/7/2022
Consent

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

6. Resolution 2022-189

PIP 3080 - Geselwoods Subdivision Waterline

This is to certify that the referenced waterline construction has been completed in accordance with plans and specifications, and we recommend that the same be accepted.

A Maintenance Bond for a period of two (2) years in the amount of $13,250.00, representing 25% of the cost of construction has been forwarded to the Town Clerk.

2/7/2022
Consent

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

7. Resolution 2022-190

PIP 3081 - Geselwoods Subdivision - Storm Sewer

This is to certify that the referenced storm sewer construction has been completed in accordance with plans and specifications, and we recommend that the same be accepted.

A Maintenance Bond for a period of two (2) years in the amount of $23,550.00, representing 25% of the cost of construction has been forwarded to the Town Clerk.

2/7/2022
Consent

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

8. Resolution 2022-191

PIP 3082 - Geselwoods Subdivision - Paving & Curbing

This is to certify that the referenced paving and curbing construction has been completed in accordance with plans and specifications, and we recommend that the same be accepted.

A Maintenance Bond for a period of two (2) years in the amount of $46,600.00, representing 25% of the cost of construction has been forwarded to the Town Clerk.

2/7/2022
Consent

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

XVII. PUBLIC EXPRESSION #2

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

3 minutes.

A motion to open Public Expression was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0. Public Expression was opened at 8:17 PM.

The following speaker addressed the Town Board:
Don Smith, N. Long St. - easier access to notification of meetings

There were no further 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 8:21 PM.

XVIII. ADJOURNMENT

There being no further business to come before the Town Board, Supervisor Kulpa moved to adjourn, seconded by Councilmember Bucki and unanimously approved 5-0. The Town Board meeting of February 7, 2022 was adjourned at 8:21 PM.

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

Francina J. Spoth
Town Clerk

Meeting: 02/07/22 07:00 PM
Department: Town Clerk
Initiated by: **Timothy Koller**
Co-Sponsored by:

DOC ID: 25402 **RESOLUTION 2022-120** **HEARING CLOSED**

1501 - 1551 Niagara Falls Boulevard Rezoning

Request to rezone 1501 - 1551 Niagara Falls Boulevard from CTR-5 to DC-3.

2/7/2022
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 7:11 PM.

Attorney James Boglioli, Benderson Development, presented.

There were no speakers from the public, therefore Supervisor Kulpa moved to close the hearing and set a decision date for the February 28th Town Board meeting, seconded by Councilmember Bucki and unanimously approved 5-0. The public hearing was closed at 7:26 PM.

RESULT:	**HEARING CLOSED**

Amherst

Town of Amherst Planning Department — Erie County, New York

Brian J. Kulpa, Supervisor
Daniel C. Howard, A Planning Director
Ellen M. Kost, AIC Assistant Planning Dir

Town Board Agenda of
February 7, 2022

January 27, 2022

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

Subject: Request to rezone 13.9± acres of land from the Center 5 (CTR-5) to Deep Corridor 3 (DC-3) zoning districts; property located at 1501-1551 Niagara Falls Boulevard, 1151 NFB LLC, Petitioner. (Z-2021-09)

Honorable Members:

The subject property is a 13.9± acre rectangular shaped parcel located at the southeast corner of Niagara Falls Boulevard and Romney Road. The parcel has 717.72± ft. of frontage along Niagara Falls Boulevard and 837.30± ft. of frontage along Romney Road with a depth of 849.30± ft. from Niagara Falls Boulevard and 717.00± ft. from Romney Road.

The site is located within the Boulevard Central District Planning Area and is currently occupied by 3 retail buildings consisting of a 161,040 sq. ft. main plaza building, 26,855 sq. ft. out building and a 3,672 sq. ft. branch bank office with parking for 586 vehicles and 6 driveways to the adjacent roadways (3 to Niagara Falls Boulevard and 3 to Romeny Road).

Niagara Falls Boulevard whose centerline is the Town's municipal boundary with the Town of Tonawanda is a NYSDOT highway designated as a major arterial and Romney Road is a Town roadway designated as a local street in the Town of Amherst Bicentennial Comprehensive Plan.

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

The purpose of this request is to permit the petitioner to redevelop a portion of the existing plaza which will include:

- Partial demolition (90,000 sq. ft.) of the existing building located in the rear of the site and to construct a new 102,000 sq. ft. building.
- Enlarge the sidewalk depth and install required landscaping between the new building and vehicle use area.
- Addition of landscape islands within the existing parking lot.
- Resurface the existing parking lot with new pavement within the parking field for the new building.
- Make improvements to existing grading and site drainage infrastructures.

Attachment: Z-2021-09 TB letter packet 020722 (RES-2022-120 : 1501 - 1551 Niagara Falls Boulevard Rezoning)

Honorable Town Board

Rezone land from CTR-5 to DC-3
Property located at 1501-1551 Niagara Falls Blvd.
Agenda of August 9, 2021

History of previous rezoning requests:

- The subject site was zoned General Business District (GB) with the adoption of the zoning ordinance and map on January 19, 1976.
- The Town Board on December 14, 2020 rezoned the subject site from GB to Center 5 (CTR-5) as part of a Town wide initiative to implement the new mixed-use zoning districts (Z-2020-08).

History of previous site plan requests:

- The Planning Board on June 20, 1985 approved a site plan for an addition to the existing plaza (SP-1985-42).
- The Planning Board on June 18, 1987 approved a site plan for an infill expansion of 5,160 sq. ft. to the building in northwest corner of site (and addition of 19,346 sq. ft. leg to the southwest corner of the main plaza building (SP-1985-42_A).
- The Planning Board on August 17, 1989 approved a site plan for the addition of a 3,500 sq. ft. outbuilding along Niagara Falls Boulevard (SP-1985-42_B).
- The Planning Director on April 12, 1995 approved a site plan for a 520 sq. ft. building and loading/truck dock addition to the southeast portion of the main plaza building (SP-1985-42_C).
- The Planning Director on September 18, 1996 approved a site plan for a loading dock on the east side of the main plaza building (SP-1985-42_D).
- The Planning Director on August 5, 1999 approved a site plan for the addition of a bank drive thru to existing branch bank (SP-1985-42_E).
- A site plan was filed to demolish an existing restaurant & the southerly wing of easterly building and construct a new free standing restaurant & parking field and was withdrawn by the petitioner on January 23, 2014 (SP-1985-42_F).
- The Planning Director on April 13, 2012 approved a site plan for changes to water & sanitary sewer services to the northwest outbuilding. (SP-1985-42_G).
- The Planning Director on November 13, 2014 approved a site plan to revise handicapped parking and walkways on the south side of the branch bank (SP-1985-42_H).
- The Planning Director on July 24, 2015 approved a site plan for a 27 space parking expansion in northeast portion of the site (SP-1985-42_I).
- A site plan was filed on September 20, 2021 and reviewed by the Planning Board for the partial demolition of the existing structure to reconstruct a larger building addition with loading docks and associated site improvements (SP-1985-42_J).

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

Attachment: Z-2021-09 TB letter packet 020722 (RES-2022-120 : 1501 - 1551 Niagara Falls Boulevard Rezoning)

Honorable Town Board

Rezone land from CTR-5 to DC-3
Property located at 1501-1551 Niagara Falls Blvd.
Agenda of August 9, 2021

INTENT AND OBJECTIVES OF THE COMPREHENSIVE PLAN

The subject request is consistent with Section 5.0 of the comprehensive plan which indicates that the Town's industrial and retail sectors are expected to grow more modestly than the office employment sectors and that steps must be taken in the coming years to ensure that these sectors remain stable. For this reason, the Town's existing inventory of retail space must be kept up to date, a process that will include both the rehabilitation of existing buildings as well as the construction of new space that allows flexibility for tenants.

The subject request is also consistent with Section 5.2 of the comprehensive plan which is to encourage the Town to create and maintain a strong tax base and ample economic opportunities for a diverse base of employers and employees, housed in attractive, state-of-the-art commercial developments in convenient and accessible locations. Additionally the subject request is consistent with the Town of Amherst Bicentennial Comprehensive Plan's figure 6 "Conceptual Land Use Plan which projects commercial/mixed use for the parcel and surrounding area.

INTENT AND OBJECTIVES OF THE ZONING ORDINANCE

The proposed rezoning is consistent with Section 1-2-2K of the Zoning Ordinance which seeks to guide future development of the Town to bring about the gradual conformity of land and building uses in accordance with the objectives of the Comprehensive Plan.

CONSISTENCY/COMPATIBILITY WITH SURROUNDING DEVELOPMENT/ZONING

The subject site is compatible with the surrounding commercial (retail plaza) developments to the north and south of the site as well as the commercial uses in the Town of Tonawanda on the west side of Niagara Falls Boulevard and is also compatible with the warehouse/office/distribution uses located on the parcel directly to the east.

ADEQUATE SERVICES AND UTILITIES

All services and utilities necessary for the proposed rezoning are available and adequate at the subject location. This is an Unlisted 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. The proposed rezoning is consistent with the findings of the FGEIS adopted by the Town Board for the Boulevard Central District Planning Area.

RECOMMENDATION

The Planning Board at their meeting of November 18, 2021 held a public hearing on the subject rezoning request and recommended that the Town Board find that the requirements of SEQR have been completed and that the subject request will not have a significant adverse effect on the environment. The Planning Board also recommended that the subject rezoning request be approved.

Attachment: Z-2021-09 TB letter packet 020722 (RES-2022-120 : 1501 - 1551 Niagara Falls Boulevard Rezoning)

Honorable Town Board

Rezone land from CTR-5 to DC-3
Property located at 1501-1551 Niagara Falls Blvd.
Agenda of August 9, 2021

The Planning Department requests that if the Town Board desires to act on the rezoning request, that a decision date be established after the public hearing so that the Planning Department can prepare a determination of environmental significance pursuant to SEQR, and prepare a resolution for the Town Board's consideration.

Very truly yours,

Daniel C. Howard, AICP
Planning Director

DH/SM/ac
Att.
X:\Current_Planning\Files\Rezonings\2021\Z-2021-09_(1501-1551_Niagara_Falls_Blvd)_2021\Z-2021-09_TB_Letter_01262022.doc
cc: Stanley Sliwa, Town Attorney
Planning Board Approval November 18, 2021
Ayes 6; Noes 0; Abstain 1 (Chmiel)

Attachment: Z-2021-09 TB letter packet 020722 (RES-2022-120 : 1501 - 1551 Niagara Falls Boulevard Rezoning)

TOWN OF AMHERST
PLANNING BOARD
ZONING RESOLUTION
Z-2021-09

PETITIONER

1551 NFB LLC
570 Delaware Avenue
Buffalo, NY 14202

PROPERTY LOCATION

1501-1551 Niagara Falls Boulevard

NOV23'21 AM11:22 RCVD

WHEREAS the Town of Amherst Planning Board on Thursday, November 18, 2021 held a public hearing on the proposed rezoning of land from the Center 5 (CTR-5) zoning district to the Deep Corridor 3 (DC-3) zoning district, and

WHEREAS the Planning Board has reviewed plans and other materials regarding the rezoning proposal, and

WHEREAS the materials and plans have been referred to the Town's various review agencies, and

WHEREAS in accordance with Section 8-3-5 of the Zoning Ordinance the Planning Board finds that:

A. The proposed zoning and development plan is generally consistent with the policies of the Comprehensive Plan and the Zoning Ordinance and the proposal is consistent with the Conceptual Land Use Plan which shows commercial/mixed use land uses in this area of the Town.

B. There are adequate services and utilities available or proposed to be made available in the construction of the development.

C. The proposal is compatible with the present zoning and conforming uses of nearby property and to the character of the neighborhood.

D. The subject property is suitable for uses permitted by the current and the proposed district.

E. The proposed change does tend to improve the balance of uses, or meets a specific demand in the Town.

F. Review by the US Army Corps of Engineers under Section 404 of the Clean Water Act may be waived because the parcel is developed.

WHEREAS pursuant to Local Law #3-82, as amended, the Planning Board recommends that the Town Board determine that the requirements of SEQR are complete and that the subject proposal is not expected to have a significant adverse effect on the environment.

Attachment: Z-2021-09 TB letter packet 020722 (RES-2022-120 : 1501 - 1551 Niagara Falls Boulevard Rezoning)

TOWN OF AMHERST
PLANNING BOARD
ZONING RESOLUTION
Z-2021-09

PETITIONER

1551 NFB LLC

PROPERTY LOCATION

1501-1551 Niagara Falls Boulevard

NOV23'21 AM11:22 RCVD

NOW THEREFORE BE IT RESOLVED that the Planning Board recommends to the Town Board in accordance with Section 8-3-4 of the Zoning Ordinance, that the rezoning request be approved.

The foregoing resolution was adopted by the Town of Amherst Planning Board, November 18, 2021; moved by Gelber; seconded by Giuliani; ayes 6, noes 0; abstain 1 (Chmiel).

Robert J. Gilmour, Chair

11-23-21
Date

SM/ac
X:\Current_Planning\Files\Rezonings\2021\Z-2021-09_(1501-1551_Niagara_Falls_Blvd)_2021\Z-2021-09_resolution_111821.doc

cc: Town Clerk
Commissioner of Building
Highway Superintendent
Town Engineer
Traffic/Safety Coordinator
James Boglioli, Benderson Development Co., 570 Delaware Ave., Buffalo, NY 14202

Attachment: Z-2021-09 TB letter packet 020722 (RES-2022-120 : 1501 - 1551 Niagara Falls Boulevard Rezoning)

BENDERSON DEVELOPMENT COMPANY, LLC. • 570 Delaware Ave., Buffalo, NY 14202 • 716/886-0211• FAX 716/886-2269 • www.benderson.com

Attachment: Z-2021-09 TB letter packet 020722 (RES-2022-120 : 1501 - 1551 Niagara Falls Boulevard Rezoning)

October 27, 2021

VIA HAND DELIVERY
Brian J. Kulpa, Town Supervisor
Town of Amherst
5583 Main Street
Williamsville, NY 14221

RE: Proposed Rezoning of 1051-1551 Niagara Falls Blvd
BDP# 5256

Dear Mr. Kulpa and Members of the Town Board:

In connection with the above-referenced property, please accept this letter and the enclosed application materials in support of our request to rezone the parcel located at 1501-1551 Niagara Falls Blvd from Center 5 District ("CTR-5") to Deep Corridor 3 ("DC-3").

Information on the Project:

A. Description of the Character of the Proposed Development

The Project Site is an existing shopping center located on the southeast corner of Niagara Falls Boulevard and Romney Road. It is improved with a 160,700 s.f. "L" shaped building located at the rear of the site, a +/- 26,854 s.f. building located at the front of the site along Romney Road and a 3,658 s.f. Northwest Savings Bank located along Niagara Falls Blvd. The site maintains four driveways on Niagara Falls Blvd. and three on Romney Road. The proposed project will consist of the following:

- The partial demolition of existing building located in the rear of the site (90K removed) and to construct 102K square footage with associated loading docks;
- Increase the building sidewalk depth and install the code required landscaping between the building and main drive lane;
- Add additional landscaping islands within the existing parking lot to bring it into compliance with the code required landscaping;
- Resurface the existing asphalt parking lot and new pavement within the main parking field of the new building; and
- Make improvements to the existing grading and site drainage infrastructures.

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Attachment: Z-2021-09 TB letter packet 020722 (RES-2022-120 : 1501 - 1551 Niagara Falls Boulevard Rezoning)

B. Rationale for the Rezoning Request

1. Why was the site chosen?

The Project Site is an existing shopping center and Benderson is seeking to redevelop the shopping center with buildings that meet current standards within the retail industry and the existing building is outdated and no longer meets the requirements for national retailers.

2. Why cannot land be used with the existing zoning?

Rebuilding the building in the same location as proposed is not consistent with the existing zoning. In addition, there will be no functional second story.

3. How will this rezoning impact the surrounding properties?

The proposed rezoning will not have a negative impact on the surrounding properties as it is an existing shopping center and is surrounded by similar uses. The Project Site is located on Niagara Falls Blvd and abuts Blvd Consumer Square to the north, Amherst Development Park to the east and another shopping center to the south. Rezoning the Project Site will not have a negative impact for any of the surrounding properties.

4. How will this rezoning impact the school system?

This rezoning will have a positive impact on the school system. It will increase school taxes while not imposing any burden on the school system.

Basis for Findings (Sec. 8-3-5 of the Town Code).

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.

The proposed project meets Economic Development goals, policies and objectives as identified in the Comprehensive Plan. As noted in the introduction of Comprehensive Plan Section 5.0 "*since the Town's industrial and retail sectors are expected to grow more modestly… steps must be taken in the coming years to ensure these sectors remain stable.*" That section continues that this process should include "the *construction of new space that allows for flexibility for tenants.*"

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Attachment: Z-2021-09 TB letter packet 020722 (RES-2022-120 : 1501 - 1551 Niagara Falls Boulevard Rezoning)

Comprehensive Plan Section 5.2 *provides "A Town with a strong tax base and ample economic opportunities for a diverse base of employers and employees, housed in attractive, state of the art commercial developments in convenient and accessible locations."* The project as proposed will improve the tax base in Amherst. Further it will bring a number of employees to the area and is conveniently located in proximity to the I-290, I-990 and Niagara Falls Blvd. As noted on page 5-3 of the Comprehensive Plan "studies have shown that .... Industrial development partially subsidize(s) the cost of providing high quality facilities and services. Without such development, the burden on the residential taxpayers would be significantly higher."

2. Pursuant to NYS Town Law section 212a(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 and provide detailed suggested amendments.

    - No changes to the Comprehensive Plan are proposed.

3. State why the proposed zoning is consistent with intent and objectives (Sec. 1-2-2) of the Zoning Ordinance.

    The ordinance is intended to achieve, among others, the following objectives:

    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

    The proposed project maintains the current character of the commercial development in the area.

    b) To prevent overcrowding of the land.

    The project does not result in the overcrowding of land. The Project is simply the replacement of an existing commercial building with new commercial building.

    c) To prevent excessive concentration of population and to prevent sparse and uncoordinated development.

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Attachment: Z-2021-09 TB letter packet 020722 (RES-2022-120 : 1501 - 1551 Niagara Falls Boulevard Rezoning)

The project will not result in an excessive concentration of population and the development is being coordinated and laid out in conjunction with the existing development.

d) 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.

The project, through its design will maintain appropriate location and spacing of the buildings so that it is generally consistent with the policies of the Comprehensive Plan.

e) To protect persons and property from damage and injury due to fire or flood.

The project will not result in any risks of injury due to flood and fire and infact will be decreasing the risk of flood as a new detention system that will recue the storm water outflow rate below existing conditions will be constructed as part of this project.

f) To assure that structure and land use arrangements are aesthetically harmonious with nearby areas and structures.

The proposed project has been designed to be aesthetically harmonious with nearby areas and structures.

g) 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.

The proposed project utilizes the existing roadway system and will not result in any increased congestion.

h) 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.

Utilities exist and are currently available at the project site

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Attachment: Z-2021-09 TB letter packet 020722 (RES-2022-120 : 1501 - 1551 Niagara Falls Boulevard Rezoning)

B. Adequate Services and Utilities are available or are proposed to be made available with the construction of the development:

1. Sanitary Sewer: Sanitary sewer currently exists on-site and facilities will be upgraded as needed for the project.
2. Storm Sewer/Drainage: Storm Sewer/Drainage facilities exist on -site and facilities will be upgraded as needed for the project.
3. Water: Water currently exists at the project site and facilities will be upgraded as needed for the project.
4. Other: Gas, Electric and internet also currently exist at the project site.

C. Compatibility with the present zoning and conforming uses of nearby property and the character of the neighborhood.

The surrounding area is developed with several commercial uses, including restaurant, retail, warehouse and manufacturing. The project and its zoning are compatible with the surrounding zoning. The design of the project is compatible with the surrounding zoning and uses. Further, the project will provide employment opportunities which will bring people to the area to support the abutting commercial uses.

D. Suitability of the subject property for the uses permitted by the current versus the proposed district.

The proposed uses are consistent between the existing and proposed zoning.

E. Whether the proposed change tends to improve the balance of uses or meets a specific Town demand.

As noted above, maintains the balance of uses in the Town while redeveloping a tired retail shopping center.

BENDERSON DEVELOPMENT COMPANY, LLC. • 570 Delaware Ave., Buffalo, NY 14202 • 716/886-0211• FAX 716/886-2269 • www.benderson.com

Conclusion

We look forward to working with the Town on this project. We believe this project represents a great redevelopment opportunity for this area that is consistent with the previous development of the property. If there are any questions regarding this letter or the enclosed documentation, please feel free to contact me at (716) 878-9626 or jamesboglioli@benderson.com.

Thank you,
BENDERSON DEVELOPMENT COMPANY, LLC

James A. Boglioli

James A. Boglioli, Esq.
Director, Right to Build – Northeast US

Attachment: Z-2021-09 TB letter packet 020722 (RES-2022-120 : 1501 - 1551 Niagara Falls Boulevard Rezoning)

TOWN OF AMHERST PLANNING DEPARTMENT

Application for Rezoning

For Official Use

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

Address Verified by Assessor's Office _____ VERIFIED BY DATE

Application Received by Planning Department _____ ACCEPTED BY DATE

Materials Checked by Zoning Enforcement Officer _____ CHECKED BY DATE

Materials & Fee Paid to Town Clerk _____ ACCEPTED BY DATE

		Fill In Applicable Fees
2 ACRES OR LESS	**$1,250.**	_____
2 – 20 ACRES **$1,250 + $250/acre or fraction thereof over 2 acres** (fractions of an acre to be counted as 1 acre)		_____
21 – 30 ACRES **$5,700 + $150/acre or fraction thereof over 21 acres** (fractions of an acre to be counted as 1 acre)		_____
OVER 30 ACRES **$6,900 +$75/acre or fraction thereof over 30 acres** (fractions of an acre to be counted as 1 acre)		_____
Request for Relief of / Change to Conditions of Zoning Approval	**$1,200.**	_____
AFFIDAVIT FEE FOR PUBLIC HEARING	**$15.**	_____
	TOTAL FEE:	**$**_____

Town of Amherst Planning Department 5583 Main Street Williamsville New York 14221
(716) 631-7051 Fax (716) 631-7153 Web www.amherst.ny.us

Attachment: Z-2021-09 TB letter packet 020722 (RES-2022-120 : 1501 - 1551 Niagara Falls Boulevard Rezoning)

TO BE COMPLETED BY APPLICANT

1. **Petitioner:**

Name: 1551 NFB, LLC

Address: 570 Delaware Avenue

Buffalo, New York 14202
City State Zip Code

Phone: 716-878-9626 Fax 716-886-1026

E Mail: jmb@benderson.com

2. **The undersigned hereby petitions the Honorable Town Board to rezone the following described property:**

From: CTR-5 District

To: DC-3 District

3. **Street address of land to be rezoned:** (must be verified by Town Assessor's Office)

1501 - 1551 Niagara Falls Boulevard

SBL #: 54.14-1-1.1

4. **Area of land to be rezoned** (in acres): 13.9+/-

5. **Owner of Land:**

Name: 1551 NFB, LLC

Address: 570 Delaware Avenue

Buffalo, New York 14202
City State Zip Code

Phone: 716-878-9626

6. **Representative** (Architect, Engineer, Landscape Architect, Surveyor or Attorney):

Name: James A. Boglioli

Address: 570 Delaware Avenue

Buffalo, New York 14202
City State Zip Code

Phone: 716-878-9626 Fax 716-886-1026

E Mail: jmb@benderson.com

Attachment: Z-2021-09 TB letter packet 020722 (RES-2022-120 : 1501 - 1551 Niagara Falls Boulevard Rezoning)

7. Petitioner's interest in property

_____Option to purchase
__X__Owner
_____Other (explain) _____

8. The following are all others having an interest in this application and join herein with the petitioner named above: (describe extent of interest; attach sheets as needed)

N/A

9. Attach Survey and Legal description of land to be rezoned. The Survey must be prepared by a New York State Licensed Land Surveyor.

10. Said property has the following deed restrictions or covenants: (attach copy)

Liber N/A Page N/A

11. Information on proposed project:

A. Description of the character of the proposed development:

Please see the attached Letter of Intent

B. Rationale for rezoning request:

1. Why was this site chosen? *Please see the attached Letter of Intent*

2. Why cannot land be used with the existing zoning?

Please see the attached Letter of Intent

3. How will this rezoning impact surrounding properties?

Please see the attached Letter of Intent

4. How will this rezoning impact the school system?

Please see the attached Letter of Intent

Attachment: Z-2021-09 TB letter packet 020722 (RES-2022-120 : 1501 - 1551 Niagara Falls Boulevard Rezoning)

12. Quantitative Data:

A. Total # of dwelling units N/A

B. Distribution of dwelling units by type N/A

C. Gross Residential Density per acre N/A

D. Total amount of Open Space N/A

E. Proposed Non-Residential Floor Area

13. Development Schedule:

Start January 2022

Finish June 2022

Stages (# of) One

14. If any portion of the proposed development is planned to be sold or leased, please describe:

Please see the attached Letter of Intent

15. Open Space ownership and maintenance provisions (if applicable):

N/A

16. Basis for Findings (Sec. 8-3-5 of the Town Zoning Code) (Attach sheets and supplemental materials as necessary.)

A. 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.

Please see the attached Letter of Intent

Attachment: Z-2021-09 TB letter packet 020722 (RES-2022-120 : 1501 - 1551 Niagara Falls Boulevard Rezoning)

2. Pursuant to NYS Town Law Section 272a(11), "All Town land use regulations must be in accordance with a comprehensive plan adopted pursuant to this Section." The Amherst Town Board adopted the Bicentennial Comprehensive Plan pursuant to NYS Town Law 272 on January 2, 2007. If the rezoning is approved, the Town Board may require the Plan to be amended, as applicable.

   Cite all text, maps, or figures that must be amended to support the proposed zoning at this location (attach pages as necessary) and provide detailed suggested amendments.

   Please see the attached Letter of Intent

3. State why the proposed zoning is consistent with intent and objectives (Sec. 1-2-2) of the Zoning Ordinance:

   Please see the attached Letter of Intent

B. <u>Adequate Services and Utilities are available or are proposed to be made available with the construction of the development</u>:

1. Sanitary Sewer *Yes*
2. Storm Sewer/Drainage *Yes*
3. Water *Yes*
4. Other

C. Compatibility with the present zoning and conforming uses of nearby property and with the character of the neighborhood:

Please see the attached Letter of Intent

D. <u>Suitability of the subject property for uses permitted by the current versus the proposed district:</u> *Please see the attached Letter of Intent*

E. Whether the proposed change tends to improve the balance of uses, or meets a specific demand in the Town:

Please see the attached Letter of Intent

Attachment: Z-2021-09 TB letter packet 020722 (RES-2022-120 : 1501 - 1551 Niagara Falls Boulevard Rezoning)

17. The petitioner encloses herewith the sum of $ 4,256 to pay the fee, and consents to the placement of a sign(s) at the described location identifying this request for a period of time to be determined by the Town Clerk.

18. The undersigned certifies that all information required to be disclosed pursuant to Section 809 of the General Municipal Law (see below) is as follows:

The undersigned swears or affirms that all statements made herein are true, that all drawings submitted correctly show the situation involved in this petition.

COURTNEY L ADAMO
Notary Public-State of New York
No. 01AD6413282
Qualified in Niagara County
Commission Expires January 25, 2025

Signature of Petitioner

Subscribed and sworn to before me this 28 *day of* October, 20 21

Notary Public, Erie County, New York Courtney Ladamo

N.Y.S. General Municipal Law - Section 809 Disclosure in certain applications:

1. Every application, petition or request submitted for a variance, amendment, change of zoning, approval of a plat, exemption from a plat or official map, license or permit, pursuant to the provision of any ordinance, local law, rule or regulation constituting the zoning and planning regulations of a municipality shall state the name, residence and the nature and extent of the interest of any state office or any office or employee of such municipality or of a municipality of which such municipality is a part, in the person, partnership or association making such application, petition or request (hereinafter called the applicant) to the extent known to such applicant.

2. For the purpose of this section an officer or employee shall be deemed to have an interest in the applicant when he, his spouse, or their brothers, sisters, parents, children, grandchildren, or the spouse of any of them

(a) is the applicant, or
(b) is an officer, director, partner or employee of the applicant, or
(c) legally or beneficially owns or controls stock of a corporate applicant or is a member of a partnership or association applicant, or
(d) is a party to an agreement with such an applicant, express or implied, whereby he may receive any payment or other benefit, whether or not for services rendered, dependent or contingent upon the favorable approval of such applicant, petition or request.

3. In the county of Nassau the provisions of subdivisions one and two of this section shall also apply to a party officer. "Party Officer" shall mean any person holding any position or office, whether by election, appointment or otherwise, in any party as defined by subdivision four or section two of the election law.

4. Ownership of less than five per cent of the stock of a corporation whose stock is listed on the New York or American Stock Exchanges shall not constitute an interest for the purposes of this section.

5. A person who knowingly and intentionally violates this section shall be guilty of a misdemeanor.

Attachment: Z-2021-09 TB letter packet 020722 (RES-2022-120 : 1501 - 1551 Niagara Falls Boulevard Rezoning)

Rezoning Application Requirements and Checklist

The following checklist outlines the information required by the Town of Amherst to accept a Rezoning application. ***It is strongly recommended that you make an appointment with Planning Staff to discuss what information will be needed to address the items shown on the checklist.***

Item No.	Item	Submitted	Official use
I Application Information			
1.0	**Town of Amherst Rezoning / Comprehensive Plan Amendment Application Form (available from Planning Department)**	X	
1.1	Name, address, and contact information of the petitioner	X	
1.2	Name and address of property owners(s) – if different than petitioner	N/A	
1.3	If petitioner is different than property owner, provide statement describing interest in property and a letter from the property owner authorizing the application	N/A	
1.4	Identify existing and proposed zoning and acreage of area proposed to be rezoned	X	
1.5	Parcel addresses and Section, Block, and Lot (SBL) numbers of all properties proposed to be rezoned. Indicate if a portion of any parcel is involved, if applicable	X	
1.6	Statement of planning objectives to be achieved by the proposed rezoning, including the following: • How the proposed zoning and development plan meets the objectives of the Comprehensive Plan • A description of the character of the proposed development • The rationale behind the assumptions that are presented	X	
1.7	Cite specific maps and / or figures in the Comprehensive Plan that must be amended to support the proposed zoning and provide suggested amendments.	X	
1.8	A general statement about how any proposed open space will be maintained (if applicable)	N/A	
1.9	A development schedule indicating the approximate date when construction is expected to begin and be completed. Identify schedule of any proposed phasing of the development (attach pages as necessary)	X	
1.10	A statement of the petitioner's intentions regarding future sale or leasing of all or portions of the proposed development	N/A	
II Survey and Legal Description			
1.0	**Complete boundary survey that includes all existing structures, acreage, legal description, and easements plotted to scale by a NYS licensed land surveyor**	X	
1.1	Raised/wet seal and signature of licensed surveyor	X	
1.2	Clear delineation and acreage of area to be rezoned if different than property boundary	X	
2.0	**Legal Description of the total area proposed to be rezoned. (must be consistent with area shown to be rezoned on boundary survey)**	X	

Attachment: Z-2021-09 TB letter packet 020722 (RES-2022-120 : 1501 - 1551 Niagara Falls Boulevard Rezoning)

Item No.	Item	Submitted	Official use
III Concept Plan (if required by the Planning Board)			
1.0	**Conceptual development plan drawn to scale (no larger than 24" x36" format and folded into 8 ½" x 11" size)**	*X*	
1.1	North arrow	*X*	
1.2	Scale of drawing	*X*	
1.3	Property lines (existing and proposed)	*X*	
1.4	Unique natural features and tree cover	*N/A*	
1.5	Information on land controlled by the applicant located within 500 feet of the perimeter of the area proposed to be rezoned	*X*	
1.6	Location of all proposed structures and other improvements	*X*	
1.7	Number and type of dwelling units (if applicable)	*N/A*	
1.8	Gross square feet of commercial space (if applicable)	*X*	
1.9	Maximum structure heights	*X*	
1.10	Architectural sketches	*X*	
1.11	Existing and proposed contours	*X*	
1.12	Existing utility systems (sanitary sewers, water, storm drainage)	*X*	
1.13	Location of proposed storm water detention or retention facilities	*X*	
1.14	Proposed land use arrangement	*N/A*	
1.15	Location of all parking, loading, stacking and interior circulation drives	*X*	
1.16	Location of proposed curb cuts	*X*	
1.17	Location of cross access drives to adjacent parcels	*X*	
1.18	Pedestrian circulation system	*X*	
1.19	Location of NYSDEC wetlands (including buffer area) and/or federal wetlands; indicate jurisdictional status	*N/A*	
1.20	Location of floodway and 100-year floodplain (if applicable)	*N/A*	
1.21	Location and purpose of any proposed easements	*X*	
1.22	Location and proposed development of all open spaces, including parks, playgrounds, conservation areas, and dedicated open space; indicate intended ownership of such areas	*N/A*	
1.23	Additional data as required by the Planning Board	*X*	
V Other Required Information			
1.0	**Completed and signed Environmental Assessment Form**	*X*	
11	Soil boring report and geotechnical report prepared by a qualified Professional Engineer (if applicable)	*In progress*	
1.2	Traffic impact study (if applicable)	*X*	
1.3	Archaeological assessment (if applicable)	*N/A*	
1,4	Wetland Delineation report (if applicable)	*N/A*	
2.0	**8 1/2" X 11" reduction of concept plan drawing (see appendix B)**	*X*	
3.0	**A CD containing a PDF of the complete submittal package, including all drawings.**	*X*	

For official use only:

_____
Approved/Date

Attachment: Z-2021-09 TB letter packet 020722 (RES-2022-120 : 1501 - 1551 Niagara Falls Boulevard Rezoning)

Short Environmental Assessment Form
Part 1 - Project Information

Instructions for Completing

Part 1 – Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 – Project and Sponsor Information

Name of Action or Project:
Proposed Site Redevelopment

Project Location (describe, and attach a location map):
1501 - 1551 Niagara Falls Blvd, Town of Amherst, Erie County

Brief Description of Proposed Action:
The proposed project is as follows:

1) Request to rezone 13.93 acres of land from the CTR-6 District to the DC-3 Deep Corridor along with multiple variance requests
2) Site Plan Approval to allow for demolition of a 90,439 SF of existing retail buildings and replace them with a new 102,087 SF retail building with associated loading docks..new utilities and drainage, new building sidewalks and landscaping within the existing parking lot.

Name of Applicant or Sponsor:	Telephone: 716-878-9626
Benderson Development Company, LLC	E-Mail: jamesboglioli@benderson.com

Address:
570 Delaware Ave

City/PO:	State:	Zip Code:
Buffalo	NY	14202

	NO	YES
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.	☑	☐
2. Does the proposed action require a permit, approval or funding from any other government Agency? If Yes, list agency(s) name and permit or approval: NYSDEC - Stormwater Permit; Town of Amherst - Building Permit	☐	☑

3. a. Total acreage of the site of the proposed action? 13.93 acres
   b. Total acreage to be physically disturbed? 3.94 acres
   c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? 31.36 acres

4. Check all land uses that occur on, are adjoining or near the proposed action:
   ☐ Urban ☐ Rural (non-agriculture) ☐ Industrial ☑ Commercial ☐ Residential (suburban)
   ☐ Forest ☐ Agriculture ☐ Aquatic ☐ Other(Specify):
   ☐ Parkland

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	NO	YES	N/A
5. Is the proposed action,			
a. A permitted use under the zoning regulations?	☐	☑	☐
b. Consistent with the adopted comprehensive plan?	☐	☑	☐

	NO	YES
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	☐	☑

	NO	YES
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area?		
If Yes, identify: _____	☑	☐

	NO	YES
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	☑	☐
b. Are public transportation services available at or near the site of the proposed action?	☐	☑
c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?	☐	☑

	NO	YES
9. Does the proposed action meet or exceed the state energy code requirements?		
If the proposed action will exceed requirements, describe design features and technologies: _____ _____	☐	☑

	NO	YES
10. Will the proposed action connect to an existing public/private water supply?		
If No, describe method for providing potable water: _____ _____	☐	☑

	NO	YES
11. Will the proposed action connect to existing wastewater utilities?		
If No, describe method for providing wastewater treatment: _____ _____	☐	☑

	NO	YES
12. a. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places?	☑	☐
b. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?	☑	☐

	NO	YES
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?	☑	☐
b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody?	☑	☐
If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____ _____		

Attachment: Z-2021-09 TB letter packet 020722 (RES-2022-120 : 1501 - 1551 Niagara Falls Boulevard Rezoning)

14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply:

☐ Shoreline ☐ Forest ☐ Agricultural/grasslands ☐ Early mid-successional

☐ Wetland ☑ Urban ☑ Suburban

	NO	YES
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	☑	☐
16. Is the project site located in the 100-year flood plan?	☑	☐
17. Will the proposed action create storm water discharge, either from point or non-point sources?	☐	☑
If Yes,		
a. Will storm water discharges flow to adjacent properties?	☐	☑
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)?	☐	☑
If Yes, briefly describe:		
18. Does the proposed action include construction or other activities that would result in the impoundment of water or other liquids (e.g., retention pond, waste lagoon, dam)?	NO	YES
If Yes, explain the purpose and size of the impoundment: Underground Stormwater Detention Field (18,729 cubic feet)	☐	☑
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility?	NO	YES
If Yes, describe:	☑	☐
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste?	NO	YES
If Yes, describe:	☑	☐

I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE

Applicant/sponsor/name: Matthew J. Oates, P.E. Date: 09/16/2021

Signature:  Title: Director, Engineering

PRINT FORM

Attachment: Z-2021-09 TB letter packet 020722 (RES-2022-120 : 1501 - 1551 Niagara Falls Boulevard Rezoning)

Local Law No. _____-2021

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 ODINANCE, TO REZONE 1051-1551 NIAGARA FALLS BOULEVARD FROM CTR-5 to DC-3 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 the Town of Amherst Code, Known As The Zoning Ordinance, to Rezone 1051-1551 Niagara Falls Blvd. from CTR-5 to DC-3 and to Amend The Zoning Map Accordingly."

Section2. Legislative Findings and Intent.

The Town Board of the Town of Amherst finds that an application to rezone 1051-1551 Niagara Falls Blvd. from CTR-5 to DC-3 zoning has been filed and is in proper order. The Town Board further finds that the rezoning is consistent with the Comprehensive Plan.

Section3. Amherst Zoning Map.

The Town Board hereby amends its zoning map which is incorporated by reference in the Town zoning code by amending from CTR-5 to DC-3 the zoning of 1051-1551 Niagara Falls Blvd., 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 and State of New York being part of Lot No. 85, Township 12, Range 7 of the Holland Land Company's Survey, and being more particularly bounded and described as follows:

Beginning at the intersection of the easterly right-of-way line of Niagara Falls Boulevard (100' R.O.W.) and the southerly right-of-way line of Romney Road (66' R.O.W.); thence

1. Easterly, and along said southerly right-of-way line of Romney Road, a distance of 837.30 feet to a point; thence

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2. Southerly, forming an interior angle of 90°00'00", a distance of 717.00 feet to a point; thence

3. Westerly, forming an interior angle of 90°00'00", a distance of 849.30 feet to a point along the easterly right-of-way line of Niagara Falls Boulevard; thence

4. Northerly, and along the easterly right-of-way line of Niagara Falls Boulevard, forming an interior angle of 90°00'00", a distance of 469.86 feet to an angle point; thence

5. Northerly, and continuing along the easterly right-of-way line of Niagara Falls Boulevard, forming an interior angle of 173°10'00", a distance of 100.86 feet to an angle point; thence

6. Northerly, and continuing along the easterly right-of-way line of Niagara Falls Boulevard, forming an interior angle of 186°50'00", a distance of 147.00 feet to the point of beginning. Containing 13.925 acres of land.

Section4. 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.

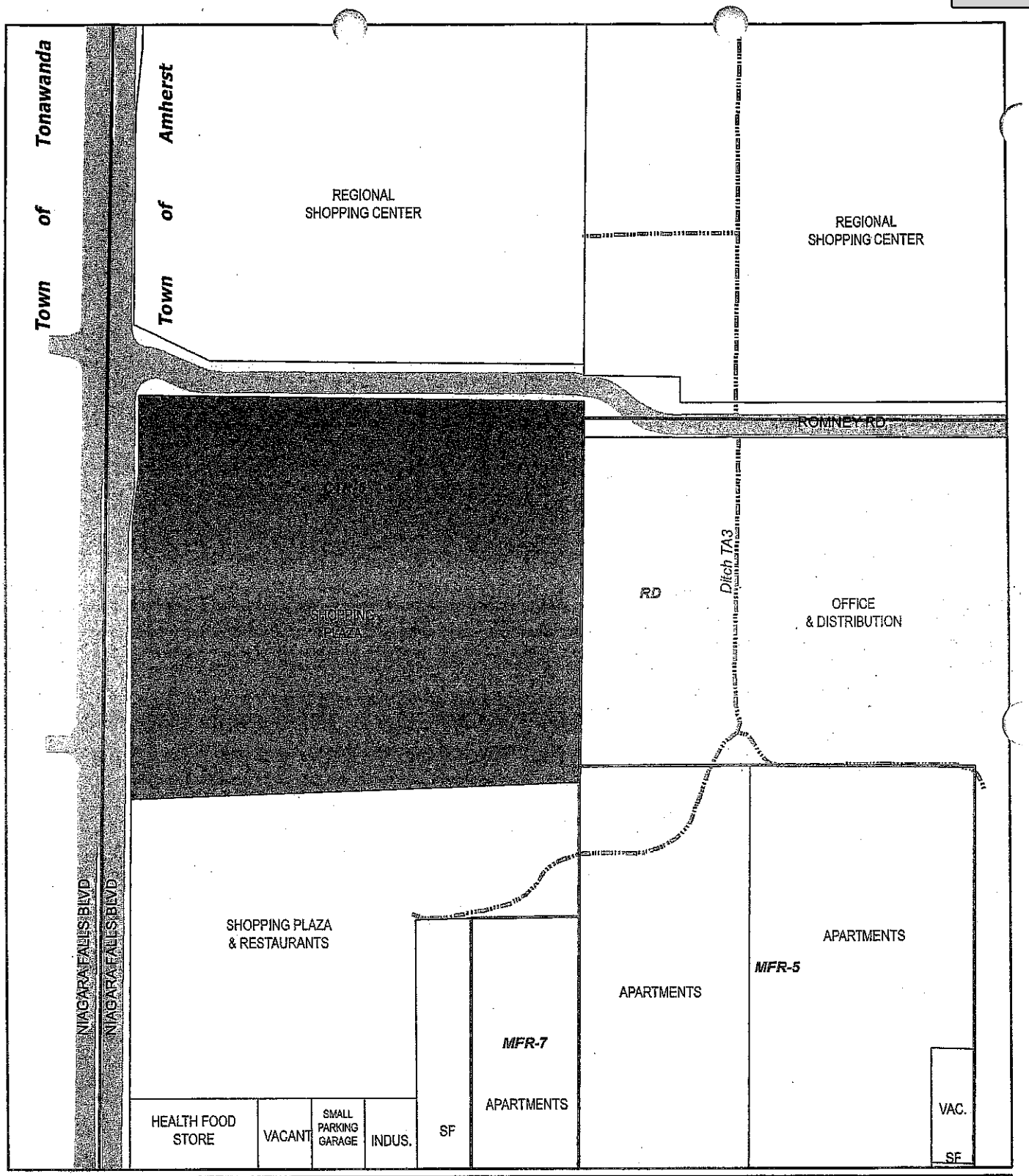
The invalidity of any provision of the Local Law shall not affect the validity of any other provision of this Local Law that can be given effect without such invalid provision.

Section 5. Effective Date.

This Local Law shall take effect immediate 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.

Town Clerk
Town of Amherst
County of Erie, State of New York

Attachment: Z-2021-09 TB letter packet 020722 (RES-2022-120 : 1501 - 1551 Niagara Falls Boulevard Rezoning)



Z-2021-09

Request to Rezone 13.94± ac of Land from CTR-5 to DC-3
Property Located at 1501-1551 Niagara Falls Boulevard

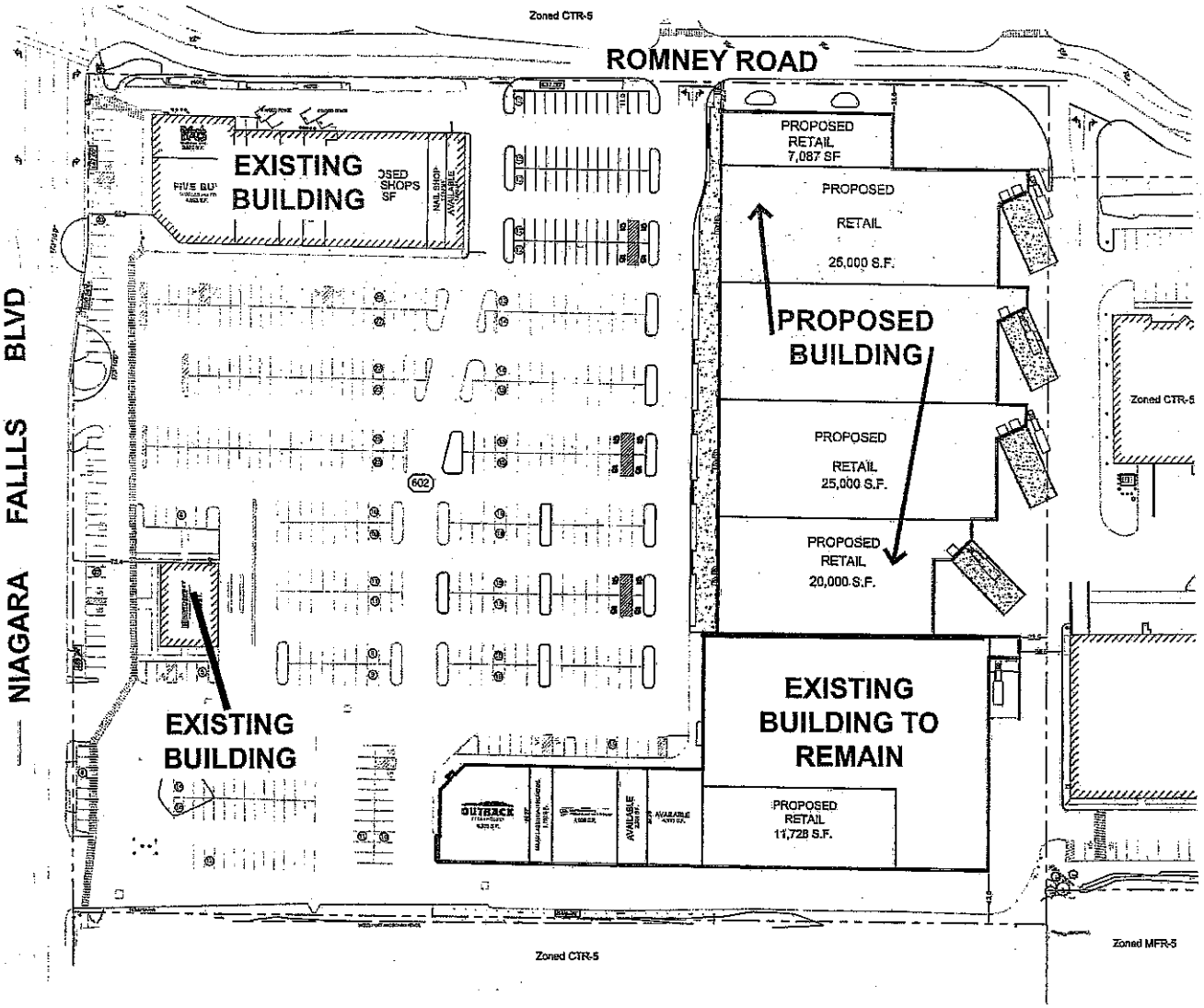
Benderson Development Company LLC, Petitioner

November 18, 2021

1501-1551 Niagara Falls Boulevard

Prepared by the Town of Amherst Planning Department

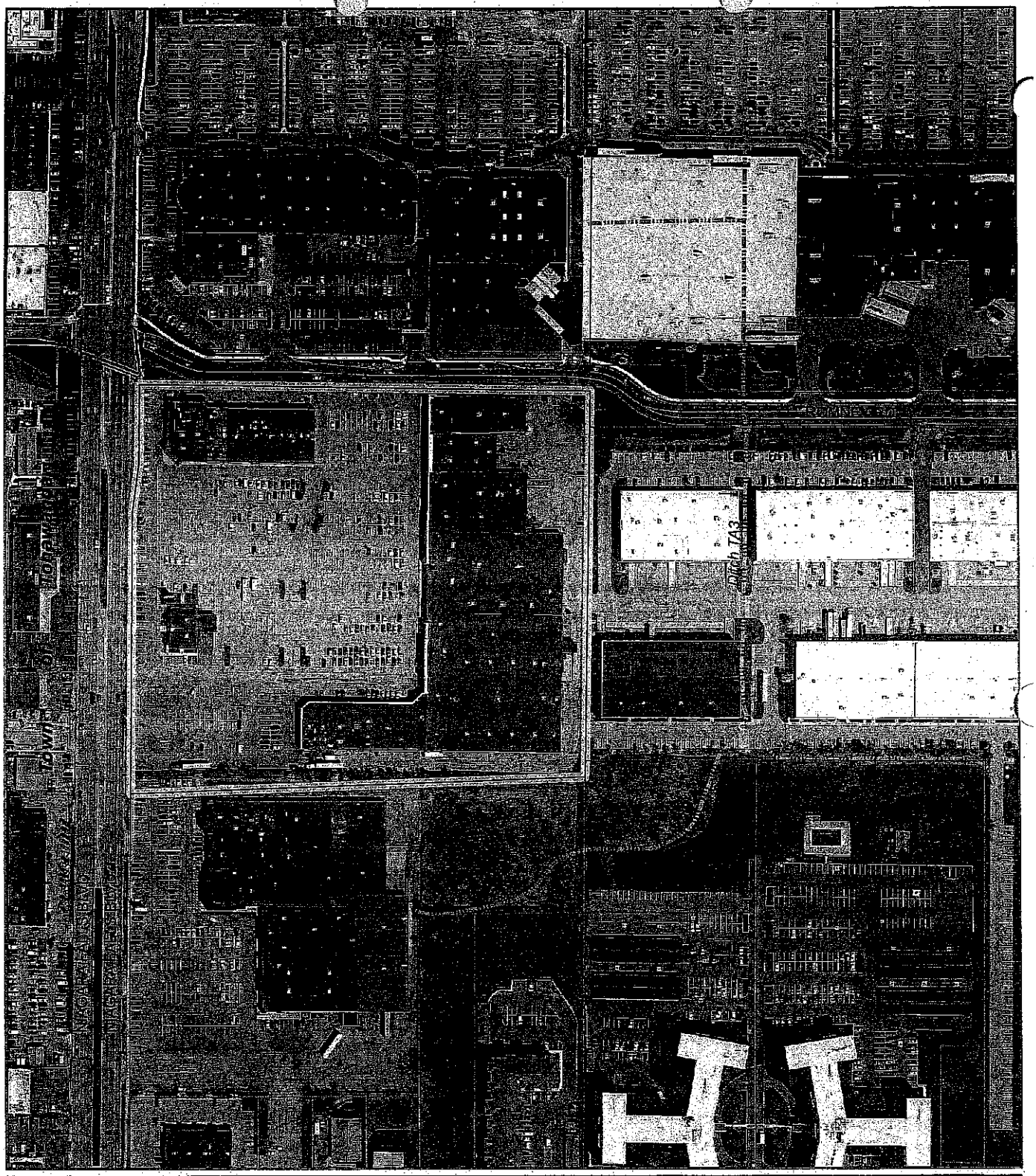
Attachment: Z-2021-09 TB letter packet 020722 (RES-2022-120 : 1501 - 1551 Niagara Falls Boulevard Rezoning)



CONCEPT PLAN

SP-1985-42J
1501-1551 Niagara Falls Blvd
Received: 9/20/21

Attachment: Z-2021-09 TB letter packet 020722 (RES-2022-120 : 1501 - 1551 Niagara Falls Boulevard Rezoning)



Z-2021-09

Request to Rezone 13.94± ac of Land from CTR-5 to DC-3
Property Located at 1501-1551 Niagara Falls Boulevard

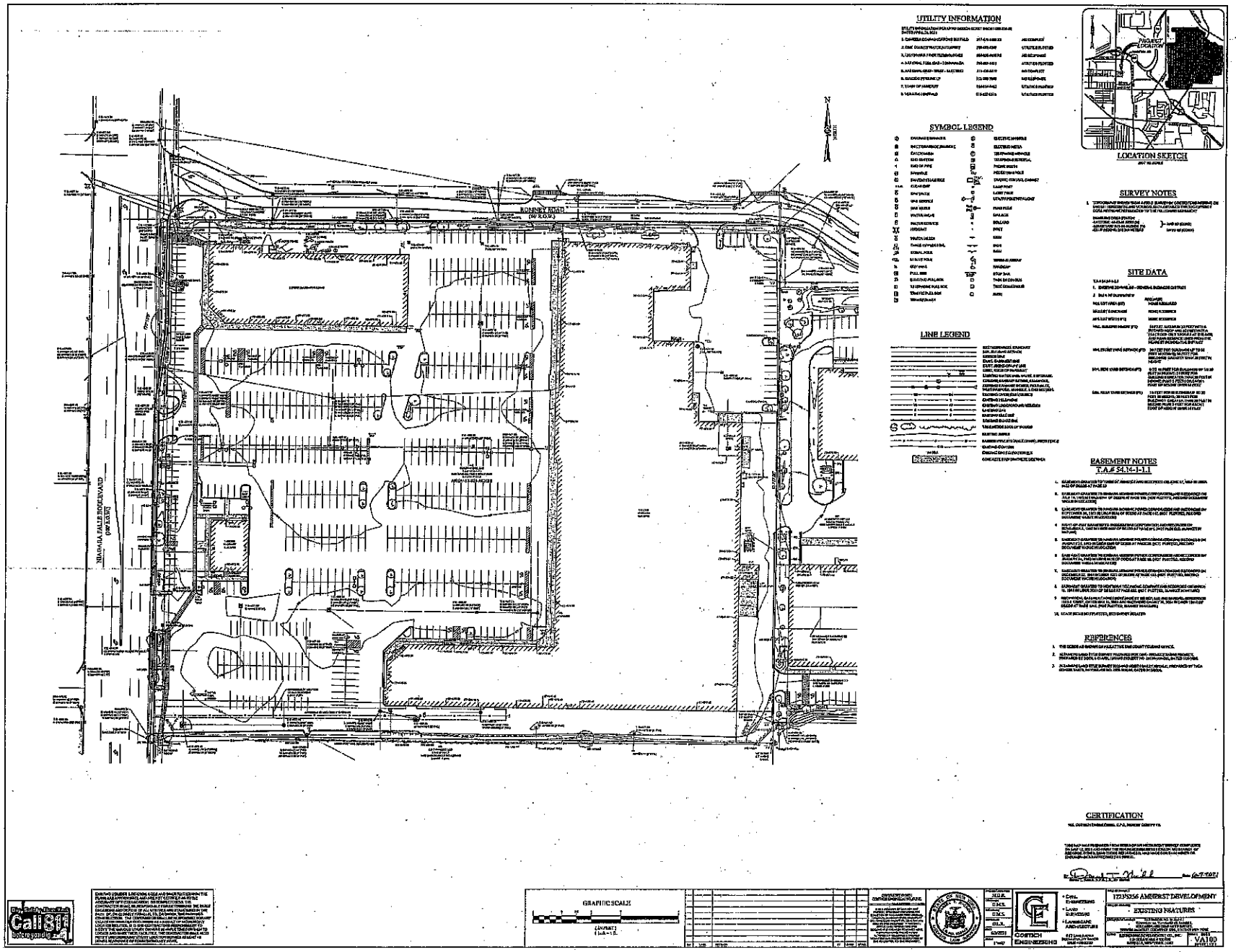
Benderson Development Company LLC, Petitioner

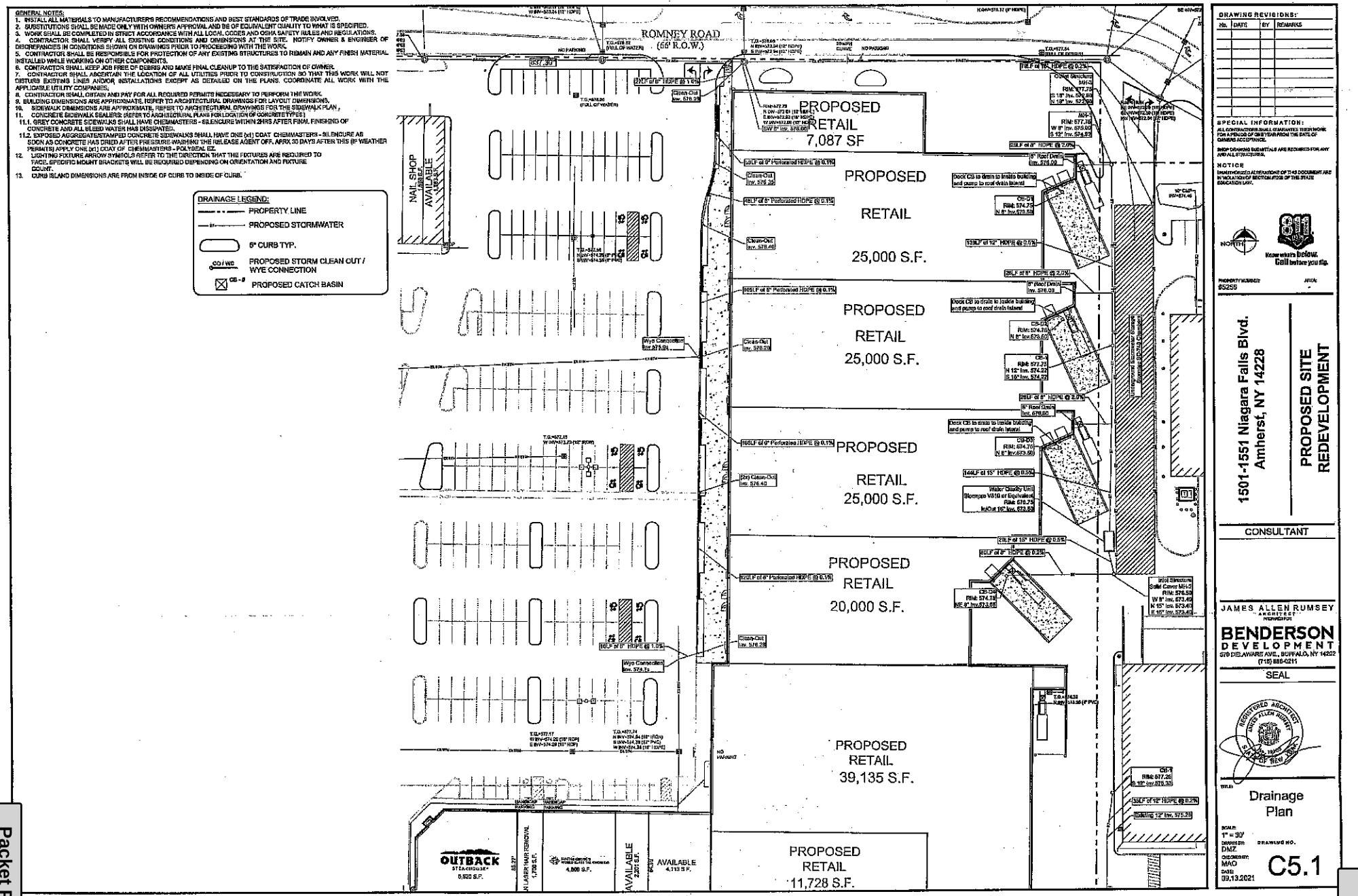
November 18, 2021

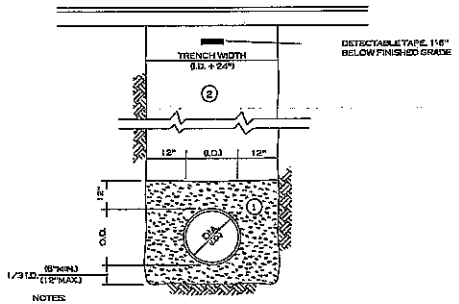
1501-1551 Niagara Falls Boulevard

Prepared by the Town of Amherst Planning Department

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UTILITY INFORMATION
SYMBOL LEGEND
LINE LEGEND
LOCATION SKETCH
SURVEY NOTES
SITE DATA
EASEMENT NOTES
T.A.# 34.14-1-1.1
REFERENCES
CERTIFICATION
EXISTING FEATURES
RONNEY ROAD
NIAGARA FALLS BOULEVARD
GRAPHIC SCALE


GENERAL NOTES:
1. INSTALL ALL MATERIALS TO MANUFACTURER'S RECOMMENDATIONS AND BEST STANDARDS OF TRADE INVOLVED.
2. SUBSTITUTIONS SHALL BE MADE ONLY WITH OWNERS 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. CONTRACTOR SHALL 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 THE 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 EXCEPT AS DETAILED ON THE PLANS. COORDINATE ALL WORK WITH THE APPLICABLE UTILITY COMPANIES.
8. CONTRACTOR SHALL OBTAIN AND PAY FOR ALL REQUIRED PERMITS NECESSARY TO PERFORM THE WORK.
9. BUILDING DIMENSIONS ARE APPROXIMATE, REFER TO ARCHITECTURAL DRAWINGS FOR LAYOUT DIMENSIONS.
10. SIDEWALK DIMENSIONS ARE APPROXIMATE, REFER TO ARCHITECTURAL DRAWINGS FOR THE SIDEWALK PLAN.
11. CONCRETE SIDEWALK SEALERS: (REFER TO ARCHITECTURAL PLANS FOR LOCATION OF CONCRETE TYPES)
11.1. GREY CONCRETE SIDEWALKS SHALL HAVE CHEMMASTERS - SILENCURE WITHIN 24HRS AFTER FINAL FINISHING OF CONCRETE AND ALL BLEED WATER HAS DISSIPATED.
11.2. EXPOSED AGGREGATE/STAMPED CONCRETE SIDEWALKS SHALL HAVE ONE (x1) COAT CHEMMASTERS - SILENCURE AS SOON AS CONCRETE HAS DRIED AFTER PRESSURE-WASHING THE RELEASE AGENT OFF, APPX 30 DAYS AFTER THIS (IF WEATHER PERMITS) APPLY ONE (x1) COAT OF CHEMMASTERS - POLYSEAL EX.
12. LIGHTING FIXTURE ARROW SYMBOLS REFER TO THE DIRECTION THAT THE FIXTURES ARE REQUIRED TO FACE. SPECIFIC MOUNT BRACKETS WILL BE REQUIRED DEPENDING ON ORIENTATION AND FIXTURE COUNT.
13. CURB ISLAND DIMENSIONS ARE FROM INSIDE OF CURB TO INSIDE OF CURB.
DRAINAGE LEGEND:
PROPERTY LINE
PROPOSED STORMWATER
6" CURB TYP.
CO / WO PROPOSED STORM CLEAN OUT / WYE CONNECTION
CB-# PROPOSED CATCH BASIN
ROMNEY ROAD
(66' R.O.W.)
NO PARKING
NAIL SHOP
AVAILABLE
PROPOSED RETAIL 7,087 SF
PROPOSED RETAIL 25,000 S.F.
PROPOSED RETAIL 25,000 S.F.
PROPOSED RETAIL 25,000 S.F.
PROPOSED RETAIL 20,000 S.F.
PROPOSED RETAIL 39,135 S.F.
PROPOSED RETAIL 11,728 S.F.
OUTBACK STEAKHOUSE 5,920 S.F.
AVAILABLE 2,231 S.F.
AVAILABLE 4,113 S.F.
DRAWING REVISIONS:
No. DATE BY REMARKS
SPECIAL INFORMATION:
NOTICE
Know what's below. Call before you dig.
1501-1551 Niagara Falls Blvd. Amherst, NY 14228
PROPOSED SITE REDEVELOPMENT
CONSULTANT
JAMES ALLEN RUMSEY ARCHITECT
BENDERSON DEVELOPMENT
570 DELAWARE AVE., BUFFALO, NY 14202
(716) 886-0211
SEAL
Drainage Plan
SCALE: 1" = 30'
DRAWN BY: DMZ
CHECKED BY: MAO
DATE: 09.13.2021
DRAWING NO. C5.1



NOTES:

A. PIPE INSTALLATION SHALL BE IN ACCORDANCE WITH MANUFACTURERS RECOMMENDATIONS.

B. TRENCHING OPERATIONS SHALL INCLUDE ALL NECESSARY DEWATERING.

C. TRENCH DETAILS ARE ONLY SHOWN FOR PURPOSES OF MATERIAL PLACEMENT AND MAXIMUM PAY LIMITS.

D. AN OSHA APPROVED MOVABLE PROTECTIVE TRENCH SHIELD SHALL BE USED IN ALL UNSHEETED TRENCH AREAS.

MATERIALS

PIPE BEDDING MATERIAL (NYSDOT 1985 EDITION)

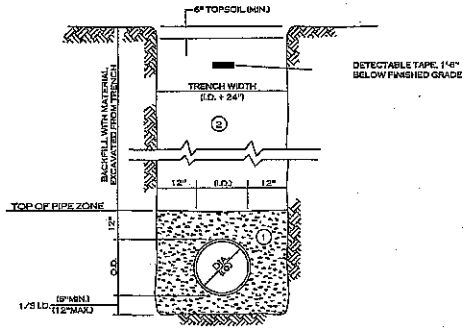
(1) NO. 1 CRUSHED STONE OR CRUSHED GRAVEL WITH A GRADATION CONFORMING WITH NYSDOT SECTION 703-02. THE MATERIAL SHALL BE WELL GRADED WITH NO PARTICLES LARGER THAN ONE INCH AND HAVING A MAXIMUM GRADATION MEETING THE LIMITS DESCRIBED IN THE SPECIFICATIONS. THE BEDDING SHALL BE COMPACTED IN 6" LIFTS WITH EQUIPMENT ACCEPTABLE TO THE PIPE MANUFACTURER.

NO SLAG SHALL BE ALLOWED FOR MATERIAL (1)

(2) TYPE 2 CRUSHED STONE OR CRUSHED GRAVEL WITH A GRADATION CONFORMING WITH NYSDOT SECTION 304-2.02 TYPE 2. THE MATERIAL SHALL BE WELL GRADED WITH NO PARTICLES LARGER THAN TWO INCHES AND HAVING A MAXIMUM GRADATION MEETING THE LIMITS DESCRIBED IN THE SPECIFICATIONS. THE BEDDING SHALL BE COMPACTED IN 6" LIFTS WITH EQUIPMENT ACCEPTABLE TO THE PIPE MANUFACTURER.

NO SLAG SHALL BE ALLOWED FOR MATERIAL (2)

TRENCH SECTION IN PAVED AREAS



NOTES:

A. PIPE INSTALLATION SHALL BE IN ACCORDANCE WITH MANUFACTURERS RECOMMENDATIONS.

B. TRENCHING OPERATIONS SHALL INCLUDE ALL NECESSARY DEWATERING.

C. TRENCH DETAILS ARE ONLY SHOWN FOR PURPOSES OF MATERIAL PLACEMENT AND MAXIMUM PAY LIMITS.

D. AN OSHA APPROVED MOVABLE PROTECTIVE TRENCH SHIELD SHALL BE USED IN ALL UNSHEETED TRENCH AREAS.

MATERIALS

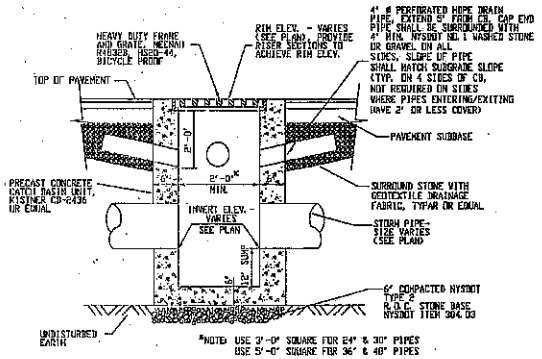
PIPE BEDDING MATERIAL (NYSDOT 1985 EDITION)

(1) NO. 1 CRUSHED STONE OR CRUSHED GRAVEL WITH A GRADATION CONFORMING WITH NYSDOT SECTION 703-02. THE MATERIAL SHALL BE WELL GRADED WITH NO PARTICLES LARGER THAN ONE INCH AND HAVING A MAXIMUM GRADATION MEETING THE LIMITS DESCRIBED IN THE SPECIFICATIONS. THE BEDDING SHALL BE COMPACTED IN 6" LIFTS WITH EQUIPMENT ACCEPTABLE TO THE PIPE MANUFACTURER.

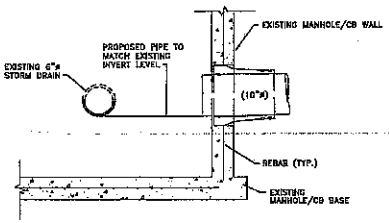
NO SLAG SHALL BE ALLOWED FOR MATERIAL (1)

(2) BACKFILL MATERIAL SHALL BE NATIVE SOIL CONTAINING NO UNSUITABLE MATERIAL COMPACTED IN 6" LIFTS.

TRENCH SECTION IN UNPAVED AREAS

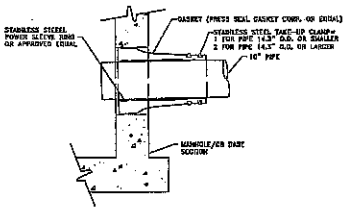


TYPICAL PRECAST CATCH BASIN

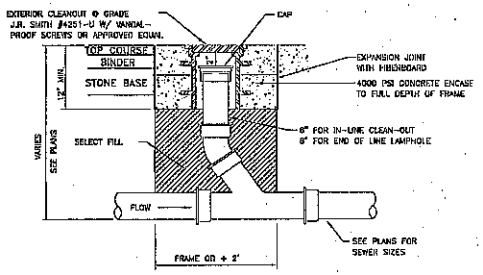


NOTES:

1. CORE DRILL ENTRANCE HOLE IN PRECAST MANHOLE BARREL, BASE AND/OR BENCH FOR REQUIRED PIPE CLEARANCE, PER MANUFACTURERS RECOMMENDATIONS.
2. DOES NOT APPLY TO HOUSE LATERALS.
3. WATERTIGHT PIPE TO MANHOLE BOOT SEAL REQUIRED FOR ALL CORE DRILLED ENTRANCE HOLES IN MANHOLE BARREL AS SHOWN BELOW.

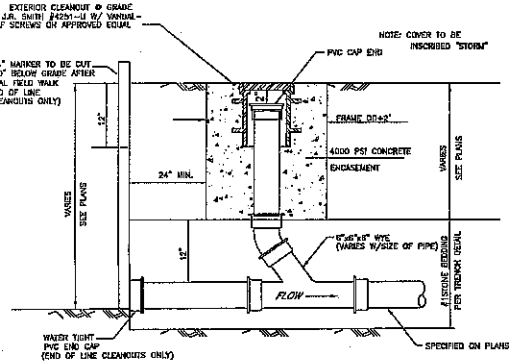


CONNECTION TO EXISTING MANHOLE/CB



CLEANOUT IN PAVED AREAS

NOT TO SCALE



CLEANOUT IN LANDSCAPED AREAS

NOT TO SCALE

DRAWING REVISIONS:

No.	DATE	BY	REMARKS

SPECIAL INFORMATION:

ALL CONTRACTORS SHALL GUARANTEE THEIR WORK FOR A PERIOD OF ONE YEAR FROM THE DATE OF OWNERS ACCEPTANCE.

AS-BUILT DRAWINGS SUBMITTALS ARE REQUIRED FOR ANY AND ALL STRUCTURES.

NOTICE

UNAUTHORIZED ALTERATIONS OF THIS DOCUMENT ARE IN VIOLATION OF SECTION 7209 OF THE STATE EDUCATION LAW.

NORTH

811 Know what's below. Call before you dig.

PROPERTY NUMBER: 76259 AREA: -

1501-1551 Niagara Falls Blvd. Amherst, NY 14228

PROPOSED SITE REDEVELOPMENT

CONSULTANT

JAMES ALLEN RUMSEY ARCHITECT PREPARED FOR

BENDERSON DEVELOPMENT
570 DELAWARE AVE., BUFFALO, NY 14202
(716) 855-0211

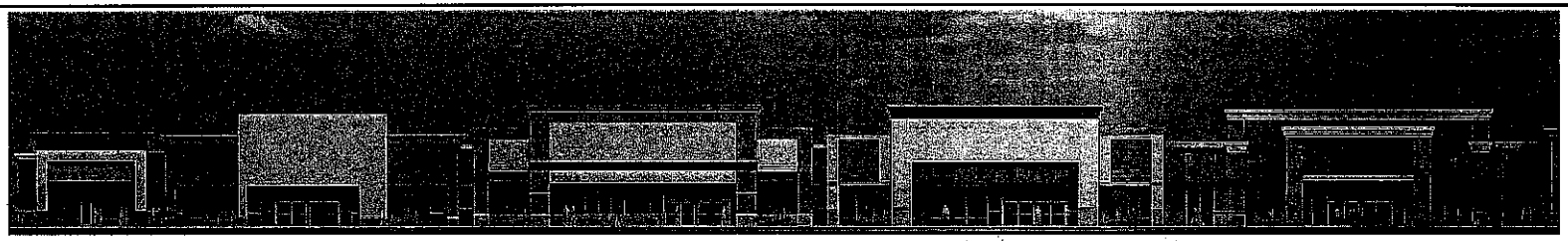
SEAL

REGISTERED ARCHITECT JAMES ALLEN RUMSEY OF NEW YORK

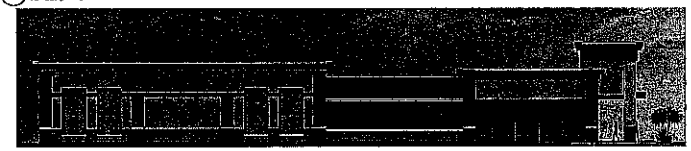
TITLE: Drainage Details

SCALE: NTS
DRAWN BY: DMZ
CHECKED BY: MAO
DATE: 09.13.2021
DRAWING NO. C5.2

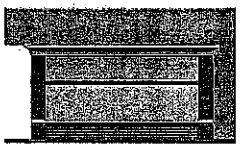
Attachment: Z-2021-09 TB letter packet 020722 (RES-2022-120 : 1501 - 1551 Niagara Falls Boulevard Rezoning)



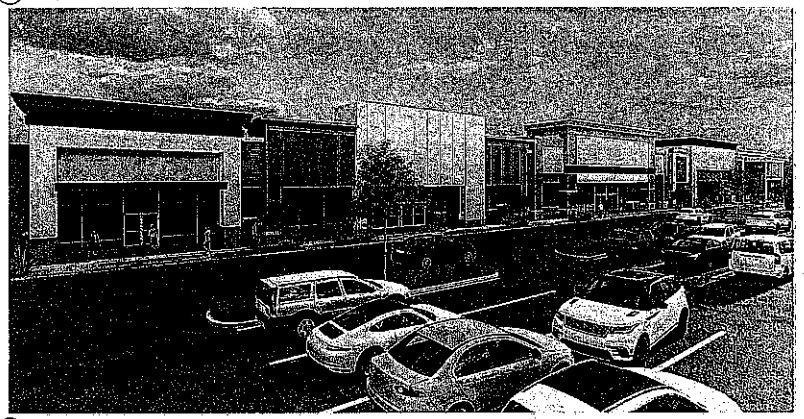
1 WEST ELEVATION
SCALE: 1/8"=1'-0"



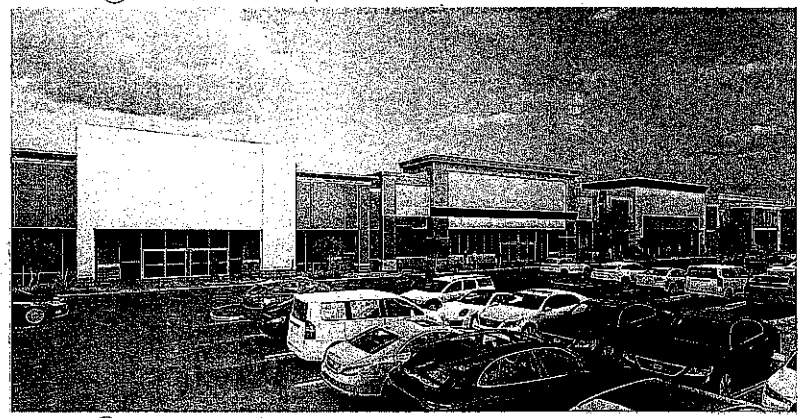
2 NORTH ELEVATION
SCALE: 1/8"=1'-0"



3 PARTIAL EAST ELEVATION
SCALE: 1/8"=1'-0"



4 RENDERING VIEW 1
SCALE: NTS



5 RENDERING VIEW 1
SCALE: NTS



6 RENDERING VIEW 1
SCALE: NTS



7 RENDERING VIEW 1
SCALE: NTS

DRAWING REVISIONS:

NO.	DATE	BY	REMARKS
1	8-20-21	JM	TOWN SUBMISSION

SPECIAL INFORMATION:

NOTICE

UNAUTHORIZED ALTERATIONS OF THIS DOCUMENT ARE IN VIOLATION OF SECTION 7209 OF THE STATE EDUCATION LAW

LICENSED PROFESSIONAL SEAL
5264

AREA

1551 NIAGARA FALLS BLVD.
AMHERST, NY 14226

PROPOSED

JAMES ALLEN RUMSEY
ARCHITECT

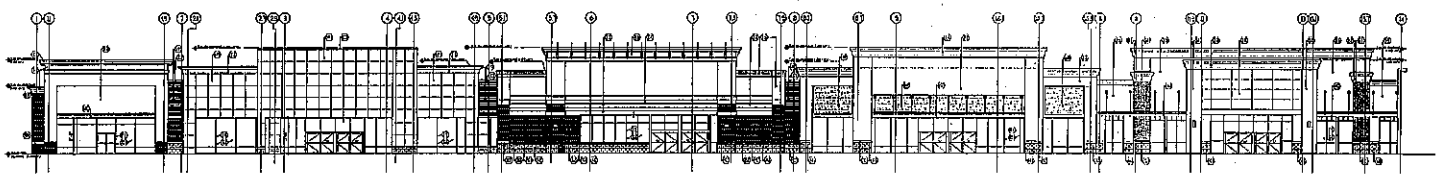
BENDERSON DEVELOPMENT
570 DELAWARE AVE, BUFFALO, N.Y. 14202
(716) 886-0211

SEAL

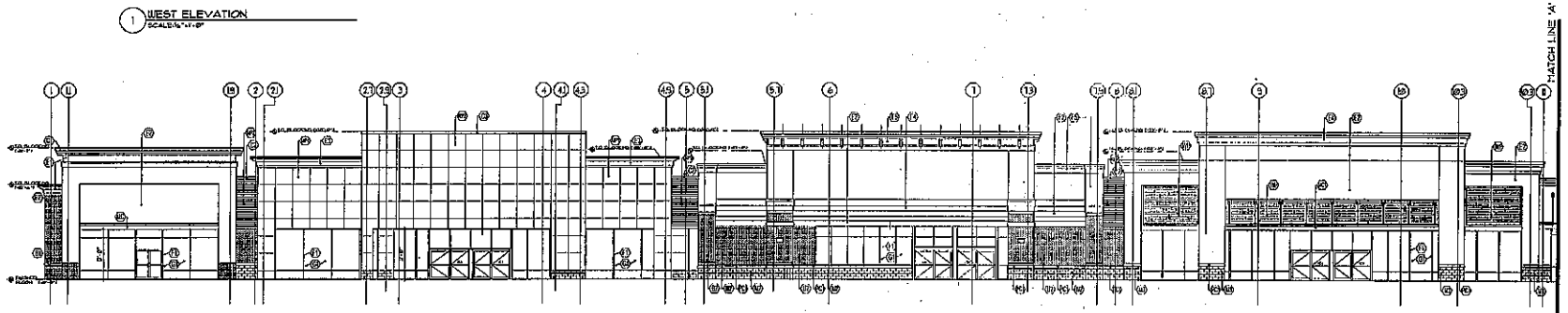
TITLE
COLORED ELEVATIONS
RENDERINGS

DRAWN BY: JM
CHECKED BY: JAR
DATE: 8-20-21

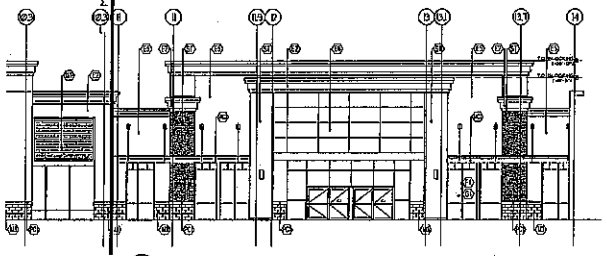
DRAWING NO.
A2.1



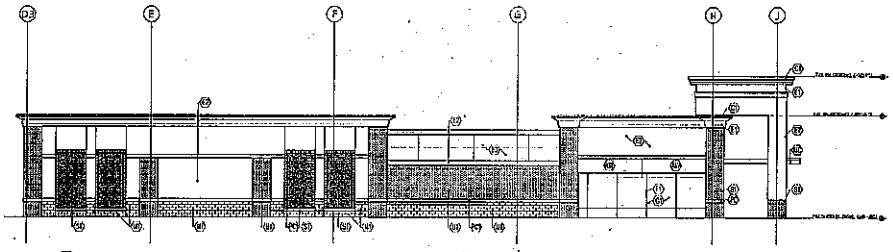
1 WEST ELEVATION



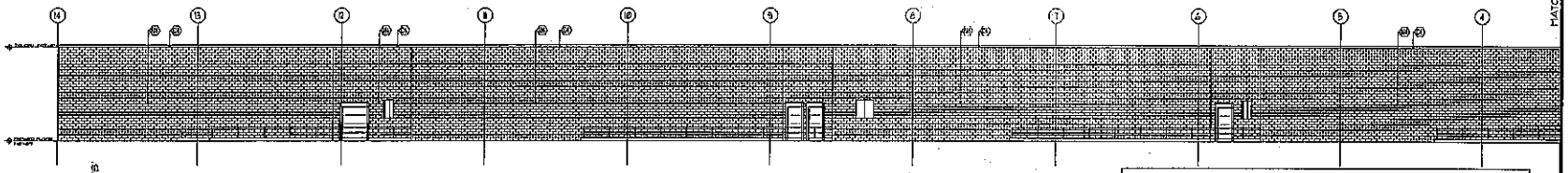
2 ENLARGED WEST ELEVATION



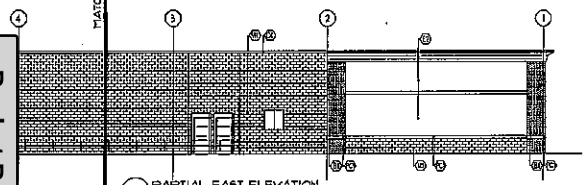
3 ENLARGED WEST ELEVATION



4 NORTH ELEVATION



5 PARTIAL EAST ELEVATION



6 PARTIAL EAST ELEVATION

EXTERIOR FINISH MATERIALS LEGEND

DRAWING REVISIONS:

NO.	DATE	BY	REMARKS
1	9.20.21	JM	TOWN SUBMISSION

SPECIAL INFORMATION:

NOTICE

1551 NIAGARA FALLS BLVD.
AMHERST, NY 14226

PROPOSED

JAMES ALLEN RUMSEY
ARCHITECT
BENDERSON DEVELOPMENT
570 DELAWARE AVE, BUFFALO, N.Y. 14202
(716) 888-3211

SEAL

ELEVATIONS
COLOR SCHEDULE

DRAWN BY: JM
CHECKED BY: JAR
DATE: 9.20.21

DRAWING NO.
A2.0

Fadel, Bryan

From: Ulatowski, Daniel
Sent: Tuesday, November 30, 2021 9:27 AM
To: Marshall, Scott; Rappoccio, Roberta; Palumbo, Gary; Voigt, Thomas J.
Cc: Carrato, Amy; Fadel, Bryan
Subject: NYSDOT Review _ : 2021-SP253 T. Amherst 1501-1551 Niagara Falls Blvd. Rezoning
Attachments: 2021-SP253 T. Amherst 1501-1551 Niagara Falls Blvd cover ltr.pdf; 2021-SP253 T. Amherst 1501-1551 Niagara Falls Blvd SEAF part 1.pdf

See attached FYI

From: Hayes, Ron (DOT) <Ron.Hayes@dot.ny.gov>
Sent: Monday, November 29, 2021 4:52 PM
To: Ulatowski, Daniel <dulatowski@amherst.ny.us>
Subject: FW: 2021-SP253 T. Amherst 1501-1551 Niagara Falls Blvd. Rezoning

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.
Resent

From: Hayes, Ron (DOT)
Sent: Monday, November 29, 2021 4:30 PM
To: Ulatowski, Daniel <dulatowski@amherst.ny.us>
Cc: Buffamonte, Joseph (DOT) <Joseph.Buffamonte@dot.ny.gov>; Brummer, Henry J (DOT) <Henry.Brummer@dot.ny.gov>
Subject: 2021-SP253 T. Amherst 1501-1551 Niagara Falls Blvd. Rezoning

Dan

New York State Department of Transportation (NYSDOT) reviewed the information submitted for the subject project and has the following comments:

- The proposed project will not have a significant impact to traffic on the State Highway System.
- Based upon the Site Plan submitted, it does not appear that any proposed work is located within the State Highway Right-of-Way (ROW).

Please do not hesitate to contact me if you have any questions or concerns.

Thank you,

Ron Hayes

Ronald J. Hayes

Attachment: Z-2021-09 TB letter packet 020722 (RES-2022-120 : 1501 - 1551 Niagara Falls Boulevard Rezoning)

Planning and Program Management
SEQR/Site Plan Coordinator

New York Department of Transportation
100 Seneca Street, Buffalo, NY 14203

(716) 847-3381 I (518) 810-9951 cell
Ron.Hayes@dot.ny.gov www.dot.ny.gov



Attachment: Z-2021-09 TB letter packet 020722 (RES-2022-120 : 1501 - 1551 Niagara Falls Boulevard Rezoning)

SITE PLAN OR ZONING REFERRAL TO COUNTY OF ERIE, NY AND REPLY TO MUNICIPALITY

Note: Please complete in triplicate. Send original and one copy (with attachments) to Erie County Division of Planning, Room 1053, 95 Franklin Street, Buffalo, N.Y. 14202. Retain last copy for your files.

DO NOT WRITE IN THIS SPACE

Case No.: ZR-21-661

Received: 11/01/2021

The proposed action described herein is referred in accordance with the provisions of the General Municipal Law, which provides that if no reply is received in 30 days after receipt of full information including a SEQR EAF if applicable, the municipal agency may take final action without considering such reply. If, however, reply is received at any time prior to municipal Action, such reply must be considered.

Description of Proposed Action

1. Name of Municipality: Town of Amherst

2. Hearing Schedule: Date 11/18/21 Time 6:30pm Location 5583 Main Street, Williamsville

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

4. Action consists of: ☐ New Ordinance ☒ Rezone/Map Change ☐ Ordinance Amendment ☐ Site Plan ☐ Variance ☐ Special Use Permit ☐ Other

5. Location of Property: ☐ Entire Municipality ☒ Specific as follows 1501 - 1551 Niagara Falls Boulevard

6. Referral required as Site is within 500' of: ☐ State or County Property/Institution ☒ Municipal Boundary ☐ Farm Operation located in an Agricultural District ☐ Expressway ☐ County Road ☒ State Highway ☐ Proposed State or County Road, Property, Building/ Institution, Drainageway

7. Proposed change or use: (be specific) Request to rezone 13.9 acres from CTR-5 to DC

8. Other remarks: (ID#, SBL#, etc.) Z-2021-09

9. Submitted by: Thomas Voigt, Assistant Planner October 29, 2021

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

Reply to Municipality by Erie County Division of Planning

Receipt of the above-described proposed action is acknowledged on 11/1/21. The Division herewith submits its review and reply under the provisions of applicable state and local law, based on the information submitted with this referral.

1. ☐ **The proposed action is not subject to review under the law.**
2. ☒ **Form ZR-3, Comment on Proposed Action is attached hereto.**
3. ☐ **The proposed action is subject to review; the Division makes the recommendation shown on Form ZR-4, Recommendation on Proposed Action, which is attached hereto.**
4. ☐ **No recommendation; proposed action has been reviewed and determined to be of local concern**

By the Division of Planning: [signature] **Date:** 11/16/21

Attachment: Z-2021-09 TB letter packet 020722 (RES-2022-120 : 1501 - 1551 Niagara Falls Boulevard Rezoning)

COUNTY OF ERIE

MARK C. POLONCARZ
COUNTY EXECUTIVE

November 16, 2021

Mr. Thomas Voigt
Assistant Planner
Town of Amherst
5583 Main Street
Williamsville, NY 14221

Re: **Proposed Rezoning of 13.9 Acres at 1501-1551 Niagara Falls Boulevard from CTR-5 to DC-3**
Location: **1501-1551 Niagara Falls Boulevard**
Review No.: **ZR-21-661**

Dear Mr. Voigt,

Pursuant to New York General Municipal Law Section 239-m, and Article 8 of the New York Environmental Conservation Law, the County of Erie (the "County") has reviewed the above-referenced project and Lead Agency request referred to us on November 1, 2021. The Department of Environment and Planning (DEP) consents to the Town of Amherst acting as Lead Agency in the SEQR process, and offers the following comments based upon its review of the project:

- The developer should present to the Town its concept plans for the redevelopment of the entire site. The developer should detail how its plans will fit in with the Town's overall goal of encouraging development of a walkable, mixed-use neighborhood accessible via a high-quality network of pedestrian and bicycle connections throughout this portion of the Town. The redevelopment of this particular property presents an opportunity to introduce a grid pattern to the site. The Town should work with the developer to establish safe pedestrian connections to nearby businesses, particularly those north of Romney Road at Boulevard Consumer Square.
- As part of the redevelopment of this property, the developer should bring its entire parking area into compliance with current Town requirements, including landscaping, setbacks, and pedestrian access between public rights-of-way and buildings.
- The existing painted crosswalk that runs the length of the property's western boundary along Niagara Falls Boulevard should be replaced with a sidewalk that meets Town, NYSDOT, and ADA standards and includes appropriate setbacks and landscape buffering. The current crosswalk creates dangerous conditions for pedestrians who have to travel across multiple drive aisles and parking spots while navigating unpredictable traffic patterns throughout the parking lot.

Attachment: Z-2021-09 TB letter packet 020722 (RES-2022-120 : 1501 - 1551 Niagara Falls Boulevard Rezoning)

This review pertains to the above-referenced project submitted to Erie County DEP. This should not be considered sufficient for any County approvals. The applicant must still obtain any other permits and regulatory approvals applicable to this project.

Sincerely,

David M. Hall
Planner

Attachment: Z-2021-09 TB letter packet 020722 (RES-2022-120 : 1501 - 1551 Niagara Falls Boulevard Rezoning)

Amherst 850086

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

MEMORANDUM October 29, 2021

TO: Kathy Cooper, Deputy Town Clerk
Daniel Ulatowski, Principal Planner
Emily Murphy, 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
Edward Rutkowski, SEQR Review Coordinator, NYSDOT
Town of Tonawanda

RECEIVED
NOV 05 2021
TOWN OF AMHERST
PLANNING DEPT.

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

SUBJECT: REQUEST TO REZONE 13.9± ACRES OF LAND FROM CTR-5 TO DC-3, **Z-2021-09**; PROPERTY LOCATED AT **1501-1551 NIAGARA FALLS BOULEVARD**. 1551 NFB LLC, PETITIONER.

REVIEW:

Do you agree with all statements made? YES

If you do not, briefly state why: _____

General comments relative to your agency interests: _____

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:** 11/5/21

DU/TV/ac C. Schregel
X:\Current_Planning\Files\Rezonings\2021\Z-2021-09_(1501-1551_Niagara_Falls_Blvd)_2021\Z-2021-09_Transmittal_102921.doc
cc: Scott Marshall, Principal Planner
James Boglioli, Benderson Development Co., 570 Delaware Ave., Buffalo, NY 14202

Attachment: Z-2021-09 TB letter packet 020722 (RES-2022-120 : 1501 - 1551 Niagara Falls Boulevard Rezoning)

Amherst

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

RECEIVED
NOV 02 2021
TOWN ATTORNEY

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

MEMORANDUM October 29, 2021

TO: Kathy Cooper, Deputy Town Clerk
FROM Daniel Ulatowski, Principal Planner
Emily Murphy, 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
Edward Rutkowski, SEQR Review Coordinator, NYSDOT
Town of Tonawanda

RECEIVED
NOV 02 2021
TOWN OF AMHERST
PLANNING DEPT.

TO

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

SUBJECT: REQUEST TO REZONE 13.9± ACRES OF LAND FROM CTR-5 TO DC-3, **Z-2021-09**; PROPERTY LOCATED AT **1501-1551 NIAGARA FALLS BOULEVARD**. 1551 NFB LLC, PETITIONER.

REVIEW:

Do you agree with all statements made? Yes

If you do not, briefly state why: _____

General comments relative to your agency interests: None

If improvements are required involving your agency, please state schedule for completion (sewer construction, road widening, etc.)

Please call the Planning Department if additional information is required (631-7051).

Signature: Stan Sliwa **Date:** 11/2/21

DU/TV/ac
X:\Current_Planning\Files\Rezonings\2021\Z-2021-09_(1501-1551_Niagara_Falls_Blvd)_2021\Z-2021-09_Transmittal_102921.doc
cc: Scott Marshall, Principal Planner
James Boglioli, Benderson Development Co., 570 Delaware Ave., Buffalo, NY 14202

Attachment: Z-2021-09 TB letter packet 020722 (RES-2022-120 : 1501 - 1551 Niagara Falls Boulevard Rezoning)

Amherst
Town of Amherst Planning Department
Erie County, New York
Brian J. Kulpa
Supervisor
Daniel C. Howard, AICP
Planning Director
Daniel J. Ulatowski, AICP
Assistant Planning Director

RECEIVED
NOV 01 2021
TOWN ATTORNEY

MEMORANDUM

October 29, 2021

TO: Kathy Cooper, Deputy Town Clerk
Daniel Ulatowski, Principal Planner
Emily Murphy, 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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Stan Sliwa, Town Attorney (Local Law Only)
Ann Demopoulos, Deputy Town Attorney, Right-of-Way Agent
Integrated Review Coordinator, ECDEP
Edward Rutkowski, SEQR Review Coordinator, NYSDOT
Town of Tonawanda

RECEIVED
NOV 01 2021
TOWN OF AMHERST
PLANNING DEPT.

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

SUBJECT: REQUEST TO REZONE 13.9± ACRES OF LAND FROM CTR-5 TO DC-3, **Z-2021-09**; PROPERTY LOCATED AT **1501-1551 NIAGARA FALLS BOULEVARD**. 1551 NFB LLC, PETITIONER.

REVIEW:

Do you agree with all statements made? Yes, Agree with all statements made

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:** 11/1/21

DU/TV/ac
X:\Current_Planning\Files\Rezonings\2021\Z-2021-09_(1501-1551_Niagara_Falls_Blvd)_2021\Z-2021-09_Transmittal_102921.doc
cc: Scott Marshall, Principal Planner
James Boglioli, Benderson Development Co., 570 Delaware Ave., Buffalo, NY 14202

Attachment: Z-2021-09 TB letter packet 020722 (RES-2022-120 : 1501 - 1551 Niagara Falls Boulevard Rezoning)

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

MEMORANDUM

October 29, 2021

RECEIVED
NOV 04 2021
TOWN OF AMHERST
PLANNING DEPT

TO: Kathy Cooper, Deputy Town Clerk
Daniel Ulatowski, Principal Planner
Emily Murphy, Town Assessor
Douglas Gesel, Supervising Code Enforcement Officer, Building Department
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Stan Sliwa, Town Attorney (Local Law Only)
Ann Demopoulos, Deputy Town Attorney, Right-of-Way Agent
Integrated Review Coordinator, ECDEP
Edward Rutkowski, SEQR Review Coordinator, NYSDOT
Town of Tonawanda

RECEIVED
NOV 01 2021
TOWN OF AMHERST
BUILDING DEPT

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

SUBJECT: REQUEST TO REZONE 13.9± ACRES OF LAND FROM CTR-5 TO DC-3, **Z-2021-09**; PROPERTY LOCATED AT **1501-1551 NIAGARA FALLS BOULEVARD**. 1551 NFB LLC, PETITIONER.

REVIEW:

Do you agree with all statements made? Yes

If you do not, briefly state why: _____

General comments relative to your agency interests: none 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: Doug Gesel **Date:** 11-3-21

DU/TV/ac
X:\Current_Planning\Files\Rezonings\2021\Z-2021-09_(1501-1551_Niagara_Falls_Blvd)_2021\Z-2021-09_Transmittal_102921.doc
cc: Scott Marshall, Principal Planner
James Boglioli, Benderson Development Co., 570 Delaware Ave., Buffalo, NY 14202

Attachment: Z-2021-09 TB letter packet 020722 (RES-2022-120 : 1501 - 1551 Niagara Falls Boulevard Rezoning)

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

Francina J. Spoth
Town Clerk

Meeting: 02/07/22 07:00 PM
Department: Town Attorney
Initiated by: **Stanley J. Sliwa**
Co-Sponsored by:

DOC ID: 25332 **RESOLUTION 2022-121** **ROLL CALL VOTE (ADOPTED)**

Town of Amherst Streetlight Acquisition and Upgrades - Public Hearing (Bond Resolution - $26.5M)

AGENDA ITEM : FEBRUARY 7TH, 2022

TO: **Town Board**

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

DATE: **February 1, 2022**

RE: **Town of Amherst Streetlight Acquisition and Upgrades**
2022-2027 C.I.P. - Project No. H-15
TOA Job No. 2016.054
Public Hearing For Bond Resolution - $26,500,000

The above-referenced matter is scheduled for a Public Hearing on February 7, 2022 at 7:00 p.m. In this regard, kindly adopt a resolution (1) Adopting the attached SEQR determination for the above project as determined by the Town of Amherst Planning Department **prior to the Public Hearing being deemed closed**; and (2) Adopting the attached bond documents **once the Public Hearing has been deemed closed**.

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

Thank you.
SJS:nmb
Attachment
c: Tim Koller, Deputy Town Clerk
(w/attachment, **Agenda Item - February 7th, 2022**)
Daryl C. Bramer, Comptroller *(w/attachment)*
Lynda Juul, Director of Finance *(w/attachment)*
Dale Ulatowski, AICP, Assistant Planning Director/ZEO (*w/attachment)*
Dan Howard, Director of Planning *(w/attachment)*
Jeffrey S. Burroughs, PE, Town Engineer (*w/attachment*)
Christopher P. Schregel, Project Manager (*w/attachment*)

2/7/2022
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 7:28 PM.

Jeff Burroughs, Town Engineer, presented.

The following speakers addressed the Town Board:
Don Smith, 201 N Long St - spoke in support, it will be good for the Town long term
Tom Weisbeck, 48 Drawbridge - spoke out against the street light acquisition

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

There were no further speakers from the public, therefore Supervisor Kulpa moved to close the public hearing, seconded by Deputy Supervisor Berger and unanimously approved 5-0. The public hearing was closed at 8:07 PM.

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

FINANCIAL IMPACT:

Bond Resolution - $26.5M

RESULT:	**ROLL CALL VOTE (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, AI
Planning Director

Daniel J. Ulatowski, AI
Assistant Planning Dire

Transmitted electronically

MEMORANDUM January 10, 2022

TO: Christopher Schregel, Project Manager
Engineering Department

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

RE: SEQR Determination
Street Lighting Acquisition & Upgrades
2021-2027 C.I.P. Project H-15 – TOA Job No. 2016.054

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

Please contact our office if you have any questions.

X:\Special_Projects\SEQR_Engineering & Other TOA\Type_II_Actions_(PJ-2015-001)\Street Light Acquistions & Upgrades_2021_2027_CIP_H_15.docx

cc:
Stanley J. Sliwa, Esq., Town Attorney
Daryl Bramer, Comptroller
Daniel Howard, Planning Director

Attachment: Street Light Acquistions Upgrades_2021_2027_CIP_H_15_memo (RES-2022-121 : Town of Amherst Streetlight Acquisition and

Attachment: CertExMins (RES-2022-121 : Town of Amherst Streetlight Acquisition and Upgrades - Public Hearing (Bond Resolution - $26.5M))

EXTRACT OF MINUTES

Meeting of the Town Board of the

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

February 7, 2022

A regular meeting of the Town Board of the Town of Amherst, in the County of Erie, New York, was held via Zoom on February 7, 2022.

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

* * *

The Supervisor stated that a public hearing had been called for this meeting via Zoom at 7 o'clock P.M. (Prevailing Time) to consider the increase and improvement of facilities for the Consolidated Lighting District, at the estimated total cost of $26,500,000, consisting of (i) the purchase of street lighting systems in the Consolidated Lighting District from National Grid and New York State Electric and Gas; and (ii) upgrading of said systems, including replacement of fixtures with LED luminaires and asset management controls to provide smart city capabilities, and all necessary work, equipment, apparatus and other improvements and costs incidental thereto, all as more particularly described in the map, plan and report prepared by the Town Engineering Department (collectively, the “Lighting District Project”); and to hear all persons interested in the subject thereof concerning the same and for such other action on the part of the Town Board with relation thereto as may be required by law. The Town Clerk presented affidavits showing that the

Notice of said public hearing had been duly published and posted pursuant to the provisions of Article 12 of the Town Law.

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

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

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

Attachment: CertExMins (RES-2022-121 : Town of Amherst Streetlight Acquisition and Upgrades - Public Hearing (Bond Resolution - $26.5M))

CERTIFICATE

I, FRANCINA J. SPOTH, Town Clerk of the Town of Amherst, in the County of Erie, State of New York, HEREBY CERTIFY that the foregoing annexed Extract of Minutes of a meeting of the Town Board of said Town of Amherst duly called and held on February 7, 2022, has been compared by me with the original minutes as officially recorded in my office as Town Clerk, and is a true, complete and correct copy thereof and of the whole of said original minutes.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of said Town of Amherst this _____ day of February, 2022.

(SEAL)

_____

Francina J. Spoth, Town Clerk
Town of Amherst

Attachment: CertExMins (RES-2022-121 : Town of Amherst Streetlight Acquisition and Upgrades - Public Hearing (Bond Resolution - $26.5M))

BOND RESOLUTION OF THE TOWN OF AMHERST, NEW YORK, ADOPTED FEBRUARY 7, 2022, APPROPRIATING $26,500,000 FOR THE INCREASE AND IMPROVEMENT OF FACILITIES OF THE TOWN'S CONSOLIDATED LIGHTING DISTRICT, AND AUTHORIZING THE ISSUANCE OF BONDS OF SAID TOWN IN THE PRINCIPAL AMOUNT OF $26,500,000 TO FINANCE SAID APPROPRIATION

Offered by: _____

Seconded By: _____

Recital

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

Now, therefore, be it

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

Section 1. The Town hereby appropriates the amount of $26,500,000 for the increase and improvement of facilities for the District, at the estimated total cost of $26,500,000,

Attachment: CertBondReso (RES-2022-121 : Town of Amherst Streetlight Acquisition and Upgrades - Public Hearing (Bond Resolution -

consisting of (i) the purchase of street lighting systems in the Consolidated Lighting District from National Grid and New York State Electric and Gas; and (ii) upgrading of said systems, including replacement of fixtures with LED luminaires and asset management controls to provide smart city capabilities, and all necessary work, equipment, apparatus and other improvements and costs incidental thereto, all as more particularly described in the map, plan and report prepared by the Town Engineering Department (collectively, the "Lighting District Project"). The estimated maximum cost thereof, including preliminary costs and costs incidental thereto and the financing thereof, is $26,500,000. The plan of financing includes the issuance of $26,500,000 bonds of the Town to finance said appropriation and the assessment, levy and collection of assessments upon the several lots and parcels of land within the District which the Town Board shall deem especially benefited by said facilities, so much upon and from each as shall be in just proportion to the amount of benefit which the improvement shall confer upon the same.

Section 2. Bonds of the Town are hereby authorized to be issued in the principal amount of $26,500,000 pursuant to the provisions of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (herein called the "Law"), to finance said appropriation.

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

(a) The period of probable usefulness of the class of objects or purposes for which said bonds are authorized to be issued, within the limitations of Section 11.00 a. 4 of the Law, is forty (40) years.

(b) The proceeds of the bonds herein authorized and any bond anticipation notes issued in anticipation of said bonds may be applied to reimburse the Town for expenditures

Attachment: CertBondReso (RES-2022-121 : Town of Amherst Streetlight Acquisition and Upgrades - Public Hearing (Bond Resolution -

made after the effective date of this resolution. The foregoing statement of intent with respect to reimbursement is made in conformity with Treasury Regulation Section 1.150-2 of the United States Treasury Department.

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

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

Section 5. Subject to the provisions of this resolution and of the Law and pursuant to the provisions of Section 21.00 of the Law relative to the authorization of the issuance of bonds with substantially level or declining annual debt service, Section 30.00 relative to the authorization of the issuance of bond anticipation notes and Section 50.00 and Sections 56.00 to 60.00 and 168.00 of the Law, the powers and duties of the Town Board relative to authorizing bond anticipation notes and prescribing the terms, form and contents and as to the sale and issuance of the bonds herein authorized, and the renewals of said bond anticipation notes, and as to

Attachment: CertBondReso (RES-2022-121 : Town of Amherst Streetlight Acquisition and Upgrades - Public Hearing (Bond Resolution -

executing contracts for credit enhancements and providing for substantially level or declining annual debt service, are hereby delegated to the Supervisor, the chief fiscal officer of the Town.

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

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

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

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

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

Attachment: CertBondReso (RES-2022-121 : Town of Amherst Streetlight Acquisition and Upgrades - Public Hearing (Bond Resolution -

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

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

The Resolution was declared adopted.

Attachment: CertBondReso (RES-2022-121 : Town of Amherst Streetlight Acquisition and Upgrades - Public Hearing (Bond Resolution -

CERTIFICATE

I, FRANCINA J. SPOTH, Town Clerk of the Town of Amherst, in the County of Erie, State of New York, HEREBY CERTIFY that the foregoing annexed resolution of the Town Board of said Town adopted at a meeting duly called and held on February 7, 2022, has been compared by me with the original resolution as officially recorded in my office in the Minute Book of said Town Board and is a true, complete and correct copy thereof and of the whole of said resolution.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of said Town of Amherst this ____ day of February, 2022.

(SEAL)

_____

Francina J. Spoth, Town Clerk
Town of Amherst

Attachment: CertBondReso (RES-2022-121 : Town of Amherst Streetlight Acquisition and Upgrades - Public Hearing (Bond Resolution -

At a meeting of the Town Board of the Town of Amherst, in the County of Erie, New York, held via Zoom on the 7th day of February, 2022.

PRESENT:

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

In the Matter

of the

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

---

Offered by: _____

Seconded By: _____

RESOLUTION AND
ORDER AFTER PUBLIC
HEARING

WHEREAS, the Town Board of the Town of Amherst (herein called the "Town"), in the County of Erie, New York, on behalf of the Consolidated Lighting District (hereinafter referred to as the "District"), has caused the Town Engineering Department, engineers duly licensed by the State of New York (the "Engineer"), to prepare a map, plan and report dated January 2022 (CIP Project No. H-15), for the increase and improvement of facilities of the District,

Attachment: CertROAfterPH (RES-2022-121 : Town of Amherst Streetlight Acquisition and Upgrades - Public Hearing (Bond Resolution -

at the estimated total cost of $26,500,000, consisting of (i) the purchase of street lighting systems in the Consolidated Lighting District from National Grid and New York State Electric and Gas; and (ii) upgrading of said systems, including replacement of fixtures with LED luminaires and asset management controls to provide smart city capabilities, and all necessary work, equipment, apparatus and other improvements and costs incidental thereto, all as more particularly described in said map, plan and report (collectively, the "Lighting District Project"); and

WHEREAS, the Engineer has estimated that the cost of such increase and improvement of facilities shall be $26,500,000 and said map, plan and report have been filed with the Town Board; and

WHEREAS, the Town Board adopted an Order describing in general terms the proposed increase and improvement of such facilities, specifying the estimated cost thereof, and stating the Town Board would meet to hear all persons interested in said increase and improvement of facilities on February 7, 2022 at 7 o'clock P.M. (Prevailing Time) via Zoom; and

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

WHEREAS, such public hearing was duly held by the Town Board on the 7th day of February, 2022 at 7 o'clock P.M. (Prevailing Time) via Zoom, with considerable discussion on the matter having been had and all persons desiring to be heard having been heard, including those in favor of and those in opposition to said increase and improvement of such facilities; and

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

Attachment: CertROAfterPH (RES-2022-121 : Town of Amherst Streetlight Acquisition and Upgrades - Public Hearing (Bond Resolution -

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

Now, therefore, be it

DETERMINED, that it is in the public interest to increase and improve the facilities of the District as hereinabove described, at the estimated total cost of $26,500,000; and it is hereby

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

FURTHER ORDERED, that the expense of said increase and improvement of facilities shall be financed by the issuance of $26,500,000 bonds of the Town, and the cost of said increase and improvement of facilities, including payment of principal of and interest on said bonds, shall be paid by the assessment, levy and collection of assessments upon the several lots and parcels of land within the District which the Town Board shall deem especially benefited by said facilities, so much upon and from each as shall be in just proportion to the amount of benefit which the improvement shall confer upon the same; and it is hereby

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

DATED: February 7, 2022

(SEAL)

TOWN BOARD OF THE TOWN OF AMHERST

Attachment: CertROAfterPH (RES-2022-121 : Town of Amherst Streetlight Acquisition and Upgrades - Public Hearing (Bond Resolution -

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

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

The Resolution and Order were declared adopted.

Attachment: CertROAfterPH (RES-2022-121 : Town of Amherst Streetlight Acquisition and Upgrades - Public Hearing (Bond Resolution -

CERTIFICATE

I, FRANCINA J. SPOTH, Town Clerk of the Town of Amherst, in the County of Erie, State of New York, HEREBY CERTIFY that the foregoing annexed resolution and order of the Town Board of said Town adopted at a meeting duly called and held on February 7, 2022, has been compared by me with the original resolution and order as officially recorded in my office in the Minute Book of said Town Board and is a true, complete and correct copy thereof and of the whole of said resolution and order.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of said Town of Amherst this ____ day of February, 2022.

(SEAL)

_____

Francina J. Spoth, Town Clerk
Town of Amherst

Attachment: CertROAfterPH (RES-2022-121 : Town of Amherst Streetlight Acquisition and Upgrades - Public Hearing (Bond Resolution -

Attachment: Lighting Purchase MPR 2022_Final (RES-2022-121 : Town of Amherst Streetlight Acquisition and Upgrades - Public Hearing (Bond

Town of Amherst
Engineering Department

TOWN OF AMHERST STREET LIGHT ACQUISITION & UPGRADES

2022 – 2027 Capital Improvement Project H-15
TOA Project # 2016.054

MAP, PLAN & REPORT
JANUARY 2022

Contents:

- Executive / Financial Summary
- Location
- Existing System
- Purchase
- Street Lighting Improvements
- Asset Management & Smart Cities
- Estimated Annual Savings
- Anticipated Project Schedule
- Financial Summary
- Project Cost Estimate
- Taxation Summary
- SEQR Negative Declaration
- Certificate as to Useful Life of Project
- Appendix A: Existing Street Light Map
- Appendix B: Proposed Street Light Plan

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

Town of Amherst
Engineering Department
Town of Amherst Street Light Acquisition and Upgrades

EXECUTIVE / FINANCIAL SUMMARY

The Town of Amherst's street lighting system is currently served by un-metered power and primarily owned and operated by National Grid (NG) and New York State Electric and Gas (NYSEG). In 2015, Governor Coumo signed legislation that was passed by the NYS Legislature which provides for communities like the Town of Amherst (Town) to negotiate with utility companies on the potential transfer of ownership for street lighting assets. In response, the Town retained a consultant to conduct a Comprehensive Energy Audit of the Town's existing street lighting systems. This Energy Audit identified the potential improvements the Town could implement to reduce annual energy and operational costs while maintaining current lighting levels.

As recommended within the audit, the Town is moving forward with a project to purchase the lighting systems from NG and NYSEG. The project includes upgrading that same system to improve the total functionality of the Town's street lighting while reducing energy and operational costs. Upgrades include replace fixtures with LED luminaires and asset management controls to provide smart city capabilities.

This Map, Plan and Report is broken down into two (2) separate sub-projects as they require separate bond authorizations. They are described as follows:

General Street Lighting – This includes all main thoroughfares in various areas of the Town such as Sheridan Drive, Niagara Falls Boulevard, N. Forest Road, N. French Road, Maple Road, Transit Road, and the like. Street light costs are borne by all Town residents.

The typical fixture in the General Street Lighting is a cobra head fixture. Lights are located on major roads and as a result, have not been set up for payment through lighting district taxation. Expenses for General Street Lighting are paid via a utility account properly coded in the Town's General Fund.

Street Lighting District – This includes all neighborhoods in the Town outside of the before-mentioned General Street Lighting Fund. These street lights are generally post top type fixtures in the Town. Expenses for this district are paid via the Consolidated Lighting District account.

Attachment: Lighting Purchase MPR 2022_Final (RES-2022-121 : Town of Amherst Streetlight Acquisition and Upgrades - Public Hearing (Bond

Town of Amherst
Engineering Department
Town of Amherst Street Light Acquisition and Upgrades

FINANCIAL SUMMARY

Estimated Project/Bonding Costs:

Project	CIP No.	Purchase	Construction + Project Management	Contingency	Legal/Admin	Total
General Fund Street Lighting	H-15	$ 1,758,060	$ 2,642,041	$ 77,399	$ 22,500	**$ 4,500,000**
Street Light District	H-15	$ 13,336,194	$ 12,219,523	$ 811,783	$ 132,500	**$ 26,500,000**

Note: Costs are estimates only and can be shifted within each bond as necessary

TAXATION SUMMARY

Project	Total Bond Amount	Ann. Tax Impacts (per year, per $1,000 AV)	Typ. Property Tax Impacts (per year, per $200,000 AV)
General Fund Street Lighting	$ 4,500,000	$0.031	$6.19
Street Lighting District	$ 26,500,000	$0.363	$72.66
TOTALS	**$ 31,000,000**	**$0.394**	**$78.82**

Note: The project is designed to decrease the tax burden to both the General Street Lighting and the Street Lighting District by offsetting netting reduced utility payments (resulting from billing conversion to NG-SC-3 & NYSEG-SC-4) against annual debt service and maintenance payments for the facilities. Once the bond is paid, the Annual Debt Service can be removed from the budget, further decreasing the tax burden.

Attachment: Lighting Purchase MPR 2022_Final (RES-2022-121 : Town of Amherst Streetlight Acquisition and Upgrades - Public Hearing (Bond

Town of Amherst
Engineering Department
Town of Amherst Street Light Acquisition and Upgrades

Attachment: Lighting Purchase MPR 2022_Final (RES-2022-121 : Town of Amherst Streetlight Acquisition and Upgrades - Public Hearing (Bond

LOCATION:

The Town of Amherst is located in Erie County within the New York State. This project is town-wide. Existing Street light locations are shown in Appendix A – Existing Street Lighting System.

EXISTING SYSTEM:

The Town of Amherst's street light system is made up of 9,649 street lights and is a combination of National Grid SC-2 "Company Owned – Company Maintained", National Grid SC-3 "Customer Owned – Customer Maintained", and NYSEG SC-3 "Standard Street Lighting" systems. The majority of the street lights are billed under National Grid SC-2 and are maintained by the Utility. These street lights are comprised predominantly of High Intensity Discharge (HID) fixtures, and are un-metered. The current HID street lighting system is one of the largest electric usage and costs for the Town. Since the energy consumption of the street lighting is not metered, the Town is billed for electricity supply and delivery based on the quantity and wattage of the lamps in service. This accounts for 20% of the Town's annual street lighting cost.

Aside from the energy charges, the Town is charged by NG and NYSEG a monthly maintenance fee, or a "Facility" charge. This includes charges for the maintenance of the metal poles, arms, underground circuits, and foundations owned by the Utility, and makes up over 80% of the Town's annual street lighting cost.

The Town and its Energy Consultant conducted a GIS audit of the entire street light system. The following table is a count by luminaire style:

Ref. #	Luminaire Type	Luminaire Quantity
1	Cobrahead	2,910
2	Central Park Acorn	6
3	Traditional/Coach Post Top	1,168
4	Aspen Grove Post Top	5,307
5	Edison Acorn	66
6	Underpass	27
7	Delaware Park Teardrop	23
8	Shoebox	112
9	Edgewater Post Top	24
10	Bell Pendant Teardrop	6
Grand Total		9,649



Town of Amherst
Engineering Department
Town of Amherst Street Light Acquisition and Upgrades

PURCHASE

The purchase of the street light facilities will convert the NG-SC-2 and NYSEG-SC-3 street light assets to NG-SC-3 & NSEG-SC-4, respectively. Under NG-SC-3 & NSEG-SC-4, the Town will own and assume the responsibility of maintaining the 9,649 street lights and associated assets at a reduced overall cost. The delivery rates under NG-SC-3 are less than those under NG-SC-2, providing the Town with additional cost savings.

STREET LIGHTING IMPROVEMENTS:

After bond authorization, the Town will enter into an agreement with New York Power Authority (NYPA) to upgrade the existing street light fixtures with high-efficient LED technology. The light-emitting diode, or LED, is one of the most efficient lighting technologies on the market today, and is rapidly replacing other lighting technologies in many applications across residential, commercial, and public sectors. The conversion will achieve the following goals:

- Reducing energy consumption
- Lower utility costs
- Provide operational and maintenance savings
- Improving light quality and uniformity
- Enhance pedestrian, traffic, and community safety
- Reduce greenhouse gas emissions
- Allow for smart city implementation

The following provides a comparison of the existing HID luminaires and selected LED luminaires that are in the current Basis of Design (BOD):

Existing HID Luminaires	Proposed LED Basis of Design (BOD)
Cobrahead	Philips: RoadFocus (RFS, RFM, RFL)
	

Attachment: Lighting Purchase MPR 2022_Final (RES-2022-121 : Town of Amherst Streetlight Acquisition and Upgrades - Public Hearing (Bond

Town of Amherst
Engineering Department
Town of Amherst Street Light Acquisition and Upgrades

Existing HID Luminaires	Proposed LED Basis of Design (BOD)
Traditional /Coach Style Post Top	Philips: TownView (TVPR)
	
Aspen Grove Style Post Top	Philips: TownView (TVPR)
	
Central Park (Acorn) Style Post Top	Philips: Refractive globe (RL54/34)
	
Underpass	Philips: TunnelView (TULS)
	

Attachment: Lighting Purchase MPR 2022_Final (RES-2022-121 : Town of Amherst Streetlight Acquisition and Upgrades - Public Hearing (Bond

Town of Amherst
Engineering Department
Town of Amherst Street Light Acquisition and Upgrades

Existing HID Luminaires	Proposed LED Basis of Design (BOD)
Shoebox	Philips: EcoForm (ECF)
	
Deleware Park Style Teardrop	Philips: Renaissance (RN20)
	
Edison	Philips: Refractive globe (RL54/RL34)
	
Edgewater Post Top	Philips: TownView (TVPR)
	

Attachment: Lighting Purchase MPR 2022_Final (RES-2022-121 : Town of Amherst Streetlight Acquisition and Upgrades - Public Hearing (Bond

Town of Amherst
Engineering Department
Town of Amherst Street Light Acquisition and Upgrades

Existing HID Luminaires	Proposed LED Basis of Design (BOD)
Bell Pendant Teardrop	Philips: Domus (DMS50)
	

Once the acquisition project and conversion to LED is complete, any remaining funds may be used to install additional lighting in the General Fund and/or Lighting District, as applicable. The proposed plan for upgraded Street Lighting is found in Appendix B – Proposed Street Lighting Plan.

ASSET MANAGEMENT & SMART CITIES:

With advances in communications technology and new opportunities to network street light systems, LED street light systems can provide much greater control over lighting than older technologies. Asset management controls will be installed that will provide smart city capabilities. The Town will then be able to leverage the street light system for tasks that are mutually beneficial to Town Departments and enable the Town to centrally command and manage all the lighting locations throughout the Town.

Each luminaire will be fitted with an Asset Management Control (AMC) node. An AMC node is designed to convert LED fixtures into intelligent focal centers, providing actionable insights that go far beyond illumination and mere granular lighting control. AMC nodes will allow the Town of increase worker efficiency through the use of a status and outage reporting system. It will also help significantly reduce the outage time for street lights, which can help eliminate unsafe conditions.

Aside from being an asset management tool, AMC node will allow for greater street light functionality and control. Once added to the cloud management system, the street lights can be set to dim in the late night/early morning hours when the streets are quiet, saving energy and reducing unwanted nighttime lighting. They can also be set to provide brighter lighting levels at certain hours, during emergencies, or other events. Lighting levels can be adjusted in real time or they can be set to change at specified times.

Attachment: Lighting Purchase MPR 2022_Final (RES-2022-121 : Town of Amherst Streetlight Acquisition and Upgrades - Public Hearing (Bond

Town of Amherst
Engineering Department
Town of Amherst Street Light Acquisition and Upgrades

ESTIMATED ANNUAL SAVINGS:

Converting all street lighting fixtures to LED will result in significant energy savings, as well as substantial maintenance savings associated with this measure over the expected life of the equipment. The estimated annual savings ranges from $400,000 to $500,000 after capital reserve, project financing, operation and maintenance, and other costs and incentives.

ANTICIPATED PROJECT SCHEDULE:

Bond Action: January – February 2022
Authorization to Proceed (NYPA): February 2022
Purchase Materials: March 2022
Anticipated Construction: Summer 2022 – Fall 2022
Closing Date of Asset Purchase: September 2022

FINANCIAL SUMMARY:

The Town of Amherst appropriated funds in the approved 2022-2027 Capital Improvement Program under Project H-15, Purchase of street light assets and conversion to LED. This CIP project will be amended by Town Board Resolution to include additional funding towards CIP project H-15 at the January 18, 2022 Town Board Meeting.

The project funding includes a General Fund bond and Street Lighting District bond as described within the Executive Summary section.

Attachment: Lighting Purchase MPR 2022_Final (RES-2022-121 : Town of Amherst Streetlight Acquisition and Upgrades - Public Hearing (Bond

Town of Amherst
Engineering Department
Town of Amherst Street Light Acquisition and Upgrades

PROJECT COST ESTIMATE:

	STREET LIGHTING DISTRICT	*GENERAL FUND*
○ Purchase of Lighting Assets	$ 13,336,194	$ 1,758,060
○ Construction	$ 10,335,090	$ 2,235,114
○ Project Management	$ 1,884,433	$ 406,927
○ Contingency	$ 811,783	$ 77,399
○ Legal / Administrative / Interest	$ 132,500	$ 22,500
Total Amount to be bonded	**$ 26,500,000**	**$ 4,500,000**

TAXATION SUMMARY:

	STREET LIGHTING DISTRICT	*GENERAL FUND*
○ Current Bond Request:	$ 26,500,000	$4,500,000
○ Bond Term:	20 years	20 years
○ Annual Tax Impacts per $1,000 AV:	$0.363 per year (Lighting District)	$0.031 per year
○ Typical Property Taxation Impacts per $200,000 property	$72.66 per year (Lighting District)	$6.19 per year

Attachment: Lighting Purchase MPR 2022_Final (RES-2022-121 : Town of Amherst Streetlight Acquisition and Upgrades - Public Hearing (Bond

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 January 10, 2022

TO: Christopher Schregel, Project Manager
Engineering Department

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

RE: SEQR Determination
Street Lighting Acquisition & Upgrades
2021-2027 C.I.P. Project H-15 – TOA Job No. 2016.054

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

Please contact our office if you have any questions.

X:\Special_Projects\SEQR_Engineering & Other TOA\Type_II_Actions_(PJ-2015-001)\Street Light Acquistions & Upgrades_2021_2027_CIP_H_15.docx

cc:
Stanley J. Sliwa, Esq., Town Attorney
Daryl Bramer, Comptroller
Daniel Howard, Planning Director

Attachment: Lighting Purchase MPR 2022_Final (RES-2022-121 : Town of Amherst Streetlight Acquisition and Upgrades - Public Hearing (Bond

CERTIFICATE AS TO USEFUL LIFE OF PROJECT

I, the undersigned, HEREBY CERTIFY as follows:

That I am the Town Engineer [Engineer] and I am familiar with the Town of Amherst Street Light Acquisition & Upgrades project, as described in the map, plan and report dated January 2022, prepared by the Town Engineering Department (2022-2027 CIP Project H-15)(Project #2016.054).

That said project is classified as a capital asset under generally accepted accounting principles for municipalities and that the useful life thereof is at least thirty (30) years.

That this certification is being delivered pursuant to the Local Finance Law Section 11.00 a. 35, constituting Chapter 33-a of the Consolidated Laws of the State of New York, in connection with the issuance of bonds or notes of the Town to finance such project, for the purpose of determining the maximum maturity of such bonds or notes.

IN WITNESS WHEREOF, I have hereunto set my hand this 10th day of January, 2022.

(Name)

Town Engineer
(Title/Position)

560386.1 001098 FILE

Attachment: Lighting Purchase MPR 2022_Final (RES-2022-121 : Town of Amherst Streetlight Acquisition and Upgrades - Public Hearing (Bond

Attachment: Lighting Purchase MPR 2022_Final (RES-2022-121 : Town of Amherst Streetlight Acquisition and Upgrades - Public Hearing (Bond

Appendix A

Existing Street Lighting Map

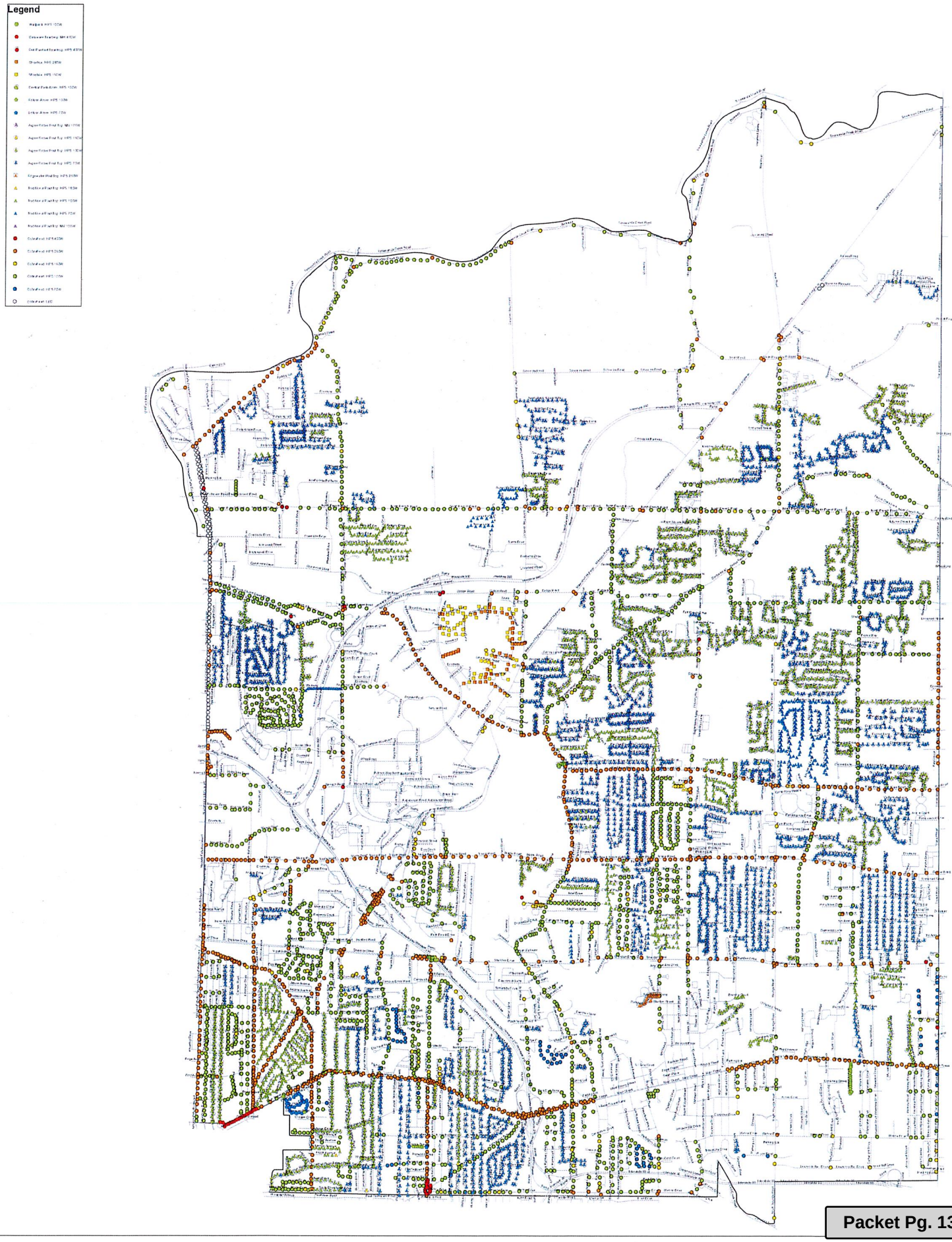
Town of Amherst

Existing Street Lighting System

0 750 1,500 3,000 4,500 Feet

wendel

WD Project # 261343
Map Created: Octob



Attachment: Lighting Purchase MPR 2022_Final (RES-2022-121 : Town of Amherst Streetlight Acquisition and Upgrades - Public Hearing (Bond

Appendix B

Proposed Street Lighting Plan

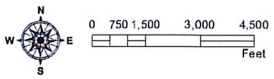
Attachment: Lighting Purchase MPR 2022_Final (RES-2022-121 : Town of Amherst Streetlight Acquisition and Upgrades - Public Hearing (Bond

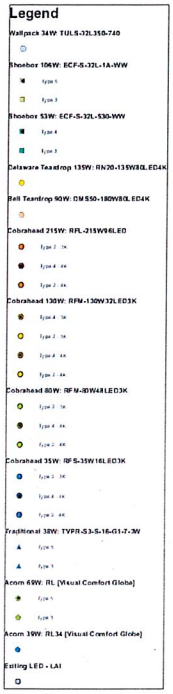
Town of Amherst

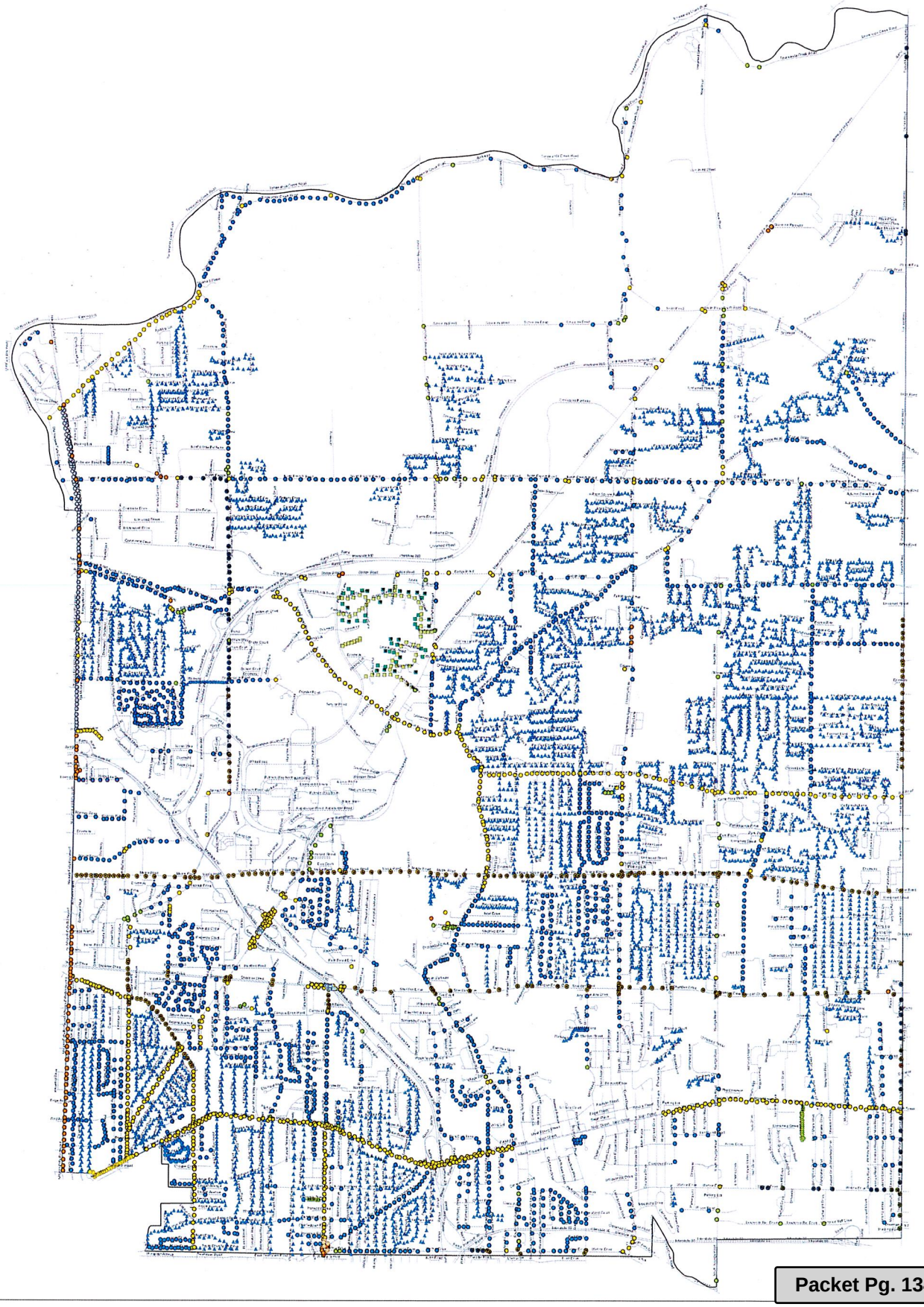
Proposed
Final Design

wendel

WD Project # 2612
Map Created: Octob







Attachment: Lighting Purchase MPR 2022_Final (RES-2022-121 : Town of Amherst Streetlight Acquisition and Upgrades - Public Hearing (Bond

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

Francina J. Spoth
Town Clerk

Meeting: 02/07/22 07:00 PM
Department: Planning
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

DOC ID: 25369 **RESOLUTION 2022-122** **WITHDRAWN**

Adoption of Local Law to Amend the Zoning Map (1789 Dodge Road, Z-2020-15)

DRAFT RESOLUTION
February 7, 2022

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 does not concur with the findings of the Planning Board as stated in their resolution of September 23, 2021 that the proposed Single Family Residential District Three (R-3) zoning at 1789 Dodge Road is generally inconsistent with the policies of the adopted Bicentennial Comprehensive Plan, and is not compatible with the present zoning and conforming use of nearby property and with the character of the neighborhood, and be it further

RESOLVED, that the Town Board does find that the proposed Residential District Three (R-3) zoning at 1789 Dodge Road is consistent with the adopted Bicentennial Comprehensive Plan because the proposal provides single-family residential density within the target range (2-4 units/acre) as established by Section 3.3.1 of the Bicentennial Comprehensive Plan for single family residential uses and further depicted by Figure 6 of the Plan and is consistent in character with the other single-family subdivisions in the vicinity, which is predominantly single family homes, and be it further

RESOLVED, that the Town Board does find that the proposal is consistent with the adopted Bicentennial Comprehensive Plan because the proposal will incorporate design changes that reflect a mutually beneficial transition between the R-3 zoning to the surrounding S-A zoning by utilizing perimeter open spaces, a 75-foot natural buffer / no build area along the Dodge Road frontage, and be it further

RESOLVED, that in accordance with Chapter 203, Section 8-3-6 of the Town Code (Zoning), the Town Board adopts Local Law (#) to amend the Town Zoning map from Suburban Agriculture (SA) to Residential District Three (R-3) subject to the following conditions:

1. That future development of the site shall be limited to single family detached residential uses with a maximum yield of fifteen (15) homes.
2. That any future development of a principal or accessory structure or uses in the 2.7 acres of Permanent Open Space shall be prohibited. The only proposed development of the portion of the Permanent Open Space is limited to required stormwater management system improvements and utility infrastructure.
3. That a protective covenant/conservation easement shall be placed on all

proposed open space and confirm total acreage to be under the control of a home owners association.

4. That the final plat design shall include a right-of-way access to a potential future Youngs Road extension.
5. That the landscaping and screening to be provided in the Permanent Open Space along the Dodge Road frontage of the project site shall require the approval of the Planning Board at the Preliminary Plat Application stage of the subdivision review process.

RESULT:	**WITHDRAWN**

D R A F T (***February 7, 2022***)

SEQR

NEGATIVE DECLARATION

NOTICE OF DETERMINATION OF NON-SIGNIFICANCE

Lead Agency: Town of Amherst
Town Board

Project: Z-2020-15

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 6.7± acres of land from SA to R-3 to allow for a proposed 16-lot residential subdivision that will consist of 15 detached single-family home lots and a stormwater management lot located in the eastern most portion of the property. A public roadway ending in a hammer-head turnaround and a single curb cut onto Dodge Road are proposed. Seventy-five feet of frontage along Dodge Road is proposed to remain as greenspace with the exception of the access roadway. Approximately 2.7± acres of the 6.7± acre site will remain as permanent open space along the north, south, eastern and western boundaries of the parcel.

Location: 1789 Dodge Road, Town of Amherst, Erie County, New York

Petitioner: Joe Rubino

Attachment: Z-2020-15_draft Neg Dec_011822 (RES-2022-122 : Local Law to Amend the Zoning Map - 1789 Dodge Road)

Reasons Supporting This Determination

Based on information submitted by the applicant, including a Full Environmental Assessment Form (EAF) - Part 1 and Part 2, 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 6.7± acres of land from Suburban Agriculture (SA) to Residential District Three (R-3) for a proposed 16-lot residential subdivision (for 15 detached single-family homes) and related site improvements 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 Town Engineering Department on August 24, 2021 reviewed the application and EAF submitted on August 16, 2021 and had no objection or comments on the proposed rezoning.

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. Permanent open space buffers, including 75 feet along Dodge Road will preserve and enhance natural vegetation. A Landscape Plan shall be required of the applicant upon submittal of a subdivision application for development of the site at which stage all landscape requirements of the Zoning Ordinance will be met. This determination is also based on review of the NYSDEC Environmental Resource Mapper, which shows the site does not contain any significant natural communities, or habitat for rare, threatened or endangered plants or animal species[1].

3. The project is not expected to create any material conflict with the Town of Amherst Bicentennial Comprehensive Plan. The project will comply with all regulations of the Town Zoning Ordinance before the final subdivision plat is approved. The Town Building Department on August 26, 2021 reviewed the application and EAF submitted on August 16, 2021, and has no objection or comments on the proposed rezoning. As described in the Bicentennial Comprehensive Plan, the new development is generally consistent with section 3.3.1 of the Bicentennial Comprehensive Plan for Residential Uses, and in character with the surrounding single-family residential areas.

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.

[1] https://gisservices.dec.ny.gov/gis/erm/, last accessed January 10, 2022

Attachment: Z-2020-15_draft Neg Dec_011822 (RES-2022-122 : Local Law to Amend the Zoning Map - 1789 Dodge Road)

5. The project will not impair the character or quality of important aesthetic resources or of existing community or neighborhood character because the proximate land uses within an approximately ¼ mile radius are also single-family detached homes located in the S-A District, R-3 District and CR-3A District; therefore, the project is compatible with surrounding land use.

6. The proposed rezoning to Residential District Three (R-3) for a proposed 16-lot residential subdivision will result in an increase in the use and type of energy. However, the required utilities will be in place to adequately handle the anticipated increase. In addition, development of new single-family dwellings, under either the existing or proposed zoning districts are required to meet the NYS Energy Code for new construction. Therefore, the proposed R-3 rezoning will not cause a significant adverse change in the use of either the quantity or type of energy.

7. A search of NYSDEC data bases (Spill Incidents Database, Remedial Site Database, Bulk Storage Database) did not result in evidence of any known contamination concerns, the rezoning to Residential District Three (R-3) for the proposed 16-lot residential subdivision will not create any hazard to human health.

8. The rezoning from S-A to Residential District Three (R-3) will increase the intensity of use from one single-family dwelling to a total of 15 dwellings. The proposed residential subdivision will be consistent with the scale of surrounding land uses and approximately 1.5 acres of the 6.7-acre site will remain as permanent open space. In addition, there will be no change to existing agricultural, public-open space or recreational resources, as the current land use is not agricultural, or publically-owned open space, or publically-owned recreation resources.

9. The rezoning to Residential District Three (R-3) for the proposed 16-lot residential subdivision will increase the number of people using the site over its previous level of use. However, based on inter-departmental reviews, the existing water, sewer, storm water and street infrastructure have or will have sufficient capacity to serve the proposed 15 single-family dwellings to adequately handle the anticipated increase without significant adverse impact to those existing systems.

10. The rezoning of the subject site will allow for the construction of approximately 15 single-family dwellings, contrasted with 4-6 single-family dwellings that could be allowed under the current S-A zoning designation.

Attachment: Z-2020-15_draft Neg Dec_011822 (RES-2022-122 : Local Law to Amend the Zoning Map - 1789 Dodge Road)

Dodge Road is a County collector roadway as stated in the Town's Bicentennial Comprehensive Plan. The Town Traffic Safety Board on September 7, 2021 reviewed the application and EAF submitted on August 16, 2021, and concluded 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 August 26, 2021, Engineering on August 24, 2021, Highway on May 11, 2021, Traffic/Safety Board on September 7, 2021, Assessor on August 19, 2021, Fire Chiefs' Council on September 10, 2021, and Right-of-Way Agent on August 19, 2021 along with outside agencies including Erie County Department of Environment & Planning on September 23, 2021. 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

GP/ac
X:\Current_Planning\Files\Rezonings\2020\Z-2020-15_(1789_Dodge_Rd)_2020\Z-2020-15_draft Neg Dec_011822.docx
cc: Amherst Town Clerk
Amherst Building Department
ECDEP
NYSDEC
NYSDOT (if on state hwy.)
Sean Hopkins, Esq., Hopkins Sorgi & McCarthy, 5500 Main St., Ste. 343, Williamsville, NY 14221
Joe Rubino, Hopkins Sorgi & McCarthy, PLLC, 5500 Main St., Ste. 343, Williamsville, NY 14221
Christopher Wood, P.E., Carmina Wood Morris, DPC, 487 Main St., Suite 600, Buffalo, NY 14202
Robert C. Walter, 2765 Dodge Rd., E. Amherst, NY 14051

Attachment: Z-2020-15_draft Neg Dec_011822 (RES-2022-122 : Local Law to Amend the Zoning Map - 1789 Dodge Road)

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 1789 DODGE ROAD FROM S-A TO R-3 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 1789 Dodge Road from S-A to R-3 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 1789 Dodge Road from S-A to R-4 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 is consistent with the Comprehensive Plan.

Section 3. Amherst Zoning Map.

The Town Board hereby amends its zoning map which is incorporated by reference in the Town zoning code by amending from S-A to R-3, the zoning of 1789 Dodge Road, **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 and State of New York, being part of Lot No: 52, Township 12, Range 7 of the Holland Land Company's Survey, described as follows:

Beginning at a point in the northerly line of the lands conveyed to Eli J. and Doris A. Bongiovanni recorded in Erie County Clerk's Office in Liber 7853 of Deeds at page 327 distant two hundred eighty and twenty-three hundredths (280.23) feet westerly from the easterly line of Lot 52; thence S 89° 52' 30" W along the northerly line of the said Bongiovanni a distance of eight hundred seven and thirty-five hundredths (807.35) feet to the centerline of Dodge Road; thence S 33° 53' 27" VV along the centerline of Dodge Road a distance of four hundred six and twenty hundredths (406.20) feet to the southwesterly corner of the said Bongiovanni; thence N 89° 30' 52" E along the southerly line of the said Bongiovanni a distance of eight hundred fifty-seven and forty-eight hundredths (857.48) feet, said point being in the approximately centerline of Town

Attachment: Local Law-Draft-Rezoning of 1789 Dodge Road - R-3_08-16-21 (RES-2022-122 : Local Law to Amend the Zoning Map - 1789 Dodge

of Amherst Ditch 26B; thence along the approximate centerline of Ditch 26B.the following courses and distances: 1) N 43° 02' 20" East distance of eighty-three and five tenths (83.5) feet, 2) N 60° 40' 20" East a distance of one hundred twenty-five and seventy-three hundredths (125.73) feet, N 02° 43' 40" East a distance of two hundred five and eighty hundredths (205.80) feet to the point 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: Local Law-Draft-Rezoning of 1789 Dodge Road - R-3_08-16-21 (RES-2022-122 : Local Law to Amend the Zoning Map - 1789 Dodge

EXHIBIT 3 OF REZONING APPLICATION

LEGAL DESCRIPTION OF PROPERTY TO BE REZONED FROM SUBURBAN AGRICULTURE DISTRICT ("SA") TO RESIDENTIAL DISTRICT THREE ("R-3")

All that tract or parcel of land, situate in the Town of Amherst, County of Erie and State of New York, being part of Lot No: 52, Township 12, Range 7 of the Holland Land Company's Survey, described as follows:

Beginning at a point in the northerly line of the lands conveyed to Eli J. and Doris A. Bongiovanni recorded in Erie County Clerk's Office in Liber 7853 of Deeds at page 327 distant two hundred eighty and twenty-three hundredths (280.23) feet westerly from the easterly line of Lot 52; thence S 89° 52' 30" W along the northerly line of the said Bongiovanni a distance of eight hundred seven and thirty-five hundredths (807.35) feet to the centerline of Dodge Road; thence S 33° 53' 27" VV along the centerline of Dodge Road a distance of four hundred six and twenty hundredths (406.20) feet to the southwesterly corner of the said Bongiovanni; thence N 89° 30' 52" E along the southerly line of the said Bongiovanni a distance of eight hundred fifty-seven and forty-eight hundredths (857.48) feet, said point being in the approximately centerline of Town of Amherst Ditch 26B; thence along the approximate centerline of Ditch 26B.the following courses and distances: 1) N 43° 02' 20" East distance of eighty-three and five tenths (83.5) feet, 2) N 60° 40' 20" East a distance of one hundred twenty-five and seventy-three hundredths (125.73) feet, N 02° 43' 40" East a distance of two hundred five and eighty hundredths (205.80) feet to the point of beginning.

Attachment: Z-2020-15 - legal description (RES-2022-122 : Local Law to Amend the Zoning Map - 1789 Dodge Road)

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

Francina J. Spoth
Town Clerk

Meeting: 02/07/22 07:00 PM
Department: Councilmembers
Initiated by: **Jacqualine Berger**
Co-Sponsored by:

DOC ID: 25323 **RESOLUTION 2022-123** **ADOPTED**

Appointment to the Planning Board

WHEREAS, New York State Town Law gives authority to the Amherst Town Board to appoint a Planning Board; and

WHEREAS, the powers of the Amherst Planning Board (Planning Board) are to review and approve site plans, subdivision applications, coordinate sign plans, rezoning applications and make recommendations to the Amherst Town Board; and

WHEREAS, the Planning Board also participates in the development of Comprehensive Plans and review any matter referred by the Amherst Town Board and reports to the Amherst Town Board; and

WHEREAS, the Amherst Planning Board consists of seven (7) members, each serving seven (7) years, with one member's term concluding at the end of a calendar year; and

WHEREAS, Carrie Kahn has served on the Zoning Board of Appeals and has expressed interest in serving on the Planning Board.

NOW, THEREFORE, BE IT RESOLVED that the Amherst Town Board appoints Carrie Kahn to her first full term to conclude December 31, 2028.

2/7/2022
Consent

FINANCIAL IMPACT:

None.

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: 02/07/22 07:00 PM
Department: Councilmembers
Initiated by: **Jacqualine Berger**
Co-Sponsored by:

DOC ID: 25324 **RESOLUTION 2022-124** **ADOPTED**

Appointment to the Zoning Board of Appeals

WHEREAS, pursuant to the provisions of Section 267 of the New York State Town Law, the Town of Amherst maintains a Zoning Board of Appeals (ZBA) consisting of five (5) members appointed by the Amherst Town Board (Town Board), each for a term of five (5) years, with terms concluding on a staggered basis; and

WHEREAS, the ZBA is authorized to grant relief from any provision of the Town of Amherst Zoning Ordinance or any decision of an administrative official charged with the enforcement of that ordinance; and

WHEREAS, the ZBA is empowered to grant special use permits in certain instances as spelled out in the Zoning Ordinance and Amherst Town Law specifies the grounds and criteria that the ZBA must use to grant a variance; and

WHEREAS, the ZBA has a board of five (5) members each serving a term of five (5) years; and

WHEREAS, Brian Bray has expressed interest serving on the ZBA.

NOW, THEREFORE, BE IT RESOLVED that the Amherst Town Board appoints Brian Bray to the Zoning Board of Appeals for a term to conclude December 31, 2026.

2/7/2022
Consent

FINANCIAL IMPACT:

None.

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: 02/07/22 07:00 PM
Department: Councilmembers
Initiated by: **Jacqualine Berger**
Co-Sponsored by:

DOC ID: 25372 **RESOLUTION 2022-125** **ADOPTED**

Gas Meter Repair

WHEREAS, a four gas multi meter is used to detect hazardous gases; and

WHEREAS, the Amherst Fire Safety Division responds to emergency situations that at times requiring air monitoring within a fire scene; and

WHEREAS, this meter, currently malfunctioning, is the standard meter used by many town departments thus allowing for ease of use and calibration.

NOW, THEREFORE, BE IT RESOLVED that the Town Board approves the repair of a GMI Multi Gas Meter from Avoidable Alarm Fund T-2999.4002, for the health and safety of the Amherst Fire Safety Division.

2/7/2022
Consent

FINANCIAL IMPACT:

A cost not to exceed $350.00 on State Bid from Dival Safety.

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

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Repair Estimate

Bill to: TOWN OF AMHERST BLDG DEPARTMNT
5583 MAIN STREET
WILLIAMSVILLE NY 14221

Ship to: TOWN OF AMHERST BLDG DEPARTMNT
5583 MAIN STREET
WILLIAMSVILLE NY 14221

CUSTOMER NUMBER	CONTACT	PRINT DATE
10343	BRYAN PARNELL	2/01/22

ORDER NUMBER	CUSTOMER PURCHASE ORDER	SALES REPRESENTATIVE	INSTRUCTIONS
L9281 00	PENDING	119 BIN TRANSITIONAL	

Ordered	Shipped	B.O.	U/M	Item and Description	Unit Price	Extended Price
1	1		EA	RPRGASDET Repair Gas Detector Ticket 124331	$.00000	$.00
				TICKET: 124331 **MANUFACTURER: DETCON INC.** **MODEL: PS200** **SERIAL NUMBER: 371473**		
				ISSUES: CALIBRATION FINDINGS: POWERED ON METER AND IT SHOWED H2S WITH A WRENCH BUT DID CLEAR WHEN PLACED IN CAL STATION TO TEST. CALIBRATED METER AND ALL SNESORS DID PASS. O2 SENSOR IS HOWEVER EXPIRING THIS MONTH AND IT WILL NEED TO BE REPLACED. PUMP RESPONDS WELL WHEN BLOCKED		
1	1		HR	GDRL Gas Monitor Calibration/Repair S/N 371473	$150.95000	$150.95
1	1		EA	64066 GMI O2 sensor for PS200 gas meter	$108.90000	$108.90

REPAIR ESTIMATE - Not an Invoice

Subtotal		Total
$259.85	.000	**$259.85**

Attachment: RESOLUTION Attachment Gas Meter Repair quote 20220207 (RES-2022-125 : Gas Meter Repair)

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

Francina J. Spoth
Town Clerk

Meeting: 02/07/22 07:00 PM
Department: Councilmembers
Initiated by: **Jacqualine Berger**
Co-Sponsored by:

DOC ID: 25395 **RESOLUTION 2022-126** **ADOPTED**

Establishing a Fee and Participation Policy for the Farmers Market at Bassett Park

WHEREAS, the Parks Administration of the Town of Amherst Facilities and Parks Administration Department seeks to establish a "Fee and Participation Policy" to offset operating costs associated with the organization, management, and related programming associated with the Farmer's Market at Bassett Park; and

WHEREAS, the Farmer's Market has been a successful departmental event in the past, and the Parks Administration wishes to build upon the success of this seasonal, monthly event by adding additional programming such as live music and performances ; and

WHEREAS, the attached "Fees and Participation Policy" has been vetted by thorough research and comparative pricing models and analysis and the department and vendors are pleased with the low cost per market; and

WHEREAS, all monies collected by the Parks Administration will be handling using the previously approved process; and

NOW, THEREFORE, BE IT RESOLVED, the Town Board hereby approves the attached documents for form and content, and recognizes and adopts the pages listed and contain therein as the official fee structure of the Town of Amherst Parks Administration, Market at Bassett Park.

2/7/2022
Consent

FINANCIAL IMPACT:

None.

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

Market at Bassett Park – Fees and Participation Policy
Town of Amherst, Parks Administration

1. Market participation will require vendors to submit a fee of $20 per market.

2. Payment must be remitted to the Town of Amherst Parks Administration by the deadline set forth in the contract signed by the market participant.

3. Vendors/participants will receive a written receipt confirming payment has been submitted.

4. All vendors are required to submit a signed contract, provided by the Parks Administration, in addition to a valid COI designated the Town of Amherst as additional insured, and the required fee. When the Parks Administration has received all of these requirements, a written confirmation of participation will be provided to the vendor/participant.

Attachment: RESOLUTION Attachment Fees and Participation Policy 20220207 (RES-2022-126 : Establishing a Fee and Participation Policy for

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

Francina J. Spoth
Town Clerk

Meeting: 02/07/22 07:00 PM
Department: Councilmembers
Initiated by: **Shawn Lavin**
Co-Sponsored by:

DOC ID: 25307 **RESOLUTION 2022-127** **ADOPTED**

Amherst Youth Board Reappointments

WHEREAS, the Amherst Youth Board, AYB, is an organization offering varied services in support of children, youth and families living in the Town of Amherst. Chartered by the Amherst Town Board and New York State Executive Law, the agency is governed by a policy-making board of 23 citizen volunteers, comprising both adults and youth; and

WHEREAS, members are appointed by the Amherst Town Board for three-year terms, meet monthly and participate in decisions affecting programming, policies, funding and public relations for youth programs and services; and

WHEREAS, Nora Robshaw and Angela Seo have expressed interest in continuing service to the Amherst Youth Board.

NOW, THEREFORE, BE IT RESOLVED that Nora Robshaw and Angela Seo be reappointed to the Amherst Youth Board for a term to end on December 31, 2024.

2/7/2022
Consent

FINANCIAL IMPACT:

None.

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: 02/07/22 07:00 PM
Department: Town Attorney
Initiated by: **Stanley J. Sliwa**
Co-Sponsored by:

DOC ID: 25352 **RESOLUTION 2022-128** **ROLL CALL VOTE (ADOPTED)**

Agreement for Purchase and Sale of Streetlights (CRS# 3147)

AGENDA ITEM : FEBRUARY 7TH, 2022

TO: **Town Board**

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

DATE: **February 1, 2022**

RE: **Agreement For Purchase and Sale of Streetlights Between: Niagara Mohawk Power Corporation d.b.a. National Grid and the Town of Amherst (CRS# 3147)**

Kindly adopt a resolution authorizing the Supervisor to execute the attached agreement for the purchase and sale of streetlights subject to successful completion of the Contract Routing System.

Thank you.
SJS:nmb
Attachment
c: Tim Koller, Deputy Town Clerk
(*w/attachment,* **Agenda Item - February 7, 2022**)
Lynda Juul, Director of Finance (*w/attachment)*
Daryl C. Bramer, Comptroller (*w/attachment)*
Christopher P. Schregel, Project Manager (*w/attachment)*

2/7/2022
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved via Roll Call vote 5-0.

FINANCIAL IMPACT:

Acquisition of residential lighting: KP2201.2775 / Amount TBD (estimated at $13,336,194 but final amount may vary)

Acquisition of highway lighting: KP2202.2775 / Amount TBD (estimated at $1,758,060 but final amount may vary)

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

AGREEMENT FOR PURCHASE AND SALE OF STREET LIGHTS

THIS AGREEMENT FOR PURCHASE AND SALE OF STREET LIGHTS (this "Agreement") is made as of this _____ day of _____, 2022 (the "Effective Date"), between NIAGARA MOHAWK POWER CORPORATION d/b/a NATIONAL GRID, a corporation organized and existing under the laws of the State of New York, having an office and place of business at 300 Erie Boulevard West, Syracuse, New York 13202 ("Seller"), and the TOWN OF AMHERST, a municipal corporation organized and existing under the laws of the State of New York with its principal place of business at 5583 Main Street, Amherst, New York 14221 ("Buyer"). Buyer and Seller are sometimes herein referred to individually as a "Party" and collectively as the "Parties."

W I T N E S E T H:

WHEREAS, Seller owns, operates and maintains an electric transmission and distribution system, including certain streetlights used to provide lighting service under bill account number 44152-93108 to Buyer within its municipal boundaries under Service Classification ("S.C.") No. 2 of Seller's Outdoor Lighting Tariff (defined below).

WHEREAS Buyer desires to purchase the Street Lights (as defined below in Section 1) from Seller as provided in Section F.8 of S.C. No. 2 of Seller's Outdoor Lighting Tariff (defined below), and Seller is willing to sell the Street Lights to Buyer.

NOW THEREFORE, in consideration of the commitments made herein and intending to be legally bound thereby, and other valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the Parties agree as follows:

1. **Definitions**. Capitalized terms shall have the meanings defined throughout this Agreement or as specified below in this Section 1.

"**Agreement**" means this Agreement for Purchase and Sale of Street Lights, together with the exhibits and schedules attached hereto, as the same may be amended from time to time.

"**Attachment Agreement**" means the License Agreement for Customer-Owned Street and Area Lighting Attachments to Utility Poles and Structures executed by Buyer and Seller and hereto as Exhibit A.

"**Bill of Sale"** means the Quit Claim Bill of Sale, substantially in the form of Exhibit B hereto, to be executed and delivered by the Parties at the Closing, to evidence the transfer by Seller to Buyer of Seller's right, title and interest in and to the Street Lights.

"**Breaching Party**" has the meaning set forth in Section 17.1(e).

"**Business Day**" means any day other than Saturday, Sunday, and any day on which banking institutions in the State of New York are authorized by law or other governmental action to close.

Attachment: Town of Amherst PSA 2_1_2022 (RES-2022-128 : Agreement for Purchase and Sale of Streetlights (CRS# 3147))

"**Buyer's Required Approvals**" means: (i) all required approvals of The Town of Amherst Board to authorize the Town's Supervisor to enter into this Agreement, the Bill of Sale, the Attachment Agreement and the Service Agreement; and (ii) those other approvals, if any, listed on Exhibit C.

"**Closing**" has the meaning set forth in Section 6.1. "**Closing Date**" has the meaning set forth in Section 6.1.

"**Commercially Reasonable Efforts"** means efforts which are designed to enable the performing Party, directly or indirectly, to satisfy a condition to, or otherwise assist in the consummation of, the transactions contemplated by this Agreement and which do not require the performing Party to expend any funds or assume any liabilities other than expenditures and liabilities which are customary and reasonable in nature and amount in the context of the transactions contemplated by this Agreement.

"**Commission**" means the New York State Public Service Commission.

"**Estimated Purchase Price**" has the meanings set forth in Section 6.2.

"**Excluded Assets**" has the meaning set forth in Section 5.

"**Final Purchase Price**" has the meanings set forth in Section 6.2.

"**Letter(s) of Credit**" means an irrevocable, unconditional and nontransferable standby Letter of Credit, in the form attached hereto as Appendix S-1, which is issued by a major U.S. commercial bank or the U.S. branch office of a foreign bank with, in either case, a Credit Rating of at least: (a) "A-" by Standard & Poor's Rating Group (a division of McGraw-Hill, Inc.) or its successors ("S&P") and "A3" by Moody's Investor Services Inc. or its successor ("Moody's"), if such entity is rated by both S&P and Moody's; or (b) "A" by S&P or "A2" by Moody's, if such entity is rated by either S&P or Moody's, but not both.

"**Outside Date**" has the meaning set forth in Section 17.1(b).

"**Permitted Lien**" means: (a) any lien for taxes not yet due or delinquent; (b) any lien for taxes being contested in good faith by appropriate proceedings and not in excess of $100,000; (c) any lien arising in the ordinary course of business by operation of law with respect to a liability that is not yet due or delinquent or which is being contested in good faith by Seller; (d) zoning, planning, and other similar governmental limitations and restrictions, all rights of any governmental authority to regulate any asset, and all matters of public record; and (e) any lien released prior to Closing.

"**Purchase Price**" has the meanings set forth in Section 6.2.

"**Reconfiguration Work**" means that work requested by Buyer and performed by Seller in order to continue to provide safe and reliable electric service to Buyer after the Street Lights have been acquired by Buyer.

Attachment: Town of Amherst PSA 2_1_2022 (RES-2022-128 : Agreement for Purchase and Sale of Streetlights (CRS# 3147))

"**Seller's Electricity Tariff**" means Seller's P.S.C. No. 220 – Electricity Tariff, as modified and in effect from time to time.

"**Seller's Outdoor Lighting Tariff**" means Seller's P.S.C. No. 214 – Outdoor Lighting Tariff, as modified and in effect from time to time.

"**Seller's Required Approvals"** means: (a) approval of an authorized officer of Seller to sell the Street Lights; (b) pursuant to Section 70 of the New York State Public Service Law, approval of the sale of the Street Lights by operation of law or an order of the Commission approving the sale of the Street Lights pursuant to the terms of this Agreement; and (c) those other approvals, if any, listed on Exhibit D.

"**Separation Work**" means that work required to install electric disconnection equipment and identification labels complying with Seller's standards associated with the Street Lights and also includes removal of Seller's existing labeling from such facilities.

"**Service Agreement**" means that service agreement to be executed and delivered by Buyer to Seller at Closing providing for the supply of electricity to be used for such Street Lights under the applicable provisions of Rate Schedule S.C. No. 3 of Seller's Outdoor Lighting Tariff (in the case of unmetered service) or Seller's Electricity Tariff (in the case of metered service).

"**Street Lights** " means those certain street lights and related facilities owned solely by Seller and used to provide lighting service to Buyer under bill account number 44152-93108, located within Buyer's geographical boundaries, used solely for street lighting purposes, and which consist of luminaires, lamps, brackets, associated wiring, convenience outlets, electrical connections and appurtenances, as described in Exhibit E, which description shall be revised under Exhibit E-1 in accordance with Section 2 below, and will not include Excluded Assets.

"**Surety Bond(s)"** means the form attached hereto as Appendix S-2, which shall be considered as security for the performance of all of the Buyer's contractual obligations contained in this Agreement, issued by a major insurance carrier ("Surety") with a credit rating of at least: (a) "B+-" by A.M. Best & Company; or (b) "A-" by S&P.

"**Transaction Costs**" consist of transfer taxes and recording fees associated with the sale of the Street Lights.

"**Transition Costs"** consist of costs related to the Seller's internal system inventory updates, billing data changes, and data updates associated with the sale of the Street Lights.

2. **Transfer of Street Lights**. Upon the terms and subject to the conditions set forth in this Agreement, at the Closing, Seller shall sell, assign, convey, transfer, and deliver to Buyer, and Buyer shall purchase, assume, acquire, and receive from Seller, all of Seller's right, title, and interest in and to the Street Lights. The Buyer understands and agrees that the list of the Street Lights on Exhibit E ("Preliminary Description of Street Lighting Assets"), provided by the Seller as of the Effective Date, is a preliminary list of Street Lights which might not include all of the Street Lighting facilities that the Buyer is purchasing under this Agreement. The Buyer further understands and agrees that seven (7) days before the Closing Date, the Seller shall use reasonable efforts to deliver to the Buyer a final list of

Attachment: Town of Amherst PSA 2_1_2022 (RES-2022-128 : Agreement for Purchase and Sale of Streetlights (CRS# 3147))

Street Lights which shall be provided as Exhibit E-1 ("Final Closing Description of Street Lighting Assets") under this Agreement which can be reviewed by Buyer to identify any change to Exhibit E since May 17, 2021. The Seller agrees to deliver Exhibit E-1 to the Buyer on Closing Date. The Parties agree that the Street Lights are as listed on Exhibit E-1 will be the final description of the Street Light facilities provided by the Seller under this Agreement. Notwithstanding anything to the contrary in this Agreement, the Buyer maintains sole responsibility for the accuracy and completeness of the Street Lights listed in Exhibit E and Exhibit E-1.

After the Closing Date, the purchase of any streetlights and related facilities ("Additional Facilities") not included in Exhibit E and Exhibit E-1 shall be subject to an additional purchase price calculation. If, at such time, Seller desires to sell to Buyer, and Buyer desires to purchase from Seller such Additional Facilities, Buyer shall pay to Seller an additional purchase price in consideration for the Additional Facilities.

3. **Demarcation of Ownership**. From and after Closing, Buyer shall own the Street Lights as follows:

3.1 The Parties acknowledge and agree that there may not be a physical ownership demarcation point to separate or identify ownership (post-Closing) of Buyer's Street Lights from Seller's electric distribution structures or systems. Accordingly, the Parties agree that the point of ownership demarcation shall be deemed to be the existing connection point where the applicable Street Light is energized from the electric distribution system ("Connection Point"). The Seller shall retain ownership of the electric distribution system up to and including the Connection Point. Buyer shall own the street lighting system from the Connection Point to the luminaire inclusive of the applicable Street Light.

3.2 The Buyer shall own Street Lights supplied from overhead conductors from the Connection Point at Seller's secondary conductor to the streetlight and including the luminaires, lamps, brackets, and associated wiring, with Seller retaining ownership of the electrical distribution system up to that Connection Point; and

3.3 The Buyer shall own Street Lights supplied from underground conductors from the Connection Point at Seller's secondary conductor to the underground conductor supplying such streetlight, including the foundation, standard, luminaires, lamps, brackets, and associated wiring, and conduits in which any underground conductors transferred to Buyer under this Agreement may be located.

3.4 To the extent there is any uncertainty or conflict with respect to the Connection Point, the Seller shall, in its sole discretion, define the Connection Point.

4 **Convenience Outlets**. After the Closing, the Customer shall own convenience outlets located on Street Light they purchase. Customer's usage of such convenience outlets shall be billed as an unmetered estimate in accordance with the terms of Seller's Electricity Tariff. Convenience outlets located on distribution poles or any poles or streetlights not purchased by Customer shall continue to be owned by the Company. With regard to such convenience outlets, customer shall continue to pay an annual facility charge pursuant to Seller's Outdoor Lighting Tariff, and its usage of such outlets shall be billed as an unmetered estimate in accordance with the terms of Seller's Electricity Tariff.

Attachment: Town of Amherst PSA 2_1_2022 (RES-2022-128 : Agreement for Purchase and Sale of Streetlights (CRS# 3147))

5 **Excluded Assets.** Seller is not assigning, conveying, transferring, or delivering to Buyer and Buyer is not purchasing, assuming, acquiring or receiving from Seller any of Seller's right, title, and interest in and to the following, all of which are being retained by Seller following the Closing (collectively, the "Excluded Assets"):

5.1 Any and all of Seller's right, title, and interest in and to any poles, structures, facilities, or facilities attached or appurtenant to, but not comprising, the Street Lights, with the exception of those certain lighting poles identified in Exhibit F, if any.

5.2 Any and all of Seller's right, title, and interest in and to any and all spare parts or spare components relating to the Street Lights, or any poles, structures, facilities, or components attached or appurtenant to, but not comprising, the Street Lights.

5.3 Any and all of Seller's right, title, and interest in and to any and all vehicles, facilities, tools, and supplies relating to installing, operating, inspecting, maintaining, repairing, replacing, or decommissioning in whole or in part any Street Lights or any poles, structures, facilities, or components attached or appurtenant to, but not comprising, the Street Lights;

5.4 Any and all of Seller's right, title, and interest in and to any and all agreements and contracts with third parties relating to installing, operating, inspecting, maintaining, repairing, replacing, or decommissioning in whole or in part any Street Lights or any poles, structures, facilities, or components attached or appurtenant to, but not comprising, the Street Lights.

5.5 Any and all of Seller's right, title, and interest in and to any and all franchise grants, license, permits, and interests in real property pertaining in any way to any Street Lights or any poles, structures, facilities, or components attached or appurtenant to, but not comprising, the Street Lights; and

5.6 Any and all of Seller's right, title, and interest in and to any and all intellectual property rights associated with the streetlights, including but not limited to engineering standards, facility information, warranty information, maps and asset records.

6 **Closing and Purchase Price**.

6.1 **Closing**. The closing of the purchase and sale of the Street Lights (the "Closing") shall take place at the offices of Buyer at 10:00 a.m. (Eastern Time) on the tenth Business Day after the conditions to Closing set forth in Sections 13 and 14 (other than actions to be taken or items to be delivered at Closing) have been satisfied or waived by the Party entitled to waive such condition, or on such other date and at such other time and place as Buyer and Seller mutually agree in writing. The date of Closing is hereinafter referred to as the "Closing Date." The Closing shall be effective for all purposes as of 12:01 a.m. (Eastern Time) on the Closing Date.

6.2 **Purchase Price.** The total "Estimated Purchase Price" for the Street Lights is FIFTEEN MILLION SIXTY-ONE THOUSAND EIGHT HUNDRED THIRTY SIX AND 41/100 Dollars ($15,061,836.41). The Estimated Purchase Price consists of the estimated Net Book Value ("NBV") of the Street Lights of FOURTEEN MILLION EIGHT HUNDRED FORTY-SIX THOUSAND ONE HUNDRED TWENTY-EIGHT Dollars ($14,846,128.00), plus estimated Transition

Attachment: Town of Amherst PSA 2_1_2022 (RES-2022-128 : Agreement for Purchase and Sale of Streetlights (CRS# 3147))

Costs and Transaction Costs totaling TWO HUNDRED FIFTEEN THOUSAND SEVEN HUNDRED EIGHT AND 41/100 Dollars ($215,708.41). The Company will calculate the actual NBV and associated impact on the Transition Costs and Transaction Costs at the date of the Closing and will adjust (up or down) the Estimated Purchase Price to arrive at the "Final Purchase Price." Seller will provide Buyer written notice of the amount of the Final Purchase Price no less than ten (10) days prior to the Closing Date.

6.3 **Security for Separation Work**. At Closing, Buyer shall provide financial security assurance, in a form acceptable to Seller, for the performance of the Separation Work and Additional Separation Work (as defined in Section 8.1) and for any costs incurred by Seller to repair damages or site alterations to Seller's facilities caused by Buyer's employees, contractors or subcontractors in performing the Separation Work and Additional Separation Work, in the amount of FOUR MILLION FIVE HUNDRED THOUSAND EIGHT HUNDRED Dollars ($4,500,800.00) pursuant to either a Letter of Credit or a Surety Bond. The form of Letter of Credit is attached hereto as Appendix S-1, and the form of Surety Bond is attached hereto as Appendix S-2. The Parties' rights and obligations with respect to such security are set out in Section 8.1.

6.4 Payment of Final Purchase Price and Posting of Security. The Final Purchase Price shall be payable at Closing in immediately available U.S. funds by wire transfer to the account designated by Seller or by certified or bank cashier's check payable to "Niagara Mohawk Power Corporation d/b/a National Grid**."**

7 **Condition; Disclaimers; Indemnification**.

7.1 **Condition and Liability**. The Street Lights are being sold, assigned, conveyed, transferred, and delivered to Buyer "as is, where is" without warranties or representations of any kind and subject to all faults of whatever nature, except Seller represents and warrants that to Seller's knowledge, it has good and marketable title to the Street Lights and that they shall be conveyed to Buyer, at the time of Closing, free and clear of all liens and encumbrances except for Permitted Liens. All liabilities, obligations, and claims in connection with the Street Lights that arise or are incurred after the Closing Date shall not be deemed liabilities or obligations of Seller and shall be the full responsibility of Buyer. As of the Closing Date, Buyer shall assume all responsibility and obligations associated with ownership of the Street Lights, including without limitation any repair, maintenance, replacement and operation responsibilities. Seller will conduct stray voltage testing of the Street Lights in conformance with the requirements of the Commission's Electric Safety Standards (established in Case 04-M-0159 and any other applicable requirements). In the event Seller identifies a stray voltage condition, Seller will make the condition safe and immediately notify Buyer of its responsibility to take all steps necessary to safeguard, mitigate, and permanently repair the stray-voltage condition. Buyer shall indemnify, defend, and hold Seller, its affiliates, and their respective, officers, directors, employees, representatives, and contractors, harmless for all injuries, damages, losses, or claims resulting from the failure of Buyer, or any of its agents, employees, or contractors, to exercise reasonable care in permanently repairing such stray-voltage condition. Buyer will report to Seller when it has completed the permanent repairs.

7.2 Warranty Disclaimer. IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT SELLER SHALL IN NO WAY BE DEEMED OR HELD TO BE OBLIGATED, LIABLE, OR ACCOUNTABLE UPON OR UNDER ANY GUARANTEES OR WARRANTIES, EXPRESSED OR IMPLIED, WITH RESPECT TO THE STREET LIGHTS, THEIR DESIGN,

Attachment: Town of Amherst PSA 2_1_2022 (RES-2022-128 : Agreement for Purchase and Sale of Streetlights (CRS# 3147))

MANUFACTURE, CONSTRUCTION, FABRICATION, CONDITION OR PERFORMANCE, INCLUDING IN PARTICULAR, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE OR PURPOSE, OR COMPLIANCE WITH ANY LAWS OR STANDARDS, INCLUDING THE NATIONAL ELECTRIC SAFETY CODE ("NESC"), THE NATIONAL ELECTRICAL CODE ("NEC"), THE ILLUMINATING ENGINEERING SOCIETY OF NORTH AMERICA, "THE ELECTRIC POWER GENERATION, TRANSMISSION, AND DISTRIBUTION" STANDARD, THE OCCUPATIONAL SAFETY AND HEALTH ACT AND ANY RULES OR REGULATIONS THEREUNDER, WHETHER OR NOT SELLER KNOWS OR HAS REASON TO KNOW OF ANY SUCH PURPOSE OR VIOLATION AND WHETHER ALLEGED TO ARISE BY OPERATION OF LAW OR BY ANY APPLICABLE CUSTOM OR USAGE IN THE TRADE OR INDUSTRY OR BY A COURSE OF DEALING BETWEEN THE PARTIES, ALL OF WHICH ARE HEREBY EXPRESSLY EXCLUDED AND DISCLAIMED BY SELLER.

7.3 **Liability Disclaimer**. **FROM AND AFTER THE CLOSING DATE, THE SELLER, ITS AFFILIATES, AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, REPRESENTATIVES, AND CONTRACTORS SHALL NOT BE LIABLE TO BUYER OR ITS OFFICERS, OFFICIALS, EMPLOYEES, REPRESENTATIVES, OR CONTRACTORS FOR ANY DIRECT, INDIRECT, CONSEQUENTIAL PUNITIVE, INCIDENTAL, SPECIAL, OR EXEMPLARY DAMAGES IN CONNECTION WITH THIS AGREEMENT, OR THE TRANSACTIONS CONTEMPLATED HEREIN, INCLUDING, WITHOUT LIMITATION, WITH RESPECT TO THE CONDITION, DESIGN, ENGINEERING, INSTALLATION, MAINTENANCE, CONSTRUCTION, LOCATION, OPERATION OF, OR FAILURE OF OPERATION OF, THE STREET LIGHTS, UNDER ANY THEORY OF LAW THAT IS NOW OR MAY IN THE FUTURE BE IN EFFECT, INCLUDING WITHOUT LIMITATION: CONTRACT, TORT, N.Y. GEN. BUS. LAW ARTICLE 22A, STRICT LIABILITY, OR NEGLIGENCE. ANYTHING IN THIS AGREEMENT TO THE CONTRARY NOTWITHSTANDING, IF THE BUYER'S LIABILITY IN CONNECTION WITH THIS AGREEMENT IS LIMITED OR CAPPED PURSUANT TO ANY APPLICABLE STATUTE OR REGULATION, THEN THE SELLER HERETO SHALL BE ENTITLED TO ELECT AN IDENTICAL LIABILITY LIMITATION AND/OR CAP AS IF SUCH STATUTE OR REGULATION WERE APPLICABLE TO THE SELLER.**

7.4 **Indemnification**. The Buyer agrees that from and after the Closing Date, to the extent permitted by law and to the full extent of the Buyer's insurance coverage, it shall defend, pay, protect, indemnify, and save harmless the Seller, its direct and indirect parent companies, subsidiaries and affiliates against and from any and all liabilities, claims, suits, fines, penalties, damages, personal injury, losses, fees (including reasonable attorneys' fees), costs, and expenses arising out of or in connection with this Agreement and/or the ownership, maintenance, and operation or the failure to maintain or operate the Street Lights resulting from any act, failure, or omission on the part of the Buyer or any of its agents, employees, or contractors. The Seller, and not the Buyer, shall remain responsible for claims in connection with the Street Lights that accrued prior to the Closing Date, including costs and damages resulting from pending claims in litigation relating to the Street Lights, if any, to the extent such claims arose from events occurring prior to the Closing Date.

Attachment: Town of Amherst PSA 2_1_2022 (RES-2022-128 : Agreement for Purchase and Sale of Streetlights (CRS# 3147))

7.5 **Operability of the Street Lights.** Seller has maintained and currently maintains, the operability of the Street Lights in a manner consistent with Seller's Outdoor Lighting Tariff. Until Closing, Seller shall continue its regular program of operating and maintaining the Street Lights.

7.6 **Survival**. The obligations set forth in this Section 7 shall survive the termination or expiration of this Agreement.

8 **Separation Work; Reconfiguration Work**.

8.1 **Separation Work**.

(a) Buyer elects to perform all of the Separation Work and shall perform all such Separation Work. Buyer further agrees that it shall provide Seller with financial security assurance, as set forth in Section 6.3 above, in the form of a Letter of Credit and shall cause such Separation Work to be completed within twenty-four (24) months of the Closing or such other period as Buyer and Seller shall agree in writing. Seller agrees to work in good faith, at Buyer's request, to timely provide the information necessary to help Buyer perform such Separation Work. If Buyer further requests Geographical Information System ("GIS") data or maps of the Street Lights, Seller will work in good faith, at Buyer's sole cost, to use good faith effort to reasonably develop and provide such information.

(b) In the case that a Letter of Credit has been secured by the Buyer to satisfy its obligations under this Agreement, if: (i) at any time prior to the expiration of the Letter of Credit, the credit rating of the bank issuing any Letter of Credit falls below the level set forth in the definition of Letter of Credit above, or (ii) the bank repudiates its obligations under, or fails to honor or pay against, the Letter of Credit before completion of the Separation Work, Buyer shall furnish or cause to be furnished to Seller one (1) or more substitute Letters of Credit from a bank meeting the credit rating level set forth in this Agreement (a "Substitute Letter of Credit") within two (2) weeks after the occurrence of such event. If the Letter of Credit is terminated before completion of the Separation Work, Buyer shall furnish or cause to be furnished to Seller one (1) or more Substitute Letters of Credit from a bank meeting the credit rating level set forth in this Agreement at least thirty (30) days before such expiration. In the event that the Buyer fails to comply with the provisions of this paragraph, Seller may drawdown on the entire Letter of Credit.

(c) To the extent that the Separation Work is performed by Buyer or Buyer's contractor, and is not performed by Seller, Buyer represents and warrants to Seller that any personnel that perform work on the Street Lights will be qualified by complying with established regulations and standards associated with the work to be conducted. To identify requirements related to safety or the construction, repair, or maintenance of the street lighting system, Buyer should consult among other documentation, the Occupational Health and Safety Administration ("OSHA") requirements, including but not limited to OSHA 1910.269, "The Electric Power Generation, Transmission, and Distribution" standard, the NEC, the NESC, the New York State Labor Law governing how close workers (qualified) and non-workers (unqualified) can get to energized equipment at primary and/or secondary voltages, and requirements by the New York State Department of Transportation. In addition to that which is provided in Section 7.4, Buyer shall indemnify, defend, and hold harmless Seller from any injury, damage, loss or claims resulting from any breach by Buyer of this representation and warranty.

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Within thirty (30) days of Buyer's completion of the Separation Work, Buyer shall provide written notice to Seller that such Separation Work has been fully performed in accordance with this Agreement. Upon such notice from Buyer, Seller may perform any necessary inspections, at Seller's cost, to determine that all Separation Work has been completed. If such inspections reveal that, in Seller's sole and reasonable discretion, the required Separation Work has not been performed or adequately performed, Seller shall: (i) notify Buyer of the need for additional Separation Work (the "Additional Separation Work"); and (ii) allow Buyer until twenty-four (24) months after Closing to perform or cause to be performed by a third party the necessary Additional Separation Work. Upon completion of the Additional Separation Work, Buyer shall provide written notice to Seller that such Additional Separation Work is complete.

(d) If Buyer has not completed all Separation Work and Additional Separation Work, within twenty-four (24) months of the Closing in accordance with this Section 8.1, Seller may at its option elect to notify Buyer of its intention to perform such work on Buyer's behalf. Seller shall provide such notice within thirty (30) days of the end of the twenty-four (24) month period set forth above. In such event, upon completion of such work by Seller, Seller shall determine its actual costs of performing such work, inclusive of all applicable overheads and adders, and shall invoice Buyer for that amount. If Buyer fails to pay any invoice issued by Seller for the cost of performing such work within thirty (30) days of the date of such invoice, Seller may draw on the financial security amount provided by Buyer for such purposes under Section 6.3 of this Agreement. In the event that the financial security amount is in excess of Seller's invoice for the Separation Work, Seller shall release the financial security amount in excess of such amount. In the event that the financial security amount is insufficient to satisfy Seller's invoice for the Separation Work, Seller may, at its option, include all or any part of the remaining invoice balance for the Separation Work in Seller's bills or invoices to Buyer for street lighting electric service. Notwithstanding the foregoing, Seller shall release the financial security assurance provided by Buyer for the Separation Work within ninety (90) days of Seller's reasonable determination that all necessary Separation Work and Additional Separation Work has been adequately completed by Buyer in accordance with this Agreement; or (b) if applicable, Buyer's full payment of any invoices for Seller's performance of the Separation Work.

(e) Nothing in this Agreement shall be construed to require Seller to perform any Separation Work or Additional Separation Work beyond that which is expressly agreed to herein, to perform any other work on facilities owned by Seller at the request of Buyer, or to maintain, repair or replace any equipment owned by Buyer.

8.2 **Reconfiguration Work**. Buyer elects not to have Seller perform any Reconfiguration Work, and Seller shall not perform any such Reconfiguration Work.

9 Taxes and Assessments.

9.1 Real property taxes and assessments and any other applicable fees, taxes and charges assessed or imposed on Seller, by virtue of its ownership, use, operation, inspection, maintenance or repair of the Street Lights, will be prorated and adjusted as of 11:59 p.m. of the day before the Closing Date, with Seller bearing the expense of the item applicable to the period before the Closing Date and Buyer bearing the expense of the item applicable to the period on or after the Closing Date. In consideration of Seller's agreement hereunder, Buyer agrees that it shall exercise Commercially Reasonable Efforts to obtain, and cooperate with Seller in obtaining, a reduction from New York State, prior to the next tax status date, in the assessed valuation of its real property facilities located within the Buyer's municipal

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boundaries that accurately reflects the removal of the Street Lights from the real property owned by Seller within the Buyer's municipal boundaries.

All transfer and sales taxes incurred in connection with this Agreement and the transactions contemplated hereby shall be borne by Buyer. Buyer shall prepare and file in a timely manner any and all tax returns or other documentation relating to such taxes; provided that, to the extent required by applicable law, Seller will join in the execution of any such tax returns or other documentation relating to any such taxes. Buyer shall provide to Seller copies of each such tax return at least thirty (30) days prior to the date such tax return is required to be filed.

10 **Bill of Sale and Risk of Loss.** The sale, assignment, conveyance, transfer, and delivery of the Street Lights will be effected by the Bill of Sale. On the Closing Date, Seller shall deliver to Buyer the Bill of Sale, fully executed and acknowledged and sealed and, simultaneously with such delivery, Seller shall take all such steps as may be necessary to put Buyer in actual possession of the Street Lights as and where presently located. Seller shall bear the risk of loss of and damage to the Street Lights during the period from the Effective Date up to but not including the Closing Date, and Buyer shall bear the risk of loss of and damage to the Street Light from and after the Closing Date.

11 **Representations of Seller.** Seller represents and warrants to Buyer that as of the Closing Date:

11.1 **Organization and Good Standing.** Seller is a corporation duly organized, validly existing and in good standing under the laws of the State of New York, with full power to own its properties and conduct its business as it is now being conducted.

11.2 **Absence of Conflicts.** Subject to obtaining Seller's Required Approvals, neither the execution of this Agreement, the consummation of the transactions contemplated hereby, nor compliance with the terms and provisions of this Agreement, will: (a) conflict with or result in a breach of the terms, conditions, or provisions of or constitute a default under Seller's Certificate of Incorporation or any material contract to which Seller is a party, except for any such violations or defaults that would not, in the aggregate, reasonably be expected to materially adversely affect Seller's ability to perform its obligations hereunder or to consummate the transactions contemplated hereby; (b) conflict with, violate or breach, in each case in any material respect, any provision of any law applicable to Seller; or (c) require any approval, consent, authorization, or other order or action of any court, governmental authority, or regulatory body under any law applicable to Seller, which has not already been obtained.

11.3 **Authorization.** Subject to obtaining Seller's Required Approvals, Seller has all requisite corporate power and authority to execute and deliver this Agreement, to perform its obligations hereunder and to consummate the transactions contemplated hereby; the execution and delivery of this Agreement has been duly and validly authorized by all necessary corporate action; and this Agreement has been duly and validly executed and delivered by Seller and constitutes the legal, valid and binding obligation of Seller enforceable against Seller in accordance with its terms, except as the same may be limited by bankruptcy, insolvency, reorganization, fraudulent conveyance, arrangement, moratorium or other similar laws relating to affecting the rights of creditors generally, or by general equitable principles (regardless of whether enforcement is considered in a proceeding at law or in equity).

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12 **Representations of Buyer.** Buyer represents and warrants to Seller that as of the Closing Date:

12.1 **Organization and Good Standing.** Buyer is a municipality duly constituted, authorized and validly existing and in good standing under the laws of the State of New York, with full power to own its properties and conduct its business as it is now being conducted.

12.2 **Absence of Conflicts.** Subject to obtaining Buyer's Required Approvals, neither the execution of this Agreement, the consummation of the transactions contemplated hereby, nor compliance with the terms and provisions of this Agreement, will: (a) conflict with or result in a breach of the terms, conditions, or provisions of or constitute a default under Buyer's organizational documents or any material contract to which Buyer is a party, except for any such violations or defaults that would not, in the aggregate, reasonably be expected to materially adversely affect Buyer's ability to perform its obligations hereunder or to consummate the transactions contemplated hereby; (b) conflict with, violate or breach, in each case in any material respect, any provision of any law applicable to Buyer; or (c) require any approval, consent, authorization, or other order or action of any court, governmental authority, or regulatory body under any law applicable to Buyer, which has not already been obtained.

12.3 **Authority.** Subject to obtaining Buyer's Required Approvals, Buyer has all requisite municipal power and authority to execute and deliver this Agreement, to perform its obligations hereunder and to consummate the transactions contemplated hereby; the execution and delivery of this Agreement has been duly and validly authorized by all necessary municipal action; and this Agreement has been duly and validly executed and delivered by Buyer and constitutes the legal, valid and binding obligation of Buyer enforceable against Buyer in accordance with its terms, except as the same may be limited by bankruptcy, insolvency, reorganization, fraudulent conveyance, arrangement, moratorium or other similar laws relating to affecting the rights of creditors generally, or by general equitable principles (regardless of whether enforcement is considered in a proceeding at law or in equity).

12.4 **Availability of Funds.** Buyer has sufficient funds available to it to enable Buyer to pay the Final Purchase Price to Seller at the Closing.

13 **Conditions Precedent to Buyer's Obligations.** All obligations of Buyer under this Agreement are subject to the fulfillment at or before the Closing of each of the following conditions:

13.1 **Seller's Representations and Warranties.** The representations and warranties made by Seller in this Agreement shall have been materially true and correct as of the Effective Date and shall be materially true and correct as of the Closing Date; provided that Seller shall have no liability to Buyer for any such representation not being materially true and correct as of the Closing Date due to occurrences, matters, events, facts or circumstances occurring after the Effective Date.

13.2 **Seller's Performance.** Seller shall have performed and complied, in all material respects, with the agreements, covenants and obligations required by this Agreement to be performed or complied with by Seller at or before the Closing.

13.3 **Buyer's Required Approvals.** On or before the Closing Date, Buyer shall have

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obtained the approval of the Town Board to authorize the Town's Supervisor to execute this Agreement, to obtain authorization to issue a bond to permit funding of the Town's acquisition of the street lights specified by this Agreement and have completed all necessary steps required of a municipality to authorize the activities contemplated hereunder.

13.4 **Seller's Deliverables.** On the Closing Date, Seller shall deliver:

(a) a counterpart of the Bill of Sale duly executed by Seller.

(b) a counterpart of the Attachment Agreement duly executed by Seller; and

(c) a counterpart of the Service Agreement duly executed by Seller.

14 **Conditions Precedent to the Seller's Obligations.** All obligations of Seller under this Agreement are subject to the fulfillment, at or before the Closing, of each of the following conditions:

14.1 **Buyer's Representations and Warranties.** The representations and warranties made by Buyer in this Agreement shall have been materially true and correct as of the Effective Date and shall be materially true and correct as of the Closing; provided that Buyer shall have no liability to Seller for any such representation not being materially true and correct as of the Closing due to occurrences, matters, events, facts or circumstances occurring after the Effective Date.

14.2 **Buyer's Performance.** Buyer shall have performed and complied, in all material respects, with the agreements, covenants and obligations required by this Agreement to be performed or complied with by Buyer at or before the Closing.

14.3 **Seller's Required Approvals.** On or before the Closing Date, Seller shall have obtained Seller's Required Approvals and they shall be in full force and effect.

14.4 **Buyer's Deliverables.** On the Closing Date, Buyer shall deliver:

(a) a counterpart of the Bill of Sale duly executed by Buyer.

(b) a counterpart of the Attachment Agreement duly executed by Buyer.

(c) a counterpart of the Application for Service and Service Agreement duly executed by Buyer.

(d) resolutions of the governing board for Buyer certified by the Secretary, Assistant Secretary, or other officer of Buyer authorizing the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby; and

(e) the financial security assurance as outlined in Section 6.3.

15 **Expenses.** Except to the extent expressly provided to the contrary in this Agreement, and whether or not the transactions contemplated herein are consummated, all costs and expenses incurred by a Party in connection with the negotiation, execution, and consummation of the transactions

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contemplated hereby, including attorneys' fees and the cost of filing for and prosecuting applications for Seller's Required Approvals and Buyer's Required Approvals, shall in all instances be borne by the Party incurring such costs and expenses.

16 **Further Assurances.** Subject to the terms and conditions of this Agreement, at either Party's request and without further consideration, the other Party shall execute and deliver to such requesting Party such other instruments of sale, transfer, conveyance, assignment and confirmation, provide such materials and information and take such other actions as such requesting Party may reasonably request in order to consummate the transactions contemplated by this Agreement; provided that the other Party shall not be obligated to execute or deliver any instruments, provide any materials or information, or take any actions that modify the rights, remedies, obligations, or liabilities of such other Party pursuant to this Agreement or applicable law.

17 Termination.

17.1 Termination Prior to Closing.

(a) This Agreement may be terminated at any time prior to the Closing by mutual written consent of Seller and Buyer.

(b) This Agreement may be terminated at any time prior to the Closing by either Party upon written notice to the other Party if: (i) any governmental authority of competent jurisdiction (other than the Buyer) issues an order, judgment or decree permanently restraining, enjoining or otherwise prohibiting the Closing, and such order, judgment or decree is final and non- appealable; or (ii) any statute, rule, order or regulation is enacted or issued by any governmental authority which, directly or indirectly, prohibits the consummation of the Closing; or (iii) the Closing contemplated by this Agreement has not occurred on or before one year after the Effective Date (the "Outside Date"); provided that the right to terminate this Agreement under this Section 17.1(b) shall not be available to any Party whose failure to fulfill any obligation under this Agreement has been the cause of, or resulted in, the failure of the Closing to occur on or before the Outside Date.

(c) This Agreement may be terminated at any time prior to the Closing by Buyer upon written notice to Seller if any of Buyer's Required Approvals shall have been denied.

(d) This Agreement may be terminated at any time prior to the Closing by Seller upon written notice to Buyer if any of Seller's Required Approvals shall have been denied.

This Agreement may be terminated at any time prior to the Closing by either Party upon written notice to the other Party if the other Party (the "Breaching Party") has materially breached or violated a representation, warranty, covenant or agreement hereunder so as to cause the failure of a condition to the Closing set forth in Section 13 or Section 14, as applicable, and such breach (other than a breach of Buyer's obligation to pay the Final Purchase Price in accordance with the terms of Section 6, for which no cure

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period shall be allowed) has not been cured by the earlier of thirty (30) days following written notice thereof or the Outside Date, provided that if such violation or breach is not capable of being cured within such thirty (30) day period and such thirty (30) day period shall have ended before the Outside Date, the Breaching Party shall have an additional period to cure the breach that expires on the earlier of thirty (30) days thereafter or the Outside Date.

17.2 Remedies Upon Termination Prior To Closing.

(a) If this Agreement is validly terminated prior to the Closing by a Party pursuant to Section 17.1(a), (b), (c), or (d) hereof, neither Party shall have any liability to the other Party arising from this Agreement.

(b) If this Agreement is validly terminated prior to the Closing by a Party pursuant to Section 17.1(e) hereof, such Party may pursue any remedies against the Breaching Party available under this Agreement or applicable law, subject to the provisions of Sections 13 and 14 and subject to the limitation of liability set forth in Section 7 hereof.

18 Mutual Releases.

18.1 In consideration for the mutual covenants and agreements set forth herein, and other good and valuable consideration, the receipt and adequacy of such which is hereby acknowledged, Buyer for itself, its successors, assigns, and affiliates, and the officers, directors, employees, agents, representatives and contractors of all of them ("Buyer Releasors"), shall and hereby does release, remise, acquit, and forever discharge Seller, its successors, assigns, and affiliates, and the officers, directors, employees, representatives, agents, and contractors of all of them, of and from any and all manner of claims, demands, damages, debts, dues, sums, accounts, costs, obligations, proceedings, actions, causes of action, or suits, of any nature whatsoever, whether in tariff, law, equity, or otherwise, which Buyer Releasors now have or hereafter can, shall, or may have arising in any way out of, or with respect to, any and all street lighting service provided by Seller to Buyer, or any matter related thereto, including those not yet ascertainable, if any, resulting therefrom at any time prior to and through and including the Effective Date.

18.2 In consideration for the mutual covenants and agreements set forth herein, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, Seller for itself, its successors, assigns, and affiliates, and the officers, directors, employees, agents, representatives, and contractors of all of them ("Seller Releasors"), shall and hereby does release, remise, acquit and forever discharge Buyer, its successors, assigns, and affiliates, and the officers, directors, employees, representatives agents and contractors of all of them, of and from any and all manner of claims, demands, damages, debts, dues, sums, accounts, costs, obligations, proceedings, actions, causes of action, or suits, of any nature whatsoever, whether in tariff, law, equity, or otherwise, which Seller Releasors now have or hereafter can, shall, or may have arising in any way out of, or with respect to, street lighting service provided by Seller to Buyer, or any matter related thereto, including those not yet ascertainable, if any, resulting therefrom at any time prior to and through and including the Effective Date.

18.3 Each Party agrees not to take a position in any proceedings before the Commission

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or any court in these matters contrary to the agreements set forth in this Section 18 and agrees not to assist another participant in taking such a contrary position.

19 Miscellaneous.

19.1 **Entire Agreement.** Seller and Buyer agree that this Agreement (together with its exhibits) constitutes the entire agreement between the Parties.

19.2 **Notices, Etc**. All notices, requests, demands, and other communications permitted or required under this Agreement shall be in writing and shall be deemed to have been duly given when personally delivered, when received by mailing, by certified mail, postage prepaid, return receipt requested, when delivered by a reputable overnight courier, or when sent by facsimile with electronic confirmation of receipt, to:

Buyer: **TOWN OF AMHERST, New York**
Attn: Town Attorney,
Town Finance Director and
Town Supervisor
5583 Main Street
Williamsville, New York 14221

Seller: Niagara Mohawk Power Corporation d/b/a National Grid
300 Erie Boulevard West
Syracuse, New York 13202
Attn: Outdoor Lighting Manager

or to such other address as shall be subsequently designated by notice to the Parties.

19.3 **Counterparts; Facsimile and Electronic Copies.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument. Any facsimile or electronically transmitted copies hereof or signature hereon shall, for all purposes, be deemed originals.

19.4 **Severability.** If any provision of this Agreement is held invalid by any court or body of competent jurisdiction, the remainder of this Agreement shall remain in full force and effect.

19.5 **Survival.** The terms and provisions of this Agreement, to the extent necessary or contemplated, shall survive the Closing. In particular, but not by way of limitation, all limitations on liability and indemnities contained in Section 7 and Buyer's obligation to reduce Seller's real property assessment shall survive the termination or expiration of this Agreement.

19.6 **Headings.** The headings contained in this Agreement are for reference purposes only and shall not affect or limit in any way the meaning or interpretation of this Agreement.

19.7 **Governing Law.** This Agreement shall be governed and construed in accordance with the laws of the State of New York without regard to the principles of the conflict of laws contained therein. Each Party hereby submits to the personal and subject matter jurisdiction of the courts of the

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State of New York for the purpose of interpretation and enforcement of this Agreement. Venue in any action or proceeding shall be in the Supreme Court, State of New York, County of Erie.

19.8 **Waiver.** Any term or condition of this Agreement may be waived at any time by the Party that is entitled to benefit thereof, but no such waiver shall be effective unless set forth in a written instrument duly executed by or on behalf of the Party waiving such term or condition. No waiver by any Party of any term or condition of this Agreement, in any one or more instances, shall be deemed to be or construed as a waiver of the same or any other term or condition of this Agreement on any future occasion.

19.9 **Amendment.** This Agreement may be amended, supplemented or modified only by a written instrument duly executed by authorized representatives of each Party.

19.10 **No Third-Party Beneficiaries.** Except for the provisions of Section 7 (which are intended to be for the benefit of the persons identified therein), the terms and provisions of this Agreement are intended solely for the benefit of the Parties and their respective successors or permitted assigns, and it is not the intention of the Parties to confer third-party beneficiary rights upon any other person.

19.11 **Assignment; Binding Effect.** This Agreement and the rights and obligations set forth herein shall not be assigned by either Party without the written agreement of both Parties; provided, however, that Seller shall be permitted to assign this Agreement to any of its affiliates without the written agreement of the Buyer.

19.12 **Remedies Under Seller's Tariffs**. The Parties stipulate and agree that all of the services and charges provided for in this Agreement are authorized and governed by the provisions of Seller's Outdoor Lighting Tariff (in the case of unmetered service) or the Seller's Electricity Tariff (in the case of metered service) and, accordingly, that Seller and Buyer expressly reserve all of their rights and remedies under the tariffs, including Seller's right to terminate electric service to Buyer under such tariffs in conformance with Section 14.3 of the Commission's Rules and Regulations, 16 N.Y.C.R.R. § 13.3, in the event of the Buyer's failure to pay any amounts due under this Agreement or any other violation of this Agreement for which termination of service is authorized under such tariffs or the Commission's Rules and Regulations. The Parties further stipulate and agree that in the event of any conflict between the provisions of this Agreement and the provisions of the tariffs, the applicable provisions of such tariffs shall apply.

19.13 **Conflicts.** In the event of any conflict between the terms of this Agreement, the Service Agreement, and the Attachment Agreement, the agreements shall prevail in the following order: (i) the Service Agreement; (ii) the Attachment Agreement, and (iii) this Agreement.

19.14 **Supersedes Previous Agreements.** This Agreement revokes and supersedes all prior or contemporaneous agreements (whether written or oral), negotiations, commitments, and writings that pertain to the subject matter hereof. All such agreements, negotiations, commitments, and writings will be of no further force or effect, and the parties to any such other agreement, negotiation, commitment, or writing will have no further rights or obligations thereunder.

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IN WITNESS WHEREOF, intending to be legally bound, the Parties' duly authorized representatives have executed this Agreement as of the Effective Date.

NIAGARA MOHAWK POWER CORPORATION **"Seller"**	**TOWN OF AMHERST, NY** **Buyer"**
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____

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EXHIBIT A

ATTACHMENT AGREEMENT

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EXHIBIT B

FORM OF QUIT CLAIM BILL OF SALE

Reference is made to that certain Agreement for Purchase and Sale of Street Lights dated as of the _____ day of _____, 20__ between the [BUYER] and NIAGARA MOHAWK POWER CORPORATION d/b/a NATIONAL GRID (the "*Transaction Agreement*"). Pursuant to the Transaction Agreement, the undersigned, NIAGARA MOHAWK POWER CORPORATION d/b/a NATIONAL GRID (the "*Seller*"), for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, hereby grants, bargains, sells, and transfers, all of its right, title, and interest in and to the assets described on Exhibit A attached hereto and incorporated herein by reference and made a part hereof (collectively, "*Assets*") to the Town of Amherst [BUYER__], a municipal corporation organized and existing under the laws of the state of New York having its principal office and place of business located at 5583 Main Street, Williamsville, New York 14221.

It is the intent of the Seller and Buyer that this instrument transfers all of Seller's right, title, and interest in and to the Assets. Seller hereby represents to Buyer that Seller has the right to transfer all of Seller's right, title, and interest in and to the Assets.

Seller hereby covenants and agrees for the benefit of Buyer that Seller will defend, at Seller's sole cost and expense, the right, title, and interest of Buyer in and to the Assets against the lawful claims and demands of all persons.

Buyer acknowledges that it has examined the Assets as fully as desired and Buyer waives and disclaims any right to seek recovery from Seller based on the current condition of the Assets. BUYER AGREES THAT ALL OF THE ASSETS ARE SOLD "AS IS" AND "WHERE IS" AND WITHOUT ANY ORAL, STATUTORY, EXPRESS OR IMPLIED WARRANTIES OR GUARANTEES OF ANY KIND (INCLUDING, WITHOUT LIMITATION, WARRANTIES OF DESIGN, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TENANTABILITY, HABITABILITY, USE AND WARRANTIES ARISING FROM A COURSE OF DEALING OR USAGE OR TRADE). SELLER SPECIFICALLY DISCLAIMS, AND BUYER HEREBY WAIVES, ALL WARRANTIES AND GUARANTEES. Buyer shall take title to the Assets upon execution of this document, and Buyer assumes any and all liability of any kind for claims or damages in connection with the Assets arising from acts, omissions, or events occurring after the date hereof. Buyer agrees to take the Assets with knowledge that they have been used for a period of time by Seller in its business. The provisions of this paragraph shall apply notwithstanding any other provisions of this Bill of Sale or the Transaction Agreement, and shall survive, termination, cancellation, or completion of this Bill of Sale or the Transaction Agreement.

Buyer agrees to defend with counsel satisfactory to Seller and to pay, protect, indemnify, defend, release and save harmless Seller and its parents and affiliates and their successors and assigns and any of the officers, directors, employees, and shareholders of any of them, from and against, any and all liabilities, damages, losses, costs, expenses (including, without limitation, any and all attorneys' fees), causes of action, suits, claims, damages, obligations, demands or judgments of any nature in connection with the Assets to the extent arising from acts, omissions, or events occurring after the Closing (hereinafter referred to as "*Claims*") including, without limitation, all Claims brought by third

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parties for personal injury and property damage, economic damage, or environmental damage or harm (including, without limitation, for investigation, response, removal, clean-up, and/or remediation). The Seller, and not the Buyer, shall remain responsible for claims, other than Buyer's claims, in connection with the Assets that accrued prior to the Closing, including costs and damages resulting from pending claims in litigation relating to the Assets, if any, to the extent such claims arose from events occurring prior to the Closing. The provisions of this paragraph shall apply notwithstanding any other provisions of this Bill of Sale or the Transaction Agreement, and shall survive, termination, cancellation, or completion of this Bill of Sale or the Transaction Agreement.

In no event, whether as a result of breach of contract, tort (including negligence and strict liability), or otherwise shall Seller be liable for any or all special, indirect, incidental, penal, punitive or consequential damages of any nature in connection with, or arising from, the transactions contemplated by this Bill of Sale, including, without limitation, delays, lost profits, business interruptions, loss of use, lost business opportunities, loss of revenue, losses and other damages by reason of facility shutdown, equipment damage, cost of replacement power or substitute or temporary facilities or services, cost of capital, loss of goodwill, and claims of suppliers and customers, whether or not: (i) such damages were reasonably foreseeable, or (ii) Seller was advised or aware that such damages might be incurred. The provisions of this paragraph shall apply notwithstanding any other provisions of this Bill of Sale or the Transaction Agreement, and shall survive, termination, cancellation, or completion of this Bill of Sale or the Transaction Agreement.

Nothing in this instrument, express or implied, is intended or shall be construed to confer upon, or give to, any third party any remedy or claim under or by reason of this instrument or any agreements, terms, covenants or conditions hereof, and all the agreements, terms, covenants and conditions contained in this instrument shall be for the sole and exclusive benefit of the Buyer and Seller and their respective successors and assigns.

This instrument and all of the provisions hereof shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

To the extent that any provision of this instrument shall be held to be invalid, illegal or unenforceable, it shall be modified so as to give as much effect to the original intent of such provision as is consistent with applicable law and without affecting the validity, legality or enforceability of the remaining provisions of this instrument. Each party represents and warrants to the other that the signatory identified beneath its name below has full authority to execute this instrument on its behalf.

This instrument shall be governed by and construed in accordance with the laws of the State of New York (regardless of the laws that might otherwise govern under applicable New York principles of conflicts of laws). Venue in any action with respect to this instrument shall be in the state of New York, County of Erie; the parties agree to submit to the personal jurisdiction of courts in the State of New York with respect to any such actions. This instrument may be executed in multiple counterparts, each of which shall be considered an original.

[Signatures are on the following page.]

Attachment: Town of Amherst PSA 2_1_2022 (RES-2022-128 : Agreement for Purchase and Sale of Streetlights (CRS# 3147))

IN WITNESS WHEREOF, intending to be legally bound, the Parties' duly authorized representatives have executed this Quit Claim Bill of Sale as of the dates written below.

NIAGARA MOHAWK POWER CORPORATION
Seller

By: _____

Name: _____

Title: _____

Date: _____

TOWN OF AMHERST, NY,
Buyer

By: _____

Name: _____

Title: _____

Date: _____

Attachment: Town of Amherst PSA 2_1_2022 (RES-2022-128 : Agreement for Purchase and Sale of Streetlights (CRS# 3147))

Exhibit A

To

FORM OF QUIT CLAIM BILL OF SALE
FINAL CLOSING DESCRIPTION OF STREET LIGHTING ASSETS

Attachment: Town of Amherst PSA 2_1_2022 (RES-2022-128 : Agreement for Purchase and Sale of Streetlights (CRS# 3147))

EXHIBIT B

BILL OF SALE

Attachment: Town of Amherst PSA 2_1_2022 (RES-2022-128 : Agreement for Purchase and Sale of Streetlights (CRS# 3147))

EXHIBIT C

BUYER'S APPROVALS

Attachment: Town of Amherst PSA 2_1_2022 (RES-2022-128 : Agreement for Purchase and Sale of Streetlights (CRS# 3147))

EXHIBIT D

SELLER'S APPROVALS

Attachment: Town of Amherst PSA 2_1_2022 (RES-2022-128 : Agreement for Purchase and Sale of Streetlights (CRS# 3147))

EXHIBIT E

PRELIMINARY DESCRIPTION OF STREET LIGHTING ASSETS
STREET LIGHT INVENTORY

Attachment: Town of Amherst PSA 2_1_2022 (RES-2022-128 : Agreement for Purchase and Sale of Streetlights (CRS# 3147))

EXHIBIT E-1

FINAL CLOSING DESCRIPTION OF STREET LIGHTING ASSETS
STREET LIGHT INVENTORY

Attachment: Town of Amherst PSA 2_1_2022 (RES-2022-128 : Agreement for Purchase and Sale of Streetlights (CRS# 3147))

EXHIBIT F

EXCLUDED LIGHTING POLES

N/A

Attachment: Town of Amherst PSA 2_1_2022 (RES-2022-128 : Agreement for Purchase and Sale of Streetlights (CRS# 3147))

Appendix S-1

SPECIMEN LETTER OF CREDIT

_____Bank

_____

(address)

IRREVOCABLE STANDBY LETTER OF CREDIT

DATE: _____
AMOUNT U.S. $[_____]
EFFECTIVE DATE: _____

Our No. _____

Beneficiary:

Niagara Mohawk Power Corporation
d/b/a National Grid
300 Erie Boulevard West, D-1
Syracuse, NY 13202

Attn:
Commercial Credit & Collections Manager

Applicant:

[Buyer]
[ADDRESS]
[ADDRESS]
City/Town, NY [ZIP]

At the request of:
_____

Reference: This Letter of Credit supports the "Agreement for Purchase and Sale of Street Lights by and between Niagara Mohawk Power Corporation d/b/a National Grid and the [Buyer]," by and between Applicant and Beneficiary dated_____.

LADIES AND GENTLEMEN:

We hereby establish this irrevocable, and unconditional, except as stated herein, Letter of Credit Number_____(this "Letter of Credit"), by order of, for the account of, and on behalf of the [Buyer] (the "Applicant") in favor of **Niagara Mohawk Power Corporation d/b/a National Grid** (the "Beneficiary") for drawings, in one or more drafts, up to an aggregate amount not exceeding U.S $[_____] effective immediately**.** The term "Beneficiary" includes any successor of the named Beneficiary.

This Letter of Credit cannot be amended, modified or revoked without the prior written consent of both the Bank and the Beneficiary. The Beneficiary shall not be deemed to have waived any rights under this Letter of Credit, unless an officer of the Beneficiary shall have signed a written waiver expressly referencing the right to be waived. No such waiver shall be effective as to any transaction that occurs subsequent to the date of the waiver, or with respect to any continuance of a breach after the waiver.

Attachment: Town of Amherst PSA 2_1_2022 (RES-2022-128 : Agreement for Purchase and Sale of Streetlights (CRS# 3147))

We hereby undertake to promptly honor your draft(s) drawn on us, indicating our Letter of Credit number_____, for all or any part of this Letter of Credit. This Letter of Credit is issued, presentable and payable and we guaranty to the drawers, endorsers, and bone fide holders of this Letterof Credit, that drafts under and in compliance with the terms of this Letter of Credit will be honor ed. This Letter of Credit may not be transferred or assigned by us.

Partial drawings are permitted.

Subject to the express terms and conditions herein, funds under this Letter of Credit are available to you by presentation at our offices located at [___] of Beneficiary's drawing certificate issued substantially in the form of Annex 1 attached hereto and which forms an integral part hereof , duly completed and purportedly bearing the original signature of an officer of the Beneficiary. Presentation of any drawing certificate under this Letter of Credit may be made in person to us or may be sent to us by overnight courier or by facsimile transmission to facsimile telephone number [_____].

All commissions and charges will be borne by the Applicant.

If documents, in compliance with the terms of this Letter of Credit, are received before 10:00 am (Eastern Time) on a Banking Day (as such term is defined in the uniform customs defined below), payment will be effected on or before 5:00 pm (Eastern Time) on the next Banking Day. If documents, in compliance with the terms of this Letter of Credit are received after 10:00 am on a Banking Day, payment will be effected on or before 5:00 pm on the second Banking Day following such date of receipt.

Presentation of document(s) that are not in compliance with the applicable anti-boycott, anti- money laundering, anti-terrorism, anti-drug trafficking, export denial or economic sanctions laws, regulations or orders (collectively "the Regulations") is not acceptable. Applicable laws vary depending on the transaction and may include United Nations, United States and/or local laws.

In the event that a drawing certificate fails to comply with the terms of this Letter of Credit including the regulations, we shall provide the Beneficiary prompt notice thereof stating the reasons that the certificate was determined to be non-compliant and shall upon Beneficiary's instructions hold any non-conforming drawing certificate and other related documents at Beneficiary's disposal or return any non-conforming drawing certificate and other related documents to the Beneficiary by delivery in per son or facsimile transmission (with originals thereof sent by overnight courier). Upon being notified that the drawing was not effected in compliance with this Letter of Credit, the Beneficiary may attempt to correct such non-conforming drawing certificate in accordance with the terms of this Letter of Credit.

Except as expressly stated herein, this undertaking is not subject to any agreement, condition or qualification. This Letter of Credit does not incorporate and shall not be deemed modified or amended by reference to any document, instrument or agreement (a) that is referred to herein (except for the Uniform Customs, as defined below), or (b) in which this Letter of Credit is referred to or to which this Letter of Credit relates.

Our obligation under this Letter of Credit shall be our individual obligation and is in no way contingent upon the reimbursement with respect thereto, or upon our ability to perfect any lien, security interest or any other reimbursement.

Attachment: Town of Amherst PSA 2_1_2022 (RES-2022-128 : Agreement for Purchase and Sale of Streetlights (CRS# 3147))

This Letter of Credit expires with our close of business on three hundred sixty four (364) days from the effective date; however, it is a condition of this Letter of Credit that it shall be deemed automatically extended without amendment for 364 days from the present or any future expiration date hereof, unless at least sixty (60) days before any such expiration date we notify you by registered mail / courier addressed to the address noted above, that we elect not to extend this Letter of Credit for such additional period.

This Letter of Credit is subject to the Uniform Customs and Practice for Documentary Credits (2007 revision) International Chamber of Commerce, Publication No. 600 (the "Uniform Customs"), provided, however, that: (a) we specifically agree that a "reasonable time" within the meaning of Artic le 14(b) of the Uniform Customs shall not exceed three (3) Banking Days following the day of receipt of the relevant documents, and (b) if this Letter of Credit expires during the Interruption of Business as described in Article 36 of the Uniform Customs then the expiration date of this Letter of Credit shall be automatically extended without amendment to a date thirty (30) calendar days after the resumption of business and we hereby specifically agree to effect payment if the Letter of Credit is drawn against within thirty (30) days after the resumption of business.

Sincerely yours,

[_____bank name_____]

By: [insert name and title of authorized bank representative]

Authorized signature of Bank representative

_____

Attachment: Town of Amherst PSA 2_1_2022 (RES-2022-128 : Agreement for Purchase and Sale of Streetlights (CRS# 3147))

ANNEX 1 TO
IRREVOCABLE LETTER OF CREDIT NO._____
ISSUED BY_____[BANK NAME]

DATE:_____

[BANK NAME]
[ATTENTION]
[BANK ADDRESS1]
[BANK ADDRESS2]

APPLICANT: [BUYER]

Ladies and Gentlemen:

The undersigned_____, a duly elected and acting officer of **Niagara Mohawk Power Corporation d/b/a National Grid (**the "Beneficiary"), hereby certifies to _____ (The "Bank"), with reference to irrevocable Letter of Credit no. _____ dated_____(the "Letter of Credit"), issued by the Bank on behalf of the Applicant and in favor of the Beneficiary, as follows, as of the date hereof:

1. Beneficiary is making a drawing under the Letter of Credit in the amount of $[_____] because [check applicable provision]:

[ ] (A) Applicant has failed to complete Separation Work or Additional Separation Work as defined in the Agreement for Purchase and Sale of Street Lights, by and between Beneficiary and Applicant ("the [Buyer]**"),** dated_____.

[_] (B) [Bank name]'s has failed to maintain a corporate long term debt rating of at least "A-" from Standard & Poor's or "A3" from Moody's Investors Service and Beneficiary has made written demand on Applicant to deliver a replacement Letter of Credit issued by a third party bank satisfying the requirements of the Beneficiary, and Applicant has failed to deliver such replacement Letter of Credit to Beneficiary prior to the close of business on the tenth (10th) day following such written demand.

[_] (C) the Beneficiary has received notice from the Bank of its intention to cancel this Letter of Credit before its normal expiration date and Applicant has failed, prior to the close of business on _____[insert date which is not more than thirty (30) days before the present expiration date], to deliver to Beneficiary one or more replacement Letter of Credits satisfying the requirements of the agreement titled "Agreement for Purchase and Sale of Street Lights between Niagara Mohawk Pow er Corporation d/b/a National Grid and the [Buyer]," dated_____.

[ ] (D) Applicant has failed to reimburse Beneficiary for any costs incurred by Beneficiary to repair damages or site alterations to Beneficiary's facilities caused by Applicant's employees,

Attachment: Town of Amherst PSA 2_1_2022 (RES-2022-128 : Agreement for Purchase and Sale of Streetlights (CRS# 3147))

contractor s or subcontractors, as required in the Agreement for Purchase and Sale of Street Lights, by and between the Applicant and Beneficiary dated_____.

2. Based upon the foregoing, the Beneficiary hereby makes demand under the Letter of Credit for payment of U.S. dollars_____and __ /100ths (U.S. $_____).

3. Funds paid pursuant to the provisions of the Letter of Credit shall be wire transferred to the Beneficiary in accordance with the following instructions:

_____
_____
_____

Unless otherwise provided herein, capitalized terms which are used and not defined herein shall have the meaning given each such term in the Letter of Credit.

In witness whereof, this certificate has been duly executed and delivered on behalf of the Beneficiary by its duly elected and acting officer as of this_____day of__,__.

Beneficiary: **Niagara Mohawk Power Corporation**

By: _____(signature)

Name: _____(print name)

Title: _____

Attachment: Town of Amherst PSA 2_1_2022 (RES-2022-128 : Agreement for Purchase and Sale of Streetlights (CRS# 3147))

Appendix S-2

Performance (Surety) Bond

Bond No. _____

WITNESSETH:

The [Buyer], having an address at [ADDRESS], and [Surety Provider], having an address at _____, a corporation organized under the laws of the State of_____and being duly authorized to transact the business of indemnity and suretyship in this State of New York, as **Surety**, do hereby acknowledge our indebtedness to, and are jointly and severally bound unto Niagara Mohawk Power Corporation d/b/a National Grid, as **Obligee,** in the aggregate sum of $[_] (the "*Maximum Obligation*") for the payment of which the Principal and Surety bind themselves, their heirs , executors, administrators, successors, assigns or other legal representatives, jointly and severally.

The condition of this obligation is such, that:

WHEREAS, the Principal has entered into an agreement called "AGREEMENT FOR PURCHASE AND SALE OF STREET LIGHTS BETWEEN NIAGARA MOHAWK POWER CORPORATION D/B/A NATIONAL GRID AND THE [BUYER]," by and between Principal and Obligee dated _____, the "*Agreement*"); and

WHEREAS, as a condition precedent to the commencement and/or continuation of the Agreement, the Principal agrees to furnish Obligee with this surety bond, issued by the Surety in the amount above mentioned for the purpose of establishing credit and securing their performance obligations under the Agreement; and

NOW, THEREFORE, if Principal shall timely perform or cause to be performed any and all of its contractual obligations under the Agreement that may at any time be due and owing to the Obligee f r om Principal, then this obligation shall be null and void, otherwise it shall remain in full force and effect as a continuing obligation and shall not be extinguished. Should the Principal fail to perform or cause to be performed all obligations that may at any time be due and owing to the Obligee by the Principal in connection with the Agreement, then the Surety holds itself bound hereunder for the payment of all such amounts, and such amounts shall become immediately due from the Surety upon demand by the Obligee. Any liability which accrues while this bond is in force and is in effect shall remain and shall not be extinguished, regardless of the cancellation or termination of this bond, as set forth herein. Partial payment(s) shall not be deemed to extinguish this bond.

Surety hereby waives all defenses with respect to (i) notice of default of performance, (ii) notice of amounts owed by Principal to the Obligee, (iii) demand and diligence, (iv) notice of any extension of time granted by the Obligee to Principal, (v) any forbearance by the Obligee in favor of Principal, and (vi) any errors or inaccuracies with respect to the current formal corporate name of Principal as appearing on any documents established by Obligee in connection with the Agreement. Surety further waives any right to require that the Obligee institute suit against Principal for any amount

Attachment: Town of Amherst PSA 2_1_2022 (RES-2022-128 : Agreement for Purchase and Sale of Streetlights (CRS# 3147))

owed or obligation to be performed by Principal to or for the benefit of the Obligee in connection the Agreement, it being the intent of this bond, and Surety hereby agrees, that if Principal fails or refuses to pay any such amount or perform any obligation due and owing to the Obligee under the Agreement, Surety shall pay such amount to the Obligee upon demand by the Obligee.

Amounts paid by Surety to the Obligee hereunder shall be credited against Surety's Maximum Obligation but shall not otherwise affect Surety's obligations under this bond. Principal and Surety agree that, subject to the Maximum Obligation, in any suit successfully prosecuted on this bond by the Obligee, the Obligee shall be entitled to recover, in addition to any other amount recovered by the Obligee, the reasonable attorneys' fees incurred by the Obligee in prosecuting said suit. Principal and Surety further agree that the Obligee does not, whether by accepting this bond or accepting any payment from Surety under this bond, waive its right to discontinue, in whole or in part and without prior notice, the Agreement in the event Principal fails or refuses to pay any amount and/or perform any obligation owed by Principal to the Obligee in connection with the Agreement, provided, however, the Obligee shall be under no duty to exercise such rights.

This bond is subject to the following additional terms, limitations and conditions:

1. The term of this bond shall commence [_____] and shall be continuous.

2. The Surety shall have the right to terminate its liability hereunder, but only as to amounts owed by Principal as a result of nonperformance as required under the Agreement after the effective date of such termination, at any time by giving notice in writing by registered mail to the Obligee and the Principal and stating therein the effective date of such termination which date shall not be less than thirty (30) days after receipt of said notice by the Obligee. Such notice shall not limit or terminate this bond in respect t to any liability for acts, omissions, or indebtedness occurring or arising prior to the effective date of such termination by the Surety. Written notice must be by certified letter, return receipt requested, and mailed to the Obligee at Niagara Mohawk Power Corporation d/b/a National Grid, 300 Erie Boulevard West, D- 1, Syracuse, NY 13202 (Attn: Commercial Credit and Collections Dept.), and to Principal at the [BUYER], [ADDRESS].

3. It is understood and agreed between the Principal and the Obligee that, upon receipt of Surety's thirty-day written notice of cancellation as provided above, the Obligee may demand from the Principal a replacement surety bond, in the amount corresponding to the existing amount of this Surety Bond at the time of such cancellation notice, by written notice to Principal and Principal shall deliver the replacement Surety Bond to the Obligee at least ten (10) days prior to the effective date of termination or expiration of this bond. In the event that a replacement Surety Bond is not provided in compliance with this paragraph, the Obligee shall have the right, but not the obligation, to pursue all legal rights afforded to Obligee under the Agreement, either in whole or in part and without prior notice.

4. No proceeding in law or in equity may be brought under this bond unless the same shall be commenced and process served prior to the expiration of one (1) year from the effective date of cancellation of this bond.

5. Obligee may make a claim on this bond by mailing the completed and signed Annex 1, along with a copy of this bond, to the following address of Surety: [ADDRESS].

6. It is understood and agreed that any person(s) having a claim under the conditions of this bond

Attachment: Town of Amherst PSA 2_1_2022 (RES-2022-128 : Agreement for Purchase and Sale of Streetlights (CRS# 3147))

may initiate suit in any court of competent jurisdiction upon this bond.

7. Surety agrees that no change, extension of time, alteration or addition to the Agreement shall in any way affect the obligation of this bond and it does hereby waive notice of any such change, extension of time, alteration or addition. Surety further agrees that any changes in, to, or under any contractual documents relating to the Agreement, and any compliance or non-compliance with formalities connect ed with such documents or changes, shall not affect Surety's obligation under this bond, and it does herby waive notice of any such changes, compliance or non-compliance.

8. In this bond, (i) words denoting the singular include the plural and vice versa, and (ii) words such as "hereunder," "hereto," "hereof" and "herein" and other words of similar import shall, unless the context requires otherwise, refer to this bond as a whole and not to any particular article, section, subsection, paragraph or clause hereof.

9. In no event shall the Surety's obligation exceed the Maximum Obligation.

IN WITNESS WHEREOF, the Principal and Surety have executed and delivered this bond this_ _____Day of_____, 20___.

(Seal) _____, as Principal

By:_ Name:
Title:

_____, as Surety

(Seal)

By:_ Name:
Title:

Attachment: Town of Amherst PSA 2_1_2022 (RES-2022-128 : Agreement for Purchase and Sale of Streetlights (CRS# 3147))

Annex 1

1. This Annex 1 shall be considered part of the following Performance (Surety) Bond (the "Surety Bond").

Bond # _____
Surety:_____[Surety Provider] _____
Obligee: Niagara Mohawk Power Corporation d/b/a National
Grid Principal: [BUYER]

Unless otherwise provided herein, capitalized terms which are used and not defined herein shall have the meaning given each such term in the Surety Bond.

DATE:_____

[Surety Name]_____
[Attention]_____
[SuretyAddress1]_____
[Surety address2]_____

Principal: [BUYER]
Ladies and Gentlemen:
The undersigned_____, a duly elected and acting officer of **Niagara Mohawk Power Corporation d/b/a National Grid** (the "Obligee"), hereby certifies to _____(the "Surety"), with reference to Surety BondNo. _____dated_____(the "Surety Bond"), issued by the Surety on behalf of the principal and in favor of the Obligee, as follows, as of the date hereof:

1. Obligee is making a claim under the Surety Bond in the amount of $_because [check applicable provision]:

[_____] (A) Principal has failed to complete Separation Work or Additional Separation Work as defined in the Agreement for Purchase and Sale of Street Lights, by and between Obligee and Principal dated_____

[_____] (B) Surety has failed to maintain a corporate long term debt rating of at least "A-" from Standard & Poor's or a "B+" rating from A.M. Best and Company and Obligee has made written demand on Principal to deliver a replacement Surety Bond issued by another Surety satisfying the requirements of the Obligee, and Principal has failed to deliver such replacement Surety Bond to Obligee prior to the close of business on the tenth (10th) day following such written demand.

[_____] (C) the Obligee has received notice from the Surety of its intention to cancel this Surety Bond before its normal expiration date and Principal has failed, prior to the close of business on _____[insert date which is not more than thirty (30) days before the present Expiration Date], to deliver to Obligee one or more replacement Surety Bonds satisfying the requirements of the Agreement for Purchase and Sale of Street Lights, by and between the Principal and Obligee dated _____.

[ ] (D) Principal has failed to reimburse Obligee for any costs incurred by Obligee to repair damages or site alterations to Obligee' s facilities caused by Principal's employees, contractors or subcontractors, as required in the Agreement for Purchase and Sale of Street Lights, by and between the Principal and Obligee dated_____.

Attachment: Town of Amherst PSA 2_1_2022 (RES-2022-128 : Agreement for Purchase and Sale of Streetlights (CRS# 3147))

2. Based upon the foregoing, the Obligee hereby makes a claim under the Surety Bond for payment of U.S Dollars _____and___/100ths (U.S. $_____).

3. To the extent possible, funds paid pursuant to the provisions of the Surety Bond shall be wire transferred to the Obligee in accordance with the following instructions:

_____
_____
_____

IN WITNESS WHEREOF, this Certificate has been duly executed and delivered on behalf of the Obligee by its duly elected and acting Officer as of this_____day of_,_____.
Obligee: **Niagara Mohawk Power Corporation**

_____(signature)

Name: _____(print name)
Title: _____

Attachment: Town of Amherst PSA 2_1_2022 (RES-2022-128 : Agreement for Purchase and Sale of Streetlights (CRS# 3147))

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

Francina J. Spoth
Town Clerk

Meeting: 02/07/22 07:00 PM
Department: Town Attorney
Initiated by: **Stanley J. Sliwa**
Co-Sponsored by:

DOC ID: 25353 **RESOLUTION 2022-129** **ROLL CALL VOTE (ADOPTED)**

License Agreement (Attachments to Utility Poles and Structures) (CRS# 3148)

TO: **Town Board**

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

DATE: **February 1, 2022**

RE: **License Agreement (Attachments To Utility Poles and Structures) Between: Niagara Mohawk Power Corporation d.b.a. National Grid and the Town of Amherst (CRS# 3148)**

Kindly adopt a resolution authorizing the Supervisor to execute the attached agreement for customer owned street and area lighting attachments subject to successful completion of the Contract Routing System.

Thank you.
SJS:nmb
Attachment
c: Tim Koller, Deputy Town Clerk
(*w/attachment,* **Agenda Item - February 7, 2022**)
Lynda Juul, Director of Finance (*w/attachment)*
Daryl C. Bramer, Comptroller (*w/attachment)*
Christopher P. Schregel, Project Manager (*w/attachment)*

2/7/2022
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved via Roll Call vote 5-0.

FINANCIAL IMPACT:

Residential lighting: E9997.4070 / Amount TBD; Highway Liighting: A5182.4070 / Amount TBD (estimated at $15,000-$20,000 annually)

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

Attachment: Town of Amherst License Agreement 2_1_2022 (RES-2022-129 : License Agreement (Attachments to Utility Poles and Structures)

nationalgrid

LICENSE AGREEMENT

FOR

CUSTOMER-OWNED STREET AND AREA LIGHTING

ATTACHMENTS TO

UTILITY POLES AND STRUCTURES

BETWEEN

Niagara Mohawk Power Corporation d/b/a National Grid

(COMPANY)

AND

The Town of Amherst, New York (CUSTOMER)

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Attachment: Town of Amherst License Agreement 2_1_2022 (RES-2022-129 : License Agreement (Attachments to Utility Poles and Structures)

Attachment: Town of Amherst License Agreement 2_1_2022 (RES-2022-129 : License Agreement (Attachments to Utility Poles and Structures)

THIS LICENSE AGREEMENT ("Agreement"), is made as of the last date appearing on the signature page of this Agreement (the "Effective Date"), by and between **NIAGARA MOHAWK POWER CORPORATION D/B/A NATIONAL GRID**, a corporation organized and existing under the laws of New York, having an office at 300 Erie Boulevard West, Syracuse, New York, 13202, (the "Company") and the Town of Amherst, a municipal corporation organized and existing under the laws of New York, having its principal office at 5583 Main Street Amherst, New York 14221, (the "Customer"). The Company and the Customer are collectively referred to herein as the "Parties" and individually as a "Party."

WITNESSETH

WHEREAS, the Customer currently receives street lighting service from the Company within its municipal boundaries under Service Classification ("S.C.") No. 2 of the Lighting Tariff (defined below) and intends to install, own, operate and maintain, certain Equipment (defined below) to provide street and area lighting within the Customer's municipal boundaries and to thereafter receive the electricity required to power the Customer's street lights from the Company; and

WHEREAS, that certain Equipment (defined below) that the Customer has purchased from the Company, has previously installed, and/or intends to purchase and/or install, that is or will be attached to Facilities (defined below) owned in whole or in part by the Company; and

WHEREAS, as part of any Purchase and Sale Agreement (defined below) with the Company for that certain Equipment, Customer has agreed to perform or to pay the Company to perform any Separation Work (defined below) required to install a Disconnect Device (defined below) between each street light purchased from the Company or thereafter installed and the Company's distribution system and to install Identification Labels (defined below) at each such location within twenty-four (24) months of the Effective Date of this Agreement or the closing of a sale transaction pursuant to a Purchase and Sale Agreement including satisfaction of all closing conditions set forth in the Purchase and Sale Agreement ("Closing"), whichever is earlier; and

Attachment: Town of Amherst License Agreement 2_1_2022 (RES-2022-129 : License Agreement (Attachments to Utility Poles and Structures)

WHEREAS, the Customer and the Company also desire to establish a process to govern the modification of the Customer's existing Equipment and the installation by the Customer of any such additional Equipment on the Facilities within the Customer's municipal boundaries as the Customer may require from time to time for street lighting and related purposes; and

WHEREAS, the Company and the Customer understand that this Agreement does not cover any Supplemental Attachments (defined below), and that the placement of any Supplemental Attachments will require and be subject to a separate agreement between the Company and the Customer; and

WHEREAS, the Company is willing to permit, to the extent it may lawfully do so, the continued existence and new attachment of the Equipment on the Facilities within the Customer's municipal boundaries pursuant to the terms and conditions established in this Agreement.

NOW THEREFORE, in consideration of the mutual covenants, terms and conditions herein contained, the Parties do hereby agree as follows:

1. DEFINITIONS

Whenever used in this Agreement with initial capitalization, the following terms shall have the following meaning:

1.1. "Attachment" means any luminaire, supporting bracket, hardware, apparatus, assembly, structure, wire, conductor, cable or other circuitry and/or other lighting components, including the applicable Lighting Control, owned by Customer, existing or proposed to be installed on a Pole and/or connected to the Company's overhead or aerial distribution system or connected or proposed to be connected to the Company's underground distribution systems, for the sole purpose of providing street and/or area lighting within the Customer's municipal boundaries.

1.2. "Authorized Attachment" means any Equipment attached to the Company's Facilities within the Customer's municipal boundaries on or after the Effective Date of this Agreement for which a License or a Preliminary License has been granted under this Agreement and remains in effect.

1.3. "Conduit" means a Structure containing one or more Ducts.

1.4. "Connection Point" means the point at which any Attachment receives electric power from the Company's distribution system for the sole purpose of street and/or area lighting and shall also serve as the point of ownership demarcation.

1.5. "Costs" means all direct and indirect costs incurred by the Company pursuant to this Agreement, inclusive of all applicable adders and overheads in effect from time to time, and including, but not limited to, any federal, state or local taxes incurred on the Company's receipt of amounts from Customer, on a grossed-up basis.

1.6. "Disconnect Device" means a Company-approved, physical disconnection assembly or apparatus that will function as a means to disengage electrical services between the Company's electrical system and any Equipment, and may include an "in-line fuse" assembly or other form of dual pole disconnection device that may also provide a level of electrical system protection.

1.7. "Duct" means a single enclosed raceway or pipe in which wires or cables are or may be enclosed.

1.8. "Electric Tariff" means National Grid's P.S.C. No. 220 – Electricity, Schedule for Electric Service, as the same may be changed, amended, or supplemented from time to time, and any successor tariff thereto duly approved by the Commission.

1.9. "Electrical Space" means the portion of the space on each Company or Joint Owned Pole between the top of such Pole and the point at which the lowest electrical conductor attaches to such Pole. This space is also known as the "supply space," as defined in the National Electric Safety Code ("NESC").

1.10. "Equipment" shall include all Customer-owned structural or electrical components, devices, assemblies or apparatus including the Lighting Control used or proposed to be used by the Customer to provide outdoor illumination of streets or areas, including all associated support infrastructure and electrical circuitry. Supplemental Attachments are not Equipment.

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1.11. **"Facility"** or **"Facilities"** shall include all Structures, Poles, wires and other components, equipment, assemblies, apparatus or infrastructure owned by the Company in whole or in part and used or proposed to be used by the Company to support any of the Equipment and / or to provide electric service and / or street lighting service.

1.12. "Field Survey" means the Company's on-site audit and/or office asset/mapping record review of each Facility upon which the Customer proposes to:

(i) Make a new Authorized Attachment(s);

(ii) Relocate an existing Authorized Attachment(s); or

(iii) Materially Change an existing Authorized Attachment.

1.13. **"Identification Labels"** means markings, tags, decals, signage or other displays that indicate ownership, location or asset reference and functional attributes of the Equipment.

1.14. **"Joint Owner"** means a person, firm, or corporation sharing an ownership interest in a Pole, Structure and/or related ancillary equipment with the Company. "Joint Owned" Poles, Structures, and/or related ancillary equipment are those in which Joint Owners share such ownership interest with the Company.

1.15. **"Joint User"** means any other utility, which shall now or hereafter have established the right to use specific Poles and/or Structures. The term "Joint User" shall not include Customer.

1.16. **"License"** means a revocable, nonexclusive license for the installation, maintenance and operation of the Customer's Authorized Attachments subject to the provisions of this Agreement.

1.17. **"Lighting Control"** means the required ancillary device that, when connected to the individual luminaire or integral electric lighting circuitry associated with a designated group of luminaires, provides the minimal on/off operation of the luminaire(s) and may incorporate enhanced functionality (including but not limited to scheduled operation, varied illumination output and managed energy consumption as may be provided from a static, manufacturer preset or field adjustable control device or an NLC Node), but does not include any other Equipment and/or any other NLC System components, assemblies or apparatus

used to facilitate the networked operation, communication, metering or other functional attributes.

1.18. "Lighting Tariff" means National Grid's P.S.C. No. 214 – Street, Highway, Roadway, and Other Outdoor Lighting, Schedule for Electric Service, including portions of the Electric Tariff incorporated therein by reference, as the same may be changed, amended, or supplemented from time to time, and any successor tariff thereto duly approved by the Commission.

1.19. "Make -Ready Work" means the work to be performed by or on behalf of the Customer, the Company, a Joint User or Other Customer, as applicable, in order to safely accommodate a new Authorized Attachment or a Material Change to an Authorized Attachment.

1.20. "Material Change" or **"Materially Change,"** means any alteration, modification, or replacement made to any Authorized Attachment that, in the Company's sole judgment, would change the characteristics, licensed specifications, safety, mode of operation or maintenance, physical attributes, or use of the Facilities by the Company or Other Customers, or that would change the attributes of any such Facility related to engineering, billing or financial reporting. For avoidance of doubt, neither the conversion of an existing luminaire with a like-kind light-emitting diode ("LED") luminaire, including the specified luminaire control, with similar physical and operational characteristics in the same location and orientation as the existing luminaire and the continued use of the existing luminaire support infrastructure, nor the initial installation of a Disconnect Device within twenty-four (24) months after Closing, as set forth in the Purchase and Sale Agreement, will be considered a Material Change except as required to facilitate accurate billing and inventory records.

1.21. "Network Lighting Control Node" or **"NLC Node"** means a communication-enabled photoelectric control device connected directly (affixed) or indirectly (non-affixed) to a luminaire as a component of the Equipment for the primary purpose of a Lighting Control to operate the designated luminaire and having secondary, generally recognized functional capabilities of energy consumption measurement, Equipment diagnostic monitoring, electrical surge protection, global positioning system location coordinate

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referencing, and having the additive incremental weight and maximum power consumption (watts) as defined in the latest version of the product manufacturer's technical specification literature provided to the Company by the Customer for use in any required engineering analysis and/or determination of billing parameters per the Company's Lighting Tariff. The NLC Node, and specifically the energy consumption measurement integrated circuit or meter chip, will not be used for energy consumption billing until such time as meter chip testing standards are available, applicable regulatory metering guidelines and tariff applications are approved, the Company's information systems are compatible with the inventory, qualification testing and monthly billing requirements, and the Customer's NLC Nodes and NLC System are compliant with all regulatory requirements.

1.22. "Network Lighting Control ("NLC") System" means any individual or combination of components, equipment, assemblies, devices and apparatuses, including, but not limited to, NLC Nodes, backhauls, gateways, receivers, transmitters, repeaters, and antennas to facilitate the networked operation of the wireless and/or wired communication of the Lighting Controls, attached to Equipment and including any associated information system management software.

1.23. "OSHA" means the Occupational Safety and Health Act, latest rule revisions as administered by the Occupational Safety and Health Administration within the U.S. Department of Labor.

1.24. "Other Customer" means any entity, other than the Customer, to whom the Company has extended or hereafter shall extend the privilege of attaching Equipment of any kind to the Facilities.

1.25. "Pole" means any vertically oriented utility structure constructed of treated wood, metal, composites or concrete used to support electrical conductors and other utility equipment necessary to facilitate the operation of the Company's electric distribution.

1.26. "Purchase and Sale Agreement" means any agreement(s) between the Customer and the Company providing for the purchase by the Customer of part or all of the Equipment, including street lights, located within the Customer's municipal boundaries and owned and operated by the Company prior to the

execution of the Purchase and Sale Agreement and Closing of the transaction as provided therein.

1.27. "Preliminary License" means the limited license authorizing Customer to maintain Equipment purchased from the Company under the Purchase and Sale Agreement without change or modification as provided in Section 2.1 of this Agreement pending completion of the Separation Work.

1.28. "PSC" means the New York State Public Service Commission.

1.29. "Qualified Electrical Worker" means any worker, electrical worker, contractor or other designated individual electrically qualified to accommodate the environment within which Customer's Equipment shall exist, in compliance with established standards associated with work in close proximity to electrical equipment and having successfully achieved a specified minimum level of training and/or experience including, but not limited to, all applicable federal, state, and local work rules and Company work rules, including compliance with OSHA 1910.269.

1.30. "Removal Rights" shall refer to the Company's right pursuant to Article 6 of this Agreement or applicable laws to request or perform the removal of Unauthorized Attachments.

1.31. "Separation Work" means that work required to install Disconnect Devices and Identification Labels complying with the Company's requirements on all of the Equipment purchased by the Customer under the Purchase and Sale Agreement, and includes removal of all existing Company labeling from such Equipment.

1.32. "Structures" includes, but is not limited to, the Ducts, Conduits, vaults, manholes, handholes, foundations, standards and other utility equipment or infrastructure necessary to facilitate the operation of an underground electric distribution system or underground sourced street and/or area light(s) owned by the Company.

1.33. "Supplemental Attachment" means any Customer-owned, Customer- leased or other third-party wired, wireless or self-energized hardware, equipment, assembly, apparatus, or device, including all support infrastructure and associated wiring, cabling and circuitry, that is physically affixed and/or

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electrically connected to the Equipment, and used for a purpose other than the primary operational function of luminaires to provide outdoor illumination. Supplemental Attachments are outside the scope of this Agreement, and must be authorized under a separate Supplemental Attachment Agreement.

1.34. "**Unauthorized Attachment**" means any Equipment attached to the Company's Facilities other than an Authorized Attachment.

2. SCOPE OF AGREEMENT

2.1. Preliminary License. The Company hereby grants Customer a Preliminary License, effective as of the Closing as set forth in the Purchase and Sale Agreement dated _____ ___, 2021, for the attachment to the Facilities of any and all Equipment sold by the Company to Customer in the Purchase and Sale Agreement as shown in APPENDIX II, Forms A-1 and A-2 hereto. The Preliminary License shall be limited to an initial term of twenty-four (24) months and shall only authorize Customer to maintain such existing Equipment, with no modification or change whatsoever, in its existing locations on the Company's Facilities. This Preliminary License shall terminate with respect to each individual Attachment upon completion of the Separation Work for that Attachment, at which point such Attachment and all Equipment therein shall be deemed to be an Authorized Attachment. Provided, however, that for any Equipment as to which the Separation Work is not completed within such twenty-four (24) month period and for which the Company is therefore required to perform the Separation Work on the Customer's behalf under the terms of the Purchase and Sale Agreement, the Preliminary License shall be extended until the Company completes such Separation Work, at which time such Attachment and all Equipment therein shall be deemed to be an Authorized Attachment. Upon the termination or expiration of the Preliminary License, the term of any License hereunder shall be determined in accordance with Section 15 of this Agreement.

2.2. Use of NLC Nodes or NLC System; Supplemental Attachments. The Customer agrees that if at any time it installs or utilizes an NLC System (as defined herein), only the NLC Node used for the primary operational function of the luminaire(s) (as further addressed in the Lighting Tariff) will be considered

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Equipment as defined and covered by this Agreement. All other NLC System equipment components or assemblies ("Additional NLC Equipment") will be considered Supplemental Attachments that will require execution of a separate Supplemental Attachment Agreement. Customer agrees not to install any Supplemental Attachments, including Additional NLC Equipment, until it has executed a Supplemental Attachment Agreement with the Company.

23. Additional Equipment. Any Equipment that is not listed in the Purchase and Sale Agreement and that is found within three (3) months following the Effective Date of this Agreement to be attached to the Company's Facilities within any area inside Customer's municipal boundaries and determined to have been owned by the Company as of the Effective Date will be considered to have existed prior to the date of this Agreement and to have been inadvertently omitted from the Purchase and Sale Agreement. If Customer purchases such additional Equipment in accordance with the Purchase and Sale Agreement, the Company shall grant Customer a Preliminary License for such Equipment, provided Customer agrees within thirty (30) days of notice to or by the Company of the discovery of such Equipment to perform any Separation Work required for such Equipment within the twenty-four (24) month period for such work established in the Purchase and Sale Agreement. If Customer does not agree to perform the Separation Work for such Equipment within such thirty (30) day period, such Equipment shall be de-energized and may be removed by the Company at the Customer's expense.

24. Purpose of Licenses; Approval of Attachments and Changes. Any Licenses granted by the Company to the Customer under this Agreement authorize the Customer to maintain its Equipment on the Company's Facilities for street lighting purposes only, subject to the provisions of this Agreement. The Company also agrees to grant Customer Licenses for such additional Authorized Attachments and for such Material Changes to Customer's existing Authorized Attachments as the Customer may request in accordance with the provisions provided in Article 4 of this Agreement. Any change to an Authorized Attachment not approved in advance by the Company as provided in Article 4 of this Agreement shall cause

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such Attachment to become an Unauthorized Attachment subject to the Company's Removal Rights in accordance with the provisions of Article 6 of this Agreement.

25. Report of Equipment. To assist the Company in maintaining its billing records, Customer shall provide the Company with a report of all Equipment in service as of December 31 of each calendar year during the term of this Agreement, in a form approved by the Company. This report shall be provided within thirty (30) days following the end of each calendar year and shall be provided in the form contained in the Company's Application for Street and Area Lighting Attachment License, attached hereto as APPENDIX II, Forms A-1 and A-2, or in such other form as the Company may direct.

26. Field Audits. The Company may perform random field audits of the Customer's Equipment to determine the accuracy of any report provided by the Customer. To the extent there are any differences between either the Equipment identified in any Customer report or the Equipment listed in the Company's records and the Equipment identified by the Company after any such field audit that cannot be reconciled by the Company, the Company shall provide the Customer with written notice thereof. Within thirty (30) days of receipt of such notice, Customer shall either:

(i) Provide the Company with written notice that it has removed such Equipment from the Facilities; or

(ii) Submit a written request for the approval of such Equipment as a new Authorized Attachment pursuant to Article 4 of this Agreement.

If Customer fails to remove such Equipment or request approval of the Equipment as a new Authorized Attachment within such thirty (30) day period, such Equipment shall be deemed an Unauthorized Attachment subject to the provisions of Articles 5 and 6 of this Agreement.

27. No Requirement to Construct, Retain, or Maintain. Nothing contained in this Agreement shall be construed to compel the Company to construct, retain, extend, place or maintain any Facilities not needed for the Company's own service requirements. This Section is not intended to limit the obligation of the Company to provide electric distribution service to Authorized Attachments pursuant to the Lighting Tariff. In

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the event the Company and Joint Users / Other Customers no longer require the use of a Pole or Structure, the Company will notify the Customer and the Customer shall have the option to purchase the Pole or Structure at a price to be determined by the Company. If Customer fails to advise the Company of its intent to exercise such option within thirty (30) days of receipt of notice thereof from the Company, the License for use of that Pole or Structure shall terminate and the Company shall be free to remove the Pole or Structure with no further obligation to the Customer under this Agreement.

28. **No Limitation on Company's Agreements.** Nothing contained in this Agreement shall be construed as a limitation, restriction, or prohibition against the Company with respect to any agreement(s) or arrangement(s) that the Company has heretofore entered into or may in the future enter into with any Joint Owner(s), Joint User(s) or Other Customers not party to this Agreement regarding use of the Facilities covered by this Agreement. The rights of Customer shall at all times be subject to any such existing and future agreement(s) or arrangement(s) between the Company and any Joint Owner(s), Joint User(s) or Other Customers. Nothing contained in this Agreement shall be construed to grant, and the Company makes no representations or warranties with respect to, and is not purporting to provide, Customer with any attachment rights, licenses or consents for or in connection with the attachment of Equipment to the facilities of any Joint Owner(s), Joint User(s) or other third parties. Customer is solely responsible to obtain all approvals, licenses, attachment rights or other consents required for the attachment of the Equipment to the facilities of any such Joint Owner(s), Joint User(s) or other third parties.

29. **Separate Agreement for Supplemental Attachments Required.** Nothing contained in this Agreement shall be construed to grant any rights to Customer to include or install any Supplemental Attachments and/or any wired or wireless hardware, equipment, apparatus, device, antennae, or signage used for any purpose other than illumination directly on the Facilities. To the extent the Customer desires to install any such equipment directly on the Facilities, a separate agreement with the Company shall be required.

210. **Ownership Rights.** No use, however extended, of the Facilities and no payment of any fees

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or charges by Customer pursuant to this Agreement shall create or vest in Customer any ownership or property rights in such Facilities. Customer's rights herein shall be and remain a license. Neither this Agreement nor any License granted hereunder shall constitute an assignment of any of the Company's rights to use the public or private property at the location of any of the Facilities.

3. REQUIREMENTS APPLICABLE TO ALL AUTHORIZED ATTACHMENTS

3.1. Compliance with Applicable Regulations, Codes and Standards.

3.1.1. **Safety Requirements.** Customer shall, at its own expense and in accordance with the terms and conditions set forth in this Agreement, install, maintain and operate all Authorized Attachments in a safe condition and in a manner that does not:

(a) Interfere with the Company's operation of its electric distribution system;

(b) Conflict with the use of the Facilities by the Company or by any other authorized user thereof; or

(c) Electrically interfere with the Facilities or any equipment attached thereon or therein.

3.1.2. **Compliance with Standards.** Customer shall install, maintain and operate all Authorized Attachments in compliance with all applicable federal, state and local laws, regulations, codes and the Company's policies, practices and standards, as amended and in effect from time to time, and in accordance with the applicable requirements and specifications of the most recent editions of National Grid's engineering standards, as may be amended from time to time; the National Electrical Code ("NEC"); the National Electrical Safety Code ("NESC"); the Occupational Health and Safety Administration ("OSHA") rules and regulations, including but not limited to OSHA 1910.269; Section 70-a(5) of the New York Public Service Law; "The Electric Power Generation, Transmission, and Distribution" standard, the New York State Labor Law governing how close workers (qualified) and non-workers (unqualified) can get to energized equipment at primary and/or secondary voltages, requirements by the New York State Department of Transportation, and any governing authority having jurisdiction over the subject matter of this Agreement, as each may be amended from time to time.

3.1.3. **Clearance.** Customer shall ensure that clearances between each of the Authorized Attachments and all communications, electric distribution system and street lighting Facilities are fully in compliance with all applicable codes, standards and Company requirements, all as amended and in effect from time to time, to allow for proper maintenance, repair and reconfiguration of electric distribution system, street lighting and communications cables.

3.1.4. **Notification of Unsafe Conditions.** Customer and its agents, contractors, servants, representatives, and/or employees shall by test or observation determine that the Facilities are safe to perform work thereon. If the integrity of any Facility is in question or is marked by Company as unsafe, the Customer shall immediately confirm said condition with Company via phone and email and refrain from working on the Facility.

3.1.5. **Notice of Planned Work**. The Customer agrees to provide Company with at least forty-eight (48) hours' notice via phone and email to the person named in Section 18 of this Agreement (Notices) of when it intends to perform any work with regard to the Authorized Attachments, in order to ensure that such work will not interfere with any Company maintenance, inspection, or operation work. Such notice shall include an estimate of the time the Customer will require to perform the work. The Customer understands and agrees that Company maintenance, inspection, or operation work takes precedence over the Customer's work with regard to the Authorized Attachments, and if a conflict exists, the Customer agrees to coordinate with Company to reschedule its work with regard to the Authorized Attachments.

3.1.6. **Compliance with Tariffs and Policies.** Customer shall ensure that the Authorized Attachments conform to applicable requirements of the Lighting Tariff and Electric Tariff and applicable Company policies. All lighting or illumination sources (*i.e.*, lamps and luminaires) shall comply with the energy consumption schedules and defined hours of operation as set forth in the Lighting Tariff.

3.1.7. **Make-Ready Work**. Subject to Section 4.3.4 of this Agreement, Customer shall have no obligation to perform Make-Ready Work related to the pre- existing conditions of Authorized

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Attachments or Facilities at a location as of the Effective Date unless and until such time as Customer makes a Material Change that affects that location.

3.1.8. **Company's Obligations.** Except as set forth in Article 6, the Company shall have no obligation to, and shall not perform construction, maintenance repairs, reconfiguration, relocation, connection / disconnection or removal of the Equipment on the Facilities unless: (i) Customer has provided specific written authorization for the Company to do so and the Company is able to perform such work in compliance with all applicable PSC rules and requirements, including without limitation Rule V.F.4 of the General Information Section of the Lighting Tariff governing "Relocation of Existing Facilities;" or (ii) there is a safety-related emergency that the Company must address with respect to such Equipment or a Facility to which such Equipment is attached. If the Company does perform construction, maintenance repairs, reconfiguration, relocation, connection / disconnection or removal of the Equipment, Customer shall reimburse the Company for all Costs incurred in connection with such work in accordance with Rule V.F.4 of the General Information Section of the Lighting Tariff governing "Relocation of Existing Facilities."

3.1.9. **Removed Materials.** Any materials removed by Customer, or removed by the Company on Customer's behalf, as part of or from within any Facilities shall be managed, tested, treated, transported, stored and disposed of by the Company in accordance with applicable rules, regulations or statutes and Customer shall reimburse the Company for all Costs incurred in connection therewith.

3.1.10. **Identification Labels.** Customer shall maintain applicable National Electric Manufacturers Association ("NEMA") or other industry standard Identification Labels upon each luminaire, in a clear and legible condition, to identify the type of light source and associated wattage or lumen output.

3.2. Personnel Authorized to Perform Work on The Company's Facilities.

3.2.1. **Qualified Electrical Workers.** Customer represents and warrants that any personnel that perform work on the Equipment in the Electric Space on the Company's Poles or within the Company's Structures shall at all times be Qualified Electrical Workers. Customer shall indemnify, defend

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and hold the Company harmless from any injury, damage, loss or claims resulting from any breach by Customer of this representation and warranty. Except where such work is performed by the Company, Customer is required to execute the "Acknowledgment For The Use of Qualified Electrical Worker" form (APPENDIX III) to affirm that any person(s) under contract with and/or the direction of the Customer, including Customer's agents, who perform the installation, maintenance, and/or removal of Attachments in the Electric Space on the Company's Poles or on or within Structures are qualified to perform such work in accordance with the requirements of this Agreement and have completed any required training for such work.

322. **Requirements If Workers Not Qualified Electrical Workers.** In the event Customer or its agents are unable to confirm the current status of their workers as Qualified Electrical Workers, before performing any work on the Equipment, Customer shall be required to: (i) notify the Company of its inability to confirm such status of its or its agents' workers as Qualified Electrical Workers and to determine the appropriate electrical clearance distances for such work; (ii) only perform work on Equipment in a de-energized condition; and (iii) perform such work in full compliance with all applicable requirements of the NEC, including without limitation any electrical clearance requirements established therein. If a Disconnect Device is not installed for such Equipment, the Customer or its agent must schedule a disconnect service request with the Company prior to performing any work on such Equipment. Following the completion of the work, the Customer or its agent must schedule a connection service request with the Company to re-energize such Equipment. The Customer will be assessed a Lighting Service Charge for each service work order occurrence as stated in the Lighting Tariff.

323. **No Access to Enclosed and Underground Structures.** Customer and its agents are prohibited from, have no authority to, and shall not permit or cause any third party to, access or ingress any of the Company's enclosed or underground primary or secondary electric distribution system Structures, including, but not limited to, manholes, handholes, vaults, transformers, and switchgears, unless such access

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or ingress is under the direct supervision of the Company.

324. **Company Assistance in Enclosed and Underground Structures.** If and to the extent the Customer or its agent needs access or ingress to any of the Company's underground electric distribution system infrastructure, the Customer or its agent shall contact the Company and the Company shall respond to such request, provide required support, and/or perform the necessary work as requested following its normal work order scheduling protocol, provided that the Company determines, in its sole discretion, that such connection / disconnection or other requested work is appropriate under the terms of applicable codes, standards, laws, regulations, agreements and the Company's practices and policies.

325. **No Connections/Disconnections.** Customer and its agents shall not perform or make any connections (permanent or temporary) to, disconnections from, or in any way handle, tamper or interfere with, or otherwise disrupt, the Company's electric distribution system or assets, in whole or in part, nor shall the Customer permit or cause any third party (including without limitation, Customer's agent) to do so. The Company shall be the sole party with authority to perform or make any and all (permanent and temporary) connections to or disconnections from the Company's electric distribution system or other assets. If and to the extent the Customer or its agent has a need for a connection or disconnection associated with the Company's electric distribution system or assets, the Customer or its agent shall contact the Company by making a connection / disconnection request through normal customer contact channels and the Company shall make the necessary connection / disconnection, provided that the Company determines, in its sole discretion, that such connection is appropriate under the terms of applicable codes, standards, laws, regulations, agreements and the Company's practices and policies.

326. **Customer Responsibility for Costs.** The Customer agrees to compensate the Company for all Costs incurred by the Company in connection with work performed by the Company associated with each Attachment consistent with the charges or fees as set forth in this Agreement and/or as defined in the applicable provisions of the Lighting Tariff.

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33. Maintenance of Authorized Attachments.

33.1. **Cable Locating; One Call System.** Customer shall be responsible for its own underground cable locating and for participation in the "One Call System(s)" providing one-call notifications within the Customer's operating service area. The One Call System is an independent association which, in compliance with federal, state and local requirements, facilitates the location identification of underground utility infrastructure through a notification / communication process between excavators and underground facility owners. The contact information for the One Call System responsible for a specific geographic area within the United States can be obtained by calling 811 nationally. As of the Effective Date, Dig Safely New York, Inc. is this association.

33.2. **NJUNS**. Customer shall participate, at its sole expense, in any forum, group or organization and utilize any designated common information management system established to facilitate communications, priority, schedule, and any other functions necessary to manage, locate or identify the attachment assets and actions of all customers and other facility owner(s) which are in conjunction with or may have an impact upon an Attachment. As of the Effective Date, the National Joint Utilities Notification System (NJUNS), is this organization.

33.3. **Access to Company Structures.** Customer may (or may expressly authorize the Company, its employees or agents to) access or enter the Company's Structures for the purpose of asset verification, inventory, inspection and/or other engineering or asset management functions provided the Customer provides sufficient advance notice to the Company to accommodate all aspects of scheduling. A representative of the Company shall be present at all such times, for which Customer shall pay the Company the applicable fee or charge specified in the Lighting Tariff unless, in the sole discretion of the Company, the scope of such support service is in excess of the defined fee or charge scope, in which instance the Customer will pay all fully loaded costs for such support service. All personnel entering any Company Structure are to be properly qualified and outfitted with personal protective equipment (PPE) for the physical,

environmental and electrical conditions to be encountered. Where Customer or its agent has been granted access as provided above, the Company may halt such activities if they threaten the safety of any individuals or property or the integrity or reliability of the Company's electric distribution system.

3.3.4. **Tree Trimming.** All tree trimming required to accommodate prospective maintenance and operation of Authorized Attachments, including but not limited to the functional performance, lumen output or illumination orientation, shall be performed by Customer or Customer's qualified contractor provided appropriate approvals have been granted by the owner(s) of the tree(s) and all governing authorities. The portion of the tree(s) to be impacted by trimming shall only be within a radial distance of three (3) feet of the luminaire extending below a horizontal plane established from the highest vertical point of the luminaire unless such area is within specified clearance distances of the electric distribution or transmission system as designated by the Company and/or other governing authorities.

3.4. Inspection and Remediation of Authorized Attachments.

3.4.1. **Right to Inspect**. The Company reserves the right, at its sole discretion, to make inspections of all or any part of the Equipment, at any time, without notice to Customer, at the Company's own expense.

3.4.2. **Right to Recover Costs of Inspection**. The Company reserves the right, at its sole discretion, to make inspections of all or any part of the Equipment and to recover its Costs in connection therewith from Customer, if the inspection performed pursuant to Section 3.4.1 of this Agreement reveals any of the following:

(a) Unauthorized Attachments;

(b) Material discrepancy in type, style or size of installed Attachment as compared with the Company's records;

(c) Any situation creating a safety-related emergency or any condition that prevents safe access to or operation of any facilities or equipment installed on Pole(s) and/or Structures; or

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(d) Equipment that have been installed in violation of the provisions of this Agreement.

3.4.3. **Other Charges; No Ratification or Waiver**. Any charges imposed by the Company for such inspections shall be in addition to any other sums due and payable by Customer under this Agreement. No act or failure to act by the Company with regard to the charge or any unlicensed use by Customer shall be deemed ratification or the authorization of the unlicensed use. If any License should subsequently be issued, the License shall not operate retroactively or constitute a waiver by the Company of any of its rights or privileges under this Agreement or otherwise.

3.4.4. **Equipment Not in Compliance.** If, in the reasonable judgment of the Company, any of the Equipment is not in compliance with the provisions of this Agreement, the Company may provide Customer with notice thereof, whereupon Customer shall bring such Equipment into compliance with the requirements of this Agreement within fifteen (15) days or such additional time as agreed to by the Company in writing (the "Notice Period") or remove the Equipment at its sole cost and expense. If Customer fails to bring its Equipment into compliance with the requirements of this Agreement with such Notice Period, or to remove the same the Company shall provide Customer with a Final Notice of Termination of Service with respect to the Attachment that includes such Equipment in accordance with Section 13.3(b) of the PSC's Rules and Regulations, 16 N.Y.C.R.R. § 13.3(b), and shall exercise its right to discontinue service to such Equipment in accordance with the provisions thereof.

3.4.5. **Hazardous Conditions.** If, in the reasonable judgment of the Company, any of the Equipment is not in compliance with the provisions of this Agreement and the existing physical and/or operational conditions of such Equipment creates an emergency or has the potential to cause an imminent hazard and/or immediate danger to the safety of Company employees, contractors, other persons or property, or interfere with the performance of the Company's service obligations, the Company shall have the right to disconnect or remove such Equipment from the Facilities without notice to the Customer in accordance with Section 13.13 of the PSC's Rules and Regulations, 16 N.Y.C.R.R. § 13.13, and to recover all Costs incurred

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in connection therewith from Customer under this Agreement. After disconnection and/or removal, Company will make the Facility electrically safe, and then notify the Customer to retrieve and/or replace its Equipment via phone and email using the appropriate business-hour or 24-hour contact information set forth in the Notices section herein.

3.4.6. **Emergency Situations.** In the event of an emergency, Company will make the Facility electrically safe, and then notify the Customer to retrieve and/or replace its Equipment via phone and email using the appropriate business-hour or 24- hour contact information set forth in the Notices section herein.

3.4.7. **No Obligation with Regard to Removed Equipment.** In the event Company removes and/or disconnects Customer Equipment following a hazardous condition or emergency situation pursuant to Sections 3.4.5 or 3.4.6 above, Company shall not be responsible for disposal, delivery, or safekeeping of the Customer's Equipment (including but not limited to the control device or ancillary attachment) or replacement of same, nor shall Company be liable if any such Equipment is damaged, missing, or destroyed. The Customer shall be responsible for the proper disposal and any associated restoration caused by the removal of its Equipment and all appropriate actions required to replace such Equipment including the performance of all separation work (fuse and labeling) following such event.

3.4.8. **Customer Obligation to Remedy**. The Customer shall, at its sole cost and expense, remedy any condition identified by the Company as causing any of its Equipment to be not in compliance with the provisions of this Agreement, which remedy may include but not be limited to the relocation, reorientation, transfer or de-energizing of the Equipment as deemed acceptable by the Company. The Company shall promptly restore electric service to such Equipment upon receipt of notice from the Customer that remedial action has been taken to address such emergency or non-compliance, provided however that the Company shall have no obligation to restore service to such Equipment if it has the lawful right to withhold service from such Equipment for any other reason.

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3.4.9. **Failure to Remedy**. If the Customer fails to remedy any condition identified by the Company as not in compliance with the provisions of this Agreement within thirty (30) days or such longer period as may be agreed to by the Company in writing, the Company may deem the License for the Equipment in question to be revoked, deem the Equipment an Unauthorized Attachment and proceed to exercise its Removal Rights with respect to the Equipment constituting such Unauthorized Attachment as stated in Article 6 of this Agreement.

3.4.10. **No Warranty**. Neither by inspection, if any, or non-rejection, nor in any other way, does the Company give any warranty, expressed or implied, as to the adequacy, safety or other characteristics or any structures, equipment, wires, appliances or devices owned, installed or maintained by Customer or leased by Customer from third parties.

3.5. Damage to Facilities.

3.5.1. **Liability; Obligation to Report**. Customer shall be liable for any damages it causes to the Facilities and to any equipment of third parties (including any Joint Owner(s), Joint User(s), and/or Other Customers) attached to the Facilities, and Customer assumes all responsibility for any and all loss from such damage caused by Customer or any of its agents, contractors, servants or employees. Customer shall make an immediate report to the Company and any Joint Owner(s), Joint User(s), and / or Other Customers of the occurrence of any such damage and agrees to reimburse the respective parties for all Costs incurred by the Company, Joint Owner(s), Joint User(s) and/or Other Customers in making repairs to the Facilities or such other equipment.

4. REQUIREMENTS APPLICABLE TO NEW ATTACHMENTS OR EQUIPMENT AND MATERIAL CHANGES TO AUTHORIZED ATTACHMENTS OR EQUIPMENT

4.1. License Application.

4.1.1. **Customer Requirements.** Customer shall not install any new Equipment on the Facilities, add any Attachments, or make any Material Change to any Authorized Attachment or to any Equipment that has been granted a Preliminary License until:

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(a) Customer has first analyzed any Equipment, Attachments, or Authorized Attachments and confirmed that any new Equipment or Attachments can be installed, or any Material Changes to any Authorized Attachment or Equipment can be implemented, in compliance with all applicable safety codes, including the NESC, and will not create loading or other issues on the Equipment or Authorized Attachments;

(b) Customer has submitted a written application to the Company for a new License authorizing such new Equipment, Attachment, or Material Change to any Authorized Attachment or Equipment utilizing the form in APPENDIX II, Form A-1 (Application for Street and Area Lighting Attachment License); and

(c) The Company has approved such request and issued a new License authorizing such new Equipment, Attachment, or Material Change to any Authorized Attachment or Equipment, which shall then be deemed a new Authorized Attachment under the terms of this Agreement.

The Company shall provide an assessment and response to the application based upon the proposed action(s), description and engineering / construction detail provided.

4.12. **Unique Identification Number**. Such additional Licenses shall establish a unique identification number for each such additional Authorized Attachment, which identification number shall be used as the individual license reference and for purposes of inventory and billing administration.

4.13. **Right to Refuse License.** The Company reserves the right to refuse to grant a License(s) or refuse authorization for the relocation, reconfiguration, Material Change or replacement of existing Equipment or Authorized Attachments, or the installation of new Equipment or Attachments, when the Company reasonably determines that:

(a) Refusal is necessary to maintain the safe operation of the Company's electric distribution system;

(b) The relevant Pole or Structure may not be replaced to accommodate Customer's proposed Attachment;

(c) The existing Facilities on the Pole or within the Structure may not be rearranged to accommodate the proposed Attachment; or

(d) The proposed Attachment will negatively impact other customer services provided by the Company.

For the avoidance of doubt, the Parties understand and agree that the list of above- mentioned conditions is not an exhaustive list as other conditions may exist that would require the Company to refuse to

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grant a License.

42. Field Survey.

42.1. **Requirements for Field Survey**. The Company shall perform a Field Survey for each Facility upon or within which the Customer requests a new Authorized Attachment requiring an electrical connection or the reconfiguration, relocation, Material Change or replacement of existing Equipment. The Field Survey shall identify the required work, if any, that is necessary to facilitate the electrical connection and determine whether the Pole or Structure is adequate to accommodate the requested Attachment. The Company shall provide Customer with a Field Survey cost estimate representing all anticipated Costs. The Company shall perform the Field Survey(s) following receipt of the Customer's written authorization and advance payment of the estimated amount specified by the Company in accordance with the provisions of Section 7.2.1 of this Agreement.

42.2. **When Survey Not Required**. The Company may determine that a Field Survey is not required if Customer proposes a new, in-kind replacement of existing Equipment having the same physical and operational characteristics and is to be in the same location and orientation as the existing Equipment in an Authorized Attachment. For avoidance of doubt, neither the conversion of an existing luminaire with a like-kind LED luminaire and/or the installation or inclusion of an NLC Node with similar physical and operational characteristics in the same location and orientation as the existing luminaire nor the initial installation of a Disconnect Device within the specified twenty- four (24) months following the Closing will require a Field Survey.

42.3. **Connection Point**. The Connection Point shall have the meaning ascribed to it in the Purchase and Sale Agreement, as further defined herein and as the Parties understand such to be where the street light Facility is energized from the electric distribution system or similarly referenced as the point of ownership demarcation. The Company shall own the electric distribution system up to and including the Connection Point. To the extent there is any uncertainty or conflict with respect to the Connection Point, the

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Company, at its sole discretion, shall define the Connection Point.

43. Make-Ready Work.

43.1. **Authorization of Make -Ready Work**. In the event that the Company determines in the Field Study that a Pole or Structure is physically inadequate or that the reconfiguration of the existing electric distribution system equipment or other Facilities is required, the Company will indicate on the Authorization for Make-Ready Work (APPENDIX II, Form B-2) its estimate of its Cost of completing the design for the Make-Ready Work and for performing the required Make-Ready Work and forward such completed authorization form to the Customer.

43.2. **Performance of Make-Ready Work**. The Company will schedule and perform the required Make-Ready Work following its receipt of the executed Authorization for Make-Ready Work form and Customer's advance payment of the estimated amount specified by the Company. Customer shall pay the Company for all the Costs of all Make-Ready Work in accordance with the provisions of Section 7.2.2 of this Agreement, and shall also arrange with the owner(s) of other attachment(s) on the Pole or within the Structure or other Facility for the transfer or rearrangement of such facilities to accommodate the installation, reconfiguration or removal of the Attachment(s).

43.3. **No Reimbursement**. Customer shall not be entitled to reimbursement of any amounts paid to the Company for Pole and/or Structure replacements, capacity upgrades, or for the reconfiguration or rearrangement of other attachment(s) on its Poles or within its Structures by reason of the use by the Company or other authorized user(s) of any additional space or capacity resulting from such Make Ready Work.

43.4. **Costs for Additional Equipment and Changes.** If the Company or a Joint Owner needs to attach additional equipment or make changes to existing Facilities within or upon which Customer has an Authorized Attachment, Customer agrees to be responsible to perform or to reimburse the Company for all Costs either: (i) to reconfigure its Authorized Attachment(s) in or on such Structure(s), as such

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reconfiguration shall be determined by the Company; or (ii) to transfer its Authorized Attachment(s) to an alternate location designated by the Company so that the additional Facilities of the Company may be attached where either an agency of government, whether local, state or federal, requires the removal, relocation, or modification of a Structure affecting Customer's Authorized Attachment; or a Structure must be repaired or replaced for any reason (as determined by the Company).

4.3.5. **Scheduled Workload**. The Company will endeavor to perform all Make-Ready Work to accommodate Customer's Authorized Attachments as a part of its normal, scheduled workload.

4.3.6. **Costs for Reconfiguration, Transfer, or Removal**. When reconfiguration, transfer or removal of Facilities of the Company is required to facilitate attachments of Other Customers or third parties on or within Structures, Customer shall be responsible for all costs incurred in connection with such reconfiguration, transfer or removal of Customer's Attachments as a result. Customer has sole responsibility for the recovery of the costs of the reconfiguration, transfer or removal of Attachments from such Other Customer(s) or third party(ies).

4.4. Installation Requirements for New Authorized Attachments and Material Changes.

4.4.1. **Disconnect Device.** Customer shall install a Disconnect Device within each Authorized Attachment. The Disconnect Device shall be located as close as feasibly practical to the energizing source or Connection Point and shall be readily accessible to both the Company and the Customer. The Disconnect Device shall, at a minimum, be dual pole to completely separate the Customer's energized conductors from the Company's distribution system.

4.4.2. **No Joint Use of Ducts.** Joint use of the Company's Ducts by Customer for the installation of new Equipment is not permitted.

4.4.3. **Authorization Required.** The installation of Customer Equipment is to be external of Company Structures except to facilitate access to the Connection Point as specified by the Company. If unique circumstances cause the Customer to request the installation of Equipment, such as splice boxes and

coiled cables to be within Structures, the installation will only be allowed if specifically authorized by the Company in writing and such Equipment complies in all respects with Article 2 of this Agreement . Where splice boxes are allowed, cable slack shall be installed to allow the Equipment to be moved clear of the Structure, which will allow for the Company to perform facility maintenance and/or Facility repairs.

4.4. **Identification Labels.** Customer shall place or have placed by the Company (at Customer's sole cost and expense) as Make-Ready Work, Identification Labels on all of Customer's Equipment including, but not limited to, cables located within or in close proximity to the Company's underground Structures and Customer handholes containing circuit Disconnect Devices. The Company shall have the right to approve or reject Customer Identification Labels that are significantly different than those described in APPENDIX II, Form E.

4.5. **Tree Trimming**. All tree trimming made necessary to accommodate initial construction, reconstruction, relocation, or Material Change of Authorized Attachments shall be performed by qualified contractors approved by the Company and Customer, at the sole cost and expense of Customer. The Customer and not the Company shall be solely responsible for the performance of such work and shall also be responsible for obtaining permission for such work from the owner(s) of such tree(s) and from any other governing authorities regulating such work.

5. UNAUTHORIZED ATTACHMENTS

5.1. Failure to Comply with Tariffs. In the event that Customer converts, replaces or otherwise uses a lighting or illumination source other than those provided in the Lighting Tariff in any Authorized Attachment, or operates such Equipment in a manner other than as stated in the Lighting Tariff, the Electric Tariff, or in this Agreement, such action shall cause the Authorized Attachment to become an Unauthorized Attachment subject to the Company's removal rights under Article 6 of this Agreement.

5.2. Backbilling. If any Equipment is found on the Facilities within the Customer's municipal boundaries at any time after the third month following the Closing as set forth in the Purchase and

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Sale Agreement that is not covered by a License or a Preliminary License, the Company shall provide Customer with written notice thereof and may, without prejudice to its other rights or remedies under this Agreement, submit a backbill to the Customer for service to such Unauthorized Attachments as authorized by the Lighting Tariff and the PSC's rules.

5.3. Application. If Customer wishes to retain such Equipment, Customer shall submit to the Company a written Application For Street and Area Lighting Attachment License (Form A-1) within thirty (30) days after receipt of the Company's written notice of the existence of such Unauthorized Attachment(s). If such application is not received by the Company within the specified time period or is rejected by the Company, the Equipment shall be deemed to be an Unauthorized Attachment subject to the Company's removal rights under Article 6 of this Agreement.

5.4. Company Modification or Removal of Structures. If the Company elects, in its sole discretion, to modify, change or replace any Structure on which Equipment is located or is directly impacted, including, without limitation, to upgrade such Structure or any Facilities located on or near that Structure, the Company shall provide Customer with written notice of such work ("Company Notice") and Customer agrees to remove and relocate the Customer's Equipment located on or adjacent to such Structure to an alternate location designated by the Company within six (6) months following the date of the Company Notice, at Customer's expense and in compliance with all applicable laws, rules, regulations, codes and standards, as provided in Section 4.3.4 of this Agreement. Any Equipment not removed by Customer in accordance with a Company Notice shall be deemed to be Unauthorized Attachments.

6. REMOVAL RIGHTS

6.1. Removal of Authorized Attachments.

6.1.1. **Costs, Fees and Charges; Company's Right to Remove and Dispose.** Customer, at its sole expense, shall remove or have removed in accordance with this Agreement any Attachment(s) from any Facilities within thirty (30) days of its receipt of a notice from the Company requiring removal of

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such Attachment(s). If Customer fails to remove such Attachment(s) from the Company's Facilities within such time, the Company shall have the right to remove those Attachment(s) without any liability for damage or injury thereto, and Customer shall pay all Costs incurred by the Company in connection therewith. If the Company exercises its Removal Rights as described herein, the Company shall have the option to sell or otherwise dispose of the removed Attachment(s) provided that the Company shall credit any amounts received to Customer's account. Customer shall be liable for and pay all fees and charges pursuant to the Lighting Tariff and the terms of this Agreement to the Company until such Attachment(s) are removed.

6.2. Removal of Unauthorized Attachments.

6.2.1. **Right to Remove, No Notice**. The Company may de-energize and remove any Unauthorized Attachments without the need to provide any further notice to the Customer and without liability to Customer of any kind.

6.2.2. **Liability**. The Customer shall be liable to the Company for its charges under the Lighting Tariff and the Electric Tariff for electric service furnished to any Unauthorized Attachment within Customer's municipal boundaries through and until the date of its de-energization or removal and for all Costs incurred by the Company in removing the Unauthorized Attachment, and the Company shall have no liability to Customer for loss of service provided by Customer or any damage or injury to Customer's Unauthorized Attachment(s).

7. FEES, CHARGES AND PAYMENTS

7.1. Fees for electric service.

7.1.1. **Applicable Tariff**. Charges for electric energy supplied to the Equipment and for the attachment of the Equipment to the Facilities shall be as specified in the Lighting Tariff unless such equipment is not specified in the Lighting Tariff, in which instances the charges set forth in the Electric Tariff shall apply.

7.1.2. **Calculation and Payment of Fees and Charge s**. Electric service charges and fees for individual Equipment not specified in the Lighting Tariff are in addition to any fee for outdoor lighting service

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associated with the Equipment and shall be either: (i) metered and billed per the applicable provision of the Electric Tariff; or (ii) an unmetered estimate in accordance with the terms of the Electric Tariff, with the kWh use calculation based on the cumulative maximum energy consumption value of each individual piece of Equipment at a location applied continuously over a 24 hours per day, 7 days per week, 365 days per year operation schedule, unless otherwise defined by the Company in its sole discretion. Customer will pay the electric service fees to the Company in accordance with the Electric Tariff and the Company's established monthly billing period and conditions as stated upon the rendered bill.

7.1.3. **Right to Convert to Metered Service.** Customer agrees that the Company reserves the right to convert any unmetered electric service to a metered electric service in its sole discretion, with all conversion costs from unmetered electric service to metered electric service borne by Customer, except as otherwise provided in the Electric Tariff or the Lighting Tariff. Electric service fees shall be assessed continuously, inclusive of periods of inactive service, temporary inoperable condition, replacement, or relocation, until written notice is provided by Customer to the Company of the permanent removal of the Licensed Equipment.

7.2. Costs for Modifying/Relocating Facilities. Customer shall reimburse the Company for all Costs incurred in modifying and/or relocating Facilities owned by the Company to accommodate any Customer-desired service or Attachment in accordance with Rule V.F.4 of the General Information Section of the Lighting Tariff governing Relocation of Existing Facilities.

7.2.1. **Field Surveys.** The Company's obligation to perform any Field Survey requested by the Customer pursuant to Section 4.2 of this Agreement is contingent on the Customer making advance payment to the Company of the estimated Costs of that Field Survey determined by the Company, which shall be sufficient to cover the Company's Costs of performing the required Field Survey. The estimated amount shall include the standard Field Survey charge as found in APPENDIX I, Schedule of Fees and Charges, and any other required ancillary service costs incurred in the performance of the Field Survey. The estimated

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ancillary service costs shall include but not be limited to; applicable permits, work zone and police detail protection and other safety and environmental functions which shall be required to perform the Field Survey at a specific location. The Parties agree that upon completion of the Field Survey by the Company, no adjustment of the Field Survey costs paid by Customer shall be made to reflect the Company's actual costs to perform the Field Survey, whether or not the Company's actual costs are more or less than the estimated costs paid by Customer. The current standard charge assessed to Customer and all Other Customers for the Field Survey can be found in APPENDIX I, Schedule of Fees and Charges, and is based on the Company's current estimated cost to perform and complete the Field Survey. The Company reserves the right to change such standard Field Survey charge assessed to Customer and all Other Customers from time to time and to provide written notice as stated in Section 7.4 of this Agreement.

7.2.2. **Make-Ready Work**. The Company's obligation to perform any Make-Ready Work requested by the Customer in accordance with Section 4.3 of this Agreement is contingent on the Customer making advance payment to the Company of the estimated Costs of such Make-Ready Work as determined by the Company. The Parties agree that upon completion of the Make-Ready Work by the Company, no adjustment of the Make-Ready Work amount paid by Customer shall be made to reflect the Company's actual Costs of performing the Make-Ready Work, whether or not the Company's actual Costs are more or less than the estimated costs paid by Customer.

7.2.3. **Fees for New Attachments or Material Changes.** Customer shall pay to the Company the fees and charges for any other services performed by the Company in conjunction with any request by Customer for License(s) for new Attachments or for Material Change to existing Attachments. Such charges will be established in accordance with the terms and conditions of APPENDIX I, attached hereto and are incorporated into this Agreement by reference.

7.3. Costs for Failure to Comply with Agreement. Customer shall also reimburse the Company for all Costs incurred by the Company in disconnecting, removing or performing any other

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required work on the Equipment necessitated by Customer's failure to install, operate and maintain such Equipment in compliance with the requirements of this Agreement, provided, however, that any such action by the Company shall be without prejudice to any other remedies that the Company may have as a result of such failure by Customer to comply with the requirements of this Agreement.

7.4. Changes to Fees and Charges. The Company may change the amount of fees and charges specified in APPENDIX I, Schedule of Fees and Charges by giving Customer no fewer than sixty (60) days' written notice prior to the date the change becomes effective or as otherwise approved and made effective by the PSC. Notwithstanding any other provision of this Agreement, Customer may terminate this Agreement at the end of such sixty (60) day notice period if the change in fees and charges is not acceptable to Customer, provided that Customer gives the Company no fewer than thirty (30) days' written notice of its election to terminate this Agreement prior to the end of such sixty (60) day period. Upon termination of the Agreement, the Customer shall be responsible for the removal of all of its Attachments as provided in Section 16.3.3 of this Agreement.

8. LEGAL REQUIREMENTS

8.1. Obligation to Obtain Authorizations. Customer shall be responsible for obtaining from the appropriate public and/or private authority any authorizations required to construct, operate and/or maintain its Attachments on the public and private property at the location of Poles and/or Structures for which Customer has obtained License(s) under this Agreement and shall submit to the Company evidence of such authorizations before making Attachments on such public and / or private property.

8.2. Obligation to Comply with Applicable Law. The provisions of this Agreement are subject to, and the Parties hereto shall at all times observe and comply with, all laws, ordinances, regulations, and rulings that in any manner affect the rights and obligations of the Parties, so long as such laws, ordinances, regulations or rulings remain in effect.

8.3. No Forfeiture of Rights. No Preliminary License or License granted under this Agreement

shall extend to any Facilities or Equipment outside of the Customer's municipal boundaries or where the placement of Attachments would result in a forfeiture of the rights of any of the Company, Joint Users, or Other Customers to occupy the property on which such Facilities are located. If placement of Customer's Attachments would result in a forfeiture of the rights of the Company, Joint User(s), or Other Customers to occupy such property, Customer agrees to remove its Attachments forthwith; and Customer agrees to pay the Company, Joint User(s), or Other Customers all losses, damages, and Costs incurred as a result thereof.

8.4. Not Evidence of Usable /Unusable Space. Neither this Agreement nor the payment of any fees under this Agreement shall be used by any Party as evidence that the space occupied by Customer's Attachments is either usable or unusable space.

9. LIMITATION OF LIABILITY

9.1. Limitation on Type of Damages. The Company, the Company's affiliates and their respective officers, directors, agents, employees, parents, affiliates, successors or assigns, shall not be liable to Customer or to its officers, directors, agents, employees, successors or assigns for any claims, suits, actions or causes of action or otherwise for incidental, punitive, special, indirect, multiple or consequential damages (including, without limitation, attorneys' fees or litigation costs) connected with, or resulting from, performance or non-performance of this Agreement, or any actions undertaken in connection with or related to this Agreement, including, without limitation, any such damages which are based upon causes of action for breach of contract, tort (including negligence and misrepresentation), breach of warranty or strict liability.

9.2. Limitation on Amount of Liability. To the fullest extent permitted by law, and not withstanding any other provision of this Agreement, the total liability, in the aggregate, of the Company and the Company's affiliates and their respective officers, directors, agents, and employees to Customer and anyone claiming by or through Customer, for any and all claims, losses, costs or damages, including attorneys' fees and costs and expert-witness fees and costs of any nature whatsoever or claims expenses resulting from or in any way related to the Agreement from any cause or causes shall not exceed the total compensation

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received by the Company under this Agreement, or the total amount of $100,000, whichever is greater. It is intended that this limitation apply to any and all liability or cause of action however alleged or arising, unless otherwise prohibited by law.

9.3. No Warranty. The Company is not responsible or liable and gives no warranty, expressed or implied, including without limitation any warranty of merchantability or fitness for a particular purpose, for the adequacy, safety or other characteristics of any Structures, Equipment or wires purchased by the Customer under this Agreement or owned, installed, operated or maintained by Customer or leased by Customer from third parties.

9.4. Survival. The provisions of this Article 9 shall apply regardless of fault and shall survive termination, cancellation, suspension, completion, or expiration of this Agreement.

10. REPRESENTATIONS AND WARRANTIES; COVENANTS

10.1. Representations and Warranties. On the Effective Date, each Party represents and warrants to the other Party that:

(i) It is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation;

(ii) The execution, delivery and performance of this Agreement is within its powers, have been duly authorized by all necessary action, and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party, or any law, rule, regulation, order or the like applicable to it;

(iii) This Agreement and each other document executed and delivered in accordance with this Agreement constitutes the legally valid and binding obligation enforceable against it in accordance with its terms;

(iv) It is not bankrupt or insolvent, and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming bankrupt;

(v) There is not pending or, to its knowledge, threatened against it or any of its affiliates any legal proceeding that could materially adversely affect its ability to perform its obligations under this Agreement;

(vi) It is acting for its own account, has made its own independent decision to enter into this Agreement, and, as to whether this Agreement is appropriate or proper for it based upon

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its own judgment, is not relying upon the advice or recommendations of the other Party in so doing, and is capable of assessing the merits of, and understands and accepts, the terms, conditions and risks of this Agreement; and

(vii) It is in compliance with all relevant and applicable laws, tariffs, and regulations.

10.2. General Covenants. Each Party covenants that throughout the term of this Agreement:

(i) it shall continue to be duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation;

(ii) it shall maintain (or obtain from time to time as required, including through renewal, if applicable) all regulatory authorizations necessary for it to legally perform its obligations under this Agreement; and

(iii) it shall perform its obligations under this Agreement in a manner that does not violate any of the terms and conditions of its governing documents, any contracts to which it is a party, or any law, rule, regulation, or order applicable to it.

11. INDEMNITY

11.1. Requirement to Indemnify. Customer shall at all times indemnify, defend, and save harmless, as applicable, the Company and its affiliates and their respective officers, directors, agents, and employees, from any and all damages, losses, claims, including claims and actions relating to injury to or death of any person or damage to property, demand, suits, recoveries, costs and expenses, court costs, attorney fees, and all other obligations by or to third parties, arising out of or resulting from:

(i) Any work or action done upon the Facilities licensed hereunder or any part thereof performed by Customer or any of its agents, contractors, servants, or employees;

(ii) Any use, occupation, condition, operation of the Facilities or any part thereof by Customer or any of its agents, contractors, servants, or employees;

(iii) Any act or omission on the part of Customer or any of its agents, contractors, servants, or employees, for which the Company may be found liable;

(iv) Any accident, injury (including, but not limited to, death) or damage to any person or property occurring upon the Facilities or any part thereof or arising out of any use thereof by Customer or any of its agents, contractors, servants, or employees, except where such work is performed by the Company;

(v) Any failure on the part of Customer to perform or comply with any of the representations, warranties, covenants, agreements, terms or conditions contained in this Agreement;

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(vi) Any payments made under any Workers' Compensation Law or under any plan for employee disability and death benefits arising out of any use of the Poles, Structures, or Facilities by Customer or any of its agents, contractors, servants, employees;

(vii) Any installation, operation, maintenance, presence, use, occupancy or removal of the Equipment by Customer or any of its agents, contractors, servants or employees, including without limitation, taxes, special charges by others, and all claims and demands for infringement of patents with respect to the manufacture, use, and operation of the Attachments in combination with Poles, Structures, Facilities, or otherwise; or

(viii) The proximity of the Equipment to the property of the Company or of any third party.

11.2. FAILURE TO INDEMNIFY. IF THE COMPANY IS ENTITLED TO INDEMNIFICATION UNDER THIS ARTICLE 11 AS A RESULT OF A CLAIM BY A THIRD PARTY, AND CUSTOMER FAILS, AFTER NOTICE AND REASONABLE OPPORTUNITY TO PROCEED UNDER SECTION 11.3 OF THIS AGREEMENT, TO ASSUME THE DEFENSE OF SUCH CLAIM, THE COMPANY MAY AT CUSTOMER'S EXPENSE, SETTLE OR CONSENT TO THE ENTRY OF ANY JUDGMENT WITH RESPECT TO, OR PAY IN FULL, SUCH CLAIM. IF CUSTOMER IS OBLIGATED TO INDEMNIFY AND HOLD THE COMPANY HARMLESS UNDER THIS ARTICLE 11, THE AMOUNT OWING TO THE COMPANY SHALL BE THE AMOUNT OF THE COMPANY'S ACTUAL LOSS, NET OF ANY INSURANCE OR OTHER RECOVERY.

11.3. Indemnity Procedures.

11.3.1. **Notification.** Promptly after receipt by the Company of any claim or notice of the commencement of any action or administrative or legal proceeding or investigation as to which the indemnity provided for in this Article 11 may apply, the Company shall notify Customer of such fact. Any failure of or delay in such notification shall not affect Customer's indemnification obligation unless such failure or delay is materially prejudicial to Customer.

11.3.2. **Right to Assume Defense; Right to Participate.** Except as stated below, Customer shall have the right to assume the defense thereof with counsel designated by Customer and reasonably

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satisfactory to the Company. If the defendants in any such action include the Company and Customer and if the Company reasonably concludes that there may be legal defenses available to it which are different from or additional to those available to the Customer, the Company shall have the right to select separate counsel to assert such legal defenses and to otherwise participate in the defense of such action on its own behalf. The Company shall be entitled, at its expense, to participate in any such action, suit or proceeding, the defense of which has been assumed by Customer.

11.3.3. Notwithstanding the foregoing, Customer:

(i) Shall not be entitled to assume and control the defense of any such action, suit or proceedings if and to the extent that, in the opinion of the Company and its counsel, such action, suit or proceeding involves the potential imposition of criminal liability on the Company, or there exists a conflict or adversity of interest between the Company and Customer, in which event the Customer shall pay the Company's reasonable expenses; and

(ii) Shall not settle or consent to the entry of any judgment in any action, suit or proceeding without the consent of the Company, which consent shall not be unreasonably withheld, conditioned or delayed.

12. EXCLUSION OF WARRANTIES

12.1. No Representations Regarding Condition of Poles, Structures, or Facilities. The Company makes no warranties, representations, guarantees or promises, whether statutory, oral, written, express, or implied as to the present or future strength, condition, or state of any Poles, Structures, Facilities, wires, apparatus or otherwise in connection with any Attachment, Equipment or any other facilities or equipment in connection with this Agreement. To the extent applicable, the Customer, or its contractors, agents and representatives performing any Attachment work, shall be responsible and liable for observations, assessments and non-destructive testing of the Poles and/or Structures to determine whether the Poles and/or Structures are safe to utilize, support, access or ascend. If the Customer questions the integrity or safety of any Pole, Structure or Facility or if any Pole, Structure or Facility is marked as unsafe, the Customer shall refrain from utilizing, accessing, ascending, or handling the Pole, Structure or Facility in any manner whatsoever and shall notify or confirm such condition with the Company. Should the Customer, or its

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contractor, agent or representative decide, in its sole judgment, to utilize or access a Pole, Structure or Facility (including, without limitation, Poles, Structures or Facilities that are marked unsafe or appear to be unsafe), the Customer, not the Company or its affiliates, shall assume all risk of loss, liability and damages (including injury to any person(s) (including death) or property), and Customer shall indemnify, defend, release and hold harmless the Company, its affiliates, and the Company's and its affiliates' successors, assigns, officers, agents, representatives from all claims arising in whole or in part from use of such Poles, Structures, or Facilities in accordance with the provisions of Article 11 of this Agreement.

12.2. **No Warranties.** Neither by inspection, if any, or non-rejection, nor in any other way, does the Company give any warranty, expressed or implied, including without limitation any implied warranty of merchantability or fitness for a particular purpose, to the Customer or its contractors, agents or representatives performing any Attachment work as to the adequacy, safety or other characteristics of any Poles, Structures or Facilities owned by the Company or by any third party or of any Equipment, wires, appliances or other devices owned, installed or maintained by Customer or leased by Customer from third parties. It is understood that any Field Survey or other assessment of the condition of any Facilities of the Company made pursuant to this Agreement is performed solely for the protection of the Company and its other customers and not for the benefit of the Customer, its contractors, agents, employees or representatives.

12.3. **Survival.** The provisions of this Article 12 shall survive the expiration or earlier termination of this Agreement or any license issued under this Agreement.

13. INSURANCE

13.1. **Customer's Obligation to Insure.** Customer shall procure and maintain, at its own expense, insurance issued by an insurance carrier(s) satisfactory to the Company to protect the parties hereto from and against any and all claims, demands, actions, judgments, costs, expenses, and liabilities of every kind and nature which may arise or result, directly or indirectly from or by reason of such loss, injury, or damage as covered in Article 11 of this Agreement. Such insurance shall be primary and non-

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contributory, with no right of contribution by any other coverage available to the Company, its affiliates, and the Company's and its affiliates' successors, assigns, officers, agents, and representatives.

13.2. **Comprehensive/Commercial Liability Insurance.** Customer shall provide Comprehensive or Commercial General Liability Insurance, including Contractual Liability and Product/Completed Operations Liability covering all insurable operations required under the provisions of this Agreement and, where applicable, coverage for damage caused by any explosion or collapse with the following minimum limits of liability:

Bodily Injury Liability	$5,000,000
Property Damage Liability	$5,000,000

If a combined single limit is provided, the limit shall not be less than $5,000,000 per occurrence. Customer's insurance requirements for General Liability or Automobile Liability may be satisfied through any combination of excess liability and/or umbrella. Coverage shall include contractual liability with this Agreement and all associated agreements with respect to the Customer's ownership of the street lights being included. In the event the Customer is a governmental entity and such entity's liability to a third party is limited by law, regulation, code, ordinance, by-laws or statute (collectively the "Law"), this liability insurance shall contain an endorsement that waives such Law for insurance purposes only and strictly prohibits the insurance company from using such Law as a defense in either the adjustment of any claim, or in the defense of any suit directly asserted by an insured entity.

13.3. **Worker's Compensation.** Customer shall Workers' Compensation Insurance for statutory obligations imposed by Workers' Compensation or Occupational Disease Laws, including Employer's Liability Insurance with a minimum limit of $500,000. When applicable, coverage shall include The United States Longshoreman's and Harbor Workers' Compensation Act and the Jones Act.

13.4. **Automobile.** Customer shall provide Automobile Liability covering all owned, non-owned and hired vehicles used in connection with the work or services to be performed under this Agreement with minimum limits of:

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Bodily Injury & Property Damage
Combined Single Limit - $1,000,000

13.5. **Self-Insurance:** Customer may elect to self-insure any or all the requirements herein, provided the Company consents, and Customer provides written notice and evidence of self-insurance to the Company prior to the Closing as set forth in the Purchase and Sale Agreement. With respect to the Workers' Compensation, such evidence shall consist of a copy of a current self-insured certificate or other acceptable form of proof of self-insurance. Any deductible or self-insured retention shall be at Customer's expense.

13.6. **Waiver**. The Customer and its insurance carrier(s) shall waive all rights of recovery against the Company and their directors, officers and employees, for any loss or damage covered under those policies referenced in this insurance provision. To the extent the Customer's insurance carriers will not waive their right of subrogation against the Company, the Customer agrees to indemnify the Company for any subrogation activities pursued against them by the Customer's insurance carriers. However, this waiver shall not extend to the gross negligence or willful misconduct of the Company or its employees, subcontractors or agents.

13.7. **Insurance Required Before Attachments Made; Changes to Insurance**. All insurance must be effective before the Company will authorize Customer to make Attachments to any Pole and/or Structure to the Equipment and shall remain in force until such Attachments have been removed from all such Poles and/or Structures. Customer accepts the obligation to inform the Company of changes in insurance or insurance carrier and/or policy on a prospective basis.

13.8. **Certificates of Insurance.** Customer shall submit to the Company certificates of insurance including renewal thereof, by each company insuring Customer to the effect that it has insured Customer for all liabilities of Customer covered by this Agreement; and that such certificates will name the Company as an additional insured under the General Liability and Automobile Liability policies and Umbrella/Excess Liability policies (when applicable) and provide that the insurance company will not cancel or change any such policy of insurance issued to Customer except after the giving of not less than thirty (30) days' written

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notice to the Company. Customer shall also notify and send copies to the Company of any policies maintained under this Article 13 written on a "claims-made" basis. The following language shall be used when referencing the additional insured status of the Company: National Grid USA, its direct and indirect parents, subsidiaries and affiliates, shall be named as additional insureds.

13.9. **Contractor Insurance.** Customer shall require all of its contractors to carry insurance which meets the requirements specified under this Article 13, and to name the Company and Customer as an additional insured, utilizing the language provided in Section 13.1 above. Customer shall also require its contractors to provide a waiver of subrogation under all policies in favor of the Company.

14. ASSIGNMENT OF RIGHTS

14.1. **No Right to Assign.** Customer shall not assign or transfer this Agreement, or any rights or authorization granted hereunder, and this Agreement shall not inure to the benefit of Customer's successors, without the prior written consent of the Company. In no event shall any assignment of this Agreement extend the territory to which this Agreement applies beyond the Customer's municipal boundaries or permit any entity that is not eligible under the Lighting Tariff to receive street lighting service from the Company in such location, to assume any of the rights or obligations of Customer hereunder.

14.2. **Successors Bound.** In the event such consent or consents are granted by the Company, this Agreement shall extend to and bind the successors and assigns of the Parties.

14.3. **No Right to Lease.** Pole and Structure space licensed to Customer hereunder is for Customer's exclusive use only and is licensed to Customer for the sole purpose of permitting Customer to place or retain Authorized Attachments. Customer shall not lease, sublicense, share with, convey, or resell to others any such space or rights granted hereunder. Customer shall not allow a third party, including affiliates, to place attachments or any other Equipment anywhere on its Attachments or on the Facilities, Poles or within Structures, including, without limitation, the space on Facilities, Poles or within Structures licensed to Customer for Authorized Attachments, without the prior written consent of the Company.

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14.4. **Maintenance Not an Assignment**. No contract between the Customer and any other party limited solely to the operation, maintenance, modification, or repair of the Equipment shall be considered an assignment or transfer under this Article.

15. TERM OF AGREEMENT

15.1. This Agreement shall be co-terminus with the Customer's Service Agreement(s) for service to its Street Lights under either Service Classification No. 3 (energy only) of the Company's Lighting Tariff, or under the applicable provisions of the Company's Electric Tariff, or applicable successor tariffs, as may be amended from time to time, unless this Agreement is terminated earlier in accordance with Article 16 of this Agreement.

15.2. Termination of this Agreement or any licenses issued hereunder shall not affect: (i) Customer's liabilities and obligations incurred hereunder prior to the latter of the effective date of such termination or the date on which Customer's Attachments are removed from the Facilities; or (ii) the Company's and Customer's rights pursuant to the laws, ordinances, regulations, and rulings governing the subject matter of this Agreement; or (iii) any provisions of this Agreement that shall survive expiration or earlier termination of this Agreement, including Articles 9, 11 and 12 of this Agreement.

16. TERMINATION RIGHTS

16.1. Termination of Service to Authorized Attachments.

16.1.1. **Termination for Past-Due Bills.** The Company's bills for service under this Agreement are due when issued and are past due if not paid within twenty (20) days of issue. If Customer fails to pay such bills within such twenty (20) day period, the Company may serve Customer with a written Final Notice of Termination of Service in conformance with Section 13.3(b) of the PSC's rules, 16 N.Y.C.R.R. § 13.3(b) (a "Final Termination Notice") and may thereafter terminate service to all or any part of the Authorized Attachments in accordance with the provisions of Section 13 of the PSC's rules.

16.1.2. **Final Termination Notice.** The Company may also issue a Final Termination Notice

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to Customer if Customer fails to comply with any of the requirements of this Agreement, the Lighting Tariff, or the Electric Tariff and may thereafter terminate service to all or any part of the Authorized Attachments in accordance with the provisions of Section 13 of the PSC's rules. Any such notice shall identify the specific Attachments that are not in compliance with the requirements of this Agreement, the Lighting Tariff, or the Electric Tariff and the specific requirements that those Attachments do not meet.

16.1.3. **No Restriction on Removal Rights.** Nothing in this Agreement shall be construed as restricting in any way the Company's Removal Rights under Article 6 of this Agreement or the Company's right to terminate service to Authorized Attachments without notice in the event of an emergency as authorized by Section 3.4.5 of this Agreement and Section 13.13 of the PSC's rules.

16.2. Termination of Individual Licenses.

16.2.1. Any License(s) issued pursuant to this Agreement shall automatically terminate when Customer ceases to have authority to construct, operate, and/or maintain its Attachments on the public or private property at the location of the Facilities covered by the License.

16.2.2. Customer may at any time terminate a License for a specific Attachment provided written notice of such termination is received by the Company no less than fifteen (15) days prior to the proposed removal of the Attachment from the specific Facilities (APPENDIX II, Form D), in accordance with Article 6 of this Agreement. Following such removal, Customer shall not make any new Attachment to such Facilities until Customer has first complied with the provisions of this Agreement as though no Attachment had ever been made to such Facilities.

16.2.3. The Company may terminate a License for specific Attachment(s) on fifteen (15) days' written notice to the Customer. The Company may exercise its Removal Rights under Article 6 of this Agreement upon the expiration of this fifteen (15) day notice period.

16.3. Termination of Agreement.

16.3.1. **Termination for Failure to Comply with Agreement.** If Customer fails to

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materially comply with any of the terms or conditions of this Agreement or defaults in any of its obligations under this Agreement, or if the Attachments or Equipment is maintained or used in violation of any law and Customer shall fail within thirty (30) days after written notice from the Company to correct such default or noncompliance, the Company may, at its option, terminate this Agreement in whole or in part, along with all Licenses granted hereunder or the Licenses covering the Facilities as to which such default or noncompliance shall have occurred.

16.3.2. **Termination for Failure to Adequately Insure.** If, at any time, an insurance carrier notifies the Company that any policy or policies of insurance, acquired pursuant to Article 13 of this Agreement, will be canceled or changed so that the requirements of Article 13 of this Agreement will no longer be satisfied and, prior to the effective date of the cancellation or change in the insurance policy(ies), Customer fails to furnish to the Company new certificates providing evidence of insurance, or other sufficient documentation that Customer meets the requirements for self-insurance in accordance with the provisions of Article 13 of this Agreement, then the Company shall have the right, at its option, to either: (i) purchase insurance at the required coverage and to include all Costs incurred by the Company in connection therewith in the Company's bills for service under this Agreement; or (ii) terminate this Agreement.

16.3.3. **Schedule for Removal; Costs.** In the event of any termination of part or all this Agreement by the Company, Customer shall submit a plan and schedule to the Company pursuant to which Customer (or its agents) will remove the Attachments affected by such termination from the Facilities within six (6) months from the date of termination, unless otherwise agreed to by both Parties in writing, provided, however, that Customer shall be liable for and pay all fees, charges and associated Costs due to the Company pursuant to the terms of this Agreement until its Attachments are removed from the Company's Poles, Structures, and Facilities.

17. DISPUTE RESOLUTION

17.1 Any claim which the Customer may have against the Company arising out of the

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Agreement shall be presented in writing to the Company no later than 30 days after the first occurrence of the circumstance which gave rise to the claim. The claim shall contain a concise statement of the question or dispute and the relevant facts and data (including the applicable Agreement provision) which support the claim. The Customer shall furnish any additional information which the Company may require to enable it to evaluate and decide the claim. Failure to submit any claim in such 30-day period shall constitute a waiver on the Customer's part for entitlement to either additional reimbursement or additional time for performance under the Agreement.

Any dispute between the Company and the Customer with respect to the Agreement that cannot be resolved in the normal course by the respective representatives of the Parties, shall be referred to the responsible officers of the Company and the Customer for resolution. Notwithstanding the existence of a dispute, the Customer shall be obligated to maintain payments not in dispute to the Company and the Company shall be obligated to proceed (or to continue) with the provision of services.

If the dispute remains unresolved, after 60 days, either Party may pursue any legal remedies available to it by law.

18. CONSTRUCTION

18.1. Authorization Not Exclusive. Nothing herein contained shall be construed as a grant of any exclusive authorization, right or privilege to Customer. The Company shall have the right to grant, renew and extend rights and privileges to others that are not parties to this Agreement, by contract or otherwise, to use any Pole, Structure, or Facility subject to this Agreement.

18.2. Choice Of Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New York, without regard to the conflict of laws principles contained therein. Only the courts in the State of New York County of Erie shall have jurisdiction over this Agreement and any controversies arising out of or relating to this Agreement and/or provisions hereunder. Each Party respectively waives personal service by manual delivery and agrees that service of process in any action arising out of this

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Agreement may be made by registered or certified mail, return receipt requested, and directed to each Party.

183. Severability. In the event that any provision or part of this Agreement or the application thereof to any Party or circumstance is deemed invalid, against public policy, void, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions or parts hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby.

184. No Third-Party Beneficiaries. The terms and provisions of this Agreement are intended solely for the benefit of Customer, the Company and their permitted successors and assigns, and it is not the intention of the Parties to confer third- party beneficiary rights upon any other person.

185. Failure To Enforce. Failure of the Company to enforce or require compliance with any of the terms or conditions of this Agreement or to give notice or declare this Agreement or any authorization granted hereunder terminated shall not constitute a general waiver or relinquishment of any term or condition of this Agreement, but the same shall be and remain at all times in full force and effect.

186. Entire Agreement. The Parties have freely entered into this Agreement and agree to each of its terms without reservation. Section headings are for the convenience of the Parties only and are not to be construed as binding under this Agreement. This Agreement constitutes the entire Agreement between the Parties with respect to the matters addressed herein, and all previous representations either oral or written (including, but not limited to any and all previous Attachment Agreements and/or license agreements for overhead poles/structures or underground structures insofar as Customer is concerned except as to liabilities accrued, if any), are hereby annulled and superseded.

187. Remedies Under The Tariffs. The Parties stipulate and agree that all of the services and charges provided for in this Agreement are authorized and governed by the provisions of the Lighting Tariff and the Electric Tariff and, accordingly, that the Company and the Customer expressly reserve all of their rights and remedies under the Lighting Tariff and the Electric Tariff, including the Company's right to terminate electric service to the Customer under the Lighting Tariff or the Electric Tariff in conformance with

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Section 13.3 of the PSC's Rules and Regulations, 16 N.Y.C.R.R. §13.3 (2016), in the event of the Customer's failure to pay any amounts due under this Agreement or any other violation of this Agreement for which termination of service is authorized under the Lighting Tariff, the Electric Tariff, or the PSC's Rules and Regulations. The Parties further stipulate and agree that in the event of any conflict between the provisions of this Agreement and the provisions of the Lighting Tariff and the Electric Tariff, the applicable provisions of the Lighting Tariff and the Electric Tariff shall apply.

18. **Amendment.** This Agreement may be amended, supplemented, or modified only by a written instrument duly executed by authorized representatives of both Parties.

19. NOTICES

All written notices required under this Agreement shall be given by posting the same via first class mail as follows:

(i) **To Customer:** All correspondence related to Customer's street and area lighting including but not limited to; this Agreement, Application for Street Light Attachment License, Authorization for Field Survey Work, Authorization for Make Ready Work, and Notification of Discontinuance of Street Light Attachment License to Customer's office at:

Town of Amherst, Town Attorney
Attention: Stanley J. Sliwa, Esq.
Address: 5583 Main Street
Williamsville, New York 14221
Email: ssliwa@amherst.ny.us
Phone number: (716) 631-7164

Town of Amherst, Director of Finance
Attention: Lynda Juul
Address: 5583 Main Street
Williamsville, New York 14221
Email: ljuul@amherst.ny.us
Phone Number: (716) 631-7007

Town of Amherst, Town Supervisor
Name: Brian J. Kulpa
Address: 5583 Main Street
Williamsville, New York 14221
Email: bkulpa@amherst.ny.us
Phone Number: (716) 631-7032

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24-hour Emergency Situation contact:
Town of Amherst, Highway Department
Name: Al Spoth
Title: General Crew Chief
Phone:(716) 631-7117
Email: aspoth@amherst.ny.us

Town of Amherst, Police Department
On-Duty Lieutenant at Headquarters
(716) 689-1311

(ii) **To the Company:** Application for Street Light Attachment License, Authorization for Field Survey Work, Authorization for Make Ready Work, and Notification of Discontinuance of Street Light Attachment License, and a copy of all certificates of Insurance to the Company's district office at:

Niagara Mohawk Corporation d/b/a National Grid
Attention: Director, Community & Customer Management
144 Kensington Avenue
Buffalo, NY 14214

All original certificates of Insurance to:

National Grid USA Service Company, Inc.
Attn: Risk Management, A-4
300 Erie Boulevard West
Syracuse, NY 13202

A copy of all applications, notices, authorizations and certificates to:

Niagara Mohawk Power Corporation d/b/a/ National Grid
Attention: Outdoor Lighting and Attachments
300 Erie Boulevard West
Syracuse, NY 13202

For Notification of Planned Work or Unsafe Conditions:

National Grid Customer Service
Email: customerservice@nationalgrid.com
Phone number: (800) 642-4272

(iii) Each Party has the right to add, modify, change or remove contact information as presented herein provided such corrections are communicated in writing to the other party and made part of this Agreement.

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IN WITNESS WHEREOF, the Parties hereto have executed this Agreement in duplicate as of the Effective Date.

NIAGARA MOHAWK POWER CORPORATION d/b/a NATIONAL GRID	**TOWN OF AMHERST, NY**
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____
Dated: _____	Dated: _____

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APPENDIX I

SCHEDULE OF FEES AND CHARGES STREET LIGHT ATTACHMENTS

(A) Design and Engineering Fees

Design and engineering fees will be equivalent to the lighting service charge found in the Lighting Tariff, as such charge may be modified or amended from time to time.

(B) Field Survey

Whenever a Field Survey is required under this Agreement, Customer shall pay the Company for the Cost thereof. The current standard charge assessed to Customer and all Other Customers for the Field Survey is $130.00 per Attachment and is based on the Company's current estimated Cost to perform and complete the Field Survey, but may be adjusted, as necessary, by the Company to account for estimated Costs at the time the survey is performed. Specific to each occurrence, any actions required by the Company to remedy a Pole or Structure ingress or egress condition in compliance with applicable laws, regulations, codes and company policies and procedures is considered to be in addition to the Field Survey function. The Customer shall be responsible for the associated Costs which will be predefined as an estimate in addition to the aforementioned fee.

(C) Make-Ready Work

Whenever Make-Ready Work is required under this Agreement, Customer shall pay the Company for the Costs thereof. Make-Ready Work may include, but is not limited to, the modification or replacement of the Pole, Structure, or Facility within or upon which Customer's Attachments will be placed, to safely accommodate Customer's Attachments, and such other changes in the existing facilities within or upon such Pole, Structure, or Facility as accommodating Customer's Attachments may require. Make-Ready Work Costs charged by the Company may also include the following:

(1) The net loss to the Company on the replaced Pole, Structure, or Facility based on its reproduction cost less depreciation, plus cost of removal;

(2) Transferring the Company's attachments from the old Pole, Structure, or Facility to the new Pole, Structure, or Facility; and

(3) Any other rearrangements and changes necessary by reason of Customer's proposed or existing Attachments.

(D) Other Charges and Fees

Customer shall be subject to and responsible for all other applicable charges and fees under the Lighting Tariff and the Electric Tariff.

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(E) Payment Date

Bills are due and payable when rendered. Full payment must be received on or before the date shown on the bill to avoid a late payment charge of one and one-half percent (1-1/2%) per month pursuant to subpart C of the Rules on Determination of Billing established in Rule IV of the Lighting Tariff.

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APPENDIX II

ADMINISTRATIVE FORMS AND NOTICES INDEX OF ADMINISTRATIVE FORMS

APPLICATION FOR STREET & AREA LIGHTING ATTACHMENT LICENSE	A-1
STREET LIGHT ATTACHMENT DETAILS	A-2
ESTIMATE FOR FIELD SURVEY / AUTHORIZATION FOR FIELD SURVEY	B-1
MAKE-READY WORK ESTIMATE / AUTHORIZATION FOR MAKE-READY WORK	B-2
ITEMIZED MAKE-READY WORK	C
NOTIFICATION OF DISCONTINUANCE OF USE FOR STREET LIGHT ATTACHMENT	D
IDENTIFICATION TAGS	E
LIGHTING SOURCE IDENTIFICATION LABELS	F

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Agreement No.:_____ **Form A-1**

Application No.: _____(to be provided by the Company)

APPLICATION FOR
STREET LIGHT ATTACHMENT LICENSE

DATE _____

CUSTOMER _____

Street Address _____

City, State, Zip Code _____

In accordance with the terms and conditions of the Street Light Attachment License Agreement between the Company and Customer, dated _____, _____ application is hereby made for a license to make _____as Attachments to Poles or Structures as indicated on the attached Form A-2.

CUSTOMER _____

By (Print Name)_____ Signature

_____ Title

_____

Telephone No. _____

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STREET LIGHT ATTACHMENT LICENSE

Street Light Attachment License(s) is hereby granted to make the Attachments described in this application, identified as License No(s).: _____ as Attachments to Poles or Structures as indicated on the attached Form A-2.

DATE_____

COMPANY_____

By (Print Name) _____

Signature_____

Title _____

Telephone No._____

NOTES:

1. Applications shall be submitted to the Company.
2. Applications to be numbered in ascending order by municipality.
3. The Company will process in order of application numbers assigned by Customer.

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Agreement No.:_____ **Form A-2**

Application No.: _____

STREET LIGHT ATTACHMENT DETAILS

CUSTOMER_____

Municipality_____ (Note: Provide separate sheets for each municipality)

Location Reference	Pole or Structure Type Reference	Attachment Description

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_____ (Yes/No) CUSTOMER HEREBY REQUESTS THE COMPANY TO PROVIDE AN ITEMIZED ESTIMATE OF MAKE READY WORK REQUIRED AND ASSOCIATED CHARGES (APPENDIX II FORM C).

DATE_____

CUSTOMER_____

By (Print Name) _____

Signature_____ Title_____

Telephone No._____

Attachment: Town of Amherst License Agreement 2_1_2022 (RES-2022-129 : License Agreement (Attachments to Utility Poles and Structures)

Agreement No.:_____ **Form B-1**

Application / Request No.: _____

ESTIMATE FOR FIELD SURVEY

_____ _____ (Customer)

In accordance with the Street Light Attachment License Agreement, dated _____, _____, the following is a summary of the charges which will apply to complete a field survey covering Application / Request Number _____ _____.

Unit Quantity	Rate / Unit	Total
Field Survey _____	_____	$ _____
Ancillary Services _____	_____	$ _____
Administrative Compensation	_____ %	$ _____
TOTAL		$ _____

If you wish us to complete the required field survey, please sign this copy below and return with an advance payment in the amount of $ _____.

Date_____

Company_____

By (Print Name) _____

Signature_____

Title _____

Telephone No._____

Attachment: Town of Amherst License Agreement 2_1_2022 (RES-2022-129 : License Agreement (Attachments to Utility Poles and Structures)

AUTHORIZATION FOR FIELD SURVEY

The required field survey covering Application / Request Number _____is authorized and the costs therefore will be paid to the Company in accordance with Appendix I to Street Light Attachment License Agreement.

DATE_____

CUSTOMER_____ By (Print Name)_____

Signature_____

Title _____ Telephone No._____

Attachment: Town of Amherst License Agreement 2_1_2022 (RES-2022-129 : License Agreement (Attachments to Utility Poles and Structures)

Agreement No.:_____ **Form B-2**

Application / Request No.: _____

MAKE-READY WORK ESTIMATE

_____ (Customer)

Field survey work associated with your Application / Request Number _____ dated _____, _____, for Attachment to Poles or Structures has been completed. The following is a summary of the charges which will apply to complete the required Make-Ready Work.

TOTAL MAKE-READY CHARGES $ _____

Attached as requested, is an itemized description (Form C) of required Make-Ready Work. A cost estimate of associated Make-Ready Work is also attached. If you wish us to complete the required Make-Ready Work, please sign this copy below and return with an advance payment in the amount of $_____.

DATE_____

COMPANY_____

By (Print Name) _____

Signature_____

Title _____ Telephone No._____

Attachment: Town of Amherst License Agreement 2_1_2022 (RES-2022-129 : License Agreement (Attachments to Utility Poles and Structures)

AUTHORIZATION FOR MAKE-READY WORK

The Make-Ready Work associated with Application / Request Number _____ is authorized and the costs therefore will be paid to the Company in accordance with Appendix I to License Agreement.

DATE_____

CUSTOMER_____ By (Print Name)

_____

Signature_____

Title _____ Telephone No._____

Attachment: Town of Amherst License Agreement 2_1_2022 (RES-2022-129 : License Agreement (Attachments to Utility Poles and Structures)

Agreement No.:_____ **Form C**

Application / Request No.: _____

ITEMIZED MAKE-READY WORK

Sheet ___ of ____		Customer:	
Prepared By:		Municipality:	
Date Prepared:		License Application No.:	
LOCATION REFERENCE INFORMATION		MAKE-READY WORK REQUIREMENTS	
Pole or Structure	Location No. (Street)	ty.	Description of Work

Attachment: Town of Amherst License Agreement 2_1_2022 (RES-2022-129 : License Agreement (Attachments to Utility Poles and Structures)

Agreement No.:_____ **Form D**

Application / Request No.: _____

NOTIFICATION OF DISCONTINUANCE OF STREET LIGHT ATTACHMENT

CUSTOMER_____ Street

Address_____

City, State, Zip Code _____

In accordance with the terms and conditions of the Street Light Attachment License Agreement dated _____, notice is hereby given that specific Attachments to Poles or Structures, as listed below, in the municipality of _____, covered by permit number _____were removed on _____.

Attachment License No.	Location Reference Street Address	Pole or Structure Ref. Type	Attachm Descript	Remc D

Total quantity of Attachments to Poles or Structures to be discontinued is _____.

DATE_____

By

(Print Name) _____

Signature_____

Title _____

Attachment: Town of Amherst License Agreement 2_1_2022 (RES-2022-129 : License Agreement (Attachments to Utility Poles and Structures)

Attachment: Town of Amherst License Agreement 2_1_2022 (RES-2022-129 : License Agreement (Attachments to Utility Poles and Structures)

ACKNOWLEDGMENT OF DISCONTINUANCE OF STREET LIGHT ATTACHMENT

Use of Poles or Structures has been discontinued as above.

DATE_____

COMPANY_____

By (Print Name) _____

Signature_____

Title _____

Attachment: Town of Amherst License Agreement 2_1_2022 (RES-2022-129 : License Agreement (Attachments to Utility Poles and Structures)

Form E

IDENTIFICATION LABELS

(A) GENERAL

This Appendix describes identification tags to be installed and maintained by Customer on its cables and other apparatus to allow the Company to readily identify the owner of such cables and apparatus.

(B) DESCRIPTION OF IDENTIFICATION LABELS

STREET LIGHT PROPERTY
OWNED AND OPERATED
BY

CUSTOMER'S NAME

FIGURE 1: Identification Label

The tags shall be white or yellow with black lettering. Customer shall be responsible for maintaining the legibility of identification tags at all times.

The Identification Tag shall be placed on Customer's facilities including, but not limited to, cables guys, terminals, terminal closures, and cabinets. The Identification Label shall read as follows: "STREET LIGHT PROPERTY OWNED AND OPERATED BY" and clearly display CUSTOMER's name.
Customer's name may be printed on the tag using indelible ink.

(C) PROCUREMENT OF TAGS

It shall be the responsibility of Customer to obtain, place, and maintain Identification tags.

(D) INSTALLATION OF IDENTIFICATION TAGS

When required by Section 5.5, Identification Labels shall be installed at the following locations:

(1) On cables at each manhole or handhole, on the top of the cable so that it is visible from outside the manhole or handhole.
(2) At terminal or Connection Point locations.
(3) Within cabinets or other equipment where appropriate.

Attachment: Town of Amherst License Agreement 2_1_2022 (RES-2022-129 : License Agreement (Attachments to Utility Poles and Structures)

Form F

LIGHTING SOURCE IDENTIFICATION LABELS

The Customer is required to provide and affix to each luminaire a clear, legible and comprehensive lighting source identification label consistent with ANSI-NEMA Standards for Roadway and Area Lighting Equipment – Field Identification of High Intensity Discharge Lamps and Luminaires, (ANSI/NEMA C136.15-2009, latest revision) or other industry standard compliant with the specific lamp or lighting source, as applicable.

Attachment: Town of Amherst License Agreement 2_1_2022 (RES-2022-129 : License Agreement (Attachments to Utility Poles and Structures)

APPENDIX III

ACKNOWLEDGMENT FOR THE USE OF QUALIFIED ELECTRICAL WORKERS

The TOWN OF AMHERST hereby acknowledges and agrees to the following:

1. Niagara Mohawk Power Corporation d/b/a National Grid (hereinafter "National Grid") expects the use of electrically-qualified personnel as required by OSHA in 29 CFR 1910.269 for all work associated with the LICENSE AGREEMENT FOR ATTACHMENTS TO UTILITY POLES AND STRUCTURES FOR STREET AND AREA LIGHTING BETWEEN NIAGARA MOHAWK POWER CORPORATION D/B/A NATIONAL GRID and TOWN OF AMHERST DATED _____ ___, 2020 (hereinafter "TOWN OF AMHERST LICENSE AGREEMENT").

2. The Town of Amherst hereby agrees that any work being done pursuant to the TOWN OF AMHERST LICENSE AGREEMENT will be done by qualified electrical workers as defined by OSHA in 29 CFR 1910.269 and in accordance with all relevant laws, regulations, codes, and industry standards.

3. The Town of Amherst understands and agrees that any injuries to persons or property arising out of or related to this work, including without limitation as a result of a failure to comply with this ACKNOWLEDGMENT, will be the sole responsibility of the Town of Amherst.

TOWN OF AMHERST, NY

BY: _____

NAME:

_____

TITLE: _____

DATE: _____ ___,2020

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

Francina J. Spoth
Town Clerk

Meeting: 02/07/22 07:00 PM
Department: Town Attorney
Initiated by: **Stanley J. Sliwa**
Co-Sponsored by:

DOC ID: 25351 **RESOLUTION 2022-130** **ROLL CALL VOTE (ADOPTED)**

Request for Public Hearing - Sewer Mtce. Bldg. Roof Restoration (Bond Resolution - $175,000)

AGENDA ITEM : FEBRUARY 7th, 2022

TO: **Town Board**

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

DATE: **February 1, 2022**

RE: **Sewer Maintenance Building Roof Restoration**
2022-2027 C.I.P. - Project No. E-22
TOA Job No. 2019.010A
Request For Public Hearing - Bond Resolution - $175,000

Kindly adopt the attached Order Calling Public Hearing regarding the above matter by scheduling a Public Hearing for the project on March 14th, 2022 at 7:00 p.m.

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

Thank you.

SJS:nmb
Attachment
c: Tim Koller, Deputy Town Clerk
(w/attachment, **Agenda Item - February 7, 2022**)
Daryl C. Bramer, Comptroller *(w/attachment)*
Lynda Juul, Director of Finance *(w/attachment)*
Dale Ulatowski, AICP, Assistant Planning Director/ZEO (*w/attachment)*
Dan Howard, Director of Planning *(w/attachment)*
Jeffrey S. Burroughs, PE, Town Engineer (*w/attachment*)
Brian J. Armstrong, EIT, Assistant Municipal Engineer (*w/attachment*)

2/7/2022
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved via Roll Call vote 5-0.

FINANCIAL IMPACT:

Bond Resolution - $175,000

RESULT:	**ROLL CALL VOTE (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

Transmitted electronically

MEMORANDUM January 11, 2022

TO: Brian J. Armstrong, EIT, Assistant Municipal Engineer
Engineering Department

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

RE: SEQR Determination
Sewer Maintenance Building Roof Restoration
2022-2027 C.I.P. Project E-22 – TOA Job No. 2019.010A

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

Please contact our office if you have any questions.

X:\Special_Projects\SEQR_Engineering & Other TOA\Type_II_Actions_(PJ-2015-001)\Sewer Maint Building Roof Restoration_2022_2027_CIP_E_22.docx

cc:
Stanley J. Sliwa, Esq., Town Attorney
Daryl Bramer, Comptroller
Daniel Howard, Planning Director

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

Attachment: SEQR.SewerMtceRoof-01272022120558 (RES-2022-130 : Request for Public Hearing - Sewer Mtce. Bldg. Roof Restoration (Bond

At a regular meeting of the Town Board of the Town of Amherst, in the County of Erie, New York, held virtually on the 7th day of February, 2022.

PRESENT:

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

In the Matter

of the

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

---

Offered by:

Seconded by:

ORDER CALLING FOR A PUBLIC HEARING TO BE HELD ON MARCH 14, 2022

WHEREAS, the Town Board of the Town of Amherst (herein called the "Town"), in the County of Erie, New York, on behalf of the Consolidated Sanitary Sewer District in the Town (herein referred to as the "District"), has caused the Town Engineering Department, engineers duly licensed by the State of New York (the "Engineer") to prepare the map, plan and report dated January, 2022 for the increase and improvement of facilities of the District, consisting of roof restoration for the Sewer Maintenance Division building at the Engineering Department, at the estimated maximum cost of $175,000 (CIP Project No. E-22); and

Attachment: CertOCPH (RES-2022-130 : Request for Public Hearing - Sewer Mtce. Bldg. Roof Restoration (Bond Resolution - $175,000))

WHEREAS, the total cost thereof has been estimated to be a maximum amount of $175,000; such cost to be assessed against the properties in the District at the same time and in the same manner as other Town charges; and

WHEREAS, the Town Board, as lead agency, has given due consideration to the impact that the projects described herein may have on the environment and has determined that each of the projects are Type II actions and require no further review pursuant to the State Environmental Quality Review Act (SEQRA), constituting Article 8 of the Environmental Conservation Law, and 6 N.Y.C.R.R., Regulations Part 617.5;

NOW, THEREFORE, BE IT

ORDERED, that a meeting of the Town Board of the Town be held virtually on the 14th day of March, 2022 at 7:00 o'clock P.M. (Prevailing Time) to consider said increase and improvement of facilities of the District and to hear all persons interested in the subject thereof concerning the same

FURTHER ORDERED, that the Town Clerk publish at least once in the "Amherst Bee," hereby designated as the official newspaper of the Town for such publication, and post on the Town's website at www.amherst.ny.us, on the front entrance door and rear doors of Town Hall and on the sign board of the Town maintained pursuant to subdivision 6 of Section 30 of the Town Law, a Notice of such public hearing, substantially in the form attached hereto as Exhibit A, the first publication thereof and said posting to be not less than ten (10) nor more than twenty (20) days before the date of such public hearing.

DATED: February 7, 2022

TOWN BOARD OF THE TOWN OF AMHERST

(SEAL)

Attachment: CertOCPH (RES-2022-130 : Request for Public Hearing - Sewer Mtce. Bldg. Roof Restoration (Bond Resolution - $175,000))

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

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

The Order was declared adopted.

* * * * *

Attachment: CertOCPH (RES-2022-130 : Request for Public Hearing - Sewer Mtce. Bldg. Roof Restoration (Bond Resolution - $175,000))

CERTIFICATE

I, FRANCINA J. SPOTH, Town Clerk of the Town of Amherst, in the County of Erie, State of New York, DO HEREBY CERTIFY that I have compared the preceding Order Calling for a Public Hearing with the original thereof filed in the office of the Town Clerk on the ___ day of February, 2022, and that the same is a true and correct copy of said original and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of said Town on this _____ day of February, 2022.

(SEAL)

_____

Francina J. Spoth, Town Clerk
Town of Amherst

Attachment: CertOCPH (RES-2022-130 : Request for Public Hearing - Sewer Mtce. Bldg. Roof Restoration (Bond Resolution - $175,000))

Exhibit A

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Town Board of the Town of Amherst, in the County of Erie, State of New York, will meet via Zoom on March 14, 2022, at 7 o'clock P.M. (Prevailing Time), for the purpose of conducting a public hearing in relation to the proposed increase and improvement of facilities of the Consolidated Sanitary Sewer District (the "District"), consisting of roof restoration for the Sewer Maintenance Division building at the Engineering Department (CIP Project No. E-22); as described in the map, plan and report dated January, 2022 prepared by the Town Engineering Department. The current approved estimated maximum cost of the project is $175,000, which is proposed to be financed through issuance of bonds by the Town of Amherst on behalf of the District, payable by levy and collections of assessments on real property in the District. Therefore, the project cost burden is expected to be borne by District property owners throughout the expected term of the bonds. However, the bonds to be issued shall be general obligation bonds of the Town of Amherst and in the event the amount of assessments collected within the Consolidated Lighting District is insufficient to pay the cost of the project and/or the debt service related to the project, such costs and/or debt service shall be paid from the general Town taxes.

IN RESPONSE TO THE CONTINUING EMERGENCY CIRCUMSTANCES CAUSED BY THE COVID-19 PANDEMIC AND CONSISTENT WITH THE CHAPTER ONE OF THE NEW YORK LAWS OF 2022, MEMBERS OF THE PUBLIC WISHING TO OFFER PUBLIC COMMENTS ON THE PROPOSED INCREASE AND IMPROVEMENT OF FACILITIES THAT ARE THE SUBJECT MATTER OF THIS NOTICE SHALL BE ALLOWED TO DO SO BY PARTICIPATION VIA ZOOM AT THE FOLLOWING LINK:

[Video and Teleconference Access Details]

BY UTILIZING THE FOLLOWING MEETING ID: XXX XXXX XXXX AND THE FOLLOWING PASSWORD: XXXXXX OR VIA TELEPHONE AT 1-929-205-6099 BY UTILIZING THE SAME MEETING ID AND PASSWORD.

Attachment: CertOCPH (RES-2022-130 : Request for Public Hearing - Sewer Mtce. Bldg. Roof Restoration (Bond Resolution - $175,000))

FURTHER, THE PUBLIC IS ENCOURAGED TO OFFER ITS COMMENTS IN WRITING TO THE TOWN BY EMAIL COMMUNICATIONS TO THE TOWN CLERK fspoth@amherst.ny.us NO LATER THAN MARCH 13, 2022. ALL COMMENTS WILL BE ENTERED INTO THE RECORD AND DISTRIBUTED TO ALL BOARD MEMBERS. MAILED COMMENTS SHOULD BE SENT TO: ATTN: FRANCINA J. SPOTH, TOWN CLERK, TOWN OF AMHERST, 5583 MAIN STREET, WILLIAMSVILLE, NY 14221. ALL MEETINGS OF THE TOWN WILL BE RECORDED AND LATER TRANSCRIBED.

Further details concerning such proposed increase and improvement of facilities and the estimated costs thereof are set forth in the above-mentioned map, plan and report which is available for online review at [insert web address and link instructions].

BY ORDER OF THE TOWN BOARD OF THE
TOWN OF AMHERST

Dated: February 7, 2022
Williamsville, New York

Francina J. Spoth.
Town Clerk

Attachment: CertOCPH (RES-2022-130 : Request for Public Hearing - Sewer Mtce. Bldg. Roof Restoration (Bond Resolution - $175,000))

CERTIFICATE

I, FRANCINA J. SPOTH, Town Clerk of the Town of Amherst, in the County of Erie, State of New York, DO HEREBY CERTIFY that I have compared the preceding Order Calling for a Public Hearing with the original thereof filed in the office of the Town Clerk on the 7th day of February, 2022, and that the same is a true and correct copy of said original and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of said Town on this 7th day of February, 2022.

(SEAL)

Francina J. Spoth, Town Clerk
Town of Amherst

Attachment: CertOCPH (RES-2022-130 : Request for Public Hearing - Sewer Mtce. Bldg. Roof Restoration (Bond Resolution - $175,000))

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

AFFIDAVIT OF POSTING

FRANCINA J. SPOTH, being duly sworn upon her oath deposes and says:

That she is and at all the times hereinafter mentioned she was the duly elected, qualified and acting Town Clerk of the Town of Amherst, in the County of Erie, State of New York, and that on the ____ day of February, 2022, she caused to be conspicuously posted and fastened up a certified copy of the Notice of Public Hearing, a true copy of which is annexed hereto and made a part hereof, on the sign board of said Town maintained pursuant to Section 30, subdivision 6, of the Town Law.

_____
Town Clerk

Subscribed and sworn to before me
this ____ day of _____, 2021.

_____
Notary Public, State of New York

Attachment: CertOCPH (RES-2022-130 : Request for Public Hearing - Sewer Mtce. Bldg. Roof Restoration (Bond Resolution - $175,000))

Amherst

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

Brian J. Kulpa
Supervisor

Daniel C. Howard, AI
Planning Director

Daniel J. Ulatowski, AI
Assistant Planning Dire

Transmitted electronically

MEMORANDUM January 11, 2022

TO: Brian J. Armstrong, EIT, Assistant Municipal Engineer
Engineering Department

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

RE: SEQR Determination
Sewer Maintenance Building Roof Restoration
2022-2027 C.I.P. Project E-22 – TOA Job No. 2019.010A

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

Please contact our office if you have any questions.

X:\Special_Projects\SEQR_Engineering & Other TOA\Type_II_Actions_(PJ-2015-001)\Sewer Maint Building Roof Restoration_2022_2027_CIP_E_22.docx

cc:
Stanley J. Sliwa, Esq., Town Attorney
Daryl Bramer, Comptroller
Daniel Howard, Planning Director

Attachment: Sewer Maint Building Roof Restoration_2022_2027_CIP_E_22 (RES-2022-130 : Request for Public Hearing - Sewer Mtce. Bldg. Roof

Attachment: Sewer Maint Building Roof Restoration_2022_2027_CIP_E_22 (RES-2022-130 : Request for Public Hearing - Sewer Mtce. Bldg. Roof

Town of Amherst
Engineering Department

Sewer Maintenance Building Roof Restoration

2022 – 2027 Capital Improvement Program Project E-22

Town of Amherst Job # 2019.010A

Map, Plan & Report

January 2022

CONTENTS:

- Approved 2022 - 2027 CIP Project E-22
- Introductions / Existing Conditions
- Proposed Scope of Improvements
- Financial / Taxation Summary
- SEQR Determination – Type II Action

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

TOWN OF AMHERST ENGINEERING DEPARTMENT
Sewer Maintenance Building Roof Restoration

Summary of Approved 2022 – 2027 Capital Improvement Program (10-25-21)

Engineering Department (cont'd) *Recommended Schedule (X $1,000)*

Project ID	*Project Title/Description*	*2022*	*2023*	*2024*	*2025*	*2026*	*2027*	*Total Cost*
E-15	**WPCF Structural Repair/Rebuild of Various Concrete Tanks:** Repair/rehab the various concrete tanks and auxiliary equipment (Overflow Retention Basin, Chlorine Contact Tank, O2 Decks, etc.). *(2020)*	500 LW	500 LW	500 LW				**$1,500,000**
E-16	**WPCF Polymer System Upgrades:** Upgrade the existing dry-feed polymer system to a liquefied-emulsion feed system. *(2020)*	150 LW						**$150,000**
E-17	**WPCF Building No. 4 Offload Scale Replacement:** Replacing the main offload scale and rehabbing the existing scale. *(2022)*	100 LW						**$100,000**
E-18	**WPCF Cryogenic O2 Plant Replacement:** Replace the existing oxygen generation system with a new compact cryogenic O2 Plant. *(2022)*		1,000 LW	4,000 LW	5,000 LW			**$10,000,000**
E-19	**WPCF Building No. 1 Screen and Gate Rehab – Phase 2:** Additional funds for the screening systems and associated gate equipment. *(2022)*		1,100 LW					**$1,100,000**
E-20	**WPCF Electrical Upgrades – Phase 5:** Replacement of electrical distribution and control equipment such as failing motor control centers, switch gears, feeders, and associated equipment. *(2016)*		750 LW					**$750,000**
E-21	**WPCF Incinerator Rehabilitation:** Upgrade and bring the existing incinerator system back online to dry sludge to. *(2022)*			2,000 LW				**$2,000,000**
E-22	**Sewer Maintenance Roof Rehabilitation at Engineering:** Rehabilitation of the 12,800 sq. ft. metal roof of the Sewer Maintenance Division at the Engineering Department on North Forest Rd. *(2021)*	175 LA						**$175,000**

Key:

Funding Source
T – Tax
L – Bond
S – Surplus
E - Encumbered
I/M – I&I or Mitigation Funds
RF – Recreation Fund
OF – Open Space Fund
F/S – Federal or State Aid
X – Private Source

Funding Account
A – General Account
B – Part Town
C – Community Environment
D – Highway
F – Lighting
G – Sanitary Sewer District
H – Storm Drainage District
I – Water District
W – Water Pollution Control Facility
– Special District Number
NS – None Submitted

Attachment: Sewer Maint Building Roof Restoration_2022_2027_CIP_E_22 (RES-2022-130 : Request for Public Hearing - Sewer Mtce. Bldg. Roof

TOWN OF AMHERST ENGINEERING DEPARTMENT
Sewer Maintenance Building Roof Restoration



Engineering Department Sewer Maintenance Building with highlighted upper metal roof area

INTRODUCTION / EXISTING CONDITIONS:

The Town of Amherst owns and operates the Engineering Department building located at 1100 North Forest Road, Williamsville, NY 14221. The building was originally constructed in 1976 and subsequently expanded in 1986. The building in comprised of two (2) distinct portions; a large garage/warehouse portion utilized for vehicle maintenance and storage operations associated with the Sewer Maintenance Division of the Engineering Department and the smaller single-story office portion of the building that is occupied by office and administrative staff of the Engineering Department. At present, the total floor area of the office portion of the building is approximately 7,100 square feet. The building is typically occupied between 7:00am and 5:00pm daily.

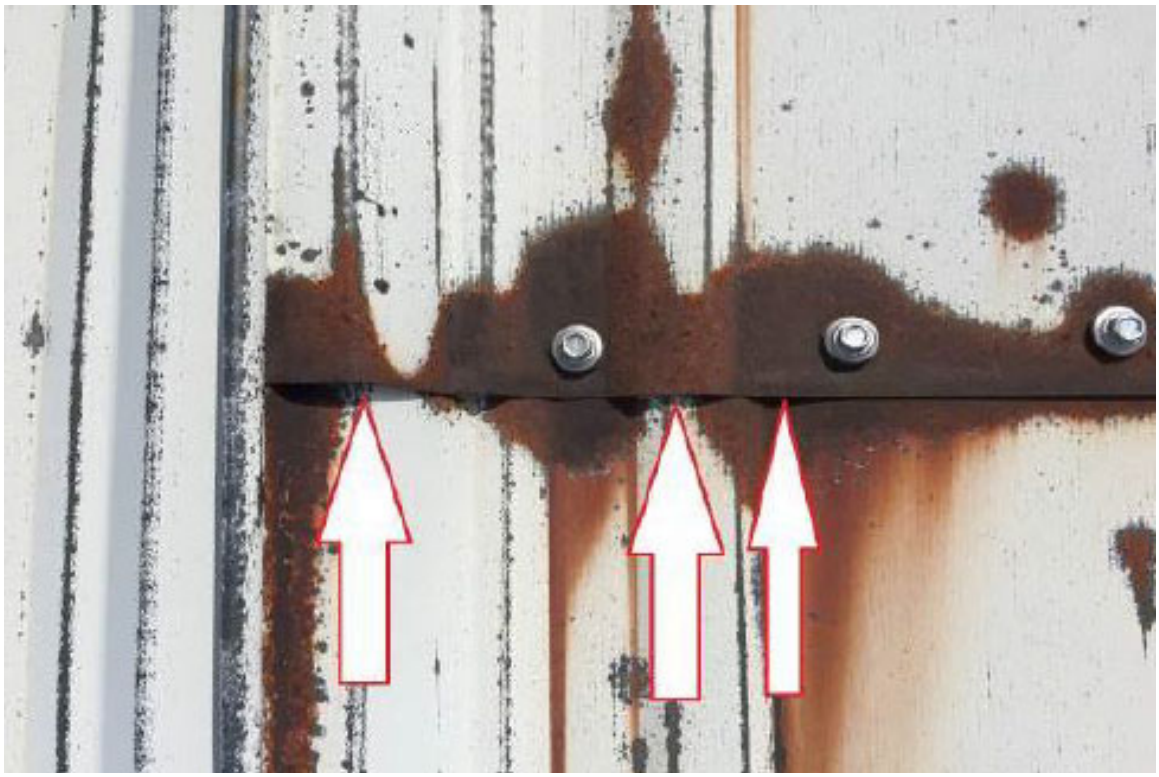
The roof associated with the Sewer Maintenance garage area is the subject of this report as it will be improved within the scope of this project. The current roof system consisting of; steel purlins, blanket fiberglass insulation and standing seam metal roof, encompasses 12,800 square feet of open garage/maintenance/storage and enclosed office space. This roof system is original to the building, having been installed in 1976. While this system has outlasted its useful life, a professional roof evaluation completed in 2020, found that the standing seam metal roof system is still structurally sound but exhibits surface rusting of the steel panel surfaces. Also noted within the evaluation report were misaligned panel end-lap conditions that represent possible points of water-ingress. The photos contained within this report represent the current conditions of this roof system and it components.

Attachment: Sewer Maint Building Roof Restoration_2022_2027_CIP_E_22 (RES-2022-130 : Request for Public Hearing - Sewer Mtce. Bldg. Roof

TOWN OF AMHERST ENGINEERING DEPARTMENT
Sewer Maintenance Building Roof Restoration



Severe rusting along the west exposure of this roof.



Severely rusted and misaligned end-lap panel conditions.

Attachment: Sewer Maint Building Roof Restoration_2022_2027_CIP_E_22 (RES-2022-130 : Request for Public Hearing - Sewer Mtce. Bldg. Roof

TOWN OF AMHERST ENGINEERING DEPARTMENT
Sewer Maintenance Building Roof Restoration



Numerous fastener are missing or require replacement.

PROPOSED SCOPE OF IMPROVEMENTS:

In order to completely address the repetitive leaking of the existing roof system for the large upper standing seam metal roof portion of the facility, the existing roof system has been evaluated and found to be structurally sound but exhibits a number of leaks due to rusting and degradation. In an effort to restore this roof system, the entire roof will be power washed before all of the deteriorated/loose/missing fasteners are replaced. Once replaced, all fasteners will then be sealed at the same time that all flashing end laps are also sealed. Sealing will also be completed at the outside closure of the ridge as well as the panel rib inside closures. Further, all panel end laps will be sealed with three-course urethane sealant. Brush-grade urethane will be applied to all panel ribs before the entire roof system receives a single-coat application of self-priming fibrated aluminum roof coating. Lastly, all of the existing gutters, gutter straps and downspouts will be replaced as required.

The roof system restoration project described above will be designed, bid and constructed during 2022. The above project will be bonded against the Town of Amherst General Fund at a *total project cost* of $175,000.00, financed entirely with serial bonds. The above project is characterized as a replacement-in-kind project associated with a "Class B" building, where the underlying structure will remain unchanged while only the roof system materials will be modified from existing conditions. The roof system restoration provided within the scope of this project will have a minimum life cycle that will exceed 15 years.

Attachment: Sewer Maint Building Roof Restoration_2022_2027_CIP_E_22 (RES-2022-130 : Request for Public Hearing - Sewer Mtce. Bldg. Roof

FINANCIAL SUMMARY:

Estimated Construction Costs	169,000
Professional Services	5,000
Legal / Administrative	1,000
Total Amount to be Bonded	**$ 175,000**

TAXATION SUMMARY:

Total Bond Amount:	$ 175,000.00
Bond Term:	15 Years
Annual Tax Impacts:	$0.0015 per $1,000 AV (General Fund)
Typical Property Taxation Impact:	$0.29 per $200,000 property

Attachment: Sewer Maint Building Roof Restoration_2022_2027_CIP_E_22 (RES-2022-130 : Request for Public Hearing - Sewer Mtce. Bldg. Roof

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

Francina J. Spoth
Town Clerk

Meeting: 02/07/22 07:00 PM
Department: Town Attorney
Initiated by: **Stanley J. Sliwa**
Co-Sponsored by:

DOC ID: 25360 **RESOLUTION 2022-131** **ADOPTED**

Lease of Farmland - 1040 Tonawanda Creek Road (CRS# 3153)

AGENDA ITEM - FEBRUARY 7TH, 2022

TO: **Town Board**

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

DATE: **February 1, 2022**

RE: **Lease of 1040 Tonawanda Creek Road**
Melvin De Vantier and Gail R. De Vantier
Adopt Resolution Approving Lease Subject
To Permissive Referendum (CRS#3153)

Mr. and Mrs. DeVantier are requesting renewal of the attached lease for the 2022 calendar year for the above property. They have sent a check in the amount of $800.00 in consideration of this request. Once the lease is approved, the check will be forwarded to Daryl C. Bramer, Town Comptroller.

Therefore, kindly adopt a resolution authorizing the Supervisor to execute the attached lease subject to permissive referendum and pending successful completion of the Contract Routing System.

Thank you.

SJS:nmb
Attachment
c: Tim Koller, Deputy Town Clerk
(*w/attachment,* **Agenda Item : February 7th, 2022**)
Daryl C. Bramer, Town Comptroller (*w/attachment)*
Lynda Juul, Director of Finance (*w/attachment)*

2/7/2022
Consent

FINANCIAL IMPACT:

Revenue - $800.00 (A0001.02410)

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

L E A S E

THIS AGREEMENT made as of the _____ day of February, 2022, between the Town of Amherst, a municipal corporation with its principal office for the transaction of business located at 5583 Main Street, Williamsville, New York 14221, hereinafter referred to as Lessor, and Melvin De Vantier, residing at 2761 Niagara Falls Boulevard, Niagara Falls, New York, 14304, hereinafter referred to as Lessee.

W I T N E S S E T H

That Lessor has leased real property commonly referred to as 1040 Tonawanda Creek Road consisting of approximately 40 acres situate on the west side of Tonawanda Creek Road, being tax account number 14.00-1-2, for the purpose of raising various crops, subject to the terms and conditions set forth below:

1. Lease Term: This lease is for a period of one (1) year, commencing the 1st day of January, 2022 and ending on the 31st day of December, 2022.

2. Permissive Referendum: In accordance with Article 7 of the Town Law of the State of New York, this Lease is being approved subject to permissive referendum.

3. Use: Lessee is hereby authorized to seed, cultivate, raise, and harvest farm crops.

4. Restrictions: Lessee shall not remove any soil from premises nor construct ditches or culverts except for the usual cultivated rows and immediate drainage purposes for the site. Upon the removal of the crops raised, the property shall be left in substantially the same condition as at the commencement of this Lease.

5. Indemnity: Lessee hereby covenants and agrees to indemnify and hold harmless the Lessor from all liability charges, expenses (including counsel fees) arising out of use of said premises as herein provided. Lessee will also provide Lessor with liability insurance coverage in the minimum amount of $1,000,000.00.

6. Consideration: Lessee shall pay to the Lessor the sum of $800.00 in consideration for this Lease.

Attachment: 2022LeaseTonaCrk (RES-2022-131 : Lease of Farmland - 1040 Tonawanda Creek Road (CRS# 3153))

7. Fertilizer, Pesticides and Insecticides: Lessee shall use only such fertilizers, pesticides, insecticides or other chemicals as are permitted by governmental regulation for farming purposes. No chemicals which shall be deemed to be hazardous or toxic or otherwise restricted in use shall be utilized on said premises.

IN WITNESS WHEREOF, the parties have executed this Lease on the day and year first above set forth.

TOWN OF AMHERST

BY: _____
BRIAN J. KULPA, Supervisor

BY: _____
MELVIN DE VANTIER

Attachment: 2022LeaseTonaCrk (RES-2022-131 : Lease of Farmland - 1040 Tonawanda Creek Road (CRS# 3153))

STATE OF NEW YORK)
VILLAGE OF WILLIAMSVILLE)ss:
COUNTY OF ERIE)

On the _____ day of _____, 2022, before me personally appeared Brian J. Kulpa, who being by me duly sworn, did depose and say that he resides in the Village of Williamsville, New York, that he is the Supervisor of the Town of Amherst, New York, the corporation described herein and which executed the foregoing instrument, that he knows the seal of the said corporation, that it was so affixed by order of the Town Board and that he signed his name thereto by like order.

_____
Notary Public

STATE OF NEW YORK)
_____ OF _____)ss:
COUNTY OF _____)

On the _____day of _____, 2022, before me, the subscriber, personally appeared Melvin De Vantier, to me known and known to me to be the same person described in and who executed the within instrument and he acknowledged to me that he executed the same.

_____
Notary Public

Attachment: 2022LeaseTonaCrk (RES-2022-131 : Lease of Farmland - 1040 Tonawanda Creek Road (CRS# 3153))

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

Francina J. Spoth
Town Clerk

Meeting: 02/07/22 07:00 PM
Department: Town Attorney
Initiated by: **Stanley J. Sliwa**
Co-Sponsored by:

DOC ID: 25361 **RESOLUTION 2022-132** **ADOPTED**

Permanent Public Drainage Easement - 695 Casey Road (Cavagnaro)

AGENDA ITEM : FEBRUARY 7TH, 2022

TO: **Town Board**

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

DATE: **February 1, 2022**

RE: **Permanent Public Drainage Easement**
Cavagnaro - 695 Casey Road
CRS# 3152

Kindly adopt a resolution authorizing the Supervisor to execute the attached Easement Agreement subject to successful completion of the Contract Routing System.

The Highway and Engineering Departments have reviewed and approved the agreement.

Thank you.

NMB:hs
Attachment
c: Tim Koller, Deputy Town Clerk
(*w/attachment,* **Agenda Item - February 7, 2022**)
Tim Lucey, General Crew Chief (Highway) (*w/attachment)*
Jeffrey S. Burroughs, PE, Town Engineer (*w/attachment)*

2/7/2022
Consent

FINANCIAL IMPACT:

None for the purposes of this resolution.

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

TOWN OF AMHERST
PERMANENT PUBLIC DRAINAGE EASEMENT

THIS AGREEMENT, made the _____ day of February, 2022; by and between:

Robert P. Cavagnaro and Kathryn L. Cavagnaro
695 Casey Road
East Amherst, New York 14051
S.B.L. No. Part of 42.11-2-17.11

hereinafter referred to as the GRANTORS and the Town of Amherst, a municipal corporation of the State of the New York, having its principal office in the Amherst Municipal Building, 5583 Main Street, Williamsville, New York 14221, hereinafter referred to as the TOWN under facts and circumstances summarized by the following recitals:

A. GRANTORS are the owners of certain premises located in the Town of Amherst as described in a deed recorded May 17, 2019 in Liber 11344 of Deeds, Page 5326 ("Cavagnaro Property").

WITNESSETH

WHEREAS, the GRANTORS are the owners of all that tract or parcel of land, situated in the Town of Amherst, County of Erie and State of New York being part of Lot 94, Township 12, Range 7 of the Holland Land Company's survey, bounded and described as follows:

Beginning at a point in the centerline of Casey Road, said centerline also being the north line of Lot 94, distant 421.40 westerly from the north east corner of Lot 94; thence westerly along the centerline of Casey Rd. 80 feet; thence southerly parallel with the east line of Lot 94 285 feet; thence easterly parallel with the centerline of Casey Road, 80 feet; thence southerly parallel with the east line of Lot 94, 285 feet; thence easterly parallel with the centerline of Casey Road, 80 feet; thence northerly parallel with the east line of Lot 94, 285 feet to the centerline of Casey Road at the point of beginning.

WHEREAS, the TOWN seeks the permission and easement to install a DRAINAGE FACILITY AND APPURTENANCES, over a portion of said premises and to operate, maintain, repair, reconstruct, expand and extend in connection therewith.

NOW, THEREFORE, in consideration of the sum of One Dollar ($1.00) paid by the TOWN, the receipt of which is hereby acknowledged and other good and valuable consideration, the GRANTORS and TOWN hereto agree as follows:

Attachment: PermPubDrainageEase (RES-2022-132 : Permanent Public Drainage Easement - 695 Casey Road (Cavagnaro))

FIRST: The GRANTORS hereby grant unto the TOWN the permanent right and easement to construct, operate, maintain, repair, reconstruct, expand and extend the DRAINAGE FACILITY AND APPURTENANCES upon, under and across the southerly thirty (30) feet of the real property of the GRANTOR, together with the ingress and egress with personnel, vehicles and machinery from the highway right-of-way to herein designated easement area as shown on a survey prepared by ottney & miller L.S.P.C. dated June 28, 2016 and revised July 11, 2016.

SECOND: The TOWN agrees that the property of the GRANTORS shall be reasonably restored to an as like condition as it existed prior to construction, repair and/or reconstruction. All other maintenance including lawn cutting shall not be the responsibility of the TOWN.

IN WITNESS, the GRANTORS have hereunto set their hand and the TOWN has caused this easement to be executed by its duly authorized officer and its corporate seal to be hereunto affixed, the day and year written above.

TOWN OF AMHERST

By: _____
Brian J. Kulpa
Supervisor

PROPERTY OWNER

By: _____
Robert J. Cavagnaro

PROPERTY OWNER

By: _____
Kathryn L. Cavagnaro

Approved As To Form

By: _____
Patrick G. Lucey
Superintendent of Highways

Approved As To Content

By: _____
Jeffrey S. Burroughs, P.E.
Town Engineer

Attachment: PermPubDrainageEase (RES-2022-132 : Permanent Public Drainage Easement - 695 Casey Road (Cavagnaro))

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

On the _____ day of _____ in the year 2022, before me, the undersigned notary public, personally appeared **Brian J. Kulpa**, personally known to me or proved to me on the basis of satisfactory evidence to be individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that **he**/she/they executed the same in **his**/her/their capacity(ies) and that by **his**/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

_____
Notary Public

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

On the _____ day of _____ in the year 2022, before me, the undersigned notary public, personally appeared **Robert J. Cavagnaro**, personally known to me or proved to me on the basis of satisfactory evidence to be individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that **he**/she/they executed the same in **his**/her/their capacity(ies) and that by **his**/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

_____
Notary Public

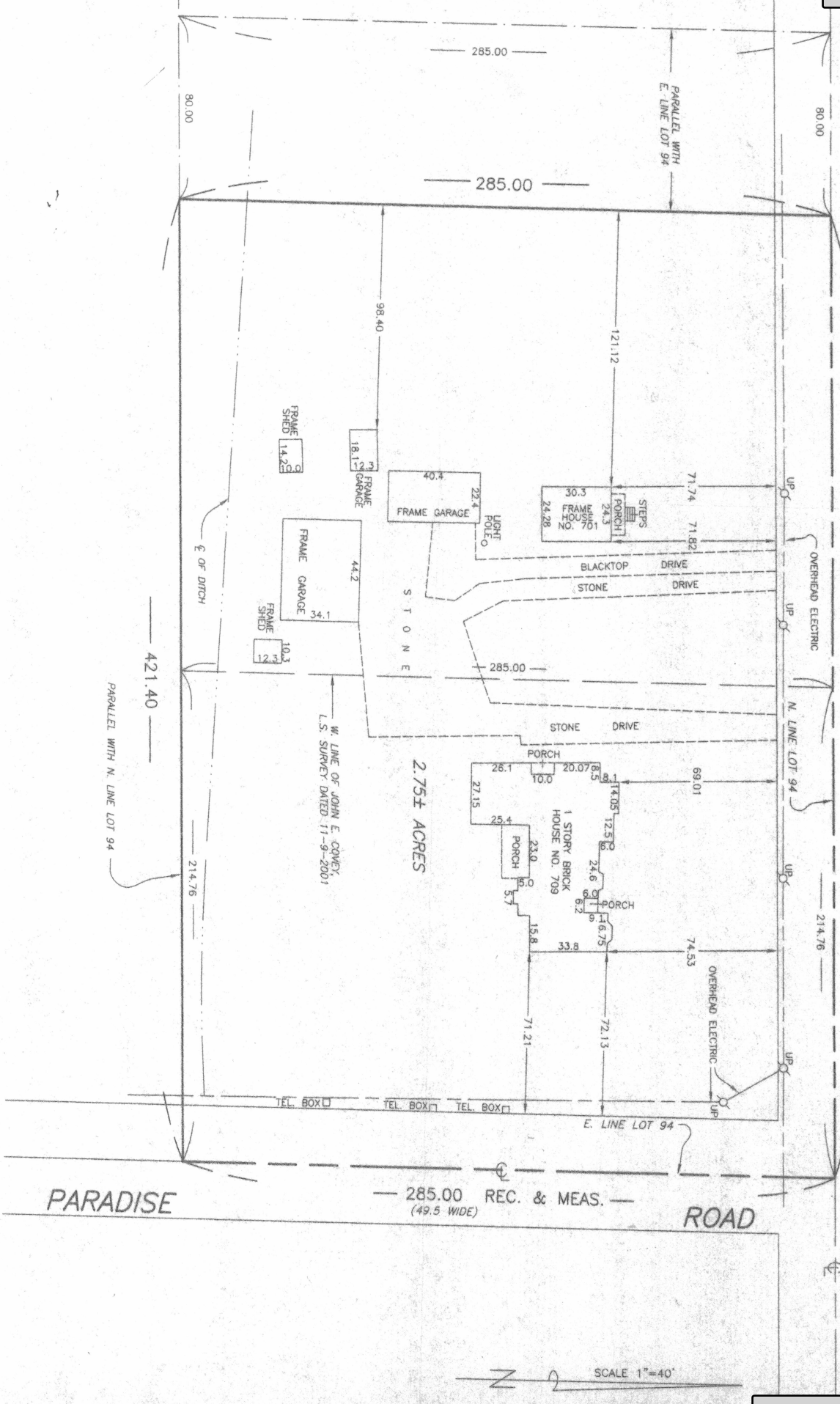
STATE OF NEW YORK)
)ss.:
COUNTY OF ERIE)

On the _____ day of _____ in the year 2022, before me, the undersigned notary public, personally appeared **Kathryn L. Cavagnaro**, personally known to me or proved to me on the basis of satisfactory evidence to be individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/**she**/they executed the same in his/**her**/their capacity(ies) and that by his/**her**/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

_____
Notary Public

Cavagnaro, Robert J. and Kathryn L.
Permanent Public Drainage Easement – 695 Casey Road
TBA : 2.7.2022

Attachment: PermPubDrainageEase (RES-2022-132 : Permanent Public Drainage Easement - 695 Casey Road (Cavagnaro))



Attachment: 695 Casey Survey (RES-2022-132 : Permanent Public Drainage Easement - 695 Casey Road (Cavagnaro))

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

Francina J. Spoth
Town Clerk

Meeting: 02/07/22 07:00 PM
Department: Town Attorney
Initiated by: **Samuel A Alba**
Co-Sponsored by:

DOC ID: 25333 **RESOLUTION 2022-133** **ADOPTED**

Article 7 Settlement - 4400 Maple Road

AGENDA ITEM : FEBRUARY 7TH, 2022

TO: **Town Board**

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

DATE: **February 1, 2022**

RE: **Settlement of Article 7 Matter**
4400 Maple

Kindly adopt a resolution authorizing the following:

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

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

Thank you.

SAA:nmb
Attachment
c: Tim Koller, Deputy Town Clerk
(*w/attachment,* **Agenda Item : February 7, 2022**)
Emily Murphy, Town Assessor

2/7/2022
Consent

FINANCIAL IMPACT:

Assessment

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

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

IN THE MATTER OF THE APPLICATION UNDER
ARTICLE 7 OF THE REAL PROPERTY TAX LAW
BY

4400 MAPLE LLC,

Petitioner,

v.

CONSENT ORDER

Index No.:
809612/2021
807075/2020

TOWN OF AMHERST,

Respondent.

FOR REVIEW OF THE TAX ASSESSMENT OF CERTAIN
REAL PROPERTY IN THE SAID TOWN OF AMHERST

The above-entitled special proceedings involving real property tax certiorari for the premises owned by Petitioner in the Town of Amherst, New York, known as:

Address	Section/Block/Lot
4400 Maple Road	54.04-2-18.112

having progressed for trial, and negotiations for settlement having been conducted, and said settlement having been approved and recommended by the Attorney for the Town of Amherst, and the Attorney for Petitioner, and it further appearing that the assessment of premises in the Town of Amherst provides the basis for the imposition of ad valorem taxes assessed by the Town of Amherst, the Sweet Home CSD, and the County of Erie, it is hereby

Attachment: 4400 Maple Consent Order unsigned (RES-2022-133 : Article 7 Settlement - 4400 Maple Road)

ORDERED, STIPULATED, AND ADJUDGED that the property tax certiorari for the tax year and 2020-2021 & 2021-2022 for the premises previously listed be discontinued and withdrawn without costs and allowances to either party as against the other, and it is further

ORDERED, STIPULATED, AND ADJUDGED that the real property tax assessment for the tax year 2022-2023 for the premises be set as follows:

Address	Section/Block/Lot	Full Market Value
4400 Maple Road	54.04-2-18.112	$1,629,200 (equalized at 2022 eq. rate)

, and it is further

ORDERED, STIPULATED, AND ADJUDGED that the real property tax assessment for the tax years 2023-2024 and 2024-2025 for the premises be set as follows:

Address	Section/Block/Lot	Full Market Value
4400 Maple Road	54.04-2-18.112	$2,272,000 (equalized at 2023 eq. rate)

, and it is further

ORDERED, STIPULATED, AND ADJUDGED that the provisions of Section 727 of the Real Property Tax Law shall apply to the aforementioned tax years without regard to revaluation or update, and it is further

ORDERED, STIPULATED, AND ADJUDGED that said Petitioner in any instrument or agreement transferring any part or all of the subject property or any interest therein shall covenant with any grantee, transferee, and mortgagee and their respective distributees, successors and/or assigns that they shall be bound by the terms of this Consent Order and that

Attachment: 4400 Maple Consent Order unsigned (RES-2022-133 : Article 7 Settlement - 4400 Maple Road)

such covenant shall be deemed to run with the land for the tax periods embraced by the terms thereof, and it is further

ORDERED, STIPULATED, AND ADJUDGED that in the event that the assessment is increased for any stated year at a level higher than provided herein when there has been no assessable addition or improvement to the property, Petitioner retains the right to reinstate and reinstitute its Article 7 proceedings herein settled with respect to that parcel only, and it is further

ORDERED, STIPULATED, AND ADJUDGED that the fiscal officers of Erie County, the Town of Amherst, Sweet Home CSD, and any other taxing unit affected by the above assessment reductions shall apply such adjusted assessment and determine any overpayment of taxes, and in the event of overpayment, refund the overpayment with statutory interest within 45 days by official check payable to the order of Wolfgang & Weinmann, as attorneys and agents for Petitioner, accompanied by a calculation sheet, such attorneys to hold the proceeds as trust funds for appropriate distribution, and are to remain subject to the further jurisdiction of this Court relative to their attorney's lien pursuant to Judiciary Law Section 475, or in the event that any such tax payment has not been paid, issue corrected tax bills which reflect the proper reduced assessment for the property, with a copy of corrected tax bills sent to the attorneys for Petitioner, said corrected tax bills to be paid without interest or penalty if paid within 90 days of receipt of said corrected bills, and it is further

ORDERED, STIPULATED, AND ADJUDGED that this Court shall retain jurisdiction over this proceeding pending the expiration of the periods herein recited, and that all applications to enforce any or all of the terms of this Consent Order shall be brought by motion before this Court, and it is further

Attachment: 4400 Maple Consent Order unsigned (RES-2022-133 : Article 7 Settlement - 4400 Maple Road)

ORDERED, STIPULATED, AND ADJUDGED that Petitioner shall have the right to seek specific enforcement of this Order, Stipulation and Judgment by all means provided by law, and it is further

ORDERED, STIPULATED, AND ADJUDGED that this Order, Stipulation and Judgment hereby constitutes and represents the entire understanding and agreement amongst the

Attachment: 4400 Maple Consent Order unsigned (RES-2022-133 : Article 7 Settlement - 4400 Maple Road)

parties, and the full settlement of the tax certiorari herein; there are no costs or disbursements awarded to, by or against any party, and upon compliance with the terms of this Order, Stipulation and Judgment, the proceedings herein shall be, and the same hereby are, settled and discontinued with prejudice.

_____
HON. Emilio Colaiacovo, J.S.C.

DATED:

The parties consent to be bound by the terms of this Court Order by subscribing hereunto their names and legal authority:

FOR PETITIONER

By: _____
Marcus R. Catlin Esq.

Date: _____

FOR PETITIONER

By: _____
Kiran Patel
As Agent

Date: _____

FOR RESPONDENT
Town of Amherst

By: _____
Samuel A. Alba, Esq.
Attorney for Respondent

Date: _____

FOR INTERVENOR
Sweet Home CSD

By:_____
John Kennedy Rottaris, Esq.
Intervenor

Date: _____

Attachment: 4400 Maple Consent Order unsigned (RES-2022-133 : Article 7 Settlement - 4400 Maple Road)

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

Francina J. Spoth
Town Clerk

Meeting: 02/07/22 07:00 PM
Department: Town Attorney
Initiated by: **Samuel A Alba**
Co-Sponsored by:

DOC ID: 25334 **RESOLUTION 2022-134** **ADOPTED**

Article 7 Settlement - Getzville Plaza

AGENDA ITEM : FEBRUARY 7TH, 2022

TO: **Town Board**

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

DATE: **February 1, 2022**

RE: **Settlement of Article 7 Matter**
Getzville Plaza 2006 LLC

Kindly adopt a resolution authorizing the following:

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

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

Thank you.

SAA:nmb
Attachment
c: Tim Koller, Deputy Town Clerk
(*w/attachment,* **Agenda Item : February 7, 2022**)
Emily Murphy, Town Assessor

2/7/2022
Consent

FINANCIAL IMPACT:

Assessment

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

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

IN THE MATTER OF THE APPLICATION UNDER
ARTICLE 7 OF THE REAL PROPERTY TAX LAW
BY

GETZVILLE PLAZA 2006 LLC,

Petitioner,

v.

CONSENT ORDER

Index No.:
809578/2021
807294/2020

TOWN OF AMHERST,

Respondent.

FOR REVIEW OF THE TAX ASSESSMENT OF CERTAIN
REAL PROPERTY IN THE SAID TOWN OF AMHERST

The above-entitled special proceedings involving real property tax certiorari for the premises owned by Petitioner in the Town of Amherst, New York, known as:

Address	Section/Block/Lot
2305-2361 Millersport Highway	41.15-5-1

having progressed for trial, and negotiations for settlement having been conducted, and said settlement having been approved and recommended by the Attorney for the Town of Amherst, and the Attorney for Petitioner, and it further appearing that the assessment of premises in the Town of Amherst provides the basis for the imposition of ad valorem taxes assessed by the Town of Amherst, the Williamsville CSD, and the County of Erie, it is hereby

Attachment: getzville plaza order Partially Executed (RES-2022-134 : Article 7 Settlement - Getzville Plaza 2006 LLC)

ORDERED, STIPULATED, AND ADJUDGED that the property tax certiorari for the tax year and 2020-2021 for the premises previously listed be discontinued and withdrawn without costs and allowances to either party as against the other, and it is further

ORDERED, STIPULATED, AND ADJUDGED that the real property tax assessment for the tax years, 2021-2022, 2022-2023, 2023-2024 and 2024-2025 for the premises be set as follows:

Address	Section/Block/Lot	Assessed Value
2305-2361 Millersport Highway	41.15-5-1	$2,100,000

, and it is further

ORDERED, STIPULATED, AND ADJUDGED that the provisions of Section 727 of the Real Property Tax Law shall apply to the aforementioned tax years, without regard to revaluation or update, and it is further

ORDERED, STIPULATED, AND ADJUDGED that said Petitioner in any instrument or agreement transferring any part or all of the subject property or any interest therein shall covenant with any grantee, transferee, and mortgagee and their respective distributees, successors and/or assigns that they shall be bound by the terms of this Consent Order and that such covenant shall be deemed to run with the land for the tax periods embraced by the terms thereof, and it is further

ORDERED, STIPULATED, AND ADJUDGED that in the event that the assessment is increased for any stated year at a level higher than provided herein when there has been no assessable addition or improvement to the property, Petitioner retains the right to reinstate and

Attachment: getzville plaza order Partially Executed (RES-2022-134 : Article 7 Settlement - Getzville Plaza 2006 LLC)

reinstitute its Article 7 proceedings herein settled with respect to that parcel only , and it is further

ORDERED, STIPULATED, AND ADJUDGED that the fiscal officers of Erie County, the Town of Amherst, Williamsville CSD, and any other taxing unit affected by the above assessment reductions shall apply such adjusted assessment and determine any overpayment of taxes, and in the event of overpayment, refund the overpayment with statutory interest within 45 days by official check payable to the order of Wolfgang & Weinmann, as attorneys and agents for Petitioner, accompanied by a calculation sheet, such attorneys to hold the proceeds as trust funds for appropriate distribution, and are to remain subject to the further jurisdiction of this Court relative to their attorney's lien pursuant to Judiciary Law Section 475, or in the event that any such tax payment has not been paid, issue corrected tax bills which reflect the proper reduced assessment for the property, with a copy of corrected tax bills sent to the attorneys for Petitioner, said corrected tax bills to be paid without interest or penalty if paid within 90 days of receipt of said corrected bills, with the exception that Petitioner waives any refund for the 2021 tax year from Williamsville CSD and it is further

ORDERED, STIPULATED, AND ADJUDGED that this Court shall retain jurisdiction over this proceeding pending the expiration of the periods herein recited, and that all applications to enforce any or all of the terms of this Consent Order shall be brought by motion before this Court, and it is further

ORDERED, STIPULATED, AND ADJUDGED that Petitioner shall have the right to seek specific enforcement of this Order, Stipulation and Judgment by all means provided by law, and it is further

Attachment: getzville plaza order Partially Executed (RES-2022-134 : Article 7 Settlement - Getzville Plaza 2006 LLC)

ORDERED, STIPULATED, AND ADJUDGED that this Order, Stipulation and Judgment hereby constitutes and represents the entire understanding and agreement amongst the

Attachment: getzville plaza order Partially Executed (RES-2022-134 : Article 7 Settlement - Getzville Plaza 2006 LLC)

parties, and the full settlement of the tax certiorari herein; there are no costs or disbursements awarded to, by or against any party, and upon compliance with the terms of this Order, Stipulation and Judgment, the proceedings herein shall be, and the same hereby are, settled and discontinued with prejudice.

_____
HON. Emilio Colaiacovo, J.S.C.

DATED:

The parties consent to be bound by the terms of this Court Order by subscribing hereunto their names and legal authority:

FOR PETITIONER

By: _____
Marcus R. Catlin. Esq.

Date: _____

FOR PETITIONER

By: _____
Jonathan Bevilacqua
As Agent

Date: _____

FOR RESPONDENT
Town of Amherst

By: _____
Samuel A. Alba, Esq.
Attorney for Respondent

Date: _____

FOR INTERVENOR
Williamsville CSD

By: _____
Michael Brian Risman, Esq.
Intervenor

Date: 1/13/2022

Attachment: getzville plaza order Partially Executed (RES-2022-134 : Article 7 Settlement - Getzville Plaza 2006 LLC)

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

Francina J. Spoth
Town Clerk

Meeting: 02/07/22 07:00 PM
Department: Town Attorney
Initiated by: **Samuel A Alba**
Co-Sponsored by:

DOC ID: 25335 **RESOLUTION 2022-135** **ADOPTED**

Article 7 Settlment - David J. Luzon (103 Shadow Wood)

AGENDA ITEM : FEBRUARY 7TH, 2022

TO: **Town Board**

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

DATE: **February 1, 2022**

RE: **Settlement of Article 7 Matter**
David J. Luzon - 103 Shadow Wood Drive

Kindly adopt a resolution authorizing the following:

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

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

Thank you.

SAA:nmb
Attachment
c: Tim Koller, Deputy Town Clerk
(*w/attachment,* **Agenda Item : February 7, 2022**)
Emily Murphy, Town Assessor

2/7/2022
Consent

FINANCIAL IMPACT:

Assessment

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

At a Special Term of the Supreme Court, Erie County, held at 25 Delaware Avenue, Buffalo, New York, on the ____ day of _____, 2021.

PRESENT: HON. EMILIO COLAIACOVO, J.S.C.
Presiding

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

IN THE MATTER OF THE APPLICATION UNDER ARTICLE 7 OF THE REAL PROPERTY TAX LAW

BY

DAVID J. LUZON

Petitioner,

v.

TOWN OF AMHERST

Respondent,

AND

WILLIAMSVILLE CENTRAL SCHOOL DISTRICT

Intervenor.

CONSENT ORDER

Index No.: 809235/2019
806933/2020
809646/2021

FOR REVIEW OF THE 2019-2020, 2020-2021 & 2021-2022 TAX ASSESSMENT OF CERTAIN REAL PROPERTY IN THE SAID TOWN OF AMHERST, NEW YORK

The above-entitled special proceedings involving real property tax certiorari for the premises owned by Petitioner in the Town of Amherst, New York, known as 103 Shadow Wood Drive in Amherst, New York, S.B.L. #42.15-3-34 for the tax years 2019-2020, 2020-2021 and 2021-2022 having progressed for trial, and negotiations for settlement having been conducted, and said settlement having been approved and recommended by the Attorney for the Town of Amherst, the Attorney for the Williamsville Central School

Attachment: Luzon Consent Order partially signed (RES-2022-135 : Article 7 Settlment - David J. Luzon (103 Shadow Wood))

District, and the Attorney for Petitioner, and it further appearing that the assessment of premises in the Town of Amherst provides the basis for the imposition of ad valorem taxes assessed by the Town of Amherst, the Williamsville Central School District, and the County of Erie it is hereby

ORDERED, STIPULATED, AND ADJUDGED that the property tax certiorari for the tax year 2019-2020, 2020-2021 and 2021-2022 for the premises at 103 Shadow Wood Drive be discontinued and withdrawn without costs and allowances to either party as against the other, and it is further

ORDERED, STIPULATED, AND ADJUDGED that the real property tax assessment for the tax year 2022-2023 for the premises at 103 Shadow Wood Drive be set at $266,000 full market value, equalized to assessed value by multiplying that value by the applicable equalization rate for the 2022-2023 tax year, and it is further

ORDERED, STIPULATED, AND ADJUDGED that the real property tax assessment for the tax years 2023-2024 and 2024-2025 for the premises at 103 Shadow Wood Drive be set at $415,000 fair market value, equalized to assessed value by multiplying that value by the applicable equalization rate for the 2023-2024 tax year, and it is further

ORDERED, STIPULATED, AND ADJUDGED that the provisions of Section 727 of the Real Property Tax Law shall apply to the aforementioned tax years. In the event of a revaluation or update within the period governed by Real Property Tax Law §727, the Assessor

Attachment: Luzon Consent Order partially signed (RES-2022-135 : Article 7 Settlment - David J. Luzon (103 Shadow Wood))

shall be permitted to adjust the assessment, but any such adjusted assessment shall not exceed the equalized full market value on the prior year's final assessment roll, and it is further

ORDERED, STIPULATED, AND ADJUDGED that said Petitioner in any instrument or agreement transferring any part or all of the subject property or any interest therein shall covenant with any grantee, transferee, and mortgagee and their respective distributees, successors and/or assigns that they shall be bound by the terms of this Consent Order and that such covenant shall be deemed to run with the land for the tax periods embraced by the terms thereof, and it is further

ORDERED, STIPULATED, AND ADJUDGED that in the event that the assessment is increased for any stated year at a level higher than provided herein when there has been no assessable addition or improvement to the property, Petitioner retains the right to reinstate and reinstitute its Article 7 proceedings herein settled with respect to that parcel only, and Respondents waive any objection based upon statute of limitations grounds, and it is further

ORDERED, STIPULATED, AND ADJUDGED that the fiscal officers of the Town of Amherst, the Williamsville Central School District, the County of Erie, and any other taxing unit affected by the above assessment reductions shall apply such adjusted assessment and determine any overpayment of taxes, and in the event of overpayment, refund the overpayment without statutory interest within 45 days by official check payable to the order of Wolfgang & Weinmann,

Attachment: Luzon Consent Order partially signed (RES-2022-135 : Article 7 Settlment - David J. Luzon (103 Shadow Wood))

as attorneys and agents for Petitioner, accompanied by a calculation sheet, such attorneys to hold the proceeds as trust funds for appropriate distribution, and are to remain subject to the further jurisdiction of this Court relative to their attorney's lien pursuant to Judiciary Law Section 475, or in the event that any such tax payment has not been paid, issue corrected tax bills which reflect the proper reduced assessment for the property, with a copy of corrected tax bills sent to the attorneys for Petitioner, said corrected tax bills to be paid without interest or penalty if paid within 45 days of receipt of said corrected bills, and it is further

ORDERED, STIPULATED, AND ADJUDGED that this Court shall retain jurisdiction over this proceeding pending the expiration of the periods herein recited, and that all applications to enforce any or all of the terms of this Consent Order shall be brought by motion before this Court, and it is further

ORDERED, STIPULATED, AND ADJUDGED that Petitioner shall have the right to seek specific enforcement of this Order, Stipulation and Judgment by all means provided by law, and it is further

ORDERED, STIPULATED, AND ADJUDGED that this Order, Stipulation and Judgment hereby constitutes and represents the entire understanding and agreement amongst the

Attachment: Luzon Consent Order partially signed (RES-2022-135 : Article 7 Settlment - David J. Luzon (103 Shadow Wood))

parties, and the full settlement of the tax certiorari herein; there are no costs or disbursements awarded to, by or against any party, and upon compliance with the terms of this Order, Stipulation and Judgment, the proceedings herein shall be, and the same hereby are, settled and discontinued with prejudice.

_____
HON. EMILIO COLAIACOVO, J.S.C.

DATED:

The parties consent to be bound by the terms of this Court Order by subscribing hereunto their names and legal authority:

FOR PETITIONER
DAVID J. LUZON

By: _____
TREVOR P. DUFFY, ESQ.
Attorney for Petitioner

Date: _____

FOR RESPONDENT
TOWN OF AMHERST

By: _____
SAMUEL A. ALBA, ESQ.
Attorney for Respondent

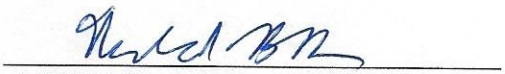
Date: _____

FOR PETITIONER
DAVID J. LUZON

By: _____
DAVID J. LUZON
Petitioner

Date: _____

FOR INTERVENOR WILLIAMSVILLE
CENTRAL SCHOOL DISTRICT

By: 
MICHAEL B. RISMAN, ESQ.
Attorney for Intervenor

Date: 11/26/22

Attachment: Luzon Consent Order partially signed (RES-2022-135 : Article 7 Settlment - David J. Luzon (103 Shadow Wood))

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

Francina J. Spoth
Town Clerk

Meeting: 02/07/22 07:00 PM
Department: Town Attorney
Initiated by: **Samuel A Alba**
Co-Sponsored by:

DOC ID: 25336 **RESOLUTION 2022-136** **ADOPTED**

Article 7 Settlement - Spindrift Property Associates, II and III, LLC

AGENDA ITEM : FEBRUARY 7TH, 2022

TO: **Town Board**

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

DATE: **February 1, 2022**

RE: **Settlement of Article 7 Matter**
Spindrift Property Associates II, LLC
Spindrift Property Associates III, LLC

Kindly adopt a resolution authorizing the following:

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

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

Thank you.

SAA:nmb
Attachment
c: Tim Koller, Deputy Town Clerk
(*w/attachment,* **Agenda Item : February 7, 2022**)
Emily Murphy, Town Assessor

2/7/2022
Consent

FINANCIAL IMPACT:

Assessment

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

At a Special Term of the Supreme Court, Erie County, held at 25 Delaware Avenue, Buffalo, New York, on the ____ day of _____, 2022.

PRESENT: HON. SHEILA A. DITULLIO, A.J.S.C.
Presiding

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

IN THE MATTER OF THE APPLICATION UNDER ARTICLE 7 OF THE REAL PROPERTY TAX LAW

BY

SPINDRIFT PROPERTY ASSOCIATES II, LLC and SPINDRIFT PROPERTY ASSOCIATES III, LLC

Petitioner,

v.

CONSENT ORDER

TOWN OF AMHERST

Index No.: 806922/2020
809623/2021

Respondent,

AND

WILLIAMSVILLE CENTRAL SCHOOL DISTRICT

AND

COUNTY OF ERIE

Intervenor.

FOR REVIEW OF THE 2020-2021 & 2021-2022 TAX ASSESSMENT OF CERTAIN REAL PROPERTY IN THE SAID TOWN OF AMHERST, NEW YORK

The above-entitled special proceedings involving real property tax certiorari for the premises owned by Petitioner in the Town of Amherst, New York, known as:

295-297 Spindrift Drive	SBL #81.02-1-18.12
289 Spindrift Drive	SBL #81.02-1-22
289 Spindrift Drive	SBL #81.02-1-21 in Amherst, New York,

Attachment: Spindrift - Consent Order - Partially Signed (RES-2022-136 : Article 7 Settlement - Spindrift Property Associates, II and III, LLC)

Attachment: Spindrift - Consent Order - Partially Signed (RES-2022-136 : Article 7 Settlement - Spindrift Property Associates, II and III, LLC)

for the tax years 2020-2021 and 2021-2022 having progressed for trial, and negotiations for settlement having been conducted, and said settlement having been approved and recommended by the Attorney for the Town of Amherst, the Attorney for the Williamsville Central School District, the Attorney for the County of Erie, and the Attorney for Petitioner, and it further appearing that the assessment of premises in the Town of Amherst provides the basis for the imposition of ad valorem taxes assessed by the Town of Amherst, the Williamsville Central School District, and the County of Erie it is hereby

ORDERED, STIPULATED, AND ADJUDGED that the property tax certiorari for the tax years 2020-2021 and 2021-2022 for the aforementioned premises be discontinued and withdrawn without costs and allowances to either party as against the other, and it is further

ORDERED, STIPULATED, AND ADJUDGED that the real property tax assessment for the tax years 2022-2023, 2023-2024, 2024-2025 for the premises be set as follows:

295-297 Spindrift Drive	SBL #81.02-1-18.12	$2,200,000 fair market value
289 Spindrift Drive	SBL #81.02-1-22	$ 175,000 fair market value
289 Spindrift Drive	SBL #81.02-1-21	$ 100,000 fair market value

equalized to assessed values by multiplying those values by the applicable equalization rate for the 2022-2023 tax year, and it is further and it is further

ORDERED, STIPULATED, AND ADJUDGED that the provisions of Section 727 of the Real Property Tax Law shall apply to the aforementioned tax years. In the event of a

revaluation or update within the period governed by Real Property Tax Law §727, the Assessor shall be permitted to adjust the assessment, but any such adjusted assessment shall not exceed the equalized full market value on the prior year's final assessment roll, and it is further

ORDERED, STIPULATED, AND ADJUDGED that said Petitioner in any instrument or agreement transferring any part or all of the subject property or any interest therein shall covenant with any grantee, transferee, and mortgagee and their respective distributees, successors and/or assigns that they shall be bound by the terms of this Consent Order and that such covenant shall be deemed to run with the land for the tax periods embraced by the terms thereof, and it is further

ORDERED, STIPULATED, AND ADJUDGED that in the event that the assessment is increased for any stated year at a level higher than provided herein when there has been no assessable addition or improvement to the property, Petitioner retains the right to reinstate and reinstitute its Article 7 proceedings herein settled with respect to that parcel only, and Respondents waive any objection based upon statute of limitations grounds, and it is further

ORDERED, STIPULATED, AND ADJUDGED that the fiscal officers of the Town of Amherst, the Williamsville Central School District, the County of Erie, and any other taxing unit affected by the above assessment reductions shall apply such adjusted assessment and determine any overpayment of taxes, and in the event of overpayment, refund the overpayment with

Attachment: Spindrift - Consent Order - Partially Signed (RES-2022-136 : Article 7 Settlement - Spindrift Property Associates, II and III, LLC)

statutory interest within 45 days by official check payable to the order of Wolfgang & Weinmann, as attorneys and agents for Petitioner, accompanied by a calculation sheet, such attorneys to hold the proceeds as trust funds for appropriate distribution, and are to remain subject to the further jurisdiction of this Court relative to their attorney's lien pursuant to Judiciary Law Section 475, or in the event that any such tax payment has not been paid, issue corrected tax bills which reflect the proper reduced assessment for the property, with a copy of corrected tax bills sent to the attorneys for Petitioner, said corrected tax bills to be paid without interest or penalty if paid within 45 days of receipt of said corrected bills, and it is further

ORDERED, STIPULATED, AND ADJUDGED that this Court shall retain jurisdiction over this proceeding pending the expiration of the periods herein recited, and that all applications to enforce any or all of the terms of this Consent Order shall be brought by motion before this Court, and it is further

ORDERED, STIPULATED, AND ADJUDGED that Petitioner shall have the right to seek specific enforcement of this Order, Stipulation and Judgment by all means provided by law, and it is further

ORDERED, STIPULATED, AND ADJUDGED that this Order, Stipulation and Judgment hereby constitutes and represents the entire understanding and agreement amongst the parties, and the full settlement of the tax certiorari herein; there are no costs or disbursements awarded to, by or against any party, and upon compliance with the terms of this Order,

Attachment: Spindrift - Consent Order - Partially Signed (RES-2022-136 : Article 7 Settlement - Spindrift Property Associates, II and III, LLC)

Stipulation and Judgment, the proceedings herein shall be, and the same hereby are, settled and discontinued with prejudice.

HON. SHEILA A. DITULLIO, A.J.S.C.

DATED:

The parties consent to be bound by the terms of this Court Order by subscribing hereunto their names and legal authority:

FOR PETITIONER
SPINDRIFT PROPERTY ASSOCIATES II, LLC and
SPINDRIFT PROPERTY ASSOCIATES III, LLC

By: _____
TREVOR P. DUFFY, ESQ.
Attorney for Petitioner

Date: _____

FOR RESPONDENT
TOWN OF AMHERST

By: _____
SAMUEL A. ALBA, ESQ.
Attorney for Respondent

Date: _____

FOR PETITIONER
SPINDRIFT PROPERTY ASSOCIATES II, LLC and
SPINDRIFT PROPERTY ASSOCIATES III, LLC

By: _____
MICHAEL NAZARETH
As Agent

Date: _____

FOR INTERVENOR WILLIAMSVILLE
CENTRAL SCHOOL DISTRICT

By: _____
MICHAEL B. RISMAN, ESQ.
Attorney for Intervenor

Date: 1/21/22

FOR INTERVENOR
COUNTY OF ERIE

By: _____
MARY K. SMITH, ESQ.
Attorney for Intervenor

Date: _____

Attachment: Spindrift - Consent Order - Partially Signed (RES-2022-136 : Article 7 Settlement - Spindrift Property Associates, II and III, LLC)

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

Francina J. Spoth
Town Clerk

Meeting: 02/07/22 07:00 PM
Department: Town Attorney
Initiated by: **Samuel A Alba**
Co-Sponsored by:

DOC ID: 25337 **RESOLUTION 2022-137** **ADOPTED**

Article 7 Settlement - Windsor Park Retail

AGENDA ITEM : FEBRUARY 7TH, 2022

TO: **Town Board**

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

DATE: **January 29, 2022**

RE: **Settlement of Article 7 Matter**
Windsor Park Retail Center a/k/a WP Properties LLC a/k/a WRSB Development Co. LLC a/k/a WRSB Dev Co LLC

Kindly adopt a resolution authorizing the following:

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

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

Thank you.

SAA:nmb
Attachment
c: Tim Koller, Deputy Town Clerk
(*w/attachment,* **Agenda Item : February 7, 2022**)
Emily Murphy, Town Assessor

2/7/2022
A motion to approve was made by Supervisor Kulpa, seconded by Councilmember Bucki and unanimously approved 5-0.

FINANCIAL IMPACT:

Assessment

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

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

IN THE MATTER OF THE APPLICATION UNDER ARTICLE 7 OF THE REAL PROPERTY TAX LAW
BY

WINDSOR PARK RETAIL CENTER A/K/A WP PROPERTIES LLC A/K/A WRSB DEVELOPMENT CO. LLC A/K/A WRSB DEV CO LLC,

Petitioner,

v.

CONSENT ORDER

Index No.:
809643/2021
806930/2020
809081/2019
811378/2018

TOWN OF AMHERST,

Respondent.

FOR REVIEW OF THE TAX ASSESSMENT OF CERTAIN REAL PROPERTY IN THE SAID TOWN OF AMHERST

The above-entitled special proceedings involving real property tax certiorari for the premises owned by Petitioner in the City of Buffalo, New York, known as:

Address	Section/Block/Lot
8420 Transit Road	57.09-8-1.121
8430 Transit Road	57.09-8-1.11/A
8444 Transit Road	57.09-8-1.131
8440 Transit Road	57.09-8-1.11
8460 Transit Road	57.09-8-1.14

having progressed for trial, and negotiations for settlement having been conducted, and said settlement having been approved and recommended by the Attorney for the Town of Amherst, and the Attorney for Petitioner, and it further appearing that the assessment of premises in the Town of Amherst provides the basis for the imposition of ad valorem taxes assessed by the Town of Amherst, the Williamsville CSD, and the County of Erie, it is hereby

Attachment: Windsor Park Consent Order - Partially Executed (RES-2022-137 : Article 7 Settlement - Windsor Park Retail)

ORDERED, STIPULATED, AND ADJUDGED that the property tax certiorari for the tax year and 2018-2019, 2019-2020, 2020-2021, 2021-2022 for the premises at previously listed be discontinued and withdrawn without costs and allowances to either party as against the other, and it is further

ORDERED, STIPULATED, AND ADJUDGED that the real property tax assessment for the tax years 2022-2023 for the premises be set as follows to be equalized at the 2022 equalization rate:

Address	Section/Block/Lot	Full Market Value
8420 Transit Road	57.09-8-1.121	$107,000
8430 Transit Road	57.09-8-1.11/A	$1,159,000
8444 Transit Road	57.09-8-1.131	$1,057,000
8440 Transit Road	57.09-8-1.11	$582,000
8460 Transit Road	57.09-8-1.14	$68,000

, and it is further

ORDERED, STIPULATED, AND ADJUDGED that the real property tax assessment for the tax years 2023-2024 and 2024-2025 for the premises be set as follows to be equalized at the 2023 equalization rate:

Address	Section/Block/Lot	Full Market Value
8420 Transit Road	57.09-8-1.121	$725,000
8430 Transit Road	57.09-8-1.11/A	$1,159,000
8444 Transit Road	57.09-8-1.131	$1,057,000
8440 Transit Road	57.09-8-1.11	$800,000
8460 Transit Road	57.09-8-1.14	$68,000

, and it is further

Attachment: Windsor Park Consent Order - Partially Executed (RES-2022-137 : Article 7 Settlement - Windsor Park Retail)

ORDERED, STIPULATED, AND ADJUDGED that if during this agreement 8420 Transit Road becomes occupied then the assessor shall have the right to adjust that parcel's assessment to account for this change in occupancy, and it is further

ORDERED, STIPULATED, AND ADJUDGED that the provisions of Section 727 of the Real Property Tax Law shall apply to the aforementioned tax years without regard to revaluation or update, and it is further

ORDERED, STIPULATED, AND ADJUDGED that said Petitioner in any instrument or agreement transferring any part or all of the subject property or any interest therein shall covenant with any grantee, transferee, and mortgagee and their respective distributees, successors and/or assigns that they shall be bound by the terms of this Consent Order and that such covenant shall be deemed to run with the land for the tax periods embraced by the terms thereof, and it is further

ORDERED, STIPULATED, AND ADJUDGED that in the event that the assessment is increased for any stated year at a level higher than provided herein when there has been no assessable addition or improvement to the property, Petitioner retains the right to reinstate and reinstitute its Article 7 proceedings herein settled with respect to that parcel only , and it is further

ORDERED, STIPULATED, AND ADJUDGED that the fiscal officers of Erie County, the Town of Amherst, Williamsville CSD, and any other taxing unit affected by the above assessment reductions shall apply such adjusted assessment and determine any overpayment of taxes, and in the event of overpayment, refund the overpayment with statutory interest within 45

Attachment: Windsor Park Consent Order - Partially Executed (RES-2022-137 : Article 7 Settlement - Windsor Park Retail)

days by official check payable to the order of Wolfgang & Weinmann, as attorneys and agents for Petitioner, accompanied by a calculation sheet, such attorneys to hold the proceeds as trust funds for appropriate distribution, and are to remain subject to the further jurisdiction of this Court relative to their attorney's lien pursuant to Judiciary Law Section 475, or in the event that any such tax payment has not been paid, issue corrected tax bills which reflect the proper reduced assessment for the property, with a copy of corrected tax bills sent to the attorneys for Petitioner, said corrected tax bills to be paid without interest or penalty if paid within 90 days of receipt of said corrected bills, and it is further

ORDERED, STIPULATED, AND ADJUDGED that this Court shall retain jurisdiction over this proceeding pending the expiration of the periods herein recited, and that all applications to enforce any or all of the terms of this Consent Order shall be brought by motion before this Court, and it is further

ORDERED, STIPULATED, AND ADJUDGED that Petitioner shall have the right to seek specific enforcement of this Order, Stipulation and Judgment by all means provided by law, and it is further

ORDERED, STIPULATED, AND ADJUDGED that this Order, Stipulation and Judgment hereby constitutes and represents the entire understanding and agreement amongst the

Attachment: Windsor Park Consent Order - Partially Executed (RES-2022-137 : Article 7 Settlement - Windsor Park Retail)

parties, and the full settlement of the tax certiorari herein; there are no costs or disbursements awarded to, by or against any party, and upon compliance with the terms of this Order, Stipulation and Judgment, the proceedings herein shall be, and the same hereby are, settled and discontinued with prejudice.

_____
HON. Henry J. Nowak, J.S.C.

DATED:

The parties consent to be bound by the terms of this Court Order by subscribing hereunto their names and legal authority:

FOR PETITIONER

By: _____
Marcus R. Catlin. Esq.

Date: _____

FOR RESPONDENT
Town of Amherst

By: _____
Samuel A. Alba, Esq.
Attorney for Respondent

Date: _____

FOR PETITIONER

By: _____
Gary Blum
As Agent

Date: _____

FOR INTERVENOR
Williamsville CSD

By: _____
Michael Brian Risman, Esq.
Intervenor

Date: 12/29/21

FOR INTERVENOR
Erie County

By: _____
James Demarco Esq.
Intervenor

Date: 1/11/22

Attachment: Windsor Park Consent Order - Partially Executed (RES-2022-137 : Article 7 Settlement - Windsor Park Retail)

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

Francina J. Spoth
Town Clerk

Meeting: 02/07/22 07:00 PM
Department: Town Attorney
Initiated by: **Samuel A Alba**
Co-Sponsored by:

DOC ID: 25345 **RESOLUTION 2022-138** **ADOPTED**

Article 7 Settlement - Fasanello (30 Brownstone Court)

AGENDA ITEM : FEBRUARY 7TH, 2022

TO: **Town Board**

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

DATE: **February 1, 2022**

RE: **Settlement of Article 7 Matter**
Joseph F. Fasanello - 30 Brownstone Court

Kindly adopt a resolution authorizing the following:

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

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

Thank you.

SAA:nmb
Attachment
c: Tim Koller, Deputy Town Clerk
(*w/attachment,* **Agenda Item : February 7, 2022**)
Emily Murphy, Town Assessor

2/7/2022
Consent

FINANCIAL IMPACT:

Assessment

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

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

IN THE MATTER OF THE APPLICATION UNDER
ARTICLE 7 OF THE REAL PROPERTY TAX LAW
BY

JOSEPH F. FASANELLO,

Petitioner,

v.

CONSENT ORDER

Index No.:
809621/2021
806904/2020
809076/2019
811180/2018

TOWN OF AMHERST,

Respondent.

FOR REVIEW OF THE TAX ASSESSMENT OF CERTAIN
REAL PROPERTY IN THE SAID TOWN OF AMHERST

The above-entitled special proceedings involving real property tax certiorari for the premises owned by Petitioner in the Town of Amherst, New York, known as:

Address	Section/Block/Lot
30 Brownstone Court	42.16-3-3

having progressed for trial, and negotiations for settlement having been conducted, and said settlement having been approved and recommended by the Attorney for the Town of Amherst, and the Attorney for Petitioner, and it further appearing that the assessment of premises in the Town of Amherst provides the basis for the imposition of ad valorem taxes assessed by the Town of Amherst, the Williamsville CSD, and the County of Erie, it is hereby

Attachment: CONSENT ORDER - UNSIGNED - FASANELLO (RES-2022-138 : Article 7 Settlement - Fasanello (30 Brownstone Court))

ORDERED, STIPULATED, AND ADJUDGED that the property tax certiorari for the tax year and 2018-2019, 2019-20202, 2020-2021, 2021-2022 for the premises previously listed be discontinued and withdrawn without costs and allowances to either party as against the other, and it is further

ORDERED, STIPULATED, AND ADJUDGED that the real property tax assessment for the tax years, 2022-2023, 2023-2024 and 2024-2025 for the premises be set as follows:

Address	Section/Block/Lot	Full Market Value(2022 equalization)
30 Brownstone Court	42.16-3-3	$1,380,000

, and it is further

ORDERED, STIPULATED, AND ADJUDGED that the provisions of Section 727 of the Real Property Tax Law shall apply to the aforementioned tax years, without regard to revaluation or update, and it is further

ORDERED, STIPULATED, AND ADJUDGED that said Petitioner in any instrument or agreement transferring any part or all of the subject property or any interest therein shall covenant with any grantee, transferee, and mortgagee and their respective distributees, successors and/or assigns that they shall be bound by the terms of this Consent Order and that such covenant shall be deemed to run with the land for the tax periods embraced by the terms thereof, and it is further

ORDERED, STIPULATED, AND ADJUDGED that in the event that the assessment is increased for any stated year at a level higher than provided herein when there has been no assessable addition or improvement to the property, Petitioner retains the right to reinstate and

Attachment: CONSENT ORDER - UNSIGNED - FASANELLO (RES-2022-138 : Article 7 Settlement - Fasanello (30 Brownstone Court))

reinstitute its Article 7 proceedings herein settled with respect to that parcel only , and it is further

ORDERED, STIPULATED, AND ADJUDGED that the fiscal officers of Erie County, the Town of Amherst, Williamsville CSD, and any other taxing unit affected by the above assessment reductions shall apply such adjusted assessment and determine any overpayment of taxes, and in the event of overpayment, refund the overpayment with statutory interest within 45 days by official check payable to the order of Wolfgang & Weinmann, as attorneys and agents for Petitioner, accompanied by a calculation sheet, such attorneys to hold the proceeds as trust funds for appropriate distribution, and are to remain subject to the further jurisdiction of this Court relative to their attorney's lien pursuant to Judiciary Law Section 475, or in the event that any such tax payment has not been paid, issue corrected tax bills which reflect the proper reduced assessment for the property, with a copy of corrected tax bills sent to the attorneys for Petitioner, said corrected tax bills to be paid without interest or penalty if paid within 90 days of receipt of said corrected bills, and it is further

ORDERED, STIPULATED, AND ADJUDGED that this Court shall retain jurisdiction over this proceeding pending the expiration of the periods herein recited, and that all applications to enforce any or all of the terms of this Consent Order shall be brought by motion before this Court, and it is further

ORDERED, STIPULATED, AND ADJUDGED that Petitioner shall have the right to seek specific enforcement of this Order, Stipulation and Judgment by all means provided by law, and it is further

Attachment: CONSENT ORDER - UNSIGNED - FASANELLO (RES-2022-138 : Article 7 Settlement - Fasanello (30 Brownstone Court))

ORDERED, STIPULATED, AND ADJUDGED that this Order, Stipulation and Judgment hereby constitutes and represents the entire understanding and agreement amongst the

Attachment: CONSENT ORDER - UNSIGNED - FASANELLO (RES-2022-138 : Article 7 Settlement - Fasanello (30 Brownstone Court))

parties, and the full settlement of the tax certiorari herein; there are no costs or disbursements awarded to, by or against any party, and upon compliance with the terms of this Order, Stipulation and Judgment, the proceedings herein shall be, and the same hereby are, settled and discontinued with prejudice.

_____
HON. Sheila A. DiTullio, J.S.C.

DATED:

The parties consent to be bound by the terms of this Court Order by subscribing hereunto their names and legal authority:

FOR PETITIONER

By: _____
Marcus R. Catlin. Esq.

Date: _____

FOR PETITIONER

By: _____
Dr. Joseph F. Fasanello
As Agent

Date: _____

FOR RESPONDENT
Town of Amherst

By: _____
Samuel A. Alba, Esq.
Attorney for Respondent

Date: _____

FOR INTERVENOR
Williamsville CSD

By:_____
Michael Brian Risman, Esq.
Intervenor

Date: _____

FOR INTERVENOR

By:_____
Assessor

Date: _____

Attachment: CONSENT ORDER - UNSIGNED - FASANELLO (RES-2022-138 : Article 7 Settlement - Fasanello (30 Brownstone Court))

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

Francina J. Spoth
Town Clerk

Meeting: 02/07/22 07:00 PM
Department: Town Attorney
Initiated by: **Samuel A Alba**
Co-Sponsored by:

DOC ID: 25346 **RESOLUTION 2022-139** **ADOPTED**

Article 7 Settlement -

AGENDA ITEM : FEBRUARY 7TH, 2022

TO: **Town Board**

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

DATE: **February 1, 2022**

RE: **Settlement of Article 7 Matter**
Interwest Holdings I LLC

Kindly adopt a resolution authorizing the following:

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

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

Thank you.

SAA:nmb
Attachment
c: Tim Koller, Deputy Town Clerk
(*w/attachment,* **Agenda Item : February 7, 2022**)
Emily Murphy, Town Assessor

2/7/2022
Consent

FINANCIAL IMPACT:

Assessment

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

STATE OF NEW YORK
SUPREME COURT: COUNTY OF ERIE

IN THE MATTER OF THE APPLICATION UNDER ARTICLE 7 OF THE REAL PROPERTY TAX LAW

BY

INTERWEST HOLDINGS I LLC,

Petitioner,

vs.

STIPULATION & AGREEMENT

EMILY MURPHY, ASSESSOR OF THE TOWN OF AMHERST

Index Nos.: 807681/2020
809313/2021

AND

THE BOARD OF ASSESSMENT REVIEW OF THE TOWN OF AMHERST, COUNTY OF ERIE AND STATE OF NEW YORK,

Respondents,

AND

SWEET HOME CENTRAL SCHOOL DISTRICT,

Intervenor-Respondent.

FOR REVIEW OF THE 2021-2022 TAX ASSESSMENT OF CERTAIN REAL PROPERTY IN THE SAID TOWN OF AMHERST, NEW YORK

The above entitled proceedings involving tax assessment review for the premises known as 500 Corporate Parkway, Amherst, New York, bearing S.B.L. No. 54.04-2-40.2, for the assessment year 2021-2022 having progressed for trial, and negotiations for settlement having been conducted and said settlement having been approved and recommended by the Town Attorney for the Town of Amherst, the Attorney for the Petitioner, and the Attorney for the Sweet Home Central School District, and it further appearing that the assessment of premises in

Attachment: Interwest - Consent Order - Unsigned (RES-2022-139 : Article 7 Settlement - Interwest Holdings I)

the Town of Amherst provides the basis for imposition of taxes assessed by the County of Erie, Town of Amherst, it is hereby

FIRST: **STIPULATED AND AGREED**, that the above-entitled proceedings for the tax assessment review for the tax year 2021-2022 be and hereby are withdrawn and discontinued; and it is further

SECOND: **STIPULATED AND AGREED**, that assessed value for the parcel known as 500 Corporate Parkway, Amherst, New York, bearing S.B.L. No. 54.04-2-40.2, shall be reduced from $6,310,000 to $4,250,000 for the tax year 2022-2023, and from $6,310,000 to $5,280,000 for the tax years 2023-2024, and 2024-2025 and 2025-2026; and it is further

THIRD: **STIPULATED AND AGREED**, that the Assessor for the Town of Amherst shall apply such adjusted assessments to the 2022-2023, 2023-2024, 2024-2025, and 2025-2026 Final Assessment Rolls; and it is further

FOURTH: **STIPULATED AND AGREED,** that said Petitioner in any instrument or agreement transferring all of the subject property therein shall covenant with any grantee, transferee, and mortgagee and their respective distributees, successors and/or assigns that they shall be bound by the terms of this Stipulation and that such covenant shall be deemed to run with the land for the tax periods embraced by the terms thereof; and be it further

FIFTH: **STIPULATED AND AGREED**, that the provisions of Section 727 of the Real Property Tax Law shall apply to this Order, with the exception of 727 (2a) and 727 (2b); and it is further

SIXTH: **STIPULATED AND AGREED, that** prior to taxable status date (March 1) 2023, 2024, and 2025, Petitioner shall provide Respondent Assessor with a current rent roll depicting the occupancy of said property. In the event that said rent roll indicates an

Attachment: Interwest - Consent Order - Unsigned (RES-2022-139 : Article 7 Settlement - Interwest Holdings I)

increase in occupancy of 25% or greater from the previous year, Respondent may adjust the assessment accordingly notwithstanding any other provision of this agreement; conversely, if said rent roll indicates a decrease in occupancy of greater than 25% over the previous year, Petitioner may apply for a reduction in assessment.

SEVENTH: **STIPULATED AND AGREED**, that this Court shall retain jurisdiction over this proceeding pending the expiration of this annexed Stipulation, and that all applications to enforce any or all of the terms of the Stipulation shall be brought before this Court; and be it further

EIGHTH: **STIPULATED AND AGREED**, that these proceedings are discontinued with prejudice, without costs or disbursements against either party.

Interwest Holdings I LLC

By: _____
Michael J. Hughes, Esq.
Attorney for Petitioner

Date: _____, 2022

Respondent Town of Amherst

By: _____
Sam Alba, Esq.
Attorney for Respondents

Date: _____, 2022

Intervenor-Respondent Sweet Home Central School District

By: _____
John K. Rottaris, Esq.
Attorney for Intervenor-Respondent

Date: _____, 2022

Attachment: Interwest - Consent Order - Unsigned (RES-2022-139 : Article 7 Settlement - Interwest Holdings I)

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

Francina J. Spoth
Town Clerk

Meeting: 02/07/22 07:00 PM
Department: Town Attorney
Initiated by: **Samuel A Alba**
Co-Sponsored by:

DOC ID: 25347 **RESOLUTION 2022-140** **ADOPTED**

Article 7 Settlement - 93 NYRPT LLC

AGENDA ITEM : FEBRUARY 7TH, 2022

TO: **Town Board**

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

DATE: **February 1, 2022**

RE: **Settlement of Article 7 Matter**
93 NYRPT LLC

Kindly adopt a resolution authorizing the following:

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

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

Thank you.

SAA:nmb
Attachment
c: Tim Koller, Deputy Town Clerk
(*w/attachment,* **Agenda Item : February 7, 2022**)
Emily Murphy, Town Assessor

2/7/2022
Consent

FINANCIAL IMPACT:

Assessment

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

At an IAS Term of the Supreme Court of the State of New York, held for the County of Erie, Buffalo, New York on the __ day of _____ ____, 2022.

PRESENT: HON. HENRY NOWAK

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE

IN THE MATTER OF THE APPLICATION FOR REVIEW UNDER ARTICLE 7 OF THE REAL PROPERTY TAX LAW OF A TAX ASSESSMENT BY 93 NYRPT, LLC

CONSENT ORDER AND JUDGMENT

Petitioner,

Index Nos.:
807774/2020
809806/2021

-vs.-

THE BOARD OF ASSESSMENT REVIEW FOR THE TOWN OF AMHERST; THE ASSESSOR OF THE TOWN OF AMHERST; and THE TOWN OF AMHERST, NEW YORK

Respondents.

For Review of the Assessment of Certain Real Property known as 4350 Maple Rd in the said Town of Amherst for the 2020-21 and 2021-22 Tax Years.

WHEREAS Petitioner has heretofore commenced the within proceedings under Article 7 of the Real Property Tax Law to review the assessment of certain parcels of real property located at and known as 4350 Maple Rd (SBL #54.04-2-18.13) in the Town of Amherst, County of Erie and State of New York for the tax years 2020-21 and 2021-22, and

WHEREAS these proceedings have duly come before an IAS Term of this Court, and Kavinoky Cook LLP, Scott C. Becker, Esq., of counsel, having appeared for the Petitioner, Samuel A. Alba, Esq., Town of Amherst Counsel, having appeared for the Respondent Town of Amherst,

Attachment: 93 NYRPT LLC - Consent Order Unsigned (RES-2022-140 : Article 7 Settlement - 93 NYRPT LLC)

and Gross Shuman P.C., John K. Rottaris, Esq., of Counsel, having appeared for the Intervenor-Respondents Sweet Home Central School District of Amherst and Tonawanda, and the parties having agreed to a settlement of these proceedings, it is hereby

STIPULATED, ORDERED and ADJUDGED, that the assessment on the property designated as SBL #54.04-2-18.13 on the tax assessment roll of the Town of Amherst for the following tax year has been and shall remain as follows:

SBL #54.04-2-18.13 (4350 Maple Rd)

Assessment Year	Assessment
2020-21	$1,100,000
2021-22	$1,100,000

and it is further

STIPULATED, ORDERED and ADJUDGED, that the assessment on the property designated as SBL #54.04-2-18.13 on the tax assessment roll of the Town of Amherst for the following tax year shall be as follows:

SBL #54.04-2-18.13 (4350 Maple Rd)

Assessment Year	Assessment
2022-23	$396,000

and it is further

STIPULATED, ORDERED and ADJUDGED, that the assessments as reduced, corrected and adjusted herein are fair, equitable and proper for the purposed of this settlement, and it is further

STIPULATED, ORDERED and ADJUDGED, that the officer or officers having custody of the aforesaid assessment rolls and the tax rolls of the Town of Amherst shall make or cause to be made upon the proper books and records of said Town the entries, changes and corrections necessary

Attachment: 93 NYRPT LLC - Consent Order Unsigned (RES-2022-140 : Article 7 Settlement - 93 NYRPT LLC)

to conform said combined assessments to such corrected and reduced valuations that the appropriate financial officers are hereby directed and authorized to calculate and disburse any resulting refunds of taxes, and it is further

STIPULATED, ORDERED and ADJUDGED, that the provisions of Section 727 of the Real Property Tax Law shall not apply to this settlement, and it is further

STIPULATED, ORDERED and ADJUDGED, that in the event that the Assessor for the Town of Amherst assesses SBL #54.04-2-18.13 for any stated year at a level higher than provided for herein, Petitioner hereby reserves the right to reinstate and reinstitute its Article 7 proceedings herein settled, and the Respondents hereby agree to waive any objection based upon Statute of Limitations Grounds, and it is further

STIPULATED, ORDERED and ADJUDGED, that Petitioner shall have the right to seek specific enforcement of this Stipulation, Order and Judgment by whatever means provided by law, and it is further

STIPULATED, ORDERED and ADJUDGED, that this Stipulation, Order and Judgment hereby constitutes and represents the entire understanding and agreement among the parties and the full settlement of the assessment review proceeding herein, that there are no costs or disbursements awarded to, by, or against any party and that upon compliance with the terms of this Stipulation, Order and Judgment, the above proceeding shall be, and the same hereby is, settled and discontinued with prejudice, and it is further

STIPULATED, ORDERED and ADJUDGED, that this Stipulation, Order and Judgment may be executed in multiple counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument.

Attachment: 93 NYRPT LLC - Consent Order Unsigned (RES-2022-140 : Article 7 Settlement - 93 NYRPT LLC)

Signing and Entry of the within Order and Judgment is hereby
Consented to:

KAVINOKY COOK LLP

Dated: _____ By: _____

Scott C. Becker, Esq.
Attorneys for Petitioners
726 Exchange Street, Suite 800
Buffalo, New York 14210

TOWN OF AMHERST

Dated:_____ By: _____

Samuel A. Alba, Esq.
Attorney for Respondent Town of Amherst
5583 Main Street
Williamsville, New York 14221

GROSS SHUMAN P.C.

Dated:_____ By: _____

John K. Rottaris, Esq.
Attorneys for Intervenor-Respondent, Sweet Home Central School District of Amherst and Tonawanda
465 Main Street, Suite 600
Buffalo, New York 14203

SO ORDERED:

_____
HON. HENRY NOWAK

ENTER:

Attachment: 93 NYRPT LLC - Consent Order Unsigned (RES-2022-140 : Article 7 Settlement - 93 NYRPT LLC)

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

Francina J. Spoth
Town Clerk

Meeting: 02/07/22 07:00 PM
Department: Town Attorney
Initiated by: **Samuel A Alba**
Co-Sponsored by:

DOC ID: 25348 **RESOLUTION 2022-141** **ADOPTED**

Article 7 Settlement - BG Lockport

AGENDA ITEM : FEBRUARY 7TH, 2022

TO: **Town Board**

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

DATE: **February 1, 2022**

RE: **Settlement of Article 7 Matter**
1551 NFB, LLC for itself and as agent-in-fact for BG Lockport LLC

Kindly adopt a resolution authorizing the following:

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

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

Thank you.

SAA:nmb
Attachment
c: Tim Koller, Deputy Town Clerk
(*w/attachment,* **Agenda Item : February 7, 2022**)
Emily Murphy, Town Assessor

2/7/2022
Consent

FINANCIAL IMPACT:

Assessment

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

At an IAS Term of the Supreme Court of the State of New York, held for the County of Erie, Buffalo, New York on the ___ day of _____ ____, 2022.

PRESENT: HON. HENRY NOWAK

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE

IN THE MATTER OF THE APPLICATION FOR REVIEW UNDER ARTICLE 7 OF THE REAL PROPERTY TAX LAW OF A TAX ASSESSMENT BY 1551 NFB, LLC for itself and as agent-in-fact for BG Lockport LLC

Petitioner,

-vs.-

THE BOARD OF ASSESSMENT REVIEW FOR THE TOWN OF AMHERST; THE ASSESSOR OF THE TOWN OF AMHERST; and THE TOWN OF AMHERST, NEW YORK

Respondents.

For Review of the Assessment of Certain Real Property known as 1501-1551 Niagara Falls Blvd in the said Town of Amherst for the 2020-21 and 2021-22 Tax Years.

CONSENT ORDER AND JUDGMENT

Index Nos.:
807772/2020
809813/2021

WHEREAS Petitioner has heretofore commenced the within proceedings under Article 7 of the Real Property Tax Law to review the assessment of certain parcels of real property located at and known as 1501-1551 Niagara Falls Blvd (SBL #54.14-1-1.1) in the Town of Amherst, County of Erie and State of New York for the tax years 2020-21 and 2021-22, and

WHEREAS these proceedings have duly come before an IAS Term of this Court, and Kavinoky Cook LLP, Scott C. Becker, Esq., of counsel, having appeared for the Petitioner, Samuel A. Alba, Esq., Town of Amherst Counsel, having appeared for the Respondent Town of Amherst,

Attachment: BG Lockport - Consent Order (RES-2022-141 : Article 7 Settlement - 1551 N.F. Blvd., LLC for Itself and Agent-In-Fact for BG

Gross Shuman P.C., John K. Rottaris, Esq., of Counsel, having appeared for the Intervenor-Respondents Sweet Home Central School District of Amherst and Tonawanda, and Lippes, Mathias, Wexler, Friedman LLP, Margaret A. Hurley, Esq., of Counsel, having appeared for Intervener-Respondent County of Erie, and the parties having agreed to a settlement of these proceedings, it is hereby

STIPULATED, ORDERED and ADJUDGED, that the assessment on the property designated as SBL #54.14-1-1.1 on the tax assessment roll of the Town of Amherst for the following tax year has been and shall remain as follows:

SBL #54.14-1-1.1 (1501-1551 Niagara Falls Blvd)

Assessment Year	Assessment
2020-21	$15,750,000
2021-22	$15,750,000

and it is further

STIPULATED, ORDERED and ADJUDGED, that the assessment on the property designated as SBL #54.14-1-1.1 shall be as follows:

SBL #54.14-1-1.1 (1501-1551 Niagara Falls Blvd)

Assessment Year	Assessment
2022-23	$7,250,000
2023-24	$11,500,000
2024-25	$11,500,000

and it is further

STIPULATED, ORDERED and ADJUDGED, that the assessments as reduced, corrected and adjusted herein are fair, equitable and proper for the purposed of this settlement, and it is further

STIPULATED, ORDERED and ADJUDGED, that the officer or officers having custody of the aforesaid assessment rolls and the tax rolls of the Town of Amherst shall make or cause to be

Attachment: BG Lockport - Consent Order (RES-2022-141 : Article 7 Settlement - 1551 N.F. Blvd., LLC for Itself and Agent-In-Fact for BG

made upon the proper books and records of said Town the entries, changes and corrections necessary to conform said combined assessments to such corrected and reduced valuations that the appropriate financial officers are hereby directed and authorized to calculate and disburse any resulting refunds of taxes, and it is further

STIPULATED, ORDERED and ADJUDGED, that the provisions of Section 727 of the Real Property Tax Law shall apply to this settlement, and it is further

STIPULATED, ORDERED and ADJUDGED, that in the event that the Assessor for the Town of Amherst assesses SBL #54.14-1-1.1 for any stated year at a level higher than provided for herein, Petitioner hereby reserves the right to reinstate and reinstitute its Article 7 proceedings herein settled, and the Respondents hereby agree to waive any objection based upon Statute of Limitations Grounds, and it is further

STIPULATED, ORDERED and ADJUDGED, that Petitioner shall have the right to seek specific enforcement of this Stipulation, Order and Judgment by whatever means provided by law, and it is further

STIPULATED, ORDERED and ADJUDGED, that this Stipulation, Order and Judgment hereby constitutes and represents the entire understanding and agreement among the parties and the full settlement of the assessment review proceeding herein, that there are no costs or disbursements awarded to, by, or against any party and that upon compliance with the terms of this Stipulation, Order and Judgment, the above proceeding shall be, and the same hereby is, settled and discontinued with prejudice, and it is further

STIPULATED, ORDERED and ADJUDGED, that this Stipulation, Order and Judgment may be executed in multiple counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument.

Attachment: BG Lockport - Consent Order (RES-2022-141 : Article 7 Settlement - 1551 N.F. Blvd., LLC for Itself and Agent-In-Fact for BG

Signing and Entry of the within Order and Judgment is hereby
Consented to:

KAVINOKY COOK LLP

Dated: _____ By: _____
Scott C. Becker, Esq.
Attorneys for Petitioners
726 Exchange Street, Suite 800
Buffalo, New York 14210

TOWN OF AMHERST

Dated:_____ By: _____
Samuel A. Alba, Esq.
Attorney for Respondent Town of Amherst
5583 Main Street
Williamsville, New York 14221

GROSS SHUMAN P.C.

Dated:_____ By: _____
John K. Rottaris, Esq.
Attorneys for Intervenor-Respondent, Sweet Home Central School District of Amherst and Tonawanda
465 Main Street, Suite 600
Buffalo, New York 14203

LIPPES, MATHIAS, WEXLER, FRIEDMAN LLP

Dated:_____ By: _____
Margaret A. Hurley, Esq.
Attorneys for Intervener-Respondent, County of Erie
50 Fountain Plaza, Suite 1700
Buffalo, New York 14202

Attachment: BG Lockport - Consent Order (RES-2022-141 : Article 7 Settlement - 1551 N.F. Blvd., LLC for Itself and Agent-In-Fact for BG

SO ORDERED:

HON. HENRY NOWAK

ENTER:

Attachment: BG Lockport - Consent Order (RES-2022-141 : Article 7 Settlement - 1551 N.F. Blvd., LLC for Itself and Agent-In-Fact for BG

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

Francina J. Spoth
Town Clerk

Meeting: 02/07/22 07:00 PM
Department: Town Attorney
Initiated by: **Samuel A Alba**
Co-Sponsored by:

DOC ID: 25349 **RESOLUTION 2022-142** **ADOPTED**

Article 7 Settlement - EGate-93

AGENDA ITEM : FEBRUARY 7TH, 2022

TO: **Town Board**

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

DATE: **February 1, 2022**

RE: **Settlement of Article 7 Matter**
EGate-93

Kindly adopt a resolution authorizing the following:

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

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

Thank you.

SAA:nmb
Attachment
c: Tim Koller, Deputy Town Clerk
(*w/attachment,* **Agenda Item : February 7, 2022**)
Emily Murphy, Town Assessor

2/7/2022
Consent

FINANCIAL IMPACT:

Assessment

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

At an IAS Term of the Supreme Court of the State of New York, held for the County of Erie, Buffalo, New York on the __ day of _____ ____, 2022.

PRESENT: HON. HENRY NOWAK

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE

IN THE MATTER OF THE APPLICATION FOR REVIEW UNDER ARTICLE 7 OF THE REAL PROPERTY TAX LAW OF A TAX ASSESSMENT BY EGATE-93, LLC

Petitioner,

-vs.-

THE BOARD OF ASSESSMENT REVIEW FOR THE TOWN OF AMHERST; THE ASSESSOR OF THE TOWN OF AMHERST; and THE TOWN OF AMHERST, NEW YORK

Respondents.

For Review of the Assessment of Certain Real Property known as 4080-4120 Maple Rd in the said Town of Amherst for the 2020-21 and 2021-22 Tax Years.

CONSENT ORDER AND JUDGMENT

Index Nos.:
807771/2020
809816/2021

WHEREAS Petitioner has heretofore commenced the within proceedings under Article 7 of the Real Property Tax Law to review the assessment of certain parcels of real property located at and known as 4080-4120 Maple Rd (SBL #54.04-1-3.31) in the Town of Amherst, County of Erie and State of New York for the tax years 2020-21 and 2021-22, and

WHEREAS these proceedings have duly come before an IAS Term of this Court, and Kavinoky Cook LLP, Scott C. Becker, Esq., of counsel, having appeared for the Petitioner, Samuel A. Alba, Esq., Town of Amherst Counsel, having appeared for the Respondent Town of Amherst, Gross Shuman P.C., John K. Rottaris, Esq., of Counsel, having appeared for the Intervenor-Respondents Sweet Home Central School District of Amherst and Tonawanda, and Lippes, and

Attachment: E-Gate 93 Consent Order (RES-2022-142 : Article 7 Settlement - EGate-93)

Mary K. Smith, Esq., having appeared for Intervenor-Respondent, County of Erie, and the parties having agreed to a settlement of these proceedings, it is hereby

STIPULATED, ORDERED and ADJUDGED, that the assessment on the property designated as SBL #54.04-1-3.31 on the tax assessment roll of the Town of Amherst for the following tax year has been and shall remain as follows:

SBL #54.04-1-3.31 (4080-4120 Maple Rd)

Assessment Year	Assessment
2020-21	$4,990,000
2021-22	$4,990,000

and it is further

STIPULATED, ORDERED and ADJUDGED, that the assessment on the property designated as SBL #54.04-1-3.31 on the tax assessment roll of the Town of Amherst for the following tax years shall be as follows:

SBL #54.04-1-3.31 (4080-4120 Maple Rd)

Assessment Year	Assessment
2022-23	$1,410,000
2023-24	$3,200,000
2024-25	$3,200,000

and it is further

STIPULATED, ORDERED and ADJUDGED, that the assessments as reduced, corrected and adjusted herein are fair, equitable and proper for the purposed of this settlement, and it is further

STIPULATED, ORDERED and ADJUDGED, that the officer or officers having custody of the aforesaid assessment rolls and the tax rolls of the Town of Amherst shall make or cause to be made upon the proper books and records of said Town the entries, changes and corrections necessary to conform said combined assessments to such corrected and reduced valuations that the appropriate financial officers are hereby directed and authorized to calculate and disburse any resulting refunds of taxes, and it is further

STIPULATED, ORDERED and ADJUDGED, that the provisions of Section 727 of the

Attachment: E-Gate 93 Consent Order (RES-2022-142 : Article 7 Settlement - EGate-93)

Real Property Tax Law shall apply to this settlement, and it is further

STIPULATED, ORDERED and ADJUDGED, that in the event that the Assessor for the Town of Amherst assesses SBL #54.04-1-3.31 for any stated year at a level higher than provided for herein, Petitioner hereby reserves the right to reinstate and reinstitute its Article 7 proceedings herein settled, and the Respondents hereby agree to waive any objection based upon Statute of Limitations Grounds, and it is further

STIPULATED, ORDERED and ADJUDGED, that Petitioner shall have the right to seek specific enforcement of this Stipulation, Order and Judgment by whatever means provided by law, and it is further

STIPULATED, ORDERED and ADJUDGED, that this Stipulation, Order and Judgment hereby constitutes and represents the entire understanding and agreement among the parties and the full settlement of the assessment review proceeding herein, that there are no costs or disbursements awarded to, by, or against any party and that upon compliance with the terms of this Stipulation, Order and Judgment, the above proceeding shall be, and the same hereby is, settled and discontinued with prejudice, and it is further

STIPULATED, ORDERED and ADJUDGED, that this Stipulation, Order and Judgment may be executed in multiple counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument.

Signing and Entry of the within Order and Judgment is hereby
Consented to:

KAVINOKY COOK LLP

Dated: _____

By: _____
Scott C. Becker, Esq.
Attorneys for Petitioners
726 Exchange Street, Suite 800
Buffalo, New York 14210

Attachment: E-Gate 93 Consent Order (RES-2022-142 : Article 7 Settlement - EGate-93)

TOWN OF AMHERST

Dated:_____ By: _____

Samuel A. Alba, Esq.
Attorney for Respondent Town of Amherst
5583 Main Street
Williamsville, New York 14221

GROSS SHUMAN P.C.

Dated:_____ By: _____

John K. Rottaris, Esq.
Attorneys for Intervenor-Respondent Sweet Home Central School District of Amherst and Tonawanda
465 Main Street, Suite 600
Buffalo, New York 14203

COUNTY OF ERIE

Dated: _____ By: _____

Mary K. Smith, Esq.
Attorney for Intervenor-Respondent County of Erie
95 Franklin Street, Room 1634
Buffalo, New York 14202

SO ORDERED:

_____
HON. HENRY NOWAK

ENTER:

Attachment: E-Gate 93 Consent Order (RES-2022-142 : Article 7 Settlement - EGate-93)

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

Francina J. Spoth
Town Clerk

Meeting: 02/07/22 07:00 PM
Department: Town Attorney
Initiated by: **Samuel A Alba**
Co-Sponsored by:

DOC ID: 25350 **RESOLUTION 2022-143** **ADOPTED**

Article 7 Settlement - Liffiton (47 Sandelwood Drive)

AGENDA ITEM : FEBRUARY 7TH, 2022

TO: **Town Board**

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

DATE: **February 1, 2022**

RE: **Settlement of Article 7 Matter**
Jack and Kathleen Liffiton - 47 Sandelwood Drive

Kindly adopt a resolution authorizing the following:

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

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

(3) Authorizing Emily Murphy to sign the attached Consent Order as the Town Assessor for the Town of Amherst.

Thank you.

SAA:nmb
Attachment
c: Tim Koller, Deputy Town Clerk
(*w/attachment,* **Agenda Item : February 7, 2022**)
Emily Murphy, Town Assessor

2/7/2022
Consent

FINANCIAL IMPACT:

Assessment

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

Attachment: Liffiton - STIPULATION AND CONSENT ORDER - UNSIGNED (RES-2022-143 : Article 7 Settlement - Liffiton (47 Sandelwood Drive))

At a Special Term of the Supreme Court of the State of New York, held in and for the County of Erie, 25 Delaware Avenue, Buffalo, New York on the _____ day of January, 2022.

PRESENT: HON. SHELIA DITULLIO, J.S.C.

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

In the Matter of the Application Under Article 7 of the Real Property Tax Law of

JACK LIFFITON & KATHLEEN LIFFITON

Petitioner,

STIPULATION AND CONSENT ORDER

v.

Index No.: 811561/2018

ASSESSOR, TOWN OF AMHERST, THE BOARD OF ASSESSMENT REVIEW OF THE TOWN OF AMHERST, COUNTY OF ERIE, AND STATE OF NEW YORK WILLIAMSVILLE CENTRAL SCHOOL DISTRICT

Tax Years: 2017, 2018, 2019, 2020

Respondents,

The above-entitled special proceedings involving real property tax certiorari for the premises owned by Petitioner in the Town of Amherst, New York, known as 47 Sandelwood Drive in Amherst, New York, S.B.L. # 42.01-4-9 for the tax year 2018-19 having progressed for trial, and negotiations for settlement having been conducted, and said settlement having been approved and recommended by the Attorney for the Town of Amherst, the Attorney for the Williamsville Central School District, and the Petitioner, and it further

Attachment: Liffiton - STIPULATION AND CONSENT ORDER - UNSIGNED (RES-2022-143 : Article 7 Settlement - Liffiton (47 Sandelwood Drive))

appearing that the assessments of premises in the Town of Amherst provides the basis for the imposition of *ad valorem* taxes assessed by the County of Erie, the Town of Amherst and the Williamsville Central School District, it is hereby

ORDERED, STIPULATED, AND ADJUDGED that the Pending Proceedings shall be settled as follows:

1. By changing the prior assessment ("Prior Assessment") to the revised assessment for Tax Year(s) set forth below ("Revised Assessment"):

Property Address	Index No.:	Taxable Status Date Year	SBL #	Prior Assessment	Revised Assessment
47 Sandelwood Drive	811561/2018	March 1, 2017	42.01-4-9	$300,000.00	$115,000.00
	N/A	March 1, 2018 to March 1, 2022	42.01-4-9	$150,000.00	$122,500.00

2. Petitioner agrees that the assessments set on the tax rolls for 2017, 2018, 2019, 2020 and 2021 with respect to the Town of Amherst and Intervenor Williamsville Central School District will not be changed but a credit for the same will be reflected on the Petitioner's 2022-23 tax bills.

3. In consideration hereof, the parties agree that all Pending Proceedings shall be discontinued with prejudice, including the 42 U.S.C. § 1983 action pending under Index No.: 810261/2020 and that the final assessment of the Property shall be set

Attachment: Liffiton - STIPULATION AND CONSENT ORDER - UNSIGNED (RES-2022-143 : Article 7 Settlement - Liffiton (47 Sandelwood Drive))

at the revised assessment for the 2021 and 2022 Tax Years ("Moratorium Assessment").

4. The parties further agree that the discontinuance of all Pending Proceedings shall be contingent upon and subject to the assessment of the Property being set at the Revised Assessment for the above referenced Tax Years, unless changes are permitted under this section of the agreement.

5. That sums heretofore specified to be paid in this Stipulation and Consent Order are all inclusive and statutory costs and disbursements.

6. Petitioner herein represents that the approvals for this settlement have been obtained from all Petitioners herein.

7. Counsel for the Respondents herein represents that approvals required for this settlement have been obtained from any and all necessary parties and entities, and Respondent Town of Amherst has concluded the settlement to be in the best interest of the Town.

Signing and Entry of the within Order
is hereby Consented to:

JACK LIFFITON

By:_____
JACK LIFFITON
Pro Se
47 Sandelwood Drive
Getzville, New York 14068

TOWN OF AMHERST ATTORNEY

By:_____
SAMUEL A. ALBA, ESQ.
Attorney for Respondent
Senior Deputy Town Attorney
Amherst Town Hall
5583 Main Street
Williamsville, New York 14221
(716) 631-7037

TOWN OF AMHERST ASSESSOR

By:_____
EMILY MURPHY
Amherst Town Hall
5583 Main Street
Williamsville, New York 14221
(716) 631-7038

HODGSON RUSS, LLP

By:_____
MICHAEL B. RISMAN, ESQ.
Attorney for Intervenor-School
140 Pearl Street, Suite 100
Buffalo, New York 14202-4040
(716) 848-1291

ENTER:

_____
HON. SHELIA DITULLIO

GRANTED:

Attachment: Liffiton - STIPULATION AND CONSENT ORDER - UNSIGNED (RES-2022-143 : Article 7 Settlement - Liffiton (47 Sandelwood Drive))

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

Francina J. Spoth
Town Clerk

Meeting: 02/07/22 07:00 PM
Department: Building/Building Maintenance
Initiated by: **Richard Lennox**
Co-Sponsored by:

DOC ID: 25322 **RESOLUTION 2022-144** **ADOPTED**

Town of Amherst Facilities and Parks Administration Use of Social Media

WHEREAS, the Parks Administration of the Town of Amherst Facilities and Parks Administration Department seeks to establish an online presence for the purposes of promoting parks events and sharing general parks and town information; and

WHEREAS, the Town of Amherst has established and adopted a social media policy as per Resolution RES-2018-748; and

WHEREAS, the Parks Administration of the Town of Amherst Facilities and Parks Administration Department agrees to the aforementioned policy; and

WHEREAS, the attached document reflects the existing and current policy, and designates Elizabeth Graczyk, Parks Administration, Dan Rizzo, Facilities and Parks Administration, and Lynda Vetrano, Facilities Assistant, as the official administrators for the Parks Administration Department, and such documents have been signed and submitted to the Information Technology Department as required; and

NOW, THEREFORE, BE IT RESOLVED, the Town Board hereby approves the attached documents for form and content, and recognizes the pages listed and contain therein as official town department accounts.

2/7/2022
Consent

FINANCIAL IMPACT:

None

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

TOWN OF AMHERST
SOCIAL MEDIA POLICY

Originally sourced from Erie County, NY

1. Summary

The Town of Amherst ("Town") values engaging online with the public. The Town is committed to participating and listening in meaningful ways by using social media. Outreach through social media sites is intended to supplement, not replace, usage of the Town's Official website (www.amherst.ny.us). The Town is a proponent of the secure use of social media technology to enhance communication, collaboration and information exchange with the public in order to encourage engagement and participation of its constituents. Social media tools should be used for only the following purposes:

- To deliver information and public relations to Town residents and social media followers;
- To provide direct communication with the public during emergency events; and
- To promote government transparency and information exchange.

This document establishes the Town's social media use policies, protocols and procedures. Except for the Amherst Police Department, this policy applies to all Town officials, officers, employees, interns, volunteers, board and committee members and contractors ("Town Representatives") performing business on behalf of a Town department, agency, board or committee, or office of elected officials ("Entities"). Town Entities using social media technology prior to the implementation of this Social Media Policy shall achieve full policy compliance within one hundred and twenty (120) days of the effective date of this document. The Town of Amherst Police Department will manage the social media usage of its members, through the Amherst Police Department IT Department. The Amherst Police Department has an established social media policy, outlined in the Town of Amherst Police Department General Orders Manual (A-72, Social Media), which is in compliance with the NYS Division of Criminal Justice Law Enforcement Agency Accreditation Program [Standard 28.4 Social Media].

Wherever possible, all Town social media shall comply with all appropriate existing Town policies and standards, including but not limited to:

- Town of Amherst Computer and Mobile Device Usage Policy
- Town of Amherst Employee Policy Manual

2. Authorized Use

Town Representatives using social media sites for Town business must adhere to the following as authorized social media administrators:

Attachment: social media signed vetrano - facilities and parks (220121) (RES-2022-144 : Town of Amherst Facilities and Parks Administration

- Department heads and/or elected officials are responsible for determining who is authorized to use social media on behalf of the Town Entity.

- All Town Representatives using social media for a Town Entity must register with the Department of Information Technology as an approved Social Media Administrator.

- Authorized administrators shall be provided with a copy of the Town of Amherst Social Media Policy (this document) and are required to acknowledge their understanding and acceptance of this document *with a signature.*

- Departments shall only utilize Town approved social media networks detailed in this document for hosting official social media sites.

3. Approved Social Media Sites & Standards

The following social media sites are approved for Town Entity use:

- Facebook
- Twitter
- YouTube
- LinkedIn
- Instagram

Social media account and usage standards are included in this document. A department may request Town Board approval of additional social media networks. Social media networks are subject to change.

Social Media Account Standards

By developing and maintaining social media accounts, Town Entities will communicate information directly to their platform followers, alerting them to news and directing them back to the appropriate page or direct link on www.amherst.ny.us for additional information. Town Representatives who are designated as approved administrators of Town social media accounts must adhere to the following standards:

- Any new Town social media accounts require Town Board approval and should be registered with the Department of Information Technology. Only those Town Representatives who have been designated as administrators may post on behalf of that Town Entity.
- Each Town Entity shall have only one (1) account per social media site.
- Town Entities must create public facing "social media sites" not groups or personal accounts. Social media accounts should be designated as "official accounts" and marked as "government" when such option exists.
- Account information, including usernames and passwords, shall be managed by the specific Town Entity. Any changes to accounts, usernames and passwords shall be managed by that specific Town Entity.

Attachment: social media signed vetrano - facilities and parks (220121) (RES-2022-144 : Town of Amherst Facilities and Parks Administration

- Each Town Entity shall have unique email accounts for each social media site. The email accounts will be administered by the Department of Information Technology using a standard email address format (department.social@amherst.ny.us). Any changes to authorized social media administrators must be reported or requested through the Department of Information Technology.
- Social media accounts shall serve three primary purposes:

    1. To publish emergency and non-emergency information
    2. To promote Town events and meetings
    3. To refer followers to content hosted at www.amherst.ny.us wherever possible

- No advertising of any kind shall be presented on any Town social media site.
- Add-on applications should not be used unless they serve a government purpose.
- Compliance with each platform's user terms and conditions.
- Information posted on social media shall conform to the policies and procedures of the Town Entity posting the information. Content shall be accurate, truthful, relevant, and timely.
- It is the responsibility of the posting Town Entity to preserve all information and official records on any social media site in compliance with the Town of Amherst Records Retention Policy. This includes, but is not limited to, any unique information posted on a social media site that is not available through the Town's official website (www.amherst.ny.us). The Town of Amherst's Records Management Officer shall be consulted where necessary.

4. Social Media Use

The Town's official website will remain the primary and predominant source for online information. The primary goal of social media is to provide active communication and brief news and information. Social media postings shall link users to www.amherst.ny.us for additional information whenever appropriate. It is the responsibility of the Town's Entities and their representatives to coordinate the posting of official information on the Town's website with the Department of Information Technology.

The Town's social media administrators are responsible for establishing and maintaining content posted to their social media sites. Managers of the Town's Entities will oversee their respective social media sites.

Content posted on any Town Entity's social media site must comply with all applicable Federal and State laws, regulations and policies as well as any terms of use/terms of service applicable to the social media site being used. Town Entities are required to create a moderation (i.e. preview, accept, reject) process for all user-generated content (i.e., comments, file uploads, etc.) in order to help ensure compliance with laws, terms of use, security risk mitigation and the purposes of this policy. If technically feasible, Town Entities may disable features on social media sites that allow users to post content such as comments, videos, or other types of shared files in order to manage their sites. Content management is the responsibility of each Town Entity and its administrators.

Attachment: social media signed vetrano - facilities and parks (220121) (RES-2022-144 : Town of Amherst Facilities and Parks Administration

The following standards apply for social media use:

- Town Representatives must not use official Town social media sites for political purposes or election campaign related purposes, to conduct private commercial transactions or to engage in private business activities.
- Town Representatives are prohibited from using personal or Town email account or password (other than those provided for social media registration and administration) in conjunction with a social media site.
- Account information, including usernames and passwords, shall be managed by each Town Entity. Any changes to accounts, usernames and passwords shall be managed by the responsible Town Entity and coordinated with the Department of Information Technology.
- It is the responsibility of the Town Entity to regularly monitor social media activity and content and develop a protocol in the event of improper use of the social media site. Town Entities shall consult with the Human Resources Department wherever necessary.

Town Representatives must maintain a high level of ethical conduct and professional decorum. Information must be presented with standards for good grammar, spelling, brevity, clarity and accuracy. Town Representatives may not publish information on social media sites that include:

- Confidential information
- Copyright violations
- Profanity, racist, sexist or derogatory content or comments
- Partisan political views
- Commercial endorsements or spam

5. Sharing Posts & Links

Sharing or posting content owned by others shall be performed in accordance with copyright, fair use and established laws pertaining to materials owned by others. This includes, but is not limited to, quotes, images, documents, links, etc. Social media content from select partners may be shared. Content from agencies that do business with the Town is permitted. No advertisements or endorsements shall be provided unless approved by contract. Town Entities shall consult with the Town Attorney's Office wherever necessary.

Acceptable sources for sharing posts and information:

- Federal, State and Local Government agencies
- Non-profit or public organizations that have some relationship to the Town (contractually or otherwise)
- Tourist information (principally from Visit Buffalo Niagara: www.visitbuffaloniagara.com)

Examples of unacceptable sources for sharing posts and information include:

Attachment: social media signed vetrano - facilities and parks (220121) (RES-2022-144 : Town of Amherst Facilities and Parks Administration

- Candidate sites or sites advocating a position on a Town ballot or issue
- Corporate commercial sites
- Adult oriented or gambling related sites
- Individual personal home pages
- Sites advertising or posting a Board of Education Ballot, election or issue

6. Comment Policy

Town of Amherst Comment Policy disclaimer should be included in the description page of every social media site. The disclaimer should read as follows: "Comments posted to this account will be monitored. The Town reserves the right to remove inappropriate comments including, but not limited to, those that have obscene language or sexual content, threaten or defame any person or organization, violate the legal ownership interest of another party, support or oppose political candidates or ballot propositions, promote illegal activity, promote commercial services or products or are not topically related to the particular posting." The Town Attorney's Office will be consulted wherever necessary.

Town Entities are required to develop a protocol for Town Representatives to monitor social media comments. Town Representatives may choose to reply to comments and engage residents in the same way they would reply to phone, email, or in-person inquiries. In many cases, it will be appropriate to reply to a social media comment with contact information for the relevant Town department.

7. Video and Images Policy

When posting images or video content to social media sites strict adherence to copyright laws is required. Social media site administrators should not simply search the Internet for an image or video without first determining if that image or video violates copyright law. Images should be appropriate to the subject matter being posted about at all times.

- The Town Entity must have secured rights to display images or stream video content by certifying that the images or video content was either produced by the Town or has secured written permission for the Town to display or stream the specific images or video content.
- Copyright restrictions on graphics must be adhered to and noted when appropriate (i.e., attribution required as specified for any non-public domain files).

8. Oversight

The Town reserves the right to remove material that does or appears to:

- Contain anything vulgar, incites violence or is sexually explicit
- Be misleading or false
- Be spam

Attachment: social media signed vetrano - facilities and parks (220121) (RES-2022-144 : Town of Amherst Facilities and Parks Administration

- Advocate or depict illegal activity
- Target, disparage or discriminate against any ethnic, racial, religious, gender or other type of group
- Contain threats or personal attacks of any kind
- Promote or endorse private business ventures, services or products
- Campaign for public office or promote a political organization or candidate
- Infringe on copyrights or trademarks or intellectual property rights of others
- Be off-topic or otherwise in violation of this social media policy
- Contain computer viruses, code or which otherwise may disrupt, damage or restrict the use of any computer software, hardware or telecommunications equipment

Archiving

Any content maintained in a social media format that is related to Town business may be a public record subject to disclosure under the New York Freedom of Information Law (FOIL). Such content must also be retained in accordance with the New York Records Retention and Disposition Schedule MU-1.

Designated social media administrators shall routinely, weekly or more frequently as needed, backup and/or extract data from social networking sites as such sites allow. In addition, designated social media site administrators shall use screen capture technology for archiving purposes. All archived records shall be maintained by the Town Entity and be accessible to Town Entity's FOIL officer.

Signatures

As a designated social media administrator for my department, I understand and agree to adhere to the standards outlined in this Town of Amherst Social Media Policy.

Lynda Vetrano
Signature

Lynda Vetrano
Print name

Facilities & Parks Administration
Department or Entity

Clerk Typist
Job title

1/21/22
Date

Social media sites used

Facebook

Attachment: social media signed vetrano - facilities and parks (220121) (RES-2022-144 : Town of Amherst Facilities and Parks Administration

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Attachment: social media signed rizzo - facilities and parks (220121) (RES-2022-144 : Town of Amherst Facilities and Parks Administration Use

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- Sites advertising or posting a Board of Education Ballot, election or issue

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- The Town Entity must have secured rights to display images or stream video content by certifying that the images or video content was either produced by the Town or has secured written permission for the Town to display or stream the specific images or video content.
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- Contain threats or personal attacks of any kind
- Promote or endorse private business ventures, services or products
- Campaign for public office or promote a political organization or candidate
- Infringe on copyrights or trademarks or intellectual property rights of others
- Be off-topic or otherwise in violation of this social media policy
- Contain computer viruses, code or which otherwise may disrupt, damage or restrict the use of any computer software, hardware or telecommunications equipment

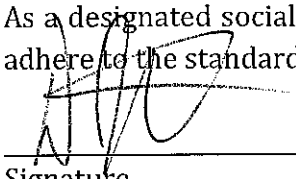
Archiving

Any content maintained in a social media format that is related to Town business may be a public record subject to disclosure under the New York Freedom of Information Law (FOIL). Such content must also be retained in accordance with the New York Records Retention and Disposition Schedule MU-1.

Designated social media administrators shall routinely, weekly or more frequently as needed, backup and/or extract data from social networking sites as such sites allow. In addition, designated social media site administrators shall use screen capture technology for archiving purposes. All archived records shall be maintained by the Town Entity and be accessible to Town Entity's FOIL officer.

Signatures

As a designated social media administrator for my department, I understand and agree to adhere to the standards outlined in this Town of Amherst Social Media Policy.



Signature

Facilities / Parks

Department or Entity

Daniel J. Rizzo

Print name

Director

Job title

01/21/2022

Date

Social media sites used

_____

_____

_____

_____

Attachment: social media signed rizzo - facilities and parks (220121) (RES-2022-144 : Town of Amherst Facilities and Parks Administration Use

TOWN OF AMHERST
SOCIAL MEDIA POLICY

Originally sourced from Erie County, NY

1. Summary

The Town of Amherst ("Town") values engaging online with the public. The Town is committed to participating and listening in meaningful ways by using social media. Outreach through social media sites is intended to supplement, not replace, usage of the Town's Official website (www.amherst.ny.us). The Town is a proponent of the secure use of social media technology to enhance communication, collaboration and information exchange with the public in order to encourage engagement and participation of its constituents. Social media tools should be used for only the following purposes:

- To deliver information and public relations to Town residents and social media followers;
- To provide direct communication with the public during emergency events; and
- To promote government transparency and information exchange.

This document establishes the Town's social media use policies, protocols and procedures. Except for the Amherst Police Department, this policy applies to all Town officials, officers, employees, interns, volunteers, board and committee members and contractors ("Town Representatives") performing business on behalf of a Town department, agency, board or committee, or office of elected officials ("Entities"). Town Entities using social media technology prior to the implementation of this Social Media Policy shall achieve full policy compliance within one hundred and twenty (120) days of the effective date of this document. The Town of Amherst Police Department will manage the social media usage of its members, through the Amherst Police Department IT Department. The Amherst Police Department has an established social media policy, outlined in the Town of Amherst Police Department General Orders Manual (A-72, Social Media), which is in compliance with the NYS Division of Criminal Justice Law Enforcement Agency Accreditation Program [Standard 28.4 Social Media].

Wherever possible, all Town social media shall comply with all appropriate existing Town policies and standards, including but not limited to:

- Town of Amherst Computer and Mobile Device Usage Policy
- Town of Amherst Employee Policy Manual

2. Authorized Use

Town Representatives using social media sites for Town business must adhere to the following as authorized social media administrators:

Attachment: social media signed graczyk - facilities and parks (220121) (RES-2022-144 : Town of Amherst Facilities and Parks Administration

- Department heads and/or elected officials are responsible for determining who is authorized to use social media on behalf of the Town Entity.

- All Town Representatives using social media for a Town Entity must register with the Department of Information Technology as an approved Social Media Administrator.

- Authorized administrators shall be provided with a copy of the Town of Amherst Social Media Policy (this document) and are required to acknowledge their understanding and acceptance of this document *with a signature.*

- Departments shall only utilize Town approved social media networks detailed in this document for hosting official social media sites.

3. Approved Social Media Sites & Standards

The following social media sites are approved for Town Entity use:

- Facebook
- Twitter
- YouTube
- LinkedIn
- Instagram

Social media account and usage standards are included in this document. A department may request Town Board approval of additional social media networks. Social media networks are subject to change.

Social Media Account Standards

By developing and maintaining social media accounts, Town Entities will communicate information directly to their platform followers, alerting them to news and directing them back to the appropriate page or direct link on www.amherst.ny.us for additional information. Town Representatives who are designated as approved administrators of Town social media accounts must adhere to the following standards:

- Any new Town social media accounts require Town Board approval and should be registered with the Department of Information Technology. Only those Town Representatives who have been designated as administrators may post on behalf of that Town Entity.
- Each Town Entity shall have only one (1) account per social media site.
- Town Entities must create public facing "social media sites" not groups or personal accounts. Social media accounts should be designated as "official accounts" and marked as "government" when such option exists.
- Account information, including usernames and passwords, shall be managed by the specific Town Entity. Any changes to accounts, usernames and passwords shall be managed by that specific Town Entity.

Attachment: social media signed graczyk - facilities and parks (220121) (RES-2022-144 : Town of Amherst Facilities and Parks Administration

- Each Town Entity shall have unique email accounts for each social media site. The email accounts will be administered by the Department of Information Technology using a standard email address format (department.social@amherst.ny.us). Any changes to authorized social media administrators must be reported or requested through the Department of Information Technology.
- Social media accounts shall serve three primary purposes:

    1. To publish emergency and non-emergency information
    2. To promote Town events and meetings
    3. To refer followers to content hosted at www.amherst.ny.us wherever possible

- No advertising of any kind shall be presented on any Town social media site.
- Add-on applications should not be used unless they serve a government purpose.
- Compliance with each platform's user terms and conditions.
- Information posted on social media shall conform to the policies and procedures of the Town Entity posting the information. Content shall be accurate, truthful, relevant, and timely.
- It is the responsibility of the posting Town Entity to preserve all information and official records on any social media site in compliance with the Town of Amherst Records Retention Policy. This includes, but is not limited to, any unique information posted on a social media site that is not available through the Town's official website (www.amherst.ny.us). The Town of Amherst's Records Management Officer shall be consulted where necessary.

4. Social Media Use

The Town's official website will remain the primary and predominant source for online information. The primary goal of social media is to provide active communication and brief news and information. Social media postings shall link users to www.amherst.ny.us for additional information whenever appropriate. It is the responsibility of the Town's Entities and their representatives to coordinate the posting of official information on the Town's website with the Department of Information Technology.

The Town's social media administrators are responsible for establishing and maintaining content posted to their social media sites. Managers of the Town's Entities will oversee their respective social media sites.

Content posted on any Town Entity's social media site must comply with all applicable Federal and State laws, regulations and policies as well as any terms of use/terms of service applicable to the social media site being used. Town Entities are required to create a moderation (i.e. preview, accept, reject) process for all user-generated content (i.e., comments, file uploads, etc.) in order to help ensure compliance with laws, terms of use, security risk mitigation and the purposes of this policy. If technically feasible, Town Entities may disable features on social media sites that allow users to post content such as comments, videos, or other types of shared files in order to manage their sites. Content management is the responsibility of each Town Entity and its administrators.

Attachment: social media signed graczyk - facilities and parks (220121) (RES-2022-144 : Town of Amherst Facilities and Parks Administration

The following standards apply for social media use:

- Town Representatives must not use official Town social media sites for political purposes or election campaign related purposes, to conduct private commercial transactions or to engage in private business activities.
- Town Representatives are prohibited from using personal or Town email account or password (other than those provided for social media registration and administration) in conjunction with a social media site.
- Account information, including usernames and passwords, shall be managed by each Town Entity. Any changes to accounts, usernames and passwords shall be managed by the responsible Town Entity and coordinated with the Department of Information Technology.
- It is the responsibility of the Town Entity to regularly monitor social media activity and content and develop a protocol in the event of improper use of the social media site. Town Entities shall consult with the Human Resources Department wherever necessary.

Town Representatives must maintain a high level of ethical conduct and professional decorum. Information must be presented with standards for good grammar, spelling, brevity, clarity and accuracy. Town Representatives may not publish information on social media sites that include:

- Confidential information
- Copyright violations
- Profanity, racist, sexist or derogatory content or comments
- Partisan political views
- Commercial endorsements or spam

5. Sharing Posts & Links

Sharing or posting content owned by others shall be performed in accordance with copyright, fair use and established laws pertaining to materials owned by others. This includes, but is not limited to, quotes, images, documents, links, etc. Social media content from select partners may be shared. Content from agencies that do business with the Town is permitted. No advertisements or endorsements shall be provided unless approved by contract. Town Entities shall consult with the Town Attorney's Office wherever necessary.

Acceptable sources for sharing posts and information:

- Federal, State and Local Government agencies
- Non-profit or public organizations that have some relationship to the Town (contractually or otherwise)
- Tourist information (principally from Visit Buffalo Niagara: www.visitbuffaloniagara.com)

Examples of unacceptable sources for sharing posts and information include:

Attachment: social media signed graczyk - facilities and parks (220121) (RES-2022-144 : Town of Amherst Facilities and Parks Administration

- Candidate sites or sites advocating a position on a Town ballot or issue
- Corporate commercial sites
- Adult oriented or gambling related sites
- Individual personal home pages
- Sites advertising or posting a Board of Education Ballot, election or issue

6. Comment Policy

Town of Amherst Comment Policy disclaimer should be included in the description page of every social media site. The disclaimer should read as follows: "Comments posted to this account will be monitored. The Town reserves the right to remove inappropriate comments including, but not limited to, those that have obscene language or sexual content, threaten or defame any person or organization, violate the legal ownership interest of another party, support or oppose political candidates or ballot propositions, promote illegal activity, promote commercial services or products or are not topically related to the particular posting." The Town Attorney's Office will be consulted wherever necessary.

Town Entities are required to develop a protocol for Town Representatives to monitor social media comments. Town Representatives may choose to reply to comments and engage residents in the same way they would reply to phone, email, or in-person inquiries. In many cases, it will be appropriate to reply to a social media comment with contact information for the relevant Town department.

7. Video and Images Policy

When posting images or video content to social media sites strict adherence to copyright laws is required. Social media site administrators should not simply search the Internet for an image or video without first determining if that image or video violates copyright law. Images should be appropriate to the subject matter being posted about at all times.

- The Town Entity must have secured rights to display images or stream video content by certifying that the images or video content was either produced by the Town or has secured written permission for the Town to display or stream the specific images or video content.
- Copyright restrictions on graphics must be adhered to and noted when appropriate (i.e., attribution required as specified for any non-public domain files).

8. Oversight

The Town reserves the right to remove material that does or appears to:

- Contain anything vulgar, incites violence or is sexually explicit
- Be misleading or false
- Be spam

Attachment: social media signed graczyk - facilities and parks (220121) (RES-2022-144 : Town of Amherst Facilities and Parks Administration

- Advocate or depict illegal activity
- Target, disparage or discriminate against any ethnic, racial, religious, gender or other type of group
- Contain threats or personal attacks of any kind
- Promote or endorse private business ventures, services or products
- Campaign for public office or promote a political organization or candidate
- Infringe on copyrights or trademarks or intellectual property rights of others
- Be off-topic or otherwise in violation of this social media policy
- Contain computer viruses, code or which otherwise may disrupt, damage or restrict the use of any computer software, hardware or telecommunications equipment

Archiving

Any content maintained in a social media format that is related to Town business may be a public record subject to disclosure under the New York Freedom of Information Law (FOIL). Such content must also be retained in accordance with the New York Records Retention and Disposition Schedule MU-1.

Designated social media administrators shall routinely, weekly or more frequently as needed, backup and/or extract data from social networking sites as such sites allow. In addition, designated social media site administrators shall use screen capture technology for archiving purposes. All archived records shall be maintained by the Town Entity and be accessible to Town Entity's FOIL officer.

Signatures

As a designated social media administrator for my department, I understand and agree to adhere to the standards outlined in this Town of Amherst Social Media Policy.

Elizabeth Graczyk
Signature

Elizabeth Graczyk
Print name

Facilities + Parks Administration
Department or Entity

Resource Coordinator
Job title

January 21, 2022
Date

Social media sites used

Facebook

Instagram

Attachment: social media signed graczyk - facilities and parks (220121) (RES-2022-144 : Town of Amherst Facilities and Parks Administration

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

Francina J. Spoth
Town Clerk

Meeting: 02/07/22 07:00 PM
Department: Building/Building Maintenance
Initiated by: **Mark S. Berke**
Co-Sponsored by:

DOC ID: 25366 **RESOLUTION 2022-145** **ADOPTED**

Mold Remediation at Heritage Village CRS #3150

Subject to successful completion of contract routing, please authorize the Supervisor to sign for work needed as soon as possible at Heritage Village by Metro Environmental, 2939 Lockport Rd, Niagara Falls, NY 14305.

2/7/2022
Consent

FINANCIAL IMPACT:

A1620-4220 -- $33,000

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

METRO ENVIRONMENTAL

January 7, 2022

Town of Amherst - Mold Remediation at Heritage Village

Town of Amherst

Attention: Dan Rizzo

RE: Town of Amherst - Mold Remediation at Heritage Village **Bid No**: 22-016

Metro Contracting & Environmental, Inc. is pleased to supply the following pricing for the above noted project. Price includes legal disposal of all waste generated by scope of work below. All work will be performed in accordance with all Local, State and Federal rules and regulations.

Scope:
Our scope includes only the following notes based on the Microbial Assessment & Mitigation Recommendations report prepared by AMD environmental Consultants, Inc. dated September 13, 2021:

Mold Remediation:

- Removal of visibly mold contaminated drywall & insulation materials on walls & ceilings located at the 2nd story loft areas.
- Drywall at Ceilings shall be removed only to a distance of approximately nine (9) feet from the rear wall
- At location of built-in casework to remain, contaminated drywall at walls shall only be removed to top of casework level
- All moveable objects and furniture shall be removed from the work area by others prior to start of remediation activities
- All work is to be available at once to allow a single containment area construction, Carpet is to remain
- All materials scheduled to be impacted by this work are assumed to be non-asbestos. Testing to confirm non-acm materials must be provided by owner prior to start of work
- Following removal of mold contaminated materials, framing and washable surfaces behind shall be cleaned with an anti-microbial disinfectant solution and sealed with an anti-microbial encapsulant.
- Final clearance visual inspection and/or clearance microbial sampling shall be completed by others

Optional ADD Alternate – Two Phased Remediation:

- Additional costs to be added to base bid pricing if the work area is to be separated into two separate containment areas.

Exclusions:
Any environmental issues other than specified in this proposal
Third Party Area Air Monitoring
All Shoring/Bracing
Price is based on one mobilization
Utility cuts including but not limited to gas, electric, water, sewer, smoke, fire alarms, HVAC & Data
All MEP equipment/fixtures shall be decommissioned, made safe and certified by others prior to start of work
Penalties, Liabilities, & Liquidated damages
All Cutting/Patching/Finishing/Repairing/Installations
MEP Removals & Related work
Delays/Downtime at owner's expense
Premium time or off shift work

Owner is to Provide:
Power, water and heat to perform the work
Unrestricted access to our work area
Staging area for equipment/vehicles

2939 LOCKPORT ROAD
NIAGARA FALLS, NEW YORK 14305-2307
PHONE: 716.285.9280 • FAX: 716.285.9301
EMAIL: info@metroenvironmental.com

DO IT RIGHT DO IT SAFELY

Attachment: Metro Enviornmental Contract (RES-2022-145 : Mold Remediation at Heritage Village CRS #3150)

METRO ENVIRONMENTAL

January 7, 2022 Town of Amherst - Mold Remediation at Heritage Village

Bonds/Insurance/Taxes:
Price does not include cost of any bonds including performance/payment/labor bonds.
If required, the cost will be 3% of bid price.
Price based on Metro Environmental Standard Insurance.
Applicable taxes, if any, are not included in this quote.
If the project is tax exempt, please furnish Metro with a certificate of exemption.

Payment Terms:
Net 30 days. Interest Rate is 1.5% per month, 18% per year. The release of retainage, if applicable, is due no later than thirty (30) days after the fulfillment of this agreement. Any and all closeout documentation shall be released when all payments up to retainage are received.

Mold Remediation Base Bid Price: $ 33,000.00
(Thirty Three Thousand Dollars and Zero Cents)

Optional ADD Alternate – Two Phased Remediation Price: $ 5,600.00
(Five Thousand Six Hundred Dollars and Zero Cents)

Acceptance of this quote binds the authorized company to Metro Contracting & Environmental Terms and Conditions as per this page and the attached General Terms and Conditions and applicable sales tax.

Should you have any questions or if we may be of further service to you please do not hesitate to contact me directly at **716-285-9280** or by email at **dmarcus@metroenvironmental.com.**

Respectfully Submitted,
METRO ENVIRONMENTAL

David Marcus,
General Manager

Should this proposal be acceptable, please sign below and return to Metro Environmental along with the signed and initialed Terms and Conditions.

Authorized Signature: _____ Date: _____

Printed Name & Title: _____

2939 Lockport Road
Niagara Falls, New York 14305-2307
Phone: 716.285.9280 • Fax: 716.285.9301
Email: info@metroenvironmental.com

Attachment: Metro Enviornmental Contract (RES-2022-145 : Mold Remediation at Heritage Village CRS #3150)

Metro Contracting and Environmental, Inc.
General Terms & Conditions

1. Contract. These general terms and conditions are part of this proposal, and upon acceptance of the proposal by Customer, shall together with Metro's proposal, constitute the contract between Metro and Customer. Metro Environmental hereby objects to and rejects any and all different or additional terms and conditions which Customer may set forth on its purchase order form or on any other document or communication of Customer accepting this proposal or otherwise related hereto. Absolutely no modifications or additions to this proposal will be recognized by Metro unless specifically agreed to in writing by Metro. All services to be provided by Metro pursuant to this proposal ("Services") shall be subject to this proposal. In case of conflict between any specific terms and conditions contained elsewhere in this proposal, or any attachment or exhibit, and these general terms and conditions, the specific shall prevail. In the event of conflict between the terms and conditions of this proposal and any other forms, purchase orders, documents or instruments of Customer, the provisions of this proposal shall prevail. All conflicts and ambiguities shall be construed in favor of Metro. The person executing Metro's proposal on behalf of the Customer represents and warrants that he or she has full authority to bind Customer to this contract.

_____ **(Initials)** _____ **(Initials)**

2. Customer's Demolition Related Representations. In the event the Services include the demolition of any structure or property, Customer expressly represents to Metro that (i) Customer is the owner of such property and has the right and authority to authorize such demolition services, (ii) Customer has provided Metro a survey or other written document which accurately depicts the location of all electrical, gas, water and other underground utility lines, wires and pipelines, and all other tanks, septic systems and other underground improvements on the property, (iii) all utilities servicing the property have been terminated, (iv) there are no "live" electrical, water or gas lines on the property, (v) there are no other undisclosed or latent lines, pipes, wires, tanks, containers, buried waste, hazardous substances, or other dangerous or potentially dangerous circumstances on or about the property.

_____ **(Initials)** _____ **(Initials)**

3. Customer's Asbestos and Hazardous Waste Related Representations. The services do not include the removal of any asbestos, lead, or mold or asbestos, lead, or mold containing materials, or the removal of any hazardous waste whatsoever, unless expressly stated in this proposal. In the event the services so include the removal of any asbestos, lead, or mold or any asbestos, lead, or mold containing material or hazardous waste, Customer represents to Metro that (i) Customer has provided to Metro a survey or other written document which accurately describes the amount and location of asbestos, lead or mold, asbestos, lead, or mold containing material and hazardous waste to be removed from the property, (ii) Customer acknowledges that Metro has relied upon the foregoing survey or other written instrument in preparing this proposal, (iii) in the event the amount or location of the asbestos, lead, or mold, asbestos, lead, or mold containing materials, or hazardous waste exceeds that on which Metro based its proposed fee, the contract fee shall be increased by Metro to compensate Metro for all additional cost incurred for the removal of the additional asbestos, asbestos containing material and/or hazardous wastes.

_____ **(Initials)** _____ **(Initials)**

4. Prices. This proposal supersedes all previous quotations and proposals. Unless otherwise specified, prices quoted do not include any applicable property, sales, use, privilege or other taxes, license, or permit fees, all of which shall be for the account of and be paid by Customer.

_____ **(Initials)** _____ **(Initials)**

5. Payments. Terms of payment shall be as specified in this proposal. In the event Metro is unable to complete the rendering of any Services due to any act or omission of Customer, Metro may nonetheless invoice Customer for the contract price for such Services. Interest at the rate of one and one-half percent (1.5%) per month, 18% per year (not to exceed the maximum interest allowable by law) shall be paid by Customer on the unpaid balance of any invoice not paid in full by Customer within twenty (20) days of its due date. If the proposal does not include payment terms, invoices are payable twenty (20) days after the date of the invoice.

_____ **(Initials)** _____ **(Initials)**

Attachment: Metro Enviornmental Contract (RES-2022-145 : Mold Remediation at Heritage Village CRS #3150)

Metro Contracting and Environmental, Inc.
General Terms & Conditions

6. Dates of Performance. Dates for the completion of services are approximate and are based in part upon the assumption that Customer will timely perform all of Customer's obligations pursuant to this proposal. The Owner will be responsible to reimburse Metro Environmental for all delay costs incurred to maintain the project schedule.

_____ **(Initials)** _____ **(Initials)**

7. Limited Warranties; Disclaimers. EXCEPT FOR ANY EXPRESS WARRANTIES MADE IN THIS PROPOSAL, METRO MAKES NO WARRANTY, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR PURPOSE OR DESIGN. Any sample or literature provided to Customer was to illustrate the general type of Services to be provided and not necessarily an exact description of the Services to be provided to Customer. No employee or representative of Metro has authority to bind Metro to any representations, affirmation or warranty not specifically included in this proposal.

_____ **(Initials)** _____ **(Initials)**

8. Limitation of Liability. Metro shall not be liable for any losses or damages suffered by Customer relating to any failure by Metro to render any Services on time, where such failure is due to loss, injury, delay, damages or other casualty due to labor disturbances, embargoes, riots, storms, fires, explosions, acts of God, war, acts of hostility, inability to obtain necessary labor or raw materials from usual suppliers, breakdown of manufacturing facility, change in economic conditions, or any cause beyond Metro's control. IN NO EVENT WHATSOEVER SHALL METRO BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, SPECIAL OR INDIRECT DAMAGES OR LOSSES OF CUSTOMER ARISING OUT OF THIS TRANSACTION OR THE USE OR THE MISUSE OF ANY EQUIPMENT OR ANY PART THEREOF, WHETHER BASED UPON BREACH OF WARRANTY, CONTRACT, NEGLIGENCE, STRICT LIABILITY OR ANY OTHER THEORY.

_____ **(Initials)** _____ **(Initials)**

9. Confidential information. All technical information contained in plans, drawings, specifications, photographs, and other documents disclosed or furnished by Metro constitutes confidential and proprietary property of Metro. Customer, in the absence of express prior written permission of Metro, shall hold all such confidential and proprietary information in confidence and may not sell or dispose of any portion thereof.

_____ **(Initials)** _____ **(Initials)**

10. Customer's Default. If Customer shall fail to pay all or any part of the sums due or to become due to Metro, or fail to timely keep and perform any of Customer's obligations herein, or become insolvent or become a party to any federal or state insolvency or bankruptcy proceeding or receivership, or become a judgment debtor, any sum due or to become due to Metro pursuant to this proposal may, at the option of Metro, become immediately due and payable in full and concurrently, or in the alternative, Metro may at its option terminate any contractual relationship between Customer and Metro and exercise any other remedies available under all applicable laws. Waiver of any default shall not be a waiver of any other subsequent default. In the event Metro commences a legal action or suit to collect any amount due to Metro pursuant to this contract, Customer shall be liable for all costs and expenses of such legal action or suit (including reasonable attorneys' fees and court costs).

_____ **(Initials)** _____ **(Initials)**

11. Indemnification. In the event Metro is made a party to any action or proceeding by Customer or any other person or entity seeking damages for any personal injury, property damage or otherwise, which damages are claimed to have arisen out of or to relate to the Services, then except only to the extent it is finally determined that such damages were directly caused by the acts or omissions of Metro, Customer shall indemnify and hold Metro harmless from all losses, liabilities, costs and expenses in connection with such action or proceeding, including all attorneys' fees and court costs.

_____ **(Initials)** _____ **(Initials)**

12. Cancellation. Once accepted by Customer, this proposal may not be cancelled by Customer except upon the written consent of Metro, which consent may be conditioned upon Metro's being reimbursed for any and all expenses and other losses incurred a result of such cancellation including Metro's actual out of pocket costs, overhead and anticipated profit with respect to the transaction contemplated by this proposal.

_____ **(Initials)** _____ **(Initials)**

Attachment: Metro Enviornmental Contract (RES-2022-145 : Mold Remediation at Heritage Village CRS #3150)

Metro Contracting and Environmental, Inc.
General Terms & Conditions

13. Changes. Metro reserves the rights to make, at any time, such changes in detail of designs or methods of performance as in its judgment constitute an improvement over former practice. Changes in materials, supplies, labor and/or changes made at the request of Customer shall be at the expense of Customer, and Customer shall pay for the same upon receipt of the Metro's invoice.

_____ **(Initials)** _____ **(Initials)**

14. Notices. All notices hereunder shall be in writing and delivered by the United States mail, registered or certified mail, postage prepaid, or by overnight delivery, with proof of delivery, in each case addressed to the party being notified at such party's address referred to on the face of this proposal, or at such other address as such party shall have notified the other party in writing. All notices to Metro shall be sent to the attention of its President.

_____ **(Initials)** _____ **(Initials)**

15. Not Transferable. This proposal is not transferable or assignable by Customer without the prior written consent of Metro. Paragraph captions are for convenience only and shall not be construed to define or limit the operative provisions of this contract.

_____ **(Initials)** _____ **(Initials)**

16. Modifications. No change to or modification of this proposal or any of the schedules or attachment hereto, shall be valid unless the same shall be in writing and signed by the party or parties to be charged therewith.

_____ **(Initials)** _____ **(Initials)**

17. Applicable Law. This transaction shall be governed by the laws of the State of New York. Any and all actions and proceedings relating to or arising from this proposal shall be commenced and shall remain in New York State Supreme Court, Erie County or Niagara County, or in the United States District Court for the Western District of New York.

_____ **(Initials)** _____ **(Initials)**

Metro Contracting and Environmental, Inc. **Contractor**	_____ **Customer**
Harold G. Hibbard, President **Print Name & Title**	_____ **Print Name & Title**
_____ **Signature**	_____ **Signature**
_____ **Attest**	_____ **Attest**

Attachment: Metro Enviornmental Contract (RES-2022-145 : Mold Remediation at Heritage Village CRS #3150)

Addendum to Contract Major Exposure

1. Notwithstanding any other provision in this Agreement, the following clauses shall be controlling. Should any other provision of the Agreement conflict with the clauses in this Addendum then the provisions of this Addendum are to be enforceable and any conflicting provision shall be considered null and void.

2. No rules, requirements or customs of any society or association of professional Contractors or any similar association shall affect this Agreement in any way whatsoever or be binding upon the Town.

3. To the fullest extent permitted by law, Contractor shall indemnify and hold the Town, its officers, agents, and employees, harmless from any and all liability, demands, claims, or expenses, awards or judgments imposed upon the Town, its officers, agents, and/or employees, arising out of the work of the Contractor its officers, agents, subcontractors, and/or employees as well as the negligence, active or passive, of the Contractor, its officers, agents, subcontractors, and/or employees.

4. Contractor shall not commence work under this Agreement until it has obtained all insurance specified below, produced satisfactory proof of the same and such insurance has been approved by the Town.

(a) **Workers' Compensation Insurance: Contractor shall take out and maintain during the life of this Agreement, Workers' Compensation Insurance** (both Part A and Part B) for its employees to be assigned to the work hereto under.

(b) General Liability, Professional (if applicable) Liability and Property Damage Insurance: Contractor shall take out and maintain during the life of this Agreement, such general liability and property damage insurance as shall protect it and the Town of Amherst from claims for damages for personal injury, including accidental death, as well as from claims for property damage, which may arise from operations under this Agreement. The amounts of such insurance shall be as follows in an amount not less than $1,000,000.00 per occurrence for bodily injury and property damage including wrongful death, and $2,000,000.00 aggregate. Umbrella coverage shall be in an amount of at least $5,000,000.00.

(c) **Contractor shall furnish the above insurances, including subcontractors'** insurances, to the Town and shall also assure that any policy procured by it shall name the Town as an additional insured on a primary and non-contributory basis.

(d) Contractor shall ensure all its subcontractors, if any, have obtained all the above insurances and shall also assure that any policy procured by any subcontractor or sub-subcontractor shall name the Town as an additional insured on a primary and non-contributory basis.

Attachment: Metro Enviornmental Contract (RES-2022-145 : Mold Remediation at Heritage Village CRS #3150)

5. Any accident shall be reported to the Office of the Town Attorney as soon as possible and not later than twenty-four (24) hours from the time of such accident. A detailed written report must be submitted to the Town of Amherst as soon thereafter as possible as and no later than three (3) days after the date of such accident.

6. No Assignment: In accordance with the provisions of section 109 of the General Municipal Law, the Contractor is hereby prohibited from assigning, transferring, conveying, subletting or otherwise disposing of this Agreement, or of its right, title or interest in this agreement, or its power to execute this Agreement, to any other person or corporation without the previous consent in writing of the Town.

7. Required Provisions of Law: Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to have been inserted herein. If any such provision is not inserted through mistake or otherwise, then upon the application of either party this Agreement shall be physically amended forthwith to make such insertion. In particular, the Contractor shall, among other things, fully comply with:

(a) Article 8 of the NYS Labor Law for public work contracts and Article 9 of the Labor Law regarding prevailing wage for Building Service employees.
(b) Labor Law Section 220-e and Executive Law Sections 291-299 and the Civil Rights Law relating to prohibition against discrimination and equal opportunity.
(c) Affirmative action as required by the Labor Law.
(d) Prevention of dust hazard required by Labor Law Section 222-a.
(e) Preference in employment of persons required by Labor Law Section 222.
(f) Eight-hour workday as required by Labor Law Section 220(2).
(g) Chapter 32 of the Town of Amherst: Minority Women and Business Utilization Commitment.
(h) Chapter 163 of the Town of Amherst: Registration of Sex Offenders.

8. The Contractor, in accordance with its status as an independent Contractor, covenants and agrees that it will conduct itself consistent with such status. It will neither hold itself out as nor claim to be, an officer or employee of the Town by reason hereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the Town, **including, but not limited to: workers' compensation coverage,** unemployment insurance benefits, Social Security coverage, or retirement membership or credit.

Waiver: No waiver of any breach of any condition of the Agreement shall be binding unless in writing and signed by the party waiving said breach. No such waiver shall in any way affect any other term or condition of this Agreement or constitute a cause or excuse for a repetition of such or any other breach unless the waiver shall include the same.

Attachment: Metro Enviornmental Contract (RES-2022-145 : Mold Remediation at Heritage Village CRS #3150)

9. This Agreement shall be governed by, and interpreted according to the laws of the State of New York. If the contract between the parties refers to the laws, statutes, rules, regulations or ordinances for any state other than New York State, to the laws, statutes, rules, regulations or ordinances for any county other than Erie County, New York or to the laws, statutes, rules, regulations or ordinances for any municipality other than the Town of Amherst, then the laws, statutes, rules, regulations or ordinances for New York State, Erie county and/or the Town of Amherst shall apply as applicable. Any and all legal action necessary to enforce the Agreement will be venued in Supreme Court, Erie County, New York or in the United States District Court for the Western District of New York, Buffalo Division.

10. It is hereby acknowledged that performance of this Contract will be undertaken in accordance with the specifications and pricing on which the bid was submitted.

Authority for execution on behalf of Town: The Supervisor has executed this Agreement pursuant to a Resolution adopted by the Town Board of the Town, at a meeting thereof held on _____. Brian J. Kulpa, the Supervisor whose signature appears hereafter, is duly authorized and empowered to execute this instrument and enter into such an Agreement on behalf of the Town as a result of that Resolution. This instrument shall be executed in triplicate. At least one (1) copy shall be permanently filed, after execution thereof, in the office of the Town Clerk of Town.

Agreed to and Accepted by:

Metro Contracting and Environmental, Inc.
Print Name of Company

By: _____
Signature

Harold G. Hibbard, President
Printed name

Date: January 20, 2022

Agreed to and Accepted by:

Town of Amherst

By: _____
Brian J. Kulpa, Supervisor

Date: _____

Attachment: Metro Enviornmental Contract (RES-2022-145 : Mold Remediation at Heritage Village CRS #3150)

IRAN DIVESTMENT ACT CERTIFICATION

As a result of the Iran Divestment Act of 2012 (Act), Chapter 1 of the 2012 Laws of New York, a provision was added to the State Finance Law (SFL), Section 165-a, effective April 12, 2012. Under the Act, the Commissioner of the Office of General Services (OGS) will develop a list (prohibited entities list) of "persons" who are engaged in "investment activities in Iran" (both are defined terms in the law). This list is posted on the OGS website.

By submitting a response to this solicitation, or by assuming the responsibility under a Contract/Lease awarded hereunder, Bidder/Contractor/Vendor (or any assignee) certifies that it will not utilize on such Contract/Lease any subcontractor that is identified on the prohibited entities list.

Additionally, Bidder/Contractor/Vendor is advised that any Bidder/ Contractor/Vendor seeking to renew or extend a Contract/Lease (or assume responsibility of a Contract/Lease awarded must certify at the time the Contract/Lease is renewed, extended or assigned that it is not included on the prohibited entities list.

During the term of the Contract/Lease, should the Town of Amherst (Town) receive information that a person is in violation of the above-referenced certification, the Town will offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment which is in violation of the Act within 90 days after the determination of such violation, then the Town shall take such action as appropriate including, but not limited to, imposing sanctions, seeking compliance, recovering damages or declaring the Bidder/Contractor/Vendor in default.

The Town reserves the right to reject any Contract/Lease or request for assignment for an entity that appears on the prohibited entities list prior to the award of a Contract/Lease, and to pursue a responsibility review with respect to any entity that is awarded a Contract/Lease and appears on the prohibited entities list after Contract/Lease award.

Company Name: Metro Contracting and Environmental, Inc.

Signature: [signature]

Print Name: Harold G. Hibbard

Title: President

Date: January 20, 2022

Sworn To Before Me This

20 Day of January, 2022

Dawn R. McConnaughey

Notary Public

DAWN R. McCONNAUGHEY
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 01MC6161822
Qualified in Niagara County
Commission Expires : 02/26/23

Revised 4.2017

Attachment: Metro Enviornmental Contract (RES-2022-145 : Mold Remediation at Heritage Village CRS #3150)

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 01/28/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Brown & Brown of New York, Inc. 45 East Avenue Rochester NY 14604	**CONTACT NAME:** Janine Miceli **PHONE (A/C, No, Ext):** (585) 232-4424 **FAX (A/C, No):** **E-MAIL ADDRESS:** Janine.Miceli@bbrown.com
INSURED Metro Contracting & Environmental, Inc 2939 Lockport Road Niagara Falls NY 14305	**INSURER(S) AFFORDING COVERAGE** / **NAIC #** **INSURER A :** Underwriters at Lloyd's / Hudson Excess Ins. Company 32727/14484 **INSURER B :** Selective Way Insurance Company 26301 **INSURER C :** **INSURER D :** **INSURER E :** **INSURER F :**

COVERAGES **CERTIFICATE NUMBER:** Master 2022-23 **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 [X] OTHER: Ded. $100,000	Y		ENVP0000355-22	01/31/2022	01/31/2023	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG Employee Benefits	$ 1,000,000 $ 300,000 $ 25,000 $ 1,000,000 $ 2,000,000 $ 2,000,000 $ 1,000,000
B	AUTOMOBILE LIABILITY [X] ANY AUTO [ ] OWNED AUTOS ONLY [ ] SCHEDULED AUTOS [X] HIRED AUTOS ONLY [X] NON-OWNED AUTOS ONLY			S2440926	01/31/2022	01/31/2023	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 1,000,000 $ $ $
A	[ ] UMBRELLA LIAB [X] OCCUR [X] EXCESS LIAB [ ] CLAIMS-MADE [ ] DED [ ] RETENTION $			ENVX0000325-22	01/31/2022	01/31/2023	EACH OCCURRENCE AGGREGATE	$ 5,000,000 $ 5,000,000
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y/N ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? [ ] (Mandatory in NH) N/A If yes, describe under DESCRIPTION OF OPERATIONS below						[ ] PER STATUTE [ ] OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ $ $
A	Pollution			ENVP0000355-22	01/31/2022	01/31/2023	Limit Transportation Poll Ded.	$1,000,000 $1,000,000 $25,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

RE: Mold Remediation

Town of Amherst is listed as additional insured on a primary and non contributory basis when required by written contract.

CERTIFICATE HOLDER

Town of Amherst
5583 Main Street
Williamsville NY 14221

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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Attachment: Metro Enviornmental Contract (RES-2022-145 : Mold Remediation at Heritage Village CRS #3150)

AGENCY CUSTOMER ID: 00373401

LOC #:

ACORD

ADDITIONAL REMARKS SCHEDULE

Page ____ of ____

AGENCY	NAMED INSURED
Brown & Brown of New York, Inc.	Metro Contracting & Environmental, Inc
POLICY NUMBER	
CARRIER / NAIC CODE	EFFECTIVE DATE: 01/31/2022
Underwriters at Lloyd's/ Hudson Excess	

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,

FORM NUMBER: 25 **FORM TITLE:** Certificate of Liability Insurance: Notes

GL Forms:
GAP 10 04 Additional Insured Completed Operations
GAP 10 28 Additional Insured On Going Operations
GAP 10 30 Blanket Waiver of Subrogation
30 day notice of cancellation , 10 days non payment
Primary & Non Contributory

Umbrella Forms:
Follow Form - waiver of subrogation
Primary & Non Contributory
30 day notice of cancellation , 10 days non payment

Auto Form:
Additional Insured
Waiver of Subrogation

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Attachment: Metro Enviornmental Contract (RES-2022-145 : Mold Remediation at Heritage Village CRS #3150)

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)
Metro Contracting & Environmental, Inc.
2939 Lockport Rd
Niagara Falls, NY 14305

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
716-285-9280

1c. Federal Employer Identification Number of Insured or Social Security Number
16-1540853

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
AmGUARD Insurance Company

3b. Policy Number of Entity Listed in Box "1a"
DB02602959.1

3c. Policy effective period
01/01/2022 to 01/01/2023

4. Policy provides the following benefits:
- [x] A. Both disability and paid family leave benefits.
- [ ] B. Disability benefits only.
- [ ] C. Paid family leave benefits only.

5. Policy covers:
- [x] A. All of the employer's employees eligible under the NYS Disability and Paid Family Leave Benefits Law.
- [ ] B. Only the following class or classes of employer's employees:

Under penalty of perjury, I certify that I am an authorized representative or licensed agent of the insurance carrier referenced above and that the named insured has NYS Disability and/or Paid Family Leave Benefits insurance coverage as described above.

Date Signed 01/20/2022 By David D. Simmons
(Signature of insurance carrier's authorized representative or NYS Licensed Insurance Agent of that insurance carrier)

Telephone Number 800-673-2465 Name and Title Vice President of Sales

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: Metro Enviornmental Contract (RES-2022-145 : Mold Remediation at Heritage Village CRS #3150)

NYSIF
New York State Insurance Fund

PO Box 66699, Albany, NY 12206
| nysif.com

CERTIFICATE OF WORKERS' COMPENSATION INSURANCE

^^^^^^ 161540853
BROWN & BROWN OF NEW YORK INC
45 EAST AVE
ROCHESTER NY 14604

SCAN TO VALIDATE
AND SUBSCRIBE

POLICYHOLDER	CERTIFICATE HOLDER
METRO CONTRACTING & ENVIRONMENTAL INC 2939 LOCKPORT RD NIAGARA FALLS NY 14305	TOWN OF AMHERST 5583 MAIN STREET WILLIAMSVILLE NY 14221

POLICY NUMBER	CERTIFICATE NUMBER	POLICY PERIOD	DATE
B2406 225-9	359364	12/31/2021 TO 12/31/2022	2/1/2022

THIS IS TO CERTIFY THAT THE POLICYHOLDER NAMED ABOVE IS INSURED WITH THE NEW YORK STATE INSURANCE FUND UNDER POLICY NO. 2406 225-9, 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.

THE POLICY INCLUDES A WAIVER OF SUBROGATION ENDORSEMENT UNDER WHICH NYSIF AGREES TO WAIVE ITS RIGHT OF SUBROGATION TO BRING AN ACTION AGAINST THE CERTIFICATE HOLDER TO RECOVER AMOUNTS WE PAID IN WORKERS' COMPENSATION AND/OR MEDICAL BENEFITS TO OR ON BEHALF OF AN EMPLOYEE OF OUR INSURED IN THE EVENT THAT, PRIOR TO THE DATE OF THE ACCIDENT, THE CERTIFICATE HOLDER HAS ENTERED INTO A WRITTEN CONTRACT WITH OUR INSURED THAT REQUIRES THAT SUCH RIGHT OF SUBROGATION BE WAIVED.

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS NOR INSURANCE COVERAGE UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICY.

NEW YORK STATE INSURANCE FUND

DIRECTOR,INSURANCE FUND UNDERWRITING

VALIDATION NUMBER: 129168934

U-26.3

Attachment: Metro Enviornmental Contract (RES-2022-145 : Mold Remediation at Heritage Village CRS #3150)

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

Francina J. Spoth
Town Clerk

Meeting: 02/07/22 07:00 PM
Department: Building/Building Maintenance
Initiated by: **Mark S. Berke**
Co-Sponsored by:

DOC ID: 25400 **RESOLUTION 2022-146** **ADOPTED**

Quarterly Sprinkler Inspection for Williamsville Youth & Family CRS #3142

Please authorize the Supervisor to sign contract between Town of Amherst and Davis Ulmer, One Commerce Dr., Amherst, NY 14228.

2/7/2022
Consent

FINANCIAL IMPACT:

A7255 4110 - $820.00 4220 - T&M TBD

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

DAVIS-ULMER FIRE PROTECTION

• Sprinklers • Suppression • Fire Alarm • Security

Inspection Agreement

Effective, **(January 14, 2022)** and subject to all terms, conditions, and limitations specified in this Agreement, **Williamsville Youth & Family Ctr** ("Customer") hereby engages Davis-Ulmer Sprinkler Company, Inc. ("Company") to perform inspection services at the premises specified in Section I below (the "Property"), and Company agrees to perform such services subject to all terms, conditions and limitations specified in this Agreement and as outlined in Section II.

SECTION I – CUSTOMER & PROPERTY INFORMATION

Property:	**Williamsville Youth & Family Ctr**	**Bill To:**	**Same**
Address:	5005 Sheridan Dr	**Address**	
City	Williamsville, NY 14221		
Phone:	716-631-7202	**Phone:**	
Fax:		**Fax:**	
E-Mail:	rlennox@amherst.ny.us	**E-Mail:**	

Property Owner (If different from Customer):

If Customer is not the owner of the Property (i) Customer represents, warrants and covenants to Company that Customer is authorized by the owner to enter into this Agreement and allow Company to access the Property and perform the services described below, and (ii) Customer authorizes Company to communicate the results of any inspection directly to the owner.

SECTION II – INSPECTION

Customer engages Company-to perform a
☐ single ☐ monthly ☐ quarterly ☐ semi-annual ☐ annual ☒ **other (see frequencies below)**
inspection(s) of the automatic fire protection and/or alarm/security equipment installed on or within the Property.

Inspect & test one (1) wet pipe sprinkler system, quarterly
Inspect one (1) antifreeze loop system, annually
Inspect & test one (1) fire hydrant with readings, annually

Per Scopes(s) of Work attached. Actual inspection date(s) will be determined by Company. The use of a lift, if required, will be at additional cost.

SECTION III – TERM, INSPECTION FEE, AND PAYMENT

The term of this Agreement shall be for a period of **two (2) years.** ***January 1, 2022 through April 30, 2023***
Includes prevailing wage rate requirements. Certified payroll reports to be provided with invoices.

Customer agrees to pay the **total annual sum** of **$820.00**
Customer will be invoiced as follows:
After each quarterly sprinkler inspection *(includes wet, AF loop, hydrant)*, the sum of **$205.00**

Specified fee does not include any applicable sales or other tax. Customer is responsible for all applicable taxes.

Company will issue an invoice promptly upon completion of each inspection. Customer will pay each invoice in full, without any setoff or deduction whatsoever, no later than 30 days after receipt of invoice. Any amounts past due will be subject to a finance charge equal to the lesser of 1.5% per month or the maximum legal rate. Customer agrees to reimburse Company for all costs of collection, including attorneys' fees.

Attachment: davis ulmer (RES-2022-146 : Quarterly Sprinkler Inspection for Williamsville Youth & Family CRS #3142)

SECTION V: TERMS AND CONDITIONS

1. **SERVICE OF THE FIRE PROTECTION EQUIPMENT:** The Client agrees to purchase and Company agrees to provide in accordance with these terms and conditions services for the purpose of inspecting and testing Client's fire protection equipment in accordance with the terms and condition of this agreement. The Company will be permitted, at all reasonable times, to enter the Property indicated above to conduct the inspection and testing as outlined in this Agreement. The Company will be permitted to gather information, data on the Subscriber's systems (outlined in this agreement) and retain that information, data for use as the Company deems necessary. The Company may or may not use software to collect, view and or store collected information, data in any format necessary to use as needed.

2. **TERMS AND RENEWAL OF AGREEMENT:** Client agrees and acknowledges that this Agreement shall commence on the Effective Date or from the date of acceptance by Company whichever occurs later unless terminated as provided herein and continue for the term indicated by customer in Section III: TERM (the initial term). At the conclusion of the Initial Term, this Agreement shall automatically extend for successive terms equal to the Initial Term unless either party gives written notice to the other party at least thirty (30) days prior to the end of the then current term.

3. **PRICE AND PAYMENT:** The charge for the work agreed to be performed herein shall include all labor, as described in paragraph 4.A, per diem and travel. Client agrees to pay company for the Term(s) of this Agreement, Company's applicable charges for testing and inspection services and for service calls as set forth under this Agreement. With approved credit, all invoices are due and payable in full according to the stated terms, net 30 days and interest at a rate of (1 ½%) on all unpaid invoices (30) days past due. If payment for work provided in this agreement is not paid when due, Client agrees to pay all costs of collection including attorneys' fees. Charges for inspection services or rates for basic or emergency service in any subsequent year of this agreement shall not exceed 115% of the prior year.

4. **INSPECTIONS AND SERVICE:** For the agreed on amount, as shown on the attached Proposal, during the term(s) of this Agreement, Company agrees to provide inspection, certification, service and parts as follows:

A. Periodic inspections of the fire protection equipment described in our attached Proposal means to inspect, test, and adjust the systems to assure components thereof are operating within the manufacturer's acceptable standards. Client will be notified, in writing, of any components found not to be within accepted operating standards. Sprinkler inspections are not intended to and will not address the adequacy of the system design or installation of systems not installed by Davis Ulmer Fire Protection. Davis Ulmer Fire Protection performs inspections of the sprinklers, pipe, fittings, and other components that are accessible and not in concealed spaces visually and from the floor of the facility, and only for the conditions listed in this report or as otherwise required by NFPA 25. Components will be repaired or replaced only upon written authorization of the Client and invoiced at the service rates (s) set forth under the Clarifications of the Proposal. The frequency of each inspection shall be identified within the Proposal, beginning with the first inspection.

B. Any additional work, material or services outside the scope of this Agreement, which is requested by the Client and furnished by the Company, may be provided by the Company at its sole discretion. Further, such additional work, material or services shall be delivered under the terms of this Agreement, and by execution hereof. Client acknowledges that this Section V shall be incorporated into and become a part of any order for such additional work, equipment or services.

C. If in the sole determination of the Company, and at any time prior to or during the term of this Agreement, the equipment or any portion of it cannot be adequately inspected, repaired or adjusted on-site to bring it to an acceptable condition, Company shall have the right, at its discretion, to cancel this Agreement. If, alternatively and in the sole determination of the Company, portions of the system cannot be brought up to acceptable level of operation through service and maintenance, in lieu of canceling the Agreement, Company may reduce the scope of the work and the inspection and maintenance charge shall be adjusted accordingly.

D. Repair(s), diagnosis, addition(s) change(s), relocation(s) or emergency services are not included within the inspection amount quoted. These services will not be provided without the authorization of the Client and will be invoiced at the company's then current hourly rate for services, including travel charges and per-diem. Service calls during normal working hours will be invoiced based upon cost portal to portal and a (2) hour minimum. After hours service calls will be based upon portal to portal and a (3) hour minimum. Client also agreed to pay Company an overtime rate of (1 ½) times the hourly rate for service(s) required at other than normal working hours for the Company except for Sundays and Holidays which will be at an overtime rate of (2) times the hourly rate of service. Normal working hours for the Company are, 8:00 AM – 5:00 PM, Monday through Friday, excluding holidays. Service parts and applicable material will be charged out in accordance with Company's current established pricing, not to exceed the Manufacturer's current published list price.

E. Company, following each inspection, will provide to Customer a written "Report of Inspection" ("Report"). If required and/or with prior written authorization, Company will provide copies of the Report to the local or state authority having jurisdiction on behalf of Customer. If requested by Customer, a copy of the Report will also be forwarded to Customer's insurance company. The Report and recommendations, if any, by Company are only advisory in nature and are intended to assist Customer in reducing the possibility of loss to the Property by indicating obvious defects or impairments to the system(s) which were discovered by Company's inspection and which should receive prompt attention.

5. **LIMITATION OF LIABLITY:** CLIENT ACKNOWLEDGES THAT COMPANY IS NOT AN INSURER, THAT CLIENT SHALL OBTAIN THE TYPE AND AMOUNT OF INSURANCE COVERAGE WHICH IT DETERMINES NECESSARY, AND THAT THE PAYMENTS MADE TO COMPANY BY CLIENT ON THIS PROJECT ARE BASED UPON THE VALUE OF THE SYSTEM AND/OR SERVICES PROVIDED AND ARE UNRELATED TO THE VALUE OF CLIENT'S PROPERTY OR BUSINESS OR ANY POTENTIAL LIABILITY OF DAMAGE TO CLIENT ARISING OUT OF THE WORK PERFORMED BY COMPANY. IN RECOGNITION OF THE RELATIVE RISKS AND BENEFITS TO THE CLIENT AND TO COMPANY RESULTING FROM THE WORK PERFORMED BY COMPANY, THE RISKS HAVE BEEN ALLOCATED SUCH THAT THE CLIENT, AS WELL AS THE CLIENT'S ASSIGNS, AGENTS, AND REPRESENTATIVES, AGREE, TO THE FULLEST EXTENT PERMITTED BY LAW, TO LIMIT THE LIABILITY OF COMPANY, ITS OFFICERS, DIRECTORS, EMPLOYEES AND COMPANY'S PARENT, SUBSIDIARIES, AFFILIATES, CONSULTANTS,
SUBCONTRACTORS, VENDORS, TO A MAXIMUM OF $5,000 OR THE AMOUNT OF THE CONTRACT/PRICE OF WORK BEING PERFORMED, WHICHEVER IS LESS, AND CLIENT DOES HEREBY RELEASE DAVIS ULMER FIRE PROTECTION FROM ANY CLAIMS IN EXCESS OF SAID LIMIT. THIS LIMITATION OF LIABILITY SHALL APPLY TO ALL JUDGMENTS, CLAIMS, LIABILITY, COSTS, CLAIM EXPENSES, AND ALL OTHER DAMAGES OR LOSSES OF ANY NATURE, INCLUDING ATTORNEYS' FEES (COLLECTIVELY "DAMAGES") SUSTAINED BY CLIENT OR ANY OTHER PARTY CLAIMING BY OR THROUGH CLIENT. THIS LIMITATION OF LIABILITY SHALL APPLY, 1.) REGARDLESS OF THE AMOUNT OF ANY DAMAGES SUSTAINED, IF ANY, AS A RESULT OF THIS WORK; AND, 2.) EVEN IF THE DAMAGES ARE ACTUALLY CAUSED OR ALLEGED TO BE CAUSED BY THE NEGLIGENCE, BREACH OF WARRANTY, VIOLATION OF A STATUTE,

Attachment: davis ulmer (RES-2022-146 : Quarterly Sprinkler Inspection for Williamsville Youth & Family CRS #3142)

ORDINANCE, REGULATION, STANDARD OR RULE, DEFECTIVE PRODUCTS, , OR OTHER FAULT OF COMPANY OR COMPANY'S PARENT, SUBSIDIARIES, AFFILIATES, CONSULTANTS, SUBCONTRACTORS, VENDORS, OR THEIR RESPECTIVE EMPLOYEES, AGENTS OR REPRESENTATIVES. SHOULD CLIENT DESIRE A DIFFERENT LIMITATION OF LIABILITY, SUCH IS AVAILABLE AS AN ADDITIONAL SERVICE AT AN ADDITIONAL COST. CLIENT AGREES TO REQUIRE IT INSURANCE POLICIES TO BE ENDORSED SO AS TO WAIVE ALL RIGHTS OF SUBROGATION AGAINST COMPANY.

6. **WARRANTIES:**

A. EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT, THE COMPANY MAKES NO WARRANTIES, EXPRESS OR IMPLIED, AS TO ANY MATTER WHATEVER, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND THERE ARE NO WARRANTIES OR REPRESENTATIONS WHICH EXTEND BEYOND THE FACE OF THIS AGREEMENT.

B. COMPANY DOES WARRANT THAT SERVICE UNDER THIS AGREEMENT WILL BE COMPETENT AND THAT PARTS INSTALLED ON THE SYSTEM IN CONNECTION WITH SERVICE PROVIDED UNDER THIS AGREEMENT WILL MEET MANUFACTURER'S SPECIFICATIONS AT THE TIME THEY ARE INSTALLED. FAILURES TO PERFORM CONSISTENTLY WITH THIS WARRANTY WILL BE REMEDIED SOLEY BY THE COMPANY DURING THE TERM OF THIS AGREEMENT, BY CORRECTLY RE-PERFORMING NONCOMPLYING SERVICE(S) OR REPAIRING OR REPLACING DEFECTIVE MATERIALS PROVIDED BY THE COMPANY, UPON WRITTEN NOTICE TO THE COMPANY BY THE CLIENT DURING THE TERM(S) OF THIS AGREEMENT.

C. THE COMPANY DOES NOT KNOW AND DOES NOT REPRESENT THAT THE CURRENT FIRE PROTECTION SYSTEM ON THE PROPERTY OF CLIENT WAS ORIGINALLY DESIGNED AND INSTALLED IN SUCH A WAY THAT THE SYSTEM WILL PERFORM AS ORIGINALLY INTENDED OR IS SUITABLE AND SUFFICIENT FOR ITS INTENDED PURPOSE GIVEN THE WAY IN WHICH THE PROPERTY HAS BEEN OR WILL BE USED, RECONFIGURED OR MAINTAINED. THIS AGREEMENT IS NOT A GUARANTEE OR WARRANTY THAT THE SYSTEM WILL IN ALL CASES (i) PROVIDE THE LEVEL OF PROTECTION FOR WHICH IT WAS ORIGINALLY INTENDED, (ii) IS FREE OF ALL DEFECTS AND DEFICIENCIES, AND (iii) IS IN COMPLIANCE WITH ALL APPLICABLE CODES. CLIENT AGREES THAT IT HAS NOT RETAINED COMPANY TO MAKE THESE ASSESSMENTS AS PART OF THIS AGREEMENT. ANY SUCH ASSESSMENT MUST BE BY A SEPARATE AGREEMENT SUBJECT TO THESE TERMS AND CONDITIONS. COMPANY FURTHER DOES NOT REPRESENT, GUARANTEE OR WARRANT THAT ANY EQUIPMENT REFERRED TO IN THIS AGREEMENT OR ANY SERVICE OR INSPECTION PROVIDED BY IT UNDER THIS AGREEMENT WILL RESULT IN A SYSTEM WHICH WILL OPERATE AS DESIGNED, OR IS SUITABLE FOR ANY PARTICULAR PURPOSE, OR WILL PREVENT ANY LOSS BY BURGLARY, FIRE OR OTHERWISE, OR WILL IN ALL CASES OR ANY PARTICULAR CASE AVERT OR PREVENT RISKS, LOSSES, OR OTHER OCCURENCES, OR THE CONSEQUENCES THEREFROM, WHICH THE EQUIPMENT OR SERVICES WERE OR ARE DESIGNED TO PERFORM, DETECT OR AVERT.

D. The Company is not responsible for any damages due to: (1) incompatibility of materials within a CPVC piping system, or (2) corrosion, or deterioration of piping due to Customer's water supply, atmospheric conditions, soil quality, or any other condition at Customer's facility that adversely affects the integrity of the fire protection system.

E. Company will make every reasonable effort to prevent the discharge of water into or onto areas of landscaping, decorative pavement, etc., at the Property, however it is Customer's responsibility to provide sufficient and readily accessible means to accept the full flow of water that may be required by tests as determined by the type of inspection and to take measures to eliminate the formation of ice in any area where a slip and fall hazard could occur.

7. **REDUCED PRESSURE BACKFLOW PREVENTER:** BY SIGNING BELOW, CLIENT ACKNOWLEDGES THAT REDUCED PRESSURE BACKFLOW PREVENTERS (RPBP), ARE DESIGNED TO DISCHARGE WHEN CHECK VALVES ARE FOULED OR DUE TO WATER PRESSURE FLUCTUATIONS FROM CITY WATER SUPPLIES. ANY MAINTENANCE, REPAIR OR INSPECTION ON A FIRE SPRINKLER SYSTEM COULD RESULT IN WATER FLOW THROUGH THE RPBP AND POSSIBLE DISCHARGE. BY SIGNING BELOW, CLIENT AGREES TO RELEASE, DEFEND, INDEMNIFY AND HOLD HARMLESS DAVIS ULMER FIRE PROTECTION FROM ANY CLAIM OR LIABILITY FOR ANY DAMAGES INCURRED BY THIS DISCHARGE OR LACK OF PROPER RPBP DRAIN PIPING AND OR RPBP DRAIN EQUIPMENT OR FAILURE OF THIS PIPING OR EQUIPMENT DAVIS ULMER FIRE PROTECTION WAS SPECIFICALLY CONTRACTED TO DESIGN AND/OR INSTALL THIS EQUIPMENT.

8. **RESPONSIBLITIES OF CLIENT:** The Client agrees to:

A. Promptly notify Company of any known or suspected trouble or malfunction in the equipment, request a hazard evaluation if there are changes in occupancy, use, processes or materials, and promptly approve correction of impairments and critical deficiencies found during any inspection. All replaced parts become the property of the Company.

B. Maintain the system per original installers instructions and manufacturer' specifications.

C. Authorize Company, its agents and employees, for purposes of this Agreement, to enter upon the premises of Client, to repair or inspect the equipment and to make any changes or alteration to the equipment, as authorized by Client. Client also agrees to provide Company with ready accessibility to all components of systems requiring inspection and testing and appropriate working space, including adequate light, electricity, telephone access, ladders or lifts as required for Company's use in providing service(s) under this Agreement. In addition, Client agrees to provide one individual to monitor the control panel during testing and certification.

D. Designate suitable representative(s) satisfactory to the Company as exclusive contact(s) between Company and the Client, who shall have authority to make decisions on behalf of Client concerning service of the equipment by Company.

E. Neither authorize nor permit maintenance, repairs or modifications of any kind to be made to the equipment, except by the Company or as specified and approved in advance by the Company.

F. Assume complete responsibility for the maintenance and repair of the system except as is set forth in this agreement.

9. **INDEMNIFICATION.** COMPANY AND CLIENT SHALL DEFEND, INDEMNIFY AND HOLD ONE ANOTHER HARMLESS FROM ANY EXPENSE, LIABILITY, LOSS, CLAIM OR DAMAGE, FOR PERSONAL INJURIES AND DEATH OR PROPERTY DAMAGE ASSERTED BY ANY THIRD PARTY, CAUSED BY THE ALLEGED NEGLIGENCE OF ITSELF, ITS AGENTS, EMPLOYEES, OR ANY OTHER INDIVIDUAL OR ENTITY AFFILIATED WITH IT, AND RESULTING FROM THE SERVICES PROVIDED HEREIN ,OR OVERALL FUNCTIONALITY OF THE SYSTEM IDENTIFIED IN THIS AGREEMENT.

10. **ADDITIONAL COMPANY RESPONSIBILITY**.

A. Company will provide service calls and emergency service, upon request of the Client, subject to any delay which may be occasioned by strike, riot, acts of God or any other circumstances beyond the control of the Company, as soon as it is reasonably

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practical to do so. Company will make reasonable efforts to attend promptly to the emergency needs of the Client, but it can make no guaranty of response time by the company or what may be required to properly service the equipment.

B. In the event a malfunction of a type covered by this Agreement has not been remedied before this Agreement has terminated for whatever reason, any service requested by the Client thereafter may be provided by the Company in its sole discretion and at the Company's then-current rates for services, including travel charges, per diem and materials.

C. Company will provide necessary test equipment required to perform service(s) under this Agreement.

D. If replacement parts are necessary under this Agreement, Company may provide new and /or used replacements.

11. **NO CONFLICT WITH OTHER CLIENT AGREEMENTS.** Client warrants that the negotiation, execution and implementation of this Agreement will not conflict with any other agreement of which the Client is aware with any other person or firm. Client agrees to defend, indemnify and hold harmless the Company from claims of any sort by any person or firm alleging that this Agreement violates, interferes with or infringes upon any other Agreement in any way.

12. **LICENSES, TAXES, PERMITS AND FALSE ALARMS.** Client shall identify any rules, regulations, standards or codes with which the equipment must comply, and shall obtain and pay for any necessary licenses or other certificates of compliance for same. Client is solely responsibility for any fees, taxes (including sales taxes), false alarm fines, and any other governmental assessments related to the equipment or system operation and shall reimburse and indemnify the Company for any such expenses incurred by the Company. Client and Company are each responsible for obtaining any necessary licenses or permits needed to perform their respective obligations under this Agreement.

13. **ASSIGNMENTS AND DELEGATIONS.** Neither the Company nor the Client may assign this Agreement to any other person, firm or corporation without notice to or approval by the other, but Company may subcontract any activities that it may perform under this Agreement.

14. **ENGINEERING CHANGES.** Occasionally, manufacturers may issue non-warranty engineering changes to equipment necessary to assure proper operation of system components. If, in the opinion of the Company and Client, installation of such engineering changes requires service(s) or material(s) in excess of those incidental to a normal preventive maintenance inspection, such excess shall be paid for by the Client at Company's applicable charges for on-call and emergency services as set forth under this Agreement provided that company will remain responsible for performance of its obligations under this agreement. Failure by the Client to have factory recommended engineering changes installed on the system will relieve the Company from further performance under this Agreement, but will not relieve the Client of its obligations hereunder. No other engineering changes or system modification are covered by this Agreement except as may be otherwise specifically provided herein.

15. **INVALID PROVISIONS.** If any of the parts of this Agreement shall be determined by a court of competent jurisdiction to be invalid or inoperative, all of the remaining parts shall remain in full force and effect.

16. **ENTIRE AGREEMENT.** This writing is intended by the parties as the final expression of their Agreement and as a complete and exclusive statement of the terms thereof. This Agreement supersedes all prior representations, understandings or agreements between the parties; there are no prior writings, verbal negotiations, understandings, representations or agreements not expressed in this Agreement, and the parties rely only upon the contents of this Agreement in executing it, and have not relied on any other representations, oral or otherwise, made by the parties, their agents or employees. Only a writing signed by each of the parties or their duly authorized agents may modify this Agreement. No waiver of breach of any term or condition of this Agreement shall be construed to be a waiver of any succeeding breach. This agreement shall bind and benefit the heirs, successors and assigns for the respective parties. A written Service Agreement Proposal is provided for clarification purposes and is hereby made a part of this contract.

17. **RECEIPT AND REVIEW OF AGREEMENT.** The Client specifically acknowledges that it has received a copy of these Terms and Conditions in its entirety, represents that it has authority to enter into this Agreement, and has read the same, understood it and agreed to its contents before signing it. Further the person executing these Terms and Conditions has the full authority of the Client to bind the Client, to the fullest extent provided by law, to these Terms and Conditions.

A. This Agreement may not be assigned by Customer without the written consent of Company.

B. This Agreement may be signed in counterparts; a signed facsimile, photocopy, and/or electronic mail of this Agreement shall be as binding on both parties just as though this Agreement were executed in its original, pre-printed form.

C. The Company for formal bid documents, is not a Disadvantaged Business Enterprise. Furthermore, no DBE, MWBE or other minority program participation goals or requirements are included or inferred. Should this project involve DBE, MWBE or other minority program participation goals or requirements please advise in writing regarding the specific nature of those goals or requirements and specifically how they impact Davis Ulmer Fire Protection.

Other inclusions, exclusions or attachments:

***General Exclusions:** Painting, patching, underground and/or trenching, after hour, weekend and holiday labor rates, fire watch, prevailing wage/certified payroll, abatement including but not limited to asbestos and lead, water containment/disposal, conduit and wire, permit fees, scissor lifts, dampers, ground faults.

* **Pricing:** The pricing set forth in this Agreement is based on the number of devices set forth in Section II: Scope of Work. If for any reason the actual number of devices is higher than the number set forth in Section II: Scope of Work, the price will be adjusted accordingly.

***Coverage:** Proposal above is for Test & Inspect only of above systems. All repairs, parts and services outside of above testing & inspecting scope of work is billable at Davis Ulmer Fire Protection current Time & Material Rates.

***Access:** During inspection, inspectors must have access to control valves, and alarm information, buried and/or non-accessible FDC check valves will be listed on the report and a recommendation for relocation under a separate contract. Inspectors must have access to all suites, apartments, units, etc. Customer responsible for notifying tenants of inspection and for gaining access in to each and every unit/apartment on scheduled inspection date(s). **If multiple inspections are required due to "no access" customer will be responsible for hourly rates of inspectors at** Davis Ulmer Fire Protection's **current Time & Material Rates.**

ACCESS ACKNOWLEDGEMENT CUSTOMER INITIAL____

***On Site Inspection Repairs:** Client authorizes Davis Ulmer Fire Protection to perform repairs or component replacements, found to be necessary during the course of inspection, the amount of $500.00 or less, ONLY IF TECHNICIAN HAS THOSE PARTS READILY AVAILABLE ON HIS TRUCK. Any necessary repairs for an amount exceeding $500.00 will be first submitted in writing for written approval. Any repairs performed while on site during inspection will be billed on a "Time & Material" basis and subject to the terms of this Agreement. Hourly rates are provided in ½ hour increments. All labor rates are subject to change with a thirty (30) day written notice to the client.

ON SITE REPAIRS ACKNOWLEDGEMENT CUSTOMER INITIAL____

Attachment: davis ulmer (RES-2022-146 : Quarterly Sprinkler Inspection for Williamsville Youth & Family CRS #3142)

***Cancelation/Reschedule Notice:** Should the customer cancel or reschedule all or any portion of the inspection/scope without giving 3 business days' notice to the Davis Ulmer Fire Protection we will assess a scheduling impact fee. The fee shall be equal to 4 hours of our current set Time and Material rate.

***COVID-19**: "Due to the existing pandemic involving COVID-19 and the constantly evolving situation, which includes shut downs of definite and indefinite durations by the federal, state, and local governments, quarantines, business shut downs, transportation interruptions, disruptions in the supply chain of certain materials, supplies, or equipment, disruptions to public services, temporary suspensions of work on site, or the unavailability or reduced availability of manpower, the parties agree that if Subcontractor is hindered, prevented or delayed at any time in the commencement or progress of the work for a cause arising from or related to COVID-19, including but not limited to any of the examples above, Subcontractor shall be entitled to an extension of the Contract time. Furthermore, Subcontractor shall be entitled to additional compensation for increased costs associated with the high demand for specified materials, for increased costs associated with any proposed substitute approved by Contractor or Owner, or any other similar cost increase outside the control of Subcontractor."

SECTION V: THIRD PARTY AUTHORIZATION

Customer requests and authorizes Company to provide the following designated third parties with the Report information outlined below:

SECTION VI: ACCEPTANCE AND SIGNATURE

Customer:	*Williamsville Youth & Family Ctr*	*Davis-Ulmer Sprinkler Company, Inc.*	
SIGNATURE:	_____	SIGNATURE:	
NAME:	_____	NAME:	Stephanie Wlosinski
TITLE:	_____	TITLE:	Inspection Manager
DATE:	_____	DATE:	1/21/2022

By signing above, Customer acknowledges that it has reviewed, understands and agrees to all terms and conditions of this Agreement including, without limitation, the Scope(s) of Work furnished by Company with this Agreement.

The inspection fee quoted is for acceptance within thirty (30) days from Company's presentation of this Agreement to Customer. If not accepted by Customer within such 30-day period, Company will be pleased to submit a revised quotation. Agreement is not binding on Company until credit approval for Customer is issued by Company.

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Automatic Debit Terms and Conditions

I authorize **Davis-Ulmer Fire Protection** to automatically charge my debit card or credit card account each ☐ monthly ☐ quarterly ☐ semi-annually ☐ annually in the amount that is due/invoiced in this agreement to **Davis-Ulmer Fire Protection**. If I am signing up for automatic payments using a credit card, **Davis-Ulmer Fire Protection** will accept Visa, MasterCard, Discover, or American Express.

My authorization applies to the bank account or credit card on file, as well as any updates or changes to that information that I provide to **Davis-Ulmer Fire Protection**. My auto pay authority will remain in effect until I notify **Davis-Ulmer Fire Protection** to cancel it, at least thirty (30) days prior to the date of my next scheduled monthly/quarterly/semi-annually/annually performed services. If my cancellation request is submitted after this time, the cancellation will not take effect until the following scheduled service date.

You agree to be bound by any rules your financial institution requires for pre-authorized electronic funds transfers and/or that your debit or credit card issuer requires for pre-authorized debit or credit card transactions. You are responsible for all fees charged by your financial institution associated with the pre-authorized payment option. **Davis-Ulmer Fire Protection** SHALL BEAR NO LIABILITY OR RESPONSIBILITY FOR ANY LOSSES OF ANY KIND THAT YOU MAY INCUR AS A RESULT OF A PAYMENT MADE FOR ANY DELAY IN THE ACTUAL DATE ON WHICH YOUR ACCOUNT IS DEBITED OR YOUR CREDIT CARD IS CHARGED.

These terms do not in any way terminate, amend or modify other terms, agreements or policies that apply to any **Davis-Ulmer Fire Protection** services you receive or other agreements you may have with **Davis-Ulmer Fire Protection.**

Initial Here	

CREDIT CARD INFORMATION

Name as appears on card:		
Card Holder's Address:		
Card Holder's Zip Code:		
Send Authorization to the Attention of:		
Phone#:		
Email Address:		
Please Check One ☐MC * ☐VISA * ☐AMX	CV#	Expiration Date:
Credit Card #:		

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Davis-Ulmer
1 Commerce Drive
Amherst, NY 14228
716.691.3200

DAVIS-ULMER FIRE PROTECTION

HOURLY SERVICE TECHNICIAN RATES

(Per Man)
Valid through 12/31/2022

Description	Rates
Straight Time Monday Through Friday 7:00am – 3:30pm (Excludes Holidays)	$ 130.00 per hour
Over Time 1.5 Monday through Friday 3:30pm-7:00am & ALL Day Saturday (Excludes Holidays)	$ 195.00 per hour
Over Time 2.0 Sunday & Holidays	$ 230.00 per hour
Truck Delivery w/ Driver	$ 145.00 per delivery
Shop Fabrication	$ 90.00 per hour
Office Admin / PM	$ 100.00 per hour
Vehicle/Tools/Fuel	$ 95.00 per call out

Labor rates are based on NET 30 payment terms.
If payment exceeds 30 days revised rates will be provided.

Town of Amherst (All Sites)

5583 Main Street
Williamsville, NY 14221

Attachment: davis ulmer (RES-2022-146 : Quarterly Sprinkler Inspection for Williamsville Youth & Family CRS #3142)

DAVIS-ULMER FIRE PROTECTION · BEACH LAKE SPRINKLER FIRE PROTECTION SERVICES · Ellis · ISLANDFIRE LIFE SAFETY CO. · RELIANCE FIRE PROTECTION · Rich FIRE PROTECTION · W&M Fire Protection Services SPRINKLER · ALARM · SPECIAL HAZARDS

DAVIS-ULMER

Quarterly

INSPECTION / TESTING OF WET PIPE FIRE SPRINKLER SYSTEM

The State Fire Code requires you to inspect, test, and maintain fire protection systems in an operative condition. All inspection, testing and maintenance records are required to be kept on file at the premises. Any questions concerning regulatory requirements for fire protection systems should be directed to your municipal code enforcement authority. Davis-Ulmer will notify you in writing of any condition or deficiency discovered requiring correction or repair. Any authorized repair/maintenance work will be performed either as quoted or on a time and material basis.

SCOPE OF WORK

- (**Annually**) Attempt to visually inspect all known portions of system for exterior condition of sprinklers, piping, and hangers from floor level only.
- (**Quarterly**) Attempt to visually inspect all known valves, hydraulic placards, gauges, fire department connection from floor level only.
- (**Annually**) Operate all known control valves, and seal valves in proper position.
- (**Annually**) Attempt to visually verify proper sprinkler orientation, temperature rating, and obvious obstruction from floor level only.
- (**Annually**) Verify appropriate quantities and types of sprinkler heads and wrenches in cabinet.
- (**Quarterly**) Verify operation of audible alarms and water flow alarms to building Fire Alarm Panel and remote monitoring facility (if equipped).
- (**Quarterly**) Perform main drain flow test and record static and residual pressures (weather permitting).
- (**Annually**) Sample test anti-freeze solution for specific gravity and freezing point (if equipped).
- (**Semi-Annually**) Verify operation of valve supervisory switches to building Fire Alarm Panel and remote monitoring facility (if equipped).
- (**Quarterly**) Affix inspection tags, date, and initial.
- Furnish completed inspection/test forms.

Excluded Work:

- Visual inspection of systems or portions of in inaccessible spaces.
- Any and all NFPA, State, and local requirements in excess of above stated.

Licensed by the NYS Dept of State
Rev.2/7/19

Attachment: davis ulmer (RES-2022-146 : Quarterly Sprinkler Inspection for Williamsville Youth & Family CRS #3142)

DAVIS-ULMER

Annual

INSPECTION / TESTING OF ANTI-FREEZE SYSTEM

The State Fire Code requires you to inspect, test, and maintain fire protection systems in an operative condition. All inspection, testing and maintenance records are required to be kept on file at the premises. Any questions concerning regulatory requirements for fire protection systems should be directed to your municipal code enforcement authority. Davis-Ulmer will notify you in writing of any condition or deficiency discovered requiring correction or repair. Any authorized repair/maintenance work will be performed either as quoted or on a time and material basis.

SCOPE OF WORK

- (Annually) Attempt to visually inspect all known portions of system for exterior condition of sprinklers, piping, hangers, valves, gauges, and fire department connection from floor level only.
- (Annually) Operate all known control valves and seal valves in proper position.
- (Annually) Attempt to visually verify proper sprinkler orientation, temperature rating, and obvious obstructions from floor level only.
- (Annually) Verify appropriate quantities and types of sprinkler heads and wrenches in cabinet.
- (Annually) Verify operation of water flow alarm to building Fire Alarm Panel and remote monitoring facility (if equipped).
- (Annually) Perform main drain flow test and record static and residual pressures (weather permitting).
- (Annually) Verify operation of valve supervisory switches to building Fire Alarm Panel and remote monitoring facility (if equipped).
- (Annually) Sample test anti-freeze solution for specific gravity and freezing point.
- (Annually) Affix inspection tags, date, and initial.
- Furnish completed inspection/test forms.

Excluded Work:

- Visual inspection of systems or portions of in inaccessible spaces.
- Replenishing or replacement of Anti-freeze solution.
- Any and all NFPA, State, and local requirements in excess of above stated.

Licensed by the NYS Dept of State

Rev. 08-30-10

Attachment: davis ulmer (RES-2022-146 : Quarterly Sprinkler Inspection for Williamsville Youth & Family CRS #3142)

DAVIS-ULMER

Annual

INSPECTION / TESTING OF PRIVATE FIRE HYDRANT

The State Fire Code requires you to inspect, test, and maintain fire protection systems in an operative condition. All inspection, testing and maintenance records are required to be kept on file at the premises. Any questions concerning regulatory requirements for fire protection systems should be directed to your municipal code enforcement authority. Davis-Ulmer will notify you in writing of any condition or deficiency discovered requiring correction or repair. Any authorized repair/maintenance work will be performed either as quoted or on a time and material basis.

SCOPE OF WORK

- (Annually) Visually inspect exterior condition for leaks, damage and missing components.
- (Annually) Verify proper operation.
- (Annually) Flow each hydrant until water stream runs clear.
- (Annually) Observe proper drainage from dry barrel hydrants.
- (Annually) Lubricate stems, caps/plugs, and threads.
- (Annually) Inspect for accessibility.
- (Annually) Flow or pressure measurements.
- Furnish completed Inspection/test forms.

Excluded Work:

- Disassembly of hydrant.
- Removal of water if hydrant fails to drain.
- Antifreeze solution to winterize non-draining hydrants.
- Maintaining adequate access around hydrant.
- Any and all NFPA, State. And Local requirements in excess of above stated.

Licensed by the NYS Dept of State –
Rev. 07-28-10

Attachment: davis ulmer (RES-2022-146 : Quarterly Sprinkler Inspection for Williamsville Youth & Family CRS #3142)

NEW YORK STATE | Workers' Compensation Board

CERTIFICATE OF NYS WORKERS' COMPENSATION INSURANCE COVERA

1a. Legal Name & Address of Insured (use street address only)	1b. Business Telephone Number of Insured
Davis-Ulmer Sprinkler Co., Inc. One Commerce Drive Amherst, NY 14228	716-691-3200
Work Location of Insured *(Only required if coverage is specifically limited to certain locations in New York State, i.e., a Wrap-Up Policy)*	1c. NYS Unemployment Insurance Employer Registration Number of Insured 1750987
	1d. Federal Employer Identification Number of Insured or Social Security Number 16-0710179
2. Name and Address of Entity Requesting Proof of Coverage (Entity Being Listed as the Certificate Holder) Town of Amherst 5583 Main Street Williamsville, NY 14221	3a. Name of Insurance Carrier Zurich American Insurance Company 3b. Policy Number of Entity Listed in Box "1a" WC 8902941-02 3c. Policy effective period 12/31/2021 to 12/31/2022 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 3 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 cancel due to nonpayment of premiums or within 30 days IF there are reasons other than the nonpayment of premiums that cancel the policy o eliminate the insured from the coverage indicated on this Certificate. (These notices may be sent by regular mail.) **Otherwise, this 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: Roxanne Klendshoj
(Print name of authorized representative or licensed agent of insurance carrier)

Approved by: _____ 12/10/2021
(Signature) (Date)

Title: Senior Client Manager

Telephone Number of authorized representative or licensed agent of insurance carrier: 952-842-7000

Please Note: Only insurance carriers and their licensed agents are authorized to issue Form C-105.2. Insurance brokers are N authorized to issue it.

C-105.2 (9-17) www.wcb.ny.g

Attachment: davis ulmer (RES-2022-146 : Quarterly Sprinkler Inspection for Williamsville Youth & Family CRS #3142)

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 12/17/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. T CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLIC BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORI REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endors If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Willis Towers Watson Midwest, Inc. c/o 26 Century Blvd P.O. Box 305191 Nashville, TN 372305191 USA	CONTACT NAME: Willis Towers Watson Certificate Center PHONE (A/C, No, Ext): 1-877-945-7378 FAX (A/C, No): 1-888-467-23 E-MAIL ADDRESS: certificates@willis.com
INSURED Davis-Ulmer Sprinkler Company, Inc. One Commerce Drive Amherst, NY 14228	INSURER(S) AFFORDING COVERAGE — NAI INSURER A: Zurich American Insurance Company — 165 INSURER B: AXIS Surplus Insurance Company — 266 INSURER C: INSURER D: INSURER E: INSURER F:

COVERAGES **CERTIFICATE NUMBER:** W23210362 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PER INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH T CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TER EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS		
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE X OCCUR X Contractual Liability GEN'L AGGREGATE LIMIT APPLIES PER: X POLICY X PRO-JECT X LOC OTHER:	Y		GLO 8902940-02	12/31/2021	12/31/2022	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ $ $ $ $ $	2,00 2,00 1 2,00 4,00 4,00
A	AUTOMOBILE LIABILITY X ANY AUTO OWNED AUTOS ONLY X HIRED AUTOS ONLY SCHEDULED AUTOS X NON-OWNED AUTOS ONLY			BAP 8488453-02	12/31/2021	12/31/2022	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ $ $ $	5,00
B	UMBRELLA LIAB X OCCUR X EXCESS LIAB CLAIMS-MADE DED RETENTION $			P-001-000068228-04	12/31/2021	12/31/2022	EACH OCCURRENCE AGGREGATE	$ $	5,00 5,00
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N No If yes, describe under DESCRIPTION OF OPERATIONS below	N/A		WC 8902941-02	12/31/2021	12/31/2022	X PER STATUTE OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ $ $	5,00 5,00 5,00

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Stop Gap Employers Liability for the Monopolistic States of North Dakota, Ohio, Washington and Wyoming is provided under Workers' Compensation policy, however, Statutory coverage for the Monopolistic states is not.

The Town of Amherst is included as Additional Insured under the General Liability policy when required by written contract, agreement or permit and executed prior to the loss.

CERTIFICATE HOLDER

Town of Amherst
5583 Main Street
Williamsville, NY 14221

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFC THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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Attachment: davis ulmer (RES-2022-146 : Quarterly Sprinkler Inspection for Williamsville Youth & Family CRS #3142)

AGENCY CUSTOMER ID: _____

LOC #: _____

ADDITIONAL REMARKS SCHEDULE

AGENCY Willis Towers Watson Midwest, Inc.	NAMED INSURED Davis-Ulmer Sprinkler Company, Inc. One Commerce Drive Amherst, NY 14228
POLICY NUMBER See Page 1	
CARRIER See Page 1 / NAIC CODE See Page 1	EFFECTIVE DATE: See Page 1

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,

FORM NUMBER: 25 FORM TITLE: Certificate of Liability Insurance

Insurance afforded to the Additional Insured under the General Liability is Primary and Non-contributory when requ
by written contract or agreement and when the Additional Insured is a Named Insured under such other insurance.

Attachment: davis ulmer (RES-2022-146 : Quarterly Sprinkler Inspection for Williamsville Youth & Family CRS #3142)

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SR ID: 21955563 BATCH: 2344618 CERT: W23210362

POLICY NUMBER: GLO 8902940-02 **ENDORSEMENT MAN 001**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDATORY ENDORSEMENT - ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – SCHEDULED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):	Location(s) Of Covered Operations
Blanket when required by written contract, agreement, or permit and is executed prior to loss.	All projects or locations where required by written contract.
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. **Section II – Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only to the extent of liability for "bodily injury", "property damage" or "personal and advertising injury" caused by:

1. Your negligent acts or omissions; or
2. The negligent acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

Attachment: davis ulmer (RES-2022-146 : Quarterly Sprinkler Inspection for Williamsville Youth & Family CRS #3142)

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POLICY NUMBER: GLO 8902940-02 **ENDORSEMENT MAN 002**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDATORY ENDORSEMENT - ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – COMPLETED OPERATIONS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):	Location And Description Of Completed Operations
Blanket when required by written contract, agreement, or permit and is executed prior to loss.	All projects or locations where required by written contract.
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only to the extent of liability for "bodily injury" or "property damage" caused by your negligent acts or omissions in the completion of your work at the location designated and described in the schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".

Attachment: davis ulmer (RES-2022-146 : Quarterly Sprinkler Inspection for Williamsville Youth & Family CRS #3142)

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POLICY NUMBER: GLO 8902940-02

COMMERCIAL GENERAL LIABILITY
CG 20 01 04 13

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PRIMARY AND NONCONTRIBUTORY - OTHER INSURANCE CONDITION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

The following is added to the Other Insurance Condition and supersedes any provision to the contrary:

Primary And Noncontributory Insurance

This insurance is primary to and will not seek contribution from any other insurance available to an additional insured under your policy provided that:

(1) The *additional* insured is a Named Insured under such other insurance; and

(2) You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured.

Attachment: davis ulmer (RES-2022-146 : Quarterly Sprinkler Inspection for Williamsville Youth & Family CRS #3142)

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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)

DAVIS-ULMER SPRINKLER CO., INC.
ONE COMMERCE DRIVE
BUFFALO, NY 14228

Work Location of Insured *(Only required if coverage is specifically limited to certain locations in New York State, i.e., Wrap-Up Policy)*

1b. Business Telephone Number of Insured

585-546-3670

1c. Federal Employer Identification Number of Insured or Social Security Number

160710179

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

HARTFORD LIFE AND ACCIDENT

3b Policy Number of Entity Listed in Box "1a"

LNY616110

3c Policy effective period

01-01-2022 to 12-31-2022

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 01-24-2022 *Elizabeth Tello*

(Signature of insurance carrier's authorized representative or NYS Licensed Insurance Agent of that insurance carrier)

Telephone Number (212) 553-8074 **Name and Title:** Elizabeth Tello – Assistant Director, Statutory Services

IMPORTANT: If Boxes 4A and 5A are checked, and this form is signed by the insurance carrier's authorized representative or NYS Licensed Insurance Agent of that carrier, this certificate is COMPLETE. Mail it directly to the certificate holder.

If Box 4B, 4C or 5B is checked, this certificate is NOT COMPLETE for purposes of Section 220, Subd. 8 of the NYS Disability and Paid Family Leave Benefits Law. It must be 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) IH

Attachment: davis ulmer (RES-2022-146 : Quarterly Sprinkler Inspection for Williamsville Youth & Family CRS #3142)

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 "1 a" 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 Workers' Compensation Board within 10 days IF a policy is cancelled due to nonpayment of premiums or within 30 days IF there are reasons other than nonpayment of premiums that cancel the policy or eliminate the insured from coverage indicated on this Certificate. (These notices my 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: davis ulmer (RES-2022-146 : Quarterly Sprinkler Inspection for Williamsville Youth & Family CRS #3142)

Addendum to Contract Major Exposure

1. Notwithstanding any other provision in this Agreement, the following clauses shall be controlling. Should any other provision of the Agreement conflict with the clauses in this Addendum then the provisions of this Addendum are to be enforceable and any conflicting provision shall be considered null and void.

2. No rules, requirements or customs of any society or association of professional Contractors or any similar association shall affect this Agreement in any way whatsoever or be binding upon the Town.

3. To the fullest extent permitted by law, Contractor shall indemnify and hold the Town, its officers, agents, and employees, harmless from any and all liability, demands, claims, or expenses, awards or judgments imposed upon the Town, its officers, agents, and/or employees, arising out of the work of the Contractor its officers, agents, subcontractors, and/or employees as well as the negligence, active or passive, of the Contractor, its officers, agents, subcontractors, and/or employees.

4. Contractor shall not commence work under this Agreement until it has obtained all insurance specified below, produced satisfactory proof of the same and such insurance has been approved by the Town.

(a) Workers' Compensation Insurance: Contractor shall take out and maintain during the life of this Agreement, Workers' Compensation Insurance (both Part A and Part B) for its employees to be assigned to the work hereto under.

(b) General Liability, Professional (if applicable) Liability and Property Damage Insurance: Contractor shall take out and maintain during the life of this Agreement, such general liability and property damage insurance as shall protect it and the Town of Amherst from claims for damages for personal injury, including accidental death, as well as from claims for property damage, which may arise from operations under this Agreement. The amounts of such insurance shall be as follows in an amount not less than $1,000,000.00 per occurrence for bodily injury and property damage including wrongful death, and $2,000,000.00 aggregate. Umbrella coverage shall be in an amount of at least $5,000,000.00.

(c) Contractor shall furnish the above insurances, including subcontractors' insurances, to the Town and shall also assure that any policy procured by it shall name the Town as an additional insured on a primary and non-contributory basis.

(d) Contractor shall ensure all its subcontractors, if any, have obtained all the above insurances and shall also assure that any policy procured by any subcontractor or sub-subcontractor shall name the Town as an additional insured on a primary and non-contributory basis.

Attachment: davis ulmer (RES-2022-146 : Quarterly Sprinkler Inspection for Williamsville Youth & Family CRS #3142)

5. Any accident shall be reported to the Office of the Town Attorney as soon as possible and not later than twenty-four (24) hours from the time of such accident. A detailed written report must be submitted to the Town of Amherst as soon thereafter as possible as and no later than three (3) days after the date of such accident.

6. No Assignment: In accordance with the provisions of section 109 of the General Municipal Law, the Contractor is hereby prohibited from assigning, transferring, conveying, subletting or otherwise disposing of this Agreement, or of its right, title or interest in this agreement, or its power to execute this Agreement, to any other person or corporation without the previous consent in writing of the Town.

7. Required Provisions of Law: Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to have been inserted herein. If any such provision is not inserted through mistake or otherwise, then upon the application of either party this Agreement shall be physically amended forthwith to make such insertion. In particular, the Contractor shall, among other things, fully comply with:

(a) Article 8 of the NYS Labor Law for public work contracts and Article 9 of the Labor Law regarding prevailing wage for Building Service employees.
(b) Labor Law Section 220-e and Executive Law Sections 291-299 and the Civil Rights Law relating to prohibition against discrimination and equal opportunity.
(c) Affirmative action as required by the Labor Law.
(d) Prevention of dust hazard required by Labor Law Section 222-a.
(e) Preference in employment of persons required by Labor Law Section 222.
(f) Eight-hour workday as required by Labor Law Section 220(2).
(g) Chapter 32 of the Town of Amherst: Minority Women and Business Utilization Commitment.
(h) Chapter 163 of the Town of Amherst: Registration of Sex Offenders.

8. The Contractor, in accordance with its status as an independent Contractor, covenants and agrees that it will conduct itself consistent with such status. It will neither hold itself out as nor claim to be, an officer or employee of the Town by reason hereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the Town, including, but not limited to: workers' compensation coverage, unemployment insurance benefits, Social Security coverage, or retirement membership or credit.

Waiver: No waiver of any breach of any condition of the Agreement shall be binding unless in writing and signed by the party waiving said breach. No such waiver shall in any way affect any other term or condition of this Agreement or constitute a cause or excuse for a repetition of such or any other breach unless the waiver shall include the same.

Attachment: davis ulmer (RES-2022-146 : Quarterly Sprinkler Inspection for Williamsville Youth & Family CRS #3142)

9. This Agreement shall be governed by, and interpreted according to the laws of the State of New York. If the contract between the parties refers to the laws, statutes, rules, regulations or ordinances for any state other than New York State, to the laws, statutes, rules, regulations or ordinances for any county other than Erie County, New York or to the laws, statutes, rules, regulations or ordinances for any municipality other than the Town of Amherst, then the laws, statutes, rules, regulations or ordinances for New York State, Erie county and/or the Town of Amherst shall apply as applicable. Any and all legal action necessary to enforce the Agreement will be venued in Supreme Court, Erie County, New York or in the United States District Court for the Western District of New York, Buffalo Division.

10. It is hereby acknowledged that performance of this Contract will be undertaken in accordance with the specifications and pricing on which the bid was submitted.

Authority for execution on behalf of Town: The Supervisor has executed this Agreement pursuant to a Resolution adopted by the Town Board of the Town, at a meeting thereof held on _____. Brian J. Kulpa, the Supervisor whose signature appears hereafter, is duly authorized and empowered to execute this instrument and enter into such an Agreement on behalf of the Town as a result of that Resolution. This instrument shall be executed in triplicate. At least one (1) copy shall be permanently filed, after execution thereof, in the office of the Town Clerk of Town.

Agreed to and Accepted by:

Davis Ulmer Fire Protection
Print Name of Company

By: _____
Signature

Stephanie Wrosinski
Printed name

Date: 2/2/2022

Agreed to and Accepted by:

Town of Amherst

By: _____
Brian J. Kulpa, Supervisor

Date: _____

Attachment: davis ulmer (RES-2022-146 : Quarterly Sprinkler Inspection for Williamsville Youth & Family CRS #3142)

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

Francina J. Spoth
Town Clerk

Meeting: 02/07/22 07:00 PM
Department: Comptroller
Initiated by: **Daryl Bramer**
Co-Sponsored by:

DOC ID: 25327 **RESOLUTION 2022-147** **ADOPTED**

Tyler Technologies (MUNIS) Licensing and Support Agreement CRS# 3139

Please approve the annual licensing and data base support agreement that covers general ledger, budgeting, accounts payable, MUNIS Office, payroll, purchase orders, Tyler Forms processing, GUI and Tyler system management services support for MUNIS for the period 1/1/2022 - 12/31/2022. The annual cost is $81,312.44.

Contract #3139 has successfully completed the contract routing process.

2/7/2022
Consent

FINANCIAL IMPACT:

$81,312.44

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

MAINTENANCE SERVICES ADDENDUM

This maintenance services addendum ("Addendum") is made this _____ day of _____, 2022 by and between Tyler Technologies, Inc. with offices at One Tyler Drive, Yarmouth, Maine 04096 ("Tyler") and the Town of Amherst, with offices at 5583 Main Street, Williamsville, New York 14221 ("Client").

WHEREAS, Tyler and Client are parties to an original agreement dated December 23, 1992 ("Agreement"); and

WHEREAS, Tyler and Client desire to renew the maintenance services term under the Agreement;

NOW THEREFORE, in consideration of the mutual promises hereinafter contained, Tyler and Client agree as follows:

1. Tyler shall provide maintenance services to Client, as specified in the Agreement and the support call process attached hereto as Exhibit 1, during the period from January 1, 2022 to December 31, 2022.

2. Client shall remit to Tyler maintenance services fees in the amount of $81,312.44, as detailed in the invoice attached hereto as Exhibit 2.

3. This Addendum shall be governed by and construed in accordance with the terms and conditions of the Agreement, as amended.

4. All other terms and conditions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Addendum as of the dates set forth below.

Tyler Technologies, Inc.	Town of Amherst
By: Jisel Lopez	By: _____
Name: Jisel Lopez	Name: _____
Title: Deputy Group General Counsel	Title: _____
Date: January 26, 2022	Date: _____

Attachment: Tyler Technologies (MUNIS) Support Agreement 2022 (RES-2022-147 : Tyler Technologies (MUNIS) Licensing and Support

Exhibit 1

Support Call Process

Attachment: Tyler Technologies (MUNIS) Support Agreement 2022 (RES-2022-147 : Tyler Technologies (MUNIS) Licensing and Support

Support Channels

Tyler Technologies, Inc. provides the following channels of software support for authorized users*:

(1) On-line submission (portal) – for less urgent and functionality-based questions, users may create support incidents through the Tyler Customer Portal available at the Tyler Technologies website. A built-in Answer Panel provides users with resolutions to most "how-to" and configuration-based questions through a simplified search interface with machine learning, potentially eliminating the need to submit the support case.
(2) Email – for less urgent situations, users may submit emails directly to the software support group.
(3) Telephone – for urgent or complex questions, users receive toll-free, telephone software support.

** Channel availability may be limited for certain applications.*

Support Resources

A number of additional resources are available to provide a comprehensive and complete support experience:

(1) Tyler Website – www.tylertech.com – for accessing client tools, documentation, and other information including support contact information.
(2) Tyler Search -a knowledge based search engine that lets you search multiple sources simultaneously to find the answers you need, 24x7.
(3) Tyler Community –provides a venue for all Tyler clients with current maintenance agreements to collaborate with one another, share best practices and resources, and access documentation.
(4) Tyler University – online training courses on Tyler products.

Support Availability

Tyler Technologies support is available during the local business hours of 8 AM to 5 PM (Monday – Friday) across four US time zones (Pacific, Mountain, Central and Eastern). Tyler's holiday schedule is outlined below. There will be no support coverage on these days.

New Year's Day	Thanksgiving Day
Memorial Day	Day after Thanksgiving
Independence Day	Christmas Day
Labor Day	

For support teams that provide after-hours service, we will provide you with procedures for contacting support staff after normal business hours for reporting Priority Level 1 Defects only. Upon receipt of such a Defect notification, we will use commercially reasonable efforts to meet the resolution targets set forth below.

We will also make commercially reasonable efforts to be available for one pre-scheduled Saturday of each month to assist your IT staff with applying patches and release upgrades, as well as consulting with them on server maintenance and configuration of the Tyler Software environment.

Incident Handling

Incident Tracking

Every support incident is logged into Tyler's Customer Relationship Management System and given a unique case

number. This system tracks the history of each incident. The case number is used to track and reference open issues when clients contact support. Clients may track incidents, using the case number, through Tyler's Customer Portal or by calling software support directly.

Incident Priority

Each incident is assigned a priority level, which corresponds to the Client's needs. Tyler and the Client will reasonably set the priority of the incident per the chart below. This chart is not intended to address every type of support incident, and certain "characteristics" may or may not apply depending on whether the Tyler software has been deployed on customer infrastructure or the Tyler cloud. The goal is to help guide the Client towards clearly understanding and communicating the importance of the issue and to describe generally expected response and resolution targets in the production environment only.

References to a "confirmed support incident" mean that Tyler and the Client have successfully validated the reported Defect/support incident.

Priority Level	Characteristics of Support Incident	Resolution Targets*
1 Critical	Support incident that causes (a) complete application failure or application unavailability; (b) application failure or unavailability in one or more of the client's remote location; or (c) systemic loss of multiple essential system functions.	Tyler shall provide an initial response to Priority Level 1 incidents within one (1) business hour of receipt of the incident. Once the incident has been confirmed, Tyler shall use commercially reasonable efforts to resolve such support incidents or provide a circumvention procedure within one (1) business day. For non-hosted customers, Tyler's responsibility for lost or corrupted data is limited to assisting the Client in restoring its last available database.
2 High	Support incident that causes (a) repeated, consistent failure of essential functionality affecting more than one user or (b) loss or corruption of data.	Tyler shall provide an initial response to Priority Level 2 incidents within four (4) business hours of receipt of the incident. Once the incident has been confirmed, Tyler shall use commercially reasonable efforts to resolve such support incidents or provide a circumvention procedure within ten (10) business days. For non-hosted customers, Tyler's responsibility for loss or corrupted data is limited to assisting the Client in restoring its last available database.
3 Medium	Priority Level 1 incident with an existing circumvention procedure, or a Priority Level 2 incident that affects only one user or for which there is an existing circumvention procedure.	Tyler shall provide an initial response to Priority Level 3 incidents within one (1) business day of receipt of the incident. Once the incident has been confirmed, Tyler shall use commercially reasonable efforts to resolve such support incidents without the need for a circumvention procedure with the next published maintenance update or service pack, which shall occur at least quarterly. For non-hosted customers, Tyler's responsibility for lost or corrupted data is limited to assisting the Client in restoring its last available database.

Attachment: Tyler Technologies (MUNIS) Support Agreement 2022 (RES-2022-147 : Tyler Technologies (MUNIS) Licensing and Support

Priority Level	Characteristics of Support Incident	Resolution Targets*
4 Non-critical	Support incident that causes failure of non-essential functionality or a cosmetic or other issue that does not qualify as any other Priority Level.	Tyler shall provide an initial response to Priority Level 4 incidents within two (2) business days of receipt of the incident. Once the incident has been confirmed, Tyler shall use commercially reasonable efforts to resolve such support incidents, as well as cosmetic issues, with a future version release.

Response and Resolution Targets may differ by product or business need

Incident Escalation

If Tyler is unable to resolve any priority level 1 or 2 defect as listed above or the priority of an issue has elevated since initiation, you may escalate the incident to the appropriate resource, as outlined by each product support team. The corresponding resource will meet with you and any Tyler staff to establish a mutually agreeable plan for addressing the defect.

Remote Support Tool

Some support calls may require further analysis of the Client's database, processes or setup to diagnose a problem or to assist with a question. Tyler will, at its discretion, use an industry-standard remote support tool. Tyler's support team must have the ability to quickly connect to the Client's system and view the site's setup, diagnose problems, or assist with screen navigation. More information about the remote support tool Tyler uses is available upon request.

Attachment: Tyler Technologies (MUNIS) Support Agreement 2022 (RES-2022-147 : Tyler Technologies (MUNIS) Licensing and Support

Exhibit 2

2022 Invoice

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

INVOICE FOLLOWS ON NEXT PAGE

Attachment: Tyler Technologies (MUNIS) Support Agreement 2022 (RES-2022-147 : Tyler Technologies (MUNIS) Licensing and Support

Invoice

Remittance:
Tyler Technologies, Inc.
(FEIN 75-2303920)
P.O. Box 203556
Dallas, TX 75320-3556

Invoice No	Date	Page
045-360852a	12/01/2021	1 of

Questions:
Tyler Technologies - ERP & Schools
Phone: 1-800-772-2260 Press 2, then 1
Email: ar@tylertech.com

Bill To: TOWN OF AMHERST
ATTN: MICHELLE BELLECOSE
5583 MAIN STREET
WILLIAMSVILLE, NY 14221

Ship To: TOWN OF AMHERST
ATTN: MICHELLE BELLECOSE
5583 MAIN STREET
WILLIAMSVILLE, NY 14221

Cust No.-BillTo-ShipTo	Ord No	PO Number	Currency	Terms	Due Date
1010 - MAIN - MAIN	149406		USD	NET30	12/31/2021

Date	Description	Units	Rate	Extended Pr
Contract No.: AMHERST, NY				
	SUPPORT & UPDATE LICENSING - ACCTG/GL/BUDGET/AP	1	29,936.09	29,936
	Maintenance: Start: 01/Jan/2022, End: 31/Dec/2022			
	SUPPORT & UPDATE LICENSING - CRYSTAL REPORTS	1	4,860.80	4,860
	Maintenance: Start: 01/Jan/2022, End: 31/Dec/2022			
	SUPPORT & UPDATE LICENSING - MUNIS OFFICE	1	6,174.34	6,174
	Maintenance: Start: 01/Jan/2022, End: 31/Dec/2022			
	SUPPORT & UPDATE LICENSING - PAYROLL	1	12,348.64	12,348
	Maintenance: Start: 01/Jan/2022, End: 31/Dec/2022			
	SUPPORT & UPDATE LICENSING - PURCHASE ORDERS	1	8,980.99	8,980
	Maintenance: Start: 01/Jan/2022, End: 31/Dec/2022			
	TYLER FORM PROCESSING SUPPORT	1	5,197.74	5,197
	Maintenance: Start: 01/Jan/2022, End: 31/Dec/2022			
	GUI SUPPORT	30	60.00	1,800
	Maintenance: Start: 01/Jan/2022, End: 31/Dec/2022			
	TYLER SYSTEM MANAGEMENT SERVICES SUPPORT	1	16,874.64	16,874
	Maintenance: Start: 01/Jan/2022, End: 31/Dec/2022			

****ATTENTION****
Order your checks and forms from Tyler Business Forms at 877-749-2090 or tylerbusinessforms.com to guarantee 100% compliance with your software.

Subtotal	86,173.24
Credit Memo	-4,860.80
Invoice Total	81,312.44

Attachment: Tyler Technologies (MUNIS) Support Agreement 2022 (RES-2022-147 : Tyler Technologies (MUNIS) Licensing and Support

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

Francina J. Spoth
Town Clerk

Meeting: 02/07/22 07:00 PM
Department: Comptroller
Initiated by: **Daryl Bramer**
Co-Sponsored by:

DOC ID: 25363 **RESOLUTION 2022-148** **ADOPTED**

Budget Transfers and Amendments

For February 7, 2022 Town Board Agenda

To: Town Board
From: Office of Town Comptroller
Date: 2/2/2022
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 - 2022

FROM:	***TO:***
A1110.1000 Town Justice - Personal Services $51,480.00	A1420.1000 Town Attorney $51,480.00
A1110.8030 Town Justice - FICA $3,938.22	A1420.8030 Town Attorney $3,938.22
A1110.8050 Town Justice - Health Insurance $9,858.96	A1420.8050 Town Attorney $9,858.96
A1110.8051 Town Justice - Dental $444.00	A1420.8051 Town Attorney $444.00
A1110.8052 Town Justice - Vision $50.16	A1420.8052 Town Attorney $50.16

To transfer funds for retired employee and new job duties for Town Attorney.

A1420.4010 Town Attorney - Office Expense $700.00A1420.2100 Furniture, Chairs, Desks $700.00
Per Department's request.

BUDGET AMENDMENTS - 2021

INCREASE:	***INCREASE:***
A3649.04589 Federal Revenue $7,324,375.92	A3649.1000 Personal Svcs $6,803,344.64
	A3649.1200 Overtime $153,445.47
	A3649.1740 Briefing $264,328.77
	A3649.1853 Sick Leave Incentive $149.58
	A3649.2130 Computer Equip $468.21
	A3649.2450 Public Safety Equip $1,582.48
	A3649.2550 Other Equip $2,083.00
	A3649.4010 Office Supplies $2,354.05
	A3649.4020 Postage & Freight $3.36
	A3649.4025 Print/Adv/Lease $1,338.10
	A3649.4060 Telephone $911.83
	A3649.4120 Training & Edu $240.00
	A3649.4310 Gas & Oil $1,837.68
	A3649.4410 Pub Safety & Med Supply $4,832.96
	A3649.4420 Uniform & Shoes $609.86
	A3649.8010 State Retirement $22,081.87
	A3649.8030 FICA $15,561.41
	A3649.8050 Hospital & Med Ins. $47,403.50
	A3649.8051 Dental $1,593.53
	A3649.8052 Vision $205.62

To recognize ARPA Revenue at 12/31/2021.

BUDGET AMENDMENTS - 2022

INCREASE:	***INCREASE:***
KP2104.03089 Amh. Gateway Park - NYS Grant $365,000	KP2104.4972 Construction $365,000
To set up budget for Amherst Gateway Park, NYS Grant, CRS# 3117.	
A1411.03089 LGRMIF Grant - NYS Grant $52,650.00	A1411.1000 Personal Services $3,158.38 A1411.8030 FICA $241.62 A1411.4110 Contractual $49,250.00
To set up budget for Local Governments Records Management Improvement Funds Grant, CRS#3100.	
KP2116.02770 Knox Box - Other Revenue $46,382.50	KP2116.2150 Equipment $41,000.00 KP2116.1000 Personal Services $5,000.00 KP2116.8030 FICA $382.50
To recognize revenue from the Knox Box upgrade project and increase expenditures for the purchase of units and payroll costs of installation.	
N2123.02785 CDBG & VG- PI $12,691.20 N2125.02785 CDBG & VG Admin $3,172.80	N2123.4000 Contractual $12,691.20 N2125.1000 Personal Services $2,947.33 N2125.8030 FICA $225.47
N2141.02785 1ST Time Homebuyers- PI $4,500.00 N2154.02785 Amherst Admin- PI $500.00	N2141.4000 Contractual $4,500.00 N2154.4003 Admin $500.00
To recognize Community Development program income from 1746 Eggert Rd., Amherst.	
KP2101.02720 Rec Area Improv. - Donations $50,000	KP2101.4972 Construction $50,000
To recognize donation from Russell J. Salvatore Foundation for KP2101 Recreation Area Improvements.	
N2123.02785 CDBG & VG- PI $300.00	N2123.4000 Contractual $300.00
To recognize Community Development program income from 299 Harding Rd., Amherst.	
C8161.02131 Refuse - Totes $16,500.00	C8161.4531 Garbage Totes $16,500.00
To recognize revenue and increase expenditure line for Garbage Totes for new garbage service.	
N1945.02785 Acquisition - PI $24,500.00 N2144.02785 New Construction - PI $103,573.82 N2149.02785 HOME Admin- PI $11,508.20	N1945.4000 Contractual $24,500.00 N2144.4000 Contractual $103,573.82 N2149.4003 Admin $11,508.20
To recognize Community Development program income from 23 Hoerner Ave., Cheektowaga.	
N2150.02785 Tonawanda HOME- PI $32,104.80 N2153.02785 Tonawanda Admin- PI $3,567.20	N2150.4000 Contractual $32,104.80 N2153.4003 Admin $3,567.20
To recognize Community Development program income from 310 Claremont Ave, Tonawanda.	
N2140.02785 Amherst HOME Rehab $7,089.30 N2154.02785 Amherst Admin- PI $787.70	N2140.4000 Contractual $7,089.30 N2154.4003 Admin $787.70
To recognize Community Development program income from 12 Spruce Rd, Amherst.	

2/7/2022
Consent

FINANCIAL IMPACT:

See descriptions.

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: 02/07/22 07:00 PM
Department: Contract Compliance
Initiated by: **Lynda Juul**
Co-Sponsored by: **Supervisor Brian J. Kulpa**

DOC ID: 25259 **RESOLUTION 2022-149** **ADOPTED**

Award Bid #2021035 - Liquid Sodium Bisulfite Solution - CRS #3118

WHEREAS, the Contract Compliance and Administration Department received bids on December 30, 2021 for Sodium Bisulfite; and

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

NOW, THEREFORE, BE IT RESOLVED, the Town Board authorizes the Contract Compliance and Administration Department to award Item 1A for a one-year contract to PVS Chemical Solutions, Inc.; and

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

2/7/2022
Consent

FINANCIAL IMPACT:

G9916-4820; Amount TBD

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

Bid #2021035 Sodium Bisulfie											
		Low Bidder		JCI Jones Chemicals		Holland Company		PVS Chemical Solutions		Slack Chemical	
			Vendor Name:								
Item #	QTY	U/M		Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price
1A	25,000	GAL	Liquid Sodium Bisulfite Solution - One-Year Contract	$2.250	$56,250.000	$2.470	$61,750.000	$1.950	$48,750.000	$2.479	$61,975.000
			Fixed pricing to supply Liquid Sodium Bisulfite Solution as per specifications within this bid document under a one-year term contract.								
1B	25000	GAL	Liquid Sodium Bisulfite Solution – Two-Year Contract	No Bid	No Bid	$2.750	$68,750.000	$2.150	$53,750.000	No Bid	No Bid
			Total Net Bid								

Attachment: Bid Tab 2021035 Sodium Bisulfite [Revision 1] (RES-2022-149 : Award Bid #2021035 - Liquid

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

Francina J. Spoth
Town Clerk

Meeting: 02/07/22 07:00 PM
Department: Contract Compliance
Initiated by: **Lynda Juul**
Co-Sponsored by: **Supervisor Brian J. Kulpa**

DOC ID: 25364 **RESOLUTION 2022-150** **ADOPTED**

Award Bid #2021036 - Senior Center Printing - CRS #3154

WHEREAS, the Contract Compliance and Administration Department received bids on December 30, 2021 for Bid #2021036 Senior Center Printing; and

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

NOW, THEREFORE, BE IT RESOLVED, the Town Board authorizes the Contract Compliance and Administration Department to award Items #1-5 and #7-11 of this bid to Penny Lane Printing; and

BE IT FURTHER RESOLVED, the Town Board authorizes the Supervisor to sign the contract with Penny Lane Printing, pending successful completion of the contract routing process due to the fact that a contract is needed to begin work on the 2022 membership brochure, and the next Town Board meeting does not occur for three (3) weeks.

2/7/2022
Consent

FINANCIAL IMPACT:

2022: A6772-4030; $6,039.30

2023: A6772-4030; $6,381.70

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

Bid #2021036 Senior Center Printing

		Low Bidder		Penny Lane Printing		Concept Printing		Dupli Envelope & Graphics		Courier Printing		Nystrom Publishing	
			Vendor Name:										
Item #	QTY	U/M		Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price
1	2000	EA	**Summer 2022 Course Catalog** Issue to printer 3/7/2022, delivered back to Center 3/21/2022; 17" x 11", folded to 8.5" x 11", 32 pages, 50# white offset, with black plus I spot color, 2-sided, cut & saddle stitched with delivery	$0.765	$1,530.00	$1.3800	$2,760.00	$2.18	$4,360.00	$0.789	$1,578.00	$0.983	$1,966.00
2	2300	EA	**Fall 2022 Course Catalog** Issue to printer 7/11/2022, delivered back to Center 7/25/2022; 17" x 11", folded to 8.5" x 11", 32 pages, 50# white offset, with black plus I spot color, 2-sided, cut & saddle stitched with delivery	$0.705	$1,621.50	$1.5700	$3,611.00	$2.03	$4,669.00	$0.789	$1,814.70	$0.900	$2,070.00
3	2000	EA	**Winter/Spring 2023 Course Catalog** Issue to printer 11/8/2022, delivered back to Center 11/22/2022; 17" x 11", folded to 8.5" x 11", 32 pages, 50# white offset, with black plus I spot color, 2-sided, cut & saddle stitched with delivery	$0.765	$1,530.00	$1.5200	$3,040.00	$2.22	$4,440.00	$0.789	$1,578.00	$0.983	$1,966.00
4	15	HR	**2022 Hourly Rate for Design Assistance** Will be factored into bid analysis for determining award. Town will use 15 hours for calculations if an hourly rate is provided. Note: some vendors do NOT charge for this and include at n/c. Vendor may be required to assist in some design and lay-out of catalog	$40.00	$600.00	$50.00	$750.00	$70.00	$1,050.00	$100.000	$1,500.00	$45.00	$675.00
5	1000	EA	**Membership Brochure 2022** Issue to printer on 1/12/22, delivered back to Center on 1/26/22, finished size 8.5" x 11" flat size 17" x 11", gloss text, full-color, 8 pages, cut & saddle stitched with delivery. Brochure to be sent print ready as PDF.	$0.7578	$757.80	$1.3200	$1,320.00	$0.975	$975.00	$1.016	$1,016.00	$0.766	$766.00
6	2200 per month	EA	**Network Newsletter 2022** Issue to printer each month on the 14th, delivered back to the Center by the 21st, 17" x 11", folded to 8.5" x 11", 14 pages, 50# white offset, black and white, 2-sided, cut & saddle stitched with delivery.	$0.619	$16,341.60	$1.3500	$35,640.00	$0.980	$25,872.00	$0.344	$9,081.60	$0.441	$11,642.40
7	2000	EA	**Summer 2023 Course Catalog** Issue to printer 3/7/2023, delivered back to Center 3/21/2023; 17" x 11", folded to 8.5" x 11", 32 pages, 50# white offset, with black plus I spot color, 2-sided, cut & saddle stitched with delivery	$0.823	$1,646.00	$1.5400	$3,080.00	$2.21	$4,420.00	$0.789	$1,578.00	$1.000	$2,000.00
8	2300	EA	**Fall 2023 Course Catalog** Issue to printer 7/11/2023, delivered back to Center 7/25/2023; 17" x 11", folded to 8.5" x 11", 32 pages, 50# white offset, black plus I spot color, 2-sided, cut & saddle stitched with delivery	$0.753	$1,731.90	$1.5300	$3,519.00	$2.09	$4,807.00	$0.789	$1,814.70	$0.927	$2,132.10
9	2000	EA	**Winter/Sprng 2024 Course Catalog** Issue to printer 11/8/2023, delivered back to Center 11/22/2023; 17" x 11", folded to 8.5" x 11", 32 pages, 50# white offset, with black plus I spot color, 2-sided, cut & saddle stitched with delivery	$0.823	$1,646.00	$1.7000	$3,400.00	$2.29	$4,580.00	$0.789	$1,578.00	$1.000	$2,000.00
10	15	HR	**2023 Hourly Rate for Design Assistance** Will be factored into bid analysis for determining award. Town will use 15 hours for calculations if an hourly rate is provided. Note: some vendors do NOT charge for this and include at n/c. Vendor may be required to assist in some design and lay-out of catalog.	$40.000	$600.00	$50.00	$750.00	$70.00	$1,050.00	$100.00	$1,500.00	$45.00	$675.00
11	1000	EA	**Membership Brochure 2023** Issue to printer 1/12/2023, delivered back to Center on 1/26/2023, finished size 8.5" x 11", flat size 17" x 11", gloss text, full-color, 8 pages, cut & saddle stitched with delivery. Brochure to be sent print ready as PDF.	$0.7578	$757.80	$1.5800	$1,580.00	$1.01	$1,010.00	$1.016	$1,016.00	$0.780	$780.00
12	2200 per month	EA	**Network Newsletter 2023** Issue to printer each month on the 14th, delivered back to the Center by the 21st, 17" x 11", folded to 8.5" x 11", 14 pages, 50# white offset, black and white, 2-sided, cut & saddle stitched with delivery.	$0.619	$16,341.60	$1.5500	$40,920.00	$1.02	$26,928.00	$0.344	$9,081.60	$0.454	$11,985.60
					$45,104.20		**$100,370.00**		**$84,161.00**		**$33,136.60**		**$38,658.10**
			Subtotal - Catalogs/Brochures/Design		$12,421.00		$23,810.00		$31,361.00		$14,973.40		$15,030.10
			Subtotal - Newsletters		$32,683.20		$76,560.00		$52,800.00		$18,163.20		$23,628.00
			Total		$45,104.20		$100,370.00		$84,161.00		$33,136.60		$38,658.10
			2022		$6,039.30								
			2023		$6,381.70								
			No Additional Charges Will Be Allowed										

NOTES:

Nystrom Publishing - Item #6 - NOTE: This price includes mailing services.

Attachment: Bid Tab 2021036 Senior Center Printing (RES-2022-150 : Award Bid #2021036 - Senior Center Printing - CRS #3154)

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

Francina J. Spoth
Town Clerk

Meeting: 02/07/22 07:00 PM
Department: Contract Compliance
Initiated by: **Lynda Juul**
Co-Sponsored by: **Supervisor Brian J. Kulpa**

DOC ID: 25370 **RESOLUTION 2022-151** **ADOPTED**

Approve Wellness Program Addendum No. 1 and Business Associate Agreement - CRS #3126

WHEREAS, the Professional Services Agreement with CHC Wellbeing, Inc., was approved by the Town Board at the November 8, 2021 Town Board Meeting (Resolution #2021-1027); and

WHEREAS, additional services are being requested, including A1C testing being added to biometric screenings and the transfer of historical data, and a Business Associate Agreement is requested by the vendor;

NOW, THEREFORE, BE IT RESOLVED, the Town Board approves Addendum No. 1 to the Professional Services Agreement and the Business Associate Agreement; and

BE IT FURTHER RESOLVED, the Town Board authorizes the Supervisor to sign the above referenced documents.

2/7/2022
Consent

FINANCIAL IMPACT:

A9060-0394; Amount TBD

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

Attachment: Addendum No 1 (RES-2022-151 : Approve Wellness Program Addendum No. 1 and Business Associate Agreement - CRS #3126)

ADDENDUM No. 1 TO PROFESSIONAL SERVICES AGREEMENT

This Addendum to the Professional Services Agreement dated November 7, 2021, is made effective January 18, 2022.

Between: **Town of Amherst**

5583 Main St.
Williamsville, NY 14221

And: **CHC Wellness Inc., DBA CHC Wellbeing, Inc.,** an Illinois corporation "CHC"

5440 N Cumberland Ave, Suite 225
Chicago, IL 60656

WHEREAS the parties with to modify certain terms of the Professional Services Agreement; and WHEREAS, certain terms not otherwise defined herein are defined in the Professional Services Agreement;

1. Fees:

    c. A1c for all = $10 per participant

    d. Transfer of Historical data = $500 one-time fee

All other terms and conditions that are not hereby amended are to remain in full force and effect.

Town of Amherst:		CHC Wellbeing, Inc.	
By:	_____	By:	Joan Knauss-Harwell
	Town of Amherst Signature		CHC Signature
Name:	Brian Kulpa	Name:	Joan Knauss-Harwell
	Printed Name		Printed Name
ITS:	Supervisor	ITS:	Managing Director
	Title		Title
Date:	_____	Date:	1/12/22

BUSINESS ASSOCIATE AGREEMENT

THIS BUSINESS ASSOCIATE AGREEMENT (this "Agreement") is made and entered into as of this 18th day of January 2022 (the "Effective Date") by and between CHC Wellbeing ("Business Associate") and Town of Amherst ("Covered Entity").

WHEREAS, Business Associate may maintain, transit, create, or receive data for or from Covered Entity that constitutes Protected Health Information to perform tasks on behalf of Covered Entity;

WHEREAS, Covered Entity and Business Associate are required to meet the requirements of the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191 (the "Act"), the privacy standards adopted by the U.S. Department of Health and Human Services ("HHS") as they may be amended from time to time, 45 C.F.R. parts 160 and 164, subparts A and E (the "Privacy Rule"), the security standards adopted by the Department as they may be amended from time to time, 45 C.F.R. Parts 160, 162, and 164, subpart C (the "Security Rule"), and the Privacy provisions (Subtitle D) of the Health Information Technology for Economic and Clinical Health Act, Division A, Title XIII of Pub. L. 111-5, and its implementing regulations (the "HITECH Act"), due to their status as a "Covered Entity" or a "Business Associate" under the Act. (The Act, the Privacy Rule, the Security Rule, and the HITECH Act are collectively referred to as "HIPAA" for the purposes of this Agreement);

WHEREAS, in order to provide the Services under the Services Agreement, Covered Entity may disclose to Business Associate certain Protected Health Information ("PHI"); and

WHEREAS, the parties desire to enter into this Agreement to protect the privacy, and provide for the security of PHI disclosed by Covered Entity to Business Associate and to satisfy certain requirements in compliance with HIPAA.

NOW, THEREFORE, in consideration of the mutual benefits of complying with laws and regulations stated above, Covered Entity and Business Associate agree as follows:

ARTICLE I

DEFINITIONS

1.1 **"Minimum Necessary"** means the minimum amount of PHI necessary to accomplish the intended purpose of the use, disclosure, or request or the amount of PHI described and defined by the U.S. Department of Health and Human Services ("HHS") from time to time as the "minimum necessary."

1.2 **"Business Associate Subcontractor"** means any vendor, agent or subcontractor of Business Associate that performs services involving the receipt, use, disclosure and/or creation of PHI on behalf of Covered Entity, specifically including, without limitation, health information exchanges, regional health organizations and personal health records vendors.

1.3 **Other terms.** All other terms not specifically defined in this Agreement shall have the meanings attributed to them under HIPAA.

Attachment: CHC Business Associate Agreement (RES-2022-151 : Approve Wellness Program Addendum No. 1 and Business Associate

ARTICLE II

PRIVACY OF PROTECTED HEALTH INFORMATION

2.1 Permitted Uses & Disclosures.

(a) Business Associate agrees to use the Minimum Necessary PHI it creates or receives for or from Covered Entity only as permitted by the Privacy Rule, as expressly permitted by this Agreement, and only as necessary to perform functions, activities or services for, or on behalf of, Covered Entity as specified in the Services Agreement; provided, however, that, to the extent possible, Business Associate will use only a Limited Data Set. Business Associate is prohibited from using or disclosing PHI in its possession, except as permitted or required by this Agreement, or as Required By Law, the Services Agreement, or as otherwise expressly permitted in writing by Covered Entity. Business Associate shall use appropriate safeguards to prevent use or disclosure of PHI other than as provided for by this Agreement, the Services Agreement, or in writing by Covered Entity.

(b) Business Associate will disclose PHI for the purposes authorized by this Agreement only (i) to its employees, (ii) to its subcontractors and agents, only in accordance with the terms of this Agreement, (iii) as directed by Covered Entity in writing, or (iv) as Required by Law.

(c) Unless otherwise limited herein and except where prohibited by law, Business Associate is authorized by this Agreement to:

(i) Use the PHI it creates or receives for or from Covered Entity if necessary for Business Associate's proper management and administration of Business Associate's duties under the Services Agreement or to fulfill any present or future legal responsibilities of the Business Associate.

(ii) Disclose such PHI to a third party if necessary for the proper management and administration of Business Associate's business or to fulfill any present or future legal responsibilities of the Business Associate, provided that the disclosure is required by law or the Business Associate obtains reasonable assurance, evidenced by written contract, from any third party to which Business Associate discloses such PHI, that the third party will:

(A) Hold such PHI in confidence and use or further disclose it only for the purpose for which Business Associate disclosed it to the third party or as required by law; and

(B) Notify Business Associate (who will in turn notify Covered Entity according to the terms of this Agreement) of any breaches of confidentiality.

2.2 Business Associate Subcontractor. Business Associate may disclose PHI to a Business Associate Subcontractor only to the extent not prohibited by the Services Agreement and subject to the terms of this Agreement. Prior to any disclosure of PHI to a Business Associate Subcontractor, Business Associate will enter into a written contract with the Business Associate Subcontractor to provide reasonable assurance that the Business Associate Subcontractor will comply with the same terms, conditions and restrictions of this Agreement. Upon request,

Attachment: CHC Business Associate Agreement (RES-2022-151 : Approve Wellness Program Addendum No. 1 and Business Associate

Business Associate will provide to Covered Entity a copy of the written contract with the Business Associate Subcontractor. Furthermore, Business Associate will disclose to its Business Associate Subcontractors only (i) a Limited Data Set of PHI, to the extent possible or (ii) if more information is required to perform or fulfill a specific function required or permitted hereunder, the Minimum Necessary to perform or fulfill such function.

2.3 PHI Access, Amendment, and Disclosure Accounting.

(a) Access. Business Associate will, at the request of Covered Entity, make available within ten (10) days to Covered Entity, or at the direction of Covered Entity to the individual, for inspection and to make copies of any PHI about the Individual which Business Associate created or received for or from Covered Entity and that is in the custody or control of the Business Associate as required by 45 C.F.R. § 164.524.

(b) Amendment. Business Associate will, at the request of Covered Entity, within twenty (20) days, amend PHI in accordance with the instructions provided by the Covered Entity or permit Covered Entity access to amend any portion of the PHI which Business Associate created or received from or on behalf of Covered Entity, as required by 45 C.F.R. §164.526.

(c) Disclosure Accounting.

(i) Disclosure Tracking. Business Associate will retain a record of each disclosure of PHI, not excepted from disclosure accounting below, that Business Associate makes to a third party including (i) the disclosure date; (ii) the name and (if known) address of the person or entity to whom Business Associate made the disclosure; (iii) a brief description of the PHI disclosed; and (iv) a brief statement of the purpose of the disclosure (items (i)–(iv), collectively are referred, herein as the "Disclosure Information"). Business Associate will make disclosure-tracking information available to Covered Entity within twenty (20) days from the date Covered Entity made the request.

(ii) Exceptions from Disclosure Tracking. Business Associate need not include in its record of disclosures, or otherwise account for, disclosures of PHI that this Agreement, permits or requires, including those disclosures made (i) for the purpose of Covered Entity's payment activities or health care operations, as provided in 45 C.F.R. § 164.502, unless such disclosure tracking is required by the HITECH Act; (ii) for the purpose of health care providers' treatment activities, or (other) covered entities' payment activities or certain health care operations (as set forth in 45 C.F.R. § 164.506(c)(4)), unless such disclosure tracking is required by the HITECH Act; (iii) to the Individual who is the subject of the PHI disclosed pursuant to 45 C.F.R. § 164.502; (iv) which are incidental to a use or disclosure otherwise permitted or required by 45 C.F.R. § 164.502; (v) pursuant to an authorization; (vi) to persons involved in that individual's care; (vii) for notification for disaster relief purposes; (viii) for national security or intelligence purposes as provided in 45 C.F.R. § 164.512(k)(2); (ix) to correctional institutions or law enforcement officials regarding inmates as provided in 45 C.F.R. § 164.512(k)(5); (x) as part of a limited data set in accordance with 45 C.F.R. 164.514(e); (xi) for disclosures prior to April 14, 2003; or (xii) for the facility's directory or to persons involved in the individual's care or for other notification purposes as provided in 45 C.F.R. § 164.510.

Attachment: CHC Business Associate Agreement (RES-2022-151 : Approve Wellness Program Addendum No. 1 and Business Associate

(iii) Research. If Business Associate makes disclosures of PHI for a particular research purpose in accordance with 45 C.F.R. § 164.512 (i) for 50 or more Individuals, Business Associate will provide Covered Entity with a report of the disclosure accounting in accordance with the requirements of 45 C.F.R. § 164.528 (b)(4)(i)(A)–(F).

(iv) Disclosure Tracking Time Periods. Business Associate will provide to Covered Entity, within twenty (20) days following a request from Covered Entity, a report containing a record of disclosures of PHI (i) for the six (6) years prior to the date on which Covered Entity requested the accounting; or (ii) if the request relates to disclosures of PHI through electronic health records for treatment, payment or health care operations, and if such accounting is required to be provided pursuant to the HITECH ACT, for the three (3) years prior to the date on which Covered Entity requests the accounting. Additionally, if an individual requests an accounting of disclosures of his or her PHI, Business Associate will cooperate with Covered Entity to ensure the Covered Entity is able to provide the individual with the accounting.

2.4 Inspection of Books and Records. Business Associate will make the PHI it creates for or receives from Covered Entity, as well as its internal practices, books, and records, relating to the use and disclosure of all such PHI, available to Covered Entity and to HHS to determine the Covered Entity's and the Business Associate's compliance with HIPAA.

2.5 Reporting.

(a) Business Associate will report to Covered Entity any use or disclosure of PHI not permitted by this Agreement, by the Services Agreement, or in writing by Covered Entity, or that is in violation of any provision of HIPAA, within five (5) days of when Business Associate learns or should have learned of such non-permitted use or disclosure.

(b) In its report to Covered Entity, Business Associate will identify, at a minimum (i) the nature of the non-permitted use or disclosure; (ii) the PHI used or disclosed; (iii) the party or parties who made the non-permitted use or received the non-permitted disclosure; (iv) what corrective action Business Associate took or will take to prevent further non-permitted uses or disclosures; (v) what Business Associate did or will do to mitigate any harmful effect of the non-permitted use or disclosure; (vi) such other information, including a written report, as Covered Entity may request; and (vii) such other information as HHS may prescribe by regulation.

2.6 Additional Obligations.

(a) Electronic Copies of PHI. Business Associate will (i) cooperate with Covered Entity to provide an Individual with an electronic copy of his or her PHI if the PHI is maintained by Business Associate in an electronic health record and the Individual requests an electronic copy of his or her PHI; and (ii) comply with, and cooperate with Covered Entity to enable Covered Entity to comply with Section 13405(e) (1) of the HITECH Act and any regulations promulgated thereunder.

(b) Non-Disclosure for Out-of-Pocket Services. Business Associate will (i) abide by any directive from Covered Entity not to disclose PHI in connection with an item or service for which an individual has paid out-of-pocket, in full; and (ii) comply with, and cooperate

Attachment: CHC Business Associate Agreement (RES-2022-151 : Approve Wellness Program Addendum No. 1 and Business Associate

with Covered Entity such that Covered Entity is compliant with, Section 13405(a) of the HITECH Act and any regulations promulgated thereunder.

(c) Prohibition on Sale of PHI. Business Associate will not sell PHI or receive any direct or indirect remuneration in exchange for PHI, except as expressly permitted by this Agreement and the Services Agreement.

(d) Prohibition on Marketing. Business Associate will not transmit, to any individual for whom Business Associate has PHI, any communication about a product or service that encourages the recipient of the communication to purchase or use that product or service unless permitted to do so under the HITECH Act and any regulations promulgated thereunder.

ARTICLE III

COMPLIANCE WITH STANDARD TRANSACTIONS

3.1 Electronic Transactions. If Business Associate conducts all or part of an electronic transaction on behalf of Covered Entity, Business Associate will comply, and will require any Business Associate Subcontractor involved with the conduct of such Standard Transactions to comply, with each applicable requirement of 45 C.F.R. Parts 160 and 162.

3.2 Trading Partner Agreements. In compliance with 45 C.F.R. § 162.915, Business Associate will not enter into, or permit any Business Associate Subcontractor to enter into, any trading partner agreement in connection with the conduct of Standard Transactions for or on behalf of Covered Entity that:

(a) changes the definition, data condition, or use of a data element or segment in a standard;

(b) adds any data elements or segments to the maximum defined data set;

(c) uses any code or data elements that are either marked "not used" in the standard's implementation specification or are not in the standard's implementation specification(s); or

(d) changes the meaning or intent of the standard's implementation specification(s), as these terms are defined in 45 C.F.R. Part 162.

ARTICLE IV

SAFEGUARDS FOR SECURING ELECTRONIC PROTECTED HEALTH INFORMATION

4.1 Information Safeguards. Business Associate will develop, implement, maintain, and use appropriate administrative, technical and physical safeguards ("Safeguards") to protect the privacy of PHI, in compliance with standard business practices, HIPAA and any written instructions provided to Business Associate by Covered Entity. Business Associate will preserve the integrity and confidentiality of and prevent non-permitted uses or disclosures of PHI in its possession. Business Associate will reasonably safeguard PHI to limit incidental uses or disclosures made pursuant to an otherwise permitted or required use or disclosure. Business

Attachment: CHC Business Associate Agreement (RES-2022-151 : Approve Wellness Program Addendum No. 1 and Business Associate

Associate will document and keep current its policies to safeguard PHI, and will provide a copy of such policies to Covered Entity and to HHS upon request.

4.2 Mitigation. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate resulting from a use or disclosure of PHI by Business Associate in violation of the requirements of this Section.

4.3 Compliance with the Security Rule. Business Associate agrees to abide by the following requirements of the Security Rule including those set forth at 45 C.F.R. parts 164.308, 164.310, 164.312 and 164.316.

(a) Implement administrative, physical, and technical safeguards consistent with the Security Rule that reasonably protect the confidentiality, integrity, and availability of electronic PHI that it creates, receives, maintains, or transmits on behalf of Covered Entity;

(b) Ensure that any agent, including a subcontractor, to whom it provides such information agrees to implement reasonable and appropriate safeguards to protect it; and

(c) Reporting Security Incidents to Covered Entity. Business Associate agrees to the following reporting procedures for Security Incidents that result in unauthorized access, use, disclosure, modification or destruction of electronic PHI or interference with system operations ("Successful Security Incidents") and for Security Incidents that do not result in unauthorized access, use, disclosure, modification or destruction of electronic PHI or interference with system operations ("Unsuccessful Security Incidents").

(i) Successful Security Incidents. Business Associate shall provide notice to Covered Entity of any Successful Security Incident of which it becomes aware within five (5) business days. At a minimum, such report shall contain the following information: (A) date and time when the Security Incident occurred and/or was discovered; (B) names of systems, programs, or networks affected by the Security Incident; (C) preliminary impact analysis; (D) description of and scope of electronic PHI used, disclosed, modified, or destroyed; and (E) any mitigation steps taken by Business Associate.

(ii) Unsuccessful Security Incidents. To avoid unnecessary burden on either party, Business Associate shall report to Covered Entity any Unsuccessful Security Incident of which it becomes aware only upon request of the Covered Entity. The frequency, content and the format of the report of Unsuccessful Security Incidents shall be mutually agreed upon by the parties. If the definition of "Security Incident" is amended under the Security Rule to remove the requirement for reporting "unsuccessful" attempts to use, disclose, modify or destroy EPHI, then this Section 4.3(c) (ii) shall no longer apply as of the effective date of such amendment.

(d) Security Officer and Training. Business Associate shall designate a Security Officer and shall conduct staff training regarding compliance with the HIPAA security requirements, as required by the Security Rule and the HITECH Act.

Attachment: CHC Business Associate Agreement (RES-2022-151 : Approve Wellness Program Addendum No. 1 and Business Associate

ARTICLE V

BREACH OF AGREEMENT AND TERMINATION

5.1 Right to Terminate for Breach.

Covered Entity. Covered Entity has the right to terminate this Agreement immediately if Covered Entity determines, in its reasonable discretion that Business Associate has breached any material term of this Agreement. Following the Covered Entity's determination that Business Associate has breached a material term of this Agreement, in lieu of immediate termination, Covered Entity may elect, in its sole discretion, to provide the Business Associate with written notice of the existence of an alleged breach, and afford the Business Associate an opportunity to cure such alleged breach upon mutually agreeable terms. In the event that mutually agreeable terms cannot be achieved within five (5) days of receiving the written notice, the Business Associate must cure said breach to the reasonable satisfaction of Covered Entity within the next ten (10) days. Failure to cure in the manner set forth in this paragraph shall constitute a breach of a material term of this Agreement and is grounds for the immediate termination of this Agreement.

(a) Business Associate. If Business Associate determines that Covered Entity has breached a material term of this Agreement, it must provide the Covered Entity with written notice of the existence of an alleged breach, and afford the Covered Entity an opportunity to cure such alleged breach upon mutually agreeable terms. In the event that mutually agreeable terms cannot be achieved within five (5) days of receiving the written notice, the Covered Entity must cure said breach to the reasonable satisfaction of Business Associate within the next twenty (20) days. Failure to cure in the manner set forth in this paragraph shall constitute a breach of a material term of this Agreement and is grounds for the immediate termination of this Agreement.

5.2 Return or Destruction of PHI.

(a) Business Associate will automatically, at termination of the Services Agreement and this Agreement, return, at its cost, all PHI received from, or created or received by Business Associate on behalf of, Covered Entity. Prior to the return of PHI to Covered Entity, Business Associate may submit to Covered Entity a written request for permission to destroy PHI, and such request may be approved or denied in the sole discretion of Covered Entity.

(b) Business Associate will not retain any copies of PHI unless the Covered Entity expressly permits it to do so in writing.

5.3 Continuing Privacy and Security Obligation. If return or destruction of the PHI is not feasible, as determined by Covered Entity, Business Associate will extend the protections of this Agreement for as long as necessary to protect the PHI and to limit any further use or disclosure. Business Associate will only use or disclose such PHI for those purposes that make return or destruction infeasible.

5.4 Injunctive Relief. In the event of a breach of any material term of this Agreement, Covered Entity has a right to obtain injunctive relief to prevent future disclosure of PHI.

Attachment: CHC Business Associate Agreement (RES-2022-151 : Approve Wellness Program Addendum No. 1 and Business Associate

ARTICLE VI

INDEMNIFICATION AND INSURANCE

6.1 Indemnification. Business Associate will indemnify and hold harmless Covered Entity and any Covered Entity affiliate, officer, director, employee, subcontractor, agent, or other members of its workforce, from and against any claim, cause of action, liability, damage, fine, penalty, cost or expense arising out of or in connection with any non-permitted use or disclosure of PHI or other breach of this Agreement by Business Associate or any subcontractor, affiliate, or agent therefore, including but not limited to any Business Associate Subcontractor, that provides services described in or relating to the Services Agreement. Notwithstanding any provision of the Services Agreement to the contrary, Business Associate's responsibility for indemnification arising out of or in connection with this Agreement will be governed solely by this Section 6.1 and no provision set forth in the Services Agreement, including indemnification provisions thereunder or any terms that define, restrict or limit the types or amounts of damages, costs or expenses, will in any way alter, expand, restrict or limit Business Associate's indemnification liability hereunder.

6.2 Insurance. Business Associate represents and warrants that Business Associate has, and will maintain at Business Associate's own expense, liability insurance covering breach of Business Associate's requirements under this Agreement and Business Associate's negligent disclosure or breach of PHI covered by this Agreement. At the request of Covered Entity, Business Associate shall provide to Covered Entity proof of the insurance coverage required by this Section 6.2.

ARTICLE VII

MISCELLANEOUS

7.1 Amendments; Waiver. Except as provided herein, neither party shall modify this Agreement, or waive or amend any provision herein, except in writing signed by authorized representatives of the Parties. However, upon the compliance date of any final regulation or amendment to final regulations of HIPAA, this Agreement will automatically amend to impose upon Business Associate such additional obligations as are necessary for the parties to remain in compliance with these regulations.

7.2 Construction. This Agreement shall be construed as broadly as necessary to implement and comply with HIPAA. Any ambiguity in this Agreement shall be resolved in favor of a meaning that complies with HIPAA.

7.3 Subpoenas. Each party will provide written notice to the other party of any subpoena or other legal process seeking PHI received from or created on behalf of Covered Entity, or otherwise relating to Business Associate's services under the Services Agreement. Such written notice shall be provided within 48 hours of receipt of a subpoena or other legal process.

7.4 Notices. All notices records or reports required to be given to either party under this Agreement will be in writing and sent by traceable carrier to each party's address indicated below, or such other address as a party may indicate by at least ten (10) days' prior written notice to the other party. Notices will be effective upon receipt.

Attachment: CHC Business Associate Agreement (RES-2022-151 : Approve Wellness Program Addendum No. 1 and Business Associate

Business Associate:
Company: CHC Wellbeing, Inc.

Name: Joan Knauss-Harwell
Print Name
Title: Managing Director

Fax Number: 847-437-2770

Covered Entity:
Company: Town of Amherst

Name: Brian Kulpa
Print Name
Title: Supervisor

Fax Number:

7.5 Term. This Agreement will continue in full force and effect for as long as the Services Agreement remains in full force and effect unless it is earlier terminated pursuant to Section 5.1(a) or Section 5.1(b). This Agreement will terminate upon the cancellation, termination, expiration or other conclusion of the Services Agreement.

7.6 Survival. The rights and obligations of Business Associate under Article II and Section 6.1 and Section 6.2 of this Agreement shall survive the termination of this Agreement.

7.7 Governing Law. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Illinois. Jurisdiction and venue for any dispute relating to this Agreement shall rest exclusively with the state and federal courts of Illinois.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be signed by their duly authorized representatives as of the Effective Date.

Business Associate / CHC Wellbeing	**Covered Entity / Town of Amherst**
By: X	By: X
Signature	
Name: Joan Knauss-Harwell	Name: Brian Kulpa
Print Name	
Title: Managing Director	Title: Supervisor
Date:	Date:

Attachment: CHC Business Associate Agreement (RES-2022-151 : Approve Wellness Program Addendum No. 1 and Business Associate

Attachment: CHC Business Associate Agreement (RES-2022-151 : Approve Wellness Program Addendum No. 1 and Business Associate

Exhibit A

OTHER BUSINESS ASSOCIATES APPENDIX

Other Business Associates of the Client Authorized to Receive Protected Health Information

In accordance with the Amendment above, disclosure of PHI may be made to the following other business associates of the Client:

Other Business Associate Name	Title/Office	Name of Individual	Phone/Fax	E-mail
Premier Consulting	Director of Operations	Susan Schrembs	Cell: 716.359.3221 Fax: N/A	sschrembs@premierconsultingassoc.com

Confidential information will be provided to the other business associates identified above. The Client (by and through the Company) hereby represents and warrants to Business Associate, that the Client has obtained a HIPAA business associate agreement, or such other confidentiality agreement or nondisclosure agreement, together with any and all individual consents, each as required under applicable law.

Covered Entity/Town of Amherst

By: X_____

Name: Brian Kulpa

Title: Supervisor

Date:

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

Francina J. Spoth
Town Clerk

Meeting: 02/07/22 07:00 PM
Department: Emergency Services
Initiated by: **Jim Zymanek**
Co-Sponsored by:

DOC ID: 25385 **RESOLUTION 2022-152** **ADOPTED AS AMENDED**

Firefighter Cancer Benefit Program 2022 CRS ID #3155

WHEREAS, the New York State Legislature mandated cancer coverage for volunteer firefighters effective January 1, 2019,

WHEREAS, the Amherst Town Board adopted on December 10, 2018 Resolution 2018-1292 approving basic mandated cancer coverage from The Hartford Life and Accident Insurance Company,

NOW THEREFORE BE IT RESOLVED that the Amherst Town Board approves the renewal of the Basic Cancer Coverage through The Hartford Life and Accident Insurance Company Policy Number 681360 administered by AIS Administrators, and payment of the total amount of $37,111.75. Subject to successful completion of the CRS routing process.

2/7/2022
A motion to approve was made by Supervisor Kulpa and seconded by Deputy Supervisor Berger. A motion to amend was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0. Amendment adds the underlined language. A motion to approve as amended was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

FINANCIAL IMPACT:

Comptroller to provide

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: 02/07/22 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 25387 **RESOLUTION 2022-153** **ROLL CALL VOTE (ADOPTED)**

Street Light Purchase and Upgrade CRS 3137

In 2015, New York's Governor signed into law the Streetlight Replacement & Savings Act which establishes procedures for the transfer of street light system ownership from a utility to a municipality. In October 2019, the Town hired an Energy consultant that conducted a Comprehensive Energy Audit of the Town's existing street lighting system. The result was a recommendation to upgrade the street lighting system with the installation of LED street lights after purchasing the assets from the utility companies.

The project's goal is to improve the total functionality of the Town's street lighting while reducing energy and operational costs. To assist in accomplishing these goals, the Town has opted to team with New York Power Authority (NYPA) in providing a turn-key solution in the purchase and upgrade of the street lighting system. The Town entered into an Energy Services Program Master Cost Recovery Agreement with NYPA on October 7, 2021 allowing this arrangement to move forward under an Authorization to Proceed.

Would you please authorize the Supervisor to sign the attached Authorization to Proceed with a NYPA turn-key street lighting project? The project will be financed through a combination of General Fund and the Streetlight District bonds. Thank you for considering this request.

2/7/2022
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved via Roll Call vote 5-0.

FINANCIAL IMPACT:

N/A

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

NEW YORK STATE OF OPPORTUNITY. | NY Power Authority

KATHY HOCHUL
Governor

JOHN R. KOELMEL
Chairman

JUSTIN E. DRISCOLL
Interim President and Chief Executive Officer

January 11, 2022

Brian Kulpa - Supervisor
Town of Amherst
5583 Main Street
Williamsville, NY 14221

RE: Energy Services Program
Authorization to Proceed with turn-key street light project
Town of Amherst – LED Street Lighting

Dear Mr. Kulpa:

The New York Power Authority (NYPA) is excited to support the Town of Amherst in implementing a comprehensive street lighting upgrade. Improving the existing street lights is a widely used and effective strategy to achieve the goal of reducing energy consumption, lowering utility costs, and improving light quality throughout the community.

Consistent with the Master Cost Recovery Agreement, NYPA provides a turn-key solution to upgrade the Town of Amherst's existing 9,649 existing street light fixtures with high-efficient LED technology.

By signing below, the Town of Amherst authorizes NYPA to proceed with the full turn-key solution of the LED streetlighting project, which includes the final design report, conduct bids for materials and installation labor, provide construction management, and commission the final project.

NYPA will first create an ICPC (Initial Customer Project Commitment) for materials only purchase, expected for review and signature in late March 2022. At this point, if you choose to proceed to project implementation all development costs will be rolled into the overall project. Conversely, should you decide not to proceed with the implementation of the project, the Town of Amherst agrees to reimburse NYPA for all costs incurred up to the termination date for the bidding of the project.

The cost of bidding the materials and labor will be determined during the next phase. NYPA will be fully transparent through this process and provide complete documentation as to how it determined all project costs.

Attachment: Street Light Purchase Agreement (RES-2022-153 : Street Light Purchase and Upgrade)

NEW YORK STATE OF OPPORTUNITY. | NY Power Authority

KATHY HOCHUL
Governor

JOHN R. KOELMEL
Chairman

JUSTIN E. DRISCOLL
Interim President and Chief Executive Officer

By signing below, affirm that you agree to these conditions:

Joseph Rende	Brian J. Kulpa
(Name, printed)	(Name, printed)
Senior Director, Clean Energy Solutions	Town Supervisor
(Title)	(Title)
(Signature)	(Signature)
(Date)	(Date)

Attachment: Street Light Purchase Agreement (RES-2022-153 : Street Light Purchase and Upgrade)

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

Francina J. Spoth
Town Clerk

Meeting: 02/07/22 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 25382 **RESOLUTION 2022-154** **ADOPTED**

CIP Amendment - Morningside Subdivision Roadway Reconstruction CIP Project No. H-11

The Engineering Department is recommending amendment of the 2022-2027 CIP for above project with respect to funding source. This project was originally allocated to be bonded against the General Fund but as this roadway is an asset of the Highway District, we request that the funding source be amended for these funds to be bonded against the Highway District.

CIP No.	Project Description	2022 CIP Allocation	Amend To
H-11	Morningside Subdivision Roadway Reconstruction - Phase I (Morningside Lane)	$224,700 LA	$224,700 LD

LA = General Fund Bond
LD = Highway District Bond

Please approve this amendment to the 2022-2027 CIP and allocate the funding as shown above.

2/7/2022
Consent

FINANCIAL IMPACT:

N/A

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: 02/07/22 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 25384 **RESOLUTION 2022-155** **ADOPTED**

CIP Amendment - Sewer Maintenance Building Roof Restoration CIP Project No. E-22

The Engineering Department is recommending amendment of the 2022-2027 CIP for above project with respect to funding source. This project was originally allocated to be bonded against the General Fund but as this building is an asset of the Consolidated Sanitary Sewer District (CSSD), we request that the funding source be amended for these funds to be bonded against the CSSD.

CIP No.	Project Description	2022 CIP Allocation	Amend To
E-22	Sewer Maintenance Building Roof Restoration	$175,000 LA	$175,000 LG

LA = General Fund Bond
LG = Sanitary Sewer District Bond

Please approve this amendment to the 2022-2027 CIP and allocate the funding as shown above.

2/7/2022
Consent

FINANCIAL IMPACT:

N/A

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
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Francina J. Spoth
Town Clerk

Meeting: 02/07/22 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 25386 **RESOLUTION 2022-156** **ADOPTED**

CIP Amendment - Adding LED Streetlights to Various Neighborhoods CIP Project No. H-16

The Engineering Department is recommending amendment of the 2022-2027 CIP for the above project in the amounts shown in the table below. This amendment will allocate adequate funding to the Town's Evergreen Landing Subdivision Street Lighting Project.

CIP No.	Project Description	2022 Bond Allocations	Amend To
H-16	Adding LED streetlights in various neighborhoods in Town and along Sweet Home Road	$ 400,000 LA $ 100,000 X $ 900,000 LF	$ 1,350,000 LF
	Total	**$ 1,400,000**	**$ 1,350,000**

LA: General Fund Bond; LF: Lighting District Bond; X: Private Source

Please approve this amendment to the 2022-2027 CIP and reassign the funding as identified above. Please note that these costs are not included in the 2022 CIP total. The on-going Town-wide street lighting conversion project will provide the savings to offset the cost of this project by the reduction of utility payments.

2/7/2022
Consent

FINANCIAL IMPACT:

N/A

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: 02/07/22 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 25389 **RESOLUTION 2022-157** **ADOPTED**

Budget Details Amendment - CRS 3108 - Hach

The Engineering Department, Water Pollution Control Division, is requesting approval to amend the budget details of CRS-CMS 3108-2933 for the agreement with Hach Company, originally approved under RES-2022-51. The requested amendment will change the account to be charged to bond account KP2136-2150, WPCF Building & Equipment Infrastructure, Phase 3.

Funds will be available in KP2136-2130.

Thank you for considering this request.

2/7/2022
Consent

FINANCIAL IMPACT:

Change to KP2136-2130

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
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Francina J. Spoth
Town Clerk

Meeting: 02/07/22 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 25390 **RESOLUTION 2022-158** **ADOPTED**

Payment Authorization - Xylem Dewatering Solutions CRS 3131

The Engineering Department-Water Pollution Control Facility Division is requesting that the Town Board authorize the Supervisor to approve payment of Xylem Dewatering Solutions. Inc. invoice 401116712, work order 704016671/1.0 for $1,404.53. This approval is for work already completed to our Godwin portable pump by Xylem Dewatering Solutions a "sole source" repair facility. While the parts purchased on this invoice were according to our Town bid 2020033A Pump Parts, the labor portion of $910.00 is not included in the contract. All work performed was off-site, delivered and picked up by a WPCF employee and as such, we also request a waiver from insurance.

Funds will be available in G9916-4910.

This request has successfully completed the contract review process.

2/7/2022
Consent

FINANCIAL IMPACT:

G9916-4910; $1,404.53

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

AGREEMENT

Let this document stand as an Agreement between Xylem Dewatering Solutions, Inc. and the Town of Amherst permitting the Town of Amherst to secure the services as stated on the attached Xylem Work Order number 704016671/1.0, Dated September 01, 2021. The term of this contract will be from September 01, 2021 through December 31, 2021.

Agreed to and Accepted by:

Xylem Dewatering Solutions, Inc.

By: Ron Beagle
Signature

Ron Beagle
Printed name

CES
Title

Date: 1-6-22

Agreed to and Accepted by:

TOWN OF AMHERST

By: _____
Brian J. Kulpa
Supervisor

Date: _____

Attachment: Xylem Agreement Paperwork (RES-2022-158 : Payment Authorization - Xylem Dewatering Solutions)

From: LeFevre, Robert - Xylem <Robert.LeFevre@xylem.com>
Sent: Thursday, July 1, 2021 10:58 AM
To: Dean, Tom <TDean@amherst.ny.us
Subject: FW: Quote

CAUTION: This email originated from outside of the organization.
Please do not click links or open attachments unless you recognize the sender and know the content is safe.
Tom,

Please be advised that Godwin Pumps is a Xylem brand, we are the manufacturer and the only authorized parts and repair facility in Western New York.

Robert LeFevre
Godwin Pumps
585-370-8538
Robert.lefevre@xyleminc.com
xylem Rental Solutions

Attachment: Xylem Agreement Paperwork (RES-2022-158 : Payment Authorization - Xylem Dewatering Solutions)

Xylem Dewatering Solutions, Inc.
8039 Oak Orchard Road
Batavia, NY 14020
Phone: 585-344-3156
Fax: 585-344-3158
Email: partsandservice@godwinpumps.com

Work Order
704016671/1.00
Page 1 of 1
Created: 09/01/21
Completed: N/A

SOLD TO
1532
Town of Amherst
1100 N FOREST RD
WILLIAMSVILLE, NY 14221-3225

SHIP TO
1532
Town of Amherst
Xylem Dewatering
8039 Oak Orchard Road
Batavia, NY 14020

CUST NO	CUSTOMER P.O.		ORDERED BY	CREATED BY	MECHANIC	SALES REP
00001532			Tom Dean	Ron Beagle	Todd Palmer	Robert J. LeFevre
E-CODE	**ITEM CODE**	**UNIT S/N**	**PUMP S/N**	**ENGINE S/N**	**HOURMETER**	**JOB CODE**
	PMCD060DCN021		0644980-56 CD150 w/4045D	PS4045D606417	3016.900	Serv/Repair
DATE	**MILEAGE**		**LEFT SHOP**	**IN GATE**	**OUT GATE**	**RETURN SHOP**
08-20-2021						

INSTRUCTIONS	WORK PERFORMED

ORDER	SHIPPED	PART NUMBER	DESCRIPTION	LINE DISCOUNT	NET	TOTAL
1	1	GR1231PMF	12V Battery	25.00	208.32	183.32
1	1	R2	2" Rain Cap	2.43	20.22	17.79
1	1	VLBL007PTB02	3/4" Ball Valve	2.30	19.20	16.90
1	1	AD007000PMPMS0	3/4" Stainless Steel Close Nipple	0.65	5.41	4.76
1	1	2305869923	CD80,CD100M, CD150M, HL80M Filter Screen	17.90	149.16	131.26
1	1	3810715613	Compressor Base Gasket	1.83	15.24	13.41
1	1	BF7674	Deere Fuel Filter	2.86	23.81	20.95
1	1	RE504836	Deere Oil Filter	2.36	19.67	17.31
1	1	3810134112A	Ejector Jet, Rear Wearplate Stud O-Ring	0.15	1.24	1.09
1	1	3810144112A	Ejector Nozzle O-Ring	0.21	1.75	1.54
1	0	ES2P100	Oil Pressure Sender	4.30	35.87	31.57
9	9	1540Q	Quart Oil	5.75	5.32	42.13
7.00	7.00	LABOR	Labor Standard Rate	0.00	130.00	910.00
1	1	ENVIRONMENTALFE	Environmental Fee	0.00	12.50	12.50
					Discount	65.74
					Total	$ 1,404.53

TERMS AND CONDITIONS	AUTHORIZED BY
	SIGNATURE PRINT NAME

This order is subject to the Standard Terms and Conditions of Sale - Xylem Americas effective on the date the order is accepted which terms are available https://www.xylem.com/en-US/support/xylem-americas-standard-terms-and-conditions/ and incorporated herein by reference and made a part of the agreement between the parties
09-01-2021 10:54

Attachment: Xylem Agreement Paperwork (RES-2022-158 : Payment Authorization - Xylem Dewatering Solutions)

xylem
Let's Solve Water

godwin DIESEL

Sold by:

Invoice

Branch 004
8039 Oak Orchard Road
Batavia, NY 14020
Tel: 585-344-3156
Fax: 585-344-3158

Remit to:
26717 Network Place
Chicago, IL 60673-1267
Phone: 1.855.278.2248 (opt 1)

NOTE: Valued customers, please note the NEW remit address change included on this invoice.

TOWN OF AMHERST
ENGINEERING
DEPARTMENT

RECEIVED SEP 24 2021

2021 SEP 24 A 8:32

SOLD TO
Town of Amherst
1100 N FOREST RD
WILLIAMSVILLE NY 14221-3225

SHIP TO
Town of Amherst
Xylem Dewatering
8039 Oak Orchard Road
Batavia, NY 14020

Cust. No.	Invoice Date	Invoice No.
00001532	09-17-2021	401116712

Customer PO	Ordered By	Contract Date	Completed Date	W.O. Number	Sales Representative	Order Taken By	Payment Terms
	Tom Dean	08-30-2021	09-17-2021	704016671	Robert J. LeFevre	Robert J. LeFevre	Net 30

ITEM	DESCRIPTION	QUANTITY	UNIT AMOUNT	EXTENDED AMOUNT
	Repair On: 0644980-56 CD150 w/4045D **Repair customer owned Godwin CD150 Dri Prime pump. Replace battery, oil pressure sender, screen and rain cap. Service engine and test unit. EF.020 ER.020.**			
VLBL007PTB02	3/4" Ball Valve	1	16.90	16.90
AD007000PMPMS0	3/4" SS Close Nipple	1	4.76	4.76
2305869923	CD80,CD100M, CD150M, HL80M Filter Screen	1	131.26	131.26
GR1231PMF	12V Battery	1	183.32	183.32
ES2P100	Oil Pressure Sender	1	31.57	31.57
BF7674	Deere Fuel Filter	1	20.95	20.95
R2	2" Rain Cap	1	17.79	17.79
RE504836	Deere Oil Filter	1	17.31	17.31
3810715613	Compressor Base Gasket	1	13.41	13.41

ALL PAST DUE INVOICES ARE SUBJECT TO
1 1/2% PER MONTH SERVICE CHARGE

Important Information: Due to fraud attempts any communication for changes of bank account details have to be confirmed by a call-back with your respective Xylem contact person.

Attachment: Xylem Agreement Paperwork (RES-2022-158 : Payment Authorization - Xylem Dewatering Solutions)

xylem
Let's Solve Water

godwin PUMPS

Sold by:

Invoice

Branch 004
8039 Oak Orchard Road
Batavia, NY 14020
Tel: 585-344-3156
Fax: 585-344-3158

Remit to: Xylem Dewatering Solutions, Inc.
26717 Network Place
Chicago, IL 60673-1267
Phone: 1.855.278.2248 (opt 1)

NOTE: Valued customers, please note the NEW remit address change included on this invoice.

SOLD TO
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Cust. No.	Invoice Date	Invoice No.
00001532	09-17-2021	401116712

Customer PO	Ordered By	Contract Date	Completed Date	W.O. Number	Sales Representative	Order Taken By	Payment Terms
	Tom Dean	08-30-2021	09-17-2021	704016671	Robert J. LeFevre	Robert J. LeFevre	Net 30

ITEM	DESCRIPTION	QUANTITY	UNIT AMOUNT	EXTENDED AMOUNT
3810144112A	Ejector Nozzle O-Ring	1	1.54	1.54
3810134112A	Ejector Jet, Rear Wearplate Stud O-Ring	1	1.09	1.09
1540Q	Quart Oil	9	4.68	42.13
LABOR	Labor Standard Rate	7.00	130.00	910.00
ENVIRONMENTALFE	Environmental Fee	1	12.50	12.50

ALL PAST DUE INVOICES ARE SUBJECT TO
1 1/2% PER MONTH SERVICE CHARGE

Merchandise	Labor	Shipping	Misc. Charges	Taxes
$ 482.03	$ 910.00	$ 0.00	$ 12.50	$ 0.00

Important Information: Due to fraud attempts any communication for changes of bank account details have to be confirmed by a call-back with your respective Xylem contact person.

Total Invoice **$ 1,404.53**

Attachment: Xylem Agreement Paperwork (RES-2022-158 : Payment Authorization - Xylem Dewatering Solutions)

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

Francina J. Spoth
Town Clerk

Meeting: 02/07/22 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 25393 **RESOLUTION 2022-159** **ADOPTED**

Support Renewal Agreement - Rockwell Automation - CRS 3129

The Engineering Department-Water Pollution Control Facility is currently seeking Town Board approval to authorize the Supervisor to sign the attached agreement with Rexel USA, Inc. This agreement will allow the WPCF to purchase a three-year Rockwell Automation tech support and product update for a total of $5,177.00 and will be valid through October 17, 2024.

Funds are available from account G9916-4960 as follows:

- Year 1 - $1,837.00
- Year 2 - $1,670.00
- Year 3 - $1,670.00

This request has successfully completed the contract review process.

Thank you for considering this request.

2/7/2022
Consent

FINANCIAL IMPACT:

G9916-4960; $5,177.00

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

AGREEMENT

Let this document stand as an Agreement between REXEL USA, INC. ("REXEL") and the Town of Amherst permitting the Town of Amherst to purchase a three-year Rockwell Automation tech support and product update as per the attached TechConnect Support Agreement – Renewal Fixed Price Proposal No. 3800692890 dated June 30, 2021, which is incorporated herein by reference, for a total of $5,177.00. The term of this contract will be from date of execution by the Town of Amherst through October 17, 2024.

Agreed to and Accepted by:

REXEL USA, INC.

By: _____

Signature

Scott E. Geraghty

Printed name

Industrial Services Mgr

Title

Date: 1/11/22

Agreed to and Accepted by:

TOWN OF AMHERST

By: _____

Brian J. Kulpa
Supervisor

Date: _____

Attachment: Rockwell Agreement Info (RES-2022-159 : Support Renewal Agreement - Rockwell Automation - CRS 3129)

Rockwell Automation

TechConnect℠ Support Renewal

To renew TechConnect℠ Support for another year, please review this quote and instructions below.

If no changes are required, please follow the purchase order instructions outlined in Section 2.3.

If changes are required before purchase, such as product or coverage changes, please contact your local Rockwell Automation Distributor.

Attachment: Rockwell Agreement Info (RES-2022-159 : Support Renewal Agreement - Rockwell Automation - CRS 3129)

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Rockwell Automation

TOWN OF AMHERST WWTP
AMHERST, NEW YORK

TechConnect℠ Support Agreement – Renewal

Fixed Price Proposal
3800692890

Date of Issue: JUNE 30, 2021

Presented To: TOWN OF AMHERST WWTP
455 TONAWANDA CREEK RD
Amherst, New York 14228-1230

Proposed By: Rexel
505 Duke Rd Ste 400
Cheektowaga, NY 14225-5142 Rockwell Automation

Rockwell Automation

Attachment: Rockwell Agreement Info (RES-2022-159 : Support Renewal Agreement - Rockwell Automation - CRS 3129)

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Attachment: Rockwell Agreement Info (RES-2022-159 : Support Renewal Agreement - Rockwell Automation - CRS 3129)

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Executive Summary

Rockwell Automation is providing robust, standardized, and reusable solutions that can be quickly leveraged within your enterprise. Our solutions are based on industry-tested and proven methodologies and technologies, providing World-Class service levels and significant business value to our clients. Our services help our clients reduce risk, increase productivity, and reduce cost across a broad range of facility operations.

To help understand what is contained in this proposal document, please refer to the detailed descriptions of each of these deliverables in the Statement of Work in Section 1 of this document and/or speak with your Rockwell Automation or Authorized Distributor representative.

About Rockwell Automation

In providing our services we are committed to complying with safety regulations and to demonstrating the highest standard of occupational safety and health performance. This includes implementing and maintaining health and safety management systems based on OHSAS 18001, but of course will consider any local or corporate customer requirements. To drive continuous improvement, we establish annual corporate performance goals — which translate to local performance metric and activity-based objectives. Rockwell Automation excelled in global safety performance, as measured by Recordable Case Rate (0.23), remained best in class in 2020 when compared to the average private industry rate and with the average rate for electronic manufacturing peers.

Lastly, when you work with Rockwell Automation, you know you are partnering with an ethical, sustainable organization. Rockwell Automation is a recognized global leader in the area of ethics and compliance, having been named a World's Most Ethical Company 12 times and winning the BBB International Torch Award and American Business Ethics Award in recent years. Integrity is a core company value that is part of our strategic framework and is an integral part of the company's culture. Many of our accomplishments in the area of ethics, compliance, safety and sustainability are set forth in our Corporate Responsibility Report available here.

The fixed price version of this Rockwell Automation offer can be purchased by remitting purchase order using the directions in Section 1.1.3.

Attachment: Rockwell Agreement Info (RES-2022-159 : Support Renewal Agreement - Rockwell Automation - CRS 3129)

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1 Rockwell Automation Statement of Work for Services

COVID-19. Rockwell Automation is committed to health, safety, and doing all we can to maintain a high level of service for our customers. Together, we will navigate this tough situation with a focus on safety while supporting each other. We are committed to communicating with you about the impact that the ongoing COVID-19 pandemic or its related governmental restrictions may have on the deployment of our personnel and delivery of the project and truly appreciate your cooperation and understanding in advance.

This proposal for a Rockwell Automation TechConnect℠ Support Agreement renewal is offered to Rexel for resale to Town of Amherst Wwtp ("Customer").

1.1 Statement of Work Summary

This TechConnect℠ Support Agreement ("Agreement") will allow your plant to be connected to Rockwell Automation's world-class phone and electronic technical support. Rockwell Automation's technical support team provides assistance with installing, configuring and maintaining equipment and software, obtaining current software updates, diagnosing and fixing operating problems, or performing basic programming tasks.

1.1.1 Agreement Term

Agreement Term: October 18, 2021 through October 17, 2022

1.1.2 TechConnect℠ Support Levels

Product Family	Description	Support Level	Service Level
9800-DC8AUTOB	Automation Control Hardware	Product Support	8 x 5 M-F

Table 1: TechConnect℠ Support Levels

1.1.3 Product Coverage Details

Rockwell Automation will provide TechConnect℠ Support coverage to Customer for the Rockwell Automation Product Families & software serial numbers listed below. Please ensure the following information is complete and includes any new "Software Maintenance" products you wish to add to this support agreement.

Hardware Type
Automation Control Hardware

Product Family & Software Serial Numbers	Description	Install Count
9800-DC8AUTOB	**Automation Control Hardware**	
9310-WED200ENE		1
1835220833	Studio 5000 Logix Emulate ESD S/W	1
9324-RLD300ENE		1
1203031449	Studio 5000 Standard Edition ESD S/W	1

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Attachment: Rockwell Agreement Info (RES-2022-159 : Support Renewal Agreement - Rockwell Automation - CRS 3129)

Product Family & Software Serial Numbers	Description	Install Count
9324-RLD700ENE		1
2022005167	RSLogix 5000 Professional Edition Software	1
9324-RLD700NXENE		1
2022196591	Studio 5000 Professional Edition EN S/W	1
9326-LGXARCHENE		2
2075000927	RSLogix Architect Software	1
2075127812	RSLogix Architect Software	1
9357-CNETL3		2
1163029456	RSNetworx For Controlnet	1
1163255357	RSNetworx For Controlnet	1
9357-DNETL3		2
1235035800	RSNetWorx For DeviceNet ESD Software	1
1235296996	RSNetWorx For DeviceNet ESD Software	1
9357-ENETL3		2
1669000928	RSNetWorx For EtherNet ESD Software	1
1669232415	RSNetWorx For EtherNet ESD Software	1
9701-VWSTMENE		1
1564004980	FT View Studio for ME EN ESD Software	1

Note: If changes to the TechConnect℠ Support Product Coverage Details above are required, please contact your local Rockwell Automation sales office or Allen-Bradley® authorized distributor to request an updated proposal.

1.2 TechConnect℠ Support Information

1.2.1 TechConnect℠ Support Options

Rockwell Automation offers progressive levels of support to meet your business needs; see table below for all available support level options. Please refer to Table 1: TechConnect℠ Support Levels regarding support levels included in this Statement of Work.

Support Level	Support Services Description
Application Support	You are partnered with a team of technical support engineers who are uniquely designated to support your key applications. This team visits your site, becomes familiar with the applications, and gathers system drawings and documentation. This team will become an extension of your support staff, providing technical account management and scheduled consulting time. Application Support **includes the support elements of Product Support, System Support** and the following support elements: **Real-time, Application-Level Support** *Designated support team / Dedicated telephone and email / Documentation and case familiarization / Application knowledge management / Periodic performance reviews* **Surveillance and Alarming Options** *Device and/or process monitoring and alarming at Rockwell Automation facility or remotely / Access to historical data for troubleshooting* **Application-Level Administration Option**

Attachment: Rockwell Agreement Info (RES-2022-159 : Support Renewal Agreement - Rockwell Automation - CRS 3129)

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	Emergency backup / Performance tuning / Guaranteed field service call-out
System Support	System Support allows your calls to be routed to a group of technical support engineers with proven expertise in Rockwell Automation control systems. You will work with an engineer who manages your case through resolution and follow-up. System Support **includes the support elements of Product Support**, and the following support elements: **Real-time, System-Level Support** *Standard product and programming software / Advanced software / Proactive follow up / Single-point resolution* **Advanced Engineering Expertise** *Get support from system-level support engineers that have multiple years of experience in the industrial automation industry*
Product Support	As often as your needs require, you can contact Rockwell Automation technical support engineers for real-time phone support. Our engineers have deep knowledge of our products, software and legacy hardware and can use remote desktop technology to help troubleshoot or assist in the configuration of products quickly. Product Support **includes the support elements of Self-Assist Support**, and the following support elements: **Real-Time, Product-Level Support** *Standard product and programming software / Telephone and live chat support available in 20 languages / Remote desktop troubleshooting* **Learning+ Subscription Available for Purchase** *Highly interactive learning featuring lessons, software simulations, and demonstration videos to help reinforce learning concepts. Available on any tablet or PC using Chrome, Safari, IE, Edge or Firefox. Each course has a knowledge assessment, requiring 80% to pass. Upon successful completion of the course, a learner will be awarded CEUs (where applicable).* **Live View** *An enhanced support experience connecting you with Rockwell Automation Technical experts leveraging a live video feed and augmented reality annotations.* **Software Maintenance II** *Software update media / Emergency software replacement* **Genius Webinars** *Extend and apply knowledge gained via access to on-demand library of online technical seminars*

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Self-Assist Support	You can take advantage of the Knowledgebase, their online resource for technical information, support, and assistance. The Knowledgebase can assist you in increasing productivity by finding solutions to technical questions more quickly - saving both time and money. The KnowledgeBase is maintained by the same engineers who provide TechConnect℠ Support and is updated with the hardware and software solutions from actual support cases. These updates are incorporated dynamically. Self-Assist includes the following support elements: **Welcome Kit** *Essential support agreement information / Support authorization number / Local support telephone number / User guide* **Digital Assist Library** *Cloud-hosted augmented reality library of work instructions. Leverage augmented reality to walk through the proper steps to complete tasks related to the repair and maintenance of Allen-Bradley hardware* **Software Maintenance I** *Software update downloads* **Online Support Center Access** *Knowledgebase tech notes / Interactive forums / Product notifications / Manage service tickets / Submit questions via email*

1.2.2 Definitions of Common Terms Used in Services

Technical Phone Support: Rockwell Automation phone support provides technical assistance for installation, configuration, troubleshooting, diagnosis, basic instruction programming and best practice recommendations. With an unlimited phone support agreement, Customer can call as often as needed throughout the term of your Agreement. Standard hours of coverage are 8:00 AM to 5:00 PM Monday – Friday (based on your local calling time; Rockwell Automation observed holidays excluded). Information on Rockwell Automation observed holidays can be found via the Knowledgebase in article #QA33258 (https://rockwellautomation.custhelp.com/app/answers/answer_view/a_id/819086/redirect).

Case Handling: Rockwell Automation handles cases that require further investigation as a priority with automatic escalation procedures, and call Customer back to provide a progress update if an answer is not immediately available.

Case Resolution Follow-up: For cases where Rockwell Automation could not confirm resolution on the initial call, Customer will receive a proactive follow-up within one business day (target response) to confirm that the problem was resolved or continue troubleshooting, if necessary.

1.2.3 Product Families

Rockwell Automation groups products into product families, making it simpler to deliver integrated support for hardware and software, including older and discontinued products. The lists available at the following link are not comprehensive; however, they illustrate how products are classified.

TECHCONNECT℠ PRODUCT FAMILY COVERAGE
http://literature.rockwellautomation.com/idc/groups/literature/documents/sp/gmsc-sp021_-en-p.pdf

1.3 Learning+ Subscription (Optional)

Attachment: Rockwell Agreement Info (RES-2022-159 : Support Renewal Agreement - Rockwell Automation - CRS 3129)

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1.3.1 Rockwell Automation Responsibilities

In summary, the following will be provided:

- Access to Learning+ content through Learning Management System (LMS)

1.3.2 Student Responsibilities

- It is the responsibility of the student to ensure all prerequisites are met.
- The following prerequisite skills have been identified as necessary for attendance in the course(s) designated in the Solution Description:
  - A valid, operational email address
  - Internet service to support access to course content
  - Prerequisites per Course Description

1.4 Changes to Agreement

1.4.1 Updates to Supported Software Installed Base

Support included with new Licenses purchased during the agreement term as a Perpetual License with Maintenance and or Subscription are not covered by this scope of work. The support included with new software purchases will have a maintenance value included at the time of purchase which will be treated as additive to this agreement. New Perpetual with Maintenance products will be added to the "Software Maintenance" category and renewed with your agreement. Any software which may have been purchased in the interim between the date of this quotation being created and accepted will not be covered by this scope of work.

1.4.2 Upgrade Options

Updates to existing TechConnect℠ Support Agreement and/or upgrades must be custom quoted by Rockwell Automation. Customer has the following upgrade options:

Coverage Level: Product and System Support agreements can be upgraded to 24x7x365 coverage (e.g., 8:00AM - 5:00PM to 24x7x365), which provides the option to call at any time, including weekends and holidays.

Support Level: Customer may upgrade support levels (e.g., Product Support to System Support) during the term of an existing agreement.

1.4.3 Changes to Scope

In the event that Customer closes or sells a plant and moves supported equipment and software to another Customer facility, the TechConnect℠ Support Agreement can be transferred.

1.4.4 Reinstatement Policy

If a Customer does not renew their contract until after the expiration date of the contract, the Customer has the following options to reinstate their support:

Attachment: Rockwell Agreement Info (RES-2022-159 : Support Renewal Agreement - Rockwell Automation - CRS 3129)

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a. If an agreement is not renewed on time and it has been less than 12 months since expiration, the renewed agreement will be backdated to the original expected start date and a 10% fee[1] will be added to the cost of the renewal.
b. If an agreement is not renewed on time and it has been longer than 12 months since expiration, the support agreement will be priced as a new agreement with current price levels and any previous discounts will not be applied.
c. For software packages that are removed from support and later reinstated, often referred to as "frozen" and "unfrozen", a 30% premium will be applied to each piece of software which carries a fee for maintenance as part of the TechConnect℠ program.

Note: There is a grace period of 10 days after the date of the Agreement expiration during which Customer can still access support. If Customer renews after the expiration date of the Agreement, the policy above applies regardless of this grace period.

1.5 Customer Responsibilities

Designate a site coordinator as a single point of contact. Customer to appoint a representative responsible for communicating and explaining support program entitlements and methods of obtaining support. This includes verification of supported software licensees, reviewing all available software upgrades and revisions for Customer with Rockwell Automation Technical Support, and delivery of Welcome Kit materials to potential users of support.

Utilize Welcome Kit details. Always use the phone number and authorization number provided in the Welcome Kit to ensure the quickest response time.

1.6 Termination for Convenience

Either party may terminate this Agreement with a prior written 30 day notice. In the event Customer cancels, Customer would be subject to a termination fee equal to 25% of the remaining Agreement value. Termination request is invalid if remaining term of service is less than 2 months.

1.7 Assumptions, Clarifications, and Exceptions

The following assumptions, clarifications and exceptions have been made by Rockwell Automation in the development of this Statement of Work:

Reference	Assumptions (A), Clarifications (C) and Exceptions (E)
A1	*Intentionally left blank*
C1	**Information Security Standards** In the performance of all Work pursuant to this Agreement and Statement of Work, Customer and Rockwell Automation will comply with the following standards and practices: 1. Data Transmission Customer agrees that all transmission or exchange of sensitive data with Rockwell Automation shall take place via secure means (e.g., Password-protected, using a complex password; encrypted WinZip sent via e-mail, or, for large files, Hightail File Transfer Service; physical media such as paper/DVD sent securely; or another equally secure means of transport). If Customer requires Rockwell Automation to

[1] If Customer's TechConnect Support Agreement has never included support for the product family in question, then the commercial "waive reinstatement" program applies for the respective packages.

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	use a Customer-specified system, the security of the data in transit and at rest once sent from Rockwell Automation is Customer's sole responsibility. 2. Customer-Provided Hard Disk If Rockwell Automation personnel are required to use Customer-provided hard disks, Customer agrees to provide the hard disk with designated backup and recovery processes and in encrypted form, using commercially supported or industry 'best of breed' open source encryption solutions. The Customer must use commercially reasonable efforts to ensure against introduction of any malicious software into Rockwell Automation's systems. These efforts include the implementation of security patches and antivirus or anti-malware solutions to remediate any vulnerabilities. 3. Remote Access Remote access by Rockwell Automation's personnel into Customer's control system(s) must be accomplished in accordance with either Customer or Rockwell Automation procedures, whichever is more stringent. If Customer requires Rockwell Automation personnel to use Customer-specified procedures, the security of the connection/session is Customer's sole responsibility, and Customer is solely responsible for logging activities of all users accessing the Customer's system.
C2	To the extent that the Rockwell Automation provided TechConnect℠ Support service defined in this Statement of Work is a service only offering, Provisions 3, 9, 10, 13, and 14 of "Terms and Conditions of Sale" will not be applicable to this proposal.
	Exceptions
E1	*Intentionally left blank*

Table 2: Assumptions, Clarifications, and Exceptions

1.8 Rockwell Automation Commitment for Sales through Distribution

In submitting any purchase order, you acknowledge and agree that Rockwell Automation will be excused from performance, or delay in performance, of its obligations under this purchase order, regardless of whether a contract is currently in place governing the parties' relationship, to the extent that Rockwell Automation is unable, in the exercise of reasonable commercial efforts, to perform such obligations due to the effects of the COVID-19 pandemic on Rockwell Automation and/or third parties, including, without limitation, logistics and materials suppliers.

General. This Commitment ("Commitment") covers purchase by Distributor's customer ("Customer") from Distributor of the hardware, and/or software (individually a "Product" and collectively "Products"), and/or services ("Services") and/or Products and Services described and integrated pursuant to this Statement of Work (collectively as integrated pursuant to the Statement of Work, the "Work") to be provided by Rockwell Automation, Inc. and/or its affiliates ("Rockwell Automation"). Its terms are integral to the Statement of Work. In other words, Customer purchases the Work subject to the terms contained in this Commitment (as well as other terms that may be included elsewhere in the Statement of Work). These terms apply directly to Customer and Rockwell Automation. Previously negotiated and signed terms and conditions with Customer that include provisions between Rockwell Automation and Customer that are intended to apply to the sale through distribution of Products, Services, and/or Work covered by this Commitment supersede these terms.

Warranty. (a) Warranty for the *Work*: Rockwell Automation warrants to Customer for the lesser period of 18 months from delivery or 12 months from startup, that the Work will perform as stated in the Statement of Work and the Products will be free of defects in material, fabrication, and workmanship provided that: (1) the operating conditions and use of the Work are in accordance with any standards set forth in the Statement of Work, Rockwell Automation's published specifications, and applicable recommendations of Rockwell Automation; and (2) the installation, adjustment, tuning, and start-up of the Work have been properly performed in accordance with Rockwell Automation's published specifications and any applicable recommendations of Rockwell Automation. Repaired or replacement Products provided pursuant to subparagraph (d) below are similarly warranted for the longer period of six months from date of shipment or the remainder of the original warranty term.

(b) *Products Warranty*: Rockwell Automation warrants to Customer for the period of 18 months from shipment, that the Products will be free of defects in material, fabrication, and workmanship provided that: (1) the operating conditions and use of the Product are in accordance with any standards set forth in the Statement of Work, Rockwell Automation's

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published specifications, and applicable recommendations of Rockwell Automation; and (2) the installation, adjustment, tuning, and start-up of the Product have been properly performed in accordance with Rockwell Automation's published specifications and any applicable recommendations of Rockwell Automation. Repaired or replacement Products provided pursuant to subparagraph (d) below are similarly warranted for the longer period of six months from date of shipment or the remainder of the original warranty term.

(c) *Services Warranty*: Rockwell Automation warrants to Customer for a period of 30 days from the date services are provided that service shall be performed in a workmanlike manner conforming to standard industry practice.

(d) *Remedies*: Remedies under this warranty will be limited to, at Rockwell Automation's discretion, replacement, repair, re-performance, modification, or issuance of a credit for the purchase price of the Products and/or Services involved, but only after Rockwell Automation's receipt of Customer's written notification of non-conforming Products, Services or Work and the return of such products pursuant to Rockwell Automation's instructions. Replacement Products, at Rockwell Automation's discretion, may be new, remanufactured, refurbished, or reconditioned. If the repair, re-performance, or replacement does not cure the defective performance, Customer may request emergency on-site service, which will be at Rockwell Automation's expense (consisting of time, travel, and expenses incurred by Rockwell Automation related to such services). If the defective performance is not due to warranted defects in the Products, Services or Work, the on-site service will be at Customer's expense. On-site warranty services performed at Rockwell Automation expense shall not include removal or reinstallation costs related to large-scale assemblies such as motors or transformers. The foregoing will be the exclusive remedies for any breach of warranty or breach of contract arising from warranted defects.

(e) *General*: Warranty satisfaction is available only if (a) Rockwell Automation is provided prompt written notice of the warranty claim, and (b) Rockwell Automation's examination discloses that any alleged defect has not been caused by misuse, neglect, improper installation, operation, maintenance, repair, alteration, or modification by other than Rockwell Automation, accident, or unusual deterioration or degradation of the Products or parts thereof due to physical environment or electrical or electromagnetic noise environment.

(f) THE ABOVE WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES AND CONDITIONS, WHETHER EXPRESSED, IMPLIED OR STATUTORY, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY, INFRINGEMENT, OR FITNESS FOR A PARTICULAR USE.

Disclaimer and Limitation of Liability. NEITHER ROCKWELL AUTOMATION NOR CUSTOMER WILL BE LIABLE TO THE OTHER FOR BUSINESS INTERRUPTION OR LOSS OF PROFIT, REVENUE, MATERIALS, DATA, OR THE LIKE (WHETHER DIRECT OR INDIRECT) OR FOR ANY INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES. EACH PARTY'S MAXIMUM CUMULATIVE LIABILITY TO EACH OTHER FOR ALL OTHER CLAIMS AND LIABILITIES WILL NOT EXCEED THE LESSER OF US$1,000,000 OR THE COST OF THE WORK. ROCKWELL AUTOMATION DISCLAIMS ALL LIABILITY FOR TO GRATUITOUS ASSISTANCE PROVIDED BY ROCKWELL AUTOMATION BUT NOT REQUIRED BY THE STATEMENT OF WORK. THESE DISCLAIMERS AND LIMITATIONS OF LIABILITY WILL APPLY REGARDLESS THE FORM OF ACTION, WHETHER CONTRACT, TORT, OR OTHERWISE, AND EXTEND TO THE BENEFIT OF ROCKWELL AUTOMATION'S VENDORS AND APPOINTED DISTRIBUTOR.

Software Licenses and Ownership. (a) *Standard Software.* Software comprised of firmware or standard software (including, but not limited to packaged software, Rockwell Automation's preexisting templates, models and library files, and commercially available software) (collectively "Standard Software") is subject to Customer's acceptance of additional terms and conditions set forth in separate Rockwell Automation or third-party click-wrap license agreements provided with such Standard Software. Such terms and conditions shall be the exclusive terms and conditions applicable to such Standard Software, excluding Customer's obligation to pay any license fee which shall be identified in the Statement of Work.

(b) *Documentation and Application Software.* Rockwell Automation hereby grants to Customer a non-exclusive, non-transferable license to modify and use solely in conjunction with the Work all documentation and any Application Software created by Rockwell Automation as specified in the Statement of Work. Application Software includes application project files for control programming, design, configuration, and visualization in source code and/or scripting code created by Rockwell Automation under the Agreement for operational use with Rockwell Automation's Standard Software or the Customer's system as specified in the Statement of Work. Customer is solely responsible for

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its modifications to documentation and Application Software. Except for any Customer or third-party confidential information, Rockwell Automation retains all right, title, and interest to documentation and Application Software developed by Rockwell Automation. Customer shall not sublicense or assign the documentation or the Application Software except to a customer who purchases the Work from Customer. Customer may make an additional archival copy of such documentation and Application Software for backup.

(c) In the absence of a separate Rockwell Automation license agreement for software provided by Rockwell Automation under a Statement of Work, Rockwell Automation hereby grants Customer a non-exclusive, non-transferable license to use such software solely in conjunction with the Work for the project identified in the Statement of Work without the right to sublicense, disclose, disassemble, decompile, reverse engineer, or otherwise modify the software (except for modifications of Application Software as set forth above). Ownership of the respective Rockwell Automation or third-party software shall remain with Rockwell Automation or the third party.

(d) *Ownership of Pre-existing Intellectual Property.* Each party shall own all right, title, and interest in all patents, trademarks, copyrights, confidential information, trade secrets, mask rights, and other intellectual property rights as it owned on the date of this Agreement.

(e) *No Other Licenses*. Except as expressly set forth in this Agreement, no license under any patents, trademarks, copyrights, confidential information, trade secrets, mask rights, or other intellectual property rights is granted or implied by either party.

Government Clauses and Contracts. No government contract clauses, specification, or regulations apply to the Work, Products, or otherwise to this Statement of Work except to the extent agreed in writing by Rockwell Automation.

Confidentiality. (a) During the term of this Commitment and for a period of three years thereafter, each party will maintain in strict confidence all technical and business data and information disclosed by one party to the other that is marked "Confidential" and will not use or reveal such information without the prior written authorization of the other.

(b) The obligations of confidentiality and non-use will not apply to information (i) that is published or becomes part of the public domain other than by means of a breach of this Commitment; (ii) that a party can prove by written documentation was known to it prior to disclosure by the other party; (iii) that a party subsequently rightfully receives from a third party without an obligation of confidentiality; (iv) that a party discloses to a third party on a non-confidential basis; or (v) that was independently developed by the receiving party.

(c) Each party will take reasonable precautions to instruct its employees and consultants of its obligation under this section. Additionally, each party shall protect the exchanged information of the other against unauthorized use or disclosure with the same degree of care as it accords its own proprietary information of a similar type, but not less than reasonable care.

(d) Disclosure of confidential information will not be precluded if it is: (i) in response to a valid order of a court or governmental body of the United States or any political subdivision thereof; provided, however, that the disclosing party will first have made a reasonable effort to obtain a protective order requiring that the confidential information be used only for the purpose for which the order was issued; or (ii) otherwise required by law.

Delivery. Ex Works Rockwell Automation's plant or warehouse (per current Incoterms) or as otherwise specified in the Statement of Work (Delivery). In all cases, title transfers to Customer upon the earlier of Rockwell Automation's delivery to Customer or receipt by the first carrier for transport to Customer, except that title to all intellectual property rights associated with the Work remains with Rockwell Automation or its suppliers and licensors.

Acceptance. (a) Acceptance of the Work occurs either (i) on the date the Work conforms to acceptance criteria in the Statement of Work or is otherwise beneficially used by Customer, but in no event later than 60 days from start-up or 120 days following Delivery whichever occurs first; or (ii) if no acceptance criteria is specified in the Statement of Work then acceptance occurs upon Delivery.

(b) *Interim Approvals*. Any Rockwell Automation provided interim Work deliverable requiring Customer approval pursuant to the Statement of Work will be deemed accepted if formal Customer approval, written or as otherwise required, is not received by Rockwell Automation within two calendar weeks after the date submitted.

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Changes. Any change resulting from any of the following circumstances is subject to equitable adjustments to price, scheduling, and other affected terms and conditions: (a) Customer requested changes, including those affecting the identity, scope, and delivery of the Products, Services or Work; (b) concealed or otherwise unknown physical conditions differing materially from those indicated or anticipated in the Statement of Work or that otherwise differ materially from those ordinarily found under similar circumstances; (c) delays caused by Customer, its employees, affiliates, other contractors to Customer, or any other party within Customer's reasonable control; and (d) any emergency endangering persons or property; in such emergency circumstances, Rockwell Automation may act at its discretion to prevent damage, injury, or loss.

All changes, except actions necessitated by emergencies as provided in (d) above, must be executed by a written change order signed or otherwise definitively authorized by both parties, and Rockwell Automation will not begin work on a change until it is authorized. All claims must be made within a reasonable time after the occurrence giving rise to the claim.

Temporary Suspension of Work by Customer. Except as set forth in the applicable Statement of Work, Customer may, by providing prior written notice, request that Rockwell Automation temporarily suspend performance and delivery of the Work, in whole or in part. The notice shall specify the portion of the Work to be suspended, the effective date of suspension, Customer's anticipated duration of suspension, and the reasons for the suspension. Rockwell Automation shall suspend performance as requested, except as necessary for the care or preservation of Work previously executed. On or before the date the suspension begins, Customer must pay Rockwell Automation the unpaid balance of the portion of the Work previously executed plus any additional costs incurred by Rockwell Automation as a result of the suspension. Rockwell Automation shall resume the suspended Work after a change order is executed covering adjustments to the contract price, schedule, and any other affected terms or conditions resulting from the suspension. Unless otherwise agreed, the maximum cumulative period for suspension is 60 days. Upon expiration of this or any shorter period agreed upon as provided above, Rockwell Automation may terminate this Agreement, and Customer shall pay all costs of cancellation (including third-party commitments, reasonable profit, and overhead) upon submission of Rockwell Automation's invoices.

Safety and Standards. Rockwell Automation is responsible for compliance of the Work with laws, regulations, and standards, including safety regulations and standards, of the country where the Work will be located that are applicable to the Work at the effective date of this Agreement. Customer must inform Rockwell Automation of any other laws, regulations, or standards that may apply to the Work. Rockwell Automation will be responsible for compliance with such other safety or other standards only if documented in the Statement of Work. Rockwell Automation is not responsible for laws, regulations, or standards that apply to Customer's (or end user's, if different from Customer) facility, equipment, process, information system, or data.

Site Rules, Licenses, Permits, Site Preparation. (a) Rockwell Automation agrees to comply with all applicable posted site rules of Customer (unless inconsistent with the obligations set forth in the Statement of Work) and any additional Customer's site rules that have been incorporated into the Statement of Work.

(b) Customer is responsible for: (1) all licenses, permits, clearances, and site access rights; (2) all sites being ready and equipped with all necessary Customer furnished equipment and facilities; (3) any required customer fixtures or facilities being safe, hazard free, structurally sound, and sufficient; (4) reasonable access to the worksite, (5) properly using, calibrating operating, monitoring and maintaining the Work consistent with all Rockwell Automation or third-party provided instructions, warnings, recommendations and documentation; (6) all other factors affecting the Work that are outside of the direct control of Rockwell Automation; and indemnifying Rockwell Automation for any claims to the percentage extent directly caused by Customer's breach of the obligations listed in this section (b).

Customer Specification. (a) Unless otherwise specified in the Statement of Work, Rockwell Automation does not warrant or indemnify and will not otherwise be liable for (i) design, materials, or construction criteria furnished or specified by Customer and incorporated into the Work or Products, (ii) products supplied by, made by or sourced from Customer or other manufacturers or vendors specified by Customer; or (iii) commercially available computer software, hardware, and electrical components. (Such Customer-specified products shall include but not be limited to any identified in the Statement of Work.) Any warranty or indemnity applicable to such Customer supplied/specified products will be limited solely to the warranty or indemnity, if any, extended by the original manufacturer or vendor other than Rockwell Automation to the extent permissible thereunder.

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(b) *RoHS*: Customer supplied/specified products will meet all applicable material restrictions as defined in RoHS. If it does not, Customer will notify Rockwell Automation prior to shipment of the Customer supplied/specified products to Rockwell Automation. Customer will indemnify Rockwell Automation against any claim arising out of Rockwell Automation's use of Customer supplied/specified products.

Customer Information. (a) Customer represents and warrants that it has the rights to the information provided or made available by Customer to Rockwell Automation, including but not limited to technical specifications, drawings, source code, application code, communication interfaces, protocols, and all other documentation (collectively "Customer Information"), for Rockwell Automation to perform its obligations under this Agreement and that such access to and use of Customer Information under this Agreement will not infringe or violate any agreement, confidentiality obligations, copyrights, or other intellectual property rights of the original vendor or any other third party. Customer agrees to indemnify Rockwell Automation from any claims arising out of Rockwell Automation's use of Customer Information pursuant to the Statement of Work.(b) In Rockwell Automation's performance of services, sales activities, or in connection with Customer's use of Rockwell Automation Products, Rockwell Automation may obtain, receive, or collect data or information, including Customer's contract information, computer system profile, Rockwell Automation Product installation data, and Customer's usage specific data of Rockwell Automation Products (collectively, the "Data"). In such cases, Customer grants Rockwell Automation a non-exclusive, worldwide, royalty-free, perpetual, non-revocable license to use, compile, distribute, display, store, process, reproduce, or create derivative works of the Data solely to facilitate the performance of sales and services by Rockwell Automation and its affiliates (including, but not limited to, quality, safety, energy, and security analytics, product and service diagnostics and prognostics, and reporting), and to facilitate or improve Customer's use of the Products. In addition, Customer grants Rockwell Automation and its affiliates a license to use and aggregate the Data in support of Rockwell Automation's marketing and sales activities. Rockwell Automation and its affiliates may also use this information in the aggregate, in a form which does not personally identify Customer, to improve Products and Rockwell Automation may share anonymous aggregate data with our third party suppliers and service providers.

Independent Terms. Rockwell Automation is not a party to or bound by any contract between Customer and Distributor, including by Distributor's acceptance of a Customer purchase order. Distributor is an independent enterprise, not an agent or representative of Rockwell Automation, and is not authorized to bind Rockwell Automation.

Effective Date. This Commitment will become effective when Customer purchases the Work from Distributor. Customer agrees that by purchasing the Work it accepts the Statement of Work and Commitment. Absent such purchase, this Commitment will become null and void. No addition or modification to the Commitment and Statement of Work, including terms appearing in Customer's purchase order or requisition, will bind Rockwell Automation unless mutually agreed to in writing.

Accepted.

Customer: _____

Date: _____

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2 Distributor Commercial Terms

2.1 Pricing Summary

Rexel's price is based on the Statement of Work set forth in Section 1 above. All prices are in USD.

Item	Product	Price
1	**9800-DC8AUTOB** *Automation Control Hardware, Product Support, 8 x 5 M-F, 5-10 Total Devices*	1,670.00

TOTAL SUPPORT PRICE: **USD 1,670.00**

Multi-Year Option – Fixed-Price 3-Year Contract	
One-Time Payment or Billed Annually – Single PO for 3-Year Amount Required	USD 5,010.00

Contract Reinstatement Fee: USD 167.00
If this contract is not renewed before the current Contract Expiration Date, a 10% Contract Reinstatement Fee (maximum cap of USD 5,000.00) will be applied to the Suggested Resale Price.

LEARNING+ SUBSCRIPTION (OPTIONAL): Web hosted, self-paced training courses including virtual classroom sessions are available for customers with an active TechConnect support agreement, as either single course access or annual subscription to all course content available in the Rockwell Automation Digital Learning Library. Please add the net amount for the Learning+ option desired in the correct quantity of desired users to your renewal PO.

Catalog Number	Description	List Price per User
LP-3TC	Learning+ 1 Class available for 3 months	USD 650.00
LP-SU	Learning+ Single User Subscription	USD 3,650.00

2.2 Invoicing Schedule

100% upon purchase order

2.3 Purchase Order Instructions

Please Issue a Single Purchase Order to: Rexel
Ref: Proposal # 3800692890

Purchase order should match the value and term proposed above. If a purchase order received does not match the term of the agreement, pricing will be subject to annual price adjustments.

COVID-19: In submitting any purchase order, you acknowledge and agree that Rockwell Automation will be excused from performance, or delay in performance, of its obligations under this purchase order, regardless of whether a contract is currently in place governing the parties' relationship, to the extent that Rockwell Automation is unable, in the exercise of reasonable commercial efforts, to perform such obligations due to the effects of the COVID-19 pandemic on Rockwell Automation and/or third parties, including, without limitation, logistics and materials suppliers.

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2.4 Distributor Terms and Conditions of Sale

https://www.rexelusa.com/usr/termsAndconditions

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Addendum to Contract –Rexel USA, Inc.

1. Notwithstanding any other provision in this Agreement, the following clauses shall be controlling. Should any other provision of the Agreement conflict with the clauses in this Addendum then the provisions of this Addendum are to be enforceable and any conflicting provision shall be considered null and void.

2. No rules, requirements or customs of any society or association of professional consultants or any similar association shall affect this Agreement in any way whatsoever or be binding upon the Town.

3. To the fullest extent permitted by law, Rexel USA, Inc. 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 from personal injury or damage to tangible property of a third party caused by the negligence active or passive of Rexel USA, Inc. its officers, agents, subcontractors and/or employees.

4. Rexel USA, Inc. 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: Rexel USA, Inc. 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: Rexel USA, Inc. 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 Rexel USA, Inc.'s operations under this Agreement The amounts of such insurance for General Liability 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 annual aggregate. Umbrella coverage shall be in an amount of at least $5,000,000.00. Professional Liability will have a limit of $1,000,000 per occurrence/annual aggregate.

(c) Rexel USA, Inc. shall furnish the above insurances to the Town and shall also assure that any policy procured by it shall name the Town as an additional insured on a primary and non-contributory basis. Rexel USA. Inc policy will also provide coverage to Rockwell Automation as an additional insured for this contract

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(d) Rexel USA, Inc. shall ensure all its sub-contractors, if any, have obtained all the above insurances and shall also assure that any policy procured by Rockwell Automation 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 Rexel USA, Inc. 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. Notwithstanding the foregoing, the Town understands and agrees that all services provided hereunder shall be performed by Rockwell Automation

7. Required Provisions of Law: When applicable, Rexel USA, Inc. shall 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. Rexel USA, Inc., in accordance with its status as an independent consultant, covenants and agrees that it will conduct itself consistent with such status. It will neither hold itself out as nor claim to be, an officer or employee of the Town by reason hereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the Town, including, but not limited to: workers' compensation coverage, unemployment insurance benefits, Social Security coverage, or retirement membership or credit.

9. Waiver: No waiver of any breach of any condition of the Agreement shall be binding unless in writing and signed by the party waiving said breach. No such waiver shall in any way affect any other term or condition of this Agreement or constitute a cause or excuse for a repetition of such or any other breach unless the waiver shall include the same.

Attachment: Rockwell Agreement Info (RES-2022-159 : Support Renewal Agreement - Rockwell Automation - CRS 3129)

10. This Agreement shall be governed by, and interpreted according to the laws of the State of New York. If the contract between the parties refers to the laws, statutes, rules, regulations or ordinances for any state other than New York State, to the laws, statutes, rules, regulations or ordinances for any county other than Erie County, New York or to the laws, statutes, rules, regulations or ordinances for any municipality other than the Town of Amherst, then the laws, statutes, rules, regulations or ordinances for New York State, Erie county and/or the Town of Amherst shall apply as applicable. Any and all legal action necessary to enforce the Agreement will be venued in Supreme Court, Erie County, New York or in the United States District Court for the Western District of New York, Buffalo Division.

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:

Rexel USA, Inc.
Print Name of Company

By: _____
Signature

Scott E. Geraghty
Printed name

Date: 1/11/22

Agreed to and Accepted by:

Town of Amherst

By: _____
Brian J. Kulpa, Supervisor

Date: _____

Attachment: Rockwell Agreement Info (RES-2022-159 : Support Renewal Agreement - Rockwell Automation - CRS 3129)

IRAN DIVESTMENT ACT CERTIFICATION

As a result of the Iran Divestment Act of 2012 (Act), Chapter 1 of the 2012 Laws of New York, a provision was added to the State Finance Law (SFL), Section 165-a, effective April 12, 2012. Under the Act, the Commissioner of the Office of General Services (OGS) will develop a list (prohibited entities list) of "persons" who are engaged in "investment activities in Iran" (both are defined terms in the law). This list is posted on the OGS website.

By submitting a response to this solicitation, or by assuming the responsibility under a Contract/Lease awarded hereunder, Bidder/Contractor/Vendor (or any assignee) certifies that it will not utilize on such Contract/Lease any subcontractor that is identified on the prohibited entities list.

Additionally, Bidder/Contractor/Vendor is advised that any Bidder/ Contractor/Vendor seeking to renew or extend a Contract/Lease (or assume responsibility of a Contract/Lease awarded must certify at the time the Contract/Lease is renewed, extended or assigned that it is not included on the prohibited entities list.

During the term of the Contract/Lease, should the Town of Amherst (Town) receive information that a person is in violation of the above-referenced certification, the Town will offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment which is in violation of the Act within 90 days after the determination of such violation, then the Town shall take such action as appropriate including, but not limited to, imposing sanctions, seeking compliance, recovering damages or declaring the Bidder/Contractor/Vendor in default.

The Town reserves the right to reject any Contract/Lease or request for assignment for an entity that appears on the prohibited entities list prior to the award of a Contract/Lease, and to pursue a responsibility review with respect to any entity that is awarded a Contract/Lease and appears on the prohibited entities list after Contract/Lease award.

Company Name: REXEL USA INC.

Signature: [signature]

Print Name: SCOTT E. GERAGHTY

Title: INDUSTRIAL SERVICES MANAGER

Date: 1/11/22

Sworn To Before Me This

11 Day of January, 2022

[signature]
Notary Public

JORDAN C. DAVENPORT
Notary Public, State of Ohio
My Comm. Expires Sept. 08, 2025

Attachment: Rockwell Agreement Info (RES-2022-159 : Support Renewal Agreement - Rockwell Automation - CRS 3129)

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 12/6/2021

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 have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Arthur J. Gallagher Risk Management Services, Inc. 300 South Riverside Plaza Suite 1900 Chicago IL 60606	CONTACT NAME: Rexel Risk Management PHONE (A/C, No, Ext): FAX (A/C, No): E-MAIL ADDRESS:
INSURED Rexel USA, Inc. 14951 Dallas Pkwy. Dallas TX 75254-6533	INSURER(S) AFFORDING COVERAGE / NAIC # INSURER A : Zurich American Insurance Company — 16535 INSURER B : ACE American Insurance Company — 22667 INSURER C : American Guarantee and Liability Ins Co — 26247 INSURER D : ACE Fire Underwriters Insurance Company — 20702 INSURER E : AXIS Surplus Insurance Company — 26620 INSURER F : Allied World Surplus Lines Insurance Company — 24319

COVERAGES **CERTIFICATE NUMBER:** 757924417 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE [ ] OCCUR [X] GEN'L AGGREGATE LIMIT APPLIES PER: X POLICY [ ] PRO-JECT [ ] LOC OTHER:			GLO 3374000-17	1/1/2021	1/1/2022	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 $ 10,000 $ 1,000,000 $ 2,000,000 $ 2,000,000 $
B	AUTOMOBILE LIABILITY X ANY AUTO OWNED AUTOS ONLY [ ] SCHEDULED AUTOS HIRED AUTOS ONLY [ ] NON-OWNED AUTOS ONLY			ISA H25307720	1/1/2021	1/1/2022	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident) $	$ 3,000,000 $ $ $ $
C	X UMBRELLA LIAB [X] OCCUR EXCESS LIAB [ ] CLAIMS-MADE DED [ ] RETENTION $			AUC 3374001-17	1/1/2021	1/1/2022	EACH OCCURRENCE AGGREGATE $	$ 14,000,000 $ 14,000,000 $
B D	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y/N ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBEREXCLUDED? N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N / A		WLR C67809403(AOS) SCF C67809440 (WI)	1/1/2021 1/1/2021	1/1/2022 1/1/2022	X PER STATUTE [ ] OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	 $ 1,000,000 $ 1,000,000 $ 1,000,000
E F	Excess Automobile Errors & Omissions			P-001-000080503-03 0311-2054	1/1/2021 1/1/2021	1/1/2022 1/1/2022	EACH OCCURRENCE AGGREGATE Per Claim	$2,000,000 $2,000,000 $1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Town of Amherst is included as additional insured solely with respects to General Liability coverage, on a primary/non-contributory basis as evidenced herein as required by written contract.

CERTIFICATE HOLDER

Town of Amherst
Wastewater Treatment Facility
455 Tonawanda Creek Rd.
Amherst NY 14228
USA

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

© 1988-2015 ACORD CORPORATION. All rights reserved.

Attachment: Rockwell Agreement Info (RES-2022-159 : Support Renewal Agreement - Rockwell Automation - CRS 3129)

Named insureds include:

Rexel of America, LLC
SKRLA, LLC
SPT Holdings, Inc.
Beacon Electric Supply
Rexel USA, Inc. (dba Gexpro)
Rexel USA, Inc. DBA: Platt Electric Supply
Rexel USA, Inc. DBA Rexel Energy Solutions
Rexel USA, Inc. DBA Capitol Light
Rexel USA, Inc. dba Brohl and Appell
Rexel USA, Inc. dba New Haven Supply
Rexel USA, Inc. dba Rexel Commercial & Industrial
Rexel USA, Inc. dba Parts Super Center
Rexel USA, Inc. Rexel Automation Solutions
Rexel USA, Inc. d/b/a Utility Supply Group
Rexel USA, Inc. dba Electrical Parts
Mayer Electric Supply Company, Inc.

Attachment: Rockwell Agreement Info (RES-2022-159 : Support Renewal Agreement - Rockwell Automation - CRS 3129)

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 01/08/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Marsh USA Inc. Six PPG Place, Suite 400 Pittsburgh, PA 15222-5499 (412) 552-5249 CN102740344-Tech-Cyber-21-22	**CONTACT NAME:** Leslie A. Kress **PHONE (A/C, No, Ext):** 412-552-5249 **FAX (A/C, No):** 412-552-5999 **E-MAIL ADDRESS:** Leslie.A.Kress@marsh.com
INSURED Rockwell Automation, Inc 1201 S. Second Street, E-7C27 Milwaukee, WI 53204	**INSURER(S) AFFORDING COVERAGE** — **NAIC #** **INSURER A :** Indian Harbor Insurance Company — 36940 **INSURER B :** **INSURER C :** **INSURER D :** **INSURER E :** **INSURER F :**

COVERAGES **CERTIFICATE NUMBER:** CLE-006828725-01 **REVISION NUMBER:** 1

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	
	COMMERCIAL GENERAL LIABILITY						EACH OCCURRENCE	$
	☐ CLAIMS-MADE ☐ OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$
							MED EXP (Any one person)	$
							PERSONAL & ADV INJURY	$
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$
	☐ POLICY ☐ PRO-JECT ☐ LOC						PRODUCTS - COMP/OP AGG	$
	☐ OTHER:							$
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	$
	☐ ANY AUTO						BODILY INJURY (Per person)	$
	☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
								$
	☐ UMBRELLA LIAB ☐ OCCUR						EACH OCCURRENCE	$
	☐ EXCESS LIAB ☐ CLAIMS-MADE						AGGREGATE	$
	☐ DED ☐ RETENTION $							$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y/N						☐ PER STATUTE ☐ OTH-ER	
	ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? ☐ N	N / A					E.L. EACH ACCIDENT	$
	(Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$
							E.L. DISEASE - POLICY LIMIT	$
A	Technology E&O/ Cyber			MTP9036738 03	10/01/2021	10/01/2022	Limit Per Occurrence/Aggregate	5,000,000
							SIR	2,500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER

Town of Amherst
455 Tonawanda Creek Road
Amherst, NY 14228-1230

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
of Marsh USA Inc.

Manasi Mukherjee

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Attachment: Rockwell Agreement Info (RES-2022-159 : Support Renewal Agreement - Rockwell Automation - CRS 3129)

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

Francina J. Spoth
Town Clerk

Meeting: 02/07/22 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 25394 **RESOLUTION 2022-160** **ADOPTED**

One-Year Subscription for Mitchell! ProDemand OnlineService Manual CRS 3144

We respectfully request the Town Board to authorize the Supervisor to sign the enclosed Mitchell1 Order Form in order to renew our online subscription of Automotive Service/Repair Manuals for vehicle maintenance and repairs. The online subscription provides important software-driven diagnostic tools for the Engineering Department. The total amount for the 1-year subscription is $2,448.00.

We are also requesting an insurance waiver as this is for an online-only subscription and Mitchell1 representatives will not be on site. Funding will be available from the Sewer Maintenance account G 9000 - 4240.

This request has successfully completed the contract review procedure. Thank you for considering this request.

2/7/2022
Consent

FINANCIAL IMPACT:

G9000-4240; $2,448.00

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

Make Checks Payable to MITCHELL 1

From the U.S.: MITCHELL 1 25029 Network Place, Chicago, IL 60673-1250
Federal ID No.: 33-0734307

From Canada: MITCHELL 1 P.O. Box 15358 Station A Toronto, ON M5W 1C1 Canada
GST No: 888262094RT0001

Correspondence to: MITCHELL 1 16067 Babcock Street, San Diego, CA 92127-3690 Ph# (888) 724-6742

2022 Renewal Subscription Order Form/ 30-day Quote

ORDER # 27012160

NEW ACCOUNT? ☐ Yes ☑ No ☐ Has Info Changed?

SHIP TO ☐ Rep ☑ Customer ☐ Other

SHIP TO #:	921821	CRP ID:	ASSOC MEMBER #:	PDG or Lead #:	DATE: Jan 26, 2022
CO NAME:	TOWN OF AMHERST			OUT OF TERRITORY? (If yes, needs RSM approval)	Y ☐ N ☑
ATTENTION:	SHAWN KILROY			FIELD REP # (6 digit account)	
ST ADDRESS:	1100 N FOREST RD			FIELD REP NAME:	
CITY, ST, ZIP:	WILLIAMSVILLE, NY 14221			TM # 0382	TM Rep Name O'Brien
PH#:		FAX#:	EMAIL: skilroy@amherst.ny.us		

☐ Bill to address is the same? If not, complete the following section.

BILL TO #:		CO NAME:	
ATTENTION:			
ST ADDRESS:			
CITY, ST, ZIP:			

PRODUCT	QTY	Subscription NEW / REN	Code	Term	Price**
Select Product 12-month renewal term		☐ ☐			
TechWorks (gov shop license)	1	☐ ☑		12M	$2,448.00
	--	☐ ☐		--	
		☐ ☐			
		☐ ☐			
Type Other		☐ ☐			

Subtotal	$2,448.00
+ TAX* if applicable	$0.00
TOTAL	**$2,448.00**

Ken O'Brien
Senior Account Manager
1-888-724-6742 ext. # 0451
FAX # 1-858-746-8968
ken.o'brien@mitchell1.com

Remit Payment to Mitchell 1.

FULL PAYMENT

☐ Check (Ck # Amt) ☑ P.O. # **22214401**

☐ Credit Card Card # Name on Card: Exp:

SPECIAL INSTRUCTIONS: To renew a 12-month site subscription to Techworks (expires 2/22)- please email to us a copy of your authorized Purchase Order. Thanks.

THE UNDERSIGNED AGREE TO THE TERMS AND CONDITIONS SET FORTH ABOVE AND HAVE RECEIVED AND ACCEPTED THE MITCHELL 1 ORDER TERMS AND CONDITIONS. IN WITNESS THEREOF, THE PARTIES HERETO HAVE EXECUTED THIS AGREEMENT ON THE RESPECTIVE DATE INDICATED ABOVE. CUSTOMER AGREES TO RECEIVE PROMOTIONAL E-MAILS FROM MITCHELL 1. IF CUSTOMER WOULD PREFER NOT TO RECEIVE PROMOTIONAL E-MAILS FROM MITCHELL 1, PLEASE VISIT OUR WEBSITE www.mitchell1.com/unsubscribe TO UNSUBSCRIBE.

End User/Owner Signature | Print Name **Brian J. Kulpa** | Title **Supervisor**

Attachment: Mitchell Order Form (RES-2022-160 : One-Year Subscription for Mitchell! ProDemand Online - CRS 3144)

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

Francina J. Spoth
Town Clerk

Meeting: 02/07/22 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 25396 **RESOLUTION 2022-161** **ADOPTED**

One Year Maintenance & Support Renewal MP2 Enterprise Edition Software CRS 3146

We are required to maintain a licensing agreement with the software vendor, Hexagon EAM Holdings, LLC (formerly Infor US, Inc.), to supply on-line maintenance and technical support for the MP2 Enterprise Edition. MP2 Enterprise Edition is the main operating software used to control and monitor all assets and equipment for the Engineering Sewer Maintenance Department.

As such, we are requesting your approval for a 1-Year maintenance & support renewal for the MP2 Enterprise Edition software. The maintenance & support agreement annual cost is $3,726.62 and will cover the period from February 1, 2022 to January 31, 2023.

In addition, we are also requesting Board approval for a partial waiver of the insurance requirements included in the Addendum to Contract form. The insurance waiver is requested due to the fact that this vendor will NOT come onto Town Property. Hexagon will be supplying the software and all technical assistance virtually from their offices which are located outside of the Town.

This request is pending the successful completion of the contract review procedure. Funds will be available for this agreement from account G9000 - 4090. Thank you for considering this request.

2/7/2022
Consent

FINANCIAL IMPACT:

G9000-4090; $3,726.62

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

ADDENDUM
ONE-YEAR SUPPORT COMMITMENT

This Addendum, effective as of 01/12/2022 ("the Addendum"), amends the terms of the software support agreement currently in effect between **Town of Amherst** ("Licensee") and **Hexagon EAM Holdings, LLC** ("Hexagon") with an effective date of February 1, 2012 (the "Agreement"). In case of any conflict between the Agreement, and this Addendum, the terms and conditions of this Addendum shall control. Except as otherwise modified herein, all terms and conditions of the Agreement shall remain in full force and effect.

The parties agree as follows:

1. Licensee hereby agrees to a non-cancelable commitment to a one-year Support period for the Component Systems listed on Exhibit 1.

2. In consideration of Licensee's non-cancelable one-year Support commitment, the annual support fee for the Component Systems and users specified on the attached Exhibit 1 is hereby modified as set forth below:

Maintenance Renewal Period	Annual Support Fees	Type of Support
February 1, 2022 – January 31, 2023	$ 3,726.62	XT

TOTAL ANNUAL SUPPORT FEES: **$ 3,726.62** USD

The Annual Support Fee is an annual fee to be paid on a yearly basis. Payment of the Annual Support Fee set forth above is due upon receipt of Invoice from Hexagon. Annual Support Fees for all other periods are due and payable per the terms of the Agreement. At the end of the maintenance renewal period set forth above, the annual maintenance fee shall be subject to successive increases on an annual basis, not to exceed the Annual Escalation Cap, which is 6% or the then-current Consumer Price Index, whichever is greater.

3. The Annual Support Fees set forth above shall apply only to the items set forth on the attached Exhibit 1. If Licensee licenses additional Software and/or users during the maintenance renewal periods specified above, the annual support fee will increase accordingly.

4. The parties agree the fees specified above are offered by Hexagon solely in reliance upon Licensee's commitment to renew annual maintenance services through the last maintenance renewal period specified above. The one-year maintenance renewal period specified herein is a binding term, and support services may not be canceled during this time. If Licensee fails to pay Hexagon any portion of the Total Annual Support Fees when due for any reason whatsoever, then, in addition to other remedies Hexagon may exercise, Hexagon will be entitled to revoke the Annual Support Fees and Licensee shall be immediately invoiced for, and shall be obligated to pay to Hexagon the standard Support Fee as liquidated damages and not as a penalty, less any amounts previously paid by Licensee under this Addendum. The parties agree this amount is a fair and reasonable estimation of Hexagon's damages in the event Licensee breaches its obligation to maintain Support through the one-year commitment period.

Attachment: MP2 Authorization Form (RES-2022-161 : One Year Maintenance & Support Renewal - MP2)

5. Licensee warrants, represents and agrees that the prices, terms, and conditions contained in this Addendum shall not be disclosed by Licensee to any third party and are to be maintained as Hexagon's "Confidential Information" pursuant to the terms of the Agreement.

Hexagon EAM Holdings, LLC

By _____

Name Printed: Scott Roark

Title: Secretary/Chief Financial Officer

Date 01/12/2022

Licensee: **Town of Amherst**

By _____

Name Printed _____

Title _____

Date _____

Attachment: MP2 Authorization Form (RES-2022-161 : One Year Maintenance & Support Renewal - MP2)

Exhibit 1 to the Addendum

List of Component Systems Subject to Addendum:

Description	Quantity	User Restrictions
MP2 Enterprise	1	SV
MP2 Enterprise Users	7	CU
MP2 Weblink and Messenger	5	NU
MP2 Barcode Plus	1	DV

Attachment: MP2 Authorization Form (RES-2022-161 : One Year Maintenance & Support Renewal - MP2)

Addendum to Hexagon Software Support Agreement

Notwithstanding any other provision in the Hexagon Software Support Agreement ("Support Agreement") between Hexagon EAM Holdings, LLC and Town of Amherst ("Licensee") with an Effective Date of February 1, 2012, the following clauses shall be controlling. Should any other provision conflict with the clauses in this Article the provisions in this Article are to be enforceable and the conflicting provision shall be considered null and void.

No rules, requirements or customs of any society or association of professional consultants or any similar association shall affect this Addendum in any way whatsoever or be binding upon Licensee.

No Assignment: In accordance with the provisions of Section 109 of the General Municipal Law, Hexagon is hereby prohibited from assigning, transferring, conveying, subletting or otherwise disposing of the Support Agreement, or of its right, title or interest in this Addendum, or its power to execute this Addendum, to any other person or corporation without the previous consent in writing of the Licensee.

Required Provisions of Law: Each and every provision of law and clause required by law to be inserted in this Addendum 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 Addendum shall be physically amended forthwith to make such insertion. In particular, Hexagon 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.

Hexagon, in accordance with its status as an independent consultant, covenants and agrees that it will conduct itself consistent with such status. It will neither hold itself out as, nor claim to be, an officer or employee of the Licensee by reason hereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the Licensee, including, but not limited to: workers' compensation coverage, unemployment insurance benefits, Social Security coverage, or retirement membership or credit.

Attachment: MP2 Authorization Form (RES-2022-161 : One Year Maintenance & Support Renewal - MP2)

Waiver: No waiver of any breach of any condition of the Addendum 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 Addendum or constitute a cause or excuse for a repetition of such or any other breach unless the waiver shall include the same.

This Addendum 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 Addendum will be held in Erie County, New York.

Authority for execution on behalf of Licensee: The Supervisor has executed this Addendum pursuant to a Resolution adopted by the Town Board of the Licensee, 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 Licensee. This instrument shall be executed in duplicate. At least one (1) copy shall be permanently filed, after execution thereof, in the office of the Town Clerk of Licensee.

Agreed to and Accepted by:

Hexagon EAM Holdings, LLC

By: _____
Scott Roark

Scott Roark
Secretary/Chief Financial Officer

Date: 01/12/2022

Agreed to and Accepted by:

Town of Amherst

By: _____
Brian J. Kulpa, Supervisor

_____
Printed name

Date:_____

Attachment: MP2 Authorization Form (RES-2022-161 : One Year Maintenance & Support Renewal - MP2)

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

Francina J. Spoth
Town Clerk

Meeting: 02/07/22 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 25397 **RESOLUTION 2022-162** **ADOPTED**

Purchase of TPMS Diagnostics Tool

We are requesting Town Board approval to purchase a diagnostic scan tool from Advance Professional (quotes attached). This tool is used to diagnose mechanical issues with our Town vehicles. The total cost for the purchase of the diagnostic scan tool will be $5,998.00.

Funding for this purchase is available from budget code G9000-2550 which requires Town Board approval.

Thank you for considering this request.

2/7/2022
Consent

FINANCIAL IMPACT:

G9000-2550; $5,998.00

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

5858

Advance Professional

Quotation

DATE 6/23/2021
Quotation # _____

Quote For:

Name	Amherst Town Engineering
Company Name	
Street Address	1100 North Forest
City, ST ZIP	Williamsville, NY 14221
Phone	

Quotation valid until: 6/30/2021

Prepared by: Brian Gibson

Comments or Special Instructions: ADVANCE AUTO PARTS OMNIA CONTRACT NUMBER - 2017000280

SALESPERSON	CONTACT #	SHIP DATE	EST. DEL.	F.O.B. POINT	TERMS
BRIAN GIBSON	716-320-1439				

QUANTITY	PART # / SKU / DESCRIPTION	UNIT PRICE	TAXABLE?	AMOUNT
1	Autel Scan Tool Bundle	$5,499	No	$ 5,499.00
	Autel MS909CV			$ -
	Heavy Duty Scan Tool w/all			$ -
	HD Attahcments and J Boxes			$ -
	Light Duty Truck Support			$ -
	MSRP $5999			$ -
1	TS608 TPMS Scan Tool	$499	No	$ 499.00
	Includes 20 Sensors and Scan Tool			$ -
	MSRP $1099			$ -
	Includes 1 year Warranty and Subscription			$ -
	After year 1 subscriptions $800-$1000			$ -
	*subject to change			$ -

Advance Auto Financing Program

There are Several Advantages to Financing Equipment
- Improve Cash Flow
- No Initial Investment
- 100% Financing
- Easier than Bank Financing
- See Tax Advisor for Possible Tax Benefits

	Monthly Investment	*Cost per Day**
60 Months	$143.10	$6 / day
48 Months	$172.26	$7 / day
36 Months	$219.00	$9 / day
24 Months	$319.89	$13 / day
12 Months	$604.34	$25 / day

SUBTOTAL	$ 5,998.00
FREIGHT	$ -
TAX RATE	8.75%
SALES TAX	$ -
OTHER FEES	
TOTAL	$ 5,998.00

Finance payments will vary based on transaction size, rates, credit history, and other factors.
**Assumes 5.5 day work week / No Money Down / Subject to Credit Approval*

Pricing & Installation Information

Prices Include Freight __X__ YES ___NO
Prices Include Installation ___YES _X__NO
Installation Applies To: _____

Installation costs do not include electrical hook-up due to local electrical codes. Please see the lift order form for further terms and conditions on installation.

Ask us about our Equipment Rewards Program! Earn "FREE" Equipment Payments!

Equipment Rewards allows you to earn back a credit for your monthly lease payment for every month you achieve your incremental growth target. See your Commercial Account Manager for program and eligibility details.

Advance Auto Parts reserves the right of first refusal to any sale or quote. Tax based on local and state requirements and is subject to change.

Thank you for your business!

Attachment: Advance Professional Quote (RES-2022-162 : Purchase of TPMS Diagnostics Tool)

PENN Tool Co.

Your Partner In Precision Since 1968

800-526-4956

Customer Service Account > Sign In

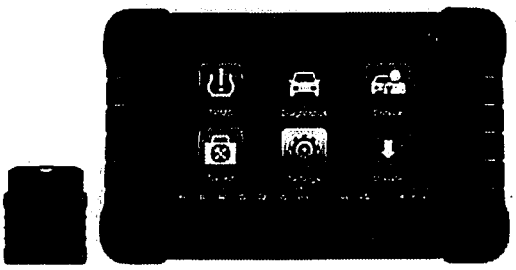
0

Search by Keyword, Part #, Mfr #, etc... GO

Menu

Autel MaxiTPMS TS608 Complete TPMS Service and Diagnostics - AUTS608

Share 1 Tweet 0 Pin 0



Click to expand

Product Description

ID: 386920

AUTEL

iTPMS TS608 Complete TPMS Service and cs - AUTS608

3.8 ★★★★☆ Google Customer Reviews

Attachment: Penn Tool Quote (RES-2022-162 : Purchase of TPMS Diagnostics Tool)

Diagnostics, Service and Comprehensive TPMS Service Tablet
Seven-inch, wireless Android touchscreen tablet
Mini Bluetooth Vehicle Communications Interface (VCI) for Wireless Connectivity
Embedded Antenna for TPMS Sensor Activation and MX-Sensor Programming to replace damaged sensors
Compatible with vehicles 1996 and newer
All Systems Module Diagnostics
Complete TPMS Service Functionality: Activate, OBDII Relearn, Diagnostics and MX-Sensor Programming
Robust Service Functions Menu: ABS, SRS, EPB, DPF Testing and Maintenance, Oil and Service
Lights Resets and Battery Registration.
View Freeze Frame and Live Data
One Year Warranty and Free Software Updates
Activate all known TPMS sensors and read sensor status;
Diagnose ECU for complete TPMS health check with DTC description;
Read DTCs from ECU and erase DTCs;
Program MX-Sensors by copying original sensor IDs or creating new IDs randomly;
On-tool relearn procedure and wide OBD relearn coverage;

Item Number: AUTS608

Brand: Autel

Item Number	Description	Price	Quantity
AUTS608	MaxiTPMS TS608 Complete TPMS Service and Diagnostics	$699.95	1

Add to Cart

Attachment: Penn Tool Quote (RES-2022-162 : Purchase of TPMS Diagnostics Tool)

GET SPECIAL OFFERS & SAVINGS

Enter Email Address Sign Up

3.8 ★★★★☆ Google Customer Reviews

Surplus / Clearance

- DoIP, PLC J2497, ISO-15765, SAE-J1939, ISO-14229 UDS, SAE-J2411 Single Wire Can(GMLAN), ISO-11898-2, ISO-11898-3, SAE-J2819 (TP20), TP16, ISO-9141, ISO-14230, SAE-J2610 (Chrysler SCI), UART Echo Byte, SAE-J2809 (Honda Diag-H), SAE-J2740 (GM ALDL), SAE-J1567 (CCD BUS), Ford UBP, Nissan DDL UART with Clock, BMW DS2, BMW DS1, SAE J2819 (VAG KW81), KW82, SAE J1708, SAE-J1850 PWM (Ford SCP), SAE-J1850 VPW (GM Class2)

Item Number: AUMS909CV

Brand: Autel

Item Number	Description	Price	Quantity
AUMS909CV	Autel MaxiSys MS909CV Diagnostics and Information System	$5,495.00	1

Add to Cart

GET SPECIAL OFFERS & SAVINGS

Enter Email Address Sign Up

Surplus / Clearance

Customer Service

My Account
Order Status
Catalog Request
Shipping & Delivery
Returns
Account Sign-up
FAQs
Help

3.8 ★★★★☆
Google
Customer Reviews

Attachment: Penn Tool Quote (RES-2022-162 : Purchase of TPMS Diagnostics Tool)

Autel MaxiSys MS909CV Diagnostics and Information System - **MS909CV**

Provides the full functionality and online repair information you need when diagnosing vehicles, identifying faults and researching repair issues. It features a powerful Octa-Core processor and 9.7-inch TFT-LCD capacitive touchscreen for swift diagnosis and optimum viewing. As an intelligent diagnostics and information system, MaxiSys MS909CV not only displays the relevant repair fixes and cases gathered from experienced industry experts, but provides step-by-step guidance to ensure the repair is done correctly and efficiently.

- Upgraded Octa-Core processor and 128GB storage and Android 7.0 Operating System with 9.7" Touchscreen and the whole-new MaxiFlash VCI to deliver smooth operation
- Intelligent Diagnostics with Module Topology on Select Vehicles and Enhanced AutoSCAN / VINScan and DTC Analysis / Repair Guided Assist
- ADAS Calibration with new Class 6-8 Dynamic Calibration, Supporting Class 3-5 Complete ADAS Coverage. The Class 6-8 Static Calibration (coming soon)
- Support heavy Duty Battery Test & Health Report

Specifications:

- Operating System: Android 7.0
- Processor: Samsung Exynos 8895V octa-core Processor (2.3GHz Quad-core Mongoose + 1.7GHz Quad-core A53)
- Memory: 4GB RAM & 128GB On-board Memory
- Display: 9.7-inch TFT-LCD with 1536 x 2048 resolution & capacitive touch screen
- Connectivity: WiFix2(802.11 a/b/g/n/ac 2x2 MIMO), BT v.2.1 + EDR, GPS, USB 2.0 (TWO USB HOST Type A, ONE USB mini device), HDMI 2.0, SD Card (Support up to 256GB)
- Camera Rear: 16 Megapixel, Autofocus with Flashlight, Front: 5.0 Megapixel
- Sensors: Gravity Accelerometer, Ambient Light Sensor (ALS)
- Audio Input/Output: Microphone, Dual Speakers, 3-Band 3.5 mm stereo/standard headset jac
- Power and Battery: 15000mAH 3.8V lithium-polymer battery, Charging via 12V AC/DC power supply with the temperature between 0°C and 45°C
- Input Voltage: 12V/3A Adapter
- Operating Temperature: 0 to 50°C (32 to 122°F)
- Storage Temperature: -20 to 60°C (-4 to 140°F)
- Dimensions(W x H x D): 304.4mm (11.98") x 227.8 mm (8.97") x 42.5 mm (1.67")
- Protocols:

3.8 ★★★★☆
Google
Customer Reviews

Attachment: Penn Tool Quote (RES-2022-162 : Purchase of TPMS Diagnostics Tool)

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

Francina J. Spoth
Town Clerk

Meeting: 02/07/22 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 25399 **RESOLUTION 2022-163** **ADOPTED**

Progressive Cavity Pump Parts Procurement - Shrier Martin CRS No. 3132

The Engineering Department-Water Pollution Control Facility is requesting the Town Board to authorize the Supervisor to sign an agreement with Shrier-Martin Process Equipment. This agreement is for Moyno™ progressive cavity pump parts as listed on Shrier-Martin quote 7780, dated January 12, 2022. Shrier-Martin Process Equipment is the "sole source" supplier of Moyno™ parts for our territory. The WPCF would also request a waiver from insurance as this company would be utilizing a third party delivery service. The total cost of this procurement would be $8,688.93 plus freight. The term of this contract will be from date of execution by the Town of Amherst through April 01, 2022.

This request has successfully completed the contract review process.

Funds will be available in G9916-4860.

Thank you for considering these requests.

2/7/2022
Consent

FINANCIAL IMPACT:

$8,688.93; G9916-4860

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

AGREEMENT

Let this document stand as an Agreement between Shrier-Martin Process Equipment, Inc. and the Town of Amherst permitting the Town of Amherst to procure the Moyno progressive cavity pump parts listed on their attached quote 7548, dated November 08, 2021. The term of this contract will be from date of execution by the Town of Amherst through April 01, 2022.

Agreed to and Accepted by:

Shrier-Martin Process Equipment, Inc.

By: _____
Signature

Brett R. Siewert
Printed name

Vice - President
Title

Date: 1-13-22

Agreed to and Accepted by:

TOWN OF AMHERST

By: _____
Brian J. Kulpa
Supervisor

Date: _____

Attachment: Shrier-Martin Agreement (RES-2022-163 : Progressive Cavity Pump Parts Procurement - Shrier Martin)

January 13, 2022

Subject: Authorized Moyno™ Products Representation

To Whom It May Concern:

The Fluid Motion Solutions Division of National Oilwell Varco utilizes authorized representatives and distributors through the United States to bring the Moyno™ Product line to market. Shrier-Martin Process Equipment, Inc. is the authorized Representative and Distributor for the Moyno™ Product Lines in the following counties in New York:

Albany, Allegany, Broome, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Clinton, Columbia, Cortland, Delaware, Duchess, Erie, Essex, Franklin, Fulton, Genesee, Greene, Hamilton, Herkimer, Jefferson, Lewis, Livingston, Madison, Monroe, Montgomery, Niagara, Oneida, Onondaga, Ontario, Orleans, Oswego, Otsego, Rensselaer, Saratoga, Schenectady, Schoharie, Schuyler, Seneca, St. Lawrence, Steuben, Sullivan, Tioga, Tompkins, Ulster, Warren, Washington, Wayne, Wyoming and Yates.

In Pennsylvania, Shrier-Martin is the Representative for industries other than municipal for the counties of:

Bradford, Susquehanna, and Tioga

Please contact me directly should there be any questions relating to the above information.

Respectfully yours,

Rick Baker
Moyno™ Products Northeast Regional Manager

T 937-454-3200
F 937-454-3379
nov.com

NOV Fluid Motion Solutions
Moyno™
5870 Poe Avenue
Dayton, OH 45414

Attachment: Shrier-Martin Agreement (RES-2022-163 : Progressive Cavity Pump Parts Procurement - Shrier Martin)

SHRIER-MARTIN
PROCESS EQUIPMENT

Quote

Date	Quote #
1/12/2022	7780

Name / Address
Town of Amherst WWTP 455 Tonawanda Creek Road Amherst, NY 14228

To:
Tom Dean
Per your request, please see the pricing and availability below. If there are any questions or concerns, please contact us.

Best Regards,
The SMPE Team

Terms	Contact
Net 30 days	BRS

Item	Description	Qty	Cost	Total
4052006403	Moyno Lock Nut 7/8-14 Stover C	2	10.27	20.54
4250723001	Moyno Drive Shaft Assembly H-G1,CBNSTL	1	5,361.90	5,361.90
4230054000	Moyno Roller Bearing H-Size	2	935.30	1,870.60
4240013001	Moyno Packing Gland, Half, H-Size, CSTIRN	2	134.34	268.68
3403396024	Moyno Packing Set(6) HG1, PTFE, .62x3.750 SFT	1	350.84	350.84
4230057000	Moyno Lantern Ring, Half, H-Size 2000, TEFLON	2	102.69	205.38
4230100001	Moyno Con Rod Assy, H-Size, ALYSTL	1	596.43	596.43
4220044001	Moyno Pipe Plug .125-27NPT, 18-8SS	1	10.27	10.27
6060062060	Moyno Set Screw, .312-18x.375LG, 18-8SS	1	4.29	4.29
	If favored with your purchase order, please make it out to: Shrier Martin Process Equipment 1260 Rochester St. Lima, NY 14485 Phone: 585-624-4490 Fax: 585-624-5373 Terms: Net 30 Pricing: 30 Days			

Delivery:6-7 weeks after receipt of order.
Freight:FOB Origin, prepaid and added to invoice.

Total $8,688.93

Attachment: Shrier-Martin Agreement (RES-2022-163 : Progressive Cavity Pump Parts Procurement - Shrier Martin)

January 13, 2022

Subject: Authorized Moyno™ Products Representation

To Whom It May Concern:

The Fluid Motion Solutions Division of National Oilwell Varco utilizes authorized representatives and distributors through the United States to bring the Moyno™ Product line to market. Shrier-Martin Process Equipment, Inc. is the authorized Representative and Distributor for the Moyno™ Product Lines in the following counties in New York:

Albany, Allegany, Broome, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Clinton, Columbia, Cortland, Delaware, Duchess, Erie, Essex, Franklin, Fulton, Genesee, Greene, Hamilton, Herkimer, Jefferson, Lewis, Livingston, Madison, Monroe, Montgomery, Niagara, Oneida, Onondaga, Ontario, Orleans, Oswego, Otsego, Rensselaer, Saratoga, Schenectady, Schoharie, Schuyler, Seneca, St. Lawrence, Steuben, Sullivan, Tioga, Tompkins, Ulster, Warren, Washington, Wayne, Wyoming and Yates.

In Pennsylvania, Shrier-Martin is the Representative for industries other than municipal for the counties of:

Bradford, Susquehanna, and Tioga

Please contact me directly should there be any questions relating to the above information.

Respectfully yours,

Rick Baker
Moyno™ Products Northeast Regional Manager

T 937-454-3200
F 937-454-3379
nov.com

NOV Fluid Motion Solutions
Moyno™
5870 Poe Avenue
Dayton, OH 45414

Attachment: Schrier-Martin Sole Source letter (RES-2022-163 : Progressive Cavity Pump Parts Procurement - Shrier Martin)

AGREEMENT

Let this document stand as an Agreement between Shrier-Martin Process Equipment, Inc. and the Town of Amherst permitting the Town of Amherst to procure the Moyno progressive cavity pump parts listed on their attached quote 7548, dated November 08, 2021. The term of this contract will be from date of execution by the Town of Amherst through April 01, 2022.

Agreed to and Accepted by:

Shrier-Martin Process Equipment, Inc.

By: _____
Signature

Brett R. Siewert
Printed name

Vice - President
Title

Date: 1-13-22

Agreed to and Accepted by:

TOWN OF AMHERST

By: _____
Brian J. Kulpa
Supervisor

Date: _____

Attachment: Schrier-Martin Sole Source letter (RES-2022-163 : Progressive Cavity Pump Parts Procurement - Shrier Martin)

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

Francina J. Spoth
Town Clerk

Meeting: 02/07/22 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 25401 **RESOLUTION 2022-164** **ADOPTED**

Change Order No. 1 Increase of $19,175.00 to Camden Group, Inc. 2021 Sanitary Sewer Manhole Rehabilitation CRS# 3145

We are requesting the Town Board approve the above referenced Change Order No. 1, which calls for a $19,175.00 increase in the contract amount. This Change Order is necessary to account for additional locations that were added to the relining scope after the bid went out and all locations relined had manhole rehabilitation done.

May we please have approval for Change Order No.1 for an increase in the contract amount? This change order increase of $19,175.00 is available from project bond account KP 2130 - 4972. This request has been approved under the contract review process. Thank you for considering this request.

2/7/2022
Consent

FINANCIAL IMPACT:

$19,175.00; KP2130-4972

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

Change Order

PROJECT: *(Name, address and Project File No.)*

2021 Sanitary Sewer Manhole Rehabilitation

Job No. **2020.039A**

CHANGE ORDER: **#1**

DATE: **January 20, 2022**

TO CONTRACTOR: *(Name and address)*

Camden Group Inc.
9008 State Rt 13
Camden, NY 13316

The Contract is changed as follows:

(*Include, where applicable, any undisputed amount attributable to previously executed construction Change Directives*)

Change Order #1

Additional locations were added to the relining scope after the manhole rehabilitation project had been bid out. The locations in the rehabilitation project were determined by the relining project (done under state bid).

The original (Contract Sum) (~~Guaranteed Maximum Price~~) was	$ 174,800.00 .
The net change by previously authorized Change Orders	$ 0.00 .
The (Contract Sum) (~~Guaranteed Maximum Price~~) prior to this Change Order was	$ 174,800.00 .
The (Contract Sum) (~~Guaranteed Maximum Price~~) will be (increased) (~~decreased~~) (~~unchanged~~) by this Change Order in the amount of	$ 19,175.00 .
The new (Contract Sum) (~~Guaranteed Maximum Price~~) including this Change Order will be	$ 193,975.00 .
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~~

NOT VALID UNTIL SIGNED BY THE ENGINEER, CONTRACTOR AND OWNER.

ENGINEER (*Firm name*)	CONTRACTOR (*Firm name*)	OWNER (*Firm name*)
Town of Amherst Engineering	Camden Group, Inc.	Town of Amherst
1100 North Forest Road Williamsville, NY 14221	9008 State Rt 13 Camden, NY 13316	5583 Main Street Williamsville, NY 14221
ADDRESS	ADDRESS	ADDRESS
BY (*Signature*)	BY (*Signature*)	BY (*Signature*)
Jeffrey S. Burroughs, P.E.	Kenneth Scherrieble	Brian J. Kulpa
(*Typed name*)	(*Typed name*)	(*Typed name*)
Date	Date	Date

Attachment: Camden Change Order Form (RES-2022-164 : 2021 Sanitary Sewer Manhole Rehab - Change Order No. 1)

2021 SANITARY MANHOLE REHABILITATION PROJECT

TOWN OF AMHERST JOB NO. 2020.039A

CHANGE ORDER #1 - ALBERTA DRIVE

		1-2 (VF)	1-4 (EA)	1-6 (EA)	1-7 (EA)
AL-7	455 Alberta Drive	9.6	1	1	0
AL-8	458 Alberta Drive	9.2	1	1	1
AL-9	424 Alberta Drive	8.8	1	1	0
AL-10	418 Alberta Drive	5.1	1	1	0
AL-11	390 Alberta Drive	6.5	1	1	0
AL-12	350 Alberta Drive	6.8	1	1	0
AL-13	3122 Sheridan Drive	6.95	1	1	1
AL-14	3122 Sheridan Drive	6.5	1	1	0
	Total	59	8	8	2

ITEM NO.	ITEM DESCRIPTION	QUANTITY	UNITS	PRICE PER UNIT	SUB TOTAL
1-1	48" DIAMETER EPOXY MANHOLE MONOLITHIC LINING	0	VF	$150.00	$0.00
1-2	48" DIAMETER CEMENTITIOUS MANHOLE MONOLITHIC LINING	59	VF	$225.00	$13,275.00
1-3	MANHOLE BENCH LINING (EPOXY LINING)	0	EA	$150.00	$0.00
1-4	MANHOLE BENCH LINING (CEMENTITIOUS LINING)	8	EA	$250.00	$2,000.00
1-5	MANHOLE STEP REPLACEMENTS	0	EA	$65.00	$0.00
1-6	MANHOLE CHIMNEY SEALS	8	EA	$300.00	$2,400.00
1-7	MANHOLE BENCH & FLOW CHANNEL REPAIR	2	EA	$750.00	$1,500.00
2-0	MAINTENANCE AND PROTECTION OF TRAFFIC	0	LS	$6,500.00	$0.00
3-0	MISCELLANEOUS CONSTRUCTION ALLOWANCE	0	LS	$5,000.00	$0.00
A1-1	60" DIAMETER BASE SECTION EPOXY MANHOLE MONOLITHIC LINING	0	LF	$500.00	$0.00
A1-2	72" DIAMETER BASE SECTION EPOXY MANHOLE MONOLITHIC LINING	0	LF	$600.00	$0.00
			CHANGE ORDER TOTAL		$19,175.00

Attachment: Camden Change Order Form (RES-2022-164 : 2021 Sanitary Sewer Manhole Rehab - Change Order No. 1)

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

Francina J. Spoth
Town Clerk

Meeting: 02/07/22 07:00 PM
Department: Highway
Initiated by: **Stephen Bryan**
Co-Sponsored by:

DOC ID: 25316 **RESOLUTION 2022-165** **ADOPTED**

Payment Authorization for Sole Source Vendor

We are requesting your approval to authorize the Town Comptroller to pay the attached invoice/purchase order PO # 22120804 for $2,261.28 for 2021 and PO #22020818 encumbered for $13,672.15. Both are associated with this sole source vendor.

We are required to purchase from Custom Truck One Source (North American Equipment Upfitters) for mandatory inspection and replacement at seven years plus for aerial lift vehicles as they represent a sole source for Highway to purchase specific inspections and parts for Town trucks and aerial buckets.

Please approve the above request and authorize the payment of PO #22120804 and PO #22020818 totaling $15,933.43. Funding is available within the 2021 Budget. Thank you!

2/7/2022
Consent

FINANCIAL IMPACT:

D5130: 4240 15,933.43

PO#22020818 ENCUMERED 13,672.15

PO#22120804 SUPPLEMENT 2,261.28

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

North American Equipment Upfitters

IS NOW

"One" is at the center of everything we do. North American Equipment Upfitters is excited to announce its transition to one umbrella brand with one cohesive name. We are now Custom Truck One Source, THE first true single source provider of custom heavy equipment solutions. More than trucks, more than parts, and more than amazing service. We are your ONE SOURCE. Dig in at customtruck.com and keep up with us on Facebook and Twitter.

Contact Us

Custom Truck One Source
Phone (844) 358-9128 (tel:+1-844-358-9128)
Email: info@customtruck.com (mailto:info@customtruck.com)

Our Locations (/locations/)

© 2015-2019 Copyright Custom Truck One Source | **Privacy Policy** (https://expert.customtruck.com/privacy-policy)

Attachment: CUSTOM TRUCK (RES-2022-165 : Payment Authorization for Sole Source Vendor)

TOWN OF AMHERST

PURCHASE ORDER

P.O. No. 22[illegible]

This number must appear on all packages and invoices

~~5583~~ Main St., Williamsville, NY 14221-5499

Date: 12/30/20

[X] Highway Department
1042 North Forest Road, Williamsville NY 14221

Federal ID#: 16-6002157

VENDOR'S NO.: 19626 47-2814336

DO NOT WRITE IN THIS BOX

FUND APPROPRIATION				FUND APPROPRIATION			
Fund	Dept./ District	Object	Amount	Fund	Dept./ District	Object	A
D 5130		4240	15,933.43				

Claimant's Name and Address: CUSTOM TRUCK ONE SOURCE
6708 Townline Road
Syracuse, NY 13211

Total: $15,933.43

[ ] Check box if partial payment (P.O. will remain open)

[ ] Separate Check Required

Quantity	Description of Materials or Services	Unit Price	Amount
1	REPAIRS TRUCK #148; TREE TRUCK W/AERIAL LIFT - ESTIMATED PARTS	8,636.55	8,636.55
1	REPAIRS TRUCK #148; TREE TRUCK W/AERIAL LIFT - ESTIMATED LABOR	4,370.00	4,370.00
1	SUBCONTRACT	2,188.68	2,188.68
1	MISC	738.20	738.20

PO#2202018 ENCUMBERED (13,672.[illegible]

SUPPLEMENT 2,261.[illegible]8

PO#2212064

Due Date: 01/26/22 Vendor Invoice#: 2021007018343 **Total** **$15,933.43**

Date of Town Board Resolution (if needed):

INVOICES MUST BE RENDERED ON ATTACHED FORM (VOUCHER) FURNISHED BY THE TOWN OF AMHERST AND MUST BE PROPERLY SIGNED. THE TOWN WILL NOT BE RESPONSIBLE FOR MERCHANDISE DELIVERED WITHOUT A RECEIPT SIGNATURE.

Received by: Blocher

Date Received: 12.23.21

SALES TA EXEMPT

All purchase contracts involving an aggregate expenditures of more than $20,000 and all contracts for public works for more than $35,000 must be competitively bid.

PURCHASE AUTHORIZATION

Patrick Lucey

Department Head or Director of Purchasing

Audited By:	Contracts:	Bids Received: Y / N
Date:	Signed Contract: Y / N Town Board Approval Date:	Town Board Approval: Y / N Date:

DEPARTMENT APPROVAL (SPACE BELOW FOR MUNICIPAL USE)

The above services or materials were rendered or furnished to the municipality on the dates stated and the changes are correct.

12-28-2021 Patrick Lucey

Date Authorized Signature

COMPTROLLER'S DEPARTMENT

Date Authorized Official

Attachment: CUSTOM TRUCK (RES-2022-165 : Payment Authorization for Sole Source Vendor)

CUSTOM TRUCK ONE SOURCE

Remit To: PO Box 773385
Chicago, IL 60677-3385

INVOICE

INVOICE NUMBER	20210070
Invoice Date	12
Total Due	$15,93
Currency Type	
Due Date	01/2
Payment Terms	

Bill To:
TOWN OF AMHERST, NY
1042 N FOREST RD
WILLIAMSVILLE, NY - 14221
UNITED STATES

Ship To:
TOWN OF AMHERST, NY
1042 N FOREST RD
WILLIAMSVILLE, NY - 14221
UNITED STATES
Phone Number: 7166315990

For questions regarding your invoice - contact (315) 925-4016

Customer #	Division	Branch	Department	MCO Number	WO Number	Customer PO	Doc Date	Invoiced
85117	USA	SYR	SYRTRKSV	0070004236	0060005734	22020818	12/27/2021	SSTANTON

Unit Serviced

VIN	Make / Model	Year	RM Equip #	Customer Unit #
3FRXF7FC9BV371453	FORD / F750	2010		148
			Attachment	

Meter Readings	ENG HRS	PTO HRS	MILES
	1	1	61163

Line 1: 10 YEAR CRANE BOOM CABLE INSPECTION/ REP

COMPLAINT: PERFORM 10 YEAR CRANE BOOM CABLE INSPECTION AND/OR REPLACEMENT AS REQUIRED PER MAINTENANCE MANUAL
CAUSE:
CORRECTION: REPLACE LEVELING AND CYLINDER CABLES

Part	Description	U/M	Quantity	Price	Extended
981723456	CABLE-LOWER BOOM	EA	2.00	$540.95	$1,0
981723612	LEVELING CABLE KIT	EA	1.00	$979.49	$9
981723761	NUT	EA	2.00	$117.66	$2
981723762	STOP NUTS	EA	2.00	$33.54	$
981723763	STOP NUT	EA	1.00	$24.80	$
981724013	HOLDING VALVE UPPER BOOM	EA	2.00	$223.99	$4
981724152	JARP LOWER BOOM CYL KIT	EA	1.00	$2,899.99	$2,8
981724153	JARP UPPER BOOM KIT	EA	1.00	$2,899.99	$2,8
Task Subtotals				Parts	$8,6
				Labor	$2,0
				Subtotal	$10,7

Line 2: CYLINDER-HYD

COMPLAINT: 10 YEAR CYLINDER ROD UPDATE NEEDED
CAUSE: MANDATORY
CORRECTION: PERFORM CYLINDER ROD UPDATES

Part	Description	U/M	Quantity	Price	Extended
750_00010	FREIGHT-WHOLEGOODS	EA	1.00	$200.00	$20
Task Subtotals				Labor	$2,0
				Miscellaneous	$2
				Subtotal	$2,2

Line 3: HOSES & FITTINGS & TUBING-HYD

COMPLAINT: THREE BAD # 6 HYDRAULIC HOSES IN LOWER BOOM
CAUSE:
CORRECTION: REPLACE THREE # 6 HYDRAULIC HOSES IN LOWER BOOM

Part	Description	U/M	Quantity	Price	Extended
750_00130	FREIGHT-PARTS	EA	1.00	$538.20	$53
Task Subtotals				Labor	$23
				Miscellaneous	$53
				Subtotal	$76

Line 4: SUBCONTRACTING 1

COMPLAINT:LABOR TO REMOVE FROZEN GLAND
CAUSE:
CORRECTION:

Part	Description	U/M	Quantity	Price	Extended
200_00001	MACHINE CYLINDER OPEN	EA	1.00	$108.00	$10
Task Subtotals				Subcontract	$10
				Subtotal	$10

Attachment: CUSTOM TRUCK (RES-2022-165 : Payment Authorization for Sole Source Vendor)

CUSTOM TRUCK ONE SOURCE™

Remit To: PO Box 773385
Chicago, IL 60677-3385

INVOICE

Bill To:
TOWN OF AMHERST, NY
1042 N FOREST RD
WILLIAMSVILLE, NY - 14221
UNITED STATES

Ship To:
TOWN OF AMHERST, NY
1042 N FOREST RD
WILLIAMSVILLE, NY - 14221
UNITED STATES
Phone Number: 7166315990

INVOICE NUMBER	20210070
Invoice Date	12
Total Due	$15,93
Currency Type	
Due Date	01/2
Payment Terms	

For questions regarding your invoice - contact (315) 925-4016

Customer #	Division	Branch	Department	MCO Number	WO Number	Customer PO	Doc Date	Invoiced I
85117	USA	SYR	SYRTRKSV	0070004236	0060005734	22020818	12/27/2021	SSTANTON

Unit Serviced

VIN	Make / Model	Year	RM Equip #	Customer Unit #
3FRXF7FC9BV371453	FORD / F750	2010		148
			Attachment	

Meter Readings	ENG HRS	PTO HRS	MILES
	1	1	61163

Line 5: SUBCONTRACTING 2

COMPLAINT:MACHINE A NEW GLAND AND INSTALL/REBUILD CYLINDER/TEST CYLINDER
CAUSE:
CORRECTION:

Part	Description	U/M	Quantity	Price	Extended
200_00001	MACHINE A NEW GLAND/TEST CYLIN	EA	1.00	$2,080.68	$2,0
Task Subtotals				Subcontract	$2,0
				Subtotal	$2,0

INVOICE TOTALS — Detailed Sales Tax Info:

Parts	**$8,63**
Labor	**$4,37**
Subcontract	**$2,18**
Miscellaneous	**$73**
Subtotal	**$15,93**
Tax	**$**
Total	**$15,93**

COMPLETED AND RECEIVED
ERIC RHOCHER 12-23

Attachment: CUSTOM TRUCK (RES-2022-165 : Payment Authorization for Sole Source Vendor)

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

Francina J. Spoth
Town Clerk

Meeting: 02/07/22 07:00 PM
Department: Highway
Initiated by: **Stephen Bryan**
Co-Sponsored by:

DOC ID: 25325 **RESOLUTION 2022-166** **ADOPTED**

Authorize the Purchase of One (1) TOWMASTER HeavyEquipment Trailer, Model T-16DT #3033

NOW THEREFORE BE IT RESOLVED, the Town Board authorizes the purchase of one (1) TOWMASTER HEAVY EQUIPMENT TRAILER, MODEL T - 16DT. This request replaces Resolution # 2021-1061, dated 11/22/2021 to change financial impact account.

The purchase is from George & Swede Sales & Service Inc, 7155 Big Tree Road, Pavilion, NY 14525 for $13,657.60 under SOURCEWELL CONTRACT #121918-MNR with maturity date of 02/11/2023.

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 #3033) and the approval of the Town Attorney.

2/7/2022
Consent

FINANCIAL IMPACT:

D5112 : 2800

$13,657.60

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



George and Swede Sales & Service
7155 Big Tree Road
Pavilion, New York 14525
Phone 585-584-3425
800-724-8722
Fax 585-584-8853
Web www.georgeandswede.com

Zach Shadbolt Sal
Cell 716-474-0208
Email zachs@georgeandswede.com

Date 11/4/2021

To:	Town of Amherst - Eric Blocher
Address:	1042 N Forest Rd
	Williamsville, NY
Cell	716-208-6288

Towmaster T-16DT			$ 13,895.00
	24" Diamond Plate Approach	12K Drop Leg Jack	
	Side Lip Down	LED Lights	
	2" Nominal Oak	7 Pole RV Style Plug	
	102" OD, 82" ID	3" Pintle Ring Hitch	
	8k EZ Lube Torsion Axles	Color: Black	
	Electric Brakes	(10) Tie Down Rings	
	(4) 215/75Rx17.5 (H)		
	Steel Wheels		
Options:			
	4' Stationary Wood Deck		$ 995.00
	Tool Box Lid		$ 125.00
		Subtotal	15,015
		Less 16% Discount	
		Subtotal w/ Discou	
			12,613
Additional:			
	Freight		$
	PDI and Inspection		$ 500.00

Attachment: DOC012822-01282022074005 (RES-2022-166 : Authorize the Purchase of One (1) TOWMASTER HeavyEquipment Trailer, Model T-

$13,657.60

Owner/Principle _____

Date _____ Title _____

Thank You Zach Shadbolt (716) 474-0208

Interest Rates effective only till end of month-rates can potentially change each month.

New and used equipment-Sales-Rentals-Service and Parts FOB Pavilion, NY

HYUNDAI LINK BELT YANMAR ROLLERS INTERSTATE TR

All equip subject to availability Quote effective 30 days

Agreed to and Accepted by:

GEORGE & SWEDE SALES & SERVICE INC.

By: _____
Signature

Zachary R Shadbolt
Print Name

Salesman
Title

Date: 11/10/2021

Agreed to and Accepted by:

TOWN OF AMHERST

By: _____
Brian J Kulpa
Supervisor

Date: _____

Attachment: DOC012822-01282022074005 (RES-2022-166 : Authorize the Purchase of One (1) TOWMASTER HeavyEquipment Trailer, Model T-

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

Francina J. Spoth
Town Clerk

Meeting: 11/22/21 07:00 PM
Department: Highway
Initiated by: **Stephen Bryan**
Co-Sponsored by:

DOC ID: 25049 **RESOLUTION 2021-1061** **ADOPTED**

Authorize the Purchase of One (1) TOWMASTER Heavy Equipment Trailer, Model T-16DT CRS# 3033

NOW THEREFORE BE IT RESOLVED, the Town Board authorizes the purchase of one (1) TOWMASTER HEAVY EQUIPMENT TRAILER, MODEL T-16DT.

The purchase is from George & Swede Sales & Service Inc., 7155 Big Tree Road, Pavilion, NY 14525 for $13,657.60 under SOURCEWELL CONTRACT #121918-MNR with maturity date of 02/11/2023.

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# 3033) and the approval of the Town Attorney.

11/22/2021
Consent

FINANCIAL IMPACT:

~~KP2118 - 2600~~ D 5112-2800
OK ~~$13,657.60~~ 13,657.60

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

Attachment: DOC012822-01282022074005 (RES-2022-166 : Authorize the Purchase of One (1) TOWMASTER HeavyEquipment Trailer, Model T-

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

Francina J. Spoth
Town Clerk

Meeting: 02/07/22 07:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 25339 **RESOLUTION 2022-167** **ADOPTED**

Senior Clerk Typist/Planning Department

Please appoint a Senior Clerk Typist to the Planning Department. Permanent, from list, pending satisfactory completion of a probationary term as set forth in the Civil Service Rule XIII. Effective February 8, 2022 at an annual salary of $35,583, Grade 5, Step A for Rachel Boerschig.

This is a promotion for an employee currently serving as a Clerk Typist.

2/7/2022
Consent

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: 02/07/22 07:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 25354 **RESOLUTION 2022-168** **ADOPTED**

Recreation Attendant - PT / Senior Center

Recreation Attendant - PT / Senior Center, Effective February 8, 2022, Temporary, $15.10 ph, Step 4 for Christine Luehrsen.

2/7/2022
Consent

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: 02/07/22 07:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 25355 **RESOLUTION 2022-169** **ADOPTED**

Maintenance Worker/Engineering (2 Positions)

Please appoint two (2) Maintenance Workers to the Engineering Department. Permanent, pending satisfactory completion of a probationary term as set forth in the Civil Service Rule XIII. Effective February 8, 2022 at an hourly rate of $19.69, Grade II, Step A for Daniel Thuman and Jacob Bukowski.

These positions will fill vacancies due to Retirements.

2/7/2022
Consent

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: 02/07/22 07:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 25358 **RESOLUTION 2022-170** **ADOPTED**

Motor Equipment Operator/Engineering (2 Positions)

Please appoint two (2) Motor Equipment Operators to the Engineering Department. Permanent, pending satisfactory completion of a probationary term as set forth in the Civil Service Rule XIII. Effective February 8, 2022 at an hourly rate of $20.84, Grade III, Step 1 for Jeffrey Vetter and James Maddigan.

Contingent upon completing all pre-employment requirements.

These positions will fill vacancies due to Retirements.

2/7/2022
Consent

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: 02/07/22 07:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 25376 **RESOLUTION 2022-171** **ADOPTED**

Recreation Supervisor-PT/Youth & Recreation

Recreation Supervisor - PT / Youth & Recreation, Effective February 8, 2022, Temporary, $15.70 ph, Step 1 for Carol A. Rogers.

Filling a position created to provide outreach programs.

2/7/2022
Consent

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: 02/07/22 07:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 25378 **RESOLUTION 2022-172** **ADOPTED**

Recreation Attendant - PT / Youth & Recreation

Recreation Attendant - PT / Youth & Recreation, Effective February 8, 2022, Temporary, $13.80 ph, Step 3 for Samuel J. Greco.

Filling a vacant position due to the reduced availability of our current staff.

2/7/2022
Consent

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: 02/07/22 07:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 25383 **RESOLUTION 2022-173** **ADOPTED**

Recreation Attendant - PT / Youth & Recreation (4 Positions)

Recreation Attendant - PT / Youth & Recreation (4 Positions) , Effective February 8, 2022, Temporary, $13.20 ph, Step 1 for Maggie Alesius, Zachary Collins, Jenna Doerfler and Madelyn Standish.

Filling vacant positions due to reduced availability of our current part-time staff.

2/7/2022
Consent

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: 02/07/22 07:00 PM
Department: Planning
Initiated by: **Dan Howard**
Co-Sponsored by:

DOC ID: 25320 **RESOLUTION 2022-174** **ADOPTED**

Travel Request for Jeffrey Klein to Attend the Finger Lakes Building Officials Educational Conference

Please approve a travel request for Jeffrey Klein to attend a 3 day educational conference from March 14, 2022-March 16, 2022 at a cost not to exceed $390.00.

2/7/2022
Consent

FINANCIAL IMPACT:

Travel request will be covered by CDBG funds and will have no financial impact on the Town budget.

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

FLBOA Finger Lakes Building Officials Association, Inc.

INVOICE

November 18, 2021

INVOICE No: NY0007969 - 2022

Payable To:
FLBOA
PO BOX 1117
PENFIELD NY 14526

Phone: 585-340-8635

Please mail a copy of this invoice with payment so we can process correctly.
Or make sure all invoice numbers are included with the check.

Attendee:
JEFFREY KLEIN
5583 MAIN STREET
WILLIAMSVILLE NY 14221

Attendance at The FINGER LAKES BUILDING OFFICIALS EDUCATIONAL CONFERENCE
March 14 - 16, 2022 $390.00

TOTAL AMOUNT DUE **$390.00**

PLEASE MAKE CHECKS PAYABLE TO: FLBOA

TAX ID: 16-1169037

NYS VENDOR ID: 1000028763

Registrar: Andy Suveges

Email: suveges@penfield.org
Fax: 585-340-8644

Attachment: Travel_request-JK-1.20.22 (RES-2022-174 : Travel Request for Jeffrey Klein)

TRAVEL EXPENSE APPROVAL / REIMBURSEMENT FORM

☐ $250 or LESS and under 75 miles — Department Head Approval ONLY Required — *Revised 1/7/2019*

☐ $250 + or greater than 75 miles — Department Head AND Town Board Approval Required

NAME	Employee #	Department	Phone Number
JEFFREY KLEIN		PLANNING	601 7050

Destination and Purpose of Trip

Date of Departure	Date of Return	Destination	Purpose/Justification
1-14-22	1-16-22	PINGREE LAKES	EDUCATIONAL CONFERENCE

Expenses	Estimated	Budget A/C #	Actual
Transportation:			
Mileage @ $0.58			
Tolls			
Parking			
Local Transportation (bus/taxi)			
Plane/Rail/Bus			
Lodging:			
# nights @ $			
Meals:			
IRS Per Diem Per Day: $			
1st & Last Day of Travel @ 75%			
# Breakfasts @ $			
# Lunches @ $			
# Dinners @ $			
# Incidentals @ $			
Registration/Conference Fee	390		
Other			
Subtotal			
Contingency - 10% of subtotal or $200			N/A
TOTAL			N/A

Request Approved By:

Department Head Signature

1/19/22

Date

I hereby certify that I have expended the above itemized amounts for business purposes for the Town of Amherst. Required receipts are attached.

Employee Signature — Date

Print Employee Name

Reimbursement Approved By:

Department Head Signature — Date

Town Board :

Town Board Resolution & Date

Complete Shaded Area
For Expense Reimbursement

Attachment: Travel_request-JK-1.20.22 (RES-2022-174 : Travel Request for Jeffrey Klein)

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

Francina J. Spoth
Town Clerk

Meeting: 02/07/22 07:00 PM
Department: Planning
Initiated by: **Dan Howard**
Co-Sponsored by:

DOC ID: 25367 **RESOLUTION 2022-175** **ADOPTED**

To Adopt the 2022 CDBG/HOME Annual Action Plan and to Authorize the Supervisor to Submit the Plan to HUD

WHEREAS, the Town has prepared an Action Plan delineating the use of CDBG and HOME funds for Fiscal Year 2022 to address housing and community development needs identified in the 2020 -2024 Five Year Consolidated Plan; and

WHEREAS, the Town has complied with HUD requirements that at least two public hearings be held. The first hearing was on October 18, 2021 and the second one on January 18, 2022 to inform citizens of the availability of CDBG and HOME funds for Program Year 2022, now, therefore, be it

RESOLVED that the Amherst Town Board hereby adopts the 2022 CDBG/HOME Annual Action Plan for April 1, 2022-March 31, 2023, and authorizes the Supervisor to act as official representative of the Town in submitting the Action Plan and amendments thereto, all understandings and assurances contained therein, and authorizes him to act in connection with the submission of the Action Plan and to provide such additional information as may be required by the Department of Housing and Urban Development.

2/7/2022
Consent

FINANCIAL IMPACT:

Adoption of the proposed resolution involves no local monetary consideration and will have no impact on the Town Budget or tax rate.

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, 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, AICI
Assistant Planning D r

January 26, 2022

Agenda of February 7, 2022

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

Subject: Adoption of the 2022 Community Development Annual Action Plan and Authorization for the Supervisor to submit the Plan to HUD

Honorable Members:

The 2020-2024 Consolidated Plan was adopted in 2020 and addresses community needs in the Consortium Towns of Amherst, Cheektowaga and Tonawanda, and sets up guidelines for the use of Community Development Block Grant (CDBG) and HOME Investment Partnership Program funds in the Towns. The Annual Action Plan includes budgets for the Community Development (CDBG) and HOME Programs for each program year. The Town Board held public hearings on the 2022 Annual Action Plan on October 18, 2021 and January 18, 2022. On December 15, 2021 copies of the draft Action Plan were made available in the Town's libraries, the Town Clerk's Office and Williamsville Village Clerk's Office. Copies of the complete draft Action Plan and budgets were also posted to the Town's website and provided to the Councilmember's Office.

Attached please find a draft summary of the budget that was sent to you previously. Upon adoption, this will become the fiscal year 2022 Community Development budget. This budget was formulated so any changes in funding allocations by HUD can be absorbed by the CDBG and HOME rehabilitation program.

The program year for the Action Plan begins on April 1, 2022. The Town must submit its 2022 Annual Action Plan to the U.S. Department of Housing and Urban Development (HUD) within 60 days after the final allocations are announced. A proposed resolution to adopt the 2022 Annual Action Plan and authorize the Supervisor to submit same is attached for your consideration. We request that the Board take this action at its meeting of Monday, February 7, 2022. Please contact Laurie Stillwell with any questions. Thank you for your assistance with this matter.

Very truly yours,

Daniel C. Howard, AICP
Planning Director

Att.
X:\Community Development\New Structure\ANNUAL PLAN\Data 2022\Submittal to HUD\TB_letter_approval_2.722.docx

Attachment: Signed_TB Letter_2.7.22 (Action Plan)-02022022090233 (RES-2022-175 : Adoption & Submission of the 2022 Annual Action Plan)

2021 CDBG Allocation				
Town of Amherst & Village of Williamsville			**$ 640,103**	
Village of Williamsville (7% Portion per Cooperation Agreement)			**$ 44,807**	
Section House				
Town of Amherst Portion			**$ 595,296**	
	Rehab	**CD Payroll**		
HOUSING ACTIVITIES	$ 81,096	**$120,000**		**Expected CDPI $100,000****
CDBG Homeowner Rehab (Includes 3/4 Bldg. Insp. & 9/10 Clerk Typist)*			$ 201,096	*$ 128,000*
Acquisition			$ -	
Lead Testing, Risk Assessments, Clearance Testing			$ 8,000	
Weatherization Services			$ 12,000	
Total Housing Activities			***$ 221,096***	***$ 128,000***
PUBLIC SERVICES				
ASTS			$ 10,000	
Community Policing			$ 10,000	
Boys and Girls Club (Eggertsville After School)			$ 40,000	
Housing Assistance Counseling Services (Belmont Shelter Corp.)			$ 16,500	
Consumer Credit Counseling			$ 8,000	
B.U.L.Foreclosure Prevention Counseling			$ 6,000	
YWCA, Inc.			$ 30,500	
Total Public Services			***$ 121,000***	
Economic Development				
Façade Program			$ 30,000	$ 30,000
Total Public Facilities			***$ 30,000***	***$ 30,000***
PUBLIC FACILITES				
Public Infrastructure, Historic Preservation & Facilities in LMI Areas			$ 100,000	
Total Public Facilities			***$ 100,000***	
ADMINISTRATION / PLANNING				
Admin. Staff and Fringe Benefits			$ 112,000	*$ 22,000*
Office Expenses			$ 1,200	
Public Information (advertising)			$ 2,000	
Fair Housing Counseling-HOME			$ 8,000	
Total Administration/Planning			***$ 123,200***	***$ 22,000***
Activities Total			**$ 595,296**	***$ 180,000***
CDBG Allocation	$ 640,103			
2021 Program Income*	$ 169,000			
Total CDBG	**$ 809,103**			

2021 HOME Allocation			**Est. PI****
Amherst - Cheektowaga - Tonawanda HOME Consortium	**$ 941,900**	**$**	**600,000**
Consortium Expenses			3 Town
3 Town Administration/Program Delivery (10% of total)	$ 94,190		
Remaining portion to be split by the 3 Towns	***$ 847,710***		
Town of Amherst Portion of Remainder of HOME Grant	**$ 282,569**	**$**	**200,000**
Program Income Admin Portion		$	20,000
Town of Amherst Projects			
Housing Rehabilitation Loans	$ -	$	40,000.00
Acquisition/Rehabilitation or New Construction/Resale	$ 172,569	$	140,000.00
HOME Rental Subsidy	$ 100,000	$	-
First-Time Homebuyer Assistance	$ 10,000		
	$ 282,569	***$***	***200,000***

**Denotes funding from the estimated program income receipts.

Attachment: Draft_Budget_TB_mtg._2.7.21 (RES-2022-175 : Adoption & Submission of the 2022 Annual Action Plan)

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

Francina J. Spoth
Town Clerk

Meeting: 02/07/22 07:00 PM
Department: Planning
Initiated by: **Dan Howard**
Co-Sponsored by:

DOC ID: 25368 **RESOLUTION 2022-176** **ADOPTED**

To Authorize the Supervisor to Extend the Agreement with the Center for Elder Law & Justice (CELJ) for Free Legal Services CRS #3149

WHEREAS, the Town of Amherst received a second special appropriation of the Coronavirus Aid, Relief and Economic Security (CARES) Act funding through the Town's Community Development Block Grant Program (CDBG-CV); and

WHEREAS, on January 4, 2021 the Town Board approved a substantial amendment to the 2020 Annual Action Plan for Community Development to allocate the second appropriation of CDBG-CV funding; and

WHEREAS, the amendment included a $62,500 award for the (CELJ) to manage increased legal assistance requests from senior Town residents due to pandemic related housing insecurity; and

WHEREAS, at the Town Board meeting of March 8, 2021, the contract was approved for the period April 1, 2020 through August 31, 2021. Due to the eviction moratorium being in effect until January 15, 2022, Community Development staff would like to extend the contract until September 30, 2022. Now therefore, be it

RESOLVED, the Town Board of the Town of Amherst authorizes the Town Supervisor, subject to the satisfactory completion of the contract routing process, to extend the contract with the (CELJ) until September 30, 2022. Adequate funds are available in the CDBG budget to cover the maximum $62,500.00 cost of the proposed contract.

2/7/2022
Consent

FINANCIAL IMPACT:

The funds necessary to enter into a contract with CELJ have been budgeted in the FY 2020 (N20-65 4000) CDBG budget. The resolution will, therefore, have no impact on the Town's current budget or tax rate.

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, 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 D

January 26, 2022

Agenda of February 7, 2022

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

Subject: Contract Extension for The Center for Elder Law and Justice for free legal services

Honorable Board Members:

On January 4, 2021 a substantial amendment was approved for the 2020 Annual Action Plan for Community Development. The amendment included a $62,500 award to The Center for Elder Law and Justice (CELJ) to provide Amherst's low-income senior populations with legal services related to housing insecurity brought on by the pandemic.

The $62,500 allocation is funded through the second special appropriation of the Coronavirus Aid, Relief and Economic Security (CARES) Act funding appropriated to the Town's Community Development Block Grant Program (CDBG-CV).

At the Town Board meeting of March 22, 2021, the contract was approved for the period April 1, 2020 through August 31, 2021. Due to the eviction moratorium being in effect until January 15, 2022, Community Development staff would like to extend the contract until September 30, 2022.

Attached for your consideration is a resolution authorizing the Town Supervisor to extend the contract with CELJ until September 30, 2022. Adequate funds are available in the CDBG budget to cover the maximum $62,500.00 cost of the proposed contract.

Very truly yours,

Daniel J. Howard, AICP
Planning Director

X:\Community Development\New Structure\CONTRACTS and SUBRECIPIENTS\Legal Services\CELJ\CELJ_Extension_TB_Letter_2.7.22.docx

Attachment: Signed_TB Letter_2.7.22 (Elder Law) (RES-2022-176 : Contract Extension with the Center for Elder Law & Justice)

AGREEMENT

THIS AGREEMENT, entered into this ____ day of _____, 2021 between the TOWN O AMHERST, a municipal corporation of the State of New York, with principal offices located at 5583 Main Stree Williamsville, New York 14221 (herein after referred to as the "Town"), and the Center for Elder Law & Justic (formerly Legal Services for the elderly, disabled, disadvantaged of WNY, Inc.) a private, not-for-prof organization, with its principal office for the transaction of business at 438 Main Street, Suite 1200, Buffalo, Ne York 14202 hereinafter referred to as CELJ.

WITNESSETH:

WHEREAS, the Town has received federal funding under the Housing and Community Developme Act of 1974, as amended and one the purposes of said Act is to expand and improve the quality and quantity community services, principally for persons of low and moderate income, which are essential for sour community development and for the development of viable urban communities; and

WHEREAS, the provision of free legal services for the elderly, specifically to prevent evictio foreclosure and homelessness of residents in the Town of Amherst would constitute an expansion a improvement of the quantity and quality of community services consistent with the purposes of the Housing a Community Development Act of 1974 as amended; and

WHEREAS, the "CELJ" will hire a paralegal to assist with legal services for the elderly in Amherst; a

WHEREAS, "CELJ" has successfully provided legal services for Erie County residents for 40 years; a

NOW, THEREFORE, it is mutually agreed by and between the parties hereto, as follows:

1. (a) "Town" shall mean the Town of Amherst.
   (b) ""CELJ"" shall mean the Center for Elder Law and Justice.

2. The following exhibits are attached to this Agreement and made a part hereof:
   (a) Exhibit "A" -- Scope of Services and Reporting Requirements.
   (b) Exhibit "B" -- 2020 Income Guidelines and Stats Chart.

3. "CELJ", for consideration herein provided, shall perform the services as described in Exhibit attached hereto and made a part hereof.

Attachment: signed_contract_2.17.21 (RES-2022-176 : Contract Extension with the Center for Elder Law & Justice)

4. "CELJ" shall prior to execution of this Agreement provide to the Town certificates of insurance evidencing compliance with the provisions of the Addendum to Contract attached hereto and incorporated herein. "CELJ" agrees to defend, indemnify and hold-harmless the Town from and against all claims, liability and damages resulting from or arising out of performance by "CELJ" of the terms and conditions of this Agreement.

5. The Town agrees to pay "CELJ" not more than sixty-two thousand five hundred dollars **($62,500.00)** during the period from April 1, 2020 through August 31, 2021 for the services it provides to Town residents. The Town reserves the right to extend the agreement in consultation with the "CELJ" based on the continuation of Coronavirus Pandemic conditions warranting an extension or due to continued extensions of Local or State Coronavirus emergency declarations beyond August 31, 2021.

6. "CELJ" shall submit to the Town quarterly payment vouchers and report forms, as described in Exhibit A. Said forms will be in a format acceptable to the Town with the requests for payment for the period covering January 1, 2021 through December 31, 2021 to be submitted no later than January 10, 2022 to be consistent with the Town's fiscal year. Upon review and approval of the aforementioned vouchers and report forms by the Town, the Town shall process and subsequently issue funds totaling the approved amount. The sum of all vouchers submitted to the Town by "CELJ" shall not exceed $62,500.00.

7. "CELJ" agrees that it shall keep and maintain separate books of account and records concerning all costs incurred in the performance of this Agreement, and that it shall have available for the federal government all "CELJ"'s facilities, books and other financial and statistical data as they relate to the application, acceptance, and use of federal funds for this federally assisted program. The Town and "CELJ" agree to comply with the regulations, policies, guidelines and requirements of Office of Management and Budget Circulars A-102, and A-133 as they relate to the application acceptance and use of federal funds for this federally assisted program.

8. "CELJ" agrees to comply with the general compliance requirements of 24 CFR Part 570 (the U.S. Housing and Urban Development regulations concerning Community Development Block Grant (CDBG)) including subpart K of these regulations, except for responsibilities that fall under 2

Attachment: signed_contract_2.17.21 (RES-2022-176 : Contract Extension with the Center for Elder Law & Justice)

CFR Part 570.604 and 24 CFR Part 52. The terms and conditions of this Agreement are to be carried out in a manner consistent with all other federal, state and local laws.

9. This Agreement shall be valid only to the extent a special appropriation of Community Development Block Grant funds are made available to the Town as part of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) of 2020, and pursuant to the Town's status as an Entitlement community under Title I of the Housing Community Development Act of 1974, as Amended, for the purposes of the terms of this Agreement. Any and all payments due under this agreement shall be contingent upon the receipt by the Town of funds from the United States Department of Housing and Urban Development in the amount stipulated in the 2020 Annual Action Plan as approved by the Amherst Town Board on February 3, 2020 and Substantially Amended for the CARES Act special appropriations by the Amherst Town Board on January 4, 2021.

10. This Agreement or any right, title or interest herein shall not be assigned, transferred, conveyed, sublet or otherwise disposed of without the previous written consent of the Town.

11. This Agreement shall be in effect from April 1, 2020 through August 31, 2021. The Town reserves the right to extend the agreement in consultation with the "CELJ" based on the continuation of Coronavirus Pandemic conditions warranting an extension or due to continued extensions of Local or State Coronavirus emergency declarations beyond August 31, 2021.

12. "CELJ" shall be fully accountable for its performance under this contract and agrees for itself and its officers to answer under oath all questions relevant to the performance thereof and to any transaction and act of omission in connection therewith if called before any judicial, county, state or federal agency empowered to investigate the Agreement or its performance.

13. Consistent with "CELJ"'s status as an independent contractor, the Town shall not be responsible for workers compensation benefits, social security coverage or unemployment insurance benefits with respect to "CELJ" or its employees.

14. **Termination**

(1) The Town reserves the right to terminate this Agreement at its pleasure at any time prior to completion of the Program by giving two (2) weeks written notice of termination to "CELJ"

Attachment: signed_contract_2.17.21 (RES-2022-176 : Contract Extension with the Center for Elder Law & Justice)

either personally or by certified mail. The Town further reserves the right to terminate this Agreement for cause in the event that "CELJ" shall be in default of this Agreement; or shall become insolvent or bankrupt or assign for the benefit of creditors or take advantage of any insolvency statute or debtor or creditor law; or if its property or affairs be put in the hands of a receiver.

(2) "CELJ" reserves the right to terminate this Agreement at its pleasure at any time prior to completion of this Agreement by giving two (2) weeks written notice of termination to the Town either personally or by certified mail. "CELJ" further reserves the right to terminate this Agreement for cause in the event that the Town shall be in default of this Agreement; or shall become insolvent or bankrupt or assign for the benefit or creditors or take advantage of any insolvency statute or debtor or creditor law; or if its property or affairs be put in the hands of a receiver.

(3) The fee to be paid to "CELJ" upon such termination shall be based upon the value of the services performed by "CELJ" up to the effective date of termination.

15. Changes in the Project Description and Cost specified in Exhibit "A" may be requested by "CELJ" in writing, addressed to the Town's Planning Director for subsequent action.

16. "CELJ" agrees to comply with all applicable federal requirements and standards as pertains to audits of sub recipients of federal funds under the federal Community Development Block Grant Program.

17. **Nondiscrimination**

"CELJ" shall comply with all requirements imposed by Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 104 (b) and 109 o Title I of the Housing and Community Development Act as amended of 1974, Section 505 of th Rehabilitation Act of 1973 (29 U.S.C. Section 974), the Americans with Disabilities Act of 199(the Age Discrimination Act of 1975, Section 402 of the Vietnam Era Veterans Readjustmer Assistance Act (39 U.S.C. Chapter 42) and all regulations promulgated with respect theret including the regulations under 24 CFR Part 1. No person in the United States shall on the groun

Attachment: signed_contract_2.17.21 (RES-2022-176 : Contract Extension with the Center for Elder Law & Justice)

of race, age, color, creed, religion, national origin, sex, disability, or because he or she is a disabled veteran or veteran of the Vietnam era be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program, activity, or service provided pursuant to this Agreement.

18. **Equal Employment Opportunity**

In carrying out this Agreement, "CELJ" shall not discriminate against any employee or applicant for employment because of age, race, color, religion, sex, national origin, disability or because he or she is a disabled veteran or veteran of the Vietnam era. "CELJ" shall take affirmative action to insure that applicants for employment are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, national origin, disability or because he or she is a disabled veteran or veteran of the Vietnam era. Such action shall include, but not be limited to the following: employment upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. "CELJ" shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Government setting forth the provision of this nondiscrimination clause. "CELJ" shall state that all qualified applicants will receive consideration for employment, notices to be provided by the Government setting forth the provisions of this nondiscrimination clause. "CELJ" shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, age, disability or because he or she is a disabled veteran or veteran of the Vietnam era. "CELJ" shall incorporate the foregoing requirements of this paragraph in all of its contracts for work under this Agreement, except contracts for construction work or modification thereof, and will require all of its contractors for such work to incorporate such requirements in all subcontracts for work under this Agreement.

19. **"Section 3" Compliance in the Provision of Training, Employment and Business Opportunities.**

(a) The work to be performed under this contract is on a project assisted under a program providing direct federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, and as implemented by the regulations set forth in 24 CFR Part 135. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given lower

Attachment: signed_contract_2.17.21 (RES-2022-176 : Contract Extension with the Center for Elder Law & Justice)

income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the area of the project.

(b) Compliance with the provisions of section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued there under prior to the execution of the contract, shall be a condition of the federal financial assistance provided to the project, binding upon the applicant or recipient, its contractors and subcontractors, its successors, and assigns to those sanctions specified by the grant or loan agreement or contract through which federa assistance is provided, and to such sanctions as are specified by 24 CFR Part 135.

20. **Obligations of Grantee with Respect to Certain Third Party Relationships.**

"CELJ" shall remain fully obligated under the provisions of the Agreement notwithstanding it designation of any third party or parties for the undertaking of all or any part of this Agreement "CELJ" shall, by contractual requirement, covenant, or other binding commitment assure th compliance on the part of any contractor, subcontract, transferee, successor in interest or othe participant in the activities pursuant to this Agreement, with the lawful requirements of the Tow of Amherst necessary to insure that activities pursuant to this Agreement are carried out i accordance with the Town of Amherst's assurances and certifications pursuant to the Communit Development Block Grant Program, including those with respect to the assumption o environmental responsibilities of the Town of Amherst under section 104(h) of the Housing an Community Development Act of 1974.

21. **Interest of Certain Federal Officials.**

No member of or delegate to the Congress of the United States, and no Resident Commissione shall be admitted to any share or part of this Agreement or to any benefit to arise from the same.

22. **Interest of Members, Officers, or Employees of Grantee, Members of Local Governing Body or Other Public Officials.**

No member, officer, or employee of "CELJ" or its designees or agents, no member of th governing body of the Town of Amherst and no other public official of the Town of Amherst wh exercises any functions or responsibilities with respect to the program during his tenure or for on year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or th proceeds thereof, for work to be performed in connection with the program assisted under th

Attachment: signed_contract_2.17.21 (RES-2022-176 : Contract Extension with the Center for Elder Law & Justice)

Agreement. "CELJ" shall incorporate, or cause to be incorporated, in all such contracts or subcontracts a provision prohibiting such interest pursuant to the purposes of this section.

23. **Prohibition Against Payments of Bonus or Commission.**

The assistance provided under this Agreement shall not be used in the payment of any bonus or commission for the purpose of obtaining H.U.D. approval of the application for such assistance, or H.U.D. approval of applications for additional assistance, or any other approval or concurrence of H.U.D. required under this Agreement, Title I of the Housing and Community Development Act of 1974, as amended, or H.U.D. regulations with respect thereto; provided, however, that reasonable fees or bona fide technical, consultant, managerial or other such services, other than actual solicitation, are not hereby prohibited if otherwise eligible as program costs.

24. **Nondiscrimination in Housing.**

"CELJ" shall comply with all requirements imposed by Title VIII of the Civil Rights Act of 1968, and the H.U.D. regulations with respect thereto, and Executive Order 11063. Title VIII prohibits discrimination in the sale or rental of dwellings (as defined), discrimination in the financing of housing, block busting, and discriminatory advertising and makes it unlawful to deny any person access to, or membership and participation in, any multiple-listing service or real estate brokers' organization for discriminatory purposes.

25. **Hatch Act**

"CELJ" agrees that no funds provided, nor personnel employed under this Agreement, shall in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V of the U.S.C.

26. **Conflict of Interest**

"CELJ" agrees to abide by the provisions of 24 CFR Part 84.42 and Part 570.611 in regards to conflicts of interest in conducting activities related to this Agreement.

27. **Funding Source Recognition**

"CELJ" shall insure recognition of the role of the Community Development Block Grant funding source in providing services through this agreement. All activities, publications and items created pursuant to this Agreement shall be labeled as to funding source.

Attachment: signed_contract_2.17.21 (RES-2022-176 : Contract Extension with the Center for Elder Law & Justice)

28. **Lobbying & Religious Activities**

By signing this Agreement, "CELJ" certifies that no federal funds have been paid or will be paid by or on behalf of it, to any person for lobbying activities including influencing or attempting to influence an officer or employee of any state, local or federal agency or elected office. In addition "CELJ" agrees that funds provided under this agreement will not be utilized for inherently religious activities prohibited by 24 CFR Part 570.200(j), such as worship, religious instruction or proselytization.

29. **Compliance**

The obligation of "CELJ" to comply with the provisions of paragraph 17 through 28 of this Agreement shall inure to the benefits of the United States, H.U.D. and the Town of Amherst, any of which shall be entitled to invoke any remedies available by law to redress any breach thereof or to complete compliance therewith by "CELJ".

"CELJ" shall, by contractual requirement, covenant, or other binding commitment assure the compliance with the above provision of the provisions of paragraph 17 through 28 of this Agreement on the part of any contractor, subcontractor, transferee, successor in interest or other participant in any activities pursuant to this Agreement.

Attachment: signed_contract_2.17.21 (RES-2022-176 : Contract Extension with the Center for Elder Law & Justice)

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the day and year first above written.

TOWN OF AMHERST

By: _____
Brian J. Kulpa, Supervisor

CENTER FOR ELDER LAW & JUSTICE

By: _____

PRIVATE CORPORATION ACKNOWLEDGMENT

STATE OF NEW YORK)
TOWN OF AMHERST) ss:
COUNTY OF ERIE)

On the 9th day of February, in the year Two Thousand Twenty One, before me, the undersigned, personally appeared Karen Nicolson, personally known to me or proved to me on the basis of satisfactory evidence to be the individual (s) whose name (s) is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

KELLY BARRETT SARAMA
Notary Public, State of New York
Registration No. 02SA6338040
Qualified in Erie County
Commission Expires March 07, 2024

_____
NOTARY PUBLIC

MUNICIPAL CORPORATION ACKNOWLEDGMENT

STATE OF NEW YORK)
TOWN OF AMHERST) ss:
COUNTY OF ERIE)

On the_____day of_____, in the year Two Thousand Twenty One, before me, the undersigned, personally appeared Brian J. Kulpa, personally known to me or proved to me on the basis of satisfactory evidence to be the individual (s) whose name (s) is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

_____
NOTARY PUBLIC

Attachment: signed_contract_2.17.21 (RES-2022-176 : Contract Extension with the Center for Elder Law & Justice)

EXHIBIT "A"

SCOPE OF SERVICES AND REPORTING REQUIREMENTS

SCOPE OF SERVICES:

"CELJ" shall perform the following professional services:

Provide Town of Amherst Seniors (age 55 and older) with direct legal services related to housing, financial an medical situations as they relate to the Coronavirus Pandemic.

Hire a full-time paralegal to support assistance to Amherst's seniors with the following services to prevent homelessness:

- Tenant assistance and mediation services for help with apartment/housing needs, including referrals.
- Education on NYS Housing Laws and/or Executive Orders
- One-on-one counseling and group workshops for rental and eviction/homeless prevention
- Client intake, referrals, outreach and marketing
- Predatory lending/Foreclosure prevention strategies
- Financial literacy (budgeting, debt management, debit and credit, savings, banking, etc.)
- Fair Housing Education
- Mortgage and Foreclosure Counseling
- Referral Services in relation to COVID-19 issues
- Tenant and Landlord counseling

Provide legal advice and counsel for older adults who are facing eviction from assisted living facilities.

Total **$62,500**

REPORT AND VERIFICATION SYSTEM:

1. The "CELJ" will provide the following information to the Town on a quarterly basis or when invoicing:

   a. "CELJ" quarterly statistical report showing levels of counseling, referrals and legal assistanc provided to Amherst residents/potential residents by age, sex, race, ethnicity, (e.g., Hispanic) an household income % AMI and type of assistance requested, (e.g., mortgage default, evictio prevention) for the quarter.

   b. "CELJ" will provide payroll forms for the paralegal that would be working with the Amherst resident

   c. "CELJ" will not be required to submit any other information than that described in this Section 1 i order to verify delivery of the services described above in this Exhibit "A".

Attachment: signed_contract_2.17.21 (RES-2022-176 : Contract Extension with the Center for Elder Law & Justice)

2. The Town may designate a Town Monitor to review "CELJ's" case files of Town residents on an annual basis. The person acting as monitor for the Town shall be associated with the Town's Community Development Program, namely, one of the following:

a. Associate Planner
b. Community Development Assistant

3. The reviews of case files by the Town Monitor will take place at the main office of "CELJ", 438, Main Street, Suite 1200, Buffalo, New York 14202. No case file information or copies of case file information will be removed from that office.

4. The Town Monitor described in Section 2 above shall be responsible for the confidentiality of any client information obtained by review of "CELJ" files.

5. The person(s) to whom the Town Monitor reports shall likewise be responsible for the confidentiality of any client information obtained by the Town Monitor's review of the "CELJ" files.

Attachment: signed_contract_2.17.21 (RES-2022-176 : Contract Extension with the Center for Elder Law & Justice)

EXHIBIT "B"
FY 2020 INCOME GUIDELINES & STATS CHART

Verification of household income must be supplied. To qualify, you must be under 80% of the FY 2020 median income guidelines below:

Annual Household Income – FY 2020
(Effective July 1, 2020)

Household Size	Median Income	80% AMI	50% AMI	30% AMI
1	$ 54,375	**$ 43,500**	$ 27,200	$16,350
2	$ 62,100	**$ 49,700**	$ 31,050	$18,650
3	$ 69,900	**$ 55,900**	$ 34,950	$21,000
4	$ 77,600	**$ 62,100**	$ 38,800	$23,300
5	$ 83,900	**$ 67,100**	$ 41,950	$25,200
6	$ 90,100	**$ 72,050**	$ 45,050	$27,050
7	$ 96,300	**$ 77,050**	$ 48,150	$28,900
8	$ 102,500	**$ 82,000**	$ 51,250	$30,800

HOUSEHOLD CHARACTERISTICS: Complete one line for each household assisted. One code only in each block.

ADDRESS OF HOUSEHOLD	# MEMBERS ASSISTED IN HOUSEHOLD	% HOUSEHOLD INCOME	RACE OF HEAD OF HOUSEHOLD *	HISPANIC **Y/N**	FEMALE HEAD OF HOUSEHOLD **Y/N**

***Race of Household**
11-Caucasian
12-African American
13-Asian
14-American Indian or Alaskan Native
15-Native Hawaiian or other Pacific Islander
16-American Indian/Alaska Native & White
17-Asian & Caucasian
18-African American & Caucasian
19-American Indian or Alaskan Native & African American
20-Other Multi-Racial

Attachment: signed_contract_2.17.21 (RES-2022-176 : Contract Extension with the Center for Elder Law & Justice)

Consultant Minor Exposure Addendum to Contract

1. Notwithstanding any other provision in this Agreement, the following clauses shall be controlling. Should any other provision of the Agreement conflict with the clauses in this Addendum then the provisions of this Addendum are to be enforceable and any conflicting provision shall be considered null and void.

2. No rules, requirements or customs of any society or association of professional Consultants or any similar association shall affect this Agreement in any way whatsoever or be binding upon the Town.

3. To the fullest extent permitted by law, Consultant shall indemnify and hold the Town, its officers, agents, and employees, harmless from any and all liability, demands, claims, or expenses, awards or judgments imposed upon the Town, its officers, agents, and/or employees, arising out of the work of the Consultant its officers, agents, sub-Consultants, and/or employees as well as the negligence, active or passive, of the Consultant, its officers, agents, sub-Consultants, and/or employees.

4. Consultant shall not commence work under this Agreement until it has obtained all insurance specified below, produced satisfactory proof of the same and such insurance has been approved by the Town.

(a) Workers' Compensation Insurance: Consultant shall take out and maintain during the life of this Agreement, Workers' Compensation Insurance (both Part A and Part B) for its employees to be assigned to the work hereto under.

(b) General Liability, Professional (if applicable) Liability and Property Damage Insurance: Consultant shall take out and maintain during the life of this Agreement, such general liability and property damage insurance as shall protect it and the Town of Amherst from claims for damages for personal injury, including accidental death, as well as from claims for property damage, which may arise from operations under this Agreement. The amounts of such insurance shall be as follows in an amount not less than $1,000,000.00 per occurrence for bodily injury and property damage including wrongful death, and $2,000,000.00 aggregate.

(c) Consultant shall furnish the above insurances, including sub-Consultants' insurances, to the Town and shall also assure that any policy procured by it shall name the Town as an additional insured on a primary and non-contributory basis.

(d) Consultant shall ensure all its sub-Consultants, if any, have obtained all the above insurances and shall also assure that any policy procured by any sub-Consultant or sub-sub Consultant shall name the Town as an additional insured on a primary and non-contributory basis.

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.

Attachment: signed_contract_2.17.21 (RES-2022-176 : Contract Extension with the Center for Elder Law & Justice)

6. No Assignment: In accordance with the provisions of Section 109 of the General Municipal Law, the Consultant is hereby prohibited from assigning, transferring, conveying, subletting or otherwise disposing of this Agreement, or of its right, title or interest in this agreement, or its power to execute this Agreement, to any other person or corporation without the previous consent in writing of the Town.

7. Required Provisions of Law: Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to have been inserted herein. If any such provision is not inserted through mistake or otherwise, then upon the application of either party this Agreement shall be physically amended forthwith to make such insertion. In particular, the Consultant shall, among other things, fully comply with:

(a) Article 8 of the NYS Labor Law for public work contracts and Article 9 of the Labor Law regarding prevailing wage for Building Service employees.

(b) Labor Law Section 220-e and Executive Law Sections 291-299 and the Civil Rights Law relating to prohibition against discrimination and equal opportunity.

(c) Affirmative action as required by the Labor Law.

(d) Prevention of dust hazard required by Labor Law Section 222-a.

(e) Preference in employment of persons required by Labor Law Section 222.

(f) Eight-hour workday as required by Labor Law Section 220(2).

(g) Chapter 32 of the Town of Amherst: Minority Women and Business Utilization Commitment.

(h) Chapter 163 of the Town of Amherst: Registration of Sex Offenders.

8. The Consultant, in accordance with its status as an independent Consultant, covenants and agrees that it will conduct itself consistent with such status. It will neither hold itself out as nor claim to be, an officer or employee of the Town by reason hereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the Town, including, but not limited to: workers compensation coverage, unemployment insurance benefits, Social Security coverage, or retirement membership or credit.

Waiver: No waiver of any breach of any condition of the Agreement shall be binding unless in writing and signed by the party waiving said breach. No such waiver shall in any way affect any other term or condition of this Agreement or constitute a cause or excuse for a repetition of such or any other breach unless the waiver shall include the same.

9. This Agreement shall be governed by, and interpreted according to the laws of the State of New York. If the contract between the parties refers to the laws, statutes, rules, regulations or ordinances for any state other than New York State, to the laws, statutes, rules, regulations 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.

Attachment: signed_contract_2.17.21 (RES-2022-176 : Contract Extension with the Center for Elder Law & Justice)

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:

Center for Elder Law & Justice
Print Name of Company

By: _____
Signature

Karen Nicolson
Printed name

Date: 2/19/21

Agreed to and Accepted by:

Town of Amherst

By: _____
Brian J. Kulpa, Supervisor

Brian J. Kulpa, Supervisor
Printed name

Date: _____

Attachment: signed_contract_2.17.21 (RES-2022-176 : Contract Extension with the Center for Elder Law & Justice)

IRAN DIVESTMENT ACT CERTIFICATION

As a result of the Iran Divestment Act of 2012 (Act), Chapter 1 of the 2012 Laws of New York, a provision was added to the State Finance Law (SFL), Section 165-a, effective April 12, 2012. Under the Act, the Commissioner of the Office of General Services (OGS) will develop a list (prohibited entities list) of "persons" who are engaged in "investment activities in Iran" (both are defined terms in the law). This list is posted on the OGS website.

By submitting a response to this solicitation, or by assuming the responsibility under a Contract/Lease awarded hereunder, Bidder/Contractor/Vendor (or any assignee) certifies that it will not utilize on such Contract/Lease any subcontractor that is identified on the prohibited entities list.

Additionally, Bidder/Contractor/Vendor is advised that any Bidder/ Contractor/Vendor seeking to renew or extend a Contract/Lease (or assume responsibility of a Contract/Lease awarded must certify at the time the Contract/Lease is renewed, extended or assigned that it is not included on the prohibited entities list.

During the term of the Contract/Lease, should the Town of Amherst (Town) receive information that a person is in violation of the above-referenced certification, the Town will offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment which is in violation of the Act within 90 days after the determination of such violation, then the Town shall take such action as appropriate including, but not limited to, imposing sanctions, seeking compliance, recovering damages or declaring the Bidder/Contractor/Vendor in default.

The Town reserves the right to reject any Contract/Lease or request for assignment for an entity that appears on the prohibited entities list prior to the award of a Contract/Lease, and to pursue a responsibility review with respect to any entity that is awarded a Contract/Lease and appears on the prohibited entities list after Contract/Lease award.

Company Name: Center for Elder Law + Justice

Signature: [signature]

Print Name: Karen Nicolson

Title: CED

Date: 2/9/21

Sworn To Before Me This

9th Day of February, 2021

[signature]

Notary Public

KELLY BARRETT SARAMA
Notary Public, State of New York
Registration No. 02SA6338040
Qualified in Erie County
Commission Expires March 07, 2024

Revised 4.2017

Attachment: signed_contract_2.17.21 (RES-2022-176 : Contract Extension with the Center for Elder Law & Justice)

Contract Extension Between the Town of Amherst and The Center for Elder Law & Justice (CELJ)

THIS AGREEMENT, made and entered into as of the ___ day of _____, 2022 by and between the TOWN OF AMHERST, a domestic municipal corporation having its principal place of business at Amherst Town Hall, 5583 Main Street, Williamsville, NY 14221 hereinafter referred to as the Town, and THE CENTER FOR ELDER LAW & JUSTICE (CELJ) located at 438 Main Street, Suite 1200, Buffalo, NY 14202 hereinafter referred to as "CELJ".

WITNESSETH

WHEREAS, The Legal Aid Bureau has submitted a proposal, dated December 9, 2020, to provide free legal services to senior Town residents to prevent evictions, foreclosures and homelessness due to the pandemic; and

WHEREAS, legal aid services are an eligible use of Community Development Block Grant funds, and

WHEREAS, the current contract approved on March 8, 2021 has a term from April 1, 2020 through August 31, 2021 with an option for an extension based on the continuation of Coronavirus Pandemic conditions, and

WHEREAS, the Town Supervisor, by requested action of the Town Board of the Town of Amherst, on February 7, 2022 will be authorized to **execute a twelve month extension of the agreement with CELJ for the provision of legal services to September 30, 2022, and**

NOW THEREFORE, IT IS AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:

Section 1 – Services

1.0 CELJ will provide all necessary professional legal services, as contracted and pursuant to their proposal dated December 9, 2020 and will provide such services to September 30, 2022, not to exceed $**62,500.00**.

Section 2 - Assignment

1.0 This Agreement or any right, title or interest herein shall not be assigned, transferred, conveyed, sublet or otherwise disposed of without the prior written consent of the Town.

Section 3 - Entire Agreement

1.0 This Agreement and attachments thereto contains the entire agreement between the parties hereto, and there are no understandings, agreements or representations, express or implied, not specified herein respecting this Agreement; and no change or modification of this Agreement shall be valid unless the same shall be in writing and signed by the parties hereto.

Attachment: signed_contract_extension_1.31.22 (RES-2022-176 : Contract Extension with the Center for Elder Law & Justice)

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands the day and year first written above.

TOWN OF AMHERST

By: _____
Brian J. Kulpa, Supervisor

THE CENTER FOR ELDER LAW & JUSTICE, INC.

By: _____
Karen Nicolson, Chief Executive Officer

State of New York)
County of Erie)

On this _____ day of _____ , in the year 2022, before me, the undersigned, a notary public in and for said state, personally appeared Brian J. Kulpa, Supervisor, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

_____
Notary Public

State of New York)
County of Erie)

On this 31st day of January , in the year 2022, before me, the undersigned, a notary public in and for said state, personally appeared Karen Nicolson , personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Liam McMahon
Notary Public, State of New York
Qualified in Niagara County
Reg. No. 01MC6393411
My Commission Expires 6-17-2023

_____
Notary Public

X:\Community Development\New Structure\CONTRACTS and SUBRECIPIENTS\Legal Services\CELJ\CELJ_ Extension_1.19.22.docx

Attachment: signed_contract_extension_1.31.22 (RES-2022-176 : Contract Extension with the Center for Elder Law & Justice)

Addendum to Contract

Notwithstanding any other provision in this Agreement, the following clauses shall be controlling. Should any other provision conflict with the clauses in this Article the provisions in this Article are to be enforceable and the conflicting provision shall be considered null and void.

No rules, requirements or customs of any society or association of professional Contractors or any similar association shall affect this Agreement in any way whatsoever or be binding upon the Town.

Contractor shall indemnify and hold the Town, its officers, agents, and employees, harmless from any and all liability, demands, claims, or expenses, awards or judgments imposed upon the Town, its officers, agents, and/or employees, arising from the negligence, active or passive, of Contractor, its officers, agents, subcontractors, and/or employees.

Contractor shall not commence work under this Agreement until it has obtained all insurance required under this paragraph and such insurance has been approved by the Town.

(a) Workers' Compensation Insurance: Contractor shall take out and maintain during the life of this Agreement, Workers' Compensation Insurance for its employees to be assigned to the work hereto under.

(b) General Liability, Professional (if applicable) Liability and Property Damage Insurance: Contractor shall take out and maintain during the life of this Agreement, such general liability and property damage insurance as shall protect it 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:

General and Professional (if applicable) Liability insurance 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.

Contractor shall ensure all its subcontractors, if any, have obtained all the above insurances.

Contractor shall furnish the above insurances, including subcontractors' insurances, to the Town and shall also name the Town as a primary additional insured in said policies.

(c) 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 and no later than three (3) days after the date of such accident.

No Assignment: In accordance with the provisions of section 109 of the General Municipal Law, the Contractor is hereby prohibited from assigning, transferring, conveying, subletting or otherwise disposing of this Agreement, or of its right, title or interest in this agreement, or its power to execute this Agreement, to any other person or corporation without the previous consent in writing of the Town.

Required Provisions of Law: Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to have been inserted herein. If any such provision is not inserted through mistake or otherwise, then upon the application of either party this Agreement shall be physically amended forthwith to make such insertion. In particular, the Contractor shall, among other

Attachment: signed_contract_extension_1.31.22 (RES-2022-176 : Contract Extension with the Center for Elder Law & Justice)

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.

The Contractor, in accordance with its status as an independent Contractor, covenants and agrees that it will conduct itself consistent with such status. It will neither hold itself out as nor claim to be, an officer or employee of the Town by reason hereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the Town, including, but not limited to: workers' compensation coverage, unemployment insurance benefits, Social Security coverage, or retirement membership or credit.

Waiver: No waiver of any breach of any condition of the Agreement shall be binding unless in writing and signed by the party waiving said breach. No such waiver shall in any way affect any other term or condition of this Agreement or constitute a cause or excuse for a repetition of such or any other breach unless the waiver shall include the same.

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.

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. 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:

Center for Elder Law & Justice
Print Name of Company

By: _____
Signature

Karen Nicolson
Printed name

Date: 1/31/22

Agreed to and Accepted by:

Town of Amherst

By: _____
Brian J. Kulpa, Supervisor

Brian J. Kulpa
Printed name

Date: _____

Revised 11/17/11 MSL

Attachment: signed_contract_extension_1.31.22 (RES-2022-176 : Contract Extension with the Center for Elder Law & Justice)

IRAN DIVESTMENT ACT CERTIFICATION

As a result of the Iran Divestment Act of 2012 (Act), Chapter 1 of the 2012 Laws of New York, a provision was added to the State Finance Law (SFL), Section 165-a, effective April 12, 2012. Under the Act, the Commissioner of the Office of General Services (OGS) will develop a list (prohibited entities list) of "persons" who are engaged in "investment activities in Iran" (both are defined terms in the law). This list is posted on the OGS website.

By submitting a response to this solicitation, or by assuming the responsibility under a Contract/Lease awarded hereunder, Bidder/Contractor/Vendor (or any assignee) certifies that it will not utilize on such Contract/Lease any subcontractor that is identified on the prohibited entities list.

Additionally, Bidder/Contractor/Vendor is advised that any Bidder/ Contractor/Vendor seeking to renew or extend a Contract/Lease (or assume responsibility of a Contract/Lease awarded must certify at the time the Contract/Lease is renewed, extended or assigned that it is not included on the prohibited entities list.

During the term of the Contract/Lease, should the Town of Amherst (Town) receive information that a person is in violation of the above-referenced certification, the Town will offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment which is in violation of the Act within 90 days after the determination of such violation, then the Town shall take such action as appropriate including, but not limited to, imposing sanctions, seeking compliance, recovering damages or declaring the Bidder/Contractor/Vendor in default.

The Town reserves the right to reject any Contract/Lease or request for assignment for an entity that appears on the prohibited entities list prior to the award of a Contract/Lease, and to pursue a responsibility review with respect to any entity that is awarded a Contract/Lease and appears on the prohibited entities list after Contract/Lease award.

Company Name: Center for Elder Law + Justice

Signature: [signature]

Print Name: Karl L. Nicolai

Title: CEO

Date: 1/31/22

Sworn To Before Me This

31st Day of January, 2022

Notary Public

Liam McMahon
Notary Public, State of New York
Qualified in Niagara County
Reg. No. 01MC6393411
My Commission Expires 6-17-2023

Revised 4.2017

Attachment: signed_contract_extension_1.31.22 (RES-2022-176 : Contract Extension with the Center for Elder Law & Justice)

CENTFOR-13 JNOWAK

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 1/20/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER License # 1009544 Lawley, LLC 361 Delaware Avenue Buffalo, NY 14202	CONTACT NAME: Jessica Pontrello PHONE (A/C, No, Ext): (716) 849-1568 1568 FAX (A/C, No): (716) 849-8291 E-MAIL ADDRESS: jpontrello@lawleyinsurance.com
INSURED Center for Elder Law & Justice Inc 438 Main St, Suite 1200 Buffalo, NY 14202	INSURER(S) AFFORDING COVERAGE — NAIC # INSURER A : Hartford Underwriters Insurance Company — 30104 INSURER B : Chubb Indemnity Insurance Company — 12777 INSURER C : INSURER D : INSURER E : INSURER F :

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY			01SBAAE7PN3	12/21/2021	12/21/2022	EACH OCCURRENCE	$ 2,000,000
	CLAIMS-MADE X OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 1,000,000
							MED EXP (Any one person)	$ 10,000
							PERSONAL & ADV INJURY	$ 2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$ 4,000,000
	POLICY PRO-JECT X LOC						PRODUCTS - COMP/OP AGG	$ 4,000,000
	OTHER:							$
A	AUTOMOBILE LIABILITY			01SBAAE7PN3	12/21/2021	12/21/2022	COMBINED SINGLE LIMIT (Ea accident)	$ 1,000,000
	ANY AUTO						BODILY INJURY (Per person)	$
	OWNED AUTOS ONLY / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	X HIRED AUTOS ONLY / X NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
								$
A	X UMBRELLA LIAB X OCCUR			01SBAAE7PN3	12/21/2021	12/21/2022	EACH OCCURRENCE	$ 2,000,000
	EXCESS LIAB CLAIMS-MADE						AGGREGATE	$ 2,000,000
	DED X RETENTION $ 10,000							$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			71780715	8/17/2021	8/17/2022	X PER STATUTE / OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N: N	N/A					E.L. EACH ACCIDENT	$ 1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$ 1,000,000
							E.L. DISEASE - POLICY LIMIT	$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

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

ACORD 25 (2016/03) © 1988-2015 ACORD CORPORATION. All rights reserved.
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Attachment: signed_contract_extension_1.31.22 (RES-2022-176 : Contract Extension with the Center for Elder Law & Justice)

NEW YORK STATE | Workers' Compensation Board

CERTIFICATE OF NYS WORKERS' COMPENSATION INSURANCE COVERAGE

1a. Legal Name and address of Insured (Use street address only)	1b. Business Telephone Number of Insured
Center for Elder Law & Justice Inc 438 Main St, Suite 1200 Buffalo, NY 14202	(716) 853-3087 **1c. NYS Unemployment Insurance Employer Registration Number of Insured**
Work Location of Insured *(Only required if coverage is specifically limited to certain location in New York State, i.e. a Wrap-Up Policy)*	**1d. Federal Employer Indentification Number of Insured or Social Security Number** 16-1118282
2. Name and Address of the Entity Requesting Proof of Coverage (Entity Being Listed as the Certificate Holder)	**3a.Name of Insurance Carrier**
Town of Amherst 5583 Main Street Williamsville, NY 14221	Chubb Indemnity Insurance Company **3b. Policy Number of entity listed in box "1a":** 71780715 **3c. Policy effective period:** 08/17/2021-08/17/2022 **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 must notify the above certificate holder and the Workers' Compensation Board within 10 days IF a policy is canceled due to nonpayment of premiums or within 30 days IF there are reasons other than nonpayment of premiums that cancel the policy or eliminate the insured from the coverage indicated on this Certificate. (These notices may be sent by regular mail.) Otherwise, this Certificate is valid for one year after this form is approved by the insurance carrier or its licensed agent, or until the policy expiration date listed in box "3c", whichever is earlier.

This certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend or alter the coverage afforded by the policy listed, nor does it confer any rights or responsibilities beyond those contained in the referenced policy.

This certificate may be used as evidence of a Workers' Compensation contract of insurance only while the underlying policy is in effect.

Please Note: Upon cancellation of the workers' compensation policy indicated on this form, if the business continues to be named on a permit, license or contract issued by a certificate holder, the business must provide that certificate holder with a new Certificate of Workers' Compensation Coverage or other authorized proof that the business is complying with the mandatory coverage requirements of the New York State Workers' Compensation Law.

Under penalty of perjury, I certify that I am an authorized representative or licensed agent of the insurance carrier referenced above and that the named insured has the coverage as depicted on this form.

Approved By: **William Lawley Jr.**
(Print name of authorized representative or licensed agent of insurance carrier)

Approved By: _____ 1/20/22
(Signature) (Date)

Title: **Managing Partner**

Telephone Number of authorized representative or licensed agent of insurance carrier: CarrierPhone

Please Note: Only insurance carriers and their licensed agents are authorized to issue the C-105.2 form. Insurance brokers are NOT authorized to issue it.

C-105.2 (9-17) www.wcb.ny.gov

Attachment: signed_contract_extension_1.31.22 (RES-2022-176 : Contract Extension with the Center for Elder Law & Justice)

Workers' Compensation Law

Section 57. Restriction on issue of permits and the entering contracts unless compensation is secured.

1. The head of a state or municipal department, board, commission or office authorized or required by law to issue any permit for or in connection with any work involving the employment of employees in a hazardous employment defined by this chapter, and notwithstanding any general or special statute requiring or authorizing the issue of such permits, shall not issue such permit unless proof duly subscribed by an insurance carrier is produced in a form satisfactory to the chair, that compensation for all employees has been secured as provided by this chapter. Nothing herein, however, shall be construed as creating any liability on the part of such state or municipal department, board, commission or office to pay any compensation to any such employee if so employed.

2. The head of a state or municipal department, board, commission or office authorized or required by law to enter into any contract for or in connection with any work involving the employment of employees in a hazardous employment defined by this chapter, notwithstanding any general or special statute requiring or authorizing any such contract, shall not enter into any such contract unless proof duly subscribed by an insurance carrier is produced in a form satisfactory to the chair, that compensation for all employees has been secured as provided by this chapter.

C-105.2 (9-17) REVERSE

Attachment: signed_contract_extension_1.31.22 (RES-2022-176 : Contract Extension with the Center for Elder Law & Justice)

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)

Center for Elder Law & Justice Inc.
438 Main St, Suite 1200
Buffalo, NY 14202

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) 853-3087

1c. Federal Employer Identification Number of Insured or Social Security Number

16-1118282

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

Shelter Point Life Insurance Co.

3b. Policy Number of Entity Listed in Box "1a"

D597345

3c. Policy effective period

1-1-2022 to 1-1-2023

4. Policy provides the following benefits:

- [X] A. Both disability and paid family leave benefits.
- [ ] B. Disability benefits only.
- [ ] C. Paid family leave benefits only.

5. Policy covers:

- [X] A. All of the employer's employees eligible under the NYS Disability and Paid Family Leave Benefits Law.
- [ ] B. Only the following class or classes of employer's employees:

Under penalty of perjury, I certify that I am an authorized representative or licensed agent of the insurance carrier referenced above and that the named insured has NYS Disability and/or Paid Family Leave Benefits insurance coverage as described above.

Date Signed 1-21-2022 By _____
(Signature of insurance carrier's authorized representative or NYS Licensed Insurance Agent of that insurance carrier)

Telephone Number (716) 849-8618 Name and Title William Lawley, Jr., Principal

IMPORTANT: If Boxes 4A and 5A are checked, and this form is signed by the insurance carrier's authorized representative or NYS Licensed Insurance Agent of that carrier, this certificate is COMPLETE. Mail it directly to the certificate holder.

If Box 4B, 4C or 5B is checked, this certificate is NOT COMPLETE for purposes of Section 220, Subd. 8 of the NYS Disability and Paid Family Leave Benefits Law. It must be mailed for completion to the Workers' Compensation Board, Plans Acceptance Unit, PO Box 5200, Binghamton, NY 13902-5200.

PART 2. To be completed by the NYS Workers' Compensation Board (Only if Box 4C or 5B of Part 1 has been checked)

State of New York
Workers' Compensation Board

According to information maintained by the NYS Workers' Compensation Board, the above-named employer has complied with the NYS Disability and Paid Family Leave Benefits Law with respect to all of his/her employees.

Date Signed _____ By _____
(Signature of Authorized NYS Workers' Compensation Board Employee)

Telephone Number _____ Name and Title _____

Please Note: *Only insurance carriers licensed to write NYS disability and paid family leave benefits insurance policies and NYS licensed insurance agents of those insurance carriers are authorized to issue Form DB-120.1.* ***Insurance brokers are NOT authorized to issue this form.***

DB-120.1 (10-17)

DB-120.1 (10-17)

Attachment: signed_contract_extension_1.31.22 (RES-2022-176 : Contract Extension with the Center for Elder Law & Justice)

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 Workers' Compensation Board within 10 days IF a policy is cancelled due to nonpayment of premiums or within 30 days IF there are reasons other than nonpayment of premiums that cancel the policy or eliminate the insured from coverage indicated on this Certificate. (These notices my 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: signed_contract_extension_1.31.22 (RES-2022-176 : Contract Extension with the Center for Elder Law & Justice)

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

Francina J. Spoth
Town Clerk

Meeting: 02/07/22 07:00 PM
Department: Police
Initiated by: **Scott Chamberlin**
Co-Sponsored by:

DOC ID: 25318 **RESOLUTION 2022-177** **ADOPTED**

Travel & Training Request Institute of Police Technology and Management Pedestrian/Bicycle Crash Investigation Court

TOWN BOARD AGENDA ITEM : FEBRUARY 7, 2022

TO: **Town Board**

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

RE: **Travel & Training Request**
Institute of Police Technology and Management
Pedestrian/Bicycle Crash Investigation Court

Kindly adopt a Resolution authorizing two (2) Investigators to attend an investigative course with regard to the above matter. This course was held in Saratoga County, New York from January 23, 2022 through January 28, 2022. The cost for this course is approximately $1354.13.

Thank you.

SPC:msl
Attachment
C: Tim Koller, Deputy Town Clerk **(Agenda Item: February 7, 2022)**

2/7/2022
Consent

FINANCIAL IMPACT:

A 3121 .4050: $111.03

A 3121 .4120: $1,120.00

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

TRAVEL EXPENSE APPROVAL/REIMBURSEMENT FORM

☐ $250 or LESS and under 75 miles Department Head Approval ONLY Required *REVISED 01/01/2018*

☐ $250 + or greater than 75 miles Department Head AND Town Board Approval Required

NAME	Employee #	Department	Phone Number
[redacted]		Police	716-689-1311

Destination and Purpose of Trip

Date of Departure	Date of Return	Destination	Purpose/Justification
1/23/2022	1/28/2022	Saratoga County, NY	IPTM Pedestrian/Bicycle Crash Investigation Course

Expenses	Estimated	Budget A/C #	Actual
Transportation:			
Mileage @ $0.545	$100 gas Patrol vehicle	A3121.4050	
Tolls	11.03	"	
Parking			
Local Transportation (bus/taxi)			
Plane/Rail/Bus			
Lodging:			
5 # nights @ $ 116	$580	A3121.4120	
Meals:			
IRS Per Diem Per Day: $			
1st & Last Day of Travel @ 75%			
0 # Breakfasts @ $	$0		
12 # Lunches @ $14	$168	A3121.4120	
12 # Dinners @ $26	$312	"	
12 # Incidentals @ $5	$60	"	
Registration/Conference Fee	N/A		
Other			
Subtotal	$1231.03		N/A
Contingency - 10% of subtotal or $200	$123.10		N/A
TOTAL	$1354.13		

Request Approved By:

Department Head Signature

1/19/2022

Date

Town Board :

Town Board Resolution & Date

I hereby certify that I have expended the above itemized amounts for business purposes for the Town of Amherst. Required receipts are attached.

Employee Signature Date

Print Employee Name

Reimbursement Approved By:

Department Head Signature Date

Complete Shaded Area
For Expense Reimbursement

Forms\Travel Expense Reimbursement Form 4.7.17

Attachment: TravelRequestIPTMPedBicycleInvCourse1.23.22 (RES-2022-177 : Travel & Training Request)

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

Francina J. Spoth
Town Clerk

Meeting: 02/07/22 07:00 PM
Department: Police
Initiated by: **Scott Chamberlin**
Co-Sponsored by:

DOC ID: 25357 **RESOLUTION 2022-178** **ADOPTED**

Travel & Training Request NYTOA Law Enforcement Tactical Training Conference & Expo

TOWN BOARD AGENDA ITEM : FEBRUARY 7, 2022

TO: **Town Board**

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

RE: **Travel & Training Request**
NYTOA Law Enforcement Tactical Training Conference & Expo

Kindly adopt a Resolution authorizing four (4) ERT members to attend the NYTOA Law Enforcement Tactical Training Conference & Expo. This conference is held in Verona, New York from April 26, 2022 through April 29, 2022. The cost for this course is approximately $3407.46.

Thank you.

SPC:msl
Attachment
C: Tim Koller, Deputy Town Clerk **(Agenda Item: February 7, 2022)**

2/7/2022
Consent

FINANCIAL IMPACT:

A 3121 .4050: $107.50

A 3121 .4120: $3,299.96

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

TRAVEL EXPENSE APPROVAL/REIMBURSEMENT FORM

☐ $250 or LESS and under 75 miles Department Head Approval ONLY Required *REVISED 01/01/2018*

☑ $250 + or greater than 75 miles Department Head AND Town Board Approval Required

NAME	Employee #	Department	Phone Number
[redacted]		Police	716-689-1311

Destination and Purpose of Trip

Date of Departure	Date of Return	Destination	Purpose/Justification
4/26/2022	4/29/2022	Verona, NY	NYTOA SWAT Conference

Expenses	Estimated	Budget A/C #	Actual
Transportation:			
Mileage @ $0.545	$100 (Gas for Police car)	A3121.4050	
Tolls	$7.50	A3121.4050	
Parking			
Local Transportation (bus/taxi)			
Plane/Rail/Bus			
Lodging:			
6 # nights @ $ 182	$1092	A3121.4120	
Meals:			
IRS Per Diem Per Day: $			
1st & Last Day of Travel @ 75%			
16 # Breakfasts @ $ 14	$224	A3121.4120	
12 # Lunches @ $ 16	$192	A3121.4120	
12 # Dinners @ $ 26	$312	A3121.4120	
16 # Incidentals @ $ 5	$80	A3121.4120	
Registration/Conference Fee	4@ $349.99 = $1399.96	A3121.4120	
Other			
Subtotal	$3407.46		N/A
Contingency - 10% of subtotal or $200	$200		N/A
TOTAL	$3607.46		

Request Approved By:

Department Head Signature

1/21/2022

Date

Town Board :

Town Board Resolution & Date

I hereby certify that I have expended the above itemized amounts for business purposes for the Town of Amherst. Required receipts are attached.

Employee Signature Date

Print Employee Name

Reimbursement Approved By:

Department Head Signature Date

Complete Shaded Area
For Expense Reimbursement

X:\Forms\Travel Expense Reimbursement Form 4.7.17

Attachment: TravelRequestSWATConference2.7.2022 (RES-2022-178 : Travel & Training Request)

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

Francina J. Spoth
Town Clerk

Meeting: 02/07/22 07:00 PM
Department: Police
Initiated by: **Scott Chamberlin**
Co-Sponsored by:

DOC ID: 25391 **RESOLUTION 2022-179** **ADOPTED**

Vocational Training Contract (CRS# 3143) Williamsville Central School District

TOWN BOARD AGENDA ITEM : FEBRUARY 7, 2022

TO: **Town Board**

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

RE: **Vocational Training Contract (CRS# 3143)**
Williamsville Central School District

Kindly adopt a Resolution authorizing the Supervisor to enter into and execute the above entitled contract with the Williamsville Central School District (CRS #3143). This contract has successfully completed the Contract Routing Process.

Thank you.

SPC:msl
Attachment
C: Tim Koller, Deputy Town Clerk ***(Agenda Item: February 7, 2022)***

2/7/2022
Consent

FINANCIAL IMPACT:

None for the purposes of this resolution

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

MEMORANDUM OF AGREEMENT FOR EXTENDED CLASSROOM

VOCATIONAL TRAINING CONTRACT

This is an agreement between the Williamsville Central School District (hereinafter "District") and Town of Amherst for the provision of community-based vocational training.

According to this agreement, Town of Amherst, agrees to permit [redacted] (hereinafter "Student"), age 19 to enter its work site for the purpose of receiving community-based vocational training. This training agreement will ensure that the student receives opportunities for training in the specific skills for the job activities selected, as well as the vocational and social skills related to the job.

I. Training Arrangement

A. Both parties acknowledge that this arrangement does not constitute an employment agreement. Rather, the training placement herein established is part of a community-based vocational training provided to the Student.

B. When direct supervision is required as determined by the student's needs, such supervision shall be provided by a District employee. The District employee will be responsible for assisting and monitoring the student and will collect data specific to targeted goals and/or vocational skills.

C. The District employee will be responsible for ensuring that the Student follows company policies and regulations that apply to all employees.

D. The District will comply fully with all appropriate New York State labor laws including laws specific to prohibitive occupations and New York State Education Department laws/regulations.

E. It is understood that the Company will not pay the student for the job duties completed while on this community-based site. It is also understood that the activities of the Student will not result in an immediate advantage to the Company.

F. The Company reserves the right to discontinue the training placement upon four weeks notice. However, if a problem arises, the Company agrees to discuss the situation with the Transition Team Member (Teacher, COTA, and/or Administrator) immediately to identify solutions prior to discontinuing the training experience.

Attachment: RedactedVocationalTrainingContract (RES-2022-179 : Vocational Training Contract (CRS# 3143))

G. The Student will be covered by accidental/health insurance provided through the District during training hours.

H. All parties agree to abide by the guidelines developed by the U.S. Department of Labor and the U.S. Department of Education for non-paid vocational training sites.

II. General Responsibilities

A. Appropriate safety instruction will be provided.

B. A school district name employee will act as a mentor/supervisor for the students for the duration of the experience.

C. This program will comply with all Federal and State Labor Department and New York State Education Department laws/regulations. In the event the student may be working in a New York State Department of Labor (NYSDOL) deemed hazardous location and/or a prohibitive occupation, all parties will comply with current NYSDOL regulations.

D. Students will be accepted into this program and otherwise treated without regard to age, color, religion, creed, disability, marital status, national origin, race, gender or sexual orientations.

E. The program/experience will comply fully with all of the following criteria points which are outlined in the United States Department of Labor's Employment Relationships Under the Fair Labor Standards Act-

Whether students are employees of the institution under the Fair Labor Standards Act will depend upon all of the circumstances surrounding their activities on the premises of the institution. If all of the following criteria apply, the students are not considered employees within the meaning of the Act:

(a) the training, even though it includes actual operation in the facilities of the institution, is similar to that which would be given in the Career and Technical Education Program;
(b) the training is for the benefit of the students;
(c) the trainees or students do not displace regular employees, but work under their close observation;
(d) the institution that provides the training derives no immediate advantage from the activities of the students, and on occasion, his operations may actually be impeded; the students are not necessarily entitled to a job at the conclusion of the training period; and
(e) the institution and the students understand that the trainees or students are not entitled to wages for the time spent in the extended classroom.

Attachment: RedactedVocationalTrainingContract (RES-2022-179 : Vocational Training Contract (CRS# 3143))

Student Responsibilities:

A. The students must abide by all regulations set forth by participating business/agency/institution. Failure to do so may cause immediate removal from the experience. (i.e., dress code, behavior).

B. The student is representing the school district in the community, therefore we expect him/her to act and behave appropriately according to the expectations of the company.

III. General Terms and Conditions

A. Termination. This agreement shall continue until the date one of the following occurs:
1. The Student completes his/her rotation at this internship site or leaves the District's program;
2. The Company terminates this agreement after having consulted with the student's teacher/trainer pursuant to § I(E) of this agreement; or
3. The expiration of this program.

B. Survival. The rights and obligations of any party which by their nature extend beyond the expiration or termination of this agreement shall continue in full force and effect notwithstanding the expiration or termination of this agreement.

C. Indemnification.
1. The District shall defend, indemnify and hold harmless the Company and its parent, subsidiaries, and affiliated corporations and their respective directors, officers, employees, agents, independent contractors, successors, and assigns (the "indemnitees"), from and against all losses, expenses, damages, claims, suits, actions, awards, reasonable attorneys' fees and liabilities to the extent caused by:
   (a) The District's or the Student's failure to comply with any applicable terms or conditions of this agreement; or
   (b) The enforcement of this agreement.

D. Insurance. The District shall maintain adequate insurance protection covering its respective activities hereunder. Specifically, coverage provided by the District shall include a Commercial General Liability policy (with endorsements for errors and omissions and personal injury) written on an occurrence basis; with limits of not less than One Million Dollars ($1,000,000.00) per occurrence, such limits to be attained via a combination of primary and excess umbrella liability coverage. The required insurance shall insure the interests of the Company regardless of any breach or violation by the District of warranties, declarations, or conditions contained in such policies or any action or inaction taken by the District or any other person.

E. Representations. The District hereby represents that it has the full power and authority to enter into this agreement and to perform the services and obligations contained herein, and that the District has all licenses, permits, and other authorizations necessary for it to legally perform its obligations hereunder.

Attachment: RedactedVocationalTrainingContract (RES-2022-179 : Vocational Training Contract (CRS# 3143))

F. General Terms.

1. *Severalbility.* If any provision of this agreement is declared or found to be illegal, unenforceable, or void, then such provision shall be null and void but each other provision hereof not so affected shall be enforced to the full extent permitted by applicable law.
2. *Waiver.* No waiver of any right or remedy hereunder with respect to any occurrence or event on one occasion shall be deemed a waiver of such right or remedy with respect to such occurrence or event on any other occasion.
3. *Governing Law.* The provisions of this agreement shall be construed in accordance with the laws of the State of New York, including conflict of law provisions.
4. *Modifications in Writing.* Any modification or amendment of any provision of this agreement must be in writing executed by duly authorized representatives of both parties.
5. *Company's Affiliates.* The rights granted to the Company hereunder shall be deemed to run to the benefit of all other assignees of the Company, including all subsidiaries, parent company, and other affiliates of the Company and the purchaser of all or substantially all of the Company's assets.

Approvals

Business Sponsor	Date
Transition Team Member(s)	Date 1/25/22
Student	Date 1/25/22
Parent/Guardian Elizabeth Stevens	Date 1/24/22
District Administrator	Date 1/26/22

Attachment: RedactedVocationalTrainingContract (RES-2022-179 : Vocational Training Contract (CRS# 3143))

(The School District does not discriminate on the basis of race, color, national origin, creed, sex and age or handicapping condition as defined by law and are in compliance with Title IX of the Education Amendments of 1972 and with Section 504 of the rehabilitation Act of 1973. The compliance officer for Title IX and Section 504 is Dr. Anna Cieri and is available at the Williamsville Central School District, 105 Casey Road, P.O. Box 5000, Phone: 626-8061)

"VOCATIONAL TRAINING CONTRACT"
kms
03/22/18

Attachment: RedactedVocationalTrainingContract (RES-2022-179 : Vocational Training Contract (CRS# 3143))

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

Francina J. Spoth
Town Clerk

Meeting: 02/07/22 07:00 PM
Department: Police
Initiated by: **Scott Chamberlin**
Co-Sponsored by:

DOC ID: 25398 **RESOLUTION 2022-180** **ADOPTED**

Action Target, Inc. (CRS# 3151) Metals Recycling Contract: Bailey Training Facility Range

TOWN BOARD AGENDA ITEM : FEBRUARY 7, 2022

TO: **Town Board**

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

RE: **Action Target, Inc. (CRS# 3151)**
Metals Recycling Contract: Bailey Training Facility Range

Kindly adopt a Resolution authorizing the Supervisor to enter into and execute the above entitled contract with the Action Target, Inc. (CRS #3151). This contract has successfully completed the Contract Routing Process.

Thank you.

SPC:msl
Attachment
C: Tim Koller, Deputy Town Clerk ***(Agenda Item: February 7, 2022)***

2/7/2022
Consent

FINANCIAL IMPACT:

None for the purposes of this resolution.

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

Action Target Inc.
c/o Diana Rotolo
3411 S. Mountain Vista Pkwy
Provo, Utah 84606
Tel: (801) 377-8033
Fax: (801) 377-8096

METALS RECYCLING CONTRACT - LE

THIS CONTRACT ("**Agreement**") between Action Target Inc. and its subsidiaries, assigns, and contractors on the one hand ("**ATI**" or the "**ATI Parties**") and Customer (identified on this page below) on the other hand is effective as of the date signed by the Parties below (the "**Effective Date**") and includes the Attachments. ATI and Customer are sometimes referred to each as a "**Party**" or together as "**Parties**". This Agreement includes this cover page and Attachments 1. By signing, Customer authorizes ATI to use credits generated pursuant to this Agreement to pay invoices payable by Customer to Action Target for the Range Services provided by Action Target until Customer rescinds such authorization.

"Customer":		
	Name:	Town of Amherst Police Department
	Address:	500 John James Audubon Pkwy.
	City/State/Zip:	Amherst, New York 14228
	Tel:	(716)689-1322 Fax:
	Authorized Agent:	Email:

AUTHORIZED:	**ACCEPTED AND AGREED:**
ACTION TARGET INC.	**CUSTOMER**: Town of Amherst Police Department
Authorized Signature	Authorized Signature
Printed Name and Title	Printed Name and Title
Date of Authorization	Date of Acceptance

Attachment: Action Target Contract For Approval (RES-2022-180 : Action Target, Inc. Contract (CRS# 3151))

ATTACHMENT 1
TERMS AND CONDITIONS

SECTION 1. TERM. The initial Term of this Agreement begins on the date both parties sign and ends on December 31 of that year. During the Term, Customer cannot accept payment or payment-in-kind from any entity or person other than ATI for services similar to the Service offered pursuant to this Agreement. At the conclusion of the Term and each subsequent Term, this Agreement may be extended for not more than 2 successive periods of equal length at the same pricing upon mutual agreement of both parties and can only be canceled by either Party by providing written notice at least 30 days before the end of the Term

SECTION 2. SERVICES TO BE PERFORMED. ATI will remove or cause to be removed expended brass cartridge scrap and range lead scrap (the "**Service**") from the Customer's range.

a. **Scheduling**. Customer must contact ATI at 801-876-2442 or via email at recycle@actiontarget.com to schedule each Service. The date of service will be subject to ATI's availability to perform the Service and will be arranged within 3 business days of the request.

b. **Packaging Requirements**. Lead and brass must be separately identified, separately packaged, and on separate pallets.

1. Brass Packaging. Customer must have all brass materials on pallets in either 55-gallon drums or Gaylord boxes with the top covered (stretch wrap or cardboard is okay). If the materials are in drums, the drums must be strapped to pallet. Drums should be filled to capacity.
2. Range Lead Packaging. Customer must have all range lead on pallets in sealed 55-gallon drums. Drums should be filled to capacity. Drums must be strapped to a pallet with one drum per pallet. Drums sent to you by Action Target will be on single drum pallets. Please use these for lead drum shipments.
3. Order Packaging. Customer may order 55-gallon drums, Gaylord boxes, pallets, or super sacks by contacting ATI. Customer will pay for all other packaging including five-gallon buckets (if required).

c. **Lead Quality**. Pricing is based on clean, indoor range steel trap lead with no other contaminants, e.g., rubber. **No floor sweepings or live rounds are to be present with lead**.

d. **Brass Quality.** If any non-brass casings are fired on site, ATI will deduct this contaminant from brass and deduct from final weight confirmation. Small amounts of Shot shells and standard range sweeps may be in brass and is considered normal and expected, however, for large amounts of this material, after the sortation process, they must be disposed of as hazardous waste. We will deduct the following environmental fees to offset the treatment and disposal costs:

$1.75/LB for sweeps, environmental fee will be charged for treatment and hazardous waste disposal.
$0.40/LB for shot shells, environmental fee will be charged for hazardous waste disposal.

e. **Weight Limits**. To receive the credit amount listed below the minimum weight for which service should be scheduled is 4,000 lbs. Weights from 3,000 to 3,999 lbs. will receive the price listed below minus $.06 per lb. Weights from 2,999 lbs. or below will get a $0.10 per lb. premium and shipping will be deducted from final settlement. The maximum per pallet weight is 4,000 lbs. per pallet. Customer is encouraged to utilize maximum weights when possible.

f. **Credit**. A Final Weight Confirmation Report will be emailed to Customer within one week of receipt of metals at receiving warehouse (transit time from pickup to warehouse is generally 3–7 days). Upon receipt of the Report, Customer may contact ATI and elect either (1) a Credit (plus 10% as discussed below) towards the Action Target Store, Action Target Equipment, or Action Target Services; or (2) a check; however, a check and credit may not be combined. If Customer elects a check, the check will be mailed to Customer within 30 days after receiving the Report in an amount as calculated below, subject to a possible deduction as stated herein. If Customer elects a credit, Customer will receive the Credit—in the amount the check would have been plus 10%—immediately after notifying Action Target as stated in the Report. If the customer has any outstanding unpaid balances with ATI, credit may be used to pay towards these balances. Notwithstanding anything herein, Credits expire after 24 months of Customer's receipt.

1. Brass shell credit. Customer will receive 54% of the copper price (per pound, brass shells received) that is published on The London Metal Exchange (www.LME.com) for the day Customer schedules the Service.
2. Steel Trap lead credit. Customer will receive 45% of the lead price (per pound of range lead received) that is published on The London Metal Exchange (www.LME.com) for the day Customer schedules the Service.
3. Rubber berm trap lead credit**.** Customer will receive 39% of the lead price (per pound of range lead received) that is published on The London Metal Exchange (www.LME.com) for the day Customer schedules the Service. **RBT Service Contract must be signed for RBT cleaning by ATI.**

LME.com displays prices in dollars per metric ton. To convert to dollars per pound, use the following Credit Conversion Formula:

Attachment: Action Target Contract For Approval (RES-2022-180 : Action Target, Inc. Contract (CRS# 3151))

Steel Trap Range lead: (LME Price * 45%) / 2204.6 = price per pound
Rubber Berm Trap Range lead: (LME Price *39%) / 2204.6 = price per pound
Brass: (LME Price * 54%) / 2204.6 = price per pound

For example, if LME.com gives the lead price as $2,223, multiply that by 45%, which equals $1,000.35. Then to convert to dollars per pound, divide that by 2204.6. This gives you a price of $0.45 cents per pound with a minimum 4,000 lbs. Weights from 2,000 to 3,999 lbs. would receive $0.39 per lb. and weights over 10,000 lbs. will receive an increase as set forth in Attachment 2.

ATI will pick up lead dust and will provide a credit of $.01 per pound of lead dust.

For any questions related to scheduling, packaging requirements, quality, weight limits, or credit, please call 801-876-2442 or email recycle@actiontarget.com.

SECTION 3. CUSTOMER OBLIGATIONS. On the date of pickup, Customer must assist in transporting the recyclables to the truck that will be instructed to park on the shoulder of the public roadway.

SECTION 4. ASSIGNMENT. Customer shall not assign any of the rights or obligations provided to it by or required under this Agreement, without first obtaining the prior written consent of ATI. Any assignment made by Customer without the prior written consent of ATI shall be null and void.

SECTION 5. CREDIT ADJUSTMENT. ATI shall be entitled to adjust the Credit Conversion Formula set forth in Section 2 upon changes in worldwide metals pricing. If ATI adjusts the formula, Customer shall be entitled to terminate the agreement within 30 days of notice of adjustment. If Customer does not notify ATI in writing of termination, this Agreement shall continue as set forth in Section 1.

SECTION 6. PACKAGING. If Customer breaches this Agreement, ATI shall be entitled to a reimbursement of costs for any packaging provided to Customer and any other remedies available.

SECTION 7. GENERAL PROVISIONS. This Agreement is governed by the laws of the State of New York and any claim or dispute shall be brought in Erie County, New York. If any term, provision, or condition of the Agreement is held to be invalid, void, or unenforceable by a court or forum of competent jurisdiction, then the remaining provisions shall continue in full force and effect, provided that such unenforceability does not materially affect the parties' rights under this Agreement. All obligations arising prior to the termination of the Agreement and all provisions of the Agreement allocating responsibility or liability between Customer and ATI shall survive the completion of all Services to be performed under the Agreement. Nothing contained in the Agreement shall create a contractual relationship or a cause of action in favor of a third party against ATI. The individuals executing the Agreement warrant that they have read and understood its provisions, and that they are authorized to bind the Parties for which they sign. The relationship between the parties is that of independent contractors and nothing contained in this Agreement shall be construed as creating any agency, partnership, franchise, business opportunity, joint venture, or other form of joint enterprise, employment, or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.

SECTION 8. ENTIRE AGREEMENT. This written Agreement is the entire integrated agreement between Customer and ATI and supersedes all prior negotiations, representations, or agreements, whether written or oral.

CUSTOMER AND PROJECT INFORMATION

Range Name:	Amherst Police Community Policing and Training Facility
Address:	4220 Bailey Ave. Amherst, New York 14226
Contact Person:	Kevin Brown
Phone Number:	(716) 689-1302
Email Address:	kcbrown@apdny.org
Loading hours:	7:00 AM - 2:00 PM

VOLUME

A full 55-gallon drum of brass weighs approximately 600 lbs., a 2/3-full 55-gallon drum of lead weighs approximately 1,200 lbs., and a full-size Gaylord box of brass weighs approximately 3,000 lbs. Knowing this:

- What is your approximate monthly brass volume in drums/lbs.?
- What is your approximate monthly lead volume in drums/lbs.?
- Do you shoot frangible bullets?

Attachment: Action Target Contract For Approval (RES-2022-180 : Action Target, Inc. Contract (CRS# 3151))

- How much weight do you anticipate ATI will pick up per Service?
- How often do you anticipate scheduling Service? (Minimum pickup weight is 4,000 lbs.)
- Does your range have a Total Containment Trap with a screw auger?

ACCESS

Dock high access?	(YES)	NO
Pallet jack on site?	YES	(NO)
Forklift on site?	YES	(NO)
18-wheeler access?	(YES)	NO
24-foot box truck access (lift gate)?	YES	(NO)

AMMUNITION

Are any of the following cases ("Contaminants") fired on site (if the answer to any is yes, ATI will deduct 4% from the Final Weight Confirmation sent to Customer):

Aluminum?	YES	(NO)
Steel?	YES	(NO)
Shotgun shells?	(YES)	NO

If you remove all of the above Contaminants from your brass, ATI will not deduct 4%. If any shipment contains higher than 4% Contaminants, ATI shall be entitled to deduct the higher percentage on the next shipment.

No floor sweepings or live rounds are to be present with lead

Attachment: Action Target Contract For Approval (RES-2022-180 : Action Target, Inc. Contract (CRS# 3151))

Addendum to Contract VENDOR NOT ON SITE

1. Notwithstanding any other provision in this Agreement, the following clauses shall be controlling. Should any other provision of the Agreement conflict with the clauses in this Addendum then the provisions of this Addendum are to be enforceable and any conflicting provision shall be considered null and void.

2. No rules, requirements or customs of any society or association of professional Vendors or any similar association shall affect this Agreement in any way whatsoever or be binding upon the Town.

3. To the fullest extent permitted by law, Vendor shall indemnify and hold the Town, its officers, agents, and employees, harmless from any and all liability, demands, claims, or expenses, awards or judgments imposed upon the Town, its officers, agents, and/or employees, arising out of the work of the Vendor its officers, agents, sub-Vendors, and/or employees as well as the negligence, active or passive, of the Vendor, its officers, agents, sub-Vendors, and/or employees.

4. No Assignment: In accordance with the provisions of Section 109 of the General Municipal Law, the Vendor is hereby prohibited from assigning, transferring, conveying, subletting or otherwise disposing of this Agreement, or of its right, title or interest in this agreement, or its power to execute this Agreement, to any other person or corporation without the previous consent in writing of the Town.

5. Required Provisions of Law: Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to have been inserted herein. If any such provision is not inserted through mistake or otherwise, then upon the application of either party this Agreement shall be physically amended forthwith to make such insertion. In particular, the Vendor shall, among other things, fully comply with:

(a) Article 8 of the NYS Labor Law for public work contracts and Article 9 of the Labor Law regarding prevailing wage for Building Service employees.
(b) Labor Law Section 220-e and Executive Law Sections 291-299 and the Civil Rights Law relating to prohibition against discrimination and equal opportunity.
(c) Affirmative action as required by the Labor Law.
(d) Prevention of dust hazard required by Labor Law Section 222-a.
(e) Preference in employment of persons required by Labor Law Section 222.
(f) Eight-hour workday as required by Labor Law Section 220(2).
(g) Chapter 32 of the Town of Amherst: Minority Women and Business Utilization Commitment.
(h) Chapter 163 of the Town of Amherst: Registration of Sex Offenders.

Attachment: Action Target Contract For Approval (RES-2022-180 : Action Target, Inc. Contract (CRS# 3151))

6. The Vendor, in accordance with its status as an independent Vendor, covenants and agrees that it will conduct itself consistent with such status. It will neither hold itself out as nor claim to be, an officer or employee of the Town by reason hereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the Town, including, but not limited to: workers' compensation coverage, unemployment insurance benefits, Social Security coverage, or retirement membership or credit.

Waiver: No waiver of any breach of any condition of the Agreement shall be binding unless in writing and signed by the party waiving said breach. No such waiver shall in any way affect any other term or condition of this Agreement or constitute a cause or excuse for a repetition of such or any other breach unless the waiver shall include the same.

7. This Agreement shall be governed by, and interpreted according to the laws of the State of New York. If the contract between the parties refers to the laws, statutes, rules, regulations or ordinances for any state other than New York State, to the laws, statutes, rules, regulations or ordinances for any county other than Erie County, New York or to the laws, statutes, rules, regulations or ordinances for any municipality other than the Town of Amherst, then the laws, statutes, rules, regulations or ordinances for New York State, Erie county and/or the Town of Amherst shall apply as applicable. Any and all legal action necessary to enforce the Agreement will be venued in Supreme Court, Erie County, New York or in the United States District Court for the Western District of New York, Buffalo Division.

8. It is hereby acknowledged that performance of this Contract will be undertaken in accordance with the specifications and pricing on which the bid was submitted.

This instrument shall be executed in triplicate. At least one (1) copy shall be permanently filed, after execution thereof, in the office of the Town Clerk of Town.

Agreed to and Accepted by:

Action Target Inc.
Print Name of Company

By: _____
Signature

Scott Wright
Printed name

Date: 2/1/22

Agreed to and Accepted by:

Town of Amherst

By: _____
Brian J. Kulpa, Supervisor

Date: _____

Revised 12.30.19 SJS

Attachment: Action Target Contract For Approval (RES-2022-180 : Action Target, Inc. Contract (CRS# 3151))

IRAN DIVESTMENT ACT CERTIFICATION

As a result of the Iran Divestment Act of 2012 (Act), Chapter 1 of the 2012 Laws of New York, a provision was added to the State Finance Law (SFL), Section 165-a, effective April 12, 2012. Under the Act, the Commissioner of the Office of General Services (OGS) will develop a list (prohibited entities list) of "persons" who are engaged in "investment activities in Iran" (both are defined terms in the law). This list is posted on the OGS website.

By submitting a response to this solicitation, or by assuming the responsibility under a Contract/Lease awarded hereunder, Bidder/Contractor/Vendor (or any assignee) certifies that it will not utilize on such Contract/Lease any subcontractor that is identified on the prohibited entities list.

Additionally, Bidder/Contractor/Vendor is advised that any Bidder/ Contractor/Vendor seeking to renew or extend a Contract/Lease (or assume responsibility of a Contract/Lease awarded must certify at the time the Contract/Lease is renewed, extended or assigned that it is not included on the prohibited entities list.

During the term of the Contract/Lease, should the Town of Amherst (Town) receive information that a person is in violation of the above-referenced certification, the Town will offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment which is in violation of the Act within 90 days after the determination of such violation, then the Town shall take such action as appropriate including, but not limited to, imposing sanctions, seeking compliance, recovering damages or declaring the Bidder/Contractor/Vendor in default.

The Town reserves the right to reject any Contract/Lease or request for assignment for an entity that appears on the prohibited entities list prior to the award of a Contract/Lease, and to pursue a responsibility review with respect to any entity that is awarded a Contract/Lease and appears on the prohibited entities list after Contract/Lease award.

Company Name: Action Target Inc.

Signature: [signature]

Print Name: Scott Wright

Title: CFO

Date: 12/13/21

Sworn To Before Me This

13 Day of Dec, 20 21

Jennifer Ware

Notary Public

JENNIFER DAWN WARE
Notary Public - State of Utah
Comm. No. 708204
My Commission Expires on
Sep 13, 2023

Revised 4.2017

Attachment: Action Target Contract For Approval (RES-2022-180 : Action Target, Inc. Contract (CRS# 3151))

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

Francina J. Spoth
Town Clerk

Meeting: 02/07/22 07:00 PM
Department: Youth & Recreation
Initiated by: **Mary Diana Pouli**
Co-Sponsored by:

DOC ID: 25343 **RESOLUTION 2022-181** **ADOPTED**

Emergency Purchase Authorization

Authorize the purchase of 990 pounds of R 22 from Trane to address an issue with the south end compressors at the Northtown Center at Amherst.

2/7/2022
Consent

FINANCIAL IMPACT:

A 7253.4220 $45,042.59

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

Attachment G

TOWN OF AMHERST-EMERGENCY PURCHASE(S) DOCUMENTATION FORM

This form is to be completed for all emergency purchases made that contravene the Town's Purchasing Policy. You must contact the Supervisor (or Deputy Supervisor in the Supervisors absence) to obtain his/her approval prior to making the purchase. This form must be completed and submitted to the Town Board at the first work session following the Emergency purchase. A copy should also be submitted to the Town Attorney and Contract Compliance & Administration Department.

An exception to the competitive bidding requirements exists for emergency situations (GML, §103[4]). There are three basic statutory criteria to be met in order to fall within this exception. These are that (1) the situation arises out of an accident or other unforeseen occurrence or condition; (2) the circumstances affect public buildings, public property or life, health, safety or property of the political subdivision's residents; and (3) the situation requires immediate action which cannot await competitive bidding.

Generally, there must be a present, immediate and existing condition which is creating an imminent threat or danger and which requires such immediate action that a further delay to comply with competitive bidding requirements is so detrimental to the public interest that it overcomes the strong public policy in favor of bidding. Further, because the emergency must arrive out of an accident or unforeseen occurrence, it is doubtful a local government may invoke the emergency exception in a situation which the result of inaction or dilatory behavior on the part of local officials and which, therefore, could have been foreseen in time to advertise for bids.

Even when a governing board passes a resolution that a public emergency exists, the public interest dictates that purchases are made at the lowest possible costs, seeking competition by informal solicitation of quotes or otherwise, to the extent practical under the circumstances.

1. Date of Emergency Purchase: **January 31, 2022**
2. Date of Town Board work session where Board is notified: January 31, 2022
3. Date you received approval from the Supervisor: January 31, 2022
4. Amount of Emergency Purchase. Please provide a detailed listing of items purchased and the cost of each (Attach additional detail if necessary): **$45,042.59**
5. Is there adequate funding in your current operating budget to cover this purchase? **Yes**
   Identify budget Org/Object: **A7253.4220**
6. Please describe the circumstances that resulted in the need to make an emergency purchase without following the Town's Purchasing Policy: **The Northtown Center south end compressors were low on R-22 charge and the ice was not adequately freezing causing unplayable conditions. The facility had to limit the ice surface to practices only and the surface had to be shrunk down to ¾ using pads to protect the area.**
7. Please describe what steps were taken to ensure the lowest cost for the Emergency Purchase. If none, please explain why your department was prevented from doing so. **Multiple quotes were received utilizing local suppliers and out of town suppliers.**

8. Department Head Signature: Mary Dana Beil Date: January 31, 2022

CC: Town Board
Town Attorney
Contract Compliance & Administration

For Contract Compliance & Administration Use Only	
Date of Town Board Resolution:	Emergency Purchase Tracking/Res #:

Attachment: Emergency Purchase R 22 1.31.22 (RES-2022-181 : Emergency Purchase Authorization)

	500 lbs.	price/lb	510 lbs.	price/lb	990 lbs.	price/lb	1,000 lbs.	price/lb	1,020 lbs	price/lb
John W. Danforth Company *	$ 27,662.00	$ 55.32								
Trane U.S. Inc. (warehouse)			$ 29,474.25	$ 57.79					$ 57,138.85	$ 56.02
Trane U.S. Inc. (local suppliers)	$ 22,131.32	$ 44.26			$ 45,042.59	$ 45.50				
Trane U.S. Inc. *	$ 22,131.32	$ 44.26					$ 44,190.29	$ 44.19		
Mollenberg-Betz, Inc. *	$ 22,536.00	$ 45.07					$ 47,010.00	$ 47.01		

*4-7 day lead time

Guzdek, Eric

From: Goungo, Joe <jpgoungo@trane.com>
Sent: Monday, January 31, 2022 10:55 AM
To: Guzdek, Eric
Subject: RE: South chiller refrigerant

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.

Eric,

Our best price would be from one of our suppliers in Texas.

They have 1000 lbs in stock. Barring transit problems, we could have it by Friday.

If we wanted it sooner, we could acquire from a combination of local suppliers, and one of our Trane stores down the Thruway. If we go with just 500#, I could get it all locally. If we went for the larger amount, I would get from 2 local suppliers and the remaining from our Albany store. So 240 lbs still wouldn't get here until later in the week.

So, to recap:

Option	500 lbs	1000 lbs
Texas Supplier – arrive Friday	22,131.32	44,190.29
Combination of local suppliers	22,131.32	45,042.59 – 990 lbs 750 lbs now, 240 lbs toward end of week

NOTE: One of the local suppliers, has provided verbal pricing that they could match the Texas pricing. However, I have not seen it I writing, and they do not have the entire 1000 lbs. I am a little uncomfortable on the number, until I get it in writing. It could possibly both local numbers could potentially increase $4,200 to $5,000, if they cannot commit the verbal number to writing.

Joe

From: Goungo, Joe
Sent: Saturday, January 29, 2022 11:16 AM
To: Eric Guzdek - Town of Amherst (eguzdek@amherst.ny.us) <eguzdek@amherst.ny.us>
Subject: South chiller refrigerant

Eric

See attached for 2 proposals. One for 510 lbs and one for 1020 lbs of refrigerant.

They are using pricing from my factory stock.

I have verbal pricing, from other suppliers, for less. However, I have not, yet, seen the formal quotes, to actually use the numbers.

We may be able to get a total of 1000 lbs, from a combination of local suppliers on Mon/Tue.

Attachment: Emergency Purchase R 22 1.31.22 (RES-2022-181 : Emergency Purchase Authorization)

SINCE 1884
danforth
JOHN W. DANFORTH COMPANY
GENERAL CONTRACTORS FOR MECHANICAL SYSTEMS

Industrial Piping • Power Plants • Heating/Air Conditioning • Plumbing • Air and Water Pollution Control • Sheetmetal

January 25, 2022

Town of Amherst
5583 Main St.
Williamsville NY 14221

Attn: Eric Guzdek
Re: North town Center Refrigerant

PROPOSAL

Scope of Work: We are pleased to submit our lump sum quotation for materials only.

Pricing Includes:
- Furnish four (4) 125lbs. cylinders of R22 refrigerant
- Refundable deposit of $800, $200 per cylinder;

Price Does Not Include:
- New York State sales tax;
- Premium time;
- Any repair not listed above;
- Electrical (other than control wiring);
- Freight;
- Initial service call;

WE HEREBY PROPOSE TO FURNISH MATERIALS AND LABOR COMPLETE IN ACCORDANCE WITH THE SPECIFICATIONS ABOVE FOR THE SUM OF:

TWENTY SEVEN THOUSAND SIX HUNDRED AND SIXTY TWO DOLLARS.....$27,662.00

ACCEPTANCE OF PROPOSAL: The above prices, specifications, and conditions are satisfactory and are hereby accepted. You are authorized to do the work as indicated. Payment will be made as outlined above. The conditions above stand good until 1/26/2022.

JOHN W. DANFORTH COMPANY

BY: Michael Haen
Mike Haen

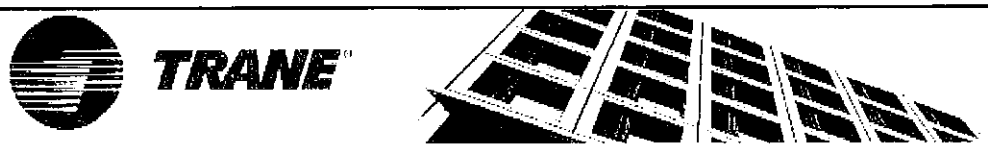
BY: _____

DATE: January 25, 2022

DATE: _____

300 Colvin Woods Parkway •Tonawanda, New York 14150 •Tel: 716-832-1940 •Fax: 716-832-2388
930 Old Dutch Road •Victor, New York 14564 • Tel: 585-924-7030 • Fax: 585-924-7916

Attachment: Emergency Purchase R 22 1.31.22 (RES-2022-181 : Emergency Purchase Authorization)



Trane U.S. Inc.
45 Earhart Dr - Suite 103
Buffalo, NY 14221
Phone: (716) 626-7589
Fax: (716) 626-9412
Service Contact: (716) 626-1260

January 29, 2022

Eric Guzdek

Town Of Amherst
Recreation Department
1615 Amherst Manor Drive
Williamsville, NY 14221 U.S.A.
(716) 631-7132

Site Address:
Northtown Center at Amherst
1615 Amherst Manor Drive
WILLIAMSVILLE, NY 14221
United States

ATTENTION: Eric Guzdek

PROJECT NAME: Northtown South chiller 510# R22
QUOTE NUMBER: 48-737952-22-002 **CO-OP CONTRACT NUMBER:** USC 15-JLP-023

We are pleased to propose the following Trane services for the equipment listed. Services will be performed using Trane's exclusive service procedures provided by factory trained and experienced technicians. You receive the full benefit of our expertise derived from being Trane equipment's original manufacturer. Our procedures are environmentally and safety conscious while providing for the efficient delivery of these services.

EQUIPMENT LIST

Northtown Center at Amherst

The following "Covered Equipment" will be serviced at Northtown Center at Amherst:

Equipment	Qty	Manufacturer	Model Number	Serial Number	Asset Tag
Chiller, Reciprocating, Water-Cooled	1	Davis IcePro	LOF240	3065B	SOUTH CHILLER (NHL-2)

SCOPE OF SERVICE

- Isolate and lock out chiller
- Supply 510# of R22
- Charge chiller with refrigerant
- Return chiller to service
- Startup and verify operation

Attachment: Emergency Purchase R 22 1.31.22 (RES-2022-181 : Emergency Purchase Authorization)

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TERMS AND CONDITIONS – QUOTED SERVICE

"Company" shall mean Trane U.S. Inc..

To obtain repair service within the scope of Services as defined, contact your local Trane District office identified on the first page of the Agreement by calling the telephone number stated on that page. That Trane District office is responsible for Company's performance of this Agreement. Only Trane authorized personnel may perform service under this Agreement. For Service covered under this Agreement, Company will be responsible for the cost of transporting a part requiring service.

1. Agreement. These terms and conditions are an integral part of Company's offer and form the basis of any agreement (the "Agreement") resulting from Company's proposal (the "Proposal") for the services (the "Services") on equipment listed in the Proposal (the "Covered Equipment"). **COMPANY'S TERMS AND CONDITIONS ARE SUBJECT TO PERIODIC CHANGE OR AMENDMENT.**

2. Connected Services. In addition to these terms and conditions, the Connected Services Terms of Service ("Connected Services Terms"), available at https://www.trane.com/TraneConnectedServicesTerms, as updated from time to time, are incorporated herein by reference and shall apply to the extent that Company provides Customer with Connected Services, as defined in the Connected Services Terms.

3. Acceptance. The Proposal is subject to acceptance in writing by the party to whom this offer is made or an authorized agent ("Customer") delivered to Company within 30 days from the date of the Proposal. If Customer accepts the Proposal by placing an order, without the addition of any other terms and conditions of sale or any other modification, Customer's order shall be deemed acceptance of the Proposal subject to Company's terms and conditions. If Customer's order is expressly conditioned upon the Company's acceptance or assent to terms and/or conditions other than those expressed herein, return of such order by Company with Company's terms and conditions attached or referenced serves as Company's notice of objection to Customer's terms and as Company's counteroffer to provide Services in accordance with the Proposal. If Customer does not reject or object in writing to Company within 10 days, the Company's counteroffer will be deemed accepted. Customer's acceptance of the Services by Company will in any event constitute an acceptance by Customer of Company's terms and conditions. In the case of a dispute, the applicable terms and conditions will be those in effect at the time of delivery or acceptance of the Services. This Agreement is subject to credit approval by Company. Upon disapproval of credit, Company may delay or suspend performance or, at its option, renegotiate prices and/or terms and conditions with Customer. If Company and Customer are unable to agree on such revisions, this Agreement shall be cancelled without any liability, other than Customer's obligation to pay for Services rendered by Company to the date of cancellation.

4. Cancellation by Customer Prior to Services; Refund. If Customer cancels this Agreement within (a) thirty (30) days of the date this Agreement was mailed to Customer or (b) twenty (20) days of the date this Agreement was delivered to Customer, if it was delivered at the time of sale, and no Services have been provided by Company under this Agreement, the Agreement will be void and Company will refund to Customer, or credit Customer's account, the full Service Fee of this Agreement that Customer paid to Company, if any. A ten percent (10%) penalty per month will be added to a refund that is due but is not paid or credited within forty-five (45) days after return of this Agreement to Company. Customer's right to cancel this Agreement only applies to the original owner of this Agreement and only if no Services have been provided by Company under this Agreement prior to its return to Company.

5. Cancellation by Company. This Agreement may be cancelled by Company for any reason or no reason, upon written notice from Company to Customer no later than 30 days prior to performance of any Services hereunder and Company will refund to Customer, or credit Customer's account, that part of the Service Fee attributable to Services not performed by Company. Customer shall remain liable for and shall pay to Company all amounts due for Services provided by Company and not yet paid.

6. Services Fees and Taxes. Fees for the Services (the "Service Fee(s)") shall be as set forth in the Proposal and are based on performance during regular business hours. Fees for outside Company's regular business hours and any after-hours services shall be billed separately according to the then prevailing overtime or emergency labor/labour rates. In addition to the stated Service Fee, Customer shall pay all taxes not legally required to be paid by Company or, alternatively, shall provide Company with acceptable tax exemption certificates. Customer shall pay all costs (including attorneys' fees) incurred by Company in attempting to collect amounts due.

7. Payment. Payment is due upon receipt of Company's invoice. Company reserves the right to add to any account outstanding for more than 30 days a service charge equal to the lesser of the maximum allowable legal interest rate or 1.5% of the principal amount due at the end of each month. Customer shall pay all costs (including attorneys' fees) incurred by Company in attempting to collect amounts due or otherwise enforcing these terms and conditions.

8. Customer Breach. Each of the following events or conditions shall constitute a breach by Customer and shall give Company the right, without an election of remedies, to terminate this Agreement or suspend performance by delivery of written notice: (1) Any failure by Customer to pay amounts when due; or (2) any general assignment by Customer for the benefit of its creditors, or if Customer becomes bankrupt or insolvent or takes the benefit of any statute for bankrupt or insolvent debtors, or makes or proposes to make any proposal or arrangement with creditors, or if any steps are taken for the winding up or other termination of Customer or the liquidation of its assets, or if a trustee, receiver, or similar person is appointed over any of the assets or interests of Customer; (3) Any representation or warranty furnished by Customer in connection with this Agreement is false or misleading in any material respect when made; or (4) Any failure by Customer to perform or comply with any material provision of this Agreement. Customer shall be liable to the Company for all Services furnished to date and all damages sustained by Company (including lost profit and overhead)

9. Performance. Company shall perform the Services in accordance with industry standards generally applicable in the state or province where the Services are performed under similar circumstances as of the time Company performs the Services. Company is not liable for any claims, damages, losses, or expenses, arising from or related to work done by or services provided by individuals or entities that are not employed by or hired by Company. Company may refuse to perform any Services or work where working conditions could endanger property or put at risk the safety of people. Parts used for any repairs made will be those selected by Company as suitable for the repair and may be parts not manufactured by Company. Customer must reimburse Company for services, repairs, and/or replacements performed by Company at Customer's request beyond the scope of Services or otherwise excluded under this Agreement. The reimbursement shall be at the then prevailing applicable regular, overtime, or holiday rates for labor/labour and prices for materials. Prior to Company performing the additional services, repairs, and/or replacements, Customer may request a separate written quote stating the work to be performed and the price to be paid by Customer for the work.

10. Customer Obligations. Customer shall: (a) provide Company reasonable and safe access to the Covered Equipment and areas where Company is to work; and (b) unless otherwise agreed by Customer and Company, at Customer's expense and before the Services begin, Customer will provide any necessary access platforms, catwalks to safely perform the Services in compliance with OSHA, state, or provincial industrial safety regulations or any other applicable industrial safety standards or guidelines.

11. Exclusions. Unless expressly included in the Proposal, the Services do not include, and Company shall not be responsible for or liable to the Customer for, any claims, losses, damages or expenses suffered by the Customer in any way connected with, relating to or arising from any of the following:

(a) Any guarantee of room conditions or system performance;

(b) Inspection, operation, maintenance, repair, replacement or performance of work or services outside the Services;

(c) Damage, repairs or replacement of parts made necessary as a result of the acts or omission of Customer or any Event of Force Majeure;

Attachment: Emergency Purchase R 22 1.31.22 (RES-2022-181 : Emergency Purchase Authorization)

16. Asbestos and Hazardous Materials. The Services expressly exclude any identification, abatement, cleanup, control, disposal, removal or other work connected with asbestos or other hazardous materials (collectively, "Hazardous Materials"). Should Company become aware of or suspect the presence of Hazardous Materials, Company may immediately stop work in the affected area and shall notify Customer. Customer will be responsible for taking any and all action necessary to correct the condition in accordance with all applicable laws and regulations. Customer shall be exclusively responsible for any claims, liability, fees and penalties, and the payment thereof, arising out of or relating to any Hazardous Materials on or about the premises, not brought onto the premises by Company. Company shall be required to resume performance of the Services only when the affected area has been rendered harmless.

17. Insurance. Company agrees to maintain the following insurance during the term of the contract with limits not less than shown below and will, upon request from Customer, provide a Certificate of evidencing the following coverage:

Commercial General Liability	$2,000,000 per occurrence
Automobile Liability	$2,000,000 CSL
Workers Compensation	Statutory Limits

If Customer has requested to be named as an additional insured under Company's insurance policy, Company will do so but only subject to Company's manuscript additional insured endorsement under its primary Commercial General Liability policies. In no event does Company or its insurer waive its right of subrogation

18. Force Majeure. Company's duty to perform under this Agreement is contingent upon the non-occurrence of an Event of Force Majeure. If Company shall be unable to carry out any material obligation under this Agreement due to an Event of Force Majeure, this Agreement shall at Company's election (i) remain in effect but Company's obligations shall be suspended until the uncontrollable event terminates or (ii) be terminated upon ten (10) days notice to Customer, in which event Customer shall pay Company for all parts of the Services furnished to the date of termination. An "Event of Force Majeure" shall mean any cause or event beyond the control of Company. Without limiting the foregoing, "Event of Force Majeure" includes: acts of God; acts of terrorism, war or the public enemy; flood; earthquake; lightning; tornado; storm; fire; civil disobedience; pandemic insurrections; riots; labor disputes; labor or material shortages; sabotage; restraint by court order or public authority (whether valid or invalid), and action or non-action by or inability to obtain or keep in force the necessary governmental authorizations, permits, licenses, certificates or approvals if not caused by Company and the requirements of any applicable government in any manner that diverts either the material or the finished product to the direct or indirect benefit of the government.

19. General. Except as provided below, to the maximum extent provided by law, this Agreement is made and shall be interpreted and enforced in accordance with the laws of the state or province in which the Services are performed without regard to choice of law principles which might otherwise call for the application of a different state's or province's law. Any dispute arising under or relating to this Agreement that is not disposed of by agreement shall be decided by litigation in a court of competent jurisdiction located in the state or province in which the Services are performed. Any action or suit arising out of or related to this Agreement must be commenced within one year after the cause of action has accrued. To the extent the premises are owned and/or operated by any agency of the United States Federal Government, determination of any substantive issue of law shall be according to the United States Federal common law of Government contracts as enunciated and applied by Federal judicial bodies and boards of contract appeals of the Federal Government. This Agreement contains all of the agreements, representations and understandings of the parties and supersedes all previous understandings, commitments or agreements, oral or written, related to the Services. No documents shall be incorporated herein by reference except to the extent Company is a signatory thereon. If any term or condition of this Agreement is invalid, illegal or incapable of being enforced by any rule of law, all other terms and conditions of this Agreement will nevertheless remain in full force and effect as long as the economic or legal substance of the transaction contemplated hereby is not affected in a manner adverse to any party hereto. Customer may not assign, transfer, or convey this Agreement, or any part hereof, without the written consent of Company. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the parties hereto and their permitted successors and assigns. This Agreement may be executed in several counterparts, each of which when executed shall be deemed to be an original, but all together shall constitute but one and the same Agreement. A fully executed facsimile copy hereof or the several counterparts shall suffice as an original. No modifications, additions or changes may be made to this Agreement except in a writing signed by Company. No failure or delay by the Company in enforcing any right or exercising any remedy under this Agreement shall be deemed to be a waiver by the Company of any right or remedy.

20. Equal Employment Opportunity/Affirmative Action Clause. Company is a United States federal contractor that complies fully with Executive Order 11246, as amended, and the applicable regulations contained in 41 C.F.R. Parts 60-1 through 60-60, 29 U.S.C. Section 793 and the applicable regulations contained in 41 C.F.R. Part 60-741; and 38 U.S.C. Section 4212 and the applicable regulations contained in 41 C.F.R. Part 60-250; and Executive Order 13496 and Section 29 CFR 471, appendix A to subpart A, regarding the notice of employee rights in the United States and with Canadian Charter of Rights and Freedoms Schedule B to the Canada Act 1982 (U.K.) 1982, c. 11 and applicable Provincial Human Rights Codes and employment law in Canada.

21. U.S. Government Contracts. The following provision applies only to direct sales by Company to the US Government. The Parties acknowledge that all items or services ordered and delivered under this Agreement / Purchase Order are Commercial Items as defined under Part 12 of the Federal Acquisition Regulation (FAR). In particular, Company agrees to be bound only by those Federal contracting clauses that apply to "commercial" suppliers and that are contained in FAR 52.212-5(e)(1). Company complies with 52.219-8 or 52.219-9 in its service and installation contracting business. **The following provision applies only to indirect sales by Company to the US Government.** As a Commercial Item Subcontractor, Company accepts only the following mandatory flow down provisions: 52.219-8; 52.222-26; 52.222-35; 52.222-36; 52.222-39; 52.247-64. If the Services are in connection with a U.S. government contract, Customer agrees and hereby certifies that it has provided and will provide current, accurate, and complete information, representations and certifications to all government officials, including but not limited to the contracting officer and officials of the Small Business Administration, on all matters related to the prime contract, including but not limited to all aspects of its ownership, eligibility, and performance. Anything herein notwithstanding, Company will have no obligations to Customer unless and until Customer provides Company with a true, correct and complete executed copy of the prime contract. Upon request, Customer will provide copies to Company of all requested written communications with any government official related to the prime contract prior to or concurrent with the execution thereof, including but not limited to any communications related to contractor's Customer's ownership, eligibility or performance of the prime contract. Customer will obtain written authorization and approval from Company prior to providing any government official any information about Company's performance of the Services that are the subject of this offer or agreement, other than the Proposal or this Agreement.

22. Limited Waiver of Sovereign Immunity. If Customer is an Indian tribe (in the U.S.) or a First Nation or Band Council (in Canada), Customer, whether acting in its capacity as a government, governmental entity, a duly organized corporate entity or otherwise, for itself and for its agents, successors, and assigns: (1) hereby provides this limited waiver of its sovereign immunity as to any damages, claims, lawsuit, or cause of action (herein "Action") brought against Customer by Company and arising or alleged to arise out of the furnishing by Company of any product or service under this Agreement, whether such Action is based in contract, tort, strict liability, civil liability or any other legal theory; (2) agrees that jurisdiction and venue for any such Action shall be proper and valid (a) if Customer is in the U.S., in any state or United States court located in the state in which Company is performing this Agreement or (b) if Customer is in Canada, in the superior court of the province or territory in which the work was performed; (3) expressly consents to such Action, and waives any objection to jurisdiction or venue; (4) waives any requirement of exhaustion of tribal court or administrative remedies for any Action arising out of or related to this

Attachment: Emergency Purchase R 22 1.31.22 (RES-2022-181 : Emergency Purchase Authorization)



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PROVEN SAFETY SUCCESS

Trane's safety culture in North America is unparalleled in the building services industry and has demonstrated proven results via continuous reduction of injury rates.

TRANE INJURY RATES V. INDUSTRY COMPETITORS

Since 2003 the US Bureau of Labor Statistics records reflect Trane's Total Recordable Rate (TRIR) and Days away from work (DAFW) rate have been significantly lower than HVAC repair and maintenance contractors and Specialty Trade contractors (construction). Trane's safety culture in America is unparalleled in the building services industry and has demonstrated proven results via continuous reduction of injury rates.

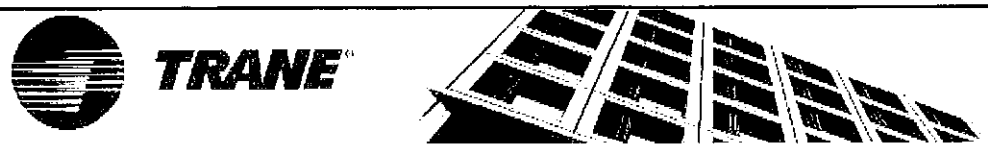
Trane's incident (OSHA) rates are consistently 50-70% below the industry average. This outstanding safety achievement is the end result of the rigorous team-oriented approach to our safety program that creates accountability and empowerment in all employees and management and fuels our institutional safety culture. This is the key to our continual improvement.

SAFETY TOOLS, TRAINING & EXPERTISE

Trane's service and contracting technicians are not only among the most skilled in the industry they are also extensively trained in safe work procedures. Our technicians receive safety training, equipment, tools, procedures, and management support to identify jobsite hazards and take appropriate measures to prevent personal injuries. The resources available to Trane technicians include:

- Safety Training – 20 hrs per year, including classroom and web-based platforms.
- -Topics include, but are not limited to, Lockout/Tagout, Confined Space Entry, Hazard Communication, Respiratory Protection, Hearing Conservation, Excavations, Scaffolding, Rigging, Powered Industrial Truck operation, Ladders, Vehicle Safety, Fire Protection, PPE, Emergency Response, First Aid / CPR.
- Electrical Safety – NFPA 70E compliant – electrical PPE; flame-resistant clothing; training.
- Fall Protection – full complement of fall arrest and fall restraint equipment for each technician.
- Ergonomics – custom-designed for HVAC field technicians, includes training, material handling equipment and procedures.
- Smith System Safe Driving Program – Trane's safety Managers are certified instructors; safety Managers train technicians; 1-800 "How's My Driving?" stickers are located on the back of service vehicles.
- USDOT compliance – technicians scheduled within Material of Trade and Hours of Service limits and are fully qualified under Department of Transportation rules for driving commercial motor vehicles with GVWR >10,000 and 26,000 lbs.
- Refrigerant Management – Service technicians are trained to manage refrigerant in accordance with U.S. EPA rules using a sophisticated electronic tracking system developed by Trane.
- Empowerment - Technicians are empowered with full management support to address safety hazards as they see fit. If ever in doubt about how to do a job or task safely, the technician is required to ask a qualified person for assistance before proceeding with work.

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Trane U.S. Inc.
45 Earhart Dr - Suite 103
Buffalo, NY 14221
Phone: (716) 626-7589
Fax: (716) 626-9412
Service Contact: (716) 626-1260

January 29, 2022

Eric Guzdek

Town Of Amherst
Recreation Department
1615 Amherst Manor Drive
Williamsville, NY 14221 U.S.A.

Site Address:
Northtown Center at Amherst
1615 Amherst Manor Drive
WILLIAMSVILLE, NY 14221
United States

ATTENTION: Eric Guzdek

PROJECT NAME: Northtown South chiller 1020# R22
QUOTE NUMBER: 48-737952-22-003 **CO-OP CONTRACT NUMBER:** USC 15-JLP-023

We are pleased to propose the following Trane services for the equipment listed. Services will be performed using Trane's exclusive service procedures provided by factory trained and experienced technicians. You receive the full benefit of our expertise derived from being Trane equipment's original manufacturer. Our procedures are environmentally and safety conscious while providing for the efficient delivery of these services.

EQUIPMENT LIST

Northtown Center at Amherst

The following "Covered Equipment" will be serviced at Northtown Center at Amherst:

Equipment	Qty	Manufacturer	Model Number	Serial Number	Asset Tag
Chiller, Reciprocating, Water-Cooled	1	Davis IcePro	LOF240	3065B	SOUTH CHILLER (NHL-2)

SCOPE OF SERVICE

- Isolate and lock out chiller
- Supply 1020# of R22
- Charge chiller with refrigerant
- Return chiller to service
- Startup and verify operation

Attachment: Emergency Purchase R 22 1.31.22 (RES-2022-181 : Emergency Purchase Authorization)

© 2022 Trane Technologies All Rights Reserved

TERMS AND CONDITIONS – QUOTED SERVICE

"Company" shall mean Trane U.S. Inc..

To obtain repair service within the scope of Services as defined, contact your local Trane District office identified on the first page of the Agreement by calling the telephone number stated on that page. That Trane District office is responsible for Company's performance of this Agreement. Only Trane authorized personnel may perform service under this Agreement. For Service covered under this Agreement, Company will be responsible for the cost of transporting a part requiring service.

1. Agreement. These terms and conditions are an integral part of Company's offer and form the basis of any agreement (the "Agreement") resulting from Company's proposal (the "Proposal") for the services (the "Services") on equipment listed in the Proposal (the "Covered Equipment"). **COMPANY'S TERMS AND CONDITIONS ARE SUBJECT TO PERIODIC CHANGE OR AMENDMENT.**

2. Connected Services. In addition to these terms and conditions, the Connected Services Terms of Service ("Connected Services Terms"), available at https://www.trane.com/TraneConnectedServicesTerms, as updated from time to time, are incorporated herein by reference and shall apply to the extent that Company provides Customer with Connected Services, as defined in the Connected Services Terms.

3. Acceptance. The Proposal is subject to acceptance in writing by the party to whom this offer is made or an authorized agent ("Customer") delivered to Company within 30 days from the date of the Proposal. If Customer accepts the Proposal by placing an order, without the addition of any other terms and conditions of sale or any other modification, Customer's order shall be deemed acceptance of the Proposal subject to Company's terms and conditions. If Customer's order is expressly conditioned upon the Company's acceptance or assent to terms and/or conditions other than those expressed herein, return of such order by Company with Company's terms and conditions attached or referenced serves as Company's notice of objection to Customer's terms and as Company's counteroffer to provide Services in accordance with the Proposal. If Customer does not reject or object in writing to Company within 10 days, the Company's counteroffer will be deemed accepted. Customer's acceptance of the Services by Company will in any event constitute an acceptance by Customer of Company's terms and conditions. In the case of a dispute, the applicable terms and conditions will be those in effect at the time of delivery or acceptance of the Services. This Agreement is subject to credit approval by Company. Upon disapproval of credit, Company may delay or suspend performance or, at its option, renegotiate prices and/or terms and conditions with Customer. If Company and Customer are unable to agree on such revisions, this Agreement shall be cancelled without any liability, other than Customer's obligation to pay for Services rendered by Company to the date of cancellation.

4. Cancellation by Customer Prior to Services; Refund. If Customer cancels this Agreement within (a) thirty (30) days of the date this Agreement was mailed to Customer or (b) twenty (20) days of the date this Agreement was delivered to Customer, if it was delivered at the time of sale, and no Services have been provided by Company under this Agreement, the Agreement will be void and Company will refund to Customer, or credit Customer's account, the full Service Fee of this Agreement that Customer paid to Company, if any. A ten percent (10%) penalty per month will be added to a refund that is due but is not paid or credited within forty-five (45) days after return of this Agreement to Company. Customer's right to cancel this Agreement only applies to the original owner of this Agreement and only if no Services have been provided by Company under this Agreement prior to its return to Company.

5. Cancellation by Company. This Agreement may be cancelled by Company for any reason or no reason, upon written notice from Company to Customer no later than 30 days prior to performance of any Services hereunder and Company will refund to Customer, or credit Customer's account, that part of the Service Fee attributable to Services not performed by Company. Customer shall remain liable for and shall pay to Company all amounts due for Services provided by Company and not yet paid.

6. Services Fees and Taxes. Fees for the Services (the "Service Fee(s)") shall be as set forth in the Proposal and are based on performance during regular business hours. Fees for outside Company's regular business hours and any after-hours services shall be billed separately according to the then prevailing overtime or emergency labor/labour rates. In addition to the stated Service Fee, Customer shall pay all taxes not legally required to be paid by Company or, alternatively, shall provide Company with acceptable tax exemption certificates. Customer shall pay all costs (including attorneys' fees) incurred by Company in attempting to collect amounts due.

7. Payment. Payment is due upon receipt of Company's invoice. Company reserves the right to add to any account outstanding for more than 30 days a service charge equal to the lesser of the maximum allowable legal interest rate or 1.5% of the principal amount due at the end of each month. Customer shall pay all costs (including attorneys' fees) incurred by Company in attempting to collect amounts due or otherwise enforcing these terms and conditions.

8. Customer Breach. Each of the following events or conditions shall constitute a breach by Customer and shall give Company the right, without an election of remedies, to terminate this Agreement or suspend performance by delivery of written notice: (1) Any failure by Customer to pay amounts when due; or (2) any general assignment by Customer for the benefit of its creditors, or if Customer becomes bankrupt or insolvent or takes the benefit of any statute for bankrupt or insolvent debtors, or makes or proposes to make any proposal or arrangement with creditors, or if any steps are taken for the winding up or other termination of Customer or the liquidation of its assets, or if a trustee, receiver, or similar person is appointed over any of the assets or interests of Customer; (3) Any representation or warranty furnished by Customer in connection with this Agreement is false or misleading in any material respect when made; or (4) Any failure by Customer to perform or comply with any material provision of this Agreement. Customer shall be liable to the Company for all Services furnished to date and all damages sustained by Company (including lost profit and overhead)

9. Performance. Company shall perform the Services in accordance with industry standards generally applicable in the state or province where the Services are performed under similar circumstances as of the time Company performs the Services. Company is not liable for any claims, damages, losses, or expenses, arising from or related to work done by or services provided by individuals or entities that are not employed by or hired by Company. Company may refuse to perform any Services or work where working conditions could endanger property or put at risk the safety of people. Parts used for any repairs made will be those selected by Company as suitable for the repair and may be parts not manufactured by Company. Customer must reimburse Company for services, repairs, and/or replacements performed by Company at Customer's request beyond the scope of Services or otherwise excluded under this Agreement. The reimbursement shall be at the then prevailing applicable regular, overtime, or holiday rates for labor/labour and prices for materials. Prior to Company performing the additional services, repairs, and/or replacements, Customer may request a separate written quote stating the work to be performed and the price to be paid by Customer for the work.

10. Customer Obligations. Customer shall: (a) provide Company reasonable and safe access to the Covered Equipment and areas where Company is to work; and (b) unless otherwise agreed by Customer and Company, at Customer's expense and before the Services begin, Customer will provide any necessary access platforms, catwalks to safely perform the Services in compliance with OSHA, state, or provincial industrial safety regulations or any other applicable industrial safety standards or guidelines.

11. Exclusions. Unless expressly included in the Proposal, the Services do not include, and Company shall not be responsible for or liable to the Customer for, any claims, losses, damages or expenses suffered by the Customer in any way connected with, relating to or arising from any of the following:

(a) Any guarantee of room conditions or system performance;

(b) Inspection, operation, maintenance, repair, replacement or performance of work or services outside the Services;

(c) Damage, repairs or replacement of parts made necessary as a result of the acts or omission of Customer or any Event of Force Majeure;

Attachment: Emergency Purchase R 22 1.31.22 (RES-2022-181 : Emergency Purchase Authorization)

16. Asbestos and Hazardous Materials. The Services expressly exclude any identification, abatement, cleanup, control, disposal, removal or other work connected with asbestos or other hazardous materials (collectively, "Hazardous Materials"). Should Company become aware of or suspect the presence of Hazardous Materials, Company may immediately stop work in the affected area and shall notify Customer. Customer will be responsible for taking any and all action necessary to correct the condition in accordance with all applicable laws and regulations. Customer shall be exclusively responsible for any claims, liability, fees and penalties, and the payment thereof, arising out of or relating to any Hazardous Materials on or about the premises, not brought onto the premises by Company. Company shall be required to resume performance of the Services only when the affected area has been rendered harmless.

17. Insurance. Company agrees to maintain the following insurance during the term of the contract with limits not less than shown below and will, upon request from Customer, provide a Certificate of evidencing the following coverage:

Commercial General Liability	$2,000,000 per occurrence
Automobile Liability	$2,000,000 CSL
Workers Compensation	Statutory Limits

If Customer has requested to be named as an additional insured under Company's insurance policy, Company will do so but only subject to Company's manuscript additional insured endorsement under its primary Commercial General Liability policies. In no event does Company or its insurer waive its right of subrogation

18. Force Majeure. Company's duty to perform under this Agreement is contingent upon the non-occurrence of an Event of Force Majeure. If Company shall be unable to carry out any material obligation under this Agreement due to an Event of Force Majeure, this Agreement shall at Company's election (i) remain in effect but Company's obligations shall be suspended until the uncontrollable event terminates or (ii) be terminated upon ten (10) days notice to Customer, in which event Customer shall pay Company for all parts of the Services furnished to the date of termination. An "Event of Force Majeure" shall mean any cause or event beyond the control of Company. Without limiting the foregoing, "Event of Force Majeure" includes: acts of God; acts of terrorism, war or the public enemy; flood; earthquake; lightning; tornado; storm; fire; civil disobedience; pandemic insurrections; riots; labor disputes; labor or material shortages; sabotage; restraint by court order or public authority (whether valid or invalid), and action or non-action by or inability to obtain or keep in force the necessary governmental authorizations, permits, licenses, certificates or approvals if not caused by Company and the requirements of any applicable government in any manner that diverts either the material or the finished product to the direct or indirect benefit of the government.

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MOLLENBERG-BETZ INC

MATT SMITH
SERVICE MANAGER
300 SCOTT STREET
BUFFALO, NY 14204
msmith@mollenbergbetz.com

P: (716) 614-7473
C: (716) 984-4383
F: (716) 614-7467
www.mollenbergbetz.com

To:	Town of Amherst (Northtown Center)	Fax:	
Attn:	Eric Guzdek	Date:	January 25, 2022
From:	Matt Smith	Pages:	1
Re:	Furnish 1000 lbs. of R-22 for Refrigeration Systems	Quote:	MS2022-023

☐ Urgent ☒ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

Dear Eric:

Mollenberg-Betz, Inc. is pleased to submit the following proposal for the above referenced project per the Scope of Work, Pricing and the following Notes and Exceptions.

Scope of Work

- Furnish 1,000 lbs. of R-22 for refrigeration system(s) at Northtown Center.

Pricing

1000 lbs. R-22	$45,060.00
Cylinder deposit (refunded when cylinder is returned)	$1,500.00
Estimated freight	$450.00
Total	**$47,010.00**

Note: Freight is estimated, cylinder deposit will be credited back when returned.

Notes and Exceptions

1. Sales or use taxes are not included in our pricing. If applicable they will be added to the quoted price. If the project is treated as a capital improvement, the quoted price will increase by the cost of the use tax incurred by Mollenberg-Betz.
2. This quote is for scope as described. Any additional parts or materials which may be required beyond this scope would be billed extra. We would discuss any additions with you before proceeding.
3. Freight and overtime are not included in our pricing.
4. Due to the volatility of the commodity markets, quotes for steel (all alloys) from our vendors are subject to change daily. Quotes for stock copper tube, steel pipe (all alloys), and plastic pipe are valid for up to three days from date of quotation. Non-stock/special order pipe material shall be valid for 24 hours from date of quotation. All pricing for orders beyond these periods may be subject to review/requote. Thereafter, Mollenberg-Betz may in good faith adjust such prices to reflect increases in the costs or availabilities of such price components.
5. For a period of one year from the date of equipment start-up, Mollenberg-Betz warrants its work will be free and clear of defects in workmanship. If found, defects will be repaired at no cost to the Customer. Warranty for installed parts and materials installed will be provided by the manufacturer of each specific product provided, which is acknowledged and agreed to by customer.

If you have any questions/comments, please do not hesitate to call me.

Sincerely,

Mollenberg-Betz, Inc.

Matthew Smith

Matt Smith
Service Manager

Please sign and return one copy to Mollenberg-Betz, Inc.

Acceptance of Quote, Conditions, Qualifications, & Exclusions

Agreed to and Accepted By: _____

Signature: _____

Title: _____

Date:

(Signor posses authority to bind the company)

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

Francina J. Spoth
Town Clerk

Meeting: 02/07/22 07:00 PM
Department: Youth & Recreation
Initiated by: **Mary Diana Pouli**
Co-Sponsored by:

DOC ID: 25356 **RESOLUTION 2022-182** **ADOPTED**

Lease Agreement CRS #3140

Authorize the Supervisor to sign an agreement between the Town of Amherst (Youth & Recreation Department) and Elder Care Solutions of WNY, LLC for rental of office space at the Harlem Road Community Center.

2/7/2022
Consent

FINANCIAL IMPACT:

A 1621.02410; -$21,000 for 2022; -$21,210 for 2023 (revenue)

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

AGREEMENT
Between the Town of Amherst
and
Elder Care Solutions of WNY, LLC

THIS AGREEMENT, made as of _____, 20____ between the Town of Amherst, a municipal corporation with its principal office at 5583 Main Street, Williamsville, New York 14221 (Landlord) and Elder Care Solutions of WNY, LLC organized pursuant to the Laws of the State of New York, with an office at the Harlem Road Community Center, (the "Center"), 4255 Harlem Road, Amherst, New York 14226 (Tenant).

WITNESSETH, that the Landlord has agreed to let, and does hereby let, and the said Tenant has agreed to take, and does hereby take, certain premises containing one office suite consisting of approximately 2,000 square feet, one classroom consisting of approximately 1,000 square feet, and one storage closet for a term commencing the 1st day of January 2022 and ending the 31st day of December 2023. The said Tenant shall pay the Landlord the total rent of $21,000.00 for 2022 and $21,210.00 for 2023 in equal monthly installments.

Landlord shall supply utilities and maintain the premises in a habitable manner in order to permit the Tenant to carry out the company's purposes and intent of providing case management and counseling services.

Tenant shall have the right to make interior modifications to the building, subject however to prior approval of the Landlord. Tenant shall obtain all necessary permits and any additional insurance coverage.

Tenant shall have the right to the shared waiting room area for client use. Children must not be left unattended in the waiting room. Tenant shall have the right to the shared Employee Lounge for employee use. No clients or visitors are to use the Employee Lounge.

Tenant will at its own expense defend, indemnify, save harmless and make good any damage that shall in the course of the activities of Tenant under this lease agreement be done or caused to the Center, including but not limited to land, foundations, walls, roof or other part of the structure and any equipment of the Landlord therein.

Tenant shall hold the Landlord harmless from any and all demands, claims or expenses, awards or judgments for personal injury to third parties, whether other users of the Center or employees of the Landlord, and damage to property of such other third parties resulting from the Tenant's use of the described premises.

Attachment: Elder Care Solutions Lease 2022 (RES-2022-182 : Lease Agreement CRS #3140)

Tenant shall at all times maintain general liability insurance, with indemnification coverage for the premises and the Landlord and shall cause the Landlord to be named as an additional named insured and certificate holder under each such policy, none of which shall be cancelled, reduced in amount of coverage, surrendered or allowed to expire without thirty (30) days prior written notice to the Landlord.

Tenant shall have access to the building during stated business hours, normally 7:30am until 11:30pm, Monday through Friday and 8:00am until 4:00pm, Saturday and Sunday. The building is closed on town and federal holidays (see Attachment A). The Landlord shall provide written notice of permanent changes to building hours.

If default be made in the payment of the rent or any part thereof, or if the Tenant shall without the written consent of the Landlord, let, underlet, or assign the said premises, or a part thereof, for the whole or any part of said term, or shall use said premises or any part thereof for any other purpose than as specified in the Certificate of Incorporation for the Tenant, the Landlord shall have the right at its discretion to terminate this Lease on first giving to the Tenant ten (10) days notice of such election.

This agreement may be terminated by either party with thirty (30) days written notice.

IN WITNESS THEREOF, the parties hereto have caused their corporate seals to be here unto affixed and these presents to be signed by their duly authorized officers the day and year first above written.

ELDER CARE SOLUTIONS OF WNY, LLC

Roxanne Sorensen
Signature

Roxanne Sorensen
Print Name

owner
Title

TOWN OF AMHERST

Brian J. Kulpa, Supervisor

Attachment: Elder Care Solutions Lease 2022 (RES-2022-182 : Lease Agreement CRS #3140)

Attachment A
2022-2023 Holiday Closing Schedule

2022

January 1, 2022 – New Year's Day

January 17, 2022 – Martin Luther King Day

February 21, 2022 – President's Day

April 15, 2022 – Good Friday

April 17, 2022 – Easter

May 30, 2022 – Memorial Day

June 20, 2022 - Juneteenth

July 4, 2022 – Independence Day

September 5, 2022 – Labor Day

October 10, 2022 – Columbus/Indigenous People's Day

November 11, 2022 – Veterans' Day

November 24 & 25, 2022 – Thanksgiving

December 24, 2022 – Closing Time TBD

December 25 & 26, 2022 – Christmas

December 31, 2022 – Closing Time TBD

Attachment: Elder Care Solutions Lease 2022 (RES-2022-182 : Lease Agreement CRS #3140)

2023

January 1 & 2, 2023 – New Year's Day

January 16, 2023 – Martin Luther King Day

February 20, 2023 – President's Day

April 7, 2023 – Good Friday

April 9, 2023 – Easter

May 29, 2023 – Memorial Day

June 19, 2023 - Juneteenth

July 4, 2023 – Independence Day

September 4, 2023 – Labor Day

October 9, 2023 – Columbus/Indigenous People's Day

November 10, 2023 – Veterans' Day

November 23 & 24, 2023 – Thanksgiving

December 24, 2023 – Closing time TBD

December 25, 2023 – Christmas

December 31, 2023 – Closing Time TBD

Attachment: Elder Care Solutions Lease 2022 (RES-2022-182 : Lease Agreement CRS #3140)

IRAN DIVESTMENT ACT CERTIFICATION

As a result of the Iran Divestment Act of 2012 (Act), Chapter 1 of the 2012 Laws of New York, a provision was added to the State Finance Law (SFL), Section 165-a, effective April 12, 2012. Under the Act, the Commissioner of the Office of General Services (OGS) will develop a list (prohibited entities list) of "persons" who are engaged in "investment activities in Iran" (both are defined terms in the law). This list is posted on the OGS website.

By submitting a response to this solicitation, or by assuming the responsibility under a Contract/Lease awarded hereunder, Bidder/Contractor/Vendor (or any assignee) certifies that it will not utilize on such Contract/Lease any subcontractor that is identified on the prohibited entities list.

Additionally, Bidder/Contractor/Vendor is advised that any Bidder/ Contractor/Vendor seeking to renew or extend a Contract/Lease (or assume responsibility of a Contract/Lease awarded must certify at the time the Contract/Lease is renewed, extended or assigned that it is not included on the prohibited entities list.

During the term of the Contract/Lease, should the Town of Amherst (Town) receive information that a person is in violation of the above-referenced certification, the Town will offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment which is in violation of the Act within 90 days after the determination of such violation, then the Town shall take such action as appropriate including, but not limited to, imposing sanctions, seeking compliance, recovering damages or declaring the Bidder/Contractor/Vendor in default.

The Town reserves the right to reject any Contract/Lease or request for assignment for an entity that appears on the prohibited entities list prior to the award of a Contract/Lease, and to pursue a responsibility review with respect to any entity that is awarded a Contract/Lease and appears on the prohibited entities list after Contract/Lease award.

Company Name: Elder Care Solutions of WNY, LLC

Signature: Roxanne Sorensen

Print Name: Roxanne Sorensen

Title: owner

Date: 12/27/2021

Pamela Harris
Notary Public, State of New York
Qualified in Erie County
Reg. No: 01HA6388413
My Commission Expires March 4, 20___

Sworn To Before Me This
27th Day of Dec 2021

Notary Public

Revised 4.2017

Attachment: Elder Care Solutions Lease 2022 (RES-2022-182 : Lease Agreement CRS #3140)

Addendum to Contract VENDOR ON SITE Minor

1. Notwithstanding any other provision in this Agreement, the following clauses shall be controlling. Should any other provision of the Agreement conflict with the clauses in this Addendum then the provisions of this Addendum are to be enforceable and any conflicting provision shall be considered null and void.

2. No rules, requirements or customs of any society or association of professional Vendors or any similar association shall affect this Agreement in any way whatsoever or be binding upon the Town.

3. To the fullest extent permitted by law, Vendor shall indemnify and hold the Town, its officers, agents, and employees, harmless from any and all liability, demands, claims, or expenses, awards or judgments imposed upon the Town, its officers, agents, and/or employees, arising out of the work of the Vendor its officers, agents, sub-Vendors, and/or employees as well as the negligence, active or passive, of the Vendor, its officers, agents, sub-Vendors, and/or employees.

4. Vendor shall not commence work under this Agreement until it has obtained all insurance specified below, produced satisfactory proof of the same and such insurance has been approved by the Town.

(a) Workers' Compensation Insurance: Vendor shall take out and maintain during the life of this Agreement, Workers' Compensation Insurance (both Part A and Part B) for its employees to be assigned to the work hereto under.

(b) General Liability, Professional (if applicable) Liability and Property Damage Insurance: Vendor shall take out and maintain during the life of this Agreement, such general liability and property damage insurance as shall protect it and the Town of Amherst from claims for damages for personal injury, including accidental death, as well as from claims for property damage, which may arise from operations under this Agreement. The amounts of such insurance shall be as follows in an amount not less than $1,000,000.00 per occurrence for bodily injury and property damage including wrongful death, and $2,000,000.00 aggregate.

(c) Vendor shall furnish the above insurances, including sub-Vendors' insurances, to the Town and shall also assure that any policy procured by it shall name the Town as an additional insured on a primary and non-contributory basis.

(d) Vendor shall ensure all its sub-Vendors, if any, have obtained all the above insurances and shall also assure that any policy procured by any sub-Vendor or sub-sub-Vendor shall name the Town as an additional insured on a primary and non-contributory basis.

Attachment: Elder Care Solutions Lease 2022 (RES-2022-182 : Lease Agreement CRS #3140)

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: Elder Care Solutions Lease 2022 (RES-2022-182 : Lease Agreement CRS #3140)

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:

Elder Care Solutions of WNY, LLC
Print Name of Company

By: Roxanne Sorensen
Signature

Roxanne Sorensen
Printed name

Date: 12-27-2021

Agreed to and Accepted by:

Town of Amherst

By: _____
Brian J. Kulpa, Supervisor

Date: _____

Attachment: Elder Care Solutions Lease 2022 (RES-2022-182 : Lease Agreement CRS #3140)

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 7/13/2021

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 have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME:	
NIAGARA NATIONAL INC 5001 GENESEE ST CHEEKTOWAGA NY 14225-5503	PHONE (A/C, No, Ext): 716-684-6000	FAX (A/C, No):
	E-MAIL ADDRESS:	

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : SELECTIVE INS CO OF AMERICA	12572
INSURER B :	
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

INSURED
ELDERCARE SOLUTIONS OF WNY INC
69 FRUEHAUF AVE
SNYDER NY 14226-3805

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE [X] OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: [X] POLICY [ ] PRO-JECT [X] LOC OTHER:	X		S 2336822	7/1/2021	7/1/2022	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 $ 1000,000 $ 20,000 $ 1,000,000 $ 3,000,000 $ 3,000,000
A	AUTOMOBILE LIABILITY ANY AUTO OWNED AUTOS ONLY [X] HIRED AUTOS ONLY SCHEDULED AUTOS [X] NON-OWNED AUTOS ONLY	X		S 2336822	7/1/2021	7/1/2022	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 1,000,000 $ $ $
	UMBRELLA LIAB [ ] OCCUR EXCESS LIAB [ ] CLAIMS-MADE DED [ ] RETENTION $						EACH OCCURRENCE AGGREGATE	$ $
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y/N [ ] N/A (Mandatory In NH) If yes, describe under DESCRIPTION OF OPERATIONS below						[ ] 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)

This Certificate of Liability Insurance was created by Selective on behalf of the agent.

Town of Amherst is included as additional insured with respect to Automobile, General Liability as required by written contract or agreement.

CERTIFICATE HOLDER

Town of Amherst
5583 Main St.
Williamsville NY 14221

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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Attachment: Elder Care Solutions Lease 2022 (RES-2022-182 : Lease Agreement CRS #3140)

AGENCY CUSTOMER ID: _____

LOC #: _____

ADDITIONAL REMARKS SCHEDULE

AGENCY NIAGARA NATIONAL INC	NAMED INSURED ELDERCARE SOLUTIONS OF WNY INC 69 FRUEHAUF AVE
POLICY NUMBER S 2336822	
CARRIER SELECTIVE INS CO OF AMERICA / NAIC CODE 12572	SNYDER NY 14226-3805 EFFECTIVE DATE: 7/1/2021

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,

FORM NUMBER: ACORD 25 FORM TITLE: CERTIFICATE OF LIABILITY INSURANCE

JOB #

JOB LOCATION

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Attachment: Elder Care Solutions Lease 2022 (RES-2022-182 : Lease Agreement CRS #3140)

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) Elder Care Solutions Of WNY LLC 69 Fruehauf Avenue Snyder, NY 14226 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 716-823-1476 1c. Federal Employer Identification Number of Insured or Social Security Number 800277561
2. Name and Address of Entity Requesting Proof of Coverage (Entity Being Listed as the Certificate Holder) The Town Amherst 4255 Harlem Road Amherst, NY 14226	3a. Name of Insurance Carrier AmGUARD Insurance Company 3b. Policy Number of Entity Listed in Box "1a" DB01629088 3c. Policy effective period 01/01/2022 to 01/01/2023

4. Policy provides the following benefits:
   - [x] A. Both disability and paid family leave benefits.
   - [ ] B. Disability benefits only.
   - [ ] C. Paid family leave benefits only.

5. Policy covers:
   - [x] A. All of the employer's employees eligible under the NYS Disability and Paid Family Leave Benefits Law.
   - [ ] B. Only the following class or classes of employer's employees:

Under penalty of perjury, I certify that I am an authorized representative or licensed agent of the insurance carrier referenced above and that the named insured has NYS Disability and/or Paid Family Leave Benefits insurance coverage as described above.

Date Signed 01/10/2022 By David D. Simmons
(Signature of insurance carrier's authorized representative or NYS Licensed Insurance Agent of that insurance carrier)

Telephone Number 800-673-2465 Name and Title Vice President of Sales

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: Elder Care Solutions Lease 2022 (RES-2022-182 : Lease Agreement CRS #3140)

NEW YORK STATE Workers' Compensation Board

CERTIFICATE OF NYS WORKERS' COMPENSATION INSURANCE COVERAGE

1a. Legal Name and address of Insured (Use street address only)	1b. Business Telephone Number of Insured
Elder Care Solutions of WNY, LLC 69 Fruehauf Ave Buffalo, NY 14226	716-823-1476 **1c. NYS Unemployment Insurance Employer Registration Number of Insured**
Work Location of Insured *(Only required if coverage is specifically limited to certain location in New York State, i.e. a Wrap-Up Policy)*	**1d. Federal Employer Indentification Number of Insured or Social Security Number** 80-0277561
2. Name and Address of the Entity Requesting Proof of Coverage (Entity Being Listed as the Certificate Holder)	**3a.Name of Insurance Carrier**
Town of Amherst 4255 Harlem Rd. Snyder, NY 14226	Hanover Insurance Group **3b. Policy Number of entity listed in box "1a":** WZSH689287 **3c. Policy effective period:** 6/23/2021-6/23/2022 **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' compensatio 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 th named insured has the coverage as depicted on this form.

Approved By: **William Lawley Jr.**
(Print name of authorized representative or licensed agent of insurance carrier)

Approved By: _____
(Signature) (Date)

Title: **Managing Partner**

Telephone Number of authorized representative or licensed agent of insurance carrier: CarrierPhone

Please Note: Only insurance carriers and their licensed agents are authorized to issue the C-105.2 form. Insurance brokers are NOT authorized to issue it.

Attachment: Elder Care Solutions Lease 2022 (RES-2022-182 : Lease Agreement CRS #3140)

Workers' Compensation Law

Section 57. Restriction on issue of permits and the entering contracts unless compensation is secured.

1. The head of a state or municipal department, board, commission or office authorized or required by law to issue any permit for or in connection with any work involving the employment of employees in a hazardous employment defined by this chapter, and notwithstanding any general or special statute requiring or authorizing the issue of such permits, shall not issue such permit unless proof duly subscribed by an insurance carrier is produced in a form satisfactory to the chair, that compensation for all employees has been secured as provided by this chapter. Nothing herein, however, shall be construed as creating any liability on the part of such state or municipal department, board, commission or office to pay any compensation to any such employee if so employed.

2. The head of a state or municipal department, board, commission or office authorized or required by law to enter into any contract for or in connection with any work involving the employment of employees in a hazardous employment defined by this chapter, notwithstanding any general or special statute requiring or authorizing any such contract, shall not enter into any such contract unless proof duly subscribed by an insurance carrier is produced in a form satisfactory to the chair, that compensation for all employees has been secured as provided by this chapter.

C-105.2 (9-17) REVERSE

Attachment: Elder Care Solutions Lease 2022 (RES-2022-182 : Lease Agreement CRS #3140)

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

Francina J. Spoth
Town Clerk

Meeting: 02/07/22 07:00 PM
Department: Youth & Recreation
Initiated by: **Mary Diana Pouli**
Co-Sponsored by:

DOC ID: 25359 **RESOLUTION 2022-183** **ADOPTED**

Travel Authorization - CADCA

Authorize Anne Rohrer to attend the 2022 Community Anti-Drug Coalitions of America (CADCA) National Forum in National Harbor, MD from 1/30-2/5/22. All costs will be paid for by the Drug Free Communities grant.

2/7/2022
Consent

FINANCIAL IMPACT:

A 7257 - $3,386.50

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

TRAVEL EXPENSE APPROVAL / REIMBURSEMENT FORM

☐ $250 or LESS and under 75 miles — Department Head Approval ONLY Required

☒ $250 + or greater than 75 miles — Department Head AND Town Board Approval Required

Revised 12/22/2021

NAME	Employee #	Department	Phone Number
Anne Rohrer	7123	Y & R	631-7132

Destination and Purpose of Trip

Date of Departure	Date of Return	Destination	Purpose/Justification
1/30/22	2/5/22	National Harbor, MD	Required conference (CADCA) for DFC grant

Expenses	Estimated	Budget A/C #	Actual
Transportation:			
Mileage @ $0.585		A11	
Tolls		A7257	
Parking			
Local Transportation (bus/taxi)	240.00		
Plane/Rail/Bus	750.00		
Lodging:			
5 # nights @ $280.00	1,400.00		
Meals:			
IRS Per Diem Per Day: $			
1st & Last Day of Travel @ 75%			
2 # Breakfasts @ $ 18.00	27.00		
5 # Lunches @ $ 20.00	90.00		
5 # Dinners @ $ 36.00	162.00		
5 # Incidentals @ $ 5.00	22.50		
Registration/Conference Fee	695.00		
Other			
Subtotal			N/A
Contingency - 10% of subtotal or $200			N/A
TOTAL	3,386.50		

Request Approved By:

Mary Diana Rohrer

Department Head Signature

1/20/22

Date

Town Board :

Town Board Resolution & Date

I hereby certify that I have expended the above itemized amounts for business purposes for the Town of Amherst. Required receipts are attached.

Employee Signature — Date

Print Employee Name

Reimbursement Approved By:

Department Head Signature — Date

Complete Shaded Area
For Expense Reimbursement

Attachment: Rohrer - CADCA Travel (RES-2022-183 : Travel Authorization - CADCA)

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

Francina J. Spoth
Town Clerk

Meeting: 02/07/22 07:00 PM
Department: Town Clerk
DOC ID: 25314

COMMUNICATION 2022-8 **APPROVED**

Request for Public Hearing - 100 Maple Road

Request from Sean Hopkins, Esq. for a public hearing with respect to the rezoning of 100 Maple Road from GB to SC-3.

This hearing has been scheduled for March 14th.

2/7/2022
Consent

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

HSM

January 14, 2022

Timothy J. Koller, Deputy Town Clerk
Town of Amherst Town Clerk's Office
5583 Main Street
Williamsville, NY 14221

Re: Rezoning of 100 Maple Road from GB to SC-3 [Z-2021-10]
Applicant/Project Sponsor: PEG Properties, LLC
File No. 10178.3

Dear Tim:

Pursuant to our telephone conversation earlier today, this is being submitted on behalf of PEG Properties, LLC ("Project Sponsor") to request that the Town Board adopt a resolution during its meeting on Monday, February 7th for the purpose of scheduling a public hearing in connection with the pending request to amend the zoning classification of 100 Maple Road ("Project Site") from GB to SC-3. The Project Sponsor is requesting that the public hearing be scheduled for the meeting of the Town Board to be held on **Monday, March 14th at 7:00 p.m.**

The Planning Board held a public hearing on the pending requested amendment of the zoning classification of the Project Site from GB to SC-3 during its meeting on Thursday, January 13th and adopted a resolution by a unanimous vote issuing a favorable recommendation to the Town Board.

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 Howard, AICP, Planning Director
Nick Blayden, PEG Properties, LLC
Alex Murphy, PEG Properties, LLC

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

Attachment: hopkins ltr - 100 maple rd (COM-2022-8 : Request for Public Hearing - 100 Maple Road)

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

Francina J. Spoth
Town Clerk

Meeting: 02/07/22 07:00 PM
Department: Town Clerk
DOC ID: 25317

COMMUNICATION 2022-9 **APPROVED**

Amherst Symphony Orchestra Signage

Request from the Amherst Symphony Orchestra requesting a fee waiver and permission for signage to be placed at Parks Department, Clearfield Library and the Harlem Road Community Center for one week prior to the concert on February 20th. Response from the Building Commissioner is attached.

2/7/2022
Consent

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Deborah Bruch Bucki, 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

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

Memorandum

DATE: January 20, 2022

TO: Kathy Cooper, Deputy Town Clerk

FROM: Mark S. Berke, Commissioner of Building, 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:
February 13, 2022 – February 20, 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.

Mark S. Berke, P.E.
Commissioner of Building
Town of Amherst Building Department

Attachment: Amherst Symphony Orchestra temp sign fee waiver memo_2-2022 (COM-2022-9 : Amherst Symphony Orchestra Signage)

Koller, Timothy

Subject: FW: Amherst Symphony Orchestra Signage Fee Waiver February 2022

From: b
Sent: Tuesday, January 18, 2022 11:45 AM
To: Koller, Timothy <tkoller@amherst.ny.us>
Subject: Amherst Symphony Orchestra Signage Fee Waiver February 2022

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.

My name is Lee Brusino, VP Promotions with the Amherst Symphony Orchestra, requesting permission to place roadside signage at the following locations to promote our concert February 20, 2022 and to have Fees Waived.

Locations:
Parks and Recreation
Clearfield Library
Harlem Road Community Center

For one week prior to concert: 2/13/2022 - 2/20/2022

Thank you for your time and consideration.

Lee Brusino
VP Promotions
Amherst Symphony Orchestra

Attachment: request (COM-2022-9 : Amherst Symphony Orchestra Signage)

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

Francina J. Spoth
Town Clerk

Meeting: 02/07/22 07:00 PM
Department: Councilmembers
DOC ID: 25319

COMMUNICATION 2022-10 **REFERRED**

Resident(S) Comments Regarding 1789 Dodge Road

Residents comments regarding the rezoning and development of 1789 Dodge Road.

2/7/2022
Referred to Planning and Attorney.

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

Dear Town Council Members:

I am attaching two e-mails re 1789 Dodge Road. I submitted more to the planning board but these two pretty well summarize my concerns and I do want you to read them.

Thank you for taking the time to read them and I am hopeful you will overturn the petition.

One last thing: on the three major developments near Dodge (1695 Dodge, 284 New Road, 775 Heim), they are advertised as convenient to thruway...Buffalo.... Us concerned residents didn't move here for convenience, we moved here for the country-like setting.

Again, thank you.

Cheryl Anastasia
[redacted]
East Amherst NY 14051

Attachment: COMMUNICATION redacted 1789 Dodge Rd C Anastasia 20220207 (COM-2022-10 : Residents Comments Regarding 1789 Dodge

1-21-2022

RE: 1789 Dodge Road

My name is Cheryl Anastasia and I moved to [redacted] in 2000. I am a relative newbie, some of my neighbors have lived here since the 30s and 50s. I moved here because of the country-like setting, not congestion. When I pull onto Dodge from N. French, I truly get a peaceful feeling with the trees...I'm going home. And how lucky I am to live in such a great neighborhood. It's corny, but true.

I STILL love all the land as well as the nearby conveniences. We are truly a slice of paradise nestled in our little community.

Which makes us a target for developers and to have zoning changed to suit their agenda.

Within a mile of my house there are three developments going in: done deals of approximately 141 families. And none of these developments has an acre per house.

When I purchased my house, the realtor advised me I could not build behind my house due to zoning and designated wetlands. When I closed on the property I was again advised of this. ***Twenty years later a developer, who doesn't live on the property can have the law changed for profit?***

Presently (1790-1875 Dodge) there are about 15 homes on 29.4 acres (ratio 1.96 acre per house). Glen Meadow at 1695 Dodge has about 32 patio homes going into 15 acres (ratio .46 acre per house). And now Mr. Rubino is proposing 15 houses on 6.7 acres (2 acres being used as buffer – ratio .31 acre per house).
My concern is threefold:

1. Our country-like setting is being decimated and the subdivisions are not in line with current property parameters. There is plenty of room on North French, Transit, Millersport Highway. We are well established and our property value has withstood the test of time.
2. A developer for profit can infiltrate established neighborhoods and have zoning laws changed. And while I empathize with Mr. Rubino, he was not quick enough and Essex/Glen Meadow beat him to the punch. Because we residents were not notified about Essex/Glen Meadow, we are now TRULY CONCERNED WITH THE INTEGRITY OF OUR NEIGHBORHOOD. And we are NOT happy.
3. 1789 is exactly two residential houses away from 1695 (Essex/Glen Meadow). ***TWO SUBDIVIONS BETWEEN TWO HOUSES?????*** When is ENOUGH ***ENOUGH***?

Our quality of life is going to be impacted due to the proposed "cluster" as Mr. Hopkins said meeting before last, not for the better. It breaks my heart that our rural homes, our neighborhood, ***our sanctuary*** is being turned into subdivisions for profit.

Mr. Rubino's proposed re-zoning was turned down three times by the Planning Board. Please, we implore you: do not allow this second subdivision to come to fruition.

Thank you for allowing me to voice my concerns.

Cheryl Anastasia

Attachment: COMMUNICATION Attach redacted C Anastasia 1789 Dodge 1-21-2022 20220207 (COM-2022-10 : Residents Comments Regarding

9-15-2021
emailed : Carrato, Ann

As best as I can determine, the following is true (I used my end of the neighborhood up to 1789 Dodge):

The following developments have been approved and are in progress:

1695 Dodge	ESSEX DEVELOPMENT	32-unit patio homes (15.5 acres)
284 New Road	MILLER'S CROSSING	85 new homes (2 story, ranch, patio) (7 acres)
775 Heim	Essex / Fairwood	24 homes (7 acres)

PROPOSED:

1789 Dodge	(Joe Rubino rezone 6.7 acres)	17 homes

EXISTING:

1790 Dodge	Mack	1.22 acres
1800 Dodge	Kenola	1.22 acres
1810 Dodge		1 acre
1820 Dodge		1 acre
1830 Dodge		1.02 acres
1840 Dodge	Gamel	1.18 acres
1850 Dodge	Smith	1.10 acres
1860 Dodge	Anastasia	1.29 acres
1880 Dodge	Pearce	3+ acres
1721 Dodge	Fiegl?	4.0 acres
1815 Dodge	Pitz	4.0+ acres
1825 Dodge		2.0+ acres
1835 Dodge	Priebe	1.37 acres
1845 Dodge	Schoenle	3+ acres
1875 Dodge		3+ acres
		29.40 acres 15 homes

As these are family homes, using a calculation of 3 per address = 45 people for 29.40 acres = .66 per acre per person; using a high calculation of 4 per address = .49 acre per person.

Proposed development of 2 per house = 141 people for 29.50 acres = .20 per acre per person

This development will change our neighborhood forever.

As these calculations suggest, the proposed development (and I am sure the homes will be beautiful but due to close proximity, will they stand the test of time? Our homes have.) does not provide the same space and therefore, does not keep the integrity and of our established neighborhood, which is why we moved here in the first place. The feeling of country...not congestion.

Truthfully, I am dreading the completion of the ~~two~~ three new approved developments. It breaks my heart. Is progress always progressive?

Why are developers allowed to infiltrate established neighborhoods? Change zoning codes?

1/2

Attachment: COMMUNICATION Attach redacted C Anastasia 1789 Dodge 1-21-2022 20220207 (COM-2022-10 : Residents Comments Regarding

There's North French, Transit..... Oh, is it more expensive to purchase initially????? And, why is it always about money (more tax dollars, Planning Board?).

Respectfully submitted,

Cheryl Anastasia
[redacted]

Attachment: COMMUNICATION Attach redacted C Anastasia 1789 Dodge 1-21-2022 20220207 (COM-2022-10 : Residents Comments Regarding

Attachment: COMMUNICATION Attach redacted C Anastasia 1789 Dodge 1-21-2022 20220207 (COM-2022-10 : Residents Comments Regarding

Attachment: COMMUNICATION redacted 1789 Dodge Rd S Mack 20220207 (COM-2022-10 : Residents Comments Regarding 1789 Dodge Road)

-------- Original message --------
From: Sandy Mack [redacted]
Date: 1/26/22 6:44 PM (GMT-05:00)
To: "Kulpa, Brian J." <bkulpa@amherst.ny.us>, "Berger, Jacqualine" <jberger@amherst.ny.us>, "Bucki, Debbie" <dbucki@amherst.ny.us>, "Lavin, Shawn A." <slavin@amherst.ny.us>, "Szukala, Michael" <mszukala@amherst.ny.us>, "Cerra, Dawn" <dcerra@amherst.ny.us>, "Spoth, Francina" <fspoth@amherst.ny.us>
Subject: Rezoning of 1789 Dodge Road

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.

First of all, I would like to address the topic of Mr. Rubino's letters to us residents asking us if we had any questions and about his informational meeting on 11/20/21 We have SEEN his proposal, READ his proposal and HEARD about it several times over the past year when the planning board hearings occurred. We received his invitation for the 11/20/21 meeting one week prior to the meeting and it was to happen 2 days before the Town Board meeting on 11/22/21 This proposal began last February 2021. All summer long he was at 1789 Dodge Road cutting his grass, and he never once tried to approach any of us neighbors. When the planning board asked him several times if he had reached out to us, he gave the excuse of COVID. We know what his proposal is – a 15 house subdivision – and we the residents do NOT want it as verified by the protest petition. His latest letter told us to contact him if we had any questions but there was no contact information on it. I personally have no questions for him. The only question I might have for him is why does he want to destroy our rural, country-like setting neighborhood? But I already know the answer – money, profit, greed!

There was recently a subdivision approved down the road. Because of the 600 foot rule when notifying residents many of us were not aware of it. Let's face it – 1789 Dodge Road has 400+ feet of frontage alone. That means there would have been only 3 residents notified to the north of this project on the same side of the road, Mr. Rubino being one of them! A lot of the residents who signed the protest petition were also opposed to this one but since we were not notified, we couldn't fight it. This subdivision down the road will create an additional 60+ vehicles on an already heavily traveled road. Mr. Hopkins stated Mr. Rubino's proposal will create only 15 more cars. Anybody knows, this is false! There will be at least 2 cars per house, if not more, for a total of 30. If this proposal gets approved, that means there will be an additional 100+ vehicles. Plus, if school buses are not allowed into these subdivisions, there will be much more congestion on Dodge Road as the buses will have to stop on the road. Please do not compound the current traffic situation by approving this proposal. Not only are we talking about a lot more vehicles on the road but these subdivisions will bring in families whose kids will be walking to school without sidewalks and way too much traffic!

The Bicentennial Comprehensive Plan was adopted by the Town Board to guide future growth and redevelopment in the town. In one section it states there is a gradual erosion of the town's rural character because suburban agricultural districts are being rezoned for suburban development. In Mr. Hopkin's presentation there were several pictures of 1789 Dodge Road showing how peaceful and park-like the countryside is in our neighborhood. Even the aerial view showed how rural this section of Dodge Road is. Mr. Hopkins also showed a map of the area showing several different zoning classifications. Unfortunately, most of the map depicted the area south and west of Mr. Rubino's proposal. If you look to the north and east of Mr. Rubino's proposal, you will see the majority of the properties are zoned suburban agricultural. In fact, the Bicentennial Comprehensive Plan talks in depth about the area north of North French Road, which this project is just on the other side of North French Road to the south. It states that this area has large, deep frontage lots that reflect 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 should strive to retain much of its low-density rural pattern and character, avoiding long uninterrupted strips of housing. This is no different than our neighborhood!

Mr. Hopkins keeps referencing this area as a good place for infill development. The Bicentennial Comprehensive Plan per section 3.3.1 states "that such development should be consistent with the scale and character of the existing surrounding residential area. New infill development should also be designed to be consistent with the established character of the surrounding neighborhood". Not only is Mr. Rubino's proposal NOT on the same scale and character of our neighborhood, it will NOT be aesthetically harmonious with it! For all of these reasons, the Planning Board has denied Mr. Rubino's proposal. It does not fit our neighborhood nor does it fit the Bicentennial Comprehensive Plan. As our elected town officials, we urge you to deny this proposal, also!

If you lived in a rural neighborhood such as ours – with lots of land – would you want this subdivision to be built in it? We're not opposed to growth, but just not in our rural area. There is plenty of vacant land in the town to build on. We've given Mr. Rubino an alternative of building 4 houses all on Dodge Road with no public roadway. This would fit our rural character!

Thank you!

Sandy Mack

[redacted]

Attachment: COMMUNICATION redacted 1789 Dodge Rd S Mack 20220207 (COM-2022-10 : Residents Comments Regarding 1789 Dodge Road)

-------- Original message --------
From: Happy Nancyfam [redacted]
Date: 1/22/22 8:56 AM (GMT-05:00)
To: bkupla@amherst.ny.us, "Berger, Jacqualine" <jberger@amherst.ny.us>, "Bucki, Debbie" <dbucki@amherst.ny.us>, "Lavin, Shawn A." <slavin@amherst.ny.us>, "Szukala, Michael" <mszukala@amherst.ny.us>, "Spoth, Francina" <fspoth@amherst.ny.us>, "Cerra, Dawn" <dcerra@amherst.ny.us>, mack1790@gmail.com
Subject: Rezoning of 1789 Dodge Rd.

CAUTION: This email originated from outside of the organization.
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My name is Nancy Fender(nee Mack). I grew up at [redacted] Dodge Rd. and have followed closely all the proceedings on the proposed rezoning. I have a few questions and comments about this project. These are not questions that Mr. Hopkins nor Mr. Rubino can answer, but you can.

Mr. Hopkins/Mr. Rubino has used the fact that this new subdivision will be a stepping stone/benefit in the extension of Young's Rd. in the future and that it fits into the town's Bicentennial Comprehensive Plan. Is this extension something that is really in the works per town plans or just wishful thinking on Mr. Hopkins/Mr. Rubino's part? Also, is the future plans of the Town of Amherst to be nothing but subdivisions? I have read through your BCP several times and see nothing in it to support Mr. Hopkins/Mr. Rubino's proposed plan. However, I did find several spots where it refers to keeping farm land as farmland! 6.7 acres may not be suitable for a large farm, but I do know that under the Farmland Preservation Act, a farm can be as small as a neighbor growing vegetables for their own use to someone who keeps bees or even runs a kennel. I also noted, that as the property sits right this moment it is zoned and could be used as a Bed & Breakfast. My question, does this project represent the future of the Town? Is that what the BCP is designed to mean?

Mr. Hopkins also stated, in every meeting, that the new subdivision going in down the road(he had a hand in that one too!) went in without opposition. Could this be because of the "within 600 feet" rule? When a project as large as a subdivision is being considered, don't you think that it effects more than just those living within 600 feet? Wouldn't it be better if those within 1/2 a mile in either direction be notified? After all, it effects them too! Is the Town of Amherst going to end up being nothing but subdivisions? How many will be enough?

I agree with board member Szukala that people want to live in Amherst, but what makes Mr. Hopkins/Mr. Rubino think that everyone wants to live in a subdivision with a HOA? I believe that Mr. Hopkins/Mr. Rubino have used false representations to gain what they want under the guise of the BCP. The Planning Board said it doesn't fit the BCP so what makes Mr. Hopkins/Mr. Rubino think it does? As I said, I've read it at least twice, and don't see where it fits. This property never went up on the market, so how does someone know that someone else would not have bought it for the purpose of a farm? Mr. Hopkins/Mr. Rubino stated that the property is not suitable for farming! I remember many a great crop coming from this land when I was young. Has something changed with the land? Maybe some of those people who want to move to Amherst want to move there so they can own some land and have more privacy than the city

Attachment: COMMUNICATION redacted 1789 Dodge Rd N Fender 20220207 (COM-2022-10 : Residents Comments Regarding 1789 Dodge

provides. Does the Town think about that before okaying subdivisions? Has Mr. Hopkins/Mr. Rubino thought about that? I think the only thing on their minds I money! I also think Mr. Hopkins is using subdivisions as a back door to gain part ownership in the Town of Amherst!! (Just my opinion based on his track record).

Mr. Hopkins/Mr. Rubino stated that he made attempts to talk with neighbors on several occasions. Well, I spent almost two months up at my sister's, last summer and he never once tried to speak with her when he was over at the project site. Twice we were sitting outside in her driveway and he never so much as waved let alone walk over to chat! He hid under the "due to COVID restrictions" making it difficult. Well I know many a conversation that took place with masks and social distancing.

I guess what I am getting at is that I hope this project doesn't get approved based on lies, excuses, and/or money! Four houses with 100 foot road frontage will fit in quite well with the neighborhood. Mr. Hopkins/Mr. Rubino would still be more than doubling his money. More houses just means more profit and I believe that is the only thing that Mr. Hopkins/Mr. Rubino are thinking of! How much money can he make without regards to the rest of the neighborhood? I understand this means no HOA, but who cares? Only Mr. Hopkins!!

You see, I am contemplating moving back to his area after retirement, but do not want to live in a subdivision nor a neighborhood with too many subdivisions in close proximity. Thank you for taking time to read this email(I know it's a bit long) and I look forward to hearing your responses to my inquiries.

Respectfully yours,
Nancy Fender

Attachment: COMMUNICATION redacted 1789 Dodge Rd N Fender 20220207 (COM-2022-10 : Residents Comments Regarding 1789 Dodge

Attachment: COMMUNICATION redacted 1789 Dodge Rd L N Rockwell 20220207 (COM-2022-10 : Residents Comments Regarding 1789 Dodge

-------- Original message --------
From: [redacted]
Date: 1/14/22 5:11 AM (GMT-05:00)
To: berger@amherst.ny.us, "Bucki, Debbie" <dbucki@amherst.ny.us>, "Kulpa, Brian J." <bkulpa@amherst.ny.us>, "Lavin, Shawn A." <slavin@amherst.ny.us>, "Szukala, Michael" <mszukala@amherst.ny.us>
Cc: "Spoth, Francina" <fspoth@amherst.ny.us>, "Cerra, Dawn" <dcerra@amherst.ny.us>
Subject: Rezoning of 1789 Dodge Road

CAUTION: This email originated from outside of the organization.
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Dear Amherst Town Board:
We believe you are meeting on January 18th, 2022 to vote on the request to rezone the property at 1789 Dodge Road from SA to M3. My wife, Lisa, and I live next to this property with our two children. Changes to this property will have a significant impact on our family's quality of life. We ask that you please consider our words before deciding on your vote at the upcoming Amherst Planning Meeting on September 23rd. It is our intent that the planning board joins us in opposing the rezoning to R-3 because it is inconsistent with the Dodge Road community. If the instead board approved, zoning that required 100 feet of frontage (R1, I think), any residences developed there would be able to remain consistent with the neighborhood we have grown to love.
We moved to the Dodge Road community 6 years ago from Buffalo. In Buffalo we enjoyed living in close proximity to many of our neighbors, though we grew to feel confined by the close proximity of so many neighbors. We started to dream of a day when we could purchase a home that would allow us the space to live our best lives. After years of hard work and frugal living we could afford the home we dreamed of, and we found it here in the Dodge Road Community in East Amherst. The space we have at [redacted] directly next to the property in question, fit our needs perfectly- we didn't even look at houses in developments because they did not have the space and privacy we were looking for.
Here we have enjoyed living the quiet mix of suburban and rural lifestyles that exists here. We have enjoyed interacting with our neighbors, who all live far enough from us that our lifestyle needn't impede on them and their lifestyle needn't impede on us. We have the space and privacy to create a garden that suits our tastes, and we don't have to worry about interfering with our neighbors' enjoyment of their lives as we enjoy our lives on our private property. And because our neighbors live on more than an acre of property their enjoyment of their best lives doesn't impact us. Buying a house in a suburban-agricultural zone was a major selling point for our home, which we have considered to be our forever home.
As our forever home we have invested significantly in our property, which would be a huge barrier to us being able to move to another area that would allow us to regain our version of the American Dream. For us, the prospect of relocating would be devastating, and not only for financial reasons. Yes, we have invested a significant amount of money, but we have also poured our time, sweat and love into developing our property. We have planted trees, shrubs and perennial plants here, some of which were given to us as gifts. To us our garden isn't just decoration, it is our oasis.
If the R-4 permit is approved and Mr Rubino is able to build 15 homes 20 feet from us we will lose almost all of the charms that brought us to this community. This project will result in 8 new properties, with 8 new families living along our nearly 900 foot long property. Because these small lots, which average 9,208 square feet, are incompatible with our property, which is 1.67 acres, it would convert our property into something completely different than what we purchased 6 years ago. However, if zoning for 100+ feet of frontage was approved, instead it would result in one new residence being build next to us and one new family living along our property. Approving the R1 zone would result in a major invasion of our way of life. We know that you don't have any more control over what Mr. Rubino applies for than we do, but approving a permit that only allowed for a single property along our property line would help us maintain our quality of life while also maintaining the integrity of our neighborhood as the suburban-agricultural community that we value.

We are also concerned for yet another construction project that will impact yet more summers of our children's lives. We are concerned for the pesticides that these 15 new residents will likely use in their gardens, and the impact it will have on the local flora and fauna. We are concerned about the impact to traffic on a road that pedestrians from our community use to commute to school and for recreation. We are concerned about the destruction of further wildlife habitats, driving out native residents. And we feel like families like ours are being driven out of East Amherst.

I thank you for reading our words. I would like to share a special thank you for the members of the Amherst Planning Board, who agreed that this project is inconsistent with our neighborhood on 3 occasions over the past year. They really listened to our community's needs and stood with your constituents. We value their commitment to our community.

Thank you to the members of this board for listening to our pleas with open hearts and minds a the November Town Board Meeting. Thank you for bearing with our long letter with compassion. Thank you for the opportunity to exercise our voices, and allowing us to share our strong reservations on the effects of the proposal on our lives.

Warm wishes,

Nick & Lisa Rockwell
[redacted]
East Amherst, NY 14051

Attachment: COMMUNICATION redacted 1789 Dodge Rd L N Rockwell 20220207 (COM-2022-10 : Residents Comments Regarding 1789 Dodge

-------- Original message --------
From: [redacted]
Date: 1/27/22 6:21 PM (GMT-05:00)
To: "Kulpa, Brian J." <bkulpa@amherst.ny.us>
Cc: "Bucki, Debbie" <dbucki@amherst.ny.us>, "Spoth, Francina" <fspoth@amherst.ny.us>, "Berger, Jacqualine" <jberger@amherst.ny.us>, "Szukala, Michael" <mszukala@amherst.ny.us>, "Lavin, Shawn A." <slavin@amherst.ny.us>, "Rogers, Deborah" <drogers@village.williamsville.ny.us>
Subject: 1789 Dodge 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.

Mr. Kulpa and the town board,

If you look at Mr Hopkins aerial photo it shows how rural our unique Dodge Rd is. You will note the large lots and the amount of woodlands that we enjoy for now. Dodge is being turned into a service road. With all the little dead end roads off of it. Just to jam houses on larger lots. Look at what has been allowed to happen to Casey Rd. From Casey middle school to Transit Rd there is a couple houses and then a road going into a subdivision then a few more houses and another road and so on and so on. The Board should be disgraced in what they have done. Sometimes you just have to tell builders NO! Why isn't this infill development put on a road like Millersport hwy where there is 100's of acres of land for sale with little to know building on it. Why is it necessary to pluck out a 100 year old home and put a dead end road to disrupt the neighborhood and land owners that have been here for generations. Mr. Szukala stated he gets phone calls from younger people living in smaller residents or apartments who are looking for homes. They are the fabric of the town. When my son was looking for a home he called a realtor told them what he would like, area, school district, price range (150,000.) for his starter home. Never thought about calling the town board. What about us residents that live here now. What are we? Some of us are volunteer firemen, some have worked in the towns highway dept, Amherst court, some of us have ties to Amherst voluntary police. New people are the fabric then I would say we are the yarn that the fabric is made of. You know the people that have supported the town and our community for decades. We have elected our town officials to do the work of the people. Again 35 home owners 90% of the homes from Casey Rd and North French Rd Don't want this 15 house subdivision.

As Mr. Reburno expects us to put up with change with no regards to us or how we want to continue to live our life's. We the residents have offered a change from his 15 house atrocity to divide the property into 4 to 6 larger lots. This would allow the building of 4 to 6 homes that is in character with our unique rural setting with no road added. This will match us and also would not get any opposition from us the currant residents.

We ask you our elected town officials to side with us and your own planning board that has voted 3 times to Deny this proposal.

Thank you

William Pitz
[redacted]

Attachment: COMMUNCIATION redacted 1789 Dodge Rd W Pitz 20220207 (COM-2022-10 : Residents Comments Regarding 1789 Dodge Road)

-------- Original message --------
From: [redacted]
Date: 1/29/22 8:16 PM (GMT-05:00)
To: "Kulpa, Brian J." <bkulpa@amherst.ny.us>
Cc: "Bucki, Debbie" <dbucki@amherst.ny.us>, "Spoth, Francina" <fspoth@amherst.ny.us>, "Berger, Jacqualine" <jberger@amherst.ny.us>, "Rogers, Deborah" <drogers@village.williamsville.ny.us>, "Szukala, Michael" <mszukala@amherst.ny.us>, "Lavin, Shawn A." <slavin@amherst.ny.us>
Subject: 1789 Dodge 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.

Mr. Kulpa and the town board,

I hear about a demand for housing in our town and the concern about the future of it. If you keep allowing projects like Mr Rurbino's tearing down beautiful old homes. Filling in every inch of our town with cookie cutter subdivisions what are you leaving? Where is the charm of our town gone! People choose to move here to have convince and the rural setting we offer. At the Town Planning board meeting Mr Hopkins was very proud of the fact the houses were going to be north of 450k and didn't consider them starter houses. Now at the Town Board meeting he is saying around 400k and they are starter houses. In his presentation there is a slide of 2 houses they are not the 400k houses he wants to build.

The talk about what is zoned in our area has come up. He shows us a map that has miles and miles of the town of Amherst. The town uses 600' as the rule to send out letters to let people know what is going on. Think about the rezoning of 1695,1701 and 1721 Dodge was done with many of us never getting a letter or any info on it. I am 3 houses away for that project lot size puts me out of the 600' letter. It was approved under the site line of many of us. If you are in the village of Williamsville 600' would be like 9 houses on each side of the project and 18 to 19 houses on the other side of the street. That's 37 houses on Dodge here with our large lots that would equal like 9 houses total. That is something that should be addressed. So if we are using 600' as the rule then the only zoning that should count is within 600' of the project. That being said we are all large lots with single family houses.

My next three points come from the letter sent you the Town Board by your Town Planning Board. This is what they seen and have raised the concern to Deny this project.

Intent and Objective of the Comprehensive Plan

Figure 6 of the Bicentennial Comprehensive Plan is the Conceptual land use plan. The land use plan recommends the parcel at 1789 Dodge rd. as "single family residential" The corresponding text (section 3.3.1) indicates that opportunities exist for infill residential development at a scale and in character with existing surrounding residential areas. The proposed concept plan includes housing that is **DISSIMILAR to surrounding large lot homes.**

Intent and objectives of the zoning ordinance

The proposal is inconsistent with section 1-2-2K of the zoning ordinance which seeks to guide the future development of the town so as to bring about gradual conformity of land and building uses in accordance with the objectives of the comprehensive plan

Attachment: COMMUNCIATION redacted 1789 Dodge Rd W Pitz 20220207 (COM-2022-10 : Residents Comments Regarding 1789 Dodge Road)

Consistency/Compatibility with surrounding development/zoning

The project site is surrounded by residential zoning districts and development of varying intensities. Adjacent to the North, South and East are single family residential uses on larger lots, zoned suburban agriculture and across dodge to the west are also single family residential uses zoned residential district three. The scale and density of the proposed concept plan **is not in Character with the surrounding existing larger lot single family residential development.**

In our neighborhood we are very close to all three schools Dodge Elementary, Casey Middle, Williamsville North High school. As when I was going to the schools we had to walk to school or have to be dropped off and picked up. So there will be no bus service offered. Now things do change but I see kids walking to school now so don't believe that has changed.

All summer long Mr Rubino have been on site cutting the grass. We have heard because of the pandemic he couldn't have info meetings with us. What would have stopped him from coming and talking with us one on one? I had to approach him twice to talk. Again we get a letter a few days before a meeting and just wants to tell us what he is doing. No input from us! Mr Hopkins added in the last meeting a letter to us Dated Jan 3rd 2022 telling us "I am available to meet in person with taking COVID precautions, social distancing and wearing a mask, or by cell, email or texting." Please note do you see anywhere on the letter that has a cell #, Email address because I don't. He can say what he wants to make himself look like he cares about us and wants our input. Talk is cheep this is what they do come into neighborhoods buy land on speculation build and move on to the next. Don't care about other land owners or what happens to the area.

I ask you find with us and agree with the Town Planning Boards recommendation to DENY this project. It is what is right and what 90% of the home owners on Dodge want.

Thank you for your time.

William Pitz
[redacted]

Attachment: COMMUNCIATION redacted 1789 Dodge Rd W Pitz 20220207 (COM-2022-10 : Residents Comments Regarding 1789 Dodge Road)

Attachment: COMMUNICATION redacted 1789 Dodge Rd D Ohar 20220207 (COM-2022-10 : Residents Comments Regarding 1789 Dodge Road)

-------- Original message --------
From: lionsdendjo [redacted]
Date: 1/17/22 3:10 PM (GMT-05:00)
To: "Bucki, Debbie" <dbucki@amherst.ny.us>
Subject: Town Board Meeting 1/18/2022

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.

Dear Town Board Representative,
I live at [redacted] Dodge Road and am against the Feagel property being turned into a multi unit development.
We already have too much traffic coming and going down Dodge Road. It's only going to get worse with another 30 or more automobiles filing down the road and clogging up the I intersection at Dodge and North French Roads. I live just two doors from the corner and have difficulty getting out of my driveway as they file past wanting to make the light.
I've lived on this road since 1977 after taking one and a half years to rebuild an abandoned house and turning it into our home. Our place fits this community. This development won't. This road has always had "country style living" with one acre plus per unit. That is
what should be built there.
I ask that you do the right thing and vote NO to this development going in.
Sincerely yours,
Daniel Ohar

****

-------- Original message --------
From: lionsdendjo [redacted]
Date: 1/17/22 7:18 PM (GMT-05:00)
To: "Bucki, Debbie" <dbucki@amherst.ny.us>
Subject: Town Board Meeting on 1/18/2022

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'd like to make a correction to the E-mail that I sent today. I stated that my concern was about the property development at the Feagel's property on Dodge Rd. However it is concerning the property development at 1789 Dodge Road being proposed by Joe Robino.
Thank you,
Dan Ohar

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

Francina J. Spoth
Town Clerk

Meeting: 02/07/22 07:00 PM
Department: Councilmembers
DOC ID: 25344

COMMUNICATION 2022-11 **REFERRED**

Resident Comments Regarding Sale of Meyer Road Property

Resident has questions about sale of Meyer Road property, posted assessment and sale price.

2/7/2022
Referred to Planning, Attorney and Assessor.

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

-------- Original message --------
From: joe voytovich [redacted]
Date: 1/31/22 9:41 AM (GMT-05:00)
To: "Szukala, Michael" <mszukala@amherst.ny.us>, "Lavin, Shawn A." <slavin@amherst.ny.us>, "Bucki, Debbie" <dbucki@amherst.ny.us>, "Berger, Jacqualine" <jberger@amherst.ny.us>, "Kulpa, Brian J." <bkulpa@amherst.ny.us>
Cc: Geri Dicosmo <[redacted]
Subject: Home purchase gone unquestioned

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.

Hello all,

In late December, a Meyer Road resident saw a home purchase listed in the Buffalo News. Below is listing of that sale from the Erie County clerk's website.

Click **Search** Tab to initiate new search. Click **Results** tab to view search results list.

Type:	DEED
Instrument No.:	2021219605
Date:	11/03/2021 12:54:56
Book Type:	D
Book/Page:	11390/3714
Pages:	6
Consideration:	$620,000.00
Legal:	270 MEYER RD 14226
GRANTOR:	WELLS LUCIA M FKA
	DESTEFANO LUCIA M AKA
GRANTEE:	570 DELAWARE XVII LLC

What is the REAL value of that property? Below is the property information from the Amherst assessor's website.

Attachment: COMMUNICATION Home purchase Meyer Rd 20220207 (COM-2022-11 : Resident Comments Regarding Sale of Meyer Road

Assessment Data

Total Assessed Value: $ 75,000.00
Land Assessed Value: $ 51,000.00
Last Valid Sale Date:
Last Valid Sale Price:
Sale Type:
Neighborhood Code: 3100

How does a property get sold for over $500,000 over the assessed value - over 8 times the value - and not get a full scrutiny on how/why this happened?

Notice that the purchaser is 570 Delaware XVII LLC. This LLC was registered on August 23, 2021 and the sale closed some 10 weeks later.

Who is behind this LLC? The public doesn't know. LLCs are protected by NYS law and the Department of State doesn't list the owner - BUT the Benderson main office is at 570 Delaware Avenue.

Suspicious, is it not? We had hearings into the Delta Sonic rezoning but never got any real answers nor any thorough investigation into all issues involved.

The public is not being served by the lack of transparency here.

Regards,

Joe Voytovich

Attachment: COMMUNICATION Home purchase Meyer Rd 20220207 (COM-2022-11 : Resident Comments Regarding Sale of Meyer Road

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

Francina J. Spoth
Town Clerk

Meeting: 02/07/22 07:00 PM
Department: Town Clerk
DOC ID: 25313

COMMUNICATION 2022-12 **REFERRED**

Notice of Claim: Paul Gust Vs. Town of Amherst Et Al.

2/7/2022
Referred to Town Attorney.

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

IN THE MATTER OF THE CLAIM OF:

PAUL GUST
[redacted]

Claimant, **NOTICE OF CLAIM**

vs.

COUNTY OF ERIE
95 Franklin Street
Buffalo, New York 14202

TOWN OF AMHERST
5583 Main Street
Williamsville, New York 14221

TOWN OF AMHERST SEWER MAINTENANCE DIVISION
1100 North Forest Road
Williamsville, NY 14221

ERIE COUNTY WATER AUTHORITY
295 Main Street
Room 350
Buffalo, New York 14203

Respondents.

TO: County of Erie, Town of Amherst, Town of Amherst Sewer Maintenance Division and Erie County Water Authority

Claimant, Paul Gust, by and through his attorneys, Nicholas, Perot, Smith, Bernhardt & Zosh, P.C., Daniel T. Smith, Esq., of counsel, hereby presents his claim as follows, upon information and belief:

1. That the claimant's proper name is Paul Gust.

2. The claimant's date of birth is [redacted] and the claimant resides at [redacted]

Attachment: DOC011822-01182022114035 (COM-2022-12 : NOC: Gust Vs TOA)

3. That the attorneys for the claimant herein are Nicholas, Perot, Smith, Bernhardt & Zosh, P.C., Daniel T. Smith, Esq., 12364 Main Road, Akron, New York 14001.

4. Town of Amherst is a municipal corporation and/or entity located within the County of Erie.

5. County of Erie is an existing county within the State of New York.

6. This claim is against the Town of Amherst, County of Erie, and Erie County Water Authority, their respective employees, servants, agents, and/or representatives for injuries sustained by Paul Gust, as a result of an accident which occurred on or about November 28, 2021 at approximately 2:30 P.M.

7. On November 28, 2021, at approximately 2:30 P.M., claimant, Paul Gust, was traveling in a parking lot located at 15 Willow Ridge Drive, in the Town of Amherst and County of Erie, where he fell of his bike at or near the sewer grate located in said parking lot.

8. Claimant, Paul Gust, was caused to sustain serious personal injuries.

9. That the aforesaid incident occurred as a result of the acts and/or omissions of the Town of Amherst, County of Erie, Erie County Water Authority, their agents, servants, and/or employees in creating a dangerous condition, in negligently and recklessly owning, operating, maintaining, and managing the parking lot and associated sewer grate, in failing to guard, warn, or protect the public from dangerous and trap-like conditions existing on and around the sewer grate, and in failing to have adequate concrete/asphalt around the sewer hole so as to be safe for the public.

10. The location of the incident is further shown by the attached picture wherein the sewer grate is circled in blue.

Attachment: DOC011822-01182022114035 (COM-2022-12 : NOC: Gust Vs TOA)

11. As of this date, and so far, as can be presently determined, the claimant, PAUL GUST, has sustained injuries and/or damages which include, but are not limited to the following:

a. 2 Fractured ribs, lose of right testicles and Contusions and abrasions.

b. Injuries requiring medical attention;

c. Injuries that will leave permanent and severe problems;

d. Great bodily injuries which require medical aid, which were in fact rendered;

e Great bodily injuries which result in pain and suffering both, mental and physical;

f. Great bodily injuries which caused the claimant to become incapacitated from her usual duties and activities; and

g. Great bodily injury resulting in possible future medical aid and attention, pain and suffering, expenses, and incapacitation from her usual activities.

PLEASE TAKE NOTICE, that in the event that these claims are not adjusted and settled, it is the intention of the claimant, PAUL GUST, to bring an action against the the TOWN OF AMHERST and COUNTY OF ERIE.

Dated: December 6, 2021

Paul Gust

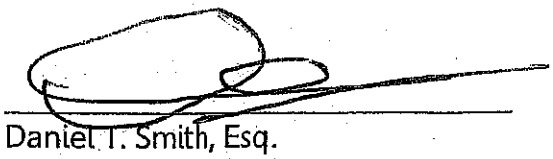
PAUL GUST

Sworn to before me this 6th day of ~~September~~ March 2021

Notary Public

DANIEL T. SMITH
Notary Public, State of New York
Erie Co. No. 02SM6005361
Commission Expires April 13, 2022

Attachment: DOC011822-01182022114035 (COM-2022-12 : NOC: Gust Vs TOA)



Daniel T. Smith, Esq.
NICHOLAS, PEROT, SMITH,
BERNHARDT & ZOSH, P.C.
Attorneys for Claimants
12364 Main Road, P.O. Box 176
Akron, New York 14001
(716) 542-5413

Attachment: DOC011822-01182022114035 (COM-2022-12 : NOC: Gust Vs TOA)

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

Francina J. Spoth
Town Clerk

Meeting: 02/07/22 07:00 PM
Department: Town Clerk
DOC ID: 25315

COMMUNICATION 2022-13 **REFERRED**

Notice of Claim: Verizon Vs. Town of Amherst

2/7/2022
Referred to Town Attorney.

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

verizon

CMR Claims Department
P.O. Box 60770
Oklahoma City, OK 73146-0770
1.800.321.4158

*****NOTICE OF CLAIM*****

Date: 01-06-2022

CERTIFIED MAIL, RETURN RECEIPT REQUESTED

To: TOWN OF AMHERST
TOWN CLERK
5583 MAIN ST
WILLIAMSVILLE, NY 14221

CERTIFIED MAIL# 9214890106615400017049054 6

RE: Damage to VERIZON Property

VERIZON Claim Num:	**NYPR220051**
Damage/Discovery Date:	**01-03-2022**
Damage Location:	**42 ASHDALE CIRCLE WEST , AMHERST, NY**
Damage County:	**ERIE**
Damage Amount:	**UNDETERMINED**

Dear Sir/Madam:

Please be advised that **VERIZON** Facilities sustained damage as a result of the negligent acts or omissions by employees or agents of TOWN OF AMHERST .

Investigation has revealed that on or about 01-03-2022 employees or agents of TOWN OF AMHERST , A TOWN OF AMHERST VEHICLE HIT A VERIZON PEDESTAL in the area of 42 ASHDALE CIRCLE WEST , AMHERST, NY.

This letter is the written presentment of VERIZON's claim pursuant to General Municipal Law section 50-e .

REQUEST FOR GOVERNMENTAL NOTICE FORM

If your Governmental Entity requires the completion of its own form to complete proper notice, please forward a copy to the address listed above. Every good faith effort has been made to identify the proper office and address to perfect our notice. Please forward to your attorney, if misdirected, to contact us. Matters herein stated are alleged on information and belief this pleader believes to be true. If there is insurance to cover this matter, kindly advise as to the name of the insurance company, its address and the claim number assigned. If you have any questions, or need additional information, please contact me at 1-800-321-4158 ext 8232.

CHELSEA KILBURN NOTARY PUBLIC Commission # 21001913 My Commission Expires 02-09-2025 STATE OF OKLAHOMA

Sincerely,
Chelsea Dongelewic
Chelsea Dongelewic

CMR Claims DEPT

NOTARY _____

Commission Expires 2-9-25

JAN 19 '22 AM 9:03 RCVD

Attachment: DOC011922-01192022091222 (COM-2022-13 : Notice of Claim: Verizon Vs. Town of Amherst)

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

Francina J. Spoth
Town Clerk

Meeting: 02/07/22 07:00 PM
Department: Town Clerk
DOC ID: 25321

COMMUNICATION 2022-14 **REFERRED**

Notice of Claim: Helena Axelrod Vs. Town of Amherst

2/7/2022
Referred to Town Attorney.

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

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE
****

Helene Axelrod,

Claimant,

NOTICE OF CLAIM

v.

Town of Amherst,

Respondent,

****

PLEASE TAKE NOTICE, that the above-named claimant claims and demands from the respondents, Town of Amherst, recompense for personal injuries and damages sustained by claimant by reason of the wrongful, negligent, and careless acts and omissions of the respondents, their agents, servants and/or employees, and in support thereof, the claimant states:

1. Claimant's address is [redacted]

2. The claimant is represented by The Barnes Firm, P.C. with offices located at 500 Pearl Street, Suite 700, Buffalo, NY 14202, telephone (800) 800-0000.

3. The incident in which personal injuries were sustained by the claimant occurred on or about October 24, 2021 when claimant tripped and fell on the sidewalk outside of 4721 N Bailey Ave, Amherst, NY 14226.

4. By virtue of the negligence of the employees, agents or servants of the Town of Amherst, claimant has incurred medical and hospital expenses, which are to

Attachment: DOC012422-01242022141747 (COM-2022-14 : Notice of Claim: Helena Axelrod Vs. Town of Amherst)

date undetermined and will incur loss of earnings, impairment of health and permanent injuries.

5. Upon information and belief, claimant will be obligated further medical expenses including drugs, medicines and prosthetic devices, the amount of which cannot be reasonably calculated at this time.

TAKE NOTICE that claimant demands payment of his claim as set forth above.

DATED: Buffalo, New York
December 22, 2021

Yours, etc.,

The Barnes Firm

By: _____
John C. Murrett, Jr., Esq., Attorney
Attorneys for Plaintiff(s)
The Barnes Firm, P.C.,
500 Pearl Street, Suite 700
Buffalo, NY 14202
800-800-0000

TO: **Town of Amherst**
5583 Main Street
Williamsville, NY 14221

Attachment: DOC012422-012422141747 (COM-2022-14 : Notice of Claim: Helena Axelrod Vs. Town of Amherst)

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

Francina J. Spoth
Town Clerk

Meeting: 02/07/22 07:00 PM
Department: Town Clerk
DOC ID: 25328

COMMUNICATION 2022-15 **REFERRED**

Notice of Claim: Anthony Bartucca Vs. Town of Amherst Et Al

2/7/2022
Referred to Town Attorney.

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

ANTHONY BARTUCCA,

Claimant,

v.

NOTICE OF CLAIM

TOWN OF AMHERST, and
TOWN OF AMHERST HIGHWAY DEPARTMENT.

TO: TOWN OF AMHERST, and
TOWN OF AMHERST HIGHWAY DEPARTMENT

PLEASE TAKE NOTICE that Rupp Baase Pfalzgraf Cunningham LLC, on behalf of the claimant, Anthony Bartucca, hereby makes claim and demand against the Town of Amherstand Town of Amherst Highway Department (collectively "Town"), as follows:

1. The claimant's post-office address is [redacted]

2. The claimant's attorney is James Graber, Esq., of Rupp Baase Pfalzgraf Cunningham LLC, with a post-office address at 1600 Liberty Building, 424 Main Street, Buffalo, New York.

Attachment: DOC012822-01282022081635 (COM-2022-15 : NOC- Bartucca V TOA)

3. The claim is one for negligence that resulted in a substantial personal injury to the claimant, on or about November 1, 2021, at approximately 9:00 p.m. Specifically, the claimant stepped into a hole located on the corner of Sheridan Drive and Youngs Road, in Amherst, New York, 14221, in the County of Erie ("subject hole"). If facing North, the subject hole is located on the southwest corner of the intersection of Sheridan Drive and Youngs Road. As a result of the subject hole, approximately 2 feet wide and 18 inches tall, the claimant fell and sustained substantial personal injuries. The Town failed properly to maintain, inspect, service, and/or repair the subject hole and/or the surrounding areas in a reasonable and safe manner. Further, the Town failed properly to provide lighting near the subject hole in a manner to prevent the aforementioned incident from occurring. As a result of the Town's negligence, the claimant sustained, among other things, a torn labrum, a torn rotator cuff, neck pain, back pain, leg pain, and other injuries pending the receipt of MRI results and/or further medical analysis. The claimant, a business owner, continues to incur various costs relating to his injury, caused by the Town's negligence.

4. Upon information and belief, the incident described herein and resulting damages sustained were caused as a result of the negligence, carelessness, recklessness, acts, omissions, and/or unlawful conduct on the part of the agents, servants, and/or employees of the Town, and more particularly, among other things, in failing to properly to maintain, inspect, service, and/or repair the subject hole prior to the date in question. Further, the Town failed properly to provide lighting around the subject hole in order to illuminate same. Upon information and belief, the subject hole was created and/or approved by the Town relative to recent construction near same.

Attachment: DOC012822-01282022081635 (COM-2022-15 : NOC- Bartucca V TOA)

5. It is alleged the incident described herein occurred without any negligence or carelessness on the part of the claimant.

WHEREFORE, claimant requests that the Town of Amherst and/or the the Town of Amherst Highway Department honor and pay the claim on behalf of Anthony Bartucca. The Town hereby is notified that unless it is adjusted and paid within the time provided by law from the date of presentation, the claimant intends to commence a lawsuit on this claim, together with interests, costs, and disbursements.

James Graber, Esq.

Sworn to before me this
24th day of January 2022

Notary Public

BRANDON MICHAEL SNYDER
Notary Public, State of New York
Qualified in Erie County
My Commission Expires June 26, 2025

Attachment: DOC012822-01282022081635 (COM-2022-15 : NOC- Bartucca V TOA)

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

Francina J. Spoth
Town Clerk

Meeting: 02/07/22 07:00 PM
Department: Town Clerk
DOC ID: 25362

COMMUNICATION 2022-16 **REFERRED**

Notice of Claim: Robert and Karla Smyton Vs. Town of Amherst

2/7/2022
Referred to Town Attorney.

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

Notice of Claim

January 26, 2022
Robert and Karla Smyton
42 Ashdale Circle
Amherst, NY 14228

To: Town of Amherst
Attn: Town Clerk and Stanley J. Sliwa, Esq.
5583 Main St
Williamsville, NY 14221

To Mr. Sliwa:

I am filing a notice of claim in reference to the incident that occurred at 42 Ashdale Cirlce on Monday, January 3, 2022 at approximately 1:30pm.

(1) Damage: On January 3, 2022 a Town of Amherst garbage truck was picking up Christmas trees, the truck lost control and drove over the lawn at 42 Ashdale Circle and 34 Ashdale Circle. Damages were as follows: destroyed mailbox, knocked over tree, damaged and tore up lawn and knocked out internet service (damaged electrical box).
(2) Garbage truck involved: Owned by Amherst Highway Dept, NY license plate, number: AB5844
(3) Seeking compensation for following damages:
    a. Mailbox (parts and installation): $650
    b. Lawn repair (topsoil, seed, and repair work): $100
    c. Lost work due to no internet and coordinating with Verizon (5 hours at $68/hour): $340
(4) Attorney Information:
    a. James W. Smyton, Phillips Lytle LLP, 125 Main St, Buffalo, NY 14203. Office contact phone number: (716)847-5466
(5) Witnesses: Town employees (3) that would be captured on police report.
(6) Contact number:
    a. Robert Smyton [redacted]
    b. Karla Smyton [redacted]

Sincerely,

Robert A Smyton

FEB02'22 AM 9:17 RCVD

Attachment: DOC020222-02022022083057 (COM-2022-16 : NOC: Smyton V TOA)

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

Francina J. Spoth
Town Clerk

Meeting: 02/07/22 07:00 PM
Department: Town Clerk
DOC ID: 25342

COMMUNICATION 2022-17 **REFERRED**

Summons and Complaint: Dominic Dunstan, a Minor, by and through His Mother and Natural Guardian, Catherine Dunstan, and Catherine Dunstan, Individually Vs. Town of Amherst Et Al.

2/7/2022
Referred to Town Attorney.

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

STATE OF NEW YORK
SUPREME COURT: COUNTY OF NIAGARA

DOMINIC DUNSTAN, a minor, by and through his mother and natural guardian, CATHERINE DUNSTAN, and CATHERINE DUNSTAN, Individually,
[redacted]

Plaintiffs,

-vs.-

SUMMONS

INDEX NO.: E176729/2022

JAKE D. DUNSTAN
[redacted]

ANTHONY F. ROSATI
[redacted]

TOWN OF AMHERST HIGHWAY DEPARTMENT,
TOWN OF AMHERST ENGINEERING DEPARTMENT,
TOWN OF AMHERST TRAFFIC SAFETY BOARD, and
TOWN OF AMHERST
5583 Main Street
Williamsville, New York 14221

ERIE COUNTY DEPARTMENT OF PUBLIC WORKS,
ERIE COUNTY HIGHWAY DEPARTMENT,
ERIE COUNTY DEPARTMENT OF TRANSPORTATION,
and COUNTY OF ERIE
95 Franklin Street
Buffalo, New York 14202

Defendants.

TO THE ABOVE-NAMED DEFENDANT:

YOU ARE HEREBY SUMMONED AND REQUIRED to serve upon Plaintiff's attorney, at the address stated below, a written Answer to the attached Complaint.

If this Summons is served upon you within the State of New York by personal service you must respond within **TWENTY** (20) days after service, not counting the day of service. If this Summons is not personally delivered to you within the State of New York you must respond within **THIRTY** (30) days after service is completed, as required by law.

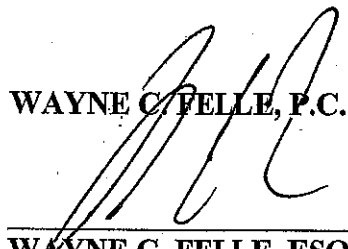
Attachment: DOC020122-02012022075659 (COM-2022-17 : Summons & Complaint: Dunstan V TOA)

If you do not respond to the above attached Complaint within the applicable time limitation stated above a judgment will be entered against you, by default, for the relief demanded in the Complaint, without further notice to you.

This action is brought in the County of Erie by reason of:
__X__ Plaintiff's residence, or place of business;
_____ Defendants residence;
__X__ Designation made by Plaintiff.

DATED: January 28, 2022

WAYNE C. FELLE, P.C.



WAYNE C. FELLE, ESQ.
Attorney for Plaintiffs
6024 Main Street
Williamsville, New York 14221
Tel. No. (716) 505-2700

Attachment: DOC020122-02012022075659 (COM-2022-17 : Summons & Complaint: Dunstan V TOA)

STATE OF NEW YORK
SUPREME COURT: COUNTY OF NIAGARA

DOMINIC DUNSTAN, a minor, by and through his mother and natural guardian, CATHERINE DUNSTAN, and CATHERINE DUNSTAN, Individually,
[redacted]

COMPLAINT

INDEX NO.: E176729/2022

Plaintiffs,

-vs.-

JAKE D. DUNSTAN
[redacted]

ANTHONY F. ROSATI
[redacted]

TOWN OF AMHERST HIGHWAY DEPARTMENT,
TOWN OF AMHERST ENGINEERING DEPARTMENT,
TOWN OF AMHERST TRAFFIC SAFETY BOARD, and
TOWN OF AMHERST
5583 Main Street
Williamsville, New York 14221

ERIE COUNTY DEPARTMENT OF PUBLIC WORKS,
ERIE COUNTY HIGHWAY DEPARTMENT,
ERIE COUNTY DEPARTMENT OF TRANSPORTATION,
and COUNTY OF ERIE
95 Franklin Street
Buffalo, New York 14202

Defendants.

Plaintiffs, **DOMINIC DUNSTAN, a minor by and through his mother and natural guardian, CATHERINE DUNSTAN,** by their attorney **WAYNE C. FELLE, ESQ.** of **WAYNE C. FELLE, P.C.**, complaining of the Defendants, **JAKE D. DUNSTAN, ANTHONY F. ROSATI, TOWN OF AMHERT HIGHWAY DEPARTMENT, TOWN OF AMHERST ENGINEERING DEPARTMENT, TOWN OF AMHERST TRAFFIC SAFETY BOARD, TOWN OF AMHERST, ERIE COUNTY DEPARTMENT OF PUBLIC WORKS, ERIE COUNTY HIGHWAY DEPARTMENT, ERIE COUNTY DEPARTMENT OF TRANSPORTATION and COUNTY OF ERIE,** respectfully alleges as follows:

Attachment: DOC020122-02012022075659 (COM-2022-17 : Summons & Complaint: Dunstan V TOA)

1. The Plaintiffs, CATHERINE DUNSTAN, Individually and as mother and natural guardian of DOMINIC DUNSTAN, an infant, at all times hereinafter mentioned, were and still are residents of the City [redacted]

2. That in all times hereinafter mentioned, and at the time of the occurrence hereinafter more particularly set forth, the Defendant, JAKE D. DUNSTAN, was and still is a resident of the [redacted]

3. That in all times hereinafter mentioned, and at the time of the occurrence hereinafter more particularly set forth, the Defendant, ANTHONY F. ROSATI, was and still is a resident of the [redacted].

4. Upon information and belief, that at all times hereinafter mentioned, TOWN OF AMHERST HIGHWAY DEPARTMENT, TOWN OF AMHERST ENGINEERING DEPARTMENT, TOWN OF AMHERST TRAFFIC SAFETY BOARD and TOWN OF AMHERST, are municipal corporations duly organized and existing under and by virtue of the laws of the State of New York, with its principal office located at 5583 Main Street, Williamsville New York, and pursuant to law is capable of being sued in this court.

5. Upon information and belief, that at all times hereinafter mentioned, ERIE COUNTY DEPARTMENT OF PUBLIC WORKS, ERIE COUNTY HIGHWAY DEPARTMENT, ERIE COUNTY DEPARTMENT OF TRANSPORTATION, and COUNTY OF ERIE, are municipal corporations duly organized and existing under and by virtue of the laws of the State of New York, with its principal office located at 95 Franklin Street, Buffalo York, and pursuant to law is capable of being sued in this court.

6. That at all times hereinafter mentioned, and at the time of the occurrence hereinafter more particularly set forth, Defendant, JAKE D. DUNSTAN, was the operator of a 2015 Dodge, license plate number FSA9221, which was involved in a motor vehicle accident, in the County of Erie, State of New York, on October 6, 2020.

Attachment: DOC020122-02012022075659 (COM-2022-17 : Summons & Complaint: Dunstan V TOA)

7. That at all times hereinafter mentioned, and at the time of the occurrence hereinafter more particularly set forth, Defendant, ANTHONY F. ROSATI, was the owner of the 2015 Dodge, license plate number FSA9221, operated by Defendant, JAKE D. DUNSTAN, which was involved in a motor vehicle accident, in the County of Erie, State of New York, on October 6, 2020.

8. That on the 6th day of October 2020 at approximately 1:51 p.m., DOMINIC DUNSTAN, was a passenger of a 2015 Dodge, License Plate No.: FSA9221. Plaintiff was a passenger in a vehicle traveling on Sweet Home Road, in the Town of Amherst, County of Erie, State of New York when the Defendant, JAKE D. DUNSTAN, approached the intersection, Sweet Home Road and Tonawanda Creek Road, and attempted to make a left hand turn, where a new stop sign had been installed at Tonawanda Creek Road. Defendant operated his vehicle into the intersection, striking another vehicle.

9. Defendants municipal negligently, carelessly and recklessly erected the stop sign at the intersection of Tonawanda Creek Road and Sweet Home Road and failed to properly notify traffic approaching from Sweet Home Road, that the stop sign was not effective until a later date, causing confusion, ignorance and unsafe condition at the intersection. The Defendants further failed to ensure the sign was properly covered, so as to not appear as an effective stop sign to travelers on Sweet Home Road, and thereby were negligent, careless and reckless.

10. That on or about October 6, 2020, Defendants, TOWN OF AMHERST HIGHWAY DEPARTMENT, TOWN OF AMHERST ENGINEERING DEPARTMENT, TOWN OF AMHERST TRAFFIC SAFETY BOARD and TOWN OF AMHERST and ERIE COUNTY DEPARTMENT OF PUBLIC WORKS, ERIE COUNTY HIGHWAY DEPARTMENT, ERIE COUNTY DEPARTMENT OF TRANSPORTATION, and COUNTY OF ERIE, improperly, negligently, and recklessly installed a new stop sign at the intersection of Tonawanda Creek Road and Sweet Home Road. Defendants failed to properly warn the public and drivers in particular of the newly erected stop sign at the intersection, causing the collision.

Attachment: DOC020122-02012022075659 (COM-2022-17 : Summons & Complaint: Dunstan V TOA)

11. A Notice of Claim was filed on November 16, 2020 pursuant to Municipal Law. This claim was one for money damages on behalf of the claimant, DOMINIC DUNSTAN, for injuries sustained as a result of instant accident due to the confusing, defective and improperly constructed signature that was created, maintained and the responsibility of the Defendants, on the corner of Sweet Home Road and Tonawanda Creed Road, in the Town of Amherst, County of Erie and State of New York. Plaintiff has sustained serious injury as a result of the motor vehicle accident. Plaintiff, DOMINIC DUNSTAN, was caused sustained serious injuries to his spine and head, along with post-traumatic headaches.

AS AND FOR A FIRST CAUSE OF ACTION
AGAINST DEFENDANT, JAKE D. DUNSTAN
FOR PLAINTIFFS, DOMINIC DUNSTAN and CATHERINE DUNSTAN

12. That at the aforesaid date and time, Defendant, JAKE D. DUNSTAN, was operating the vehicle in an unsafe and negligent manner by failing to maintain proper control of the vehicle, failing to exercise due care and failing to adhere to the Vehicle and Traffic Law of the State of New York, thereby causing the collision.

13. The aforementioned collision and/or accident was caused by the negligent, careless, and/or reckless conduct of Defendant, JAKE D. DUNSTAN.

14. That at all times the Plaintiff, DOMINIC DUNSTAN, a minor, by and through his mother and natural guardian, CATHERINE DUNSTAN, was a passenger at the time of the accident, and is no way at fault for this collision.

15. Defendant, JAKE D. DUNSTAN, was reckless and grossly negligent in operating his vehicle in violation of New York State Vehicle and Traffic Laws and in other ways operated the vehicle with complete indifference and disregard for the safety of others on the public roadways.

Attachment: DOC020122-02012022075659 (COM-2022-17 : Summons & Complaint: Dunstan V TOA)

16. At the aforesaid date and time, the Defendant, JAKE D. DUNSTAN, was in violation of New York State Vehicle and Traffic Law § 1100, 1101, 1172, and 1212. Defendant is therefore liable through reckless disregard and indifference to the safety of others and is liable for punitive damages.

17. As a result of the aforementioned negligence of Defendant, JAKE D. DUNSTAN, Plaintiff, DOMINIC DUNSTAN, a minor, by and through his mother and natural guardian, CATHERINE DUNSTAN, has suffered serious injury as defined by New York State Insurance Law §5102(d) and has sustained economic loss other than basic economic loss as defined by New York State Insurance Law §5102(a).

18. As a result of the aforementioned negligence, reckless disregard and intentional indifference of Defendant, JAKE D. DUNSTAN, the Plaintiff, DOMINIC DUNSTAN, a minor, by and through his mother and natural guardian, has sustained severe and permanent injuries, has sustained great conscious pain and suffering, has incurred medical and hospital expenses, has suffered a loss of enjoyment of life and is limited in his ability to lead a full and enjoyable life, all to his damage in a sum in excess of the jurisdictional limits of all lower courts, plus interest, costs and disbursements of this suit herein and for such other relief as the Court may deem just and proper.

AS AND FOR A FIRST CAUSE OF ACTION
AGAINST DEFENDANT, ANTHONY F. ROSATI
FOR PLAINTIFF, DOMINIC DUNSTAN and CATHERINE DUNSTAN

19. The Plaintiffs repeats and re-allege the foregoing paragraphs of this Complaint with the same force and effect as if more fully set forth herein.

20. The 2015 Dodge, License Plate No. FSA9221 driven by Defendant, JAKE D. DUNSTAN, at the time of the accident was owned, registered and insured by Defendant, ANTHONY F. ROSATI.

Attachment: DOC020122-02012022075659 (COM-2022-17 : Summons & Complaint: Dunstan V TOA)

21. Upon information and belief, Defendant, JAKE D. DUNSTAN, was a permissive user of said automobile, and operated said automobile with full knowledge, permission, and consent of the Defendant, ANTHONY F. ROSATI.

22. Under New York State Vehicle and Traffic Law §388, an owner of a vehicle is liable and responsible for injuries to a person resulting from the negligence in the use and operation of such vehicle, by any person operating such vehicle with the permission of the owner.

23. The Defendant, ANTHONY F. ROSATI, is liable to the Plaintiffs as the owner of said automobile and through negligent entrustment of his vehicle to JAKE D. DUNSTAN.

24. As a result of the aforementioned negligence of Defendant, ANTHONY F. ROSATI, Plaintiff, DOMINIC DUNSTAN, a minor, by and through his mother and natural guardian, CATHERINE DUNSTAN, has suffered serious injury as defined by New York State Insurance Law §5102(d) and has sustained economic loss other than basic economic loss as defined by New York State Insurance Law §5102(a).

25. As a result of the aforementioned negligence, reckless disregard and intentional indifference of Defendant, ANTHONY F. ROSATI, the Plaintiff, DOMINIC DUNSTAN, a minor, by and through his mother and natural guardian, CATHERINE DUNSTAN, has sustained severe and permanent injuries, has sustained great conscious pain and suffering, has incurred medical and hospital expenses, has suffered a loss of enjoyment of life and is limited in his ability to lead a full and enjoyable life, all to his damage in a sum in excess of the jurisdictional limits of all lower courts, plus interest, costs and disbursements of this suit herein and for such other relief as the Court may deem just and proper.

AS AND FOR A FIRST CAUSE OF ACTION AGAINST DEFENDANTS, TOWN OF AMHERST HIGHWAY DEPARTMENT, TOWN OF AMHERST ENGINEERING DEPARTMENT, TOWN OF AMHERST TRAFFIC SAFETY BOARD, AND TOWN OF AMHERST FOR PLAINTIFF, DOMINIC DUNSTAN and CATHERINE DUNSTAN

Attachment: DOC020122-02012022075659 (COM-2022-17 : Summons & Complaint: Dunstan V TOA)

26. That at the aforesaid date and time, Defendants, TOWN OF AMHERST HIGHWAY DEPARTMENT, TOWN OF AMHERST ENGINEERING DEPARTMENT, TOWN OF AMHERST SAFETY BOARD and TOWN OF AMHERST, was negligent, careless and reckless in the placement of a defective and improperly constructed sign, which caused and/or contributed to the infant plaintiff sustaining serious personal injuries.

27. Defendants, TOWN OF AMHERST HIGHWAY DEPARTMENT, TOWN OF AMHERST ENGINEERING DEPARTMENT, TOWN OF AMHERST SAFETY BOARD and TOWN OF AMHERST, was negligent, careless, and/or reckless in failing to properly warn the public of a newly erected stop sign at the intersection of Tonawanda Creek Road and Sweet Home Road, and failed specifically to warn traffic entering and/or traveling from different directions, into the intersection and surrounding area, impacted by the new stop sign. And further, the Defendants herein failed to adequately warn traffic entering and/or traveling near, the newly installed stop sign of its effective date, and thereby caused and/or contributed to the happening on the instant multi-vehicle accident.

28. Defendant, TOWN OF AMHERST HIGHWAY DEPARTMENT, TOWN OF AMHERST ENGINEERING DEPARTMENT, TOWN OF AMHERST SAFETY BOARD and TOWN OF AMHERST'S failure to properly cover sign so as to not appear as an effective sign.

29. The aforementioned incident was caused by the negligent, careless, and/or reckless conduct of Defendants, TOWN OF AMHERST HIGHWAY DEPARTMENT, TOWN OF AMHERST ENGINEERING DEPARTMENT, TOWN OF AMHERST SAFETY BOARD AND TOWN OF AMHERST.

30. It is further alleged that that TOWN OF AMHERST HIGHWAY DEPARTMENT, TOWN OF AMHERST ENGINEERING DEPARTMENT, TOWN OF AMHERST SAFETY BOARD AND TOWN OF AMHERST, should have taken action to warn the public of the newly erected stop sign prior to the incident herein.

Attachment: DOC020122-02012022075659 (COM-2022-17 : Summons & Complaint: Dunstan V TOA)

31. As a result of the aforementioned negligence of Defendants, TOWN OF AMHERST HIGHWAY DEPARTMENT, TOWN OF AMHERST ENGINEERING DEPARTMENT, TOWN OF AMHERST SAFETY BOARD AND TOWN OF AMHERST, Plaintiff, DOMINIC DUNSTAN, a minor, by and through his mother and natural guardian, CATHERINE DUNSTAN., has suffered serious injuries to his spine, and head along with post-traumatic headaches.

32. As a result of the aforementioned negligence of the Defendants, TOWN OF AMHERST HIGHWAY DEPARTMENT, TOWN OF AMHERST ENGINEERING DEPARTMENT, TOWN OF AMHERST SAFETY BOARD AND TOWN OF AMHERST, the plaintiff, DOMINIC DUNSTAN, a minor, by and through his mother and natural guardian, CATHERINE DUNSTAN, and CATHERINE DUNSTAN, individually., has sustained severe and permanent injuries, has sustained great conscious pain and suffering, has incurred medical and hospital expenses, has suffered a loss of enjoyment of life and is limited in his ability to lead a full and enjoyable life, all to his damage in a sum in excess of the jurisdictional limits of all lower courts, plus interest, costs and disbursements of this suit herein and for such other relief as the Court may deem just and proper.

AS AND FOR A FIRST CAUSE OF ACTION AGAINST DEFENDANT, ERIE COUNTY DEPARTMENT OF PUBLIC WORKS, ERIE COUNTY HIGHWAY DEPARTMENT, ERIE COUNTY DEPARTMENT OF TRANSPORTATION, AND COUNTY OF ERIE FOR PLAINTIFF, DOMINIC DUNSTAN and CATHERINE DUNSTAN

33. That at the aforesaid date and time, Defendants, ERIE COUNTY DEPARTMENT OF PUBLIC WORKS, ERIE COUNTY HIGHWAY DEPARTMENT, ERIE COUNTY DEPARTMENT OF TRANSPORTATION, AND COUNTY OF ERIE, was negligent in placement, defective and improperly constructed signage that was created, which caused and/or contributed to the infant plaintiff sustaining serious personal injuries.

Attachment: DOC020122-02012022075659 (COM-2022-17 : Summons & Complaint: Dunstan V TOA)

34. The aforementioned incident was caused by the negligent, careless, and/or reckless conduct of Defendants, ERIE COUNTY DEPARTMENT OF PUBLIC WORKS, ERIE COUNTY HIGHWAY DEPARTMENT, ERIE COUNTY DEPARTMENT OF TRANSPORTATION, AND COUNTY OF ERIE.

35. The aforementioned incident was caused by the negligent, careless, and/or reckless conduct of Defendants, ERIE COUNTY DEPARTMENT OF PUBLIC WORKS, ERIE COUNTY HIGHWAY DEPARTMENT, ERIE COUNTY DEPARTMENT OF TRANSPORTATION, AND COUNTY OF ERIE.

36. It is further alleged that that ERIE COUNTY DEPARTMENT OF PUBLIC WORKS, ERIE COUNTY HIGHWAY DEPARTMENT, ERIE COUNTY DEPARTMENT OF TRANSPORTATION, AND COUNTY OF ERIE, should have taken action to warn the public and/or drivers in particular of the newly erected stop sign prior to the incident herein.

37. Defendant, ERIE COUNTY DEPARTMENT OF PUBLIC WORKS, ERIE COUNTY HIGHWAY DEPARTMENT, ERIE COUNTY DEPARTMENT OF TRANSPORTATION, AND COUNTY OF ERIE AND COUNTY OF ERIE'S failure to properly cover sign so as to not appear as an effective sign.

38. As a result of the aforementioned negligence of Defendant, ERIE COUNTY DEPARTMENT OF PUBLIC WORKS, ERIE COUNTY HIGHWAY DEPARTMENT, ERIE COUNTY DEPARTMENT OF TRANSPORTATION, AND COUNTY OF ERIE AND COUNTY OF ERIE, Plaintiff, DOMINIC DUNSTAN, a minor, by and through his mother and natural guardian, CATHERINE DUNSTAN., has suffered serious injuries to his spine and head alone with post-traumatic headaches.

39. As a result of the aforementioned negligence of the Defendant, ERIE COUNTY DEPARTMENT OF PUBLIC WORKS, ERIE COUNTY HIGHWAY DEPARTMENT, ERIE COUNTY DEPARTMENT OF TRANSPORTATION, AND COUNTY OF ERIE, the plaintiff, DOMINIC DUNSTAN, a minor by and through his mother and natural guardian CATHERINE DUNSTAN., has sustained severe and permanent injuries, has sustained great conscious pain

Attachment: DOC020122-02012022075659 (COM-2022-17 : Summons & Complaint: Dunstan V TOA)

and suffering, has incurred medical and hospital expenses, has suffered a loss of enjoyment of life and is limited in his ability to lead a full and enjoyable life, all to his damage in a sum in excess of the jurisdictional limits of all lower courts, plus interest, costs and disbursements of this suit herein and for such other relief as the Court may deem just and proper.

WHEREFORE, Plaintiffs, DOMINIC DUNSTAN, a minor, by and through his mother and natural guardian, CATHERINE DUNSTAN, and CATHERINE DUNSTAN, Individually, demands judgment against the Defendants, JAKE D. DUNSTAN, ANTHONY F. ROSATI, TOWN OF AMHERST HIGHWAY DEPARTMENT, TOWN OF AMHERST EGINEERING DEPARTMENT, TOWN OF AMHERST TRAFFIC SAFETY BOARD, TOWN OF AMHERST ERIE COUNTY DEPARTMENT OF PUBLIC WORKS, ERIE COUNTY HIGHWAY DEPARTMENT, ERIE COUNTY DEPARTMENT OF TRANSPORTATION, and COUNTY OF ERIE, jointly and severely for:

1. Actual and compensatory damages a sum in excess of the jurisdictional limits of all lower courts;
2. Interest, costs and disbursements incurred in bringing the instant claim;
3. For such other and further relief as this Court may deem just and proper.

DATED: January 28, 2022
Williamsville, New York

WAYNE C. FELLE, P.C.

WAYNE C. FELLE, ESQ.
Attorney for Plaintiffs
6024 Main Street
Williamsville, New York 14221
Tel. No. (716) 505-2700

Attachment: DOC020122-02012022075659 (COM-2022-17 : Summons & Complaint: Dunstan V TOA)

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

Francina J. Spoth
Town Clerk

Meeting: 02/07/22 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 25371 **RESOLUTION 2022-184** **ADOPTED**

PIP 3097 - Evergreen Landing Phase V - Sanitary Sewer

Attached please find an application for a Sanitary Sewer Public Improvement Permit properly filled out. Permit fee and inspection cost amount to $7,425.00.

Two (2) checks will be sent to the Town Clerk, one for $150.00 to be retained as a Permit Fee and one (1) in the amount of $7,275.00 which will be sent to the Comptroller's Office by the Town Clerk to be held in escrow to cover the inspection cost.

At this time we are asking for your approval of the application for PIP No. 3097.

2/7/2022
Consent

FINANCIAL IMPACT:

$7,425.00

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

February 2, 2022
AGENDA – February 7, 2022

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

RE: PUBLIC IMPROVEMENT PERMIT NO. 3097
SANITARY SEWER – EVERGREEN LANDING SUBDIVISION – PHASE V
TOA JOB NO.: 2010.101

Council Members:

Attached please find an application for a Sanitary Sewer Public Improvement Permit properly filled out. Permit fee and inspection cost amount to $7,425.00.

Two (2) checks will be sent to the Town Clerk, one for $150.00 to be retained as a Permit Fee and one (1) in the amount of $7,275.00 which will be sent to the Comptrollers Office by the Town Clerk to be held in escrow to cover the inspection cost.

At this time we are asking for your approval of the application for PIP No. 3097.

Very truly yours,

Jeffrey S. Burroughs, P.E.
Town Engineer

JSB/MAB
Attachments

CC: Daryl Bramer - Comptroller

Attachment: 3097 SS-PUBLIC (RES-2022-184 : PIP 3097 - Evergreen Landing Phase V - Sanitary Sewer)

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

Francina J. Spoth
Town Clerk

Meeting: 02/07/22 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 25373 **RESOLUTION 2022-185** **ADOPTED**

PIP 3098 - Evergreen Landing Phase V - Waterline

Attached please find an application for a Waterline Public Improvement Permit properly filled out. Permit fee and inspection cost amount to $9,174.00.

Two (2) checks will be sent to the Town Clerk, one for $150.00 to be retained as a Permit Fee, and one (1) in the amount of $9,024.00, which will be sent to the Comptroller's Office by the Town Clerk to be held in escrow to cover the inspection cost.

At this time we are asking for your approval of the application for PIP No. 3098.

2/7/2022
Consent

FINANCIAL IMPACT:

$9,174.00

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

APPLICATION FOR PERMIT TO CONSTRUCT A PUBLIC/PRIVATE IMPROVEMENT

Date...January 10,.....20 22.

TO THE HONORABLE TOWN BOARD:

Gentlemen: ***Town of Amherst, Erie County, N.Y.***

Application is Hereby Made for Permission to Construct

	Public
Pavement and Curbs	☐
Water Line	☒
Sanitary Sewer	☐
Storm Sewer	☐
Backyard Drainage	☐

Estimated Cost of Improvement $ 90,240.00

DESCRIPTION OF PROPOSED PUBLIC/PRIVATE IMPROVEMENT

Subdivision Name, Street Name(s), Quantity, Description and Location of Improvement: Evergreen Landing Subdivisi

Town of Amherst Job..Phase 5 - 23 Lots.....

Phase 5 of Evergreen Landing includes two hydrant assemblies, four gate valves, three 2-inch blowoffs, 1056+/- lnft of 8-inch PVC watermain, 50+/- lnft of 8-inch DIP watermain, necessary bends/fittings, one 8-inch and w watertight cap, and two sample points to be installed along portions of Canalview Terrace and Cherry Laurel Lane.

Supporting Data:

Consulting Engineer's Name Wm. Schutt Associates

Contractor's Name Cimato Enterprises, Inc. Phone 688-3536

Contractor's Address 9220 Transit Road, East Amherst

Maintenance (2 yr.) bond by.....

This application must be submitted in quadruplicate along with 4 copies of construction drawings showing the extent of the improvements which will be incorporated into and made a part of this application. In the event the drawing submitted contains other facilities not covered by this permit, then those covered by this permit must be designated by coloring so that a clear-cut picture of the work under this permit is easily determined.

Work under this permit shall be started within 60 days from the date of approval thereof. Work under this permit shall be completed within 1 year from the date of approval thereof. Any request for extension shall be addressed in writing to the Town Board of the Town of Amherst.

Fees from this permit and cost of inspection shall be covered by separate checks made payable to the Town of Amherst at amounts set forth by the Town Board. The inspection fee is to cover all work under this permit and shall be at no additional cost to the Town of Amherst. The inspection fee may be increased by a commercially reasonable amount during or after implementation of the improvement at the discretion of the Town Engineer due to unforeseen field conditions or complexity of design. All construction work is to be carried on during normal and usual working hours. Any deviation from this must be compensated by the payment of additional fees.

In consideration of the granting of the permit hereby petitioned for, the undersigned hereby agrees that if such a permit is granted he/she will comply with the terms thereof, the Laws off the State of New York, the Ordinances of the Town of Amherst and Regulations of the various departments of the Town and the State of New York, and that he/she shall notify the Engineering Department forty-eight (48) hours in advance of commencing any work under this permit.

The undersigned hereby certifies that all of the information contained in this petition is correct and true.

ITEM	FEE
PERMIT $150.00	$150.00
INSPECTION 10% of ECoI	$ 9,024.00
VIDEO INSPECTION SANITARY	
TOTAL FEE	$ 9,174.00

Owner Sign Here

Fred Cimato, Cimato Enterprises, In
Please Print Name

9220 Transit Road, East Amherst
Address

14051 Zip Phone 688-3536

Subscribed and sworn to before me this 11th day of January 20 22

Sandra K. Sharp
Notary Public, Erie County, New York

SANDRA K. SHARP
Notary Public, State of New York
Reg. No. 01SH6223137

I do certify that I have examined the foregoing petition and Survey Sketch and certify that they conform to Ordinances of the Town of Amherst.

.....
Town Engineer

Receipt is hereby acknowledged of the sum of $ ..... , being the required fees established by the Town Board of the Town of Amherst, N.Y.

.....
Town Clerk

Public/Private Improvement Permit No. 3098

Attachment: PIP 3098 (RES-2022-185 : PIP 3098 - Evergreen Landing Phase V - Waterline)

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

Francina J. Spoth
Town Clerk

Meeting: 02/07/22 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 25374 **RESOLUTION 2022-186** **ADOPTED**

PIP 3099 - Evergreen Landing Phase V - Storm Sewer

Attached please find an application for a Storm Sewer Public Improvement Permit properly filled out. Permit fee and inspection cost amount to $3,762.80.

We are sending two (2) checks to the Town Clerk, one for $150.00 to be retained as a Permit Fee and one in the amount of $3,612.80 which will be sent to the Comptroller's Office by the Town Clerk to be held in escrow to cover the inspection cost.

At this time we are asking for your approval of the application for PIP No. 3099.

2/7/2022
Consent

FINANCIAL IMPACT:

$3,762.80

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

APPLICATION FOR PERMIT TO CONSTRUCT A PUBLIC/PRIVATE IMPROVEMENT

Date January 10, 20 22

TO THE HONORABLE TOWN BOARD:

Gentlemen: ***Town of Amherst, Erie County, N.Y.***

Application is Hereby Made for Permission to Construct

	Public
Pavement and Curbs	☐
Water Line	☐
Sanitary Sewer	☐
Storm Sewer	☒
Backyard Drainage	☐

Estimated Cost of Improvement $ 36,128.00

DESCRIPTION OF PROPOSED PUBLIC/PRIVATE IMPROVEMENT

Subdivision Name, Street Name(s), Quantity, Description and Location of Improvement: Evergreen Landing Subdivisi

Town of Amherst Job Phase 5 - 23 Lots

Phase 5 includes five 4-ft diam MH, four 24-in sq catch basins, 338+/- lnft 18-in HDPE, 208+/- lnft 15-inch HDPE, 64+/- lnft 12-inch HDPE, 254+/- lnft 6-inch HDPE, and one 6-inch end section installed along portions of Canalview Terrace and Cherry Laurel Lane.

Supporting Data:

Consulting Engineer's Name Wm. Schutt Associates

Contractor's Name Cimato Enterpristes, Inc. Phone 688-3536

Contractor's Address 9220 Transit Road, East Amherst

Maintenance (2 yr.) bond by

This application must be submitted in quadruplicate along with 4 copies of construction drawings showing the extent of the improvements which will be incorporated into and made a part of this application. In the event the drawing submitted contains other facilities not covered by this permit, then those covered by this permit must be designated by coloring so that a clear-cut picture of the work under this permit is easily determined.

Work under this permit shall be started within 60 days from the date of approval thereof. Work under this permit shall be completed within 1 year from the date of approval thereof. Any request for extension shall be addressed in writing to the Town Board of the Town of Amherst.

Fees from this permit and cost of inspection shall be covered by separate checks made payable to the Town of Amherst at amounts set forth by the Town Board. The inspection fee is to cover all work under this permit and shall be at no additional cost to the Town of Amherst. The inspection fee may be increased by a commercially reasonable amount during or after implementation of the improvement at the discretion of the Town Engineer due to unforeseen field conditions or complexity of design. All construction work is to be carried on during normal and usual working hours. Any deviation from this must be compensated by the payment of additional fees.

In consideration of the granting of the permit hereby petitioned for, the undersigned hereby agrees that if such a permit is granted he/she will comply with the terms thereof, the Laws off the State of New York, the Ordinances of the Town of Amherst and Regulations of the various departments of the Town and the State of New York, and that he/she shall notify the Engineering Department forty-eight (48) hours in advance of commencing any work under this permit.

The undersigned hereby certifies that all of the information contained in this petition is correct and true.

ITEM	FEE
PERMIT $150.00	$150.00
INSPECTION 10% of ECoI	$ 3,612.80
VIDEO INSPECTION SANITARY	
TOTAL FEE	$ 3,762.80

Owner Sign Here

Fred Cimato, Cimato Enterprises, In
Please Print Name

9220 Transit Road, East Amherst
Address

14051 Phone 688-3536
Zip

Subscribed and sworn to before me this 11th day of January 20 22

Notary Public, Erie County, New York

SANDRA K. SHARP
Notary Public, State of New York
Reg. No. 01SH6223137

I do certify that I have examined the foregoing petition and Survey Sketch and certify that they conform to Ordinances of the Town of Amherst.

Town Engineer

Receipt is hereby acknowledged of the sum of $, being the required fees established by the Town Board of the Town of Amherst, N.Y.

Town Clerk

Public/Private Improvement Permit No. 3099

Attachment: PIP 3099 (RES-2022-186 : PIP 3099 - Evergreen Landing Phase V - Storm Sewer)

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

Francina J. Spoth
Town Clerk

Meeting: 02/07/22 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 25375 **RESOLUTION 2022-187** **ADOPTED**

PIP 3100 - Evergreen Landing Phase V - Paving & Curbing

Attached please find an application for a Pavement and Curbs Public Improvement Permit properly filled out. Permit fee and inspection cost amount to $46,291.20.

We are sending two (2) checks to the Town Clerk, one for $150.00 to be retained as a Permit Fee and one in the amount of $46,141.20 which will be sent to the Comptroller's Office by the Town Clerk to be held in escrow to cover the inspection cost.

At this time we are asking for your approval of the application for PIP No. 3100.

2/7/2022
Consent

FINANCIAL IMPACT:

$46,291.20

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

APPLICATION FOR PERMIT TO CONSTRUCT A PUBLIC/PRIVATE IMPROVEMENT

Date January 10, 2022.

TO THE HONORABLE TOWN BOARD:

Gentlemen: ***Town of Amherst, Erie County, N.Y.***

Application is Hereby Made for Permission to Construct

	Public
Pavement and Curbs	☒
Water Line	☐
Sanitary Sewer	☐
Storm Sewer	☐
Backyard Drainage	☐

Estimated Cost of Improvement $ 461,412.00

DESCRIPTION OF PROPOSED PUBLIC/PRIVATE IMPROVEMENT

Subdivision Name, Street Name(s), Quantity, Description and Location of Improvement: Evergreen Landing Subdivisi

Town of Amherst Job Phase 5 - 23 Lots

Phase 5 includes 1965+/- lnft concrete gutter curb with underdrain and 30,918+/- sf of asphalt pavement to be installed along portions of Canalview Terrace and Cherry Laurel Lane

Supporting Data:

Consulting Engineer's Name Wm. Schutt Associates

Contractor's Name Cimato Enterprises, Inc. Phone 688-3536

Contractor's Address 9220 Transit Road, East Amherst

Maintenance (2 yr.) bond by

This application must be submitted in quadruplicate along with 4 copies of construction drawings showing the extent of the improvements which will be incorporated into and made a part of this application. In the event the drawing submitted contains other facilities not covered by this permit, then those covered by this permit must be designated by coloring so that a clear-cut picture of the work under this permit is easily determined.

Work under this permit shall be started within 60 days from the date of approval thereof. Work under this permit shall be completed within 1 year from the date of approval thereof. Any request for extension shall be addressed in writing to the Town Board of the Town of Amherst.

Fees from this permit and cost of inspection shall be covered by separate checks made payable to the Town of Amherst at amounts set forth by the Town Board. The inspection fee is to cover all work under this permit and shall be at no additional cost to the Town of Amherst. The inspection fee may be increased by a commercially reasonable amount during or after implementation of the improvement at the discretion of the Town Engineer due to unforeseen field conditions or complexity of design. All construction work is to be carried on during normal and usual working hours. Any deviation from this must be compensated by the payment of additional fees.

In consideration of the granting of the permit hereby petitioned for, the undersigned hereby agrees that if such a permit is granted he/she will comply with the terms thereof, the Laws off the State of New York, the Ordinances of the Town of Amherst and Regulations of the various departments of the Town and the State of New York, and that he/she shall notify the Engineering Department forty-eight (48) hours in advance of commencing any work under this permit.

The undersigned hereby certifies that all of the information contained in this petition is correct and true.

ITEM	FEE
PERMIT $150.00	$150.00
INSPECTION 10% of ECoI	$ 46,141.20
VIDEO INSPECTION SANITARY	
TOTAL FEE	$ 46,291.20

Owner Sign Here

Fred Cimato, Cimato Enterprises, Inc.
Please Print Name

9220 Transit Road, East Amherst
Address

14051 Zip Phone 688-3536

Subscribed and sworn to before me this 11th day of January 20 22

Notary Public, Erie County, New York

SANDRA K. SHARP
Qualified in Erie County
Commission Expires July 2, 2022

I do certify that I have examined the foregoing petition and Survey Sketch and certify that they conform to Ordinances of the Town of Amherst.

Town Engineer

Receipt is hereby acknowledged of the sum of $, being the required fees established by the Town Board of the Town of Amherst, N.Y.

Town Clerk

Public/Private Improvement Permit No. 3100

Attachment: PIP 3100 (RES-2022-187 : PIP 3100 - Evergreen Landing Phase V - Paving & Curbing)

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

Francina J. Spoth
Town Clerk

Meeting: 02/07/22 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 25377 **RESOLUTION 2022-188** **ADOPTED**

PIP 3079 - Geselwoods Subdivision - Sanitary Sewer

This is to certify that the referenced sanitary sewer construction has been completed in accordance with plans and specifications, and we recommend that the same be accepted.

A Maintenance Bond for a period of two (2) years in the amount of $20,975.00, representing 25% of the cost of construction has been forwarded to the Town Clerk.

2/7/2022
Consent

FINANCIAL IMPACT:

Maintenance Bond of $20,975.00

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: 02/07/22 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 25379 **RESOLUTION 2022-189** **ADOPTED**

PIP 3080 - Geselwoods Subdivision Waterline

This is to certify that the referenced waterline construction has been completed in accordance with plans and specifications, and we recommend that the same be accepted.

A Maintenance Bond for a period of two (2) years in the amount of $13,250.00, representing 25% of the cost of construction has been forwarded to the Town Clerk.

2/7/2022
Consent

FINANCIAL IMPACT:

Maintenance Bond of $13,250.00

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: 02/07/22 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 25380 **RESOLUTION 2022-190** **ADOPTED**

PIP 3081 - Geselwoods Subdivision - Storm Sewer

This is to certify that the referenced storm sewer construction has been completed in accordance with plans and specifications, and we recommend that the same be accepted.

A Maintenance Bond for a period of two (2) years in the amount of $23,550.00, representing 25% of the cost of construction has been forwarded to the Town Clerk.

2/7/2022
Consent

FINANCIAL IMPACT:

Maintenance Bond - $23,550.00

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: 02/07/22 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 25381 **RESOLUTION 2022-191** **ADOPTED**

PIP 3082 - Geselwoods Subdivision - Paving & Curbing

This is to certify that the referenced paving and curbing construction has been completed in accordance with plans and specifications, and we recommend that the same be accepted.

A Maintenance Bond for a period of two (2) years in the amount of $46,600.00, representing 25% of the cost of construction has been forwarded to the Town Clerk.

2/7/2022
Consent

FINANCIAL IMPACT:

Maintenance Bond of $46,600.00

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